UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS

SECOND SESSION

VOLUME 130—PART 18

SEPTEMBER 10, 1984 TO SEPTEMBER 18, 1984

(PAGES 24619 TO 25961)

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, September 10, 1984*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC.
September 6, 1984.

I hereby designate the Hon. JIM WRIGHT to act as Speaker pro tempore on Monday, September 10, 1984.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The fear of the Lord is the beginning of wisdom; a good understanding have all those who practice it. His praise endures for ever.—Psalm 111:10.

Gracious God, give us a true understanding of Your love to us, that we may learn to grow in knowledge of Your purposes for us. As we seek to deal with the fortunes of our world, grant us the insight, the judgment, the awareness, the sensitivity that we may gain hearts of wisdom and minds of compassion. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 743. An act for the relief of Theda June Davis; and

H.R. 2387. An act for the relief of Benjamin B. Doeh.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1146) "An act to amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. GOLDWATER, Mrs. KASSEBAUM, Mr. HOLLINGS, and Mr. EXON to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 253. Joint resolution to authorize and request the President to designate September 30, 1984, as "Ethnic American Day."

ANTICRIME LEGISLATION

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, once again the Attorney General is chastising the House for not moving ahead with anticrime legislation.

In commenting on the last crime statistics, the Attorney General lashed out at the House for not passing the President's crime bill.

It seems to me that some members of the administration are suffering from a severe case of memory lapse. Someone correct me if I am wrong, but is this not the same Attorney General who recommended to the President that he veto the anticrime effort in the 97th Congress, which set the work of crime legislation back about a year and a half?

President Reagan praises our comprehensive drug penalty legislation, the so-called forfeiture bill, saying, "What right-minded person would oppose it?"

And I ask, "Why was it vetoed in the first place, Mr. President?"

The forfeiture legislation will be on the floor tomorrow, but it has taken us the better part of a year and a half to move that legislation through the various committees to get it to a position where we can move it to the floor once again.

Not only does the Judiciary Committee have jurisdiction, Mr. Speaker, but as we know, the Ways and Means Committee and, the Energy and Commerce Committee have jurisdiction over some parts of the bill. We had to start all over, causing us a year and a half of valuable time. It was this Attorney General that recommended that the President veto that important crime measure.

Mr. Speaker, in February the Senate sent us an unwieldy 42-part crime package. The House had been working on individual bills which are a part of that package, along with a number of other important crime measures. We have been developing and passing bills separately for the last year and a half. As a matter of fact, we recently had a very important Rose Garden ceremony when the President signed the Child Pornography bill.

The President has already signed five of the bills moved out of my subcommittee, the Subcommittee on Crime alone. We are going to move three bills today under the Suspension Calendar, one bill, the forfeiture bill, tomorrow. When we have completed our work this year, Mr. Speaker, we will have passed about 24 crime bills, more I might say than we have passed at any other time in my some 10 years in the Congress.

Now, Mr. Speaker, I hope that we can lower the political rhetoric and work together in passing crime legislation. Crime is not a partisan issue. Crime is bipartisan in nature and the Attorney General should stop playing politics with the crime legislation and join with us in attempting to pass the very best crime legislation possible.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. This is the day for consideration of bills under suspension of the rules.

The Chair will announce the following program for the week:

Today we will consider seven bills under suspension of the rules. Recorded votes on these suspensions will be postponed until Wednesday, September 12.

Tomorrow we will consider 16 additional bills under motions to suspend the rules and votes on those, if demanded, will be postponed.

The Chair announces that pursuant to the provisions of clause 5 of rule I, he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV and such rollcall votes, if postponed, will be taken on Wednesday, September 12, 1984.

The bills scheduled under suspension motions today include H.R. 3979, the comprehensive smoking education bill;

House Joint Resolution 247, proclaiming the sense of Congress with respect to man's inhumanity to man;

H.R. 3194, the Abandoned Shipwreck Act of 1984; and H.R. 5755, Fish and Wildlife Coordination Act amendments.

In addition to those bills previously cited, the Chair would like to observe that it is the purpose of the leadership to take up today under motions to suspend the rules the bill, H.R. 3347, to improve procedures for extradition between the United States and other countries; the bill, H.R. 6031, the Money Laundering Penalties Act of 1984; and H.R. 6071, the Trademark Counterfeiting Act.

The Chair recognizes the gentleman from Louisiana [Mr. BREAUX].

FISH AND WILDLIFE COORDINATION ACT AMENDMENTS OF 1984

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5755) to amend the Fish and Wildlife Coordination Act, as amended.

The Clerk read as follows:

H.R. 5755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Fish and Wildlife Coordination Act (16 U.S.C. 662) is amended——

(1) by amending subsection (a)—

(A) by inserting "(1)" after "(a)",

(B) by striking out "United States Fish and Wildlife Service, Department of the Interior," and inserting in lieu thereof "responsible Federal agency", and

(C) by adding at the end thereof the following new paragraph:

"(2) For purposes of this section—

"(A) the term 'Secretary' means the Secretary of the Interior or the Secretary of Commerce; and

"(B) the term 'responsible Federal agency' means the United States Fish and Wildlife Service or the National Marine Fisheries Service;

as program responsibilities are respectively vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970.";

(2) by amending subsection (b)—

(A) by striking out "Secretary of the Interior" each place it appears therein and inserting in lieu thereof "Secretary",

(B) by striking out "United States Fish and Wildlife Service" and inserting in lieu thereof "responsible Federal agency",

(C) by striking out "or compensating for these damages." in the second sentence and inserting in lieu thereof "these damages at onsite and offsite locations.", and

(D) by inserting after the second sentence the following new sentence: "For purposes of the preceding sentence, measures for mitigating damages should, to the extent practicable, affect those populations and habitats impacted by a project, and may include measures for (A) avoiding the impact altogether by not taking a certain action or parts of an action, (B) minimizing impacts by limiting the degree or magnitude of the action and its implementation, (C) rectifying the impact by repairing, rehabilitating, or restoring the affected environment, (D) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, and (E) compensating for the impact by replacing or providing substitute resources or environments.";

(3) by amending subsection (e) by striking out "is authorized to transfer to the United States Fish and Wildlife Service" and inserting in lieu thereof "shall transfer to the responsible Federal agency";

(4) By adding at the end thereof the following new subsection:

"(i)(1) For purposes of this subsection, the term 'related water control project' means any project—

"(A) with respect to which a Federal license or permit referred to in subsection (a) is issued; or

"(B) of a kind described in subsection (a) that is carried out by a Federal department or agency; and for which consultation is required under this section.

"(2) For each biennial period beginning after September 30, 1984, each responsible Federal agency shall—

"(A) prepare a listing by categories of—

"(i) the related water control projects with respect to which a consultation referred to in paragraph (1) was made during the period; and

"(ii) the number of related water control projects listed under clause (i) for which recommendations of the kind described in subsection (b) were made; and

"(B) select a statistically significant sample of the related water projects referred to in subparagraph (A)(ii) and shall, regarding each of those projects—

"(i) evaluate the extent to which recommendations referred to in subparagraph (A)(ii) were incorporated as conditions of the applicable Federal license or permit or of the project planning or construction;

"(ii) notify the Federal department or agency having jurisdiction over the project of the selection and evaluation under clause (i); and

"(iii) after taking into account the response received from that department or agency under paragraph (3), evaluate the results and effectiveness of such compliance.

"(3) Each Federal department or agency that receives a notification under paragraph (2)(B)(ii) shall promptly submit to the responsible Federal agency such information regarding the related water control project as may be necessary or appropriate to enable the responsible Federal agency to carry out paragraph (2)(B)(iii) including an evaluation of the extent to which each recommendation is being complied with in regard to that project.

"(4) The Secretary of the Interior, in cooperation with the Secretary of Commerce, shall prepare and submit to Congress, within ninety days after the close of each biennial period referred to in paragraph (2), a report regarding those actions that are required to be undertaken under paragraph (2) for that period."; and

(5) by adding at the end thereof the following new subsection:

"(j) The Secretary may—

"(1) participate or cooperate with Federal, State, or local agencies, and with private organizations or entities, in the preparation of plans which comply with applicable Federal, State, and local law and which promote (A) the conservation or enhancement of wildlife and wildlife habitat, and (B) the reconciliation of such conservation or enhancement with other objectives and uses; and

"(2) with respect to each plan referred to in paragraph (1) regarding which the Secretary participates or cooperates, enter into contractual agreements that provide assurances, consistent with law, regarding the value and extent of the habitat to be conserved or enhanced, the mitigation to be provided for the affected wildlife resources, and the nature and extent of habitat modifications to be permitted.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DANNEMEYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. BREAUX] will be recognized for 20 minutes and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5755 would amend the Fish and Wildlife Coordination Act.

The Coordination Act, first enacted by Congress in 1934, was one of the earliest Federal environmental statutes and represented the first attempt to integrate fish and wildlife conservation measures into the Federal Government's water resources planning activities. As amended in 1946, the act requires Federal agencies that administer projects modifying water resources to take fish and wildlife resources into consideration before proceeding. The act, however, does not affect such agencies' discretion in

making final decisions concerning water projects. Whenever any agency proposes a project that will affect a water resource or considers issuing a permit for a private project that will affect water resources, it consults with the Fish and Wildlife Service, the National Marine Fisheries Service, and the fish and wildlife agency of the State in which the project is to be constructed. After consultation, the fish and wildlife agencies may submit a report to the agency responsible for the project detailing the impacts on wildlife and fisheries, and may make recommendations for alternative actions or mitigation measures. The act also authorizes the transfer of funds from construction agencies to the fish and wildlife agencies to conduct investigations to carry out the purposes of the act.

H.R. 5755 attempts to deal with some relatively technical issues that have been called to our attention in the implementation of the Coordination Act. First, it authorizes offsite as well as onsite mitigation to facilitate comprehensive planning for projects and allow for innovative conflict resolution mechanisms such as mitigation banking. Second, it requires, rather than simply authorizes, the agencies responsible for Federal projects to provide funds to the Federal Fish and Wildlife Agencies to carry out their studies. Third, it calls for a study to determine whether or not permit conditions requested by the fish and wildlife agencies are effective and if they are being complied with.

Finally, H.R. 5755 adds a new section which authorizes the Secretary of the Interior and the Secretary of Commerce to cooperate in the development of plans for areas such as port development projects and to enter into contractual agreements to provide assurances that fish and wildlife resources are protected. The project sponsors would in turn receive assurances that their future permit processing would be carried out under the conditions or guidelines set forth in the agreement.

Mr. Speaker, this legislation makes some important, constructive changes to one of our oldest and most important fish and wildlife conservation laws. I urge its adoption by the House.

□ 1210

Mr. DANNEMEYER. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Washington [Mr. PRITCHARD].

Mr. PRITCHARD. Mr. Speaker, I strongly support H.R. 5755, amendments to the Fish and Wildlife Coordination Act.

In particular, I support the requirement that those agencies commenting on the fish and wildlife impacts of Federal projects—the Fish and Wildlife Service and the National Marine Fisheries Service—must report to Congress on their review responsibilities, and that their reports include an evaluation of the results and effectiveness of compliance with the conditions which they recommend for Federal licenses and permits. Such an evaluation will provide the administration and the Congress with much needed information regarding these activities.

I also believe that the authority given to the Fish and Wildlife Service and the National Marine Fisheries Service to cooperate in the preparation of long-term plans for large-scale projects followed, where appropriate, by contractual agreements will provide for the protection of fish and wildlife resources and, at the same time, will give assurances to the permit applicants of the manner in which their future permits will be reviewed. This provision clarifies that those commenting agencies should become involved in a meaningful search for reasonable solutions.

Therefore, Mr. Speaker, I urge my colleagues to support H.R. 5755. Thank you.

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the chairman of our full committee, the gentleman from North Carolina, [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, the next bill before us today is H.R. 5755, legislation to amend the Fish and Wildlife Coordination Act.

The Fish and Wildlife Coordination Act, enacted by Congress in 1934, represents one of the earliest efforts to consider both water resource activities and fish and wildlife. It was amended in 1946 to require Federal agencies that administer projects modifying water resources to take fish and wildlife into consideration.

H.R. 5755, as amended, accomplishes several things. First, it clarifies that the National Marine Fisheries Service, as well as the Fish and Wildlife Service, may be consulted by and recommend mitigating actions to the permitting agency regarding the impact of water resource projects on fish and wildlife.

The bill also allows for both onsite and offsite mitigation and gives the Secretaries of the Interior and Commerce the flexibility needed to deal with the impacts of long-term projects.

The Federal agency responsible for construction will now be mandated to transfer money for mitigation to the Fish and Wildlife Service and the Secretary of the Interior will report to Congress every other year on the effectiveness of the consultation process in protecting habitat.

The Merchant Marine and Fisheries Committee reported this measure by a unanimous voice vote.

I urge my colleagues to pass H.R. 5755.

Mr. BREAUX. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. BENNETT]. The question is on the motion offered by the gentleman from Louisiana [Mr. BREAUX] that the House suspend the rules and pass the bill, H.R. 5755, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING CORRECTIONS IN ENROLLMENT OF S. 1546, DEEPWATER PORT ACT AMENDMENTS OF 1974 AMENDMENTS

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 136) to correct technical errors in the enrollment of the bill S. 1546, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 136

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1546) to amend the Deepwater Port Act of 1974, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 4(a)(3), in the amendment to section 18 of the Deepwater Port Act of 1974, strike "In the seventh sentence of subsection (f)(3)," and insert in lieu thereof the following: "In the eighth sentence of subsection (f)(3), as amended by this subsection,".

(2) In section 4(a)(4), in the amendment to section 18 of the Deepwater Port Act of 1974, strike "In the ninth sentence of subsection (f)(3)," and insert in lieu thereof the following: "In the tenth sentence of subsection (f)(3), as amended by this subsection,".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

COMPREHENSIVE SMOKING EDUCATION ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 3979) to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Smoking Education Act".

FINDING AND PURPOSE

SEC. 2. (a) The Surgeon General has found that—

(1) cigarette smoking is the largest preventable cause of illness and premature death in the United States, and is associated with the unnecessary deaths of over three hundred thousand Americans annually;

(2) cigarette smoking in the United States is a major cause of cancer of the lung, larynx, oral cavity, and esophagus and is a contributory factor in cancer of the urinary bladder, kidney, and pancreas;

(3) cigarette smoking is a major cause of chronic bronchitis and emphysema in the United States;

(4) cardiovascular disease accounts for nearly one-half of the deaths in the United States and it is estimated that one-third of the deaths attributed to cardiovascular disease are associated with smoking;

(5) pregnant women who smoke have an elevated risk of miscarriages, stillbirths, and premature births, and giving birth to infants with low birth weight;

(6) quitting or never starting cigarette smoking will reduce an individual's risk of illness or premature death; and

(7) Federal, State, and private initiatives should be encouraged to convey to the American people information on any adverse health effects of smoking.

(b) It is the purpose of this Act to provide a new strategy for making Americans more aware of any adverse health effects of smoking, to assure the timely and widespread dissemination of research findings and to enable individuals to make informed decisions about smoking.

SMOKING RESEARCH, EDUCATION, AND INFORMATION

SEC. 3. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish and carry out a program to inform the public of any dangers to human health presented by cigarette smoking. In carrying out such program, the Secretary shall—

(1) conduct and support research on the effect of cigarette smoking on human health and develop materials for informing the public of such effect;

(2) coordinate all research and educational programs and other activities within the Department of Health and Human Services (hereinafter in this section referred to as the "Department") which relate to the effect of cigarette smoking on human health and coordinate, through the Interagency Committee on Smoking and Health (established under subsection (b)), such activities with similar activities of other Federal agencies and of private agencies;

(3) establish and maintain a liaison with appropriate private entities, other Federal agencies, and State and local public agencies respecting activities relating to the effect of cigarette smoking on human health;

(4) collect, analyze, and disseminate (through publications, bibliographies, and otherwise) information, studies, and other data relating to the effect of cigarette smoking on human health, and develop standings, criteria, and methodologies for improved information programs related to smoking and health;

(5) compile and make available information on State and local laws relating to the sale, distribution, use, and consumption of cigarettes; and

(6) undertake any other additional information and research activities which the Secretary determines necessary and appropriate to carry out this section.

(b)(1) To carry out the activities described in paragraphs (2) and (3) of subsection (a) there is established an Interagency Committee on Smoking and Health. The Committee shall be composed of—

(A) members appointed by the Secretary from appropriate institutes and agencies of the Department, which may include the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Child Health and Human Development, the National Institute on Drug Abuse, the Health Resources and Services Administration, and the Centers for Disease Control;

(B) at least one member appointed from the Federal Trade Commission, the Department of Education, the Department of Labor, and any other Federal agency designated by the Secretary, the appointment of whom shall be made by the head of the entity from which the member is appointed; and

(C) five members appointed by the Secretary from physicians and scientists who present private entities involved in informing the public about the health effects of smoking.

The Secretary shall designate the chairman of the Committee.

(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the manner provided by sections 5702 and 5703 of title 5 of the United States Code.

(3) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively.

(c) The Secretary shall transmit a report to Congress not later than January 1, 1985, and biennially thereafter which shall contain—

(1) an overview and assessment of Federal activities undertaken to inform the public of the health consequences of smoking and the extent of public knowledge of such consequences,

(2) a description of the Secretary's and Committee's activities under subsection (a),

(3) information regarding the activities of the private sector taken in response to the effects of smoking on health, and

(4) such recommendations as the Secretary may consider appropriate.

LABELS FOR CIGARETTES AND CIGARETTE ADVERTISING

SEC. 4. (a) Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"LABELING

SEC. 4. (a)(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

"(2) It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised (other than through the use of outdoor billboards) within the United States any cigarette unless the advertising bears, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

"(3) It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised within the United States through the use of outdoor billboards any cigarette unless the advertising bears, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, And Emphysema.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Health Risks.

SURGEON GENERAL'S WARNING: Pregnant Women Who Smoke Risk Fetal Injury And Premature Birth.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

"(b)(1) Each label statement required by paragraph (1) of subsection (a) shall be located in the place label statements were placed on cigarette packages as of the date of the enactment of this subsection. The phrase 'Surgeon General's Warning' shall appear in capital letters and the size of all other letters in the label shall be the same as the size of such letters as of such date of enactment. All the letters in the label shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package.

"(2) The format of each label statement required by paragraph (2) of subsection (a) shall be the formal required for label statements in cigarette advertising as of the date of the enactment of this subsection, except that the phrase 'Surgeon General's Warning' shall appear in capital letters, the area of the rectangle enclosing the label shall be 50 per centum larger in size with a corre-

sponding increase in the size of the type in the label, the width of the rule forming the border around the label shall be twice that in effect on such date, and the label may be placed at a distance from the outer edge of the advertisement which is one-half the distance permitted on such date. Each label statement shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material in the advertisement.

"(3) The format and type style of each label statement required by paragraph (3) of subsection (a) shall be the format and type style required in outdoor billboard advertising as of the date of the enactment of this subsection. Each such label statement shall be printed in capital letters of the height of the tallest letter in a label statement on outdoor advertising of the same dimension on such date of enactment. Each such label statement shall be enclosed by a black border which is located within the perimeter of the format required in outdoor billboard advertising of the same dimension on such date of enactment and the width of which is twice the width of the vertical element of any letter in the label statement within the border.

"(c) The label statements specified in paragraphs (1), (2), and (3) of subsection (a) shall be rotated by each manufacturer or importer of cigarettes quarterly in alternating sequence on packages of each brand of cigarettes manufactured by the manufacturer or importer and in the advertisements for each such brand of cigarettes in accordance with a plan submitted by the manufacturer or importer and approved by the Federal Trade Commission. The Federal Trade Commission shall approve a plan submitted by a manufacturer or importer of cigarettes which will provide the rotation required by this subsection and which assures that all of the labels required by paragraphs (1), (2), and (3) will be displayed by the manufacturer or importer at the same time.".

(b) The amendment made by subsection (a) shall take effect upon the expiration of a one-year period beginning on the date of the enactment of this Act.

CIGARETTE INGREDIENTS

SEC. 5. (a) The Federal Cigarette Labeling and Advertising Act is amended by redesignating sections 7 through 12 as sections 8 through 13, respectively, and by inserting after section 6 the following new section:

"CIGARETTE INGREDIENTS

"SEC. 7. (a) Each person who manufactures packages, or imports cigarettes shall annually provide the Secretary with a list of the ingredients added to tobacco in the manufacture of cigarettes which does not identify the company which uses the ingredients or the brand of cigarettes which contain the ingredients. A person or group of persons required to provide a list by this subsection may designate an individual or entity to provide the list required by this subsection.

"(b)(1) At such times as the Secretary considers appropriate, the Secretary shall transmit to the Congress a report, based on the information provided under subsection (a), respecting—

"(A) a summary of research activities and proposed research activities on the health effects of ingredients added to tobacco in the manufacture of cigarettes and the findings of such research;

"(B) information pertaining to any such ingredient which in the judgement of the Secretary poses a health risk to cigarette smokers; and

"(C) any other information which the Secretary determines to be in the public interest.

"(2)(A) Any information provided to the Secretary under subsection (a) shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code and section 1905 of title 18, United States Code and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the secretary in carrying out their official duties under this section.

"(B) Subparagraph (A) does not authorize the withholding of a list provided under subsection (a) from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Secretary to provide it such a list, the Secretary shall make the list available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the list of such request.

"(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a). Such procedures shall include the designation of a duty authorized agent to serve as custodian of such information. The agent—

"(i) shall take physical possession of the information and, when not in use by a person authorized to have access to such information, shall store it in a locked cabinet or file, and

"(ii) shall maintain a complete record of any person who inspects or uses the information.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.".

(b) Section 7 of the Federal Cigarette Labeling and Advertising Act added by subsection (a) shall take effect upon the expiration of the one-year period beginning on the date of the enactment of this Act.

MISCELLANEOUS AMENDMENTS

SEC. 6 (a) Paragraph (1) of section 2 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331) is amended to read as follows:

"(1) the public may be adequately informed about any adverse health effects of cigarette smoking by inclusion of warning notices of each package of cigarettes and in each advertisement of cigarettes; and".

(b) Section 3 of such Act (15 U.S.C. 1332) is amended by adding at the end the following:

"(8) The term 'Secretary' means the Secretary of Health and Human Services.".

(c) Section 8 of such Act (15 U.S.C. 1336) (as so redesignated) is amended to read as follows:

"FEDERAL TRADE COMMISSION

"SEC. 8. Nothing in this Act (other than the requirements of section 4(b)) shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.".

(d) Section 9 of such Act (15 U.S.C. 1337) (as so redesignated) is amended—

(1) by striking out "of Health, Education, and Welfare" in subsection (a),

(2) by redesignating clauses (A) and (B) in such subsection as clauses (1) and (2), respectively,

(3) by striking out clause (A) in subsection (b) and by redesignating clauses (B) and (C) as clauses (1) and (2), respectively.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Comprehensive Smoking Prevention Education Act is one of the most significant public health measures to come before the House in recent years. It is significant because of the adverse health effects of smoking and the clear interest we have in discouraging the use of a product the Surgeon General has called " * * * the most important public health issue of our time."

Cigarette smoking is the Nation's most preventable cause of premature death and illness.

This year an estimated 340,000 Americans will die from smoking related illnesses. Thousands more will be disabled and undergo expensive and often painful medical treatments.

Cigarette smoking is the single largest cause of cancer and contributes to 30 percent of all cancer deaths.

It is a major cause of chronic bronchitis and emphysema.

Nearly one-third of deaths attributed to cardiovascular disease are associated with smoking.

More recently we have learned that smoking by pregnant women can have serious effects upon the fetus. Cigarette smoking can increase the risk of miscarriage, stillbirth, premature births, and low birth weight.

Science has learned much in recent years about the health effects of smoking. Some of what we have learned gives us cause for optimism that ending the outbreaks of cigarette related disease is not just another intractable public health goal. Most importantly, we now know that many of the adverse health effects of smoking can be reduced by quitting. A heavy smoker who quits can reduce his or her risk of lung cancer to that of a nonsmoker.

The principal purpose of this legislation smoking is to make the public more aware of the adverse health risks from smoking. The legislation combines strengthening the Surgeon General's required health warning with an expanded program of public education. If Americans are to make an informed decision about whether or not to smoke it is critical they recognize the serious risks to their health before they light up.

Many Americans—particularly young people—are unaware of the specific health risks caused by smoking. The current warning label hasn't been revised in over 13 years and does not adequately reflect the extent of adverse health effects caused by smoking.

This was the consensus of the Federal Trade Commission which in 1981 conducted a landmark study of the extent of public knowledge about the health effects of smoking. They concluded that the warning should be revised to more accurately reflect what is now known about the relationship between smoking and health.

H.R. 3979 replaces the warning currently required on cigarette packages and advertising with a system of four different statements that will rotate every 3 months on the packages and advertising of each cigarette brand sold in the United States. The warning statements on most forms of cigarette advertising will be enlarged by 50 percent to increase their visibility.

The new warnings are as specific as they are scientifically precise. They include the following statements:

Smoking Causes Lung Cancer, Heart Disease, Emphysema, and May Complicate Pregnancy.

Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight.

Cigarette Smoke Contains Carbon Monoxide.

Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

In addition to changes in the cigarette health warning the legislation requires the Secretary of Health and Human Services to establish an Interagency Committee on Smoking and Health and gives new impetus for expanding Federal smoking research and public education activities. A major focus for these new Federal activities will be to encourage and assist current smokers to quit and to discourage young people from starting what can become a life-long and life-threatening addiction.

The legislation also requires that cigarette manufacturers disclose the ingredients added to tobacco in the manufacturing of cigarettes. This information will assist researchers in making more precise assessments of the toxicity of the new generation of so-called "low tar, low nicotine" cigarettes.

It is important to note that the committee did not attempt to repeat in the legislation all the known health effects caused by or associated with smoking. These issues have been thoroughly documented in the various reports of the Surgeon General issued since 1964 and in the 5 days of hearings conducted by the Subcommittee on Health and the Environment since 1982.

Passage of H.R. 3979 today and its likely adoption by the other body later this week, will mark the fulfilment of a legislative effort that began in 1982. It represents a notable victory for the many public health organizations and advocates throughout the country who joined together in a coalition dedicated to making smoking prevention a major public health priority.

A number of organizations deserve special recognition for their commitment and willingness to work the long hours in what must have initially seemed a lonely cause. These groups, their membership and staffs should take special pride in what passage of H.R. 3979 represents.

I want to single out and express my personal thanks to three organizations for their work on this legislation. The American Heart Association, American Cancer Society, and the American Lung Association have a distinguished record of service and commitment to the promotion of public health. Each group should be commended for their foresight in recognizing that by working together and forming the "Coalition on Smoking or Health" they could accomplish great things.

Several Members of Congress deserve praise for their efforts on this bill and I want to recognize them at this time.

A great debt of thanks should go to the chairman of the committee, the gentleman from Michigan [Mr. DINGELL]. He was instrumental in ending the protracted legislative debate on this matter and encouraging all parties involved to reach consensus. That the legislation was reported unanimously by the Energy and Commerce Committee is a tribute to his leadership.

The gentleman from Tennessee [Mr. GORE] and the gentleman from Oklahoma [Mr. SYNAR] also deserve credit for their work in developing a legislative proposal that enjoys such broad support. It was no easy task but through their efforts many of the concerns of cigarette manufacturers were addressed while not detracting from the vital public health goals embodied in the legislation.

I also want to recognize the contribution of Senators ORRIN HATCH and ROBERT PACKWOOD who have for 3 years been the principal Senate sponsors of this legislation. Although we represent different parties, we share a common respect for the value and promise of health promotion and disease prevention. Their advocacy is responsible for the support this proposal enjoys in the Senate.

Mr. Speaker, in recent years we have been indifferent in our efforts to discourage smoking. Late night public service announcements, understaffed public information programs and a generalized, overexposed Federal health warning are inadequate responses to the cause of one out of seven deaths.

By making changes in the cigarette health warning, by giving greater visibility to smoking prevention activities at the Federal level and by working closely with the private voluntary health sector, we can hasten the day that cigarette smoking is no longer a leading cause of death and disability.

Mr. Speaker, passage of H.R. 3979 will elevate smoking prevention to the top of the Nation's public health priorities.

I urge each Member's support.

□ 1220

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] has consumed 8 minutes.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 3979, the Comprehensive Smoking Education Act. The bill before us was adopted unanimously by the Committee on Energy and Commerce and represents a compromise agreement worked out by a bipartisan group of members, the Tobacco Institute, and the advertising industry. All of these parties support this legislation.

H.R. 3979 establishes a national program to increase the availability of information on the health consequences of smoking. Under this bill, the Secretary of the Department of Health and Human Services [HHS] must carry out a program of smoking research, education, and information. An interagency committee on smoking and health is established to implement certain information gathering and dissemination activities.

Furthermore, Mr. Speaker, the labeling requirements for cigarette packages and advertising are changed significantly. Four rotational warning labels must be used, rather than the one label currently mandated, and health effects such as heart disease, emphysema, and risks to pregnant women, are pointed out. Labeling requirements for outdoor advertisers are slightly less stringent than for other advertisers and and packages, because of the unique problems associated with that form of advertising.

Mr. Speaker, I feel that H.R. 3979 is a good compromise piece of legislation, and I want to commend Chairman WAXMAN, Mr. GORE, and especially Mr. BLILEY of Virginia for their hard work in fashioning a bill which will help raise awareness of the health consequences of smoking, while not imposing undue burdens on the tobacco and advertising industries.

Mr. Speaker, I urge Members to support this bill.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. GORE], who played a very constructive and crucial part in work-

ing out the compromise that made this legislation possible.

Mr. GORE. Mr. Speaker, I want to thank my colleague [Mr. WAXMAN] for his kind words and for yielding this time to me.

Mr. Speaker, I want to urge all of my colleagues in this body to support this bill unanimously. This bill was reported unanimously from the Committee on Energy and Commerce.

This bill represents a victory for both the tobacco industry and for the public health community but most of all it is a victory for the public health.

Mr. Speaker, this is a meaningful moment for me. The process of getting this bill to this point has had all the ups and downs of a problem pregnancy, and believe me, it has been a difficult delivery. The negotiations were long and arduous, at times frustrating, and at other times exhilirating. I can remember moments when I was sure this effort would end in failure. But, fortunately, the parties persevered.

There are many people who played a major role in this legislation. Subcommittee Chairman HENRY WAXMAN has been working on this issue for 2 years and provided vital leadership and expertise. Certainly Committee Chairman JOHN DINGELL played the pivotal role in getting this legislation to the floor. Congressman CHARLIE ROSE must also be singled out for his role, for without him, we would not be here today.

My efforts on this compromise were to slug it out in the trenches over each sentence and word. One could have had no better partner in this challenge than Congressman MIKE SYNAR, who was there every step of the way. I applaud him for his diligence and persistence. Rounding our the "Gang of Five" that helped in these negotiations were Congressman AL SWIFT, DENNIS ECKART, and JERRY SIKORSKI. It was a difficult road for all of us but clearly worth the effort.

The health community was involved every step of the way during our long negotiations. They were brilliantly served by Coalition Staff Director Matt Myers, who perhaps more than anyone else kept these talks going with intellect, creativity, and a tireless resolve to get a fair bill.

The tobacco industry and its representatives must also be singled out and congratulated for their work. No one worked harder on this bill than Howard Liebengood, who brought an impeccable reputation for integrity and professionalism into the talks and led the negotiations with a firm but fair hand. The compromise would not have been possible without his efforts.

This bill represents a progressive and courageous step by the tobacco industry that caught many by surprise. This has been a bitter pill for them to swallow, but in doing so, they have made stiffer punitive legislation less likely in the years ahead. The industry has been the target of intense criticism over the past decade, in part because of an unwillingness to compromise and recognize current health research data and public opinion. But this bill today shows that the industry is willing to take a courageous stand. Coupled with similar compromises in other areas, this represents a dramatic new era for this industry. I applaud them for their efforts and their vision.

Mr. Speaker, this bill is a victory for both the health community and the tobacco industry but most importantly, it is a victory for public health. Smoking is the No. 1 preventable cause of illness and death in this country, and the American people have the right to be informed of the consequences of cigarette smoking. The bill we are working on today will play a major role in the years ahead in providing information on a continuing basis on the risks and hazards of smoking.

I represent a congressional district that has 10,000 tobacco farmers, all with limited acreage. Tennessee has 100,000 tobacco farmers. With their help, I have learned to separate health concerns from farming issues. I will support with all my strength their right to continue growing tobacco on their small farms. But at the same time, neither I nor they have any illusions about the harmful effects of smoking.

The Surgeon General has concluded that smoking is the single greatest preventable cause of death in the United States. Each year, there are 130,000 smoking-related deaths linked to cancer (lung cancer and other forms) in this country. An additional 170,000 deaths from heart disease are smoking-related. And another 50,000 die each year from emphysema and other chronic obstructive lung diseases brought on by smoking.

In his latest report on smoking and health, the Surgeon General found that children of parents who smoke have more respiratory problems, including the increased incidence of bronchitis and pneumonia early in life, than children of nonsmokers. Respiratory problems are a legacy that smokers leave with their children. The evidence is also clear that tobacco smoke harms nonsmokers exposed to it.

Some argue that we need a much longer debate on whether or not there are health hazards related to smoking, but farmers in my State don't feel a need to pretend falsely that smoking may be good for you. They are honest and candid and strong. The evidence is so clear and so overwhelming there should be no doubt about the need for this legislation.

While recognizing the evidence during these long negotiations, I have also kept foremost in my mind the legitimate interests and concerns of the tobacco industry. We want the American people to be informed about the risks of smoking but we do not want to change the legal exposure of the tobacco industry. We want the information given to the American people to be accurate, but not alarmist or exaggerated. And that is what this bill does.

The bill before us is a true compromise keeping the essential elements of a comprehensive smoking education program but recognizing the legitimate concerns of the tobacco industry. This is a tough bill but it is a fair bill.

It is truly a historic occasion when the tobacco industry and the health community can link arms in favor of passage of a piece of legislation of this kind. I can't recall this happening in the past. The effort here today is a victory for both sides and they should be congratulated. But the real winner will be the American people and the contribution this bill will make to public health. I am very proud to have played a part in this process.

□ 1230

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I find myself in the last couple of weeks carrying legislation on this floor where one particular member of our committee has played such a very crucial and important role. Last week, we received a unanimous vote of the House of Representatives on legislation to speed the approval of generic drugs as well as giving additional patent time to the brand name drug companies. A very important, significant player, in that legislation was Congressman MIKE SYNAR.

Today we have before us legislation on cigarette labeling. If it were not for his efforts, we would not be here today on a Suspension Calendar. We would be fighting it out in a way that might not have been helpful for anybody and certainly not for the cause of getting legislation actually passed into law.

Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR], a man who has distinguished himself as a legislator, and I am pleased to consider him my friend.

Mr. SYNAR. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. Speaker, it has indeed been an eventful 10 days for the Subcommittee on Health and the Environment of the Committee on Energy and Commerce and let me take this opportunity to commend Chairman WAXMAN for the outstanding job that he has done. I hope that as we did last week with the patent restoration bill, we can have unanimous support from this body with respect to this bill.

I would like to join with my colleague from Tennessee [Mr. GORE] in

commending both Mr. WAXMAN and Mr. DINGELL for the outstanding job and performance that they have done with respect to this very important legislation.

As the gentleman from Tennessee [Mr. GORE] pointed out, he and I had the responsibility of hammering out very clearly the language line by line within this bill. What I have admired about the gentleman from Tennessee is the fact that without his efforts, neither side would have gotten a fair and full hearing. It was because of his efforts that the tobacco farmers, as well as the tobacco industry, as well as the health groups, can be assured that they had a very fair hearing, as well as what I think have come to a resolvement of the issue which is so important.

I also want to commend all the public health associations which have been mentioned by the gentleman from California [Mr. WAXMAN] and the gentleman from Tennessee [Mr. GORE], as well as the tobacco industry itself, who came together.

This legislation serves, I think, as the best example we will have in a long time of where honest negotiations and reasonable compromise can mean that we can have meaningful legislation for this country. This bill sends a very strong message to the American public with respect to the serious health risks attributed to smoking. It says very clearly that the Surgeon General does not allude to the dangers of smoking, but clearly identifies that smoking will cause emphysema, heart disease, and is harmful to unborn children of pregnant women.

This is a major victory for the American public, and as the gentleman from Tennessee pointed out, the real winner today will be future generations of Americans.

I am excited to have been a part of this massive effort to try to get these new labels on the cigarettes, because I think that what we are doing is that we are saying that we are concerned about 340,000 people's health each year. We are concerned about future disease which will occur in this country. And, instead of talking about ways that we can try to solve problems and find programs to cover these health problems, the things that we most want to do is to have preventable medicine. The best preventable medicine we can have is to encourage people to not smoke.

So I join with my colleagues today and ask for unanimous approval of this very important legislation.

As I said, the real winner will be future generations of Americans.

Mr. Speaker, as a member of the House Energy and Commerce Committee, I was approached about a year and a half ago by members of the health community and tobacco interests to help work out a compromise on the cigarette labeling bill. I believed then that through determined effort and reasonable compromise, a strong labeling bill could be passed into law in this Congress.

Today, we cross one of our major hurdles in reaching this goal by bringing this measure up and passing it through the House. I have every confidence that the bill will not be obstructed in the Senate and that we will see the legislation enacted into law this year.

I am very proud of the final compromise we have been able to develop on this bill. As a cosponsor of the original bill introduced by Chairman WAXMAN of the Health Subcommittee, I have believed for some time that we needed to get a stronger message out to the public about the serious health risks involved in smoking. I became convinced that this bill was needed when I looked at the facts.

According to the Surgeon General, about 350,000 people die of smoking-related problems each year and another 10 million suffer from some kind of smoking-related problem. While the existing label on cigarette packages and advertisements alludes to the dangers of smoking, the new labels will spell out these dangers more clearly and specifically.

Under the compromise, we were able to expand the number of labels included on packs and ads to four and made each label more specific. These new labels, which will be placed on packages and advertisements on a rotating basis, are the following:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, and May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth and Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

These labels will be rotated by brand on a quarterly basis by each manufacturer and will be 50 percent larger than they are currently in advertisements. The labels also will have a thicker border surrounding them to make them stand out more.

We were able to answer the concerns raised by outdoor advertisers about the bill by keeping billboard ads in the same format that they are in today—extending across the bottom of the ad. The labels also have been shortened slightly for billboard advertisements so that they will fit properly on billboards. The labels will still be rotated, however, and also will have a thicker border surrounding them.

The compromise also requires cigarette manufacturers to disclose to the Health and Human Services Department the identity of all chemical ingredients added to tobacco in the manufacture of cigarettes. Trade secret information will be protected for cigarette companies but ingredient information will be available to Congress to review if it deems necessary.

An Interagency Committee on Smoking and Health will be established with the Health and Human Services Department to conduct research and gather information on the health risks of smoking. Private physicians and voluntary health organizations will be represented on the committee and HHS is authorized to present information to Congress which it feels is important.

Health interests and the tobacco industry can claim a great success with this bill. I am very proud of this measure and believe the enactment of this compromise is representative of how the legislative process should work. If not for the patience and diligent work of all those involved, we would not have a bill. Due to the unswerving commitment to the passage of a strong bill this year, we are doing a great service to the American people.

Thank you very much.

Mr. WAXMAN. Mr. Speaker, at this time, it is a pleasure to call upon the chairman of the full committee to conclude the debate.

The legislation passed, as I mentioned earlier, by a unanimous vote of the Committee on Energy and Commerce. The reason that it passed by unanimous vote was the leadership of our chairman who brought all of the competing interests together, in a constructive way, to come up with legislation to present to the House today. We, who work with him in the Committee on Energy and Commerce, admire greatly the tenacity with which he pursues his objectives, his skill as a legislator and his ability to weave coalitions that allow us to move forward with progress in so many areas. This legislation today stands as a tribute to his skill and ability.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I think my distinguished friend, the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN]. He is altogether too kind to me. It is his leadership and effort which has helped bring us to where we are today.

Mr. Speaker, the people of America have waited a long time for the action that we are taking today: the enactment of stronger and more effective labels and warnings on cigarettes.

The progress of this legislation has been slow and it often seemed doomed. But its proponents have never for 1 minute lost sight of the goal: to reduce the use of cigarettes, to reduce the

heart disease, cancer, and lung disease caused by smoking cigarettes, and to be sure that no one in America smokes without clear, unambiguous knowledge of the damage that will be done to himself, to her unborn children, and to those unfortunate enough to breathe the secondhand smoke.

Health organizations have been unified on the issues. The American Public Health Association, the American Lung Association, the American Heart Association, and the American Cancer Society have been both patient and attentive to the political battles. They have conducted themselves with the quiet confidence of groups that know that rights, progress, and the future are on their side.

Similarly, my colleagues in this body, HENRY A. WAXMAN, MIKE SYNAR, and ALBERT GORE have resisted the temptation to abandon this useful legislation in favor of an all out rhetorical battle with the forces of evil on the evils of smoking. Day after day they patiently reviewed the requests of opponents to alter the bill. At least 20 different warning formats were put forward both to weaken the bill and delay House action. But the gentleman from California held firm and the gentlemen from Oklahoma and Tennessee stood by the subcommittee chairman.

Their strong and very principaled leadership is to be commended for sticking it out until we received assurances from leaders in the other body, that swift Senate action will follow action today. Both the chairman of the Senate Committee on Agriculture and the Senate sponsor of this legislation, the chairman of the Committee on Labor and Human Resources are committed to passing this bill and sending it on to the President for his signature.

I urge the whole House to join today in sending this strong health legislation onward to the Senate and the President.

□ 1240

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3979, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3979, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DAY OF REMEMBRANCE OF MAN'S INHUMANITY TO MAN

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 247) to designate April 24, 1984, as "National Day of Remembrance of Man's Inhumanity to Man," as amended.

The Clerk read as follows:

H.J. RES. 247

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 24, 1985, is hereby designated as "National Day of Remembrance of Man's Inhumanity to Man", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all victims of genocide, especially the one and one-half million people of American ancestry who were victims of the genocide perpetrated in Turkey between 1915 and 1923, and in whose memory this date is commemorated by all Armenians and their friends throughout the world.

The SPEAKER pro tempore. Is a second demanded?

Mr. DANNEMEYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] will be recognized for 20 minutes and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on House Joint Resolution 247.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Joint Resolution 247 which designates April 24, 1985 as a "National Day of Remembrance of Man's Inhumanity to Man" and marks the 70th anniversary of the genocide of 1½ million Armenians in Turkey.

This resolution which has over 230 cosponsors pays homage to the victims and survivors of this horrible massacre that predates the Nazi Holocaust by nearly two decades.

Because of the evil that swept through Europe during World War II we tend to forget the stark brutality of what happened to these 1.5 million Armenians. They were victims of a terrible genocide that should stand, along with the Third Reich, as a grisly symbol of man's inhuman capabilities.

This resolution honors not only the brutalized Armenians, but those who have fallen victim to tyrants of the world in all genocides.

And it serves notice to all the world that America will not again slumber while innocent men, women, and children are slaughtered by cruel and evil despots.

Americans can only know vicariously the horrors of attempts to stamp out an entire race for political reasons. Because of our own heritage we cannot comprehend such horrific actions. To us they are utterly unthinkable. But the history is clear and well documented. In times of collective madness such things do happen.

We cannot guarantee that somewhere down history's winding path genocide again will not claim its hapless victims.

But by actions such as that proposed here today we can play a small part in putting the world on notice that the strongest Nation in history is also a nation of compassionate, vigilant people.

Mr. DANNEMEYER. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentleman for yielding time to me.

Mr. Speaker, today we are about to pass a resolution that attempts to bring the public's attention to the numerous historical instances in which man has been inhumane to man on a very large scale. It is very truly impossible to explain why man has so often committed acts that are so cruel or barbarous.

Actions of this nature during this century have also been particularly reprehensible. Although science and medicine took gigantic strides, millions have been killed all over the world. One of the first massacres of the century was in Armenia. This resolution will hopefully bring some small amount of comfort to second and third generation Armenian Americans whose grandfathers and grandmothers were killed in the attacks—or witnessed the outrage.

I strongly support this resolution because I believe it is our duty never to forget this or other acts of genocide. We must not forget. But, I also sincerely believe it necessary to make a few observations about elements left unclear by the resolution.

First, over the past 2 years, there has been considerable controversy

about the position of the U.S. Department of State. Two years ago, in the August 1982 issue of the Bulletin, the Department printed an article on Armenian terrorism. This article concluded with a note that the State Department "does not endorse allegations that the Turkish Government committed a genocide against the Armenian people." Although in the next issue of the Bulletin, the State Department issued a disclaimer of that note, it is still a fact that the original language of this kind by an official U.S. agency only further confuses the record. Since history is quite clear that mass killings took place, there is little use in obfuscation. American policy toward that area of the world is, as implemented, in the opinion of this Member quite rational; confusion on this issue only unnecessarily detracts from it. Hopefully, this statement will serve as a clarification of the written comments that caused confusion.

Second, the atrocities in Armenia, in which over a million people died, were committed by the Army of the Ottoman Empire in 1915. This army consisted of Turkish and Kurdish soldiers. I do not wish to belabor the obvious, but present day Turkish realities have as little to do with the Ottoman Empire as does present day Austria represent a mirror image of the Hapsburg Empire.

Third, few of the democratically elected political leaders of today's Turkey were never born when the atrocities took place. It is a grave lesson which they must remember, but it should not be held or used against them.

Fourth and last, this resolution should not be misconstrued or misunderstood by the wrong persons. By recognizing the genocide against millions of innocent Armenians, we abhore, at the same time, the acts of the small faction of Armenians who choose to remember their slain ancestors by sowing the same kind of terror and violence.

Mr. Speaker, I hope this resolution shall pass and I commend my colleagues to vote affirmatively for it.

Mr. FORD of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. COELHO].

Mr. COELHO. I thank the chairman of the committee.

Mr. Speaker, the resolution (H.J. Res. 247) presently under consideration would designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man," and authorize and request the President to issue a proclamation calling upon the people of the United States to observe such day in memory of all victims of genocide, especially the 1½ million people of Armenian ancestry who lost their lives in Turkey between 1915 and 1923.

April 24, 1985, will mark the 70th anniversary of the genocide against the Armenians.

The importance of this commemoration cannot and should not be underestimated. Earlier this year, I visited the Yad Vashem Holocaust Memorial in Israel and was overwhelmed by how the cold-blooded, calculated, and systematic slaughter of 6 million Jews could have been executed by the Nazis in the middle of the 20th century. Then I remembered Hitler's chilling comment before the Nazi invasion of Poland: "Our strength is in our quickness and brutality * * *. Who still talks nowadays of the extermination of the Armenians?"

In our day-to-day lives, the thought of genocide is difficult to imagine, agonizing to dwell upon, but, as Hitler demonstrated in word and deed, too dangerous to forget.

The murder of 1.5 million Armenians was the first genocide of the 20th century. Yet because their trauma was largely forgotten, other peoples throughout this century have had to suffer through further genocides. Continued silence can only lead other tyrants to believe they can get away with such crimes against humanity. It is for the past—as well as potential—victims that such days of remembrance are so important.

As a nation, we have risen to greatness time and time again when coming to the aid of peoples whose survival has been threatened. In the 1920's, following the mass slaughter and deportation of the Armenian people from their historic homeland, the United States, through the Near East Relief and other organizations, provided refugee assistance to hundreds of thousands of Armenian orphans and other survivors of the genocide. The freedom and opportunity they found here rekindled their dreams, and soon, the inviolable Armenian spirit began to prosper once again.

The Armenian-American community has contributed much to American society. Today, Armenian-Americans excell in many areas from sciences and the arts to business and industry, and are beginning to enjoy major successes in the political arena as well.

For the Armenians, April 24 has become a rallying point; a day of commemoration for the victims and a day of renewal for the survivors and their descendants. I am proud to say that my district in the surrounding Fresno area includes one of the most vigorous Armenian communities in America. Many of my constituents survived the terrible slaughter of 1915 and bear the scars of watching their mothers and fathers murdered in cold blood. They have worked hard, participated in the growth of our Nation, and added immeasurably to the richness of our culture. To them, April 24 is a testament to their spirit, a peaceful outlet for the emotional trauma they have suffered. They strongly resent—as do I and many of my colleagues—the insult of those who would say that recognition of their day is somehow a capitulation to terrorism.

Mr. Speaker, I would like to include in the RECORD a letter from Governor Deukmejian of California in which he supports House Joint Resolution 247. If I may read from the letter:

DEAR TONY: I am writing to personally express my support of House Joint Resolution 247. . . . It is our duty to call attention to the atrocities that occurred many years ago because if the humane people of this world don't remember, you can be sure the tyrants will—and history will go on repeating itself. . . .

Like Governor Deukmejian, Armenians throughout the country have been organizing support for this resolution. And it seems that an overwhelming majority of my colleagues in the House have concluded that this bill merits passage. House Joint Resolution 247 was introduced over a year ago and in that time has gathered 234 cosponsors from all regions of the country. The bill has received broad bipartisan support from ranking members of both parties. In the event of this bill's passage, I feel we can once again say that Congress has continued its firm humanitarian stand on this important moral issue by voting to designate April 24, 1985, as a "National Day of Remembrance of Man's Inhumanity to Man."

□ 1250

The letter from Governor Deukmejian is as follows:

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, July 6, 1984.

Hon. TONY COELHO,
Congressman, Cannon House Office Building, Washington, DC.

DEAR TONY: I am writing to personally express my support of H.J.R. 247 which designates April 24, 1985, a "National Day of Remembrance of Man's Inhumanity to Man." This day would be so designated for all victims of genocide, and in particular, the one and one-half million people of Armenian ancestry who lost their lives in Turkey between 1915 and 1923.

As you well know, the authenticity of the massacres has been validated by many reputable public officials, historians, and others, including American Ambassador Henry Morgenthau and the distinguished British statesman, Lord Bryce. Yet, the Armenian genocide has gone largely unnoticed by the world community.

It is our duty to call attention to the atrocities that occurred many years ago because if the humane people of this world don't remember, you can be sure the tyrants will—and history will go on repeating itself. One cannot ignore the chilling words of Adolph Hitler before he began his reign of terror during World War II, "Who still talks nowadays of the extermination of the Armenians?"

I strongly support H.J.R. 247. You may use this letter in any manner that you deem appropriate to gain passage of H.J.R. 247.

Most cordially,

GEORGE DEUKMEJIAN.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of House Joint Resolution 247 designating April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man." Mr. Speaker, in supporting House Joint Resolution 247 I feel we are recognizing the historic tragedies of yesteryear, such as 70 years ago when 1.5 million Armenian lives were needlessly lost. House Joint Resolution 247 will remember them and all victims of past inhumanity on April 24, 1985.

However, it does not mean that I shall ever condone terrorism against Turkish diplomats or any form of terrorism against any nation or its people.

● Mr. PASHAYAN. Mr. Speaker, I rise in strong support of House Joint Resolution 247 and urge its passage.

As a Member of Congress who represents a large Armenian constituency, I fully recognize and appreciate the efforts that my colleague from California [Mr. COELHO] has extended on behalf of the thousands of Armenians who have adopted this Nation.

The bill before us today, along with President Reagan's announcement last week urging ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, is a basic recommitment to what President Harry S. Truman stated in his original message to the Senate urging ratification:

I also emphasized that America has long been a symbol of freedom and democratic progress to peoples less favored than we have been and that we must maintain their belief in us by our policies and our acts.

House Joint Resolution 247 is a symbolic gesture requesting the President to issue a proclamation calling upon the people of the United States to observe April 24 as a day of remembrance for all victims of genocide, especially the 1½ million Armenians who were victims of this century's first genocide, which began on April 24, 1915.

President Reagan, on April 22, 1981, issued a proclamation stating: "Like the genocide of the Armenians before it * * * the lessons of the Holocaust must never be forgotten."

Ratification of the Genocide Convention calls for this Nation to recognize "that at all periods of history genocide has inflicted great losses on humanity; and being convinced that, in order to liberate mankind from such an odious scourge, international cooperation is required."

Passage of House Joint Resolution 247 is complementary of our country's renewed efforts in ratification of the Genocide Convention. I strongly urge my colleagues to join me in supporting this worthy effort.●

● Mr. WRIGHT. Mr. Speaker, I rise in support of this bill, House Joint Resolution 247, which would designate April 24, 1985, as a "National Day of Remembrance of Man's Inhumanity to Man."

This bill will be a fitting and overdue memorial to all victims of genocide, particularly the 1½ million Armenians who were victims of the first planned extermination of the 20th century.

On April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up by the Ottoman Turkish Government and murdered in cold blood. The genocide that followed was the culmination of ongoing persecution against the Armenian people which began in the second half of the 19th century. The Ottoman rulers boasted at the time that the annihilation of the Armenian population would be a final solution to the Armenian question. The echo of that cry was heard a generation later at Nazi death camps, where Jewish people were being systematically exterminated.

Fortunately, they were both wrong. The indomitable Armenian spirit preserved and escaped extinction, in part, through the efforts of President Woodrow Wilson, then Ambassador to the Ottoman Empire, Henry Morgenthau, and many charitable institutions such as the Near East Relief Society.

Today, the Armenians are a vigorous and thriving people who have survived the trauma of 1915. Through their diligence and persistence, they have become an integral part of our American society, and have added greatly to the richness of our social fabric.

However, the memory of the atrocity still haunts the survivors and their descendants. As their plight remains little understood, if not buried, their wounds remain open. Their only outlet has been yearly commemorations on April 24. This date has become not only a symbol of their ruptured past, but a rallying point for their resurgence.

Lest we indulge in self-righteousness, Americans would do well to reflect also that elements of genocidal barbarism were present in some of the more brutal acts of extermination against American Indians, to our lasting shame.

This resolution is an important moral statement of great meaning to many American citizens who have contributed so much to our Nation. I have visited Armenian communities in California and have recognized how meaningful the April 24 commemoration is to their heritage as well as their sense of renewal.

The sentiment and the deep commitment bespoken here should have meaning for us all. It is an abiding part of the American faith. It is incumbent on us all to join with those who celebrate this date by shining a light on the past and learning from it, pledging that it shall never happen again, rather than burying the past and robbing ourselves of its lessons.●

● Mr. LOTT. Mr. Speaker, I rise in support of House Joint Resolution 247, a resolution which designates April 24, 1985, as the "National Day of Remembrance of Man's Inhumanity to Man." This resolution calls upon the President to issue a proclamation urging the American people to observe April 24 as a day of remembrance for all genocide victims, particularly those Armenians who were killed during an 8-year genocide campaign in Turkey by the Ottoman Empire. Although this terrible tragedy occurred almost 70 years ago, it has been used to justify recent terrorist actions against Turkish diplomats, none of whom had any part in the events of 1915, and such terrorist actions are equally as abhorrent.

As Republican whip, I urge my colleagues to support this resolution, and I would like to particularly acknowledge the efforts of my colleague from California [Mr. PASHAYAN] in behalf of this measure.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of this resolution, House Joint Resolution 247, to designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man." As one who believes strongly that we should constantly speak out against all violations of human rights—both past and present, and as a cosponsor of this resolution, I urge all my colleagues to lend their support to this measure.

It was the mobilization for World War I that set the stage for the tragic genocide of thousands of Christian Armenians. By February 1915, the Turkish Government had already begun to segregate Armenians into labor battalions, as well as disarming and deporting countless others. On April 24, 1915, about 200 Armenian religious, political, and intellectual leaders were arrested in Istanbul and were either exiled or murdered. And so began the grim carnage against Armenians that was carried out throughout the Ottoman Empire in all Armenian centers. This carnage continued for several years despite efforts in the United States to end the atrocities through diplomatic pressures and by expressing to Turkey a deep sense of concern and outrage. By 1923, 1.5 million Armenians had perished, and more than 500,000 were exiled.

Unfortunately, Mr. Speaker, the Armenian genocide is a historical fact. By remembering this dark chapter in human history we not only honor those who perished, but we also express our abhorrence for all forms of physical violence against innocent

human lives—be it in the form of genocide or terrorism and be it in 1915 or today.

As citizens of a nation that was founded on the principles of personal and religious freedom we are obligated to take notice of any abrogation of these precious liberties both past and present. In designating April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man," we should also reaffirm our dedication to the principles of personal and religious freedom, and our commitment to promoting peace and liberty throughout the world.●

● Mr. SHANNON. Mr. Speaker, I rise to join my colleagues in support of House Joint Resolution 247, to designate April 24, 1985, a day of remembrance of man's inhumanity to man. House Joint Resolution 247 is a tribute to all victims of genocide, especially those who died in the Turkish massacre of Armenians in the course of World War I.

On April 24, 1915, the Ottoman Empire launched a ruthless campaign to eliminate the Armenian race. By 1923, 1.5 million Armenian people had been murdered and another 500,000 had been exiled from their homeland.

Modern Turkey has yet to face up to the implications of those events. Indeed, for many years, the world community refused to condemn or even confront the first genocide of this century. The repurcussions of that refusal were most strikingly illustrated by Hitler's assurance to doubting coconspirators, as he embarked on a plan to annihilate the Jewish people, that no one remembered the Armenian genocide that had taken place only 15 years earlier.

We cannot let this dark episode in world history be forgotten ever again. We must remember the tragedy in order to learn from it and prevent its recurrence. It is in this spirit that House Joint Resolution 247 directs us, as a nation, to reflect on the significance of the events of 1915, not to avenge, but rather to honor those who died, to celebrate the survival of the Armenian race, and to renew our commitment to eliminating racial and religious violence from the world.●

● Mr. LEHMAN of California. Mr. Speaker, I would like to join my colleagues in lending my wholehearted support for House Joint Resolution 247, which would designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man." That date will mark the 70th anniversary of the genocide of 1.5 million Armenians in Turkey, and House Joint Resolution 247 serves as an important tribute and remembrance to them and to all of the others of millions of victims of genocide throughout the history of mankind.

As a Member of Congress who has the good fortune to represent a number of different ethnic communities, including one of the world's largest settlements of individuals of Armenian descent, I would like to point out that the Armenian community has made many important contributions to the economic development and cultural heritage of both the San Joaquin Valley and State of California. This resolution is an effort which is long overdue and one which recognizes the heritage of this community.

House Joint Resolution 247 acknowledges the historical facts of the Armenian genocide which occurred between 1915 and 1923 when 1.5 million Armenians were murdered and 500,000 forced into exile by the Turkish Government throughout the Ottoman Empire. The scars and memories which the survivors of the Armenian genocide carry with them are deep and this tragedy is one that not even time can heal.

More importantly, with the overwhelming bipartisan support which this measure has in this House, it serves as an important reminder to this Government and to the governments of the world, that we, as a nation, have never nor will we ever tolerate such atrocities to occur again.

History has taught all of us an important lesson and the events of 1915 shall never be forgotten. I ask my colleagues to support this effort in honoring the victims and survivors of the first holocaust of the 20th century and to join together in our commitment to eliminate violence brought by prejudice once and for all.●

● Mr. HOWARD. Mr. Speaker, in the name of the Armenians slaughtered by the Turks in 1915 and all of the genocide victims who followed, I support House Joint Resolution 247 and its intended purpose, reminding mankind that such atrocities were indeed committed by human hands.

Throughout the course of World War II, freight trains densely packed with human cargo rattled toward now well-known Polish and German locations. Not more than 10 years ago, under cover of the Southeast Asian jungle, the former Cambodian leader Pol Pot massacred every last individual not amenable to his absolute political domination.

However, 20 years before the first children's screams were heard from the gas chambers of Auschwitz, the Turkish Government intentionally and systematically exterminated a significant portion of its Armenian population—men, women, children, and infants. The only difference between the Ottoman Turks and the Nazis was that the former did not transport its victims by cattle car. It was more convenient to simply ride cavalry charges through migrating columns of internally deported, stricken Armenian refugees.

As we sit today in the Congress or perhaps securely at home with our families, we should remember the millions of innocents who have died in the mud and the heat, in the freezing snow, tied to makeshift posts in the Turkish countryside, or slumped up against the cold sterile walls of a gas chamber. These were not people caught in the crossfire and confusion of war, ravaged by disease, starved by nature's hand in a drought or drowned in a flood, but families of Armenians, Jews, Cambodians, and others who died for nothing beyond the simple fact that a government authority made a conscious decision that they should cease to exist. This is genocide, a phenomenon not peculiar to, but practiced repeatedly, in our century.

House Joint Resolution 247 has given us a solemn purpose. It is our task to speak these words, not, unfortunately, to erase a single moment of pain or to quiet a single scream from the past. It is our task to speak of these horrors lest we ever forget that every one of them was the consequence of a human thought followed by inhumane action.●

● Mr. LUNGREN. Mr. Speaker, it is a privilege to rise in support of House Joint Resolution 247 designating April 24, 1985, as a "National Day of Remembrance of Man's Inhumanity to Man." This resolution calls upon the President to issue a proclamation urging the American people to observe April 24 as a day of remembrance for all genocide victims, particularly those Armenians killed during an 8-year genocide campaign in Turkey by the Ottoman Empire.

They were victims of a terrible genocide that stands as a grisly symbol of those who have fallen victim to tyrants of the world. We must not let this dark period in the history of our world be forgotten. It is an episode that occurred, and hopefully, as people, we can all learn a great lesson from it.

Residents of California will readily recognize that almost every person of Armenian extraction in our State has been greatly affected by this tragic event. It makes us especially proud to see members of the Armenian community rise to respected positions of authority; the Governor of the State of California, judges, and many people throughout our State who are direct descendents of those who suffered so greatly.

Recently, Armenian terrorists have captured media attention for bombings and killings of Turkish diplomats. Armenian terrorists, numbering less than 1,000 of a total Armenian population of 6.5 million have obfuscated the real issues of past injustices by using unacceptable means. Most Armenians do not condone this violence.

The purpose of the Armenian community in seeking the recognition contained in this resolution is not to encourage a desire for vengeance, nor to inflame any form of hatred. Rather, it is hoped that by bringing this tragedy to the attention of the civilized world, it will reduce the likelihood of such occurrences in the future.

Mr. Speaker, I urge my colleagues to support this resolution, and I would like to acknowledge the efforts of my colleague from California [Mr. PASHAYAN] in behalf of this measure.●

Mr. DANNEMEYER. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. FORD] that the House suspend the rules and pass the joint resolution, House Joint Resolution 247, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The title of the joint resolution was amended so as to read: "Joint resolution to designate April 24, 1985, as 'National Day of Remembrance of Man's Inhumanity to Man.'"

A motion to reconsider was laid on the table.

ABANDONED SHIPWRECK ACT OF 1984

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3194) to provide for the protection of any historic shipwreck or historic structure located on the seabed or in the subsoil of the lands beneath navigable waters within the boundaries of the United States, as amended.

The Clerk read as follows:

H.R. 3194

SHORT TITLE

SECTION 1. This Act may be cited as the "Abandoned Shipwreck Act of 1984".

FINDINGS

SEC. 2. The Congress finds that—

(1) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(2) included in the range of resources are certain abandoned shipwrecks.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a).

(2) The term "shipwreck" means a vessel or wreck, its cargo, and other contents.

(3) The term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

(4) The term "submerged lands" means the lands—

(A) that are "lands beneath navigable waters," as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(B) of Puerto Rico, as described in section 8 of the Act of March 2, 1917 (48 U.S.C. 749); and

(C) beneath the navigable waters of Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, including inland navigable waters and waters that extend seaward to the outer limit of the territorial sea.

(5) The terms "public lands" and "Indian lands" have the same meaning as when used in the Archaeological Resources Protection Act of 1979 (7 U.S.C. 470aa-470ll).

RIGHTS OF OWNERSHIP

SEC. 4. (a) The United States asserts title to any abandoned shipwreck that is—

(1) substantially buried in submerged lands of a State;

(2) in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State when—

(A) such shipwreck is included in or determined eligible for inclusion in the National Register; and

(b) the public is given adequate notice of the location of such shipwreck.

(b) The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

(c) Any abandoned shipwreck in or on the public lands of the United States (except the outer Continental Shelf) is the property of the United States Government.

(d) This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414-415).

RELATIONSHIP TO OTHER LAWS

SEC. 5. (a) The law of salvage shall not apply to abandoned shipwrecks to which section 4 of this Act applies.

(b) This Act shall not change the laws of the United States relating to shipwrecks, other than those which this Act applies.

(c) This Act shall not affect any suit filed before the date of enactment of this Act.

GUIDELINES

SEC. 6. To clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, the Advisory Council on Historic Preservation, established under section 201 of the Historic Preservation Act (16 U.S.C. 470i), in consultation with appropriate public and private sector interests (including archeologists salvors, sport divers, historic preservationists, and State Historic Preservation Officers) shall publish, within 6 months after the enactment of this Act, advisory guidelines for the protection of shipwrecks and properties. Such guidelines shall assist States and the United States Government in developing legislation and regulations to carry out their responsibilities under this Act in such manner as will allow for—

(1) recreational exploration of shipwreck sites, and

(2) private sector recovery of shipwrecks, which is not injurious to the shipwreck or the environment surrounding the site.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Washington [Mr. PRITCHARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleages to pass H.R. 3194, the Abandoned Shipwreck Act of 1984. The central purpose of the legislation is to clarify the title of States to certain abandoned shipwrecks within State waters. The overall intent of the legislation is to make clear the right of the States to manage these shipwrecks to enable them to preserve their historical significance.

The need for the legislation stems from current questions as to whether States have the authority to regulate and manage shipwrecks on State lands. Since the passage of the Submerged Lands Act of 1953, States have held title to the lands and resources beneath the navigable waters within State boundaries, extending seaward 3 miles, and have managed a wide range of resources and activities in these areas. Management of certain shipwrecks in these same areas is completely consistent with this existing State authority. To date, all States regulate archeological excavations on State lands and approximately 25 States specifically claim the right to regulate abandoned shipwrecks on State lands. However, several recent Federal district court cases have reached conflicting conclusions on the management of these shipwrecks. The purpose of this legislation, therefore, is simply to clarify that States have title to, and regulatory authority over, a certain class of abandoned shipwrecks on State lands.

Specifically, the legislation transfers to States title to abandoned shipwrecks that are, first, sustantially buried in submerged lands of a State; second, located in coral formations on, of the State; or third, determined to be eligible for, or actually listed on, the National Register of Historic Places. For this class of abandoned shipwrecks, the legislation specifies that the law of salvage shall not apply. For the other abandoned shipwrecks not falling within this narrow class, traditional admiralty law will continue to apply.

The legislation reaffirms Federal ownership of abandoned shipwrecks lying on Federal lands and directs the Advisory Council on Historic Preserva-

tion to develop guidelines to assist the States and the Federal Government in carrying out their responsibilities for managing these abandoned shipwrecks. The Council is directed to develop guidelines that would allow for recreational diving on the wrecks and to utilize, as appropriate, private sector salvage efforts in the recovery of these abandoned wrecks.

The Committee on Merchant Marine and Fisheries has been considering this issue since legislation was first introduced by our distinguished colleague from Florida, Mr. BENNETT, in January of 1979. After I introduced H.R. 3194 with five original cosponsors on June 2, 1983, the committee conducted a deliberate and thorough examination of all the issues associated with the legislation. In September of 1983, the committee held a hearing on H.R. 3194, at which State officials, archeologists, sport divers, and salvors testified. I met personally with several representatives of salvor interests and with the salvors themselves, and my staff has consulted extensively with all of the groups that may be affected by this legislation. After 1 year of thorough and extensive investigation into the legislation, the committee conducted a markup of the bill and ordered it reported by a unanimous vote. Following action by my committee, the Interior Committee also conducted a hearing on H.R. 3194 in July and marked up and reported the legislation the following month. Committee consideration of this measure has been extensive, thorough, and deliberate.

Through our hearings and investigation into this subject, I am convinced that States have a proper and appropriate role to play in managing abandoned historic shipwrecks within State lands. In my own State of North Carolina, the department of cultural resources has developed an outstanding program for managing these cultural rersources. I would like to call your attention in particular to the nationally recognized work of the program in maritime history and underwater research at East Carolina University which has, with the State, made important contributions to the research on the famous Civil War ironclad, the U.S.S. *Monitor,* lying off Cape Hatteras, NC. The archeological techniques developed by the university are now being applied to other important projects throughout the Southeast, including our Nation's earliest settlements on Roanoke Island.

I would also like to acknowledge the important role that sport divers play in preserving and promoting the martime heritage of this Nation. The Committee on Merchant Marine and Fisheries recognizes this crucial role, and it is our intention that State programs to regulate these abandoned shipwrecks preserve the important recreational opportunities associated with these underwater sites. Sport divers, archeologists, and salvors have all made significant contributions to understanding and developing America's great maritime history. We expect fully that the States will continue to work with all of these groups as they have for the last 20 years.

Finally, Mr. Speaker, I would like to acknowledge the substantial contributions to this legislation made by my colleague from Florida, Mr. BENNETT. I would also like to acknowledge the contribution of our distinguished majority leader, Congressman JIM WRIGHT, and the substantial assistance of Chairman SEIBERLING and Chairman UDALL for their efforts on H.R. 3194 in the Interior Committee.

I would now like to yield to Congressman BENNETT for any comments that he may wish to make on this legislation.

□ 1300

Mr. BENNETT. Mr. Speaker, I have long been interested in historic preservation and have introduced legislation for many years to preserve and protect abandoned historic shipwrecks and their artifacts. I heartily support H.R. 3194 as a positive and essential step in the right direction.

I introduced the original legislation because it had come to my attention that many people who dive for treasure do not preserve archeologically sensitive materials. Rather, many do it purely for the money involved and give no thought to historical information and preservation. Sometimes the most valuable thing from the standpoint of developing man's mind and giving him information about the past can be a very fragile and unimportant looking thing—not gold or silver, maybe not even brass or metal of any kind. This sort of thing tends to be lost when it is in the hands of the person who salvages only for silver and gold.

Many historic shipwrecks have been destroyed by treasure hunters. Many known wrecks off the Florida coast containing a wealth of historical information are now simply holes in the ocean floor—their ballast stones removed for fireplaces, their timbers removed for coffee tables, and coins now worn around investors necks. Future generations of Americans will be unable to enjoy the knowledge and study that these archeological artifacts could have provided.

I want to protect the historical content of abandoned historic vessels and the bill is designed to do this.

The bill is fair to treasure hunters who still will take the lion's share, but it gives our museums and scholars a chance to know of and preserve some of the data and artifacts that are currently wasted.

The bill has received strong support from the attorney general of the State of Florida, which has been involved in litigation contesting ownership of historic shipwrecks off the Florida coast for many years. The bill would make clear that historic wrecks in State waters basically belong to the State. Many States, including Florida, have enacted very thorough preservation statutes and will most certainly work to preserve the archeological values inherent in the wrecks and their artifacts.

The bill is an excellent compromise between many conflicting interests. I commend Chairman JONES, Chairman UDALL, and Chairman SEIBERLING for their excellent work in resolving these conflicts and giving us a workable bill to preserve important data and materials of America's history. I urge my colleagues to enthusiastically approve this legislation.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader of the House, the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I want to commend my distinguished colleague, the gentleman from North Carolina [Mr. JONES] for his leadership in bringing this bill to the floor and also our distinguished chairman from Ohio [Mr. SEIBERLING] who held joint jurisdiction over it.

I think it is an important advance and protection of precious historical treasures which can shed invaluable light upon buried eras of our history. These must not be allowed to fritter and be pilfered away.

The right of ownership of State submerged lands and waters was given to the States by Congress in 1953 when it passed the Submerged Lands Act. We simply now come to affirm that any buried and abandoned shipwrecks which may be found in the future in or under these resources also belong to the States.

All of the States already claim title to this limited category of historic shipwrecks. Some 25 States have passed specific laws preserving and protecting them from ravages and since they are an integral part of the Nation's cultural heritage, they must be preserved.

The State of Texas has its own shipwreck management legislation, written in 1969. It is also the home of the Texas A&M University, the very highly respected internationally recognized Institute of Nautical Archeology. I am told it is only one of three such laboratories in the whole world and so I commend our colleagues for having brought this bill to us and for the vision which leads them to preserve and protect these precious historic and archeological treasures while there still is time, and I ask for your votes in support of the bill.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 3194, the Abandoned Shipwrecks Act of 1984.

The purpose of this legislation is to clarify the question of the ownership of, and the authority to manage, certain abandoned shipwrecks located on submerged State lands, including lands beneath navigable waters and the ocean floor within State boundaries. Currently, an inconsistent legal regime governs the disposition and recovery of abandoned shipwrecks in State waters.

Many States have statutes claiming title and regulation over abandoned historic shipwrecks, but Federal courts have differed as to the validity of these statutes. The importance of this legislation is to clarify the State authority to own and manage those abandoned shipwrecks that are substantially buried in State lands, in coral formations on State lands, or are included in the National Register of Historic Sites.

While establishing a single legal regime governing abandoned shipwrecks, this legislation also encourages the private sector to have a role in the discussion and establishment of guidelines that will address the role of the private sector in the recovery of historic shipwrecks. These guidelines, developed by the Advisory Council on Historic Preservation, will be used to guide both Federal and State governments in developing legislation and regulations to carry out the responsibilities under this act. It is important that the recreational exploration of a shipwreck site that is noninjurious to the shipwreck or the environment surrounding the site is allowed to continue.

Therefore, Mr. Speaker, I urge my colleagues to support H.R. 3194. Thank you.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I rise in support of H.R. 3194, the Abandoned Shipwrecks Act, as reported by the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs.

I want to congratulate the members of both committees for working out this compromise version of the bill. H.R. 3194 has come a long way since it was introduced. I believe it does an excellent job of meeting the needs of the various interests concerned with historic shipwrecks—including sport divers and salvors as well as archeologists and historic preservationists.

This is basically a States rights bill. As amended by the committees, H.R. 3194 would give to the States title to certain abandoned shipwrecks that are buried in State lands or which have historical significance and are on State lands. It would also clarify the management authority of States for these abandoned shipwrecks.

By way of explanation, under the Submerged Lands Act of 1953, States hold title to the lands and natural resources within 3 miles of their coasts. However a series of recent court cases has thrown into doubt the authority of Federal and State governments to regulate historic shipwreck recovery on these lands. The question has centered on whether the Federal Government granted title to shipwrecks to the States in the 1953 law.

The Merchant Marine Committee clarified the issue by specifying that State title to these shipwrecks would be assured for all abandoned shipwrecks in State-submerged lands that are substantially buried, are in coralline formations, or are listed on the National Register of Historic Places. The committee also made a number of other changes, including the addition of a requirement that the Advisory Council on Historic Preservation develop advisory guidelines to assist the States and the Federal Government in carrying out their responsibilities under the act.

The Interior Committee made a number of technical and clarifying changes in the bill which relate to the committee's jurisdiction over historic preservation and archeology, as well as public lands and Indian lands. The changes were all noncontroversial.

The committee also addressed concerns raised by private, commercial salvors, who were concerned that if title to the shipwrecks were vested in the States, then the States would pass restrictive legislation that would effectively put them out of business.

On the other hand, there remains the strong desire by the States to resolve the ownership issue. I understand that all States currently claim ownership of shipwrecks under the Submerged Lands Act. All States also have historic preservation programs. Twenty-five States have enacted specific legislation for the management of shipwrecks. Of these, 13 allow compensation for private sector recovery of the shipwrecks.

As amended by the Interior Committee, the bill would take care of the various concerns raised by private salvors and by the States. In particular, the provisions of section 6 relating to the advisory council's guidelines were expanded to indicate clearly that the private sector has a role in the discussion and substance of the guidelines. The guidelines will, among other things, address the role of the private sector—both commercial and non-profit—in the recovery of historic shipwrecks.

At the same time, it is important to assure that historic shipwrecks are protected, and the bill would do so by assuring that the States have clear authority to manage them.

Indeed, we were informed that in Massachusetts, when the Federal Admiralty Court ruled that the State does have jurisdiction, the State did not turn around and pass restrictive legislation banning private sector recovery. In fact, the same commercial salvor who had lost the suit in the Federal court was able to get a permit from the State. This past summer, the salvor had a successful find that was featured on national television. Under his permit, he will split the recovered material with the State, which will take its 25-percent share in historical and educational information.

Similarly, this is the type of arrangement that Florida has had since 1967, both before and after the 1981 Federal court decision that questioned Florida's jurisdiction. The attorney general of Florida has written that he strongly supports the bill. He indicated that the State's working relationship with the salvors has become a good one. He said he saw no future need to have the Federal courts involved in determining how Florida's lands are managed.

Furthermore, a recent Federal district court decision used the same rationale as H.R. 3194 to deal with an abandoned shipwreck in Georgia. The court held that, because the shipwreck was embedded in a State-owned river bottom, title to the wreck is with the State and therefore the shipwreck is not subject to the Federal admiralty law of salvage.

Before closing, I would simply like to thank the chairman of the Merchant Marine Committee, Mr. WALTER JONES, and the chairman of the Interior Committee, Mr. MORRIS UDALL, as well as Majority Leader JIM WRIGHT, and deputy whip BILL ALEXANDER, for helping to make the resolution of this matter both adequate and amicable. I would also like especially to thank Mr. BENNETT of Florida for his leadership in introducing the original legislation dealing with this issue. Several staff members also merit thanks, including Ed Welch, William Stelle, and Ann Gieske of the Merchant Marine Committee staff who worked closely with Loretta Neumann and Rick Agnew of the Interior Committee staff to work out the details of the bill. I would also like to thank Jan Chisolm of the Interior Committee staff and Pope Barrow of the Office of the Legislative Counsel.

Mr. Speaker, I believe that H.R. 3194, as amended by the Merchant Marine and Interior Committees, would go a long way toward assuring the protection and proper management of historic shipwrecks.

I urge all Members to support the legislation.

● Mr. DE LUGO. Mr. Speaker, the history of this great Nation is a subject of pride for all Americans and something that binds us together as a people. But the landmarks and artifacts that are common throughout our country and which characterize our heritage are not the only treasures of our past, for there is a wealth of history that remains largely unseen and unnoticed by the vast majority of Americans. These are the shipwrecks and submerged artifacts, that although largely unknown, played an important part in our historical past. They were the man-of-war fighting ships, the Spanish galleons, and the many important vessels from our maritime past.

It is important to uphold the needs of historical explorers and archeologists who wish to comb and delicately extract the historical significance of the past, but, just as important, the wealth of this underwater world should always remain open and accessible to the millions of divers who wish to visit and to view, and who appreciate and wish to safeguard the past that lies under the waves. H.R. 3194 addresses the striking of a proper balance by requiring the Advisory Council on Historic Preservation, in consultation with appropriate public and private sector interests, including archeologists, salvors, sport divers and State historic preservation officers, to publish within 6 months, advisory guidelines, and the report specifically notes that the guidelines allow for recreational exploration of the shipwrecks.

In the section-by-section analysis of the committee report it is noted that salvors may play an important role in the location and recovery of abandoned shipwrecks and states that the committee believes that States should encourage the participation of all interested groups in the discovery and recovery of these important resources and that in appropriate circumstances, compensation for these groups may be entirely appropriate in appropriate circumstances. The report further notes that the most interested group in the research and appreciation of historic shipwrecks is the sport diving community, and states that the committee expects the council to consult with sport divers representing a broad geographical distribution.

I would like to underscore those concerns. In the U.S. Virgin Islands, which are blessed with crystal clear waters, underwater diving is an enormous draw for our tourism, which is the mainstay of our economy. In few States is diving such an important component of the industry, and I would urge that the council be requested to seek specific input from a representative of the sport diving industry of the U.S. Virgin Islands. There are many competent to speak, including a past president of the Underwater Society of America. Of critical concern will be the guidelines that the council will recommend, and being in the area of one of the areas of greatest concentration of wrecks, the Virgin Islands is uniquely able to offer experienced and objective recommendations to the council in the formulation of appropriate guidelines.●

● Mr. ORTIZ. Mr. Speaker, it is my honor and privilege to rise today and speak on behalf of legislation that I was honored and privileged to cosponsor, the Abandoned Shipwreck Act of 1984.

For some time now, there has been confusion about who has authority to manage certain abandoned shipwrecks located on submerged State lands. Many State have statutes claiming title to and regulation over abandoned historic shipwrecks but the Federal courts have differed as to the validity of these statutes. Some Federal courts have ruled that these State statutes are valid, while other decisions have supported private citizens who seek to invoke Federal admiralty and salvage law to claim interests in historic shipwrecks.

Clearly, for the sake of preserving these relics of the past, something had to be done to establish a single legal regime governing certain abandoned shipwrecks within State waters while preserving traditional admiralty law for all other classes of shipwrecks.

The Abandoned Shipwreck Act of 1984 does this by giving to States title to certain abandoned shipwrecks that are buried in State lands or have historical significance and are on State land. The legislation declares that the law of salvage does not apply to these abandoned shipwrecks, reaffirms Federal ownership of abandoned shipwrecks on Federal lands and directs the Advisory Council on Historic Preservation to develop guidelines to assist the States and the Federal Government in carrying out their responsibilities and to allow for noninjurious recreational exploration and private sector recovery of shipwreck sites.

As a Congressman from a district whose coastline waters are rich with historical shipwrecks, I believe it is critical to preserve and protect these structures. These remnants of the past are important icons of seminal cultures and economies. They offer future generations a firm historical foundation and an understanding of why and how we became the civilization we are today.

Such understanding and knowleged should not be left to the ebb and flow of confusing jurisdictional battles between Federal and State government. This legislation offers a rational and fair game plan for the preservation of these structures of historical significance.●

The SPEAKER pro tempore. Are there further requests for time?

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3194, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish the title of States in certain abandoned shipwrecks, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3194, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON S. 2463, OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. JONES of North Carolina submitted the following conference report and statement on the Senate bill (S. 2463) to authorize appropriations of funds for certain fisheries programs, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 98-1006)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2463) to authorize appropriations of funds for certain fisheries programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I.—OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Ocean and Coastal Resources Management and Development Block Grant Act".

FINDINGS

SEC. 102. The Congress finds and declares that—

(1) it is in the interest of the United States, for both economic and national secu-

rity reasons, to provide expeditious and orderly development of outer Continental Shelf oil and gas resources;

(2) the primary benefits of the outer Continental Shelf leasing program accrue to the entire Nation in the form of direct revenues and increased national energy security;

(3) while state and local governments may benefit from outer Continental Shelf leasing activity, these benefits are less pronounced and less direct than those accruing to the Nation. Outer Continental Shelf oil and gas activity often requires significant investment on the part of state and local governments in planning for and providing public services and facilities necessitated by such activity;

(4) offshore energy development may cause adverse environmental impacts throughout the coastal areas of the United States and require states and local governments to assume additional responsibilities at a time when they do not possess the necessary financial resources;

(5) because the revenues of the outer Continental Shelf program are derived from the development of nonrenewable offshore mineral resources, they should be invested in management and scientific research efforts to enhance the use, conservation, and understanding of renewable ocean and coastal resources;

(6) the Mineral Leasing Act of 1920 and other Federal lands leasing programs presently provide financial support to states affected by resource development on onshore Federal lands, while no comparable Federal program exists to provide such support to states affected by mineral extraction from the outer Continental Shelf;

(7) without Federal financial support, the capability of states and localities to manage ocean and coastal resources, as well as to participate as partners in the outer Continental Shelf oil and gas leasing program, will be seriously diminished; and

(8) it is in the national interest to maintain support for state management of ocean and coastal resources through activities in fisheries management, coastal zone management, coastal energy impact assistance, long-range scientific research, and other ocean and coastal resource management programs.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) "block grant" means a National Ocean and Coastal Resources Management and Development Block Grant;

(2) "coastal population" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927;

(3) "coastal-related energy facilities" means any equipment of facility that (A) is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource or for the manufacture, production, or assembly of equipment, machinery, products, or devices that are involved in any such energy-resource activity, and (B) is, or is likely to be, sited, constructed, expanded, or operated in, or in close proximity to, the coastal zone of any state because of technical requirements;

The term includes, (i) electric generating plants; (ii) facilities associated with the transportation, transfer, or storage of coal; (iii) petroleum refineries and associated facilities; (iv) gasification plants; (v) facilities associated with the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities, including deepwater ports, for the transfer of petroleum; (viii) facilities used for alternative ocean energy activities, including those associated with ocean thermal energy conversion; and (ix) pipelines, transmission facilities, and terminals associated with any of the foregoing.

For the purposes of this Act, the siting, construction, expansion, or operation of any coastal-related energy facilities is "in close proximity to the coastal zone of any state" if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(4) "coastal state" means the Commonwealth of Puerto Rico and any state of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(5) "coastal territory" means the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, or Guam;

(6) "Fund" means the Ocean and Coastal Resources Management and Development Fund;

(7) "Institute" means the National Coastal Resources Research and Development Institute;

(8) "local government" means that term as defined in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term incudes unincorporated communities, including Alaska Native villages;

(9) "outer Continental Shelf planning area" means one of the geophysical regions of the outer Continental Shelf which is so designated in the Outer Continental Shelf Leasing Program (43 U.S.C. 1344) dated July 21, 1982, or as so designated in subsequent outer Continental Shelf leasing programs;

(10) "proportionately" means in the same ratio as a state's allocation;

(11) "Secretary" means the Secretary of Commerce;

(12) "shoreline mileage" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927; and

(13) "state" means any coastal state or coastal territory.

OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT FUND

SEC. 104. (a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Management and Development Fund.

(b)(1) Beginning in fiscal year 1985 and in each fiscal year thereafter, the Secretary of the Treasury shall deposit into the Fund, not later than 60 days after the end of the previous fiscal year, an amount equal to 4 per centum of the average amount of all sums deposited in the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the three previous fiscal years.

(2) The amount deposited in the Fund in fiscal year 1985 shall not exceed $300,000,000. Beginning in fiscal year 1986, and in each fiscal year thereafter, the amount deposited in the Fund shall not exceed 105 per centum of the amount deposited in the Fund in the prior fiscal year.

(c) As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Fund during each fiscal year to carry out the purposes of, and in accordance with, the provisions of sections 105 and 108 of this title.

NATIONAL OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANTS

SEC. 105. (a) Subject to the provision section 104(c) and this section, for fiscal year 1985 and for each subsequent fiscal year, the Secretary shall provide to each state a national ocean and coastal resources management and development block grant from amounts paid into the Fund during such fiscal year under section 104(b).

(b)(1) No state may receive a block grant for a fiscal year unless such state has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such state of the block grant among coastal zone management activities, coastal energy impact activities, living marine resource activities, and natural resource preservation, enhancement, and management activities under section 106(a); and

(B) describes each proposed activity receiving funds provided by the block grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible to receive a block grant pursuant to this Act and before submitting the report required under paragraph (1), each state shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the state convenient for encouraging maximum participation.

(c) A block grant shall not be paid from the Fund to a state until the state has established a trust fund for the receipt of such grant.

(d) The amount of each block grant provided under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives equal consideration to each of the following criteria:

(1) For each state, the equal combination of—

(A) the amount of actual leasing with respect to oil and gas which is carried out under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) during the previous fiscal year which occurs within the outer Continental Shelf planning area to which such state is adjacent; and

(B) the volume of oil and gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state during the previous fiscal year.

(2) For each state, any proposed oil and gas lease sales specified by the outer Continental Shelf leasing program prepared under section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) and scheduled to occur within the outer Continental Shelf planning area to which such state is adjacent.

(3) The coastal-related energy facilities (including coal facilities) located within each state during the previous fiscal year. For any state for which the Secretary has not approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), this criterion shall be reduced by fifty per centum. The amounts resulting from such reduction shall be reallocated proportionately, under this paragraph, among states for which the Secretary has approved such a management program.

(4) The shoreline mileage of each state for which the Secretary has approved a coastal zone management program under section

306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(5) The coastal population of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) For purposes of paragraphs (4) and (5) of subsection (d)—

(1) the Secretary shall be presumed to have approved the coastal zone management program of any state if the Secretary determines that, in any fiscal year, such state is making satisfactory progress toward the development of a coastal zone management program which will be approved under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455). Such presumption may be renewed only once and for a period not to exceed one additional fiscal year if the Secretary makes such determination under this subsection for such additional fiscal year; and

(2) a state shall not receive in excess of 30 per centum of the amounts attributable to either criterion. If any state would receive an allotment greater than 30 per centum, the Secretary shall reduce such allotment to 30 per centum. The amounts resulting from such reduction shall be reallocated proportionately among those states that receive less than 30 per centum of the amounts attributable to such criterion.

(f)(1) For states for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), a coastal state shall receive not less than one and sixty two one-hundredths per centum, and a coastal territory not less than one-half of one per centum, of the total amount available for block grants under section 104(c) during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal state or coastal territory is to receive a block grant that is less than the respective minimum grant levels established under paragraph (1), the Secretary shall increase such state's block grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the block grant of each state which, as determined under subsection (d), exceeds the respective minimum level under paragraph (1).

(3) For the purposes of the implementation of section 106(b), block grant levels may fall below the respective minimum levels established under this section.

(g) If, after the calculations required under subsections (d), (e) and (f), any state would receive a block grant which is greater than 15 per centum of the funds appropriated under section 104(c), the Secretary shall reduce such state's block grant to 15 per centum. The amounts resulting from such reduction shall be reallocated proportionately among states receiving less than 15 per centum of such funds and more than the minimum grant levels under subsection (f).

REQUIREMENTS ON THE USE OF BLOCK GRANTS

SEC. 106. Block grants provided to a state under section 105(a) shall be used for the enhancement and management of ocean and coastal resources and for the amelioration of any adverse impacts that result from the siting, construction, expansion, or operation of coastal-related energy facilities.

(a) Such block grants shall be used only for each of the following activities:

(1) activities of such state authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(2) activities of such state pursuant to the coastal energy impact program administered under section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457);

(3) activities of such state for the enhancement, management and development of living marine resources; and

(4) activities of such state for the preservation, enhancement and management of its natural resources including coastal habitats.

(b) Nothing in this Act shall be construed to repeal or modify, by implication or otherwise, section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461). The Secretary shall reduce any block grant, provided under this Act to a state that has an approved program under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455), by no more than 30 per centum of the amount of such state's block grant that is attributable to paragraphs (4) and (5) of section 105(d) of this title, if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act.

LOCAL GOVERNMENTS

SEC. 107. (a) Each State receiving a block grant in any fiscal year under section 105(a) shall—

(1) establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the state; and

(2) provide to its local governments allocations from such block grant, taking into consideration the responsibilities of the local governments in carrying out activities under section 106(a).

(b) In carrying out its responsibilities under subsection (a)(2), the state shall give particular emphasis to the activities of local governments in—

(1) providing public services and public facilities required as a result of the siting, construction, expansion, or operation of coastal-related energy facilities; and

(2) preventing, reducing, or ameliorating any unavoidable loss of valuable environmental or recreational resources if such loss results from the siting, construction, expansion, or operation of coastal-related energy facilities.

(c) In carrying out its responsibilities under this section, each state shall provide no less than 33⅓ per centum of each block grant received under section 105(a) to its local governments.

NATIONAL COASTAL RESOURCES RESEARCH AND DEVELOPMENT INSTITUTE

SEC. 108. (a) The Secretary shall provide for the establishment of a National Coastal Resources Research and Development Institute to be administered in affiliation with the Oregon State University Marine Science Center.

(b) The Institute shall seek to conduct basic and applied research and carry out educational and demonstration projects designed to promote the efficient and responsible development of ocean and coastal resources, including arctic resources. Such activities shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this section and shall include studies on the economic development and diversification and environmental protection of the Nation's coastal areas.

(c)(1) The policies of the Institute shall be established and administered by a Board of Governors composed of—

(A) two representatives appointed by the Governor of Oregon;

(B) one representative appointed by the Governor of Alaska;

(C) one representative appointed by the governor of Washington;

(D) one representative appointed by the Governor of California; and

(E) one representative appointed by the Governor of Hawaii.

(2) The Board of Governors shall select and fund, on a nationally competitive basis, research proposals, projects, and studies designed to promote the efficient and responsible economic development of ocean, coastal and Arctic resources.

(d)(1) The Board of Governors shall establish an Advisory Council composed primarily of specialists in ocean and coastal resources from the academic community but which shall include appropriate representation from ocean and coastal user groups.

(2) To the maximum extent practicable, the advisory Council shall be composed of individuals from every coastal region of the Nation.

(3) The Advisory Council shall advise the board of Governors on its recommendations regarding proposals, projects, and studies which are presented to the Board of Governors.

(e) The Institute shall be administered by a Director who shall be appointed by the Chancellor of the Oregon Board of Higher Education in consultation with the Board of Governors. The Director shall report to the Board of Governors.

(f) The Secretary shall conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute under this section are used in a manner consistent with the provisions of this section.

(g) The Institute shall report to the Secretary on its activities within two years after the date of enactment of this Act.

(h) The Comptroller General of the United States, and any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Institute that are pertinent to the funds received under this section.

(i) Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(j) For the purposes of this section, there are authorized to be appropriated from the Fund in each fiscal year an amount equal to, but not more than, 1.5 per centum of the amount appropriated under section 104(c) in such fiscal year, commencing with fiscal year 1985.

AUDIT

SEC. 109. (a) Under regulations promulgated by the Secretary, any state receiving a block grant under section 105(a) shall, for each fiscal year that it receives such grant, submit to the Secretary a financial audit of the trust fund established pursuant to section 105(c). The income derived from such trust fund for each fiscal year shall be included in the audit required by this section.

(b) Each audit submitted by a state under subsection (a) shall—

(1) contain a statement of all funds provided by the block grant received by such state for the fiscal year;

(2) include a statement of all financial assistance provided to such state's local governments pursuant to section 107;

(3) be conducted by an entity which is independent of any agency or official administering or using funds provided by such block grant; and

(4) be conducted in accordance with the financial and compliance element of the standards for audit of governmental organizations, activities, and functions established by the Comptroller General of the United States.

(c) After receiving a state's financial audit under this section, the Secretary shall—

(1) make a preliminary evaluation of each audit submitted pursuant to this section. If the Secretary determines, in the preliminary evaluation of a State's audit, that all or any part of the block grant has not been used as required by this Act, the Secretary shall publish notice of this finding in the Federal Register. In addition, the Secretary may suspend, and place in escrow, an amount from any future block grant which is equivalent to the amount misused, pending final determination pursuant to paragraph (3);

(2) provide the state with an opportunity for a hearing; and

(3) make a final determination.

(d) If the Secretary makes a final determination under subsection (c)(3) that all or any part of such funds were not used as required by this Act, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused under subsection (c), including the withholding of such amount from a State's future block grant or the amount which may have been suspended under subsection (c)(1).

(e) If no appeal of the final determination is filed within sixty days following notification to the State of the final determination, any funds withheld or recovered by the Secretary under subsection (d)(2) shall be returned to the Fund.

(f) If an appeal of the final determination is filed within the sixty-day period specified in subsection (e), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

RULES AND REGULATIONS

SEC. 110. Within 180 days of enactment of this Act, the Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this Act.

DEFINITION OF BOUNDARY

SEC. 111. Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting ", except that any boundary between a State within the conterminous United States and the United States under this Act which has been fixed by coordinates under a final decree of the United States Supreme Court shall, for the purposes of this Act and the Outer Continental Shelf Lands Act, remain immobilized at the coordinates provided under such decree and shall not be ambulatory" before the semicolon.

TITLE II.—FISHERIES AND DEEP SEABED MINING PROGRAM

SEC. 201. (a) Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in subsection (a), by inserting "; and $28,000,000 for fiscal year 1985" immediately after "1984"; and

(2) in subsection (b), by striking "of 1976".

(b) Section 3 of such Act is amended—

(1) in subsection (a), by inserting ", and $35,000,000 for fiscal year 1985" immediately after "1984"; and

(2) in subsection (b), by inserting "Magnuson" immediately before "Fishery", and by striking "of 1976".

(c) Section 4 of such Act is amended—

(1) in subsection (a)—

(A) by inserting ", and $12,000,000 for fiscal year 1985" immediately after "1984"; and

(B) by striking "boats" and inserting in lieu thereof "vessels"; and

(2) in subsection (b), by striking "of 1976".

(d) Section 2, 3, and 4 of such Act are amended by adding at the end thereof the following:

"(c) The duties authorized in subsection (a) of this section shall be considered separate and distinct from duties and functions performed pursuant to moneys authorized in subsection (b) of this section. The total authorization for all such duties and fuctions shall be the sum of amounts specified in such subsections.".

SEC. 202. (a) Section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c(c)) is amended by striking "September 30, 1984" each place it appears and inserting in lieu thereof "September 30, 1985".

(b) Section 7(c)(6) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)(6)) is amended by striking "and 1984" and inserting in lieu thereof "1984, and 1985".

SEC. 203. Section 221 of the American Fisheries Promotion Act (16 U.S.C. 742c, note) is amended—

(1) in subsection (a), by striking "September 30, 1984" and inserting in lieu thereof "September 30, 1985";

(2)(A) in subsection (b)(2)(A), by striking "and 1984," and inserting in lieu thereof "1984, and 1985,"; and

(B) in subsection (b)(2)(C), by striking "and 1984" and inserting in lieu thereof "1984, and 1985"; and

(3) in subsection (c)(1), by striking "and 1984," and inserting in lieu thereof "1984, and 1985".

SEC. 204. Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking "and" immediately after "1983,"; and

(2) by inserting ", and $1,500,000 for each of the fiscal years ending September 30, 1985 and September 30, 1986" immediately before the period at the end thereof.

SEC. 205. (a) Section 201(e)(1)(E)(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(e)(1)(E)(i)) is amended—

(1) by inserting "both" immediately before "United States";

(2) by striking "or fishery" and inserting in lieu thereof "and fishery"; and

(3) by inserting the following immediately before the semicolon at the end thereof: ", particularly fish and fishery products for which the foreign nation has requested an allocation".

(b) Section 201(e)(1)(E)(ii) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(e)(1)(E)(ii)) is amended to read as follows:

"(ii) whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;".

(c)(1) Section 201(d)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(d)(4)) is amended by striking "shall" the first time it appears and inserting in lieu thereof "may".

(2) Section 201(e)(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(e)(1)(A)) is amended by striking "shall determine the allocation among foreign nations of" and inserting in lieu thereof "may make allocations to foreign nations from".

(3) Section 301(a)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1)) is amended by inserting "for the United States fishing industry" immediately before the period at the end thereof.

And the House agree to the same.

WALTER B. JONES,
JOHN B. BREAUX,
GERRY E. STUDDS,
NORMAN E. D'AMOURS,
JOEL PRITCHARD,
DON YOUNG,
WILLIAM CARNEY,
Managers on the Part of the House.

BOB PACKWOOD,
TED STEVENS,
SLADE GORTON,
ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2463) to authorize appropriations of funds for certain fisheries programs and for other purposes, submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers and recommended in the accompanying Conference Report.

The House amendment struck out all of the Senate bill after the enacting clause and inserted, as an agreement, the text of the bill (H.R. 5) to establish an ocean and coastal resources management and development fund from which coastal states and territories shall receive block grants and for other purposes.

The Senate recedes from its disagreement to the amendment of the House with an agreement which is a modified version of the House amendment. To fully inform the House and Senate about the Conference agreement contained in the accompanying Conference Report, the managers will set forth, with the exception of certain technical and conforming changes, and explanation of certain differences and the resolution of these differences, section-by-section. With respect to Title I, other provisions including technical and administrative information, are described in House Report No. 98-206. The provisions of S. 2463 (Senate Report No. 98-391), as passed by the Senate, that were accepted by the Conferees are contained in Title II.

SECTION-BY-SECTION ANALYSIS

Title I. Ocean and Coastal Resources Management and Development Block Grant Act

Section 102—Findings

The House amendment contained no Congressional findings. The Conferees agreed that such findings were necessary to clearly convey the dual purpose of the legislation: first, to help promote balanced leasing and development of the outer Continental Shelf (OCS) by providing coastal states with a more direct financial interest in the federal OCS program; and second, to provide a long-term, predictable source of funds for states to apply to the mitigation of coastal impacts caused by OCS and other energy-related development and to maintain effective and efficient programs for management of the coastal zone. While these and other fundamental precepts were outlined in detail in House Report 98-206 (at pp. 6-7), the Conferees agreed to the inclusion of Congressional findings in the agreement.

Section 103—Definitions

The House amendment, in section 2, provided definitions for use throughout the bill. The agreement contains modifications of, and additions to, these definitions.

Section 103(1)—Definition of "block grant."—The House amendment contained no definition of the term "block grant." The Conferees agreed to define that term to mean a National Ocean and Coastal Resources Management and Development Block Grant.

Section 103(2)—Definition of "coastal population."—The House amendment contained no definition of "coastal population," a term that is used in the block grant allocation formula. However, the House Report on H.R. 5 (at p. 96) notes that this term has been applied in association with section 306 of the Coastal Zone Management Act (CZMA) and is included in the regulations published in the *Federal Register* of May 17, 1982. The Conferees agreed to include the term in the Conference agreement and to define it by reference to the regulations.

Section 103(4) and 103(5)—Definitions of "coastal state" and "coastal territory."—The House amendment defined the term "coastal state" to mean any state of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes, and including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and American Samoa. Therefore, for the purposes of the House amendment, ocean states, Great Lakes states, and territories including the Trust Territory of the Pacific Islands, were considered as coastal states and treated similarly under the provisions of the amendment.

The Conferees agreed to specific definitions for the term "coastal state" and the term "coastal territory." This change was necessary since, in subsequent sections, the Conference agreement establishes different minimum funding levels for coastal states and coastal territories (see discussion at section 105(f)).

The Conferrees agreed that the term "coastal state" be defined to mean the Commonwealth of Puerto Rico and any state of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. Finally, the Conferees agreed that the term "coastal territory" is defined to include the Virgin Islands, the Northern Marianana Islands, the Trust Territory of the Pacific Islands, American Samoa, or Guam.

Section 103(6)—Definition of "Fund."—The House amendment contained no definition for the term "Fund." The Conferees agreed that the term be defined to mean the Ocean and Coastal Resources Management and Development Fund.

Section 103(7)—Definition of "Institute."—The Conference agreement defines the term "Institute" to mean the National Coastal Resources Research and Development Institute.

Section 103(8)—Definition of "local government."—The House amendment contained no definition for the term "local government." The Conferees agreed to include a defintion in the Conference agreement and, with respect to the State of Alaska, that the term include unincorporated communities, including Alaska Native villages.

Section 103(9)—Definition of "outer Continental Shelf planning area."—The House amendment contained no definition for the term "outer Continental Shelf planning area." The Conferees concurred that this term should be defined to mean one of the geophysical regions of the outer Continental Shelf which is so designated in the outer Continental Shelf Leasing Program (43 subsequent outer Continental Shelf leasing programs. This term is used in the block grant allocation formula under section 5(d) of the Conference agreement.

Section 103(10)—Definition of "proportionately."—The term "proportionately" was not defined in the House amendement. The Conferees agreed that the concept of proportionate reductions should be specifically incorporated into the agreement and that the term "proportionately" be given specific definition. The term is defined to mean in the same ratio as a state's allocation.

States that have developed federally approved coastal zone management programs and which, subsequent to calcualtion of formula allocations, receive less than the established minimum share for such states, shall receive additional funds sufficient to provide that state with the minimum allocation. Amounts necessary to provide the funds required for the minimum shares are to be subtracted from the granis of all states which receive more than the minimum allowance, and such funds are to be subtracted from each state in proportion to the amount which each state receives pursuant to the formula calculations. The term proportionately is also applied in conjuction with other calculations pursuant to the allocation of block grants under section 105 of the Conference agreement (sections 105(d)(3) and 105(e)(2)).

Section 103(12)—Definition of "shoreline mileage."—The House amendment contained no definition of "shoreline mileage," a term that is used in the block grant allocation formula. However, the House Report (at p. 96) notes that this term has been applied in association with section 306 of the CZMA and is included in the regulations published in the Federal Register of May 17, 1982. The Conferees agreed to include the term in the Conference agreement and to define it by reference to the regulations.

Section 103(13)—Definition of "state."—The House amendment contained no definition for the term "state." The Conferees agreed that the term be defined to mean any coastal state or coastal territory.

Deletion of the term "outer Continental Shelf."—The House amendment included a definition for the term "outer Continental Shelf." The Conferees agreed that this definition was unnecessary.

Section 104—Ocean and Coastal Resources Management and Development Fund.

This section establishes the Ocean and Coastal Resources Management and Development Fund and sets forth the mechanisms by which the Fund is to be financed and by which proceeds are to be withdrawn from it.

Section 104(b)—Financing the Fund.—The House amendment, at section 3(b), provided that the Secretary of the Treasury shall make annual payments into the Fund beginning in Fiscal Year 1983 and continuing in each subsequent fiscal year. Such annual payments were to be the lesser of $300 million or an amount equivalent to ten percent of the annual increase in OCS bonus, royalty, and rental receipts deposited into the Treasury of the United States pursuant to Section 9 of the Outer Continental Shelf Lands Act. For the purposes of determining this annual increase, the House amendment established Fiscal Year 1982 as the "base" year. Therefore, the House amendment established a maximum annual funding level of $300 million. It also provided that amounts available for block grants would be based on the annual increases in federal receipts collected through the OCS program, relative to the amounts collected during Fiscal Year 1982. The Conferees agreed to several modifications to this section.

The first change involved the timing of annual payments into the Fund. The Conferees agreed that the Secretary of the Treasury should begin to make annual payments into the Fund in FY 1985 rather than FY 1983. Furthermore, annual deposits should be made no later than 60 days after the end of the previous fiscal year.

The second modification concerned the mechanism for determining the specific amount to be deposited into the Fund during any fiscal year. The Conferees agreed that annual deposits into the block grant fund be based on an amount equivalent to four percent of the average amount of federal OCS receipts during the three previous fiscal years. By drawing an amount equal to four percent of total federal OCS receipts, the states will be assured of a reasonable level of funding on an annual basis. By relying on a three year average, the provision will buffer the effects of annual fluctuations in the level of receipts collected under the federal OCS program. Finally, the Conferees agreed that the amounts deposited in the Fund in FY 1985 by restricted to no more than $300 million but that, in subsequent fiscal years, amounts deposited in the Fund shall not exceed one hundred and five percent of the amounts deposited in the Fund in the prior fiscal year.

Section 104(c)—Appropriation of Funds.—The House amendment provided that money shall be withdrawn from the Fund only as provided in advance by Appropriation Acts. The House amendment authorized annual appropriations beginning in FY 1984 and for each subsequent fiscal year. Funds could be appropriated for two major purposes: first, no less than ten percent and no more than twenty percent of the total amount appropriated from the Fund was to be used to carry out the purposes of the National Sea Grant College Program; and second, any sums paid into the Fund during a fiscal year and not used to carry out the

National Sea Grant College Program were to be used to provide annual block grants to coastal states and territories.

The Conferees agreed that funding for the National Sea Grant College Program should not be provided through amounts appropriated from the Fund. It was agreed that amounts from the Fund be used solely for the purposes of the block grants to states and funding the National Coastal Resources Research and Development Institute and that funding for the National Sea Grant College Program be secured through separate annual appropriations. The Conferees reassert their strong support for the National Sea Grant College program; the deletion of the program in section 104 is attributable to the complexity of the funding process and not to any criticism of Sea Grant.

Section 105—National Ocean and Coastal Resources Management and Development Block Grants

Section 4(a) of the House amendment required the Secretary of Commerce to provide each coastal state, beginning in Fiscal Year 1984, and in each subsequent fiscal year, with a national ocean and coastal resources management and development block grant from amounts paid into the Fund. The Conferees agreed that the initial grants be awarded in FY 1985.

Section 105(b)(1)—Pre-Grant Report.—(see discussion at Section 109)

Section 105(c)—Establishment of a Trust Fund.—The House amendment contained no provision which required the state to establish a trust fund for the receipt of its annual block grant. The Conferees agreed that because the provisions of the agreement provide the Secretary of Commerce with the primary responsibility to ensure that state block grants are expended for the purposes enumerated in sections 106 and 107, it is necessary that the Secretary have access to a clear record of the receipt and expenditure of block grant funds. The establishment of a trust fund will facilitate the exercise of such responsibility and provide for better federal oversight of the program.

Section 105(d)—The Allocation Formula.—The formula is composed of five equally weighted criteria: (1) actual OCS activity including (a) actual OCS acreage leased and (b) OCS oil and gas first landed; (2) planned OCS lease sales; (3) coastal related energy facilities; (4) shoreline mileage; and (5) coastal population. While the Conferees agreed to incorporate the five part formula of the House amendment, several modifications were made.

Under the provisions of the House amendment, two of these criteria are linked to a state's involvement in the federal coastal zone management program. No state may receive credit for either shoreline mileage or coastal population unless that state has developed a coastal zone management program which has been approved by the Secretary of Commerce pursuant to section 306 of the CZMA or is making satisfactory progress toward such approval. These provisions were intended to provide direct federal financial incentives for voluntary state participation in the federal coastal zone management program.

The Conference agreement provides that, for any state for which the Secretary has not approved a coastal zone management program under section 306 of the CZMA, the coastal-related energy facilities criterion be reduced by fifty percent.

Regarding the shoreline mileage and coastal population criteria of the allocation formula, the Conferees agreed to an additional modification to the House amendment. The Conference agreement provides that no state should receive more than 30 percent of the amounts attributable to either shoreline mileage or coastal population.

Section 105(f)—Minimum Grants.—Section 4(d) of the House amendment provided that no coastal state that has developed a federally approved coastal zone management program shall receive less than one-half of one percent of the total amount available for block grants during any fiscal year. This provision ensured a minmum level of funding for any state during any fiscal year.

The Conferees agreed to a minmum allocation, providing that coastal states with a federally approved coastal zone management program receive not less than 1.62 percent of the total appropriated amounts and that coastal territories with such programs receive not less than one-half of one percent of such amounts. The methodology for calculating the minimum share, originally described in the House Report on H.R. 5 (at p. 96), is incorporated in section 105(f)(2) of the Conference agreement.

The House amendment provided no authority to the Secretary to reduce the block grant of any coastal state with an approved coastal zone management program below the applicable minimum allocation. Yet, under section 5(d) of the House amendment and section 106(b) of the Conference agreement, the Secretary may reduce the block grant of any coastal state by an amount up to 30 percent of the amount of the block grant which is attributable to the shoreline mileage and coastal population criteria of the formula if the Secretary makes the determination that the coastal state is failing to make significant improvement in achieving the coastal zone management objectives specified in section 303(2)(A)-(I) of the CZMA. The Secretary is granted similar authority under section 312(c) of the CZMA. This provision constitutes an important tool available to the Secretary of Commerce in implementing the CZMA and in ensuring state compliance with the national objectives of that Act.

The Conference agreement in section 105(f)(3) authorizes the Secretary to reduce the block grant of a state below the established minimum allocation if necessary to implement section 106(b) of the Conference agreement.

Section 105(g)—Maximum Grant Level.—The House amendment included no ceiling on the total proportion of funds which could be received by any individual state pursuant to the formula outlined in section 4 of that House amendment.

The Conferees agreed to a provision that no one state may receive more than 15 percent of the funds appropriated under section 104(c) in any fiscal year.

Section 106—Requirements on the Use of Block Grants

Section 5 of the House amendment, entitled "Requirements on the Use of Block Grants," established general requirements governing the expenditure of block grant funds by coastal states. Under the block grant concept, the states will have primary decisionmaking authority with respect to the expenditure of block grant funds. However, section 5 of the House amendment was intended to establish broad funding categories within which states were to make spending decisions.

General Requirements.—Section 5 of the House amendment specified that block grant funds may only be used to enhance and manage renewable ocean and coastal resources and to ameliorate the adverse effects of coastal energy activity resulting from the development of non-renewable energy resources.

The Conference agreement deleted the term "renewable" to broaden the eligible uses of the block grant, eliminate the distinction between non-renewable and renewable resources, and to clarify that both constitute eligible expenditures for block grant funds.

In addition, the Conferees agreed to replace the term "coastal energy activity," which was undefined in the House amendment, with the defined term "coastal-related energy facilities."

Section 106(a)—Eligible Uses.—The first sentence of section 5 of the House amendment provided broad guidance to the states as to the individual uses which might be eligible for the application of block grant funds. Section 5(a) of the House amendment required that the state block grants be used for *each* of four categories of activities. These categories defined a range of state activities eligible for funding under the block grant program. Additionally, the House Report specified that all block grant funds *must* be spent on the range of activities defined by these four categories.

The first two categories of activities specified under section 5(a) of the House amendment directed states to expend block grant funds on activities authorized by the Coastal Zone Management Act of 1972, and activities authorized by section 308 of the CZMA—the Coastal Energy Impact Program. The third and fourth categories of eligibles uses in the House amendment directed the states to spend block grant funds on the enhancement and management of both living marine resources and natural resources, respectively.

Regarding these four categories of eligible uses, the Conference agreement requires states to spend block grant funds on *each* of the four categories and *exclusively* on the range of activities outlined by those categories. The agreement also specifies that the third category—activities for the enhancement and management of living marine resources—be expanded to allow expenditure of block grant funds on activities for the "development" of living marine resources. Finally, the Conference agreement expands the fourth category to allow block grant funds to be used for the "preservation" as well as the enhancement and management of natural resources, and gives particular emphasis under this category to the preservation, enhancement and management of coastal habitats.

The Conferees agreed to the following report language for purposes of clarification. Any project that had previously received state or federal approval for funding pursuant to the CZMA (including section 308 of that Act) but did not receive funds because of the lack of federal appropriations should be given serious consideration by states in initial decisions with respect to the use of block grant funds. Eligible uses under the Conference agreement would include retirement of state and local bonds guaranteed under section 308(d)(2) as well as loans made under section 308(d)(1) of the CZMA. It is important to note that a state is *not* required to have a federally approved coastal zone management program as a pre-

requisite to the expenditure of funds under this subsection.

Percentage Requirement.—Section 5(b) of the House amendment required that each state must use at least 25 percent of the amount of each block grant to fund state activities authorized by the CZMA excluding those activities authorized under the Coastal Energy Impact Program. The purpose of this provision was to ensure that an adequate proportion of each state's block grant would be allocated to those activities authorized under the CZMA and that states give full consideration to the national interest in sound coastal management.

The Conference agreement deletes the 25 percent requirement. The concept of percentage "earmarking" is incompatible with the block grant format of the legislation. The block grant approach of the Conference agreement provides states with spending flexibility to fund those activities of highest priority to the state, if those activities conform to section 106 of the Conference agreement. In addition, the 25 percent requirement is incompatible with the voluntary nature of the federal coastal zone management program and is not needed to ensure state participation because funding incentives for such participation have been incorporated into the allocation formula.

Repayment of Funds.—Section 5(c) of the House amendment charged the Secretary of Commerce with the responsibility to review state block grant expenditures for compliance with the provisions of section 5. The Secretary was required to secure repayment of any misused funds and, in the event of refusal of repayment, to reduce the amount of any future block grant by the amount of such repayment. This provision was intended to provide the Secretary with the authority necessary to enforce the spending requirements embodied in section 5. It was intended that this authority be utilized in conjunction with the annual audit required pursuant to section 7 of the House amendment.

The Conferees agreed that this authority could be more appropriately conferred through the audit provision in section 109 of the Conference agreement.

Section 107—Local Governments

Section 6 of the House amendment directed coastal states to consult and coordinate with eligible local governments during the decisionmaking process with respect to the allocation of funds to local governments, and required that at least 35 percent of the state's block grant be allocated to local governments. This section is described in the House Report (at p. 85). The Conference agreement adopted this approach with several minor modifications.

Section 107(a)(1)—Consultation and Coordination.—Although the House amendment and the Conference agreement do not specify the mechanism to fulfill the consultation and coordination requirement of this provision, it was agreed that no elaborate mechanisms were required. The intent of this provision is to ensure that states, in allocating block grant funds for the purpose of local government activities, are fully aware of the priorities and needs of their local communities, and that this consultative process be documented and involve public participation.

Section 107(a)(2)—Local Government Allocations.—Section 6(a)(2) of the House amendment required that states allocate block grant funds among local governments in a manner "commensurate" with the responsibilities of the local governments in carrying out the eligible activities.

The Conferees modified the House provision to require states to provide allocations among local governments after "taking into consideration" the responsibilities of the local governments in carrying out the activities eligible for funding.

Section 107(b)—Priority Considerations.—Section 6(b) of the House amendment provided that states, in allocating block grant funds, give particular emphasis to the activities of local governments in responding to the effects of coastal energy activities. Two major categories of local government activities were to be given such special emphasis: (1) the provision of public services and public facilities required as a result of coastal energy activity; and (2) activities to prevent, reduce, or ameliorate any unavoidable loss of environmental or recreational resources which result from coastal energy activities.

The Conference agreement clarifies the scope of the term "coastal energy activity" by substituting the phrase "the siting, construction, expansion, or operation of coastal-related energy facilities."

Section 107(c)—Mandatory Local Government Funding.—Section 6(c) of the House amendment required that each state provide no less than 35 percent of each block grant to its local governments.

The Conference agreement specifies that the required minimum pass-through to local governments be set at a level of no less than one third of each state's annual block grant received under section 105(a) of the Conference agreement. The use of state allocations to local governments are subject to the requirements of section 106 of the Conference agreement, and the responsibility for ensuring compliance is borne by the state. Such compliance is enforceable by the Secretary.

Section 108—National Coastal Resources Research and Development Institute.

Section 108 of the Conference agreement provides for the establishment of a National Coastal Resources Research and Development Institute which is to be administered in affiliation with the Oregon State University Marine Science Center. The House amendment contained no such provision.

One of the major principles underlying this legislation is that a portion of the revenues from the development of nonrenewable offshore mineral resources should be invested in management and scientific research efforts to enhance the use, conservation, and understanding of renewable ocean and coastal resources.

The Institute is chartered to conduct research, educational and demonstration projects, selected on a nationally competitive basis.

Of particular importance to the implementation of the block grant program established under this legislation, the Institute will provide a mechanism for focusing the nation's academic expertise toward solutions to the unique problems of coastal states. Therefore, the Institute will provide valuable information to coastal states which will assist the states in directing the allocation of block grant funds.

The Advisory Council will advise the Board of Governors. The Director will solicit opinions, advice and recommendations regarding research directions from other knowledgeable sources outside the academic community.

Section 109—Audit (and Section 5(b)(1)—Pre-Grant Report)

The block grant funding mechanism that is established by this legislation will provide coastal states and territories with significantly enhanced flexibility to fund ocean and coastal management and development activities in accordance with state-determined priorities. While this block grant program will result in reduced federal control as compared to the requirements under existing categorical programs, the legislation offers three important opportunities for federal oversight: (1) prior to the annual distribution of block grants, when each state must submit a pre-grant report; (2) during periodic federal evaluations of state coastal management programs, under section 312 of the Coastal Zone Management Act; and (3) subsequent to block grant awards when each state must submit a detailed financial audit of its block grant trust fund.

Pre-Grant Report.—Section 105(b)(1) of the Conference agreement requires that each state, prior to the receipt of every annual block grant, submit to the Secretary a report which specifies the state's proposed allocation of the block grant among the various categories of eligible uses enumerated under section 106(a) of the Conference agreement and describes each activity which is proposed to receive funds from the block grant, including the amounts proposed to be expended for each activity.

The pre-grant report required by this Conference agreement is not to constitute an application for federal assistance. This report should provide information of sufficient detail to allow the Secretary to make a determination that the state proposes to expend its block grant in conformance with sections 106 and 107 of the Conference agreement. If the state submits a report in compliance with this paragraph, the Secretary must release that state's block grant. However, the amount of the block grant may be reduced if the Secretary makes the determinations provided under section 106(b) or 109(c) of the Conference agreement.

Coastal Program Evaluations.—Pursuant to section 312 of the Coastal Zone Management Act, the Secretary is directed to conduct a continuing review of the performance with respect to coastal management of coastal states with approved Coastal Zone Management programs. These reviews are to result in detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary and addressed the coastal management needs identified in section 303(2)(A)-(I) of the CZMA. Information from state coastal program evaluations will be an important consideration in the implementation of section 106(b) of this block grant program.

Post-Grant Audit.—The annual post-grant audit required pursuant to section 109 of the Conference agreement is the final stage of federal review. The provisions of section 109(a) and (b) of the Conference agreement are similar to those contained in section 7 of the House amendment with only technical modifications. However, the provisions of section 9(c) of the Conference agreement were added to clarify Secretarial authority and to establish procedures regarding misuse of block grant funds.

Under section 109(c) of the Conference agreement, the Secretary is to make a preliminary evaluation of each audit submitted.

If the findings of this preliminary evaluation indicate that either all or any part of the block grant has been misused, the Secretary must publish notice of such a finding in the *Federal Register*. Also, the Secretary may suspend and place in escrow an amount from any future block grant which is equivalent to the amount misused. Such amounts are to be held in escrow until the Secretary has provided the state with an opportunity for a hearing, the Secretary has made a final determination, and any appeal of the final determination is resolved. The authority to withhold funds based upon a preliminary evaluation of the state audit was incorporated to provide the Secretary with sufficient authority to make an early identification of any misuses of block grant funds and to prevent further misuse pending more complete review through the application of the authority to suspend block grant funds.

The auditing provisions contained in section 109 of the Conference agreement in conjunction with the pre-grant reporting requirements of section 105(b) and effective evaluation of state coastal programs pursuant to section 312 of the CZMA provide a firm basis for effective federal oversight of the block grant program.

Section 110—Rules and Regulations

Section 8 of the House amendment requires the Secretary to promulgate such rules and regulations as may be necessary to carry out the provisions of this legislation.

Obviously, such regulations should be developed in a timely manner if, as is provided in section 105(a) of the Conference agreement, initial block grants are to be distributed in Fiscal Year 1985. Consequently, the Conference agreement requires that such regulations be published within 180 days after the passage of this Act.

Section 111—Definition of Boundary

The House Amendment contained a provision which amended the Submerged Lands Act so as to change the definition of the term "boundaries." This definition change will apply to the Submerged Lands Act as well as the Outer Continental Shelf Lands Act. The Conference agreement retains the House provision with technical modifications.

Title II. Fisheries and Deep Seabed Mining Programs

Section 201(a)—NMFS Information Collection and Analysis Functions

This section authorizes $28,000,000 for a portion of the information collection and analysis functions of the National Marine Fisheries Service.

Section 201(b)—NMFS Fishery Conservation and Management Activities

This section authorizes $35,000,000 for a portion of the fishery conservation and management activities of the National Marine Fisheries Service.

Section 201(c)—NMFS State and Industry Assistance Programs

This section provides a $12,000,000 authorization for NMFS to carry out a portion of its State and industry assistance programs.

Section 201(d)—NMFS Funding

This section contains language to make clear that the funds authorized in subsections (a), (b), and (c) are separate and distinct from monies in seven existing cyclical authorizations under which appropriations are also made to the agency. The money provided in subsections (a), (b), and (c) funds activities which are separate and distinct from the activities funded in those seven acts. The seven existing authorizations are the Magnuson Fishery Conservation and Management Act; the Marine Mammal Protection Act; the Endangered Species Act; the Anadromous Fish Conservation Act; the Commercial Fisheries Research and Development Act; the Salmon and Steelhead Conservation Act; and the Central, Western and South Pacific Fisheries Development Act.

Section 202—Fisheries Loan Fund—NOAA Volunteers

Subsection (a) extends through fiscal year 1985 the authority of the Secretary to deposit foreign fishing fees into the Fisheries Loan Fund. The loan fund is used for financial emergencies related to the operation of commercial fishing vessels.

Subsection (b) extends through fiscal year 1985 the authorization of $50,000 for the Secretary of Commerce and $100,000 for the Department of the Interior to recruit, train, and accept volunteers to assist in fish and wildlife programs.

Section 203—Fisheries Loan Fund

This section extends provisions of law that allow the Secretary of Commerce to make loans from the Fisheries Loan Fund to fishermen to avoid default on Federal loan guarantees or to cover vessel operating expenses under certain circumstances.

Section 204—Deep Seabed Hard Mineral Resources Act

This section contains a two year reauthorization of the Deep Seabed Hard Mineral Resources Act at a level of $1,500,000 annually for fiscal years 1985 and 1986. This act provides the regulatory structure for development of deep seabed mining activities by U.S. citizens.

Section 205—Amendments to Magnuson Fishery Conservation and Management Act

This section contains several amendments to the Magnuson Fishery Conservation and Management Act (MFCMA).

Subsection (a) would require an evaluation of what a foreign nation seeking an allocation is doing to open its market to U.S. industry exports of the particular species for which an allocation is being requested.

Subsection (b) would require that when determinations of allocation are made, consideration shall be given to what a foreign nation seeking an allocation is doing for U.S. industry development in the specific fishery for which an allocation is being requested.

Subsection (c) makes clear that a full allocation of the Total Allowable Level of Foreign Fishing (TALFF) is not required by law.

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Managers on the Part of the Senate.

EXTRADITION ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3347) to amend title 18 of the United States Code with respect to extradition, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Extradition Act of 1984".

SEC. 2. Chapter 209 of title 18 of the United States Code is amended—

(1) by striking out section 3181 and inserting in lieu thereof the following:

"§ 3181. Payment of fees and costs

"All costs or expenses incurred in any proceeding under this chapter in apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.";

(2) in section 3182, by adding at the end the following: "An agent appointed as provided in this section who receives the fugitive into custody is empowered to transport the fugitive to the State or Territory from which the fugitive fled.";

(3) by striking out "or the Panama Canal Zone" in the first sentence of section 3183;

(4) by striking out section 3184 and all that follows through section 3195; and

(5) so that the chapter heading and the table of sections at the beginning of the chapter read as follows:

"CHAPTER 209—INTERSTATE RENDITION

"Sec.
"3181. Payment of fees and costs.
"3182. Fugitives from State or Territory to State, District or Territory.
"3183. Fugitives from State, Territory, or possession into extraterritorial jurisdiction of the United States.".

SEC. 3. Title 18 of the United States Code is amended by inserting after chapter 209 the following new chapter:

"CHAPTER 210—INTERNATIONAL EXTRADITION

"Sec.
"3191. General statement of requirements for extradition.
"3192. Complaint and preliminary proceedings.
"3193. Waiver of hearing.
"3194. Hearing and order.
"3195. Appeal from determination after hearing.
"3196. Surrender of a person to foreign state after hearing.
"3197. Cooperation with transit through United States for foreign extradition.
"3198. Receipt of a person from a foreign state.
"3199. Definitions and general provisions for chapter.

"§ 3191. General statement of requirements for extradition

"The United States may extradite a person to a foreign state only in accordance with this chapter and only if—

"(1) there is an applicable treaty concerning extradition between the United States and such foreign state;

"(2) the foreign state requests extradition in accordance with the terms of that treaty; and

"(3) the appropriate court issues an order under this chapter that such person is extraditable.

"§ 3192. Complaint and preliminary proceedings

"(a)(1) The United States district court for the district in which the person sought

to be extradited is found may issue an order in accordance with this chapter that such person is extraditable, upon a complaint filed by the Attorney General.

"(2) If the Attorney General has previously sought an order that a person is extraditable under this chapter with respect to a specific extradition request of a foreign state the Attorney General may not file another complaint under this section based upon the same factual allegations as a previous complaint, unless the Attorney General shows good cause for filing another complaint.

"(3) If extradition of an individual is requested by more than one foreign state, whether for the same or different offenses, the Secretary of State may in the discretion of the Secretary of State determine which request to honor after consideration of all relevant factors, including—

"(A) those set forth in an applicable treaty concerning extradition;

"(B) the nationality of the individual;

"(C) the foreign state in which the offense is alleged to have occurred; and

"(D) if different offenses are involved, which offense is punishable by the most severe penalty, and if the penalties are substantially equal the order in which the requests were received.

"(b) A complaint under this section shall—

"(1) be made under oath or affirmation;

"(2) specify the offense for which extradition is sought;

"(3) contain any matter not otherwise required by this chapter but required by the applicable treaty concerning extradition; and

"(4) either—

"(A) be accompanied by—

"(i) a copy of the request of the foreign state for extradition; and

"(ii) the evidence and documents required by the applicable treaty concerning extradition; or

"(B) contain—

"(i) information sufficient to identify the person sought;

"(ii) a statement—

"(I) of the essential factual allegations of conduct constituting the offense that the person sought is believed to have committed; or

"(II) that a judicial document authorizing the arrest or detention of such person on account of accusation or conviction of a crime is outstanding in the foreign state seeking extradition; and

"(iii) a description of the circumstances justifying such person's arrest.

"(c) The Attorney General may file a complaint under this chapter in the United States District Court for the District of Columbia if the Attorney General does not know where the person sought may be found. When the person is found, the matter shall be transferred to the United States district court to which the person arrested is taken under subsection (d) of this section.

"(d)(1) Upon the filing of the complaint under this section, the court shall issue a warrant for the arrest of the person sought, or, if the Attorney General so requests, a summons to such person to appear at an extradition hearing under this chapter. The warrant or summons shall be issued, executed, and returned in the manner prescribed for the issuance, execution, and return of a warrant or summons, as the case may be, under the Federal Rules of Criminal Procedure. A person arrested under this section shall be taken without unnecessary delay before the nearest available United States district court for further proceedings under this chapter.

"(2) During the first ten days following the arrest of a person under this section, the court shall order such person detained and not order release of such person under subsection (f) of this section, pending the disposition of the complaint under this chapter, unless the Government is ready to proceed under this chapter before the end of such ten-day period or such person shows by the preponderance of the evidence that if so released—

"(A) such person does not present a substantial risk of flight; and

"(B) such person does not present a danger to any other person or the community.

"(3) The ten-day period referred to in paragraph (2) of this subsection may be extended for successive ten-day periods upon the application of the Government and a showing of good cause.

"(4) In considering an order under paragraph (2) of this subsection or paragraph (1) or (9)(B) of subsection (f) of this section, the court shall take into account whether a relationship with a foreign state will be jeopardized with respect to a treaty concerning extradition.

"(e) The court shall order the release, pending the extradition hearing, of a person arrested under this section if there has not been filed with the court before the end of sixty days after the arrest of such person the evidence and documents required by the applicable treaty concerning extradition or notice that such evidence and documents have been received by the Department of State and will promptly be transmitted to the court. The court may extend such sixty-day period for successive periods of fifteen days each upon a showing of good cause by the Attorney General with respect to each such extension. In any case, if the applicable treaty concerning extradition requires such release before the end of the period otherwise specified by this subsection, the court shall order such release in accordance with such treaty.

"(f)(1) A person arrested or otherwise held or detained in connection with any proceeding under this chapter shall be treated in accordance with this subsection and chapter 207 of this title, except sections 3141, 3144, 3146(a), 3146(b), 3148, and 3150. Proceedings under this chapter shall be deemed criminal proceedings for the purposes of this application of chapter 207 of this title and the release of a person under this subsection shall be deemed a release under section 3146(a) for the purposes of such application. Any person arrested or otherwise held or detained in connection with any proceeding under this chapter shall, at such person's appearance before a judicial officer, be ordered released pending a proceeding under this chapter on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines that at a hearing the Government has shown by the preponderance of the evidence that such a release will not assure the appearance of the person as required, or assure the safety of another person or the community. If the judicial officer so determines, the judicial officer may, either in lieu of or in addition to such methods of release, order such person detained after a hearing on a motion for detention under paragraph (9) of this subsection or impose any of the following conditions of release, or any combination of the following conditions of release, which will give the required assurances:

"(A) Place the accused person in the custody of a designated person or organization agreeing to supervise such accused person.

"(B) Place restrictions on the travel, association, or place of abode of the person during the period of release.

"(C) Require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 per centum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.

"(D) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

"(E) Impose any other condition deemed reasonably necessary to give the required assurances, including a condition requiring that the person return to custody after specified hours.

"(2) In determining which conditions of release will give the required assurances, the judicial officer shall, on the basis of available information, take into account—

"(A) the nature and circumstances of the offense charged, and the weight of the evidence against the person sought;

"(B) such person's family and local ties, financial resources, character, and mental condition;

"(C) the length of such person's residence in the community;

"(D) such person's record of convictions;

"(E) such person's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings;

"(F) whether such person is employed or is attending an educational institution;

"(G) whether such person is lawfully within the United States;

"(H) the existence of any requests for the extradition of such person other than the one with respect to which release is sought;

"(I) whether such person is currently on probation, parole, or mandatory release under State or Federal law; and

"(J) whether the release of such person would jeopardize a relationship with a foreign state with respect to a treaty concerning extradition.

"(3) It shall be a condition of any release under this subsection that the person released not commit any Federal, State, or local crime.

"(4) The Attorney General may appeal from a decision to release under this subsection to, and seek the revocation of such release or a change in the conditions imposed with respect to such release in, the court having appellate jurisdiction over the court in which such decision was made. Any order so appealed shall be affirmed if the order is supported by the proceedings below. If the order is not so supported, the court may, with or without additional evidence, modify the decision appealed. The appeal shall be determined promptly.

"(5) The attorney for the Government may make a motion for the revocation of the release of a person charged with violating a condition of release under this subsection. Upon such motion a judicial officer may issue a warrant for the arrest of such person and the person shall be brought or appear before a judicial officer in the district in which the arrest under section 3192 was ordered. Such judicial officer shall order revocation of release and detention of such person if such judicial officer finds—

"(A) there is clear and convincing evidence that such person has violated any such condition of such release; and

"(B) based on the factors set forth in paragraph (3) of this subsection, there is no condition or combination of conditions of release that will give the required assurances.

"(6) If the judicial officer finds in a proceeding under paragraph (5) of this subsection that there are conditions of release that will give the required assurances, the judicial officer shall release the person in accordance with paragraph (1) of this subsection.

"(7) Violation of a condition of release under this subsection constitutes a contempt of court.

"(8) Whoever willfully fails to appear as required after release under this subsection shall be fined not more than $10,000 and imprisoned not more than ten years.

"(9)(A) The attorney for the Government may make a motion to detain a person not otherwise held who is awaiting disposition of proceedings under this chapter.

"(B) The court shall order such detention after a hearing if the Government shows by a preponderance of the evidence that if such person is not detained—

"(i) such person presents a substantial risk of flight; or

"(ii) such person presents a danger to any other person or the community.

"(10) At a hearing under this subsection or subsection (d) of this section, the person sought to be detained has the rights a person sought to be extradited has under subsection (b)(1) of section 3194 of this title at a hearing under such section.

"(11) If the court orders detention under this subsection the court shall set forth in writing its findings of fact and conclusions of law not later than twenty-four hours after the order for detention is entered.

"§ 3193. Waiver of hearing

"(a) A person against whom a complaint is filed under this section may, with the consent of the Attorney General, waive the requirements of this chapter for a hearing by informing the court that such person consents to removal to the foreign state requesting extradition. Such a waiver may not be revoked unless the court determines that an extraordinary change of circumstances warrants such revocation.

"(b) The court shall—

"(1) inform a person making a waiver under this section of such person's right to representation by counsel, including counsel appointed without cost to such person if such person is financially unable to obtain counsel; and

"(2) inquire of such person and determine whether such waiver is—

"(A) voluntary and not the result of threat or other improper inducement; and

"(B) given with full knowledge of its legal consequences.

"(c) If the court determines the waiver is one described in subsection (b)(2) (A) and (B) of this section, the court shall order the person making such waiver extraditable and certify a transcript of the court's proceeding in the matter to the Secretary of State. The Attorney General shall notify the foreign state requesting extradition of the order of extradition and the time limitation under section 3196(c) of this title on detention of the person sought. The Attorney General shall, except as otherwise provided by this chapter, surrender the person so ordered extraditable to the custody of an agent of the foreign state requesting extradition.

"§ 3194. Hearing and order

"(a) The court shall, as soon as practicable after arrest or summons of the person sought to be extradited, hold a hearing to determine issues of law and fact with respect to a complaint filed under section 3192 of this title unless such hearing is waived under section 3193 of this title.

"(b)(1) At a hearing under this section, the person sought to be extradited has the right—

"(A) to representation by counsel, including counsel appointed without cost to such person if such person is financially unable to obtain counsel;

"(B) to confront and cross-examine witnesses; and

"(C) to introduce evidence with respect to the issues before the court (and, if indigent to have witness fees of witnesses the person calls paid by the United States).

"(2) The guilt or innocence of the person sought to be extradited of the charges with respect to which extradition is sought is not an issue before the court.

"(c) The court shall inform the person sought to be extradited of the purpose of the hearing and of the rights described in subsection (b) of this section.

"(d)(1) Except as otherwise provided in this chapter, the court shall order a person extraditable after a hearing under this section if the court finds—

"(A) probable cause to believe that the person before the court is the person sought;

"(B)(i) probable cause to believe that the person before the court committed the offense for which such person is sought; and

"(ii) the evidence presented is sufficient to support extradition under the provisions of the applicable treaty concerning extradition; and

"(C) the conduct upon which the request for extradition is based—

"(i) would be punishable under the laws of—

"(I) the United States;

"(II) the majority of the States of the United States; or

"(III) the State where the fugitive is found; and

"(ii)(I) includes at least one such offense that is punishable by a term of more than one year's imprisonment, in the case of a person before the court who is sought for trial; or

"(II) includes an offense for which more than one hundred and eighty days of imprisonment remain to be served, in the case of a person before the court who is sought for imprisonment.

"(2) The court shall not order a person extraditable after a hearing under this section if the court finds—

"(A) such person is charged with an offense with respect to which the limitations provided by the applicable treaty concerning extradition, or, if such treaty provides none, the limitations of the law of the prosecuting foreign state, on commencement of prosecution have run;

"(B) the applicable treaty concerning extradition provides an applicable defense against extradition;

"(C) the person has established by a preponderance of the evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense; or

"(D) the person has established by a preponderance of the evidence that such person—

"(i) is being sought for prosecution or punishment because of such person's race, religion, sex, nationality, membership in a particular social group or political opinion; or

"(ii) would, as a result of extradition, be subjected to fundamental unfairness.

"(e)(1)(A) Upon motion made by the person sought to be extradited or the Attorney General, the United States district court may order the determination of any issue under subparagraph (C) or (D) of subsection (d)(2) of this section by a judge of such court.

"(B) No issue under subparagraph (C) or (D) of subsection (d)(2) of this section shall be determined by the court and no evidence shall be received with respect to such issue—

"(i) unless the person sought to be extradited gives notice at a reasonable time before the hearing under this section of the intention to raise such issue; and

"(ii) unless and until the court determines the person sought is otherwise extraditable.

"(C) The Government shall disclose to the court any information in the possession of the Government that would tend to establish the validity of a defense against extradition, unless such disclosure is prohibited by law.

"(2) For the purposes of this section, a political offense does not include—

"(A) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(B) an offense with respect to which a multilateral treaty obligates the United States to either extradite or submit for prosecution a person accused of the offense;

"(C) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(D) forcible sexual assault; or

"(E) an offense that consists of intentional, direct participation in a wanton or indiscriminate act of violence with extreme indifference to the risk of causing death or serious bodily injury to persons not taking part in armed hostilities;

"(F) an attempt to commit an offense described in subparagraphs (A) through (E) of this paragraph, or participation as an accomplice of a person who commits or attempts to commit such an offense.

"(3) The inclusion in paragraph (2) of this subsection of certain offenses does not preclude the exclusion of other offenses from the political offense category. In determining whether an offense is a political offense the court shall consider, as of the time of the offense—

"(A) the status (whether civilian, governmental, or military) of any victims of the alleged offense;

"(B) the relationship of the alleged offender to a political organization;

"(C) the existence of a civil uprising, rebellion, widespread civil unrest, or insurrection within the State requesting extradition;

"(D) the motive of the alleged offender for the conduct alleged to constitute the offense;

"(E) the nexus of such alleged conduct to the goals of a political organization; and

"(F) the seriousness of the offense.

"(f) The court shall state the reasons for its findings as to each charge or conviction, and certify—

"(1) a transcript of its proceedings in the case of an order of extraditability; or

"(2) such report as the court considers appropriate in other cases;
to the Secretary of State.

"(g)(1) Documents at a hearing under this section may be authenticated as provided—

"(A) in an applicable treaty;

"(B) in the Federal Rules of Evidence for proceedings to which such Rules apply; or

"(C) by the applicable law of the foreign state, and authentication under this subparagraph may be established conclusively by a showing that—

"(i) a judge, magistrate, or other appropriate officer of the foreign state has signed a certification to that effect; and

"(ii) a diplomatic or consular officer of the United States who is assigned or accredited to the foreign state, or a diplomatic or consular officer of the foreign state who is assigned or accredited to the United States, has certified the signature and position of the judge, magistrate, or other officer.

"(2) An affidavit by an appropriate official of the Department of State is admissible in a hearing under this section as evidence of the existence of a treaty relationship between the United States and a foreign state.

"(3) The court may in a hearing under this section consider hearsay evidence and properly certified documents.

"(h) If the applicable treaty relating to extradition requires that such evidence be presented on behalf of the foreign state as would justify ordering a trial of the person if the offense were committed in the United States, the requirement is satisfied by evidence establishing probable cause to believe that the offense was committed and that the person sought committed that offense.

"(i) The court shall, upon petition after reasonable notice to the Secretary of State by a person ordered extraditable under this section, dismiss the complaint against that person and dissolve the order of extraditability if an order for the surrender of that person to the requesting state has not been made by the Secretary of State by the end of forty-five days (excluding any time during which extradition is delayed by judicial proceedings) after the Secretary of State receives the certified transcript of the proceedings from the court, unless the Attorney General shows good cause why such petition should not be granted.

"§ 3195. Appeal from determination after hearing

"(a)(1) Any party may appeal in accordance with the Federal Rules of Appellate Procedure applicable to criminal cases the determination of the court after a hearing under section 3194 of this title.

"(2) Such appeal shall be heard as soon as practicable after the filing of notice of appeal. Pending determination of such appeal, the district court shall stay the operation of the court's final order with respect to the extradition of the person found extraditable or the dismissal of the complaint.

"(3) Pending disposition of an appeal under this section—

"(A) by either party in the case of a person who has been found extraditable on any charge, the court shall order such person detained and shall not release such person under section 3192(f) of this title unless such person sought for extradition shows by a preponderance of the evidence that—

"(i) if so released—

"(I) such person does not present a substantial risk of flight; and

"(II) such person does not present a danger to any other person or the community; and

"(ii) the probability of success of such appeal is great; and

"(B) by the Government in the case of a person who has not been found extraditable on any charge, the court shall order the release under section 3192(f) of this title of a person sought to be extradited unless the Government shows by the preponderance of the evidence the opposite of any of the things required to be shown by a person sought by extradition under subparagraph (A) of this section and that the probability of the success of such appeal is great.

"(4) In considering an order under paragraph (3) of this subsection, the court shall take into account whether a relationship with a foreign state will be jeopardized with respect to a treaty concerning extradition.

"(5) The appeal of a case in which the person sought to be extradited is not released shall be heard promptly.

"(b)(1) No court shall have jurisdiction to review in any proceeding, other than an appeal proceeding under this section, the extraditability of a person appealing under this section until the conclusion of such appeal.

"(2) No court shall have jurisdiction to entertain a petition for habeas corpus or a proceeding for other review with respect to a finding of extraditability after a hearing under section 3194 of this title if such finding has been upheld in any previous appeal or an opportunity to appeal was not taken, unless the court finds that the grounds for the petition or other review could not previously have been presented by such habeas corpus or other proceeding or, in the case of an appeal not taken, the court finds good cause existed for not taking the appeal.

"§ 3196. Surrender of a person to a foreign state after hearing

"(a) If a person is ordered extraditable after a hearing under this chapter the Secretary of State, in such Secretary's discretion, may order the surrender of the person (even if such person is a national of the United States, unless such surrender is expressly forbidden by the applicable treaty concerning extradition or the laws of the United States) to the custody of an agent of the foreign state requesting extradition, and may condition that surrender upon any conditions such Secretary considers necessary to effectuate the purposes of the applicable treaty concerning extradition or the interest of justice.

"(b) The Secretary of State, upon ordering or denying surrender absolutely or conditionally under this section, shall notify the person sought, the diplomatic representative of the foreign state, the Attorney General, and the court that ordered the person extraditable. If surrender is ordered under this section, the Secretary of State shall also notify the diplomatic representative of the foreign state of the time limitation under subsection (c) of this section on detention of the person sought. The Attorney General shall, except as otherwise provided by this chapter, surrender to the custody of an agent of the foreign state requesting extradition the person so ordered surrendered.

"(c) The court shall, upon petition after reasonable notice to the Secretary of State by a person ordered extraditable under this chapter, dismiss the complaint against that person and dissolve the order of extraditability if that person has not been removed from the United States by the end of thirty days after—

"(1) surrender has been ordered by the Secretary of State in the case of a person ordered extraditable after a hearing under this section; or

"(2) certification of the transcript under section 3193 of this title in the case of a person making a waiver under such section;

unless the Attorney General shows good cause why such petition should not be granted.

"§ 3197. Cooperation with transit through United States for foreign extradition

"The United States may cooperate in the transit through the territory of the United States of a person in custody for extradition from one foreign state to another foreign state. The Attorney General may hold such person in custody for not more than ten days until arrangements are made for the continuation of such person's transit.

"§ 3198. Receipt of a person from a foreign state

"(a) The Attorney General shall appoint an agent to receive, from a foreign state, custody of a person accused of a Federal, State, or local offense. Such agent shall have the authority of a United States marshal, and shall convey such person to the Federal or State jurisdiction that sought such person's return.

"(b) If a foreign state delivers custody of a person accused of a Federal, State, or local offense to an agent of the United States on condition that such person be returned to such foreign state at the end of criminal proceedings in the United States the Attorney General shall hold such person in custody pending the end of such proceedings and shall then surrender such person to an agent of such foreign state unless the foreign state declines to accept such person.

"§ 3199. Definitions and general provisions for chapter

"(a) As used in this chapter—

"(1) the term 'foreign state'—

"(A) used in other than a geographic sense, means the government of a foreign state; and

"(B) used in a geographic sense, includes all territory under the jurisdiction of a foreign state, and includes—

"(i) any colony, dependency, or constituent part of such foreign state; and

"(ii) the air space, territorial waters, and vessels and aircraft registered in such foreign state;

"(2) the term 'treaty' means a treaty, convention, or other international agreement that is in force after advice and consent of the Senate;

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands; and

"(4) the term 'United States district court' includes the District Court of Guam, the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands, and Guam, the Virgin Islands, and the Northern Mariana Islands are, respectively, the districts for such district courts.

"(b) The court shall order a person found extraditable under this chapter held until surrendered to an agent of the foreign state, or until the Secretary of State declines to order such person's surrender and shall not release such person under section 3192(f) of this title unless such person makes the showing described in section 3195(a)(3)(A) of this title.

"(c)(1) A person arrested or otherwise held or detained under this chapter shall to the extent practicable, be confined in a place other than one used for the confinement of persons convicted of crime.

"(2) Hearings under section 3192(f) of this title, and hearings under section 3194 of this title, with respect to a person detained under this subsection, shall, insofar as consistent with the sound administration of justice, have priority over all other proceedings before the court.

"(d) The court shall upon request appoint counsel as provided in section 3006A of this title for cases to which such section applies to represent a person whose extradition is sought, with respect to whom a complaint is filed under this chapter, and who is financially unable to obtain counsel.

"(e) All transportation costs, subsistence expenses, and translation costs incurred in connection with the extradition or return of a person at the request of the government of a foreign state, a State, or the United States shall be borne by the requesting government unless otherwise specified in the applicable treaty concerning extradition or, in the case of a request of the government of a foreign state, the Secretary of State directs otherwise.

"(f) The Supreme Court of the United States shall prescribe, from time to time, rules of practice and procedure with respect to any or all proceedings under this chapter. The Supreme Court may fix the dates when such rules shall take effect, except that such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May, and until the expiration of one hundred and eighty days after they have been thus reported.

SEC. 4. The table of chapters at the beginning of part II of title 18 of the United States Code is amended by striking out the item relating to chapter 209 and inserting in lieu thereof the following:

"209. Interstate Rendition 3181
"210 International Extradition ..... 3191.".

SEC. 5. This Act shall take effect on the first day of the first month which begins on or after one hundred and eighty days after the date of the enactment of this Act, and shall apply only with respect to extradition and rendition proceedings commenced after such taking effect.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

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Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before you today H.R. 3347, to amend the extradition laws of the United States. The extradition laws were originally enactd in the late 19th century, and have not been updated since that time. The increased mobility of people all over the world has led to more frequent use of the extradition laws. In addition, the changing nature of criminal offenses has revealed major gaps in the coverage of those laws. As a result, it has become apparent to all who encounter the extradition laws that they are sadly out of date and in need of reform.

Some of you may recall that an extradition bill was introduced last Congress, but it became bogged down by certain controversies over its substance—particularly on the issues of protection of human rights and the definition of "Political Offense."

This year, we have made several changes in the bill's content. I firmly believe that these changes have alleviated the concerns expressed last year about the bill, and that H.R. 3347 is worthy of your support, with some reservations which I will express later.

Some of the changes made by H.R. 3347 are simply commonsense. Present laws do not allow either the person sought for extradition, or the government acting on behalf of the country seeking extradition, to appeal an adverse ruling. Unfortunately, both parties have had to seek review of adverse rulings in convoluted ways—the person through a writ of habeas corpus, and the Government by filing a new action before what it hopes will be a more sympathetic judge. H.R. 3347 rectifies this situation by granting both parties the right to appeal to a higher court.

H.R. 3347 fills another major gap in current law. Under the current extradition statutes, there is no provision for the person sought for extradition to be released from custody prior to an extradition hearing. The courts have carved out an exception to this gap in the law, but it is Congress' responsibility to address this issue. H.R. 3347 does just that. It permits the release of the person sought under carefully defined circumstances, while requiring the courts to take into account the unique context of an extradition case and the rights and concerns of the governments involved, and the person sought.

These are just two examples of the major improvements this bill makes in current extradition law. These provisions are essentially the same as those in the bill reported by this committee last Congress.

There is another issue that caused considerable controversy, and that contributed to the bill's failure to be considered on the floor last year. That issue is the so-called political offense doctrine which prohibits the extradition of a person who proves that the offense for which he or she is sought is political in nature. The political offense doctrine is another major issue in the extradition laws that has never been codified. Over the years, the courts have dealt admirably with Congress' failure to act on this issue, and have developed a set of criteria to determine whether an offense will be considered political and the person's extradition barred. Last year's bill was seen by some persons as considerably narrowing current law on this issue. It is clear though, that H.R. 3347 essentially codified current case law.

H.R. 3347 recognizes that certain offenses are so heinous or devoid of any political content that they should never qualify for political offense consideration. It thus exempts certain offenses—forcible sexual assaults, terrorist acts against civilians, narcotics offenses, serious attacks against internationally protected persons, and certain other offenses that have been internationally condemned. Other offenses may be considered political offenses, but only if they meet certain specified criteria. These criteria are taken from the case law carefully developed by the courts over a number of years.

There is one change in current law that is the result of an amendment adopted by the full Committee on the Judiciary. I have some grave misgivings about the amendment, which permits the courts to determine whether the defendant will be subject to human rights violations or other unfair treatment if returned to the requesting State. Current law provides that the courts may make such a determination only in the narrowest of circumstances. The amendment requires the courts to make this determination in all circumstances. While in my opinion, this language is an unnecessary and unwarranted restriction on the discretion of the Secretary of State, I understand that the intention of its sponsor was to respond to human rights concerns expressed about the legislation last year. I just do not think they have any basis, however, to be so concerned.

H.R. 3347 bill makes many procedural, and a few substantive, changes in current law. These changes are sorely needed to keep up with changing times. They were carefully made, and made only after extensive hearings and consultation with all interested groups over two Congresses. In candor, I do not think that all interested groups are completely happy with this particular legislation; if that were the case, I believe we would have failed in our mission to achieve a balanced, fair bill. But that is what I believe H.R. 3347 is, and I believe the committee has done a credible job.

Mr. Speaker, I want to pay particular respect to the ranking Republican, the gentleman from Michigan, Mr. HAL SAWYER, who has worked diligently on this legislation from the early days of the 1st session of the 98th Congress, along with the balance of the subcommittee, for what I think is a good product.

It is my hope that out of conference will come a bill that we can all be proud of.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our extradition laws have not been reviewed by the Congress since 1890 and reform is desperately needed. Over the last 10 years, extradition requests filed in this country have jumped from 10 per year to over 200 per year. Extradition reform is critical to our internal court procedures as well as our international agreements with other nations. Our outmoded laws have not been updated in this century. The advance in technology during this time, however, has exploded. The resulting improvements in communication and travel have increased extradition requests to this country in geometric proportions.

I have had the privilege of formulating a bill in the Subcommittee on Crime with the subcommittee chairman, WILLIAM J. HUGHES, which I believe would have made great improvements to the process. However, the full Committee added two amendments that make it much more difficult to extradite criminals back to the nations in which the crimes were committed. The bill before us today does not improve the extradition process. I believe H.R. 3347 will make it much more difficult for the United States to meet its treaty obligations because these laws will make it nearly impossible to extradite criminals.

I am very concerned that our Government honor the human rights of all persons within our borders. However, I believe that H.R. 3347 so favors the international criminal that it will encourage these persons to come to the United States and take advantage of the process in H.R. 3347, which makes extradition of terrorists and drug traffickers, among others, very difficult.

The two amendments involved an attempt provision and the rule of noninquiry.

The committee accepted an amendment to remove attempts and conspiracies of acts that can never be political offenses from that exclusion. The subcommittee bill excluded hijacking, attacks on internationally protected persons, drug trafficking, rape, terrorist acts, and attempts and conspiracies of these acts from a political offense defense. The purpose of the committee amendment was to protect individuals from extradition on bogus charges of vague attempts and conspiracies. The amendment was incorrect for two reasons. It is harder to show probable cause of an attempt and conspiracy of an act than the occurrence of the act itself, and therefore it is unlikely that probable cause would exist for trumped up charges. Second, it is intellectually inconsistent to treat a hijacking differently than an attempt or conspiracy to hijack since the intent is the same.

The administration strongly opposes this change and I believe it damaged the bill.

Even more serious, the committee adopted an amendment requiring the courts to inquire into the political motive of the country seeking extradition. The administration opposes the amendment, which alters the status quo exclusive consideration of the issue by the Department of State.

Today, the courts do not inquire into the motive of a country seeking extradition. The rule exists for two reasons.

First, courts do not have the ability, resources, or time to read the minds of political officials in other countries. A public inquiry into the motives of foreign officials will harm foreign relations, and;

Second, absolutely nowhere in the testimony has anyone suggested that the Department of State has failed to protect the civil rights of individuals. The lack of faith in the executive branch's responsibility for the issues is baseless.

With confidence in our ability to counteract the enumerated amendments I am prepared to support the bill.

□ 1320

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO], the distinguished chairman of the full Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I first want to compliment the gentleman from New Jersey [Mr. HUGHES] and his ranking minority member, the gentleman from Michigan [Mr. SAWYER] for their efforts in bringing this legislation before us.

Mr. Speaker, I welcome this opportunity to speak in support of H.R. 3347, the Extradition Reform Act of 1984. The extradition laws of this country have not been revised for approxiamtely 100 years. To keep up with changing circumstances, we must enact new legislation. H.R. 3347 makes substantive and procedural changes in the extradition laws, which will make the extradition process fairer and more consistent.

For example, for the first time it codifies the right of a person sought for extradition to be released on bail prior to an extradition hearing, and while on appeal. It guarantees the individual the right to counsel, and gives both the Government and the individual the right to appeal adverse decisions.

There are two areas, in particular, that I think deserve somewhere more detailed attention.

First, H.R. 3347 essentially codifies current case law on what constitutes a "political offense." Until now, it has been left to the courts to determine when it is proper to refuse to extradite a person because the offense committed was "political." Congress has never stated its own views on the definition of a "political offense," even though this concept is at the heart of a fair extradition process. H.R. 3347 balances the rights of the individual sought for extradition with the rights of society as a whole to be free from crime. I think it has struck the right balance.

Second, I strongly believe that this bill is an affirmation of this body's support of human rights protections. For the first time, the bill mandates the courts to determine whether an individual will be subject to human rights violations or other unfairness if he or she is returned to stand trial or to serve out a sentence. While some courts have stated that—given the right set of very narrow circumstances—they might take it upon themselves to make such a determination, they have not been specifically authorized to do so by Congress, and in fact have never expercised this power. By requiring that both the court and the Secretary of State review the human rights situation in the requesting State, we are ensuring that the individual will be treated as fairly as possible after extradition occurs.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, I am sorry that I was not on the floor during the 1-minutes this morning because I understand there was at least one 5-minute 1-minute indicating some criticism of the Republicans and the President for their position on crime. I was unable to be here at that time. I wish I could have set the record straight.

Be that as it may, it seems to me that someone has to talk about the problem of dealing with major crime legislation on the Suspension Calendar, and, thereby, not allowing those of us who had very close calls in the full committee on a number of serious amendments the opportunity to legislate on the floor. We are put in a terrible box on the Republican side. We are told in committee, "If you want a bill, any bill, in the area of crime such as extradition, vote for whatever our committee puts out." And although I am proud to be a member of that committee, the philosophical slant on that committee makes it impossible for many of us to get things out which we think are important for the American people.

So we are told, "Vote on final pasage for anything that has a good name to it and then try to amend it on the floor." But when we get to the floor, we go to the Suspension Calendar

where we are not given an opportunity to amend, and we are given some promise that this will be taken care of in conference.

Frankly, I was sent here to legislate on behalf of the half-million people I represent. I resent the fact that time and time again we are told that we are supposed to take what came out of the Judiciary Committee no matter what it does as long as it has a good name because it will be taken care of later on. Yet if the President dares think it is inappropriate and vetoes it, he is then criticized for being soft on crime and for being inconsistent or hypocritical. At some point in time we just have to stop and think about that.

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me?

Mr. LUNGREN. No; I will not yield at this time. I will be happy to yield later. The gentleman had 5 minutes this morning during the 1-minutes to criticize this side of the aisle.

This bill in this form will be vetoed by the President. Why? Because other than that fact that it says that it is extradition reform, it actually makes it more difficult to extradite those who are under warrants in foreign countries than it is at the present time. It seems to me that that is something so important that we ought to take the time to consider it fully. We are not overworked on this floor. We had only 1 day of votes last week. We are not going to have any votes today, we are not going to have any votes tomorrow, we will probably have votes on Wednesday, we may have votes on Thursday, and I will bet that we probably will not have any votes on Friday.

The fact of the matter is that we have plenty of time to do some work around here, and we ought to reflect our will on the floor.

This bill denies recognition of foreign arrest warrants, so-called provisional warrants. Under current law the Government is allowed to rely on foreign arrest warrants just as our treaty partners rely on U.S. warrants. Some may not think this is important, but I will give a specific example where it is extremely important.

Recently a Canadian citizen was charged with a double murder in a narcotics case in Spain. He was arrested in flight by U.S. authorities in Minneapolis on his way back to Canada, his own country, which does not have an extradition treaty with Spain. If the U.S. Government had not been able to rely on the warrant from Spain, this individual would have escaped apprehension.

This provision will create havoc for U.S. fugitives in foreign countries and invite retaliation by our treaty partners. If we do not honor warrants, it ought to be understood that they will probably treat us the same way and our warrants will have no validity in those countries as well. It must be remembered that in most cases our treaty partners require a showing of probable cause or even a higher standard.

By the narrowest of margins, a vote of 16 to 15 in our committee, we overturned one of the oldest extradition principles in our law, the rule of noninquiry. This cornerstone of extradition law dates back to a U.S. Supreme Court decision in 1916 which held that courts will not inquire into the motives of the nations seeking extradition.

It just seems that if we have an important question as that which had been put before the full committee and went through on a 16 to 15 vote, then we at least ought to have an opportunity to discuss a controversial provison such as that on the floor of the House. The Suspension Calendar is for noncontroversial issues. This provision is not noncontroversial. This provision is extremely important. The Justice Department finds this absolutely unacceptable, and many of us find it unacceptable.

□ 1330

Others may have a different opinion. They have a right to that opinion, but we have a right to discuss it on the floor of the House and vote on it, rather than going to conference in which only a few Members are going to be present and in which there will be no stated position in the House by virtue of a vote.

Furthermore, the bill contains a defense to extradition known as the political offense.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. SAWYER. Mr. Speaker, I yield 10 minutes to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding.

We did not want someone to be extradited solely as a result of his political beliefs; however, at the same time there are some offenses which are so heinous that even if they were committed for political reasons, they cannot be justified, such as rape, hijacking, drug trafficking, and attacks on internationally protected persons.

By a narrow vote in the committee of 16 to 14 the committee voted to strike conspiracies from those acts which can never be political offenses.

Now, it would just seem that a conspiracy to commit hijacking, for example, should be as bad as the commission of the crime itself. Because of the rule of double criminality the offense must be a crime under both the law of the United States as well as the foreign jurisdiction.

This is another crucial question and it is a controversial question, by virtue of the 16-to-14 vote.

We ought to have the opportunity on the floor of this House to vote those things, instead of bringing them up on the suspension calendar where no amendments are allowed and we have just a short time to debate them.

We have had a number of bills come out of the committee. One that I keep wondering when we are going to deal with here on the floor is the insanity defense. I hope this is not a precedent for us bringing up the insanity defense under a suspension of the calendar.

Now, some may wonder why we are a little sensitive about this. Some of us remember the ERA. Some of us remember in committee being promised that we would bring the ERA up under a rule where we could debate an amendment to the Constitution. There was even a letter sent to a woman in California who then sent a copy of that letter to me from the chairman of the relevant subcommittee promising that that particular amendment would be brought here under an open rule. There was not even a question of the Suspension Calendar. It was stated that it would be brought up under an open rule. What happened to those of us who acted in good faith on the Republican side making sure that we would not stop that amendment from coming through the subcommittee or the full committee? Sure, we had some problems with it, but we did nothing to delay its consideration. In fact, I think you could argue that we enhanced its consideration and allowed it to go through the committee and subcommittee process speedily.

What happened was that within 4 days after we were told that it would not be brought up on anything other than a rule, it was brought up under the Suspension Calendar.

There are a whole host of major criminal bills that are before this Congress, most of them embodied in the President's comprehensive crime package, that have not been brought to the floor to this day. If they are going to be brought to the floor under the suspension calendar where those of us in the House are told that we accept what comes out of that committee or you will not get anything, then that is an unacceptable proposition as far as I am concerned.

As much as I think extradition reform is necessary and is an essential part of the President's comprehensive crime package, I am going to urge my colleagues to vote no on this bill because they ought to have the opportunity to fully debate all the elements of this bill.

I am not suggesting that those in conference will not work for what they say they will work for. But the point is that we ought to have a record in the House that we support some of these things before we go to confer-

ence saying that somehow we are going to accept the Senate provision.

Mr. Speaker, I just cannot convey strongly enough how wrong I think it is for us to deal with major legislation dealing with the criminal laws of the United States in this manner. If it is noncontroversial, if all the amendments were overwhelmingly accepted, if it were overwhelmingly adopted by the committee, that may—not always would—but may give us an indication that it is noncontroversial; but to come here where we have major elements, and I have only spoken about two of those elements in this bill, in which there was a major controversy in the full committee and to have it placed on the Suspension Calendar, I just have to say is unacceptable.

Now I will be happy to yield to the gentleman from New Jersey, who asked me earlier to yield.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding.

First, let me say to my colleague that my colleague had the right to appear for the 1 minute this morning, as I did, to respond to the Attorney General's statement.

I just happen to believe that our subcommittee has been working very diligently on crime legislation. We have moved out of our committee alone some 14 or 15 bills. The President has already signed five bills, three of them major initiatives, three of them happen to be parts of the omnibus bill that the President keeps referring to.

Mr. LUNGREN. Three out of forty-four.

Mr. HUGHES. And for the Attorney General to suggest that crime legislation is languishing in our subcommittee, which is the implication of his statement over the weekend, is absolutely groundless.

Mr. LUNGREN. If the gentleman would allow me to take back my time, I would just say this to him. The gentleman has been very careful to suggest that the Attorney General is suggesting it is languishing in the gentleman's subcommittee.

Well, capital punishment, as I understand, is not languishing in the gentleman's subcommittee.

Mr. HUGHES. Well, if the gentleman will yield to me, capital punishment is not even part of the omnibus bill.

Mr. LUNGREN. Just a second. If the gentleman will acknowledge, where is the bail reform bill? I do not find it on the floor. It is not languishing in the gentleman's subcommittee. The gentleman knows it is in another subcommittee.

We hope that this is not a precedent for bringing the sentencing reform bill here, that is, that it will be brought up under some sort of suspension so that we will not have the opportunity to make meaningful changes in that, because there are disagreements on it.

Where is the insanity defense? We passed that out last October. The gentleman is not responsible for that. It is not in his subcommittee.

Where is habeas corpus reform?

Mr. HUGHES. Would the gentleman yield to me?

Mr. LUNGREN. Certainly.

Mr. HUGHES. I do not recall seeing any part of the Attorney General's statement, which said in essence that the Subcommittee on Crime is moving its crime legislation expeditiously. The Attorney General used a broad brush to castigate all Members of the House.

Mr. LUNGREN. If the gentleman will allow me to reclaim my time, the gentleman knows I have always made a distinction between what the gentleman is attempting to do and what the gentleman's overall Democratic leadership has been attempting to do on this floor. The proof of the pudding is in the eating. We do not have an opportunity to vote on capital punishment on this floor. There has been a suggestion that we will never have that opportunity because it is too controversial.

We have not to this point had an opportunity to vote on the insanity defense reform. My God, the President was shot almost 4 years ago or 3½ years ago, and we still have not dealt with it on the floor of this House of Representatives.

Where is habeas corpus reform? We have not seen habeas corpus reform here.

Where is bail reform here? We have not seen it here.

Yet I remind my colleagues that we got ERA here within 2 weeks.

Bail reform, when do we consider dangerousness of the individual?

Where is sentencing reform on this floor under an open rule where we can make some decisions with respect to that?

Mr. HUGHES. Would the gentleman yield to me?

Mr. LUNGREN. I would be happy to yield to the gentleman.

Mr. HUGHES. Well, in the first place, the capital punishment is not part of the omnibus crime bill, as the gentleman well knows.

Mr. LUNGREN. No, that is absolutely wrong. It is part of the President's omnibus crime bill.

Mr. HUGHES. No, it is not part of the bill.

Mr. LUNGREN. It is part of the President's omnibus crime bill.

Mr HUGHES. Well, I am sorry to disagree with the gentleman. Read the bill.

Mr. LUNGREN. I am a cosponsor of the bill. I can tell the gentleman that it is part of the bill.

Mr. HUGHES. Let us talk about the legislation that is before us.

Mr LUNGREN. If what the gentleman is saying is the Senate carved out four parts of it that were controversial and dealt with the rest of it, that is true. The death penalty was not part of the final Senate comprehensive bill.

But then they went right behind it and voted individually on four elements, including the death penalty. Those elements did not pass by 99 to 1. They only passed by 2 or 3 to 1. My point is that capital punishment was part of the President's original crime bill.

Mr HUGHES. Will the gentleman yield further to me?

Mr. LUNGREN. I would be happy to yield.

Mr. HUGHES. In the first place, I share the gentleman's hope that we can reach the insantity defense legislation. We should have had it months ago.

Mr. LUNGREN. I agree with the gentleman.

Mr. HUGHES. And I quite agree with the gentleman, I had hoped that we would have sentencing earlier in this session. I had hoped that we could free up the forfeiture bill before tomorrow, which is when it is being scheduled, but as the gentleman must know, that was held up by the Committee on Ways and Means because the Committee on Ways and Means had a sequential referral. They took about 2 months to deal with their portion of the forfeiture bill.

Mr. LUNGREN. I would like to ask a question of the gentleman on that. We has heard rumors on our side of the aisle that there was a wish on that side of the aisle to bring it up under the Suspension Calendar. Can the gentleman tell me about that?

Mr. HUGHES. Well, it is my hope that we can put it on the Suspension Calendar tomorrow in order to expedite consideration of the legislaton.

Mr. LUNGREN. Well, let me take back my time.

The gentleman knows that I have two major controversial amendments, supported by the administration, on that. First, whether it should extend to the Rico statutes and second, whether we should have substitute assets. The administration thinks these are crucial and I believe they are crucial; but now for the gentleman to tell me that we are going to bring it up on the Suspension Calendar is upsetting.

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me?

Mr. LUNGREN. I would be happy to yield.

Mr. HUGHES. Well, the subcommittee and the full committee by big margins defeated the effort to have provisions in there dealing with substitute assets. We developed what I think is a strong provision dealing with alternate sentencing and a presumption of for-

feitability of goods. It was rejected by a big margin.

Mr. LUNGREN. Well, if the gentleman will allow me to take my time back, the gentleman is certainly entitled to his position, you think it is stronger. I do not happen to think that it is stronger. The administration does not think it is stronger. The Senate does not think it is stronger, and so at least the gentleman should give us the opportunity to debate it on the floor. If the gentleman believes in the merit of his position, he ought to expose it to the light of day and allow us to have a debate on it.

Mr. HUGHES. Will the gentleman yield to me?

Mr. LUNGREN. Certainly.

Mr. HUGHES. It is not a question of being able to prevail on the merits, because I sincerely believe that the House will confirm what we have done, but the strategy of trying to move legislation to get it through in this session of Congress is being developed by the gentleman from Michigan, Mr. HAL SAWYER, and myself.

Now we happen to be the ones that are closest to it and we are deciding how to move the legislation jointly. It is not a partisan legislation. We are trying to move crime legislation so that we can pass it into law. That is the reason we have three crime bills up under the Suspension Calendar today.

Mr. LUNGREN. Well, I do not dispute the fact that the two gentlemen want to work together, but that still does not say that you ought not to give an opportunity for an exchange of views and a vote up or down on something that is considered extremely important to the administration, extremely important to many of us in the Congress and extremely important to many people who are involved in the field of law enforcement.

□ 1340

The SPEAKER pro tempore. The time of the gentleman from California [Mr. LUNGREN] has expired. All time of the gentleman from Michigan [Mr. SAWYER] has expired.

Mr. HUGHES. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman has 10 minutes remaining.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Let me say to my colleague from California, those of us who are closest to the legislation, who have to look at what is left to be processed through the system between now and October 4, have to decide at this point how best to get legislation through so that we can go to conference with the other body and work out any differences.

The forfeiture legislation was passed in the 97th Congress. It was part of the package vetoed by the President, so we had to start all over again. We have hashed and rehashed both the Richo provisions and substitute assets provisions. We have held hearings. We have been in markups. We have been through the full committee and we have been through conference with the other body on the issue already in the 97th Congress. So the arguments over substitute assets and Richo and the Attorney General's position on these issues are fairly well known and have been rejected.

Mr. LUNGREN. Will the gentleman yield?

Mr. HUGHES. I yield to the gentleman briefly.

Mr. LUNGREN. Can the gentleman tell me when we dealt with that on the floor of the House?

Mr. HUGHES. I might say to the gentleman that we dealt with this in the 97th Congress, with forfeiture.

Mr. LUNGREN. Did we ever vote on it on the floor of the House in the 97th Congress?

Mr. HUGHES. That is because there were not any major issues involving forfeiture, even though the Justice Department advanced those positions on forfeiture. They wanted substitute assets and Richo. They in effect permitted it to go to conference so that we could try to work out the differences in conference and we did, and that is precisely what we are trying to do in this session.

You cannot have it both ways. Either you want crime legislation or you do not want crime legislation.

Mr. LUNGREN. Would the gentleman yield?

Mr. HUGHES. I have not yielded. I happen to believe that if you want crime legislation you have got to move it through where we can under the Suspension Calendar.

Now, the gentleman has every right to vote against the Extradition Act of 1984. I share the gentleman's concerns. I led the fights on the majority side against the modification of the rule of noninquiry and to try to hold the line against the effort to take out conspiracy in committee and we lost that battle.

I still am concerned about that but I believe we can work out those differences in conference.

The other body has not even moved legislation dealing with extradition, so obviously the other body is going to control exactly what happens with regard to extradition laws.

Mr. LUNGREN. Will the gentleman yield?

Mr. HUGHES. I am happy to yield.

Mr. LUNGREN. Does the gentleman suggest in any sense that the Judiciary Committee—I mean this as an honest inquiry—that the Judiciary Committee is reflective of the philosophical balance in this House?

Mr. HUGHES. I do not know what that has to do with this legislation.

Mr. LUNGREN. Because the fact that we lost in the Judiciary Committee is not reflective of the fact that you would lose on the floor of the House, and it is unfair to do that to the rest of us.

Mr. HUGHES. Mr. Speaker, the Extradition Act of 1984 is good legislation. There are about 25 major modifications and codifications of the law.

The argument that is ensuing now is over two provisions. I happen to share philosophically the gentleman's position on those two provisions, the conspiracy and the rule of noninquiry. It is my hope that we can work our will in conference.

But the fact of the matter is we have less than really 3 legislative weeks left. We have a short week this week. We have 2 weeks remaining after this week of Congress, and time is running out on our efforts to try to pass crime legislation.

What I object to, and what I objected to in my own mind this morning was the effort to castigate all Members of the House, particularly Democrats, with regard to crime legislation. We have three crime bills on the Suspension Calendar today that we want to move. In fact, the forfeiture bill will be up tomorrow if we can under the Suspension Calendar. It is my hope that the committee that has sequential referral on the so-called drugs bill can work out their problems so that we can work that through the process and we can pass the crime legislation that the President keeps asking for.

Mr. SAWYER. Will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. SAWYER. Since I have been sort of drawn into this discussion I would like to say that I do not like the two provisions that I mentioned that are in this bill; namely, the noninquiry element and the removal of attempts in conspiracy on political offenses, or the exemptions to political offenses.

But at this point in time we really have one choice. That is to bring the bill here under suspension and then try and correct what we do not like about it in conference, being backstopped by a veto if it ends up all that bad, and the administration feels that strong about those provisions. But I hope we will not be in that position. It is that or letting the matter die for this Congress. We do not have time to be able to get a rule before the Rules Committee and to get in this final logjam winding down this Congress. That is true, too, on several of these other bills.

There are things we might like to offer by way of amendments on the floor, but time has run out on us and we cannot do it that way. The only other option is to try and get it corrected with the other body in confer-

ence. I think we have enough conferees that lean toward doing something about that on this side of the building, and still being backstopped by a veto downtown if we end up with something that is unacceptable; it is either that or nothing.

I think I am prepared to take the calculated risk of being able to get something that will be satisfactory by way of conference amendments.

I yield back to the gentleman.

Mr. HUGHES. Mr. Speaker, for the information of my colleagues, I am including the following correspondence relating to this legislation:

COMMITTEE ON THE JUDICIARY,
Washington, DC, September 6, 1984.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: To expedite consideration of H.R. 3347, the Extradition Reform Act of 1984, I respectfully requested that you withdraw the request of the Committee on Foreign Affairs for a sequential referral. Of course, I understand that a withdrawal of your request would be without prejudice to the jurisdiction of the Committee on Foreign Affairs.

I appreciate your assistance on this matter.

With best regards.

Sincerely,

PETER W. RODINO, Jr.,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, September 6, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Room H-209, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: At your request and at the request of the Honorable Peter W. Rodino, Jr., Chairman of the Committee on the Judiciary, the Committee on Foreign Affairs will forego consideration under sequential referral of H.R. 3347, to amend title 18 of the United States Code with respect to extradition, as reported by the Committee on the Judiciary without prejudice to the jurisdiction of the Committee on Foreign Affairs.

With best wishes, I am,

Sincerely yours,

DANTE B. FASCELL,
Chairman.

● Mr. KASTENMEIER. Mr. Speaker, I rise in strong support for this bill. The judicial treatment our country affords to persons charged with crimes in other countries is an important indicator of the value our country places on human rights. This bill significantly reforms and improves our Nation's laws with respect to the judicial procedures which must be followed before a person—including an American citizen—may be returned for trial or punishment in another country. The bill represents a careful balance between the rights of the State and the rights of individuals. It represents a substantial improvement over prior legislation in this area.

The chairman of the Subcommittee on Crime and the members of the subcommittee are to be congratulated for fashioning a bill which adequately protects the rights of political dissidents. The subcommittee worked with the administration, the Department of Justice and the Department of State, the American Bar Association, and a number of outside groups, such as the ACLU and the Association of the Bar of the city of New York, to present a fair and balanced definition of what constitutes a political offense. Under the bill our country would not serve as a haven for terrorists. On the other hand, the bill, if enacted, will serve to prevent our country from becoming unnecessarily embroiled in taking sides in the civil wars of other countries.

The single most important reform found in the bill is contained in an amendment I offered in committee and which the committee accepted. The amendment authorizes Federal courts to refuse the extradition of a person if that person establishes that his or her return will either result in impermissible persecution or subject him or her to fundamental unfairness. The person being sought must establish this defense by a preponderance of the evidence.

The Kastenmeier amendment protects against persecution based on a person's race, religion, sex, nationality, or because of a person's political opinions. These standard protections are derived from the United Nations Convention and Protocol Relating to the Status of Refugees.

Opponents of this amendment argue that the extradition process itself can adequately protect human rights. This hope is illusory. We already have extradition treaties with a number of countries whose judicial procedures are suspect. For example, we have extradition treaties with Iraq, Poland, Albania, El Salvador, and Nicaragua. We cannot elevate extradition requests from those countries to the same status as interstate extradition requests from one State of the United States to another. Without this amendment there would only be the State Department to prevent abuses. In my view, the Federal courts are well suited to make the types of decisions called for in this amendment. They already make similar decisions in asylum cases. Moreover, the grant of such authority to the judicial branch may serve as a buffer to protect the executive branch from protests from requesting countries when we refuse extradition.

As the second circuit court of appeals recently said:

> In the 20th century the international community has come to recognize the common danger posed by flagrant disregard of basic human rights and particularly the right to be free from torture . . . civilized nations have banded together to prescribe acceptable norms of international behavior . . . (it) is in their individual and collective interest.[1]

It is my hope that this bill, when enacted into law, will serve as a small but important step toward the full recognition of basic human rights in domestic and international law. My amendment protects an individual against injustice and avoids the potential that our Nation will be complicit in foreign injustice because of reasons of State. Without the reforms contained in this bill, our Nation's extradition laws will continue to hold the potential for furthering the political persecution of dissidents, rather than advancing our heritage as a safe harbor against the winds of despotism.●

● Mr. FISH. Mr. Speaker, I oppose H.R. 3347 because amendments adopted by the committee on the Judiciary Committee destroy any ability of this measure to improve the extradition process.

This is most unfortunate because the need for reform is great. It would reduce needless bureaucratic expense and delay while further protecting the rights of those subject to extradition requests. Herein lies the difficulty: Extradition treaties are based on mutual trust between the respective nations. Returning the accused to the foreign nation for trial requires the commitments of both nations to basic human rights.

The committee amendments which were adopted imply that no such mutual trust and commitments exist. As a result, the new requirements make it extremely difficult to extradite any criminal. Rather than improve the process these amendments only succeed in creating a quagmire of litigation. Thus, H.R. 3347 creates harmful burdens on both judicial system and our treaties and relations with other nations.

The Subcommittee on Crime codified a defense to extradition commonly known as the "political offense." Under the political offense doctrine, persons committing illegal acts with purely political motives in politically charged situations may avoid the extradition process. The subcommittee realized however, that even political motives do not justify heinous acts. The acts that can never be political offenses under H.R. 3347 are hijacking, attacks on international protected persons, drug trafficking, rape, terrorist acts and attempts and conspiracies of these acts.

The committee voted by a narrow margin of 16 to 14 to strike conspiracies to commit these specific acts from the list of crimes that can never be political offenses, under the mistaken belief that someone could be more easily extradited under a bogus charge

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[1] *Filartiga* v. *Pena-Irala*, 630 F.2d 876, 890 (2d Cir. 1980).

of a conspiracy. The rationale behind the amendment is incorrect for several reasons. Before extradition occurs, the court must find probable cause that the defendant conspired to commit one of the listed acts that can never be a political offense. Conspiracy case law documents the difficulty in proving probable cause in a conspiracy case; it is much harder to show probable cause that a conspiracy exists than it is to show probable cause that the defendant was involved in the illegal act which is the result of the conspiracy, I believe that someone conspiring to commit one of the listed acts that can never be a political offense is just as culpable as those who attempt or commit the listed act. It is intellectually inconsistent to give preferred treatment to conspiracy charges.

The committee's actions also reflect a misunderstanding of the differences between Federal and international law by abolishing the rule of noninquiry. By a vote of 16 to 15, the committee eliminated one of the oldest extradition principles and a cornerstone of the extradition process. In 1916, the Supreme Court refused to inquire into the motive of the Nation seeking extradition. In re Lincoln, 241 U.S. 651 (1916). Since that time, no U.S. court has inquired into the politics behind an extradition request. The existing rule of noninquiry is a court imposed rule, indicating the courts' recognition that they cannot adequately assess the motives of the requesting nation. Courts do not have the ability, resources, or time to read the minds of political officials in other countries. A public inquiry into the motives and integrity of foreign officials will harm foreign relations.

The political assessments made in the international community are and should remain within the exclusive province of the Secretary of State for the simple reason that the Secretary is the only person with the resources necessary to make an informed decision. The Secretary of State, unlike the courts, is able to avoid publicity in making this decision and simply does not pursue requests based on political motives. Absolutely nowhere in the subcommittee testimony has anyone suggested that the Department of State has failed to protect the civil rights of individuals. The lack of faith in the executive branch's responsibility for the political motive issue is baseless.

The President will likely veto H.R. 3347 because it misunderstands the extradition process by assuming that procedures alone can guarantee rights. The excess procedures in H.R. 3347 only so complicate the extradition process that all criminals will benefit from them at the expense of the U.S. communities and our foreign relations. For these reasons, I urge you to join me in opposing H.R. 3347.●

● Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of the bill, H.R. 3347, the Extradition Reform Act of 1984. This bill is the product of the work of the Committee on the Judiciary over the past two Congresses. The chairman of the Subcommittee on Crime, my distinguished colleague from New Jersey [Mr. HUGHES], is to be congratulated.

Last Congress the committee reported a bill which raised serious concerns in the community of persons concerned about international human rights, and, due to the heavy agenda at the end of the session, that bill was not voted on. This Congress the committee began the legislative process again, and—in my view—improved on its work. This Congress the committee further refined the definition of a political offense and, most importantly, met the legitimate concerns about the need to add additional procedural protections to guard against the abuse of human rights.

The bill before us this afternoon has the strong support of the American Bar Association, the Association of the Bar of the city of New York, and the American Civil Liberties Union. This is so because the bill dramatically improves Federal law by providing the Federal courts with authority to refuse to extradite a person if that person establishes by a preponderance of the evidence that the person's return will result in either impermissible persecution or subject the person to fundamental unfairness. This safeguard is derived from the United Nations Convention and Protocol on the Status of Refugees and parallels the treatment given to alleged offenders in virtually all modern democracies. Great Britain, the Federal Republic of Germany, Israel, Australia, New Zealand, India, and Sweden, for example, all permit courts to inquire into the bona fides of an extradition request.

Opponents of this feature of the bill argue that Federal courts should not be involved in such foreign policy matters. That type of argument has also been made—and rejected—only recently by the House in the context of political asylum decisions. We all know that the Department of State must, of necessity, make decisions about individual issues—including extradition requests—in the context of our total relations with other countries. There is almost an inherent conflict in roles when we ask the Department of State to make judicial determinations about whether an alleged offender will receive nondiscriminatory, fundamentally fair treatment in a requesting country. It is unavoidable that the Department of State will be asked to refuse a person's extradition because of allegations of persecution or grossly abusive treatment in the requesting country. It is virtually impossible for that political department to weigh that individual human rights claim without considering the ramifications any decision would have on our relations with that nation. Thus, reliance on the Federal courts to resolve these issues is the only fair and objective method for resolving these issues.

I also note that the bill contains an important amendment which I authored, which was adopted in committee. Under the bill a person like the late Senator Aquino of the Phillipines, who was charged with a conspiracy, would still have been able to avoid extradition by asserting the political offense defense. Opponents of my amendment want to preclude such protection. This view is shortsighted. If an alleged offender conspired and completed a heinous act, the defense is unavailable. Under my amendment, all that is permitted is the assertion of a defense if mere inchoate conduct is alleged.

I strongly urge my colleagues to support this measure.●

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3347, as amended.

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MONEY LAUNDERING PENALTIES ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6031) to improve the criminal enforcement of provisions of law relating to currency and foreign transactions, as amended.

H.R. 6031

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Money Laundering Penalties Act of 1984",

SEC. 2. (a) Section 5321(a)(1) of title 31, United States Code, is amended by striking out "a civil penalty of not more than $1,000" and inserting in lieu thereof "a civil penalty of not more than $10,000".

(b) Subsection (a) of section 5322 of title 31, United States Code, is amended by striking out "$1,000, or imprisoned for not more than one year, or both" and inserting in lieu thereof "$250,000, or imprisoned for not more than five years, or both".

(c) Subsection (a)(1) of section 5316 of title 31, United States Code, is amended—

(1) by striking out "more than $5,000" and inserting in lieu thereof "more than $10,000"; and

(2) by inserting ", is about to transport," after "transports".

(d) Subsection (a) of section 5317 of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) A customs officer may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported in violation of section 5316 of this title.".

(e) Chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 5323. Rewards for informants

"(a) The Secretary of the Treasury may pay a reward to a person who provides information which leads to the collection of a criminal fine, civil penalty, or forfeiture, which exceeds $10,000, for a violation of this subchapter.

"(b) The Secretary shall determine the amount of a reward under this section. The Secretary may not award more than 25 percent of the net amount of the fine, penalty, or forfeiture collected or $150,000, whichever is less.

"(c) An officer or employee of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.".

(f) The table of sections at the beginning of chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5323. Rewards for informants.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary has favorably reported the bill, H.R. 6031, the Money Laundering Penalties Act of 1984. It has been cleared by the Committee on Banking, Finance and Urban Affairs for action today. This bill is designed to strengthen the Currency and Foreign Transactions Reporting Act, adopted in 1970, to enable the Federal Government to investigate the financial activities of drug traffickers and racketeers.

In 1979, a distinguished member of the Banking Committee, the gentleman from New York [Mr. LAFALCE] after a study mission to South America to examine the relationship of money laundering to the drug traffic, developed, in cooperation of the Treasury Department the predecessor legislation to this bill. At the recommendation of the Treasury Department, Mr. LAFALCE's proposals were included in the 42 part crime bill, S. 1762, which passed the Senate earlier this year.

The Subcommittee on Crime has been examining the problem of money laundering for quite some time, including how illegal drug profits are laundered through legal gaming casinos in Nevada and New Jersey. When this measure, title IX of S. 1762, was referred to the Crime Subcommittee, we quickly held hearings on it and reported it favorably to the full Judiciary Committee on July 26, 1984.

Building upon the work of the gentleman from New York and the Department of the Treasury, the bill we have reported will improve the administration of the Currency and Foreign Transactions Reporting Act and strengthen its law enforcement features.

First, the bill raises the penalties that may be imposed for violations of the act from the current maximum criminal penalty of a $1,000 fine and 1 year imprisonment, to a maximum $250,000 fine and 5 years imprisonment. The maximum civil penalty is raised from $1,000 to $10,000.

Second, we provide greater flexibility for the Secretary in setting the time for the filing of reports. Current law requires that reports be filed when one transports or has transported currency out of the country. The implementing regulations have interpreted this as the time of departure. By allowing the Secretary to require filing when one is about to transport currency out of the country, the bill enables the Secretary to require, in specialized cases, filing in advance of the time of departure which will facilitate the investigation of criminal money launders.

Third, the bill allows customs officers at the border to make searches, as they now are permitted to do for other border inspections, for evidence of violations of the Currency Act, if they have reasonable cause to do so. Under recent interpretations of the fourth amendment by the Supreme Court, this limited authority is constitutional.

Fourth, the bill allows the Secretary of the Treasury to pay rewards to persons who provide information leading to the collection of a fine, penalty or forfeiture of more than $10,000 under the Currency Act.

Fifth, the bill assists tourists and egitimate travelers by raising the current threshold requiring the filing of reports from $5,000 to $10,000. This will reduce their inconvencience, reduce the delay at airports, and cut the costs of the computerized filing of reports which have no law enforcement value.

This is a modest bill, yet it will substantially assist our ability to fight the money laundering that fuels the international drug trade, and is the tool of racketeers hoping to avoid detection and prosecution.

I want to thank the gentleman from Rhode Island [Mr. ST GERMAIN], the gentleman from Ohio [Mr. WYLIE], the gentleman from New Jersey [Mr. MINISH], and the gentleman from Virginia [Mr. PARRIS] for their assistance in expediting action on this legislation.

□ 1350

I should mention also once again the ranking Republican Member [Mr. SAWYER] worked very hard on this particular legislation. We really did not have very much time when the bill was referred to us back in July, but we moved expeditiously and, thanks to the work of the Committee on Banking, we have it on the floor today.

It is a good bill and I urge my colleagues to support it.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House of Representatives is considering a proposal similar to the Currency and Foreign Transaction Reporting Act Amendments in the President's Comprehensive Crime Control Act of 1983. These amendments provide us with important tools to enable Federal law enforcement officials to cut down the money laundering in this country and beyond our borders.

The large amount of money laundering taking place today is unacceptable. The movements of large amounts of unreported cash results in highly profitable drug trafficking, organized crime endeavors, tax evasion, and other crimes that negatively impact on all Americans.

I am convinced that the way to reduce highly profitable crimes, like drug trafficking, is to remove the profits from these criminals. Taking the profit out of crime is the key to the proposals before us today. It is also the heart of forfeiture reform, H.R. 4901, which this body will be considering in the near future. For this important reason, these proposals will go a long way in reducing money launder-

ing and therefore in reducing other profitable crimes.

The bill before us today does not include all of the law enforcement tools that are provided in title IX of S. 1762. For that reason, it is not as effective a measure as I believe it could be.

I will work to ensure that the Senate provision permitting wiretapping foreign currency violations be adopted in conference. I offered such an amendment in subcommittee, but I withdrew it until the chairman had an opportunity to clarify the need for this proposal. I understand that experts from the Department of Justice have explained to the chairman of the subcommittee why money laundering schemes provide the classic case of need for wiretapping authority.

I strongly believe that money laundering offenses should be added to the list of crimes for which the Department of Justice is authorized to obtain a court order to permit electronic surveillance to be employed as an investigative device. Money laundering offenses are frequently related to large-scale narcotics trafficking and are carried on in a clandestine manner making wiretaps an effective, and sometimes indispensable, investigative tool. The statutory requirements for a court-authorized order permitting electronic surveillance are extremely stringent, and include among other things a showing of probable cause to believe that illegal activity, consisting of a violation of an enumerated offense, is being conducted on the telephone or premises to be surveilled, as well as a showing that such evidence cannot reasonably be obtained in another manner. Just as in the case of sexual exploitation of children offenses, which this Congress determined earlier this year to add to the list of enumerated offenses for purposes of an electronic surveillance order, here too there is a strong case for adding money laundering crimes to the underlying statute.

I must also commend Mr. HUGHES for moving this important crime legislation which is aimed at the rich money laundering criminals who sit on the top of drug trafficking and other organized crime organizations.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO], the distinguished chairman of the full Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I rise in strong support of H.R. 6031, the Money Laundering Penalties Act of 1984.

Drug trafficking in this country is approaching a $100 billion industry. The profits these traffickers reap reach such large proportions that heavily armed convoys are used to move the cash from one point to another; so large that the money is frequently not measured by counting, but by weighing. This incredible amount of money generated by drug trafficking has spawned a subsidiary, multibillion-dollar industry, that of money laundering. While illicit drugs usually flow from outside the United States to inside our borders, the predominant direction of the tainted profits is just the reverse—from the United States to foreign locations. These places are known for asking few questions about the source of these funds, which are then laundered. Once laundered, the funds lose their identity as illegal profits and are frequently returned to the United States in the form of loans or seemingly legitimate investments.

To address this illegal activity, we require persons taking large amounts of cash out of, or into, the country to file reports with the Department of the Treasury. These reports are then analyzed to identify suspicious transactions. This bill makes a number of changes to tighten up this enforcement device and provides penalties for violations which are commensurate with the seriousness of the violation. The bill would also raise the dollar threshold on reporting from $5,000 to $10,000. This change takes into account inflationary changes and to reduce the burden on legitimate international travelers while concentrating enforcement resources on more suspicious transactions.

The bill clarifies the authority of customs officers to make border searches without warrants when they have reasonable cause to believe that violations of the reporting act are taking place. It authorizes rewards for information leading to the discovery of violations of the act, and raises the penalties for violations from a misdemeanor—punishable by a maximum of 1-year imprisonment and a $1,000 fine, to a felony—carrying up to 5-years imprisonment and a $250,000 fine. Civil penalties are increased tenfold, from $1,000 to $10,000.

These improvements to one in our arsenal of weapons against organized crime, drug trafficking, and terrorism are long overdue. I urge all Members to give the bill their support.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 6031, the Money Laundering Penalties Act of 1984, which was referred both to the Judiciary Committee and to the Banking Committee, on which I am privileged to serve.

I believe this legislation will permit our law enforcement agencies to hit organized crime and criminals who would profit from illegal drugs and tax evasion right where it hurts most—in the pocketbook.

I am particularly delighted with the provision that sets up a reward system for informants who tip off authorities about huge sums of cash and negotiable securities being smuggled out of or into the United States as part of a laundering scheme to wash away any link with illicit activities.

As a member of the Select Committee on Narcotics Abuse and Control, I am well aware of the frustration of our law enforcement agents when they know but cannot prove that vast sums of money are changing hands daily for illegal drugs.

They report to us that they can get the little man, the low-level criminal who does the dirty work. But they also say the upper echelon of the criminal society remains at arms length from the transactions and reaps the profits at little or no risk.

I believe this reward system will put them at risk, for it will pit the criminal against the criminal. This is not aimed at the business traveler or the vacationer who takes a supply of travelers checks to Jamaica or France or Hong Kong. In fact, another provision of this bill raises the amount that can be carried legitimately from $5,000 to $10,000.

This legislation, rather, is aimed at the big-time criminal who must secretly smuggle illegal profits to another country for laundering and who must smuggle money into the United States. And I absolutely reject as utterly false the old statement that "There is honor among thieves."

I believe that the prospect of collecting 25 percent of any fine, penalty, or forfeiture will be too great a temptation for a criminal's underlings, not to identify his competitors in crime.

Bear in mind, if you will, that the legislation states that an informer can receive 25 percent of the money, up to a maximum reward of $150,000.

This means than an informer who knows of an attempt to smuggle $600,000 or more on a flight to Switzerland can pick up the telephone, tip off the customs agents, and pocket $150,000.

I fully realize there is another provision of this legislation that concerns some Members of the House. That is the language that deals with warrantless searches of individuals or conveyances entering or leaving the United States. That is an area that must be carefully monitored and diligently protected.

But, I have no constitutional problems with this language, because it is narrowly drawn. Such searches can be made only, and I emphasize only, when the officer has reasonable cause to believe a monetary instrument is being transported in violation of U.S. laws. This is a very narrow circumstance—much narrower than the routine border searches, which have been

upheld by the Supreme Court. It, indeed, is much more restrictive than the authority now enjoyed by customs officers when they wish to board a vessel.

I enthusiastically support H.R. 6031 and I hope it will be the pleasure of this House to pass the legislation.

□ 1400

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to make a point with regard to this money-laundering bill.

I think this legislation points up what can be accomplished when we have bipartisan cooperation with the committees that have jurisdiction. Jurisdiction in this body cuts across, quite often, many committee lines.

My colleague from Michigan [HAL SAWYER] put his point on something that we have to be concerned with right now and that is that if we do not move this legislation under the Suspension Calendar I fear that we are not going to move the legislation in this Congress. That means we have to start all over again.

It took us the better part of 18 months to get forfeiture back on track again through the various processes and the House Judiciary Committee, get it reported out, get it over to the Ways and Means Committee so that they could clear it. It took the Ways and Means Committee some 3 months to clear it. It took Energy and Commerce the better part of 2 months to clear the forfeiture bill.

When you lose 18 months of valuable time it obviously is important to try to make sure that you can move it in the most expeditious manner. That is why this legislation, like the other legislation, is on the Suspension Calendar because we think it is important to put this on the President's desk before the end of this year.

Mr. SAWYER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I rise in vigorous support of this bill. I would like to compliment the gentleman from New Jersey [Mr. HUGHES] for his good work on this and, of course, our own ranking Member, the gentleman from Michigan [Mr. SAWYER].

This is a unique bill in that it does add a new facet, a new dimension, in our war against the continuing spread of drugs. It is a most important bill. We must not give up at any particular level. We have to continue to tighten the screws down tighter and tighter every place we find there is a hole or a gap in law enforcement.

This is a new tool that will be most valuable. It will, in a very large part, tend to take the profit out of crime and put greater risk back in the commission of crime and threatening those who would commit a violation of our laws.

I believe that this type of bill and I believe the gentleman from New Jersey correctly stated is not a terribly controversial bill. Its controversy will only be felt among those who would violate the laws of this country.

I feel that this is a proper type of bill to come through under suspension. I would urge its passage.

● Mr. WORTLEY. Mr. Speaker, drug trafficking and money laundering go together like ham and eggs. Cases brought to trial under the Bank Secrecy Act of 1970 illustrate how this one section of the underground economy operates. by approving the Money Laundering Penalties Act of 1984, Members can strike a blow against crime and for increased tax compliance.

As a member of the Banking Committee's General Oversight Subcommittee, I have had occasion to question the Federal financial regulators as well as representatives from the Treasury and Justice Departments about money laundering and the Bank Secrecy Act. Each of the Government representatives agreed that additional tools are needed to ferret out criminal activity involving the movement of large sums of money through financial institutions. They added that the Bank Secrecy Act, in its present form, needs augmentation if past successes such as Operation Greenback and Operation Banco were to be repeated. Not all currency laundering activities are of the size and scope of Operations Greenback and Banco, but when added together, add up to a serious amount of money.

On June 20, the Deputy Assistant Attorney General of the Criminal Division of the Justice Department told members of the Oversight Subcommittee:

> The Bank Secrecy Act has been effective in providing important leads—sometimes, the initial lead—in solving many narcotics crimes and in uncovering many money laundering schemes. However, the Act suffers from weaknesses that prevent if from serving as a superior law enforcement tool. For example, despite our successes, we believe that large amounts of unreported currency have been exported and imported annually. The weaknesses in the Bank Secrecy Act led to the development of important amendments of the Act and related statutes, The Comprehensive Crime Control Act of 1984.

The Money Laundering Penalties Act, reported by the Judiciary Committee contains the changes sought by the Justice and Treasuary Departments. Increased penalties, attempt, increased reporting amounts, customs search authority, and rewards for informers all ensure that those who try to thwart the law will be caught and punished.

I commend the Judiciary Committee for its prompt and thorough work on a bill designed to keep law enforcement tools in tune with the times and urge all Members to cast an aye vote for the adoption of the Money Laundering Penalties Act of 1984.●

● Mr. LAFALCE. Mr. Speaker, I rise in support of H.R. 6031, the Money Laundering Penalties Act of 1984, and strongly urge my colleagues in the House to act favorably on the measure. As original author of legislation to stem the illegal flow of dollars across U.S. borders, I feel strongly that we can slow the drug trade by approving this bill, which was referred to the House Judiciary Committee and the House Banking Committee.

Five years ago, during a factfinding mission to South America, I became convinced that one of the best ways to curb drug abuse in this country is to limit the importation of drugs from abroad and stop the easy export of drug profits. My discussions with customs officers and Government officials from the Justice Department and the Treasury Department convinced me that there existed gaps in our laws that inhibited our law enforcement efforts to curtail what has become a multibillion-dollar drug trafficking business. In fact, it is estimated that at least $7 billion worth of illicit narcotics transactions occur annually in Florida alone, much of which is difficult to detect and capture. As a result of my study, I introduced three bills.

My proposals, introduced in the 96th, 97th, and 98th Congresses, outlined changes that would help customs officials in their attempts to stop the movement of dollars used to purchase drugs abroad and slow the undercover transport of drug profits to safe havens outside the United States. Those changes, included in the bill before us today, will provide powerful tools in our enforcement efforts.

Passage of this legislation would, first, make it illegal to attempt to leave the United States with large amounts of cash without having filed a report, already required by the Bank Secrecy Act, with the Government. Present law makes it illegal to leave the country with a great deal of currency without having filed the report, but judicial interpretation has held that a person cannot be convicted of violating this law unless he actually left the country—and in so doing escaped from the legal jurisdiction of law enforcement officials. Both from a commonsense perspective and for enforcement reasons, we should be able to stop an illegal flow of funds before it happens.

Second, this bill would allow customs officials to search for unreported amounts of cash when they have reasonable cause to believe that currency is being transported in violation of the reporting requirements. Searches permitted by this bill would be in accordance with judicial interpretations of

the authority of customs officials to undertake border searches, and, in fact, the legislation is drawn in such a way as to restrict the authority of Customs officials in conducting such searches in a manner stronger than that applied by the Constitution and the courts.

Third, the bill would encourage informants who know of cash smuggling to report this to U.S. Government officials by providing for rewards to informants whose information results in a seizure of cash.

Because I feel strongly that Americans who are transporting currency for legitimate purposes should be able to do so in an unhindered fashion, and because our real problems with currency exports do not come in thousand-dollar amounts, but rather in hundreds of thousands of dollars, I also introduced legislation increasing the threshold amount for reporting purposes from $5,000 to $10,000. H.R. 6031, the bill before us today, contains such an increase. Further, H.R. 6031 would increase the civil and criminal penalties for those who do violate the reporting requirements—an addition to my original legislation that I strongly support.

Mr. Speaker, we all know that drug abuse is a raging national epidemic which brings with it tragic human results, both in terms of human suffering and financial loss. If we are get to the root of the drug problem in this country, we have to attack it in several areas—in our towns and cities, where we must find and assist drug abuse victims; in our courts, where violations of our drug laws should be rapidly and effectively dealt with; and in our enforcement system, where we should enhance the capabilities of our law enforcement officers to apprehend drug law violators. Enactment of this legislation will work to the benefit of us all by attacking the root of the illegal drug trade—the dollar flow that makes drug trafficking so profitable.

Support for this bill is, rightly, of a strongly bipartisan nature and has been for the 5 years that I have been advocating its adoption. The efforts of many in bringing the bill to the floor today should be commended. Of particular note have been the efforts of the leadership of the House Banking Committee: Both Chairman ST GERMAIN and Oversight Subcommittee Chairman MINISH have conducted hearings on the matter, and Ranking Minority Member CHALMERS WYLIE was an original cosponsor of my bill. In this session of Congress, BILL HUGHES, chairman of the Subcommittee on Crime, has done an outstanding job of refining and improving the legislation, and is responsible for its being on the floor today. The full Judiciary Committee, under Mr. RODINO's leadership, is doing an excellent job in this whole area of crime legislation, and I commend their work on this matter.

Mr. Speaker, this is a bill of which I think we can all be proud.●

● Mr. MINISH. Mr. Speaker, I rise in support of H.R. 6031, the Money Laundering Penalties Act of 1984. As an original cosponsor of the bill, I join in the effort and applaud the work of my colleague, in bringing legislation to the floor which will provide us with a major weapon for fighting the use of banks as laundering devices for drug money.

We have all seen the devastating consequences that result from the use and abuse of illegal drugs. Yet, those drugs remain pervasive in our society because of the huge amount of money associated with their sale and distribution. In my capacity as chairman of the Banking Committee's Subcommittee on General Oversight, I have held five hearings on money laundering penalties since 1970. From these hearings, I concluded long ago that key to stopping the drug problem is to remove its great incentive of money laundering. Simultaneously, the criminals' need to launder billions of dollars annually poses another evil, a direct threat to the legitimacy of the banking industry.

Fortunately, the Bank Secrecy Act, with its new amendments in the Money Laundering Penalties Act of 1984, provides a way to follow the intricate cash flows caused by the drug traffickers and their money launderers. With increased fines and prison sentences, rewards for informants, and fewer inhibitions on law enforcement, we can now draw closer to the day that the flow of drug money out of this country will be halted.●

● Mr. SENSENBRENNER. Mr. Speaker, I rise in support of H.R. 6031, the Money Laundering Penalties Act of 1984. This measure is the House companion bill to title IX of the President's Comprehensive Crime Control Act of 1984. This crime package, S. 1762, passed the Senate by a vote of 90 to 1 on February 2, 1984. I sincerely hope that other parts of this package, such as bail reform, sentencing reform, and the insanity defense reform will also be brought before this body in a timely fashion.

Although I support H.R. 6031, I must point out to this body that the House version is considerably weaker than the Senate proposal. Mr. SAWYER has already pointed out that H.R. 6031 does not provide wiretap authority for this crime associated with the kingpins of drug trafficking organizations.

Another weakness is that H.R. 6031 does not contain the proposal in title IX of S. 1762 to add violations of the Currency and Foreign Transactions Reporting Act as a predicate offense under the Rico statute. As Deputy Assistant Attorney General John C. Keeney testified before the House Banking Committee, our investigative agencies have become aware that there are now in the United States several very large-scale professional money laundering organizations. These enterprises are not in the business of drug trafficking, illegal gambling, or any other criminal activity. Their business is illegal money laundering and their profits are derived from providing this vital service to drug traffickers and other high-level criminal entrepreneurs who reap profits and proceeds so great as to have a need for the services of such money laundering operations. This type of criminal activity is a classic illustration of what the Rico statute was designed to reach and to punish. The greater penalties available under the Rico statute, as well as its forfeiture sanctions, are necessary to adequately emasculate and deter such professional money laundering operations.

Although I will support the stronger Senate version in conference, I urge the adoption of H.R. 6031 today.●

● Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I rise in support of H.R. 6031, the Money Laundering Penalties Act of 1984. This bill will enhance the ability of Federal law enforcement agencies, particularly the Customs Service, to ferret out the financial base of drug trafficking and other organized criminal activity. I commend Chairman HUGHES of the Judiciary Subcommittee on Crime and Chairman MINISH of the Banking Subcommittee on Oversight for their fine work on this measure.

H.R. 6031 contains many amendments to the Currency and Foreign Transactions Reporting Act (commonly known as the Bank Secrecy Act) which increase the penalties which can be imposed on those who are convicted of currency violations, as well as improve the usefulness of the Bank Secrecy Act as a tool in financial investigations. The Bank Secrecy Act requires the filing of certain reports or records of financial transactions and the movement of financial instruments in or out of the United States where such reports or records have a high degree of usefulness in criminal or tax investigations. The bill contains the following salutory provisions:

Increases from $1,000 to $10,000 the civil penalty that can be imposed upon a domestic financial institution, or an employee thereof, who willfully violates the Bank Secrecy Act, or a regulation prescribed pursuant to the act.

Raises the maximum criminal penalties for violations of the Bank Secrecy Act from the present level of $1,000 and 1 year imprisonment, to a maximum fine of $250,000 and 5 years imprisonment.

Raises the dollar value of currency or monetary instruments from the

present amount of $5,000 to $10,000 that may be brought in or out of the United States without filing the requisite reports under the Bank Secrecy Act. This amendment will eliminate the filing of many reports that are not useful to law enforcement because experience has shown that inflation has not made it uncommon for legitimate international travelers to carry financial instruments in amounts between $5,000 and $10,000.

Clarifies case law interpreting the Bank Secrecy Act by permitting the Secretary of the Treasury to require the filing of reports pursuant to the act if one transports, is about to transport, or has transported monetary instruments covered by the act. This amendment speaks to the issue of when an outbound currency report must be filed under the act and will permit the Secretary to impose the duty to file an outbound currency report at some time prior to the traveler's point of departure from the United States.

The bill provides incentives for individuals to come forward with information about currency violations by allowing the Secretary to pay rewards of up to 25 percent (but not more than $150,000) to persons who provide information that results in a fine, penalty, or forfeiture of more than $10,000 for a violation of the act.

Lastly, H.R. 6031, under carefully defined circumstances, permits customs agents to conduct warrantless searches of persons or conveyances entering or departing the United States when the agent has reasonable cause to believe that a monetary instrument is being transported without a requisite report being filed pursuant to the Bank Secrecy Act. This section has clear precedent in the longstanding authority of the Customs Service to conduct warrantless searches at border crossings, as well as in existing statutory authority of the Customs Service (19 USC 1581) to conduct warrantless searches of conveyances and persons in enforcement of the Tariff Act of 1930.

Mr. Speaker, I urge my colleagues to support H.R. 6031. It is a well-considered measure that balances the need for effective investigation of money laundering, drug trafficking and organized crime, and the need to protect the traveling rights of American citizens.●

● Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 6031, the Money Laundering Penalties Act of 1984.

As reported, this bill strengthens provisions of the Currency and Foreign Transactions Reporting Act and will be a major tool to be used by enforcement authorities to combat hidden, ill-gotten gains of drug dealers and organized crime rings. So-called money laundering, by which criminal organizations move large amounts of cash directly out of the country and bypass bank and the required U.S. Customs Service reporting forms, has paralleled the tremendous increase in drug trafficking that we have experienced in recent years. The Criminal Division of the Justice Department recently estimated that drug dealers and organized crime hide and launder as much as $40 billion a year in offshore banks. Money launderers purchase cashiers' checks under assumed names, create phony corporate bank accounts, and send money out of the country to foreign banks only to have it reenter the United States as a supposed return on legitimate investments or disguised as foreign loans.

H.R. 6031 would strengthen provisions of the Currency and Foreign Transactions Reporting Act in a number of ways. First, it would increase civil and criminal penalties for domestic financial institutions who willfully violate the act from the current maximum of $1,000 to $10,000. The bill would also increase the criminal penalty from a $1,000 fine and 1 year imprisonment to a $250,000 fine and 5 years' imprisonment.

Second, the bill would reduce the inconvenience of the legitimate traveling public by increasing from $5,000 to $10,000 the amount of currency or monetary instruments a person may transport into or out of the United States without having to file a report.

Third, it would require the filing of a report if one transports, is about to transport, or has transported monetary instruments.

Fourth, the measure would allow Customs agents to conduct warrantless searches of those entering or leaving the United States when there is reasonable cause to believe that a monetary instrument is being transported in violation of reporting requirements.

Finally, H.R. 6031 would permit the Treasury Department to reward a citizen who provides information leading to the collection of a fine, penalty, or forfeiture exceeding $10,000, or up to 25 percent of the amount collected or $150,000, whichever is less.

The Select Committee on Narcotics Abuse and Control, of which I am the ranking minority member, has long recognized the need for revisions in the Currency and Foreign Transactions Reporting Act to make it easier for law enforcement authorities to get at the enormous profits acquired in the illicit drug trade. Accordingly, I applaud the work of the Banking and Judiciary Committees, and join with the distinguished chairman of the Narcotics Select Committee (Mr. RANGEL), with whom I serve as the ranking minority members, in urging support of this legislation.●

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 6031, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TRADEMARK COUNTERFEITING ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6071) to amend title 18 of the United States Code to strengthen the laws against counterfeiting trademarks, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trademark Counterfeiting Act of 1984".

TITLE 18 AMENDMENT

SEC. 2. (a) Chapter 113 of title 18 of the United States Code is amended by adding at the end the following:

"§ 2320. Use of counterfeit marks

"(a) Whoever engages or attempts to engage in conduct for which section 32(1)(a) of the Lanham Act (15 U.S.C. 1114(1)(a)) or section 110 of the Olympic Charter Act (36 U.S.C. 380) provides a civil remedy, by intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark, in connection with the sale, offering for sale, or distribution of goods or services shall, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000. In the case of an offense by a person under this section which occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and if other than an individual, shall be fined not more than $5,000,000.

"(b) Any documents seized and held by an agency or other entity of the Federal Gov-

ernment in connection with a prosecution under this section are exempt from disclosure under section 552 of title 5 of the United States Code (commonly referred to as the 'Freedom of Information Act').

"(c) Upon a showing that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks or designations, the United States may obtain an order for the destruction of such articles.

"(d) For the purposes of this section—

"(1) the term 'counterfeit mark' means—

"(A) a spurious mark which is used in connection with the sale, offering for sale, or distribution of goods or services and which is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office; or

"(B) a spurious designation which is identical with, or substantially indistinguishable from, a designation as to which the remedies of the Lanham Act are made available by reason of section 110 of the Olympic Charter Act;

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question or a reasonable time before such manufacture or production, in a contractual or other relationship, permitting the use of the mark or designation for the type of goods or services so manufactured or produced, with the holder of the right to use such mark or designation, unless the user has knowledge of the termination of the relationship; and

"(2) the term 'Lanham Act' means the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (15 U.S.C. 1051 et seq): and

"(3) the term 'Olympic Charter Act' means the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).".

(b) The table of sections at the beginning of chapter 113 of title 18 of the United States Code is amended by adding at the end the following new item:

"2320. Use of counterfeit marks.".

LANHAM ACT AMENDMENT

SEC. 3. The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) is amended—

(1) in section 34 (15 U.S.C. 1116)—

(A) by designating the first paragraph as subsection (a);

(B) by designating the second paragraph as subsection (b);

(C) by designating the third paragraph as subsection (c); and

(D) by adding at the end the following:

"(d)(1)(A) In the case of a civil action arising under section 32(1)(a) of this Act (15 U.S.C. 1114) or section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380) with respect to a violation which consists of using a mark or designation in connection with the sale, offering for sale, or distribution of goods or services, if the user knew or should have known that such mark or designation is a counterfeit mark the court may, upon ex parte application, grant an order under subsection (a) of this section pursuant to this subsection.

"(B) Such order may provide for the seizure of goods and marks and designations involved in such violation and the means of making such marks and designations, and documents relating to the manufacture, sale, or receipt of things involved in such violation.

"(C) As used in this subsection the term 'counterfeit mark' means—

"(i) a counterfeit of a mark registered on the principal register in the United States Patent and Trademark Office for such goods or services sold, offered for sale, or distributed; or

"(ii) a spurious designation which is identical with, or substantially indistinguishable from, a designation as to which the remedies of this Act are made available by reason of section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380);

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, as the time of the manufacture or production in question or a reasonable time before such manufacturer or production, in a contractual or other relationship, permitting the use of the mark or designation for the type of goods or services so manufactured or produced, with the holder of the right to use such mark or designation, unless the user has knowledge of the termination of the relationship.

"(2) The court shall not receive an application under this subsection unless the applicant has given timely notice of the application to the United States attorney for the judicial district in which such order is sought. Such attorney may participate in the proceedings arising under such application if such proceedings may affect evidence of an offense against the United States.

"(3) The application for an order under this subsection shall—

"(A) be based on affidavit or the verified complaint establishing facts sufficient to support the findings of fact and conclusions of law required for such order; and

"(B) contain the additional information required by paragraph (5) of this subsection to be set forth in such order.

"(4) The court shall not grant such an application unless the court finds that it clearly appears from specific facts that—

"(A) an order other than an order issued under this subsection is not adequate to achieve the purposes of section 32 of this Act (15 U.S.C. 1114);

"(B) the applicant has not publicized the requested seizure;

"(C) success on the merits by the applicant is likely;

"(D) an immediate and irreparable injury will occur if such seizure is not ordered;

"(E) the matter to be seized will be located at the place identified in the application;

"(F) the harm to the applicant of denying the application outweighs the harm to the person against whom seizure would be ordered of granting the application;

"(G) the public interest would not be seriously adversely affected by granting the application; and

"(H) the matter subject to such an order will be destroyed, moved, hidden, or otherwise made inaccessible.

"(5) An order under this subsection shall set forth—

"(A) the findings of fact and conclusions of law required for the order;

"(B) a particular description of the matter to be seized, and a description of each place at which such matter is to be seized;

"(C) the time period, which shall end not later than seven days after the date on which such order is issued, during which the seizure is to be made;

"(D) the amount of security required to be provided under this subsection; and

"(E) a date for the hearing required under paragraph (11) of this subsection.

"(6) The court shall take appropriate action to protect the person against whom an order under this subsection is directed from publicity, by or at the behest of the plaintiff, about such order and any seizure under such order until the end of the hearing required under paragraph (11) of this subsection and may continue such action in the court's discretion after such hearing.

"(7) Documents may be seized under this subsection only if the court enters a protective order forbidding the disclosure of any such documents, or the contents thereof, to any third party and requiring that the documents so seized be treated as confidential and not made available to the parties except under paragraph (12) of this subsection. The protective order shall also provide that all documents so seized, other than any matter disposed of under section 36 of this Act (15 U.S.C. 1118), shall be returned to the person from whose custody such documents were seized and no information contained in such documents shall be retained after the order has lapsed or such litigation is concluded. The court may, for good cause shown, provide greater protection for the person from whom such documents were seized.

"(8) A person obtaining an order under this subsection shall provide the security determined adequate by the court for the payment of such damages as any person may recover as a result of a wrongful seizure under this subsection.

"(9) An order under this subsection, together with the supporting documents, shall be sealed until the party in possession of the matter sezied has an opportunity to contest such order, except that any person against whom such order is issued shall have access to such order and supporting documents after the seizure has been carried out.

"(10) The court shall designate a United States marshal or other law enforcement officer to serve a copy of the order under this subsection and then to carry out the seizure under such order. The court shall issue orders when appropriate to protect the defendant from undue damage from the disclosure of trade secrets or other confidential information kept in the course of business including an order restricting the access of the applicant (or any agent or employee of the applicant) to such secrets or information. The person carrying out the seizure shall in doing so follow, insofar as practicable, the requirements the Federal Rules of Criminal Procedure impose for the execution and return with inventory of a warrant for search and seizure, as though the seizure ordered under this subsection were pursuant to such a warrant.

"(11)(A) The court shall hold a hearing, unless waived by all the parties, on the date set by the court in the order of seizure. That date shall be not sooner than ten days after the order is issued and not later than

fifteen days after the order is issued, unless the applicant for the order shows good cause for another date or unless the party against whom such order is directed consents to another date for such hearing. At such hearing the party obtaining the order shall have the burden to prove that the facts supporting findings of fact and conclusions of law necessary to support such order are still in effect. If that party fails to meet that burden, the seizure order shall be dissolved or modified appropriately.

"(B) In connection with a hearing under this paragraph, the court may make such orders modifying the time limits for discovery under the Rules of Civil Procedure as may be necessary to prevent the frustration of the purposes of such hearing.

"(12) Documents seized under this subsection shall be placed in the custody of the court. The court may make such documents available to the attorneys of record for all parties in the civil action, giving due consideration to the need to protect confidential information, except that the court shall not disclose to such attorneys any such document not determined relevant and material to such civil action unless the court finds that the participation of such attorneys is necessary to make such determination. Insofar as practicable documents to be made available under this paragraph shall be made available early enough to permit the parties to prepare for the hearing required under paragraph (11) of this subsection.

"(13) A person who suffers damage by reason of a wrongful seizure under this subsection may commence a civil action against the applicant for the order under which such seizure was made, and in such civil action shall recover such relief as may be appropriate, including damages for lost profits, cost of materials, unjust enrichment, and loss of good will, and a reasonable attorney's fee.";

(2) in section 35 (15 U.S.C. 1117), by inserting before the period at the end of the sentence which begins "In assessing damages" the following: ", and shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever is greater, together with a reasonable attorney's fee, in the case of any violation of section 32(1)(a) of this Act (15 U.S.C. 1114(1)(a)) or section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380) which consists of intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act (15 U.S.C. 1116(d)), in connection with the sale, offering for sale, or distribution of goods or services"; and

(3) in section 36 (15 U.S.C. 1118), by adding at the end of such section "The party seeking an order under this section shall give timely notice to the United States attorney for the judicial district in which such order is sought, and such United States attorney may, if such destruction may affect evidence of an offense against the United States, seek a hearing on such destruction or participate in any hearing otherwise to be held with respect to such destruction.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6071, the Trademark Counterfeiting Act of 1984, provides criminal sanctions for the counterfeiting of trademarks, and increased civil remedies in such cases. While the Lanham Act, set forth in title 15 of the United States Code, already provides some civil remedies, there is great concern that these remedies are insufficient to deal with the growing trademark counterfeiting problem.

Trademark counterfeiting in the past has commonly involved the counterfeiting of goods like designer jeans and handbags. Such actions cause serious financial consequences for the holders of those trademarks. Not only do they lost the sales of those items to the counterfeiters, but their reputations suffer when the goods the consumer believes to be genuine fall apart after minimal use. That consumer will in all likelihood not buy that product again.

The loss of revenue, reputation, and jobs from trademark counterfeiting is not by any means the full extend of the problem. Recently, the problem of trademark counterfeiting has taken a far more serious turn. Items that are essential to human health and safety are now being counterfeited. One example is airplane parts, which could cause a major air disaster if they fail in midflight. The likelihood of failure of a counterfeit part, that has not sustained the rigorous safety and strength tests that the authorized manufacturer would conduct, is a clear risk to human life. Medicines, toiletries, clothing, airplane parts—the list of counterfeits is endless and one can only imagine what will turn up next on the list.

Let me briefly explain the provisions of the bill. As I've already mentioned, the bill authorizes the Federal Government to bring a criminal prosecution against those who intentionally and knowingly engage in trademark counterfeiting.

The bill also provides enhanced civil remedies for such conduct. Current law civil remedies are often inadequate to control this growing problem. The new remedies include a presumption in favor of treble damages or profits when the counterfeiting is done intentionally and knowingly. The courts, however, need not award such relief if extenuating circumstances exist.

The new remedies also include authority for seizures, on an ex parte basis, of counterfeit articles. This is an important tool for plaintiffs who are trying to stop these goods from being sold and consumers from being deceived. We must, however, ensure that such seizures are permitted only when absolutely necessary to protect the court's exercise of jurisdiction and only when essential safeguards of the defendant's rights are provided. H.R. 6071 provides these safeguards.

In both the criminal and civil sections of the bill, the term "counterfeit" is defined. The definition is based on current law, but also sets forth a new exception to the term. Loosely described, this definition excludes "overruns" and "parallel imports" from its coverage. While some say that these practices should be considered infringements under the Lanham Act, I do not believe that they should be the basis of either criminal sanctions or enhanced civil remedies.

Trademark counterfeiting is a serious and growing problem that affects businesses, workers, and individual consumers alike. We must act to stop the proliferation of counterfieting quickly and effectively. I believe that H.R. 6071 does just that, and I urge you to support it.

Mr. Speaker, I want to say in particular that once again the ranking member of the committee, the gentleman from Michigan, Mr. HAL SAWYER, has done a jeoman's job in crafting this legislation. I suspect of all the bills that we have worked on, this probably has been the most difficult to deal with. It has requested a lot of staff work.

The staff, Ginny Sloan of my own staff, the majority staff; Char Vanlier of the minority staff has worked very hard on this legislation. I might say that the chief counsel, Hayden Gregory, and Eric Sterling and Ed O'Connell have worked very hard on the legislation that is before this Congress today on the Suspension Calendar. I want to single out their particular work.

I might also say that this legislation was initially introduced by the distinguished gentleman from New Jersey, the chairman of the full committee, Mr. RODINO, who has worked extremely hard on this legislation. It was his legislative initiative that was sent to the committee to begin with.

I thank him for the confidence he has placed in the committee and thank him for the cooperation that he has extended to the subcommittee in working through what I think is a very good piece of legislation.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I feel quite proud of this legislation. We went through a lot of formal hearings. I am sure the chairman, as well as I and other members of the subcommittee, had many private sessions with parties interested in this bill. It is fraught with a lot of delicate, little problem areas that as you get into it, in the drafting and putting it together, become more and more realistic.

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I think with the help of the majority counsel, who the chairman has mentioned, and the minority legal counsel, Charlene Vanlier, we have come up with a product that probably totally satisifies nobody but makes everybody reasonably tolerant of accepting it.

A typical example of the problem would be a situation wherein the owner of a trademark licensed its production for the actual producing of it for sale by the trademark owner and a party who is licensed runs more than he was supposed to run or the buyer cuts back the amount he was going to buy and, therefore, the one who was licensed to use the trademark for a limited purpose diverts the goods out into the open market, contrary to what his arrangement with the trademark owner was. This is clearly a civil violation giving rise to damages or perhaps in the appropriate case injunctive relief. But the question is, how far down that line do we want to go using Federal criminal facilities and authorities who are already heavily burdened with many other things to pursue the matter criminally?

I think we have rather well skirted that problem, eliminating from the scope of this act things that we call overruns, that being the case where a licensed producer produces more than he was supposed to and then diverts them into other channels, or those cases wherein designer clothes, for example, are sold at a lower price out of the country than in the country and then they are brought back into the country and sold on the market, contrary to the arrangements. Those also we have excluded.

We have tried to limit the bill, because we make pretty tough provisions in it, down to the hard-core counterfeiter, the out-and-out counterfeiter who, with no authorization and without any semblance or trace of authorization, actually mislabels and misappropriates a very valuable trademark for sale in this country. And while it is important economically, it is also important from a point of view of safety. There have been deaths and injuries occurring through the sale of counterfeited helicopter parts, and there has also been the same effect resulting from counterfeit brake or brake parts for automobiles. So we are in an area that does not just hit economics, it also hits the safety of the consumer. I think it is a good, tough bill. I think we have limited the scope of it down to where a good, tough bill should be applicable and should be available.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield such time as he may use to the distinguished gentleman from New Jersey [Mr. RODINO], the chairman of the full committee.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Speaker, again I want to commend the two gentlemen who have worked on the Subcommittee on Crime for their efforts. This is an area which I became interested in some time ago when it was called to my attention that not only were there hundreds of millions of dollars of goods that were being counterfeited and duplicated, and trademarks were being misused, but that this did not just confine itself to the area of garments or jeans or other products that are items that are of wearing apparel that do not affect the health and welfare; but they actually were counterfeiting items that affect the health and welfare of the people of our country, such as heart pacemakers, and, as has been pointed out by the gentleman from Michigan, helicopter parts.

These parts were duplicated in such a way that no one was able to detect that they had been duplicates, but they were faulty and resulted in the loss of many lives. It was at that time, after conferring with the many people who were looking for some kind of legislation to meet this rising problem, that I initiated a bill then called the Trademark Counterfeiting Act, and since then it has been refined. I must say that the gentlemen who are here today presenting this proposal should be commended for bringing a very balanced bill, one that deserves the support of this House, because it does put together the competing interests.

There has been substantial concern among owners of trademarks and their representatives that the civil remedies under current law for trademark counterfeiting are inadequate to deter such conduct or to compensate for losses in profits and damage to reputation. But in egregious cases or instances where there is risk to health and safety, such as where heart pacemakers or helicopter parts are counterfeited, criminal sanctions may be, through this bill, warranted to punish the individual defendant and deter future conduct. The bill would authorize the possibility of criminal sanctions in such cases.

The bill also provides new civil remedies. Specifically, the bill permits the increased use of treble damage awards in cases of international counterfeiting. The bill permits a plaintiff to seek seizure on an ex parte basis when the court is convinced that the defendant would not comply with a less restrictive order to regain the goods. However, recognizing that such seizures pose a risk of harm to the defendant's business, the bill does establish comprehensive procedural protections.

I hope that those of us who are interested in assuring that we deal with the problem of trademark counterfeiting support the bill. For this reason, I urge the immediate approval of this legislation.

Mr. SAWYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 6071, the Trademark Counterfeiting Act of 1984. This measure is the product of an indepth effort to modernize trademark law in light of an explosion of the most serious from of trademark infringement—the counterfeit product.

Federal trademark laws are contained in the Lanham Act, title 15, United States Code, sections 1051 et seq., which was adopted in 1946. Although the Lanham Act has been successful in resolving trademark disputes between honest merchants, it has been singularly ineffective in addressing the increase in trademark counterfeiting.

The failures of the Lanham Act to attack the counterfeiting problem stems solely from the lack of remedies. First, there are no criminal penalities in the United States Code, so the counterfeiter takes no risk of personal freedom when trafficking in counterfeit goods. Second, when the owner tries to protect his own mark in civil court, he can rarely recoup the cost of trying the suit let alone the damages actually suffered. Finally, when restrained by court order from selling the infringing goods, many counterfeiters simply ignore the court order, hide the goods, and continue too sell the counterfeits in a new location.

The Trademark Counterfeiting Act of 1984 would update the remedies in the Lanham Act and make this activity a crime. The result of H.R. 6071 will be to add risk to this offensive activity and allow the trademark registrant effective tools to combat counterfeiting. The bill is carefully crafted to achieve these goals in a way that is outside the scope of activities of innocent retail merchants.

The law is essential to the continued safety of the American people. Several injuries and deaths resulted from helicopter crashes caused by counterfeit helicopter parts, and faulty counterfeit automobile brakes.

The American economy suffers from the loss of business and business reputations caused by the inferior counterfeit goods. American labor loses jobs when counterfeits are sold in place of the original American made trademark goods.

The Chairman of the U.S. International Trade Commission testified on the findings of its report, "The Effects of Foreign Product Counterfeiting on U.S. Industry," before the Subcommittee on Crime. Among its findings, the report noted that the United States is the largest single market for counterfeits of U.S. products.

I believe that the United States must have an effective domestic response to trademark counterfeiting. H.R. 6071 contains such a response and I urge its adoption.

● Mr. SENSENBRENNER. Mr. Speaker, on the surface trademark counterfeiting may not appear to be a serious crime. But it has drastic negative effects on our economy. It harms American business and American labor. But even more importantly, it puts at risk the safety and purchasing power of the American consumer.

The U.S. International Trade Commission issued its final investigative report on the effects of foreign product counterfeiting on U.S. industry. This detailed report focuses on several important factors which I believe highlight the serious need for anti-counterfeiting legislation. According to this report:

Sales lost of foreign product counterfeiting increased from $37.5 million to $49.2 million during 1980–82.

Sources of counterfeits of U.S. products are worldwide, but are most prevalent in the Far East.

The practice of counterfeiting has spread from the more traditionally counterfeited products—high visibility, strong brand-name consumer goods—to a wide variety of consumer and industrial goods.

As far as I am concerned, trademark counterfeiting is just a fancy way of stealing, and I am very pleased that the House of Representatives is addressing this problem today. I urge your support for H.R. 6071.

This bill is the result of many hours of careful work. H.R. 6071 is a careful balance between the need to stop this unfair act and the need to ensure that innocent retailers will not be affected. This consideration will be carried forward into the conference with the Senate.●

● Mr. FEIGHAN. Mr. Speaker, I rise today in support of H.R. 6071—the Trademark Counterfeiting Act of 1984. This bill will provide consumers with much needed protection from shoddy merchandise foisted upon an unknowing public by unscrupulous manufacturers out to make a fast buck.

The costs of counterfeiting are enormous:

In 1982, 131,000 jobs were lost to counterfeiters.

Counterfeit parts endanger consumers when put in heart pumps, cars, or when they are supplied to the Defense Department.

Counterfeiters pay no Federal, State, or local taxes on their estimated $18 billion a year income. The average taxpayer is left to pick up the tab.

I support the present bill as a way to prevent the continuing consumer ripoff perpetrated by fast buck artists, while at the same time protecting retailers from unfair trade practices. Chairman HUGHES is to be commended for his hard work in finding that delicate balance between the competing interests involved in this bill.

Since this legislation permits the use of ex parte seizure orders, I must stress that it was my understanding that such seizures are limited to those few instances where the defendant can be expected to secrete the allegedly counterfeit merchandise to defeat the court's jurisdiction.

H.R. 6071 should be construed to preempt the equitable powers of courts only in the area of ex parte seizure. I am certainly opposed to the Senate version which would permit continued Lanham Act seizures under other provisions of law or principles of equity. Congress did not labor mightly over this legislation merely to provide another alternative to present ex parte seizure law. This legislation should represent the only authorization for Lanham Act ex parte seizures.

In conclusion, I ask my colleagues to join me in supporting this legislation so that together we can bring an end to shoddy practices which threaten the lives and well-being of all Americans.●

● Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 6071, the Trademark Counterfeiting Act of 1984. This measure is the appropriate response to the growing phenomenon of trademark counterfeiting in this country and around the world. The counterfeiting of U.S. products injures the economy and safety in the United States.

More often than not we see examples where American companies lose business and their reputations are harmed by fake, inferior goods. By the same token, American jobs are lost. Even more serious, American consumers are injured and in some cases killed by counterfeit products. The proliferation of counterfeit goods has gone from luxury items to necessity goods such as soap and automobile parts.

As the ranking minority member of the Subcommittee on Courts, which has jurisdiction over intellectual property issues, I am cognizant of the growing importance of these special property rights. We must be especially protective of these trademarks as our economy continues its evolution into the information age.

A trademark is a form of intellectual property; the owner of a trademark has a property right which he is entitled to protect from use by others. The trademark has no value in and of itself, but must be used in conjunction with other goods for sale. There are two purposes of a trademark: To encourage and reward superior skill, quality, and enterprise and to avoid consumer confusion by allowing customers to identify the goods they purchase.

The goals of the Lanham Act cannot be achieved unless Federal law contains the means by which this property can be protected. The Trademark Counterfeiting Act of 1984 provides the means for the effective punishment and deterrence for the counterfeiting of trademark goods. This measure punishes the counterfeiting activities of persons who act with dishonest intent and does not impact upon the innocent retailer.

For these reasons, I join in the support of H.R. 6071.●

● Mr. FISH. Mr. Speaker, the bill before us today, H.R. 6071, represents a recognition by the Committee on the Judiciary and this body, that trademarks are an important property right that must be protected. American business, labor, and consumers are all negatively affected by the loss to the American economy that results from trademark counterfeiting.

The Trademark Counterfeiting Act of 1984 will for the first time make counterfeiting a crime. In addition, H.R. 6071 improves the remedies available to trademark registrants who protect their marks in civil court under the Lanham Act, 15 U.S.C. 1051 et seq. The first of these remedies requires treble damages unless extenuating circumstances indicate to the judge that treble damages would be inappropriate. Although judges have the ability to grant treble damages under existing law, they have rarely done so. This requirement is an indication of congressional intent that this most serious type of trademark infringement should, as a matter of course, receive the most stringent punishment.

The second private relief measure codifies a practice now developing on a case law basis—the ex parte relief. This private seizure remedy is strictly limited to cases in which the trademark counterfeiter would ignore lesser intrusive court orders and would destroy or hide the counterfeit merchandise rather than cooperate with the judicial system. In this way, the ability to remove the profit from this crime is achieved in a fashion which does not intrude upon the business of the honest merchant.

These private remedies are the most effective method of enforcing this property right. However, this administration has made a commitment to better address the assault of counterfeit goods. According to the testimony of Commissioner von Raab of the U.S. Customs Service before the Subcom-

mittee on Crime, a new initiative called Operation Tripwire was inaugurated on February 15, 1983. This program has resulted in the Customs Fraud Investigations Center in Washington, DC, and regional field enforcement teams throughout the United States. These services will better enable the Customs Service to combat fraud, coordinate cases, and proceed criminally against fraudulent importers.

Among the many cases of smuggled counterfeit goods include several shipments of pirated "E.T." merchandise with a value of over $425,000 that were seized in Ohio. Criminal prosecution is pending. In the Philadelphia area, 80 counterfeit computers and components for 100 more computers were also recently seized. Other reports include consumers harmed by counterfeit soaps, shampoos, eye drops, and automobile brakes.

This activity must be brought to a stop. H.R. 6071 is the appropriate congressional response and I urge its adoption.●

● Mr. RUDD. Mr. Speaker, I rise in strong support of H.R. 6071, the Trademark Counterfeiting Act.

The increasing incidences of product counterfeiting not only threaten the viability of legitimate American businesses and discourage investment and innovation, but also threaten the very health and safety of American consumers.

The substantial penalties established in the Trademark Counterfeiting Act are long overdue. They will go a long way toward combating the threat of counterfeit products to our citizens.

I urge an "aye" vote on this important legislation. I would also take this opportunity to urge the administration's continued efforts to negotiate an International Counterfeiting Code with our trading partners. This is the logical next step toward fully protecting American consumers and businesses from counterfeits.●

□ 1420

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 6071, as amended.

The question was taken.

Mr. HUGHES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

UNWILLINGNESS OF HOUSE DEMOCRATIC LEADERSHIP TO ALLOW CONSIDERATION OF PRESIDENT'S COMPREHENSIVE CRIME BILL IS INEXCUSABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LUNGREN] is recognized for 5 minutes.

Mr. LUNGREN. Mr. Speaker, the unwillingness of the Speaker to allow this body to consider the entire Comprehensive Crime bill of the President is, in my view, inexcusable. One rationale offered in defense of this inaction has been that since there are limits on Federal jurisdiction, it does not really matter whether we in the Congress act on this legislation. It has been paraphrased as, it will not do anything to stop the rapes, the murders, the burglaries, et cetera, because the Federal legislation is so limited.

I would reject that, Mr. Speaker. Furthermore, Mr. Speaker, I would say it is interesting to note that this excuse for failed leadership has been rejected by those charged with the responsibility of prosecuting violations of our criminal laws in localities across out country.

On August 9, the National District Attorney's Association passed a resolution that "requests the leadership of the House of Representatives to immediately bring the Comprehensive Crime Control Act of 1983 to a vote before all Members of the Congress."

The resolution appropriately pointed out that, "Many states follow the lead of the Federal Government in the implementation and administration of Federal law." I might add, Mr. Speaker, that this has been the case in such past examples as the Sherman Act, the Clayton Act, the National Labor Relations Act, the Fair Labor Standards Act, the Administrative Procedures Act, the Freedom of Information Act, the Hatch Act, the Federal Rules of Civil Procedure, the RICO statute, and countless other instances.

In other words, Mr. Speaker, even though the jurisdiction of the Federal Government is limited in the area of crime, the very example set by the Federal Government is oftentimes followed by various States, not only because the Federal Government in some areas is presumed to have an ability to do a better job in particular areas, such as dealing with the Freedom of Information Act because of the nature of the Federal Government having to deal with it as a part of the Federal Government; or the Federal Rules of Civil Procedure in which there was an example of one court system establishing a rule for proceeding in civil cases. Also, Mr. Speaker, because oftentimes, unfortunately, the State governments look toward the Federal Government because they presume that if we do not try something, perhaps they ought not to.

I would suggest, for instance, in some matters such as capital punishment. In some State legislatures the word has gone out that they ought not to change their rules to allow for capital punishment for certain heinous crimes because the Federal Government has not seen fit to do it in a case as important as an assassination of the President of the United States.

While the National District Attorneys Association has not subscribed to every specific provision of the comprehensive legislation, they have hopefully clarified the point that those on the local level also recognize the urgency of prompt action on the President's crime bill.

Mr. Speaker, there is no doubt that we have had the opportunity to vote on certain parts of the President's bill, but it seems to me that we ought to be in the same position as the U.S. Senate of dealing with the comprehensive approach to crime on the Federal level. The U.S. Senate certainly is no less partisan than the House of Representatives, and yet we were able to work with the leadership in the Senate of both STROM THURMOND and Senator KENNEDY, of PAUL LAXALT, the Senator from Nevada, and the Democratic Senator from Delaware, Mr. BIDEN, to agree that there ought to be a period of time set aside for virtually sole consideration of the comprehensive approach to crime. They made the decision that the President's crime package was extremely controversial in four parts. They took those four parts out, not to set them aside and refuse to act on them, but to bring them along in separate pieces of legislation and have them voted on after the balance of the President's overall package was passed.

It seems to me that we are certainly in as good a position to do that as well. So we are not asking for us to pass everything the President sent over to us willy-nilly; we are not asking for us to be given the opportunity to only focus in on several aspects of the President's package, we are instead asking for an opportunity to look at the President's entire package.

One of the things that has been used as a criticism of the President, and is in excuse for the unwillingness to do what I have asked to do here, is the answer that the President vetoed a so-

called minicrime bill at the close of the 97th Congress. Let me just put that to rest. That minicrime bill contained the following provisions: Criminal forfeiture, justice assistance, antitampering, attempts to kill certain Federal employees, career criminals, and the so-called drug czar.

In fact, out of that group only 4 were from the President's 42 provisions. That is the first of the four that I mentioned. More importantly, it did not include the following: It did not include bail reform, sentencing reform, exclusionary rule reform, insanity defense reform, habeas corpus reform, surplus property amendments, capital punishment, labor racketeering amendments.

I am sorry I only have 5 minutes or I could go on and on and tell my colleagues of all the things it did not contain of the President's crime package.

□ 1430

In fact, out of that group only 4 were from the President's 42 provisions. That is, the first of the four that I mentioned.

More importantly, I did not include the following: Did not include bail reform, sentencing reform, exclusionary rule reform, insanity defense reform, habeas corpus reform, surplus property amendments, capital punishment, labor racketeering.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. LUNGREN] has expired.

Mr. LUNGREN. I am sorry I only have 5 minutes; I could go on and on and tell my colleagues of all the things that were not contained in the President's crime package.

FIT LAW TO MAN'S NEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, this afternoon, I want to get off my chest some things that have been sitting there for a long time. The Republican Party has been trying to sell three ideas over the last 4 years:

One is that the Democrats over the previous 50 years from 1930 on have brought this country 50 years of mismanagement which Republicans now needed to correct.

The second is that the Republican Party is the party of fiscal responsibility.

And the third is that the Republican Party is the vessel of all morality in the country today.

Let us examine what has happened in this country since the Democrats first took power in 1932 and compare it with the state of society today.

Fifty years ago 22 percent of people were out of work.

In 1980 that figure was 7 percent.

Fifty years ago 27 percent of American kids graduated from high school and 36 percent went to college.

Today those numbers are 75 percent and 63 percent.

Fifty years ago 48 percent of American families owned a home.

Today 65 percent do.

Fifty years ago the average person born in this country could expect to live to be 60, and if you were black or Indian, substantially less.

Today you can expect to live to be 75. And blacks are finally living long enough to collect Social Security.

There was no Social Security in 1932.

There is today. Only four Republican Members of Congress voted for it. Without that program more than half of today's elderly would be in poverty compared to the 15 percent who are today.

Fifty years ago there was no help for you if you were old and got sick.

Today there is medicare.

In 1930 if a father died, the family could rely on help from their neighbors if they could get it.

Today there is Social Security, there is welfare—a nasty word, but it means salvation to many poor people with no place to turn.

Fifty years ago if you lost your job, tough luck.

Today there is unemployment compensation to help you through until you find another one.

Fifty years ago if you lost a hand, or an arm, or an eye in an industrial accident you were pretty much on your own.

Today there is workmen's comp and a number of other protections so that people are not thrown upon a scrap heap.

Fifty years ago less than 10 percent of the farms in America had electricity.

Today 99 percent have, thanks to Rural Electrification.

Fifty years ago if banks went bust, you lost your savings.

Today deposits in more than 15,000 banks and 3,000 savings and loans are insured.

Fifty years ago hundreds of thousands of kids got sick and many died because of preventable disease.

Today four out of five Americans are immunized against those diseases.

Forty years ago less than 5 percent of Americans were covered by private health insurance.

Today four out of five are.

Fifty years ago American society was a house divided. Our schools were segregated, our public facilities were segregated, and so was the Army.

Today more than ever before Americans from all races stand as one.

So much for fifty years of mismangement on the domestic scene—what about foreign affairs.

Since 1930: Although Senator BARRY GOLDWATER seems to think it is something to be ashamed of, the Democratic Party led this country into a war against Hitler's fascism and won a three-front war against the enemies of democracy.

It adopted the Marshall plan which saved Europe from catastrophe, possible revolution, and built it into reliable allies of today.

It created NATO which serves as the principle military obstacle to potential Soviet aggression in the West.

It said thank you to the veterans who fought that war by passing the GI bill of rights, under which more than 8 million veterans were able to further their education with Federal help. Many of them went into business and are today perhaps voting Republican because in their social circles that is the socially acceptable thing for successful people to do.

It brought about the Nuclear Test Ban Treaty.

It took the painful steps that put us on the road to energy independance.

For more than a generation, the Democratic Party has been the party that:

Expanded economic opportunity.

Put people to work.

Expanded educational opportunity.

Ended racial segreation.

Make work safer.

Made retirement more secure.

And spread the benefits of society more broadly than they had ever been spread before.

"But at what cost?" Our Republican friends ask. That is a legitimate question. But let me remind you that with all of the help that democratic innovation has given to millions of Americans, Ronald Reagan has still run up more unpaid bills in 4 years than Democratics did in 40.

Democratic lost in 1980 for three basic reasons:

First, Americans were frustrated in Iran.

Second, the energy crisis drove inflation through the roof and drove employment down.

Third, frankly, Democrats made some big mistakes. In a number of instances they forgot that programs must be as well managed as they are well meaning.

So Ronald Reagan was elected.

People wanted America to stand tall again.

They didn't want an arms race that threatened civilization.

They didn't want 260 dead Americans in Lebanon.

People wanted the Western Hemisphere put off limits to communism.

They didn't want a secret CIA war in Central America.

People wanted the Federal budget brought under control.

They didn't expect the Reagan administration to triple Federal deficits.

People wanted a reasonable balance between jobs and the environment.

They didn't want James Watt and Ann Gorsuch to strip mine national forests and declare unilateral disarmament in the war against toxic waste.

People wanted the work ethnic strengthened.

They didn't want the sick and the helpless taken off disability.

And they didn't want a welfare system so screwed up that even the author of the theory behind Reaganomics, (Mr. Laffer), says that Reagan's welfare changes have destroyed rather than strengthened work incentives.

People wanted taxes reformed.

They didn't want the administration and Congress to give $7,000 to families making $80,000 or more, take away $300 from families making less than $10,000 and only allow families making $20,000 a year to break even.

People wanted medicare restored to fiscal soundness.

They didn't want to have the elderly bear almost the entire burden of doing that without spreading that cost around equitably between the elderly, hospitals, and doctors.

People wanted farm programs that cost less and established a better balance between supply and demand.

They didn't want a PIK program which was a $20 billion monument to mismanagement or a dairy program that drives small family farmers out of business while 1,000-cow dairy ranches in California continue to add to the surplus problem.

We are now facing a crucial election. It will determine how effectively and fairly the American people will be led over the next 4 years.

Today it is the Republican Party that has promised what cannot be delivered—painless surgery on the national deficits.

It is the Democratic Party which is committed to paying our national bills. We will do that in three ways:

On domestic spending, we must be committed to cutting and squeezing programs that don't meet two tests:

Will it work?

Is it the best use of our scarce resources?

So we will squeeze the budget on the domestic side as well as the military side. And after that is done we must be willing to raise whatever taxes are necessary to pay our bills. And we are telling people that ahead of time!

The question is not whether taxes go up, but how.

The question is not whether our bills will be paid, but who will be asked to pay the most.

And I think Americans know that the Democratic Party is their best bet to meet the test of fairness in paying those bills.

And yes there are some things we will spend money on.

We will invest in those items necessary to secure a competitive future for our country.

We will support Government action that enables business to modernize its plants and equipment to meet international competition.

We will also support investments in science, in education, and teacher training that will guarantee us the most skillful, informed, and competitive work force in the world.

We will support the rebuilding of highways, and bridges, and the other physical necessities that make it possible for communities to work and grow.

We will provide an adequate defense with dollars used to promote military readiness rather than squandered on nuclear overkill or incredible mismanagement.

Make no mistake these are the main issues of the campaign:

First, will we manage our relationship with the Soviets in a way that makes the world more or less safe for our children?

Second, will the economy and the Federal budget be managed with effectiveness and fairness to build a future with expanding economic opportunity and a fair distribution of the benefits and burdens associated with building that future?

These are the gut questions.

But they are not the only questions that we will deal with in this election because I believe that the American people want a government that does more than make their material future secure.

They also want a government which is in tune with their deeper values. We are, after all, not on Earth merely to accumulate matrial goods, although those goods may certainly contribute to a decent life.

It is no accident that most candidates for President this year have religious backgrounds:

Fritz Mondale is a preacher's kid.

Jessie Jackson is a preacher.

George McGovern is a preacher's kid.

GARY HART is a former divinity student.

This country is not just looking for material comfort. It is looking for something deeper. Especially many of its young people.

There is a spiritual hunger.

There is in the words of John Searle: "A search for the sacred, for something larger than their own petty interest."

I know that I feel that way.

I did not get into politics because I wanted to pass bills. I'm in it because I have a restlessness about some of the shortcomings of our society, some of its weaknesses, and inequities.

I got into it because I believed in the social gospel and the force for justice that I thought government could be.

I am a Christian.

I believe christianity and democracy are both based in the value of the individual and are closely related.

I believe that the major task of modern religion is to help people understand their responsibilities toward one another.

I believe the task of Government is to enable people to meet those responsibilities in an effective and decent way.

I believe that as a Christian, as a Catholic.

And let me say here that what I express today is not an effort to define the theology of any church. It is meant to define what my conscience tells me about my responsibilities as a public officeholder to my own beliefs and to others who do not share those beliefs.

I do not share Ronald Reagan's belief that religion is the root of all morality.

I know many nonreligious people who are highly moral. I know religious people who are not. Mr. Khomeini comes to mind.

But, I do believe that public life in our country must be moulded in the image of that faith—not in the sense of narrow dogma, but in the sense that the values it conveys are values consistent with that faith.

I believe there must be a moral purpose that shapes public life and public decisions.

As a public servant I try to apply my religious beliefs broadly. Not to claim any exclusive sense of rightiousness or any monopoly on God's wisdom, but to lead me to public positions which satisfy the soul and the heart as well as the intellect.

But the test of any American in public life is as John F. Kennedy said: "Not what kind of church I believe in, but what kind of America I believe in."—Because this country does not belong to any one church. It belongs to people who belong to all churches and people who belong to none. It is ecumenical.

I believe with Jack Kennedy:

"In an America where separation of church and state is absolute, where no church is granted any political preference"—and no church is threatened by the power of Government.

"I believe in an America that is officially neither Catholic, Protestant, or Jewish. Where no public official either requests or accepts instructions on public policy from the Pope, from the National Council of Churches, or any other ecclesiastical source" (including Jerry Falwell).

Where no religious body seeks to impose its rule directly or indirectly upon the general populace in the public acts of its officials.

I believe in an America where every person has the same right to attend or not attend the church of his choice.

I believe these things. Not because it is convenient, but because it is necessary. It is necessary for two reasons:

First, to preserve my own religious liberty.

Second, to find the truth as much as it is possible for any human being to find it.

This country was founded, its Constitution was written by patriots who fled religious persecution. They wrote into the Constitution a hard, firm line between church and state. A line which stands not as a monument to antagonism between church and state, but stands rather as the one sure protection of all churches against the heavy hand of Government and against the domination of public affairs by any one organized church.

They understood that a government which today can impose religious views in accordance with one church could tomorrow impose views antithetical to our own.

That is why we do not tax churches and why we do not bestow the benefits of taxation upon churches.

That is why Government neither requires individual prayer nor precludes it.

Government can never give nor take away the right of any American to pray at any time.

There are four things wrong with those who try to impose their religious orthodoxy on Government and society, or who try to suggest that they have a corner on God's will:

First, no one has a corner on God's will. As the liturgical conference said in 1968:

When any man or any group of men think that they have such a firm grip on the will of God that they know it all, they become dangerous both to themselves and to others. Their pride becomes insufferable and they mask their oppression of others with the pretense of divine authority.

That goes for American politicians and for American religious leaders.

Second, public officials who cry the loudest about religion are often more pharisee than prophet. All too often when politicians begin posing for holy pictures, it is time for people to hang on to their prayer books and their wallets because they are probably about to steal both. The cynical use of patriotism may, in the words of Samuel Johnson, be the last refuge of a scoundrel, but the cynical use of religion is all too often a close second.

Third, the third problem with many of those who seek to impose their own brand of religion on public affairs or imply a closer link to God than others is that what they really are promoting is not so much religion, but a commercial or political message wrapped in a religious ribbon. That is as much true as some so-called religious leaders as it is some politicians. They often try to sell, under a religious label, something which would not stand on its own. Do we need any sillier example than Jerry Falwell's Moral Majority rollcall which counts votes against Reaganomics and for a nuclear freeze as votes against God and morality.

Fourth, the morality that some groups seek to impose is often directed to strategy rather than to principle and it is, oh, so selective.

Example: Abortion.

I happen to agree with Jerry Falwell, most religious fundamentalists, and the Catholic bishops that abortion—at least in most cases—is immoral.

But does that mean that in America when discussing the application of public policy to people of all religions, there is no room for a Catholic—or any one else who agrees on substance—to differ about legitimate exceptions or about what remedy is enforceable or reasonable—especially in a country where most people seem to disagree with our view of abortion?

I happen to believe that the court decision on abortion is long-term bad law because it will become medically outmoded. But is it really moral to say that abortions are OK to save the life of a mother but immoral if you ask that same question about a 15-year-old girl who is the victim of rape or incest?

Does any religious spokesman have such a corner on the truth that there is no room for argument about that? With all due respect, I don't think so.

Is it really immoral to question whether a constitutional amendment on abortion will be any more enforceable than prohibition was in the 1920's? With all due respect, I don't think so.

Is it not legitimate to ask people what kinds of criminal penalties they would levy against someone's mother, wife, or daughter if we had a constitutional amendment and States adopted legislation to enforce that act? Would it be life imprisonment? Would it be the death penalty—an eye for an eye? How many years imprisonment would it be? When you get down to questions like that, what is advisable and what is enforceable.

Do not public officials have an obligation higher than anyone else's to make sure that what is adopted is enforceable in order to preserve the respect for law that is necessary in any society?

When the Catholic bishops themselves split openly on the question of a total versus a State-by-State approach to a constitutional amendment, cannot moral men and women who oppose abortion debate whether either will be effective or appropriate without being called proabortion and anti-life?

Is it not legitmate for public officials to weigh and consider heavily the moral advice of the clergy, but reserve for themselves, as representatives of all our constituents, the judgment as to what is enforceable and workable in a society as multifacited as ours?

I believe it is not only permissible but imperative for public officials to reserve to themselves questions about strategies, the efficacy of those strategies, even in pursuing agreed ends. In fact the oath that we take each 2 years requires it.

And even recognizing the primacy of issues that effect life itself, is it legitimate for people who say they are pro-life to limit their concern for life to that period between conception and birth. What about afterwards?

Are there not other issues that are pro-life in the most fundmental sense?

What about the basic question about how we wage and perpare for war? Are there not moral standards that need to be applied there too in judging candidates for office? Do they not hold the potential to effect as many lives and more as abortion?

Do not good, virtuous, God-fearing people need to weigh that issue along with others in deciding whether the course of Government and the actions of individual political leaders are moral?

And is not any person who claims morality for his cause required to direct those questions to economic affairs as well?

Can a government, a political party, or a politician really pursue economic and social Darwinism and be truly moral? I don't think so.

Can capitalist competition be pursued without any regard whatsoever to justice and mercy? I don't think so and neither do most respected religious authorities.

Papal encylicals from Pope Leo XIII through Pope Pious John XXIII and John Paul II have called for government action to address the imbalance between rich and poor, to feed the hungry, to assist underdeveloped nations, to reduce unemployment, to eliminate racial injustice. Leading Protestant and Jewish theologians have preached the same message. Some examples:

Dr. N.A. Larson of Iowa, bishop of the Norwegian Lutheran Church of America in 1940 said:

Industrialists have a tendency of using religion and church membership as a cloak to cover a wrong attitude toward labor. A man may be a pirate in business but throw a cloak of religion over his life by giving to pet charities. The modern materialistic civilization has developed a doctrine of the divine right of property.

And that is wrong.

In October 1946, 122 religious leaders of Catholics, Protestants, and Jews drew up a declaration of economic justice which said:

Private property is limited by moral obligation—the moral purpose of economic life is social justice—to distribute God's gifts equitably. It is the duty of the state to inter-

vene in economic life whenever necessary to protect the rights of individuals and groups.

Does that view allow caveat emptor policies to be promoted by government? I don't think so.

In 1943, Jewish, Protestant, and Catholic representatives adopted a resolution that declared for "A standard of living adequate for self-development and family life, decent conditions of work and participation of labor in decisions affecting its welfare."

Pope Leo XIII, in his encylical "rerum novarum," spelled out clearly the rights of workers to organize and bargain collectively to counter the "hard heartedness of employers and the greed of unchecked competition." He spoke clearly for the requirement that the state "promote to the highest degree the interests of the poor." Can you believe that and vote to weaken child nutrition programs, weaken health and safety enforcement in the workplace, or to take the disabled off welfare?

Pope Leo XIII warned against permitting the "accumulation of power which is a result of limit-free competition which permits the survival of those who are the strongest, which often means those who fight more relentlessly and pay the least head to the limitations of conscience."

Pope Leo warned that "the poor and helpless have claim to special consideration. The richer population have many ways of protecting themselves and stand less in need of help from the state; those who are badly off have no resources of their own to fall back upon, and must rely chiefly upon the assistance of the state." Can you believe that and cut disability and food stamps for the poor?

Pope Pious the XII, under whom I grew up, warned against policies that promoted the growth of the large at the expense of the small.

And religious leaders in their teachings have also applied a somewhat different measuring stick to foreign affairs than Mr. Falwell's Moral Majority on occasion does.

As far back as 1935 Catholic bishops spoke to the real cause of violence and the revolution in this world when they said: "The real authors of violent and bloody revolutions in our times are not the radicals and communists but the autocratic possessors of wealth and power, who use their position to oppress their fellow men." Can you doubt their wisdom as we have watched developments in Central America in past decades and even today?

I believe that a truly moral government and a truly savvy and moral society will not mistake public piety for public morality.

I believe that they would seek to redress the differences between the rich and poor, not to expand them.

I am against trickle-down economics not just because it does not work, but because it is not right.

I believe in the social gospel, not social Darwinism.

And I believe the whole spectrum of public issues should be examined from a moral perspective, not just one or two.

I believe God has intended the establishment of certain rules and norms and standards, but in the words of the liturgical conference in 1968: "He made the all-encompassing norm of love tower so high above all other that empathy took the place of human judgment."

I believe that Jesus took a dim view of self-styled goodness that was "so exclusively preoccupied with rules that the raw life of human beings draws only its contempt."

The pharisees of his time were not bad people. They were ordinarily good, virtuous, God-fearing people.

They were good, respectable people who were healthy, wealthy, and wise in the rules of the Lord, but who strongly felt the need to impress their interpretation of the law upon everyone else that they forgot that the main purpose of law was not to stand supreme but to serve the needs of people in all of their complexity and individuality and they are still with us today.

Many of them still do not really heed the words of Jesus or their truly revolutionary meaning:

"Blessed are the peacemakers."

Or for that matter: "Judge not that you be not judged."

So let us not be pharisees pretending to be prophets.

Let us recognize our own fallibility as well as that of our opponents.

Let us as lawmakers get about the business of fitting law to man's needs and let God do the measuring and the judging. He will anyway in the end regardless of what any of us might say.

□ 1500

CURRENT LEVEL OF SPENDING AND REVENUES

● (Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the procedures of the Committee on the Budget and section 311(b) of the Congressional Budget Act of 1974, I am submitting to the RECORD a letter to the Speaker advising him of the current level of spending and revenues for fiscal year 1984.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, September 5, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

Pursuant to Committee Rule 10, I am herewith transmitting the status report under H. Con. Res. 91, the First Concurrent Resolution on the Budget for Fiscal Year 1984. This report reflects the adjusted resolution of October 25, 1983, and the current CBO estimates of budget authority, outlays, and revenues.

The procedural situation with regard to the spending ceiling is affected this year by Section 5(b) of H. Con. Res. 91. As I explained during debate on the conference report on that resolution, enforcement against breaches of the spending ceiling under 311(a) of the Budget Act do not apply where a measure would not cause a committee to exceed its appropriate allocation pursuant to Section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation includes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered. This exception is only provided because an automatic budget resolution is in effect and will cease to apply if Congress revises the budget resolution for fiscal year 1984.

The intent of the Section 302(a) "discretionary budget authority" and "new entitlement authority" subceiling provided by Section 5(b) of the resolution is to protect a committee that has stayed within its spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on H. Con. Res. 91 were printed in the Congressional Record, June 22, 1983, H. 4326. Adjustments to such allocations made pursuant to Section 2 of House Concurrent Resolution 91, the reserve fund, are reflected in House Reports 98-313, 93-354, 98-381, and 98-439.

The attached tables show where each committee currently stands compared to its 302(a) allocation of discretionary budget authority and of new entitlement authority.

With best wishes,

Sincerely,

JAMES R. JONES,
Chairman.

Fiscal year 1984 budget authority comparison of current level and adjusted budget resolution allocation by committee

[In millions of dollars]

	Current level [1]
House committee: Total current level	−546
Appropriations Committee—Discretionary	(−225)
Authorizing committee—Discretionary action:	
Agriculture	(−383)
Armed Services	(−4)

	Current level [1]
Banking, Finance and Urban Affairs	(.....)
District of Columbia	(.....)
Education and Labor	(.....)
Energy and Commerce	(−192)
Foreign Affairs	(.....)
Government Operations	(−450)
House Administration	(.....)
Interior and Insular Affairs	(+5)
Judiciary	(.....)
Merchant Marine and Fisheries	(+13)
Post Office and Civil Service	(−30)
Public Works and Transportation	(+150)
Science and Technology	(.....)
Veterans' Affairs	(+23)
Ways and Means	(+1,991)
Unassigned (offsetting receipts)	(−2,108)

[1] Committees are over (+) or under (−) their 302(a) allocation.

Note.—Detail may not add due to rounding.

FISCAL YEAR 1984 NEW ENTITLEMENT AUTHORITY, COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE

[In millions of dollars]

Committee	Allocation	Reported	Enacted
Agriculture		678	27
Appropriations			
Armed Services	1,003	813	805
Banking, Finance and Urban Affairs			
District of Columbia			
Education and Labor	1,067	2,335	1,038
Energy and Commerce	476	261	325
Foreign Affairs	−3		
Government Operations	3,763	3,973	3,425
Interior and Insular Affairs			
Judiciary			
Merchant Marine and Fisheries			
Post Office and Civil Service	1,245		−398
Public Works and Transportation			
Science and Technology			
Small Business			
Veterans' Affairs	187	214	160
Ways and Means	1,584	1,102	4,023

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 4, 1984.

Hon. JAMES R. JONES,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparsion with the appropriate levels for these items contained in the most recently agreed to concurrent resolution on the 1984 budget (H. Con. Res. 91). This report for fiscal year 1984 is based on our estimates of budget authority, outlays, and revenues using the assumptions and estimates consistent with H. Con. Res. 91.

Since my last report the Congress has cleared and the President has signed H.R. 6040, making supplemental appropriations for 1984 and H.R. 4325, Child Support Enforcement Amendments of 1984. The bills affect both budget authority and outlays.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	922,431	853,489	666,374
2. Entitlement authority and other mandatory items requiring further appropriation action	833	695	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses			
Current level	923,263	854,184	666,374
Budget Resolution, H. Con. Res. 91	923,809	853,386	679,600
Current level is:			
Over resolution by		798	
Under resolution by	546		13,226

Sincerely,

RUDOLPH G. PENNER,
Director.

PARLIAMENTARIAN STATUS REPORT, HOUSE SUPPORTING DETAIL, FISCAL YEAR 1984, AS OF CLOSE OF BUSINESS SEPTEMBER 3, 1984

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	$535,903	$491,993
Appropriations enacted previous session	522,190	499,031
Offsetting receipts	−141,088	−141,088
Enacted this session:		
Veterans' Compensation Amendments of 1984 (P.L. 98–223)		145
Highway Emergency Relief (P.L. 98–229)	150	10
Urgent Supplemental Appropriations (P.L. 98–248)	290	262
Agriculture Programs Adjustment Act of 1984 (P.L. 98–258)	294	294
Omnibus Budget Reconciliation Act of 1983 (P.L. 98–270)		−469
Urgent Agriculture Supplemental Appropriations, (P.L. 98–332)	1,124	655
Deficit Reduction Act of 1984, (P.L. 98–369)	−2,330	−92
Legislative Branch Appropriations (P.L. 98–367)	2	
Federal contribution to Presidential nominating convention (P.L. 98–355)		2
Supplemental Appropriations, 1984 (P.L. 98–396)	6,127	2,978
Offsetting receipts	−232	−232
Total	922,431	853,489
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Claims, Defense	63	57
Range improvements	2	1
FUBA	33	33
Medicaid	571	571
Advances to unemployment:		
Trust fund	3,932	3,932
Offsetting receipts	−3,932	−3,932
Special benefits, disabled coal miners	20	20
Special benefits, Federal employees	12	12
Guaranteed Student Loan Program	132	
Total	833	695
III. Continuing resolution authority [1]		
IV. Conference agreements ratified by both Houses		
Total current level as of Sept. 3, 1984	923,263	854,184
Budget Resolution, H. Con. Res. 91	923,809	853,386
Amount remaining:		
Over ceiling		798
Under ceiling	546	

[1] Agriculture; Foreign Assistance; Treasury, Postal Service and General Government and other selected appropriations are funded under continuing resolution authority (P.L. 98–151) for the full fiscal year and, therefore, are included in the enacted category of this report.

Note: Detail may not add due to rounding.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARTLETT) to revise and extend their remarks and include extraneous material:)

Mr. GREEN, for 60 minutes, on September 19.

Mr. GREEN, 60 minutes, on September 25.

Mr. LUNGREN, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, September 11.

(The following Members (at the request of Mr. OBEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. CORCORAN.

Mr. YOUNG of Alaska.

Mr. DANNEMEYER.

Mr. KEMP.

(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)

Mr. SHANNON.

Mr. DE LA GARZA in 10 instances.

Mr. BONIOR of Michigan.

Mr. HAMILTON.

Mr. LONG of Maryland in two instances.

Mr. MATSUI.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. WAXMAN.

Mr. OTTINGER.

Mr. MRAZEK.

Mr. STARK in three instances.

Mr. BENNETT.

Mr. GARCIA.

Mr. HOWARD.

Mr. KASTENMEIER.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 253. Joint resolution to authorize and request the President to designate September 30, 1984, as "Ethnic American Day"; to the Committee on Post Office and Civil Service.

SENATE JOINT RESOLUTION

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

[Inadvertently ommitted from Record of Wednesday, September 5, 1984]

S.J. Res. 332. Joint Resolution to proclaim October 16, 1984, as "World Food Day"; to

the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 11, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3990. A letter from the Director, Defense Security Assistance Agency, transmitting a report on commercial and governmental military exports, together with list of all defense requirement surveys authorized for foreign countries for the third quarter of fiscal year 1984, April 1 to June 30, 1984, pursuant to AECA, section 36(a); to the Committee on Foreign Affairs.

3991. A letter from the Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all letters of offer and outstanding letters of offer to sell any major defense equipment for $1 million or more as of June 30, 1984, pursuant to AECA, section 36(a) (90 Stat. 740; 94 Stat. 3134) and section 26(b) (92 Stat. 740) (E.O. 11958); to the Committee on Foreign affairs.

3992. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

3993. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Government Operations.

3994. A letter from the Chief Justice of the United States, transmitting notification that the Supreme Court of the United States will open the October 1984 term on October 1, 1984; to the Committee on the Judiciary.

3995. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to raise the maximum annual uniform allowance for uniformed employees of the Federal Law Enforcement Training Center, Department of the Treasury; to the Committee on the Judiciary.

3996. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to make the basic pay of the Commandant of the Coast Guard comparable to the basic pay of the Chiefs of the other Armed Forces, and; for other purposes; to the Committee on Merchant Marine and Fisheries.

3997. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 303 of the act of October 14, 1980 (94 Stat. 1991, as amended; 16 U.S.C. 1606a); jointly, to the Committee on Agriculture and Interior and Insular Affairs.

3998. A letter from the Secretary of Labor, transmitting a report on the feasibility of requiring collective barganing on contributions to, and benefits from, multiemployer pension plans, pursuant to Public Law 96-364, section 412(b); jointly, to the Committees on Education and Labor and Ways and Means.

3999. A letter from the Secretary of Health and Human Services, transmitting a report on programs in urban and rural areas to make health services more accessible to the urban and rural Indian populations, pursuant to Public Law 94-437, section 507 (94 Stat. 3179); jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 6, 1984, the following reports were filed on September 7, 1984]

Mr. HUGHES: Committee on the Judiciary. H.R. 6071. A bill to amend title 18 of the United States Code to strengthen the laws against counterfeiting trademarks, and for other purposes; with an amendment (Rept. No. 98-997). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUGHES: Committee on the Judiciary. H.R. 3347. A bill to amend title 18 of the United States Code with respect to extradition, and for other purposes; with an amendment (Rept. No. 98-998). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5755. A bill to amend the Fish and Wildlife Coordination Act; with an amendment (Rept. No. 98-999). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5464. A bill to establish the Chimon Island National Wildlife Refuge; with amendments (Rept. No. 98-1000). Referred to the Committee of the Whole House on the State of the Union.

[Submitted September 10, 1984]

Mr. BROOKS: Committee on Government Operations. H.R. 5164. A bill to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes; with an amendment (Rept. No. 98-726, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 5189. A bill to amend section 3056 of title 18, United States Code, to update the authorities of the U.S. Secret Service, and for other purposes; with amendments (Rept. No. 98-1001). Referred to the Committee of the Whole House on the State of the Union.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 4597. A bill to authorize Federal financial assistance to the government of Nassau County, NY, for necessary security-related expenses associated with hosting the 1984 International Games for the Disabled; with an amendment (Rept. No. 98-1002). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee of Conference. Conference report on S. 2463 (Rept. No. 98-1006). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 3623. A bill for the relief of certain former flight engineers of Western Airlines; with an amendment (Rept. No. 98-1003). Referred to the Committee of the Whole House.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 2625. A bill for the relief of Maj. Ralph Edwards, U.S. Air Force, retired (Rept. No. 98-1004). Referred to the Committee of the Whole House.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 1362. A bill for the relief of Joseph Karel Hasek, with an amendment (Rept. No. 98-1005). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL (for himself and Mr. MCCAIN):

H.R. 6206. A bill amending the act of July 28, 1978 (Public Law 95-238) relating to the water rights of the AK-Chin Indian Community and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI:

H.R. 6207. A bill to promote the safety of children receiving day care services by establishing a national program for the licensing of child day care providers, establishing a clearinghouse for information with respect to criminal records of employees of day care centers, and establishing a hotline for reporting of abuse of children receiving day care services, and for other purposes; to the Committee on Ways and Means.

By Mr. DELLUMS (for himself, Mr. FAUNTROY, and Mr. MCKINNEY):

H.R. 6208. A bill to provide for the assumption of selected functions, programs, and resources of St. Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. FAUNTROY:

H.R. 6209. A bill to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc.; to the Committee on the District of Columbia.

By Mr. MAVROULES (for himself, Mr. SHANNON, Mr. MOAKLEY, Mr. FRANK, Mr. STUDDS, Mr. ADDABBO, Mr. STARK, Mr. BROWN of California, Mrs. BOXER, Mr. BARNES, Mr. DELLUMS, Ms. MIKULSKI, Mr. WEAVER, Mr. CONYERS, Mr. TORRICELLI, Mr. YATES, Mr. MITCHELL, Mr. MCHUGH, Mr. MINETA, Mr. BERMAN, Mrs. BURTON of California, Mr. OWENS, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. BEILENSON, Mr. SIKORSKI, Mr.

LEVINE of California, Mr. KASTENMEIER, Mr. SCHUMER, Mr. LELAND, Mrs. HALL of Indiana, Mr. RODINO, Mr. HAWKINS, Mr. DYMALLY, Mr. RAHALL, Mr. EDWARDS of California, Mr. HARRISON, Mr. TRAXLER, Mr. EARLY, Mr. GARCIA, Mr. KILDEE, Mr. WALGREN, Mr. SAVAGE, Mr. EDGAR, Mr. FORD of Michigan, Mr. CROCKETT, Mr. SCHEUER, Mr. WOLPE, Mr. SIMON, Mr. TOWNS, Mr. MORRISON of Connecticut, Mr. PEASE, Mr. CLAY, Ms. KAPTUR, Mr. OTTINGER, Mr. MOODY, Mr. LUNDINE, Mr. BOLAND, Mrs. COLLINS, Mr. DONNELLY, Mr. WIRTH, Mrs. KENNELLY, Mr. LOWRY of Washington, Mr. MARKEY, Mr. WHEAT, and Mr. BEDELL):

H.R. 6210. A bill to provide for a comprehensive bilateral and verifiable freeze between the United States and Soviet Union on the testing, production, and deployment of nuclear weapons; jointly, to the Committees on Foreign Affairs, Armed Services, and Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2090: Mr. LEVINE of California.

H.R. 4093: Mr. KOSTMAYER, Mr. HAWKINS, and Mr. VANDERGRIFF.

H.R. 4094: Mr. MCHUGH.

H.R. 4111: Mr. BORSKI.

H.R. 5361: Mr. OWENS, Mr. NOWAK, and Mr. SEIBERLING.

H.R. 5377: Mr. LIVINGSTON, Mr. ROTH, and Mr. BREAUX.

H.R. 5545: Mr. ACKERMAN.

H.R. 5904: Mr. WEAVER.

H.R. 6014: Mr. FISH, Mr. WON PAT, Mr. LUNDINE, Mr. COELHO, Mr. DE LUGO, and Mr. KILDEE.

H.R. 6020: Mr. SHUMWAY and Mr. HORTON.

H.R. 6021: Mr. TAUZIN, Mr. DE LUGO, Mr. MCEWEN, Mr. MCNULTY, Mr. EVANS of Iowa, Mr. MCCANDLESS, Mr. LEWIS of California, Mr. SMITH of Nebraska, Mr. SAM B. HALL, JR., Mr. MCCURDY, Mr. RINALDO, Mr. SILJANDER, Mr. LUNGREN, Mrs. LLOYD, Mr. MAVROULES, Mr. NIELSON of Utah, Mr. KEMP, Mr. WRIGHT, and Mr. MICA.

H.R. 6054: Mr. FROST, Mr. MITCHELL, Mr. BROWN of California, Mr. BENNETT, Mr. SIMON, Mr. COUGHLIN, Mr. FISH, and Mr. BIAGGI.

H.R. 6069: Mr. MCGRATH, Mr. APPLEGATE, Ms. FIEDLER, and Mr. BILIRAKIS.

H.J. Res. 392: Mr. KRAMER, Mr. RODINO, Mr. FOLEY, Mr. GEPHARDT, Mr. FASCELL, Mr. DWYER of New Jersey, Mr. LUNGREN, Mr. LAGOMARSINO, Mr. WHITTAKER, Mr. HANSEN of Utah, Mr. MARRIOTT, Mr. LEACH of Iowa, Mr. SLATTERY, Mr. MOODY, Mr. WHEAT, Mr. MATSUI, Mr. TOWNS, and Mr. HUNTER.

H.J. Res. 547: Mr. CONYERS, Mr. LEVIN of Michigan, Mr. WHITTEN, Mr. BRITT, Mr. CLARKE, Mr. VALENTINE, Mr. DICKINSON, Mr. EDWARDS of Alabama, Mr. SYNAR, Mr. LEACH of Iowa, Mr. SHELBY, Mr. JONES of Tennessee, Mr. SNYDER Mr. HANSEN of Idaho, Mr. SHUMWAY, Mr. EVANS of Iowa, Mr. FLIPPO, Mr. D'AMOURS, Mrs. VUCANOVICH, Mr. ST GERMAIN, Mr. ANTHONY, Mrs. LLOYD, Mr. CRAIG, Mr. STAGGERS, and Mr. DEWINE.

H.J. Res. 638: Mr. SWIFT, Mr. CHANDLER, Mr. MORRISON of Washington, Mr. PRITCHARD, Mr. FOLEY, Mr. LOWRY of Washington, Mr. PATTERSON, Mr. SHANNON, Mr. FRANK, Mr. BOLAND, Mr. MOAKLEY, Mr. HOWARD, Mr. TRAXLER, Mr. JEFFORDS, Mr. SCHAEFER, Mr. DOWDY of Mississippi, Mr. RICHARDSON, Mr. EVANS of Iowa, Mr. BARTLETT, Mr. WEISS, Mr. O'BRIEN, Mr. SUNIA, Mr. BARNES, Mr. FAUNTROY, Mr. SISISKY, Mr. MURTHA, Mr. GRAY, Mr. KOLTER, Mr. MONTGOMERY, Mr. WALGREN, Mr. MURPHY, Mr. D'AMOURS, Mr. DWYER of New Jersey, Mr. WINN, Mr. STRATTON, Mr. COUGHLIN, Mr. TORRICELLI, Mr. DANIEL, Mr. WOLF, and Mr. ROE.

Senate—*Monday, September 10, 1984*

(Legislative day of Wednesday, September 5, 1984)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The Lord is gracious, and full of compassion; slow to anger and of great mercy. The Lord is good to all; and His tender mercies are over all His works. All Thy works shall praise Thee, O Lord . . . —Psalm 145:8-10.

Mighty God, these are difficult days for Members of the Senate and their staffs—the pressure of issues which demand attention—decisions which must be made—action which cannot be delayed—all in the shadow of inescapable ambivalence imposed by an impending election. As political campaigns heat up and party loyalty increasingly polarizes the Senate, we ask You, Lord, to strengthen the Senators' resolve to deliver on their commitment to the people. May national purpose and unity prevail despite diversity and confrontation. Anoint the leadership with extraordinary understanding, patience and wisdom, in their determination to make these closing days constructive and productive. Loving God, work Your will in this place—in spite of us, if necessary—but in fulfillment of Your perfect way in these circumstances. We pray in the name of Him who is truth. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SENATE SCHEDULE

Mr. BAKER. Mr. President, there will be a vote today at 5:15 p.m. on cloture in respect to the motion to proceed to the consideration of the banking bill. If cloture is invoked, the Senate will continue to debate that measure until it is disposed of pursuant to the provisions of the rule. If cloture is not invoked, it is anticipated by the leadership on this side that another cloture motion will be filed.

Mr. President, other matters that the leadership on this side would like to consider this week include appropriation bills as they may be available. The leadership on this side especially would like to try to reach the Labor-HHS appropriations bill this week if that can be arranged.

It does not now appear that the military construction appropriations bill will be available as previously announced during last week.

The TV in the Senate resolution will be scheduled sometime after the banking bill is disposed of and as soon as possible this week or next, depending on the question of the availability of other appropriation bills, particularly Labor-HHS.

In addition, Mr. President, in the remaining 3 weeks of this session, the leadership hopes that we will be able to do as many appropriation bills as possible, the highway bill, the clean water bill, the water resources bill, the civil rights bill, the product liability bill, nominations, conference reports, and such other matters as we may be able to agree to do by unanimous consent.

That is an ambitious schedule, Mr. President, and a difficult one to try to accommodate within the time remaining. But it is the intention of the leadership to do as much of that as possible in the remaining days of this month and the first week of October. I do not anticipate nor expect a lame-duck session. So we are shooting for a sine die adjournment on October 5.

Mr. President, I do not expect that the Senate will be asked to be in late this evening.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, if I have any time remaining, I offer it to the minority leader for his use.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. KASTEN). The Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair and I thank the distinguished majority leader for yielding me his time. I will not need it as far as I can see, but I do thank him.

MR. MONDALE'S DEFICIT REDUCTION PLAN

Mr. BYRD. Mr. President, earlier today Walter Mondale made public his plan to reduce the Federal budget deficit. It is the most specific, detailed complex fiscal proposal I believe that any Presidential candidate has ever laid before the American people. It is a plan that demonstrates Mr. Mondale's willingness to confront the tough choices and to make the hard decisions that are necessary to put America's fiscal house in order.

Walter Mondale has laid out his program in black and white for the American people to judge for themselves. By doing so, he may have defied conventional political wisdom and set a new standard for courage and leadership. He is not afraid to place his cards on the table for the American people to judge, and he believes it is their right to know how he intends to play his hand as their President.

Mr. Mondale's candor about the hard choices which must be made stands in stark contrast to the absence of any specific proposals from the President.

In 1980, President Reagan campaigned for the White House on the promise that he would balance the Federal budget. It is a promise that he has yet to redeem. After nearly 4 years in office, the President should present his plan to which he alluded in his economic report to the Congress recently. Therein he indicated that he had a plan which he would unveil in 1985, and which would lead to a balanced budget.

The American people have a right to expect from the President, as they have had a right to expect from Mr. Mondale, precisely what each intends to do if elected President for the next 4 years; what each intends to do to reduce the budget deficits, reduce the interest on the national debt, and reduce the trade imbalance. So it is time for the President to stop hiding behind the skirts of a constitutional amendment and a line item veto.

The President has plenty of authority right now. He has the responsibility to send Congress a balanced budget, which he has not done, and, of course, he has the power to veto, if he chooses, any appropriations bill that he wants to veto. After nearly 4 years in office, the President has yet to send to the Congress a balanced budget, and while using one hand to sign into law 48 of the 52 spending bills passed

by Congress during his term, he uses the other hand to point to Congress as the culpable party when it comes to expenditures. The President cannot have it both ways. He is the one who is responsible for sending up a budget to Congress, and he is the one who signs or vetoes the appropriations bills. So it is time for the President to stop making excuses and looking backward at previous administrations. This is his administration, and we are 4 years into his administration. There is no greater challenge ahead than bringing the deficits under control. And there is no easy or painless remedy that this President or Mr. Mondale, or any future President can pull out of the hat. The President says he will not increase taxes in order to balance the budget. The American people deserve to know that the President will do to balance the budget. Will he savage Social Security and medicare? What will he do? The American people deserve to know how the next President of the United States will achieve a balanced budget, and they deserve to know now—not after the election.

Mr. Mondale has told the American people where he stands. The American people can make the judgment. They may agree with some of his proposals and disagree with others. Each of us has the right to do that, whether we be a member of Mr. Mondale's party or a member of the other major and great political party. But the American people do deserve to have both plans laid on table so that they might contrast the one with the other, and carefully reach a considered judgment on which plan merits the support of the American people.

Mr. Mondale has told the American people where he stands, and now it is the President's turn to tell the American people where he stands.

AFGHANISTAN: THE STORY OF ONE VILLAGE

Mr. BYRD. Mr. President, from time to time, I have taken the floor to express concern about the lack of reporting on events in Afghanistan. After more than 4 years of brutal occupation, the Soviets have done a great deal to shut Afghanistan off from the rest of the world. In particular, they have made every effort to obscure events there from the discerning eyes of the press.

Accordingly, I am especially pleased when a journalist braves the dangers of the war in Afghanistan to report on some aspect of life under the hell of Soviet tyranny. In an excellent article in the September 10, 1984 issue of Time magazine, free-lance writer Robert Schultheis provides a poignant account of how the war has destroyed life in one Afghan village. This is a moving account, and it leaves the reader with a profound respect for the courage of the Afghan freedom-fighters and their families. In challenging them, the Soviets have done much to unite the Afghan people.

I commend the author, and I congratulate Time magazine for giving this story the attention it deserves. I urge my colleagues to read it. I ask unanimous consent that it be reprinted in the RECORD at the close of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVIVING THE SONGS OF OLD

A VILLAGE STRUGGLES BACK

Each night convoys of anywhere from 600 to 1,500 men begin the long march westward. They load down their mules and camels with mortars, heavy machine guns and mines, then scramble along steep, rocky trails through an eerily deserted landscape. Stealing past a government fort and fields still littered with bomb fragments and mines, ignoring the distant thunder of MiGs and flares on the horizon, they cross the highlands along the border and descend toward battle.

The men are Afghans who have spent several years in refugee camps in Pakistan. Haunted by homesickness and inspired by a determination to conduct a jihad (holy war) against the Soviet occupiers of their country, they are going back home. What they find is not encouraging: entire villages destroyed, orchards burned, fields defoliated. Yet the returning men are rebuilding the fallen roofs and tumbled walls of their former homes. They dig tunnels and enlarge caves to accommodate dwellings, schools and medical clinics; they farm by night, when no MiGs or helicopter gunships fly overhead; they use homemade weapons and their knowledge of the difficult terrain to foil the relentless ground attacks of the Soviets. Robert Schultheis, an American freelance writer, spent ten weeks with the men who went back to Dobanday, a once prosperous village that was leveled by the Soviets in 1978. His report:

Afghanistan is a nation of villages. They are the basis of its social structure and its Muslim faith. At communal events like weddings, villagers come together for days to feast, dance and race horses. More practically, the Muslim system of zakat (tithing) binds the community together by ensuring that a part of its wealth goes to its poor. Villages have therefore been the primary source of food, support and intelligence for the mujahedin guerrillas who oppose the Soviet-backed regime of Babrak Karmal. That is why the Soviets have used their bombs and tanks to reduce scores of communities to rubble. Of Afghanistan's 16 million people, more than half have been forced from their homes: up to 5 million have become internal refugees, many of them crowded into Kabul, the capital; 3 million more have fled to refugee camps in Pakistan; perhaps 500,000 have been killed or badly wounded.

The story of Dobanday is typical. Just six years ago, 20,000 people lived in spacious adobe houses scattered across the floor of a green, spring-fed canyon some 45 miles south of Kabul. "Life was good," recalls Haji Jumah Gul. "We had wheat, corn, rice, melons, apples, cherries, pears and mulberries. Almost everyone had cattle and sheep." Many of the villagers were prosperous enough to be able to afford a pilgrimage each year to Mecca.

All that changed in April 1978, when Noor Muhammad Taraki, a Soviet-supported Marxist, seized power in Kabul. It would be 20 months before Moscow would send the first of some 100,000 troops to occupy the country, but Soviet advisers were already leading the Afghan army in search-and-destroy missions across the countryside. The residents of Dobanday first became alarmed when they heard that the new regime was attacking religious leaders and traditions. The authorities then arrested two local elders and decreed that all houses in the settlement be thrown open for inspection.

The villagers rebelled. They were armed with nothing but axes, sticks, scythes, eleven ancient British .303 rifles and a few muskets that had last seen use in battles against the raj. But they fought with spirited tenacity. As one patriarch remembers, "We sang songs as we fought the Communists." They demolished the government military post at nearby Khoshi and barricaded the road into Dobanday. For eight months they fought a series of bloody battles, resisting the force of gunships and armored convoys with captured machine guns, homemade grenades and Molotov cocktails.

The people of Dobanday quickly discovered that their attackers did not make war by the gentlemanly rules favored by their imperial predecessors. "My uncle fought the British on the border after his father was killed by them in battle," recalls Haji Khan, a rheumy-eyed septuagenarian. "But the British did not kill old people, children and women; they would not aim their artillery at innocent people." The Communists, by contrast, massacred civilians. Worst of all, when government troops finally broke through to Dobanday, a Soviet adviser marched into the central mosque, tore up the Koran and put a torch to the building.

By November 1978 the superior firepower of the Soviet-backed government began to tell. Whole blocks of houses had been destroyed, the fields lay fallow and 220 residents were dead. When word spread that an overpowering government assault was imminent, the villagers called a traditional council. "We decided that we all had to leave that very night and take our families to Pakistan," remembers Amin Jan, now a mujahedin commander. "There was not enough food for the winter, and no shelter. Already the high mountains had snow on them."

At sunset the entire village assembled. "There was a fine mist of clouds around us, and the moon rose behind it," Amin Jan recalls. "The women and children were weeping." Those who owned trucks loaded them high with blankets, heirloom carpets, anything they could salvage from their bomb-shattered homes; others piled precious possessions on top of mules and camels or carried what they could: a lantern, a teapot, a generations-old copy of the Koran. While it was dark, they traveled fast along the rough mountain roads; during the day, when planes or heliopters reappeared in the skies, the refugees took shelter amid the rocks and trees.

As they continued, the road grew more treacherous and the sky more turbulent. The trucks were abandoned, and the fugitives continued on foot. On the second night three children died of cold and exhaustion; the following dawn, as the weary procession reached the border, two pregnant women and a teen-age girl lay down and died. Nonetheless, the group was relatively fortunate: only a few hours after the villagers arrived

safely in Pakistan, the first blizzard of the winter obscured the horizon. Dozens of people from neighboring villages who had left just one day later died in the driving snow.

The refugees from Dobanday ended up in two sprawling camps on the barren outskirts of Peshawar in Pakistan's North-West Frontier province. Built on unwanted land, the encampments resembled well-populated ghost towns: they had no water, no trees, only dead earth. The men were farmers without fields, traders without businesses, herders without flocks. Proud men accustomed to self-sufficiency, they were now dependent on rations and a monthly allowance of $4 from international relief agencies. A lucky handful, like onetime Farmer Shair Ali, managed to find menial labor; 90% of the men were idle. As one of the them put it, "Our life today is nothing."

It was almost less than nothing for the women of the camps. Surrounded by strangers, they had to remain veiled and felt like virtual prisoners at home. According to Ekber Menemencioglu, a Turkish-born aid official who has worked in Afghanistan for several years. "Many refugee women have stress-related medical problems: disruption of their monthly cycles and a tremendous amount of tranquilizer use to deal with hysteria." One recent wedding, which would have been an occasion for revelry and jollity at home, might almost have been mistaken for a funeral. Says Saib Khan, Amin Jan's brother: "There was no singing, nothing. We left our songs in Dobanday."

Now many of the men have decided to forsake the indignities of life in the camps and return to retrieve their songs. In tributary canyons and along hidden hillsides around Dobanday, irrigation ditches have been repaired and plots of field resown. Potatoes, wheat and corn are being harvested to sustain itinerant guerrillas. Saib Khan has come back to scout possible locations for a clinic that would serve war-wounded mujahedin who might otherwise die on the long journey through Dobanday to Pakistan. Bombed-out houses now are base camps for the guerrillas. One enterprising group of mujahedin has even been growing marijuana to sell to Soviet soldiers on the black market in Kabul (1 lb. of hashish fetches a few clips of Kalashnikov ammunition).

Once or twice a week during the summer the Soviets launch aerial bombardments, but the mujahedin make up in resourcefulness what they lack in weapons. Local rumor has it that one group knocked down a low-flying Mi-24 Hind gunship last year by flinging rocks at it.

On the ground the guerrillas are even tougher to beat. Shinwari, a narrow-faced, fiery-eyed commander, explains their normal strategy: "We put two mines together [along the main highway south from Kabul], rigged so they will go off only when something as heavy as a tank runs over them. The two mines lift a tank 50 ft. in the air, stopping the convoy. Then we fire everything we have until we are out of ammunition. Then we retreat back into the mountains."

Each day in summer, 1,000 or 2,000 fighters from other villages pass through Dobanday. At dawn, having spent all night crossing the mountains to the east, a small army of guerrillas will suddenly materialize. "May you never be weary!" they call out in greeting to the locals. "May you be at peace here!" answer the men of Dobanday. After a day of rest, the visitors head off again as evening falls; some will travel up to 17 days to distant battlegrounds along the Soviet border.

As the guerrillas, many of them teenagers from different tribes, vanish into the hills, the returned villagers wish them well. "Before the jihad, we never knew people like that, and we would not speak to them," says Saib Khan. "But now that we have fought together and bled together, we are brothers forever." The men of Dobanday, he suggests, are fighting not only for their home but also for their companions throughout their once factionridden homeland. The Soviets, it seems, have succeeded only in uniting the resistance they had hoped to shatter.

AFGHANISTAN: THE DANGER OF DIVERSITY

Mr. BYRD. Mr. President, over the Senate recess, press reports have documented continued fighting in Afghanistan. Repeated helicopter attacks on civilians have occured and the major ground offensives of which I have spoken continue. But there is another aspect to the tragic war in Afghanistan that receives even less attention than the battles between the brave freedom fighters and the Soviet occupation forces. I am referring to the tensions which the war has created within the Soviet Union between Slavic European Soviets and the many Moslem groups of central Asia and the Caucasus.

The Soviet Union is made up of many different ethnic and religious groups; over 100 languages and dialects are represented. The United States is richer because many ethnic groups came to this country to add the diversity of their culture to a new society; but the Russian regimes acquired these peoples as they acquired their land: by force of conquest. The Soviet system does not welcome diversity, and ethnic Slavic Russians regard Moslem and Asian peoples within the Soviet border as a suspect underclass. This attitude weakens Soviet society and requires great expenditures of resources to police the various ethnic populations. Moreover, Soviet bigotry has created special problems for the Soviet occupation of Afghanistan.

When the Soviets invaded that country in 1979, more than one-third of the Soviet occupation forces were conscripts from the Moslem areas of the Soviet Union. But the Soviet officers soon learned that the bond of Islam and a common cultural heritage led Soviet Moslems to identify with the courageous Afghan people. Some Moslem troops joined the Afghans, while others simply proved unreliable in battle against Afghan resistance fighters.

While Soviet news carries virtually no reports about the war or the Soviet losses, the grim realities are known to Soviet Moslems who have long been subjected to the brutality of one Russian regime or another. In an excellent article in the July 31 Wall Street Journal, David Damrel offers a valuable insight into the frictions between Soviet authorities and the vast Soviet population faithful to their religion of Islam.

The reality of Moslem dissatisfaction is important when we consider the latest Soviet census data. About 20 percent of the Soviet population is ethnic Moslem, and many of these peoples practice their religion. Overall, the birth rate among Moslem populations in the Soviet Union has grown 2½ times faster than the growth in the Slavic birth rate. The Soviet officers refer to this phenomenon as "the yellowing of the ranks." It has dramatic consequences for the demographics of the Soviet Union in the years to come.

I ask unanimous consent that the Wall Street Journal article of July 31, entitled "Sufis and the Soviets: The Dangers Within," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 31, 1984]

SUFIS AND THE SOVIETS: THE DANGER WITHIN

(By David Damrel)

Who killed Sultan Ibrahimov? Described as "a political murder" in the official Soviet press and rumored in Moscow to be the work of "Moslem nationalists," the assassination of the head of the Communist Party in the predominantly Moslem Kirghiz Republic in Central Asia has baffled Soviet authorities for almost four years. Ibrahimov's murder in late 1980 was a dramatic echo of a long history of Moslem resistance to Russian might that, spurred by the war in Afghanistan, continues to perplex Moscow's rule over more than 45 million Soviet Moslems.

How does Islam survive in a Soviet state that considers it, according to Prof. Alexandre Bennigsen, "a hangover from the presocialist past" fostering "harmful socio-religious traditions"? Moscow appoints four "Moslem Spiritual Boards" to supervise approximately 1,000 ulema (religious scholars) and operate the 400 to 500 mosques estimated to remain in the Caucasus region and in Central Asia. But the real force in the religious life of Soviet Moslems comes from a popular, "parallel" Islam that is dominated by illegal and anti-Russian Islamic mystical brotherhoods.

Islamic mysticism—known as Sufism—spread quickly in 12th- and 13th-century Central Asia because of the missionary activities of itinerant Sufi saints. These saints were often believed to be miracle-workers, and their tombs frequently became shrines and pilgrimage sites. The ulema attacked the "cult of saints" as being un-Islamic, but Sufism continued to attract converts to Islam.

Fourteenth-century Central Asia produced a new type of Sufi order that combined sober mysticism with complete devotion to Islamic religious law. The Naqshbandi order, named after its founder Baha ad-Din Naqshband, who died in 1389, achieved phenomenal success and soon reached China, Afghanistan, India and Southeast Asia. Naqshbandi saints traveled west to Turkey and the Arab lands and es-

tablished an enclave at Mecca and Medina. Baha ad-Din's tomb near Bukhara in the modern Uzbek Republic became a major pilgrimage center and conservative Naqshbandis thoroughly dominated the ulema, clans and leadership of Central Asia.

When the Czarist Russians began their drive to conquer the independent Moslem states of the Caucasus and Central Asia, Naqshbandi saints became natural leaders of the "Holy War" against the infidels.

Leg by Naqshbandi saint Imam Shamil, Moslem guerrillas in the rugged mountains of Daghestan in the North Caucasus fought a bitter war with the Russian invaders that lasted almost 60 years before the movement was finally suppressed in the late 1850s. By 1900, despite sporadic resistance directed by Naqshbandi saints, the Russians were in complete control of the Caucasus and Moslem Central Asia.

The Bolshevik Revolution sparked new fighting in Moslem Russia. The Naqshbandi saint Uzun Haji in Daghestan led a major revolt against the White and Red armies that was not crushed until 1925. Along the Afghan border in Central Asia, Naqshbandi leaders participated in the Basmachi (from the Uzbek work for "bandit") movement that fought the Soviets throughout the 1920s. A prominent Naqshbandi family involved in the fighting escaped across the border into Afghanistan in the early 1930s. Today a descendant of that family, Sibghatullah Mujaddidi, leads the Afghan Liberation Front against the Soviets in Afghanistan.

The Soviets responded with a direct attack on Islam, arresting Sufi leaders and some ulema and shutting down more than 25,000 mosques. Heavy industries were introduced to Central Asia and the Soviets transferred European Russians to the region in an attempt to "Russify" the native population. Soviet modernization of Central Asia seemed to be working. Literacy rates among the Moslems jumped and Soviet Moslems enjoyed a standard of living far above that of their Afghan and Iranian neighbors. Soviet experts predicted that "feudal-reactionary" Islam would die out as Central Asia developed into a modern socialist state.

But early in the 1970s, Soviet researchers reported that just the opposite was true. The average age of the Moslem "believer" was falling, not rising. In Daghestan, where the last mosque closed in 1943, a Soviet sociologist found in 1975 that "more than half of the believers" in a certain province admitted belonging to a Sufi order. And new orders were thriving.

Soviet articles discussed the existence of an underground "parallel" Islam organized around Sufi shrines and clandestine houses of prayer directed by the now-illegal Sufi brotherhoods. And they noted that saints' tombs, often housing "holy warriors" martyred while fighting the Russians, remain popular pilgrimage centers despite official attempts to close them.

The demography of the Moslem communities also concerns the Soviets. Birth rates among the Soviet Moslems are almost three times those of the European Russians and experts predict that by the year 2000 one-quarter to one-third of the entire Soviet population will be Moslem. This would make the Moslem community the most formidable unassimilated minority group in the Soviet Union. Eager to limit the impact of Islamic activism in the Moslem world on their own Moslem population, the Soviets carefully control news reports of events in Iran and Afghanistan.

Western experts estimate that Moslem troops made up between 30% to 40% of the Soviet forces that invaded Afghanistan in December 1979. But after reports of unreliability and desertion to the rebels, Soviet Moslem forces were replaced with European units.

There are unconfirmed reports that in March 1980, Moslems in Alma-Ata rioted in protest of Soviet plans to bury local Moslem troops who had been killed in Afghanistan in a military, non-Moslem cemetery. Police in the capital of the Uzbek Republic are alleged to have fired into the crowd that was demanding a proper Islamic funeral for the Moslem soldiers.

Sultan Ibrahimov's assassination early in December 1980 marks him as another Soviet casualty of the war in Afghanistan. Ibrahimov, himself of Moslem parents, was prominent in the Ministry of Land Reclamation in the Kirghiz Republic before he was named the party chief of Osh province in 1968. He worked in Osh province, a traditional Haqshbandi stronghold and a center of the Basmachi revolt for 10 years before he was appointed chairman of the Council of Ministers for all of Kirghiz. He was slain as he slept at a sanitarium on Lake Isik-Kul, near the capital city of Frunze.

Two weeks after Ibrahimov's death, an article written by a KGB director in a Moslem area denounced the activities of foreign agents and what he described as "reactionary Moslem clergy"—a clear reference to the underground Sufi brotherhoods. If Ibrahimov's murder was the work of an Islamic underground group taking its revenge on a Moslem collaborator with the Soviet state, then it sends home to Moscow the message that a tradition of Moslem defiance of Soviet rule has survived and even flourished despite more than 60 years of systematic repression and subjugation. The Soviets might well win the battle against conservative Islam in Afghanistan only to find that they have started a war they cannot win at home.

Mr. President, I have no further use of my time.

I yield such of it as the distinguished Senator from Wisconsin wishes to utilize.

Mr. PROXMIRE. Mr. President, I thank my good friend, the Democratic leader.

MONDALE HAS THE ONLY DEFICIT REDUCTION GAME IN TOWN

Mr. PROXMIRE. Mr. President, today the Democratic nominee for President, Walter Mondale, issued his proposal for meeting the biggest economic problem that faces our Government: the reduction of the colossal Federal deficit. Now, Mr. President, let us all recognize that the easiest thing to do in politics is to take off hot and heavy after anyone who proposes to cut popular Federal spending programs or increase taxes. And this is exactly why we have gotten into this terrible fiscal mess we are in today, running a massive $170 billion deficit in the third year of a recovery. There are plenty of things wrong with the solution Walter Mondale proposes. But the important fact is that he and he alone of the major Presidential candidates has offered a solution. Let us consider it.

How do we reduce the deficit without so severely slowing economic growth that we abort the recovery? Since November 1982 the economy has enjoyed a vigorous economic recovery. The number of jobs have increased by more than 6 million. Economic growth has averaged an exuberant 8 percent. Productivity has sharply increased. Meanwhile, inflation has stayed at a moderate level. But now in the fall of 1984 the economic recovery may be moving into a stall. For every one of the preceeding 21 months the leading indicators accurately forecast the recovery as they increased month after month followed by month after month gains in the economy. But in June for the first time in about two years the leading indicators fell and by a significant 1.3 percent. Then in July they fell again, this time by 0.8 percent.

Mr. President, it is very rare that the economic indicators have not predicted the course of our economy with a lag of maybe 6 or 8 months, and that back-to-back drop in leading indicators was accompanied by the first failure of the unemployment rate to fall in a year and a half.

In May, the unemployment rate was 7.4 percent, in June it did go down to 7 percent. But then in July it rose to 7.4 percent and in August—last month—it remained at the same level it reached in May. What does this mean? It means that since last May, for 3 months we have had no improvement in the unemployment rate. We have over 8½ million people out of work. So that has stalled out at the same rate it reached in January 1981, when President Reagan took office. The general consensus among economists will continue at least through most of 1985. The consensus also foresees a slow down in the rate of recovery as well as in the unemployment rate. Without any change in Federal fiscal policy the economy may be about to flatten out, if not sink into recession.

What effect will a Mondale or a Reagan attempt to reduce the deficit have on the recovery under these circumstances? To his credit Walter Mondale has issued a detailed deficit reduction program. Mondale specifies just where he would cut spending and increase taxes. Part of the deficit reduction is based on assumptions or educated guesses on how this program will effect economic growth and interest rates. Mondale estimates that the reduction in the deficit will encourage growth in the economy so that by 1989 the deficit will be $17 billion lower than it would be without this deficit reducing medicine. How can that happen? The Mondale program would take $160 billion out of the economy by cutting Federal spending by $75 bil-

lion and raising Federal taxes by $85 billion. Classical economic analysis tells us that when the Federal Government spends less and taxes more—which is what is being proposed—the economy slows down. It does not grow. It slows down.

Indeed the reverse of that process—spending more and taxing less— is precisely what has both given the Federal Government the huge deficit it now has and the exuberant growth that massive Federal deficit has stimulated. Is it possible that the deficit, whose increase has provoked all that growth, will provide even more growth as we cut it by two-thirds? To be charitable, anything is possible. Conceivably the declining deficit will not only bring down interest rates but will restore such business and consumer confidence in the future that consumer buying and business investment will more than compensate for what the decreased level of Federal spending and the increased level of Federal taxes will take out of the economy. As I say, anything is possible. But what is likely? The more likely effect of the Mondale reduction will be to retard growth, so that revenues will tend to fall below the Mondale or the Congressional Budget Office estimates and Federal spending for unemployment compensation and welfare will tend to rise above the estimates.

Unfortunately, there is no sweet and easy way to work out of the appalling trap the Reagan fiscal policies have pushed the economy into. Walter Mondale is absolutely right that we must cut the deficit. I believe we should make substantially deeper cuts in spending than Mondale has proposed. I believe he has substantially overestimated the savings that will automatically flow from his policies in his estimate of interest on the national debt, and I believe that we need substantially greater tax increases than he has proposed. But I especially believe that we can not solve this cruel Federal deficit problem without going through a recession that will probably be more agonizing than the recession of 1981. That means unemployment might exceed 11 percent at its peak. It means that the President and the Congress will have to have the courage to refuse the immensely tempting appeal at that point for big tax cuts and spending increases under those circumstances. That is going to be hard to do. It will take extraordinary Presidential leadership.

President Reagan has shown no disposition to cut over all spending, including military spending, and he insists on big tax cuts so we have run massive deficits even in a period of exuberant growth. What prospect is there that in a second term he will have the will to prescribe the bitter medicine necessary to bring the deficit under control? Answer: From slight to none. The Mondale proposal is not enough. It probably will not bring the prosperity that Walter Mondale suggests. But it has the great merit of being in the right direction. It is not as realistic as it should be. But it is far more realistic than the Reagan administration proposes. It is easy to shoot holes in it, as I just have. But politics is never the kind of dream game where we have perfect choices. So what is the answer? It is simple. For anyone interested in a responsible Federal fiscal policy, the Mondale proposal is truly the only game in town.

PRESIDENT REAGAN VERSUS THE PEOPLE ON NUCLEAR WAR POLICY

Mr. PROXMIRE. Mr. President, this month, an organization called the Public Agenda Foundation issued a disturbing and challenging report on the nuclear war options that divide so-called experts on what the nuclear war policy of our country should be. The study finds that the "experts" have such irreconcilable and clashing views that the time has come for those responsible for determining our policy, such as Members of the Congress, particularly the Senate, to seek "resolution with the electorate"; in other words, to seek an electoral mandate.

The study doesn't take that idea very far and it makes no attempt to examine how practical that solution is under present circumstances. Obviously the time for a resolution with the electorate is when we come to a Presidential and congressional election. In less than 2 months, we will enjoy the consummation of that resolution. And by all appearences, Mr. President, it will not be much of a resolution. If nuclear war policy were the only or even the dominant issue in the 1984 elections, we could expect a popular verdict and a mandate for national action. Unfortunately, this is not the case. Reliable polls show that only a minor percentage of the voters will determine their electoral decision in the November Presidential and congressional elections and only in small part on the position of the candidates on nuclear war.

And there is an even more serious practical dilemma. At this point it seems likely, not certain by any means but likely, that President Reagan will win reelection. The President will not win on his record on nuclear war policies. That will not be the decisive factor in his election. Far from it. If the President had to run entirely and exclusively on his nuclear war policies, I am convinced he would be a very dead duck. The President's declarations and policies flatly contradict overwhelming public consensus as found by the Public Agenda Foundation in its most recent national polls. For example, the President certainly disagrees with public opinion on each of the questions central to nuclear war policy. The survey found that the public reacted this way to the following questions:

On the question:

If we had a bigger nuclear arsenal than the Soviets, they would simply keep building until they caught up, 92 percent agree; 5 percent disagree.

They agreed that it made no sense for us to keep building up our nuclear arsenal. Ninety-two percent, Mr. President, more than 9 out of 10.

On the question:

We and the Soviets now have enough nuclear weapons to blow each other up several times over, 90 percent agree; 4 percent disagree.

Mr. President, only 4 percent disagreed. Ninety percent to four percent. That is better than 20 to 1.

On the question:

Building new weapons just to have "bargaining chips" does not work. What usually happens is, the Soviets build one to match us, 84 percent agree; 11 percent disagree.

On the question:

The United States should not use nuclear weapons if the Russians invade Western Europe in a battlefield situation, 74 percent agree; (percent of those disagreeing not provided).

No first use. That is not our policy. Of course, it has not been our policy before. But the overwhelming majority of people in this country, according to this poll, state it should be our policy.

In each case, the public consensus is overwhelming. And in each case, the public consensus runs directly counter to policies or declarations of President Reagan. Is it likely, is it even possible, that President Reagan will change policies on nuclear war, if he is reelected? The answer is, no way. If President Reagan is reelected, particularly if he wins reelection by a decisive margin, he will almost certainly construe his victory as a mandate and nowhere will he assume the mandate is clearer than in his nuclear war policies.

The Public Agenda Foundation does not show a poll on the nuclear freeze—the proposal that the President should negotiate a comprehensive, mutual, verifiable agreement with the Soviet Union to stop nuclear weapons testing, production, and deployment. However, there have been numerous statewide referenda on this issue. The referendums show that the American people support the nuclear freeze by a smashing 3-to-1 margin. The President has consistently opposed it. The President has made no secret of his position in opposition to the nuclear freeze in the course of the campaign. If the President is reelected, there is no chance whatsoever that he will make any attempt to negotiate such a freeze. In fact, it is very clear that if the President is reelected, particularly if he wins by a big margin, he will use his

influence to press Congress to step up the nuclear arms race vigorously.

And why not? The President's opponent, Walter Mondale, has made the negotiation with the Soviet Union of a nuclear freeze a centerpiece in his campaign. The Mondale positions on each of the questions put to the public on nuclear weapons and arms control are in full accordance with the general public consensus. If there were no personality differences between the Presidential candidates and if nuclear war policies were the only issues in the campaign, Walter Mondale would win by a landslide. But there are personality differences. Public interest in policies, aside from nuclear war, swamp the nuclear policy considerations. Result: On nuclear war policies, there will be no "resolution with the electorate."

For those of us who love this country and who believe deeply in the democratic process, this is the sad and deeply frustrating aspect of this 1984 Presidential election campaign. On what should be the biggest issue in 1984, the very survival of our country and perhaps of civilization itself, the American public has a remarkably widespread sane and sober and sensible view. And yet it may be about to elect, and elect decisively, a President who disagrees with its own peaceful public view on nuclear war, a President who is determined to take our country down an arms race path that would make nuclear war far more likely.

THE NIGHT OF THE MURDERED POETS

Mr. PROXMIRE. Mr. President, a recent article in the Wisconsin Jewish Chronicle reminds me that last month marked the 32d anniversary of "The Night of the Murdered Poets" when 24 Soviet Jewish intellectuals were murdered. These men were victims of Stalin's systematic campaign to eliminate Jews in the Soviet Union.

The murdered intellectuals were deemed "Enemies of the State" by the Soviet authorities simply because they were Jewish. The Soviet Jewish cultural community experienced a profound sense of grief and sadness because of the senseless and barbaric deaths of many gifted Jewish thinkers and writers. This purge resulted in a smothering of Jewish culture for years to come.

Before these despicable murders occurred, other Jewish intellectuals were arrested by the Soviet secret police. They were exiled, deemed social misfits or sent to labor camps where most died. These people were attacked by the government because they were Jewish.

The 32d anniversary of the "The Night of the Murdered Poets" reminds one of the terrible crime of genocide and the importance of preventing further atrocities by reaffirming our enduring commitment to human rights. Oddly, though, the United States does not consider genocide a crime. In our refusal to ratify the Genocide Convention of 1948, we also refuse to join all the developed nations of the world in declaring genocide a despicable, barbaric, and illegal crime against humanity.

The United States must denounce the crime of genocide by ratifying the Genocide Convention. The U.S. Senate is the only body with the jurisdiction to ratify the treaty. I strongly urge that we do so.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will not be a period for the transaction of routine morning business not to extend beyond the hour of 4 p.m., with statements therein limited to 5 minutes each.

IDAHO FOREST MANAGEMENT ACT

Mr. SYMMS. Mr. President, the Senate has been accused of being out of touch with the wishes of the people of this great Nation, and I feel it is my duty to bring to the attention of my colleagues particular examples of the feelings of the electorate in my State. To say the least, we in Washington are often consumed with issues of national scope unaware of how the legislation we pass affects the everyday lives of those we are here to represent.

We may have an opportunity in this Congress to address such an issue in the form of the Idaho Forest Management Act, which is sponsored by my senior Senator from Idaho, JIM MCCLURE, and me. Idaho is already a national wilderness haven, with more acres in the National Wilderness Preservation System than any other State outside of Alaska. Six times over the past 50 years, Congress has withdrawn wilderness acres from my home State. This year, I hope Congress will have an opportunity to resolve the wilderness and national forest management future of Idaho for a couple of decades by passing Senator MCCLURE's legislation. As we look at that bill, I urge my colleagues to take into consideration the words of hardworking Idahoans whose jobs and recreation opportunities depend on balanced decisions from those of us in this Congress. Read the remarks of Margaret Brasley, and Emmett, ID housewife; Lynn Pearson, a druggist from Council, ID; John Kwader, from the McCall, ID chapter of the Idaho Wildlife Federation, and the millworkers, ranchers, and citizens of Idaho who are genuinely perplexed over the intrusion of the U.S. Congress into their daily and future lives.

I look forward to working with the distinguished Members of this body to pass an Idaho wilderness bill this year, and I commend the following comments of Idahoans to assist them in this important decision.

Mr. President, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

COMMENTS

Gerry Ikola—Logging Contractor, McCall: "If I were able to talk to our Senator I would like to let him know that I think the Forest Service is fully capable of making the decision concerning wilderness—additional wilderness acres, and I get nervous when the Federal Government or Congress decides to take action on their own concerning an issue like this when I think the Forest Service is fully qualified to take care of it and I think that the process of following things through should be left up to them. They have a good process and if they were able to follow it and make the ultimate decision I think that we would have a decision that everybody would be satisfied with."

Warren Rice—Logging Contractor, McCall: "I'm here today to tell Congressman Seiberling that we support Senator McClure's Idaho Forest Management's Act. And I also have an interest in the Idaho Wilderness in another state—that is I am trustee of the school district 13 in Council and without the forest funds coming into school the school system is going to bankrupt. That's the way I see it."

Lynn House—Boise Cascade: "I'm associated with logging in this area. I'm concerned that we have paid professionals—the taxpayers have paid professionals to do a job and that politicians are in the process of negating what may happen there. We have a lot of very knowledgeable people and I think that the people of Idaho can resolve any conflict there is out here with understanding. Politics from other parts of the country may dictate that, that's my greatest concern."

Andy Anderson—Idaho Farm Bureau Federation: "I would like to say today that I think designating more wilderness in Idaho would be a serious mistake in the State of Idaho as well as for the people of the country.

"Forest Service statistics indicate that the majority of the recreating public are not interested in a wilderness experience, they are more interested in an experience of a multiple use nature and with Idaho's economy being based on natural resources I think that we have enough wilderness in Idaho and we need no more."

Jon Probst—Pres. Idaho Scaling Association: "I think that there is enough wilderness in Idaho at the present time. Our livelihood, our school systems all depend on timber. I believe that we surely have enough right now so let's let Idaho get back to making a living."

Margaret Brasley—Housewife: "I agree with Senator McClure, I think his proposal's a good one. I think there . . . (inaudible phrase). . . . I think there's plenty there for all of us. I want people to be able to enjoy it but I think some of this timber should be

harvested and keep it in better shape otherwise it's just going to burn I'm afraid. I have written to each of the Senators on the committee and told them this. That's about all I can think of to say."

Larry Brasley—Hewlett Packard, Boise: "Even though my job is not affected nearly as much as the other peoples' jobs are with the timber products, H.P. does sell quite a bit of computer equipment to Boise Cascade which has an overall effect later on. My feelings' that there is more than enough already here.

"I enjoy hunting and getting away from H.P. so I make a lot of use of the recreational areas we have. Although I've worked for the Forest Service I have seen lots of care taken to make sure that there isn't an over emphasis either way to make sure there is timber enough for everybody and that things are managed fairly. I guess that's what I'm looking for. (In reference to wording of last sentence.) So that everybody gets an equal share and that even though this decision is being made in Washington it certainly effects everybody in Idaho and I am curious why Congressman Seiberling has more to say than the 4 representatives I sent to Congress."

Janet Harshfield—Chamber of Commerce, Emmett: "Gem County lays about 80 miles south of McCall. Our primary concern is the economic climate of Gem County and Idaho. A wood products industry has been a major employer in our community for nearly 70 years. Thus, we as the Chamber are concerned about the economic future of this industry. Timber is becoming increasingly hard to acquire and creating more wilderness will worsen this condition. In considering more wilderness for tourism we feel it will restrict the average person's use of the forest; our forests will then serve the elite. The average outdoor visitor of Idaho only walks about 300 yards from his vehicle or campsite. Further wilderness will restrict not contribute to tourism. The Idaho Congressional delegation has developed the Idaho Forest Management Act and the Gem County Chamber of Commerce supports this proposal.

Personally speaking, my childhood was spent 50 miles east of McCall on the edge of the primitive area. A healthy economy supported by an active mining and timber industry existed at that time. It distresses me to see how the economic climate of this remote area has deteriorated in the last 40 years. I feel it is directly related to more government control and wilderness."

Larry Harshfield—City Councilman, Emmett: "I am a city councilman for the city of Emmett and I am here representing Mayor Morgan today. I would like to say that the timber industry has been a large part of our community and a wonderful supporter for the last 70 years. This industry has sufffered tremendously the last few years and we feel a larger wilderness area would only contribute to this. Our city government is becoming increasing hard to fund due to our deteriorating economy. When our local industries are healthy our city is healthy. Our city would like to go on record in supporting the Idaho Congressional Delegation Forest Management Act."

Larry Bouck—Shaver's Dept. Store Manager: "We have three stores in the area, the surrounding area, Cascade and Council, New Meadows and here in McCall. We feel it is very vital that we take a look at the wilderness proposals; that we know that the areas that we are in; the importance of the timber industry. We hope that you will take a strong look at the input that is to be put forth from the people in this area and we hope that you will take a real look at it, that we might be able to work together on this wilderness area and that we will not increase it but hold it at a minimum and help our industry, sales of our timber sales."

Lynn Pearson—Council Druggist: "I'm the druggist from Council, Idaho, we own the drugstore in that town. My question to Representative Seiberling would be this. To ask him of his own state of Ohio or to ask any of the states, such as Nebraska or Kansas, to operate their state on 30% of their land mass as a tax base. These 2 or 3 states would not even want to answer this question and I doubt if Representative Seiberling would want to answer it either. It is preposterious, it is absurd, it is impossible to run a state on 30% of it's land mass as a tax base but Idaho has been doing this all along and my hat is off to the State of Idaho for being able to run a state government as well as Idaho has been doing while suffering from 70% of the land of Idaho locked up in Federal, State and BLM categories. We wish to ignore the "Johnny come Latelies", the Sierra Club who are yelling for more wilderness. Let us advise them to go back to their home states and convince those states to return 70% of their land to "where the buffalo roams." We do not want any more wilderness. Idaho has already done it's share. Enough is enough and we have that now."

Boyd Draper—Millworker: "I have been a resident all my life in the great State of Idaho. I am an outdoors person, my family are outdoors persons and yet there are millions of acres that is open to camping vehicles, logging, mining and yet we have never even explored. Our game has improved because of the conservation practices of our open country that we are allowed our vehicles in. We do not need any more wilderness to be locked up to take off the tax rolls. The timber in this area is being eaten up by bugs. It has been destroyed. There are mining areas in there that have fabulous materials that could benefit the great State of Idaho, let alone the great United States, and therefore I don't think we need anymore wilderness."

John Kwader—Idaho Wildlife Federation, McCall chapter: "In speaking for our Wildlife Federation Group, we are against any additional wilderness in the State of Idaho. We feel we have enough already. The thing that many people don't realize in this state and in the nation is once the area's locked up in the wilderness area you lose all options of any kind of management. You can't even go in there and manage for the wildlife. There are many things we can do through other activities such as logging, fire control, even domestic grazing where we can improve the habitat for our wildlife. However, once in wilderness area management options are completely lost. So many people don't realize that we can harvest our timber, we can utilize the forage, we can have clean water and improved wildlife habitat on the same acres. So we as a group in the McCall area of the Payette Lakes Wildlife Federation are against additional wilderness to the State of Idaho."

Bob Calhoun—Millworker: "I've worked in the timber industry for 25 years now, made my whole livelyhood from that industry and I'm a resident of Idaho for a lot of years. I used to hunt and fish, I still fish a lot and I go out and hunt. I think that we have immense wilderness now, I don't think that we need any more. I have gone up into the areas that are multiple use a lot and have hiked back some of the wilderness and the multiple use are filled with people using them and you find very few people back in the wilderness. I think that we have enough and would like to see this roadless area review ended and would like to see this thing ended and done away with so we could go on. Thank you."

Bill Deveny—Rancher—Riggins: "Wilderness may be felt to the general public like it's apple pie and mothehood but I don't. I think it's: you can't have a wilderness . . . (inaudible phrase) . . . outcome. And the laws are set up such that that you are not going to do any road building, the roads are out, any future trail building is fairly well out any use will be curtailed (when it gets to be used). It is already on the books as far as I know. When we talk about future generations it's a gyp unless you are a minority that can make use of it either titlewise or moneywise. Nobody can use it. You get millions of acres going to waste—that's absolutely good for nothing—other maybe than the wildlife. Multiple use is a big umbrella for everybody. There is a little bit in it for everybody and I think everybody could have their cake and eat it too."

Gus Carlson—Salmon: "I'm from the Salmon River and I've been in the sheep business down there for 63 years. I led a pack string in the high mountains for 40 years. Our outfit was next to the primitive area and 100 years ago there used to be, right out of McCall, Idaho, 100,000 lambs shipped every fall. Now there's not a lamb shipped out. A hundred years ago in Idaho County, one of the biggest counties in the State of Idaho, there used to be 100,000 sheep there, there's not a sheep there now—5,000 sheep is all there is. So I don't want to see anymore. Our economy won't stand anymore. That's all I've got to say.

Also I have been on the old Payette National Forest and the old Idaho National Forest and the Nez Pierce National Forest for longer than any permittee on the force and so I still don't want to see any more wilderness area set aside."

John Carrey—Rancher—Riggins: "I live in Riggins, Idaho, I lived there all my life and I'm 70 years old the 2nd day of June and I was born in the middle of the "River of No Return" wilderness on the South Fork of the Salmon at South Fork Guard Station in 1914. I never got no further than Riggins from the place of birth. I've always been on the Salmon River. I have seen a great change in my time, these 70 years going by. I've seen the economy go up and down. The roads we have got is very fine—anything possible to make it more accessible to more people—but I never expect to see any more because the country is practically wilderness from the town of Riggins to the town of Salmon City. Practically clear through everywhere you go you run into it directly or indirectly and our economy isn't supported by the scenic grandeur. Living conditions which don't do much good for anyone my age or anybody that's residing in the area. It's just pretty hard to figure out a way to hang on in the area. It just ain't turning out, we have had several years of it here and it's just going down hill all the time. I would like to see development in what we've got already and no more added to it so we have the economy straightened out just a little here. The mining has been pretty well curtailed and timber very, very well curtailed, agriculture is depleted, absolutely none left, so if we just need more access to what we've got with getting ways . . . (inaudible ge phrase) . . . especially making

historical parts like marking graves of the early settlers then rebuilding some of the old locations in the early days mining, different things to make it more attractive to the people. We've got mass jungles as it is. So much of it hardly nobody could get into it—just can't afford to fly and you can't go on foot, you just can't make it. It's just an awful trip.

And from another standpoint—we're also going to need a readjustment on management, the financial standpoint, money flow comes in but it's . . . (inaudible) . . . should be or the benefit of all the people . . . (inaudible) . . . road maintenance, viewpoints, campgrounds . . . (inaudible) . . . I don't suppose I will be here too much longer but I've seen an awful change in my time."

Ray Bennett—Logger, New Meadows Mayor: "I live in New Meadows which is a small logging town—cut logs for a living and I'm also Mayor of New Meadows. I'd like to remind Senator Seiberling that when we were back in D.C. on a hearing for the Salmon River 'River of No Return Wilderness' area that he told us a cute little story about how much land is enough. He told a story about if you could have gotten all the land that you could run around from this point to that point from sun down to sun up. So he runs all day and he kept saying well I got to get back to this point or I lose it all but he kept trying to get one more little corner, one more little corner and finally he got back with 2 seconds to spare—dropped dead of a heart attack—so how much land is enough? I would like to remind him of this story he told us. At that time I thought he was on our side. Senator Frank Church stood there and told this subcommittee hearing, he said, 'a vast majority of the people in Idaho want more wilderness', and he said 'this is the last major acreage that we are going to ask for, this is going to be it'. And you can see what is happening, what little we did salvage from that 'river of No Return to Wilderness' bill has been appealed, an injunction put against road building. Nothing has been touched of the land that was set aside. In a way of compromise they took 3 million, we got 200,000 and there has not been one stick of wood taken out of there since. So I would like to remind Representative Seiberling that how much land is enough. I hope he sees or gets his eyes open to how much land we are really talking about."

Dolly Gill—Realtor, Riggens: "I live on the Salmon River. I'm a realtor and a member of the Salmon River Chamber of Commerce and I can tell you that selling real estate is not easy in a community that just lost their sawmill. Our mill burnt down 2 years ago and it was not replaced because the owners felt that the timber sales were there, but were not available. They were being appealed and it was too hard to get a timber sale out. And the future did not look good for the timber industry so they moved to another state with their sawmill. It's hurt all the businesses. It's hurt them bad, probably every business in Riggens is for sale. Homes are for sale, people are without jobs and it's a sad situation.

ESTONIAN MART NIKLUS REMEMBERED

Mr. PERCY. Mr. President, on September 22, Estonian human rights activist Mart Niklus will observe his 50th birthday. He is currently in the third year of a 10-year prison sentence at Chistopol Prison, which also holds Anatoly Shcharansky.

On this occasion, the Estonian Society of Washington, the Estonian American National Council, the Joint Baltic American National Committee, and other concerned members of the Estonian community have organized an important congressional commemoration in Washington. There are three activities in honor of Mart Niklus, and I urge my colleagues to join in one, two or all three of the planned actions.

First, from September 17-20, the Estonian American National Council will have available a scroll for signing by Members of the Senate. The scroll will be delivered to the Embassy of the Soviet Union in Washington. It reads:

Dear Mart Niklus. Our thoughts and best wishes are with you on your 50th birthday. We salute you for the courage with which you have spoken up for Estonian national rights. We respect and admire the dedication which you have shown to the cause of human rights throughout the Soviet Union. Your imprisonment, which violates numerous international agreements to which the Soviet Union is signatory, is a grave injustice. We fervently hope the year ahead will bring you better health and freedom.

Signatures by Members of the Senate and House will be a great boost to the spirit of Mart Niklus. Members who wish to sign the scroll should contact Mary-Ann Rikken, Committee Member, Estonian American National Council, locally at 243-1261, or Maria Pedak-Kari, locally at 869-3275.

Second, there will be a ceremony to display the scroll on the steps of the Capitol September 20. Members who wish to speak at the ceremony should also contact Ms. Rikken.

Third, individual preaddressed birthday cards for Mart Niklus have been mailed to every Senate and House office. The cards feature two swallows, which are symbols of freedom to the Estonians. These are to be signed by Members and mailed to Mart Niklus, and would also be a further demonstration of wide interest and concern for Mart Niklus in the United States.

I have appealed to Soviet authorities for Mart Niklus' freedom since he was sentenced in 1981, and on other occasions thereafter. He remains a major symbol of Estonian pride and he demonstrates the strength of the Estonian people in the face of harsh Soviet repression. Mart Niklus deserves our thoughts, our prayers and our support.

TRIBUTE TO DR. DONALD IAN MACDONALD, NEW ADAMHA ADMINISTRATOR

Mrs. HAWKINS. Mr. President, the Alcohol, Drug Abuse and Mental Health Administration has recently acquired a new Administrator, Dr. Donald Ian Macdonald.

Florida is happy to claim Dr. Macdonald as a native son, in that he received part of his medical education in Tampa, and later practiced pediatric medicine in Clearwater. His record in the area of substance abuse is impressive, both in Florida and nationally. Dr. Macdonald's numerous achievements include: He served as president of Scientific Advisory Board of the American Council on Drug Education; director of Clinical Research of Straight, Inc. (an adolescent drug treatment center in St. Petersburg, FL; on the Board of Directors of the National Federation of Parents for Drug Free Youth; president of the Florida Chapter, American Academy of Pediatrics; member of the Florida Medical Association, chairing that body's committee on drug abuse; authored forthcoming book on adolescent drug abuse; and chairman of Committee on School Nutrition of the Florida Medical Association.

These accomplishments are just a few of Dr. Macdonald's many. He has lectured extensively on the subjects of drugs, drinking, adolescence and parenting, to a variety of groups in many different States, and he has written and presented numerous articles and treatese on these subjects.

I am acquainted with Dr. Macdonald, as I have been privileged to have had him testify before my Subcommittee on Alcoholism and Drug Abuse. The subject was "Health and Educational Effects of Marijuana on Youth," and his imput on this topic was judged invaluable by everyone involved. He has previously worked with the National Institute on Drug Abuse, and contributed to that organization's Workgroup on Marijuana Abuse in Adolescence report entitled "Marijuana and Youth: Clinical Observations on Motivation and Learning."

We are honored indeed to have Dr. Macdonald as our newly designated Administrator of the Alcohol, Drug Abuse and Mental Health Administration. His expertise and experience are formidable, his qualifications without question, and I am certain that everyone involved in the very important field of substance abuse looks forward to working with Dr. Macdonald.

Mr. President, I ask that my colleagues join me in welcoming Dr. Macdonald, and in wishing him well in his new position.

EVANSTON HOSPITAL CORP.'S REMARKABLE COST CONTAINMENT RECORD

Mr. PERCY. Mr. President, as we all know, one of the most worrisome problems to all Americans is the rising cost of hospitization. I rise today, therefore, to pay tribute to the Evanston Hospital Corp.'s remarkable cost containment record. The Evanston Hospital Corp. owns and operates the Evanston hospital, a 550-bed teaching hospi-

tal in Evanston, Ill., and the Glenbrook Hospital, a 152-bed medical-surgical hospital in Glenview, Ill. The corporation is a member of the McGaw Medical Center of Northwestern University.

Three years ago the board of directors of this outstanding corporation established a commitment to wage an all-out war against spiraling health care costs and to deliver the best possible medical care at the most reasonable price. The results have been dramatic.

As a result of this program to cut expenses, this institution now has the lowest average case charge of any of the major teaching hospitals in the Chicago metropolitan area. In fact, its average patient charges are in many cases lower than neighboring community hospitals.

In the current fiscal year—ending September 30, 1984—neither the room rates nor 12 other basic charges were increased over the previous year. Possibly a first in the Nation. Furthermore, it is planned that in the fiscal year beginning October 1, 1984, there will be no net increase in patient charges.

The following chart shows how these results compare to other hospitals both locally and nationally:

ANNUAL INCREASE [1] (DECREASE), AVERAGE PATIENT CHARGE

[In percent]

	1982	1983	1984	1985
Chicago metropolitan area hospitals	18.8	[2] 7.7	NA	NA
Hospitals nationally	15.7	10.2	[2] 5.9	NA
Evanston Hospital Corp.	13.8	7.0	(2.0)	[2] 0

[1] Chicago Hospital Council, American Hospital Association and Evanston Hospital Corp. records.
[2] Estimated.

Finally, and certainly a major consideration, while Evanston Hospital Corp. has been cutting away at unnecessary expenses, this has not affected its extremely high patient satisfaction rate, which averages 94 percent. This level of satisfaction can be compared to a recent national study [1] which showed that 24 percent of hospital inpatients throughout the Nation were so dissatisfied with the care they had received that they would not return to that hospital.

[1] Hospitals magazine, July 1, 1984.

CHICAGO BUSINESSES LAUNCH CARIBBEAN PROGRAM

Mr. PERCY. Mr. President, one of the major foreign policy programs of the Reagan administration has been the Caribbean Basin Initiative.

Congress has debated the program for several years and the major parts of the President's program are now in place, covering trade and aid. When the President identified the Caribbean countries for special attention, he was acknowledging the vital importance they play in our own national security and economic well-being.

Sometimes in Washington, officials question how interested the public is in foreign policy and overseas programs like the Caribbean Basin Initiative.

I am pleased to report to the Senate that at least in Chicago, there is overwhelming support for the CBI and the President's overall program among the business community.

In October 1982, the Agency for International Development awarded the Chicago Association of Commerce and Industry—the largest chamber of commerce in the country—a grant to launch a private sector Caribbean Basin Program. The concept behind this grant was that the private sector might be able to accomplish more in trade and economic growth in the Caribbean than mere Federal Government projects.

I have just received a report from CACI about the progress they have made in their two pilot countries: The Dominican Republic and Costa Rica. The Caribbean Basin Promotion Center in Chicago has moved aggressively to fulfill its pledge to show what American business can do in the region.

Mr. President, I ask unanimous consent that the report of the Chicago Association of Commerce and Industry be placed in the RECORD at the close of my remarks.

I urge my colleagues to read this concise report, that points out that CACI has already generated $6 million in sales for Dominican Republic exporters and $16 million in new investments in that country. These are enormous accomplishments in only a year's operation and certainly are in line with the President's program.

AID knew that by coming to Illinois, it was dealing with a professional organization, CACI. Illinois is the third largest exporting State in the country. Exporting is not a luxury in my home State, but a way of life. Illinois business and labor know that it means bread and butter. CACI's leadership—Clayton Yeutter and Sam Mitchell—have proven the ability of the private sector to generate economic growth. I am proud of these executives and the others in Chicago that have made this promise a reality. The Nation owes them their gratitude.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY (CACI) CARIBBEAN BASIN PROMOTION CENTER (CBPC)

FIRST YEAR ACCOMPLISHMENTS

In October, 1982, the Agency for International Development (AID) entered into a Cooperative Agreement with the Chicago Association of Commerce and Industry (CACI) to create a special staff unit at the Association dedicated to the promotion of Caribbean investment and trade opportunities in Chicago and throughout the Midwest. After a three-month start-up period, this special unit, called the Caribbean Basin Promotion Center (CBPC), began operating in January of 1983.

The Chicago Association, which is the largest regional Chamber of Commerce in the United States, accepted businesslike, "bottom line" targets for its activities. Specifically, it agreed to discuss and negotiate $20 million in investments and to develop trade opportunities for six new products in the Chicago area in its first eighteen months of operations. Although that time period has not yet elapsed and although, at AID's request, CACI focused its efforts exclusively on the Dominican Republic until late November 1983, these targets are well in sight and are in the process of being met. Specifically:

Six million in actual sales activity has been generated in Chicago for Dominican Republic exporters. These sales are in jeans, parochial school uniforms, fruits, vegetables, cigars, rum, furniture and electronic components, CACI expects many of these sales to be repeated and many more are "in the pipeline".

Contracts have been negotiated by Chicago firms for over $16 million in new investment in the Dominican Republic. The CBPC staff has played an instrumental role in bringing these contracts to signature. Another $8 million in specific investment deals for the Dominican Republic are presently being promoted.

The CBPC staff is encouraged by the investment and trade prospects it has developed for Costa Rica now that AID has approved its starting operations there. The Center expects that its promotional activities will produce even greater dividends—and in shorter period of time—in that country.

A professional approach

The CBPC has achieved tangible objectives due to the professional and businesslike approach of its staff.

Its efforts to promote investments have involved (1) the preparation of economic data and risk analysis, (2) the sponsorship of an investment seminar which attracted over 300 Chicago area business executives, and (3) numerous investment missions to the Dominican Republic on which companies such as Digital Equipment Corporation, Wilson Sporting Goods and the Hilton hotel chain have been represented.

In promoting trade the CBPC has "pounded the pavements" of chicago in order to describe the benefits of doing business with Caribbean countries. The staff has attended 21 trade shows and conferences and is now pursuing 150 specific leads for new trade activities. CBPC staff pioneered the highly innovative and successful technique of sponsoring an Export USA workshop in Santo Domingo. In this program, fifteen front line buyers from U.S. companies came to Santo Domingo and spoke to over 600 potential Dominican exporters about the requirements of the U.S. market. Several trade deals were made during the workshop itself.

The CBPC estimates that it served over 2,000 businessmen, both Caribbean and U.S., during its first year.

The Center's trade and investment promotion activities are buttressed by an extensive outreach efforts through publications and other public information media. The Center

has made 70,000 mailings to Midwest executives about opportunities in the Caribbean. It has issued 24 press releases and its staff have appeared on radio and television popularizing the idea of doing business in the Caribbean.

Collaborative activities

The Caribbean Basin Promotion Center believes in close working relationships with other groups and institutions pursuing similar objectives. It has become a Chicago or Midwestern, private sector "window" for the Overseas Private Investment Council (OPIC) and has worked successfully with several U.S. firms in obtaining OPIC approval of grants for feasibility studies. The Center actually assists its clients to apply to OPIC.

Center staff have participated in seminars sponsored by the U.S. Department of Commerce in Chicago, Indianapolis, Milwaukee and Cincinatti. It has assisted the International Executive Service Corps to recruit volunteers for critical business development tasks in its client countries.

Most importantly, the Center has fostered collaborative working relationships with the governments and private sectors of the Dominican Republic and Costa Rica. It has learned about—and brought to the attention of business executives throughout the midwest—the tremendous potential which Caribbean countries have for prosperous, democratic development as business partners of the United States. And that, after all, is what the Caribbean Basin Initiative of the Reagan Administration is all about.

HEROISM, PATRIOTISM CROSS RACIAL LINES

Mr. PERCY. Mr. President, occasionally all of us have to be reminded of what we should assume is already well known, but is not. I'm speaking about the uncelebrated and almost forgotten contributions of black American military men who fought and died valiantly in America's wars. Racial discrimination was widespread and institutionalized, yet these brave men still gave to their country what any person can only offer—their lives. Congress and the American people should recognize their contributions in times of war and peace.

It is in this spirit that I submit for inclusion into the RECORD a recent column by Vernon Jarrett that appeared in the May 30 Chicago Sun-Times. I strongly recommend its reading by all my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HEROISM, PATRIOTISM CROSS RACIAL LINES

(By Vernon Jarrett)

This is a post-Memorial Day column I shouldn't have to write.

If the public, parochial and independent school systems of America, along with the media, had done their jobs, such a column about the war-time contributions of a particular racial group would be superfluous. But, as I discovered over the Memorial Day weekend, ignorance is tragically pervasive about the contributions of blacks in *all* of America's great wars.

It saddens me when I meet young blacks who are amazed to learn that their ancestors may have been among the thousands of slaves and freedmen who fought in the Revolutionary War.

I don't know how much difference it really makes in the minds and hearts or conduct of individuals toward their fellow men when they learn of the heroism of other racial or ethnic groups. The record shows only a few slave owners were willing to end slavery after they witnessed the courage and sacrifices of blacks during the Revolutionary War and the War of 1812.

By the same token, there was no great thrust for an end to racism in the North after black servicemen showed their valor in one battle after another during the Civil War. And the answer is not positive when one attempts to measure the duration of Theodore Roosevelt's respect for black soldiers who fought heroically with him during the Spanish-American War.

No better examples of the capacity of men to ignore or forget the gallantry of others are the violent racial explosions that followed World War I, and the riots that occurred when black industrial workers were moved to better jobs and homes during World War II.

Yet the truth deserves to be printed and repeated if for no other reason than it is truth. Thus this short look at one ignored facet of history that is rarely considered on Memorial Day:

An estimated 5,000 blacks fought in the Revolutionary War. The records show that they fought at Lexington, Concord, the battle of Bunker Hill, Brandywine, Fort Griswold, Eutaw Springs, Fort Ticonderoga, Red Bank, Stony Point, Saratoga, Trenton, Monmouth, Savannah, Valley Forge, to mention a few.

In the War of 1812 blacks won praise for gallantry in the battle of Lake Erie. Several black sailors were cited for barvery by none other than the Navy's Oliver H. Perry. After the battle of New Orleans, in which black soldiers "manifested great bravery" in helping save the city, Gen. Andrew Jackson said this in a letter to the governor of Louisiana:

"They must be either for us, or against us. Distrust them and you make them your enemies; place confidence in them, and you engage them by every dear and honorable tie to the interest of the country [which] extends to them equal rights and privileges with white men."

The latter Jackson recommendation wasn't acted upon. But blacks fought and died just the same.

In the Civil War an estimated 186,000 blacks joined the union army, and 30,000 black sailors, one-fourth of all enlisted men, were in the Union navy. Black troops fought in more than 250 engagements and the heroism of black soldiers is legend. More than 38,000 black troops lost their lives, but not before 21 blacks had won the Medal of Honor.

Why this excursion into the annuals of long-forgotten wars?

Simply because citizenship is being awarded every year to new Americans who will be taught—as have others—that their first act of Americanism is to feel superior to blacks "who have contributed nothing to America." And there is the black teenager I met over the weekend who thought "only white folks" fought in the Civil War.

FRESNO, CA

Mr. CRANSTON. Mr. President, yesterday the Washington Post in its outlook section ran a feature article on Fresno, CA. Fresno has attained a certain notoriety recently because of a study which placed it last among preferred cities in the Nation. It is beyond credulity that any California city should be so classified, but in Fresno's case it is particularly outrageous as yesterday's article superbly demonstrated. As anyone who has read William Saroyan's tales from his youth knows, Fresno is unique. The author of the Post article, DeWayne Rail, a young poet who lives in Fresno, catches what is wonderful about Fresno as well as Saroyan did, and while he's at it, makes us know how Saroyan is part of the essence of Fresno. It is all about how dust and heat and tule fog and ditches and fig gardens and vineyards and boys on bicycles can give a city a vitality, a character, and even a soul that no social statistician can define, much less understand.

I commend it to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 9, 1984]

YOU WON'T SEE THE FRESNO I KNOW FROM HIGHWAY 99

(By DeWayne Rail)

The other day, after reading for the dozenth time that Fresno, Calif., was number 277 on somebody's list of preferred places to live, I had a sudden, vivid memory of the last time I saw William Saroyan. Along with the raisins and figs that grow in abundance in the surrounding fields, Saroyan was one of Fresno's most famous natural resources—a writer who used the material of his Armenian family and his small-town boyhood to launch a literary career that included a Pulitzer Prize for his play "The Time of Your Life."

I saw him only a few times in the 25 years I have lived in Fresno, but each time seemed special and meaningful in a way I can't quite name. Maybe it's that my memories and thoughts about my home town are bound up in, and only half-distinguishable from, the things Saroyan wrote about it. Or maybe it's even simpler: my memories of the man are memories of the place.

My last encounter with him occurred only a year or so before his death in 1981. I was turning left off Ashlan Avenue into the parking lot of a busy supermarket. Suddenly there he was up ahead of me, cutting through the intersection on his bicycle, riding with no hands because his arms were full of oranges, his brown felt hat pushed back on his head and a go-to-hell grin on his face.

Later, when I told the story to friends, I always said they were stolen oranges. This is the man who wrote in "The Bicycle Rider in Beverly Hills," "Every day was an adventure, a new chance to draw nearer to that great state of health which approximates immortality, when the senses are so finely alive."

There is no way I could have known the oranges were stolen. I said it from instinct, partly because they would have been stolen if he had been a character in one of his own stories and partly because I think Saroyan,

would have preferred to have the story told that way.

Too, I told it that way because I know Saroyan's home town. Fresno may be one of the few cities left in the United States where a 12-year-old boy just turned 70 could swoop up some oranges from a neglected orchard behind a shopping center, jump on his bicycle and ride swiftly to his home in a modern subdivision a few blocks away.

I should make it clear from the beginning that the Fresno I know is not the one a motorist sees speeding down Route 99 on the west side of town. If you are a tourist from anyplace else, a Los Angelino, say, driving up California's long, central valley to view the wonders of Yosemite, Fresno may look a lot like the place you just left, with tract homes crowding the freeway and a gasoline smell in the wind. Since the air turned gray back in the '60s, the Sierra Nevada Mountains to the east are no longer visible rising abruptly above the flatness of the San Joaquin Valley.

True, we have trees and vines and vast fields planted to cotton. If you can't identify the crop, signs are there to guide you: nectarines, they say—or plums or rasin grapes. An old farmhouse still rises up here and there, but something—maybe the large metal storage ouildings for farm machinery, or the crop duster spraying malathion insecticide—suggests that these are just remnants, that the small, homey holdings of years back have been sold out to conglomerates and that agriculture has become agribusiness to an extent unmatched anywhere else in the world.

To this day, I don't believe that half the people here knew who he was, and most of those probably didn't recognize him when they saw him. People who did know him say he owned two tract homes side by side in a middle-class development near Route 99. In one, he lived. In the other, he stored the accumulated odds and ends of his life.

Like Homer Macauley, the telegraph messenger he wrote about in his novel, "The Human Comedy," Saroyan liked to ride a bicycle around town and he liked to ride it fast. Like the Armenian grandfather in many of his stories, he liked to bellow with laughter. Like Aram Garoghlanian, the Armenian boy in "My Name is Aram," he was generally loud and public and funny.

He could be seen almost anytime, anywhere, mostly on his bicycle, sometimes in his Kharman Ghia, on his way to the grocery store, where he would argue half-seriously with the clerks about anything from vegetable prices to politics.

The first time I saw him, I was a boy of 15. He was already famous for his books—and even for a song that was a juke box sensation, "Come On-a My House," which he'd written with a cousin. Just as I was walking out of the new county library on O Street, Saroyan came walking in, handsome, impeccably dressed, his dark hair slicked back and his moustache waxed to an impressive handlebar.

I turned an gawked. Saroyan made a few, swift passes up and down the rows of books, looked intently at the walls, the artwork, the librarians. He looked intently at everything, it seemed to me. Then, abruptly, he left.

No one recognized him but me. I knew him from the picture on the back of one of his books.

I pondered the meaning of this for weeks. Why had he left so quickly? Was he disgusted at the newness of the building, its lack of history? Did he want the library back in its old place?

No. Finally, I realized he was just looking, soaking it all up, the way a writer would. He had wanted something, some feel of the place, and he had gotten it as quickly as that. As an artist, he was, you might say, an expert at taking in impressions. Now, if he needed, he could write about it. Besides, I told myself, new building or not, vagrants still dozed over newspapers in the reading section and kids still came for books.

Years passed before I saw Saroyan again.

In 1970, back from college and all grown up, I thought, I was introduced. The occasion was a group photograph of Fresno writers for an upcoming book. The place was the old Santa Fe train station just east of downtown.

Unexpectedly, Saroyan turned to me and complimented me for one of my poems. Flustered in his presence, I couldn't remember the poem he said he liked. I told him I hadn't written it, but thanks. As he walked off, I rememberd my poem that he had referred to—too late.

That day I was treated to Saroyan being Saroyan right there in our home town, at the Sante Fe depot that had been there when he was a kid, close by the Santa Fe Hotel frequented then and before by Basque shepherds who tended sheep on large ranches in the surrounding hills.

Saroyan declaimed loudly to everyone the merits of photographs, the beauty of certain poses. He made elaborate arrangements of us, suggesting this grouping, then that, until finally he denied the merits of all his own ideas with a sad look and the comment: "It will never work."

In desperation, we took a standard shot of all of us to grace the cover of our book, 20 some-odd poets and Saroyan, sitting and standing on the depot steps, staring straight at the photographer.

Thirty-five years after Saroyan was a boy here, I was a boy here, in the middle '50s. Things had changed some from his youth, but not much. The town was basically agricultural, being surrounded on all sides by enormous grape vineyards, fruit orchards and cotton fields. Nothing could change the landscape, flat as a pancake, and you could still see the purple, snow-capped Sierras every day, not just when rain cleared the air.

Neither could anything change the ethnic makeup of the place. Fresno's Armenian population was still large, though many of the poor immigrants of Saroyan's youth had become prosperous farmers and businessmen. Their place in Fresno society had been taken by poor immigrants from Oklahoma and Texas and Arkansas who had come out to work in the crops.

My family was among these. We lived in a not very popular section of town known as "Little Oklahoma" near the county fairgrounds on Ventura Street.

To the west and south were Fresno's considerable colonies of blacks and Mexicans, and way to the west, near Kerman, were the Russians, famous for their strange costumes and a church which allowed none of its members to carry outsiders.

Much of Saroyan's old Fresno was still there in the '50s. The Fresno County Courthouse had brooded over the town before Saroyan was born. Other buildings had gone up during his youth. In the '50s, even the movie theaters remained: the White, Hardy's, the Sequoia, the Fox Wilson.

These had been there during Saroyan's growing-up years, some under different names. Some had gone down, of course, and new ones had been built in their places, but the experience of a Saturday afternoon trip to the movies was much the same as Saroyan had described it.

Some of my favorite memories of growing up here are going downtown to those places with my friends.

Once, three of us had managed to scrape movie and bus fare from our parents. We rode the bus downtown and walked to the Crest, an ornate and palatial affair constructed during the '40s, but close to the theaters Saroyan had frequented when he was a kid. I don't remember the movie, but I recall how I loved to sit in that place, with its velvet curtains and high balconies, with its elaborate scrollwork on the walls, flooded with blue and gold lights. We walked home, a distance of several miles, so we could spend the bus fare on candy.

The candy I have also forgotten, but I remember the walk home, east on Fresno Street, past the old, domed courthouse, past the Farmer's Market to Tulare Street, then up Tulare with the streetcar tracks still there in the asphalt, past Uncle Tom's Cabin, a liquor store, where, it was said, "girlie" magazines were sold under the counter. Then we passed Federal Fruit Distributors, went south on Cedar at Roosevelt High School to Ventura and passed the county fairgrounds before reaching home.

Thirty years later, my own children are growing up in Fresno. The city still has, in someone's vocabulary, a Chinatown, a Germantown, a Little Italy. Many of the old downtown buildings are there even now—the Rowell building, the Helm building, the Hotel Californian. And even today, several of the old movie theaters remain. The only things that's changed about the boys who frequent them is that they are mostly Mexican and their language is Spanish.

What amazes me when I think about it is that behind the makeup of mansard roofs and adobe fronts, despite middle-age spread brought on by the influx of refugees from Los Angeles, under the major surgery of regional shopping centers and Holiday Inns, Fresno has remained basically what it always was. A farm town, yes, but a nice one, large, but with a small-town atmosphere.

Oddly enough, I live only a little further from the corner of Fulton and Tulare Streets than I did in 1954. Forever, that will be what I think of as "downtown." I can be there in 12 minutes by Toyota pickup.

Granted, 30 minutes in the opposite direction would have me on the land of mega-agriculture, where farmers check their acreages from airplanes and mysterious pieces of machinery loom as large as my house.

In the semirural area where I live, on Fresno's farwest side, we are protected by a zoning law called "the two-acre limitation." This means that land can't be broken down into smaller parcels. None of us feels particularly secure about it. Experience tells us that suburban land developers always get what they want. We can feel their lusty glances as the latest bunch of houses goes up less than half a mile away.

Still, across the street from me is a 40-acre fig orchard, carefully tended by the Japanese family who own it. My children sometimes run around out there, barefoot. If they wanted, I suppose they could find an irrigation ditch to play in. Swimming in ditches remains an edge-of-town pastime. It's illegal and it was always dangerous, but Saroyan swam in ditches, and I did, and somehow I am encouraged by the thought of it.

The ethnic makeup of our town remains diverse. Some groups have been absorbed, but others have taken their place. Hmong and Vietnamese can now be heard here almost anyplace; German, less and less. We remain a huge support system for agriculture. In spite of mechanization, most farms still require field hands; and, labor laws or not, children work with their parents.

I don't mean to make Fresno sound too pastoral, like America's last rural holdout. It's not. We have all the trouble, and some of the advantages, the big cities have to offer. You want dope, we've got dope. You want murder, we've got that. High fashion—well, maybe.

If cities could be compared to boxers, Fresno would be a middleweight. Weighing in at 280,000 population, with many more just outside the city limits, we have to be considered large, if not the largest.

But, in spite of everything, I feel sure the Fresno Saroyan wrote about is still here, the kind of childhood he experienced is still possible, is in fact still happening just beyond an adult's ability to perceive it. Saroyan once wrote about his hometown that it was an "ugly little city containing the large comic world," and that it was "as good a town as any to be born into." This probably hasn't changed either.

My children got to meet him once. They weren't introduced. They just happened to wander into a branch library in the north part of town just as he was going out.

"Why, there you are," he declared, not knowing them from Adam. "Look how much you've grown. Why," he shouted. "I've known you since you were no bigger than that."

My son 4 at the time, and he had a lot more poise than I ever did. He looked at the six inches or so Saroyan was measuring with his hands. "I never was that little," he said, and walked on leaving William Saroyan to bellow with laughter and take off on his bicycle, riding with no hands.

SOVIET GRAIN PURCHASES

Mr. PRESSLER. Mr. President, today I formally requested the administration to increase the amount of grain that the Soviet Union may purchase without prior consultations. Due to a poor harvest this year, the Soviets have been purchasing U.S. grain at a near-record pace. These heavy purchases have put the Soviets at their limit of 8 million metric tons for corn during the 1984–85 marketing year.

In the past, during regular consultations, the United States has always increased the ceiling levels for the Soviet Union—but never before have the Soviets reached the ceiling so early. If we fail to increase the ceiling until the regular consultation meeting in November, the American farmer might well lose some export sales to the Soviet Union. The already hard-pressed American farmer can ill afford to lose any export opportunities. For this reason, I urge my Senate colleagues to join me in requesting the President to increase the Soviet grain purchase ceilings immediately.

I ask unanimous consent that the text of my letter to the President be printed in the RECORD as if read.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 10, 1984.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you know, the Soviet Union has experienced another poor crop this year and they are purchasing U.S. grain at a near-record pace. As a result of the large purchases of corn for delivery next year, the Soviet Union has nearly reached the eight million metric ton limit for corn purchases established in the long-term grain agreement signed last year.

Unless the ceiling on corn purchases is increased, the Soviet Union will be unable to buy more than 600,000 metric tons more. In effect, if the ceiling is not raised, a type of embargo would be imposed on Soviet corn purchases. If that limit is reached, it might well force the Soviet Union to turn to other countries or to other commodities to meet their import needs. If this occurs, the American farmer will once again lose a share of the Soviet market.

For these reasons, I urge you to use your authority to increase the amount of grain the Soviet Union can purchase without prior consultations, from the present 12 million metric tons in the in 1984–1985 marketing year to at least 20 million metric tons. This would allow the Soviets to purchase as much U.S. grain next year as they need. As you know, we are constantly working to reverse the damage done by the 1980 grain embargo—both internationally and domestically. We must do everything possible to put this problem behind us, and raising the grain export limit would be an important step in that direction.

Thank you for your consideration of this important matter. I hope action on this issue can be taken immediately.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3703. A communication from the District of Columbia Auditor, transmitting pursuant to law, a report entitled "Review of Minority Contracting in the Department of Transportation"; to the Committee on Governmental Affairs.

EC-3704. A communication from the Inspector General of the Office of the Secretary of Transportation transmitting, pursuant to law, a copy of the DOT's matching program report; to the Committee on Governmental Affairs.

EC-3705. A communication from the plan administrator of the Production Credit Associations' retirement plan of the Farm Credit Banks of New Orleans transmitting, pursuant to law, a copy of the annual pension plan report for the plan year ending December 31, 1983; to the Committee on Governmental Affairs.

EC-3706. A communication from the chief judge of the Ninth Circuit of the United States Court of Appeals transmitting, pursuant to law, the Second Biennial Report of the Judicial Council and the Court of Appeals of the Ninth Circuit; to the Committee on the Judiciary.

EC-3707. A communication from the Chairman of the Board of Directors of the Pension Benefit Guaranty Corporation transmitting, pursuant to law, the ninth annual report of the Pension Benefit Guaranty Corporation; to the Committee on Labor and Human Resources.

EC-3708. A communication from the Secretary of the U.S. Department of Education transmitting, pursuant to law, a copy of the document entitled "Final Regulations for Incentive Grant Program;" to the Committee on Labor and Human Resources.

EC-3709. A communication from the Secretary of the Department of Education transmitting, pursuant to law, a copy of a document entitled "Institute of Museum Services;" to the Committee on Labor and Human Resources.

EC-3710. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, proposed regulations pertaining to the administration of the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act; to the Committee on Rules and Administration.

EC-3711. A communication from the Administrator of Veterans' Affairs transmitting a draft of proposed legislation to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of graduate and student nurse technicians; to the Committee on Veterans' Affairs.

EC-3712. A communication from the Deputy Assistant Secretary of the Air Force (Logistics and Communications) transmitting, pursuant to law, a report advising that the Air Force plans to study conversion from in-house operation to commercial contract of certain activities; to the Committee on Armed Services.

EC-3713. A communication from the Assistant Secretary of the Treasury (Legislative Affairs) transmitting, pursuant to law, a report for 1983 on fishery allocations, permits, and foreign import barriers; to the Committee on Commerce, Science, and Transportation.

EC-3714. A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, a report notifying the Senate that the Commission and the parties to Formal Docket No. 39002, *Utility Fuels, Inc.* v. *Burlington Northern Railroad Company, Fort Worth and Denver*

Railway Company, and Atchison, Topeka and Santa Fe Railway Company, have been unable to complete the evidentiary record in this proceeding within the time periods specified; to the Committee on Commerce, Science, and Transportation.

EC-3715. A communication from the Federal Communications Commission transmitting, pursuant to law, a report on a petition for leave to amend filed July 13, 1984, by WCCO Radio, Inc. and oppositions filed July 24, 1984, by the city of New York Municipal Broadcasting System (WNYC) and the Mass Media Bureau; to the Committee on Commerce, Science, and Transportation.

EC-3716. A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, notification that the Commission is unable to render a printed final decision in Finance Docket No. 30300, CSX Corporation—Control—American—American Commercial Lines, Inc., by August 28, 1984; to the Committee on Commerce, Science, and Transportation.

EC-3717. A communication from the Comptroller General of the United States transmitting, pursuant to law, the opinion of the Comptroller General on the Pennsylvania Avenue Development Corporation's financial statements for the year ended September 30, 1983; to the Committee on Energy and Natural Resources.

EC-3718. A communication from the Secretary of Transportation transmitting, pursuant to law, the fifth annual report on administration of the offshore oil pollution compensation fund; to the Committee on Energy and Natural Resources.

EC-3719. A communication from the Acting Secretary of the Interior transmitting, pursuant to law, a notice on leasing systems for the North Atlantic Sale 82, to be held in September 1984; to the Committee on Energy and Natural Resources.

EC-3720. A communication from the Chief of the Forest Service, U.S. Department of Agriculture transmitting, pursuant to law, a copy of the document entitled the "Skagit River National Wild and Scenic River Plan (Volumes I and II)"; to the Committee on Energy and Natural Resources.

EC-3721. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the St. Lawrence Seaway Development Corporation's financial statements for the year ended December 31, 1983; to the Committee on Environment and Public Works.

EC-3722. A communication from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to August 22, 1984; to the Committee on Foreign Relations.

EC-3723. A communication from the Chief of the Washington Office of the Army and Air Force Exchange Service transmitting, pursuant to law, the 1983 report on the condition of its pension plans; to the Committee on Governmental Affairs.

EC-3724. A communication from the Secretary to the D.C. Council transmitting, pursuant to law, a copy of Council Resolution 5-734; to the Committee on Governmental Affairs.

EC-3725. A communication from the Secretary to the D.C. Council transmitting, pursuant to law, a copy of Council Resolution 5-773; to the Committee on Governmental Affairs.

EC-3726. A communication from the Director of the National Oceanic and Atmospheric Administration transmitting, pursuant to law, a copy of the 1983 NOAA pension plan; to the Committee on Governmental Affairs.

EC-3727. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Implementation of the Federal Managers' Financial Integrity Act: First Year"; to the Committee on Governmental Affairs.

EC-3728. A communication from the Acting Commissioner of Social Security transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3729. A communication from the Deputy Chief of Staff for Installations and Logistics, transmitting, pursuant to law, the 1983 annual report on the Marine Corps Pension Plan; to the Committee on Governmental Affairs.

EC-3730. A communication from the Administrator of the Office of Management and Budget transmitting, pursuant to law, a report on the procurement actions of the Department of Defense for 1 week in 1983; to the Committee on Governmental Affairs.

EC-3731. A communication from the Acting Director of the National Science Foundation transmitting, pursuant to law, the fiscal year 1982 report on Federal support to universities, colleges, and selected nonprofit institutions; to the Committee on Labor and Human Resources.

EC-3732. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, a copy of its fiscal year 1986 budget request; to the Committee on Rules and Administration.

EC-3733. A communication from the President of the United States transmitting a draft of proposed legislation entitled "President's Emergency Food Assistance Act of 1984"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3734. A communication from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend section 303 of the act of October 14, 1980; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3735. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a summary of the budget submitted to the Congress for 1985; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-3736. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on one new deferral of budget authority and six revisions to previous deferrals; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Energy and Natural Resources, and the Committee on Labor and Human Resources.

EC-3737. A communication from the Assistant Secretary of the Army for Manpower and Reserve Affairs, transmitting a draft of proposed legislation to increase the number of Deputy Chiefs of Staff for the Army; to the Committee on Armed Services.

EC-3738. A communication from the Assistant Secretary of the Air Force for Manpower, Reserve Affairs, and Installations transmitting a draft of proposed legislation to provide more equitable treatment for surviving spouses of certain commissioned officers of the Armed Forces; to the Committee on Armed Services.

EC-3739. A communication from the Assistant Attorney General of the United States for Antitrust transmitting, pursuant to law, a study of agreements between Government and private industry under the Defense Production Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-3740. A communication from the Acting Assistant Secretary of the Army for Civil Works transmitting a draft of proposed legislation to authorize the Secretary of the Army to undertake further engineering and design of water projects after submission of project to Congress; to the Committee on Environment and Public Works.

EC-3741. A communication from the Acting Assistant Secretary of the Army for Civil Works transmitting a draft of proposed legislation to increase the authorization for rehabilitation of the Illinois-Mississippi Canal; to the Committee on Environment and Public Works.

EC-3742. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "States Use Several Strategies To Cope With Funding Reductions Under Social Services Block Grant"; to the Committee on Finance.

EC-3743. A communication from the U.S. Trade Representative transmitting, pursuant to law, the 1983 East-West Trade Report; to the Committee on Finance.

EC-3744. A communication from the Assistant Secretary of State for Legislative and Intergovernmental Affairs transmitting, pursuant to law, a report on the allocation and obligation of funds appropriated for El Salvador; to the Committee on Foreign Relations.

EC-3745. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "U.S. and Soviet Bloc Training of Latin American and Caribbean Students: Considerations in Developing Future U.S. Programs"; to the Committee on Foreign Relations.

EC-3746. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to convert numerous functions at various installations to performance under contract; to the Committee on Armed Services.

EC-3747. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to provide for involuntary separation or retirement of commissioned officers of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

EC-3748. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Royalty Management Program, Department of the Interior, transmitting, pursuant to law, a report on refunds of offshore lease revenues to Mobil Oil and Texaco; to the Committee on Energy and Natural Resources.

EC-3749. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States within the 60 days previous to August 29, 1984; to the Committee on Foreign Relations.

EC-3750. A communication from the Chairman of the Securities and Exchange Commission transmitting pursuant to law, the Commission's 1983 Government in the

Sunshine report; to the Committee on Governmental Affairs.

EC-3751. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on programs established under title 5 of the Indian Health Care Improvement Act; to the Select Committee on Indian Affairs.

EC-3752. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the 1983 report on children in foster care under voluntary placement agreements; to the Committee on Labor and Human Resources.

EC-3753. A communication from the Chief Immigration Judge, Department of Justice, transmitting, pursuant to law, a report on grants of suspension of deportation under sections 244(a)(1) and (2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3754. A communication from the President of the United States transmitting, pursuant to law, the fiscal year 1984 budget supplemental of the District of Columbia; to the Committee on Appropriations.

EC-3755. A communication from the Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a secret report on supplemental contract award dates for September and October 1984; to the Committee on Armed Services.

EC-3756. A communication from the Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter April 1–June 30, 1984; to the Committee on Armed Services.

EC-3757. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report on housing and revitalization activities undertaken by local governments; to the Committee on Banking, Housing, and Urban Affairs.

EC-3758. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, the quarterly report on HUD-owned multifamily project negotiated sales; to the Committee on Banking, Housing, and Urban Affairs.

EC-3759. A communication from the President and Chairman of the Export-Import Bank transmitting pursuant to law, a report on loan, guarantee, and insurance transactions with Communist countries during July 1984; to the Committee on Banking, Housing, and Urban Affairs.

EC-3760. A communication from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, the Board's 1986 OMB budget submission; to the Committee on Commerce, Science, and Transportation.

EC-3761. A communication from the Assistant Secretary of the Interior for Water and Science transmitting, pursuant to law, the final report/environmental statement on the Anderson Ranch powerplant, third unit, Boise project, Idaho; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 1935) to establish an interagency committee and a technical study group on cigarette safety (Rept. No. 98-597).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GOLDWATER:

S. 2975. A bill to amend to Communications Act of 1934 to eliminate willful or malicious interference with communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GOLDWATER:

S. 2976. A bill amending the act of July 28, 1978 (Public Law 95-328) relating to the water rights of the Ak-Chin Indian Community and for other purposes; to the Select Committee on Indian Affairs.

By Mr. HATCH:

S. 2977. A bill to amend the act entitled "An act granting a charter to the General Federation of Women's Clubs."; to the Committee on the Judiciary.

By Mr. DODD:

S. 2978. A bill for the relief of Walter R. McBride of Hartford, CT; to the Committee on Governmental Affairs.

By Mr. SARBANES:

S. 2979. A bill to amend title 5, United States Code to provide that a reduction in force may not be conducted until certain alternative measures have been exhausted; to ensure the cost-effectiveness of those alternative measures and of any measures taken in conducting a reduction in force; to safeguard against unnecessary disruption, productivity loss, and harm to labor-management relations due to a reduction in force; and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 2980. A bill to provide matching grants for the retrofitting and operation of certain surplus vessels used for humanitarian purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PRYOR:

S. 2981. A bill to amend the Internal Revenue Code of 1954 to require that the revenues of any new taxes be used to reduce the Federal deficit, and for other purposes; to the Committee on Finance.

By Mr. SASSER:

S.J. Res. 351. Joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become Big Brothers and Big Sisters to youth in need of adult companionship; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER (for himself, Mr. DURENBERGER, Mr. HATCH, Mr. BINGAMAN, Mr. CHAFEE, Mr. PERCY, Mr. DOMENICI, and Mr. TSONGAS):

S. Res. 439. Resolution to express the sense of the Senate that the Continental Scientific Drilling Program is an important national scientific endeavor, benefitting the commerce of the Nation, which should be vigorously pursued by government and the private sector; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER:

S. 2975. A bill to amend the Communications Act of 1934 to eliminate willful or malicious interference with communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ELIMINATION OF WILLFUL OR MALICIOUS INTERFERENCE WITH COMMUNICATIONS

● Mr. GOLDWATER. Mr. President, today I am introducing a bill to statutorily prohibit willful or malicious interference to radio communications or signals. This bill prohibits such interference by any person and authorizes the FCC to prevent continued interference while proceeding against the perpetrator. The bill clarifies and reaffirms existing law.

Recently the Federal Communications Commission [FCC] has noted a significant increase in the number of complaints concerning willful or malicious interference to radio signals. I have personally listened to some of this malicious interference. Just one individual can prevent effective communications by many other persons wishing to use a channel.

There is only a limited amount of radio spectrum available, so we must ensure that it is wisely used in the public interest. Unfortunately this errant behavior is increasingly preventing such use in a number of different services. Sometimes the objectionable interference is created by intentionally transmitting on a channel when another station is already using it. At other times whistles, tapes records, or other types of obnoxious noises are transmitted for the sole purpose of interrupting or preventing other uses of the frequency.

All too often this type of interference can be heard on amateur, citizen's band, marine, and other frequencies. But that is not all. This type of interference is appearing on frequencies used by private land mobile services, public safety services such as police and fire departments, and Government communications networks such as those of the Federal Aviation Administration and the Department of Defense.

The increase in willful interference to authorized communications simply must be stopped in order to ensure the reliability of the authorized public interest and safety uses of the radio spectrum.

The purposes of this bill are to clarify that such activities are absolutely prohibited, to provide mechanisms by which such interference can be stopped in a timely fashion, and to authorize significant penalties for such behavior. If this proves insufficient, I am prepared to introduce even tougher legislation to further increase the penalties for violation and include, for

example, mandatory disqualification of those convicted from being licensees in the future. But I sincerely hope and expect that the provisions of this bill will be sufficient to significantly reduce if not eliminate this type of interference.

Section 303(m)(1)(E) of the Communications Act prohibits FCC licensees from causing willful or malicious interference. The FCC also has promulgated regulations which specifically prohibit willful or malicious interference by commercial, amateur, and citizen band radio operators (47 C.F.R. §§ 13.69, 95.413(a)(3), 97.125 [1982]). The language of this bill tracks that of these provisions and is, I think, clear. Willful or malicious interference includes the type of interference to which I have just referred and which is illustrated by the following FCC decisions, which are based upon the above regulations.

First. Transmissions, including those of unmodulated carriers, recorded material, music, and threats, made directly over the ongoing transmissions of other operators, *Harold R. Claypoole,* 95 FCC 2d 331 (1983).

Second. Long, continuous transmissions of computer voice synthesized audio signal or ticking clock on a frequency known by defendant to be that used as a repeater input frequency without monitoring the repeater output frequency to determine whether others were using it, without regard to requests that a different frequency be used for defendant's "tests," and transmissions initiated when others were on the frequency, *Henry C. Armstrong, III,* 92 FCC 2d 485 (1983).

Third. Initiation of transmissions when others were already using the frequency, including changes in frequency which coincided with changes made by parties attempting to evade the interference, *Kenneth L. Gilbert,* 92 FCC 2d 126 (1982).

Fourth. Whistling on frequency for long period of time for jamming purposes, *Donald E. Miller,* 69 FCC 2d 1740 (1978).

These cases illustrate examples of the type of purposeful interference which this bill prohibits. By citing them I do not intend to limit the definition of the bill's terms to the activities described in these examples, but rather, to explain the type of behavior to which the bill is addressed.

The term "radio communication" as used in this bill is intended to be liberally construed within the definition presently set forth at section 153(b) of the Communications Act. The term there is defined and I intend it to encompass all signals. The bill's prohibition applies to interference with any authorized use of the radio spectrum, including noncommunicative uses, such as authorized radar signals. "Signals" and "communication" are not to be narrowly construed as they have in State court cases such as *People* v. *Faude,* 388 N.Y.S. 2d 562 (1976) and *People* v. *Moore,* 401 N.Y.S. 2d 440 (1978).

Interference not directly caused by transmission on the frequency of interference, using normal bandwidths for the service at issue, is not addressed by this bill. For example, some stereoamplifiers, television sets, and telephones suffer interference when they are near an operating radio transmitter. More often than not the problem is caused by the improper design of the equipment experiencing the interference. The Senate addressed this issue in 1982 when it approved section 108 of Public Law 97-259, which authorizes the FCC to establish minimum performance standards for home electronic equipment and systems to reduce their susceptibility to radiofrequency energy.

This bill is not addressed to the same problem, nor are its provisions to be construed as applying to interference caused by susceptibility of equipment to radiofrequency energy. In such cases the interference problem is not caused by or solvable at the transmitter. This bill applies solely to purposeful interference on the frequency caused to be radiated by the violator. Such radiation may include that of the fundamental, harmonic, spurious, or other radiated frequencies.

This bill is desirable because the present law is not comprehensive or clear. Although section 303(m)(1)(E) of the Communications Act appears to prohibit willful or malicious interference, it may apply only to FCC licensees and only authorize suspension of an operator's license. Such interference is also prohibited by article 18 the International Radio Regulations Treaty, annexed to the International Telecommunications Convention, which the United States just ratified in its latest version last October.

Therefore my introduction of this bill is not to be interpreted as evidence that such activities are not now prohibited under both domestic and international law. The purpose of this bill simply is to clarify and strengthen the applicable law because even a little uncertainty inhibits the desirable protective effect of a clear prohibition.

Section 1362 of title 18 of the United States Code prohibits interference with facilities owned or operated by the United States. It is my intention that this bill also apply in any case of willful or malicious interference with the communications of Government facilities. Often FCC assistance is requested to investigate such interference. This bill would provide a stronger basis for the Commission to investigate such incidents and seek prosecution by the U.S. attorney based upon violation of both the Criminal Code and the Communications Act.

Mr. President, I think that enactment of this bill also would substantially assist the Commission in curtailing willful and malicious interference by elevating such activity to a criminal offense pursuant to section 501 of the Communications Act. This section provides for both a fine of up to $10,000 and imprisonment for up to 1 year for a first offense and the same fine and up to 2 years imprisonment for repeated offenses. Presently section 502, which makes violations of the Commission's regulations or treaty provisions a crime, only provides a maximum penalty of $500 and no imprisonment. Thus amending the act to statutorily prohibit willful or malicious interference substantially increases the penalties for such actions. It also allows the Commission to initially seek immediate criminal prosecution of such violations by the U.S. attorney without the necessity of first completing administrative proceedings.

Section 1 of the bill is merely a technical amendment to correct a section number of the Communications Act. It would renumber one of two identically-numbered sections passed 2 years ago.

Section 3 of the bill provides a mechanism for ending willful or malicious interference in extreme cases. The length and complexity of administrative and judicial proceedings all too often have not provided an adequate and timely remedy for immediately ending specific instances of serious malicious interference. The FCC tells me that too often a perpetrator continues causing interference even while proceedings are in progress.

Therefore section 3 of the bill authorizes the United States to seize equipment the use of which is capable of causing the subject willful and malicious interference in those cases where the owner or operator, having received written notice that the equipment appears to be operated in a manner which violates proposed section 333 and is requested to cease from the objectionable acts, fails to comply with such request and the subject interference continues. The bill ties in with provisions of the existing law which mandate that a search warrant be obtained by proper judicial process before any seizure can occur, even in these extremely flagrant situations.

This bill accomplishes this purpose by amending section 510 of the Communications Act, which was enacted by section 125 of Public Law 97-259 in 1982. As explained in the conference report on that law, section 510 presently authorizes the Attorney General to seize and retain radio equipment used in violation of section 301 or section 302a of the act—which principally deal with unlicensed operation of equipment and equipment that be-

cause of its construction may cause or result in interference.

This bill extends section 510 authority to seizure of equipment used for transmitting willful or malicious interference when reasonably necessary to prevent continuance of the interference. This authority is limited to ensure that the seizure authority is used only in those flagrant cases where the operator refuses after specific notice is given, to cooperate in ceasing actions which are causing interference.

Section 510 was passed in 1982 because the Commission had reportedly encountered situations where notwithstanding conviction or judgment against an individual for violating the act, the court returned the equipment to the defendant although the equipment failed to meet FCC mandatory standards or the defendant was not licensed to use it. Section 510 was designed to prevent its continued operation in violation of the act. The purpose of this proposed amendment is the same, to prevent interference and illegal operation, but it applies where the equipment complies with FCC regulatory requirements and the operator is licensed to use it in a legal fashion but instead, the operator persists in using it to cause malicious or willful interference in violation of the act, after having received notice of the detected violation. And, Mr. President, I would repeat that in all cases subsections 510(b)-(d) require warrants to be properly obtained and served by law enforcement officers upon a judgment rendered in the U.S. district court having jurisdiction over the property.

The amendment to section 510 is intended to include within its scope only the actual equipment used to cause the interference or functionally similar thereto. For example, where the station used to violate proposed section 333 consists of a separate transmitter, receiver, and power supply, only the transmitter is subject to seizure where the other two devices by themselves are not capable of emitting the objectionable signal. Other devices commonly connected to the transmitter, such as computers antennae, power meters, and scopes are also excluded, unless it is incidental radiation from any of these devices which is actually causing the interference.

A transceiver with built-in power supply, on the other hand, would be seized because the power supply and receiver are included with the transmitter in one unit. Transmitting amplifiers are also subject to seizure if used or useable to create the alleged interference because they emit radiation, even though they must be driven by a transmitter.

The intent of the amendment proposed to section 510(a) is to authorize seizure of any equipment capable of emitting the interference alleged to violate proposed section 333. Thus if a person is formally accused by the Commission of interfering with the operations of a repeater station, and the interference continues after the person has been notified of the apparent violation of proposed section 333 and is requested to cease causing such interference, and refuses to cease such operation, all equipment capable of being used to transmit on the frequency upon which the interference has occurred may be seized upon compliance with the procedural requirements of section 510.

Lastly, Mr. President, let me say that I hope that word of this legislation, and its passage, will be sufficient to convince those that engage in these objectionable activities to cease doing so. Otherwise I expect the FCC to use these provisions aggressively to eliminate the increasing number of willful or malicious interference problems which are seriously impairing effective communications.

The FCC has informed me that this amendment would not have a significant impact on present or projected Commission budgetary requirements.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. Section 331 of the Communications Act of 1934 as enacted by section 120 of Public Law 97-259 is redesignated as section 332.

SEC. 2. Part I of title III of the Communications Act of 1934 as amended by sec. 1, is amended by adding at the end thereof the following new section:

"WILLFUL OR MALICIOUS INTERFERENCE

"SEC. 333. No person shall willfully or maliciously interfere with or cause interference to any radio communication."

SEC. 3. Section 501(a) of the Communications Act is amended by inserting "(1)" before the word "Any" and adding at the end thereof a new subsection "(2)" as follows:

"(2) Any electronic, electromagnetic, radio frequency, or other device or component thereof within the control of any person accused of violating section 333 of this Act or rules prescribed thereunder, and capable of emitting the radiation alleged to violate such section or rules, may, after written notice of an alleged violation, be seized by the United States when there exists reasonable belief that seizure is necessary to prevent continued willful or malicious interference to any radio communication. Such equipment is subject to forfeiture to the United States if the operator of such equipment is determined to have violated section 333. For purposes of this subsection "reasonable belief" shall be deemed to exist in, but not limited to, instances where continued interference is caused by use of the same or similar equipment by any person after that person has received written notice from the Commission alleging violation of section 333 and requesting that the person cease the actions alleged to constitute violation of such section until a final determination is made."●

By Mr. GOLDWATER:

S. 2976. A bill amending the act of July 28, 1978 (Public Law 95-328) relating to the water rights of the AK-Chin Indian Community and for other purposes; to the Select Committee on Indian Affairs.

WATER RIGHTS OF THE AK-CHIN INDIAN COMMUNITY

● Mr. GOLDWATER. Mr. President, the bill I am introducing today will allow the U.S. Government to fulfill its permanent water delivery obligations to the AK-Chin Indian Community, as authorized by the AK-Chin Water Settlement Act of 1978. The 1978 act called for an interim water supply to begin in 1984 from ground water sources from Federal lands near the reservation; however, because of potential conflicting water rights, prohibitive water developments costs, and insufficient ground water supply, that interim water has never been delivered to the Indian community.

My legislative proposal codifies two agreements in principle between the AK-Chin Indian Community and the Department of the Interior and the Yuma Mesa Irrigation and Drainage District, the Yuma Irrigation District, the North Gila Valley Irrigation District and the Department of the Interior. Mr. President, I would like to have the two agreements printed in the CONGRESSIONAL RECORD at this point in my statement.

There being no objection, the agreements were ordered to be printed in the RECORD, as follows:

AGREEMENT IN PRINCIPLE FOR REVISED AK-CHIN WATER SETTLEMENT

The Department of the Interior and AK-Chin Indian Community have agreed to revisions of the Act of July 28, 1978, (P.L. 95-328), the AK-Chin Water Rights Settlement Act, that will: (i) maintain the integrity of the Act; (ii) serve to stabilize the Community's farm operations; (iii) insure a permanent and high priority source of water to the Community; and (iv) reinforce the viability of the use of negotiations as a vehicle for resolving conflicting water claims between Indians and non-Indians.

This agreement forms the basis for further discussions with the Arizona Congressional delegation, the State of Arizona, the Central Arizona Water Conservation District and other affected entities. The objective of this agreement is to secure legislation which will ratify a revised settlement and provide authorization for appropriations to implement the settlement. The major provisions of the agreement are as follows:

INTERIM WATER

The Department will provide $15 million to satisfy the Community's interim water needs and provide supplemental water beginning in 1988. The Department will seek to provide this funding on a schedule designed to satisfy the Community's needs

and requirements. Payment of this sum will be in lieu of the obligation of the United States to develop a well field on federal lands nearby the Ak-Chin Reservation to meet the emergency water needs of the Community. The Community will determine the most cost-effective means of fulfilling those needs and will have the exclusive determination and responsibility for the use and disposition of that money. The Department will make available the services of the Bureau of Indian Affairs, the Geological Survey and the Bureau of Reclamation to assist the Community.

INTERIM DAMAGES

The Department's full obligation for the interim water supply from 1984 through 1987 will be met once it has provided funding of $15 million, a $3.4 million economic development grant, and $25.3 million in grants for agricultural development and flood protection.

PERMANENT WATER

Initial deliveries of the permanent water supply through CAP facilities will be made no later than 1988 and such delivery shall constitute performance by the Department under the revised agreement. Damages shall be based in that year on the replacement cost of water not delivered up to a limit of 35,000 acre-feet. To the extent that the United States makes available for delivery all or any portion of that water for beneficial use by the Community, damages shall be based on the difference between 35,000 acre-feet and the actual amount of water made available for delivery to the Community. The Department will pay all OM&R costs for the permanent water supply. This water supply will be comprised of Ak-Chin's CAP allocation and supplemental Colorado River water which is senior in priority to CAP. The Department will provide the following quantities of water annually or pay damages for failure to deliver the water:

(a) Dry years—72,000 acre-feet;

The Department will provide a minimum of 72,000 acre-feet of water annually to Ak-Chin in the years in which the shared priorities in the CAP allocations are invoked.

(b) Normal and wet years—75,000 acre-feet;

The Department will provide 75,000 acre-feet of water to Ak-Chin in all years in which shared priority is not invoked.

Upon request by the Community, the Department will deliver up to 85,000 acre-feet in those years in which sufficient water and canal capacity are available to the Secretary to deliver this water.

SANTA ROSA CANAL

The Department will ensure that the water is delivered to the Community at flow rates that will meet the peak water requirements on the Reservation not to exceed 300 cfs.

PERMANENT WATER SUPPLY DAMAGES

The Department will be liable for damages when deliveries of permanent water are less than the amount specified in this agreement. Principles of force majeure will apply to this agreement. For the minimum supply, damages will be equal to replacement cost of water not delivered. In years in which the Community requests additional water, and water and CAP aqueduct capacity are available to the Secretary, damages for failure to deliver the additional water will be equal to the CAP non-Indian agriculture delivery rate plus 20%.

ECONOMIC DEVELOPMENT GRANT

The Department will provide an economic development grant of $3.4 million to the Ak-Chin Community and $25.3 million in agricultural development and flood protection grants.

STATUS OF 1978 ACT

The Department and the Community agree that the Act of July 28, 1978 (P.L. 95-328) and the contract of May 20, 1980, will remain in full force and effect except as provided in the paragraphs on Interim Water and Permanent Water until the provisions of this agreement in principle have been enacted into law and the permanent water supply has been acquired, delivery facilities have been completed, and initial deliveries have been made of the permanent water supply to the reservation.

The Ak-Chin Indian Community and the Department of the Interior hereby agree in principle to this revised proposal and will proceed to pursue its adoption with the appropriate entities.

Ak-Chin Indian Community:
By Leona M. Kakar, Chairman.
LeRoy J. Narcia, Vice Chairman.
Francis J. Antone, Sr., Council Member.
Vera M. Santos, Council Member.
The Department of the Interior:
By James G. Watt, Secretary of the Interior.

AGREEMENT IN PRINCIPLE BETWEEN THE DEPARTMENT OF THE INTERIOR AND THE YUMA MESA IRRIGATION AND DRAINAGE DISTRICT, THE YUMA IRRIGATION DISTRICT AND THE NORTH GILA VALLEY IRRIGATION DISTRICT

The Department of the Interior (hereafter, "The Department") and the above-titled irrigation districts, in order to facilitate the implementation of the obligations of the United States to provide water to the Ak-Chin Indian Community, pursuant to the Act of July 28, 1978 (P.L. 95-328), hereby agree as follows:

1. The Department will support legislation to discharge the districts from all existing obligations to repay costs of construction associated with works to deliver irrigation water from facilities of the Gila Reclamation Project to canals of the districts.

Such legislation shall contain language to provide essentially that notwithstanding any other provision of law, upon enactment of the legislation described in this agreement, the outstanding repayment obligation of the districts existing at that time shall be fully discharged, and the Secretary shall issue a certificate to be recorded in Yuma County, Arizona, acknowledging that the districts' lands are free of the ownership or full cost pricing limitations under federal reclamation law.

2. The authority provided by the Act of July 30, 1947 (61 Stat. 628, hereafter, "1947 Act") for the beneficial consumptive use of up to 300,000 acre feet of water from the Colorado River annually on lands of the Yuma Mesa Division of the Gila Project will be reduced by 50,000 acre feet to 250,000 acre feet annually. The districts will agree to reduce their consumptive use accordingly.

3. Water in the Yuma Mesa Division shall not be used to irrigate more than 40,000 acres, specifically including 6,587 acres in the North Gila Valley Irrigation District, 10,600 acres in the Yuma Irrigation District, and 22,813 acres in the Yuma Mesa Irrigation and Drainage District.

4. The Department will support legislation to provide:

A. $5.4 million for the purpose of replacement, rehabilitation, and repair of the water delivery system within the Yuma Mesa Irrigation and Drainage District, including water pumping facilities.

B. $2 million to the Yuma Mesa Irrigation and Drainage District, $1 million to the Yuma Irrigation District, and $1 million to the North Gila Valley Irrigation District, for the purpose of on-farm water conservation and drainage measures.

C. The legislation providing for the funds in this paragraph shall state that none of the funds granted to the districts shall be required to be repaid by the districts to the United States.

5. The Department shall agree to modify the water delivery contracts between the United States and the districts to provide, at the discretion of the districts, for the conversion of water consumption from agricultural use to domestic use as that term is defined in the Colorado River Compact in the following amounts:

A. Yuma Mesa Irrigation and Drainage District: 10,000 acre feet;

B. Yuma Irrigation District: 5,000 acre feet;

C. North Gila Valley Irrigation District: 2,500 acre feet.

6. The Department legislation will provide that it shall not be effective until: (1) Duly ratified and approved by the districts; (2) all necessary contracts are executed by the United States and each of the districts; (3) The funds authorized have been appropriated and transferred to the three districts.

7. The Department agrees to pursue aggressively the return flow credit determinations, as required by Article V of the Decree of March 9, 1964 (*Arizona* v. *California*). The Department shall consult with the districts in the preparation of these determinations.

8. The Department and the districts agree that to implement this agreement, they will draft legislation for immediate introduction in the Congress. That legislation will be drafted with the understanding that revision may be required and will be made and recommended for introduction as an amendment in the form of a mutually agreeable substitute bill.

William Waldrip, President, Yuma Mesa Irrigation and Drainage District.

Mark Smith, Vice President, Yuma Irrigation District

James W. Ferguson, President, North Gila Valley Irrigation District.

William P. Horn, Deputy Under Secretary, U.S. Department of the Interior.

Mr. GOLDWATER. Mr. President, the only change which occurred since the signing of the departmental agreement with the Ak-Chin Indian Community is that the Indians have agreed to accept 75,000 acre feet of water in normal and wet years.

Mr. President, what we have here is another example of successful water rights negotiations, which is far preferable to legal confrontation. It is a voluntary settlement and I should point out that it does not affect the contractual water supply of the cities of Yuma and Kingman which had been a subject of discussion in earlier negotiations.●

By Mr. HATCH:

S. 2977. A bill to amend the act entitled "An Act granting a charter to the General Federation of Women's Clubs"; to the Committee on the Judiciary.

AMENDMENTS TO CHARTER OF THE GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. HATCH. Mr. President, I am introducing a bill to amend the charter of the General Federation of Women's Clubs.

The General Federation of Women's Clubs is the largest and oldest nondenominational, nonpartisan, international service organization of volunteer women in the world. It boasts 500,000 members in the United States alone. Their accomplishments abound in the area of charity and services to communities around the world.

From 1982 to 1984 alone, the G.F.W.C. donated 34.5 million hours and $110,519,000 to volunteer projects. They involve themselves in such noteworthy projects as Save the Children, literacy and learning disabled programs, Youth City Councils, "Disposal of Hazardous Waste" program, "Concern for Kids" (a Homelife program), arts festivals, and many more. They have a commitment to community service and that commitment touches every part of our national life.

It is because they are such an asset to our society that it is urgent we help them in the best way we can. This bill will enable the G.F.W.C. to qualify for 501(c)(3) tax status. They presently hold a 501(c)(4) tax status. As a result, they would be able to apply for special third class rates of postage. The money they save on postage can be put to use toward their many worthwhile programs.

More specifically, the language being changed is that part in section 1 of their charter which reads:

For educational, industrial, philanthropic, literary, artistic and scientific culture.

In its place is inserted:

The General Federation of Women's Clubs shall be organized and operated exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 and shall otherwise comply with any requirements for classification as an exempt organization under such section.

In the event of the dissolution of the General Federation of Women's Clubs, its board of directors shall liquidate and distribute its assets to organizations qualified as exempt organizations under section 501(c)(3) of the Internal Revenue Code of 1954 with purposes similar to those of the General Federation of Women's Clubs.

I urge my fellow Senators to support this bill to amend the charter of the General Federation of Women's Clubs so they can better serve this Nation.

By Mr. SARBANES:

S. 2979. A bill to amend title 5, United States Code, to provide that a reduction in force may not be conducted until certain alternative measures have been exhaused; to ensure the cost-effectivenss of those alternative measures and of any measures taken in conducting a reduction in force; to safeguard against unnecessary disruption, productivity loss, and harm to labor-management relations due to a reduction in force, and for other purposes; to the Committee on Governmental Affairs.

FAIR REDUCTION-IN-FORCE PRACTICES ACT

● Mr. SARBANES. Mr. President, I am today introducing legislation to reform the Federal Government's procedures for conducting reductions in force—RIF's. This legislation is identical to a bill introduced earlier in the House of Representatives by Representative MICHAEL BARNES. Two years ago, I introduced similar legislation when it became apparent that the excessive use of RIF's was threatening to compromise the quality of Federal service. Subsequent events have proven that the RIF process is a cumbersome, disruptive, and ineffective means of reducing agency costs. Major RIF's tend to disrupt morale and reduce productivity by creating an atmosphere of distrust, uncertainty, and suspicion that spreads far beyond those employees who are directly affected.

Last year, RIF surveys conducted by the Federal Government Service Task Force, of which I am a member, confirmed that RIF's from fiscal year 1981 through fiscal year 1983 affected over 10 percent of the Federal nondefense work force. Our survey findings show that 29,068 individuals were directly involved in a RIF during those years. The Office of Personnel Management, however, has admitted that RIF's trigger a chain reaction that affects four time that many employees. Although the absolute number of RIF's declined significantly in fiscal year 1983 and preliminary figures for fiscal year 1984 are not yet available, the administration's accelerated drive to convert Federal positions to the private sector, coupled with its action to implement recommendations made by the Grace Commission, threaten to quicken the pace of RIF's.

The Fair RIF Practices Act of 1984 neither prohibits reduction in force nor bars contracting out. It does require Federal agencies to recognize that employees and their representative organizations can make an important contribution to agency effectiveness—a contribution that is lost when agencies and employees become bitter adversaries.

Mr. President, in both the private and public sectors, large organizations are discovering the advantages of conserving and developing human talent. Many experiments in worker participation, conflict resolution, and directed training have begun to reach for this potential by developing a sense of teamwork. Building common interests in this way have already achieved some remarkable results—including significant cost savings.

A number of major business concerns have rediscovered an old truth—that people working together accomplish more than people working at cross-purposes. I think it is time that we begin to apply this principle to the management of the Federal work force. We should dispel the atmosphere of confrontation and begin looking for ways to call on and utilize the cumulative insight of employees to assist management in the identification of ways to improve services and reduce costs.

After 3½ years of RIF's, we have learned that RIF's are counterproductive. Major studies by the GAO and the Merit Systems Protection Board confirm that conditions at the Federal workplace have become much worse. RIF's have fostered a management approach that provokes combat between labor and management. RIF's pit minorities against nonminorities and men against women. They have interrupted agency operations and effective program implementation. The practice has also proved to be quite costly; taxpayer dollars have been spent on severence pay, lump sum payments, increased pension costs, and unemployment insurance. Savings projected from reducing the work force are also offset by disrupted operations, for example, which result in reduced revenue collections.

This legislation, Mr. President, ensures that Federal employees have a mechanism which enables them to participate in agency efforts to mitigate the impact of RIF's. It directs each agency to explore all reasonable RIF alternatives and, in the event that the agency cannot independently avoid a RIF, to continue deliberations with full union participation. At this stage, employee representatives are able to negotiate available RIF alternatives. Should negotiations reach an impasse, the parties may invoke nonbinding third party assistance. The agency head must ratify any agreement reached by the parties.

In the past, RIF's have served both legitimate and illegitimate policy purposes. When Congress and the President agree upon legislation to change existing policy, a reorganization or reduction in force may be called for to ease the policy transition. Management oversteps its legal bounds, however, when it implements policy changes by merely eliminating staff through a RIF. The reporting provisions in the bill should aid congressional oversight of RIF activities and safeguard important constitutional prerogatives. No RIF can take place until OPM certifies that the agency has complied with requirements set forth in the bill. Such requirements

include a description of RIF alternatives considered, cost and savings estimates, and an analysis of the RIF's impact upon employees and organizations.

I recognize that not all RIF's can be avoided. In those instances where a RIF must be conducted, however, we can learn a lesson from the Department of Defense where RIF's are conducted with minimal adverse impact on agency personnel and operations. Over a million civilian Federal employees work for the Department of Defense. Reorganizations and staff changes routinely occur at defense and often require RIF's. When a Defense employee is RIF'd, his or her name is placed on an agencywide stopper list. DOD is then required to fill vacancies with employees on that stopper list. Exception is made, however, where there is no stopper list employee who meets job description requirements.

Given the size and diversity of DOD's civilian workforce, DOD is able to place the large majority of its employees affected by a RIF. Their placement policy is humane and enables the agency to retain valued employees. It is sound management policy that places a premium upon institutional memory and dedicated service. The legislation that I am proposing today would create a governmentwide outplacement system based upon the DOD's stopper list. It would also link placement of qualified employees into agency vacancies where a minimum amount of job training would enable the employee to successfully perform in the job. Up until now, agencies have not attempted to mitigate RIF impacts by training employees to assume other positions.

Mr. President, I urge my colleagues who recognize the need for a more enlightened and effective management of the Federal workforce to join with me in cosponsoring the Fair RIF Practices Act of 1984.●

By Mr. MATHIAS:

S. 2980. A bill to provide matching grants for the retrofitting and operation of certain surplus vessels used for humanitarian purposes; to the Committee on Commerce, Science, and Transportation.

MATCHING GRANTS FOR RETROFITTING OF CERTAIN VESSELS

● Mr. MATHIAS. Mr. President, today I am introducing legislation that calls for matching grants to retrofit and operate three surplus Navy vessels for humanitarian purposes by Life International. This is a companion bill to H.R. 5039 introduced by my colleague in the Maryland congressional delegation, Representative PARREN MITCHELL.

Life International, a private, nonprofit organization, proposes to use the vessels for delivering medical, health, and educational services to Third World countries, especially in Latin American and the Caribbean. Public Law 97-360 authorized Life International to use the surplus vessels which could be recalled for national defense purposes.

This bill calls for the U.S. Maritime Administration to provide 75 percent of the cost for retrofitting and initial operating costs of the ships. Life International will raise the other 25 percent of the cost through private contributions or in-kind services. Life International has already received support from shipyard, maritime unions, and marine suppliers for this project.

The cost to the Federal Government for the three vessels will be $46.5 million. Only one ship would be funded per fiscal year with funds for the next vessel released only upon completion of the previous one. This would be a one-time only appropriation.

This proposal has several attractive features. it will provide much-needed humanitarian assistance. It will allow volunteers to become involved in delivering health, medical, and educational assistance to areas in great need. It will serve as an example to encourage other private groups to join with the Federal Government to provide services that neither might be able to provide alone. And, the proposal would create much-needed work for our shipyards.

In short, Mr. President, this legislation gives us a unique opportunity to serve others in the world less fortunate than we are with a small investment of Government funds.●

By Mr. PRYOR:

S. 2981. A bill to amend the Internal Revenue Code of 1954 to require that the revenues of any new taxes be used to reduce the Federal deficit, and for other purposes; to the Committee on Finance.

DEFICIT REDUCTION TRUST FUND

Mr. PRYOR. Mr. President, today I am introducing a bill to establish a deficit reduction trust fund and provide that any new revenues generated by new tax laws and received by the Treasury Department after today shall be put into the fund.

Last November, I first presented this idea during Finance Committee deliberations on deficit reduction proposals. Since then it has generated considerable interest and support. I am, therefore, pleased to formally introduce legislation to implement this concept.

Mr. President, the purpose of this measure is simple—to put any new revenues into a fund that is off limits and make sure that the money is used for deficit reductions.

For several years every candidate for Congress has attacked Government spending and criticized budget deficits. Everyone wants prompt action in bringing down the horrendous budget deficits we face—current estimates of about $200 billion per year until the end of this decade.

Three years ago the debt limit went over the $1 trillion mark. It took us over 200 years to reach that awful figure; yet, we will reach the $2 trillion figure before 1990 at the current rate. In short, we are rolling up new debt at an unbelievable rate, and in the process we are putting severe and unreasonable burdens on future generations.

We all know the problem, Mr. President. The question is—how do we tackle these deficits and get them down? Everyone has his or her own solution. Although the deficit cries out for action, it may be that little will be done about the problem this year. Regardless, we need to have the necessary machinery in place so that if new revenues are used to tackle the deficits in the future, that those efforts could be successful.

Accordingly, I am proposing a trust fund concept. I want to make it clear, Mr. President, that this legislation does not deal with taxes in any way—that debate is for another day—but it does set up a trust fund that will be used for deficit reduction. If we are going to reduce the deficit, we should do so, and not use any new revenues to start new programs, or expand existing ones. It is for this reason that my bill also contains a provision which would prohibit any new program from being started while the budget contains a deficit.

Mr. President, I know that some will disagree with the trust fund idea, but I believe it is the proper way to proceed. Trust funds have worked very well in this country when they have been used, and I think the American people have supported their creation when the money going into the fund was used for a specific purpose.

The most familiar example is the trust fund set up to build the Interstate Highway System. We used the new revenues flowing into that fund to build an extraordinary highway system, and it has worked very well. Another example is the fund set up by the Dingell-Johnson Act which provides money for the promotion of sport fishing. Both of these examples prove that if we commit ourselves to the task at hand, and use the trust fund, it will work.

Mr. President, I would like to point out that other steps could be taken in addition to what I'm proposing today. For example, a budget freeze would be workable and would give the trust fund an opportunity to begin to reduce the debt. I joined the efforts of many Senators the last 2 years, and I will certainly work with them again.

Another example, Mr. President, would be the proposed constitutional amendment to balance the budget, which I also supported. It would provide the necessary structure for the Congress to eliminate annual deficits, and I think a deficit reduction trust fund would work very well in conjunction with that amendment.

Mr. President, this proposal provided a useful mechanism that can be helpful in holding the line on Government spending, reducing deficits, and getting our fiscal affairs in order.

Mr. President, I ask unanimous consent, that a Dear Colleague letter I sent last December 5 and the test of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of Trust Funds) is amended by adding at the end thereof the following new section:

"SEC. 9504. DEFICIT REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established within the Treasury of the United States a trust fund to be known as the 'Deficit Reduction Trust Fund' which shall consist of such amounts as may be appropriated to such fund under this section.

"(b) APPROPRIATION OF CERTAIN AMOUNTS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Deficit Reduction Trust Fund amounts equivalent to the revenues received into the Treasury of the United States by reason of any provision of law enacted after September 10, 1984.

"(2) EXTENSIONS.—No amount shall be appropriated to the Deficit Reduction Trust Fund under paragraph (1) with respect to any revenues received into the Treasury of the United States by reason of any provision of an Act or joint resolution which merely extends a tax, or any other provision of law, that was in effect on September 10, 1984.

"(c) EXPENDITURE OF FUNDS FROM TRUST FUND.—Amounts in the Deficit Reduction Trust Fund shall be available only:

(1) to pay at maturity, or to redeem or purchase before maturity, obligations of the Federal Government included in the public debt which are canceled and retired upon such payment, redemption, or purchase, but only to the extent provided by appropriation Acts and joint resolutions; and

(2) to the extent such funds are not expended before the last day of the Fiscal year pursuant to the provisions of subparagraph (1) above, to be transferred to the general receipts account of the Department of the Treasury on the last day of each fiscal year.

(b)(1) Subsection (b) of section 9602 of such Code (relating to investment) is amended by adding at the end thereof the following new paragraph:

"(4) NO APPLICATION TO DEFICIT REDUCTION TRUST FUND.—This subsection shall not apply to the Deficit Reduction Trust Fund.".

(2) The table of contents for subchapter A of chapter 98 of such code is amended by adding at the end thereof the following new section:

"SECTION 9504. DEFICIT REDUCTION TRUST FUND.".

SEC. 2. (a) No appropriation may be made for any deficit fiscal year with respect to any program for which appropriations for fiscal year 1985 were not authorized.

(b) For purposes of this section, the term "deficit fiscal year" means any fiscal year beginning after fiscal year 1985 for which the total budget outlays specified in the first concurrent resolution for such fiscal year exceed the revenues specified in such concurrent resolution.

U.S. SENATE,
Washington, DC, December 5, 1983.

DEAR COLLEAGUE: For the past few weeks many of us have been experiencing a growing frustration over what to do about the budget deficit. There's been some talk about increasing taxes and cutting spending and what size package to propose. In the Senate Finance Committee, under the leadership of Senators Dole and Long, we've been discussing how to develop a package of spending cuts and revenue increases that will reduce the deficit in real terms, not through the use of some accounting gimmickry.

The purpose of this letter is not to argue either for or against any specific spending cut or tax increase. Rather, it is to urge you to consider supporting a proposal I intend to offer that any new revenues (surtaxes, energy taxes, etc.) be put into a trust fund and used to reduce the deficit. Obviously, if we don't hold down spending to an acceptable level, then setting up a trust fund for any new revenues won't work. However, if we continue to make spending reductions, I think a trust fund would be workable, and would assure the American people that if new taxes are imposed next year, or the year after, the money is going to be used to bring down the budget deficits.

I hope you will seriously consider this idea, and if you have any thoughts or suggestions, please let me hear from you. If you have questions, please call Tom Courtway of my staff.

Best regards.
Sincerely,

DAVID PRYOR.

ADDITIONAL COSPONSORS

S. 2131

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2131, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador and other countries.

S. 2256

At the request of Mr. HUDDLESTON, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 2256, a bill to exempt restaurant central kitchens from Federal inspection requirements.

S. 2258

At the request of Mr. MOYNIHAN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

S. 2420

At the request of Mr. MATHIAS, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a consponsor of S. 2420, a bill to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes.

S. 2607

At the request of Mr. HUDDLESTON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2607, a bill to provide for improvements in the school lunch and other child nutrition programs and the food stamp program, and for other purposes.

S. 2866

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 2866, a bill to authorize the Attorney General of the United States to make grants to States for the purpose of increasing the level of State and local enforcement of State laws relating to production, illegal possession, and transfer of controlled substances; to authorize the Secretary of Health and Human Services to make grants to States for the purpose of increasing the ability of States to provide drug abuse prevention, treatment, and rehabilitation; and for other purposes.

S. 2893

At the request of Mr. SPECTER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2893, a bill to amend the Internal Revenue Code of 1954 to repeal the limitation on the aggregate face amount of private activity bonds, and for other purposes.

S. 2894

At the request of Mr. MELCHER, the name of the Senator from Hawaii [Mr. INOUYE], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residence, farms, and real property used in a trade or business.

S. 2922

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2922, a bill to establish an independent agency, governed by a bipartisan board, to administer the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such act, and the medicare program under title XVIII of such act, and for other purposes.

S. 2927

At the request of Mr. GRASSLEY, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of S. 2927, a bill to amend title 5 of the United States Code regarding the authority of the Special Counsel.

SENATE JOINT RESOLUTION 262

At the request of Mr. PACKWOOD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution to designate March 16, 1985, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 304

At the request of Mr. HELMS, the names of the Senator from Tennessee [Mr. BAKER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Virginia [Mr. WARNER], the Senator from South Dakota [Mr. ABDNOR], the Senator from Alabama [Mr. HEFLIN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Georgia [Mr. NUNN], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. HUDDLESTON], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Delaware [Mr. ROTH], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 304, a joint resolution to designate the month of October 1984 as "National Quality Month."

SENATE RESOLUTION 433

At the request of Mr. RIEGLE, the names of the Senator from Wisconsin [Mr. PROXMIRE], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Massachusetts [Mr. TSONGAS], were added as cosponsors of Senate Resolution 433, a resolution to congratulate the U.S. athletes who have participated in the games of the XXIII Olympiad and urge enactment of the Senate bill relating to the clarification of certain equal opportunity laws.

AMENDMENT NO. 3675

At the request of Mr. PROXMIRE, the name of the Senator from New Hampshire [Mr. HUMPHREY], was added as a cosponsor of amendment No. 3675 intended to be proposed to S. 2851, an original bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

AMENDMENT NO. 3676

At the request of Mr. PROXMIRE, the name of the Senator from Florida [Mr. CHILES], was added as a cosponsor of amendment No. 3676 intended to be proposed to S. 2851, an original bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

AMENDMENT NO. 3678

At the request of Mr. PROXMIRE, the name of the Senator from Oklahoma [Mr. BOREN], was added as a cosponsor of amendment No. 3678 intended to be proposed to S. 2851, an original bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

SENATE RESOLUTION 439—RELATING TO THE CONTINENTAL SCIENTIFIC DRILLING PROGRAM

Mr. PRESSLER (for himself, Mr. DURENBERGER, Mr. HATCH, Mr. BINGAMAN, Mr. CHAFEE, Mr. PERCY, Mr. DOMENICI, and Mr. TSONGAS) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 439

Whereas the Continental Scientific Drilling Program is an important national scientific endeavor that is vital to the understanding of the geologic evolution of the Earth and the economic value of its resources;

Whereas the most effective and efficient means of realizing the fullest potential in the Continental Scientific Drilling Program is through a cooperative effort by the Department of Energy, the National Science Foundation, and the United States Geological Survey;

Whereas many important commercial and scientific advances may result from the Continental Scientific Drilling Program; and

Whereas many foreign nations are engaged in a comparable deep drilling program, and cooperation and coordination would be beneficial to United States efforts: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Continental Scientific Drilling Program is an important national scientific endeavor by the United States which should be enthusiastically implemented through a joint cooperative effort among the United States Department of Energy, the National Science Foundation, and the United States Geological Survey;

(2) the private sector should be encouraged to support the Continental Scientific Drilling Program and the participating agencies should solicit appropriate private sector participation in such Program; and

(3) the United States Government should cooperate to the extent practicable with the international community in developing this important scientific and technical activity.

Mr. PRESSLER. Mr. President, I rise today to submit a resolution recognizing the importance of the Continental Scientific Drilling Program [CSDP], and encouraging its development in the United States.

This resolution is enthusiastically supported by the geological and related scientific communities. I have contacted all three Government agencies mentioned in the resolution, and expect their official letters of support in the very near future. I have already received a letter of support from the White House, signed by Dr. G.A. Keyworth, science adviser to the President. I ask that it be printed in the RECORD following my statement. Mr. President, I know of no opposition to this legislation.

In essence, the Continental Scientific Drilling Program has been developed to enhance our understanding of the processes that have led to the evolution of the chemical and physical structure and properties of the Earth's continental crust. According to an interagency agreement by the Department of Energy, the Department of Interior and the National Science Foundation, this program would "contribute directly to the solution of serious national problems such as ensuring adequate supplies of energy, water and mineral resources, safe isolation of wastes, protection against the hazards of earthquakes and volcanic eruptions, and national defense." It goes on to state that the program "is an especially important tool for the scientific exploration of the Earth's crust."

Mr. President, the United States has a lot of "catch-up" work to do in this area. Russia and many of our European counterparts are far ahead of us in this important scientific technology. I think it would behoove this body to act as expeditiously as possible to illustrate our strong desire to forge ahead as a Nation in this program.

There is much yet to learn about the Earth. I am convinced that our understanding of this fascinating planet will be the key to a livable, prosperous future for generations to come. My colleagues will recall my support for, and interest in, our national remote sensing satellite program. My enthusiasm for the CSDP stems from much the same interest. Mr. President, we have to better understand our Earth and all its important resources if we are to properly manage and preserve them for our children.

The scientific and economic importance of this program is well documented. I would like to see us begin as soon as possible to get it fully underway.

This important research will not be limited to any one area or State, and will have a very positive impact in the areas affected. As I have said before, the CSDP is not only an extremely important scientific program, but carries with it important economic benefits, as well.

In my home State of South Dakota, for example, there are a number of specific targets for CSDP research. One is a large, relatively low temperature geothermal anomaly located in the central portion of the State. This anomaly could tell us much about the flow and temperatures of aquifers and lead to a better understanding of a large source of geothermal energy.

Another would be the famous Black Hills of South Dakota, which offer us a look at the basement of the central United States.

This small exposed piece of the continental crust contains the largest producing gold mine in the Western Hemisphere. Further, more sophisticated exploration and study could produce much more information about the mineral potential in these types of areas.

Perhaps more importantly, the South Dakota School of Mines and Technology [SDSM&T]—one of the most respected and innovative technical colleges in the world—is located in Rapid City, SD, in the heart of the Black Hills. SDSM&T and its superb faculty are well suited to play a major role in this important program—both inside and outside of South Dakota. SDSM&T facilities are well equipped for this type of research, and many members of its faculty are experts in specific areas of the CSDP. Eileen Ashworth (Rock Mechanics), J.J. Papike (Crystal Chemistry, Mineralogy, and Petrology), W.M. Roggenthen (Geophysics, Paleomagnetic Studies), and C.K. Shearer (Geochemistry and Analytical Chemistry) are just a few examples. I am very proud of SDSM&T and know that it can play an important role in the CSDP.

Finally, South Dakota would be well suited for curation of cores and other samples collected as part of the CSDP. The former coal gasification plant in Rapid City, which was initially financed by the Federal Government and now stands empty, appears to be an ideal location for a repository for core and other samples collected as part of the Continental Scientific Drilling Program. In brief, the plant is a soundly constructed facility with adequate space and excellent access. Rapid City is relatively centrally located and quite accessible by air or highway. The presence of the Department of Geology and Geological Engineering, the Institute for the Study of Mineral Deposits [ISMD], and the Engineering and Mining Experiment Station [EMES] to provide the scientific expertise and analytical facilities which are crucial to the operation of a repository of this magnitude.

These are just a few of the potential specific benefits to one area. I want to emphasize that this is not a limited or parochial program. It is a national program with many international implications, and is deserving of our strong support.

With that, Mr. President, I will conclude my statement by once again urging my colleagues to join me in supporting this resolution, and to act expeditiously in order to send a strong signal to those involved.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, August 29, 1984.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for sending me an advance copy of your proposed resolution on the Continental Drilling Program.

We fully agree with the National Academy of Sciences' recent assessments of the importance of a program of scientific continental drilling. The President's FY 1985 budget contained a small initiative in the National Science Foundation to begin preparatory studies for such a program. We are pleased with the progress so far, and expect that it will continue as planned. We are fully supportive of the proposals outlined in your resolution, and look forward to continuing to work with the Congress to develop a really exciting and productive cooperative scientific drilling program.

Yours truly,

G.A. KEYWORTH,
Science Advisor to the President.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry has scheduled a business session to markup the following legislation:

S. 2773. Georgia Wilderness Act of 1984;

S. 2808. Mississippi National Forest Wilderness Act of 1984;

H.R. 3788. Texas Wilderness Act of 1984;

H.R. 4263. Tennessee Wilderness Act of 1984;

H.R. 5076. Pennsylvania Wilderness Act of 1984;

H.R. 5121. Virginia National Forest Wilderness Act of 1984;

H.R. 5221. To extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes; and

H.R. 5223. To exempt restaurant central kitchens from Federal inspection requirements.

The meeting will be held on Thursday, September 13, 1984, at 10 a.m. in room 328-A Russell Senate Office Building.

For further information please contact Agriculture Committee staff at 224-0014 or 224-0017.

ADDITIONAL STATEMENTS

U.S. START POLICY: LET'S KEEP OUR FACTS STRAIGHT

● Mr. GARN. Mr. President, I had the pleasure recently to be in Salt Lake City during the American Legion Convention. At that time, President Reagan and our START Ambassador, Ed Rowny, addressed the Legionnaires concerning the national security and arms control policies of the United States. Given the heated debate that has been generated on these issues by the Presidential election campaign, I believe it would be useful to have Ambassador Rowny's remarks printed in the RECORD.

As my colleagues well know, Ambassador Rowny has been involved in the process of strategic nuclear arms control for more than a decade. He is an extremely able negotiator who knows well the challenge of negotiating with the Soviets and is committed to securing an agreement that reduces the risk of nuclear war and serves the national security interests of our country.

I will let Ambassador Rowny's remarks speak for themselves, but I would emphasize his theme that the Reagan Administration is dedicated to achieving real reductions in the nuclear arsenals of both superpowers. We have been flexible at the bargaining table, and have worked with the Congress in generating bipartisan support for U.S. proposals. The United States will not, however, accept an agreement simply or agreement's sake; in the words of Ambassador Rowny, "* * * I want a solid agreement based on reduction, equality, and verifiability, I'm not going to sell our country's security short."

Mr. President, this administration has a good record on arms control issues, and there is hope that a good agreement can be reached if the Soviets would return to the bargaining table. Ambassador Rowny's speech throws light on both these points, and I ask that his remarks be printed in the RECORD.

The remarks follow:

REMARKS OF AMBASSADOR EDWARD L. ROWNY TO THE AMERICAN LEGION, SALT LAKE CITY, UTAH

It is a great honor to be here today to talk to you about the subject of strategic arms control. As Legionnaries, no one knows better than you the importance of preserving the peace. As President Reagan indicated here yesterday, one of his major foreign policy goals is to reduce the risk of war through substantial reductions in the U.S. and Soviet nuclear arsenals. In seeking to attain this goal, we have worked long and hard, negotiating patiently, seriously and flexibly. We will continue to strive to bring about a peaceful world by reducing or banning those weapons which contribute to fear, danger and instability. But you can be assured we will do so in a way that improves this country's security. Any arms control

agreement we enter into must serve the goal of enhancing the security, not only of the U.S., but also that of our Allies. We will not enter into an agreement simply for agreement's sake—an agreement has to be the right one.

I speak to you as one who cherishes peace. Like you, I have seen war firsthand. In Europe, in Korea and then in Vietnam, I have personally experienced the horrors that result when peace breaks down or when nations are lulled into a false sense of security. Most of us realize the truism of President Reagan's statement that a nuclear war must never be fought and can never be won. But I have also come to understand that war in the modern world can be deterred only by a stable balance of military forces. Some day mankind may find ways to make military forces wither completely away. But until that day comes, and I pray that it will come soon, it is a hard, cold fact that armed force will still be needed to keep the peace.

BOLD STEPS BY PRESIDENT REAGAN

Let me state our arms control goals clearly. We seek substantial reductions, lower equal levels, stabilizing and verifiable agreements. In striving to attain a stable balance at substantially reduced levels of weapons, President Reagan has been continuously and closely involved in the arms control process. He has chaired 16 National Security Council-level meetings on the START talks. He has personally discussed strategic arms with me on 14 other occasions. This amounts to no less than 30 meetings on strategic arms control, testimony to his unflagging interest in arms control.

President Reagan has taken bold and imaginative steps in his search for new arms control agreements that really have some meaning and purpose. His one and only goal in these negotiations is to help make the world a safer place for us and our children. Does this sound like the President is inflexible and an opponent of arms control? You don't believe it and I can tell you from close association with him that I don't believe it.

The proposals put forth by the U.S. in Geneva are fair and equitable and would make the world a safer place. They are proposals that we would accept if the Soviets proposed them. They are in our interest. They are in the interest of the Soviets. They are in the interest of the entire world.

What the United States seeks is to get away from the type of arms control agreements that allowed increases in strategic forces. In the Strategic Arms Limitation Talks (SALT), we thought we had constrained Soviet strategic programs. As a result, we halted our own major building programs, although the Soviets did not. Throughout the decade of the seventies, the Soviets continued to build new weapons, far beyond any reasonable security need. To paraphrase former Secretary of Defense Brown, "when we built, the Soviets built; when we failed to build, the Soviets continued to build." In START, we seek to build down, not build up.

The most disturbing aspect of the Soviet buildup is, indeed, the massive growth in their interrcontinental ballistic missile capabilities. This growth has been out of all proportion to any legitimate Soviet defensive needs. These are the most dangerous systems becasue they are fast-flying, because large numbers of powerful and highly accurate warheads can be deployed on them, and because they pose a serious threat to the survivability of U.S. land-based missiles. U.S. ICBM vulnerability contributes significantly to instability in periods of crises.

The Soviet START proposal would permit the number of ballistic missile warheads to increase by one-half over current numbers, whereas the U.S. proposal calls for a one-third reduction in current warhead numbers. Moreover, our proposal seeks to redress, by way of Soviet reductions, the better than three-to-one advantage in ballistic missile throw-weight the Soviets have over us. Throw-weight is important because it can be used to increase the destructive power and the accuracy of a missile. Additionally, surplus throw-weight affords the side possessing it a breakout capability to add more warheads. By stating that their proposal would reduce their intercontinental ballistic missile throw-weight by 20 percent, the Soviets have shown us they have come around to appreciating the relevance of throw-weight.

MOVEMENT AND FLEXIBILITY IN START

The United States proposal seeks to make deep reductions in the nuclear stockpiles of both countries. During the year-and-a-half of negotiations, we painstakingly explained our proposals to the Soviets, relying on one underlying premise, namely that we and the Soviets want a more stable strategic relationship. In some cases, the Soviets agreed with our views; in other cases, they didn't. In response, to the stated concerns of the Soviets, the President authorized me to make significant modifications and to propose new and different initiatives in a search for common ground. President Reagan has, from the very beginning, instructed me to be flexibile, to be responsive, and to listen to everything the Soviets had to say. No U.S. proposal was offered on a take-it-or-leave-it basis.

In the course of the negotiations, the Soviets made some extreme and unfounded charges about the effect the U.S. START proposal would have on Soviet strategic forces. Specifically they charged that the U.S. proposal would force them to restructure their forces totally, along some prescribed U.S. standard at an "unprecedented intensity." Moreover, they alleged that the proposal would leave U.S. forces virtually intact.

The Soviets' main assumption was that the U.S. proposal would force the Soviet Union to build new strategic systems. The image the Soviets tried to convey was that of a country eager to beat its swords into plowshares, forced against its will, by the U.S., into a crash program to acquire weapons it had no desire for. This image does not stand up to close scrutiny. Indeed, it is evident that the Soviet Union has not stopped producing new weapons; it has not stopped testing new weapons; it has not stopped deploying new weapons. Instead, it has vigorously moved ahead on all fronts. For example, the Soviet Union has begun deployment of a new type of ballistic missile submarine, the Typhoon, the largest submarine ever constructed. They are also testing two land-based intercontinental ballistic missiles and two new types of submarine-launched ballistic missiles, one of which is deployed on the Typhoon. As for bombers, in addition to churning out more Bear and Backfire heavy bombers, the Soviets are flight-testing a new type of heavy bomber larger than the B–1B, the Blackjack. By contrast, the B–1B will be the first new U.S. heavy bomber in a quarter century.

GRADUAL EVOLUTION TO STABILITY

We believe our shared goal is stability. Since the Soviets have indicted to me that they also want to move to a more stable strategic relationship, some dismantlement and destruction of current forces, U.S. and Soviet, will be necessary.

Critics of our policy who say we are asking too much of the Soviets can't have it both ways. How can these critics accuse us of not doing enough, or not being serious about arms control, and then say that our proposals for large reductions, even banning some weapons, are too much or are more arms control than the Soviets will accept? How can we and the Soviets move to a more stable relationship without getting rid of dangerous and destablizing missiles? How can there be reductions without getting rid of something? But the bottom line is that we do not seek to force the Soviets to restructure radically. Rather, we are encouraging a gradual evolution to more stabilizing systems.

Another major allegation the Soviets made was that the U.S. proposal would cause the Soviet Union to make severe reductions while U.S. forces remain unaffected. This is not true. The United States would also be required to make substantial reductions. I want to emphasize that our reductions would not be trivial and would not be limited only to the elimination of old, unwanted systems. I want to emphasize that our own proposal would have the U.S. eliminate about one-third of its currently deployed ballistic missile warheads, including some of its newest, most capable weapons. By any objective standard, these are major steps and refute the Soviet charge that the reductions under the U.S. proposal will be required only from the Soviet side.

At this point, let me comment on the freeze. A freeze would do nothing to diminish the existing nuclear threat. Negotiating the terms of a freeze, to say nothing of provisions for verifying a freeze, would derail any negotiations on reducing nuclear arms. The only thing a freeze would do is reduce any incentive the Soviets might have to negotiate the reductions we have proposed. A freeze would prevent the introduction of newer, more stabilizing systems, and would thereby perpetuate the existing dangerous strategic imbalance that results from the high levels of Soviet destabilizing weapons.

THE RECORD OF START NEGOTIATIONS IN 1983

From the beginning of START in 1982, President Reagan showed a great deal of flexibility in efforts to move the talks toward an agreement. First, some background. At Eureka College in May 1982, the President proposed a reduction to 850 ballistic missiles—one-half of the current U.S. level and a reduction to 5000 ballistic missile warheads, a one-third reduction from current U.S. and Soviet levels. At Eureka, the President also proposed that the negotiations focus first on the most dangerous and destabilizing systems—ballistic missiles. We did not, however, neglect the other elements of strategic forces and heavy bombers. From the outset of START, the U.S. proposed equal numbers of heavy bombers at levels well below what would have been allowed by SALT II.

But the Soviets did not want to reduce as much as we did. And the Soviets claimed that by focusing on missiles, we were attempting to hide something. In the spring of 1983, we met the Soviet concerns by modifying our proposal in three ways. First, because the Soviets would not come down to 850 we changed our proposal to be closer to theirs. Second, because the Soviets wanted to negotiate on all systems simultaneously,

we put everything on the table at one time. Third, we told the Soviets they need not reduce their 3-to-1 advantage in missile throw-weight down to equality. We, of course, would prefer equality sooner, not later. We are interested in reductions now, but we will keep working towards reductions and equality. We will not give up on these primary goals. By making these and other technical but important changes we showed our willingness to be flexible and negotiate seriously. In return, the Soviets also made certain modifications to their initial proposal.

Thus, as a result of our willingness to try new initiatives and show flexibility in order to move toward an agreement, a great deal of progress was made during the spring and summer of 1983. More progress was made than is generally recognized.

TRADE-OFFS PAVE THE WAY FOR REAL PROGRESS

We believe our proposal for trade-offs, which we introduced in the fall of 1983, could pave the way for an agreement. For example, we are prepared to reduce submarine-launched ballistic missiles and bombers and to limit the number of air-launched cruise missiles we might otherwise be allowed to build. We are willing to reduce or limit those weapons which are of concern to the Soviets if they reduce or limit their weapons which are of concern to us. We also introduced the build-down concept which calls for reducing more weapons than are added for modernization. This concept is important because it marks the beginning of a bipartisan approach to arms control in the Congress.

SOVIETS REFUSE TO RESUME START

Last November, the Soviets walked out of the intermediate-range missile talks in protest of the deployment of Pershing II and ground-launched cruise missiles in Europe. These missiles we must recall are being deployed because of the 1979 request of our European Allies. They are a counter to the large threat resulting from the deployment, begun in 1977 by the Soviets, of well over a thousand SS-20 warheads aimed at Europe.

No one can predict what the Soviets might do. When they walked out of the intermediate-range negotiations, they did not say they would not return to START. They simply said they would not return to START until they completed their reassessment of the strategic situation. Based on my ten years of face-to-face negotiating experience with the Soviets, however, I am convinced that it is not a question of "if" but "when" they will come back to the table. They have always acted in their own interest and it's in their interest—as it is in ours—to reduce the threat of nuclear war.

ARMS CONTROL AND MODERNIZATION

All this presents a mammoth challenge to the United States. One thing is clear. We must continue to modernize our forces. This gives the Soviets added incentive to negotiate. They are cold realists. They have indicated to me that they, too, want to avoid a nuclear war. Similarly, they know that they have no hope in the long-run of competing with the U.S. technologically. Therefore, they have nothing to gain from a costly arms race. Accordingly, in the interests of stability, we must redress the imbalance which was allowed to occur. By doing so we accomplish two goals. First, we take care of our own security by improving stability. And second, we are put in a better position to negotiate an arms control agreement. As the Soviets so often tell us, they don't give up something for nothing.

The Soviets' relentless buildup of multiple warhead, land-based, intercontinental ballistic missiles gives them a potential first-strike force. The Soviets have deployed over 800 heavy and medium ICBMs including 308 massive SS-18s. The existing U.S. Minuteman ICBM is only one-third as powerful as the medium Soviet SS-19 and SS-17 and one-sixth as powerful as their SS-18.

The Peacekeeper, MX, missile represents a limited response to this lopsided advantage the Soviets have in their 800 medium and heavy ICBMs. And this response is one of moderation. We have not sought to build missiles as large and powerful as the SS-18, nor have we sought to build as many of these missiles as the Soviets have. We intend to deploy only 100 Peacekeeper missiles, one-half the number proposed by previous Administrations. This leaves baseless the Soviet claim that we seek a first-strike capability.

In the final analysis, deterrence of nuclear war is our goal. We can get there by matching the Soviets, which we don't want to do. What we aim to do is to achieve deterrence which at the same time enhances stability. This can be done if we reach an agreement with the Soviets which reduces the level of weapons on both sides, and does it in a manner which results in a more stable relationship of our forces.

AN HISTORIC OPPORTUNITY

Let me leave you with several thoughts. I believe that there is an historic opportunity before the United States and the Soviet Union to reverse the accumulation of nuclear arsenals on both sides. There is no doubt that we must and will continue our serious effort to reach these substantial reductions. But, I believe that the proposal we now have on the table is the best one we have had in my ten years of negotiating with the Soviets. There is much in it for the United States, the Soviet Union, and indeed, all of mankind.

When, after several months of negotiating, it became obvious to us that our original proposals were too demanding on the Soviets, that they were not ready to make significant force reductions in the interest of stability, we modified our position. Without giving up our basic principles or abandoning our long-range objectives, we changed our proposals to meet the major concerns the Soviets had with them. To our pleasant surprise, the Soviets changed their original proposals in several ways to meet our concerns. As a result, and contrary to the general public perception, we made a substantial amount of progress in START prior to the Soviets leaving the table.

President Reagan has gone farther than any other president in the breadth, the content, and the depth of his arms control proposals. He has sought substantial reductions, even the total elimination, of more types and more categories of nuclear weapons than any of his predecessors.

Let me assure you that this arms control business is an important matter which we take seriously. We are not engaged in any sleight-of-hand nonsense. Nor are we out to try to trick the Soviets. The Soviets are tough negotiators who are too smart to let this happen. As I said earlier, President Reagan has instructed me to lay it all out on the table for everyone to see. One of the President's main objects and a main objective of the American people, is to negotiate a serious and verifiable agreement on arms control that will dramatically reduce the threat of nuclear war. But let me add that such an agreement must not be achieved at any cost. If all we wanted is an agreement, for agreement's sake, I can assure you I could have brought one home in 1983. But I, like President Reagan, want real arms control, real reductions, a real reduction of the threat of nuclear war. And because I want a solid agreement based on reductions, equality and verifiability, I'm not going to sell our country's security short. I remain convinced that we can, with patience and with your continued support for the President's modernization programs and his arms control policies, reach an equitable and verifiable agreement with the Soviet Union. Such an agreement is one of President Reagan's main goals. With your support we can reduce the risk of nuclear war and make this a safer world for us and for our children.●

ADVANCE NOTIFICATION—PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the same may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 6, 1984.

Dr. HANS BINNENDIJK,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $50 million.

Sincerely,

PHILIP C. GAST,
Director.●

AMATEUR RADIO OPERATORS TO THE RESCUE

● Mr. GOLDWATER. Mr. President, amateur radio is not a hobby, as many people think, although it could come close to classifying as that. I have always regarded it as a service. Amateur radio operators are on deck to help in every emergency that might come up in this country. Time after time they have helped. One example was the recent invasion of Grenada when the only communication with the outside world was through an amateur station.

Just recently, in Arizona, an unusual failure in the telephone system, knocking out 50,000 telephones in my area, put a dangerous drain and problem to the hospitals. The amateurs came to the rescue and handled their situation. I ask that an article, appearing the local paper, appear at this point in my remarks.

The article follows:

[From the Arizona Republic, Aug. 21, 1984]

HAMS FILL IN AS HOSPITAL PHONES CONK OUT

RADIOMEN SUMMON DOCTORS AND COORDINATE CARE

(By Charles Thornton)

Doctors got called in to handle emergencies, babies got delivered by their obstetricians and the hospital continued to function normally—all because an employee's child got sick.

It happened Friday night at Thunderbird Samaritan Hospital when the phones went out—and stayed out—as balky equipment at Mountain Bell knocked out almost 50,000 phones.

Frank Carson, a respiratory therapist at the hospital, tried to call the hospital to say his daughter was sick. He got one of Mountain Bell's messages saying the phones were out of order.

Carson, also a "ham"—an amateur radio operator—knew the hospital would be in trouble without its phones. He drove to the hospital and offered the use of his mobile phone to call other hams and set up a communications network.

"He drove his car right up to the emergency room door and started using his mobile radio to call for help," said Frank Marks, a sanitarian with the state Department of Health Services, who also pitched in to help.

When Carson radioed for help, more than a dozen radio operators dropped what they were doing to become links in a complicated communications system.

"I was the only one with what we call a 2-meter phone patch," Marks said. "By staying at home, I could dial any number, and by flipping a switch, patch the radios into my phone. We even made some long-distance calls."

The wave band of the 2-meter phone patch is just below buisness- and police-radio frequencies, he said.

Marks listed some of the things the ham operators accomplished for the hospital during the eight-hour phone outage:

Completed telephone patches to arrange for the delivery of blood. One woman might have died without the blood, he said.

Handled requests for ambulances to transfer critical patients to other hospitals.

Received authority from the Arizona Health Care Cost Containment System for admitting and treating patients.

Handled several consulations between doctors about patients.

Helped in reaching employees and administrators.

Checked with phsicians' answering services.

Called other hospitals to talk with patients and consult with other physicians about what to expect with the transfer of patients.

Called an accident victim's family in Las Vegas, Nev., to let them know what had happened.

Activated the telephone signals that operate doctors' and employees' pagers.

Handled over-the-air trouble-shooting of a malfuctioning computer terminal for a patient being transferred to critical care.

Made calls to outside laboratories to pick up needed specimens.

Went to doctors' homes to awaken them to come in to handle emergencies and deliver babies.

"When I came in at 3 a.m., I wouldn't have known there was a problem," said Tina Ruxton, associate administrator at Thunderbird Samaritan.

Marlene Dawson, nursing supervisor, said she wasn't surprised.

"The ham-radio operators are well-known for helping out in the community," she said.

No one knows the identities of the ham operators who worked the 11 p.m. to 7 a.m. shift, but Marks kept a list of first names and call letters. They were:

Larry, N7GCC; Graham Lloyd, AJ7I; Rock, KA7RFF; John, KD7XG; Pat, WA7VAH; Joel, KB7FF; Dick, K7TJZ; Earl, N7BHY; Ed, KA7FQO; Dave, KA7RBF; Frank, KB7FE: Kay, KA7SWF; John, KA7NEM; Dwayne, KA7SDI; and Dana, K1BOT.

"Oh, yeah," Marks said, "we patched a call through to Frank (Carson's) house about midnight, and his daughter was doing all right."●

ADVANCE NOTIFICATION—PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the same may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with preliminary notification 20 days before tramsmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD-423.

The notification follows.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 7, 1984.

Dr. HANS BINNENDIJK,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southwest Asian country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

PHILIP C. GAST, *Director.*

FRED AND MYRA BROWN CELEBRATE 75TH WEDDING ANNIVERSARY

● Mr. SASSER. Mr. President, I rise to honor two of my constituents on arriving at an incredible milestone in their lives—their 75th wedding anniversary.

These constituents, Fred and Myra Brown, who live near Lenoir City, TN, epitomize the highest values of family, love, and devotion in our Nation, and I believe they are wonderful examples for young people just entering matrimony.

Mr. and Mrs. Brown were joined in celebrating their diamond wedding anniversary on September 3 by 5 of their children, 19 grandchildren, 24 great-grandchildren, and 2 great-great grandchildren. One of their daughters is Elizabeth Mull of Knoxville, wife of one of the Nation's best known evangelists, the Reverend J. Bazzel Mull.

Mr. President, I want to take this opportunity to wish Fred and Myra Brown many more happy years of marriage. I would also like to have printed in the RECORD an account of their anniversary which appeared recently in the Knoxville Journal.

The article follows:

[From the Knoxville Journal]

HE "JUST WENT AND GOT HER" 75 YEARS AGO

(By Mary Coleman)

"Seems like we have been married all our lives," declared John Layfette Brown, as his wife of 75 years smiled her agreement.

Brown, who is called Fred, and Myra Bivens were married Sept. 3, 1909, in Loudon County and they have resided there all their married life.

On Sunday afternoon, family and friends gathered at Bell Avenue Baptist Church in Lenior City, where the Browns are members, to offer congratulations and best wishes. The reception was given by the couple's children, Elsie (Mrs. George) Thompson, Clyde Brown, the twins, Stella (Mrs. Glenn) James and Ella Cusick, all of Lenoir City, and Elizabeth Mull of Knoxville, wife of the well-known evangelist, the Rev. J.

Bazzel Mull. The Browns have one son, Howard, who is deceased.

Also joining in the diamond anniversary festivities were the Browns' 19 grandchildren, 24 great-grandchildren, and two great-great grandchildren.

Remembering their wedding day, Myra said, "We walked about two miles to Antioch Baptist Church to get married. And I mean walked—we didn't have a car. Then we walked back."

Although Myra was only 14 years old, the 19-year-old Fred did not ask her father for permission for them to marry. "I just went and got her," he said.

When it was time for Fred to arrive at the Bivens home to take Myra to the church, she recalled that her mother put on her bonnet and left, saying "I'm not going to watch Fred Brown take you off."

"When we got married I had $10," Fred said. "I bought a dresser, a wash stand, a step stove and bed for the $10 and we went to housekeeping."

The Browns said they worked hard but had some rough times. He was employed by Lenoir City Car Works "for $1.25 a day, and that was a 10-hour day." In 1912, he quit his job there and went into carpentry. "I built a four-room house for $800 and a five-room house for $1400." He has been retired for 29 years.

Brown studied music at home and taught the Old Harp method of singing by shaped notes. He served as choir leader at both Highland Park and South Holston Baptist Churches.

Myra said she made the garden, visited the sick, sang at funerals and did a lot of church work. The front yard of the Brown home on West Lee Highway, just outside Lenoir City, always had a profusion of colorful plants and flowers. "Some people from Germany once stopped and asked if they could take pictures of the flowers," she said.

Fred will be 94 on Sept. 23 and Myra was 89 on July 21. The slender, slightly-stooped couple finds the inability to work a frustration. They rise early and go to bed around 7:30 p.m. "You can get tired just sitting," she explained. He has a slight hearing problem but is spry and still mows his lawn occasionally. Although she is "up and around," Myra has been unable to do any housework or gardening since injuring her back in a fall last January.

The Browns' say it wasn't always easy to stay married. "We took that vow 'for richer or poorer, in sickness or health' and we just stuck it out," Fred said. "You have to give and take."

They have no regrets because of their early marriage, although she admitted "I was too young to know what I was doing." Fred said he would not advise people to marry that young "but then we wouldn't be having this 75th anniversary if we hadn't."●

SPEECH BY CLARENCE HODGES AT INTERNATIONAL CONFERENCE OF CHRISTIAN LAWYERS

● Mr. LUGAR. Mr. President, I would like to share with you a speech which was delivered by Mr. Clarence Hodges on Friday, August 31, 1984, at the International Conference of Christian Lawyers in Rome, Italy. This speech brings to light the importance of the civil rights embodied in the U.S. Constitution and the U.N. Universal Declaration of Human Rights, and stresses the role that national leaders and international organizations must play in the preservation of these freedoms and rights. I ask that the speech be printed in the RECORD.

The speech follows:

A WORLD OF CIVIL RIGHTS IN A WORLD OF CIVIL WRONGS

(By Clarence E. Hodges)

One-hundred ninety-two years ago (in 1791), the Founding Fathers of the United States rejoiced in the ratification of the first ten amendments to the U.S. Constitution—the Bill of Rights—which has helped guarantee all Americans the liberty we so cherish. The very first of these ten amendments protects and respects freedom of religion, the basis of peace. One hundred fifty-seven years later, on December 10, 1948, the United Nations adopted the proclaimed the Universal Declaration of Human Rights "as a common standard of achievement for all people and all nations."

This Universal Declaration remains an effective international standard against which the human rights practices of all governments can be measured. Article 18 of this thirty-article instrument states clearly for all peoples of the nations of the United Nations, "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

The very Charter of the United Nations signed on June 26, 1945, reaffirms "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small." The purpose of the U.N. as stated in Article 1 of the Charter includes, to encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. . . ."

The Convention On The Prevention And Punishment Of The Crime Of Genocide includes specific national and international protection for ethnic, racial, and religious groups and was adopted by the U.N General Assembly in 1948. These same rights were again supported and protected by the 1965 United Nations' International Convention On The Elimination Of All Forms Of Racial Discrimination. There are also the 1966 International Convenant On Economic, Social, And Cultural Rights, The 1966 International Covenant On Civil And Political Rights with the Protocol thereto, and the 1975 Helsinki Accords. The American Convention On Human Rights, adopted by the Organization of American States in 1969, reiterates these same rights. From these instruments, conventions, accords, and declarations, independent minds could very well conclude that we live in a world of civil rights. However, a look at reality could lead these same independent minds to conclude that we live in a world of civil wrongs!

The President of the United States recently proclaimed the week of July 15 as Captive Nations Week in recognition of liberties and freedoms taken for granted in the United States and in memory of the victims and heroes invovled in international struggles for freedom from Afghanistan and Lithuania to Laos and Nicaragua.

Americans have seen fit to recognize such a week for the past twenty-five years. And for the history of America, we have been, for the most part, on the side of freedom and civil rights. We have fought and sacrificed for the freedom of others. We helped Europe and Japan rebuild after World War II. We have given generously to promote economic development. We have been a haven for refugees.

The world of civil wrongs to which I refer are not the same in all parts of the world. Violations of basic civil/human rights in the Third World are not on the same principle as in the Second or First Worlds. Two-thirds of the world's population live in Third World nations. The first priority in developing poorer nations is survival. When survival of the masses (and or their leader) is perceived threatened by rights of individuals, the rights of individuals are denied—even the right of life! Where there are refugee problems, problems of starvation, and political turmoil, reality says survival is an issue and we may reasonably anticipate the denial of some basic rights.

The Second World, though not concerned with problems of survival, is first concerned with social solidarity, the benefits and rights of society, as determined by the state, over any rights of the individual. Dissenters are not tolerated.

The emphasis in the First World is on rights of the individual. This emphasis and concern is in the interest of peoples of all nations. This broad concern naturally leads to tension between nations as First World efforts are extended in the interest of individual freedoms and group liberties in Second and Third World countries. These general summary statements are not all inclusive neither are they intended to be.

The world of civil wrongs includes genocide against groups, apartheid, banishment, torture, illegal imprisonment, confinement in mental institutions for political purposes, the establishment of unwanted governments by force against the governed, and the specific violation of every right specifically mentioned in the various instruments of rights. These are not crimes of the past. All these violations of rights, government condoned and/or sponsored, are being committed at this very moment. Within a world of civil rights, on a daily basis, literally thousands of men, women, and even small children are gunned down in response to their search for freedom; forced to leave their homeland as refugees; allowed to starve, though international relief is available; or confined in unsanitary prisons designed to slowly deprive individuals of both the will to live and life itself.

The concept of human equality must be actively promoted. Any other spirit is born of ignorance, must never be tolerated and always condemned as a root cause of conflict and needless human suffering.

This International Conference of Christian Lawyers must never take for granted freedom of religion in spite of noble declarations flowing from the United Nations. While you are meeting in Rome, there is news of Roman Catholic priests being persecuted in Central America. I have visited countries under stress in Central America including Nicaragua. I have seen scars on a protestant minister inflicted by the Sandinistas and when he removed his headband, more scars were seen where his ears had been chopped off. I've visited non-Christian countries and discussed with Christians and non-Christians problems of religious liberty. In some countries, Christian baptism in the morning is the immoral equivalent of facing a firing squad at sunset. Dictators and fanatics somehow have failed to learn from 2,000 years of history that Christianity can

be outlawed but it cannot be out-lived! I am not referring to a few isolated incidents. In our world of civil rights, there is a world of civil wrongs!

What can be done to expand and preserve freedom and rights? Organizations, such as this, can continue to press the moral issues upon all national leaders and international organizations. Freedom loving countries may deny economic and military assistance, withhold diplomatic support, apply public pressure with public statements, utilize traditional diplomacy and persuasion, and a mixture of rewards and punishment. While these have proven to be effective in many cases, we must never overlook opportunities to aid in the removal of the root causes. These opportunities may include efforts to stablize economies and governments with creative technical assistance and incentives such as the special five-year $500 million U.S. plan for Africa and the $8 billion plan for Central America. They may include international honor for the honorable which will give political strength nationally to those who respect human rights and the concept of government by law, for the governed as determined by the governed.

The leaders and rulers of the world must learn and teach that freedom is the basis of peace and that those who would have peace, individually and collectively; whether leaders or followers, must labor for the elimination of all civil wrongs in this world of civil rights.●

THE LAW AND HOME SATELLITE TV VIEWING

● Mr. GOLDWATER. Mr. President, I wish to congratulate the home satellite television industry upon marking the successful conclusion last week of a major convention-trade show held at Nashville, TN. The conference was jointly sponsored by SPACE, the Society of Private and Commercial Earth Stations, and STTI, Satellite Television Technology Industries. Over 9,000 enthusiastic persons, including many dealers and their families, attended a series of professional seminars extending over a 3-day period from September 3 through 5. They and interested consumers also visited row after row of exciting exhibits of state of the art equipment offered by hundreds of manufacturers and distributors of home TV Earth station systems and components.

It is hard to imagine that this industry did not even exist 5 years ago. Prices have come way down and quality has improved. I am told that among the more than 300 different models of dish antennas displayed at the conference were several portable makes suitable for mounting on the roofs of recreational vehicles or to go along with trailer homes if they are moved.

The 12 and 10 foot antennas of yesterday are being replaced by 8 and 6 foot antennas in many areas of the country. Solid dishes seemed to be outnumbered by mesh see-through dishes at the Nashville exhibits. A prototype of a collapsable antenna was even on display, a unit that folds up like an umbrella. Advanced models of receivers were on exhibit, too, including units that can be programmed to automatically aim the antenna at different satellites and adjust the polarity to each signal.

The industry has already surpassed the billion dollar annual sales level and over 600,000 home Earth stations are in operation serving more than a million viewers with programming that cannot be obtained in any other way. The home TVRO—television receiving only—industry is serving the unmet needs of a neglected group of citizens and providing thousands of new jobs for Americans. It sprung up naturally, spontaneously, in rural America thanks to the ingenuity and imagination of individuals and small businesses.

With all its success, however, this dynamic new industry is threatened with serious obstacles that could shatter its progress and punish those who have already invested in it. Two major problems now besetting the industry are, first, questions about legality and, second, unreasonable local zoning rules.

Even though unscrambled satellite transmitted signals fall uninvited on everyone's homes, a few producers and cable companies claim that private, noncommercial viewing of these signals is illegal. These naysayers will not even take payment for such viewing when it is offered to them voluntarily by individual viewers or by SPACE on behalf of its members.

The legality issue would be settled by a bill, S. 2437, which I introduced in March and is now cosponsored by 10 other Senators. A companion bill has been introduced by Congressman AL GORE of Tennessee, H.R. 5176. Both bills would secure in statute law the right of private individuals to receive and view unscrambled satellite TV signals in their own homes with their own private equipment.

The problem of unreasonable local zoning rules is presently before the Federal Communications Commission, which has been asked to issue a rule preempting arbitrary local ordinances that do not meet general Federal standards of fairness and uniformity.

For example, local safety rules are legitimate if designed to prevent a massive rooftop antennas from tearing off in a windstorm and crashing down onto a neighbor's home. However, if a flat prohibition is imposed against installing any dish antenna at all, or outlawing any dish larger than a specified size, such as 6 feet in diameter, with no opportunity for a variance or waiver, then the zoning rule likely fails to meet elementary standards of reasonableness in circumstances where it would have the same effect as a total ban on such devices. Such local rules are especially offensive if the same ordinance that restricts satellite dish antennas allows huge and unsightly 30 or 35 foot towers to be erected with double stacking of normal television antennas or allows the installation of multiple FM, VHF, UHF, and CB rooftop antennas all on the same roof, as many local laws do. If the FCC does not act favorably on this petition, I believe Congress should address the zoning issue together with the legality subject and cover both matters in a single new law.

Mr. President, the legal question facing earth station owners is concisely discussed in a column appearing in the September 6, 1984, issue of Satellite Dish magazine and I ask that it may appear in the RECORD.

The column follows:

[From the Satellite Dish Magazine, Sept. 6, 1984]

SATELLITE DISHES AND THE LAW

(By Frank Baylin)

EDITOR'S NOTE.—This new column, with an emphasis on satellite-related issues and how they affect the home satellite system owner, will be a regular feature of *Satellite DISH* authored by Dr. Frank Baylin of Boulder, Colorado. Baylin, who holds a degree in physics and who has completed advanced studies in other high technology fields, will share his insights into this highly-specialized subject in this space on a monthly basis.

Additional information on satellite television is available in "Satellites Today, The Complete Guide to Satellite Television," authored by Baylin. It is available for $9.95 from Satellites Today, P.O. Box 12098–P, Boulder, Colorado, 80303.

Are home satellite enthusiasts pirates? Or are they brave pioneers in a 1.4 billion dollar yearly industry which was virtually non-existant six years ago. Home satellite dish system owners have argued for freedom of the airways while some program producers, having seen a curious phenomena grow into an annoyance and finally into a challenging economic threat, have made numerous unsuccessful attempts to legally cripple the industry. But the future looks bright for owners of home satellite dish systems.

This spring on March 19, Representative Albert Gore, Jr. introduced a bill, the Satellite Television Viewing Rights Act of 1984, to the House of Representatives that would affirm the legal rights of home satellite dish owners to receive as well as decode satellite television programs. At the same time, Barry Goldwater introduced the similar but less complex Satellite Viewing Rights Act of 1984 into the U.S. Senate. Both of these well-considered acts should be examined in the proper perspective—from that of the evolution and structure of the home satellite industry.

Satellite broadcasting was the catalyst that allowed the cable television industry to tap into excellent non-local programming and, in the process, to gain popular support and economic viability. Program producers such as HBO and Cinemax grew hand in hand with the cable industry as the subscriber base expanded. However, other organizations such as religious groups realized the power of satellite television for delivering a message to an enormous audience at a relatively low cost and offered free programs to cable companies and home satel-

lite dish owners alike. Additional satellite broadcasters now welcome the free reception of commercially-sponsored fare.

Since then, legislators and courts have faced a curious dilemma. How could they outlaw reception of all satellite television broadcasts when some were clearly offered free of charge? Could they also protect the pay-TV services whose very existence depends upon collected revenues from individual subscribers without infringing on the rights of others?

SPACE, the lobbying group for the home satellite industry, has long recognized the need for the survival of both programmers and the home satellite industry and for the protection of the end-consumer. Their stated policy is that "Every individual has the right to receive any information transmitted through the air; and that information intended to be paid for must be paid for—not stolen." But when some program producers refused to accept payment from private individuals, SPACE then argued that three classes of citizens who watch TV had been created: "Those who have paid their bills, those who haven't, and those who are not allowed to."

Congress must face the fact that technology has outpaced law. In the process, a thriving grass roots industry representing many votes has flowered. In fact, cable TV companies themselves, originally considered a threat to conventional, over-the-air TV, first perceived the home satellite industry itself as a threat. But now many cable companies have jumped on the bandwagon in selling satellite broadcast receiving equipment.

In the past, the legal rights of home satellite dish system owners have been based upon interpretations of both the copyright law and the somewhat outdated Section 605 of the 1934 Communications Act. This act prohibits the interception and unauthorized use of private television programs over public airways but an interpretation suggests that those who use but do not resell transmissions are within the bounds of the law. In light of this clause, HBO has successfully sued bar owner who attracted patrons by "reselling" the TV entertainment. Note that these business people, in many cases, also were denied the right to pay the producers of satellite broadcasts.

Early this spring, the Supreme Court decided the Sony/Betamax case in favor of those who videotape regular commercial television programming for private not commercial use. Even though this decision never referred to the home satellite industry, the parallel with private reception of satellite TV has given a new, bright hope for those seeking to formally legalize the home satellite industry.

Technology is now available to scramble satellite broadcasts. So technology is again poised to outpace law. In fact, HBO has been "announcing" for more than a year the imminent implementation of its advanced scrambling system.

Apparently many people including Representative Gore and Senator Goldwater have wondered why the millions of people living in outlying areas where television reception is limited or non-existent should be denied quality entertainment. Both the Satellite Viewing Rights Act of 1984 (Senate Bill 2437) and the Satellite Televison Viewing Rights Act of 1984 (House Resolution 5176) establish the clear legal principle to secure the right to view satellite television programming by individuals for non-commercial use and to foster the general availability of satellite television programming. Both bills also prevent individuals from manufacturing, distribution or using unauthorized equipment to decode scrambled satellite television signals.

The bill introduced into the House of Representatives, in addition, establishes the mechanism to allow for negotiations between the owners of home satellite dish systems and programmers that may broadcast encoded signals. Thus, "paid-for" reception would be legal and all consumers would be endowed with the right to pay. Home satellite system owners could do so by means of a flat fee when purchasing an earth station, by payment channeled through local cable companies, by direct yearly subscription or by an other reasonable method.

One question remains. Why would pay-TV producers want to bypass a rapidly-growing market which is, by and large, inaccessible by any other broadcasting method? This market will encompass approximately one million households by year's end. Perhaps a smart manufacturer will develop a "black-box" which can be used to decode up to ten or fifteen different pay-TV channels. Modern computer technology would allow customers to be turned on or off from a central location. Billing also could be easily managed by the control computer. Profits to the programmers/manufacturers would be realized in both the sale of the decoder and subscription rates. In fact, why not incorporate such technology as a standard "card" in all video receivers?

Even though the future is not ours to see, it appears with reasonable certainty to be a promising one for all participants in the satellite television industry. This time, the consumer probably will win while the manufacturing and programming industries thrive.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 6, 1984.

In reply refer to: I-12359/84ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-66, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $330 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
LIEUTENANT GENERAL,
USAF, Director.

TRANSMITTAL NO. 84-66

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchase: Saudi Arabia.

(ii) Total estimated value:

	Million
Major defense equipment [1]	$0
Other	330
Total	330

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Three year (16 February 1985 through 15 February 1988) follow-on support to the current PEACE HAWK VIII Service Program and mission support services to the Royal Saudi Air Force (RSAF) F-5/F-15 airbases during the same period.

(iv) Military department: Air Force (YEA).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of Technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included n section 28 report.

(viii) Date report delivered to Congress: September 6, 1984.

POLICY JUSTIFICATION

SAUDI ARABIA—AIRCRAFT AND AIRBASE SUPPORT SERVICES

The Government of Saudi Arabia (SAG) has requested the purchase of a follow-on program to provide technical and personnel support for Royal Saudi Air Force (RSAF) F-5 aircraft and mission support services at RSAF F-5 and F-15 airbases at a cost of $330 million.

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own self-defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support the Saudi Arabian effort to improve the security of the country through modernization of the Saudi Armed Forces. In addition, enhancement of the defensive capabilities of Saudi Arabia in a regional context will also contribute to overall Middle East peace.

The U.S. has provided the RSAF with 114 F-5 aircraft under the Peace Hawk program and 62 F-15 aircraft under the Peace Sun program. In support of these programs, the USAF has provided contract management of training, maintenance, construction, and support services contracts since 1972. The last increment of this support for the Peace Hawk program was notified to the Congress on 19 January 1981 in the amount of $900 million, and the last increment for the Peace Sun program was notified to the Congress on 14 October 1983 in the amount of $1.5 billion. This increment in the amount of $330 million will provide a continuation of technical and personnel services for the Peace Hawk program and mission support services at RSAF airbases for an additional three years to allow the RSAF to progress toward their goal of self-sufficiency in F-5 and F-15 aircraft operations.

This sale does not represent any significant change in the overall military balance in the region.

The prime contractor for the proposed sale will be the Northrop Corporation of Hawthorne, California.

No additional U.S. Government personnel will be required in Saudi Arabia to implement the sale. The number of contractor personnel in Saudi Arabia will continue to decrease, as they have under the Peace Hawk VIII program, due to increasing RSAF self-sufficiency.

There will be no impact on U.S. defense readiness since the sale does not involve the transfer of additional end items or munitions and since no additional U.S. Government personnel are required to implement the sale.●

THE SOCIAL SECURITY DISABILITY SYSTEM

● Mr. LEVIN. Mr. President, on May 22, 1984, the Senate passed by 96-0 S. 476, a bill to reform the Social Security disability system. The House had passed a similar bill by a vote of 410-1 on March 27, 1984. Those bills have been in conference now for over 3 months. Four weeks remain before we leave in October. Several key issues in the bills remain in dispute. We cannot in good conscience adjourn this Congress without resolving this matter so critically important to all the workers of this country who put their faith and confidence in the protection that is supposed to be provided by the social security disability system. I urge the conferees of both Houses to negotiate earnestly and unceasingly until the conference report on these bills is completed.

While it may appear on the surface that the compelling need for this reform legislation has abated, it has not. The only reason we are not hearing the volume of horror stories we witnessed over the past 2 years is because of the nationwide moratorium placed on the continuing disability reviews by the SSA. This was done in answer to the chaos and injustice that exists in the program, and in anticipation of passage of the reform legislation. Should this legislation not be enacted during this Congress, it would only be a matter of time before the reviews would begin again and the horror stories would be revisited. We cannot allow a known tragedy to be repeated.

The SSA is keeping the peace in this program on borrowed time, and in violation of the law. The Secretary does not have statutory authority to continue to pay benefits to persons who have been terminated by the State disability examiners and who have filed appeals to the administrative law judges. That authority expired December 7, 1984. Yet, Secretary Heckler is continuing to do just that, in spite of the absence of any such authority, in order to avoid the horror stories that have plagued the administration of these reviews since they began in 1981. We in Congress sanction it, because we want to protect innocent people and insure that a fair system is in place for all future reviews. But let's not kid ourselves. We are assenting to the continued unauthorized payments of benefits in order to buy time to straighten out this mess. I am not against buying time, but I want to be sure we are not deceiving ourselves into thinking that we have in any way solved the problem because the cries for help have softened. This program remains in a shambles and it is our responsibility—we in Congress as well as the President—to correct it. And we have only the 4 remaining weeks in which to do it.

I have several documents which I would like to include in the RECORD, because they demonstrate the severity of the problems in the disability program. The first is a decision rendered by Federal District Judge H. Lee Sarokin, from the U.S. District Court for the District of New Jersey on June 7, 1984. His strong language is unusual for a Federal judge and evidences a deep concern over the callous conduct of the Social Security Administration. To support his point, Judge Sarokin cites the SSA's loss rate in Federal court on disability cases. With the requirement to meet only a threshold standard of review that SSA show substantial evidence in support of its position—SSA's loss rate in the New Jersey District Court was 56 percent over a 6-month period, and in a nationwide survey of 91 districts, the loss rate was 49 percent. "Such a rate of reversal throughout the land is staggering and paints an undeniable picture of a heartless and indifferent bureaucratic monster destroying the lives of disabled citizens and creating years of agony and anxiety by ignoring both facts and legal precedent," Judge Sarokin wrote.

Part of the issue in that case involved the payment of attorney fees, and Judge Sarokin accurately explained one of the more unfair practical consequences of the current disability review process—that many of the 200,000 persons who were terminated and reinstated upon appeal, had to pay on the average 25 percent of the benefits to which they were otherwise entitled to an attorney, in order to obtain what should have been theirs in the first place.

I will also submit for the RECORD, a copy of a recent New York Times editorial, dated August 31, 1984. It condemns SSA's appeal in a case recently decided by the Second Circuit Court of Appeals regarding the process used by SSA to review the eligibility of persons with mental impairments. In that case both the district court and the court of appeals found that SSA had used a secretive, illegal practice to deny eligible disability beneficiaries the right to their benefits. The New York Times criticizes SSA's unwillingness to correct an obvious error. One explanation, the editorial states:

For such stubborness is that the Administration continues to let obsessive costcutting limit its vision. That's a charitable excuse for a policy that looks more like official cruelty.

I will also submit for the RECORD the first paragraph of a circular recently issued (August 10, 1984) by SSA's Office of Hearings and Appeals. It was apparently sent to all local SSA OHA offices, and it describes procedures—and I quote the title of the circular.

For Handling Cases Where Claimant or Other Individual Threatens Violence". The first sentence is a pitiful admission by SSA as to the tragic effects of this disability review process. It says, "In recent months, there has been an increase in reported cases of claimants or others who have threatened suicide, homicide, or other acts of violence, after learning that a claim for benefits had been denied or that benefits would be ceased.

SSA has to issue guidelines now for handling suicidal or and homicidal claimants, because of the increase of such incidents in recent months. Shouldn't that tell SSA and the administration something about how seriously unfair the current system is? Doesn't that remind us all of how important and urgent passage of this disability legislation is?

Later on in this same circular, SSA states,

While the causes of such extreme behavior may be numerous and complex, it is generally agreed that such behavior is often a plea for help.

That is a simple statement of obvious fact—one which we cannot and should not be allowed to ignore. These disabled workers need our help and the situation is desperate. We must respond with passage of this legislation by this Congress to provide an equitable and humane process by which claimants' eligibility will be determined.

Finally I will submit for the RECORD the letter of Rudolph Giuliani, U.S. attorney for the Southern District of New York, which was referred to in an article in Sunday's New York Times. It is a highly unusual letter to Judge Constance Baker Motley, U.S. district judge for the Southern District of New York, in which the former associate attorney general told the court he could no longer routinely defend the Social Security Administration in the disability cases being brought. He announced that his office would begin to exercise strict judgment to determine whether the Social Security Administration's position in these cases is reasonable and supportable and if his office finds it is not, he will seek to remand the cases back to the Social Security Administration. He also stated his disagreement with SSA's

policy of not acquiescing in circuit court decisions with which it disagrees and stated to the court his intention to follow the rule of law in the second circuit court of appeals and not as determined by the Social Security Administration.

Mr. President, for the 200,000 beneficiaries who have been terminated only to be reinstated after long, difficult and costly appeals process, for the countless thousands of persons who without reform legislation would otherwise be terminated and who do not have the mental or financial wherewithal to appeal, for the millions of this Nation's workers who rely on the Social Security Disability Program to insure them against financial hardship and loss due to unexpected illness or injury, we must pass the disability reform legislation this year. I urge the conferees to make every effort to achieve a compromise and to do it as expeditiously as possible to insure final congressional and Presidential action before we adjourn in October.

Mr. President, I ask that the following items be placed in the RECORD immediately following my remarks: the opinion in *Merle* v. *Heckler,* Civil Action No. 83-189, U.S. District Court for the District of New Jersey; the New York Times editorial entitled "The Disability Disaster," dated August 31, 1984; the first and second pages of HHS/SSA Interim Circular No. 166; and the letter dated June 25, 1984, from Rudolph Giuliani, U.S. attorney, to the Honorable Constance Baker Motley, U.S. district judge.

The material follows:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

[Civil Action No. 83-189—Opinion]

BRUCE MERLI, PLAINTIFF v. MARGARET M. HECKLER, SECRETARY OF HEALTH AND HUMAN SERVICES, DEFENDANT

The Department of Health and Human Services has apparently determined to effect economies by systematically denying disability benefits to those persons who are entitled to them. The evidence (of which the court takes judicial notice) in support of this conclusion is so overwhelming that it cannot be refuted.

In the six months ending in December 1983, of the appeals taken to this United States District Court from such denials, 56 percent were reversed or remanded. In a survey of ninety-one districts in the nation the percentage reversed or remanded during this same period was 49 percent.[1] Since the beginning of 1984 the reversal rate in the Third Circuit Court of Appeals of those cases that were affirmed by district courts has been "about fifty percent." *Wier v. Heckler,* No. 83-5433, slip op. at 6 (3d Cir. May 14, 1984). Such a rate of reversal throughout the land is staggering and paints an undeniable picture of a heartless and indifferent bureaucratic monster destroying the lives of disabled citizens and creating years of agony and anxiety by ignoring both facts and legal precedent.[2]

The callousness demonstrated is particularly revealing when one recognizes the high threshold which the courts must reach before they are permitted to disturb the administrative conclusion on appeal. The courts do not determine whether the decision is correct or incorrect, but merely whether there is substantial evidence to support it. One can envision even a much greater reversal rate if the courts were permitted to conduct a *de novo* review and decide the matter without reference to the administrative finding.

Furthermore, it should be noted that in addition to adversely affecting the lives of the petitioners, the systematic denial of benefits and the appeals which inevitably follow, have brought or will bring the courts to a standstill in respect to other litigation. These appeals now make up a staggering 14.6 percent of all of this district's civil business.[3] If the trend continues, the court will be unable to attend to its other business or to these appeals which merit careful and considered attention.

All of the foregoing is particularly relevent to the application for counsel fees now before the court in this matter. Routinely counsel fees are paid by the petitioner out of the award eventually received. The fee is usually 25 percent of the past-due benefits received and may not exceed that amount by statute.[4] The effect, of course, is obvious. As a result of this insidious policy of denying benefits in many cases in which they should be granted, petitioners receive far less than they should have received, had the benefits not been wrongfully denied in the first instance. Only due to these abuses by the government agency is this multitude of persons compelled to litigate and pay for such litigation.

The court is satisfied that one way to stem this tide and alter what has been described as the government's policy of "informal nonacquiescence," is to require the government and not the claimants to pay counsel fees in these matters. Under the present system the government has nothing to lose by putting these persons through the agony of the appellate process even if it must ultimately pay the benefits found to be due. Hopefully, by imposing counsel fees on the government, this cruel and inhumane policy and the blatant contempt for judicial decisions will end.

The court also reminds counsel for the government of their obligation under Rule 11, which provides:

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

With few exceptions, counsel for the government defend and support the agency's determinations. It is inconceivable to the court that there are not many instances in which government counsel could and should consent to a reversal or remand. The rubber stamp approval does not comport with their obligation to the court as attorneys or their duty as counsel for the United States.

In this case plaintiff Bruce Merli applies for an award of counsel fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. Plaintiff brought this civil action to challenge the decision of the Secretary of Health and Human Services (the Secretary) terminating his disability benefits. The court, in an opinion filed on February 23, 1984, granted summary judgment to the plaintiff and against the Secretary. By order of February 23 the matter was remanded to the Secretary for the continuation of disability benefits. This application was timely filed on March 23, 1984.

Plaintiff was awarded disability benefits beginning on June 3, 1968, primarily due to residuals of injuries received as a soldier in Viet Nam. On that date plaintiff was shot in the head. Hospitalizations and surgery followed. He was honorably discharged from the Army in 1968 with a permanent service-connected disability of 100 percent. The wound resulted in significant brain damage

[1] The source of these figures is Allyn Z. Lite, Clerk of the United States District Court for the District of New Jersey. The figures were compiled from data obtained from the Statistical Analysis and Report Division of the Administrative Office of the United States Courts.

[2] "Depending upon one's perspective, either the judicial system is placing impossible burdens on the administrative apparatus set in place by Congress to initially evaluate benefit claims or the officials in charge of the disability programs are, at least in many instances, ignoring the law." *Wier,* slip op. at 4.

[3] This figure represents the percentage of pending civil cases on May 1, 1984 in the District of New Jersey. The Court of Appeals has recently commented upon the number of social security appeals that are currently being filed. "[T]he past three years have seen over a 400 percent increase in the number of filings . . . " nationally of suits by individuals denied disability benefits. *Wier* v. *Heckler,* slip op. at 4.

[4] 42 U.S.C § 406 provides, in pertinent part: Whenever the Secretary, in any claim before him for benefits under this subchapter, makes a determination favorable to the claimant, he shall, if the claimant was represented by an attorney in connection with such claim, fix (in accordance with the regulations prescribed pursuant to the preceding sentence) a reasonable fee to compensate such attorney for the services performed by him in connection with such claim. If as a result of such determination, such claimant is entitled to past-due benefits under this subchapter, the Secretary shall, notwithstanding section 405(i) of this title, certify for payment (out of such past-due benefits) to such attorney an amount equal to whichever of the following is the smaller: (A) 25 percentum of the total amount of such past-due benefits, (B) the amount of the attorney's fee so fixed, or (C) the amount agreed upon between the claimant and such attorney as the fee for such attorney's services.

manifested by inability to understand and use language, difficulty in reading and writing, muscular weakness affecting the left side of the body, memory impairment and defective vision. The Secretary later reviewed the case and determined that plaintiff's condition had improved sufficiently to allow him to engage in employment. This court reversed, finding no substantial evidence to support that conclusion.

The EAJA provides, in pertinent part:

* * * a court shall award to a prevailing party other than the United States fees and other expenses * * * incurred by that party in any civil action * * * brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

28 U.S.C. § 2412(d)(1)(a). The party seeking fees is required to submit an application within thirty days of the entry of final judgment

which shows that the party is a prevailing party and is eligible to receive an award under this subsection, and the amount sought, including an itemized statement from any attorney . . . stating the actual time expended and the rate at which fees and other expenses are computed. The party shall also allege that the position of the United States was not substantially justified.

28 U.S.C. § 2412(d)(1)(B). The government has the burden of showing that its position was substantially justified. *Dougherty v. Lehman*, 711 F.2d 555 (3d Cir. 1983). The test of whether or not the position of the government was substantially justified is one of reasonableness. Where the government can prove that its position had a reasonable basis both in fact and in law no award should be made. *Id.*

The government opposes this application and urges that its position in this litigation was substantially justified in law and in fact. The court recognizes that the government's position on the critical question of law was essentially reasonable. In a termination of benefits case, after the claimant presents evidence that the condition has improved sufficiently since the initial determination to allow him or her to engage in substantial gainful activity. *Kuzmin v. Schweiker*, 714 F.2d 1233 (3d Cir. 1983). The court found that there was no substantial evidence to support this finding, and now finds that the position of the government was not substantially justified in fact. In its brief the government argues at length that the evidence was sufficient for the Secretary to conclude that plaintiff's condition had improved, making reference to specific findings in the medical reports. The court rejects the attempt of the government to reargue its case in spite of the following findings of this court:

There is no evidence of improvement in the weakness of his left side caused by his gunshot wound.

Merli v. Heckler, No. 83-189, slip op. at 11-12 (D.N.J. February 23, 1984).

None of the psychological or neurological reports indicate that plaintiff's language and memory difficulties have improved to the extent that he is now able to engage in employment.

Id. at 12.

The only credible evidence about the ability of plaintiff to perform the duties of a gas station manager is the evidence presented by plaintiff of his inability to perform the job due to stress and his difficulty with numbers.

Id. This was not a case where the legal standards were unclear or in dispute, or a case that was factually a close one. The position of the government in this litigation was not substantially justified.

The government also contends that the application should be denied because of two technical errors in the application. The government asserts that plaintiff has included in the itemization of services time spent in prosecuting this case at the administrative level, while fees are only available for work performed in this court. A review of the affidavit of services reveals that this appears to be a valid objection. The government also notes that plaintiff has not set forth the rate at which the fees are to be computed in his application. The government contends that these errors are a sufficient ground upon which to deny the application.

The court recognizes that the EAJA is a waiver of sovereign immunity, and as such, it must be strictly construed in favor of the sovereign. *Ruckelhaus v. Sierra Club*, — U.S. —, 103 S. Ct. 3274, 3277 (1983). The government relies upon several cases in which fee applications were denied because of this principle. *Ruckelhaus*, 103 S. Ct. at 3274 (holding that a party may not recover attorney's fees under the Clean Air Act absent some degree of success on the merits); *Monark Boat Co. v. N.L.R.B.*, 708 F.2d 1322 (8th Cir. 1983) (it was not error to deny application for fees under the EAJA when application was submitted one day after the time limit contained in the Act); *Commissioners of Highways v. United States*, 684 F.2d 443 (7th Cir. 1982) (holding that the EAJA was not applicable when the only matter pending on its effective date was a denial of the motion for fees. As an alternative ground, the court found that the Commissioners were not a "party" within the meaning of the Act.)

The defects in the application before this court are not significant enough to warrant denial of the application, and the government has not been harmed by them. Plaintiff's application clearly states that compensation is sought only for services performed before this court and not for work performed in the agency proceedings. It seems that some noncompensable hours were inadvertently included in the affidavit of services. The government knew, on the date it received the application, the maximum number of hours that could be the basis of an award of fees; this allowed the government to estimate its maximum liability for fees, utilizing the usual statutory maximum rate of $75.00 per hour. 28 U.S.C. § 2412(d)(2)(A). Similarly, the government has not been harmed by the failure of the plaintiff to specify the rate at which fees should be computed. As noted above, the statute contains a maximum rate of $75.00 per hour "unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." *Id.* Nothing in the application indicates that an increased rate will be sought. Thus, the government was able to estimate its maximum liability upon receipt of the application.

Because the court concludes that the deficiencies in the application are minor, and the government has not been harmed thereby, the court will grant the application for fees, but reserve the determination of the amount. Plaintiff is directed to file, within ten days, an affidavit setting forth the hourly rate of compensation and the number of hours spent in preparation of the case before the court. The government shall thereafter have ten days to respond. *See Constantino v. United States*, 536 F. Supp. 60 (E.D. Pa. 1981) (because the court had insufficient facts from which to set a fee under the EAJA the motion was denied without prejudice and plaintiff was directed to amend the application to include an itemization of the hours expended on the case.) When these submissions are received the court will determine the amount of the award.

CONCLUSION

Although the court's introductory remarks are predicated upon statistics, it is important to recognize the lack of humanity that the system now engenders in individual cases. The denial of disability benefits in a case in which they are warranted has a devastating effect upon the individual and his or her family. The process which follows is long, humiliating and expensive. If denial and degradation have become official government policy, then we have forgotten the purpose for which these broad social programs were enacted. If economies are to be effected, let the government do it forthrightly and openly through legislation and not through this insidious process which demeans the individual and denies him or her the benefits Congress intended and to which he or she has contributed.

The present policy of the Department of Health and Human Services has demonstrated contempt for the rulings of the federal courts and for the rights and needs of the people affected by its arrogance. Congress makes the law. The judiciary interprets it. The executive administers it. In this instance, the Department of Health and Human Services apparently has arrogated all three functions unto itself.

The federal agency should be reminded that the Social Security laws were enacted to relieve human suffering, not to cause it. It is hoped that by shifting the cost of this litigation from the innocent petitioner to the government, in instances where the law permits, that even the Department of Health and Human Services will correct its ways, if not in the interests of the claimants, at least in the interests of the taxpayers whom it supposedly serves.

H. LEE SAROKIN, *U.S.D.J.*

[From the New York Times, Aug. 31, 1984]

THE DISABILITY DISASTER

In October 1981, a Manhattan social agency found him living as a vagrant in Central Park. At that time he was delusional, filthy, hostile. . . . His application for . . . benefits was rejected initially and on reconsideration despite a medical report stating that he hallucinated, had delusions of people being after him and spent most of his time wandering the streets. . . . In the denial of reconsideration of his application . . . it was stated that while his condition prevented him from returning to his "usual job," there were "many other jobs" that he could perform.

What usual job? Which many other jobs? Such examples of bureaucratic callousness run through lawsuits over the Social Security Disability program, which the Reagan Administration has turned into an administrative disaster area. Now an appeals court decision in New York makes clear that the disaster is moral as well as managerial.

Early in President Reagan's term, Administration budget-cutters considered the $18

billion program a sitting duck. Carter Administration officials, alarmed by astronomical increases in disability payments, had ordered reviews of all disability cases in order to identify cheaters. It would be a simple matter, their successors figured, to make deep cuts by speeding up the review schedule—and by quietly tightening the rules for eligibility. New interpretations of the rules ordered by internal memo meant that an ability to boil water or rake leaves immediately established one's "employability," thereby disqualifying hundreds of thousands of the obviously disabled.

But getting away with such interpretations wasn't so easy. Social Security workers found themselves telling pathetically crippled or schizophrenic people to go out and find work. Many state officials refused to carry out the harsh new policy. Soon, Federal courts and administrative law judges were swamped with pitiful appeals—and they handed down a steady stream of rulings in favor of the disabled claimants. By last spring, more than 200,000 of 491,300 people disqualified had won reinstatement on appeal.

Frederick A.O. Schwarz Jr., New York City's corporation counsel, led a legal battle against the change in the rules for the most vulnerable group, the mentally handicapped. A Federal appeals Court this week affirmed a favorable ruling he had won from a lower court. What's remarkable about the decision is the need to appeal, and the attitude it refelects in the Administration. For the Federal Government did not contest the merits. It insisted on appealing only on technical grounds of jurisdiction. In effect, Washington admitted that its initial policy was wrong.

When Federal dollars support the helpless, to be wrong is to be painfully wrong. "On the day that he received the notice that he was cut off," a psychiatric nurse testified of one patient, "He became very upset. . . . That day he became more and more depressed, mute, unresponsive, crying. And finally, several hours later he was found in his apartment by his roommates in a mute and unresponsive position; curled up on the couch, not responding to people trying to arouse him or call his name. . . ."

Despite such stories, the Administration even now persists in defending its policy with technicalities. It might yet appeal the New York case to the Supreme Court. In addition, the White House defends "Nonacquiescence"—refusal to accept defeats in some disability cases as precedents in others. And its objections to sensible measures to restore some decency to the system have stalled reform legislation for months.

One explanation for such stubborness is that the Administration continues to let obsessive cost-cutting limit its vision. That's a charitable excuse for a policy that looks more like official cruelty.

INTERIM CIRCULAR No. 166—Office of Hearings and Appeals Handbook

(Procedures for Handling Cases Where Claimant or Other Individual Threatens Violence)

BACKGROUND

In recent months, there has been an increase in reported cases of claimants or others who have threatened suicide, homicide, or other acts of violence, after learning that a claim for benefits had been denied or that benefits would be ceased. Because OHA personnel deal directly with many individuals, either face-to-face or on the telephone, this Interim Circular (IC) is being issued to ensure that all OHA personnel are aware of emergency safety procedures and specific program responsibilities for all cases in which potential for suicide, homicide, or other acts of violence is identified. This IC supplements the general instructions contained in SSA's Administration Directives System (ADS) Guide, section 160-20, which states that "In the event of a disaster or emergency situation in a regional or hearing office, the RCALJ or his designee would assume responsibility for safeguarding the personnel and records in the regional office, while the ALJIC or his designee would assume those responsibilities for the hearing office."

A. General

In the face of any life-threatening or potentially life-threatening situation, OHA personnel involved or alerted must act immediately to protect the life and safety of the claimant, as well as the safety of the public and OHA personnel. Personnel should deal with such situations as emergency events, following the instructions in this IC, using common sense and good judgment to defuse violent threats. Indications of suicidal, homicidal, or other violent potential should be treated as legitimate threats to the safety of the claimant, the public and OHA personnel and/or property. Appropriate action or referral must be completed immediately. Because such behavior is usually sudden and unpredictable, precise instructions on handling cases involving such threats are difficult to formulate. General guidelines can be set forth, but the specific circumstances of each individual case will determine the action taken.

While the causes of such extreme behavior may be numerous and complex, it is generally agreed that such behavior is often a plea for help. OHA personnel should keep this in mind when dealing with such behavior. Suicidal or homicidal potential may be identified in several ways. In most instances, such information will come from the individuals themselves, either by their words or their actions. It may also come from other sources, such as family friends, legal representatives, medical personnel, the DDS, the local DO, law enforcement authorities etc.

When any OHA employee becomes aware that a claimant or other individual has shown a potential for violence and that, based on the total information on hand, he or she appears to pose a present threat to his or her own person or to others, this information must be conveyed immediately to the appropriate personnel and authorities. In all such cases, the servicing DO/BO should be notified. The DO's/BO's familiarity and proximity to the claimant means that the DO/BO may ultimately be the component that is confronted by the claimant, regardless of the level of appeal or the physical location of the file.

There are two basic situations which OHA personnel must be alert to: (1) an immediate threat, that is, the claimant or other individual is on-site or on the telephone and is threatening violence; or (2) there is no immediate threat but the information indicates a need to alert all subsequent handlers of the claim to the potential for violence.

U.S. ATTORNEY,
SOUTHERN DISTRICT OF NEW YORK,
New York, N.Y., June 25, 1984.

Re: Social Security Disability Cases.

Hon. CONSTANCE BAKER MOTLEY,
U.S. District Judge, U.S. District Courthouse, Foley Square, New York, NY

DEAR JUDGE MOTLEY: As Your Honor knows, the number of cases filed in the Southern District of New York involving benefits under the Social Security disability program has increased dramatically each year. While the volume itself raises serious administrative problems for both my Office and the Court, what particularly concerns me is the significant percentage of decisions in which the Second Circuit and the judges of this Court have reversed the determination of the Department of Health and Human Services ("HHS").

As the United States Attorney, it is my obligation to make certain that the legal and factual position asserted by the United States in these cases, as in all others, is reasonable and supportable. This obligation obviously includes, at a minimum, the requirement of Rule 11, Federal Rules of Civil Procedure, that the Government's position be well-grounded in fact and warranted by existing law. While the United States Attorney's Office does serve as the attorney for its client agency, HHS, that cannot and does not abrogate our responsibility to meet the foregoing standards.

Many United States Attorneys have solved the problem of the increasing volume of these cases by turning over to HHS primary responsibility for preparing the papers in support of the Government's position. At most, the Assistant United States Attorneys review the papers generally and then submit them under the name of the United States Attorney. In the Southern District, Assistant United States Attorneys not only prepare the papers but are required personally to review the administrative file and make a determination that every case they are handling is one that should be defended. As a result of this analysis and review, Assistants have often written to HHS advising that a case should not be defended. It became apparent, however, that it would be necessary to implement a new procedure to try to better insure that the cases that are defended meet the proper standards.

Under this procedure, the U.S. Attorney's Office will make the final decision as to whether a particular case will be defended. When the agency rejects an Assistant's advice to voluntarily remand a case, the rejection is now reviewed by the Chief of the Civil Division or one of the two Deputy Chiefs. If these executives agree that our client's legal or factual position is not justified, the case will not be defended and we will agree to a remand of the case to the agency. Since this procedure was put into place there have been ten cases where we have refused to defend the Agency's decision. In addition, we believe that HHS has become more responsive to the initial request by an Assistant for a remand and more cases are now being accepted by the agency for voluntary remand. For example, this far in 1984, fourteen cases have been accepted for a remand at the Assistant's request.

One aspect of our decision-making process should be very clear. The decisions of the Second Circuit are the law which we adhere to and apply in our analysis and review. There has been much public discussion this year about HHS's "nonacquiescence policy."

It is our view that this policy, whatever it does permit, surely does not allow the United States Attorney's Office, HHS or any other federal agency to refuse to follow clear rules of law decided by the United States Court of Appeals. Properly applied, as it has been for years by the Internal Revenue Service, it permits a federal agency to decline to follow nationwide the ruling in one particular Circuit. However, there has never been any support to my knowledge for the notion that federal agencies within a particular Circuit could disagree with and refuse to follow clear rulings of that Circuit. We have not defended cases in the past by disregarding the law of this Circuit and will not do so in the future.

The manner in which the great number of social security cases are handled by the Civil Division has been reorganized this year. In order to deal with the volume and to have a more systematic and consistent response, we have created a special new unit in the Civil Division to work exclusively on these cases. Four Special Assistant United States Attorneys have thus far been hired and are now responsible for all newly filed cases. It is my expectation that, with time, the entire Social Security caseload in the office will be concentrated in this special unit.

We believe that this procedure, and the emphasis we are putting on the appropriate standards, should make a difference in the Government's response to social security claims. Whatever the past problems, the situation should continue to change for the better. We do not expect that the Court will agree with the Government's position in every case or even agree each time that there was a justifiable basis for opposing the claim. But the procedure should help in removing from the courts cases that do not properly belong there. We would welcome any thoughts and suggestions from the Court on how we can further improve our procedure.

Finally, in light of the great volume of these cases and the particular administrative problems which they pose, we propose that a local court rule be adopted to create a uniform system for handling the initial phases of this litigation. As the Court knows, the administrative record which must be filed by statute with the answer is almost never available at the end of the 60 days within which the Government normally has to answer. Our records show, however, that the administrative record is available in 95% of the cases within 120 days of service of the summons and complaint on this Office. In order to avoid the wasted time here and in the Court which is now expended on obtaining and tracking the necessary extensions of time which are granted after the first 60 days, we propose a rule requiring that the answer and record be filed not later than 120 days after service of the summons and complaint (unless, for good cause, an extension is granted).

I firmly believe that plaintiffs in these cases, having sought judicial review, are entitled to a prompt resolution of their claims. To help accomplish this, we would propose a fixed briefing schedule to apply to all cases. We believe that within 180 days of filing of the action or 60 days after the filing of the answer and record, whichever is earlier, the Government should make an appropriate motion when the plaintiff is appearing pro se. Where plaintiff is represented by counsel, plaintiff should make its motion within the same time limit and the Government would respond within 30 days of service of plaintiff's motion. While extensions for good cause may be requested, particularly when the United States Attorney's Office is seeking to obtain a voluntary remand from the agency, this schedule should set the norm for the prompt disposition of plaintiff's claims.

In conclusion, we believe that the prompt and fair resolution of Social Security cases is a matter of priority for this Office and the Court. While we cannot control the volume of cases that we must handle, we should take steps to insure that this large number of cases are effectively prosecuted by plaintiffs, appropriately defended by the Government and, where necessary, decided by the Court. I would welcome the opportunity to discuss the matters raised herein, or any others relating to these cases, with you or with an appropriate committee of the Court.

Respectfully,

RUDOLPH W. GIULIANI,
U.S. Attorney.●

PROCLAMATION FOR MR. RAYMOND WEIGEL

● Mr. RIEGLE. Mr. President, on Friday, October 5, the Cadillac Area of Citizens will hold a recognition day in honor of Mr. Raymond Weigel to express their appreciation of his contributions to the community and civil affairs.

Mr. Weigel is known for his dedication and his efforts to increase higher education opportunities in the Cadillac area through his generosity in contributing not only his time, but financially, to the Cadillac Area Consortium.

Equally concerned for the health of his community, Mr. Weigel has been instrumental in the effort to obtain a desperately needed new addition to St. Mercy Hospital.

Beyond his involvement in the health and education of Cadillac, Raymond Weigel is a corporate citizen in all areas. As chairman of the board of Kysor Industrial Corp. he has provided the invaluable strength of leadership which has resulted in the retention of their world headquarters, and those of St. John's Industry, in the Cadillac area.

On behalf of the citizens of Cadillac, I would like to express our gratitude to Mr. Weigel for the excellence of the many contributions he has made to his community, extend our appreciation to him and wish him success in the future.●

D'AMATO AMENDMENTS TO S. 2851, FINANCIAL SERVICES COMPETITIVE EQUITY ACT

Mr. MATTINGLY. Mr. President, on Thursday, September 6, 1984, my colleague Mr. D'AMATO introduced 40 amendments to S. 2851, the Financial Services Competitive Equity Act. These amendments are designed to delete or, in various ways, amend title X of S. 2851. While I do not wish to comment on each amendment individually, I would like to make some general observations regarding the thrust of the amendments.

In general, each amendment would have one more of the following effects:

First, strike title X as it is currently written or amend it in such a way as to change the Title's intent;

Second, repeal or amend the McFadden Act and/or the Douglas amendment to the Bank Holding Company Act of 1956; and,

Third, impose arbitrary concentration limits on bank holding company acquisitions.

NEED FOR TITLE X

To date, 9 States, including my home State of Georgia, have enacted regionally reciprocal State banking statutes; 31 others are known to be considering similar legislation. Indeed, regional banking is a popular phenomenon in the vast majority of States in this country.

Unfortunately, several of the States which have enacted regionally reciprocal banking statutes, and a number of the banks which have acted under these laws, have been faced with unnecessary litigation initiated by the Nation's largest bank-holding company. Despite the Federal Reserve Board's certification that such State statutes are constitutional, regional bank mergers approved by the Board have been held up for months. The Second Circuit Court of Appeals in New York last month upheld the Fed's certification of the constitutionality of regionally reciprocal banking statutes, and the mergers planned under those statutes. Still, the mergers are being held up, pending further appeal to the Supreme Court. Why then should title X be enacted now, in its present form?

The Senate should act in order to give relief to those smaller regional banks involved in the costly litigation against the largest bank in the country. The indefinite delays caused by this bank's tactics are unfair to banks with lesser resources who need to be able to act now while the financial services industry is changing all around them.

This litigation chills the plans of not only the regional banks which are directly involved in the lawsuits, but also those of other banks in States where regional banking laws are either a reality or are being contemplated. The Senate should act now, so that some of the biggest banks in the country, all located in the 1 State with more banking resources than any other in the Nation, do not effectively set the rules for banks in the other 49 States.

IMPORTANCE OF MCFADDEN AND DOUGLAS

The McFadden Act (12 U.S.C. 36) has for 50 years guarded the right of each State to determine the nature of bank branching permitted within the State's borders. The Douglas amendment to the Bank Holding Company

Act of 1956 (12 U.S.C. 1842(d)) permits the States to similarly control the expansion of bank-holding companies, including across State borders. Together, these two statutes form the foundation for the policy of State control of bank expansion, a policy established long before either law was written.

For two centuries this Nation has submitted to the policy that the best way to prevent unacceptable concentration of banking resources is to leave to the States the control over banking structure. McFadden and Douglas provide for this State control and recognize that States can best decide bank structure questions. If a State determines that bank expansion across its borders is desirable, it now has the ability to permit such expansion—be it on a reciprocal, regional, national, continguous State, or any other basis. Each State acts in the best interest of its citizens and each State alone is uniquely qualified to make such decisions.

McFadden and Douglas are at the heart of our dual banking system. Those amendments proposed by Senator D'AMATO which would eliminate McFadden and Douglas, or distort the intent of these statutes, should be rejected.

ARBITRARY CONCENTRATION LIMITS

A number of Senator D'AMATO's proposed amendments would impose various limits on the size of banks and bank holding companies involved in mergers and acquisitions, as well as on the total amount of banking resources which may be controlled by expanding organizations in any one State. While Senator D'AMATO's concern for undue concentration in the banking industry is admirable, I would suggest that his amendments provide arbitrary and harmful limits on bank expansion.

Banking is probably the least concentrated component of the financial services industry, this a result of our heritage of decentralized control of the banking industry. In addition to State control of bank expansion, however, we find a number of ways in which undue bank concentration is further prevented.

Foremost among these is a Federal antitrust law. The Federal Reserve Board considers the possible antitrust implications of each merger and acquisition it reviews. Neither the Fed nor the Justice Department would permit a bank merger which would result in undue concentration and lessened competition in the banking industry.

Additionally, banks expanding in regional markets are constrained by other factors. A limited number of attractive banking markets, internal limitation on capital and management, and the time involved in setting up and receiving regulatory approval for bank mergers—all these combine to prevent banks from expanding without bound.

Senator D'AMATO himself implicitly acknowledges that there is no logical consistency to the concentration limits his amendments propose. Some prevent bank holding companies with more than $2 billion from purchasing banks with more than $1 million in deposits. Others prevent bank holding companies with more than $5 billion in deposits from purchasing banks with more than $250 million in deposits. Still others would limit an out-of-State bank holding company from holding more than 10 percent of a State's deposits—or 5 percent in a different amendment. Similarly illogical restrictions are imposed in various other amendments based on the numerical ranking—in their home States—of the organizations involved or the total deposits held in the State by out-of-State banks.

If Senator D'AMATO is worried about concentration, he should look in his own backyard; 6 of the top 10 bank-holding companies are located in New York City with deposits totaling nearly $275 billion. Now that is concentration.

CONCLUSION

Title X is a vital piece of legislation. It upholds each State's right to decide whether and how to permit bank expansion within and across each State's borders. It protects smaller regional banks from unnecessary litigation pursued by the largest bank in the Nation. It deserves the support of the entire Senate, and should not be amended in any way.

I ask that a document entitled "Review of D'Amato Amendments" be printed at this point in the RECORD.

The document follows:

REVIEW OF D'AMATO AMENDMENTS

A. Strike Title X (3713):

AMENDMENT NO. 3713

Purpose: Delete Title X.

Response: Title X is an integral part of S. 2851. It is necessary in order to preserve the right of states to make fundmental decisions regarding bank structure within each state's borders, a right which is being challenged in the courts by some of the nation's largest banks.

B. Repeal McFadden and Douglas (3714):

AMENDMENT NO. 3714

Purpose: 1. Delete Title X.

2. Replace Title X with a Sec. 1001 which amends the McFadden Act (12 U.S.C. 36(c)) to remove wording which permits states to control branching "subject to the restrictions as to location imposed by the law of the State on State banks."

3. Add a Sec. 1002 which repeals the Douglas Amendment to the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)); the Douglas Amendment permits states to control expansion by bank holding companies across state borders.

Response: The McFadden Act and the Douglas Amendment are the fundamental federal banking laws protecting the state right to control cross-border bank expansion. Such control has been an underlying principle in the regulation of banking for nearly two centuries. Title X preserves and clarifies these rights and principles.

C. Repeal Douglas over various periods of time (3715–3717):

AMENDMENT NO. 3715

Purpose: 1. Delete Title X.

2. Replace Title X with a Sec. 1001 which repeals the Douglas Amendment.

Response: The Douglas Amendment is fundamental to the continued state control of bank holding company expansion. As Title X clarifies the Douglas Amendment's delegation to the states of the right to regulate interstate acquisition of banks by holding companies, the Title is merely a continuation of current policy.

AMENDMENT NO. 3716

Purpose: 1. Delete Title X.

2. Replace Title X with a Sec. 1001 which repeals the Douglas Amendment, effective one year from the enactment of the Financial Services Competitive Equity Act.

Response: Same as to Amendment No. 3715

AMENDMENT NO. 3717

Purpose: 1. Delete Title X.

2. Replace Title X with a Sec. 1001 which repeals the Douglas Amendment, effective two years from the enactment of the Financial Services Competitive Equity Act.

Response: Same as to Amendment No. 3715.

D. "Banking Geographic Deregulation Act of 1983" (S. 2107), and versions imposing various concentration limits (3718–3721):

AMENDMENT NO. 3718

Purpose: 1. Delete Title X.

2. Replace with a new Title X, cited as the "Banking Geographic Deregulation Act of 1983." This is Sen. D'Amato's S. 2107. It would permit bank holding companies to acquire, or establish de novo, one bank in each of two states each year for five years. After this five year period, the Douglas Amendment would be repealed. During the five years, a state could prohibit out-of-state bank holding companies from expanding within the state, with the consequence that its bank holding companies would be unable to acquire banks in other states.

Response: The Banking Geographic Deregulation Act of 1983 flies in the face of this nation's history of the state right to control of bank expansion. It ultimately repeals the Douglas Amendment, a fundamental expression of this state right, and thus the amendment should be rejected.

AMENDMENT NO. 3719

Purpose: 1. Delete Title X.

2. Replace with a new Title X, cited as the "Banking Geographic Deregulation Act of 1983." Its effect would be the same as Amendment No. 3718, except that the Act would be implemented one year after the date of enactment.

Response: Same as to Amendment 3718.

AMENDMENT NO. 3720

Purpose: Same as Amendment 3719 with the following addition: The Federal Reserve Board would be prohibited from approving an acquisition under the Act by a bank holding company with a bank holding company with over two billion dollars in deposits, of a bank with one billion dollars in deposits.

Response: In addition to the repeal of the Douglas Amendment, which is an affront to the state prerogative to control bank holding company expansion, the amendment imposes unnecessary restrictions on the size of

banks which might be acquired. Present federal antitrust law is well equipped to prevent unnecessary concentration in the banking industry, thereby making arbitrary deposit limits like those established in the Act meaningless.

AMENDMENT NO. 3721

Purpose: Same as Amendment No. 3720, except a bank holding company with over five billion dollars could not acquire a bank with over 250 million dollars in deposits.

Response: Same as to Amendment 3720.

E. Prohibit regionally reciprocal banking (3772):

AMENDMENT NO. 3722

Purpose: 1. Delete Title X.

2. Add a new Sec. 1001 which amends the Douglas Amendment to prohibit the use of geographic location as a determinant in a state's decision to permit bank holding company expansion across its borders. The ability of a state to permit nationwide reciprocal bank expansion, regardless of a state's geographic location, would not be affected.

Response: This attempt to invalidate regionally reciprocal state banking laws is inconsistent with the intent of the Douglas Amendment. Rather than encouraging diversity in the banking system, it requires that states enact nationwide reciprocal interstate banking laws (New York is now the only state with such a law) or nothing. It would destroy the ability of regionally reciprocal banking laws to act as engines of regional economic development.

F. Title X, followed in two years by the repeal of the Douglas Amendment, and versions imposing various concentration limits (3723-3725):

AMENDMENT NO. 3723

Purpose: Deletes the "Sunset" provision of Title X and replaces it with a new Sec. 1007, the repeal of the Douglas Amendment two years after the Act's enactment.

Response: The amendment is self-contradictory. Title X upholds the right of each state under the Douglas Amendment to continue to make decisions regarding bank expansion within and across the state's borders. By providing for the Douglas Amendment's repeal, this right is abrogated only two years following its affirmation.

AMENDMENT NO. 3724

Purpose: 1. Deletes the "Sunset" provision of Title X.

2. A new Sec. 1007 imposes concentration limits on bank holding company with over two billion dollars in deposits could not acquire a bank with over one billion dollars in deposits.

Response: While the affirmation of states' rights in the Act is appropriate, arbitrary concentration limits are not. Present antitrust laws are more than adequate to prevent the undue concentration of the banking industry through anticompetitive mergers.

AMENDMENT NO. 3725

Purpose; Same as Amendment No. 3724, except that the size limits imposed are as follows: A bank holding company with over five billion dollars in deposits could not acquire a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3724.

G. Title X, followed in two years by the repeal of the Douglas Amendment, and a federal bank regulator study on interstate banking (3716):

AMENDMENT NO. 3726

Purpose: 1. Deletes the "Sunset" provision of Title X and replaces it with a new Section 1007, the repeal of the Douglas Amendment two years after the Act's enactment.

2. Provides that the Secretary of the Treasury, after consultation with the Federal Reserve Board, the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corp. and the Chairman of the Federal Home Loan Bank Board, shall submit to Congress recommendations on legislation concerning interstate banking.

Response: The amendment is highly contradictory. Title X upholds the right of each state under the Douglas Amendment to continue to make decisions regarding bank expansion within and across the states' borders. By providing for the Douglas Amendment's repeal, while at the same time requesting suggestions on future actions in the federal regulation of interstate banking, the rights of states to make bank expansion decisions are abrogated and the true effects of the Douglas Amendment's repeal are obscured.

H. Title X, followed in one or/two years by the preemption of regional provisions of reciprocal banking laws, and versions imposing various concentration limits (3727-3732):

AMENDMENT NO. 3727

Purpose: Deletes the "Sunset" provision of Title X and provides that, one year after the Title's enactement, state statutes (including regionally reciprocal banking statutes) which limit the expansion of bank holding companies on the basis of geographic location are preempted, without recourse, to provide for nationwide reciprocal banking.

Response: The amendment is a serious challenge to the concept of states' rights. States which have lawfully enacted regionally reciprocal state banking statutes would find that the intent of these laws is subverted. Not only would the regional banking experiment be terminated by federal fiat, it would be done in a manner that forces states to accept, without recourse, changes in their banking laws which were never intended when those laws were framed.

AMENDMENT NO. 3728

Purpose: Similar to Amendment No. 3727, with the added proviso that bank holding companies with over two billion dollars in deposits cannot acquire banks with over one billion dollars in deposits.

Response: Same as to Amendment No. 3727, with the added concern that the concentration limits imposed are arbitrary in the light of the adequacy of federal antitrust laws in preventing undue concentration in the banking industry through anticompetitive mergers.

AMENDMENT NO. 3729

Purpose: Same as Amendment No. 3728, except that the size limits imposed are as follows: a bank holding company with over five billion dollars in deposits could not acquire a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3728.

AMENDMENT NO. 3730

Purpose: Similar to Amendment 3727 except this amendment would become effective two years after enactment rather than one.

Response: Same as to Amendment No. 3727.

AMENDMENT NO. 3731

Purpose: Similar to Amendment No. 3728 except this Amendment would become effective two years after enactment rather than one.

Response: Same as to Amendment No. 3728.

AMENDMENT NO. 3732

Purpose: Similar to Amendment No. 3729 except this Amendment would become effective two years after enactment rather than one.

Response: Same as to Amendment No. 3729.

I. Title X for two years, S. 2107 for three years following, and subsequently the repeal of the Douglas Amendment; also, versions imposing various concentration limits (3733-3735):

AMENDMENT NO. 3733

Purpose: Amends Title X by striking Sec. 1007 and adding a new Sec. 1007. The practical effect of this amendment would be to permit regionally reciprocal banking for two years, to be followed for three years by the scheme established in S. 2107, Sen. D'Amato's "Banking Deregulation Act of 1983." This would permit bank holding companies to acquire or establish de novo one bank in each of two states each year for three years. After this three year period, the Douglas Amendment would be repealed. During the previous three years, a state could prohibit out-of-state bank holding companies from expanding within the state, with the consequence that its bank holding companies would be unable to acquire banks in other states.

Response: Amendment No. 3733 is at odds with the Title it amends. Title X provides for the continued state right to control bank expansion under the Douglas Amendment. The amendment gradually erodes this right and, in five years, eliminates the Douglas Amendment entirely—this in contradiction to two centuries of decentralized control of bank expansion.

AMENDMENT NO. 3734

Purpose: Similar to Amendment No. 3733 except for the initial two-year regional banking period, the following three-year phase-out of Douglas, and the subsequent era of nationwide interstate banking, concentration limits would be imposed. Bank holding companies with over two billion dollars in deposits could not acquire banks with over one billion dollars in deposits.

Response: In addition to the similar problems found in Amendment No. 3733, this amendment also imposes arbitrary size restriction on the ability of bank holding companies to acquire other banks. Present federal antitrust law is well-equipped to prevent unnecessary concentration in the banking industry, thereby making arbitrary deposit limits like those in this Amendment meaningless.

AMENDMENT NO. 3735

Purpose: Similar to Amendment No. 3734, except that the size limits established for bank acquisitions are as follows: a bank holding company with over five billion dollars in deposits may not purchase a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3734. J. Title X, with the requirement that contiguous states be included in banking regions; also, versions imposing various concentration limits and/or a two-year delay in imposing the requirements (3736-3741):

AMENDMENT NO. 3736

Purpose: Strikes the "Sunset" provision of Title X and adds a new Sec. 1007. This section provides that states which enact banking statutes with geographic limitations must include contiguous states within such limitations (e.g., Connecticut must include New York in its New England banking region).

Response: This amendment distorts the nature of Title X which is designed to strengthen the right of each state under federal banking law to determine the nature of bank expansion permitted within and across each state's borders. Each state is in a unique position to determine how state bank expansion laws should be applied by that state in order to preserve its banking system and promote the regional economy. Requiring a contiguous-state approach flies in the face of the state-directed nature of bank expansion.

AMENDMENT NO. 3737

Purpose: Similar to that of Amendment No. 3736 except that limits on the size of bank acquisitions are imposed. Bank holding companies with over two billion dollars in deposits could not acquire banks with over one billion dollars in deposits.

Response: In addition to the same problems found in Amendment No. 3736, this amendment has the additional defect of imposing arbitrary size restrictions on bank acquisitions by bank holding companies. Present federal antitrust law is well-equipped to prevent unnecessary concentration in the banking industry, thereby making arbitrary deposit limits like those found in this amendment meaningless.

AMENDMENT NO. 3738

Purpose: Similar to Amendment No. 3737 except that the deposit size limits established for bank acquisitions are as follows: a bank holding company with over five billion dollars in deposits may not purchase a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3737.

AMENDMENT NO. 3739

Purpose: Deletes the "Sunset" provision of Title X and replaces it with a new Section 1007. This section provides that two years subsequent to the enactment of Title X, states with banking statutes limiting expansion on a geographic basis must include contiguous states in their banking regions. Such statutes could not be amended or repealed if a state has previously permitted a regionally reciprocal bank merger, acquisition, or branch.

Response: This amendment subverts the intent of state legislatures in enacting regionally banking laws, and it provides no recourse to states which do not wish to have their laws distorted in this manner. While states are now free to change regional banking laws without penalty, they could not do so under this amendment. The amendment could also cause serious problems for states without anti-leapfrogging provisions in their regional statutes.

AMENDMENT NO. 3740

Purpose: Similar to Amendment No. 3739 except that it adds a Sec. 1007(b) which prohibits bank holding companies with over two billion dollars in deposits from acquiring a bank with over one billion dollars in deposits.

Response: In addition to the same problems found in Amendment No. 3739, this amendment has the additional defect of imposing arbitrary size restrictions on bank acquisitions by bank holding companies. Present federal antitrust law is well-equipped to prevent unnecessary concentration in the banking industry, thereby making arbitrary deposit limits like those found in this amendment meaningless.

AMENDMENT NO. 3741

Purpose: Similar to Amendment No. 3740 except that the deposit size limits established for bank acquisitions are as follows: a bank holding company with over five billion dollars in deposits may not purchase a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3740.

K. Title X, with the requirement that banking regions cannot divide SMSAs, and versions imposing various concentration limits (3742–3744):

AMENDMENT NO. 3742

Purpose: Srikes the "Sunset" provision of Title X and adds a new Section 1007. This section provides that states which enact geographically restrictive bank expansion laws "shall not directly or indirectly discriminate against a state with which there is a common Standard Metropolitan Statistical Area."

Response: This amendment distorts the nature of Title X, which is designed to strengthen the right of each state under federal banking law to determine the nature of bank expansion permitted within and across each state's borders. Each state is in a unique position to determine how state bank expansion laws should be applied by that state in order to preserve its banking system and promote its economy. Requiring interstate banking in SMSAs flies in the face of the state-directed nature of bank expansion.

AMENDMENT NO. 3743

Purpose: Similar to that of Amendment No. 3736 except that limits on the size of bank acquisitions are imposed. Bank holding companies with over two billion dollars in deposits could not acquire banks with over one billion dollars in deposits.

Response: In addition to the same problems found in Amendment No. 3742, this amendment has the additional defect of imposing arbitrary size restrictions on bank acquisitions by bank holding companies. Present federal antitrust law is well-equipped to prevent unnecessary concentration in the banking industry, thereby making arbitrary deposit limits like those found in this amendment meaningless.

AMENDMENT NO. 3744

Purpose: Similar to Amendment No. 3743 except that the deposit size limits established for bank acquisitions are as follows: a bank holding company with over five billion dollars in deposits may not purchase a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3743.

L. Title X, with various concentration limits imposed (3745–3746):

AMENDMENT NO. 3745

Purpose: Adds to Title X a new Sec. 1008 which amends the Douglas Amendment to prohibit any acquisition by a bank holding company, directly or indirectly, with over two billion dollars in deposits of a bank with over one billion dollars in deposits. Emergency acquisitions under section 13(b) of the Federal Deposit Insurance Act are excepted.

Response: This amendment would unnecessarily constrain a bank holding company's ability to acquire banks in regional banking markets, and its intrastate applications are ambiguous. A number of factors, not the least of which is federal antitrust law, constrain a bank holding company's ability to expand in interstate markets. Other factors include the limited number of attractive banking markets, internal capital and management limitations, and regulatory delays included in bank expansion. The arbitrary size limits set by the amendment have no rational relation to preventing the undue concentration of the banking industry.

AMENDMENT NO. 3746

Purpose: Similar to Amendment No. 3745 except that the deposit size limits established for bank acquisitions are as follows: a bank holding company with over five billion dollars in deposits may not purchase a bank with over 250 million dollars in deposits.

Response: Same as to Amendment No. 3745.

M. Title X, with concentration limits imposed based on state deposits and bank size rankings (3747–3752):

AMENDMENT NO. 3747

Purpose: Adds to Title X a new Sec. 1008 which amends the Douglas Amendment to prohibit a bank holding company from acquiring, directly or indirectly, a bank which is one of the three largest in another state in terms of deposits if the bank holding company is one of the three largest in a state, except in emergency situations.

Response: This amendment would unnecessarily constrain a bank holding company's ability to acquire banks in regional banking markets. A number of factors, not the least of which is federal antitrust law, constrain a bank holding company's ability to expand in interstate markets. Other factors include the limited number of attractive banking markets, internal capital and management limitations, and regulatory delays included in bank expansion. The arbitrary size limits set by the amendment have no rational relation to preventing the undue concentration of the banking industry.

AMENDMENT NO. 3748

Purpose: Adds to Title X a new Sec. 1008 which amends the Douglas Amendment to prohibit an acquisition by a bank holding company, directly or indirectly, which would enable a bank holding company principally located in one state to control over ten percent of bank deposits in another state, except in emergency situations.

Response: This amendment would unnecessarily constrain a bank holding company's ability to acquire banks in regional banking markets. A number of factors not the least of which is federal antitrust law, constrain a bank holding company's ability to expand in interstate markets. Other factors include the limited number of attractive banking markets, internal capital and management limitations, and regulatory delays included in bank expansion. The arbitrary concentration limits set by the amendment have no rational relation to preventing the undue concentration of the banking industry.

AMENDMENT NO. 3749

Purpose: Same as Amendment No. 3748, except the limit on controlling a state's deposits is five percent rather than ten percent.

Response: Same as to Amendment No. 3748.

AMENDMENT NO. 3750

Purpose: Adds to Title X a new Sec. 1008 which amends the Douglas Amendment to provide that a bank holding company may

not make an acquisition which directly or indirectly allows bank holding companies from other states to control over fifty percent of the bank deposits in one state.

Response: This amendment would unnecessarily constrain a bank holding company's ability to acquire banks in regional banking markets. A number of factors, not the least of which is federal antitrust law, constrain a bank holding company's ability to expand in interstate markets. Other factors include the limited number of attractive banking markets, internal capital and management limitations, and regulatory delays included in bank expansion. The arbitrary size limits set by the amendment have no rational relation to preventing the undue concentration of the banking industry.

AMENDMENT NO. 3751

Purpose: Same as Amendment No. 3750, except the limit on controlling a state's deposits is twenty-five percent rather than fifty percent.

Response: Same as to Amendment No. 3750.

AMENDMENT NO. 3752

Purpose: Same as in Amendment No. 3747 except that acquisitions of the top five bank holding companies in one state/top five banks in another state are prohibited.

Response: Same as to Amendment No. 3747.●

THE TRIAL OF ALEKSANDR YAKIR

● Mr. MATHIAS. Mr. President, in 1943, Pearl S. Buck said:

None who have always been free can understand the terrible fascinating power of the hope of freedom to those who are not free.

This "hope of freedom" is central to the plight of Aleksandr Yakir, a Soviet Jew arrested in June 1984, and charged with draft evasion, although he is beyond draft age. In August, Yakir was sentenced to 2 years hard labor.

Since 1938, when Soviet Gen. Maurice Yakir and his brother were shot to death in Stalinist purges, three generations of Yakirs have suffered at the hands of the Soviet leadership. They, and many other Soviet Jews, are being persecuted for succumbing to the terrible, fascinating power of the hope of freedom, for the "crime" of applying to emigrate.

Aleksandr Yakir and his parents first filed for exit visas in October 1973. They were refused because Aleksandr's father, as a mechanical engineer, carried a "secret" classification. When Aleksandr applied on his own to emigrate to Israel in 1976, he was refused on humanitarian grounds. Soviet authorities are apparently loathe to break up families.

Throughout the United States, Jews and non-Jews have demanded that the U.S.S.R. permit Aleksandr Yakir and his family to emigrate to Israel, as is their right. The right of any individual to leave any country, including his own, is an internationally recognized human right and is upheld in international law. It is incorporated in the Universal Declaration of Human Rights, which the Soviet Union has accepted, as well as in the International Convention on the Elimination of Racial Discrimination and the Helsinki Accord, also signed by the U.S.S.R.

Now Aleksandr Yakir has been arrested for draft evasion and sentenced to 2 years of breaking rocks with a sledgehammer.

Threatened with induction into the Soviet Army since his graduation from technical school in 1977, Aleksandr has sought draft deferments to avoid landing in a classic catch 22 situation. Exposure to "state secrets" while in the military virtually guarantees a denied exit visa, while those who refuse to serve for that reason are threatened with charges of draft evasion. Such was the predicament of Aleksandr Yakir, who now must serve time for his continued "hope of freedom."

Those of us who have known only freedom have a duty to make common cause with those whose freedom is perpetually denied. We must continue to protest against the persecution of Aleksandr Yakir and other "refuseniks." We must continue to express our concern to the Soviet leadership, and to speak for those who are not permitted to speak for themselves. In this way, we can keep the "hope of freedom" alive in all of us. ●

TITLE X OF S. 2851

● Mr. MATTINGLY. Mr. President, last Thursday, my colleague from New York [Mr. D'AMATO] spoke at length on title X of S. 2851. His remarks, however, failed to recognize the true need for title X and the popular support which exists for this measure.

Title X is certainly supported in those nine States where regionally reciprocal State banking laws have been enacted. It is also supported in those 31 other States which are known to be considering similar actions and do not wish to have any options in State bank expansion precluded. Indeed, I detect opposition to title X from only 1 State, New York. And I believe that this opposition comes almost exclusively from certain of the largest of the New York City money-center banks.

Regional banking is actually a popular issue, if any banking issue can be described as such. In addition to popular support in virtually every State in the land, title X has been supported by most of the Federal bank regulators. As Senator D'AMATO may recall, on March 21, 1984, both the Comptroller of the Currency and the chairman of the Federal Deposit Insurance Corporation submitted statements to the Committee on Banking, Housing, and Urban Affairs supporting the concept of title X. And of course, the Federal Reserve Board has supported the regional banking concept by approving four regional bank mergers this year.

State bank supervisors and Governors support title X. The Conference of State Bank Supervisors strongly supported title X in its testimony before the Committee on Banking, Housing, and Urban Affairs on February 29 of this year. Most recently, the National Governors' Association has thrown its support behind title X. To quote the NGA's recent letter:

The issue (clarification of state authority to authorize regionally reciprocal state banking statutes) is not the desirability of any individual state law, but whether state authority to choose to act in this area will be upheld. NGA favors a clarification which affirms state authority.

The Senator from New York made statements alleging that regionally reciprocal State banking statutes are unconstitutional and are economically unsound. While I will speak at length on these issues at the appropriate time, I will address them briefly now.

Regarding supposed "violations" of the Commerce, Compact, and Equal Protection clauses of the U.S. Constitution, I can only say that the second highest court in the land has reviewed these charges and found them to be without merit. This same determination has been made by the Federal banking regulatory authority in such matters, the Federal Reserve Board.

It was argued by Senator D'AMATO that regional banking laws are "protectionist" actions. How reducing barriers to bank expansion to a mere handful and developing larger banking markets while still retaining the State-directed nature of bank expansion is "protectionist" escapes me. What these actions are being contrasted to is not reality, but rather certain New York City money center banks' dream of overturning the McFadden Act and the Douglas amendment in order to impose nationwide interstate banking. Such actions would be wholly inconsistent with the decentralized control of the banking system which dates back to the earliest days of this country.

Title X reaffirms the right of each State under present Federal banking law to make decisions regarding the type of bank expansion found within its borders. It is progressive, proconsumer legislation. It will result in healthier, more competitive banks and banking markets, and a wider range of choice for consumers. By not acting to support title X, the Senate will only be promoting needless confusion in the U.S. banking system.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. HECHT]. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A motion by the Senator from Tennessee, Mr. BAKER, to proceed to the consideration of S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

Mr. HEINZ. Mr. President, depository institutions play an indispensible, economically vital role as custodians of our Nation's payments system. In the late 1970's, these institutions, due to increased competition from nondepository financial institutions, such as insurance companies and security firms, faced the threat of disintermediation, the net outflow of desposits. In response, the banking bills enacted by Congress in 1980 and 1982 addressed several regulatory constraints and were successful in allowing banks and thrifts to compete for a larger share of deposits. The unanticipated results of those needed measures, however, is that although they shored up a large number of worried and even shaky institutions they have worked to the detriment of nondepository institutions.

S. 2851, the bill on which the motion to proceed is currently being debated, makes several additional changes to adapt the financial services industry to these contemporary realities. As I will describe in greater detail later in this statement, among those are provisions which close the so-called nonbank bank and South Dakota loopholes in Federal banking law, mandate payment of interest on reserves of money market deposit and super NOW accounts, and sanction regional bank compacts. These provisions will reestablish the traditional separation of banking and commerce, provide for greater competition between banks and money market mutual funds, and increase the efficiency of our capital markets.

Nevertheless, S. 2851, in its present form, contains deep and, I believe, serious flaws which I feel must be corrected. While quite properly resurrecting the wall which has kept investment banking firms and other nondepository institutions out of the deposit-taking business, S. 2851 irrationally permits commercial banks to enter lines of business neither "closely related to banking" nor "properly incident thereto" by giving banks sweeping investment banking powers. This, I suggest, Mr. President, is neither evenhanded nor prudent policy.

By permitting affiliates of banks and thrifts to underwrite and deal in mortgage-backed securities, commercial paper, and municipal revenue bonds, as well as to offer discount brokerage service, S. 2851 opens up a one-way street for banks and thrifts to branch out into previously forbidden investment banking markets. This would occur while other financial services institutions, including investment bankers, are obstructed by legal roadblocks from entering the banking business. Such nonbanking firms do not enjoy depository institutions' access to special, Government-conferred benefits, such as Federal deposit insurance, access to low-interest loans through the Federal Reserve's discount window, and what I will term "failure insurance," the operation of which we witnessed in the $4.5 billion Government rescue of the Continental Illinois Banks earlier this summer.

In my remarks this afternoon, which will also serve, Mr. President, as my additional views to the committee report accompanying S. 2851, I intend to first provide some history on the banking bills enacted in 1980 and 1982; second, discuss the positive aspects of S. 2851; third, more completely detail why S. 2851, as reported in its current form, is unjustifiably one sided and inequitable; and fourth, explain why no compelling case has been, or in my judgment can be, made for Congress conferring investment banking powers upon the commercial banks seek them.

In addition, I will note that consumer and business groups do not favor commercial bank and thrift expansion into investment banking. Finally, I will include for the RECORD an appendix to give a brief history of the Glass-Steagall Act, the law which mandates, for at least some 50 years past, the separation of commercial banking from other lines of commerce, and the law under which our financial institutions have prospered for some 50 years.

In 1980, with the passage of the Depository Institutions Deregulation and Monetary Decontrol Act, DIDC, if you will, Congress paved the way for the lifting of interest rate ceilings on bank accounts, thus eliminating the 50-year-old constraints that left banks unable to offer their customers market rates of return on their savings.

In legislation designed to save the failing thrift industry, the Garn-St Germain Act of 1982, of which I was a strong and active supporter, created the insured money market deposit account, MMDA. This account addressed the compelling need of the banks' inability to compete with money market mutual funds which had deposits which had ballooned, in a relatively short time span, to some $50 billion in assets. Because of the money market funds' ability to offer consumers higher market interest rates on their investments than depository institutions, banks faced an unprecedented and rapid erosion of an important segment of their depository base, threatening more general disintermediation for them.

The 1982 act, Garn-St Germain, restored the banks' ability to compete for these deposits and appears to have been more than successful in banishing any threat of comparatively caused disintermediation.

S. 2851, the legislation before us today, the Finance Services Competitive Equity Act, represents yet another important step in Congress' continuing attempt to update our intricate system of banking regulation.

To address the concerns of both safety and soundness and competitive equity, S. 2851 closes the so-called nonbank bank loophole which permits insurance, securities, and general commercial firms to enter the banking business. In other words, S. 2851, this bill eliminates the possibility that nonbanking firms can evade Federal banking law by acquiring banks and thrifts and then divesting those institutions of either their commercial lending or their deposit-taking functions.

In closing the nonbank bank loophole, the Financial Services Competitive Equity Act grandfathers all existing nonbank banks which were controlled by nonbanking firms prior to July 1983. However, the bill further provides for divestiture of these institutions if, first, the parent acquires an additional bank or thrift; second, the institution accepts both demand deposits and makes commercial loans; or, third, the parent commences any new activities of a financial nature which were not engaged in by the company on June 27, 1984, and are not authorized for bank holding companies under section 4 of the Bank Holding Company Act.

Mr. President, at this point I would like to note that this latter restriction is substitute language which was offered as an amendment at the committee markup by Senator CRANSTON. I, along with two of my colleagues, voted against this amendment because it significantly liberalizes the divestiture restrictions in the original committee print. This original language would have required divestiture of a nonbank bank if any new activity not permitted for a bank holding company was enaged in by the parent. In my view, the goal of competitive equity has

been done a substantial disservice by permitting those nonbanking firms which entered the banking business through the back door to engage in activities that their financial institution competitors must refrain from entering.

The second serious loophole which S. 2851 eliminates has been dubbed the "South Dakota" loophole after the first State which moved to exploit it. In essence, the loophole exists because of an inconsistency or ambiguity stemming from this country's dual banking system, the Federal-State dual supervisory system.

In general, each State's laws and regulators govern State banks while Federal laws and Federal regulators govern the national banks and bank holding companies. Therefore, they are both creatures of Federal law. What happened in South Dakota was that the State legislature authorized any out-of-State bank holding company which acquired a South Dakota bank to exercise outside of South Dakota insurance powers which the State conferred to such State banks within its borders. These insurance powers, it should be noted, are prohibited under Federal law to bank holding companies.

Obviously, the South Dakota loophole has serious implications for the American financial system because it threatens, under the guise of States rights or dual banking, to circumvent and unravel a very clear and well-developed structure for Federal banking regulation of entities created under Federal law; namely, the bank holding companies.

Mr. President, bank holding companies are Federal entities. Therefore, it is Congress, not the individual States, that is and should be the final arbiter of regulatory policy regarding their activities. It is not in the interest of a safe and sound banking system to have a patchwork quilt of laws which permit different holding companies to engage in different activities based solely on where the bank is located.

It was for that reason, Mr. President, in November of 1983 that I introduced legislation, S. 2072, which removed any ambiguity involving the Bank Holding Company Act and State banking systems by stipulating that subsidiaries of bank holding companies can only engage in those activities permitted by that statute. After many months of negotiation between representatives of different financial service providers, and those who favor broader State powers in this area—subsequent to the introduction of S. 2072 and precedent to the markup of this bill before us today and that we are debating today—the so-called Dodd-Heinz amendment was formulated. This amendment, which was agreed to during Banking Committee markup of S. 2831, limits the insurance activities of bank holding companies' subsidiaries to those permitted by the bank Holding Company Act.

I believe that this language is a fully justifiable and thoroughly necessary reaffirmation of congressional intent as originally contemplated by the Bank Holding Company Act in having Congress, not the States, establish the permissable activities for federally chartered bank holding companies. In my judgment, the Dodd-Heinz amendment preserves, and probably strengthens in other respects by clarifying responsibilities, the dual Federal-State nature of the American banking system.

S. 2850 also incorporates S. 1750 legislation which I introduced in 1963—and in other years in similar form—which would for the first time mandate the payment of interest on bank reserves held against money market deposit accounts and super NOW accounts. The importance of this provision cannot be understated largely because it finally achieves the intent expressed by Congress in the Garn-St Germain Act which was to authorize a bank account such as a money account deposit account that was "directly equivalent to and competitive with" money market mutual funds. Obviously, an account where a reserve requirement is maintained by the Federal Reserve—where, therefore, a portion of such deposits may not be invested—is not going to be competitive with a money market mutual fund, and the saver is going to be hurt by taking a lower interest rate if the saver does not invest in a money market mutual fund equivalent. And I think it is because of that argument, and because of the enactment of our committee to a directly competitive equivalent, that the Banking Committee with overwhelming bipartisan support defeated an attempt during markup to strike this provision from S. 2851. The overwhelming bipartisan support for interest on reserves that was demonstrated by that vote illustates the desire of my colleagues, I believe, to fully fulfill the mandate set out in the Garn-St Germain Act of 2 years ago.

Mr. President, while I wholeheartedly endorse those provisions of the bill that I have just described—and I must say I applaud the efforts of our chairman, Senator GARN, to fashion such a comprehensive bill—I must express my opposition to those sections of the bill which result in what is in my judgment an unbalanced approach to financial services deregulation.

There is no doubt that this bill rebuilds the historical wall that has kept investment banking firms out of the deposit-taking business. However, at the same time, it erodes even further that portion of the wall intended to ban commercial banks from the investment banking business. By authorizing holding company affiliates to underwrite and deal in mortgage-backed securities, commercial paper, and municipal revenue bonds, and to offer discount brokerage services, S. 2851 opens a one-way street for banks and thrifts to branch out into previously forbidden enterprises while their competitors are obstructed by legal roadblocks—such as the redefinition of bank—from entering the banking business.

Because of their special role in society as custodians of the payment system and pipelines through which credit and capital flow, banks and thrifts have the Federal Government's unique safety net behind them. Deposits are insured by the FDIC and FSLIC, and access to low-interest loans through the Fed's discount window is provided—two invaluable tools that permit depository institutions to confidently engage in their day-to-day activities. If they falter or fail, the Government stands ready and willing to infuse funds, arrange mergers and acquisitions, and perhaps, as seen most recently in the Continential Illinois bailout, purchase the institution to prevent liquidation.

It is clear that this built-in Government safety net gives depository institutions significant advantages over their nonbanking competitors. There are not only competitive but also grave philosophical issues, indeed problems, raised by federally guaranteed depository institutions undertaking risks without being sufficiently subject to the discipline of the marketplace. The essence of commerce, of entrepreneurship, of capitalism entails the freedom to fail; without that "freedom" and its constant responsibility, I contend, banks and thrifts do not belong in investment banking business where there is freedom to fail, or in any other nondepository line of business where there is a similar freedom.

The explicit aim of this bill, as reflected in its title, is to provide competitive equity between the providers of financial services. However, the provisions of S. 2851 which would grant banks and thrifts additional nondepository powers not only do not help achieve that goal; they run counter to its attainment.

In examining the question of expanded bank powers, it is important to closely look at the arguments of those who seek to expand bank and thrift activities beyond traditional depository functions. The two primary arguments put forward are one, that the competitive imbalance between banks and non-banks that was created by the Glass-Steagall Act will cause banks to lose market share and two, that unless cut free from their 50-year-old reins, depository institutions will be unable to serve the credit and capital needs of consumers and business.

A. NO LOSS OF MARKET SHARE

When the leading bank trade associations appeared before the Senate Banking Committee in February of this year and were asked to present evidence that their market share had declined significantly, they could not provide any market share numbers. However, Congress, in the alternative, has been presented with studies from other credible sources which show that bank market share remains relatively stable. A Federal Reserve Bank of Minneapolis study, the essence of which was put into our record, states that bank market share of "total financial assets has maintained at a steady rate of between 36.7 and 39.5 percent in the 1960–82 period."

In other words, Mr. President, over a 22-year period, bank share of total financial assets varied within a 2.8-percent range of share market. Anybody who would maintain, based on those numbers, Mr. President, that there was some kind of dramatic and steady erosion, would have the burden of showing that 22 years of statistically reported history was woefully and grossly inaccurate. I do not think, Mr. President, that there is any information to refute those statistics.

Further, not even banks dispute that all other providers of financial services combined—including life insurance companies, pension funds, retirement funds, finance companies, money market funds and other mutual funds—still have a smaller slice of the financial pie than do banks and S&L's. In sum, those advocating expanded powers do not present any convincing evidence that there exists a genuine threat to the depository base of our banking system.

As I stated above, depository institutions fulfill an indispensable and crucial role in our economy as the custodian of the Nation's payments system.

When we write a check, we want to be sure that it is paid by the financial intermediary, the bank or the S&L.

Were their depository base in fact eroded by new forms of competition—new products and new technology—it would be irresponsible for us as legislators not to deal with that problem and take any and all necessary action. at some point in the future it is possible that developing trends in the financial services industry could so disadvantage our depository institutions. But the conflicting evidence presented at our hearings does not demonstrate any imminent threat to their deposit base.

B. CONSUMER AND BUSINESS OPPOSITION TO EXPANDED BANK POWERS

The second argument put forward in favor of expanded powers for banks is that their inability to offer a full range of financial services will prevent banks from meeting the financial needs of consumers and business.

What they are saying is that unless they can offer a full range of services, including, presumably, cash management accounts, that they will not be able to give either the business people or the individuals who bank as depositors and consumers with the bank what they want. Mr. President, the essence of consumerism, with a small "c," is to give the public, the business people who bank, the consumers who bank, the homeowners who bank, the other customers who bank, what they want.

What do consumers and business groups who testified before the Banking Committee want?

Well, the consumer and business groups testifying before our Senate Banking Committee strongly disagreed that they would be well served by further bank deregulation.

Whom do I mean? Let me quote Michael Oroush of the National Federation of Independent Business, an organization representing several million small businesses in this country. He stated:

Our members fear that they may be at a disadvantage when asking for a loan from a bank that owns a competing subsidiary. They are concerned about anti-competitive tie-ins. And they see a potential diversion of bank deposits from commercial lending toward other revenue-producing activities. As a result, NFIB members have voted 61 to 29 percent against allowing banks to cross over the existing line between banking and commerce. (P. 871 of hearing record.)

James Hacking, representing the American Association of Retired Persons, a group of 6 or 7 million persons, testified:

Our association looks to the Federal Reserve System to contain inflation by exercising a constraining policy of monetary expansion. We are concerned that "deregulation" of the commercial banks may make it more difficult for the Federal Reserve Board to exercise informed restraint over the expansion of the money supply. The evidence is that deposit insurance has dulled the market restraints that should inhibit bank managements—should they be so inclined—from engaging in what has been called "go-go" banking. These issues must be thoroughly debated. We are not interested in an inflationary boom, fueled by the excessive expansion of money and credit. Inflation is a major threat to the economic well-being of the elderly. Combining commercial banking, as it is now subsidized by deposit insurance, with commerce and financial services appears to us to be a volatile mixture. (P. 1010–11 of hearing record.)

Robert Erwin of the National Consumer League stated:

The National Consumer League concurs in the concerns others have expressed about the inherent conflicts which arise if bank holding companies also own other enterprises. Imagine the problems if a consumer puts in a contract to buy a house through a real estate broker which is affiliated with the bank to which that same consumer applies for a mortgage. Will the bank view the risk of that mortgage application differently knowing that the commission on the sale is contingent on the mortage? Would that bank be able to resist trying to sell the required homeowners' insurance to that buyer if the bank was also affiliated with an insurance company? (Pgs. 921–922 of hearing record.)

Of all the consumer and business witnesses, Glenn Nishimura of the Consumer Federation of America summed up consumer antagonism toward further deregulation of the banking industry most succinctly.

He said:

Most apparent is that there are and will be distinct categories of winners and losers in the deregulation process. Among those on the losers side are small businesses and homebuyers (for whom real interest rates on loans tripled in 1981 and have stayed at that level), and small depositors (from whom bank fees and service charges are on the rise). The winners are large depositors (who get a higher rate on their savings while escaping many bank fee increases), purchasers of stock (who have benefited by bank entry into discount brokerage), and those with a large portfolio of assets (who will have the convenience of doing most of their business under one roof). In the name of convenience and to the benefit of the more affluent, banking deregulation, thus far, has shifted costs onto lower and middle-income consumers.

CFA believes that, at this juncture, Congress should stop to assess what has happened and decide on how much more deregulation is desired. A "go slow" posture is preferable to one that moves ahead haphazardly under the banner of deregulation. After all, the market is still shaking out from the effects of sweeping legislation passed in 1980 and 1982. Another jolt in 1984 seems unwise. (Pgs. 988–989 of hearing record.)

It appears, then, that neither of the two primary arguments put forward by advocates of expanded powers has been borne out by testimony or statistics. The justification for Congress to depart from a system that has served this country so well for so many years and has created the world's freest capital markets simply does not exist at this time.

CAPITAL MARKET EFFICIENCY

The goal of all financial legislation should be consistent with financial stability, to promote efficiency in our capital markets. The provisions of the bill which I have already endorsed will contribute to the ease with which credit and capital flow through our economy. However, in my view, granting depository institutions broader nonbanking powers will not contribute to this goal and may indeed result in less efficient capital markets because of the inherent risk of tie-ins and the inevitably resulting conflicts of interest that must result from combining commercial banking with investment banking.

If capital market efficiency is the desired goal of congressional action affecting financial institutions, as I believe it ought to be, then title X of S. 2851, which authorizes regional interstate banking compacts, does provide the most significant means to this end.

As our colleagues may be well aware, Mr. President, the McFadden Act and Douglas amendment to the Bank Holding Company Act currently restrict bank deposit-taking to essentially one State. While there is no doubt that in the past these statutes served a legitimate purpose—that of preventing economic concentration and preserving States rights to regulate financial institutions doing business within their borders—technology and innovation in the banking field have proven that interstate bank presence is not the evil that it was once thought to be. In fact, opening up our banking markets will lead to greater competition for deposit taking and lending, and should lessen the costs of banking services to consumers, which have soared as a result of interest rate deregulation. Additionally, by permitting money to flow more freely within a region of the country, local business should thrive by freer access to a steady source of funds.

As mentioned earlier, the two arguments put forward by financial institutions in search of new powers is that they are losing market share to their competitors, and that consumers demand a broader range of services from their bank or thrift. While neither of these arguments has as yet been borne out, it would appear that regional banking could prevent both concerns from materializing. First, regional banking affords a greater customer base to financial institutions, thus opening up a greater share of the marketplace to banks. Second, by enabling depositors and lenders to bank interstate, consumers will be provided with greater access to their banks' services when traveling throughout the region.

There is no question that authorizing regional banking compacts—as S. 2851 indeed does—is a sound first step in breaking down the historic geographic boundaries that have restricted financial institution activity. I believe that after a period of time, Congress should review the success of this experiment. If the results are good, we should examine the question of whether further steps should be taken in this area.

CONCLUSION

Mr. President, provisions such as title X, interest on reserves, and closing the nonbank bank and South Dakota loopholes are necessary and positive steps taken by this legislation to enhance the vitality of this Nation's depository institutions.

However, title I of S. 2851, which confers unprecedented investment banking powers on banks and thrifts, is unwarranted, one-sided, and potentially damaging legislation. It is unwarranted because no clear and convincing case has been made for Congress to make such a significant departure from the structure of financial legislation that has served so well for so many years as is advocated by title I of this bill. It is one-sided not only because it helps depository institutions and constrains nonbanking financial institutions, but also because the inherent advantages available to depository institutions—Federal insurance of deposits and access to discount borrowing—provide banks and thrifts with a Federal safety net ready to bail out the institution in difficult times. It is potentially damaging because of the riskier enterprises involved and because of the potential for conflicts of interest and tie-ins.

If our desire is to have a totally free and open financial market, with all players competing on the level, then logic would dictate eliminating Federal deposit insurance and closing the Federal Reserves discount window for depository institutions. While I do not know of anybody currently advocating this step, this would truly establish the level playing field that so many participants in the financial marketplace ostensibly advocate.

While I, myself, would be reluctant to advocate ending Federal deposit insurance and closing the Federal Reserve window and preventing regulators from having the option of bailing out a major failed bank like Continental Illinois, nonetheless, if you want to be totally and intellectually honest, only by taking those dramatic steps can you create true competitive equity. All other approaches to realizing the famous level playing field are largely hypocritical exercises to preserve the privileged position of one set of financial institutions while that group tries to expand, without reciprocity, onto someone else's turf. The best way for Congress to avoid being drawn into this avaricious turf battle is to vote to remove from S. 2851 the investment banking powers conferred on depository institutions by title I.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a history of the Glass-Steagall Act.

There being no objection, the history was ordered to be printed in the RECORD, as follows:

HISTORY OF THE GLASS-STEAGALL ACT

It is difficult to recall now the disasters of the 1930s and the chain of events in the 1920s which brought them about. Indeed, had the commercial banks heeded warnings based on past experience, they would have recognized long before 1929, the dangers inherent in their participation in the investment banking business.

As early as 1911, the Solicitor General of the United States had pointed out, "It is neither banking nor an incident of banking to invest the funds of the bank in another business, in any manner or to any extent." In holding that the National City Company's operations violated federal and state law, he had stated that combining banking and non-banking functions in the same affiliated organizations created the risk of involving all of them "in a common disaster," and that, even if successful, such combination "would mean a union of power in the same hands over the industry, commerce and finance with a resulting power over public affairs" which would clearly be against the public interest.

In 1913, after extensive hearings, the House Committee on Banking and Currency, the Pujo Committee, had specifically emphasized the desirability of divorcing investment banking from commercial banking. And in 1920 the Comptroller of the Currency had cautioned: "The business of legitimate banking is entirely separate and distinct from the kind of business conducted by many of the 'securities corporations,' and it would be difficult, if not impossible, for the same set of officers to conduct safely, soundly, and successfully the conservative business of the national bank and the same time direct and manage the speculative ventures and promotions of the ancillary institutions."

The large commercial banks did not listen. The interest of the many in having fundamentally sound and well regulated banking was flouted in favor of the shortrun private advantage to a few. The temptations were too great. These banks, with their vast capital, achieved a meteoric rise to dominance in investment banking. As Judge Harold R. Medina observed in the landmark opinion that has become the definitive text on investment banking (United States v. Morgan, 228 F. Supp. 621, 644-645:

". . . The economic power of these huge aggregations of capital vis-a-vis the relatively small capital of issuers was a factor of no mean significance in the period just before the great depression. There was an additional leverage in the multiplicity of banking functions which could be placed at the disposal of issuers.

Added to this was the vast influence and prestige which must have made itself felt in a variety of ways. Issuers were dependent upon these great banking institutions in a way which finds no parallel in the relations between issuers and investment bankers in the period subsequent to the passing of the Banking and Securities Act . . .

". . . (T)hese great banking institutions and their affiliates were doing a huge investment banking business, and they were using the money of their depositors as well as their own resources to underwrite one security issue after another."

This unique power and prestige were used to squeeze out investment banking competition. Through their legitimate fiduciary functions of lending and investing "other peoples" money, such banks were in an unequalled position to build up their underwriting activities, which in turn contributed new customers for the commercial banking and trust department services. For example, lists of depositors and stockholders were made available to the securities affiliates. These prospects, when subjected to high pressure sales methods, proved a fruitful source of new business to the affiliates. Employees of the banks proved another such source. And, taking advantage of a correspondent banking system, many of these financial giants used the small country banks that trusted them for investment advice as "a good dumping ground for second or third grade securities." Senator Brookhardt noted that these securities had "depreciated so much that they closed several thousand banks."

By 1929 banks had reached the pinnacle of their power and influence over the capital markets of the Nation. A statement submitted by J.P. Morgan & Co. in 1932 to the

Senate Banking and Currency Committee spoke no more than the sober truth:

"The great commercial banks, directly or through their affiliates, have in the past 20 years or thereabouts to a large extent occupied the field of capital issues, purchased and absorbed some private issuing and distributing houses, and by their competition driven others out of business or restricted their opportunity for profit and therefore their resources."

Figures submitted to the Senate Committee in February 1931 by Charles E. Mitchell, then President and Chairman of the Board of both the National City Bank and the National City Co., revealed that, in the four-year period from 1927 through 1930, the originations of new issues by all banks—national banks, commercial banks, trust companies, and various bank affiliates—had increased from 22 percent of total originations in 1927 to 44.6 percent in 1930. The share of private bankers, i.e., investment bankers, had decreased correspondingly from 78 percent of total originations in 1927 to 55.4 percent in 1930. Similarly, the banks and allied institutions had increased their share in participations from 36.8 percent in 1927 to 61.2 percent in 1930, while that of the investment bankers had decreased correspondingly from 63.2 percent in 1927 to 38.8 percent in 1930.

Moreover, this growth in underwriting size and power had become increasingly concentrated in the securities affiliates of the relatively few banks that were actively interested in the securities business. While commercial banks on the whole were approximately doubling their share, these affiliates nearly tripled their total share of the securities business during this period, from 12.8 percent of originations in 1927 to 39.2 percent in 1930, from 20.6 of participations in 1927 to 54.4 percent in 1930.

When the depression struck, however, such banks and their underwriting affiliates suffered a dramatic and tragic reversal of fortune. The hearings held by the Senate Banking and Currency Committee from 1931 to 1934 disclosed example after example of dangerous banking practices engendered by the widespread activities of certain banks through their securities affiliates, in both the underwriting and distribution of securities, and also demonstrated how directly these activities had imperiled the position and soundness of many of the banks concerned. These hearings left no doubt that the primary banking functions of serving as a depository, as a trustee, as an investor of deposited funds, and as a lender, all could be and often had been abused by some banks that also sought to engage in the underwriting and distribution of security issues.

When certain securities affiliates had tottered on the brink of ruin as a result of the remorseless deflation which began in 1929, the parent banks, naturally fearing that the failure of the affiliate would irreparably damage the bank's own credit and standing, felt forced to go to their aid with financial assistance in the form of either loans to the affiliate or purchases from the affiliate's inventory of unsalable or greatly depreciated securities. The loans in many cases were excessive or were secured by inadequate collateral and subsequently entailed huge losses. Instances also came to light during the hearings of trust accounts which had been loaded with unsound securities, some of them partially in default. Such securities had been purchased from the bank or trust company's affiliate, often at a handsome profit to the affiliate, a gross violation of the fiduciary relationship.

The collapse of a number of major banks demonstrated how their involvement in the business of investment banking had played a significant part in undermining their financial position; individual bank losses in connection with such activities were measured in the tens of millions or more.

The magnitude of the individual and institutional disasters caused, at least in part, by the involvement of banks in the securities business made Senator Carter Glass exclaim, in the course of the hearings, "The public cannot conceive of the harm done by these affiliates." As stated by the then President and Chairman of the Board of the Chase National Bank, Winthrop W. Aldrich, a distinguished banker and lawyer and subsequently Ambassador to Great Britain, in November, 1933:

"My experience as a bank official, coupled with the testimony which was presented to your committee in February of this year had convinced me that many of the abuses in the banking situation had arisen from failure to discern that commercial banking and investment banking are two fields of activity essentially different in nature. I came to believe that while it was essential that there should be coordination between these two types of banking, such coordination could best be protected from abuse and thus enhanced in usefulness through absolute separation of interest between the two fields . . .

* * * * *

"The system itself which permitted overlapping of function and interlocking of interest between these two types of banking has been responsible for much that the public now condemns."

Mr. Aldrish emphasized: "The commercial bank's credit function is very definitely governed by its responsibility to meet its deposit liabilities on demand. It must not seek excessive profits by taking undue credit risks and it cannot wisely tie up its funds in long-term credits however safety they may be." On the other hand, he pointed out, when long-term credit is required, the services of the investment banker are needed to "take speculative risks of a sort unsuitable to the commercial bank in providing capital funds for new and promising enterprises." With every new issue the investment banker "takes the risk that the public may not readily absorb the new securities which he brings out and that his own capital may be tied up for a long time."

The Glass/Steagall Act was praised by Mr. Aldrich not only for preventing the banks from undertaking risks that they could not and should not assume but also for eliminating the posssibilities of abuse inherent in a union of the underwriting and commercial banking functions. The commercial banks, he maintained, "should not be in a position to exert any pressure whatever arising out of a dual financial interest." He specifically recognized that it was inconsistent with the bank's duties as lender, as trustee, as depository and as advisor to its customers for it also to engage in the securities business. By way of illustration, he said:

"It is perfectly proper, for example, that commercial banks should lend to investment bankers, on short term, funds necessary to carry a new issue of securities while it is in the process of being marketed. Such a loan, always secured by collateral and carefully scrutinized by the commercial bank, performs an essential service. The commercial bank or banks making such a loan, however, should be absolutely free from interest in the issue, and immunized from possible influence arising from interlocking interests with the investment bankers participating in it."

Mr. Aldrich concluded:

"In considering legislation aimed at prohibiting practices contrary to the public interest, it is impossible to draw a distinction between the careful and conscientious banker who would never consciously permit his influence to be misused or his allegiance to be divided, and the banker, who, through recklessness or even because of his private interest, might exercise his influence improperly, if opportunity is permitted to exist.

* * * * *

"The wisdom of effecting a clear differentiation of function and separation in interest between commercial banking and investment banking was recognized in the Glass/Steagall Bill, passed last June and now known as the Banking Act of 1933. The history of that Act and its general provisions indicate a clear intent on the part of Congress to effect, once and for all, a complete separation between commercial banks and investment bankers."

The Glass/Steagall Act, passed in 1933, removed all but limited securities activities from the reach of the commercial banks. Accordingly, an independent broker/dealer community, severed from bank affiliation by the Glass/Steagall Act, emerged and grew.

Since 1933, the Glass/Steagall Act has served our nation extraordinarily well in establishing the twin pillars of the American financial system: first, a safe and sound banking system, and second, the strongest, most diverse capital markets in the world.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, we are about to vote on cloture in the next half hour or so, and I earnestly hope the Senate will vote for cloture on this bill for many, many reasons.

For one thing, the committee has worked very hard, as the Presiding Officer, the distinguished Senator from Nevada, so well knows. As an active and very effective member of the committee, he knows that we have had 2 years of hearings on this bill, 75 witnesses, and 4,500 pages of testimony. I have never seen a chairman work harder, more conscientiously than Senator GARN to bring out this bill; 95 percent of the bill is noncontroversial. It really is. I have been close to this bill. I have studied it closely. I understand why some Members feel they are opposed to some parts of it. It is a big bill. As I say, 95 percent of it is not controversial. I think you would get almost a unanimous vote in the Senate if we voted on that 95 percent of the

bill. I refer to parts such as closing the nonbank bank and South Dakota loopholes.

It is critical that we close the nonbank-bank loophole. How silly can you get when you have big organizations that have nothing to do with banks and neither make commercial loans, nor industrial loans, or do not take demand deposits and thereby they are exempt from regulation.

That is grossly unfair. It is unsafe. It is unsound. It is wrong. Everybody knows it is wrong. We are trying to plug that loophole, and that is what this bill does.

We also have the ridiculous situation in which a bank-holding company, for example, can go into South Dakota, as the National City Bank did, and buy a South Dakota bank. Then they can sell insurance outside the State. They can also technically sell it within the State. But if you look at the language that the South Dakota Legislature passed, it is not easy for them to do it within the State. I think there is a kind of tacit understanding that at least the National City Bank will not push insurance within the State. But this is a back door way to break into the insurance business which I think most of us realize is unsound, unwise, and which, as I say, would have overwhelming, if not unanimous, opposition by Members of the Senate and, therefore, unanimous support for the bill which would prevent that.

Furthermore, we have a situation where State nonmember banks can violate Glass-Steagall, and this bill ends that loophole.

These are three very, very vital loopholes which are going to go down because there are some relatively small parts of the bill which some Members of the Senate oppose and oppose bitterly enough so they are willing to kill the whole bill.

One of those most important parts—in fact I think the crux of the opposition—is there are some new powers given to banks, but the new powers are extraordinarily limited. One new power, for instance, given to the banks is that they will be able to underwrite revenue bonds. That is a very modest power. At the present time and for the last 50 years, ever since Glass-Steagall—I guess ever since they have had general-obligation bonds—banks have been able to underwrite general-obligation bonds and there has been no dispute about it; nobody thinks it is wrong. In fact, it is logical that banks should underwrite general obligation bonds. With general-obligation bonds, you have far less concentration and a far better break undoubtedly for the investors than you do with revenue bonds.

This bill permits banks to underwrite revenue bonds, and that makes sense because if at the time Glass-Steagall were enacted revenue bonds had been a significant factor there is no question they would have been permitted. After all, as the chairman pointed out so well the other day, there is less risk, not more, in general-revenue bonds. We have failures of cities; we have failures of States, but revenue bonds can be assessed very carefully. And revenue bonds uniformly have a very, very safe investment.

Underwriting and dealings in mortgage-backed securities is the only other significant power we give to the banks. If there is one area, Mr. President, where the banks are truly expert it is in mortgages. Banks throughout the country understand mortgages and this is particularly true of our small banks. It is what they deal with every day. In fact, most of their portfolios are mortgages. They understand mortgage-backed securities thoroughly. And obviously, if you have banks involved, the middle-man's commission will be somewhat less because there will be more competition and therefore less commission. When you have that kind of situation, it means there will be a lower cost to the home buyer, somewhat lower interest rates, and it will provide the opportunity for mortgage-backed securities to really move.

One of the great puzzles that I think should perplex many people who consider the contrast between the level of mortgage interest in this country and the level of interest for comparable securities is that mortgage interest is almost uniformly higher. One reason is because the mortgage instrument is very complex even for financial institutions. If we package these mortgages—and that is what mortgage-backed securities would be; we package them in an overall security so there is diversification, there is safety, and very little servicing cost—it becomes a far more attractive instrument.

In my judgment, mortgage rates would come down, at least to the level of other comparable instruments. In other words, we take enough off the cost of mortgages so that housing would get a very real stimulus.

This is why it makes sense for us to give mortgage-backed securities a real opportunity, which the underwriting banks would provide. As I say, banks are expert in this area. They understand mortgage-backed securities.

Those are the only two new powers of any significance that we provide. This is not the kind of sweeping deregulation bill pushed by the Reagan administration. There are no new powers in insurance. As a matter of fact, we prevent banks from getting into insurance the way City Bank did in South Dakota. There are no new powers for banks in real estate. We keep the banks out of real estate. The bill is more reregulation than deregulation. It is no surprise that the Independent Bankers Association, representing the overwhelming majority of banks in this country, including the great majority of banks in my State, in the State of Kansas, and in the State of Utah and the other 47 States in the Union enthusiastically supports this bill.

If cloture fails, we may have no bill this year. This means that large money-center banks can move into almost every State of the Union later this year through the nonbank-bank loophole. That is why it is so critical we act on this bill and we act on it at this time and invoke cloture.

Mr. President, like the Senators from New York, who have been the principal opponents of the bill at least at this preliminary stage, I have questions about the section of the bill which legalizes regional banking compacts. In fact, I would favor taking out that part of the bill. But why not let the Senate debate it, discuss it, and then decide what to do. To not give us an opportunity to discuss any part of this bill and have that as a principal objection it seems to this Senator is very, very shortsighted and certainly is against the overwhelming interests of virtually every State represented by Senators in this body.

So, Madam President, I hope the Senate will work its will on the new powers and the other sections that are controversial. As I say, 95 percent of the bill is noncontroversial and I am sure would be supported enthusiastically by most Members if they would go over this bill. Let us do that and let the chips fall where they may. Madam President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from Washington is recognized.

Mr. GORTON. Madam President, I should like to add my voice to that of the distinguished ranking minority member of the Senate Banking Committee and that of the eloquent and distinguished chairman of the Banking Committee in asking my colleagues to vote cloture on this motion to proceed with the banking bill.

In making my position clear, I do not believe I need go into the details of the bill itself. They have been covered adequately by both the chairman and the ranking minority member.

I should like to say, however, that I am disturbed that this motion for cloture is necessary. We are not dealing with the bill on its merits. We are dealing with whether or not the Senate should take up the bill, should discuss it, should debate its many sections, should vote on those elements in the bill which are controversial, and should, in short, act responsibly, as the Senate of the United States is designed to do, with respect to a very important subject relating to the economic future of the United States.

The Senator from Utah and the Senator from Wisconsin have acted in an exemplary and in a particularly senatorial fashion. The Senator from Utah, as chairman of the committee, is primarily responsible, of course, for the draftsmanship of the bill before us. But it is clear that he has made many compromises with many members of the Senate Banking Committee and many interested groups outside the Senate of the United States. It is clear that the distinguished chairman does not have before the Senate the precise set of legislative changes which he would favor, which he would adopt, could he do that alone. In fact, the chairman lost at least one and perhaps more than one vote in the markup of the bill in the committee. Yet, he has seen the public interest to be served by the Senate taking action rather than failing to take action.

Precisely the same description and the same set of compliments are appropriate for the Senator from Wisconsin as the ranking minority member. He has just pointed out one and perhaps more elements of the bill about which he has serious questions and which he may vote to strike, but that has not motivated him to say to other Members of the Senate that they should not vote on each of those proposals.

He worked with great care with the chairman and worked with great care with this Senator in attempting to work out the differences which he has had over particular elements of this proposal. Yet, he is ready to proceed. I suspect that on a number of these issues, he hopes to win, but he is prepared to lose. Nevertheless, he will vote in favor of the bill to go to conference with the House and see whether or not we can solve this problem.

Personally, I, too, would like to see some changes in the proposal, but I feel that it accomplishes several major goals. First, should this bill be passed, it would at least mute the tremendous amount of controversy over the rapid change in the financial institution fields in this country. It would provi_ us with a certain degree of stability at a time that stability is very much needed.

Second, to a considerable though a relatively modest degree, this bill will enhance not just competition but fair competition in a number of financial institution services. It is not perfect in this respect, by any means, but it is certainly far preferable to the present situation.

Third, this bill recognizes that we still have and should continue to have a dual system with respect to financial services; that there is a proper, and an appropriate, and an urgent necessity of allowing the widest degree of States' rights and States' authorities for differences in regulating various kinds of financial transactions which it is possible and appropriate to provide.

As a consequence, the two chief authors of this bill, the chairman and the ranking minority member, have crafted proposals which do represent a considerable step forward, which do enhance competition, which do recognize and respect the differences among the various States of the country, and which will provide at least a degree of stability and an appropriate base for future debates on these issues during the course of the next 2 or 3 years.

A failure to deal with this bill, a failure to pass any bill at all, will add to the insecurity and instability of the provision of financial services in the United States. A failure even to take up the bill and to allow Members to vote on these controversial issues, I am convinced, will be to avoid responsibility which we as Members of the U.S. Senate should take.

So I commend the Senator from Utah and the Senator from Wisconsin, and I urge my colleagues to vote for cloture.

Mr. GARN. Madam President, first let me thank both my colleagues for their very fine statements in support of the bill.

I have had the opportunity to work with Senator PROXMIRE for 10 years during which time he has been the chairman and I have been his ranking minority member, and then, fortunately, 4 years ago we switched that relationship, which I like even better than the first one we had.

The Senator from Texas has just made a remark I will not repeat for the RECORD. I did have to labor under him, as the ranking minority member, for a while, and I will say no more.

The Senator from Wisconsin, even when we have had differences of opinion, has always been willing to accept the judgment of the committee or of the Senate, and I admire him. He has outlined very well today, as has the Senator from Washington, what the issue is. Senator GORTON has become a member of the Banking Committee much more recently but has been a valuable member and a contributing member. With some really excellent insight into banking matters and with his background as an attorney general, he has added to this committee, and I value his membership.

I am sure, however, that a lot of people are not aware of the issue with which we are dealing: Whether or not we are allowed to discuss the bill. I am a little surprised by this, after the situation with Representative ST GERMAIN 2 years ago, after 2 years of work. In many cases, the issues in that particular legislation were even more controversial. Yet, we were able to resolve them. There were changes made, and for those who doubt that, I suggest they look at my original bill, S. 1720, and see the differences between S. 1720 and the final product.

Many changes were made through the whole hearing process, through the markup, on the floor, and in conference. We have gone through the same procedure again.

We started with S. 1609, which was the Treasury's original bill. That evolved into S. 2181, and finally into S. 2851. As the Senator from Wisconsin has pointed out, the most controversial provisions were dropped. I dropped them before we got to a markup in the committee.

So he is correct when he states that more than 95 percent of this bill is noncontroversial and that we are essentially dealing with four issues: Regional banking, how we solve the South Dakota loophole, whether or not we should allow mortgage-revenue bonds, and municipal-revenue bonds. That is it.

I really was surprised by this filibuster; because I expected that with narrowing the major differences to only those four, we would be able to come on the floor and debate them, have votes, without tabling motions, and decide what the will of the Senate would be on those four issues.

So I was surprised when I found that we were really dealing with some very narrow interests who simply said: "We are not willing to accept the judgment of the Senate." I do not know what that judgment would be. I have contacted no Senators. I do not know where the voters would be on municipal-revenue bonds, but I am willing to take that chance and see what the Senate would say. If we lost those provisions, we still would have a good bill.

I wish to correct any misinformation that has gone out. The other day, I was questioned by someone who said: "It's either your bill or no bill." I have never said that. You can check the RECORD. I said it is either a comprehensive bill or no bill. That does not mean it has to be our bill exactly as it came out of the committee. Not at all. There is plenty of room for change and for amendments. So be it. It would still be a good bill if certain powers were deleted.

Those who are afraid to accept the judgment of the Senate have chosen a different course. It is interesting that there are many groups who very vociferously opposed some of these provisions and yet want a bill.

They are willing to come out here on the floor and decide or have the Senate decide.

Let me just quickly, before we go to a vote in the next 5 minutes, tell you of some of the organizations.

First of all, let me say how strongly I feel, without repeating a great deal from my comments last week, S. 2851 is needed to resolve numerous policy issues facing the financial system

which have been considered by the Banking Committee during the last 4 years. Some have been subject to review of this body for more than 20 years, including municipal-revenue bonds that have passed the Senate before.

The Banking Committee in this Congress has held 34 days of hearings, received testimony from 248 witnesses representing regulatory agencies, consumer and labor groups, trade associations, and other interested persons, and the printed hearing record on these matters is 8,060 pages long.

On the cloture motion, there is overwhelming support for the motion from the U.S. League, National Council of Savings Institutions, American Bankers Association, Independent Bankers Association, Dealer Bankers Association, Independent Insurance Agents of America, and the Association of Bank Holding Companies.

And I note the following ones on insurance very much want to keep the Dodd amendment in the bill, and yet they are willing to see what happens on the floor. They are amazed that such a small number of people would try and kill the whole bill to get their way.

Professional Insurance Agents Association, National Association of Life Underwriters, National Association of Casualty & Surety Agents, National Association of Surety Bond Producers, American Council of Life Insurers, Mortgage Bankers Association, National Association of Homebuilders, National Association of Realtors, and the Western Independent Bankers.

There is support from Treasury, Federal Reserve, and other affected agencies.

Madam President, I have a letter that I ask unanimous consent to have printed in the RECORD at this point from Secretary of the Treasury Regan, who supports cloture, and that of the administration in favor of cloture.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, September 10, 1984.

Hon. HOWARD H. BAKER, Jr.,
U.S. Senate,
Washington, DC.

DEAR HOWARD: As you know, a cloture petition with respect to S. 2851, the Financial Services Competitive Equity Act, is to be voted upon in the Senate this afternoon. This legislation, which is the product of several years of work by the Senate Banking Committee, is a vitally important step in the creation of a modern legal framework for the financial services industry. In an area always subject to controversy, this well-crafted bill is supported by both Senators Garn and Proxmire and virtually all the major participants in the financial services field.

The structure of this nation's financial services system is of great importance to its economic strength. S. 2851 will ensure a sound financial services system and will offer substantial benefits to consumers. The small group whose interests are not served by this legislation should not be able to prevent its consideration by the full Senate.

I hope you will bring to the attention of the Senate my strong view—and that of the Administration—in favor of cloture.

With best wishes.

Sincerely,

DONALD T. REGAN.

Mr. GARN. Madam President, the issues are ready, I know I am ready, and from the support for the cloture motion, I believe others are ready to proceed with the consideration of the bill.

There is time to enact a bill this year, just as there is an opportunity to delay it, and I urge my colleagues to assist in adopting a much-needed congressional response to the issues facing the financial services system.

Let me point out, after reading all this list, many of whom do not like provisions of this bill, but they are willing to consider it, what we have are two big New York City banks, Chase Manhattan and Citicorp, that have decided to hell with 14,000 other banks and insurers and all sorts of other groups in this country, "We do not like regional banking so we are going to kill the whole thing. We are not willing—we do not have the guts to go to the floor and face the issues."

And we have the securities industry on mortgage bank securities, which the homebuilders of this country all support, and they think it might get more people into homes, and municipal revenues bonds, and I add supporting that provision is the Government Finance Officers Association, the National League of Cities, all the mayors representing more than 15,000 cities in this country, the executive director of the National Conference of State Legislatures, the National Governors' Association, the National Association of Counties, and the U.S. Conference of Mayors. But we have the securities industry saying, "The hell with all local government, the hell with the Governors, we want our way, and so we will not even allow this bill to be taken up."

I see my colleague wishes the last minute. So I will yield the floor at this time and encourage my colleagues to vote for cloture and at least allow us the opportunity to debate this bill.

Mr. DODD. Madam President, just very briefly, and there is only a minute or so remaining, as my distinguished chairman from Utah pointed out, I wish to urge my colleagues as well to vote for cloture. As the chairman pointed out, he and I have some significant disagreements in this bill, on which we have labored long in the committee, and there will no doubt be amendments offered on the floor to add or subtract to what the committee did; but even though, while we may have disagreements, I believe the committee has deliberated fairly and that this bill deserves consideration on the floor and it should be given the opportunity to be debated.

Madam President, I have a statement which goes into a number of aspects of the bill where I feel very strongly about certain provisions.

I think it is important that we come to a vote, that we have an opportunity to debate these items and, as I say, I know there are those who would prefer this bill never came up on the floor, but I think that is not a good way to move forward.

I urge my colleagues to support the vote for cloture.

Madam President, I intend to vote for cloture on the banking bill because I believe it addresses important issues in the financial services area that deserve Senate consideration.

Under the stong leadership of Senator GARN, the Banking Committee has been considering most of the issues contained in S. 2851 for more than 3 years. There is still considerable controversy over a number of them—I, for example, oppose granting banks new powers at this time—but there is no doubt that these issues are the product of careful scrutiny and deserve to be addressed by the Senate and House.

I would just like to make a few brief comments about the main provisions of the bill. I believe there are three provisions that are essential to act upon.

First, there is the matter of regional banking. Several New England and Southeastern States have taken steps toward permitting interstate banking among the banks located in those States. I think this is a healthy experiment. It will give us an opportunity to see if interstate banking can achieve the promises of its proponents of greater efficiency and delivery of services to borrowers and consumers alike.

There are advantages to proceeding on a limited basis in this area. If the experiments work well, we may then decide to expand upon them. On the other hand, if they don't work, then we can stop them without being faced with the almost impossible task of trying to unscramble a highly concentrated banking system.

The other two important provisions in this bill both address the closing of loopholes that have been opened in clear contravention of congressional intent. The first is the so-called South Dakota loophole. Senator GARN and I both agree that the Congress never intended for banks to get into the insurance business in a wholesale fashion through this device. We disagree on the proper way to close the loophole, but this is a matter that deserves to be debated and resolved by the Senate.

The bill also contains a provision to close the so-called nonbank-bank loophole, which is a device being used by

nonbanking firms to get into the banking business and by the banks themselves to circumvent restrictions on interstate banking. Again, these are issues of national banking policy that should be decided by Congress, not by lawyers and lax Federal administrators.

On the other hand, the bill would authorize new securities powers for banks. I think any such grants of authority are not appropriate at this time. Over the past year we have seen several of our major depository institutions get into serious trouble—trouble which if repeated on a large scale could threaten the Federal deposit insurance system—utilizing the banking powers they presently have. Depository institutions have not made a convincing case that similar problems would be averted if we gave them powers in riskier areas. I do not believe this is the time to expand bank powers, particularly on a piecemeal basis when we are at the same time restricting the options of other providers of financial services. That is why I voted against these new authorities in committee and why I will vote against them on the Senate floor.

But the bottom line is that S. 2851 addresses important issues, has been given long and serious consideration in the committee and deserves to be considered.

I urge my colleagues to vote for cloture.

Mr. SYMMS. Madam President, banking in the United States is clearly in the throes of major change. You can see that just by reading a newspaper. The news columns are sprinkled with items about the problems facing bankers and their customers. The advertising sections are replete with offers of new banking services. And the editorial pages often contain essays about the meaning of it all.

The changes taking place in the banking industry affect almost everybody in this country. That is true not simply because most U.S. households and businesses use banking services. More fundamentally, the Nation's banks provide the bulk of the U.S. money supply, so banks serve as the primary tool of monetary policy, a crucial lever in national economic management. In addition, bank credit is the essential lubricant of economic growth, facilitating those seeking to create new products and new jobs.

S. 2851 is a major step toward legitimizing the bank deregulation process which is rapidly occurring in the marketplace. While I do not want to speak at this time on most of the specifics of the bill, I did want to mention some of my views on title X of the bill.

I know that most of the members of the Banking Committee may view title X as a first step toward interstate banking. However, I would prefer for us to go directly to interstate banking, because I am not so sure that the first step contained in this bill might not end up being the last step.

Title X would allow any bank holding company that consummated an interstate acquisition during the next 5 years to retain an interstate banking presence. The problem with the 5-year window is that all of those firms who do not manage to arrange interstate mergers and acquisitions within the 5-year period or any new firm established after the 5-year period will be at a permanent and competitive disadvantage.

Furthermore, title X authorizes States to enter into regional interstate compacts on "the basis of the locations of the States involved." The effect of this provision would be to encourage States to organize into economic coalitions alined against their peers in the rest of the Nation. In addition, the provision is very anticompetitive because the competition within each region will decrease and allow for undue concentrations of banking power.

The economic strength of the United States flows largely from the wise and successful policy of prohibiting barriers to interstate commerce and trade, and the prevention of monopoly combinations. Yet, strangely, title X essentially approves such practices.

The prospect of interstate banking in the United States has been hotly debated for several years, and is still very controversial. However, if the impact of the regulations were carefully analyzed, one could only conclude that the interstate restrictions increase the cost of capital to every borrower in the United States, and most particularly to small businessmen.

The problem that many businesses face, and in particular small business, is that when they go to the bank for capital financing, our capital markets are regulated on the distribution end, but not on the accumulation end. The small saver can put his funds into a money-market account in New York—or Zurich, London, or Hong Kong—with the greatest of ease. Yet, most businesses and in particular, small businesses, who might want to borrow the funds that may have been saved by the citizens of his hometown cannot fly off to Zurich, London, or Hong Kong to submit a small loan application. The only way the neighborhood banker can compete with the international flow of funds is to buy them from some larger, wholesale banker in a money-center city. All down the line, there is an added surcharge. This is the cost of our current set of laws and bank regulations in the United States. That cost is borne by every consumer—individuals and businesses alike—in the United States, and is more dramatically borne by small businesses.

It is clear that the interstate restrictions are against the public interest. These restrictions only protect the special interests of protected banking industries and, at the same time, impose an added cost on the consumer.

Clearly, our goal should be better pricing and service for consumers and economic growth for the United States. Interstate banking, with free access to markets by all institutions, is a very sensible approach. Regional banking, on the other hand, has all the inherent deficiencies of unit banking on a State basis, or single-State banking.

To redraw the boundaries of 50 smaller markets into 6 larger but still controlled markets is contradictory to the cause of better service and price through competition, particularly when those boundaries will only exist for a 5-year period. The consequences of competition are well-known—lower prices to keep old customers, a rash of product innovation to attract new customers, and higher budgets for research and development to be sure that you can provide all of them with what they want in the future.

Now you would think that we would be supporting something that is good to consumers, good for the growth that interstate banking would produce in all communities, and good because it would increase jobs and business opportunities. Instead, we are facing a proposal which, in effect, redlines the banking market.

If we accept the purposes of a national banking system to be access to capital, the promotion of competition among banks, and service to customers and businesses wherever they choose to locate, then the shortcomings of these regional compacts are very clear.

The ostensible purpose for interstate regional compacts is to allow small banks time to combine with others of similar size to make them too large to be acquired by the money-center banks. Unfortunately, that strategy has several flaws. First, I think it is ludicrous to assume that the money-center banks have the ability to raise the tens of billions of dollars in capital that a wholesale nationwide acquisition would require. Second, and more importantly, that strategy will result in the development of a constituency that will far outlive its original purpose. Third, and most importantly, consumers and stockholders will lose in the process because consumers will have to wait for the real competition to reach their markets, and the stockholders will miss out on the opportunity to get the best price for their shares.

Furthermore, any objective examination of increased competition clearly highlights the benefits and results of that competition. For instance, lets look at California. There are over 260

commerical banks in California. Moreover, there are numerous new entrants in the California banking market each year. In 1980 alone, 47 new banks entered the market. The relative abundance of banks in that State is due largely to a liberal entry policy. It is true that the California banking market is fairly concentrated, with the top five banks having over 70 percent of the market share of deposits, but this share is shrinking and numerous smaller banks offer major competition in local markets. In Marin County, for example, the bank of Marin, a small organization on a statewide scale, has the largest share of the county market. In addition, the largest California banks are drawing significant deposits from outside the State, so their simple deposit share overstates their dominance in the State and local markets.

The combined evidence suggests that natural economies of scale do not necessarily dictate low levels of bank comptition.

I can understand the sentiments held by those who do not want increased competition and who do not want to share in the prosperity. Tougher competition will mean lower profits—and in this case, lower profits would mean reduced prices to those borrowing money. I do not believe, though, that as public policy makers, we should implement a protectionist policy. We should be promoting competition because that will give a break to the customer in the form of better prices, product innovation and freer access to capital. After all, banks do not exist to serve themselves. Banks exist to serve the economy and the public interest.

INTERSTATE BANKING—A CONSTITUTIONAL DILEMMA

Mr. BIDEN. Madam President, in the course of this debate on the Financial Services Competitive Equity Act, an issue of considerable importance to the future shape of the American banking industry has been raised. Title X of this bill is designed to validate the several regional banking compacts which have already been entered into by different groups of States. Typically, these accords provide for reciprocal interstate banking acquisitions for specified States but not for others. Practically, this would give home-grown institutions a chance to combine and get bigger before interstate banking is permitted on a national level.

Although such interstate combinations may be economically justifiable, fundamental constitutional questions remain concerning the authority of States to enter into such kinds of commercial arrangements. This constitutional analysis rightfully belongs within the jurisdiction of the Judiciary Committee. I will accordingly seek referral of the subject matter of interstate banking compacts when next this issue is raised in proposed legislation.

Regional compacts have traditionally been considered on a case-by-case basis. The compact clause of the U.S. Constitution states that "(No) State shall, without the consent of Congress * * * enter into any agreement or compact with another State, or with a foreign power * * *." It is by no means certain whether this proscription requires congressional action on each interstate compact on an individual basis or whether Congress may merely enact general authorizing legislation under which particular types of compacts may be formed. In this instance, title X is intended to serve as that sort of general authorization. However, in litigation over the validity of the New England Regional Banking Compact, neither the Federal Reserve Board or the 2d circuit court of appeals were able to come to a conclusive opinion about the intent of the constitutional framers on this issue.

The courts have previously upheld only two types of interstate compacts: (1) those compacts designed to promote cooperation among States and which are open to all States that wish to join, such as the Port of New York Authority or the Delaware River Port Authority; and (2) compacts which do not have substantial Federal implications and therefore do not interfere with the Federal regulation of matters of national concern. The kind of regional interstate compacts involved in this legislation, however, are commercial in nature and could result in economic discrimination by one State against another. These kinds of arrangements should not be fostered without careful scrutiny of their effects on the economic and political goals underlying the Constitution.

In addition to the constitutional considerations involved here, interstate banking carries with it serious implications for the future size and character of financial services institutions generally. Bank mergers and acquisitions are affecting both the kinds of financial services available and the number of institutions—now estimated at 14,000. One banking expert estimates that by the year 2000, there will be 10 major nationwide banks, 100 to 300 specialized or regional banks and less than 5,000 local institutions. Given these predictions, it is imperative that the Judiciary Committee be given time to consider the important antitrust issues inherent in the approval of regional banking compacts. Therefore, regardless of the outcome of this vote to invoke cloture and proceed with debate, I will recommend that the constitutional and legal issues raised there be considered by the Senate Judiciary Committee at an appropriate time.

CLOTURE MOTION

The PRESIDING OFFICER. The time of 5:15 p.m. having arrived, under the previous order the clerk will state the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

Senators Howard H. Baker, Jr., Ted Stevens, Jake Garn, Daniel J. Evans, Mark Andrews, Chick Hecht, William Proxmire, Mack Mattingly, Slade Gorton, Frank R. Lautenberg, Paul S. Trible, Jr., John Tower, Warren Rudman, Richard G. Lugar, Jesse Helms and Strom Thurmond.

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 2851 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Minnesota [Mr. DURENBERGER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Alabama [Mr. HEFLIN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. LEVIN], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

The PRESIDING OFFICER [Mr. HECHT]. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 89, nays 3, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—89

Andrews	Eagleton	Johnston
Armstrong	East	Kassebaum
Baker	Evans	Kasten
Baucus	Exon	Lautenberg
Bentsen	Ford	Laxalt
Biden	Garn	Leahy
Bingaman	Glenn	Long
Boren	Goldwater	Lugar
Boschwitz	Gorton	Mathias
Bumpers	Grassley	Matsunaga
Burdick	Hart	Mattingly
Byrd	Hatch	McClure
Chafee	Hatfield	Melcher
Chiles	Hawkins	Mitchell
Cohen	Hecht	Murkowski
Cranston	Heinz	Nickles
Danforth	Helms	Nunn
DeConcini	Hollings	Packwood
Denton	Huddleston	Pell
Dixon	Humphrey	Percy
Dodd	Inouye	Pressler
Dole	Jepsen	Proxmire

Pryor	Simpson	Trible
Quayle	Specter	Tsongas
Randolph	Stafford	Wallop
Riegle	Stennis	Warner
Roth	Stevens	Weicker
Rudman	Symms	Wilson
Sarbanes	Thurmond	Zorinsky
Sasser	Tower	

NAYS—3

Abdnor	D'Amato	Moynihan

NOT VOTING—8

Bradley	Durenberger	Levin
Cochran	Heflin	Metzenbaum
Domenici	Kennedy	

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

Mr. BAKER. Mr. President, cloture has been invoked now. It is my understanding, however, that the distinguished junior Senator from New York and perhaps other Senators do not wish to proceed directly to the vote on the motion to proceed, and they have that right. We are now in a postcloture situation, with a limitation of time as to each Sentor. But I wonder if I could propound now an alternative arrangement to stay tonight to finish the postcloture procedure.

Mr. President, I have consulted with the junior Senator from New York, and with the minority leader, and I now inquire of the minority leader and the two managers whether or not there might be a willingness to provide for a vote tomorrow at 11 o'clock on the motion to proceed, provided that the Senator from New York [Mr. D'AMATO] would have his hour under rule XXII, from 10 o'clock until 11 o'clock, and that, tomorrow, the two managers, the Senator from Utah and the Senator from Wisconsin, would have 15 minutes each. That would be 90 minutes of debate tomorrow, and then a vote would occur.

Also, if it meets the general approval of the Senator from West Virginia, the minority leader, I say to any other Senators who wish to debate the matter that I am willing to ask the Senate to remain tonight as long as necessary.

Mr. President, did I say 11 a.m. or 11:30 a.m. in my description?

The PRESIDING OFFICER. Eleven o'clock.

Mr. BAKER. Mr. President, I misspoke. It will be 11:30 a.m.

There are to be 90 minutes of debate beginning at 10 a.m. One hour of that time would be under the control of the distinguished junior Senator from New York, and 15 minutes each to the two managers, the Senator from Utah and the Senator from Wisconsin.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, the request that has been propounded by the distinguished majority leader has been cleared on this side of the aisle.

Mr. BAKER. I thank the Senator.

Mr. President, then I put the request.

I ask unanimous consent that on tomorrow at 10 a.m. the Senate resume consideration of the pending motion, that the time between 10 a.m. and 11:30 a.m. be divided as follows: 1 hour under the control of the distinguished junior Senator from New York [Mr. D'AMATO] and 15 minutes each to the two managers of the bill, the Senator from Utah and the Senator from Wisconsin, and that the vote occur at 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. D'AMATO. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. D'AMATO. I am not certain whether the yeas and nays have been ordered or whether it would be appropriate to announce them tomorrow at 11:30 a.m.

Mr. BAKER. Mr. President, does the Senator wish to ask for the yeas and nays at this time?

Mr. D'AMATO. Yes.

Mr. BAKER. I am happy to do that.

Mr. President, I ask for the yeas and nays on the pending motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I put the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

UNANIMOUS-CONSENT AGREEMENTS—S. 2851
(ORDER No. 1056)

Ordered, That at 10:00 a.m. on Tuesday, September 11, 1984, the Senate resume consideration of the motion to proceed to the consideration of S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes, with the time until 11:30 a.m. to be divided and controlled, with 1 hour for the Senator from New York [Mr. D'Amato], and with 15 minutes each for the Senator from Utah [Mr. Garn] and the Senator from Wisconsin [Mr. Proxmire].

Ordered further, That at the hour of 11:30 a.m. the Senate proceed to vote on the motion to proceed to the consideration of S. 2851. (Sept. 10, 1984)

Mr. BAKER. I thank the Chair.

Mr. President, there will be no further record votes today.

May I say that once again I am prepared to ask the Senate to remain as long as any Senator wishes to speak this evening, but absent that I am prepared to ask the Senate to recess over until tomorrow.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, before I do that, I have discussed this with the minority leader as well, and I wish to amend the order for convening tomorrow as I discuss with the minority leader.

Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I further ask unanimous consent that after the recognition of the two leaders under the standing order and the execution of the special order in favor of the distinguished Senator from Wisconsin [Mr. PROXMIRE] there be a period for the transaction of routine morning business until the hour of 10 a.m. in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COSPONSORS TO AMENDMENTS TO S. 2851

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. HUMPHREY be added as a cosponsor to my amendment No. 3675 to S. 2851, that is the foreign deposit insurance amendment; that Mr. CHILES be added as a cosponsor to my amendment No. 3676, that is the interest on required reserves amendment; and that Mr. BOREN be added as a cosponsor to my amendment No. 3678, that is a study by banking regulators of measures Congress should adopt to improve the safety and soundness of our banking system.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until 6:30 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT AND EXTENSION OF LIBRARY SERVICES AND CONSTRUCTION ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2878.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 2878) entitled "An Act to amend and extend the Library Services and Construction Act", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Ford of Michigan, Mr. Andrews of North Carolina, Mr. Simon, Mr. Williams of Montana, Mr. Kogovsek, Mr. Owens, Mr. Harrison, Mr. Ackerman, Mr. Penny, Mr. Erlenborn, Mr. Jeffords, Mr. Goodling, Mr. Coleman of Missouri, Mr. Petri, Mrs. Roukema, Mr. Gunderson, and Mr. Packard be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate disagree with the House amendment and agree to the conference requested by the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. HECHT] appointed Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. DENTON, Mr. WEICKER, Mr. EAST, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, Mr. EAGLETON, and Mr. DODD conferees on the part of the Senate.

VOCATIONAL EDUCATION ACT OF 1963 AMENDMENT—CONFEREES

Mr. BAKER. Mr. President, may I inquire, has the Chair appointed conferees on H.R. 4164?

The PRESIDING OFFICER. The Chair has not appointed conferees.

Mr. BAKER. Has an order been entered authorizing the Chair to do so?

The PRESIDING OFFICER. That order has been entered.

Mr. BAKER. I wonder if the Chair would appoint the conferees at this time.

The PRESIDING OFFICER. Pursuant to the previous order, the Chair appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. DENTON, Mr. WEICKER, Mr. EAST, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, Mr. EAGLETON, and Mr. DODD conferees on the part of the Senate.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSENT TO AN AMENDMENT TO THE WHEELING CREEK WATERSHED PROTECTION AND FLOOD PREVENTION DISTRICT COMPACT

Mr. BAKER. Mr. President, there is one item that is cleared on this side for action by unanimous consent. That is Calendar No. 1154.

I ask unanimous consent that the Senate proceed to the consideration of that item at this time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5177) granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I urge approval by my colleagues of the proposed technical amendment granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

In 1978 it was discovered that, apparently, through oversight, Public Law 90-191, which created the original compact, did not grant to the Wheeling Creek Watershed Commission the authority to sell or otherwise dispose of property acquired in the process of implementation of the project.

Following this discovery, the Legislatures of West Virginia and Pennsylvania approved amendments to the original compact granting this authority to the commission.

Inasmuch as the Congress has not yet ratified this amendment to the original compact, we seek today to have this action taken by technical amendment to correct an earlier oversight.

Upon approval of this amendment the Watershed Commission will be able to complete the last of the dams to be constructed in this seven-dam project, of which four are in West Virginia and three in Pennsylvania. It will also save taxpayer dollars by allowing for the sale of surplus property, the proceeds from which sale will be utilized in the construction of the last remaining dam.

Mr. RANDOLPH. Mr. President, H.R. 5177 would grant the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention Compact. This bill was introduced by my able colleague, Hon. ALLAN B. MOLLOHAN, in the House of Representatives and passed by a voice vote on June 18, 1984.

This bill is of great importance to those individuals who live along the Wheeling Creek in northern West Virginia. This area is prone to severe flooding.

For background purposes, I would like to familiarize Members with the Wheeling Creek Watershed Protection and Flood Prevention Compact. The West Virginia and Pennsylvania Legislatures entered into an interstate compact in 1967. This established a governing body to control the Wheeling Creek watershed project. On December 8, 1967, Public Law 90-181 was enacted, thus providing congressional ratification of this compact. However, it was discovered in 1978 that the governing body did not have the power to dispose or sell property that it had acquired. The two States involved amended the interstate compact in 1978, which would then give authority to the governing body to sell, exchange, or lease the real and personal property.

The governing body, referred to as the Wheeling Creek Watershed Commission, neglected at that time to present this correction to the Congress for ratification.

It has been requested by the Commission that this oversight be resolved.

This brings us to the present and the introduction of H.R. 5177, which would rectify this oversight.

The enactment of H.R. 5177 is instrumental to the timely and efficient completion of the Wheeling Creek watershed project's sixth and final dam. This watershed project also provides varied recreational activities for the people of southwestern Pennsylvania and northern West Virginia.

I sincerely hope that my colleagues will act quickly to adopt this measure so that this project can continue.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5177) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the majority leader and I thank him on behalf of my distinguished senior colleague.

Mr. BAKER. Mr. President, I wish to thank the distinguished President pro tempore, the chairman of the Judiciary Committee, who indicated to me that this matter had been cleared on our side and facilitated the disposition of the matter at this time.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I would be recreant to my duty if I did not likewise express appreciation to the distinguished Senator from South Carolina, who is chairman of the Judiciary Committee, and who is President pro tempore of the Senate. He has been very helpful and very understanding in this matter. Without his cooperation, of course, the bill would have not been cleared.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL 9:30 A.M.

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I now move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and, at 6:30 p.m., the Senate recessed until Tuesday, September 11, 1984, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 1984:

DEPARTMENT OF STATE

Jon R. Thomas, of Tennessee, to be an Assistant Secretary of State for International Narcotics Matters, vice Dominick L. DiCarlo, resigned.

J. Stapleton Roy, of Pennsylvania, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

William Arthur Rugh, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Yemen Arab Republic.

Carl Edward Dillery, of Washington, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kiribati.

THE JUDICIARY

Charles R. Norgle, Sr., of Illinois, to be U.S. district judge for the northern district of Illinois vice a new position created by Public Law 98-353, approved July 10, 1984.

Howell Cobb, of Texas, to be U.S. district judge for the eastern district of Texas vice Joe J. Fisher, retired.

DEPARTMENT OF THE TREASURY

Vilma Rosso Taracido, of New York, to be assayer of the U.S. Assay Office at New York, NY, vice Saul Silverman.

DEPARTMENT OF EDUCATION

Linda M. Combs, of North Carolina, to be Deputy Under Secretary for Management, Department of Education, vice Charles L. Heatherly, resigned.

DEPARTMENT OF STATE

Joe O'Neal Rogers, of Virginia, to be U.S. Director of the Asian Development Bank, with the rank of Ambassador, vice John Augustus Bohn, Jr.

CORPORATION FOR PUBLIC BROADCASTING

Howard D. Gutin, of Texas, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1989, vice William Lee Hanley, Jr.

FEDERAL TRADE COMMISSION

Mary L. Azcuenaga, of the District of Columbia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1984, vice Michael Pertschuk, term expiring.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert W. Bazley, XXX-X... XXX-XX-... U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Monroe W. Hatch, Jr., XXX-X... XXX-XX-... U.S. Air Force.

EXTENSIONS OF REMARKS

TIME TO REFORM THE UNEMPLOYMENT INSURANCE PROGRAM

HON. FORTNEY H. (PETE) STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. STARK. Mr. Speaker, depending on the state of the economy, we spend about $30 billion per year on unemployment insurance payments for the unemployed. These payments are really a sort of subsistence dole—enough to put food on the table and, hopefully, keep car and house from being repossessed during a period of temporary unemployment.

In a time of rapidly changing job needs, in an age when many jobs will be made forever obsolete by advances in robotics, in a time of record budget deficits, I don't think it is adequate to run a $30 billion dole program.

We need to combine UI with aid for the displaced worker—and use it to help him retrain, reeducation, or relocate.

I have introduced several bills to do just this: H.R. 3501 and H.R. 5748.

I include in the RECORD at this point an excellent article from the September 9 Washington Post by Stuart Eizenstat and William Spring. I hope that the ideas and arguments that they advance will help advance our efforts to reform and make more relevant the UI program.

The article follows:

[From the Washington Post, Sept. 9, 1984]

AND THE CHANCE TO HELP THE JOBLESS BEFORE THEY GET THAT OLD

(By Stuart E. Eizenstat and William Spring)

The worst recession since World War II is over for most Americans and the recovery is in its second year. But unemployment is unlikely to return to the relatively low levels of the 1970s, tens of thousands are underemployed and many of our basic industries continue to decline, even as some experts foresee a new recession ahead.

Disagreeable as all this may be, it does provide us with a unique opportunity. We still have time to correct the weaknesses in America's unemployment-insurance program before the next economic downturn. In place of a program that now provides only temporary cash benefits, we should install a long-term employment system that encourages employers to retain workers during economic slowdowns and provides incentives for the unemployed to be retrained and reemployed.

Still-idle auto workers in Michigan and laid-off steelworkers in Pennsylvania might be surprised to learn of the help people like themselves receive in countries with far better unemployment-insurance systems than our inadequate one.

If they lived in West Germany or one of nine other western nations, they might not have lost their jobs at all, despite hard times. Employes in those countries do not face the harsh choice ours do between full-time work or full-time unemployment. Firms facing economic downturns can put workers on short weeks knowing that their pay will be supplemented by unemployment insurance that is avaiable to part-time workers.

In Sweden and several other western countries, unemployed workers with long work histories are eligible not only for unemployment insurance, but also for government-supported retraining programs to enhance their future as workers and to make them productive taxpayers, rather than recipients of government aid. Japan will extend benefits for up to two years if the unemployed individual is in a retraining program.

Canada also provides unemployment benefits during training courses, and for six weeks thereafter, so newly proficient persons have time to acquire a job. And in the Netherlands, individuals can retain their benefits even after finding a job, if they are part of an on-the-job training program.

If they are handicapped or older and live in Japan, they qualify for even more help, through an allowance that helps them pay for necessary clothing and transportation when they first find a job.

And if they had been laid off in countries as disparate as Socialist President Francois Mitterrand's France or conservative Prime Minister Margaret Thatcher's England, they might be eligible to receive up to six months of their unemployment benefits in a lump sum, to help them start their own business, with added technical assistance to provide budding entrepreneurs with a better chance of success.

In America we have used unemployment insurance simply as an income-support program for the unemployed. But with permanent changes in the structure of our economy now creating a new class of unemployed or underemployed blue-collar workers, it is time to adopt the approach of our western allies and use unemployment insurance as a practical tool to help keep people at work or retrain them for new jobs.

The oil price shocks of the 1970s, the recessions of 1974–75, 1979–80 and 1981–82 and our shift from a manufacturing to a service-and-information economy have had a devastating impact on the American work force. High unemployment rates are likely for the foreseeable future, despite recent declines in the rate. This means the nation can look ahead to an extremely expensive benefits program. During the 1974–75 recession alone, the unemployment-insurance system had to borrow $19 billion from the federal treasury to pay those eligible.

Nearly 2 million manufacturing jobs have been lost in the past decade. Most are permanent losses because automation and foreign competition have eroded job opportunities in basic industries. The new unemployed deserve more than temporary relief provided by a government check during an often desperate effort to find jobs.

Unemployment insurance in America has gone largely unchanged since its enactment in 1935 at the depth of the Depression as a program to provide the unemployed with income during periods of temporary unemployment.

It is really 50 individual systems, not one. Firms channel a percentage of their payrolls into state trust funds. The states finance the basic 26 weeks of coverage and set their own rules for eligibility, duration and benefit levels. The federal government has helped pay for extended benefits up to 65 weeks.

Unemployment insurance has been a prompt and useful anti-recession weapon, and a model of Keynesian economics. As a recession begins, more unemployment insurance money flow into the economy. In better times, state trust funds are replenished. For many, this system works. Fully half of those on unemployment find another job within nine weeks and nearly 75 percent do in six months—within the basic 26-week program.

But for many of the rest, the cash benefits become an end in themselves—a source of income that ends abruptly when coverage finally ceases. This system does not prepare today's unemployed steel, auto, coal, and rubber worker for the jobs of tomorrow.

From its creation until the mid-1970s, unemployment insurance's history under Democratic and Republican presidents, was one of steadily expanding coverage. Benefits were extended to additional workers, for longer periods of time—although even today only about half the unemployed are eligible because a history of steady work is a precondition to receiving benefits.

Congressional support for unemployment insurance waivered under the financial stresses imposed by back-to-back recessions in 1980 and 1981-82. Critics said the system discouraged low-income workers from seeking a new job because it gave them as much as three-quarters of the amount they would have earned, after taxes, from a job.

The system was also faulted for providing tax-free benefits for second workers in high-income families—benefits that were almost as much as their after-tax earnings from regular employment. Critics noted that unemployment insurance could encourage layoffs, rather than shorter work weeks, during a recession, because employers felt it was more humane to make their workers eligible for full unemployment benefits rather than reduce their wages.

Under both Presidents Carter and Reagan, restrictions were imposed, cutting many people off the roles and making benefits for some taxable. Congress refused to pass a proposed expansion of unemployment insurance while unemployment was rising during the summer of 1980. President Reagan's 1981 cuts left hundreds of thousands ill-protected against the worst recession of the post-war era. There is no longer a strong bipartisan coalition supporting our existing benefits system. All the more reason to introduce reforms.

The key is to connect unemployment benefits to an expanded employment and training effort.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In West Germany, the Federal Employment Institute coordinates unemployment insurance with vocational education, training and job placement. Out-of-work West Germans can take advantage of a national data network run by the institute that collects information on *all* jobs available. West German law requires that job vacancies be listed with the service, which is a national monopoly. Unemployed Americans rely primarily on the weak and ineffectual placement system of the U.S. Employment Service. This prolongs the period that they depend on unemployment benefits.

In Sweden, only a fraction of total expenditures go to pay unemployment insurance; the bulk is channeled to vocational training and payments to industry for hiring and training workers.

In both countries, labor, management and government together direct the employment and training systems to assure their relevance to the actual needs of the workplace—and to sustain broad political support for the effort.

The Europeans provide job training and other employment benefits to all who need them, regardless of their income level, much like the original New Deal programs for the unemployed. But our experiments with employment and training programs such as the Comprehensive Employment and Training Act (CETA) and the Jobs Corps have been restricted to very low-income people.

Many nations, notably Sweden and Japan, rely heavily on incentives to private companies to keep workers employed, to train and retrain workers and, in Japan, to provide incentives to firms to hire workers from declining industries. As its shipbuilding industry declined during the last decade, Japan successfully retrained 50,000 workers. We can do no less for the hundreds of thousands of workers in our declining basic industries.

Many nations also use public employment, especially to ease the desperate situation of young workers. Despite its current unpopularity here, jobs provided by government as a last resort are still preferable to welfare or hunger.

We should discourage the out-of-work from spending long periods of non-productive time on unemployment compensation, and emphasize putting people back into the labor force as quickly as possible. As in Japan, cash benefits should be used initially to stablilize the lives of the suddenly unemployed. But the emphasis should then shift to job retraining, not just to government checks. After a worker exhausts the basic 26-week benefit, further help should be conditional on participating in an organized search for a job or joining a job-training program.

The fact that each of the 50 states runs its own unemployment insurance program creates an opportunity to experiment with what works best in our country. Experiments such as these have promise:

States could permit workers to use their extended unemployment-insurance payments to help pay potential employers to train them on the job.

As the Congressional Budget Office recommended in 1981, unemployment insurance could be paid to those forced onto shorter work weeks, without requiring—as present rules do in many states—that any income earned at all must be deducted, dollar for dollar, from an individual's unemployment benefits.

California now has such a program. It saves businesses the cost of rehiring and gives workers greater job security and higher incomes than they would receive from straight unemployment insurance if they were unemployed.

States could make lump-sum payments, along the lines of the French and British systems, to help the unemployed start a business or seek work in more promising areas of the country.

States could copy California, which is using a small increase in its state payroll tax to finance training programs for those unemployed covered by unemployment insurance. Each program is approved by a panel that includes representatives of industry, labor and government.

States could create the type of employer-employe fund used in Japan to pay for workers to upgrade their skills while still on the job to lessen the likelihood of future layoffs.

The new "dislocated worker" provision of the 1982 Job Training Partnership Act provides a model—but a greatly underfunded one—on which to connect unemployment-insurance payments and the training of displaced workers. Local councils with representatives from business and labor provide training opportunities in the private sector. Training funds are available to anyone caught in plant closings or facing long periods of unemployment, regardless of their previous income. A continuation of benefits could be linked to an individual's receiving retraining.

Reforms in unemployment insurance and needed improvements in training programs are not a panacea of unemployment. Sound fiscal and monetary policy and a growing economy are central to curing the malady. But more is needed to help American workers adjust to the tremendous changes in our economy. That is why a reformed unemployment program should be a top priority for Congress and the next president, whoever he may be.●

SEALS AND PEOPLE: HOW DO WE PROTECT BOTH?

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. YOUNG of Alaska. Mr. Speaker, the U.S. Government, along with the Governments of Japan, Canada, and the Soviet Union, will shortly sign an agreement extending the Interim Convention for the Conservation of North Pacific Fur Seals. Ratification of this agreement will be considered by the Senate soon thereafter.

The convention, which has been in effect since 1911, has served as a model conservation document responsible for the sound management of fur seals. When the original convention was signed, the fur seal population numbered some 300,000 animals; it has increased to over 1.3 million seals. I know of no other domestic laws or international agreements which have been so successful.

Unfortunately, there are those who would seek termination of the Convention because it allows a seal harvest to be conducted. Opponents claim that the harvest is cruel and wasteful and that the residents of the Pribilof Islands—the area where the harvest is conducted in the United States—should be forced into some other means of making a living.

Many Members who have discussed the convention with me have been under the impression that we simply will be considering whether or not to kill seals. However, the issues are much more complex and far-reaching. At stake is not only the survival of the North Pacific fur seal, but the survival of the Aleut residents of the Pribilof Islands.

Recently, Ms. Chris Blackburn, a well-known Alaskan journalist, visited the Pribilof Islands and reported on the fur seal harvest and the attempts being made by the Aleut community to develop an alternative economy. Her report on the trip, which was published by the Kodiak Daily Mirror, is well worth reading. I ask consent that it be included in the RECORD.

[From the Kodiak Daily Mirror]

ALEUTS EXPECT BATTLE OVER FUR SEAL TREATY

(By Chris Blackburn)

The Pribilof Islands are the major breeding ground of the Northern fur seal whose soft, light, warm pelt has been sought by men with the same avarice as gold.

Because there were fur seals there, the Russians brought Aleuts to the Pribilofs as serfs, the North American Commercial Company took over from the Russians and then the federal government maintained the "company town." Profits from the fur seal harvest that poured into federal coffers have far exceeded the $7.2 million the U.S. paid to buy Alaska from Russia.

Because the St. Paul Islanders have been the ones to harvest the seals, they now receive hate mail from across the nation and find their principal economy threatened in the face of a growing environmental lobby—called by Pribilof residents "humaniacs and tree-huggers."

In 1910, after the Pribilof fur seal population had dropped to 130,000 animals, the Soviet Union, Japan, Great Britain and the U.S. signed the North Pacific Sealing Convention, prohibiting pelagic sealing and guaranteeing that Japan and Canada would receive pelts from the Soviet and U.S. harvests.

Canada and Japan each receive 15 percent of the pelts taken annually on St. Paul Island.

The fur seal treaty is up for renewal next year.

"We expect a big battle over the renewal of the treaty. The humaniacs are more organized than ever. They've developed quite a war chest and have already begun their lobbying effort," said Larry Merculleff, president of the Tanadgusix Corporation, St. Paul Island's Native association.

Some members of the Alaska congressional delegation and National Marine Fisheries Service view the threat to the fur seal treaty with alarm. To withdraw from the treaty could jeopardize the U.S.'s other treaties on the management of fish that cross international boundaries, open the way for a resumption of pelagic sealing by the Japanese and a seal pup harvest by the Soviets.

In the current market, seal pup pelts bring more money than the pelts of the three and four-year old bachelor male seals taken in the Pribilof harvest. Since 1975 the U.S. government hasn't made a profit off the Pribilof fur seal harvest, which means the State of Alaska hasn't received any money either. Under the statehood provisions, Alaska has received 70 percent of the profits from the Pribilof fur seal harvest.

The failure of the U.S. government to make a profit may be more attributable to the lack of aggressive marketing—the seal pelts are sold at open auction—than to a real lack of interest by buyers in fur seals.

Also involved is the monoply on fur seal pelts the Fouke Company in Greenville, S.C., has held since 1915 when it signed an exclusive contract with the federal government to process and market the pelts.

Fouke reportedly has a secret method for processing the pelts that produces the best furs. According to Merculieff, the average prices of a processed pelt is $63, but Fouke has been charging $65 a pelt for processing.

As part of the federal pull-out from the Pribilof Islands, the government has turned over to the Tanadgusix Corporation 30,000 raw pelts left over from the 1982 and 1983 seal harvests.

"We've been selling the pelts raw. About 10,000 pelts have been sold and we expect to sell the other 20,000 within the next four to six weeks," said Merculieff. The Tanadgusix Corportion is making a profit of about $18 a pelt on the sale of the raw pelts.

In 1977 the Tanadgusix Corporation won the right from the federal government to market seal by-products. Seal meat is being sold as mink and dog food and crab bait. The penis bone is ground and sold on the Asian market as an aphrodisiac.

"About 200,000 pounds of seal meat has been sold for dog meat. Seven out of the top ten dog mushers on the Iditarod use our seal meat. Our plant has the capability of packing 1 million pounds of seal meat," said Merculieff.

"We also sell seal meat for zoos in Japan, about 50 metric tons annually.

"We want to keep the Fouke Company alive and processing skins, but we want to renegotiate the contract so they purchase the skins from us, rather than us paying them to process the skins," said Merculieff.

Nineteen eighty-four is the last year the federal government will finance the start up of the fur seal harvest and take the pelts.

Whether there will be a 1985 fur seal harvest depends on what happens in Congress with the seal treaty reauthorization and whether the Tanadgusix Corporation can come up with the estimated $500,000 needed to pay wages and other start-up costs for the harvest.

"We really can't get a commercial loan because of pressure from the humaniacs and because the market is unstable, uncertain," said Merculieff.

The widespread press coverage of the seal harvest and attack on the harvest by the environmental lobby has set off a nationwide hate-mail campaign directed at the Pribillofs.

Merculieff pulls out a handful of letters from his desk: "Who says you have to survive. Look out for five bombs." Baltimore, Md.

"My sincere wish is that all who kill seals die a painful death of cancer. Their wives, too." Man del Ray, Calif.

The withdrawal of the U.S. government, the only source of a paycheck the Pribilof island residents have known, and the threat of a possible end to the seal harvest, the major source of employment, have caused severe problems in St. Paul, Merculieff said.

"The whole situation, has created a severe depression. We're experiencing problems we never had before. Suicide—in the last 12 months we've had three suicides, one suspected suicide and 30 documented suicide attempts, two murders, an increase in domestic violence, child abuse and alcoholism.

"Last year three kids, the oldest was 12, started out at 4 a.m., when they thought no one would be around to see them, to commit suicide. They walked right out into the Bering Sea. Thank God somebody saw them. We literally had to fight them to bring them back to shore."

"Steam From the Seals' Bodies, and Breath Rises Like the Morning Mist"

(By Chris Blackburn)

"A cacophony of sound—bleating, bellowing, growling, roaring, mewling, mooing, baaing—and the odor of a barnyard fill the fur seal rookery. In each harem group, the bull alternates between sunning himself and snarling at the females which surround him. The females snarl at each other.

"The pups congregate by themselves, preferably in a rock pile, where they are least likely to be crushed by the bulls. Seventy percent of the pups will die in the first three years from natural mortality.

"The bachelor males congregate in the pull out areas, occasionally one will make a feint toward the breeding area. The harem bulls charge forward, bellowing.

"It takes about nine years for a male seal, if he survives that long, to become a harem bull. As a harem bull he will live, on the average, another year and a half."

Just before dawn the drivers arrive at the pull-out area where the bachelor fur seals are congregated. About sixty percent of the bachelor males are at sea.

As the drivers move toward the males, the seals bunch together and hump away from the drivers. Each group of drivers moves 20 to 50 seals. The drive is started in the dark to minimize any possible disturbance to the harem groups.

Every 50 yards or so the drivers pause and let the seals rest. Steam from the seals' bodies and breath rises like morning mist. Here and there along the way a seal lays his head down on the grass and refuses to move, growling and showing his teeth. Those seals are left behind.

On a flat, grassy field, well away from the rookeries, the seal harvesters, observers, press people and tourists wait. When all the groups of seals have been gathered, the drivers move five or so seals to the head of the field.

A man with an empty five gallon tin can on the end of the stick rattles the can to drive off any seals larger than 49 inches and any female seals in the group. The rejected seals protest, baring their teeth, but move reluctantly to the side of the field.

With a swift, well aimed blow, each clubber hits a seal over the head. Each seal drops to the ground. Quickly the stickers move in and knife each seal in the heart. Then the pelts of the dead seals are cut up the middle of the abdomen and around the flippers.

Two peelers, each with large tongs, move in and pull the pelt off the carcass. The whole process, from stunning to skinning, takes less than a minute per seal.

The harvest on St. Paul Island goes on five days a week for five weeks, in a cycle where each of the five rookeries is harvested in sequence each week.

This year the quota is 23,000 seals.

"In the rookery the picked over carcass of a seal lies on top of a rock.

"One bull stole her from another. The first bull tried to get her back and the two bulls fought over her," says the biologist who has been monitoring the rookery from a blind.

"During the battle, the bulls flayed her alive. She climbed up on the rock. It took her four days to die."

Harbor Project on St. Paul Moves Ahead Despite Concerns

(By Chris Blackburn)

Rock by rock, a huge Calista Construction Company crane on St. Paul Island is building a 1,000-foot long, $6 million breakwater across a portion of Village Cove in front of the city of St. Paul, the first phase of a three-phase project which will give St. Paul the facility to become a major base for fishing in the Bering Sea.

"We just got the phase II money ($8.6 million), said Larry Merculieff, president of the Tanadgusix Corporation. Phase II will extend the main breakwater another 800 feet and allow for the construction of docks along the shorline for mooring a large floating processor and about 30 boats 35 to 120-feet in length.

When the Phase I breakwater is completed, supply ships will be able to unload directly into St. Paul. Currently, all supplies have to be carried by small vessels, lightered, from the supply barge to St. Paul.

While the breakwater gives St. Paul the potential to develop its economy, it also holds the potential for disrupting and destroying the culture of the 500 residents on the island.

The phrase "We don't want to be another Dutch Harbor," is frequently repeated among St. Paul leaders.

The Native corporation hopes to invite in a floating processor whose owners will agree to work with the local community.

"We will have to build in social constraints, set up performance standards for local hire. We want to create opportunities for upward mobility, said Merculieff.

"Our approach will be to sit down with all the leaders of the fishing industry and say, what kind of partner would they be . . . How can they meet the community's needs with minumum disruption. They don't want to see the same situation here as occurred in Dutch Harbor," he said.

In the long range, Merculieff sees a potential on St. Paul for developing support services onshore, like refueling, ice sales and offloading facilities for fish products, then eventually an onshore cold storage plant and processing plant.

Last fall and winter, Tanadgusix leaders visited ports in the Faroe Islands, Jutland, Denmark, Japan and in Alaska and the Lower 48 to "find out the problems and the blessings . . . We know these communities have experienced our problems before—there's no need for us to reinvent the wheel," Merculieff said.

Already St. Paul is used by large crab and drag boats working in the area whose crews come onto the island by skiff. Residents blame the big boat crews for bringing in drugs and venereal disease and driving up the price of supplies.

"We have to ship our supplies in by barge. They (the boat crews) come and buy groceries, then we don't have enough for our people and have to air freight in supplies, at

greater expense to the village," said Perfenia Pletnikoff Jr., manager of the Pribilof Aleutian Seafood Company.

Pletnikoff is one who fears that the breakwater and plans to provide services for outside boats will block the island's own development and lock its work force into service jobs.

"What we need here on St. Paul is a dock until we can develop our own fisheries—a dock for services for ourselves, save us 25 percent off lightering costs, but we'll build a harbor in three years. We won't be able to afford our own 35-foot boats, but we'll fill it with 125-foot boats (from outside).

"We don't want to be just cannery workers," said Pletnikoff.

As the Calista crane places the rocks for the breakwater, the future of St. Paul Island moves closer to the present. Island leaders are gambling they can shape the future to provide a stable economic base for the community and maintain the community's integrity.

Both those supporting and opposing the development know that the island must develop its own industries if it is to have a future.

The question is "How?"●

TRIBUTE TO THE LATE WILLIAM SAROYAN

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. COELHO. Mr. Speaker, those of us lucky enough to be natives of the San Joaquin Valley are well aware of the charm and appeal of the works of the late William Saroyan, as well as the city of Fresno, which Saroyan was so proud of, and often wrote about. The Washington Post of September 9 featured a piece authored by a Fresno resident which conveyed the fond sentiments held by many of both William Saroyan, the city of Fresno. Mr. DeWayne Rail's excellent tribute speaks for itself, and I ask that it be reprinted in the CONGRESSIONAL RECORD so that it can be enjoyed by my colleagues.

The article follows:

[From the Washington Post, Sept. 9, 1984]

YOU WON'T SEE THE FRESNO I KNOW FROM HIGHWAY 99—MY SON STILL WANDERS IN FIG ORCHARDS, AND OUR LOCAL HERO IS RESTING EASY

(By DeWayne Rail)

The other day, after reading for the dozenth time that Fresno, Calif., was number 277 on somebody's list of preferred places to live, I had a sudden, vivid memory of the last time I saw William Saroyan. Along with the raisins and figs that grow in abundance in the surrounding fields, Saroyan was one of Fresno's most famous natural resources—a writer who used the material of his Armenian family and his small-town boyhood to launch a literary career that included a Pulitzer Prize for his play "The Time of Your Life."

I saw him only a few times in the 25 years I have lived in Fresno, but each time seemed special and meaningful in a way I can't quite name. Maybe it's that my memories and thoughts about my home town are bound up in, and only half-distinguishable from, the things Saroyan wrote about it. Or maybe it's even simpler: my memories of the man are memories of the place.

My last encounter with him occurred only a year or so before his death in 1981. I was turning left off Ashlan Avenue into the parking lot of a busy supermarket. Suddenly there he was up ahead of me, cutting through the intersection on his bicycle, riding with no hands because his arms were full of oranges, his brown felt hat pushed back on his head and a go-to-hell grin on his face.

Later, when I told the story to friends, I always said they were stolen oranges. This is the man who wrote in "The Bicycle Rider in Beverly Hills," "Every day was an adventure, a new chance to draw nearer to that great state of health which approximates immortality, when the senses are so finely alive."

There is no way I could have known the oranges were stolen. I said it from instinct, partly because they would have been stolen if he had been a character in one of his own stories and partly because I think Saroyan, would have preferred to have the story told that way.

Too, I told it that way because I know Saroyan's home town. Fresno may be one of the few cities left in the United States where a 12-year-old boy just turned 70 could swoop up some oranges from a neglected orchard behind a shopping center, jump on his bicycle and ride swiftly to his home in a modern subdivision a few blocks away.

I should make it clear from the beginning that the Fresno I know is not the one a motorist sees speeding down Route 99 on the west side of town. If you are a tourist from anyplace else, a Los Angelino, say, driving up California's long, central valley to view the wonders of Yosemite, Fresno may look a lot like the place you just left, with tract homes crowding the freeway and a gasoline smell in the wind. Since the air turned gray back in the '60s, the Sierra Nevada Mountains to the east are no longer visible rising abruptly above the flatness of the San Joaquin Valley.

True, we have trees and vines and vast fields planted to cotton. If you can't identify the crop, signs are there to guide you: nectarines, they say—or plums or raisin grapes. An old farmhouse still rises up here and there, but something—maybe the large metal storage buildings for farm machinery, or the crop duster spraying malathion insecticide—suggests that these are just remnants, that the small, homey holdings of years back have been sold out to conglomerates and that agriculture has become agribusiness to an extent unmatched anywhere else in the world.

To this day, I don't believe that half the people here knew who he was, and most of those probably didn't recognize him when they saw him. People who did know him say he owned two tract homes side by side in a middle-class development near Route 99. In one, he lived. In the other, he stored the accumulated odds and ends of his life.

Like Homer Macauley, the telegraph messenger he wrote about in his novel "The Human Comedy," Saroyan liked to ride a bicycle around town and he liked to ride it fast. Like the Armenian grandfather in many of his stories, he liked to bellow with laughter. Like Aram Garoghlanian, the Armenian boy in "My Name is Aram," he was generally loud and public and funny.

He could be seen almost anytime, anywhere, mostly on his bicycle, sometimes in his Kharman Ghia, on his way to the grocery store, where he would argue half-seriously with the clerks about anything from vegetable prices to politics.

The first time I saw him, I was a boy of 15. He was already famous for his books—and even for a song that was a juke box sensation, "Come On-a My House," which he'd written with a cousin. Just as I was walking out of the new county library on O Street, Saroyan came walking in, handsome, impeccably dressed, his dark hair slicked back and his moustache waxed to an impressive handlebar.

I turned and gawked. Saroyan made a few, swift passes up and down the rows of books, looked intently at the walls, the artwork, the librarians. He looked intently at everything, it seemed to me. Then, abruptly, he left.

No one recognized him but me. I knew him from the picture on the back of one of his books.

I pondered the meaning of this for weeks. Why had he left so quickly? Was he disgusted at the newness of the building, its lack of history? Did he want the library back in its old place?

No. Finally, I realized he was just looking, soaking it all up, the way a writer would. He had wanted something, some feel of the place, and he had gotten it as quickly as that. As an artist, he was, you might say, an expert at taking in impressions. Now, if he needed, he could write about it. Besides, I told myself, new building or not, vagrants still dozed over newspapers in the reading section and kids still came for books.

Years passed before I saw Saroyan again.

In 1970, back from college and all grown up, I thought, I was introduced. The occasion was a group photograph of Fresno writers for an upcoming book. The place was the old Santa Fe train station just east of downtown.

Unexpectedly, Saroyan turned to me and complimented me for one of my poems. Flustered in his presence, I couldn't remember the poem he said he liked. I told him I hadn't written it, but thanks. As he walked off, I remembered my poem that he had referred to—too late.

That day I was treated to Saroyan being Saroyan right there in our home town, at the Santa Fe depot that had been there when he was a kid, close by the Santa Fe Hotel frequented then and before by Basque shepherds who tended sheep on large ranches in the surrounding hills.

Saroyan declaimed loudly to everyone the merits of photography, the beauty of certain poses. He made elaborate arrangements of us, suggesting this grouping, then that, until finally he denied the merits of all his own ideas with a sad look and the comment: "It will never work."

In desperation, we took a standard shot of all of us to grace the cover of our book, 20 some-odd poets and Saroyan, sitting and standing on the depot steps, staring straight at the photographer.

Thirty-five years after Saroyan was a boy here, I was a boy here, in the middle '50s. Things had changed some from his youth, but not much. The town was basically agricultural, being surrounded on all sides by enormous grape vineyards, fruit orchards and cotton fields. Nothing could change the landscape, flat as a pancake, and you could still see the purple, snow-capped Sierras every day, not just when rain cleared the air.

Neither could anything change the ethnic makeup of the place. Fresno's Armenian

population was still large, though many of the poor immigrants of Saroyan's youth had become prosperous farmers and businessmen. Their place in Fresno society had been taken by poor immigrants from Oklahoma and Texas and Arkansas who had come out to work in the crops.

My family was among these. We lived in a not very popular section of town known as "Little Oklahoma" near the county fairgrounds on Ventura Street.

To the west and south were Fresno's considerable colonies of blacks and Mexicans, and way to the west, near Kerman, were the Russians, famous for their strange costumes and a church which allowed none of its members to marry outsiders.

Much of Saroyan's old Fresno was still there in the '50s. The Fresno County Courthouse had brooded over the town before Saroyan was born. Other buildings had gone up during his youth. In the '50s, even the movie theaters remained: the White, Hardy's, the Sequoia, the Fox Wilson.

These had been there during Saroyan's growing-up years, some under different names. Some had gone down, of course, and new ones had been built in their places, but the experience of a Saturday afternoon trip to the movies was much the same as Saroyan had described it.

Some of my favorite memories of growing up here are going downtown to those places with my friends.

Once, three of us had managed to scrape movie and bus fare from our parents. We rode the bus downtown and walked to the Crest, an ornate and palatial affair constructed during the '40s, but close to the theaters Saroyan had frequented when he was a kid. I don't remember the movie, but I recall how I loved to sit in that place, with its velvet curtains and high balconies, with its elaborate scrollwork on the walls, flooded with blue and gold lights. We walked home, a distance of several miles, so we could spend the bus fare on candy.

The candy I have also forgotten, but I remember the walk home, east on Fresno Street, past the old, domed courthouse, past the Farmer's Market to Tulare Street, then up Tulare with the streetcar tracks still there in the asphalt, past Uncle Tom's Cabin, a liquor store, where, it was said, "girlie"; magazines were sold under the counter. Then we passed Federal Fruit Distributors, went south on Cedar at Roosevelt High School to Ventura and passed the county fairgrounds before reaching home.

Thirty years later, my own children are growing up in Fresno. The city still has, in someone's vocabulary, a Chinatown, a Germantown, a Little Italy. Many of the old downtown buildings are there even now—the Rowell building, the Helm building, the Hotel Californian. And even today, several of the old movie theaters remain. The only things that's changed about the boys who frequent them is that they are mostly Mexican and their language is Spanish.

What amazes me when I think about it is that behind the makeup of mansard roofs and adobe fronts, despite middle-age spread brought on by the influx of refugees from Los Angeles, under the major surgery of regional shopping centers and Holiday Inns, Fresno has remained basically what it always was. A farm town, yes, but a nice one, large, but with a small-town atmosphere.

Oddly enough, I live only a little further from the corner of Fulton and Tulare Streets than I did in 1954. Forever, that will be what I think of as "downtown." I can be there in 12 minutes by Toyota Pickup.

Granted, 30 minutes in the opposite direction would have me on the land of mega-agriculture, where farmers check their acreages from airplanes and mysterious pieces of machinery loom as large as my house.

In the semirural area where I live, on Fresno's farwest side, we are protected by a zoning law called "the two-acre limitation." This means that land can't be broken down into smaller parcels. None of us feels particularly secure about it. Experience tells us that suburban land developers always get what they want. We can feel their lusty glances as the latest bunch of houses goes up less than half a mile away.

Still, across the street from me is a 40-acre fig orchard, carefully tended by the Japanese family who own it. My children sometimes run around out there, barefoot. If they wanted, I suppose they could find an irrigation ditch to play in. Swimming in ditches remains an edge-of-town pastime. It's illegal, and it was always dangerous, but Saroyan swam in ditches, and I did, and somehow I am encouraged by the thought of it.

The ethnic makeup of our town remains diverse. Some groups have been absorbed, but others have taken their place. Hmong and Vietnamese can now be heard here almost anyplace; German, less and less. We remain a huge support system for agriculture. In spite of mechanization, most farms still require field hands; and, labor laws or not, children work with their parents.

I don't mean to make Fresno sound too pastoral, like America's last rural holdout. It's not. We have all the trouble, and some of the advantages, the big cities have to offer. You want dope, we've got dope. You want murder, we've got that. High fashion—well, maybe.

If cities could be compared to boxers, Fresno would be a middleweight. Weighing in at 280,000 population, with many more just outside the city limits, we have to be considered large, if not the largest.

But, in spite of everything, I feel sure the Fresno Saroyan wrote about is still here, the kind of childhood he experienced is still possible, is in fact still happening just beyond an adult's ability to perceive it. Saroyan once wrote about his hometown that it was an "ugly little city containing the large comic world," and that it was "as good a town as any to be born into." This probably hasn't changed either.

My children got to meet him once. They weren't introduced. They just happened to wander into a branch library in the north part of town just as he was going out.

"Why, there you are," he declared, not knowing them from Adam. "Look how much you've grown. Why," he shouted, "I've known you since you were no bigger than that."

My son was 4 at the time, and he had a lot more poise than I ever did. He looked at the six inches or so Saroyan was measuring with his hands. "I never was that little," he said, and walked on in, leaving William Saroyan to bellow with laughter and take off on his bicycle, riding with no hands.●

THE REAGAN RECORD ON DISABILITY ISSUES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. STARK. Mr. Speaker, 36 million disabled Americans have become the victims of President Reagan's social and civil rights policies. For the past 4 years this administration has steadfastly pursued policies and legislation that prevent the disabled from fairly and effectively competing in any aspect of American life. Worse yet, this administration has undermined programs that set minimum standards for a disabled person's survival.

In nine areas—including Social Security, education, civil rights, rehabilitation and housing, the Reagan administration has savagely cut programs that directly affect disabled Americans, according to the World Institute on Disability, located in Berkeley, CA. This group recently presented Mr. Reagan with a trophy to highlight his "abandonment of America's disabled." In addition the trophy memoralized the more than two dozen Americans with disabilities who have committed suicide because of President Reagan's inhumane and illegal policies of removing them from the disability rolls.

This President has pursued the contradictory and insensitive policy of personally defending the right to life of a disabled infant, while consistently fighting for further reductions and, in some cases the discontinuation of the very programs that such a child will need to survive and function in today's society.

Not only is the Reagan policy toward America's disabled cruel but today's budget cutting will actually result in much higher financial and human costs to society in the coming years.

Drawing from the World Institute on Disability's report, I would like to examine nine areas in more detail to point out just how unfair President Reagan has been to the disabled in this country.

SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME

Social Security disability insurance [SSDI] and supplemental security income [SSI] programs provide essential support for over 6 million people who are unable to engage in any "substantial gainful activity." Like a knock at the door in the middle of the night, Reagan's disability benefit policies have struck fear in the hearts of the millions on disability. Beginning in mid-1981, the Social Security Administration began a huge and unprecedented escalation in disability investigations to determine whether people continued to belong on the disability

rolls. While Congress mandated this review and it is necessary to confirm that disabled recipients remain unable to work, the review process resulted in the cruel termination of hundreds of thousands of physically and mentally disabled people who could not support themselves. Public outrage forced the administration to retreat and on April 13, 1984, Secretary Heckler imposed a moratorium on eligibility reviews "until new disability legislation is enacted and can be effectively implemented."

In the meantime the Reagan administration has opposed enlightened legislation to improve the disability program. In the Senate the Republicans have refused to recognize the need for legislation to require that Federal court decisions be implemented nationwide and the need for medical improvement standards, as overwhelming approved by the House.

If the Reagan administration truly wanted to show that it cares about the millions on disability it would be working to pass the House's disability bill. So far the conferees have felt no such pressure. With only a month left in this session, I hope the House and Senate will respond to the needs of the disabled and pass a fair and humane bill that meets the needs of America's disabled.

EDUCATION

Both section 504 of the 1973 Rehabilitation Act and Public Law 94-142, the Education of all Handicapped Children Act, mandate certain rights for disabled people. The 504 regulations guarantee qualified disabled Americans an equal opportunity to participate in federally supported activities. Public Law 94-142 gives disabled children the right to free appropriate public education.

The Reagan administration has attempted to eliminate existing educational rights through the courts. For example, the Justice Department in Georgia Association of Retarded Citizens against McDaniels argued that section 504 does not require a recipient to take any positive steps to accommodate the needs of disabled schoolchildren.

A more frontal attack on disabled children's rights to a quality education came in 1982 when the Department of Education proposed new Public Law 94-142 regulations. These regulations, subsequently withdrawn after public outcry, would have reduced parents' involvement in the education of their children, eliminated the requirement that a disabled child have a range of available placements and services, and abandoned the requirement that tests and evaluations be administered by properly trained personnel.

The administration has continued its efforts to weaken the education rights of disabled children by failing to affirm and enforce existing laws on a national and State level.

The failure to provide children with equal educational opportunities could return us to the dark ages of dependency and institutionalization for this Nation's disabled.

CIVIL RIGHTS

Again, the Justice Department has consistently taken stands which deny people with disabilities the opportunity to fully participate in federally conducted or funded programs. This despite the administration's professed "commitment to equal opportunity for disabled citizens."

Since President Reagan took office, the Justice Department has attempted to dilute the strong language of the section 504 regulations. Most recently, they have proposed language changes which, if adopted, will make it much easier for a federally conducted program to deny services to people with disabilities. Under the proposed regulations, a Federal agency would merely have to assert that accommodating disabled people would be an "undue burden." In other words the barriers to full participation will again go up.

EMPLOYMENT

Over 21.6 million people with disabilities are unemployed or underemployed. That figure, according to the 1980 census, represents 60 percent of the total disabled population.

For 1985, Congress authorized $19 million for job training. The administration slashed that to $5 million. Despite the administration's soothing assurances that the private sector would provide for the unemployed, the fact is that the private sector has provided little or no assistance.

Further, the administration pursued a shortsighted policy of attempting to eliminate the section 1619 program which allows supplemental security income severely disabled recipients the right to work and receive medicaid benefits. The administration would have preferred to have forced these people to stay at home and collect full SSI benefits.

REHABILITATION

Studies show that for every $1 spent on rehabilitation, $4 to $5 is saved in institutionalization, health and welfare costs. Congress, recognizing the elementary truth that every working disabled person is also a taxpayer, has consistently increased funding for rehabilitation programs. The administration, however, persists in trying to cut these vital services. In the past 4 years Congress has approved $600 million more than the President requested for State rehabilitation programs. For fiscal year 1985 the administration has requested $36 million less than was authorized in 1984.

INSTITUTIONALIZATION

Emphasizing cost efficiency over human values and dignity, this administration has relaxed or repealed regulations governing hospital staff qualifications, sanitation, social services, and food served to patients.

In 1982, Congress authorized the Department of Justice to file suits to enforce section 504. To date, the Department of Justice has refused to file a single suit. Rather, it has filed a brief in opposition to the rights of disabled Americans. In Pennhurst State School and Hospital against Halderman, the Justice Department claimed that mentally retarded people have no constitutional right to treatment or independent living services.

HOUSING

Disabled people face a critical shortage of affordable accessible housing. Under the administration's proposed Housing and Urban Development [HUD] regulation, only 5 percent of units in a public housing project must be made accessible. Even this meager 5 percent requirement can be easily waived. A builder merely has to show that construction of the accessible units is "financially unfeasible." Yet, three States, California, New York, and North Carolina have recognized the need for accessible housing. These States require 100 percent accessibility or adaptability in newly constructed apartment units.

Nor is HUD content to merely restrict accessible housing in its proposed regulations, it would actually prohibit it in some cases. These regulations prohibit building an elevator in a federally financed housing project if the sole purpose of the elevator is to provide access to people with disabilities.

HEALTH CARE

More than two-thirds of medicaid funds go to aged, blind, or disabled persons. Therefore, cuts in health care programs have a disproportionate impact on the disabled. The administration has cruelly proposed cutting an additional $3.338 billion out of medicaid in fiscal years 1985, 1986, and 1987.

TRANSPORTATION

The availability of public transportation is particularly crucial for many disabled people. Since they have no other way of getting around, it is their only means of going to school, getting to work or just going out. The Carter administration issued regulations which required all modes of transportation to become reasonably accessible. Six months after taking office, the Reagan administration rescinded these regulations and adopted the infamous interim final rule, which allowed local transit authorities to do virtually anything they wanted regarding transportation for the disabled. Since most transit authorities have historically shown no interest in serving disabled people this was tantamount to denying

disabled individuals access to public transportation.

Congressional dissatisfaction with the administration's toothless regulations led to the passage of section 317 of the Surface Transportation Assistance Act of 1982, which mandated that transportation services for disabled people meet minimum criteria which the Department of Transportation [DOT] was required to establish. Because of the cost caps imposed on the DOT regulations, the criteria have become virtually meaningless. In addition, the provisions for monitoring and insuring compliance are very weak. On both counts, then, the new regulations fall far short of clearly stated congressional intent, not to mention meeting the needs of the disabled population which so desperately needs access to public transit.

Mr. Speaker, there can only be one conclusion from this summary—the Reagan administration has systematically pursued an inhumane and unfair policy toward this Nation's 36 million disabled Americans. Let us hope the Congress will not go along with this disgraceful vision of disavowing aid to those in need and those trying to help themselves out of dependence.●

THE NATIONAL CHILD PROTECTION ACT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. BIAGGI. Mr. Speaker, I am today introducing legislation aimed at addressing an issue of paramount concern to me and to many in this Congress; namely, the protection of children in our federally funded day-care centers from the evils of abuse, including sexual abuse.

This legislation addresses a problem which has grown in severity in the past several years. We have seen a tenfold increase in the number of reported cases of sexual abuse against children in day-care centers—just since 1976. Major scandals have rocked New York and California in recent months and it is time we addressed this problem.

In the city of New York there have been 77 reported cases of child abuse, including sexual abuse, in the 385 day-care centers funded by the city in just the first 7 months of 1984. Some of these have involved children as young as 2 and 3 years of age victimized by people who were supposed to protect them.

We take this step of conditioning future Federal aid for day care in response to the fact that at least in New York City as much as 60 percent of the $165 million spent on day care is Federal money. A majority of these funds come from the social service block grant or SSBG Program. This program, formerly title XX of the Social Security Act, was established under the terms of the Gramm-Latta budget proposal of 1981. The philosophy behind establishing block grants was to lessen Federal responsibility for how States would spend social service funds. What these kind of scandals demonstrate is far more than mere lessening of Federal responsibility has occurred—it resembles more of a full-scale abdication of these responsibilities which cannot be tolerated if they in any way contribute to something as abhorrent as sexual abuse against children.

The legislation I introduce today which has been sponsored in the Senate by Senators HAWKINS and D'AMATO would promote the safety of children receiving day-care services by conditioning future Federal funds for such services through requiring States to establish programs to license child day-care centers as well as provide for screening of day-care center personnel and establishing a clearinghouse for information with respect to criminal records of employees of day-care centers and establishing a hot line for the reporting of abuse of children receiving day-care services.

I wish at this point in the RECORD to insert the full text of my bill as well as articles from the New York Daily News and New York Post focusing on the legislation. I also wish to pay tribute to my distinguished colleage from New York, Mr. RANGEL, who as chairman of the Oversight Subcommittee of the House Ways and Means will be holding important hearings on this issue beginning next week.

The articles follow:

[From the New York Post, Sept. 10, 1984]

POLS PUSH TOUGH NEW DAY CARE LAWS

(By Richard Esposito)

The city's child sex abuse scandal prompted area lawmakers to call yesterday for tough new federal laws and announce national hearings on the regulation of federally-funded day care centers.

Sen. Alfonse D'Amato and Rep. Mario Biaggi proposed their bipartisan National Child Protection Act at a joint-press conference with Rep. Charles Rangel, chairman of the House Ways and Means subcommittee, who announced that Washington hearings on the issue would begin Sept. 17.

The plague of sex abuse in the nation's day care centers surfaced locally with the revelation that more than 30 children allegedly had been abused at a Bronx center.

Those allegations triggered 200 calls by concerned parents to the Bronx district attorney and a spate of "quick-fix" solutions, including a call for the dismemberment of the Human Resources Administration, which manages the city's day care centers.

D'Amato and Biaggi propose a law requiring the screening of all child care employes and strict training and licensing requirements for those employes.

Their National Child Protection Act also would:

Create a toll-free hotline for the reporting of complaints about the sexual abuse of a child.

Establish a 12-member panel to monitor the new guidelines.

Cut off federal funds to centers that do not comply with the new standards within 180 days.

D'Amato, who introduced the bill in the Senate Friday, said background information on potential day care employes would be pooled and made available to law enforcement officials and day care supervisors nationwide.

Biaggi, who will introduce the bill in the House, said states must have "a greater degree of accountability" if they are to continue to receive the federal money that makes up about 60 percent of funds available for day care centers.

[From the New York Daily News, Sept. 10, 1984]

D'AMATO, BIAGGI, URGE CHILD-CARE LAW

(By Ruth Landa)

Calling reports of sex abuse at day-care centers "a national disgrace," two New York lawmakers yesterday urged enactment of federal legislation setting guidelines for screening and training child-care workers and for tying federal aid to compliance with such standards.

The proposed National Child Protection Act was announced by Sen. Alfonse D'Amato (R-N.Y.)—who is cosponsoring it in the Senate with Sen. Paula Hawkins (R-Fla.)—and by Rep. Mario Biaggi (D-Bronx), who has introduced the legislation in the House.

Rep. Charles Rangel (D-Manhattan), chairman of the House Ways and Means Subcommittee on Oversight, also attended the Manhattan news conference. He said that his panel will begin hearings Sept. 17 on the issue of child abuse at day-care centers, and that the proposed legislation would be discussed. The legislation would require the screening of all child-care employees, who would be checked for previous convictions for sex abuse or other crimes. It also would establish "standards and guidelines" for the training and licensing of day-care workers, and would create a 24-hour, toll-free hot line for anyone to report the sexual abuse of a child, the legislators said.

The measure also would provide for a cutoff of federal Title XX social services funds if a state's day-care centers fail to comply with the new standards within 180 days of enactment.

D'Amato said the information on a worker's previous convictions would be available to law-enforcement officials and day-care supervisors.

"If you want a job, we have a right to know whether you have committed a crime," he said. "We have child molesters who move from one state to another."

"It's about time we did something to protect our children," D'Amato added, noting that the "nightmare" of abuse has emerged "in state after state."

D'Amato and Biaggi said the federal government, which provides about 60% of the $165 million spent on day care in New York City, has "abdicated" much of its responsibility for how the funds are spent. They said Congress should make the states more accountable.

And Rangel said: "If you're going to share or be the recipient of federal grants, there should be minimum standards."

Asked whether his proposal conflicted with President Reagan's emphasis on deregulation, D'Amato said, "The President certainly doesn't say there . . . should not be minimum criteria and protection for the use of federal dollars."

Biaggi said: "I wouldn't care if they had to be regulated to the nines. We can't regulate them enough. We're talking about the welfare of children."

[From the Congressional Record, Sept. 7, 1984]

H.R. 6207

SHORT TITLE

SECTION 1. This Act may be cited as the "National Child Protection Act".

AMENDMENT TO TITLE XX

SEC. 2. Title XX of the Social Security Act is amended by adding at the end thereof the following new section:

"LICENSING AND INFORMATION WITH RESPECT TO PROVIDER OF CHILD DAY CARE SERVICES

"SEC. 2008. (a) As a condition for receiving any funds under this title, a State must have in effect a program under which—

"(1) the State will require the licensing and monitoring of all providers of child day care services in accordance with the standards established by the Secretary pursuant to subsection (b);

"(2) the State will provide information to the Secretary with respect to all individuals providing child day care services or employed by providers of child day care services, and with respect to all individuals convicted of child abuse, child molesting, or similar crimes, in accordance with subsection (c); and

"(3) the State will have in effect a toll-free telephone hotline for the reporting of any allegations of child abuse, child molestation, or similar acts committed by an individual providing child day care services or by an employee of a provider of child day care service, in accordance with subsection (d).

"(b)(1) The Secretary shall by regulation establish standards and guidelines for State licensing and monitoring of providers of child day care services. Such standards and guidelines shall assure the safety, health, and developmental potential of children while receiving child day care services, and shall promote the social, emotional, physical, and cognitive growth of such children while receiving such services. The standards and guidelines shall include provision so for assuring that only adequately trained individuals provide such services.

"(2) The Secretary shall determine a uniform definition of 'child day care services', and of a 'provider of child day care services', which shall apply for purposes of this section, and which will assure that the maximum feasible number of children shall be protected under the provisions of this section.

"(c)(1) The Secretary shall establish a national file of the names, addresses, and social security numbers of all individuals convicted of crimes involving child abuse, child molestation, or such similar acts which the Secretary determines ought to be included in such file for the purpose of protecting children receiving child day care services.

"(2) Each State shall report to the Secretary the name, address, and social security number of any individual convicted in such State of child abuse, child molestation, or a similar act which the Secretary has determined under paragraph (1) ought to be included in the national file. For purposes of this paragraph the Secretary shall establish a uniform reporting system which shall apply to all the States.

(3) Each State shall require that no individual or provider may be licensed to provide child day care services in such State if such individual, or any employee of such provider, has been convicted of a crime which has been reported (by any State) to the Secretary and is contained in the national file. Each State must, for purposes of ensuring compliance with this subsection, request the Secretary to check the names of each individual seeking a license to provide child day care services, and each employee of a provider seeking such a license, against the list of names contained in the national file, prior to granting such license.

"(d) Each State shall establish a toll-free telephone hotline for the reporting of any allegations of child abuse, child molestation, or any similar act designated by the Secretary for inclusion in the national file, committed by an individual providing child day care services, or by an employee of a provider of such services. The State must provide follow-up investigation of each such allegation in accordance with standards, established by the Secretary under regulations.

"(e)(1) There is established an 'Advisory Panel on Child Protection', hereafter in this section referred to as the 'Panel'. The Panel shall consist of 13 members as follows:

"(A) four members appointed by the President, one of whom shall be designated as the Chairman;

"(B) four members appointed by the Speaker of the House of Representatives;

"(C) four members appointed by the President pro tempore of the Senate (upon recommendation of the Majority Leader and the Minority Leader); and

"(D) the Secretary of Health and Human Services, ex officio.

"(2) It shall be the duty of the Panel to advise the Secretary with respect to the standards and guidelines issued under this section, and to propose any recommendations for changes in such standards and guidelines which may be appropriate.

"(3) Members of the Panel who are not employees of the United States shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be compensated at a per diem rate established by the Secretary for each day (including traveltime) during which they are engaged in the actual business of the Panel. Any member of the Panel engaging in the actual business of the Panel away from his home or place of business may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(4) The Secretary shall make available to the Panel such clerical and other assistance, and any pertinent data prepared by the Secretary, as the Panel may require to carry out its functions.".

EFFECTIVE DATE

SEC. 3. (a) The Secretary of Health and Human Services shall promulgate all regulations required under section 2008 of the Social Security Act within 90 days after the date of the enactment of this Act.

(b) The requirements of section 2008 of the Social Security Act shall apply to States beginning 180 days after the date of the enactment of this Act.●

VETERANS' ART

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. BONIOR of Michigan. Mr. Speaker, war strains the human spirit, but out of that strain has often come greater understanding. They are born of America's wars has made a lasting contribution. It is one of the ways in which the horror of war is slowly and partially tamed.

Stars and Stripes, the national veterans newspaper, helped sponsor the showing "Vietnam: Reflexes and Reflection," a moving exhibit of art by Vietnam veterans. In a distinguished series of special articles, the paper has profiled a number of veteran artists.

On September 6, I introduced three of those articles into the CONGRESSIONAL RECORD. Today, I call my colleagues' attention to a special editorial from Stars and Stripes which accompanied the profiles.

The editorial follows:

VETERANS' ART

"The surest course on the path of peace must always be guided through the still-fresh memories of the true face of war. A veteran's art retains that vision for us all."—Maude Barnet, American Gold Star Mother.

"I am a professional artist, not a professional veteran. My works should be judged on my skills. I want to show the joys of life. I'll carve those dreams and visions of beauty which sustained so many of us in that war.

"Perhaps such dreaming is foolish, but those who lost their visions and their dreams in Vietnam, soon usually lost their lives as well."—John McManus, California Veteran.

Some combat veterans see many things which they try to forget, while others rely on those experiences to create artistic triumphs which capture our imagination, bonding us stronger to their memories, and reinforcing our understanding.

No words can compete with the images that emerge through the artist's medium, because we are answered without having asked the questions.

One cartoon, a massive oil, some small sequentially drawn pen and ink sketches, a three-dimensional masque, alabaster tenderly carved, tempera incisively applied, or the woven tapestry created from strips of bamboo and discarded threads, each one provides the viewer with the psychological, cultural and historical perspective of another's vision.

Tragically, the marvel of the combat veteran's visual arts have usually been the province of that branch of the Armed Forces wherein he served, with pieces selected by so-called art experts as the best examples of a particular battle scene, and then confined to a military museum where those who need to see the works, never will have the opportunity.

Equally tragic are the works that no one at all will ever see because the artist tossed them aside, gave them away, or simply stopped creating what he or she determined were valueless efforts.

In June, the Stars and Stripes sponsored the showing of a collection from the Vietnam Veterans Art Group in Chicago. As we expected, the works received unusual high praise from the public, from the media, and from gallery representatives.

Entitled: "Vietnam: Reflexes and Reflections," the collection was also supported by the leadership of the Congress, the Congressional Arts Caucus, and the Caucus of the Vietnam Veterans in the Congress.

In short, the show was a smashing success, and will be shown again in the Cannon Rotunda gallery of the House of Representatives in September.

None of the exhibitors are professional combat artists; they are ordinary servicemen. In most instances, their exposure to paint was that issued to cover a ship's deck, or to camouflage their faces before going out on patrol during the war.

The importance of their work lies not only in its artistic impact, but in their sensitive handling of a very difficult period in American history.

Their special triumph is that they who fought a war and were called losers, are now acclaimed as winners.

The public image of the veteran as a warrior, has ignored the new forms of creativity developed by the soldier simply to preserve the human spirit from the horrors of war.

That priceless expression must not only be preserved, it should be shared.

With the anniversaries of World War I, World War II and the Korean War upon us, we invite the veteran artists of those conflicts to consider participating in future shows that are being scheduled under our sponsorship.●

AUTO FUEL EFFICIENCY: A LOT MORE TO BE DONE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. STARK. Mr. Speaker, one of the best things that has ever been done in this country to save energy is the imposition of miles-per-gallon efficiency standards.

But in the last several years, we have started to lag on meeting those standards.

Some day there will be another energy crisis, the price of gasoline will soar above the cost changes in other products, there will be long lines at gas stations. We can postpone that day, we can make the problems of that future time easier if we will today continue to keep pressure on Detroit to build more efficient autos.

The Japanese automakers continue to build auto fleets far more efficient than Detroit's. When there is a jump in the price of gasoline, people will again turn to smaller autos and the Japanese will again be in the driver's seat—and Detroit will again lay off hundreds of thousands of workers and demand import protection. Again, we can prevent or minimize this future shock by keeping Detroit aggressive in finding ways to improve mileage.

The Library of Congress has just supplied me with the following data which should be of interest to all Americans who remember the past and seek to avoid the mistakes of the past by planning ahead for their future.

LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, August 30, 1984.

To: Hon. Fortney H. Stark (Attention: Robin Vangiesen, Bill Vaughn).

From: Gwenell L. Bass, analyst in Industrial Organization and Corporate Finance Economics Division.

Subject: Auto fuel economy standards.

This memorandum is in response to your request for information on the automobile industry's ability to meet Federal fuel economy standards. Based on projected sales, the combined 1984 model year domestic-import new car fleet will not meet the miles-per-gallon standard. (See table 1.) This year is the first time since the 1978 initiation of Federal fuel economy standards that the total fleet did not meet these standards.

TABLE 1.—NEW CAR—50 STATE CORPORATE AVERAGE FUEL ECONOMY CITY/HIGHWAY MILES PER GALLON RATING

Model year	Federal standard	Domestic fleet	Import fleet	Total fleet
1974	None	13.2	22.2	14.2
1975	None	14.8	23.3	15.8
1976	None	16.6	25.4	17.5
1977	none	17.2	27.7	18.3
1978	18.0	18.7	27.3	19.9
1979 [1]	19.0	19.3	26.1	20.3
1980 [1] [2]	20.0	21.9	28.6	23.5
1981 [1]	22.0	23.5	30.6	25.2
1982 [1]	24.0	24.5	30.6	26.1
1983 [1]	26.0	24.2	31.8	26.0
1984	27.0	25.4	31.5	26.7
1985	27.5			

[1] Estimated.
[2] After 1979, domestic fleet does not include any domestic sponsored imports.
Source: MVMA Motor Vehicle—Facts and Figures, 1984.

The 1984 estimated total fleet rating is 26.7 miles-per-gallon (mpg) which is slightly below the 27 mpg Federal standard. The domestic new car fleet averages 25.4 miles-per-gallon. This is the second year in a row that U.S. auto manufacturers have not met the standards. The imported new car fleet averages 31.5 miles-per-gallon in 1984 compared with 31.8 mpg in the previous year.

Of the "Big Four" domestic producers, American Motors and Chrysler are the only ones that met the Federal fuel economy standards in both 1983 and 1984. (See table 2.) By contrast, Ford and General Motors have not met the miles-per-gallon standard since 1982. Nonetheless the auto manufacturers are allowed carry-over credits from years when the sales mix accounted for corporate averages better than the Federal standard.

TABLE 2.—MANUFACTURER'S NEW CAR CORPORATE AVERAGE FUEL ECONOMY CITY/HIGHWAY MILES PER GALLON RATING

Manufacturer	Actual sales basis							Projected sales basis			
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
American Motors	16.3	18.2	18.4	18.9	18.6	19.9	21.5	22.4	23.9	33.5	35.2
Chrysler Corp	13.9	15.0	16.3	16.3	18.4	20.5	21.7	26.1	27.2	27.0	27.0
Ford Motor Co	14.2	13.9	16.6	16.5	18.4	19.2	22.1	23.3	24.5	23.8	25.8
General Motors	12.1	15.1	16.6	18.2	19.0	19.1	21.9	23.2	24.1	23.5	24.7
VW-Audi-Porsche	25.9	26.5	27.5	28.8	27.2	28.6	30.8	34.2	32.9	30.2	29.0
Toyota	22.5	21.8	25.0	28.5	26.8	24.0	27.4	30.9	30.5	33.3	33.5
Nissan (Datsun)	24.0	25.0	27.0	27.0	26.8	26.8	31.2	30.5	30.7	32.6	32.6
Honda	31.1	31.4	32.6	35.4	33.7	29.0	29.2	30.8	33.4	35.4	35.3
Fuji (Subaru)	25.7	26.4	29.7	29.9	29.4	29.0	27.9	31.2	31.6	33.7	33.3
Toyo Kogyo (Mazda)	13.6	17.1	21.9	29.3	35.5	25.6	26.0	31.1	29.4	29.1	29.1
Fiat-Lancia	21.8	22.7	22.9	23.8	21.7	26.4	26.6	27.6	25.7	13.1	
Volvo	19.4	18.5	19.3	19.7	21.2	21.0	21.6	22.3	24.6	25.8	26.4
Mercedes-Benz	15.3	17.3	18.6	19.2	19.2	20.5	23.9	25.6	26.3	26.6	26.5
MG-TR-Jaguar	21.3	21.0	20.5	22.3	21.1	21.2	20.8	18.5	18.8	18.8	19.0
BMW	19.5	17.8	18.8	20.3	19.7	20.1	25.9	26.6	26.4	25.6	27.8
Saab	19.8	23.0	22.8	23.7	22.7	21.7	23.4	23.3	24.1	25.8	25.3
Peugeot	19.0	23.8	22.2	25.9	24.8	23.8	27.2	27.9	27.6	25.1	24.5
Renault					30.4	30.3	33.3	29.4	32.4	31.4	33.4
Isuzu								34.7	37.6	34.1	29.3

Note: The 1974 figures are estimated, based on 1972 FTP certification figures. The GM, Ford and Chrysler averages reflect the full-sales inclusion of domestic sponsored imports in 1974–77, their partial inclusion in 1978–79 and total exclusion in 1980.

Source: U.S. Department of Transportation and published and unpublished data from Environmental Protection Agency.

You also raised a question relating to the use of plastics in the production of automobiles. Table 3 provides data on automotive consumption of plastics for years 1979–1983. As automobile production declined during years 1979 to 1982 so did the demand for plastics. Conversely, in 1983 when auto production improved so also did the demand for plastics. Notwithstanding, the amount of plastic used per car increased 11 percent between 1978 and 1982 before stabilizing in 1983. See table 4.

With respect to your inquiry concerning the ability of domestic producers to meet 1985 fuel economy standards, it is important to recognize that the mix of large to small cars sold is critical. A stable energy market over the last year and the apparent crude oil price break now emerging in international markets bodes well for the demand for large and performance-oriented car purchases. With lower gasoline prices encouraging consumers to purchase larger models, domestic automakers are going to have a difficult time in meeting the 1985 Federal standards.

If you have any questions or need further assistance please call me on 287-7577.

TABLE 3.—AUTOMOTIVE PLASTIC CONSUMPTION (1979–83)

[Billion of tons]

Year	U.S. total consumption	Automotive consumption	Automotive percentage
1979	38.7	1.5	3.9
1980	35.2	1.3	3.7
1981	37.0	1.2	3.2
1982	35.1	1.1	3.1
1983	40.5	1.5	3.7

Source: Society of Plastics, August 1984.

TABLE 4.—ESTIMATED MATERIALS CONSUMPTION IN A TYPICAL U.S.-BUILT AUTO (POUNDS)

Material	1983	1982	1980	1978	1976
High str. steel	207.0	203.0	175.0	133.0	120.0
Aluminum	136.0	134.0	130.0	112.5	85.5
Plastics	200.0	200.0	195.0	180.0	162.5
Glass	85.0	84.0	83.5	86.5	87.5
Copper	29.0	28.0	28.0	29.0	32.0
Zinc die castings	17.5	15.5	20.0	31.0	44.0
Rubber	137.5	135.0	131.0	146.5	153.0
Lead	24.0	23.5	23.0	25.0	25.0
Stainless steel	28.0	27.0	27.5	26.0	28.0
Iron	474.0	461.0	484.0	512.0	562.0
Plain carbon steel	1,511.0	1,469.0	1,737.0	1,915.0	2,075.0
Fluids, lubricants	183.0	179.0	178.0	198.0	190.0
Others (alloy steel, cloth, cardboard, etc.)	160.0	155.0	151.0	175.0	196.0
Totals	3,192.0	3,114.0	3,363.0	3,569.5	3,760.5

Source: 1983 Ward's Automotive Yearbook.●

WHAT HOOSIERS ARE THINKING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 29, 1984, into the CONGRESSIONAL RECORD:

WHAT HOOSIERS ARE THINKING

Politicians across the nation are now using many techniques to find out what is on the voters' minds. The most visible technique is the poll. Polls have disadvantages, however. All during the 1984 campaign there have been striking disparities in poll results, and questions about the accuracy and reliability of polls are being asked.

There is another older, simpler, and, in my judgment, more accurate and reliable technique. It is also more fun. You go out among the voters and ask what is on their minds. They are not bashful about telling you; indeed, they are eager to let you know what they think. They want politicians to be accessible to them.

In recent days at parades, fairs, public meetings, and chance encounters across southern Indiana, I have been speaking with and listening to Hoosiers. The following are my impressions of their concerns. I am not certain that this is what the polls will show, but is what Hoosiers have said to me.

The economy is the chief preoccupation. It is just not working as well as Hoosiers think that it should, and its performance over the next few months will be at the center of the campaign. Hoosiers are clearly worried about the lack of jobs, a perennial issue in Indiana. If they had to draw up a list of economic problems, they probably would place unemployment at the top. With the rate of inflation down, however, it is surprising to hear so many Hoosiers express concern about inflation. It is mentioned to me second only to unemployment among the economic issues. Hoosiers appear to harbor the suspicion that inflation suddenly could come roaring back. Of course, it comes as no surprise that Hoosiers do not like taxes, and rarely does a meeting go by that I am not reminded of the heavy burden of taxes carried by Hoosiers, especially middle-class families. I find a similar attitude toward high and rising utility rates.

While discussion of the economy comes up in different ways, it often follows a question about deficits. Hoosiers voice doubt, even fear, about the large deficits that government is running. I get the feeling that they are distinctly uneasy about the impact that these deficits are bound to have in the future. They are naturally skeptical that we will let our desire to cut taxes and raise defense spending take precedence over our desire to balance the budget. Most Hoosiers still cannot bring themselves to accept the fact that the national debt is exploding.

Nor is there doubt that social security and medicare are important to Hoosiers. The Ninth District, with its higher than usual percentage of older persons, is a district whose Congressman is told daily that there should be no cuts in social security or medicare benefits and no reduction in the purchasing power of those benefits in the years ahead. In groups of older Hoosiers, social security and medicare dominate the entire agenda.

Issues of foreign policy and national defense come into the discussion more than you or I would expect. Hoosiers want a strong national defense, but lately they are very put off by the stories of horrendous waste in the Department of Defense. They think that we can get better defense for fewer dollars. Hoosiers tend to favor vigorous action to protect America's vital interests abroad, and most seem to want defense spending kept about where it is. They seek reduced tensions with the Soviet Union, but they also call for our leaders to be "tougher" on the Soviet Union. A few Hoosiers express concern that we are moving closer to war, but their view is not one that is heard often.

Hoosiers are very strongly in favor of community improvements. They want better roads, bridges, and water systems, the "infrastructure" that sustains economic development in their communities. This interest is consistent with a general emphasis on local issues that I see all across southern Indiana. I often have the experience of immersing myself in a debate in the House of Representatives for a week or two on a national issue like the nuclear freeze, only to return to Indiana over the weekend to hear no mention of the nuclear freeze at all, but instead, in place after place from Connersville to Jasper, an insistent plea for better county roads. In virtually every community that I visit, I am approached by a group of persons who seek improvements in local infrastructure.

The social issues are not discussed as often as the economic issues. Even so, many Hoosiers express to me their opposition to abortion (and substantially fewer their support of the right to choose). Large numbers of Hoosiers seem to favor prayer in public schools. Crime and the use of drugs provoke deep concern as well. This is an area where Hoosiers seem to want more, not less, government action. I detect a strong moral sentiment underlying Hoosiers' attitudes on social issues.

With one or two exceptions, I do not see among Hoosiers any evidence of a desire for more government programs. Hoosiers are basically skeptical about the merits of federal solutions to public problems. They prefer that responsibility be carried by lower levels of government, or by the private sector. While they like the idea of reducing the number of federal programs by elimination or consolidation, what they really want is better government.

In general, Hoosiers seem to be optimistic about the future. They appear to believe that things are going well. Very few offer complaints to a general inquiry about how things are going, and most have to be prodded before discussing the problems that concern them. Nonetheless, as I talk about the challenges that confront us, I get the clear sense that Hoosiers understand the hard choices that lie ahead. They discount the notion that government policies can quickly reduce joblessness, inflation, and interest rates, and make everyone better off. They understand that dangers in the world cannot be wished away. They know that they will have to work hard and sacrifice to make their own communities better.●

A TRIBUTE TO MR. BARRY E. McGINNIS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. LONG of Maryland. Mr. Speaker, it is a great honor for me today to bring to the attention of my colleagues a constituent, Mr. Barry E. McGinnis, who will become an Eagle Scout on Saturday, September 22, 1984.

Barry has accomplished what every Scout strives for, but few can achieve. As a member of Troop No. 308, Barry has earned 21 merit badges and has been elected to the Order of the

Arrow. He has attended both the national and world jamborees and currently serves as the chapter chief.

Having just graduated from Kenwood Senior High School, where he won numerous awards in the field of music, Barry is beginning his freshman year at Towson State College. His achievements in music are certainly extensive: Winning the John Pillip Sousa Award, the U.S. Achievement Academy Award, and the U.S. Marine Corps Distinguished Musician Award; achieving superior rankings for 5 years at the State Solo and Ansemble Festiville; and being a member of both the county and State bands.

As an active member of the Protestant Community Church, Barry also participates in the youth group and is a member of the choir.

I am proud to join Calvin and Susan McGinnis in congratulating their son Barry on his outstanding achievements in Scouting. I wish him the best of luck in the future.●

A TRIBUTE TO PRESIDENT TRUMAN

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. BENNETT. Mr. Speaker, my very esteemed friend, Maj. Gen. Donald S. Dawson, gave the keynote address at the Reserve Officers Association Convention in Chicago recently and spoke eloquently about the late President Harry S. Truman, his devoted friend. What he said is worthy of wide reading and I, therefore, include it here in the CONGRESSIONAL RECORD.

Mr. President, distinguished guests, honored past presidents, ladies of the ROAL, my fellow officers, I am highly honored to have this invitation to take another early morning walk with President Truman. Not down Pennsylvania Avenue and up to the Capitol this time, nor with the Secret Service, but a stroll down memory lane, with one of the great men of history—one who has meant so much to ROA.

The Reserve Officers Association is dedicating this convention to an outstanding Reserve Officer, Harry S. Truman, who rose from National Guard private in 1905 to captain—on active duty in France in World War I and then by Presidential election became Commander-in-Chief of all our Armed Forces.

He was a preeminent example of the citizen soldier—the example set by our first President, George Washington.

Born in Lamar, Missouri, he grew to manhood on a Missouri farm near Independence. He was a farmer. His mother said he could plow the straightest furrow in Jackson County, Missouri, and that was behind a walking plow pulled by a mule—no high-powered tractor.

During the 1948 Presidential campaign when he had literally been living on the "whistle-stop" train, making a dozen speeches a day and shaking thousands of hands, I asked him how he seemed so full of energy and never tired of doing all the things we put upon him, when his staff—much younger—was worn out.

After a moment's reflection he said. "I think it is because I was behind a plow at the right time of life."

He also knew the life of a small town, where he went to school and fell in love on his first day at Sunday school, when he was six, with the prettiest girl he ever saw and later married after the war—a long courtship, one that was to last all of his life.

He worked as a railroad timekeeper. He worked in the post office, in a drug store, as a bank clerk in the big city—Kansas City, tried his hand at oil well development, which did not work out, and owned a small haberdashery after the war with his buddy, Eddie Jacobson, that went broke.

Many stores in the Midwest failed in that advance tremor of the Great Depression, so there was little mystery or shame. Indeed, what struck most people was not his failure but how he handled it. He refused to take bankruptcy, as was commonly done, and over the next 20 years he paid off some $20,000 in haberdashery debts, down to the dollar. He was still paying them off while he was in the Senate, when the salary was only $10,000 a year and when he could barely made ends meet in Washington.

If there was one turning point in his career, it was his success as an artillery officer in World War I. He need never have gone to war. He has applied to West Point and had been turned down because of poor eyesight. He was past 30, and he was needed on the family farm, where he had worked for 11 years.

As Captain Harry Truman of the 129th Field Artillery in France, he was a triumph, as is plain in the record. His 1918 service record says, "This officer is an excellent Battery Commander. He is unusually well-equipped and is an excellent instructor. He is resourceful and dependable."

He was put in command in France of an unruly Kansas City unit, Battery D, the regiment's most troubled unit, more than 200 men who were mostly Irish who did not go easy on any officer, let alone one in big horn-rimmed glasses who still looked a lot like a bank clerk. He was the fourth officer in less than a year.

Truman later wrote, "They called themselves the Irish Battery and it did sound as if the Hibernians were meeting when the roll was called, except that now and then, along with the McKims and Caseys and the Donnellys, there'd be Schmidt and a Meisberger."

The morning he took over, he was as frightened as he ever had been. "I didn't come here to get along with you," he told the non-coms. "You've got to get along with me. And if there are any of you who can't—speak up, and I'll bust you back now."

At St. Mihiel and the Argonne Forest, through some of the heaviest fighting seen by any American unit in the war, he proved himself tough, courageous and consistently popular. His men said: "he was the boss of the outfit." "he not only commanded it, he owned it." "We felt he knew what he was doing." "He was the best in the world." "on firing problems we began to hit the target." After two months in France, his unit went to the front—before they had finished their training.

In the first shelling by the Germans, Vic Householder saw Captain Truman's horse go down, its belly torn open by shrapnel. He rushed over and found Truman lying there with only his upper chest and head sticking out from under the horse. They dragged him out and he quickly recovered. Then, using language learned driving Missouri mules, he brought his men together. They now saw him as a cool captain under fire, and some even spoke of him as a good luck piece for the battery.

On another occasion, the enemy began shelling Battery D's position. Three rounds landed close and some nervous Nellie yelled, "Let's get out of here." Several men ran over Truman, knocking him into the mud as he was coming out of his command dugout. He jumped up, pulled his pistol and shouted, "Any SOB who isn't back in position in ten seconds will be shot." They made it back, and later called it the "Battle of Who Run."

"He was tough, but he was fair," said Gene Donnelly. Some have gone so far as to say, "He was one of the kindest and most thoughtful men I've ever known."

After the war, he maintained a personal relationship with each of the men in Battery D, which lasted through the years. Countless times I have seen him recollect from memory where they were, what they were doing, how their families were. He kept a little black book in the left bottom drawer of his Presidential desk in the Oval Office with the address of each, with personal notes about them, that were up-to-date.

He was never too busy to see any of them and enjoy old times whenever they happened to be in Washington or wherever he was, throughout the country. He attended every reunion, even as President and marched in their ever-thinning ranks on parade.

After the war Captain Harry became Major Truman in the Army Reserve, assigned to the 102nd Reserve Division. The educational program he and his fellow reservists initiated served the Army for years as a model reserve training program which was used throughout the country. General Harry Smith, Commanding Officer of the VI Corps, addressing the Kansas City reserve officers commended the Kansas City reservists as the "best coordinated effort in the nation."

Truman became active in the American Legion and helped with the 1921 Convention in Kansas City. A few days after the Convention, he met with several other World War I veterans and members of the Officers Reserve Corps at Morton's Restaurant and decided to start a club of all reserve officers in the Kansas City Area—the Reserve Officers Club of Kansas City, which became Kansas City Chapter No. 1 of ROA.

Harry Truman was Army: make no mistake about it. He loved the military from boyhood. While he was President, he said at a Medal of Honor presentation that he would rather have earned the medal himself than be President. As President, he was convinced of the vital necessity for universal military training for all your youth. He lost that fight to the Congress, but never his interest in a strong reserve program, which he knew was the force on which our country must ultimately depend in time of national emergency.

I said he rose from Private to Captain in World War I, but he was never a Second Lieutenant. In those days the men elected their officers in the National Guard and he was elected First Lieutenant. He later said, when his political popularity was at a low ebb, he did not know whether he could win that election again.

Those early days bred a desire and a dedication that would serve our country well today. For example, there was no facility for training and very little else. The men rented a hall in which to hold their meetings and took up a collection to pay the rent out of their own pockets.

Reserves have known lean days in equipment, money and facilities through the years, but we have come into our own because we have persisted in the determination and dedication of the men who came back from France vowing that this nation will never again be caught with its defenses down. Captain Truman learned the hardest and most important lesson which came out of World War I, that a nation unprepared for war was only inviting aggression and condemning to the casualty rolls many young men who would go into battle to save our country and our freedom without the necessary military training and leadership.

Our great association grew out of recognition of this historic principle—over 125,000 members whose only purpose is—adequate military preparedness, to maintain the eternal viligance which is the price of freedom. We of ROA have been fostering the national defense in general and the reserves in particular for the past 60 years. The next 60 years will see ROA continuing the battle for a strong America.

A famous British general remarked a quarter of a century ago that "it is a law of life that has yet to be broken that a nation can only earn the right to live soft by being prepared to die hard." We of ROA have lived with this precept. We will continue to live with it for the years to come.

As Commander-in-Chief, Harry Truman gave every support within his power to the reserves. It is in a large measure due to the leadership he provided during those critical years that our reserve programs flourished to the extent they did.

Harry Truman's life found its true purpose when he went into politics. History records his first political job. He was appointed Postmaster of Grandview, Missouri, but he passed the job on to a widow who needed the money.

In time, he was elected County Judge, a position usually belittled by writers who knew nothing about it. A Judge in Jackson County is an administrator. In fact, as Chief Administrator of the county for eight years, Truman erected and administrated courthouses, public buildings, ran welfare agencies and built what was acknowledged to be one of the best highway systems in the entire United States. He had overall responability for more than a thousand employees and expenditures of $15 to $20 million a year—and that was in the 1920s. All of this was done without a hint of scandal being associated with him. No one ever questioned his honesty.

Clean, upright, popular, able, Harry Truman—a man who always tried his level best at everything he ever did—gave Jackson County, Kansas City politics a good name, although the Kansas City and St. Louis big-city newspapers had scourged him for years, trying to dig up skeletons that just were not there.

In the U.S. Senate, to which he was elected for two terms, he headed the Truman Committee which he had proposed to expose waste, inefficiency and profiteering in the war effort. He quickly proved himself extraordinarily effective. A panel of journalists voted him one of the ten men who had contributed most of the war effort in all fields, and he was the only one who was a member of Congress. By 1944, the Truman Committee had saved an estimated $15 billion and many thousand American lives.

Truman was 60 when he became Vice President. He had not as yet held an office of great power, it is true. Nor had he made any money to speak of. But again and again, he had turned setbacks into positive accomplishments. The boy who couldn't go to college became a lifelong student of history—perhaps the most knowledgeable of all our Presidents. The boy who was turned down by West Point became a model battlefield officer. The failed businessman met his debts so honorably that it is still talked about in and around Kansas City. The man who was first dismissed in Washington as "the Senator from Pendergast" became one of the prominent figures in the wartime Senate and in the Democratic Party. Otherwise, Roosevelt never would have picked him as a running mate.

As President Reagan said May 8th: "'Little Harry,' some people called him when he first took Roosevelt's place. Funny that 'Little Harry' looms so large in our memories—he was in many ways the quintessential American—he was a patriot. He loved his country. He was an unpretentious man who esteemed common sense and common wisdom. And he was most American in this: Imbedded in his heart, like a piece of gold, was a faith that said that the ideals that shaped this country are enduring, that they are continually reborn as we live our lives every day.

"On the day he became President, he said, 'I felt like the moon, the stars and all the planets had fallen on me.' And in a way they had.

"History handed him the toughest of all tasks: To explain to his troubled countrymen that all their efforts in four years of war, had not assured the victory of freedom. That the struggle against totalitarianism would have to continue. And that the victories would not be as clear-cut as those of World War II and the battle lines would keep moving."

U.S. Senator Charles McC. Mathias, Jr. said May 14th: "President Truman has often been called the 'uncommon man.' And he was. He elevated the Presidency to a new height by taking command in the free world at a time when most leaders were bewildered and stunned by the sudden onslaught of pressure from the Soviet Union which had so recently been the West's ally and wartime partner.

"President Truman rallied the free world. He provided the resources with which to defend it."

Winston Churchill wrote to him January 5, 1952, "You sir, more than any other man have saved Western Civilization from Communism."

He was often criticized for his decisions, and he was sometimes alone. Later, after listening to attacks on what was called "Trumanism," he took to his diary and wrote, "Let us define Trumanism. We have built up our Armed Forces. We have prevented Tito from taking Trieste. We forced Stalin out of Iran. We saved Greece and Turkey. We stayed in Berlin. We knocked the socks off the Communists in Korea. We gave the Philippines free government. And we gave Puerto Rico home rule. If that's Trumanism, I confess I'm proud to have my name attached to it."

He could have added that he showed the world the depth of America's commitment to freedom when he started NATO. He could have added that when the war was over, he considered the starving people and the burned-out rubble of Europe and put together a plan to get our former allies and our former enemies back on their feet. And the Marshall Plan saved Europe.

It was in its way the most stunning act of American idealism since Lincoln declared his policy of "malice toward none and charity for all."

And, as President Reagan further said, "You have to go back to Grant telling Lee to keep his sword to find another such moment of American grace.

"None of his decisions were made without cost. By 1948, the joke of the day was 'to err is Truman.' Tom Dewey was picking his Cabinet. At the Democratic Convention, they carried signs that said: 'We're just mild about Harry.' Even the symbolism was against him. When he walked into the convention hall, they released 50 doves that had been hidden under a liberty bell as a symbol of peace. The doves were weak from the heat and the long confinement. They circled about the convention hall and one frantically looking for a landing place, a safe place—finally spotted a smooth and shining perch, and it was Sam Rayburn's head.

"Truman told the story for years and could never control his laughter.

"Harry Truman won the nomination and went to the people on his whistle-stop tour, going from town to town throughout the country and bringing his message, explaining what he was doing and why, and how the Congress was thwarting his efforts. Everyone knew he'd lose. The commentators said so, and the polls, and the politicians.

"But a funny thing happened. Everywhere his train went, the people went, thronging the platforms and spilling onto the grass and off the sidewalks. They cheered him on. 'Give 'em hell, Harry,' they'd say. 'Pour it on.' And Truman said, 'I never give them hell. I just tell the truth and they think it's hell.'

"Election night, the returns came in and when it was over, Harry Truman had won by two million votes. He held aloft a Chicago newspaper with four-inch headlines that said Dewey had won—smiled his great smile and gave us a picture we'll never forget because there just aren't that many photographs of greatness triumphant.

That picture hangs on the wall of my office today, telling me in even bigger headlines—'Never give up—never give up if you believe you are right.' "

We are here today to honor Harry S. Truman. A long century has passed since he was born a hundred years ago; but he is still a vital presence. He lives on in the American consciousness. He is a shared memory.

Harry Truman in the pearl grey Stetson and the light grey suit and the round-rimmed glasses and the walking stick. Harry Truman on his morning stroll, the brisk cadence of his walk matched by the blunt rhythm of his speech. Plain spoken, plain talking, no-nonsense Harry.

In dedicating this convention on the 100th anniversary of Harry S. Truman's birth, we must, however, dedicate ourselves—not just this convention—to the great principles he believed in.

I share your hope, and pray today, that no future generations of Americans will have to serve our country in combat against the enemy, but I tell you that we must also hope and pray and work so that American will aways have the will and the wisdom to hear their country's call and answer it—in war and in peace.

If Washington's men could go barefoot in the snow at Valley Forge to give us this country and its freedom . . .

If those who have gone before us could lay their lives on the line at Chateau Thierry, Belleau Woods and the Argonne . . .

If we could storm the beaches of Normandy and General McAuliffe, with his back against the wall, could say "nuts" to the Nazi . . .

If the Marines could raise Old Glory on Mount Suribachi in the far-off Pacific to avenge Pearl Harbor . . .

If American G.I.'s could survive Pork Chop Hill in Korea . . .

And if six million Americans who have served in Viet Nam—your loved ones and mine—could stand the acid test of battle—for our country . . .

Then, I say we can face up to our responsibility on the battlefront at home and go forward to a new day in America with a rebirth of the Spirit of 1776—with every man and woman, a minuteman fighting for our homes, our schools, our churches, the good, the clean, the decent things in life. And the stength to keep them secure against all challengers.

When we forget ourselves and put our God and our country first, this nation shall stand as the unchallenged leader of the world.

And in all we do remember, when the buck comes to us—we even, as Harry Truman, must have the courage—the determination and the will to reach out and grasp it and make the most of the responsibility—the decision is ours!●

RICK CAREY DAY—SEPTEMBER 15, 1984

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. OTTINGER. Mr. Speaker, I rise today to pay tribute to one of my constituents, a fine young American and athlete, Rick Carey. Rick was the winner of three Olympic gold medals during the summer games in Los Angeles. Rick will be honored for his athletic accomplishments by his family, friends and neighbors this Saturday, September 15, 1984 in his hometown, Mount Kisco, NY.

The road leading to Los Angeles was a long one for Rick Carey. It started several years ago at the Badger Swin Club in Larchmont, NY, under the guidance of Rick's long-time coach, John Collins. With long hours and hard work, success came early and often for Rick.

At the age of 14, in 1977, Rick was the Junior National Champion in the 200-meter backstroke. The following year Rick was a member of the U.S. Junior Team. During that time Rick continued to shave seconds off his times in the 100-meter and 200-meter events.

1980 should have been a very successful year for Rick. He placed third in the U.S. Olympic trials and was favored to earn a medal in that year's Olympic games. But thoughts of an Olympic medal evaporated with the U.S. boycott of the summer games in Moscow.

Undaunted, Rick continued his winning ways during the 4 years between games. In 1981 Rick was the U.S. National champion in the 100-meter backstroke and in 1982 he was the world champion in the 200-meter backstroke.

During the 1983 Pan American Games, Rick Carey set new world records in both the 100-meter and 200-meter distances, eclipsing records which were the two oldest marks in swimming. Rick's record-breaking efforts paved the way for this year's Olympic trials in Indianapolis where he broke his own world record in the 200-meter event, and the XXIII Olympiad itself.

Rick Carey survived the pressure that many had placed on him by winning the gold in the 100-meter and 200-meter individual events and swimming the backstroke leg on the gold medal 400-meter medley relay team.

By all accounts, Rick Carey has never allowed outside pressure affect him. He has always been driven by an inner desire to excell in whatever he set his mind on. That is the mark of a true champion.

It is indeed fitting that Rick's home town will honor him with a parade and block party. Mount Kisco has already renamed the street Rick lives on "Rick Carey Lane."

Rick's parents—Jean and Jack Carey, the village of Mount Kisco, Rick's friends and neighbors, and the entire country have much to be proud of in Rick Carey.

I ask my distinguished colleagues to join with me in honoring this fine young man, for his outstanding achievements, and in recognition of his day—Rick Carey Day—Saturday, September 15, 1984.●

GOOD NEWS FOR ILLINOIS NATURAL GAS CONSUMERS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. CORCORAN. Mr. Speaker, according to the Peoples Gas Co. of Chicago and to Phillip O'Connor, chairman of the Illinois Commerce Commission, Illinois natural gas consumers will pay slightly lower prices beginning January 1, 1985. The only thing that would jeopardize this price relief is congressional meddling. The surest way to stop the contract renegotiation and innovative natural-gas marketing schemes that are lowering the price of natural gas is to impose new regulations and put Congress in the business of rewriting private contracts.

Do not be misled by claims that quick-fix legislation is necessary to prevent price increases next year. I ask that an article published in the State Journal-Register of Springfield, IL, on August 1, be reprinted at this point so that Members may see what State regulators and distribution companies say. They are the ones who set the price of natural gas sold to consumers. They know what the price of natural gas will be on January 1, 1985.

[From the State Journal-Register (Springfield, IL) August 1, 1984]

NATURAL GAS SURPLUS WILL SLIGHTLY LOWER PRICES, OFFICIAL SAYS

CHICAGO (AP)—Beginning in January, Illinois natural gas consumers will pay slightly lower prices, a state commerce official said Tuesday.

Philip O'Connor, chairman of the Illinois Commerce Commission, said large supplies of natural gas are part of the reason for the predicted price drop.

Increased competition among transporters because of partially decontrolled gas prices is another factor, O'Connor said.

"The fact is, various doomsday predictions of large increases in the gas prices after the first of the year simply fail to recognize that market conditions will not support price increases in natural gas," O'Connor said.

Ed Koska, a spokesman for Peoples Gas Co. which serves Chicago, said he was not sure how much gas prices would drop for the average houseowner.

"Supply is excellent competition among transporters has brought their prices down which means we pay less for it and our customers feel the benefit of the lower bills," Koska said. ●

A TRIBUTE TO SUNY'S SCHOOL OF EDUCATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. KEMP. Mr. Speaker, I rise today in recognition of the 140th anniversary of the School of Education of the State University of New York at Albany. This institution has achieved high standards of excellence on a State and national level.

Established in 1844 to educate secondary school teachers, the school of education has grown considerably in 140 years. Since its beginning the school of education has become the nucleus for the State University of New York at Albany, the oldest of the four university centers in the State university system.

With a faculty of 100 and a graduate student enrollment of 1,600, the school of education offers doctoral degrees in such fields as counseling psychology, curriculum and instruction, education administration and policy studies, educational psychology and statistics, and reading. Graduates from these programs account for approxi-

mately 20 percent of the doctoral degrees awarded at the State University of New York at Albany.

In addition to its degree programs, the school of education supports various research centers. Among these are the Child Research and Study Center, the Capital Area School Development Association, the Center for Educational Research and Policy Studies, the Intensive English Language Program, a Reading Clinic, and a Two Year College Development Center.

The school of education has a major role in the education of New York State as well as the Nation. The distinguished contributions of its alumni are proof of this. The school of education has become a symbol of the importance of learning in our country. Therefore, I urge my colleagues to recognize and celebrate the 140th anniversary of the school of education at the State University of New York at Albany.●

NATIONAL CPR AWARENESS WEEK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. WAXMAN. Mr. Speaker, heart attack is America's No. 1 killer. About 1.5 million persons in the United States will have heart attacks this year, and of those, 650,000 to 700,000 will die. Tragically, many victims who could be saved will die or will suffer from irreversible brain damage because they will not receive cardiopulmonary resuscitation (CPR) within the first few crucial minutes after their heart attack.

Cardiac arrest victims who receive CPR have four times the survival rate of victims who do not. The application of CPR by a citizen bystander keeps oxygenated blood flowing to the brain and other vital organs of the victim until advanced medical treatment can be provided. The technique, which takes only a few hours to learn, is taught by the American Heart Association, the Red Cross, and other organizations and concerned individuals throughout the country. One such concerned individual in Los Angeles County, Mr. Mort Lewis, a veteran screen writer, has worked harder than anyone I know to broaden the public's awareness of the life-saving importance of CPR. We should adopt his slogan, "an investment of a few hours can pay dividends for life," as a national theme in our efforts to enhance public understanding of CPR.

Congress already has passed legislation designating February 1985 as American Heart Month, and today I am introducing a resolution, which would designate February 18–24, 1985, as National CPR Awareness Week. It is fitting to devote a week of American Heart Month to recognize the outstanding work of the thousands of volunteers who provide CPR training each year and to educate Americans about the importance of learning CPR. I urge my colleagues to join me in this effort by cosponsoring this legislation.

The text of the resolution follows:

H.J. RES. 645

Joint resolution to designate the week of February 18, 1985, through February 24, 1985, as "CPR Awareness Week"

Whereas February 1985 has been designated by the Congress and the President as American Heart Month;

Whereas heart attack is the number one cause of sudden death in the United States;

Whereas heart attack strikes an estimated 1,500,000 Americans each year;

Whereas cardio-pulmonary resucitation (CPR) is a first-aid procedure that can significantly reduce the incidence of sudden death due to heart attack; and

Whereas if more Americans receiving training in CPR the mortality from heart attack can be reduced: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 18, 1985, through February 24, 1985, is designated as "CPR Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs and activities.●

A TRIBUTE TO JAYNE SCHIFF

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to an outstanding and dedicated athlete from New York's Third Congressional District.

While public attention this summer was focused on the outstanding feats performed at the Los Angeles Olympics, there were others who were participating in another Olympics in England who were duly deserving of recognition.

In the Seventh World Wheelchair Games held in July, Jayne Schiff from Great Neck, NY, who is paralyzed from the chest down, became the first woman to receive a gold medal in an Olympic wheelchair marathon. Dr. Schiff, having no use of her legs, used the strength of her arms to propel her for 2 hours and 39 minutes into first place in a 26.2-mile race. Her diligence is remarkable.

In addition to her athletic achievements, Dr. Schiff has made great strides in her professional career. She attended Northwestern University Medical College and is currently a third-year resident at the Latter Day Saints Hospital in Salt Lake City, UT.

Because of her unyielding efforts and courage, Dr. Schiff has been able to overcome a great many of the restrictions that have been imposed on her by her handicap. It is with great pleasure that I salute this young woman who has worked so hard and achieved a level of excellence in athletic competition. She is an inspiration to us all.●

A TRIBUTE TO MR. ALVIN AKMAN

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. LONG on Maryland. Mr. Speaker, it gives me great pleasure today to honor a man who has meant so much to so many people. He has been praised by his friends and his fellow workers for his more than 35 years of dedicated service to the United Food and Commerical Workers Union, in particular, his outstanding achievements as president of local 27. The man I speak of is Mr. Alvin Akman.

Al started his union career when he took a job in the dairy department of Food Fair in 1948. After 2 years in the U.S. Marines, he returned to Food Fair where he became a shop steward in the unionized store. In 1955, he joined the union staff as a business representative, and within a few years became the local's chief executive officer. In that capacity, he negotiated one of the food industry's first fully company-funded health and welfare plans, and was one of the pioneers of dental, optical, and prescription benefits. In addition, Al engineered the industry's first severance pay plan, which proved to be very beneficial to the employees of various food chains in the Baltimore area when these companies moved out or cut back their work force.

When he became president of the local in 1958, membership was only 2,500. Today, membership is 10 times that number. Local 27 is one of the largest on the east coast, representing employees in the meat packing, poultry, and food processing industries as well as health care and department stores. Al has been reelected president seven times and has been elected vice president of the UFCW International Union regularly since 1972.

Al's involvement in other endeavors is equally impressive. He has held many State and national trade union posts, served on numerous civic boards, promoted State of Israel Bonds, and been deeply involved in Democratic Party politics—being elected a Mondale delegate to the Democratic National Convention.

I take great pride enumerating the many accomplishments of Alvin

Akman, and I join his wife Marion; his sons Jeffery, Bryon, Samuel, and Rick; the members of local 27; and Al's friends in honoring him as a favorite son of unions and a valuable contributor to his community.●

TRIBUTE TO REESE SMITH, JR., OUTSTANDING EQUESTRIAN

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. BONER of Tennessee. Mr. Speaker, the phenomenal success of Franklin Reese Smith, Jr., and his horse, Ebony's Aristocrat, during the past 3 years of Tennessee Walking Horse competitions has all the makings of a sports legend.

Three years ago, Reese, a grandfather, was just a rookie competitive equestrian when he and Ebony's Aristocrat made their first appearance together in the Tennessee Walking Horse National Celebration in Shelbyville, TN, the Super Bowl of Walking Horse competitions.

Although it was Reese's first national competition, he and Ebony's Aristocrat walked away with the first place blue ribbon in the Show Pleasure World Grand Championship.

The horse would go on to win more blue ribbons than any other horse in the Tennessee Walking Horse industry during the past 3 years.

On Thursday, August 30, 1984, after more than 60 blue ribbons, Reese and Ebony's Aristocrat capped their show ring career together by winning their third consecutive world championship.

In winning this coveted ribbon for the third year in a row, the horse and rider retired the championship's challenge trophy. This feat is rare among all divisions of competition at the Tennessee Walking Horse Championships, happening only occasionally in the 46-year history of this internationally acclaimed equestrian celebration.

At the end of this season, Ebony's Aristocrat will retire from competition. "I think he deserved this win," said Smith after the championship about his 14-year-old gelding. "He could have done more this time—I had to hold him back he was so strong."

Last year, it was my pleasure to attend the Tennessee Walking Horse World Championships at Shelbyville, TN. At that time, I was honored to present the trophy and ribbon to Reese and Ebony's Aristocrat for their second national championship. Little did I know then that I was witnessing such a significant story in the proud history of the Tennessee Walking Horse.

I am indeed proud to call Reese Smith, Jr., a close friend of mine and am happy to congratulate him on this impressive accomplishment.●

BEST OF THE CLASS PROGRAM

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. MATSUI. Mr. Speaker, it is my pleasure to honor many young men and women who have been recognized by KXTV channel 10 in Sacramento, CA, and the General Motors Corp., for sponsoring the "Best of the Class of 1984" program. This program was an overwhelming success, and I am honored to recognize these young people's dedication and commitment to scholastic excellence.

The students, chosen from 14 counties in the KXTV viewing area, were recommended by the principals and superintendents of their high schools. In recognition of their achievements, the young people were invited on an all-expense-paid trip to Waterworld USA amusement park where numerous television spots were filmed of the students. These spots were subsequently aired from May 13 to June 10, honoring the students as high achievers and recognizing the high schools that they attended.

Mr. Speaker, I strongly believe that this program serves as positive reinforcement for educational values and as a shining example of the importance of providing appropriate role models for students in school systems throughout northern California.

Most importantly, this program reinforces the notion that an informed and educated citizenry is indeed our country's strength. We must continue to encourage and promote programs such as this one to ensure that no one is denied an opportunity to learn. An education teaches us more than reading, writing, or mathematics—it teaches us about equality, compassion, and togetherness. Young students are our future, and our commitment to education represents the best hope for the years ahead.

The "Best of the Class of 1984" program typifies this commitment, and I strongly encourage other communities in California and throughout the country to follow the example set by KXTV channel 10 and the General Motors Corp., by sponsoring similar programs.●

TROUBLE IN HAITI

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. GARCIA. Mr. Speaker, on August 20, the New York Times wrote an editorial on Haiti. On August 29, the Times published two letters in response to that editorial. The editorial and the letters add to the argument that Haiti is progressing on a course of self-destruction.

The United States has shown a willingness to help the Dominican Republic, Haiti's next door neighbor, because of that nation's struggle to establish democracy. I am certain that we would do all that we could to help Haiti if that nation would show signs of economic, political, and social progress. There is, unfortunately, only continued signs of an abuse of human rights, lack of economic development, and a continued repression of political activity.

I am submitting for my colleagues' perusal the Times editorial and letters so that they can better understand the monumental problems confronting Haiti.

FEAR OF FREEDOM—IN HAITI

For 26 years under two Duvaliers, Papa Doc and Baby Doc, fear has haunted the lives of six million Haitians. Fear of hunger and disease in the hemisphere's poorest nation. Fear of the Tonton Macoutes, an elite bodyguard with a license to kill. But Jean-Claude Duvalier, who has succeeded his father as president-for-life, is also dogged by fear—of freedom.

In May, when Congress was reviewing an American aid package of $54 million, Mr. Duvalier opportunely promised press freedom and respect for human rights. But his words, when tested, proved worthless. At the appearance of critical newspapers, he silenced them by decree and banned all political activity except his own.

This is an old story for Haitians brave enough to defy Baby Doc. One is Silvio Claude, leader of the tiny Christian Democratic Party, whose newspaper was among those silenced. The 50-year-old Mr. Claude has been to jail six times since 1979, when he spunkily ran for parliament in one of the regime's "elections." He has endured torture, detention, house arrest and banishment; two sons are in exile; a daughter was recently mauled by security police.

Equally shameful has been the persecution of Grégoire Eugéne, leader of the Social Christian Party, a constitutional lawyer who once tutored the younger Duvalier. In June, he was seized without charge or the required warrant in reprisal for views expressed in his journal. Fraternité. He was summarily dismissed from his professorship at the national university and is now at home under close police surveillance.

These affronts occurred after Secretary of State Shultz had certified to Congress that human rights were advancing in Haiti. He cited "an opening in press freedom greater than has existed since 1980." But having obtained the verdict necessary for American aid, Baby Doc repaid the favor by making nonsense of Mr. Shultz's assurances.

President Duvalier shows a cavalier contempt for American opinion because he counts on indifference and inattention. And because Haiti's per capita income is a meager $280 a year, he knows Congress is reluctant to withhold economic aid and punish a peopls for the sins of the rulers. But $1.4 million is earmarked for military training and security programs. Deleting that sum would be a useful way of serving notice that the United States will not be forever taken for granted.

A CALLOUS HAITIAN ELITE IS INVITING UPHEAVAL

TO THE EDITOR: Your Aug. 20 editorial "Fear of Freedom—in Haiti" recommends withholding military aid to Haiti's Government. Although it's a beginning, more drastic action is needed to reverse the tragic conditions of this country.

During the past year, I worked with Haiti's poor as a volunteer physician. Routinely, I saw children die from starvation and young adults succumb to tuberculosis. Even the few who were healthy were not safe from the ravages of tetanus, polio and malaria. I did my best to patch up the young men beaten by the favorite weapon of the Tonton Macoutes [secret police], a club with a protruding nail. I cried when I saw the piles of freshly dead babies to be taken to mass burial grounds. It is a small wonder that Haitians crowd into dilapidated boats to come to the United States.

The elite, on the other hand, live in luxurious mansions, frequent fashionable clubs and shop in Paris. Few have any concern for the impoverished, illiterate masses. The Government's job is to maintain this huge disparity. To its leaders, democracy is a game, the prize being American dollars. One of my patients hid on election day because during the previous one he was jailed and beaten for refusing to vote for the state-backed candidate, who incidentally received 98 percent of the vote.

I realize that we can't expect our standards of democracy and equality to take root in Haiti overnight. However, with that country's booming population, depleted resources, eroded land and a Government that has perfected corruption to an art form, the situation seems almost hopeless.

Recent food riots are a mild precursor of an inevitable revolution that no arms shipments will stop. Unless we Americans begin to address the social problems of Haiti and the third world in general intelligently, we will have many new Soviet bases to look forward to.

JOSEPH F. BENTIVEGNA, M.D.
Yonkers, Aug. 21, 1984.

TO THE EDITOR: The regime of Jean-Claude Duvalier, Haiti's President for Life, is not only a threat to human rights, it is also a strong brake on economic development of the country. Duvalier's primary goal is the survival of his regime. To maintain his power he has ceaselessly rotated all officeholders, whose appointment is almost always based on personal loyalty and sycophancy.

The consequence of this type of patrimonial regime is an atmosphere of pervasive distrust and cynicism among the population as well as among those within the presidential entourage. This, in turn, militates against a sense of responsibility toward one's task and makes it virtually impossible to institutionalize any structures that would implement rational economic development policies.

It ought to be the task of the donor countries (the United States has the largest bilateral aid program), in the absence of effective national institutions, to encourage "bottomup development, i.e., sponsor local self-help cooperatives and utilize private organizations for the distribution of food, fertilizer and the financing of local projects.

CHARLES R. FOSTER,
Washington, Aug. 22, 1984●

THE 25TH ANNIVERSARY OF FOUNDING OF CALIFORNIA STATE UNIVERSITY, FULLERTON

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 1984

● Mr. DANNEMEYER. Mr. Speaker, on September 7 at 11 a.m., Secretary of Education Terrel H. Bell addressed a convocation held at California State University, Fullerton [CSUF]. The occasion was, and is, the 25th anniversary of the founding of the first 4-year public institution of higher learning in Orange County, CA, and it was an auspicious occasion indeed. Not just because the top education official in the country was on hand, but also because of the developments over the past 25 years—developments that made a silver jubilee day particularly appropriate.

As a resident of Fullerton, I can remember only too clearly the days when the land on which Cal State Fullerton now sits was but an orange grove. Indeed, the first classes weren't even held on CSUF's current site and it wasn't until 1960 that classes at what was then known as Orange County State College were moved to today's campus location. But since those early days, progress has been swift, steady and spectacular. Over 60,000 students have been awarded degrees by Cal State Fullerton in the past 25 years and some 22,000 students are currently enrolled at the institution. In all, 85 different degree programs—41 graduate and 44 undergraduate—are offered along with 5 certificate programs and a number of credential programs. Teaching all those programs are 725 dedicated full-time faculty members and supporting them is a 500,000 volume library, the building for which was completed in 1966.

But, numbers alone don't tell the full story. At Cal State Fullerton, excellence has accompanied growth, not only in academics but in athletics and cultural offerings as well. Cal State's business school and its music department share the distinction of being the youngest in their fields to earn accredition from their respective accrediting authorities. Moreover, CSUF has become the founding base for the Pacific Symphony Orchestra and helped launch the Cabaret Repertory Theatre in neighboring Brea. In addition, the university has become a leader not just in providing access to handicapped students but in educating them. A handicapped student center was opened in 1977 and the campus is generally believed to be one of the five more accessible (to the handicapped) in the nation.

In sports, the university has the distinction of being the only west coast university to have won the NCAA men's baseball crown twice during the past decade, its baseball teams having emerged victorious from the College World Series in 1979 and again last spring. Also, in 1979, the university's women's gymnastics team captured a national title, making CSUF the only school to win two national athletic championships that year, and in 1983 the school's football team captured the Pacific Coast Athletic Association Championship. 1984 Not only did Cal State Fullerton become the site of the 1984 Olympic team handball competition, but one of its basketball players became a key member of the victorious U.S. men's Olympic basketball team. Not bad for a school that only began competing at the division I level 10 years ago.

Along with excellence, innovation has been another hallmark of Cal State Fullerton's first quarter century. For instance, 2 years ago, the university began making available informational, cultural, and sports programs over cable TV and it is now launching a major fund raising drive to further expand its horizons. In short, California State University, Fullerton is a university on the move and, if its first 25 years are any criteria, the next 25 will see it go a long way in the right direction.

As a resident of Fullerton and the representative of the congressional district in which California State University, Fullerton is located, I am proud of its accomplishments and excited about its prospects for the future. Under the leadership of such people as Dr. William Langsdorf, Dr. L. Donald Shields, Dr. Miles D. McCarthy and, most recently, Dr. Jewel Plummer Cobb, Cal State Fullerton has opened the door of educational opportunity for thousands of southern California students in a way that few could have envisioned back in the 1950's. And under the continuing leadership of Dr. Cobb and all the other fine folks at CSUF, I am sure that door will open ever wider in the years to come. Congratulations and best wishes are the least that can be offered as this fine university begins its silver jubilee celebration.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 11, 1984 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 12

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2618, the Telecommunications Trade Act of 1984.
SD-215

Foreign Relations
To hold hearings on the Convention on the Prevention and Punishment of the Crime of Genocide (Ex. 0, 81st Cong. 1st sess.).
SD-419

Judiciary
Juvenile Justice Subcommittee
To resume hearings to review the effects of pornography on women and children.
SR-418

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold oversight hearings on the use of wiretapping and protection of an individual's privacy.
SD-226

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nominations of Robert R. Davis, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission, and Crete B. Harvey, of Illinois, and Melvin A. Ensley, of Washington, both to be members of the Federal Farm Credit Board, Farm Credit Administration.
SR-328A

Banking, Housing, and Urban Affairs
To hold hearings to examine those provisions of the Civil Rights Act relating to the exemption of insurance contracts and guarantees.
SD-538

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to markup S. 2892, to amend and authorize funds for the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).
SD-406

Labor and Human Resources
Business meeting, to consider the nomination of Rosemary M. Collyer, of Colorado, to be General Counsel of the National labor Relations Board, S. 2568, Civil Rights Act of 1984, S. 44, to provide for a uniform product liability law, S. 2878, Pharmaceutical Export Amendments of 1984, and other pending calendar business.
SD-430

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
Business meeting, to markup S. 1405, Federal Neutrality Act of 1983.
SD-628

11:00 a.m.
*Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on the May 1984 Department of Energy/Energy Information Administration comprehensive review of the status of the U.S. domestic uranium mining and milling industry.
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

2:30 p.m.
Conferees
On S. 979, to improve the enforcement of export administration laws.
S-128, Capitol

3:00 p.m.
Conferees
On H.R. 1904, authorizing funds through fiscal year 1987 for child abuse prevention and treatment and adoption reform programs.
S-205, Capitol

3:30 p.m.
Conferees
On S. 2603, to authorize funds for fiscal years 1985 through 1987 for programs affecting the elderly, and to revise certain provisions of the Older Americans Act of 1965.
S-205, Capitol

SEPTEMBER 13

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the Bonneville Power Administration repayment of obligations to the U.S. Treasury.
SD-366

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Taft-Hartley Act and the Railway Labor Act.
SD-430

10:00 a.m.
Armed Services
Ad Hoc Task Force on Selected Defense Procurement Matters, to hold hearings on the Department of Defense procurement process.
SD-138

Environment and Public Works
Business meeting, to markup S. 2892, to amend and authorize funds for the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).
SD-406

Foreign Relations
To hold hearings on Senate Joint Resolution 236, relating to cooperative East-West ventures in space as an alternative to a space arms race.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings to examine trends in interest rates.
1310 Longworth Building

2:00 p.m.
Foreign Relations
Closed briefing to review the Communist insurgency in the Philippines.
S-116, Capitol

SEPTEMBER 14

9:30 a.m.
Finance
International Trade Subcommittee
Taxation and Debt Management Subcommittee
To hold joint hearings on S. 2429, to increase the duty on certain shelled filberts; to be followed by hearings by the Subcommittee on Taxation and Debt Management on S. 2933, to provide that the restrictions imposed by the Deficit Reduction Act of 1984 with respect to property leased by a tax-exempt entity would generally not apply to certain correctional facilities leased by State and local governments.
SD-215

10:00 a.m.
Environment and Public Works
Business meeting, to markup S. 2892, to amend and authorize funds for the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).
SD-406

Joint Economic
To resume hearings to evaluate the role of innovation in America and to review the application of new ideas to basic industries.
2203 Rayburn Building

2:00 p.m.
Foreign Relations
To hold hearings on the nomination of Melvyn Levitsky, of Maryland, to be Ambassador to the People's Republic of Bulgaria.
S-116, Capitol

SEPTEMBER 17

9:30 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To resume oversight hearings to examine the impact of the Federal income tax system on productivity and economic growth.
SD-215

Judiciary
Constitution Subcommittee
To hold hearings on certain activities in behalf of the Bicentennial of the U.S. Constitution.
SD-226

2:00 p.m.
Finance
Health Subcommittee
To hold oversight hearings on the implementation of the medicare hospice benefit of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).
SD-215

SEPTEMBER 18

9:00 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the implementation of the Motor Carrier Act of 1980 (P.L. 96-296).
SR-253

9:30 a.m.
*Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2032, H.R. 5426, and S. 2916, bills to designate certain lands in Colorado as wilderness.
SD-366

Finance
International Trade Subcommittee
To hold hearings on the state of the U.S. textile industry under the trade agreements program.
SD-215

Labor and Human Resources
To hold oversight hearings on the implementation of the Orphan Drug Act (P.L. 97-414), focusing on section 7 relating to radiation-cancer liability.
SD-430

Labor and Human Resources
Labor Subcommittee
To resume oversight hearings on the implementation of the Taft-Hartley Act and the Railway Labor Act.
SR-485

10:00 a.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
S-407, Capitol

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SR-325

SEPTEMBER 19

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings to review Federal agency policy on controls and responsibilities.
SD-628

2:00 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2667, to establish a program for the conservation and management of coastal migratory fish and impose a moratorium on fishing for Atlantic striped bass, and to review other fish and wildlife matters.
SD-406

3:30 p.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

SEPTEMBER 20

9:00 a.m.
Office of Technology Assessment
To hold a general board meeting.
S-205, Capitol

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1981, authorizing additional funds for the development of small reclamation projects.
SD-366

Finance
To resume hearings on flat-rate and other major tax reform proposals.
SD-215

SEPTEMBER 21

9:30 a.m.
Special on Aging
To hold hearings to examine the cost of caring for the chronically ill.
SD-628

10:00 a.m.
Finance
Health Subcommittee
To hold hearings to review the current method of financing medical education costs under the medicare program.
SD-215

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on issues relating to Antarctica, focusing on the proposed Convention on the Conservation of Antarctica Living Marine Resources, U.S. and international research activities therein, and on the proposed Antarctica Minerals Treaty.
SR-253

2:00 p.m.
Judiciary
To hold hearings on S. 2835, to allow certain sellers of agricultural products to bring antitrust actions.
SD-226

SEPTEMBER 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Household Goods Transportation Act (P.L. 96-454), and the Bus Regulatory Reform Act (P.L. 97-261).
SR-253

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings to examine the use of recreational drugs in professional and amateur sports.
SD-430

10:00 a.m.
*Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings on the release into the environment of genetically engineered organisms.
SD-406

SEPTEMBER 26

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 337, to make permanent the deduction for charitable contributions by nonitemizers, and S. 2017, to revise certain IRS regulations relating to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances.
SD-215

10:00 a.m.
Governmental Affairs
To resume hearings to review the relationship between Congress and the Executive in the formulation and implementation of foreign policy.
SD-342

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

SEPTEMBER 27

10:00 a.m.
*Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To continue hearings on the release into the environment of genetically engineered organisms.
SD-406

Labor and Human Resources
Aging Subcommittee
To hold hearings on longevity and the lifestyle of older individuals.
SD-430

SEPTEMBER 28

9:30 a.m.
Finance
Health Subcommittee
To resume hearings to examine how to ensure quality health care for low-income persons.
SD-215

OCTOBER 1

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to investigate certain activities of the video gambling industry, focusing on the alleged involvement of organized crime and the potential for public corruption.
SD-342

OCTOBER 2

10:00 a.m.
Governmental Affairs
To resume hearings on S. 1746, to allow the Federal Government to freely procure certain goods and services from the private sector.
SD-342

CANCELLATIONS

SEPTEMBER 11

4:00 p.m.
Foreign Relations
Closed briefing on recent developments in the Middle East and South Asia.
S-116, Capitol

SEPTEMBER 13

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the activities of the National Highway Transportation Safety Administration.
SR-253

SENATE—*Tuesday, September 11, 1984*

(Legislative day of Wednesday, September 5, 1984)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL J. EVANS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we pray for the 28 Senators up for reelection, over whom hangs the heavy responsibility for their campaigns while the Senate continues in session. They do not campaign because it is fun—they campaign because they must—our political system requires it. You know their hearts Lord, how difficult it must be to concentrate on Senate business when circumstances at home compete for their attention. You know how great the temptation Lord, to abdicate responsibility in the Senate and concentrate on the constituency. Thank you, gracious God, for public servants who refuse to yield to such temptation and at some political risk fulfill the obligation for which the people sent them to Washington.

Sovereign Lord, help the people to understand the dilemma which our system imposes upon incumbent Senators at such a time as this. May the electorate be reminded that though our system has many problems it is still the best in the world. We pray in the name of Him in whom is all power in Heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 11, 1984.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL J. EVANS, a Senator from the State of Washington, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. EVANS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

SENATE SCHEDULE

Mr. WARNER. Mr. President, the majority leader, Mr. BAKER, is at this time at the White House conferring with the President and others.

The calendar for this morning's activities provides leadership time of 10 minutes each, followed by a special order for Mr. PROXMIRE, the Senator from Wisconsin, of 15 minutes; thereafter, morning business until 10 a.m. with 2 minutes to each Member of the Senate seeking such recognition. At 10 o'clock we will resume the pending business, which is the Baker motion to proceed to consideration of S. 2851 under cloture. From 10 a.m. to 11 a.m. the time will be controlled by the Senator from New York [Mr. D'AMATO]. From 11 a.m. until 11:30, the time will be under the control of Senators GARN and PROXMIRE. At 11:30 a.m., there will be a vote on the motion to proceed with S. 2851, the yeas and nays having been ordered.

The leadership has yet to obtain unanimous consent to recess from 12 noon to 2 p.m. today, but I anticipate that that will be done as is the custom. At 2 o'clock we will go back to the banking bill, S. 2851.

I am told should this matter not be considered by the Senate today further, that the majority leader has in mind television in the Senate, or several appropriation bills.

I am informed that the Labor-HHS and the Interior matters are available for floor consideration.

Mr. President, at this time I yield to the acting minority leader.

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, will the distinguished Senator from Virginia yield for a question?

Did the Senator indicate that we would move to another bill? I think he specified television in the Senate in the event we finish the banking bill or that we would move off the banking bill at some time.

Mr. WARNER. Mr. President, I was simply informed by the majority leader's office that in the event it is the decision of the leadership for some reason unknown to me that the banking bill would be taken down today, that these are alternatives.

Mr. PROXMIRE. I thank the Senator.

Mr. WARNER. But I would not in any way suggest that I know of a reason or the majority leader knows of a reason why we should not proceed in an orderly course to the consideration of S. 2851.

Mr. PROXMIRE. Mr. President, I thank my good friend from Virginia, and as a member of the Banking Committee, and as one managing the bill on the minority side, I earnestly hope that the Senate will stay with the banking bill. It is a very important bill. Senator GARN has put a tremendous amount of work into it. I have some very serious reservations about parts of the bill, and I hope we can change it. But it is a bill that is absolutely vital to our financial community if we are going to get it passed, and I think most Senators, whether they are on the Banking Committee or not, are aware of the very great importance of that bill.

Mr. WARNER. Mr. President, if the distinguished Senator from Wisconsin will yield for a moment, prior to the convening of the Senate this morning I was privileged to hear the senior Senator from Wisconsin [Mr. PROXMIRE] mention his observation with respect to the vote yesterday. I wonder if the Senator would be willing to share that with our colleagues. I was very much impressed by the Senator's observations.

Mr. PROXMIRE. Mr. President, I have been in the Senate a long time. I cannot recall a time when the Senate so decisively invoked cloture. Usually it is fairly close, and most of the time when we invoke cloture we do not get it on the first vote. But yesterday, as I recall, there were I think 3 votes against cloture. Perhaps the people who keep the records can cite an instance in the last 27 years when we have had that small of a number. But I cannot remember it. I think what that means—I hope it means—is that the Senate is determined to go ahead with this bill right or wrong recognizing that many Senators will vote against the bill, and many Senators will vote for major changes in the bill, but that the Senators as a whole recognize this is a bill that we should not permit to be delayed indefinitely. We only have a few days left, as the Senator from Virginia knows. It is a time that invites delay and filibusters for

those who would kill legislation. But I earnestly hope it means that the Senate really means business on this one.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Wisconsin. I think those observations will be of value.

Mr. President, I yield back the balance of my time reserved for the majority leader.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time allocated to the minority leader under the standing order be reserved for his use if he chooses to use it later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CASTRO'S BROKEN PROMISE

Mr. PROXMIRE. Mr. President, since Fidel Castro led a successful revolutionary movement to overthrow the repressive Batista regime in 1959, Cuba has played a major, controversial role in international affairs. Whether it is assisting guerrilla insurgencies in Central America or sponsoring 25,000 Cuban troops to support a Marxist regime in Angola, the government of Fidel Castro contends that it is promoting justice and freedom for oppressed people throughout the world.

But in putting Cuba's global activities into proper perspective, it is important to understand to what extent, if any, Fidel Castro's government has effectuated meaningful democratic and social reforms in Cuba and adhered to internationally recognized principles of human rights. The evidence shows that the promises made to the Cuban people by the Castro government have not been realized. Moreover, in order to maintain its control and power over the Cuban people, the Castro government actively engages in acts of torture and harassment as well as other drastic steps to suppress any activity that might be construed as threatening the established regime.

Executions to discourage political dissent, for example, which began when Castro seized power in 1959, continue throughout 1984. There are credible reports of summary executions following secret trials of civilians for alleged political offenses by military tribunals. A member of Jehovah's Witnesses, for example was reported to have been executed in August 1983 for allegedly spreading propaganda to incite armed rebellion.

Religious activities seem especially threatening to the Castro regime; thus, the government enforces an active antireligious policy.

Among the restrictions on religious practice enforced by the Cuban Government are discrimination against religious believers in educational and employment opportunities, prohibition on religious media, and restriction on the construction of new churches. Political meetings and work obligations are regularly scheduled to conflict with religious observances. The July 26 national holiday, commemorating the attack on Batista's Moncada barracks in 1953, has been promoted as a replacement for Christmas, and the availability of toys for children has been limited to the 26th of July period to the exclusion of Christmas. Similarly, Holy Week observances are preempted by the weeklong celebration of the battle of the Bay of Pigs.

For whatever reason, the Castro regime does feel threatened by religious expression. This is a similar fear that was no less real to Hitler's regime concerning Jews, or Pol Pot's regime in Cambodia concerning the urban masses, or the Turks' fear concerning the Armenians during World War I.

I am not suggesting that Castro's policies constitute genocide, but they may create an environment that is conducive to the crime of genocide. That is why I urge the Senate to ratify the longstanding Genocide Convention. This will show our resolve against any future genocide. And the United States will send a clear message abroad that we will not tolerate, from anyone, the act of genocide against a whole national, racial, ethnic or religious group.

HOW STAR WARS THREATENS NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, this Congress has advanced the President's Strategic Defense Initiative or Star Wars proposals by providing about two-thirds of the funds he requested in the armed services authorization bill. Later this year, before we go out, presumably, we will have another shot at "Star Wars." That will come when we vote on the defense appropriations bill if we do, and I hope we can. A great deal will be at stake on this "Star Wars" antimissile vote. The ultimate cost of this system will certainly be in the hundreds of billions and very possibly more than $1 trillion. This comes at a time when Federal spending and colossal Federal deficits constitute the single most serious threat to our economic health. This SDI program carries far and away the single biggest and most explosive challenge we will face to fiscal responsibility.

Think of it: The strongest advocates of this program will not even give us an outside, ball-park estimate of the ultimate cost. They tell us they will ask for $25 billion over the next 5 years, not to build or deploy a defensive system but—just to make a beginning estimate of the costs. We will spend more than $50 billion before we buy a single item of hardware for deployment, let alone deploy even a fraction of the system. We do know the ultimate cost of going ahead with the full program will be immense. It will be continuing. It will grow very rapidly each year. And that growth will be hard, maybe impossible, to resist. As U.S. News & World Report said, the main persuaders for the Congress to continue to spend money on the program will not be the defense experts. It will be the firms that would receive hundreds of billions of dollars in contracts, the unions whose members will have hundreds of thousands of jobs, and the Members of the House and Senate who represent these workers. Star Wars, once we start it, will become the next thing to an irresistible force. For every big spending program the Congress has started and ended when it turned out to be wasteful, at least a hundred have continued on their wasteful way. But there is another reason far more important than its cost that represents the prime reason why we should not fund it: It will kill any real prospect for arms control.

On June 20, the Washington Post reported that an organization of security and arms control experts have started a national campaign to save arms control and specifically the antiballistic missile treaty by stopping funding for Star Wars. Mr. President, the competence of this panel should lead every Senator to question the wisdom of proceeding with the beginning of these colossal appropriations for carrying the nuclear war into space. The supporters of the antiballistic missile treaty on this panel include two former Directors of the Central Intelligence Agency: Stansfield Turner and William Colby.

I think all of us have recognized that the people who direct the CIA have the clearest kind of understanding of the real threat the Soviet Union represents to this country.

Colby and Turner are hardheaded, realistic experts on the Soviet Union, its strength, and its potential. Both have had the unparalleled advantage of directing this country's Central Intelligence Agency whose principal task is to develop a thorough understanding of the Soviet security threat to this country and every deep and devious aspect of that threat. The panel also includes retired Army Gen. Maxwell Taylor and former Defense Secretary Robert McNamara, two veteran experts with as profound an under-

standing of defense requirements as we have in this country.

The ABM treaty supporters also include Gerard Smith, who served President Nixon as his principal arms control expert and was the chief arms negotiator at the time President Nixon signed the ABM treaty. This country has no more seasoned or respected arms control expert than Gerard Smith. And what does Smith say about the "Star Wars" missile defense system? The Post reports that Smith is convinced that funding this system will "destroy arms control efforts." The Post quotes Smith as saying: "It seems we are on a slippery slope. We are already in an anticipatory breach of contract." Smith would not kill all research on advanced ABM systems. He and the rest of the group that would preserve the ABM treaty favor such research. They oppose the actual development and deployment of a space-based ABM system. Obviously, such a "breakout" would clearly violate the 1972 ABM treaty.

As a matter of fact, anyone who had the chance to watch the Star Wars program on NBC on Saturday night heard the Secretary of Defense concede as much. Secretary of Defense Weinberger conceded, in a discussion with former Secretary of Defense McNamara, that the ABM treaty would undoubtedly be violated. But he said the conditions have changed, as if that was the reason to do so.

So the Congress must handle this research very carefully and with scrupulous regard for the terms of the ABM treaty. We must also find the strength to resist the immense pressures that the hundreds of millions we spend on research will put on the Congress to move to the first development that would put this country in violation of the antiballistic missile treaty. We are a few inches from the "slippery slope" to which Gerard Smith referred. Once we slip over the slope and begin to develop antimissiles, the antiballistic missile treaty will be dead. And effective arms control with the Soviet Union will be a terminal case.

Mr. President, I ask unanimous consent that the article from the Washington Post of June 20, headlined: "U.S. Close to Violating ABM Treaty, Panel of Security Specialists Says," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 20, 1984]

U.S. CLOSE TO VIOLATING ABM TREATY, PANEL OF SECURITY SPECIALISTS SAYS

By pushing development of its "Star Wars" missile defense system, the Reagan administration is close to a clear U.S. violation of the 1972 anti-ballistic missile (ABM) treaty, a panel of security and arms control specialists said yesterday.

The panel is beginning what it calls a "national campaign to save the ABM treaty" by attempting to persuade Congress to refuse to provide funds for the new defensive system that would be partly based in space.

The campaign's 46 sponsors include former President Carter, former secretary of state Dean Rusk, former defense secretary Robert S. McNamara, retired Army Gen. Maxwell D. Taylor and former CIA directors Stansfield Turner and William E. Colby.

If the new strategic defensive system is deployed, it will intensify the nuclear arms race with the Soviet Union and lead to decades of nuclear instability, the group contends.

Signed by President Richard M. Nixon and the late Soviet President Leonid I. Brezhnev, the 1972 ABM treaty bans all space-based ABM systems or any nationwide defense against missile attack. The theory is that the best preventive against nuclear war is the knowledge that it would be mutually destructive.

The treaty's supporters say its ratification paved the way for all subsequent negotiations aimed at reducing U.S. and Soviet nuclear arsenals.

Gerard C. Smith, the chief U.S. arms negotiator at the time the ABM treaty was signed, said at a news conference at the Carnegie Endowment for International Peace that he believes—as he did in 1972—that the deployment of an effective, nationwide ABM system by one superpower would produce irresistible pressure on the other to deploy enough missiles to penetrate it.

That would lead to a tremendously increased arms race that would destroy arms control efforts, Smith said. "It seems to me we are on a slippery slope," he said. "We are already in an anticipatory breach of contract."

Smith, a former director of the Arms Control and Disarmament Agency, said the group leading the new campaign favors continuing research on advanced ABM systems as a hedge against a possible Soviet "breakout" from the terms of the 1972 accord.

"What we are objecting to is an American breakout," by the actual development and deployment of a space-based ABM system, he said.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with statements limited therein to 2 minutes each.

OPERATION PAR, INC.

Mrs. HAWKINS. Mr. President, a very impressive, thorough, and disturbing, research study was recently released by an organization in my home State of Florida known as Operation PAR, Inc.

In "Substance Abuse Among Pinellas County Youth: A Summary of Findings," Operation PAR, Inc., reveals simply, clearly, and shockingly, the amount of substance abuse which occurs in the middle and high schools of a typical American school system. This is the second of two surveys of drug use among Pinellas County youths, the first having been conducted in June 1980. Over 1,500 students comprised the sample group, and represented 12 percent of eighth-grade students and 10.5 percent of the high school seniors.

Mr. President, the results of this survey are disturbing, at the very least. For example, the majority of eighth-graders, 67 percent, indicated that they had used alcohol at some time in their lifetime; 1 out of 4 reported having used marijuana at some time. Almost 3 out of every 10 respondents indicated that they had tried dangerous inhalants; and half the students surveyed said they had smoked cigarettes. It was estimated that as many as 208 eighth-graders were in need of intensive treatment for problems related to daily use of alcohol and/or marijuana, and another 504 may be "problem drinkers" or "smokers" in need of professional help.

In describing the amount of usage of inhalants by the students, it was stressed that studies show that sniffing such substances as gasoline, glue, or industrial solvents can cause irreversible brain, liver, and kidney damage even after a single use. It was estimated that about 7 million individuals have experimented with inhalants, most being under 20 years of age; 27 percent of the students surveyed in this Pinellas County study reported having used inhalants at some time, and an additional 15 percent said they expected to use inhalants within the next year.

Study of the attitude of these students toward substance abuse revealed a liberality indicating an astounding ignorance of the dangers of drugs and alcohol; 8 out of every 10 students indicated approval of alcohol use; over half the students reported that they approved of marijuana use; and 4 out of 10 students cited approval of having five or more drinks on the weekend. It was found that as many as 8 percent of the students used marijuana on a daily or weekly basis; and almost 13 percent of the students surveyed indicated they had been drunk more than three times in the 2 weeks prior to the survey.

Mr. President, these and the other statistics provided in this study are, as I said, disturbing, but it becomes even more upsetting with the final conclusion of the study. And this is that the Pinellas County youth observed in this study are statistically less approving of substance use than the national average, and less exposed than the national average.

Mr. President, we must continue in our efforts to educate our young people to the dangers of drug and alcohol abuse. Our children are beginning to experiment with drugs at a younger age, are using drugs more often, and are ingesting a wider variety of drugs. We must continue to do

all we can to prevent our young people from becoming victims of our Nation's No. 1 problem, substance abuse. And I would like to commend Operation PAR, Inc., for this fine study which will contribute much to these efforts.

PRAYER BREAKFAST WITH ALABAMA BAPTIST MINISTERS AND LAYPERSONS, U.S.A.

Mr. HEFLIN. Mr. President, I rise today to praise the Alabama delegates—ministers and laypersons—attending the 104th annual session of the National Baptist Convention, U.S.A., Inc., held in Washington, DC, September 4-9, 1984.

The National Baptist Convention, U.S.A., Inc., is the largest and oldest black organization in the world. It was organized in 1880 and incorporated in 1915. Its stated purpose was to expand the Christian ministry in the areas of missions, evangelism, and education. This national organization is comprised of 59 State conventions, 40,000 churches, 50,000 clergymen, and approximately 7 million members. It is active in 49 States and the Bahamas. Dr. T.J. Jemison, national president, is a native of Selma, Ala., and a graduate of Selma University. He currently resides, however, in Baton Rouge, LA.

On Thursday morning, September 6, 1984, at 7:30 a.m., I was very pleased to cohost with Selma University, Selma, AL, a prayer breakfast for those members of the Alabama Baptist State Convention and the Alabama Baptist State Women's Convention who journeyed to the Nation's Capital for the National Baptist Convention. Dr. W.F. Alford is president of the State convention comprised of more than 2,500 churches. Mrs. A.M. Wilson is president of the latter.

Close to 250 persons attended the prayer breakfast here on Capitol Hill. It was a wonderful Christian fellowship and spiritual renewal for all of us. I wish to commend Dr. Wilson Fallin, Jr., president of Selma University, for his tremendous energy, diligence, and untiring efforts in helping coordinate the prayer breakfast. Dr. Charles Tunstall, chairman of the board of trustees, Selma University, assisted him. Many of the ministers from the Montgomery and Birmingham, AL, areas assisted by providing mass transportation for their church members and delegates to attend the prayer breakfast.

Mr. President, everyone who attended this prayer breakfast was so inspired and spiritually uplifted that it was unanimously agreed that it would henceforth become an annual event at every National Baptist Convention.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The PRESIDING OFFICER. The question is on the motion to proceed.

Who yields time?

Mr. D'AMATO. Mr. President, I thank my distinguished colleagues, the Senators from Wisconsin and Utah, for their patience during the past 4 days. They have both worked and labored in the Banking Committee on this bill. Although we may disagree with respect to certain aspects of this bill, I would like to say that 98 percent is good and should be enacted. However, the remaining 2 percent compels me to rise and fight the bill.

I have some prepared remarks, but let me depart from them. Let me simply suggest that it seems rather difficult to me that the Senate can approve legislation that is so grossly unfair and unjust. Let me borrow some terminology from my good friend, Senator GARN, and say that it is nothing less than greed on the part of some of the bankers who demanded title X. They only want to protect their own interests. Title 10 was given very little thought and consideration in committee. There were no substantive hearings with respect to the impact of title 10 on New York.

No one has answered to my satisfaction the question as to why New York has been deliberately excluded from title 10 and why Congress should support economic balkanization.

Back home, most of New England got together and formed a regional compact. Then New Jersey and Pennsylvania did the same. In both cases New York was excluded. Connecticut has about 40,000 of its residents who work in New York. New Jersey has something like 200,000 of its citizens who work in New York. Yet they go ahead and they enter into regional compacts, and New York is deliberately excluded. This is not States exercising their rights. It is law discrimination.

But for us to ratify the gross injustice flies in the face of the integrity of the Senate. It is not banking deregulation. It is more regulation. We should consider how to proceed to interstate banking.

Are we really going to make New York stand for badness through legislation? We should not. How can Senators do this and still say they protect the Constitution. But while doing this we will give banks new extraordinary powers that they never had before. There were extensive hearings that looked into this issue. But not on title 10. In spite of all those hearings no one has really successfully come up with a means to deal with the problem of illegal tie-ins. We have not done a thorough job.

What about banks pressuring customers into using all their services before a loan is granted. We have not addressed this. This is an important subject. We are making banks very powerful.

That has not been answered. You might say that is something for us to debate. I do not think that the Senate floor is the place to take care of those concerns.

Can banks afford to get into new risky areas. Their capital ratios are today too low. They must raise new capital just to cover their bad loans. Now we want them to spend capital on other areas that are risky. But we have not addressed how to protect banks' financial integrity from bad loans.

I do not think this is the time to give banks expanded power. I am not even suggesting we should study it. I do not say that. This is not a Senator who says well, let us study the subject again and talk about it next year. I am suggesting this is not the time for banks to move into new areas.

What we should be discussing is how to get interstate banking. This is the issue. Instead we move in the opposite direction.

We should have a phase-in of interstate banking. Nobody has suggested a compromise on title 10. Just push it through. Forget that it is discriminatory. If you do not talk about it, maybe it will go away.

I have yet to have been approached with that kind of compromise that would provide that New York would have an opportunity to participate in interstate banking.

Now, that is the kind of approach that we need. But we have not discussed this. It has been ignored, let's just pick on bad old New York. Well, it is my responsibility to talk about it. What other course of action does this Senator have when legislation is aimed at my State.

I wonder what my colleagues would say or do were this type of bill directed against their State. Would Senators sit back and let that take place, because, after all, the States have permitted it and we are going to let that take place. I think not.

I understand, by the way, it is easy to be against big banks. It is easy to be

against them particularly when they are from New York. They are going to swallow up all the little banks. It is really easy politics to do that. While doing this you give your regional banks a pat on the back. But this is in the worst interests of consumers. And so when we set up these regional compacts what we are really doing is hurting the consumer. What we are doing is saying that we are going to give you a turf and that is your turf. That is your turf in New England and your turf in Middle Atlantic and your turf out in the Far West. But New York, they are not going to be allowed to come in for any reason. That makes good politics when you go back because your State legislators all like it and they are connected to the banking lobbies. That is wonderful; you talk about greed. They keep their little area sacrosanct. No competition.

What about the stockholders of those little banking institutions? Have we protected them? What about the consumers? Has this legislation enhanced their ability to get more competition? Well, you could say, "It is a first step." I do not think it is a first step except one backward.

Should this Congress of the United States be moving in this manner when we read the Constitution and see that this legislation really flies in the face of the commerce clause and the equal protection clause? Could you say under the States rights doctrine, somehow what we are doing is ratifying the rights of the States to undertake this in spite of the fact it flies in the face of other parts of the Constitution? I do not believe even under the most ardent believers of States rights would ever suggest that is correct.

Now you might say, "Well, maybe the Congress has the right to adopt this legislation and when this matter goes before the Supreme Court of the United States maybe they will ratify it; maybe they will find it unconstitutional."

Who is there to talk about fairness? I hear a lot about fairness. I read about it every day—the fairness issue. Well, just because you are big does not mean that you should be discriminated against. My banks are not perfect. But that does not mean Congress should discriminate against them. They have at least the same right as anyone else. Because you are big does not mean you can go ahead and discriminate against them.

And for the life of me I wonder why we would permit foreign banks to enter the country but not New York banks. No one has really addressed that question suitably. And the administration, notwithstanding the letters that were circulated yesterday, they have not really supported S. 2351. They have come onboard because they have a different agenda. They want the banking institutions to get expanded powers. So they will worry about title X at a different point in time.

Do you really think that Paul Volcker is in favor of title X? I do not think so. Has he written anything in support of title X? No. I do not believe that he would seriously say or the members of the Federal Reserve Board would say that they are in favor of this legislation. It has no redeeming features whatsoever. The only thing people can say is, "Oh, we are beginning to break down the Douglas amendment. We are beginning; it is a step forward."

Well, if it is a step forward, then everyone should be entitled to the same rights. No one should be excluded. And, therefore, we really duck the underlying issue of interstate banking.

So I do feel strongly about this. It may be perceived that my opposition may be unreasonable as it relates to the length of time that I have spoken. I make no pretense about it. The bill in its form should be killed. I do not make any apology for that. That is why I was elected, to come here and to fight for. To see to it that the State of New York is not discriminated against. This is a discriminatory bill as it relates to the banking institutions of New York.

If you are a bank in London, you may be able to get permission to go into any other State in this Nation. An Italian bank can come in, go into Connecticut. You can go into New Jersey or go into Pennsylvania. But a bank from New York will not be permitted to do that. That is absurd.

I do not know. Are any foreign banks less fearsome in their competition, less aggressive in their management?

I do not know eventually what the Supreme Court of the United States is going to say about title X. I do not really believe they can allow those regional compacts to stand.

I imagine some great legal scholars will be arguing those cases, and the great law firms of our Nation will be putting together the various attacks and defenses on that statute. They will have different interpretations. But certainly as I see it, this flies in the face of the Constitution. Our actions at the very least indirectly attempt to ratify that which our forefathers and the Framers of the Constitution would have been shocked about. Indeed, they took great time and were careful in spelling out that they did not and would not countenance. But no. We go and interfere with free commerce.

We do it in such a manner that we can say, oh, well, we are helping the States, and we are saying that those States who want to join these compacts can do it. And New York, if you get into one, that is fine. That is OK. But, of course, we understand the nature of the political realities and the greed system—I have heard that word "greed." Title X is raw greed.

So when we say that those who oppose it oppose it for greed, I would suggest a lot of things that are in this bill that people want, if you want to characterize it as the greed factor, is because they are seeking an edge. I think maybe we ought to get away from the use of that term "greed." We want to say people are looking for an advantage. They are looking to protect their position.

What is the ABA doing? Are they really advancing sound banking by supporting title X? I do not think so. How is that? Why would you not want to discourage the largest banks in this Nation from participating interstate. Why? What attempt has been made to see to it that they are reasonably regulated as opposed to being discriminated and excluded against? None.

I have not seen any legislative endeavors, any actions, nor any hearings looking at title X to say that we will attempt to fashion a bill that will protect legitimately the rights of the small banks, the rights of a region not to be inundated, and to see to it that we have a diversity in the system that everyone wants to see.

If you ask the Treasury people whether title X should stand, they would tell you were it not for the fact that they are looking for the total bill that it should not. If you were to ask the Federal Reserve and the regulators whether or not this makes good sense, they would tell you it does not. It is political expedience.

Why do I say that? I am not suggesting to you, by the way, that there may not be good parts of this bill that most of us can agree upon and there are those who say let us close the South Dakota loophole. We can all agree upon it. Well, should passage of this entire bill or title X really be a requirement for dealing with the obvious failures of current regulation? I do not want to be accused of failure to address the nonbank bank loophole.

So I am going to put forth a disclaimer. I am not going to take responsibility for defeating these provisions. They are sound provisions. But title 10 taints an otherwise sound bill. Title 10 has destroyed the consensus.

So there are areas that just about every Member in this Chamber can agree upon should be dealt with. Let us deal with them. Let us deal with them.

So I say here and now that this is a Senator who is willing to compromise, who is willing to examine the problem with title X. I believe we should look at how to proceed to deal with interstate banking. I might add that interstate banking is happening. Why stop the process? We should continue it.

It would seem to me that, before the hour gets late and tempers begin to get frayed, an examination of how to not discriminate against the banks of California and New York would be appropriate.

I would not attempt to filibuster those provisions dealing with securities powers. Let's vote on those provisions. Let the bill of the Senate prevail.

However, having said that, I will try and kill the bill because of title 10. Any Senator would do the same if it discriminates against New York.

I would hope that maybe at this time that we might be able to fashion a vehicle that would permit this Senator simply to allow the bill to pass. To do this, let's strike title 10.

I have not undertaken a filibuster in the past. I hope that the necessity for me doing it in the future would be nonexistent and at the very least limited. I do look forward to filibustering. But I have an obligation to my people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. D'AMATO. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. GARN. Mr. President, last evening, the Senate overwhelmingly voted, 89 to 3, to limit debate on the motion to consider the so-called banking bill. In about 20 minutes, we shall vote on the motion to proceed. I hope that the result will be the same, that the Senate will conclude that it is at least fair to have a bill before the Senate so that we can consider it.

Before I speak any more about the bill, Mr. President, I should like to correct a statement that concerns some people. It was in a UPI story. I quote one paragraph.

Even so, he said, lobbyists for the American Banking Association and New York's biggest banking firms—Citicorp and Chase Manhattan—are out to kill it rather than seek changes.

The correction I would like to see made for the record is to say that the American Banking Association supports the bill. How that got in the story—I thought I was very clear about meaning two banking firms who had decided to try to kill the entire bill.

As I read the list of all the organizations that support the bill, even though they may disagree with some parts of it and wish to change it, the American Banking Association was one of those that should not have been included in the position with Citicorp and Chase Manhattan.

Let me just say once again what has been repeated several times on this floor, and very eloquently by my colleague from Wisconsin yesterday, about a major part of this bill and why I guess I am surprised that a couple of banks and the securities industry would say, "If we cannot be guaranteed that we have our way on the provisions we do not like, we will kill the entire bill." I think it might be useful to point out what some of those other parts are and what they are doing. When I called them greedy, I meant it—I repeat it again today—because of their willingness to come out on the floor and have those who favor their position argue in favor of that position. In the case of title X, I understand why the Senator from New York does not like title X. I understand why those banks do not like title X. But we can certainly resolve that issue on the floor by debating the substance of that title and having an up or down vote by the Senate.

But there are 11 titles to this bill. We have not discussed any of them. All we have talked about is title X primarily. But we have amendments to the Federal Reserve Act that are not controversial, amendments to the National Housing Act that are not controversial, amendments to the Homeowners' Loan Act of 1933, amendments to the Federal Home Loan Bank Act, leasing authority of the national banks; we also have a title of credit union amendments, credit union loans to homeowners, faithful performance, membership officers, powers of the board of directors, nonparticipation in the credit union, change in insurance status, sunset of credit union conservatorship authority. These are not controversial but important, very important to the credit unions of this country. So here we have two New York banks who say, "We don't care about all the credit unions in this country and all of the millions of people who have deposits in them. We are not going to allow you to consider those changes because we don't like title X."

We have title III on bankers' banks that are not controversial, helpful to the whole banking industry if those are passed. We have consumer leases and lease-purchase agreements. There has been some controversy about that, so we have some amendments to the Consumer Credit Protection Act. So they are saying, "We don't care about the consumers in this country involved in leases. We are going to kill that section, too."

We also have a deposit availability title, disclosure of fund availability policies, interest on deposits, improved clearing procedures. There has been a lot of talk about banks delaying clearing of checks for a couple of weeks and what that does to depositors and the availability of their funds. We are correcting some problems there as well. But the securities industry and big banks in New York say, "We don't care about that, we don't care about consumer protection." They do not care about all these other titles that have been referred to by both the ranking minority Member and I as noncontroversial. I just thought it might be useful to my colleagues before we vote to proceed with this bill to know if we do not get it up and pass it, regardless of how we resolve the four controversial issues by a vote of the Senate, what is going to be tossed out and why I have continually said that if we could not have a comprehensive bill, there would be no bill. Never have I said it had to be my bill exactly intact but a comprehensive bill and not simply a loophole closer, because the House bill is not even addressing many of these things. I do not know why. There has been a lot of rhetoric that we ought to do something about check-cashing policies and so on. In the same section we have civil liability, effect on check acceptance policies and other laws. Most people probably do not know this is all in here. All we have been talking about is regional banking and municipal revenue bonds, mortgage bank securities and the South Dakota loophole—a small part of the bill.

We also have credit deregulation and availability on business and agricultural credit, Federal credit unions. We also are dealing with a highly important situation of broker deposits. If you look into many of the banks that have failed in this country the last couple of years, you are going to find that they had abnormally high percentages of their deposit base in broker deposits, some of them more than 70 percent. That is hardly the way to build a bank. So everybody has agreed we ought to do something about the misuse of broker deposits, and we are doing something about it in title VIII.

We have amendments to the National Housing Act, amendments to the Federal Deposit Insurance Act.

Title IX deals with fraudulent use of credit cards and debit cards. That has been a concern to both the House and the Senate and certainly to the consumers of this country. The House is anxious to have a bill on credit card fraud. We are anxious to have that title passed. But again we are being told by a couple New York banks and the securities industry, "We don't really care about that title. We will worry about credit-card fraud some other day."

I do not want to extend this too far and have anybody from what I have said think the implications are that

they are not concerned about credit-card fraud. What I am saying, I want to make it very clear so nobody misunderstands, indirectly they are saying at this time, "Because we don't like title X, we are willing to kill every other title of the bill. We will worry about credit-card fraud and leasing arrangements and deposit availability and check-cashing privileges at some other time." As we get into this, what I said about the greed involved ought to be evident. They are saying, "My way or no other way," like when we were little kids; if we did not like the way the game was going and owned the ball, we would take the ball and go home. The big money center banks are saying, "We want to take the ball and go home. We don't want to play. We don't want to play out on the Senate floor and have these amendments brought up and let the Senate work its will. We simply don't like title X." The securities industry does not like banks to even consider the thought of having competitive municipal revenue bonds. They do not care that the National League of Citizens and the U.S. Conference of Mayors, representing all the mayors and city councils in this country, more than 15,000 units of local government, think that their taxpayers would benefit by having better rates on the bonds that they sell. As a former mayor, I will guarantee you that when I used to float bond issues, if there had been more competition for the issuance of those bonds, the people of Salt Lake City would have paid less taxes to retire those bonds. The securities industry does not want competition. They like it the way it is; they make more money that way. So I think that my comment about greed is rather well-founded as we look at the rest of the bill and see what they are willing to defeat because they do not like a particular title. And I guess they do not have the courage to face the vote of the Senate because they do not know how it is going to turn out.

Well, I do not either. I do not know how the Senate would vote on these controversial issues, but I am willing to accept what a majority of this Senate says. I wish the securities industry and Chase and Citicorp were as well, but they are not. I do not know, maybe that should be an indication to me that I have the votes to keep those sections, but I do not really know that. I am willing to take the chance, but they obviously are not.

We also have other amendments to the Truth-In-Lending Act, model form amendments, amendments to the Fair Debt Collection Practices Act, payment system amendments, NOW account amendments, amendments to the Securities and Exchange Act of 1934.

So here we are, title X is not liked by a couple of banks, a couple of new provisions opposed by the securities industry, so their attitude is "Let's kill the whole bill." I wish I understood that kind of attitude. I wish I understood why people are not willing to let the judgment of 100 elected Representatives of the people of this country decide an issue. I suppose that is unfair in a way. I filibustered a bill back in 1975 when I was a freshman, but I did not like the whole bill. I was opposed to the whole bill. That I could understand. If they were telling me, "We don't like any of this bill, we are opposed to the whole thing," I understand filibusters on that concept. But I fail to understand, when only about 5 percent of it is controversial, why you are going to attempt to kill 95 percent to get at the 5 percent.

We have now been on this bill since last Wednesday. This is the 5th day—no, I take that back. We have not been on the bill since last Wednesday. We have been talking about taking up the bill since last Wednesday. I suggest that in those 5 days we could have adequately, on the merits and the substance, discussed all of the controversial issues and let the Senate decide who they think is right and who is wrong as to what should be in this bill.

But I hope my colleagues will not throw the baby out with the bath water; that because we have some who do not want to face those issues on the floor, we throw out all these sections about which I have talked.

Before we vote, let me remind my colleagues once again that although there are a lot of people who have disagreements with various parts of this bill and would like to see it changed—among the list I am once again going to put in the RECORD—nevertheless, they think it is important that we have a bill. They feel that they have been treated fairly through the thousands of pages of testimony, the multiplicity of hearings over not just 2 years but over the last 4 and even beyond that. Many of these issues were discussed when Senator PROXMIRE was chairman of the committee. Many of them have been discussed during the entire decade I have been in the Senate. They feel that they have been treated fairly. They have had their day in court and would like to change some aspects of the bill, but they are willing to accept what the Senate does and not block the whole bill. I understand and appreciate that kind of attitude.

People will come to me and say, "Hey, JAKE GARN, we're going to do everything we can on the floor to amend your bill or to take something out of it, be we are willing to allow the bill to go forth and be passed, whether we get our way or not on an individual item."

So there are groups that do support passage and have some reservations about particular sections, as I have said, to be fair to them, such as the U.S. League, the National Council of Savings Institutions, the American Bankers Association, the Independent Bankers Association, the Dealer Bankers Association, the Independent Insurance Agents of America, the Professional Insurance Agents Association, the National Association of Life Underwriters, the National Association of Casualty and Surety Agents, the National Association of Surety Bond Producers, the American Council of Life Insurors, the Mortgage Bankers Association, the National Association of Homebuilders, the National Association of Realtors, the Western Independent Bankers, the Association of Bank Holding Companies, the Treasury Department, the administration, the Federal Reserve, and many other affected agencies.

In addition, as I have already alluded to, the Government Finance Officers Association favors the adoption of municipal revenue bonds, as do the National League of Cities, the National Conference of State Legislators, the National Governors Association, the National Association of Counties, and the U.S. Conference of Mayors. That just about includes everybody, everybody who is interested in this bill, except two New York banks and some New York banks which do not have the courage to be public—but they hope Chase and Citicorp succeed—and the securities industry.

Once again, we have two groups, relatively small compared to all the other groups which think we should have a bill, and they are willing to try to modify it in one way or another.

I think that fits my definition of selfishness and greed, that these two set themselves up as the judge, to block many titles of this bill in order to get their own way, compared to all these others.

I think it is important that we note the importance of some of them, such as the National Association of Homebuilders. No industry has been harder hit than they have in the last few years. Many of them have gone out of business, and one of the primary reasons for that is the availability of mortgage credit. There is not a lack of people who want to buy homes in this country. There is a lack of people who can qualify for those loans because of the high interest rates and the unavailability of mortgage money. So the National Association of Homebuilders support mortgage-backed securities, hoping to develop a secondary market and make more money available for people in this country at more reasonable rates.

The same situation applies with respect to the Mortgage Bankers Association.

So there is overwhelming support across this country for a bill—not in exactly the form that has been pre-

sented to the Senate, but that is what the process is all about.

We have gone through the initial stages—the hearings, the markup, all the committee work—and now we are on the floor of the Senate, through the legislative process, expecting amendments to this bill, willing to consider them, and to allow the Senate to vote. I hope we will do that.

I expect the Senate to decide that we will take up the bill later this afternoon and finally get some opening statements and start discussing the substance of the bill and many of its provisions, but I fully expect a further filibuster and a cloture motion to be filed, now that we have crossed one bridge and have others to follow in this process.

I also hope that, as a result of this discussion, those people who feel it is important to kill the entire bill, with all these important consumer issues and other needed provisions that are contained in this bill, might reconsider their position and decide that, rather than kill the entire bill, they are willing to fight for or against the provisions they do or do not like within the bill and accept the will of the Senate. They might be surprised. They might win. I do not know. It would be a much nicer and cleaner way to fight the bill, without having to attack all these other provisions indirectly about which they are not necessarily concerned.

Mr. PROXMIRE. Mr. President, I spoke yesterday on this issue that is before us now, whether we should take up the bill, and I will not repeat myself, except to say that I think the committee has done a whale of a lot of work on this bill. Most of it is noncontroversial. It does have the great approval of the people the Senator from Utah so clearly and persuasively argued support it, including the banks, the savings and loan institutions, the credit unions, the Governors, the regulators, the administration. He is right. The only real opposition to this bill is very limited, and I think they have a strong case for their position.

Certainly, this Senator does not approve every part of this bill. I have several amendments I intend to offer, and I hope I can win support for them.

This certainly is not the kind of bill that should be killed outright. If it were killed outright, I think the financial situation of this country would be in very serious straits. We need strong financial institutions, independent financial institutions, locally owned financial institutions. We need institutions that are not involved in a whole series of conflicting areas.

I think this bill does a reasonable job of trying to prevent the most serious problems that have developed in recent years. This year, with only two-thirds of the year gone, we have already had more bank failures than any year in the last 5 years. Of course, we had a huge bank, the Continental Illinois Bank, which would have failed had it not been for the involvement of the Federal Government. So we do have work to do.

This bill, among other things, will make our banking system safer and sounder and will provide for greater certainty on the part of American business and therefore help our economy significantly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATTINGLY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the time of 11:30 a.m. having arrived, the question is on agreeing to the motion to proceed to the consideration of S. 2851.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico [Mr. DOMENICI] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. LEVIN] is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. LEVIN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—95

Andrews	Durenberger	Johnston
Armstrong	Eagleton	Kassebaum
Baker	East	Kasten
Baucus	Evans	Kennedy
Bentsen	Exon	Lautenberg
Biden	Ford	Laxalt
Bingaman	Garn	Leahy
Boren	Glenn	Long
Boschwitz	Goldwater	Lugar
Bradley	Gorton	Mathias
Bumpers	Grassley	Matsunaga
Burdick	Hart	Mattingly
Byrd	Hatch	McClure
Chafee	Hatfield	Melcher
Chiles	Hawkins	Metzenbaum
Cochran	Hecht	Mitchell
Cohen	Heflin	Moynihan
Cranston	Heinz	Murkowski
Danforth	Helms	Nickles
DeConcini	Hollings	Nunn
Denton	Huddleston	Packwood
Dixon	Humphrey	Pell
Dodd	Inouye	Percy
Dole	Jepsen	Pressler
Proxmire	Sasser	Trible
Pryor	Simpson	Tsongas
Quayle	Specter	Wallop
Randolph	Stafford	Warner
Riegle	Stennis	Weicker
Roth	Stevens	Wilson
Rudman	Symms	Zorinsky
Sarbanes	Tower	

NAYS—2

Abdnor	D'Amato

NOT VOTING—3

Domenici	Levin	Thurmond

So the motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I would like the clerk to report.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2851) to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

The Senate proceeded to consider the bill.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, today is Tuesday. There are caucuses of both parties away from the floor of the Senate. I ask unanimous consent that the Senate now stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12 noon, recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GORTON].

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The Senate resumed consideration of the bill.

Mr. GARN. Mr. President, I thank my colleagues for allowing us to finally get this bill up for consideration

after 5 days of discussing it but not actually having it before the Senate.

Mr. President, the financial services sector of our economy is in the midst of rapid evolution.

The phasing-out of Regulation Q controls is benefiting consumers, but it is also raising the costs of doing business for depository institutions. To cover those higher costs, depository institutions need new products to offer their customers.

At the same time that our traditional depository institutions are facing higher costs, they are also facing new competition from diversified providers of financial services.

The last decade has brought enormous changes in the financial services industry, largely because of improvements in the technology of delivering services and imaginative new financing techniques. Throughout this period, banks and thrifts alone, among all the providers of financial services, have been subject to a regulatory structure created 50 years ago.

Companies like Sears, Roebuck are in the forefront of this new competition. Sears combines investment banking services—including deposit-like mutual fund services—with insurance services, real estate services, and Sears Savings Bank.

Most importantly consumers are voting with their dollars in favor of the convenience offered by these new diversified competitors.

These new competitors have capitalized on the limitations to which traditional depository institutions are subject. For the first time, we have institutions which operate as banks, but eschew the label of "bank," principally to avoid statutory restrictions on their activities. It is time that banks and thrifts be brought into the 1980's to compete with these new competitors, through a few modest changes in the regulatory limits on their activities.

The financial services sector of our economy also is being reshaped by market evolution. A major change has occurred in the municipal finance market where revenue bonds have replaced general obligation bonds as the most important term-financing instrument for States and localities.

An equally significant change is occurring in the mortgage finance market where the secondary mortgage market is rapidly growing in importance.

Government at the State level is responding to this rapid evolution in the financial markets. State legislatures are acting on expanded powers for depository institutions and on expanded geographical markets for depository institutions.

It is now time for Congress to address the issues.

To ensure that the issues facing our financial system and the legislation dealing with such matters would be examined fully, the Banking Committee, during this Congress, has held 34 days of hearings and received testimony from 248 witnesses representing regulatory agencies, consumer and labor groups, trade associations, and other interested persons. The Banking Committee's printed hearing record on these matters is 8,060 pages long.

S. 2851, the product of these extensive hearings, exhaustive analysis, and a thorough markup session, represents the appropriate legislative response to the issues raised by the rapidly changing financial services marketplace.

To give Congress time to study the issues raised by financial marketplace developments and time to develop responsible legislation, the Comptroller of the Currency first imposed a moratorium on granting charters for nonbank banks on April 5, 1983—17 months ago.

That first moratorium was scheduled to expire on December 31, 1983, but it was extended to March 31, 1984. I, among others, requested the Comptroller of the Currency to do that. To give Congress even more time to act, the Comptroller imposed a new moratorium on May 9 retroactive to March 31. Again, I requested that he do that. The new moratorium runs until the end of this Congress.

Surely, Congress has been given adequate time to develop an appropriate legislative response to the issues raised by the evolution of our financial services marketplace.

As a matter of fact, at each time we have had these moratoriums, I have received promises from many of my colleagues in the Senate that, by the end of the moratoriums, they would be willing, able and ready to make decisions. So I am a little bit surprised when these 6-, 8-, and 10-month periods roll on and on. It is always just "give us another 6 months." It seems to me that then it becomes a stall and the promises of being willing to make decisions on these issues, regardless of what those decisions finally turn out to be, were not as sincere as I had hoped at the time they were given.

S. 2851 is an appropriate legislative response. The legislation does not address all of the issues that I had hoped to address, but it does take modest steps forward that are significant.

It is a limited and modest proposal to give depository institution holding companies a few of the abilities of their powerful competitors in the financial services marketplace. These additional services are extremely narrow expansions of the authority of banks, and will promote competition, to the benefit of consumers, State and local governments, and small businesses, as well as banks.

S. 2851 redefines the word "bank" in the Bank Holding Company Act, thereby closing the nonbank bank loophole. S. 2851 also closes the South Dakota insurance loophole. It authorizes depository institution organizations, through separate nondepository affiliates, to engage in conservative, safe and sound securities activities which are closely related to the traditional business of depository institutions, specifically, authority to underwrite mortgage-backed securities, commerical paper, and all types of municipal revenue bonds. In addition, the bill reaffirms existing securities authority such as discount brokerage services and investment advisory services. It allows a State to open its banking market to institutions from other States in a particular region or, if the State so chooses, to all other States. It establishes rules for the regulation of brokered deposits. It tightens Federal law concerning credit card fraud and consumer leasing. It provides for the payment of interest to depository institutions on reserves held only against money market deposit accounts and super NOW accounts. It requires depository institutions to disclose the waiting period before customers have access to funds deposited by check, and it seeks to expedite the check-clearing process. It reinstates a Federal usury preemption to assure a continued availability of credit for the business and agricultural sectors of our economy.

Now, let me summarize what the bill does not do. It does not expand the insurance or real estate activities of bank holding companies or other depository institution organizations. Statements regarding this point have been very misleading around the country. As a matter of fact, those authorities were deleted from the bill before we even went to markup. S. 2851 does not permit depository institution organizations to underwrite corporate stocks or bonds. We are not proposing a return to the combining of commercial banking and investment banking, and therefore, the bill certainly does not undo the Glass-Steagall Act. With regard to expanded activities, we are proposing a few, simple, straightforward amendments to depository institution statutes to benefit consumers, businesses, and local governments through increased competition in the markets for municipal revenue bonds, mortgage backed securities, and commercial paper, while reaffirming existing securities authority such as discount brokerage services.

Mr. President, these securities activities reflect the need to accommodate change in the financial marketplace. They are consistent with the purposes of the Glass-Steagall Act and with the original exceptions to and periodic revisions of that act.

S. 2851 authorizes depository institutions to form securities affiliates that can underwrite municipal revenue bonds and deal in such bonds. This au-

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thority for depository institutions will bring new competition to this highly concentrated market and, thereby, lower financing costs for States and local governments.

I repeat what I said earlier today: the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, all the local municipal and county governments of the country support these new authority for depository institutions because they believe the result will be lower cost of government in their local jurisdictions.

This is accomplished through a very modest expansion of the activities that depository institutions are permitted to engage in. Banks already underwrite and deal in general obligation bonds. Thus, they already have the in-house expertise to perform the same activities in the closely related revenue bond marketplace. Equally important, underwriting and dealing in revenue bonds will not expose depository institutions to any new type of risk.

At the time of passage of the Glass-Steagall Act, municipal revenue bonds were virtually unknown. Yet, because of this accident of history, banks presently are prohibited from dealing in these bonds, although they are just as safe as general obligation bonds, and today constitute three-quarters of the total tax-exempt bond market. It is no coincidence that the industries that have opposed expanded bank powers are the same people who today control this market. They do not want the competition.

Who are the people who would really be helped by giving banks this authority? Municipal revenue bond authority for bank securities affiliates has been endorsed by the National Governors Association, the Municipal Finance Officers Association, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the American Public Power Association, and many other municipal and State associations—virtually everyone who has an interest in low-cost finance. Only those who have a corner on the market—three-fourths of the bond market of this country—are opposed to granting this new authority.

Congress already has approved bank underwriting of certain municipal revenue bonds, such as those issued by TVA, the Asian Development Bank, the Washington Metropolitan Area Transportation Authority, and various housing, health care, university, and dormitory projects.

This was not because those issues were safer, but because Congress was especially aware of the need to hold down underwriters' fees on those projects. The same analysis applies to all municipal revenue bonds, and S. 2851 merely fixes the historical anomaly which has prevented banks from underwriting municipal revenue bonds. The support of the Board of Governors of the Federal Reserve, the Comptroller of the Currency, and FDIC for this power further evidence that this is not a safety and soundness issue.

Allowing depository institution securities affiliates to underwrite all types of revenue bonds will save millions of dollars for cities and States and, most important, users of airports, highways, and other public facilities. The municipal bond underwriting market is heavily concentrated. In 1982, the top 10 revenue bond underwriters, all of which were securities broker/dealers, controlled nearly 50 percent of the market.

We constantly hear about the fear of concentrations, that we cannot allow the 10 biggest banks in this country to control whatever they are supposed to control. But we fail to recognize that the concentrations can occur in other parts of the financial services industry as well.

So, I repeat: The municipal bond underwriting market is heavily concentrated. In 1982, the top 10 revenue bond underwriters, all of which were securities broker/dealers, controlled nearly 50 percent of the market. In comparison, the top 10 general obligation underwriters, both banks and securities firms, controlled only 29 percent of that underwriting market—a great deal more competition. Moreover, the trend is toward more concentration in the revenue bond market, while the general obligation market is becoming less concentrated. Increased competition in the revenue bond market would result in reduced underwriting fees and improved services for public issuers.

As a former mayor, I am especially aware of local financing needs and operations. After having served on the Banking Committee for almost 10 years, I am more convinced than ever that Congress should authorize depository institution securities affiliates to underwrite and deal in all types of municipal revenue bonds.

MORTGAGE BACKED SECURITIES

One of the clearest and most important needs that faces our Nation in the next decade and beyond is meeting the huge demand for mortgage capital that all experts project. Estimates are that we will need $1.5 trillion to finance housing in the next decade and up to $4 trillion by the end of the century, and that one-half to three-fourths of those mortgages will be financed through securities backed by pools of mortgages. Presently, three federally chartered entities—FNMA, GNMA, and FHLMC—issue 95 percent of the mortgage-backed securities in the secondary market. That ratio, however, very likely will be changed by the end of this decade as the recently developed, privately-issued mortgage backed securities market expands. We must permit depository institution securities affiliates to engage in this vital activity which will do so much to generate more mortgage capital in the coming years of high demand.

COMMERCIAL PAPER

Commercial paper is a term which describes the short-term debt obligations corporations issue to generate operating cash. It is functionally identical to a commercial bank loan, but the default rate has historically been only a small percentage of that for commercial loans. Underwriting and distributing such instruments involves minimal risks.

The commercial paper underwriting market is very concentrated among securities broker/dealers: Seven investment banking firms currently act as agents for over 85 percent of the corporations which issue commercial paper through an agent. Permitting depository institution securities affiliates to compete in this vital part of our capital market, which is increasing more rapidly than the commercial loan market, is an effective manner of ensuring the continued participation of depository institution organizations in serving the short-term credit needs of American businesses.

AMENDMENTS

During the Banking Committee's markup, two amendments were adopted dealing with mutual fund authority and insurance authority.

The mutual fund amendment deleted authority for depository institution securities affiliates to operate mutual funds.

The insurance amendment applied title VI of the Garn-St Germain Financial Institutions Act of 1982 to all subsidiaries of bank holding companies. I remain concerned over the impact of this amendment on States rights and the dual banking system.

NONBANK BANKS

S. 2851 preserves the coverage of the Bank Holding Company Act by redefining the term "bank" under the act to cover all FDIC-insured institutions. By grandfathering "nonbank bank" acquisitions occurring before July 1, 1983, the bill recognizes that these early acquisitions were made in good faith before Congress expressed a clear intention to redefine the term "bank."

This liberal grandfathering is possible because there have been no examples of the misuse of "nonbank banks." Liberal grandfathering also is possible only because the modest expanison of permissible activities for depository institutions in S. 2851 moves in the direction of lessening their competitive disadvantages vis-a-vis the diversified providers of financial services.

CONCLUSION

Mr. President, I repeat that our financial system is going through a transition, that measured changes in our national policy on financial services are needed, and that S. 2851 is the appropriate legislative response to the most pressing issues confronting our depository institutions.

The few, limited expansions of activities authorized by the bill are a measured, but essential, step toward competitive equity and better, more efficient financial services for consumers and businesses.

Mr. PROXMIRE. Mr. President, the Financial Services Competitive Equity Act, S. 2851, is a constructive attempt by the committee to close some of the more gaping loopholes in our banking laws while providing bank institutions with limited new securities powers. The most damaging loophole closed is the so-called nonbank bank loophole which has undermined the separation of banking from other businesses while paving the way for unrestricted interstate banking. The bill also plugs the so-called South Dakota loophole by restricting the ability of States to authorize insurance powers for bank holding companies beyond those available in the Bank Holding Company Act. Finally, the bill closes the loophole in the Glass-Steagall Act which allows State chartered banks not members of the Federal Reserve System to engage in the securities business.

Incidentally, so much of the protest against this bill centered on the securities people. That particular provision, it seems to me, should be more important to them than the new powers that we have which they are so vigorously protesting.

Most banking bills are the product of compromise, and S. 2851 is no exception. The committee had to balance the drive for further banking deregulation against the need to maintain a safe and sound banking system. The benefits of more deregulation had to be weighed against the potential costs of undue concentration or conflicts of interest. Difficult choices had to be made on what services were to be allowed bank holding companies and in some cases decisions were reached only by a close vote.

By and large, the bill reported by the committee is a conservative approach to financial restructuring. The committee rejected the sweeping deregulation proposals of the Reagan administration which would have allowed bank holding companies to engage in a wide variety of real estate, insurance, and other financial services. Instead, the committee essentially reaffirmed the major objectives of our current banking laws as embodied in the Bank Holding Company Act and the Glass-Steagall Act. These laws seek to enforce a separation between the business of banking and other lines of commercial and financial endeavor. They were enacted in previous Congresses in order to promote safe banking, prevent conflicts of interest and unfair competition, and avoid an undue concentration of economic power. These objectives were valid when they were first enacted into law and they remain valid today.

Mr. President, I think that very few Senators and very few people reflect on the fact that we have a unique banking system in this country. Almost every other country in the world has a concentration of banking in very few institutions, whether it is Canada or England or France or Italy or Japan. These countries will have five, six, or seven banks that do about 90 percent of the business. That is not true in this country. We have 15,000 banks. While our big banks do a big share of business, the fact is that the 10 biggest banks do not do the 90 percent as they do in other countries or 95 percent; they do only 30 percent of the business.

We have a really diversified locally owned financial system. The great advantage of that, of course, is that people who live in a community know the community, go to school with the people who are their customers, understand their character, understand much more than you get in any kind of a system where you rely simply on the numbers, run our financial system, and I think that is a big reason why the U.S. economy over the years has been so productive and so efficient and has been ahead of the economies in other countries.

That is one of the elements that has been overlooked but I think that this bill tries very, very hard to preserve.

There has been a tendency for the very big banks to move into other areas to get much bigger, swallow up other banks, and this is an attempt on the part of the committee to provide the kind of diversification, the kind of widespread ownership, and to prevent the kind of concentration and conflict of interest which threatens and could threaten our banking system.

In establishing our financial framework, Congress has traditionally looked upon banks as unique institutions broadly affected with a public purpose. This is because banks are the dominant supplier of short-term business credit, the major source of backup liquidity for our economy, the custodians of the Nation's payment system, and the principal transmission belt for our Nation's monetary policy.

Because of the unique and crucial role played by banks in our economy, Congress has sought to limit their activities so that they can carry on their important functions with objectivity and impartiality and thus ensure safe and sound banking practices. Of course, the corollary of a policy of keeping banks in banking is to keep other businesses out of banking. Separation of function is a two-way street. It makes no sense to confine banks to a limited range of activities while permitting unregulated entities to offer products and services unique to banking. For that reason, Congress has also made it illegal for nonbanking firms to own banks or to offer products unique to banking such as checking accounts.

Many people wonder why we should have this separation. But I think if you reflect on it a minute, consider for instance a firm in the business of leasing automobiles. For that firm the most important single ingredient is access to credit. If it can get credit at good terms, it can beat the competition. Suppose the bank comes along and gets in the business through a holding company and buys a competitive auto leaser. How would you like to be in business against a competitor who had all the capital they want and had it, furthermore, on the basis where it was a competitor who gets the capital at more favorable terms than you could? Obviously it would be a very unfair situation, and the bank would be able to run out of business any competitor who wanted to get into the field.

This is true of almost any business which relies heavily on credit. And, of course, many of our businesses do, and that is why we would have a much less fairer system, much less competitive system if we permitted banks to get into real estate and get into some of these other areas that they are so anxious to get into.

In addition to limiting the activities of banks, Congress has also limited the ability of banks to branch across State lines. The Bank Holding Company Act prohibits the ownership of banks outside the State where the holding company is based unless specifically permitted under the law of the targeted State. As a result of these prohibitions, the banking system of the United States is more decentralized than any major country, and I already indicated the statistics on that. In most advanced industrial countries, the top 10 banks have upward of 90 percent of banking deposits; in the United States, the top 10 banks have less than 30 percent of bank deposits.

A decentralized banking system promotes not only greater competition but also more local control over local credit decisions. With over 14,000 banks in our country, most borrowers can have access to a locally owned and controlled bank to meet their credit needs. If we were to convert to a highly concentrated European banking structure, most of the credit decisions affecting our local economies would be made in New York, Chicago, and a few other financial money centers.

The congressional policy of maintaining a separate and decentralized banking system has come under attack from three fronts. First, attorneys have shown remarkable ingenuity in discovering and expanding upon loopholes in our present banking laws in order to circumvent existing legal restrictions. The "nonbank bank" is a classic example. Under the Bank Holding Company Act, an institution is not a bank unless it both makes commercial loans and accepts demand deposits. If it forgoes one of these two services, it is not a bank for Bank Holding Company Act purposes even though it may have been chartered as a bank under State or Federal law.

If a bank wants to avoid the restrictions of the Bank Holding Company Act, it can simply convert all of its demand deposits to NOW accounts and turn itself into a "nonbank bank." It can then be owned by any company no matter how far removed its business may be from banking. Similarly, existing bank holding companies can evade restrictions on interstate banking by purchasing or establishing nonbank banks across State lines irrespective of State law. Or a bank that wants to get into exotic new activities not permitted to banks or bank holding companies can turn itself into a nonbank, form a holding company, and engage in the forbidden activities through a separate subsidiary of the holding company.

In short, the nonbank bank loophole makes a shambles of the Bank Holding Company Act. There are now hundreds of applications for nonbank banks awaiting approval by the Federal bank regulators. Most of these are from giant, money center banks seeking to establish nonbank banks in other States. The Comptroller of the Currency, an ardent proponent of interstate banking, has vowed he will approve most of these applications unless Congress acts to prevent it. Thus, if Congress does not close the nonbank bank loophole, our decentralized banking system can be radically transformed almost overnight.

A second challenge to congressional banking policy has come from the Federal bank regulators themselves. One of the shortcomings of our bank regulatory system stems from the fact that the regulators are often drawn from and return to the banking community. As a result, regulators tend to view restrictions on banks more from the perspective of bankers—that is, as obstacles to "progress" where progress is defined as an ever expanding empire for the banking business. Efforts to restrict banks are not seen as legitimate objectives of public policy but rather as the efforts of selfish industries to protect themselves from bank competition.

Given this mindset, bank regulators have often ignored the statutory framework regulating banking established by Congress in favor of their own views on how the financial services industry should be structured. For example, the FDIC recently declared that the 50-year-old Glass-Steagall Act prohibition separating banking from the securities business should no longer apply to State-chartered banks that are not members of the Federal Reserve System. The Comptroller of the Currency aided and abetted the development of the nonbank bank loophole through "creative" interpretations of Federal law. The Federal Reserve, whose members are generally not bankers, has been the only agency that seems to give any deference to the laws passed by the Congress.

The third challenge to congressional banking policy has come from some States which have come to look upon their banking laws as instruments of economic development to be redesigned simply to lure a few hundred clerical jobs into a State. For example, in early 1983, South Dakota amended its banking laws to permit its State-chartered banks to engage in virtually any kind of insurance activity. In doing so it carefully provided that these insurance activities could not be performed inside the State if they would adversely affect insurance companies or agents operating within the State. But no such restrictions are applied to operations outside the State.

Shortly after the South Dakota law was passed, Citicorp, the Nation's largest bank holding company, applied to buy a South Dakota bank with the intent of using that bank to engage in a nationwide insurance business. While South Dakota may gain a few hundred banking jobs, the congressional policy of keeping banking and insurance separate was undermined. In effect, South Dakota determined banking policy for the other 49 States while insulating itself from the consequences of its own actions.

While S. 2851 reaffirms current banking policy as established by Congress, it nonetheless does provide bank holding companies with limited new securities powers. In particular, it would allow bank holding companies to underwrite and deal in municipal revenue bonds and mortgage backed securities. There is no credible evidence that the basic objectives of the Bank Holding Company Act or the Glass-Steagall Act would be threatened if bank holding companies were authorized to exercise these two limited powers.

With respect to underwriting municipal revenue bonds, it should be noted that when Congress passed the original Glass-Steagall Act in 1933, it specifically allowed banks to continue underwriting general obligation bonds of State and local governments. The Congress determined that the abuses involved in underwriting corporate securities did not extend to underwriting municipal bonds. As a result, banks have continued to underwrite general obligation bonds of State and local governments during the last 50 years with no documented instances of abuse.

Unfortunately, in providing an exception for general obligation bonds, the Congress failed to distinguish between these bonds and municipal revenue bonds which, in 1933, were a seldom used means of municipal finance. A general obligation bond is backed by the full faith and credit of the State whereas a revenue bond is backed by the revenues from a specific project such as bridge tolls. Today, revenue bonds account for more than half the volume of municipal financing although banks by law are precluded from competing. Studies over the years have indicated that the cost of issuing municipal revenue bonds could be reduced if banks were allowed to compete directly with investment banking firms as they do in the general obligation bond market.

Because investment banking firms have a monopoly on revenue bond underwriting, there is considerable economic concentration in this market which translates into less competition and higher borrowing costs for State and local governments. The 10 leading underwriters of revenue bonds—all of which are investment banking firms—accounted for 49 percent of the market in 1982. By way of contrast, the 10 leading underwriters of general obligation bonds—where commercial banks can compete—accounted for only 29 percent of the market. Moreover, the revenue bond market is becoming more concentrated over time whereas just the opposite is true of the general obligation bond market.

Since bank underwriting of revenue bonds will lower State and local borrowing costs, State and local organizations strongly support the committee's action. These include the Government Finance Officers Association, the National League of Cities, the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, and the U.S. Conference of Mayors.

The other new power authorized for bank holding companies is to underwrite and deal in mortgage backed securities. A mortgage backed security is a bond-type instrument secured by a pool of conventional mortgage loans. These new instruments have been developed in the private sector as a way of enhancing the flow of funds into residential mortgage investments. While banks can issue mortgage backed securities as originating mortgage lenders, they are precluded by law from selling them to the ultimate investor.

As in the case of revenue bonds, the market for mortgage backed securities will be strengthened if banks are allowed to compete with investment banking firms. The ultimate beneficiary will be the American home buyer whose borrowing costs will be reduced. For these reasons, this provision of the bill is supported by the National Association of Homebuilders and the National Association of Realtors.

Mr. President, notwithstanding the substantial benefits of S. 2851, in my view it must still be regarded as a flawed product. It encourages the merging of bank and thrift industries that may not be in the best interests of a strong home-financing system. I think that is unfortunate because the thrift industries have their function and if we are going to be able to finance homebuilding and individual home purchases we found that in the past it is necessary to have strong independent home financing industries and the thrift industry has had that function. And this bill unfortunately, as I say, encourages a merging of the banking and thrift industries and in that sense may threaten the ability of homebuilders and home buyers generally to get the kind of financing they need in the future.

Also it promotes regional interstate banking in a way that sacrifices local control over banking without maximizing competition.

I think that is an important matter that I hope we can amend and change because, as I say, the unique distinctive element of American banking is its local control, and I come at this regional problem from the opposite way that the distinguished Senator from New York has. Whereas he favors, as I understand it, nationwide branching, I feel that we should confine branching to, as we have in the past, by and large, to individual States so that we encourage individual local ownership.

Finally, Mr. President, the most serious weakness in the bill and one that I do hope that the Senate will reform is it hands large banks a $4 billion bonanza, $4 billion over 6 years at the expense of the U.S. Treasury.

I think that is a serious, serious mistake, particularly at a time when we have a very unfortunate problem. I think the most damaging problem with respect to our economy is the size of the deficit and the size of the national debt and the growing size of the debt and this, of course, would increase the debt at a rate of $4 billion over 6 years and at an increasing rate as time goes on.

So I am hopeful some of these flaws can be corrected as the Senate proceeds to debate the legislation.

Mr. President, in closing, I would like to commend our chairman's leadership. I did that the other day, but I think it is well worth while emphasizing once again. As I say, I have been in the Senate a long time—27 years. I have been on the Banking Committee every 1 of those 27 years. I have served as chairman of that committee for 6 years and as ranking member for 4 years. I do not think I have ever seen a more diligent or nearly as diligent a chairman as we have now. He has worked extraordinarily hard, has broken all records as far as the committee is concerned in the time that he has devoted to this bill—endless days of hearings over a period of 15 months, 4,500 pages of testimony, 72 witnesses. As we all know, we have a complicated as well as a diversified financial system, and the chairman of the committee, I think, has done a superlative job under tough circumstances.

Although, as I have indicated, I do disagree with him on many of the important issues, nevertheless he has put together a bill which I will enthusiastically support and which I think merits the support of the Senate.

I think we should be very sensitive to the fact that our economic system and our banking system could get into difficulty. The fact is that we have had failures over the past few years and the failures of this past year, as I indicated yesterday, are greater than they have been at any time in the last 50 years. We have to be very careful about ensuring the safety and soundness of our banks. This legislation will help greatly in moving, in my judgment, in this direction and away from a very dangerous tendency for our banks to get into difficulty.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, first let me thank my distinguished colleague from Wisconsin for his overly generous remarks. I will read them to my children tonight and make them feel very proud. They are not deserved, but I appreciate them anyway.

I would add that I had 6 years to watch the former chairman at work, so I tried to listen and observe during those years and learn from his example.

● Mr. LAUTENBERG. Mr. President, I rise in support of the pending bill. The Financial Services Competitive Equity Act, S. 2851, is the product of 2 years of hard work, extensive hearings, and vigorous debate in the Senate Banking, Housing, and Urban Affairs Committee.

On balance, I believe the result is a reasonably balanced measure that will promote greater rationality and consistency in the regulation of the financial sector. In a larger sense, of course, it is the latest installment in the continuing effort to adjust financial policy to a rapidly changing environment.

S. 2851, Mr. President, is a complicated piece of legislation. It deals with a broad range of complex and even arcane subjects, from nonbank banks to qualified thrift leaders to golden parachutes. But its core provisions, in my view, are the ones aimed at restoring the integrity of our financial policy framework.

Banks and other depository institutions play a unique and critical role in our economic system. They provide a reliable payments system. They furnish a secure repository for liquid savings. They aggregate funds and serve as impartial allocators of credit. And they operate as the transmission belt for monetary policy, linking actions by the central bank to the real economic factors they are intended to influence.

For this reason, changes affecting the function of these institutions and their relationships to the broader financial and economic system raise fundamental public policy issues. They are not merely matters of private interest to the financial service industry per se.

Established policy in this area has, for more than half a century, drawn certain distinctions among different types of financial institutions and between the financial sector and the larger economy. If these boundaries are to be altered, the change should come as a result of a conscious policy decision by the Congress. We should not stand by and allow existing policy to be rewritten willy-nilly by clever lawyers, novel technologies, and complaisant regulators. If the structure of our financial system needs to be realigned, then it is up to the Congress, which is collectively supposed to represent the public, to decide what new arrangements will better serve our needs as a nation. The near collapse of Continental Illinois and the trouble surrounding the Financial Corporation of America suggest a cautious approach in this regard.

This bill, Mr. President, may not be perfect. Products of the give-and-take of the legislative mill seldom are. And it is admittedly controversial in some respects. But it is, in my judgment, a necessary step in the right direction. Its central provisions begin the task of reestablishing a stable and consistent statutory framework for the regulation of the core institutions of our financial system.

It significantly narrows, if it does not absolutely close, the nonbank bank loophole which has been exploited to evade the restriction on both activities and branching in the Bank Holding Company Act.

It closes the "South Dakota" loophole through which bank holding companies have sought to exploit State regulatory laxity to acquire powers denied them under Federal law.

It closes the "nonmember bank" loophole which would have permitted State banks not belonging to the Federal Reserve to engage in investment

banking contrary to long established policy principles.

It imposes a residential lending test on unitary thrift holding companies, which helps to assure that thrifts owned by nonfinancial parents continue to maintain their commitment to housing finance.

It expands the securities activities permissible to bank holding companies to include municipal revenue bonds, mortgage backed securities, commercial paper, and discount brokerage. The latter two have already been approved by regulation. It authorizes regional interstate banking agreements for an experimental 5-year period.

Taken together, these reforms go a long way toward addressing the imbalances, inequities, and uncertainties that have developed in the financial sector over the past several years.

To be sure, S. 2851 is no panacea for all the strains and problems in our financial system. But it is sound legislation that is responsive to some of the more serious problems we face in financial policy and I hope my colleagues will support it.

In conclusion, Mr. President, I would be remiss if I did not acknowledge the hard work and effective leadership of both the distinguished chairman, Senator GARN, and the able ranking member, Senator PROXMIRE. Both have exhibited that rare blend of perseverance, tact, and flexibility which is indispensable to legislative success.

They are to be commended for moving a bill which is so complicated and touches on so many contentious issues. The Senate owes them a debt of gratitude.●

TITLE X OF S. 285

Mr. MATTINGLY. Mr. President, I wish to commend my colleagues and chairman of the Committee on Banking, Housing, and Urban Affairs, the Honorable JAKE GARN, for including title X in S. 2851. Title X was introduced in the Senate by me originally as S. 2113, and was incorporated into Chairman GARN's deregulation package which is now being considered by this body.

I introduced S. 2213 in order to clarify the intent of Congress when it enacted section 3(d) of the Bank Holding Company Act of 1956. Popularly known as the Douglas amendment, this provision of Federal banking law provides that bank holding companies headquartered in one State may not cross the borders of another State unless specifically authorized to do so by that State.

To date, nine States (including my home State of Georgia) have acted to allow banks from other States in legislatively-defined regions to cross State borders for banking purposes, provided the States granted such a privilege provide reciprocal treatment to banks from the granting State. Another State provides reciprocal treatment to banks in other States on a nationwide basis. Two other States allow their banks to be purchased without restriction.

Such actions represent the healthy diversity found in our dual banking system. Unfortunately, the basic right of each State to determine the nature of the banking system within its borders is being challenged by a few large banks in a single State which would impose their will on the entire banking system. Already, these banking giants, with their vast resources, have waged a titantic struggle.

They have sought to have the Federal Reserve Board deny mergers based on the regionally reciprocal State banking statutes which these banks oppose. The Federal Reserve Board has found the laws on which such mergers are based are indeed compatible with the Douglas amendment; four such mergers have been approved in New England. A few banking giants have sought to have Federal district and circuit courts find that regionally reciprocal State banking statutes are unconstitutional; however, these statutes have been upheld at every level.

But still the bank giants continue their struggle. They are now appealing their case to the Supreme Court, an action sorely testing the limited resources of the regional banks against whom the action is being brought. Why then should Congress become involved in this process?

Congress has become involved in order to clarify the intent of the legislation it passed nearly 30 years ago and to prevent further disruption to the banking system being caused by this unnecessary litigation. Four bank mergers are pending in New England, having been stayed pending the outcome of the ongoing litigation. Another merger has been announced between a Florida and a Georgia bank holding company. These and other strategic plans have been put on hold indefinitely causing needless uncertainty in the quickly changing financial services industry.

By acting now to approve a banking bill containing title X, this body would be alleviating the uncertainty in future planning now present in the 40 States which have or are considering regionally reciprocal banking legislation. Without action now, in this session, we will be allowing a few banks with the most resources to dictate the nature of the banking system in 49 other States. This should not be allowed to happen.

The clarification of Federal banking law brought by the enactment of title X would be to the benefit of the economies and residents of each of the regions in which regionally banking statutes are enacted.

BENEFITS OF REGIONALLY RECIPROCAL BANKING STATUTES

Those States enacting and considering regional banking laws are acting on the conviction that the regionally reciprocal banking statute option serves important economic development and policy concerns. These States anticipate benefits to consumers, to businesses, and to bank shareholders. These benefits are to be achieved within the context of the Nation's historic policy supporting State control of banking resources. Regional banking is expected to act as an engine for regional economic development, with stronger regional financial institutions providing an inducement for growth and relocation, for jobs and development.

This is an experiment. The results are not yet in, nor will they be for some time. The various State laws enacted so far are different in many ways—in the method of entry permitted, in the timeframe under which the law is effective, and even in the State's definition of a "region." One would not expect less in an experiment.

STATE CONTROL OF BANKING RESOURCES

The United States has a history of two centuries of populist concern about large financial institutions. Over the years, people have worried about how interstate banking might affect the concentration of political and economic power, the distribution of credit, the capital adequacy, safety, and soundness of our financial structure, and the role of the dual banking system.

The bedrock of our diverse regional structure, our banking system that conforms to that structure, and our desire to minimize centralized control over the Nation's financial resources is American policy maintaining State control of banking structure. The principles embodied in current Federal banking law recognize that the individual States can best decide such constructive issues. States continually have liberalized limitations on geographic expansion by commercial banks and bank holding companies, even across State lines, and they will continue to do so. But each one acts when it is in the best interest of its citizens to do so. To imply that one approach is optimal for all 50 States is to ignore the existence of our decentralized economic and political heritage.

Regional banking maintains the fundamental public policy of State control of banking structure. Enactment of a congressional sanction for the option to enact regionally reciprocal banking statutes reaffirms the Congress support for this policy.

CONSUMER BENEFITS

Research evidence has indicated that the quality and quantities of services provided by banks are enhanced whenever banking expansion is per-

mitted. The availability of credit to locally limited consumers is also increased due to the entry of banks with more funds available for lending.

With greater resources available to them, banks can capitalize on their size by achieving economics of scale in the money markets, thereby reducing the banks' cost of funds. As deregulation of interest rates paid to consumers continues, this will become increasingly important in order to provide consumers with the highest return possible on their savings. Greater size also permits regional banks to more easily and efficiently add new products from which consumers will benefit. Thus, regional banking will bring benefits to consumers in the form of more, better, and competitively priced banking products and services. Additionally, regional banking gives consumers peace of mind, knowing that their deposits are remaining in the region, to help foster the region's development.

BENEFITS TO BUSINESS

The regional banking option will provide economic benefits to business firms, particularly small businesses. Basic economic similarities among groups of States could provide economic efficiencies from limited interstate banking. The bank serving manufacturers in Georgia, for instance, can bring experience and expertise to similar customers in the Carolinas that a Minneapolis bank cannot. Lending to wheat growers in Kansas is similar to lending to wheat growers in South Dakota; oil drilling in Wyoming is similar to drilling in Colorado.

In particular, smaller firms may benefit from increased competition that can result from regional interstate banking. The small furniture manufacturer in Virginia may not be a customer sought by a money center bank moving into that State, but may be desirable to the North Carolina bank already familiar with the business.

COMPETITION

Regional banking statutes improve the level of competition among banks in those States where they are enacted by automatically increasing the number potential entrants to banking markets in the State. For local banking markets, this means the improvement of the level of competition in these markets when a local organization is merged with or acquired by an out-of-State organization.

For example, management and the range of services of the merged/acquired bank can be significantly enhanced by the new parent organization, enabling the bank to compete more vigorously with local banks. In those States where de novo entry is permitted, the entry of a new bank into the market directly increases competition.

CONCENTRATION

Whereas competition is generally evaluated on the local level, concentration is generally looked at from both a local and national perspective. On the national level, numerous factors are at work ensuring that regionally reciprocal State banking statutes do not lead to undesired amounts of concentration in the banking industry. Three of these factors are:

First, bank holding companies expand with a particular local market in mind. However, there are only a limited number of potentially attractive banking markets—markets in which the expanding bank can operate profitably. If all of those banks considering expansion aim at the same attractive markets, many banks will be priced out of the market. Making a profit when paying a substantial premium for a bank would be difficult. In the same way, a rash of de novo entry would increase competition and reduce profitability.

Second, bank holding companies are constrained as well by their own internal limitations. De novo banks require significant new capital, and acquisitions based on stock exchanges are based on the capital markets valuation of the stock involved. When coupled with a limited supply of the management talent needed when forming a new bank or acquiring an existing talent needed when forming a new bank or acquiring an existing one, it becomes obvious that banks simply cannot expand without limit.

A third consideration is the regulatory delay involved in banking expansion. At least one regulatory approval is needed when forming a subsidiary or acquiring a bank. The enactment of regional banking statutes in New England and the Southeast has demonstrated how banks respond to these laws, and has highlighted the regulatory delays possible. An increased flow of applications to regulators, especially those involving new policy questions, slows the pace of regulatory decisionmaking and of banking consolidation.

On the local level, the concentration issue centers on the acquisition of one bank in a local market by another in the same market. All holding company acquisitions, though approved by the State and the Federal Reserve Board, remain subject to the administration of the Sherman and Clayton Acts by the Department of Justice. Ample and dependable machinery for judging the competitive impact of any and all proposed interstate banking consolidations is already in place. Clear standards have been consistently applied by the banking agencies, and have been understood by banks and their counsel, so that mergers that would be prohibited by these guidelines are rarely ever proposed.

Thus, current law and basic banking practicalities help to ensure that, even under regional banking, the U.S. banking system will remain the least concentrated of any major nation.

There are over 14,000 banks in this country; some 90 percent of these are community banks with assets of less than $100 million. California provides a good example of very large banks sharing a market with many small banks and thrifts. This coexistence of many small banks with larger regional and money center banks confirms the ability of these small firms to exist in highly competitive markets.

According to a Federal Reserve Board study published in the Federal Reserve Bulletin in February 1982, concentration of banking resources declined between 1969 and 1980. At the national level, for example, the proportion of domestic deposits held by the 10 largest banking organizations fell from 20.2 percent in December 1969 to 17.9 percent in December 1980. The same trend of decreasing concentration was found using Standard Metropolitan Statistical Areas to approximate local banking markets.

Other financial industries are considerably more concentrated than commercial banking. For example, in the securities brokerage industry, 16 percent of the firms account for 92 percent of total industry assets. By contrast, it would take 35 percent of the Nation's banking organizations to account for 92 percent of domestic banking assets. The top 10 life insurance companies account for 51.5 percent of the total assets of the industry, vis-a-vis 21.7 percent for the 10 largest banking organizations. Continued State control over banking expansion will help to ensure that banking continues to be a relatively unconcentrated industry. And to the extent that regional banking creates strong and more stable banks, State regional banking statutes will promote safety and soundness in the American banking system.

SMALL BANKS

Notwithstanding the fears of smaller banking organizations, regional bank holding company expansion appears to pose no threat to the viability of small banks. The continued presence of small banks in competitive major markets is a tribute to these banks' strength.

Evidence suggests that small firms prefer to deal with smaller banks, and small banks have long operated profitably in this competitive environment. Thus, de novo interstate banking or bank holding company expansion is unlikely to represent a significant change in the competitive structure of small banks. And if a large local competitor is acquired by an out-of-State institution, the small local bank's competitive position is probably improved.

The bank in a smaller city or town may be affected significantly by entry of a large out-of-State bank, but such banks are unlikely to enter de novo into smaller cities. There are limits to the pace at which even the most aggressive bank can expand following a change in the law. The small-city bank is most likely to find itself in direct competition with an out-of-State institution if that institution acquires an existing bank competitor or its parent. But experience has shown that the local bank's ability to compete with the larger bank for small business customers is at least as good as its ability to handle existing competition.

In addition, many small independent banks would have the option under State regional banking statutes to form regional networks of independent banks. In such a framework, these banks could pool resources, such as loan participations and technology, to achieve greater efficiency. Often individual States do not provide large enough settings for sufficient economies of scale—but regions do.

QUALITY OF SERVICE

The level and quality of banking services provided by expanding banks in a regional banking environment are generally enhanced by regional expansion. The availability of credit to locally limited consumers and businesses generally is increased. More importantly, regional banks can be expected to keep and lend funds in the local community. Almost every regional and local banker can tell you of at least one special loan he made in a local community—one of the type that a money center banker would never have considered. Regional bankers have their roots in the local communities within the region. And it is in these communities where regional bankers will direct their resources for regional growth.

PROTECTIONISM

It has been argued by some that State regional banking statutes are an act of economic protectionism, leading to the balkanization of States into banking regions. This turns one of the primary arguments for regional banking on its head, since regional banking actually removes barriers around each of the 50 States. Instead of establishing new barriers, regional banking statutes widen opportunities for broad-based banking with the regions.

Regional banks are economically viable because they are sensitive to the unique needs, attitudes, business practices, and commitments of business and commerce within the region. By expanding with a region, these institutions can develop the financial and managerial resources they need to compete effectively and in a safe and sound manner, while at the same time enhancing competition within the region. Having better capitalized regional banks is an inducement for commercial and industrial growth and relocation, thereby promoting regional development. Other realities are at work in addition to economic ones. Regions share common sociocultural interests, and regional residents will support regional banking growth that leads to greater regional benefits.

CONSTITUTIONALITY

The Federal Reserve Board, after finding that regionally reciprocal State banking statutes are not clearly inconsistent with the U.S. Constitution, has approved four mergers/acquisitions based on such State statutes. However, opponents of these State laws continue to contest the statutes' constitutionality in cases before Federal courts. It has been noted by many observers that a strong case has been made for the constitutionality of these statutes.

The Douglas amendment, section 3(d) of the Bank Holding Company Act, prohibits out-of-State bank acquisitions unless such acquisitions are "specifically" authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by "implication." Congress has exercised its power to regulate interstate commerce by prohibiting interstate banking in the absence of State laws to the contrary. The commerce clause appears in no way to be violated by the affirmation use by the States of rights granted to them by Congress.

For an agreement between States to be unconstitutional, it must encroach upon Federal sovereignty or increase the political power of a State in a manner inconsistent with the Federal system. As the States which enact regionally reciprocal banking statutes act unilaterally and are free to change the laws when and if they choose to do so, no compact requiring congressional approval is created.

Regional banking statutes are economic regulations rationally related to a legitimate State purpose—that is, the preservation of a banking industry that is responsive to local needs. As such, these statutes do not violate the Constitution's equal protection clause. Divestiture provisions contained in such statutes in order to prevent "leapfrogging," and other undesired entry into a State by banks from another State, again are rationally related to the legitimate State purpose these statutes are designed to accomplish. Because of this, and because no extraterritorial application of State law is involved, the due process clause of the Constitution is not violated. Finally, as Congress, through the Douglas amendment, has delegated to the States significant authority to regulate banking, State statutes permitting regionally reciprocal banking are now invalidated by the supremacy clause of the Constitution.

SUPPORT FOR REGIONAL BANKING AND TITLE X

Large numbers of banks support regionally reciprocal State banking statutes as a viable alternative to maintaining the status quo or leaping to nationwide interstate banking. Some of these banks have already acted where regional banking is permitted; others are waiting for their State to act.

The Senate Banking Committee has voted overwhelmingly to support title X and the notion of continuing the policy of permitting States to decide their own banking future. Our 12-to-5 vote underscores the wide popularity of title X and of maintaining the centuries-old policy of decentralized bank control.

Federal and State bank regulators have recognized the need for action such as that found in title X. For example, I would note the following statements:

Comptroller of the Currency: "While we would prefer more extensive geographic deregulation, we welcome any—even partial—relaxation of the current restrictions. For instance authorizing reciprocal or regional expansion may be a reasonable first step in the direction of nationwide interstate banking." (Excerpted from the Comptroller's testimony before the Senate Banking Committee, March 21, 1984.)

Federal Deposit Insurance Corporation: "Assuming Congress is not able to address the McFadden and Douglas restraints at this time, we would support legislation to sanction reciprocal interstate banking pacts entered into by the states, and we would not 'sunset' this provision." (Excerpted from the FDIC Chairman's testimony before the Senate Banking Committee, March 21, 1984.)

Conference of State Bank Supervisors: "We applaud the Chairman and Senator Mattingly afor seeking to remove any questions now hanging over state authority in this critical area (geographic expansion). CSBS questions the need for the Sunset provision contained in S. 2181. We are concerned that the sunset provision might be intended or understood to cast current state law as an 'experiment' rather than as the body of pertinent law, and that, insofar as the provisions of this section are a clarification of the degree of delegation under Douglas, if they are allowed to sunset it would signal open season for lawsuits on the meaning of Douglas." (Excerpted from CSBS testimony before the Senate Banking Committee, February 29, 1984.)

Federal Reserve Board: "The Board will not deny this application (that of Bank of New England Corp. to merge with CBT Bancorp) on the grounds . . . that the Connecticut Interstate Banking Act is unconstitutional. . . . The Board believes the policy issues that are raised by the regional approach are inherently national and would best be resolved by Congressional action." (Bank of New England Corporation, supra, 70 Federal Reserve Bulletin 377-379.)

In the House of Representatives, legislation to sanction the State option to enact regionally reciprocal banking laws has been introduced by Representative DOUG BARNARD of Georgia and has attracted nearly 50 cospon-

sors. The bipartisan support for the right of States to pass regional banking statutes received from both Houses of Congress is indicative of the widespread national support that exists for regional banking.

INAPPROPRIATE ALTERNATIVES TO TITLE X

First, currently, title X contains a 5-year "sunset" provision. Five years subsequent to the title's enactment, the congressional sanction for regional banking would expire.

Many assume that, at the end of 5 years, Congress will act to eliminate the McFadden/Douglas protections for State banking systems. This is an unfair assumption. Moreover, money center banks favor an even shorter sunset, anticipating an ever-quicker route to nationwide interstate banking.

Reducing the sunset would ignore the State political, as well as the practical and regulatory, realities involved in States enacting regional banking statutes and banks planning and executing mergers under them. Many States have not yet passed regional laws, but are actively considering them. Legislatures in these States may not meet until 1985, or even 1986. Added to the time needed for State action is that needed for individual banks to plan merger and acquisition strategy once State plans are known.

On top of this, add the time for approval by regulators and a possible backup of applications when regional banking laws are passed, and it is easy to see why a 5-year sunset should be the minimum considered. A minimum 5-year sunset would also help to underscore the experimental nature of regional banking and provide adequate time for the evaluation of that experiment. Otherwise, the experiment would have to be reviewed with incomplete results.

Second, a Federal determination of banking regions would destroy the inherently State-directed nature of the regional banking option. The whole purpose of State regionally reciprocal banking statutes is to provide an experiment in regional banking that retains for each State its historical options as far as directing that State's banking structure. Most importantly, Federal determination of banking regions overturns the McFadden Act and the Douglas amendment, an action that would not square with political reality. Title X is overwhelmingly supported because it leaves to each State the right to decide its banking future.

By taking away options from the States to associate with other States for banking purposes, the experiment is soured. Each State should be able to determine for itself which regional alignment is best. Perhaps contiguous States. Perhaps a region of its own design. Perhaps even Federal Reserve districts. So long as it is a State's choice, the particular configuration is relatively unimportant. The Federal Government has long delegated significant authority to the States in banking affairs. Now is not the time to begin Federal intrusion into a matter which should be left to the States.

Third, by adding a "trigger" to title X calling for the elimination of the McFadden Act and the Douglas amendment, the Congress would be reversing a two-centuries-old national policy of State determination of banking structure. There is no reasonable justification for such an action.

Imposing a trigger on title X destroys the notion of gradual, evolutionary change in State banking systems found in the regional banking concept. A trigger reduces State options. It disregards the actions and intent of State legislatures. And it assures that title X would not be passed by this body.

THE TIME TO ACT IS NOW

It is important that the Congress act now to ensure that States continue to have the right to determine their banking future through methods such as regional banking. Not to act is to allow the continued chipping away at States' banking rights through the actions of the money center banks. And it would send improper signals to the Federal courts, courts which could use congressional guidance on this most important matter.

Mr. President, with your permission, I wish to have introduced into the RECORD today several documents of relevance to the matter before us now. The first is the Federal Reserve Board's announcement approving the first of four New England regional bank mergers; the second is the decision of the U.S. Court of Appeals for the Second Circuit affirming the Federal Reserve Board's decision; and finally, a State-by-State review of State statutes, legislation, and action concerning bank expansion across State lines.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Federal Reserve Press Release]

MARCH 26, 1984.

The Federal Reserve Board today announced its approval of the application of Bank of New England Corporation, Boston, Massachusetts, to merge with CBT Corporation, Hartford, Connecticut.

Attached is the Board's Order relating to this action.

Attachment.

FEDERAL RESERVE SYSTEM

Bank of New England Corporation, Boston, Massachusetts

Order Approving Merger of Bank Holding Companies and Acquisition of Companies Engaged in Commercial Finance, Leasing, Real Estate Lending, Factoring and General Trust Company Activities

Bank of New England Corporation, Boston Massachusetts ("BNE"), a bank holding company within the meaning of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 *et seq.*) ("BHC Act"), has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. § 1842(a)(5)), to merge with CBT Corporation, Hartford, Connecticut ("CBT"), also a bank holding company, and thereby to acquire indirectly The Connecticut Bank and Trust Company, N.A., Hartford, Connecticut. In addition, BNE has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)) and section 225.23(a)(2) of the Board's Regulation Y (12 U.S.C. § 225.23(a)(2)) to acquire CBT's nonbanking subsidiaries: CBT Trust Company of Florida, N.A., West Palm Beach, Florida ("CBT Trust"); Lazere Financial Corporation, New York, New York ("Lazere"); CBT Business Credit Corporation, Hartford, Connecticut ("BCC"); CBT Factors Corporation, New York, New York ("Factors"); CBT Realty Corporation, Hartford, Connecticut ("Realty"); and General Discount Corporation, Boston Massachusetts ("GDC"). These companies, with the exception of CBT Trust, are subsidiaries of CBT Financial Corporation, Hartford Connecticut, a company organized as a holding company for CBT's nonbanking subsidiaries. CBT Trust engages in general trust company activities in Florida. Lazere and BCC offer accounts receivable, inventory and equipment financing. Factors engages in "advance" and "maturity" factoring, and Realty in real estate lending. GDC, with subsidiaries in Maine, Massachusetts and Canada, engages in capital equipment financing through lending and leasing, and its Canadian subsidiary, CBT Leasing Limited, conducts such lending and leasing activities outside the United States pursuant to section 4(c)(13) of the Act (12 U.S.C. § 1843(c)(13)). All of these activities have been determined by the Board to be closely related to banking under sections 225.25(b) (1), (3) and (5) of Regulation Y (12 C.F.R. § 225.25(B) (1), (3) and (5)).

Notice of these applications, affording an opportunity for interested persons to submit comments, has been given in accordance with sections 3 and 4 of the Act (48 *Federal Register* 41524). The time for filing comments has expired and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) (12 U.S.C. § 1842(c)) and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)). In particular, the Board has considered the comments of Citicorp, New York, New York, and Northeast Bancorp, Inc., New Haven, Connecticut, as well as the comments of several community groups located in Hartford, Connecticut.

BNE, with twelve bank subsidiaries, has consolidated assets of $5.9 billion and deposits of $3.7 billion, representing 13.3 percent of the total deposits in commercial banks in Massachusetts.[1] BNE is the fourth largest commercial banking organization in Massa-

Footnotes at end of article.

chusetts. CBT, which has total assets of $5.9 billion and total deposits of $3.4 billion, is the largest bank holding company in Connecticut. CBT holds 24.8 percent of all deposits in commercial banks in Connecticut. Upon consummation of the proposed merger, BNE would become the second largest bank holding company in New England in terms of assets and the largest in terms of domestic deposits.

Section 3(d) of the Act (12 U.S.C. 1842(d)), the Douglas Amendment, prohibits the Board from approving any application by a bank holding company to acquire any bank located outside of the State in which the operations of the bank holding company's banking subsidiaries are principally conducted, unless such acquisition is "specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication." The statute laws of Connecticut authorize the acquisition of a banking institution in Connecticut by a bank holding company that controls a bank located in another New England State, if that other New England State authorizes on a reciprocal basis the acquisition of a bank in that State by a Connecticut bank holding company.[2] Massachusetts has passed a reciprocal statute that authorizes such an acquisition.[3]

The Banking Commissioner of Connecticut and the Massachusetts Board of Bank Incorporation have approved this proposed merger pursuant to these reciprocal Interstate Banking Acts, thus finding that the transaction satisfies the requirements of the respective statutes authorizing the interstate acquisition of banks. Based upon its review of the Connecticut Interstate Banking Act ("CIBA"), the Board concludes that Connecticut has by statute expressly authorized a Massachusetts bank holding company, such as BNE, to acquire a Connecticut bank or a Connecticut bank holding company, such as CBT. Thus, the Connecticut Act meets the requirement of express authorization for interstate bank acquisitions imposed by sections 3(d) of the Bank Holding Company Act.

The Connecticut and Massachusetts statutes are the first to be enacted that provide explicitly for limited interstate banking on a regional basis. Rhode Island has also enacted regional interstate banking legislation that limits entry into Rhode Island to bank holding companies located in New England.[4] The restriction in the Rhode Island statute, however, is of limited duration. After two years the Rhode Island statute provides for national reciprocity, permitting entry of bank holding companies from any state that will admit Rhode Island bank holding companies.

The regional interstate banking system developing in New England raises issues of considerable importance because no fewer than 15 state legislatures are considering proposals that, if enacted, would create regional banking systems in every part of the country. The Georgia legislature has already passed a regional interstate banking statute, and there are proposals for regional banking systems in the Southeast (Florida and Georgia and a combination of other states as far north as Virginia), the Northwest (Washington, Oregon and Idaho), the Mid-Atlantic (New Jersey, Pennsylvania and several other states as far south as Virginia) and the Mid-West (several different regional groupings under discussion). Both the increasing number of states considering such proposals and the progress of the proposed legislation toward enactment suggest that, should the New England interstate banking zone be upheld, a system of regional zones may develop involving major areas of the nation.[5]

THE CONSTITUTIONALITY OF THE CONNECTICUT STATUTE

Protestants, Citicorp and Northeast Bancorp, Inc., have challenged the constitutionality of the Connecticut Interstate Banking Act[6] and, in particular, the provisions of CIBA that allows only New England bank holding companies[7] to acquire banks or bank holding companies located in Connecticut. The Protestants assert that such discriminatory legislation is unconstitutional under the provisions of the Compact Clause,[8] the Equal Protection Clause[9] and the Commerce Clause[10] of the United States Constitution.

The requirement that the Board address these issues derives from a series of judicial decisions beginning with *Whitney National Bank in Jefferson Parish* v. *Bank of New Orleans and Trust Company*, 379 U.S. 411 (1965), which required that the Board make a finding in the first instance on the applicability and validity of state laws that purport to authorize the particular transaction before the Board.[11] The United States Court of Appeals for the District of Columbia Circuit confirmed that this requirement applied to constitutional issues when it stated in *Iowa Independent Bankers Association* v. *Board of Governors of the Federal Reserve System*, 511 F.2d 1288, 1293 n.4 (1975), that it felt constrained "to register . . . substantial doubt that the Board can continue to presume conclusively the constitutional validity of state or federal laws in light of the Supreme Court's opinion in [*Whitney*] . . . ."

While in cases prior to *Iowa Independent Bankers, supra*, the Board declined to consider constitutional issues, *NCNB Corp.* 59 Fed. Res. Bull. 305, 307 (1973),[12] the reservations about this course of action expressed by the D.C. Circuit in that case has led the Board to review the constitutionality of state statutes, although the Board has decided that it will not "hold a state statute to be unconstitutional without clear and unequivocal evidence of the inconsistency of the state law with the federal Constitution." *NCNB Corp.* 68 Fed. Res. Bull. 54, 56 (1982).[13] The Board believes this standard to be consistent with the principle of statutory construction that legislatures are presumed to have acted within constitutional limits,[14] as well as with the historic role of the judicial branch of government in balancing state and federal interests in construing the scope of the constitutional powers of the states. This approach is also consistent with the Board's primary expertise and delegated responsibility under the Act—to review bank holding company expansion proposals for compliance with the public benefits test of section 4(c)(8) of the Act, including financial, competitive and community convenience and needs criteria.

Thus, the Board will require evidence of a clear conflict with the United States Constitution before the Board will find that CIBA constitutes an invalid authorization for the interstate merger of bank holding companies proposed in this case.

The Board has examined carefully the arguments advanced by Protestants and the unique and fundamental constitutional issues presented by CIBA in the context of the extensive record before the Board. After review of the record, the Board concludes that, while the issue is not free from doubt, there is no clear and unequivocal basis for a determination that CIBA is inconsistent with the Commerce Clause, Compact Clause or Equal Protection Clause of the United States Constitution.[15] Accordingly, the Board will not deny this application on the grounds urged by Protestants that CIBA is unconstitutional. The analysis of this proposal under sections 3 and 4 of the Bank Holding Company Act is based upon this finding.

CONSIDERATIONS UNDER SECTIONS 3 AND 4 OF THE BANK HOLDING COMPANY ACT

In addition to determining that the merger of BNE and CBT is expressly authorized by a valid statute as required by section 3(d) of the BHC Act, the Board must decide whether this acquisition is consistent with the standards of sections 3 and 4 of the Act.

Section 3 Considerations. BNE's twelve banking subsidiaries operate in nine of the fourteen Massachusetts banking markets,[16] while CBT's single bank subsidiary operates in each of the ten Connecticut banking markets.[17] Since BNE's banking subsidiaries do not operate in Connecticut and CBT's banking subsidiary does not operate in Massachusetts, the proposed transaction would not eliminate any significant existing competition in any relevant banking market.

The Board also has considered the effects of this proposal on probable future competition in light of its proposed guidelines for assessing the competitive effects of market-extension mergers or acquisitions.[18] In evaluating the effects of a proposal on probable future competition, the Board considers market concentration, the number of probable future entrants into the market, the size of the bank to be acquired, and the attractiveness of the market for entry on a *de novo* or foothold basis absent approval of the acquisition.

With respect to the ten banking markets in Connecticut in which CBT operates, the record shows that either the markets are not highly concentrated or there are numerous other probable future entrants into the markets. Connecticut permits the acquisition of banks in Connecticut by bank holding companies located in other New England states, and there are a number of commercial banking organizations, including five in Massachusetts (other than BNE) and three in Rhode Island, with assets over $1 billion each that can be identified as probable future entrants into the Connecticut banking markets. Moreover, the Board notes that market concentration ratios and CBT's rank and market share drop significantly in each Connecticut market when deposits of thrift institutions are considered. In view of these considerations and other facts of record, the Board concludes that elimination of BNE as a probable future entrant into markets served by CBT would not have a substantial anticompetitive effect in those markets.

With respect to the nine Massachusetts[19] banking markets in which BNE operates, the record shows that there are a number of commercial banking organizations, including three commercial banking organizations in Connecticut (other than CBT) and three in Rhode Island with assets over $1 billion each, that can be identified as probable future entrants into each of the nine relevant markets. The markets with the fewest number of potential entrants, Boston and Cape Cod, are also not concentrated. Moreover, BNE is not a market leader in several markets, particularly when the deposits of thrift institutions are considered. On the

basis of these and other facts of record, the Board concludes that the elimination of CBT as a probable future entrant would not have a substantial anticompetitive effect in the nine markets served by BNE.

The financial and managerial resources of BNE, CBT, and their subsidiaries are considered satisfactory and their prospects appear favorable. This finding is based, in part, on the fact that BNE has committed to a program to raise additional capital through a common stock offering and, in particular, to improve the capital position of its lead bank, Bank of New England, N.A., Boston, Massachusetts.

The Board has considered the convenience and needs of the communities to be served. Although both BNE and CBT offer a complete range of banking services, consummation of this merger would provide more favorable access to the capital markets and thereby permit BNE to provide expanded access to consumer banking services in Connecticut and Massachusetts, additional credit capacity for growing commercial customers and the presence of a substantial New England based competitor to meet growing competition from nonbanking financial conglomerates in the financial services industry.

In considering the convenience and needs of the communities to be served, the Board has also examined the record of BNE and CBT and their banking subsidiaries in meeting the credit needs of their communities, as provided in the Community Reinvestment Act of 1977 (12 U.S.C. §§ 2901-05) ("CRA") and the Board's Regulation BB (12 C.F.R. § 228). The CRA and Regulation BB require the Board to assess the record of the banking subsidiaries of any applicant in meeting the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Although the Board does not ordinarily consider the CRA record of the acquiree, the Board, for purposes of this case, has considered the CRA records not only of BNE's banking subsidiaries but also that of CBT because this merger involves two bank holding companies of approximately equal size.

Three Hartford, Connecticut, neighborhood citizens associations, Frog Hollow Residents Coalition, Concerned Citizens of Southwest and Behind the Rocks Neighborhood Association, have protested this application on the basis of an alleged failure of CBT to meet the housing financing needs of the low- and moderate-income neighborhoods of Hartford.[20] In addition, the Frog Hollow Residents Coalition alleged that CBT has failed to honor a commitment made in July 1982 to provide a special fund for mortgage, home improvement and housing rehabilitation loans to owner-occupants of the Frog Hollow community.

The community group Protestants have failed to present any substantial evidence to support their position. Nevertheless, the Board has considered the issues raised by Protestants and the extensive response CBT has provided with respect to its lending history and practices in Protestants' neighborhoods. The record demonstrates that, pursuant to a July 1982 commitment, CBT has established a special housing-related lending program for the Frog Hollow community and has made a significant commitment of funds at favorable rates and without ancillary costs. CBT has also documented its commitment to meet the housing needs of low- and moderate-income neighborhoods through housing ventures with other companies and neighborhood groups.

In the neighborhoods of the other two Protestants, Behind the Rocks and Southwest, CBT has a strong record of home improvement loans and it ranks among the leading lending institutions in those areas in terms of the number of home improvement loans. CBT has also documented a low demand for first mortgages in these two areas. CBT has made a commitment to increase its efforts to make residents of Protestants' communities aware of its loan programs. Based on the foregoing and other facts in the record, the Board concludes that CBT and BNE have satisfactory records of compliance with the CRA. The considerations relating to the convenience and needs of the communities to be served weigh in favor of approval.

Section 4(c)(8) Considerations. BNE has also applied under section 4(c)(8) of the BHC Act to acquire the nonbanking subsidiaries of CBT, including Lazere, BCC, Factors, GDC and Realty, which are all organized as subsidiaries of CBT Financial.[21] BNE has only one active nonbanking subsidiary operating pursuant to section 4(c)(8).[22] CBT's only nonbanking subsidiary that operates in Massachusetts in GDC, which is engaged in leasing and lending activities. GDC derives approximately $14 million in commercial loans and leasing activities from the entire state of Massachusetts.

This proposal would have only minimal impact on actual competition among nonbanking subsidiaries of BNE and CBT. Moreover, this proposal will have no significant impact on existing competition between BNE's subsidiary banks and GDC. Given the size of CBT's equipment financing subsidiary and the limited scope of its activities in Massachusetts, the Board does not believe this transaction will result in any significant decreased competition.

There is no evidence in the record that this transaction will result in any undue concentration of resources, unfair competition, unsound banking practices, conflicts of interest or other adverse effects. Based upon these and other considerations reflected in the record, the Board has determined that the balance of public interest factors that it is required to consider under section 4(c)(8) of the Act is favorable.

Based on the foregoing and other facts of record, the Board has determined that the applications under sections 3 and 4 of the Act should be and hereby are approved for the reasons set forth above.

In approving this application the Board does not intend to express any conclusion concerning the desirability, as a matter of national policy, of the regional arrangements provided for by CIBA. The Board recognizes that interstate banking is a highly complex issue that unavoidably involves the balancing of a number of different considerations. However, if the New England regional approach to interstate banking is emulated in other parts of the country, there is a potential danger that the result could be to divide the country into a number of banking regions. The Board believes that the public policy issues that are raised by the regional approach are inherently national and would be best resolved by Congressional action.

The acquisition of CBT's banking subsidiaries pursuant to section 3 of the Act shall not be made before the thirtieth calendar day following the effective date of this Order or later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston, pursuant to delegated authority.

The approval of BNE's proposal to acquire CBT's nonbank subsidiaries and to engage in equipment financing, leasing, real estate lending, factoring, and accounts receivable financing is subject to all the conditions set forth in Regulation Y, including section 225.4(d) and section 225.23(b), and to the Board's authority to require modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[23] effective March 26, 1984.

JAMES MCAFEE,
Associate Secretary of the Board.

FOOTNOTES

[1] Banking data are as of June 30, 1983.

[2] 1983 Conn. Acts 411 (Reg. Sess.) entitled "An Act Concerning Interstate Banking" ("Connecticut Interstate Banking Act" or "CIBA"), § 2.

[3] Mass. Ann. Laws ch. 167A ("Massachusetts Interstate Banking Act"), § 2.

[4] R.I. Gen. Laws §§ 19-30-1, 19-30-2 (Supp. 1983).

[5] To date, only Maine (Me. Rev. Stat. Ann. tit. 9-B, § 1013 (as amended February 7, 1984)) and Alaska (Alaska Stat. § 06.05.235 (Supp. 1983)) permit interstate banking without restriction, although New York permits entry of bank holding companies from any state on a reciprocal basis (N.Y. Banking Law § 142-b (McKinney Supp. 1983)).

[6] By letter of November 16, 1983, counsel for BNE asserts that Citicorp is not a party in interest to this proceeding with standing to raise issues concerning the constitutionality of CIBA. Pursuant to section 105 of the BHC Act, 12 U.S.C. § 1850, Northeast clearly will become a competitor to BNE upon consummation of this acquisition. Moreover, the Board believes that Citicorp, too, is a party in interest for purposes of this proceeding before the Board since Citicorp competes in Connecticut and Massachusetts with BNE and CBT, although on a somewhat limited basis, and, except for the restrictions contained in the very statute it challenges, it has the potential to become a more substantial competitor.

[7] New England bank holding companies include those with their principal place of business in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The Connecticut statute further restricts the definition of "New England bank holding company" to exclude bank holding companies directly or indirectly controlled by bank holding companies outside of New England. CIBA thus prohibits non-New England bank holding companies from "leapfrogging" into the Connecticut market through Maine or other New England states that may enact interstate banking statutes without regional restrictions.

[8] U.S. Const., Article I, section 10, clause 3.

[9] U.S. Const., Amendment XIV, Section 1.

[10] U.S. Const., Article I, section 8, clause 3.

[11] Justice Douglas in his dissent in *Whitney* noted that the specific issue with respect to the Louisiana statute at issue in that case would require the Board to decide a "bare, bald question of . . . constitutionality." 379 U.S. at 431. See also *First State Bank of Clute* v. *Board of Governors*, 553 F.2d 950 (5th Cir. 1977), and *Gravois Bank* v. *Board of Governors* 478 F.2d 546 (8th Cir. 1973), which do not deal with constitutional issues but require a decision by the Board as to the applicability of state laws to bank holding company acquisitions.

[12] See also *Bankers Trust New York Corp.*, 59 Fed. Res. Bull. 364 (1973) and *Northwest Bancorporation*, 38 Fed. Reg. 21,530 (1973).

[13] See also *Florida Coast Banks, Inc.*, 68 Fed. Res. Bull. 781 (1982); *Florida Coast Banks, Inc.* 69 Fed. Res. Bull. 454 (1983). Moreover, the Board has indicated on one occasion that were it to follow the interpretation of a state statute urged by a party to an application it would be compelled to declare the statute to be unconstitutional. *KSAD, Inc.*, 70 Federal Reserve Bulletin 44 (1984).

[14] See *Clements* v. *Fashing*, 102 S. Ct. 2836, 2843 (1982); *South Carolina State Highway Department* v. *Barnwell Bros., Inc.*, 303 U.S. 177, 195 (1938); *Atchison, Topeka & Sante Fe Ry. Co.* v. *Matthews*, 174 U.S. 96 (1899).

[15] The staff analysis of the constitutional issues raised by Protestants is contained in an appendix to this Order and is made a part of the Board's findings in this case.

[16] These Massachusetts banking markets include Boston, Springfield, Cape Cod, Fall River, New Bedford, Amherst-Northhampton, Greenfield, North Adams-Williamstown and Athol. BNE also operates in the Massachusetts portion of the Providence, Rhode Island, banking market.

[17] These Connecticut banking markets include Hartford, New Haven, Bridgeport, Waterbury, New London, Danbury, Torrington, Danielson, Willimantic and Old Saybrook. CBT also operates in the Connecticut portion of the New York market.

[18] "Proposed Policy Statement of the Board of Governors of the Federal Reserve System for Assessing Competitive Factors under the Bank Merger Act and the Bank Holding Act," 47 *Federal Register* 9017 (March 3, 1982). Although the proposed policy statement has not been adopted by the Board, the Board is using the policy guidelines in its analysis of the effects of a proposal on probable future competition.

[19] BNE has less than a one percent market share in the Providence, Rhode Island, banking market and CBT has less than a one percent market share in the New York, New York, banking market. As a result, only Massachusetts and Connecticut markets are discussed in this Order.

[20] The Small Business Association of New England requested a hearing on the application to explore a concern that the merger of major New England banks would result in larger institutions that might not be responsive to the credit needs of small business enterprises. After a meeting with officials of CBT and BNE, the Small Business Association of New England was satisfied and it withdrew its request for a hearing.

[21] CBT's nonbanking subsidiaries will represent less than two percent of the consolidated assets of the merged corporation.

[22] BNE received approval after the filing of this application to acquire *de novo* a subsidiary to engage in leasing activities. That subsidiary, BNE Capital Corporation, Boston, Massachusetts, began operations on December 28, 1983.

[23] Voting for this action: Chairman Volcker and Governors Martin, Wallich, Partee, Teeters, Rice, and Gramley.

APPENDIX TO THE ORDER APPROVING THE APPLICATION OF BANK OF NEW ENGLAND CORP., BOSTON, MA, TO MERGE WITH CBT CORP., HARTFORD, CT

Citicorp, New York, NY, and Northeast Bancorp, Inc., New Haven CT, have protested the application of Bank of New England Corp., Boston, MA, to merge with CBT Corp., Hartford, CT. Citicorp and Northeast argue that the application should be denied because the Connecticut Interstate Banking Act ("CIBA") is unconstitutional and therefore insufficient to authorize the proposed merger. Protestants challenge the provisions of CIBA that allow only New England bank holding companies [1] to acquire banks or bank holding companies located in Connecticut. The Protestants assert that such discriminatory legislation is unconstitutional under the provisions of the Compact Clause,[2] the Equal Protection Clause [3] and the Commerce Clause [4] of the U.S. Constitution.

CIBA (and the similar statute enacted in Massachusetts) raises unique constitutional issues. There are many decided cases defining the permissible scope of state regulations favoring their own residents against those of all other states, but apparently no judicial decisions testing the constitutionality of state regulatory arrangements which discriminate in favor of residents of selected regional groupings of states and exclude residents of all other states from the benefits provided to the regional groups.[5]

Footnotes at end of article.

CONSIDERATIONS UNDER THE COMPACT CLAUSE

The Compact Clause of the United States Constitution states that "[n]o State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign Power. . . ."[6] The Supreme Court has indicated that an interstate agreement is within the parameters of the Compact Clause and thus subject to the requirement of congressional consent only when: (1) an interstate compact or agreement exists, (2) that tends to increase the power of the compacting states in such a manner as to interfere with federal supremacy.[7]

CIBA, when considered in light of its legislative history and the actions of other New England states, is part of an effort to create a regional banking zone. The regional banking acts of Connecticut, Massachusetts and Rhode Island contain very similar provisions, and they were enacted within a six-month period between December, 1982, and June, 1983. Passage of the acts was preceded during a four-month period by a formal meeting of representatives of the New England states to discuss regional interstate banking, by the formation of a New England Committee to Study and Promote Regional Interstate Banking, by testimony of legislators at hearings on the issue before legislative committees in other New England states, and by apparent review and comments on the proposed Connecticut legislation by the Massachusetts Banking Department. The debate on the Connecticut bill refers to an "agreement" or "compact" on regional interstate banking.[8]

The Supreme Court in *Virginia* v. *Tennessee*, 148 U.S. 503, 517-518 (1893), stated that the terms "agreement" and "compact" as used in the Compact Clause are "sufficiently comprehensive to embrace all forms of stipulation, written or verbal, and relating to all kinds of subjects." In *United States Steel Corp.* v. *Multistate Tax Commission*, 434 U.S. 452, 470 (1978), the Court specifically addressed the issue of reciprocal statutes and stated that "agreements effected through reciprocal legislation may present opportunities for enhancement of state power at the expense of the federal supremacy similar to the threats inherent in a more formalized 'compact'. . ." The Court emphasized that the federal impact rather than the form of the agreement is the critical inquiry under the Compact Clause. Accordingly, while in form CIBA can be considered to be part of an implicit compact or agreement that has never been approved or authorized by Congress, as the cases cited above indicate, CIBA would violate the Compact Clause only if it constitutes an enhancement of state powers at the expense of federal supremacy.

No such claim of infringement upon federal supremacy could be maintained, however, if CIBA has been authorized by Congress in the Douglas Amendment. The compatibility of CIBA with the Compact Clause turns on whether Congress in the Douglas Amendment granted the states plenary power to regulate entry of out-of-state bank holding companies, thereby renouncing a federal interest in such regulation for purposes of the Compact Clause. The intent of Congress in enacting the Douglas Amendment is more fully discussed below, *infra* at 15-27, and, for reasons stated therein, the Douglas Amendment should be read as a renunciation of federal interest in regulating the interstate acquisition of banks by bank holding companies. As a result CIBA does not appear to violate the Compact Clause.

CONSIDERATIONS UNDER THE EQUAL PROTECTION CLAUSE

Protestants also challenge the constitutionality of CIBA as a violation of the Equal Protection Clause of the Fourteenth Amendment, which provides "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Protestants argue that CIBA's exclusion of non-New England bank holding companies is an arbitrary restriction unrelated to any legitimate state purpose.

The Supreme Court in *New Orleans* v. *Dukes*, 427 U.S. 297, 303 (1976) (per curiam), articulated the following, frequently cited standard of judicial scrutiny under the Equal Protection Clause:[9]

"Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory distinctions and require only that the classification challenged be rationally related to a legitimate state purpose."

Application of the test of whether economic legislation is "rationally related to a legitimate state purpose" involves two inquiries: (1) whether the challenged statute has a legitimate purpose, and (2) whether it was reasonable for the legislature to believe the challenged classification would promote that purpose.[10]

In answering these inquiries, the Supreme Court has afforded great deference to a state's statements of legislative purpose and its statutory classifications to achieve those purposes. The Supreme Court has ordinarily been willing to uphold any classification based "upon a state of facts that reasonably can be conceived to constitute a distinction, or difference in state policy. . . ." *Allied Stores of Ohio, Inc.* v. *Bowers*, 358 U.S. 522, 530 (1959). The court will sustain economic legislation "if any set of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 426 (1961).

For the purpose of analysis under the Equal Protection Clause, CIBA appears to be rationally related to an attempt to maintain a banking system responsive to local needs in New England. The Hebb Report, a report prepared by a Commission appointed by the Connecticut legislature to study interstate banking, indicates that the purposes of CIBA include avoiding undue concentration of resources, maintaining the responsiveness of the banking system to local credit needs and providing an opportunity for a limited interstate banking experiment.[11] A finding of a rational basis for CIBA is consistent with the decision of the Court of Appeals for the District of Columbia Circuit in *Iowa Independent Bankers, supra*, upholding an Iowa statute against an Equal Protection Clause argument although that statute permitted only one out-of-state bank holding company to operate in Iowa. This case held that state statutes, such as CIBA, governing admission of out-of-state bank holding companies into a particular state, such as Connecticut, involve essentially economic legislation and do not raise issues of fundamental rights or draw upon suspect classifications. Since CIBA does not impinge those rights found to be fundamental by the Supreme Court or employ inherently suspect classifications, it will not be closely scrutinized by the courts under the Equal Protection Clause.

Thus, Connecticut can advance a sufficiently rational purpose in enacting CIBA to meet the less stringent scrutiny of the

courts under the "rational purpose" test. On this basis, CIBA does not appear to violate the Equal Protection Clause of the Fourteenth Amendment.

CONSIDERATIONS UNDER THE COMMERCE CLAUSE

BNE and CBT assert that Congress, in the Douglas Amendment, conferred upon each state complete authority to permit, regulate or condition the entry into the state by out-of-state bank holding companies for the purpose of engaging in banking activities. BNE and CBT argue that Congress authorized the states not only to determine whether to permit acquisitions of banks across state lines but also to determine the extent to which to permit such acquisitions. Protestants, on the other hand, assert that the Douglas Amendment does not authorize states to place discriminatory restrictions on the admission of out-of-state bank holding companies, particularly on a state-by-state basis.

1. CIBA UNDER THE COMMERCE CLAUSE.

Absent congressional authorization of CIBA in the Douglas Amendment, it appears that CIBA would be inconsistent with the standards for state action under the Commerce Clause as established by the Supreme Court. The central concern behind the Commerce Clause, according to the Court, is a desire "to avoid the tendencies toward economic Balkanization that had plagued relations between the Colonies and later among the States under the Articles of Confederation," *Hughes* v. *Oklahoma*, 441 U.S. 322, 325-326 (1978), and to create a "federal free trade unit" based on a principle that "our economic unit is the Nation" and that "the states are not separable economic units." *H. P. Hood & Sons, Inc.* v. *DuMond*, 336 U.S. 525, 537-538 (1947).

The Court has applied the Commerce Clause as granting Congress the power "[to] regulate commerce . . . among the several states",[12] and also as a limitation on the power of the states to impose barriers to or burdens on interstate commerce.[13] The basic rationale for this interpretation is both economic and political, and these concerns are particularly applicable to state statutes that selectively confer benefits on one or more other states and deny these same benefits to still other states. The Court has forcefully stated these core concerns:

"This Court has not only recognized this disability of the state to isolate its own economy as a basis for striking down parochial legislative policies designed to do so, but it has recognized the incapacity of the state to protect its own inhabitants from competition as a reason for sustaining particular exercises of the commerce power of Congress to reach matters in which states were so disabled.

The material success that has come to inhabitants of the states which make up this federal free trade unit has been the most impressive in the history of commerce, but the established interdependence of the states only emphasizes the necessity of protecting interstate movement of goods against local burdens and repressions. We need only consider the consequences if each of the few states that produce copper, lead, high-grade iron ore, timber, cotton, oil or gas should decree that industries located in that state shall have priority. What fantastic rivalries and dislocations and reprisals would ensue if such practices were begun!

Our system, fostered by the Commerce Clause, is that every farmer and every craftsman shall be encouraged to produce by the certainty that he will have free access to every market in the Nation, that no home embargoes will withhold his exports, and no foreign state will by customs duties or regulations exclude them. Likewise, every consumer may look to the free competition from every producing area in the Nation to protect him from exploitation by any. Such was the vision of the Founders; such has been the doctrine of this Court which has given it reality.

H. P. Hood & Sons, 336 U.S. at 538-39 (citations omitted).

The states retain the authority, particularly pursuant to their powers to safeguard the health and safety of their residents, to regulate matters of legitimate local concern in such a way as may impose incidental burdens on interstate commerce. However, the states may not regulate in a manner that imposes more than an incidental burden on interstate commerce [14] or that discriminates against articles of commerce from outside a given state unless there is some reason apart from their origin to treat them differently.[15]

In those instances where the states have acted to effect purposes of simple economic protectionism or in a manner that is patently discriminatory, the Supreme Court has held such state statutes to be *per se* unconstitutional.[16] In those cases where the states credibly advance a legitimate state purpose other than protection of local business, the Court has applied a balancing test, weighing whether the statute in question serves a legitimate state purpose and whether it could accomplish that purpose in a manner less burdensome to interstate commerce.[17]

Absent authorization by the Douglas Amendment, it would appear that, under the standards applied by the Court,[18] CIBA imposes a burden on interstate commerce of the type that would be found by the courts to violate the Commerce Clause. CIBA permits only bank holding companies located in New England to engage in banking activities in Connecticut while denying that right to bank holding companies located elsewhere. The discriminatory nature of CIBA is apparent from its legislative history, which demonstrates the intention of the Connecticut legislature to permit Connecticut banks and bank holding companies to develop and consolidate on a regional basis before having to compete with banks outside the region.[19]

BNE and CBT contend that CIBA does not conflict with the Commerce Clause decisions of the Supreme Court because CIBA relieves the ban or burden on interstate commerce imposed by Congress to the extent that it would replace six different banking zones in the individual New England states with a single barrier-free New England zone. They argue that Congress has imposed a restriction on interstate banking in the Doublas Amendment and that it has permitted the states to lift that ban by a specific statutory enactment.

In support of this position, BNE and CBT cite *Hughes* v. *Alexandria Scrap Corp.*, 426 U.S. 794, 815-816 (Stevens, J. —— —— concurring) (1976). In *Alexandria Scrap*, the Supreme Court upheld a Maryland statute that paid a bounty for destruction of any junked car formerly titled in Maryland despite a challenge that the statute made it easier for Maryland scrap processors to prove that a vehicle had been titled in Maryland than it did for out-of-state processors. The Court held that where a state acted as a market participant the Commerce Clause did not apply.[20] The Connecticut regional banking zone at issue in this case is clearly an example of the regulatory rather than proprietary function of the State of Connecticut, and Connecticut is not itself creating commerce by its own direct intervention in the marketplace. The reliance of BNE and CBT on the *Alexandria Scrap* rationale thus appears to be misplaced and, in fact, succeeding Supreme Court decisions seem to limit the *Alexandria Scrap* reasoning to those situations where the states are "market participants" rather than "market regulators." See *Reeves, Inc.* v. *Stake*, 447 U.S. 429, 436 (1980).[21]

Even if CIBA were not to be considered a *per se* unconstitutional burden on interstate commerce, the disparate treatment of non-New England bank holding companies does not appear to be justified "as in incidental burden necessitated by legitimate local concerns." *Lewis* v. *BT Investment Managers, supra*, 447 U.S. at 42. The Supreme Court suggested in the *Lewis* case that with respect to banking there are legitimate state interests in "discouraging undue economic concentration," "maximizing local control" and "regulating financial practices presumably to protect local residents from fraud." *Id.* at 43. The Court, however, found in that case that a complete ban on out-of-state entry into the trust business in Florida could not be justified as an incidental burden necessitated by legitimate local concerns. The Court noted that there were other regulatory techniques available to deal with local concerns that non-resident bank companies were more likely to be sources of monopoly power or fraud than local companies.

Similarly, in this case, there are less restrictive means than a discriminatory geographic restriction to accomplish the objectives of the Connecticut legislature. There is no indication that all New York or New Jersey companies, for example, raise greater problems with respect to local control and economic concentration than those of Massachusetts and Rhode Island. To accomplish the objective of avoiding concentration of resources in a non-discriminatory manner limitations could be placed on total banking assets or total deposits that a bank company may hold in order to qualify for additional acquisitions within Connecticut. These and other less discriminatory alternatives suggest that CIBA would not be viewed as an incidental burden on interstate commerce necessitated by legitimate local concerns. This conclusion is consistent with the Supreme Court's finding in the *Lewis* case that Florida's interest in local control did not justify a prohibition on entry of non-resident trust companies because of the discriminatory burden which the limitation imposed on interstate commerce. Thus, CIBA does not appear to be consistent with the prohibition in the Commerce Clause on discrimination against interstate commerce by the states.[22]

2. DISCRIMINATION AUTHORIZED BY THE DOUGLAS AMENDMENT.

BNE and CBT, however, contend that the Douglas Amendment authorizes the discrimination provided for by CIBA. The Douglas Amendment provides:

"Notwithstanding any other provision of this section, no application shall be approved under this section which will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank located outside of the State in which the operations of such bank holding

company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later, unless the acquisition of such shares or assets of a State bank by an out-of-state bank holding company is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication. For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest."

12 U.S.C. § 1842(d)(1). The Supreme Court in *Lewis, supra,* 447 U.S. at 47, described this language as establishing a general federal prohibition on acquisition or expansion of banking subsidiaries across state lines and as conferring on the states only "authority to create exceptions to this general prohibition."

It is clear that if Congress, in the Douglas Amendment, authorized discriminatory state action, CIBA would not be unconstitutional under the Commerce Clause. In the specific context of the Douglas Amendment, the Supreme Court has stated that Congress may prohibit as well as promote commerce [23] and may exercise its plenary power under the Commerce Clause "by conferring upon the State an ability to restrict the flow of interstate commerce that they would not otherwise enjoy." *Lewis* v. *RT Investment Managers, Inc.,* 447 U.S. 27, 44 (1980).[24] The issue presented by CIBA is the extent of a state's powers when it decides to lift the Douglas Amendment prohibition. Does the Douglas Amendment, which establishes a total prohibition on acquisitions by out-of-state bank companies, authorize a state to discriminate among the states when it permits entry? Does the Douglas Amendment permit Connecticut to admit bank companies from neighboring Massachusetts and other New England States meeting certain qualifications regarding reciprocity but not from other states even if they were to meet the reciprocity qualifications?

It is, therefore, necessary to determine the scope of authorization, if any, for states to discriminate among other states in lifting the Douglas Amendment's ban against interstate acquisition of banks by bank companies. This task is more difficult because, as noted above, this case involves an unusual form of discrimination. There is a long history of decisions of the Supreme Court and lower federal courts involving the application of the Commerce Clause to state laws that provide a preference for their own residents as against those of *all* other states. No case has been found under the Commerce Clause or generally in the literature on this Clause, in which a state has provided for preferential treatment of its own citizens and those of selected other states, while excluding the residents of all other states from this favored treatment.

In deciding cases where the differential treatment is applied against all other states equally, the Supreme Court requires, in order to find an authorization for discrimination in federal statutes, that such authorization be "expressly" [25] or "explicitly" [26] or "specifically" [27] stated in federal law. In *Sporhase* v. *Nebraska,* 458 U.S. 941, 960 (1982), defendants challenged a Nebraska law restricting the export of ground water as an impermissible burden on interstate commerce. Nebraska argued in defense of its statute that the congressional intent to authorize otherwise impermissible burdens on interstate commerce was demonstrated by 37 federal statutes in which Congress had indicated its intent not to preempt state water laws and by congressional authorization of certain interstate surface water compacts. The Court rejected this argument, holding that these federal statutes did not show an "expressly stated" intention to remove Commerce Clause restraints on state water laws. Similarly, in *New England Power Company* v. *New Hampshire,* 455 U.S. 331, 341 (1982), and in *Lewis, supra,* the Court held that federal statutes reserving to the state residual authority over export of electricity or over bank holding companies were in no sense affirmative grants of power to the state to impose undue burdens on interstate commerce. The Court may have relaxed this high standard somewhat in *White* v. *Massachusetts Council of Construction Employers,* 103 S. Ct. 1042 (1983), where it approved geographic restrictions on the hiring of non-resident workers for city-funded construction projects, relying upon the explicit regulations of the Department of Housing and Urban Development and a general, unspecific authorization in federal statute for such regulations.

Based on these requirements for specificity, the Douglas Amendment does not appear *on its face* to authorize discrimination by Connecticut in favor of its own residents and those of Massachusetts and other New England states having reciprocal laws, but against all other states. The Douglas Amendment's general authorization to the Board of Governors to permit interstate acquisitions if they are " . . . specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication," does not appear to meet the stringent test of explicitness laid down by the Supreme Court.

BNE and CBT argue, however, that the legislative history of the Douglas Amendment indicates the intention of the Congress to give the states complete discretion in setting the terms of entry of out-of-state bank holding companies without the limitations imposed by the Commerce Clause. While the reliance on the legislative history is a valid method of determining that Congress authorized the lifting of Commerce Clause restrictions with respect to a particular state enactment, the Supreme Court has expressed reluctance to place undue weight on this type of inquiry in an attempt to find authority from Congress for states to discriminate against the residents of other states. The Court stated:

"Reliance on . . . isolated fragments of legislative history in divining the intent of Congress is an exercise fraught with hazards and "a step to be taken cautiously."

New England Power, 455 U.S. at 341, quoting *Piper* v. *Chris-Craft Industries, Inc.,* 430 U.S. 1, 26 (1976). When Congress has not expressly stated an intent to permit state legislation otherwise inconsistent with the Commerce Clause, the Court has no authority to rewrite the legislation "based on mere speculation of what Congress probably had in mind." *Id.* at 343.[28]

The Douglas Amendment was proposed during the debate on the Senate floor and there is no committee report or other significant legislative history to clarify its meaning.[29] There was very little discussion of the power of the state to override the interstate banking ban imposed by the Douglas Amendment and no discussion of the power of the states to discriminate among potential out-of-state entrants.[30] Congress was clearly more concerned with the federal prohibition on interstate acquisitions than on terms under which the states could lift this ban.

In his remarks during the Senate debate, Senator Douglas, sponsor of the Amendment, referred to the ability of the states to permit the entry of out-of-state bank holding companies "only to the degree that state laws expressly permit them." [31] He also stated that the Amendment paralleled the McFadden Act restrictions on the power of national banks to branch intrastate and interstate "in a way contrary to State policy." [32] Thus it can be persuasively argued that Senator Douglas construed his amendment as granting plenary power to the states to set their own policies and to permit entry of out-of-state bank holding companies to the degree that they chose. However, there is also an argument that the excerpts from the Senate debate are too fragmentary and unspecific to show congressional intent to authorize discrimination otherwise contrary to the Commerce Clause, especially where the Supreme Court has required such explicit and clear authorization of discrimination by the Congress because of the fundamental implications of such discrimination for the federal union.

The Board has a limited amount of judicial guidance on this issue. The only court to consider the legislative history of the Douglas Amendment has been the U.S. Court of Appeals for the District of Columbia Circuit in *Iowa Independent Bankers Association* v. *Board of Governors,* 511 F.2d 1288, 1293 (1975). The case involved, in part, a challenge under the Equal Protection Clause of the Fourteenth Amendment to the Iowa statute that permitted, on the basis of their location in the state prior to the enactment of the Bank Holding Company Act Amendments of 1970, out-of-state bank holding companies operating two or more banks in Iowa to continue to expand and to acquire new banks in Iowa on the same basis as a local bank holding company.

A less stringent standard applies to state action under the Equal Protection Clause than under the Commerce Clause. Under the former provision a state need only show that its economic legislation, presuming it does not affect fundamental rights or create a suspect classification, bears a rational relationship to a legitimate state purpose. Under the Commerce Clause, however, discrimination is disabling *per se,* and even when a statute only imposes an incidental burden on interstate commerce it will be struck down if such burden is clearly excessive in relation to expected local benefits. The Court upheld the constitutionality of the Iowa statute under the Equal Protection Clause on the basis that it was actually a statute that conferred grandfather rights on the only out-of-state bank holding company operating in Iowa.

The Court then turned to petitioners argument that the Iowa statute conflicted with federal law, specifically with the Douglas Amendment. Petitioners in *Iowa Independent Bankers* advanced the argument that the Iowa statute conflicted with "implicit . . . prohibition against discrimination between out-of-state bank holding companies," [33] which, they asserted, was intended by Congress in the Douglas Amendment. They argued that under the Douglas Amendment states may only decide "whether to extend the right to acquire in-state banks to all out-of-state bank holding companies or to prohibit such acquisitions entirely." [34] The Court then reviewed the lim-

ited legislative history of the Douglas Amendment and these arguments, finding that Congress did not intend to bar discrimination like that embodied in the Iowa statute. The Court also stated that the Douglas Amendment conferred on the states a right to control the expansion of interstate banking "so that such expansion would not contravene state policy." [35]

The Court's review of the legislative history of the Douglas Amendment in *Iowa Independent Bankers* was not conducted for purposes of determining the validity of the Iowa statute under the Commerce Clause. Therefore, the Court did not focus on the Supreme Court's standard of review under the Clause and did not consider whether the alleged legislative authorization by the Douglas Amendment is express and unambiguous so as to sanction discrimination against interstate commerce that would otherwise run afoul of the Commerce Clause.

The actions of the states and the Board in interpreting and applying the Douglas Amendment also lend some support to the position that the Amendment authorizes the states to permit restricted or conditional entry of out-of-state bank holding companies such as sanctioned by CIBA. As early as 1972, Iowa enacted a statute that accorded certain grandfather rights to expand and to make additional acquisitions to out-of-state bank holding companies already controlling two or more banks in Iowa [36]—establishing, in fact, a preference for a particular out-of-state bank holding company against all other non-resident companies. Recently, Nebraska enacted a similar statute.[37] In addition, Delaware,[38] Maryland,[39] Virginia [40] and Nebraska [41] have permitted out-of-state bank holding companies to acquire local banks under certain conditions, including limitations on activities, number of offices and home office location, which are not imposed on in-state bank holding companies. One of the major purposes of such legislation is to gain employment for local residents and tax revenues for the state without seriously affecting competing local banking businesses; the statutes accomplish this by permitting out-of-state bank holding companies to export their credit card operations to states with less restrictive usury laws. Similary, South Dakota has recently permitted the entry of out-of-state bank holding companies on a limited basis to acquire a state bank with a broad range of insurance powers.[42] The Board has approved a number of applications by out-of-state bank holding companies to acquire local banks under the credit card or grandfather statutes [43] and, as noted above, the U.S. Court of Appeals for the District of Columbia has upheld a Board order under the Iowa statute.[44]

These statutes obviously result in some burdens on interstate commerce and appear to assume that the states have full discretion to set the terms of entry of out-of-state bank holding companies.[45] Nothing in the history of the Douglas Amendment suggests that the states were to be permitted only to choose between not allowing out-of-state bank holding companies to enter, and allowing completely free entry.[46] In approving applications under these statutes, the Board appears to have accepted at least some measure of discretion rather than requiring a simple "on and off switch." A contrary conclusion would seem to raise some questions about validity of the state statutes cited above, although it would appear that such statutes might be viewed as imposing substantially less of a burden on commerce in the furtherance of legitimate state objectives that CIBA imposes.

FOOTNOTES

[1] New England bank holding companies include those with their principal place of business in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The Connecticut statute further restricts the definition of "New England bank holding company" to exclude bank holding companies directly or indirectly controlled by bank holding companies outside of New England. CIBA thus prohibits non-New England bank holding companies from "leapfrogging" into the Connecticut market through Maine or other New England states that may enact interstate banking statutes without regional restrictions.

[2] U.S. Const., Article I, section 10, clause 3.

[3] U.S. Const., Amendment XIV, Section 1.

[4] U.S. Const., Article I, section 8, clause 3.

[5] While there are judicial decisions upholding interstate agreements, these agreements have not had the objective of discrimination but rather that of cooperation on a subject matter of exclusive interest to the states that are parties to these agreements. *See, e.g., Washington Metropolitan Area Transit Authority* v. *One Parcel of Land*, 706 F.2d 1312, 1314 (4th Cir.), *cert. denied*, 104 S. Ct. 238 (1983); *Jacobson* v. *Tahoe Regional Planning Agency*, 566 F.2d 1353, 1357 (9th Cir. 1977), *aff'd in part and rev'd in part sub nom. Lake Country Estates, Inc.* v. *Tahoe Regional Planning Agency*, 440 U.S. 391 (1979).

[6] Art. I. § 10, cl. 3. This clause has been invoked infrequently, particulary in recent years when expanded interpretation of what constitutes interstate commerce has meant that agreements among states more frequently might be invalidated as burdening interstate commerce in violation of the Commerce Clause.

[7] See *United States Steel Corporation* v. *Multistate Tax Commission*, 434 U.S. 452 (1978); *Virginia* v. *Tennessee*, 148 U.S. 503 (1893).

[8] See Transcripts of Connecticut Senate Debate, May 18, 1983 ("Conn. Sen. Debate") at 61, 96 (Sen. Sullivan); Transcripts of Connecticut House of Representatives Debate, May 26, 1983 ("Conn. House Debate") at 224, 234, 236 (Rep. Onorato) and 276, 277 (Rep. Jaekle).

[9] See also *Dandridge* v. *Williams*, 397 U.S. 471, 484-486 (1971); *Iowa Independent Bankers Association* v. *Board of Governors, supra.*

[10] See *Minnesota* v. *Clover Leaf Creamery Co.*, 449 U.S. 456, 461-463 (1981); *Western and Southern Life Insurance Co.*, 451 U.S. at 668.

[11] "The Report to the General Assembly of the State of Connecticut of The Commission to Study Legislation to Limit the Conduct of Business in Connecticut by Subsidiaries of Bank Holding Companies," January 5, 1983 ("The Hebb Report"), pp. 10, 12-13.

[12] U.S. Const., Art. I, § 8, cl. 3.

[13] *Great Atlantic and Pacific Tea Company* v. *Cottrell*, 424 U.S. 366, 370-71 (1976).

[14] *Philadelphia* v. *New Jersey*, 437 U.S. 617, 624 (1978).

[15] *Lewis* v. *BT Investment Management, Inc.*, 447 U.S. at 27, (1980). See also *Philadelphia* v. *New Jersey, supra*, at 626-627.

[16] *Philadelphia* v. *New Jersey, supra*, at 624.

[17] *Hughes* v. *Oklahoma*, 441 U.S. 322, 336 (1979); *Pike* v. *Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

[18] See *Dean Milk Co.* v. *Madison*, 340 U.S. 349 (1951) (ordinance of the City of Madison, Wisconsin, requiring all milk sold in Madison to be processed and bottled at a plant within five miles of the city); *Pennsylvania* v. *West Virginia*, 262 U.S. 553 (1923) (West Virginia requirement that all local needs for natural gas be met before natural gas could be shipped out of the state); *H.P. Hood & Sons* v. *DuMond*, 336 U.S. 525 (1949) (denial of a milk receiving plant in New York to a Massachusetts distributor because it would injure local competition); *Philadelphia* v. *New Jersey*, 437 U.S. 617 (1978) (New Jersey law prohibiting the import of liquid or solid waste which originated or was collected outside the State of New Jersey); *Lewis* v. *BT Investment Managers, Inc.*, 447 U.S. 27 (1980) (Florida law prohibiting out-of-state bank holding companies from engaging in investment advisory activities).

[19] The Hebb Report, *supra*, at 12. See also Conn. Sen. Debate, *supra*, at 60, 64, 70 (Statement of Senator Sullivan) and Conn. House Debate at 241, 258 (Statement of Representative Onorato).

[20] In his concurring opinion, Justice Stevens suggested that the decision in effect held that, since Maryland "created a market that did not previously exist," it could not be found to burden commerce. 426 U.S. at 815-816.

[21] "[T]he Commerce Clause responds principally to state taxes and regulatory measures impeding private trade in the national marketplace. . . . There is no indication of a constitutional plan to limit the ability of the States themselves to operate freely in the free market." *Id.* at 436-437 (citations omitted). See also *White* v. *Massachusetts Council of Construction Employers*, 103 S. Ct. 1042 (1983); *United Building & Construction Trades Council* v. *Mayor & Council of Camden*, 52 U.S.L.W. 4187 (U.S. Feb. 21, 1984).

[22] In *Northeast Bancorp* v. *Wolf*, (Civil Action H-83-654), the U.S. District Court for the District of Connecticut in an opinion issued December 16, 1983, dismissed a challenge to the Connecticut Act on standing grounds but it described the Act as ". . . statutory provisions that discriminate between New England and non-New England banks . . ."

[23] See *Prudential Insurance Company* v. *Benjamin*, 328 U.S. 408, 434 (1946).

[24] See also *Prudential Insurance at 423-24.*

[25] *New England Power Co.* v. *New Hampshire*, 455 U.S. 331, 340-41 (1982).

[26] *Western and Southern Life Insurance Co.* v. *State Board of Equalization*, 451 U.S. 648, 653-654 (1981).

[27] *White* v. *Massachusetts Council of Construction Employers, 103 S. Ct. 1042 (1983).*

[28] The court has allowed discrimination against other states generally based upon a clear statement of congressional intent contained in the legislative history of a federal statute. Relying on the clearly expressed intention of Congress, derived from the legislative history, to leave insurance regulation exclusively to the states, the Court has found the McCarran-Ferguson Act, 15 U.S.C. § 1011 *et seq.*, to authorize discriminatory state statutes that would otherwise offend the Commerce Clause. *Prudential Insurance Company* v. *Benjamin*, 328 U.S. 408, 427-432 (1946), and *Western and Southern Life Insurance Co., supra*, 451 U.S. at 465.

[29] The pertinent debates are found at 102 Cong. Record 6750-58 and 6854-62 (1956).

[30] See *Iowa Independent Bankers* v. *Board of Governors of the Federal Reserve System*, 511 F.2d 1288 (D.C. Cir.), *cert. denied* 423 U.S. 875 (1975).

[31] "[W]hat our amendment aims to do is to carry over into the field of holding companies the same provisions which already apply for branch banking under the McFadden Act—namely, our amendment will permit out-of-State holding companies to acquire banks in other States only to the degree that State laws expressly permit them; and that is the provision of the McFadden Act." 102 Cong. Record 6858 (1956).

[32] "[The amendment] is a logical continuation of the principles of the McFadden Act, which tried to prevent the Federal power from being used to permit national banks to expand across State lines in a way contrary to State policy and, of course, under the McFadden Act, even to expand within a State." 102 Cong. Record 6860 (1956).

[33] *Iowa Independent Bankers, supra*, 511 F.2d at 1296.

[34] *Ibid.*

[35] *Id.* at 1297. In *Conference of State Bank Supervisors* v. *Conover*, 715 F.2d 604, 615 (1983). The Court of Appeals for the D.C. Circuit restated its conclusion that the legislative history of the Douglas Amendment allowed a state "to discriminate in admitting bank holding companies."

[36] Iowa Code Ann. § 524.1805.

[37] Neb. Rev. Stat. § 8-903 (Supp. 1983).

[38] Del. Code Ann., title 5, § 803.

[39] Md. Fin. Inst. Code Ann. § 5-901.

[40] Va. Code § 6.1-390 to 6.1-397.

[41] Neb. Rev. Stat. §§ 8-905, 8-906 (Supp. 1983).

[42] S.D. Codified Laws Ann. §§ 51-16-40 to 51-16-44 (Supp. 1984).

[43] *See, e.g., Citicrop*, 67 Fed. Res. Bull. 181 (1981); *J.P. Morgan & Company, Inc.* 67 Fed. Res. Bull. 917 (1981); *Northwest Bancorporation*, 38 Fed. Reg. 21,530 (1973).

[44] *Iowa Independent Bankers Association, supra.*

[45] To a lesser degree state statutes that permit limited out-of-state acquisition only in the case of a troubled bank in need of financial assistance also allow the states to condition entry. See, for example, Wash. Rev. Code Ann. § 30.04.230.

[46] Senator Robertson, Chairman of the Senate Committee on Banking and Currency, suggested by his comments in the 1956 debate on the Bank Holding Company Act that Congress may have intended

to give the states more authority than merely to allow unrestricted entry of out-of-state bank holding companies. Senator Robertson suggested that states should be permitted to retain the authority to permit acquisitions by out-of-state bank holding companies in the limited case where a troubled bank might require financial assistance. 102 Cong. Record 6572 (1956).

[U.S. Court of Appeals for the Second Circuit Nos. 1378, 1379, 1380, August Term, 1983 (Argued May 14, 1984; Decided August 1, 1984), Docket Nos. 84-4047, 84-4051, 84-4053, 84-4081]

NORTHEAST BANCORP, INC. AND UNION TRUST COMPANY, PETITIONERS-APPELLANTS, *v.* BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, RESPONDENT-APPELLEE; CITICORP, A CORPORATION, PETITIONER *v.* THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, RESPONDENT; BEFORE: CARDAMONE AND PRATT, *Circuit Judges*, and BONSAL, *District Judge.**

Appeal from orders of the Federal Reserve Board approving mergers pursuant to Sections 3 and 4(c)(8) of the Bank Holding Company Act of 1956.

Affirmed.

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Jamie W. Katz, Asst. Attorney General, The Commonwealth of Massachusetts, Boston, Mass., Francis X. Bellotti, Attorney General, *for Intervenor Commonwealth of Massachusetts.*

John G. Haines, Asst. Attorney General, Hartford, Connecticut (Joseph I. Lieberman, Attorney General, of counsel), *for Intervenor State of Connecticut and Brian J. Woolf, Banking Commissioner.*

Stuart C. Stock, Washington, D.C. (Covington & Burling, Washington, D.C.), *for Intervenor Bank of Boston Corporation.*

Bonsal, *District Judge:*

Petitioners Citicorp ("Citicorp"), Northeast Bancorp, Inc. together with Northeast's subsidiary bank, Union Trust Company (collectively "Northeast"), and intervenor Bank of Boston Corporation ("BBC") petition this court to review three orders of the Board of Governors of the Federal Reserve System (the "Board") which, pursuant to Sections 3 and 4(c)(8) of the Bank Holding Company Act of 1956 (the "BHCA"), approved the applications of:

(1) Bank of New England Corporation ("BNE"), a Massachusetts bank holding company, to acquire CBT Corporation ("CBT"), a Connecticut bank holding company;

(2) Hartford National Corporation ("HNC"), a Connecticut bank holding company, to acquire Arltru Bankcorporation ("Arltru"), a Massachusetts bank holding company; and

(3) Bank of Boston Corporation ("BBC"), a Massachusetts bank holding company, to acquire Colonial Bancorp, Inc. ("Colonial"), a Connecticut bank holding company.

In enacting the BHCA, Congress established a framework for the supervision and regulation of bank holding companies, i.e., companies that control one or more banks.[1] Section 3 of the BHCA prohibits any acquisition of a bank by a bank holding company without prior approval of the Board. Section 4 of the BHCA allows bank holding companies, through "non-bank" subsidiaries, to provide financial services which the Board deems to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. § 1843(c)(8).[2]

The BHCA, as originally passed by the House of Representatives, banned interstate acquisitions. *See* H.R. Rep. No. 609, 84th Cong., 1st Sess. 3, 15 (1955). The original version of the bill reported out by the Senate Committee contained no provision dealing with interstate acquisitions. *See* S. Rep. No. 1095, 84th Cong., 1st Sess. 10-11 (1955). However, Senator Douglas of Illinois proposed an amendment in the Senate which was adopted by both Houses as Section 3(d) of the BHCA (the Douglas Amendment). The Douglas Amendment provided that no application by a bank holding company to acquire a bank located in another state could be approved by the Board unless the state in which such bank was located had, by statute, specifically authorized such acquisition.[3]

Massachusetts, in 1982, and Connecticut, in 1983, enacted statutes (hereinafter referred to as the Massachusetts and Connecticut statutes, respectively) to permit interstate bank acquisitions. The Massachusetts statute authorized bank holding companies located in any other New England state to acquire banks located in Massachusetts, provided that the New England state in which such bank holding company was located had granted reciprocal privileges to bank holding companies located in Massachusetts. The Connecticut statute contained a similar provision.[4]

(1) THE BNE APPLICATION

On July 11, 1983 BNE entered into an agreement to acquire CBT under the authority of the Connecticut statute. On August 5, 1983, pursuant to Sections 3 and 4(c)(8) of the BHCA, BNE applied to the Board for approval of its proposed acquisition of CBT. By notice published in the *Federal Register* dated September 15, 1983, the Board invited comment on BNE's application.[5] Citicorp and Northeast opposed the application and asked the Board to defer action pending the outcome of litigation Northeast had instituted challenging the constitutionality of the Connecticut statute, which litigation was dismissed on December 16, 1983.[6] On March 26, 1984 the Board approved BNE's proposed acquisition of CBT pursuant to Sections 3 and 4(c)(8) of the BHCA.[7] The Board found that the acquisition came within the Douglas Amendment because it had been specifically authorized by the Connecticut statute. The Board found that "the Douglas Amendment should be read as a renunciation of federal interest in regulating the interstate acquisition of banks by bank holding companies." The Board also found no "clear and unequivocal" basis for finding the Connecticut statute unconstitutional

(2) THE HNC APPLICATION

On September 1, 1983 HNC entered into an agreement to acquire Arltru under the authority of the Massachusetts statute. On October 19, 1983, pursuant to Section 3 of the BHCA, HNC applied to the Board for approval of its proposed acquisition of Arltru. By notice published in the *Federal Register* dated November 25, 1983, the Board invited comment.[8] By letter dated December 16, 1983 and attachments, Citicorp opposed HNC's application. On March 26, 1984 the Board approved HNC's proposed acquisition of Arltru pursuant to Section 3 of the BHCA.[9] The Board found that the acquisition came within the Douglas Amendment because it had been specifically authorized by the Massachusetts statute. The Board found that "the Douglas Amendment should be read as a renunciation of federal interest in regulating the interstate acquisition of banks by bank holding companies." The Board also found no "clear and unequivocal" basis for finding the Massachusetts statute unconstitutional.

(3) THE BBC APPLICATION

BBC entered into an agreement to acquire Colonial under the authority of the Connecticut Statute, and pursuant to Sections 3 and 4(c)(8) of the BHCA BBC applied to the Board for approval of its proposed acquisition of Colonial. By notice published in the *Federal Register* dated February 16, 1984, the Board invited comment on BBC's application.[10] On March 8, 1984 Citicorp filed comments with the Board opposing the application. On May 18, 1984 the Board approved BBC's proposed acquisition of Colonial pursuant to Sections 3 and 4(c)(8) of the BHCA.[11] On the basis of the Board's findings with respect to the applications of BNE and HNC, the Board refused to find the Connecticut statute unconstitutional, and so approved BBC's application.

Pursuant to Section 9 of the BHCA, Citicorp and Northeast filed with this court petitions for review of the orders of the Board approving the BNE-CBT and HNC-Arltru acquisitions.[12] The petitions were consolidated and the acquisitions stayed pending review by this court of the orders of the Board. BNE, CBT, HNC, the State of Connecticut and the Commonwealth of Massachusetts were permitted to intervene. Thereafter, on May 25, 1984, pursuant to Fed. R. App. P. 15(d), BBC moved for leave to intervene, which motion was granted by this court on June 18, 1984. BBC also moved to consolidate for decision the petition for review filed in its action with the petitions pending before the court. This motion was also granted by this court on June 18, 1984.

Discussion

Petitioners Citicorp and Northeast contend that the Board erred in approving the applications of BNE, HNC, and BBC because the Massachusetts and Connecticut statutes, by limiting interstate acquisitions of Massachusetts and Connecticut banks to bank holding companies located in other New England states, impermissibly restrict interstate commerce in violation of the Commerce Clause. Petitioners argue that since the Massachusetts and Connecticut statutes violate the Commerce Clause, they

*Footnotes at end of article.

are unconstitutional, and the Douglas Amendment did not permit the Board to approve the applications. Petitioners also contend that the Massachusetts and Connecticut statutes are part of an interestate understanding which violates the Compact Clause. They charge that be discriminating against non-New England bank holding companies, the statutes also violate the Equal Protection Clause.

The intervenors, on the other hand, contend that the Massachusetts and Connecticut statutes promote interstate commerce and do not violate the Commerce Clause. The intervenors argue that even if the statutes restrict interstate commerce, they do not violate the Commerce Clause since they were enacted under the authority of the Douglas Amendment. The intervenors says that the Massachusetts and Connecticut statutes do not represent an interstate agreement or compact in violation of the Compact Clause; and finally, the intervenors argue that the statutes do not violate the Equal Protection Clause.

The contentions of the parties make it necessary for us to first consider the origin and scope of the Douglas Amendment.

THE DOUGLAS AMENDMENT

As previously stated, the BHCA, as originally passed by the House of Representatives, banned all interstate acquisitions. However, Senator Douglas of Illinois proposed the Douglas Amendment in the Senate and it was adopted by both Houses as Section 3(d) of the BHCA. The Douglas Amendment provided that no application by a bank holding company to acquire a bank located in another state could be approved by the Board unless the state in which such bank was located had specifically authorized such acquisition by statute.[13] In describing his proposed amendment, Senator Douglas stated:

"What our amendment aims to do is to carry over into the field of holding companies the same provisions which already apply for branch banking under the McFadden Act—namely, our amendment will permit out-of-State holding companies to acquire banks in other States only to the degree that State laws expressly permit them. . . ." 102 Cong. Rec. 6858 (1956).

At the time the Douglas Amendment was enacted, no state permitted interstate acquisitions by bank holding companies. Therefore, Senator Douglas observed that the immediate effect of the amendment would be "to bar the expansion of bank holding companies across State lines." 102 Cong. Rec. at 6860. "But," he added, "the amendment would leave the way open for States to make explicit provision for such purchases and acquisitions if they so decided." *id.*

The Board, after reviewing its legislative history, found the Douglas Amendment to be a "renunciation of federal interest in regulating the interstate acquisitions of banks by bank holding companies." As recently pointed out by the Supreme Court in *Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, —— U.S. —— (1984), "[t]he Board is the agency responsible for federal regulation of the national banking system, and its interpretation of a federal banking statute is entitled to substantial deference."

The Douglas Amendment prohibits the Board from approving applications by bank holding companies to acquire banks located in other states unless the state in which the bank is located has enacted a statute "specifically authorizing" such acquisitions. The Massachusetts and Connecticut statutes specifically authorize acquisitions of Massachusetts and Connecticut banks by bank holding companies located in other New England states. Without these statutes no out-of-state bank holding companies could acquire Massachusetts or Connecticut banks. Therefore, in permitting interstate acquisitions (albeit limited to New England), Massachusetts and Connecticut statutes would appear to promote interstate commerce rather than restrict it.

We have considered the argument that the Massachusetts and Connecticut statutes, to avoid conflicting with federal law, must either permit all bank holding companies throughout the United States to acquire their banks or permit none. However, we find nothing in the language or history of the Douglas Amendment which supports this contention. *See Iowa Independent Bankers* v. *Board of Governors of the Federal Reserve System*, 511 F.2d 1288, 1296–97 (D.C. Cir.), *cert. denied*, 423 U.S. 875 (1975). Indeed, Section 7 of the BHCA reserves to the states the power and jurisdiction they possessed before the BHCA was enacted.[14]

COMMERCE CLAUSE

The Commerce Clause grants to Congress the power "[t]o regulate Commerce . . . among the several States . . . ." U.S. Const., Art. I, § 8, cl. 3. Congress, of course, may regulate commerce among the states as it sees fit. *Western & Southern Life Insurance Co.* v. *State Board of Equalization*, 451 U.S. 648, 658 (1981); *Prudential Insurance Co.* v. *Benjamin*, 328 U.S. 408, 434 (1946). The Commerce Clause has been interpreted to limit the power of the states to interfere with or impose burdens on interstate commerce. *Western & Southern Life Insurance Co.*, 451 U.S. at 652; *Lewis* v. *BT Investment Manager, Inc.*, 447 U.S. 27 34–36 (1980); *Great Atlantic & Pacific Tea Co.* v. *Cottrell*, 424 U.S. 366, 370–71 (1976). However, if Congress authorizes the states to regulate some aspect of interstate commerce, any action taken by a state within that authority is "invulnerable" to challenge. *Western & Southern Life Insurance Co.*, 451 U.S. at 652–53. Moreover, Congress may authorize the states to enact statutes which may interfere with interstate commerce. Such statues do not violate the Commerce Clause. *White* v. *Massachusetts Council of Construction Employers*, 460 U.S. 204 (1983). However, congressional authorization must be clear. *South Central Timber Development, Inc.* v. *Wunnicke*, —— U.S. —— (1984); *White*, 460 U.S. at —— (1983); *Western & Southern Life Insurance Co.*, 451 U.S. at 653–54. We believe that, by enacting the Douglas Amendment, Congress authorized Massachusetts and Connecticut to enact the statutes challenged here.

For the reasons above stated, we conclude that the Massachusetts and Connecticut statutes do not violate the Commerce Clause. Therefore, the Board, in approving the acquisitions, properly concluded that there was no such violation.

COMPACT CLAUSE

The Compact Clause of the Constitution provides that "[n]o State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State, or with a foreign Power. . . ." U.S. Const., Art. I, § 10, cl. 3.

Petitioners contend that the Board's approval of the BNE-CBT, HNC-Arltru, and BBC-Colonial acquisitions should be reversed because the Massachusetts and Connecticut statutes which authorized them were enacted pursuant to an interstate compact to establish a regional banking system in the New England area. Such a compact, say petitioners, violates the Compact Clause.

In addition to the statutes enacted by Massachusetts and Connecticut, Rhode Island has enacted a statute which also limits acquisition of its banks to bank holding companies located in other New England states. However, the Rhode Island limitation will expire two years after the statute's effective date of July 1, 1984. Maine, by statute, permits the acquisition of Maine banks by out-of-state bank holding companies without limitation.[15] Vermont and New Hampshire do not have bank holding company statutes.

In view of the similarities in the Massachusetts and Connecticut statutes and the limitation to New England bank holding companies, the statutes could be considered as part of a plan or compact to create a regional banking system. Indeed, after considering the legislative history of the Massachusetts and Connecticut statutes and the fact that they were enacted within a six-month period, the Board found that the statutes indicated a plan to create a regional banking system in New England. However, such a plan, even if treated as a compact, would only violate the Compact Clause if it were a "combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States." *United States Steel Corp.* v. *Multistate Tax Commission*, 434 U.S. 452, 471 (1978) (quoting *Virginia* v. *Tennessee*, 148 U.S. 503, 519 (1893)); *New Hampshire* v. *Maine*, 426 U.S. 363, 369 (1976).

As a practical matter, we do not think that a New England bank holding company system would in any way increase the political power of the New England states or encroach upon or interfere with the just supremacy of the United States. However, if at any time Congress should find any encroachment, it could remove the encroachment by appropriate legislation.

EQUAL PROTECTION CLAUSE

Petitioners argued before the Board that the Massachusetts and Connecticut statutes were unconstitutional in violation of the Equal Protection Clause of the Fourteenth Amendment. The Equal Protection Clause provides: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., Amend. XIV, § 1. Petitioners contend that by only allowing New England bank holding companies to acquire Massachusetts and Connecticut banks, the Massachusetts and Connecticut statutes discriminate against non-New England bank holding companies in violation of the Equal Protection Clause.

This type of legislation violates the Equal Protection Clause only if "the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate purposes that we can only conclude that the legislature's actions were irrational." *Barry* v. *Barchi*, 443 U.S. 55, 67 (1979) (quoting *Vance* v. *Bradley*, 440 U.S. 93, 97 (1979)). We do not believe that the Massachusetts and Connecticut statutes evidence such irrationality. Rather, because "banking and related financial activities are of profound local concern, "*Lewis*, 447 U.S. at 38, the Massachusetts and Connecticut statutes appear to be designed to foster banking and related activities in those states and in neighboring New England states. Massachusetts and Connecticut may

be concerned that their banks could be dominated by large bank holding companies located in New York or Chicago if such holding companies were allowed to acquire their banks.[16] Therefore, we find no violation of the Equal Protection Clause. *See generally Iowa Independent Bankers*, 511 F. 2d at 1294-96.

In view of the foregoing, we affirm the orders of the Board approving the applications of BNE, HNC, and BBC.

Affirmed.

FOOTNOTES

*of the Southern District of New York, sitting by designation.

[1] 12 U.S.C. § 1841(c) defines a "bank," in relevant part, as an "institution . . . which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans."

[2] Bank holding companies are generally prohibited from owning Stock in companies other than banks.

[3] Section 3(d) of the BHCA, 12 U.S.C. § 1842(d) (the Douglas Amendment) provides:

"Limitation by State boundaries. Notwithstanding any other provision of this section, no application (except an application filed as a result of a transaction authorized under section 13(f) of the Federal Deposit Insurance Act [12 U.S.C. § 1823 (f)]) shall be approved under this section which will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later, *unless the acquisition of such shares or assets of a State bank by an out-of-State bank holding company is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication.* For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest." (Emphasis added.)

[4] Mass. Gen. Laws Ann. ch.167 A, § 2 (West Supp. 1982); 1983 Conn. Act 83-411 (Reg. Sess.). Rhode Island has enacted a similar statute effective July 1, 1984, which is limited to New England acquisitions for two years after its effective date. R.I. Gen. Laws §§ 19-30-1, 19-30-2 (1984).

[5] Application Notice, 48 Fed. Reg. 41,524 (1983).

[6] On July 29, 1983 Northeast filed an action in the U.S. District Court in Connecticut against the Connecticut Banking Commissioner. On December 16, 1983 Northeast's complaint was dismissed on the ground that Northeast lacked standing to challenge the constitutionality of the Connecticut statute. *Northeast Bancorp, Inc. v. Woolf*, 576 F. Supp. 1225 (D. Conn. 1983), *aff'd mem.*, No. 84-7003 (2d Cir. April 25, 1984).

[7] *Bank of New England Corporation*, 70 Fed. Res. Bull. 374 (1984).

[8] Application Notice, 48 Fed. Reg. 53,172 (1983).

[9] *Hartford National Corporation*, 70 Fed. Res. Bull. 353 (1984).

[10] Application Notice, 49 Fed. Reg. 6012 (1984).

[11] *Bank of Boston Corporation*, 70 Fed. Res. Bull. 524 (1984).

[12] Section 9 of the BHCA (12 U.S.C. § 1848) provides that any party aggrieved by an order of the Board may petition for a review of the order in the United States Court of Appeals and that the Court shall have jurisdiction to affirm, set aside, or modify the Board's order.

[13] Section 3(a) of the BHCA allows the Board to approve the acquisition of both banks and bank holding companies.

[14] Section 7 of the BHCA (12 U.S.C. § 1846) provides:

"Reservation of rights to States. The enactment by the Congress of this chapter shall not be construed as preventing any State from exercising such powers and jurisdiction which it now has or may hereafter have with respect to banks, bank holding companies, and subsidiaries thereof."

[15] Me. Pub. Law 1983, ch. 302, § 2, as amended (1984).

[16] According to statistics published by the Association of Bank Holding Companies, each of the four largest New York bank holding companies has greater assets than those of all the New England bank holding companies combined. Association of Bank Holding Companies, *Bank Holding Company Facts* (Spring 1983 ed.).

REVIEW OF STATE BANKING STATUTES AND LEGISLATION CONCERNED WITH EXPANSION ACROSS STATE LINES—SEPTEMBER 4, 1984

ALABAMA

A gubernatorial task force designed to study and develop interstate banking proposals has been appointed; it is likely that a regionally reciprocal banking bill will be introduced in the legislature in January, 1985.

Independent bankers have opposed bank expansion legislation, while the four major bank holding companies are split on this issue; this, combined with procedural difficulties, will make passage of such legislation in the near future difficult.

Contained in several Southeastern region statutes/proposals.

ALASKA

No restriction on the out-of-state ownership of banks or bank holding companies.

ARIZONA

Gubernatorial task force now studying interstate banking.

In the 1984 legislative session H.B. 2117 would have permitted regional banking with Colorado, New Mexico, and Utah; regional banking is again expected to be considered in 1985.

Arizona Bankers Association has suggested phased-in reciprocal interstate banking, first with the above states, then adding California, and finally nationwide.

ARKANSAS

Bank holding companies headquartered out-of-the-state are prohibited from acquiring control of an Arkansas bank under the 1983 "Bank Holding Company Act."

Arkansas bankers are studying regional banking concepts with a view toward the 1985 legislative session.

CALIFORNIA

A.J. Res. 96 would urge the repeal of the McFadden Act and Douglas Amendment; pending.

A.B. 2094, which would have permitted reciprocal nationwide interstate banking, died in Committee January 1984.

California Bankers Association favors nationwide interstate banking and opposes regionally reciprocal banking.

COLORADO

Reciprocal interstate expansion for savings and loans died in the Colorado House in 1984 by a vote of 5-4 in the Business Affairs and Labor Committee; it is expected that in 1985, a regional banking bill will be considered.

CONNECTICUT

Permits regionally (New England) reciprocal expansion.

Prohibits the establishment of limited-service banks for entities headquartered outside of the state.

DELAWARE

Permits the establishment of a single limited-service bank in the state by an out-of-state entity.

State legislature may consider bank expansion legislation in 1985.

DISTRICT OF COLUMBIA

Representative Fauntroy introduced legislation, H.R. 4008, to permit regional reciprocity for D.C., Maryland, and Virginia in the 98th Congress.

D.C. Bankers Association is expected to propose regionally reciprocal banking legislation which, if adopted by the City Council, would allow mergers with banks in the Southeast.

FLORIDA

On May 16, 1984, the Florida legislature passed a regional reciprocity bill, which Governor Bob Graham signed into law on May 22; states included are Alabama, Arkansas, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, West Virginia, and the District of Columbia; acquired banks must have been in existence at least five years; the law becomes effective July 1, 1985.

GEORGIA

Enacted a regionally reciprocal banking law on April 5, 1984, to take effect July 1, 1985 (or January 1, 1985 if two contiguous states pass regional laws before then).

Banks at least five years in existence can be purchased by a Southeastern (Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia) bank holding company headquartered in a state with reciprocal privileges.

HAWAII

Contained in Utah's Western region statute.

IDAHO

State Legislature is expected to consider a regional banking measure in early 1985; the Idaho Bankers Association supports such legislation.

Contained in Utah's Western region statute.

ILLINOIS

A meeting of Midwestern bank regulators and governors' aides to discuss regional banking for the Midwest was held in August, 1984.

H.B. 1063, which passed the House Financial Institutions Committee 10-6 in early May, would permit nationwide reciprocal banking; this legislation did not reach the House floor before the legislature adjourned; reciprocal banking action is anticipated in 1985.

Barry Sullivan, Chairman, First Chicago Corp., expressed support for regional state statutes in an April, 1984 speech.

Governor James Thompson signed legislation on June 26, 1984, which would permit the acquisition of an Illinois bank by an out-of-state organization on an emergency basis; the acquired bank must have more than $1 billion in assets, must request an out-of-state takeover, and must be certified as troubled by state and federal regulators; such a merger can only take place in the absence of an adequate in-state offer and after a two-week notice of emergency is given.

INDIANA

Reciprocal banking action expected in 1985, following the Indiana Bankers Association June, 1984 announcement that it favors contiguous state reciprocal banking.

Considered for participation in a Great Lakes or Midwestern region; would be eligible for reciprocity as a contiguous state under a proposed Ohio law.

IOWA

Grandfathers certain out-of-state bank holding companies.

Regionally reciprocal bills failed in Committee in both Houses of the State Legisla-

ture in 1984; a Midwestern region of Illinois, Kansas, Minnesota, Missouri, Nevada, North Dakota, South Dakota, and Wisconsin was proposed; action is expected again in 1985.

KANSAS

Probable candidate for a Midwestern region.

Bank expansion legislation is likely in 1985.

KENTUCKY

Permits reciprocal bank acquisition for contiguous states for two years after July 14, 1984; this is to be followed by nationwide reciprocity.

Acquisitions are limited to three banks per year for five years, provided no single bank controls in excess of 15% of the state's deposits; a bank must be five years old to be acquired.

LOUISIANA

Contained in Georgia regional statute and other Southeastern proposals.

MAINE

Non-reciprocal acquisition of Maine banks has been permitted since mid-February, 1984.

MARYLAND

Permits the control of a limited-purpose bank by out-of-state entities.

House of Delegates voted down a Citicorp-sponsored nationwide reciprocal banking bill in April, 1984.

A gubernatorial task force is studying interstate banking; it will next meet in September, 1984; regional banking legislation is expected in January, 1985.

MASSACHUSETTS

Permits New England-wide reciprocal banking.

MICHIGAN

A bill which would initially permit regional banking with states contiguous to Michigan passed the House in June and should be studied by the Senate in September, 1984; the measure contains a two year trigger for nationwide interstate banking.

MINNESOTA

Permits the out-of-state acquisition of failing savings banks.

The Senate Commerce Committee voted 9–6 in March, 1984 against a regionally reciprocal bill which would have allowed both acquisition and de novo organization of Minnesota banks; an amendment limiting the legislation to Minneapolis/St. Paul was also rejected.

Governor Rudy Perpich and Commerce Commissioner Hatch have announced intentions to introduce regional banking legislation which would include a five year trigger, a ban on de novo charters, a net new funds provision, and an antileapfrogging provision.

MISSISSIPPI

Contained in Georgia regional statute and other Southeastern proposals.

MISSOURI

A Citicorp-sponsored national reciprocity proposal was defeated in the 1984 session of the Legislature; other proposals for contiguous state and reciprocity, reciprocal acquisitions in Kansas City and St. Louis, and for nonreciprocal acquisition's also failed.

The Speaker of the House has set up a special panel to review interstate banking proposals; the panel will hold hearings in Jefferson City in August, St. Louis in September, and Kansas City in October.

The Missouri Bankers Association will recommend a bill to the state legislature in January, 1985; the regional banking measure will include Kentucky, Tennessee, Illinois, Nebraska, Iowa, Kansas, Oklahoma, and Arkansas.

MONTANA

Contained in Utah regional statute and considered in other Western/Midwestern/North Central proposals.

NEBRASKA

A bill establishing a North Central region of Iowa, Missouri, Kansas, Colorado, Wyoming, Montana, Minnesota, Wisconsin, North Dakota, and South Dakota died in Committee in February, 1984.

Permits grandfathered activities by certain out-of-state banks.

NEVADA

Senate Banking Committee has indicated a willingness to endorse a regionally following a law passed in special session on March 29.

NEW HAMPSHIRE

A study commission is currently reviewing interstate banking in preparation for the 1985 state legislative session.

Nationwide reciprocal interstate legislation is expected to be introduced in 1985.

NEW JERSEY

The New Jersey Bankers Association has requested that the State legislature consider legislation for a Central Atlantic region (New Jersey, Delaware, Pennsylvania, Maryland, Ohio, Virginia, West Virginia, and the District of Columbia).

The proposal contains two triggers for nationwide reciprocity: following adoption of nationwide reciprocal laws by 13 states, and three years following the adoption of the regional proposals by New Jersey and two other states in the region.

NEW MEXICO

Defeated a Citicorp proposal for limited purpose banking in the state in February, 1984.

Regional banking legislation is expected to be considered in 1985.

NEW YORK

Permits nationwide reciprocal bank expansion.

NORTH CAROLINA

On July 7, 1984 the state became the ninth to enact a regionally reciprocal banking law; the vote in the Senate was 37 to 1, and 83 to 2 in the House; the law, effective January 1, 1985, covers Alabama, Arizona, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NORTH DAKOTA

Contained in several North Central/Midwestern regional banking proposals.

OHIO

H.B. 762, currently in House Committee, would allow nationwide reciprocal banking, with shareholder protection and deposit concentration restrictions.

A substitute bill for H.B. 762 would initially permit regional banking with states contiguous to Ohio (Pennsylvania, West Virginia, Kentucky, Indiana, and Michigan), followed in 1987 by nationwide reciprocity; it appears this legislation is more likely to pass; it is expected to be considered in November, 1984.

OKLAHOMA

Considered for legislation in a Southwestern region.

OREGON

A task force studying interstate banking will make recommendations to the legislature in 1985.

Permits the acquisition of mutual savings banks in danger of failure.

Contained in Utah's Western regional statute.

PENNSYLVANIA

Considered for participation in a Central Atlantic regional proposal; would be eligible for reciprocity as a contiguous state under a proposed Ohio law.

State bankers association task force is studying regional banking options.

RHODE ISLAND

Permits New England regionally reciprocal expansion; allows nationwide reciprocity after July 1, 1986.

SOUTH CAROLINA

The State enacted a regionally reciprocal banking statute permitting acquisition of established South Carolina banks by banks in a Southeastern region composed of Alabama, Arizona, District of Columbia, Florida, California, Kansas, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; this measure was signed by Governor Riley on May 21 and will take effect on July 1, 1986.

SOUTH DAKOTA

Considered for participation in a Midwestern/North Central region.

TENNESSEE

Contained in Georgia's Southeastern region statute and other regional proposals.

The legislature and the Governor have set up a task force to study regional banking.

TEXAS

Governor Mark White has appointed a study group to study reciprocal banking for Texas.

Leading bankers are favoring a regional banking statute for Texas and calling for the establishment of a Southern/Southwestern/Energy Belt region.

UTAH

Permits regionally reciprocal banking with Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming.

Permits the above states to acquire failing Utah institutions on a non-reciprocal basis.

VERMONT

Bills to permit acquisition of Vermont banks on both a reciprocal and non-reciprocal basis failed in the House in 1984.

VIRGINIA

At the Governor's request, the Virginia Bankers Association appointed an interstate banking study group; this body voted in July, 1984 to support regionally reciprocal banking for Virginia.

Permits limited-purpose credit card banks.

WASHINGTON

Permits the acquisition of failing Washington banks by out-of-state institutions.

A bill permitting regionally reciprocal bank acquisitions failed in Committee in February; further action is anticipated in 1985.

WEST VIRGINIA

West Virginia Bankers Association's Committee on Reciprocal Banking adopted a resolution on August 7, 1984 recommending the WVBA's support for legislation authorizing reciprocal banking with contiguous states; it is hoped that such legislation will

be introduced in the January, 1985 legislative session.

Contained the Kentucky reciprocal statute, several Southeastern proposals, and in the Central Atlantic proposal.

WISCONSIN

House and Senate Committee bills to permit nationwide reciprocal banking failed in Committee in 1984; substitutes proposing regional reciprocity and study of the issue also failed.

The new president of the Wisconsin Bankers Association predicted in June that the association's task force on interstate banking will recommend a regionally reciprocal banking bill by late fall.

Governor Anthony Earl sponsored a meeting of bank regulators and governors' aides in Chicago in early August, 1984; representatives from Wisconsin, Ohio, Illinois, Michigan, Minnesota, Missouri, and Indiana met to discuss reciprocal banking for the Midwest.

WYOMING

Contained in the Utah regional statute and other regional proposals.

SUMMARY OF BANK EXPANSION LAWS AND ACTIONS

I. Regionally Reciprocal Laws (9 states): Connecticut, Florida, Georgia, Kentucky, Massachusetts, North Carolina, Rhode Island, South Carolina, and Utah.

II. Nationwide Reciprocal Laws (1 state): New York.

III. Nationwide Unrestricted Entry (2 states): Alaska, Maine.

IV. States Considering Reciprocal Legislation (31 states).

1. State Legislatures:

a. Past/Present: Arizona, California, District of Columbia, Illinois, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Vermont, Washington, Wisconsin.

b. 1985 Session (expected): Alabama, Arizona, Arkansas, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Nevada, New Mexico, Texas, Virginia, West Virginia, Wisconsin.

2. Study Groups:

a. Gubernatorial: Alabama, Arizona, Maryland, Tennessee, Texas.

b. State Bankers Association: New Jersey, Pennsylvania, Virginia, West Virginia, Wisconsin.

c. Legislative: New Hampshire, Oregon.

V. Grandfathered Entry (4 states): Florida, Illinois, Iowa, Nebraska.

VI. Limited Purpose Entry (6 states): Delaware, Maryland, Nebraska, Nevada, South Dakota, Virginia.

VII. Failing Institution Statutes (5 states): Illinois, Michigan, Oregon, Utah, Washington.

VIII. States Without Bank Expansion Statutes/Action (7 states): Hawaii, Louisiana, Mississippi, Montana, North Dakota, Oklahoma, Wyoming.

Mr. GARN. Mr. President, the next item of business would be to introduce the committee amendments en bloc. I will do that in a few moments before we proceed to other amendments.

However, I do believe it would be helpful at this time, for some further discussions on the progress of this bill and where we are going later in the day, to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, just a word of explanation of what has been going on all afternoon during the quorum call. Earlier in the afternoon, the Senator from New York suggested that we might come to a compromise and have a time agreement on this bill. He did offer a time agreement which I was willing to accept. However, we have spent the rest of the afternoon attempting to clear it with other Senators and have not been able to do so at this point.

I appreciate the Senator's offer very much—after the time he has spent, and as strongly as he feels about the bill—in offering a time agreement. The Senator is still willing to go forth with it. There are others who are not. So we will continue with the bill tomorrow, and continue to try to work on a time agreement that can be agreed to by unanimous consent.

Mr. BAKER. Mr. President, I commend the chairman of the Banking Committee on his statement. We have been on a 3-hour quorum which is very unusual, but it was worthwhile in the sense that the negotiations have been under way while not yet successful may still be successful. I think we have come a long way since we had a filibuster on the motion to proceed. We now have the bill before us, and I think we are within striking distance of getting a unanimous-consent agreement on, if not a time certain to pass the bill—and we may get that—at least a limitation of time on all or most of the amendments that may be offered.

Just so Senators may be up to speed on all of the negotiations that are underway, they should perhaps also know that we are in the last 3 weeks—3½ weeks—of this session. There is a possibility that some Senators will insist on the right to offer other amendments to this bill that are not related to banking. That has been part of our conversation so far. There is the possibility, for instance, that a civil rights amendment might be offered to this bill. Any amendment may be offered to this bill under the circumstances. But that has complicated the question of trying to get a unanimous-consent agreement. I am not saying that to agitate people. I simply want everyone to be aware of the situation as it exists.

Tomorrow, Mr. President, it will be the job of the leadership on this side—and I hope and expect on both sides in cooperation with the two managers of the bill—to see how we can unravel this thing, and see if we cannot get on with the business at hand. There are only two things we can do. We can go ahead, get a time agreement, and pass this bill with or without other amendments—meaning extraneous amendments—or we can not get a time agreement. But the leadership on this side does not expect to take this bill down.

So I urge Senators to consider what they have in mind, consider the time we have remaining, and to put their best efforts forward in trying to reach an arrangement that will let us dispatch this piece of legislation to get on to the next item.

I hope those words are not too harsh. But I hope that all Senators are now on notice that we have a different situation.

Mr. EXON. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. EXON. This Senator is concerned about where we are going on this bill even as it passes in some form in the U.S. Senate, given the time constraints, and the understanding that I understand has been reached with the House of Representatives to adjourn on October 5.

Mr. BAKER. October 4—it was the 5th, but I just had a meeting with the Speaker today, and we improved that by 1 day.

Mr. EXON. Congratulations. I always have great respect for the majority leader in making great progress.

My question is, assuming this bill would pass the U.S. Senate, What are the prospects that the measure would be taken up by the House of Representatives before sine dine adjournment?

Mr. BAKER. Mr. President, I do not know. I would be happy to yield to the chairman of the committee. But before I do so, however, may I say absolutely with no disrespect for the House I have never had much success over there, and I have just about stopped asking. But they operate in their way, and we do in our way. But let me yield to the Senator from Utah, who may have a better insight than my somewhat facetious remark.

Mr. GARN. I thank the distinguished majority leader.

All I can say to my colleague is 2 years ago, the so-called Garn-St Germain bill came up with 2 days left in the session. We passed it, went to conference with the House, and it became law. I was told then that there was no possibility of the bill having accommodation with the House of Representa-

tives. I am told the same thing again. I do not know that until there is a bill. I can hear all of these rumors from lobbyists, and all sorts of things.

I can tell you Congressman ST GERMAIN and I have worked out a large number of difficult problems together over the last 4 years. I would expect him to go to conference, be a tough bargainer, and there would have to be exchanges made. I certainly would not expect this bill to pass intact just because that is the way the Senate approved it, but there are many provisions that are similar.

The South Dakota loophole both sides agreed should be closed. The nonbank bank loophole there is no disagreement over. Those are two rather major decisions. People seem to concentrate on differences rather than the similarities and the desire to proceed. So I cannot give any guarantees, but I would not be out here spending this time on the floor working this hard on a bill if I did not think it had some possibility.

It is no great thrill to say, "Hey, I got a bill passed in the Senate" that never becomes law. I think there is a reasonable possibility of getting a bill after going through the normal process, as the Senator knows, of the conference with the House and the give-and-take situation.

Mr. EXON. Will the chairman of the Banking Committee yield for a further question? Is it not true that the chairman has just mentioned the two main, prominent features of the House bill, which, No. 1, has to do with closing the two loopholes that he mentioned? Is that not in essence what the House has passed or is about to pass?

Mr. GARN. Those are the two major provisions in the House bill. Those provisions are also contained in this bill.

Mr. EXON. Let me ask the chairman of the Banking Committee if we should become bogged down on amendments—I have an amendment that I hope would be noncontroversial that might be accepted. But basically, if the additions to the bill over and above what the House has passed become contentious in this body, then would it be the view of the chairman of the Banking Committee that the discretion being the better part of valor it might be a good idea to back off and just pass in this body the two essential ingredients that I understand are more or less must legislation, which I agree with? Would he consider backing off and making the bill coming out of here more in companion with what the House has already acted upon?

Mr. GARN. No, Senator; I would not. I made that position very clear many times. I have been in this situation before, and I yielded to that kind of threat. In December of 1971, I was told if I did not yield and just go with the two provisions of the House that the whole thrift industry would fail, and that it would be on my shoulders because I insisted on having additions to the bill. Well, the thrift industry did not collapse, fortunately, and it was not all dumped on me. But I am a little bit tired of Congress on these issues where an entire industry is in a revolutionary stage always just being a little Dutch boy sticking their fingers in the dike and saying we did what was necessary to be done. I think it is necessary to do more than that. I am tired of the promises that, if you just do the must legislation, we will be back in 6 months and we will do the additions.

Former Chairman PROXMIRE is familiar with the process. He suffered with it a long time before I did, and he agrees with me that we must pass a larger bill. I want to make sure the Senator understands what I have always said on this floor many times, and repeated the last several days. I do not insist that the Senate bill, as passed out of the Senate Banking Committee that is now before us, pass intact or that the House of Representatives has to swallow every line and paragraph on it.

There is a big difference between just accepting a couple of loophole closings and some accommodation in between. There is a lot of room in between because, as the Senator from Wisconsin said, 95 percent of this bill is not controversial. Earlier today, I went through it, and I again reviewed all of the sections of the bill that are not controversial.

So to throw the baby out with the bath water, most of those which the House would accept because they are not controversial, my answer to your question is no. I am not going to accept a couple of little loophole closures. But I am known as a pretty pragmatic legislator who is willing to sit down and trade, as we do in conferences, and see what can be worked out. There are only four items out of this 130-some-odd-page bill that are really controversial. That is the regional banking issue, which the Senator from New York has been addressing himself to; there is no dispute over whether the South Dakota loophole should be closed.

It is a matter of degree with what was originally in the bill and what Senator DODD amended. The other two are municipal revenue bonds and mortgage-backed securities. I am willing to accept the judgment of the Senate on those issues, and then go to conference. But to just accept a couple of loophole closures, I do not think that would be responsible or necessary, particularly when I have also, in these other comments, announced that if we fail to reach a bill this year, that everybody who wants to have a nonbank bank be put on notice that the July 1, 1983, grandfather date in this bill would be the date that would still stand.

So if we fail during the interim to have a bill, if they invest a few million bucks in nonbank banks, we will eventually pass those loophole closures and eventually have to go back to 1983. So I do not see a great need to rush in doing just that little bit. We can do more than that issue.

Mr. EXON. I thank the chairman of the Banking Committee and I thank the leader.

I would close by saying that on this issue I would hope that while there may be differences of opinion on some of the things that might be raised, that we could at least move ahead and let the Senate work its will. It seems to me that is the basic appeal that the majority leader made. I say to the majority leader, that chairman of the Banking Committee, and my distinguished friend from Wisconsin, the ranking member, that I will help wherever I can to move this along.

Mr. BAKER. I thank the Senator.

Mr. President, before we go into morning business for a wrapup, I will announce that there will be no more record votes today.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

Senators Howard Baker, Mack Mattingly, John H. Chafee, Dan Quayle, Robert Stafford, Slade Gorton, William Proximre, Chic Hecht, Don Nickles, Lowell Weicker, Mark Andrews, Arlen Specter, Jake Garn, Warren Rudman, Bob Dole, William Cohen, and Barry Goldwater.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until 6:15, in which Senators may speak for not more than 2 minutes each, except the two leaders, to whom the time limitation will not apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 806. An act to provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2574. An act to revise and extend title VII of the Public Service Act, relating to nurse education.

The message further announced that the House has agreed to the amendment of the Senate to the amendment of the House to the following joint resolution:

S.J. Res. 25. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site."

The message also announced that the House insists upon its amendment to the bill (S. 529) to revise and reform the Immigration and Nationality Act, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary: Mr. RODINO, Mr. MAZZOLI, Mr. SAM B. HALL, JR., Mr. SYNAR, Mr. FRANK, Mr. CROCKETT, Mr. SCHUMER, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. BERMAN, Mr. FISH, Mr. MOORHEAD, Mr. HYDE, Mr. LUNGREN, and Mr. MCCOLLUM.

As additional conferees: From the Committee on Agriculture, solely for consideration of section 101 of the bill and section 101 of the House amendment: Mr. DE LA GARZA, Mr. PANETTA, and Mr. MORRISON of Washington.

From the Committee on Agriculture, solely for consideration of sections 211, 214, and 407 of the bill, of sections 211 and 214 of the House amendment, and of such portions of sections 301 and 302 of the bill and of sections 301 and 304 of the House amendment as relate to eligibility and funding for public assistance programs within the jurisdiction of the Committee on Agriculture: Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. PANETTA, Mr. MORRISON of Washington, and Mr. CHAPPIE.

From the Committee on Education and Labor, solely for consideration of sections 101, 211, 214, and 407 of the bill, of sections 101, 211, 214, and 305 of the House amendment, of subsection 107(d) of the Immigration and Nationality Act as contained in section 122 of the House amendment, and of such portions of sections 301 and 302 of the bill and of sections 301 and 304 of the House amendment as relate to eligibility and funding for public assistance programs within the jurisdiction of the Committee on Education and Labor: Mr. HAWKINS, Mr. FORD of Michigan, Mr. MILLER of California, Mr. ERLENBORN, and Mr. PACKARD.

From the Committee on Energy and Commerce, solely for consideration of such portions of sections 301 and 302 of the bill and of sections 301 and 304 of the House amendment as relate to eligibility and funding for public assistance programs within the jurisdiction of the Committee on Energy and Commerce: Mr. DINGELL, Mr. WAXMAN, and Mr. BROYHILL.

Solely for consideration of section 119 of the House amendment: Mr. DE LA GARZA.

Solely for consideration of sections 111, 115, 116, 117, 118, subsection 205(f), and title V of the House amendment, and modifications thereof committed to conference: Mr. ROYBAL.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 136. Concurrent resolution to correct technical errors in the enrollment of the bill S. 1546.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5220. An act to protect the national defense shipyards of the United States, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 743. An act for the relief of Theda June Davis; and

H.R. 2387. An act for the relief of Benjamin B. Doeh.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3762. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, a report and final environmental statement on the Minidoka Powerplant Rehabilitation and Enlargement, Minidoka Project, Idaho-Wyoming; to the Committee on Energy and Natural Resources.

EC-3763. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a notice of a Department of Health and Human Services matching program; to the Committee on Governmental Affairs.

EC-3764. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a report on the use and distribution of Quechan Tribe of Fort Yuma Reservation, California, judgment funds; to the Select Committee on Indian Affairs.

EC-3765. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the patent laws implementing the Patent Cooperation Treaty; to the Committee on the Judiciary.

EC-3766. A communication from the Secretary of Education, transmitting, pursuant to law, Final Regulations for Student Rights in Research, Experimental Activities, and Testing; to the Committee on Labor and Human Resources.

EC-3767. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the fiscal year 1986 budget request of the Board; to the Committee on Labor and Human Resources.

EC-3768. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1983 through May 1984; to the Committee on Small Business.

EC-3769. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report on the payment of Aviation Officer Continuation Pay; to the Committee on Armed Services.

EC-3770. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3771. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to repeal the provisions exempting aircraft owners or operators from reimbursing the Federal Government or any agency thereof for certain Sunday and holiday overtime services; to the Committee on Commerce, Science, and Transportation.

EC-3772. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the 1984 second quarter report on the Olympic Commemorative Coin Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3773. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Steel Industry Compliance Extension Act Brought About Some Modernization and Unexpected Benefits"; to the Committee on Environment and Public Works.

EC-3774. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to raise the maximum annual uniform allowance for uniformed employees of the Federal Law Enforcement Training Center, Department of the Treasury; to the Committee on Finance.

EC-3775. A communication from the President of the United States, transmitting, pursuant to law, a report on his decision not to grant import relief to the copper industry; to the Committee on Finance.

EC-3776. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on the activities funded under the South Africa Human Rights Fund; to the Committee on Foreign Relations.

EC-3777. A communication from the Deputy Director for Administration of the Central Intelligence Agency, transmitting, pursuant to law, a report of proposed revision of the statement of general routine uses for all CIA records systems; to the Committee on Governmental Affairs.

EC-3778. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, a copy of the 1984 audit report as of June 30, 1984, for the American Ex-Prisoners of War, Inc.; to the Committee on the Judiciary.

EC-3779. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report of his determination that the Department will refrain from defending the constitutionality of the appointment provisions of the Bankruptcy Amendments and Federal Judgeship Act of 1984; to the Committee on the Judiciary.

EC-3780. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Incomplete Participant Data Affect Reliability of Values Placed by Actuaries on Multiemployer Pension Plans"; to the Committee on Labor and Human Resources.

EC-3781. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on the administration of title I of Public Law 81-874 and Public Law 81-815, as amended; to the Committee on Labor and Human Resources.

EC-3782. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the results of a study on the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer pension plans; to the Committee on Labor and Human Resources.

EC-3783. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the audit of the United States Capitol Historical Society's financial statements for the years ended January 31, 1983, and 1982; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 381. A bill to establish a Federal Courts Study Commission and a Federal Oversight Council on the Future of the Judiciary (Rept. No. 98-598).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2768. A bill to provide for the education in the United States of certain students of limited financial means from developing countries (Rept. No. 98-599).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself, Mr. PROXMIRE and Mr. LEVIN):

S. 2982. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending; to the Committee on Governmental Affairs.

By Mr. GORTON:

S. 2983. A bill to amend the tariff schedules of the United States to clarify the duty treatment of certain types of plywood; to the Committee on Finance.

By Mr. BAKER:

S. 2984. A bill to designate the air traffic control tower to be constructed at the McGhee Tyson Airport in Knoxville, TN, as the "Tom Kesterson Tower"; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. THURMOND and Mr. HEINZ):

S. 2985. A bill to transfer certain functions to the Equal Employment Opportunity Commission, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DANFORTH (for himself and Mr. KENNEDY):

S.J. Res. 352. Joint resolution designating October 1984 as "National Head Injury Awareness Month"; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 353. Joint resolution to designate the week of February 3, 1985, through February 9, 1985, as "National School Guidance and Counseling Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOREN (for himself, Mr. BAUCUS, Mr. BENTSEN, Mr. BUMPERS, Mr. BURDICK, Mr. EXON, Mr. LEAHY, Mr. NICKLES, Mr. PRYOR, and Mr. ZORINSKY):

S. Res. 440. Resolution to express the sense of the Senate that the President should immediately notify the Soviet Union that additional purchases of U.S. grain, above the maximum level specified in the Long-Term Grain Agreement, may be made by the Soviet Union during the second year of the agreement and to seek to modify the agreement by establishing higher minimum and maximum supply guarantees; to the Committee on Foreign Relations.

By Mr. ROTH (for himself and Mr. TSONGAS):

S. Con. Res. 139. Concurrent resolution condemning South Africa's arrests and detentions of political opponents; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. PROXMIRE and Mr. LEVIN):

S. 2982. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending; to the Committee on Governmental Affairs.

STATE MINIMUM RETURN ACT

Mr. DIXON. Mr. President, I rise today to introduce "The State Minimum Return Act of 1984." This act will correct imbalances in the amount of Federal spending that certain States receive in return for the tax dollars they send to Washington.

Although this bill contains complex language and provisions, I want to assure my colleagues and taxpayers of the United States, at the outset, that the bill does not require any increases in spending. Rather, the bill reallocates funds among States within existing spending limits, so as not to increase the deficit.

This bill addresses a very important issue which has caused real hardship in my State of Illinois, and in many other States, principally in the Midwest and Northeast. In 1983, Illinois received only 75 cents in Federal spending for each tax dollar it spent to the Federal Government. For the past 30 years, this ratio has been similarly low. Losing a quarter on every dollar is not a good deal to begin with. But when you think in terms of the Federal budget, Illinois and other States are sending billions of dollars to Washington every year that they never see again.

Many of these disadvantaged States were among those that suffered most during the recent recession. They can least afford to lose billions of dollars right now. Government policy should not make a bad situation worse. Rather, it should lend a hand to States whose economies have needed the most help in the recent past.

For the past 3 years, I have worked with my colleagues on both sides of the aisle to help correct this loss of funds by adjusting spending for specific Federal programs. As cochairman of the Northeast-Midwest Senate coalition, I have pursued many efforts to get a better deal for needy States.

While these efforts have helped create jobs and improve the economy of Illinois, and of many other States, they have not been sufficient to stop the continual flow of funds from these States to other States with healthier economies. In fiscal 1982, States that received less than 90 cents in spending for each tax dollar were short-changed a total of $54 billion by the Federal Government. Illinois alone paid out $12.5 billion more than it received in spending. It would require approximately $25 billion to bring disadvan-

taged States to the 90-cents level. We need a comprehensive approach to solve this problem. We cannot allow vast sums of money to be drained out of States like Illinois.

Attached to this statement is a research report I have prepared on the problem of these Federal dollar outflows. The report analyzes the source of these outflows, highlighting the low level of defense contracts and, to a lesser extent, grant programs in disadvantaged states. Additionally, the report examines the consequences of these outflows for States. The economies of States sending more money to Washington in taxes than they receive in spending have low growth rates. These rates result in part from low levels of the types of Federal funds which generate growth—grants and contracts. I request unanimous consent that the text of the research report be printed in the RECORD at the conclusion of my remarks.

The bill I am introducing will adjust Federal spending in the categories of Government contracts and grant programs. Contracts and grants accounted for $250 billion of the Federal budget in fiscal 1983, and are the chief sources of imbalances among States. These spending categories help stimulate economic growth, creating jobs and spurring private investment. Grants and contracts cause a ripple effect in the economy of a community. The award of a Government contract not only creates jobs in the company in which the work is performed. It also increases business and creates jobs in local companies supplying goods to the contractor.

In the area of Federal grants to State and local governments, the State Minimum Return Act will increase by 10 percent the share of moneys going to disadvantaged States. For example, if Illinois received an average of $100 million of a $1 billion highway program, or 10 percent, it would receive $110 million, or 11 percent, in the first year after the bill was enacted. That would mean an additional $10 million to repair unsafe bridges and to repave highways, and jobs for Illinoisans to work on those projects.

Since there are usually more projects that meet eligibility requirements for grant programs than there is funding available, this provision will allow disadvantaged States to receive a greater proportion of their eligible projects. For example, if the city of Rockford, IL, wanted to renovate an old, abandoned warehouse in a rundown neighborhood, to attract new business and improve the economy of the community, it would be more likely under this bill to get an urban development action grant for this project than it would otherwise.

Disadvantaged States will also receive additional moneys in the area of Federal contracts. With respect to competitive procurements and noncompetitive procurements, the head of each Federal agency will be required to award a contract to a firm that will do the work in a disadvantaged State if it submits a bid that is lower or equivalent to a bid from a firm that would do the work elsewhere. This means that if a metal cabinet for a Government office or a rubber fuel line for an Air Force plane can be made in Illinois more cheaply, or at the same price, than it can be made in a State that gets more than its fair share of spending from the Federal Government, that cabinet or fuel line is going to be made in Illinois by workers and businesses in Illinois.

Under this bill, contracting agencies will also have to attempt to increase the share of contracts in each disadvantaged State by 10 percent in each fiscal year, and will report on their progress annually. All States which currently receive less than $1 back from the Government in spending for each dollar they pay out in taxes will be eligible for these provisions.

The procurement provisions will create an incentive for companies to locate in Illinois and other disadvantaged States. In doing so, this bill will help restore the business climates in these States, which have been disrupted by the drain of Federal funds and low levels of funding for grants and contracts.

States will be eligible to receive additional grants and contracts if they currently receive less than 90 cents in spending for each tax dollar. States will be eligible to receive additional contracts if they receive between 90 cents and $1 in spending for each tax dollar.

Let me say again that this bill will not require additional spending in these categories. I firmly believe that increasing spending across-the-board is not the way to solve this problem. The resulting increases in the deficit would worsen rather than improve the economies of Illinois and other disadvantaged States, and the economy of the Nation as a whole.

What is being suggested here is a reallocation of Federal moneys among the States, rather than the creation of new Government spending programs. In addition, in order not to penalize the needy and other citizens who currently receive direct Government benefits in all States, the bill will not affect payments to individuals by the Federal Government. Such programs as Social Security, food stamps, supplemental security income, Pell grants, lower income housing assistance, veterans assistance, black lung disability, guaranteed student loan interest subsidies, retirement payments for railroad workers, and Federal workers' compensation, retirement and disability, and employee life and health insurance will not be affected by the bill. In addition, programs which are limited by law to certain States, such as the Bureau of Reclamation, the Tennessee Valley Authority, and the Bonneville Power Administration, will not be covered by the bill.

The State Minimum Return Act is an attempt to develop the comprehensive approach we need to end what amounts to a multibillion dollar penalty being paid each year by Illinois and many other States. By any measure, there is every reason that these States should be getting back their fair share of the Federal budget. I realize that this bill represents the first attempt to tackle this complex problem, and I will welcome any comments or suggestions for improvement by my colleagues and other interested parties.

I urge my colleagues to join me in this effort to help these disadvantaged States get back a fair share of their tax dollars.

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield?

Mr. DIXON. Mr. President, I shall be delighted to yield to my warm friend, the distinguished senior Senator from Wisconsin.

Mr. PROXMIRE. May I say to my good friend from Illinois that I am delighted and honored that I am cosponsoring this important measure. It is about time. I say to the Senator from Illinois that he can come to Wisconsin for any type of parade, if we vote this bill, and the citizens of Wisconsin would be glad to carry him on their shoulders throughout the parade route. This is a wonderful proposal and about time. I am just unhappy that I did not think about it 20 years ago. It is something we should have been doing all along. Not only is this a lalapalooza, to use the word of my good friend from Illinois, for the taxpayers of Wisconsin, but I think for people throughout the country it is a good idea.

What it means is it will stimulate competition. If the people and the businesses of Illinois realize that they can get those contracts if they come after them, they will do it. Unfortunately, in our State, we get one-half of 1 percent of the Federal defense contracts, although we pay about 2 percent of the taxes and we have about 3 or 4 percent of the industry. So we are getting, at the very best, one-quarter of what we should get in defense contracts. That is partly because our people are not aggressive enough. They are not active enough; they do not bid enough. But it is also because there obviously is a tendency to go back to the same old places, year after year, to the great disadvantage of Illinois and Wisconsin, both of which have serious unemployment problems, both of which have industry that can do the job, that have people who are ready and willing to put in a full day's

work for a full day's pay but do not have the opportunity to do it.

I am delighted the Senator has introduced this bill and I am pleased and honored to be a cosponsor.

Mr. DIXON. Mr. President, may I say how pleased the Senator from Illinois is that the Senator from Wisconsin is a principal cosponsor. He has for many years here established a reputation as a protector of the public purse while working always for fairness and equity in this place. This bill is designed to protect the public purse. It spends no additional money; it simply allocates funds into loser States such as Wisconsin and Illinois that, for many, many decades, have been underprivileged in favor of other parts of the country with respect to the expenditure of Federal dollars. I am very much honored by the fact that a man whom I so richly and warmly admire, and have admired for many years before coming to this place, has joined me in this struggle.

Mr. PROXMIRE. Mr. President, not only has the Senator from Illinois made a good proposal but he has also paved the way for what I think will be a hardhitting confrontation among Members of the Senate.

People have not always been as generous as we would like them to be. But that is healthy. There not only will be competition between industries and States but among Senators. I think we are going to see a very exciting fight over this bill when it is debated. I hope we see a companion bill introduced in the House.

Mr. DIXON. I thank my friend, and I ask unanimous consent that at this point there be included in the RECORD a report entitled "Illinois and the Drain of Federal Funds," a copy of "The State Minimum Return Act of 1984," a section-by-section analysis of the bill and a guide to the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Minimum Return Act of 1984".

STATEMENT OF POLICY

SEC. 2. It is the purpose of this Act to provide, within existing budgetary limits, authority to reallocate the distribution of certain Federal spending to various States in order to ensure by the end of fiscal year 1989 that each State receive in each fiscal year an amount of Federal expenditures equal to a minimum of 90 percent of the Federal tax burden attributable to such State for such fiscal year.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "Federal agency" means any agency defined in section 551(1) of title 5, United States Code.

(3) The term "State" means each of the several States and the District of Columbia.

(4) The term "historic share" means the average percentage share of Federal expenditures received by any State during the most recent three fiscal years.

(5) The term "Federal expenditures" means all outlays by the Federal Government as defined in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(1)).

(6) The term "Federal tax revenues" means all revenues collected pursuant to the Internal Revenue Code of 1954.

DESIGNATION OF ELIGIBLE STATES

SEC. 4. (a) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 90 percent.

(b) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under paragraph (1) of section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 100 percent but greater than or equal to 90 percent.

(c) During each fiscal year, the Director after consultation with the Commissioner of the Internal Revenue Service and the Director of the Census Bureau, shall determine the eligibility of any State under this section using the most recent fiscal data and estimated data available concerning Federal tax revenues and Federal expenditures attributable to such State. The Commissioner of the Internal Revenue Service shall determine the attribution of Federal tax revenues to each State after consultation with appropriate officials of the National Tax Foundation.

DESIGNATION OF REALLOCABLE FEDERAL EXPENDITURES

SEC. 5. All Federal expenditures in any fiscal year shall be subject to reallocation to ensure the objective described in section 2 with respect to eligible States designated under section 4, except for such expenditures with respect to the following:

(1) Water and energy programs which are authorized by law and benefit a region of the United States composed of more than 3 States but not all States.

(2) Compensation and allowances of officers and employees of the Federal Government.

(3) Maintenance of Federal Government buildings and installations.

(4) Offsetting receipts.

(5) Programs for which the Federal Government assumes the total cost and in which a direct payment is made to a recipient other than a governmental unit. Such programs include:

(A) Social Security, including disability, retirement, survivors insurance, unemployment compensation, and Medicare, including hospital and supplementary medical insurance;

(B) Supplemental Security Income;

(C) Food Stamps;

(D) Black Lung Disability;

(E) National Guaranteed Student Loan interest subsidies;

(F) Pell grants;

(G) lower income housing assistance;

(H) social insurance payments for railroad workers;

(I) railroad retirement;

(J) excess earned income tax credits;

(K) veterans assistance, including pensions, service connected disability, nonservice connected disability, educational assistance, dependency payments, and pensions for spouses and surviving dependents;

(L) Federal workers' compensation;

(M) Federal retirement and disability; and

(N) Federal employee life and health insurance.

REALLOCATION AUTHORITY

SEC. 6. (a) Notwithstanding any other provision of law, during any fiscal year the head of each Federal agency shall, after consultation with the Director, make such reallocations of expenditures described in section 5 to eligible States designated under section 4 as are necessary to ensure the objective described in section 2.

(b) Notwithstanding any other provision of law and to the extent necessary in the administration of this Act, the head of each Federal agency shall waive any administrative provision with respect to allocation, allotments, reservations, priorities, or planning and application requirements (other than audit requirements) for the expenditures reallocated under this Act.

(c) The head of each Federal agency having responsibilities under this Act is authorized and directed to cooperate with the Director in the administration of the provisions of this Act.

REALLOCATION MECHANISMS

SEC. 7. (a) Notwithstanding any other provision of law, for purposes of this Act, during any fiscal year reallocations of expenditures required by section 6 shall be accomplished in the following manner:

(1)(A) With respect to procurement contracts, the head of each Federal agency shall—

(i) identify qualified firms in eligible States designated under section 4 and disseminate any information to such firms necessary to increase participation by such firms in the bidding for such contracts,

(ii) in order to ensure the objective described in section 2, attempt to increase the national share of such contracts for each such eligible State by 10 percent each fiscal year, and

(iii) thirty days after the end of each fiscal year, report to the Director regarding progress made during such fiscal year to increase the share of such contracts for such eligible States, including the percentage increase achieved under clause (ii) and if the goal described in clause (ii) is not attained, the reasons therefor.

Within ninety days after the end of each fiscal year, the Director shall review, evaluate, and report to the Congress as to the progress made during such fiscal year to increase the share of procurement contracts the preponderance of the value of which has been performed in such eligible States.

(B) In the case of any competitive procurement contract, the head of the contracting Federal agency shall award such contract to the lowest bid from a qualified firm that will perform the preponderance of the value of the work in an eligible State designated under section 4 if the bid for such contract is lower or equivalent to any bid from any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(C) In the case of any noncompetitive procurement contract, the head of each Federal agency shall identify and award such contract to a qualified firm that will perform the preponderance of the value of the work

in an eligible State designated under section 4 and that complete such contract at a lower or equivalent price as any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(D) For purposes of this paragraph, in the case of any procurement contract, any firm shall be qualified if—

(i) such firm has met the elements of responsibility provided for in section 8(b)(7) of the Small Business Act as determined by the head of the contracting Federal agency to be necessary to complete the contract in a timely and satisfactory manner, and

(ii) with respect to any prequalification requirement, such firm has been notified in writing of all standards which a prospective contractor must satisfy in order to become qualified, and upon request, is provided a prompt opportunity to demonstrate the ability of such firm to meet such specified standards.

(2)(A) With respect to all other expenditures described in section 5, any eligible State designated under section 4(a) shall receive 110 percent of such State's historic share with respect to such expenditures.

(B) In the case of projects funded by Federal expenditures authorized and appropriated on an individual project basis, subparagraph (A) shall be applied to the greatest extent practical.

(b) No reallocation shall be made under this section with respect to expenditures for any program to any State in any fiscal year which results in a reduction of 10 percent or more of the amount of such expenditures to such State.

(c) No reallocation shall be made under the provisions of this Act which will result in any Federal expenditure to Federal tax ratio of any State being reduced below 90 percent.

AMENDMENTS

SEC. 8. No provision of law shall explicitly or implicitly amend the provisions of this Act unless such provision specifically refers to this Act.

EFFECTIVE DATE

SEC. 9. The provisions of this Act shall take effect for fiscal years beginning after the date of the enactment of this Act.

ILLINOIS AND THE DRAIN OF FEDERAL FUNDS

(Senator Alan J. Dixon)

EXECUTIVE SUMMARY

In 1981 and 1982, Illinois ranked dead last in terms of the dollars it got back from the federal government for its tax payments. In 1983, Illinois received 75 cents in spending for each tax dollar it sent to Washington. In the same year, twelve states received more than $1.20 in federal spending for each one of their tax dollars. This enequity is not unique to Illinois, but applies also to many other states, principally in the Northeast and Midwest, which send large amounts of tax dollars annually to Washington, and get back an abysmally low level of spending in such categories as defense, federal installations, and many grant projects. The result is a massive annual drain of money out of these states. Many of these states are among those areas which suffered most under the recent recession and which continue to be plagued by higher rates of unemployment. They can ill afford such an outflow of funds. The end product of this outflow is an infusion of federal money into other states, principally in the South and West, whose economies have been thriving in recent years.

As this report shows, this pattern of funding flows has existed for over a generation. In the past three years, however, it has worsened, due in large part to a shift in budget priorities which has increased the outflows and which has caused Illinois and other disadvantaged states to fall farther behind beneficiary states. Increases in the defense budget and corresponding cutbacks and freezes in other spending categories have caused money to flow out of Illinois and its neighboring states at a higher volume and at a faster rate. This report discusses the sources and implications of this problem, and a proposed solution, "The State Minimum Return Act of 1984."

INTRODUCTION

Since the Second World War, the geographic and structural bases of the American economy have undergone profound and much-chronicled change. A shift in emphasis from heavy manufacturing to service and high-technology industries, and the migration of population, businesses, and capital from the large cities of the Midwest and Northeast to the expanding cities of the South and West are only two, albeit the most sweeping, of these developments. The short-term results of these shifts for many states of the Northeast and Midwest have been higher unemployment rates, increasing levels of poverty, and slower rates of economic growth.

Patterns of federal spending in recent years have closely mirrored these regional economic changes. Prospering states in the South and West have consistently received higher proportions of federal spending than those in the Northeast and Midwest. Illinois stands as the most glaring example of this inequity. In 1982, Illinois ranked 51st among all states (including the District of Columbia), receiving 66 cents in spending for each tax dollar it sent to the federal government. In that same year, Michigan received 76 cents for each tax dollar, Indiana received 77 cents, and Wisconsin received 78 cents (see table 6). (In 1983, these ratios increased slightly, due in large part to additions to the data base used to calculate the ratios (see table 9).) Given the economic hardship encountered by these states during the recession of 1982, these numbers suggest a disturbing paradox: Federal spending flows least into those states which need it most.

Because federal outlays currently comprise nearly one-quarter of the Gross National Product, their distribution has wide-ranging and substantial effects. Federal spending helps create jobs, alleviate poverty, and ease fiscal burdens on state and local governments. In Illinois, comparatively low levels of federal spending threaten to decrease the quality of life for its citizens and to hurt the business climate, discouraging new investment and the formation of new businesses within the state. Illinois' low percentage of federal contracts has hindered employment and profits, and thus has slowed the state's recovery from the recent recession. Freezes and cutbacks in social service programs have exacted a particularly painful toll on the poor of Illinois.

After careful consideration of these factors, I have concluded that the federal government must adjust its spending patterns to prevent such obvious and damaging disparities. In the 1930s, President Franklin D. Roosevelt launched a massive federal effort to address the economic problems that plagued the South, noting that the national economy, as a whole, could never achieve its full potential as long as one region of the country was vastly underutilized. The Tennessee Valley Authority, the Rural Electrification Administration and a host of other federal initiatives made today's booming "Sunbelt" possible. Yet, some 50 years later, the economic tables have turned. Government policy has not responded to those changes. Without requesting any new federal spending, I am advocating a shift in a policy based on equity. Government spending and tax policies should not make a bad situation worse. They should not aggravate economic disparities, brought on in large measure by the recession and by structural changes in the economy. In the interest of national and state economic growth and of equity, the time has come to reverse this dangerous trend.

CHAPTER 1—SOURCES OF THE BALANCE OF PAYMENTS PROBLEM

The annual outflow of federal dollars from Illinois is the product of several factors, some of which can be traced back 50 years. In order to correct this inequity which burdens the state, it is essential to examine these factors closely. We must look first at taxes and expenditures.

FEDERAL TAX PAYMENTS

As an historically wealthy and populous state, Illinois traditionally has paid large amounts of federal taxes at high rates. Since 1952, Illinois has been ranked among the top states both in total federal taxes paid and in per capita tax payments. (1) In 1982, Illinois was ranked 4th in total tax payments and 7th in per capita tax payments. These rankings reflect a slight slippage in recent years, due to a decline in the annual growth rate of the Illinois economy as compared to other large states in the South and West.

At first glance, Illinois' high tax rates appear to be a decisive factor in the state's negative balance of payments with the federal government. Indeed, Professor Janet Rothenberg Pack notes that revenues, or more specifically and progressive income tax system, are the principal source of differential tax/expenditure ratios among states. Pack cites the narrowing of gaps over time between the favorable ratios of certain states and the dismal ratios of other states as evidence of this argument. Between 1952 and 1976, for example, New Mexico's tax/expenditure ratio declined from $2.99 to $1.47, while New Hampshire's ratio increased from .64 to .90. (2) According to Pack, the convergence of these high and low ratios in states can be explained largely by the narrowing of income differentials among states and regions and the resultant narrowing of tax burdens among these states. (3) In other words, states which had relatively low incomes and enjoyed high growth rates between 1952 and 1976 witnessed declines in their ratios, due to their increased tax burdens, and vice-versa.

Illinois, however, does not fit this hypothesis. Despite the state's relatively high income and low growth rate, its tax/expenditure ratio in 1976 (.70) was almost identical to its ratio in 1952 (.69). Thus, Illinois' high tax burden and low growth and higher unemployment rates do not appear to have influenced strongly its tax/expenditure ratio. For this reason, it is necessary to examine spending patterns.

FEDERAL EXPENDITURES

By virtue of its size, as in the case of tax payments, Illinois has always ranked near the top in total federal expenditures. Unlike tax payments, however, per capita spending

in Illinois has consistently rated among the lowest states. In 1982, Illinois ranked 46th among all states in federal per capita expenditures, with an average of $1,950—more than $600 below the national average of $2,591 (see table 4). For at least three of the preceding five years, Illinois had been ranked 40th or below. According to the Census Bureau, Illinois' jump in 1983 to 34th can largely be explained by new categories of spending added to the data base that is used to calculate the rankings.

At least as important as Illinois' low rank in total per capita expenditures are the types of federal spending which enter the state. Spending in the form of grants and procurement, called "hard" spending by analysts, produces a ripple effect in communities, by stimulating private investment and creating jobs. As a result, the benefits which flow from this type of spending often outweigh the dollar value of the spending. In Illinois, however, direct payments to individuals, such as Social Security and Food Stamps, comprise a larger share of total spending than they do in other states. In 1982, more than 62 percent of federal spending in Illinois consisted of direct payments (see table 1); only three states had higher shares. Similarly, Illinois has traditionally received more federal money in the form of grants-in-aid than many other states. Such grants cover costs of programs ranging from Medicaid to mass transit. By 1983, however, Illinois' share of grants had fallen off, as the state ranked 34th, receiving $365 per capita, slightly below the national average of $390 (see table 4).

It is in the area of federal procurement that Illinois has suffered the most. As is the case with many other Midwestern states, Illinois has unfailingly ranked far below other states in awards of civilian and defense contracts. Only eight percent of Illinois' federal spending came in the form of contracts in 1983, as compared to more than 21 percent for the nation as a whole. Illinois' low level of military contracts, which comprised almost 80 percent of all federal procurement in 1983, is particularly glaring. Illinois received $129 in per capita defense procurement in 1983, less than one-quarter of the national average of $535, and less than one-tenth of the per capita amounts received by Connecticut and Virginia. What is even more disturbing is that defense spending has declined as a share of Illinois federal spending in the past decade. In 1971, military outlays represented 17 percent of total federal spending in Illinois. By 1983, this share had shrunk to less than 12 percent.

Illinois' low level of defense spending, particularly in the category of procurement, is extremely damaging for three reasons. First, defense spending has increased significantly as a percentage of the federal budget under the present Administration. As a result, Illinois has lost ground to other states. This is evidenced by the state's tax/expenditure ratio ranking declining from 47th to 51st between 1980 and 1982. Second, many analysts have noted that defense contracts provide an important stimulus to local economies, creating jobs, spurring private investment, and thus inducing indirect benefits which exceed the value of the contracts. (4) Collectively labeled the "multiplier" or "ripple" effect, these benefits are especially helpful to communities during economic downturns. Finally, since many major defense procurements are funded on a multi-year basis, they produce a long-term effect on state and local economies. Illinois' low level of these expenditures has placed the state at a disadvantage from which it must emerge immediately to avoid worsening problems in future years.

Chapter 2—Implications of the Balance of Payments Problem

Several serious implications arise from an examination of Illinois' negative balance of payments with the federal government. Most important among these is the influence that this disparity can exert on the economic growth rate of the state. This impact is most clearly seen in the correlations between growth rates and tax/expenditure ratios of states. Pack found that between 1950 and 1975, among states which averaged ratios of $1.25 and above, 13 of 16 had growth rates above the national average. Among such states as Illinois, which averaged ratios below .90, only one of 12 had above-average growth rates. (5) More recently, between 1979 and 1982, per capita personal income in Illinois increased at a rate of 23.4 percent, well below the national average of 28.3 percent. During these years, Illinois' tax/expenditure ratio ranged from .73 to .66. During the same three-year period, per capita personal income in Florida grew at a rate of 33.8 percent, well above the national average. Florida enjoyed tax/expenditure rations ranging between $1.11 and $1.15 during this period.(6) Although economic growth rates in states are not determined exclusively by federal balances of payments, the correlation between the two is obvious.

The correlation between growth rates and federal fund flows can be attributed in large part to the types of spending received in states. As noted earlier, certain types of spending, such as transportation, public works, and defense contracts are more economically stimulative than direct payments to individuals, since they create employment and often induce private investment, rather than just increase consumption rates.(7) Illinois' low growth rate in recent years can thus be explained in part by the decline in its share of stimulative spending categories.

A look at Illinois' federal spending by agency illustrates this pattern. Political scientist Thomas Anton observes that between 1971 and 1980, the percentage of Illinois' federal spending accounted for by defense expenditures declined from 8.5 percent to 4.9 percent, and the share of spending accounted for by the Department of Housing and Urban Development dipped from 10.8 percent to 5.2 percent.(8) Because these types of spending consist in large part of public works construction projects and contracts, which are economically stimulative, a decline in their share of Illinois' federal spending may also have influenced the state's slower-than-average growth rate.

A subtler implication of Illinois' negative balance of payments lies in the strain on the fiscal capacity of the state and local governments which results from smaller infusions of federal spending for grants-in-aid. Between 1981 and 1983, federal spending for grants-in-aid declined by 2.2 percent, from $94.8 billion to $92.7 billion. Grants to Illinois, moreover, declined by 9.1 percent, from $4.6 billion to $4.2 billion. The strains caused by these declines forced state and local governments to curtail services and raise taxes, which hurt the business climate as well as quality of life for citizens.

Summary

In sum, what emerges from an examination of Illinois' negative balance of payments is a vast inequity—and a powerfully ironic inequity at that—which has caused damaging effects already and may potentially cause more of them if something is not done.

Recent years have witnessed a pattern in which the federal government collects large tax payments from high-income, low-growth states such as Illinois, and returns a comparatively small amount of spending in exchange. Conversely, the government dispenses money in greater proportion among high-growth states in the South and West, while exacting a comparatively small price in taxes. The federal government thus perpetuates the widening economic disparities between regions and states through its tax and spending policies.

Conclusion—A Solution to the Balance of Payments Problem

To respond to the inequities faced by Illinois and many other states, it is essential to readjust federal spending patterns which are a chief cause of this problem.

The bill I am introducing will do this in the following manner: to help rectify disparities in the negative balances of payments of many states and to improve the economic growth rates of these states, this legislation will concentrate on stimulative spending categories, such as grants and federal contracts. Spending in these categories will be reallocated among states, so that the deficit will not increase. To avoid cutting essential social services for the needy in all states, the bill will not alter formulas for distributing direct payments to individuals, such as Social Security. The bill will, however, adjust federal shares of social service grant programs such as Medicaid, to ease the burden on state and local governments whose budgets are currently strained by their states' negative balances of payments. States whose tax/expenditure ratios are below 90 cents will be eligible for all of these provisions, and states whose tax/expenditure ratios are between 90 cents and $1 will be eligible for provisions regarding procurement.

The results, I hope, will be twofold. The federal government will become more effective in stimulating investment and jobs in the states where they are needed most, and it will ease fiscal burdens on citizens and state and local governments in areas victimized by inequities in the federal balance of payments.

TABLE 1.—DISTRIBUTION OF FEDERAL EXPENDITURES BY CATEGORY: UNITED STATES [1] AND ILLINOIS, FISCAL YEARS 1981–83

[Dollars in millions]

	1981			1982			1983		
	United States	Illinois	Percent [2]	United States	Illinois	Percent [2]	United States	Illinois	Percent [2]
Total expenditures: [3]									
Dollars	$545,469	$21,391		$584,782	$22,353		$672,647	$28,591	
Percent	100	100		100	100		100	100	
Grants:									
Dollars	93,296	4,610		86,581	4,103		89,756	4,191	
Percent	17.10	21.56	+4.46	14.81	18.36	+3.55	13.34	14.66	+1.31
Salaries and wages:									
Dollars	73,652	1,928		77,494	2,068		101,469	3,317	
Percent	13.50	9.01	−4.49	13.25	9.25	−4.00	15.09	11.61	−3.48
Direct payments:									
Dollars	257,117	12,522		283,140	13,919		322,853	18,009	
Percent	47.10	58.54	+11.44	48.42	62.27	+13.85	48.00	62.99	+14.99
Procurement:									
Dollars	116,003	1,995		132,157	2,053		142,079	2,221	
Percent	21.27	9.33	−11.94	22.60	9.18	−13.42	21.12	7.77	−13.35
Other programs:									
Dollars	5,398	337		5,410	211		16,486	852	
Percent	.99	1.58	+.59	.92	.94	+.02	2.45	2.98	+.53

[1] Only includes monies distributed to 50 States and District of Columbia. Does not include moneys distributed to U.S. territories.
[2] Percent difference.
[3] Totals may not add due to rounding.

Source: U.S. Bureau of the Census. "Federal Expenditures by State for Fiscal Years 1981, 1982, 1983." (Prepared pursuant to The Consolidated Federal Funds Report Act of 1982—Public Law 97–326.)

TABLE 2.—ESTIMATED FEDERAL TAX PAYMENTS AND EXPENDITURES IN ILLINOIS,[1] FISCAL YEARS 1976–82

[Dollars in millions]

	Expenditures		Tax payments		Outflow dollars
	Dollars	Percent	Dollars	Percent	
1976	$15,290	4.32	$18,005	6.17	−$2,715
1977	17,337	4.45	21,537	6.15	−4,200
1978	19,276	4.52	23,859	6.05	−4,583
1979	20,785	4.49	28,132	6.16	−7,347
1980	23,033	4.42	30,337	5.98	−7,304
1981	21,391	3.92	34,426	5.88	−13,035
1982	22,353	3.82	34,874	5.80	−12,521

[1] Since columns for spending and taxes are estimates which do not include spending categories that could not be allocated by states, these outflow numbers are necessarily rough estimates and do not appear in tables prepared by the Congressional Research Service. Additionally, the data base was changed pursuant to The Consolidated Federal Funds Report Act of 1982, so that data for the years 1976 through 1982 may not be added to form a total multi-year outflow.

Source: Lilian Rymarowicz. "Estimated Federal Tax Payments of Individual States Compared to Estimated Federal Outlays in the States, Fiscal Years 1976–82." Washington, DC. Congressional Research Service. Table 1.

TABLE 3.—FEDERAL TAX/EXPENDITURE RATIOS AND RANK FOR ILLINOIS, FISCAL YEARS 1977–82

	Ratio (cents)	Rank
1977	0.72	47
1978	.75	45
1979	.73	46
1980	.74	47
1981	.67	51
1982	.66	51

Note: Ratio—Federal funds distributed for each dollar of Federal taxes paid. Rank—For ratios of Federal dollars distributed per Federal taxes paid, for all of 50 States and District of Columbia. Rankings range from 1 to 51. Rankings and ratios based on six-digit ratio computations from tax and expenditure data, with the assumption that for the United States, $1 in expenditure equals $1 in tax payments.

Source: Same as table 2, except these are taken from Rymarowicz, table 2 for fiscal years 1977–82.

TABLE 4.—PER CAPITA FEDERAL EXPENDITURES BY CATEGORY AND RANK: UNITED STATES AND ILLINOIS, FISCAL YEARS 1982 AND 1983

	Fiscal year 1982			Fiscal year 1983		
	United States	Illinois		United States	Illinois	
		Dollars	Rank		Dollars	Rank
Total expenditures	$2,591	$1,950	46	$2,932	$2,489	34
Grant expenditures	379	358	33	390	365	34

TABLE 4.—PER CAPITA FEDERAL EXPENDITURES BY CATEGORY AND RANK: UNITED STATES AND ILLINOIS, FISCAL YEARS 1982 AND 1983—Continued

	Fiscal year 1982			Fiscal year 1983		
	United States	Illinois		United States	Illinois	
		Dollars	Rank		Dollars	Rank
Salaries and wages	335	180	40	432	289	37
Direct payments to individuals	1,228	1,214	22	[1] 1,371	[1] 1,568	6
Procurement	626	179	42	669	193	42
Other	23	18	29	70	74	16

[1] Includes Federal employee life and health insurance programs, in which Illinois received $228 per capita, ranking first among all States, excluding the District of Columbia.

Source: U.S. Bureau of the Census. "Federal Expenditures by State for Fiscal Years 1982 and 1983."

TABLE 5.—ESTIMATED FEDERAL TAX PAYMENTS AND FEDERAL EXPENDITURES BY STATE, FISCAL YEAR 1982

[Amount in millions of dollars]

	Tax payment [1]		Expenditures [2]	
	Amount	Percent of total	Amount	Percent of total
New England:				
Connecticut	10,783	1.79	11,967	2.05
Maine	2,224	.37	3,100	.53
Massachusetts	15,819	2.62	17,313	2.96
New Hampshire	2,387	.40	2,368	.40
Rhode Island	2,438	.41	2,538	.43
Vermont	1,092	.18	1,155	.20
Mid-Atlantic:				
Delaware	1,751	.29	1,491	.26
Maryland	12,109	2.01	15,065	2.58
New Jersey	23,583	3.92	16,619	2.84
New York	49,481	8.22	43,835	7.50
Pennsylvania	31,136	5.18	28,481	4.87
Midwest:				
Illinois	34,874	5.80	22,353	3.82
Indiana	13,590	2.26	10,111	1.73
Iowa	7,493	1.25	5,196	.89
Michigan	24,500	4.07	18,016	3.08
Minnesota	10,920	1.82	8,560	1.46
Ohio	28,249	4.70	23,282	3.98
Wisconsin	11,642	1.94	8,897	1.52
South:				
Alabama	7,686	1.28	9,668	1.65
Arkansas	4,163	.69	5,100	.87
Florida	25,583	4.25	28,460	4.87
Georgia	11,868	1.97	12,766	2.18
Kentucky	7,293	1.21	7,747	1.33
Louisiana	10,200	1.70	9,575	1.64
Mississippi	4,273	.71	6,562	1.12
North Carolina	12,298	2.04	11,527	1.97
Oklahoma	7,752	1.29	6,952	1.19
South Carolina	6,006	1.00	7,371	1.26
Tennessee	9,775	1.62	11,359	1.94
Texas	40,948	6.81	32,114	5.49
Virginia	13,798	2.29	21,865	3.74
West Virginia	3,977	.66	3,998	.68

TABLE 5.—ESTIMATED FEDERAL TAX PAYMENTS AND FEDERAL EXPENDITURES BY STATE, FISCAL YEAR 1982—Continued

[Amount in millions of dollars]

	Tax payment [1]		Expenditures [2]	
	Amount	Percent of total	Amount	Percent of total
West:				
Alaska	1,723	.29	1,868	.32
Arizona	6,621	1.10	7,465	1.28
California	71,286	11.85	75,014	12.83
Colorado	8,249	1.37	7,613	1.30
Hawaii	2,630	.44	3,433	.59
Idaho	1,981	.33	2,102	.36
Kansas	6,458	1.07	6,334	1.08
Missouri	11,865	1.97	15,955	2.73
Montana	1,906	.32	1,782	.30
Nebraska	3,922	.65	3,324	.57
Nevada	2,591	.43	2,215	.38
New Mexico	2,776	.46	5,142	.88
North Dakota	1,684	.28	1,460	.25
Oregon	6,878	1.14	5,510	.94
South Dakota	1,440	.24	1,601	.27
Utah	3,009	.50	3,710	.64
Washington	12,569	2.09	13,010	2.22
Wyoming	1,542	.26	1,048	.18

[1] Estimated by the Congressional Research Service (CRS) using the same techniques described in CRS Report No. 82–28 E, p. 3–7 in distributing $601.605 billion of actual fiscal year 1982 Federal tax revenues. See also Tax Foundation Inc., Monthly Features for March, 1983, page 2.

[2] Computations by CRS from table 1 of the U.S. Bureau of the Census, Federal Expenditures by State for Fiscal Year 1982 (prepared pursuant to the Consolidated Federal Funds Report Act of 1982, Public Law 97–326). Total varies from published amounts by $18.794 billion, of which $12.851 billion was not distributed by States and $5.943 billion was distributed to U.S. territories. Note also that the total fund distribution by State accounts for 80.29 percent of total budget outlays ($728.375 billion) for fiscal year 1982. Excluded from the census compilation are interest payments on the Federal debt, unemployment compensation payments disbursed by States, and other expenditures for which State-by-State allocations were not available. (See introduction in the census report for a detailed discussion.)

Source: Replicated from Lilian Rymarowicz, fiscal 1982.

TABLE 6.—FEDERAL TAX/EXPENDITURE RATIOS BY STATE FISCAL YEAR 1982

	Spending/taxes ratio	Rank
New England:		
Connecticut	1.15	16
Maine	1.43	5
Massachusetts	1.13	17
New Hampshire	1.10	29
Rhode Island	1.05	26
Vermont	1.11	19
Average	1.14	
Mid-Atlantic:		
Delaware	.86	40
Maryland	1.28	9
New Jersey	.72	48
New York	.91	36

TABLE 6.—FEDERAL TAX/EXPENDITURE RATIOS BY STATE FISCAL YEAR 1982—Continued

	Spending/taxes ratio	Rank
Pennsylvania	.94	33
Average	.92	
Midwest:		
Illinois	.66	51
Indiana	.77	46
Iowa	.71	49
Michigan	.76	47
Minnesota	.80	44
Ohio	.85	41
Wisconsin	.78	45
Average	.76	
South:		
Alabama	1.29	8
Arkansas	1.26	10
Florida	1.15	15
Georgia	1.11	20
Kentucky	1.09	23
Louisiana	.96	31
Mississippi	1.58	4
North Carolina	.97	30
Oklahoma	.92	35
South Carolina	1.26	11
Tennessee	1.20	13
Texas	.81	43
Virginia	1.63	3
West Virginia	1.03	27
Average	1.09	
West:		
Alaska	1.10	21
Arizona	1.16	14
California	1.08	24
Colorado	.95	32
Hawaii	1.34	7
Idaho	1.09	22
Kansas	1.01	28
Missouri	1.39	6
Montana	.94	34
Nebraska	.88	39
Nevada	.88	38
New Mexico	1.91	2
North Dakota	.89	37
Oregon	.82	42
South Dakota	1.13	18
Utah	1.26	12
Washington	1.06	25
Wyoming	.69	50
Average	1.09	
Northeast	.97	
Midwest	.76	
Northeast and Midwest	.87	
South	1.09	
West	1.09	
South and West	1.09	
District of Columbia	4.02	1
U.S. average	1.00	

Source: Rymarowicz, fiscal 1982.

TABLE 7.—PER CAPITA FEDERAL EXPENDITURES BY STATE: TOTAL EXPENDITURES AND PROCUREMENT, FISCAL YEAR 1982

	Total expenditures		Civilian and defense procurement	
	Spending	Rank	Spending	Rank
New England:				
Connecticut	$3,819	4	$2,129	1
Maine	2,736	12	715	10
Massachusetts	2,999	10	975	7
New Hampshire	2,530	19	574	18
Rhode Island	2,663	14	417	25
Vermont	2,239	32	412	26
Mid-Atlantic:				
Delaware	2,493	20	516	21
Maryland	3,534	5	959	8
New Jersey	2,245	30	442	24
New York	2,490	21	503	22
Pennsylvania	2,399	25	335	34
Midwest:				
Illinois	1,950	46	179	42
Indiana	1,849	49	388	30
Iowa	1,792	50	147	48
Michigan	1,957	45	200	40
Minnesota	2,091	42	391	29
Ohio	2,160	38	405	28
Wisconsin	1,872	48	226	37
South:				
Alabama	2,468	22	330	35
Arkansas	2,221	34	266	36
Florida	2,795	11	487	23
Georgia	2,290	28	335	33
Kentucky	2,115	40	185	41
Louisiana	2,222	33	634	14
Mississippi	2,593	17	580	17
North Carolina	1,936	47	168	43
Oklahoma	2,243	31	212	38
South Carolina	2,327	27	370	31
Tennessee	2,463	23	584	16
Texas	2,175	37	536	20
Virginia	4,027	2	1,203	4
West Virginia	2,048	44	86	50
West:				
Alaska	4,533	1	1,089	6
Arizona	2,672	13	649	13
California	3,100	8	1,126	5
Colorado	2,568	18	616	15
Hawaii	3,499	6	356	32
Idaho	2,192	36	410	27
Kansas	2,658	15	663	12
Missouri	3,229	7	1,257	3
Montana	2,247	29	121	49
Nebraska	2,108	41	152	46
Nevada	2,621	16	664	11
New Mexico	3,872	3	1,501	2
North Dakota	2,219	35	155	45
Oregon	2,079	43	149	47
South Dakota	2,335	26	160	44
Utah	2,444	24	542	19
Washington	3,085	9	946	9
Wyoming	2,129	39	210	39
United States	2,591		626	

Source: U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1982."

Note.—Ranks do not include District of Columbia, but U.S. total does include District of Columbia. Figures for District of Columbia are: Per capita total expenditures—$17,127; and per capita procurement—$2,970.

TABLE 8.—PER CAPITA FEDERAL EXPENDITURES BY STATE: TOTAL EXPENDITURES AND PROCUREMENT, FISCAL YEAR 1983

	Total expenditures		Civilian and defense procurement	
	Spending	Rank	Spending	Rank
New England:				
Connecticut	$3,750	7	$1,755	1
Maine	2,679	27	378	32
Massachusetts	3,484	9	1,112	8
New Hampshire	2,784	20	601	14
Rhode Island	2,946	14	425	24
Vermont	2,551	31	374	33
Mid-Atlantic:				
Delaware	2,572	30	381	31
Maryland	4,211	3	1,246	5
New Jersey	2,481	35	416	25
New York	2,906	17	549	17
Pennsylvania	2,786	19	345	35
Midwest:				
Illinois	2,489	34	193	42
Indiana	2,199	49	398	28
Iowa	2,250	46	179	43
Michigan	2,203	48	214	38
Minnesota	2,437	36	428	23
Ohio	2,435	37	415	26
Wisconsin	2,220	47	208	39
South:				
Alabama	2,717	24	346	34
Arkansas	2,609	28	309	36
Florida	3,047	12	542	18
Georgia	2,580	29	457	22
Kentucky	2,376	40	207	40
Louisiana	2,326	45	412	27
Mississippi	2,978	13	754	11
North Carolina	2,114	50	151	47
Oklahoma	2,355	42	170	44
South Carolina	2,547	32	392	29
Tennessee	2,757	21	560	16
Texas	2,347	43	519	21
Virginia	4,503	1	1,426	2
West Virginia	2,404	39	94	50
West:				
Alaska	4,296	2	1,009	9
Arizona	2,751	23	581	15
California	3,429	10	1,226	6
Colorado	2,824	18	669	13
Hawaii	3,928	4	522	20
Idaho	2,420	38	385	30
Kansas	2,938	15	691	12
Missouri	3,811	6	1,269	4
Montana	2,698	26	169	45
Nebraska	2,711	25	194	41
Nevada	2,916	16	767	10
New Mexico	3,826	5	1,381	3
North Dakota	3,129	11	287	37
Oregon	2,335	44	144	48
South Dakota	2,751	22	166	46
Utah	2,540	33	537	19
Washington	3,555	8	1,206	7
Wyoming	2,375	41	136	49
United States	2,932		669	

Source: U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1983."

Note.—Ranks do not include District of Columbia, but U.S. total does include District of Columbia. Figures for District of Columbia are: Per capita total expenditures—$18,473; and per capita procurement—$2,148.

TABLE 9.—TAX/EXPENDITURE RATIOS OF DISADVANTAGED STATES ELIGIBLE UNDER ALL SECTIONS OF STATE MINIMUM RETURN ACT, FISCAL YEAR 1983

	Ratio	Rank [1]
Mid-Atlantic:		
Delaware	$0.80	46
New Jersey	.68	51
Midwest:		
Illinois	.75	48
Indiana	.83	43
Iowa	.86	41
Michigan	.79	47
Minnesota	.86	42
Ohio	.87	39
Wisconsin	.82	45
South:		
Louisiana	.86	40
Oklahoma	.82	44
Texas	.75	49
West:		
Colorado	.89	38
Wyoming	.70	50

[1] Includes District of Columbia, which ranked first.

Note.—These ratios differ from those in table 6 for fiscal year 1982 because of the addition of two spending categories (expenditures for Postal Service procurement and salaries and expenditures for Federal employee life and health insurance) to the data base for "Federal Expenditures by State for Fiscal Year 1983," that increased significantly the amount of Federal spending allocated to Illinois, Michigan, Texas, and other large states.

Source: U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1983," and Tax Foundation, Inc. "Monthly Tax Features." (Washington, DC, April 1984).

TABLE 9A.—TAX/EXPENDITURE RATIOS OF ADVANTAGED STATES

[In millions of dollars]

	Ratio	Rank
New England:		
Maine	$1.22	12
Massachusetts	1.09	24
Rhode Island	1.05	27
Vermont	1.09	22
Mid-Atlantic:		
Maryland	1.29	8
South:		
Alabama	1.29	9
Arkansas	1.33	7
Florida	1.10	18
Georgia	1.10	21
Kentucky	1.09	23
Mississippi	1.59	3
South Carolina	1.24	11
Tennessee	1.21	13
Virginia	1.55	4
West Virginia	1.08	26
West:		
Arizona	1.10	20
California	1.08	25
Hawaii	1.39	6
Idaho	1.15	16
Missouri	1.45	5
Montana	1.10	19
Nebraska	1.04	28
New Mexico	1.67	2

TABLE 9A.—TAX/EXPENDITURE RATIOS OF ADVANTAGED STATES—Continued

[In millions of dollars]

	Ratio	Rank
North Dakota	1.16	15
South Dakota	1.26	10
Utah	1.20	14
Washington	1.13	17

Source: See table 9.

TABLE 10.—TAX/EXPENDITURE RATIOS OF DISADVANTAGED STATES ELIGIBLE FOR PROCUREMENT PROVISIONS OF THE STATE MINIMUM RETURN ACT

[Fiscal year 1983]

	Ratio	Rank
New England:		
Connecticut	$0.94	33
New Hampshire	.97	31
Mid-Atlantic:		
New York	.92	35
Pennsylvania	.98	29
South:		
North Carolina	.95	32
West:		
Alaska	.94	34
Kansas	.97	30
Nevada	.92	36
Oregon	.90	37

Source: See table 9.

NOTES

1. Advisory Commission on Intergovernmental Relations (I.M. Labovitz), *Regional Growth: Flows of Federal Funds, 1952–76.* Washington, D.C., Government Printing Office, June, 1980; Lilian Rymarowicz, *Estimated Federal Tax Payments of Individual States Compared to Estimated Federal Outlays in the States, Fiscal Years 1976–1982.* Washington, D.C. Congressional Research Service (published annually).

2. Janet Rothenberg Pack, "The States' Scramble for Federal Funds: Who Wins, Who Loses?," *Journal of Policy Analysis and Management,* I. No. 2 (1982), pages 181–187.

3. *Ibid.;* See an excellent discussion of this in Daniel Patrick Moynihan, *New York State and the Federal Fisc:* VII, 1983, pages 74–77.

4. See, for example, Robert N. Schoeplein, *The Midwest Economy, Issues and Policy: The Federal Balance of Payments with Midwest States.* Urbana, Illinois: University of Illinois, 1981, page 62; Moynihan, pages 77–78.

5. Pack, page 179. See also Schoeplein, pages 64–65.

6. *National Journal,* No. 38, September 17, 1983. (Data compiled by the U.S. Department of Commerce, Bureau of Economic Analysis.)

7. Schoeplein, page 27; Moynihan, pages 77, 78; Pack, page 175; see also footnote 4.

8. Thomas J. Anton, "The New Federalism in Illinois, *"Illinois Issues,* March, 1982, page 13.

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"THE STATE MINIMUM RETURN ACT OF 1984"—SECTION-BY-SECTION ANALYSIS

I. STATEMENT OF POLICY

The purpose of this bill is to guarantee all states a 90 percent return in spending based on their tax payments by Fiscal 1989, by reallocating certain spending categories within existing budget authority.

II. DESIGNATION OF ELIGIBILITY OF STATES

Which states can receive money and how this is determined.

States which currently receive less than a 90 percent return will be eligible for all reallocation adjustments provided for in this bill.

States which currently receive a return between 90 percent and 100 percent will be eligible only for reallocation adjustments regarding procurement.

Eligibility will be determined by the following agencies: the Director of the Office of Management and Budget (OMB) will determine the eligibility of states on an annual basis, after consultation with the Director of the Census Bureau, who publishes data on Federal expenditures in states, and the Commissioner of the Internal Revenue Service (IRS), who collects taxes from the states. The Commissioner of the IRS will consult with the National Tax Foundation, a private, non-profit organization that has a widely-accepted methodology for allocating actual tax burdens in states. These actual tax burdens often differ from tax collections from states. Corporate taxes, for instance, are collected in states in which a company's headquarters are located, but the taxes are actually paid in many states in which offices or subsidiaries of the company are located.

III. DESIGNATION OF REALLOCABLE FEDERAL EXPENDITURES

Which types of Federal expenditures are exempt from the bill.

Water and energy programs and agencies which by law are limited to certain states. These include the Bureau of Reclamation, the Tennessee Valley Authority, the Bonneville Power Administration.

Salaries and wages of Federal employees;

Maintenance of Federal buildings and installations, such as military bases;

Offsetting receipts (for example, revenues from the sale of timber in national forests);

Direct payments to individuals, including Social Security; unemployment compensation; Medicare; Food Stamps; Black Lung Disability; Supplemental Security Income; National Guaranteed Student Loans; Pell grants; lower income housing assistance; social insurance and retirement payments for railroad workers; excess earned income tax credits; veterans assistance; Federal workers; compensation, retirement, and life and health insurance.

IV. REALLOCATION AUTHORITY

Who administers adjustments in spending.

The head of each Federal agency will reallocate spending to eligible states necessary to meet the requirement of a 90 percent return by Fiscal 1989, after consultation with the Director of OMB.

For the purpose of these adjustments in spending, all administrative requirements (for example, agency priorities or application processes), except audit requirements, will be waived.

V. REALLOCATION MECHANISMS

How spending is reallocated to eligible states.

Procurement.—The head of each Federal agency will attempt to increase the national share of contracts awarded to and performed in each eligible state by 10 percent annually. Thus, if a state was receiving 5% of the contracts awarded by a particular agency in a given year, the agency would attempt to ensure that the state received 5.5% of the value of the contracts awarded the following year. Toward this end, agency heads will seek out and identify qualified firms and disseminate necessary information to increase participation of these firms in procurement. In addition, agency heads will submit reports to the Director of OMB 30 days after the end of each Fiscal Year regarding progress made in increasing the number of contracts awarded to, and performed by, firms in eligible states. Only those contracts in which the work is performed in eligible states may be counted toward the 10 percent increase. 90 days after the end of each Fiscal Year, the Director of OMB will report to Congress regarding the progress made by each agency.

How these firms receive contract awards.

For competitive procurements, a firm that will perform the contract in an eligible state will receive a contract award if its bid is lower or equivalent to the bid of a firm that will perform the contract in an ineligible state.

For noncompetitive procurements, a firm that will perform the contract in an eligible state will receive a contract if it can complete the contract at a lower or approxi-

mately equivalent price as a firm that will perform the contract in an ineligible state.

For a firm to receive a contract under these provisions, it must be determined by the head of the contracting agency to have met the requirements of section 8(b)(7) of the Small Business Act, including capability, competency, capacity, credit, integrity, perseverance, and tenacity. (These are requirements utilized for the issuance of a certificate of competency, required of all firms seeking to obtain government contracts.) In the case of pre-qualification requirements, the firm must be notified in writing of necessary standards and it must meet those standards in a timely manner.

V. REALLOCATION MECHANISMS (continued)

Federal Grants.—For all grant programs of the various Federal agencies, such as the Department of Transportation, the Department of Housing and Urban Development, the Department of Health and Human Services, in which funds are allocated to states by the Federal government, eligible states will receive an increase of 10 percent in their share of total program monies, based on the average share they have received over the past three Fiscal Years. For example, if a state received an average share of 10 percent, or $100 million, of a $1 billion grant program, it would receive 11 percent, or $110 million, of the grant program in the first Fiscal Year after enactment of the bill, assuming the program was funded at the same level in that year.

How adjustments are made without overly disrupting programs and ineligible states.

Projects that are individually authorized and appropriated (for instance, an Army Corps of Engineers dam project) will only be covered by the bill to the extent practical.

No state will receive more than a 10 percent cut in any one program over the previous Fiscal Year directly as a result of the bill.

No reallocation can be made if it will result in any state receiving less than a 90 percent return in the aggregate.

VI. LIMIT ON AMENDMENTS

This bill cannot be amended without specific reference to this bill.

VII. EFFECTIVE DATE

The bill will take effect in the first Fiscal Year after enactment of the bill.

GUIDE TO THE STATE MINIMUM RETURN ACT OF 1984

Section 4—Eligible States (Page 2, lines 11-22).

(a) States with less than a 90 percent return eligible for all sections of the bill (14 states):

Colorado, Delaware, Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, New Jersey, Ohio, Oklahoma, Texas, Wisconsin, Wyoming.

(b) States with less than a 100 percent return eligible for section regarding procurement (9 states):

Alaska, Connecticut, Kansas, Nevada, New Hampshire, New York, North Carolina, Oregon, Pennsylvania.

Section 5—Designation of Reallocable Federal Expenditures.

Spending categories not included (Page 2, line 33—Page 4, line 5).

(1) Water and energy programs restricted to regions, including Tennessee Valley Authority (Mid-Atlantic and Southern states), Bonneville Power Administration (Northwestern states), Bureau of Reclamation (Western states), Appalachian Regional Development (Southern and Mid-Atlantic states surrounding Appalachian Mountains).

(4) Offsetting receipts—Examples—sale of mineral leasing rights owned by the federal government, sale of timber from national forests, sale of offshore oil leasing rights, sale of water for irrigation.

(5) Direct Payments to Individuals (Page 3, line 13—Page 4, line 5).

Supplemental Security Income—Supplemental income for poor and elderly people in addition to Social Security. It is needs-tested, not based on income like Social Security.

Social Insurance for Railroad Workers—Unemployment insurance payments for railroad workers; benefits for Conrail employees and Milwaukee railroad workers.

Section 6—Reallocation Authority (Page 4, lines 6-23).

(b) "the head of each Federal agency is authorized to waive any provision with respect to allocation, . . ." to reallocate monies under the bill:

Agencies will not be limited by existing formulas, set-asides, or other requirements, when reallocating monies under this bill.

Section 7—Reallocation Mechanisms (Page 4, line 24—Page 6, line 25).

Procurement—Each state receives an increase of 10 percent in its percentage share of total contract dollars, based on an average of its percentage shares over the past three fiscal years.

Hypothetical.—If a state received an average of $5 billion in contracts over the past three years, and the total contracts awarded amounted to $100 billion in each of those years, the state's average share would be 5 percent. Under the bill, the state would receive 5.5 percent in the first year, or $5.5 billion, a 10 percent increase. In the second year, the state would receive 6.1 percent, or $6.1 billion, and so forth, assuming that total contracts remained at $100 billion per year.

Procurement—State Example (in the first year after bill is enacted, if total contract dollars remained the same).

Illinois—Total procurement would increase from $2.2 billion to $2.5 billion, an increase of (75¢ return) approximately $300 million, based on a percentage increase from 1.4 percent to 1.6 percent of the national total.

Defense procurement would increase from $1.48 billion to $1.63 billion, an increase of approximately $150 million, based on a percentage increase from 1.2 percent to 1.3 percent of the national total.

Indiana—Total procurement would increase from $2.2 billion to $2.5 billion, an increase of (83¢ return) approximately $300 million, based on a percentage increase from 1.4 percent to 1.6 percent of the national total.

Michigan—Total procurement would increase from $1.9 billion to $2.4 billion, an increase of (79¢ return) approximately $500 million, based on a percentage increase from 1.37 percent to 1.51 percent of the national total.

Federal Grants.—Each state receives 110 percent of its average share over the past three fiscal years. For example, if a state currently has an average share of $100 million of a $1 billion grant program, or 10 percent, it will receive $110 million in the first year after the bill has been enacted, or 11 percent. In the second year, it will receive $121 million, or 12.1 percent, and so forth, assuming that total funds continue at the $1 billion level.

Federal Grants—State Examples (in the first year after the bill is enacted, if total program monies remain the same)

Illinois.—Aid to Families with Dependent Children.—Increase from $442 million to $485 million, an increase of approximately $43 million, based on a percentage increase from 5.6 percent to 6.2 percent of the national total.

Medicaid.—Increase from $728 million to $905 million, an increase of approximately $177 million, based on a percentage increase from 4.3 percent to 4.8 percent of the national total.

Wastewater Treatment.—Increase from $142 million to $194 million, an increase of approximately $52 million, based on a percentage increase from 5.9 percent to 6.5 percent of the national total.

Urban Mass Transit.—Increase from $308 million to $333 million, an increase of approximately $25 million, based on a percentage increase from 8.2 percent to 9.1 percent of the national total.

Education.—Increase from $246 million to $332 million, an increase of approximately $86 million, based on a percentage increase from 4.5 percent to 4.9 percent of the national total.

New Jersey.—Medicaid (68¢ return). Increase from $530 million to $564 million, an increase of approximately $34 million, based on a percentage increase from 2.7 percent to 3.0 percent of the national total.

Minnesota.—Wastewater Treatment (86¢ return). Increase from $47 million to $63 million, an increase of approximately $16 million, based on a percentage increase from 1.6 percent to 2.1 percent of the national total.

Ohio.—Urban Mass Transit (87¢ return). Increase from $102 million to $120 million, an increase of approximately $18 million, based on a percentage increase from 2.8 percent to 3.3 percent of the national total.

By Mr. GORTON:

S. 2983. A bill to amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood; to the Committee on Finance.

TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD

Mr. GORTON. Mr. President, the measure I am introducing today is aimed at correcting an anomaly in the U.S. Tariff Schedules. Under existing Tariff Schedules, edge-worked plywood sheets—tongue and groove or shiplap plywood—are being treated by the Customs Service not as plywood sheets, but as building boards chiefly "used in the construction of walls, ceilings, or other parts of buildings." The tariff rate on this latter category is less than half the former, resulting in an inflow of edgeworked Canadian plywood sufficient to cause significant distress to plywood manufacturers in the Pacific Northwest.

Anyone with the slightest familiarity with plywood knows that the Customs Service's current practice is an absurdity. Tongue and groove plywood is clearly and obviously plywood, and the measure I am proposing simply clarifies this.

This bill is identical to H.R. 5182, on which hearings were held in the House of Representatives, and which has been reported out of that body's Ways and Means Committee. This measure is designed to clarify that such tariffs as are legislated by Congress are to be carried out according to the intent of Congress at the time at which they were enacted; it is not intended to create a new protectionist barrier.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That headnote 1 of part 3 of schedule 2 of the Tariff Schedules of the United States is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by striking out "chiefly used in the construction of walls, ceilings, or other parts of buildings" and inserting in lieu thereof "other than plywood, wood-veneer panels, or cellular panels".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

By Mr. HATCH (for himself, Mr. THURMOND, and Mr. HEINZ):

S. 2985. A bill to transfer certain functions to the Equal Employment Opportunity Commission; to the Committee on Governmental Affairs.

EQUAL EMPLOYMENT OPPORTUNITY ENFORCEMENT REORGANIZATION ACT

Mr. HATCH. Mr. President, today I am introducing for myself and my colleagues Senators THURMOND and HEINZ a bill that will protect the authority of the Equal Employment Opportunity Commission to enforce both the Age Discrimination in Employment Act [ADEA] and the Equal Pay Act.

In 1977, Congress passed the Reorganization Act, authorizing the President to reorganize the execution branch and its agencies to increase efficiency and promote better execution of the laws. Under the act, the President was required to submit each reorganization plan to both Houses of Congress, and the plan would become effective unless either the Houses of Representatives or the Senate objected to the plan within 60 days of its submission.

A reorganization plan submitted to Congress in 1978, among other things, transferred authority over ADEA and the Equal Pay Act from the Department of Labor to the Equal Employment Opportunity Commission. Neither the Senate nor the other body objected and the plan became effective on July 1, 1979. Subsequent appropriations bills passed by Congress since 1979 have referenced the enforcement of ADEA and the Equal Pay Act as being among the functions performed by the Commission.

In 1983, in the landmark case of Immigration and Naturalization Service against Chada, the Supreme Court held that the one-House congressional veto in the Reorganization Act of 1977 was unconstitutional, because it allowed Congress to act in a legislative capacity without complying with the procedural requirements of article I.

Not unexpectedly, the decision raised questions about the validity of more than 200 statutes which contain legislative veto provisions including the Reorganization Act of 1977. Last February, in EEOC against Hernando Bank, the fifth circuit held that the legislative veto provision was severable from the rest of the Reorganization Act and that authority over ADEA was validly transferred to the Commission. Last month, the sixth circuit, in Muller Optical Company against EEOC, also affirmed that the EEOC may enforce ADEA, on the grounds that an unexercised legislative veto does not violate the constitutional separation of powers when the executive action approved by Congress, the transfer of authority over ADEA and the Equal Pay Act, does not affect substantive rights or alter enforcement powers.

Unfortunately, in EEOC against CBS, Inc., the second circuit held the one-House veto provision in the Reorganization Act of 1977 was unconstitutional, thus invalidating the transfer of enforcement authority to the Commission. Yet the court noted that immediate dismissal of the suit against CBS would be too harsh a remedy and stayed the entry of its judgment until December 31, 1984, suggesting that this stay would give Congress sufficient time to take appropriate legislative action.

The bill we are introducing today is such appropriate legislative action. It will simply enact the reorganization plan of 1978, thus protecting the authority of the Commission to enforce ADEA, the Equal Pay Act, and section 501 of the Rehabilitation Act of 1973, as well as the authority of Department of Justice of bring suit under section 707 of title VII of the Civil Rights Act of 1964, as amended.

It should be noted that this bill is not intended to send a signal that Congress now believes all of the statutes containing legislative veto provisions are invalid nor that new legislation is necessary to overcome the problems posed by the Supreme Court's decision in Chada. To the contrary, I believe that the opinions of the fifth and sixth circuits noted above are well-reasoned and that if appealed, the decision by the second circuit would be overturned.

Unfortunately, in this instance to wait until the judicial process has been exhaused would place a significant burden on those citizens who already have brought suit or may wish to seek relief under ADEA, the Equal Pay Act and other Federal statutes in those jurisdictions which will follow the reasoning in the CBS, Inc. decision. Our purpose in introducing this bill is to protect these individuals, so that their rights are not lost due to an unintended administrative miscue while the decision of the second circuit is being appealed.

I also wish to note that the bill strictly conforms to the wording of reorganization plan No. 1, which was submitted to Congress in 1978. Our purpose in drafting the bill in this manner was to ensure that the bill's only consequence is to overturn the decision in EEOC against CBS, Inc. We did not, it the name of simplicity, use this bill to create new rights or new responsibilities. As written, it simply protects the existing delegation of authority for the enforcement of ADEA and the Equal Pay Act. For these reasons, I hope that Congress will act on this bill expeditiously.

Mr. President, I ask unanimous consent that the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That this Act may be cited as the "Equal Employment Opportunity Enforcement Reorganization Act".

TRANSFER OF EQUAL PAY ENFORCEMENT FUNCTIONS

SEC. 2. All functions related to enforcing or administering section 6(d) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(d)), are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Office of Personnel Management (formerly the Civil Service Commission) pursuant to sections 4(d)(1); 4(f); 9; 11 (a), (b), and (c); 16 (b) and (c); and 17 of the Fair Labor Standards Act, as amended (29 U.S.C. 204(d)(1); 204(f); 209; 211 (a), (b), and (c); 216 (b) and (c); and 217)) and section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended (29 U.S.C. 259).

TRANSFER OF AGE DISCRIMINATION ENFORCEMENT FUNCTIONS

SEC. 3. All functions vested in the Secretary of Labor or in the Office of Personnel Management (formerly the Civil Service

Commission) pursuant to sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a), are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and enforcement pursuant to sections 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 625 and 634), are hereby transferred to the Equal Employment Opportunity Commission.

TRANSFER OF EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT ENFORCEMENT FUNCTIONS

SEC. 4. (a) All equal opportunity in Federal employment enforcement and related functions vested in the Office of Personnel Management pursuant to section 717 (b) and (c) of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16 (b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal Employment Opportunity Commission may delegate to the Merit Systems Protection Board (formerly the Civil Service Commission) or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the Office of Personnel Management (formerly the Civil Service Commission) on other grounds, a Federal employee alleges a violation of section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16), provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

TRANSFER OF FEDERAL EMPLOYMENT OF HANDICAPPED INDIVIDUALS, ENFORCEMENT FUNCTIONS

SEC. 5. All Federal employment of handicapped individuals enforcement functions and related functions vested in the Office of Personnel Management (formerly the Civil Service Commission) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 781), are hereby transferred to the Equal Employment Opportunity Commission. The function of being cochairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Office of Personnel Management pursuant to section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

TRANSFER OF PUBLIC SECTOR 707 FUNCTIONS

SEC. 6. Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under section 707 of title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-6), and all necessary functions related thereto, including investigation, findings, notice, and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said title VII. The Attorney General is authorized to delegate any function under section 707 of said title VII to any officer or employee of the Department of Justice.

TRANSFER OF FUNCTIONS AND ABOLITION OF THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

SEC. 7. All functions of the Equal Employment Opportunity Commission Coordinating Council, which was established pursuant to section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SAVINGS PROVISION

SEC. 8. Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by section 105 of title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Act. Consistent with the provisions of this Act, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Act. Consistent with the provisions of this Act, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Act in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

INCIDENTAL TRANSFERS

SEC. 9. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Act, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall, as necessary, provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Act.

EFFECTIVE DATE

SEC. 10. Sections 2 through 5 of this Act shall take effect on July 1, 1979, and sections 6 and 7 of this Act shall take effect on July 1, 1978.

● Mr. THURMOND. Mr. President, I am pleased to join with the distinguished chairman of the Labor and Human Resources Committee, Senator HATCH, and other Senators in sponsoring legislation to ratify the transfer of enforcement authority for the Age Discrimination in Employment Act and certain other statutes to the Equal Employment Opportunity Commission [EEOC].

The authority of the EEOC to enforce this key Federal statute, which prohibits employment discrimination against older workers, has been called into question by a recent decision of the U.S. Court of Appeals for the second Judicial Circuit. On August 28, 1984, in the case EEOC against CBS, Inc., the second circuit invalidated the authority of the EEOC, transferred to it by President Carter's reorganization plan No. 1 of 1978, to enforce the Age Discrimination in Employment Act.

The basis for the court's decision was the fact that the 1977 Reorganization Act, which provided the President general authority to promulgate executive branch reorganization plans, contained a "one-house legislative veto" provision, a concept which has been held uncontitutional by the U.S. Supreme Court in the landmark Chadha case of last year. Most importantly, unlike two other Federal circuit courts which have considered the issue, the second circuit declined to uphold the EEOC enforcement authority on the basis that the legislative veto provision was severable from the remainder of the Reorganization Act or that Congress had subsequently ratified the transfer of enforcement authority to the EEOC.

Mr. President, as the distinguished chairman of the Labor and Human Resources Committee had indicated, our introduction of this legislation should not be taken as an indication that we approve of the second circuit holding in EEOC against CBS, Inc. Indeed, the Commission had indicated that it plans to seek an en banc rehearing and possible further appeal of that case. It could be that future development might render this legislation unnecessary.

In the interim, however, there is a cloud of uncertainty over the authority of the EEOC to carry out its vital mission of enforcing the several statutes protecting the elderly from employment discrimination, particularly within the geographical confines of the second circuit—New York, Connecticut and Vermont. If that cloud of uncertainty is not promptly removed by other means, we believe Congress will move expeditiously to enact whatever legislation may be necessary to ensure that the several statutes which protect the rights of individuals from age discrimination in employment are fully enforced.

Mr. President, the legislation we are submitting today essentially ratifies and codifies the transfer to the EEOC of enforcement authority over various employment discrimination statutes encompassed within the reorganization plan No. 1 of 1978. It may be that this legislation can be refined and improved, and as earlier mentioned, developments could render the legislation unnecessary. There must be no doubt, however, that the commitments to protecting our citizens, particulary older Americans, from unlawful discrimination in the workplace will be fulfilled. It is in that spirit that I join with my several distinguished colleagues and cosponsors in submitting this legislation today.●

Mr. HEINZ. Mr. President, as chairman of the Senate Aging Committee, I support Senator HATCH's bill to enforce both the Age Discrimination in Employment Act [ADEA] and the

Equal Pay Act. This legislation was made necessary by an August 28 decision in the Second Circuit Court of Appeals. The second circuit's decision stated that the transfer of authority for the ADEA was unconstitutional because it was authorized by the Reorganization Act of 1977, a statute which contained a "one-house legislative veto" provision. The court was not taking issue with the merits of the transfer, nor was it commenting on the effectiveness of the EEOC in carrying out its enforcement activities. Rather, the court merely drew upon the precedent established in the Supreme Court's Chada decision and ruled that the transfer was unconstitutional because of a legislative veto decision.

It should also be noted that there have been two recent decisions, one in the fifth circuit and one in the sixth circuit, affirming that the EEOC may enforce the ADEA. I agree with Senator HATCH that this bill is not intended to send a signal that Congress now believes all of the statutes containing legislative veto provisions are invalid. Rather, I believe that the opinions of the fifth and sixth circuits which I just mentioned are accurate and that if appealed, the decision by the second circuit would be overturned.

However, the necessity of this legislation, Mr. President, is measured in human terms. If we wait for the judicial process to take its course, the 21 ADEA cases now pending in the second circuit are jeopardized. Each of those cases involves the employment rights of older Americans, who by law were guaranteed the opportunity to have their grievances heard in a court of law.

Furthermore, the second circuit's decision could have negative consequences on the 150 ADEA cases pending in other circuit courts nationwide. Ultimately, failure to restore the EEOC's enforcement authority means that 28 million older Americans would be without legal protection against age discrimination in employment. I might add, Mr. President, that the court recognized the potential harm that could result from its decision and, therefore, stayed filing its decision until December 31, 1984, suggesting that this would give Congress an opportunity to enact corrective legislation. This bill is just that, it will simply enact the reorganization plan of 1978, thus protecting the authority of the Commission to enforce the ADEA, the Equal Pay Act, and section 501 of the Rehabilitation Act of 1973, as wall as the authority of the Department of Justice to bring suit under section 707 of title VII of the Civil Rights Act of 1964, as amended.

Mr. President, as you know the Senate Aging Committee has had a longstanding interest in policies and legislation that promote continued employment opportunities for older persons who are willing and able to work. Age discrimination in employment continues to be a major reason why middle-aged and older workers are systematically excluded from the opportunity to work. The first legislative response to this concern was the ADEA.

During the first 10 years after its enactment, enforcement of the ADEA was the responsibility of the Department of Labor. In 1979, by Executive order, enforcement responsibility for the ADEA shifted from DOL to the EEOC. Age discrimination charges now constitute a significant portion of the EEOC's caseload. Indeed, the age-related jurisdiction is the fastest growing of all civil rights enforcement statutes. A report by the EEOC placed the number of age-related charges filed during fiscal year 1983 at 15,303. The magnitude of the problem of age discrimination, as well as the increasing importance of enforcement measures designed to combat such discriminatory practices, underscores the necessity for the EEOC to have clear authority to enforce the ADEA.

I urge my colleagues to join me in cosponsoring this legislation.

By Mr. DANFORTH (for himself and Mr. KENNEDY):

S.J. Res. 352. Joint resolution designating October 1984 as "National Head Injury Awareness Month"; to the Committee on the Judiciary,

NATIONAL HEAD INJURY AWARENESS MONTH

● Mr. DANFORTH. Mr. President, today I am introducing a joint resolution on behalf of myself and Senator KENNEDY to designate October 1984 as "National Head Injury Awareness Month."

Recent estimates indicate that over 100,000 Americans die from head injuries every year. Most of these tragic deaths are caused by motor vehicle or sports accidents. In addition, each year 450,000 to 700,000 people sustain head injuries serious enough to require hospitalization, and 50,000 of these individuals are permanently disabled. These victims suffer permanent brain damage that prevents them from returning to schools, jobs, and normal lifestyles. The tragedy of this situation is increased by the fact that two-thirds of these disabled individuals are young people, under the age of 30.

These individuals permanently disabled by head injuries are left with mental and physical impairments, speech problems, and behavioral disorders. Often these disabilities are not apparent to the causal observer, but their effects are still debilitating. In many instances, the victims of serious head injury experience frequent fatigue, forgetfulness, irritability, and depression that make it extremely difficult or impossible from them to maintain a job or attend school.

In addition, the families of head injury victims are faced with a number of emotional and financial problems. Many head injury victims are comatose for extended periods of time and need special services and treatment; however, there is a lack of facilities designed to meet the special treatment and rehabilitation needs of the head-injured. As a result, many families, themselves, are left with the burden of caring for their disabled family members.

A great many of these families have experienced great frustration and a sense of helplessness in their search for appropriate facilities and treatment for head-injury victims. As a consequence, they have joined together with a number of health care professionals to form the national head injury foundation. This organization, together with its numerous State chapters, has been working tirelessly to educate the public about the problem of head injury and the needs of disabled head-injury victims. The National Head Injury Foundation has committed itself to bring the problems of head injury to national attention and to provide the families of head-injury victims with the necessary facilities and resources.

Senator KENNEDY and I urge you to support this effort by designating October 1984 as "National Head Injury Awareness Month." I ask unanimous consent that this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 352

Whereas an estimated four hundred and fifty thousand to seven hundred thousand people require hospitalization each year for head injuries;

Whereas an estimated one hundred thousand of these victims die as a result of head injuries;

Whereas approximately fifty thousand head injury victims, more than two-thirds of whom are under the age of thirty, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lifestyles;

Whereas the effects of head injuries are emotionally and financially devastating to families;

Whereas there is a serious lack of facilities designed to care for the special needs of the head injured; and

Whereas long-term medical research on brain-injured patients is incomplete: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Head Injury Awareness Month" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that month with appropriate programs and activities.●

By Mr. BYRD:

S.J. Res. 353. Joint resolution to designate the week of February 3, 1985,

through February 9, 1985, as "National School Guidance and Counseling Week"; to the Committee on the Judiciary.

NATIONAL SCHOOL GUIDANCE AND COUNSELING WEEK

Mr. BYRD. Mr. President, I am today introducing a joint resolution to designate the week beginning February 3, 1985, as "National School Guidance and Counseling Week."

Founded in 1953, the American School Counselor Association is an organization which serves its members and the public through programs that advance guidance and counseling in all school settings: elementary, middle/junior, secondary, and postsecondary.

The theme of the sixth annual observance of "National School Guidance and Counseling Week" is "School Counseling: the Human Connection." This theme emphasizes the special role school counselors fulfill in helping to meet the needs of students and their families. Counselors are an essential part of the education team. Working with teachers, administrators, and special services personnel, counselors provide students academic assistance in selecting programs of study. This is important in helping students meet their future career goals. Counselors also work with students to help develop personal skills, such as decisionmaking and self-awareness, and to generally assist our young people in the difficult process of maturing—growing up.

During "National School Guidance and Counseling Week" let us join together to focus public attention on guidance and counseling programs and increase the understanding of the public regarding the importance of these programs to our children. I urge my colleagues to give this resolution their full consideration and complete support.

I ask unanimous consent that the full text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 353

Whereas there are approximately seventy thousand professional counselors working with the teachers and other educational personnel of the Nation;

Whereas professional counselors are instrumental in the mental development and academic and career planning of the students of the Nation;

Whereas guidance and counseling programs enable students to learn essential life skills, and thus benefit society by producing better prepared adults;

Whereas professional counselors are an integral part of the educational process of the Nation;

Whereas national and community efforts are needed if guidance and counseling programs are to be effective;

Whereas support for counseling programs is needed from individuals who take actions that significantly affect children, such as parents, teachers, administrators, community leaders, school board members, and legislators; and

Whereas it is appropriate to recognize the dedicated individuals who serve as professional counselors in the schools of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 3, 1985, through February 9, 1985, is designated as "National School Guidance and Counseling Week", and the President is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to celebrate such week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 1128

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1128, a bill entitled the "Agricultural Productivity Act of 1983."

S. 1746

At the request of Mr. RUDMAN, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 1746, a bill to require that the Federal Government procure from the private sector of the economy the goods and services necessary for the operations and management of certain Government agencies and that the Director of the Office of Management and Budget and the Comptroller General of the United States identify the activities of the Federal Government to produce, manufacture, or otherwise provide goods and services which should be provided by the private sector and prepare a schedule for transferring such activities to the private sector.

S. 1747

At the request of Mr. ARMSTRONG, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1747, a bill to amend title 38, United States Code, to establish two new programs of educational assistance for veterans of peace time service, to close the Post-Vietnam Era Veterans' Educational Assistance Program to new participants, and to repeal the December 31, 1989, termination date of the Vietnam-era GI bill, and for other purposes.

S. 2139

At the request of Mr. HEINZ, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponor of S. 2139, a bill to improve the operation of the countervailing duty, antidumping duty, import relief, and other trade laws of the United States.

S. 2266

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2266, a bill to grant a Federal charter to Vietnam Veterans of America, Inc.

S. 2380

At the request of Mr. HEINZ, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2380, a bill to reduce unfair practices and provide for orderly trade in certain carbon, alloy, and stainless steel mill products, to reduce unemployment, and for other purposes.

S. 2576

At the request of Mr. BINGAMAN, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 2576, a bill to establish a commission to study and make recommendations concerning the international trade and export policies and practices of the United States.

S. 2768

At the request of Mr. MATHIAS, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2768, a bill to provide for the education in the United States of certain students of limited financial means from developing countries.

S. 2770

At the request of Mr. MELCHER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2770, a bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes.

S. 2869

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. PERCY], and the Senator from West Virginia [Mr. RANDOLPH] were added as cosponsors of S. 2869, a bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for expenses incurred by an individual taxpayer for the purchase of television subtitle equipment to be used by a hearing-impaired individual.

S. 2894

At the request of Mr. MELCHER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business.

S. 2917

At the request of Mr. TSONGAS, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Connecticut [Mr. DODD], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2917, a bill to confer citizenship posthumously on Corporal Wladyslaw Staniszewski.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. MOYNIHAN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution expressing the sense of Congress that the president of Syria should permit Jewish emigration.

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. LAUTENBERG, the name of the Senator from Texas [Mr. TOWER] was added as a cosponsor of Senate Concurrent Resolution 117, a concurrent resolution relating to the promotion of technological innovation in computer software and the protection of computer software.

SENATE CONCURRENT RESOLUTION 139—CONDEMNING SOUTH AFRICA'S ARRESTS AND DETENTIONS OF POLITICAL OPPONENTS

Mr. ROTH (for himself and Mr. TSONGAS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 139

Whereas peace in South Africa can be achieved only through addressing the legitimate political aspirations of the nation's black majority.

Whereas no South African government reform proposal has sought to involve the nation's black majority in the direction of national affairs.

Whereas eligible voter turnout in the recent elections for Asian and "Colored" representatives to a minority parliament was extremely low.

Whereas the South African government has arbitrarily arrested and indefinitely detained approximately 200 peaceful opponents of the government's new constitutional arrangements.

Whereas the South African government has used extra-legal means to redetain men and women already released from detention by a high ranking South African court of law.

Resolved by the Senate (the House of Representatives concurring),

(1) The United States should not lend its support to any South African constitutional reform arrangements which do not begin to address the legitimate political aspirations of the nation's black majority.

(2) The United States Congress condemns the South African government's arbitrary arrests and indefinite detention of peaceful opponents to the government's constitutional arrangements.

(3) The United States Congress is dismayed by the South African government's decision to defy and to bipass the legal rulings of its own high courts in order to suppress lawful political opposition.

(4) The South African government should immediately terminate its practice of arbitrary arrests and detention and should release those men and women who have been arbitrarily imprisoned and having expressed, publicly and peacefully, their political preferences.

Mr. TSONGAS. Mr. President, I am proud today to join with my eminent colleague from Delaware as coauthors of the Roth-Tsongas resolution on South Africa.

We have observed events unfolding in South Africa in recent weeks and we are quite frankly shocked at what we have seen. The Government in South Africa has gone to great lengths to sell a series of constitutional changes as a program of multiracial democracy. Two separate parliamentary bodies, we have been told, will allow "Coloreds" and "Asians" to participate in the direction of national affairs. But when the time came to measure "Colored" and Asian support for these changes, the Government resorted to the police state tactics it knows so well to suppress peaceful political opposition to these so called democratic reforms.

On the eve of the elections to elect "Colored" representatives to the new parliament, some 200 leaders and activists in the election boycott movement were arrested by South African police and indefinitely detained. The following day, August 22, the Colored elections took place with only 20 percent of potential voters casting their votes. A week later elections for the Asian parliament took place with an even lower turnout. The boycott had registered a resounding success in spite of the wholesale arrest of its leadership.

The Roth-Tsongas resolution aims squarely at this hypocritical manipulation of democratic processes by the South African Government. Forcing so-called reform down the throats of decidedly unconvinced groups is not reform and it is not democratic. Coloreds and Asians decided to boycott these elections by substantial majorities because the new constitutional scheme excluded completely the black majority of South Africans and because the new structure preserved uncontestable control of the Government in white hands. When the boycott movement gathered enough strength to threaten the appearance of racial unity, the Government simply silenced the popular voice it did not want to hear. Then when a supreme court judge in the province of Natal ordered the immediate release of seven of the detainees because their notices of detention were invalid, the Minister of Law and Order, Mr. Louis le Grange ordered the redetention of the Natal detainees as well as other boycott leaders subject to similar court action.

Such actions mock democracy and spurn racial justice. I think that many of my colleagues will want to join Senator ROTH and me in expressing through this resolution our condemnation and dismay over these actions of the South African Government. It is a pernicious order of injustice for a regime to oppress its people; but to oppress in the name of "multiracial democracy" is a cynical sham and this Congress should recognize it and expose it.

SENATE RESOLUTION 440—RELATING TO MODIFYING THE UNITED STATES-SOVIET UNION GRAIN AGREEMENT

Mr. BOREN (for himself, Mr. BAUCUS, Mr. BENTSEN, Mr. BUMPERS, Mr. BURDICK, Mr. EXON, Mr. LEAHY, Mr. NICKLES, Mr. PRYOR, and Mr. ZORINSKY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 440

Whereas the United States' surplus of grain remains at an unreasonably high level;

Whereas the price U.S. farmers receive for grain products is well below the full cost of production;

Whereas American farmers are dependent on export sales for one-fourth of their income;

Whereas the volume of U.S. agricultural exports has declined for the fourth consecutive year and this year is expected to be thirteen percent below the level exported in fiscal year 1981.

Whereas the estimated value of U.S. agricultural exports for 1984 would represent a decline of thirteen percent since fiscal year 1981;

Whereas the agricultural trade balance has fallen twenty-five percent since the peak in fiscal year 1981;

Whereas the agricultural trade balance reduces the rising overall trade deficit of the United States;

Whereas the maintenance and development of agricultural markets for U.S. products are vital to the economic well-being of this Nation;

Whereas the Soviet Union market is an important market for U.S. grain;

Whereas the Soviet Union and the United States have a long-term agreement which allows for minimum and maximum levels of purchases of U.S. grain by the Soviet Union;

Whereas the Soviet Union has already arranged for delivery of the minimum level of grain for the second year of the Long-Term Agreement;

Whereas the Soviet Union cannot make purchases of U.S. grain in excess of 12 million metric tons without consulting with the United States government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) immediately notify the Soviet Union that additional amounts of U.S. grain, above the 12 million metric ton maximum, may be purchased by the Soviet Union during the second year of the current Long-Term Grain Agreement;

(2) seek to modify the Long-Term Agreement by establishing higher minimum and maximum supply guarantees than are currently in effect; and

(3) take all other appropriate actions to provide for an increased quantity of U.S. agricultural products purchased by the Soviet Union.

● Mr. BOREN. Mr. President, on behalf of Senators BAUCUS, BENTSEN, BUMPERS, BURDICK, EXON, LEAHY, NICKLES, PRYOR, ZORINSKY, and myself, I am submitting a sense of the

Senate resolution which calls for the President to immediately notify the Soviet Union that additional amounts of U.S. grain, above the 12 million metric ton maximum, may be purchased by the Soviet Union during the second year of the current long-term grain agreement. The resolution further calls for the President to seek to modify the agreement by establishing higher minimum and maximum supply guarantees. I ask unanimous consent that the text of the resolution be printed in the RECORD at the conclusion of my remarks.

We are facing a crisis in the export of U.S. agricultural products which must be recognized and reversed. The continued strength of the dollar is placing our agricultural commodities at a competitive disadvantage to other countries that export agricultural commodities. Year after year, we are experience a decline in both volume and value of agricultural exports.

In fiscal year 1983, total U.S. farm product exports totaled $34.8 billion, 11 percent less than a year earlier. The value exported in fiscal year 1983 represents approximately a 21-percent reduction when compared to the value of products exported in fiscal year 1981. For fiscal year 1983, alone, this decrease in value resulted in a 22-percent decrease in the agricultural trade surplus.

In fiscal year 1983, the volume of U.S. agricultural products exported declined by 8 percent. When compared to fiscal year 1981, the level of products exported in fiscal year 1983 were 11 percent lower. According to USDA, agricultural export volume is expected to decline again this year, marking the 4th consecutive year of decline.

The U.S. share of the export market was 48 percent in 1981–82. With the current decrease in American participation in the world export market, it seems that the figures will continue falling depreciatively, to below the 1983–84 level of 38 percent.

This alarming trend must be reversed. A depression in the agricultural export market inevitably has an impressive impact at home. Exports help farmers make the most efficient use of their resources and keep costs lower, enabling U.S. consumers to spend a smaller share of disposable income on food than consumers in other nations. If production had to be reduced to the level of domestic demand alone, farmers would have no choice but to allocate fixed costs to the remaining output. This could increase unit costs to American consumers substantially.

Not only do agricultural exports provide American consumers with a good food bargain, they also provide jobs. The U.S. Department of Agriculture estimates that for every $1 billion of agricultural exports, 35,000 jobs are created. Each dollar of agriculture exports stimulates an additional $1.05 of output in the U.S. economy and about 70 percent of this additional activity accrues to nonfarm sectors of the economy.

Mr. President, we must take every possible action to maintain and further develop our existing markets. One obvious way to do this is to take better advantage of the Soviet market. Regular U.S. and Soviet long-term agreement consultations are scheduled for mid-November. There is no reason why we should wait until November to secure additional purchases of U.S. grain by the Soviet Union. For the past 10 weeks, the Soviets have been making unusually large purchases of U.S. grain. In fact, the Soviet Union has already arranged for delivery, before January 1, 1985, of the minimum level of grain provided for under the second year of the long-term agreement. Under the long-term agreement, the Soviet Union cannot make purchases in excess of 12 million metric tons in any agreement year without consulting first with the United States.

It is imperative that we act now while the Soviets are on a buying spree. We should immediately notify the Soviets that we are willing to provide for purchases of grain in excess of the 12 million metric ton maximum. Further, we should seek to modify the long-term agreement by establishing higher minimum and maximum supply guarantees than are currently in effect. The resolution we are submitting today expresses the sense of the Senate that the President should take these actions now in order to maintain and further develop this important market.●

● Mr. BUMPERS. Mr. President, I am pleased today to join with Senator BOREN as an original cosponsor of the resolution urging the President to begin immediate consultations with the Soviets for the purpose of giving formal notification of the raising of export limits set under the long term grain agreement. With current grain prices severely distressed, greater Soviet purchases throughout fiscal year 1985 may be the only significant positive event affecting our grain market.

For fiscal year 1984, this administration agreed to raise the export limit from its negotiated level of 12 million metric tons. Grain shipments to the Soviet Union are projected to exceed 13.3 million metric tons by September 30 and the Soviets are attempting to arrange as great a quantity as possible for September delivery because of the failure of this administration to extend the LTA limits for next year.

Yet, if the Soviet grain harvest falls below 170 million metric tons, as many experts are suggesting, then the United States has a golden opportunity to reestablish its major share of the Soviet market. Current Soviet purchases of U.S. grain for delivery in fiscal year 1985 already amount to 8.3 million metric tons, and the purchases could exceed 20 million metric tons—nearly 12 million metric tons of corn and 8 million metric tons of wheat.

If Soviet imports total nearly 45 million metric tons, as expected, the United States has the opportunity to capture just under 50 percent of the Soviet market. Certainly, if Soviet purchases peak at 50 to 55 million metric tons, as projected on the high side, the U.S. share will be even greater because of the readily available surplus of grain in the United States.

These expected purchases will only be possible if this administration heeds the President's campaign rhetoric and extends the limits on the long term grain agreement. Formal assurance will be necessary to promote additional sales because of the distrustful nature of the Soviets. If such an assurance is immediately given, the United States may avoid driving the Soviets into markets of competitor nations.

I would also like again to urge the administration to seek the inclusion of rice in our long term grain agreement with the Soviets. Currently, over 22 million hundredweight of rice is in Government storage, and the extremely low rice prices, as we move into rice harvest, assure that millions more hundredweight of rice will likely end up in Government storage. A significant contributing factor is the administration's failure to help us maintain our foreign rice markets in the face of foreign competition, and the inclusion of rice in the LTA would help open a major new market to our embattled rice farmers. Over the last several years Soviet imports of rice have averaged 800,000 metric tons a year, and none of this rice comes from the United States.

For the sake of our grain farmers, many who are not likely to survive in farming without drastic grain price improvements, I urge the President to raise the LTA limits, and I call on my colleagues to help impress upon the President the severity of this need.●

AMENDMENTS SUBMITTED

TELEVISION AND RADIO IN THE SENATE

RANDOLPH AMENDMENT NO. 3754

(Ordered to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of proceedings of the Senate; as follows:

At the end of the Resolution add the following:

SEC. 8. Rule XII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"(5) When yeas and nays are ordered on the floor, each Senator shall vote from the assigned desk of the Senator.".

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

TOWER AMENDMENT NO. 3755

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (S. 2851) to authorize depository insitution holding companies to engage in certain activities of a financial nature and in certain securities actitivies, to provide for the safe and sound operation of depository institutions, and for other purposes; as follows:

Insert at the appropriate place the following new section:

SEC. . Notwithstanding any other provision of law, it shall be unlawful for the Federal Home Loan Bank Board to propose, promulgate, or adopt regulations, or changes in existing regulations, relating to the conversion of savings and loan associations from mutual to stock form, unless such regulations or changes in regulations become effective after February 29, 1984. The provisions of this section shall apply to any regulation published on or after August 1, 1984.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, September 11, to consider the following nominations for Associate Judge of the Superior Court of the District of Columbia:

Susan Holmes, Rufus King, Colleen Kollar-Kotelby, A. Noel Kramer, Emmett Sullivan, Robert Tignor, and Robert Richter.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 11, at 2 p.m., to receive a closed-session briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 11, 1984, in order to receive testimony concerning the FCC 7-7-7 Rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FORMER SENATOR JACOB JAVITS COMMENTS ON THE QUALITY OF LIFE

● Mr. WEICKER. Mr. President, it is with great pride that I submit for the RECORD an article written by our friend and former colleague, Senator Jacob K. Javits. I also am submitting a recent New York Times article that summarizes a speech given by Jack to the New York Hospital. I believe that upon reading them, each one of us will find that they address two of the most basic questions we as individuals, and as legislators, can ask ourselves: What does it mean to be terminally ill and how do we define the quality of life?

I believe that Senator Javits' comments and reflections are forthright, sensitive, and provocative. They are a tribute to the life of a man who distinguished himself in this body and continues to serve all of us through his wisdom and example.

The articles follow:

WHEN SHOULD DOCTORS LET A PATIENT DIE?—A TERMINALLY ILL FORMER SENATOR SAYS THE DECISION SHOULD BE BASED ON BRAIN FUNCTION

(By Jacob K. Javits)

I am a victim of what is generally called a terminal disease. It is amyotrophic lateral sclerosis (ALS), which slowly disables muscles by reducing the ability of the motor neurons—the nerves that control movement—to deliver chemical messages from the brain to those muscles. ALS is usually a disease of middle age and thereafter, and more men than women seem to get it. It is not considered contagious. It is popularly known as Lou Gehrig's disease, because it killed the great baseball player while he was still in his thirties. There is no known cure.

I am now confined to a wheelchair, because my leg muscles are inadequate, and I need a ventilator to help me breathe, though it uses only room air. The critical thing in keeping alive, in my estimation, is to keep my mind in order and functioning. Fortunately, ALS does not seem to compromise the brain or the intellectual ability of the stricken individual.

When I received the news that I had this difficult disease after a long and active career as a lawyer, Army officer, state attorney general, and a member of Congress, I could have been devastated and destroyed. But I was not. I decided I would simply have to make the best of it. Throughout my medical experience, this philosophy has always prevailed: that I had a job to do and a life to finish, and that no physical obstacles could stop me in the pursuit of what I considered to be my duty and responsibility to my people and my time.

Therefore, for patients with a so-called terminal illness like ALS, my message is this: We are all terminal and we are all going to die sometime. So why should a terminal illness be different from a terminal life? There is no difference, and I would suggest that the most positive thought for any patient is to concentrate on perpetuating life. First and foremost, whether the patient is a mechanic or a United States senator, he or she must have motivation for living—if the life force is to prevail over illness or infirmity.

For me this life source starts from Marian, my wife, and our children, who have been my basic support, and extends to relatives and friends, country, and the world. But I have also been sustained by my doctors, who in diagnosing my case always gave me two assurances: that I would be continent, and that my intellectual capacities would be unaffected. Despite my handicaps, I can speak, see, hear, taste, smell, feel, even swallow (though many ALS patients have difficulty with this function). No matter how my other faculties might suffer, the use of my brain seems assured. This, it seems to me, is the essence of life.

I was very much interested in the stir created earlier this year when Governor Richard D. Lamm of Colorado was reported to have urged all elderly people with terminal illnesses to get out of the way and leave medical care for younger and more vital subjects. This view ran into an enormous storm of disapproval, especially from those who would be affected. The governor sounded inhuman to many, including me. Actually, it turned out that Lamm had said "We all have a duty to die." Nonetheless, in discussing treatment of the terminally ill, he raised a question of deepest seriousness for the medical profession and for the community in general.

It is true that medical care is very expensive, and that it is still not available without regard to economic resources on a nondiscriminatory and equal basis for all. But until that goal is reached, I believe the medical profession should cooperate with efforts to establish a test in cases of terminal illness that would enable us to determine who should live and who should die. It should be based not on how rich the patient and his family are, but on whether the brain is functioning and whether there is any expectation that the patient will continue to enjoy what is truly life.

This can best be done by a process that involves the participation of the patient, the patient's family, a representative of the patient's religious affiliation, a representative of the community, and, of course, the medical profession—and ultimately, if the issue is not resolved, the judgment of a court. But I believe that the criterion must be the ability of the brain to function—for that is life, as distinguished from death. Even when continuous excruciating pain is present, we have every reason to hope that advances in the control of pain may help us continue to consider the functioning brain as the rule for life.

Based upon what I have been through, I have found that medical care is generally administered with good intentions to those with terminal illnesses, and that an atmosphere of good will pervades medical offices and hospitals. I believe it is also fair to say that the patient should have a lot to do with the treatment, however limited it may be. For if he is cooperative, optimistic, and communicative to the doctor and other health professionals, he will inspire the total medical staff, and this can have a lot to do with the results.

A friend of mine, Norman Cousins, a distinguished author and editor who suffered some years ago from what he thought at the time was a terminal illness, has given us all a message in that respect. Humor was the single factor that helped him most, and

he demonstrated that the patient can contribute as much as the doctor or the nurse to a happy outcome, and can make life much easier for the people who function within the health care or hospital setting.

We have made a lot of progress in this country in the quality and the availability of health care, but we still have a long way to go. I am very proud of what we have done, especially because most of it is in the private sector, which always gives greater freedom and greater opportunity to the individual. I believe, too, that there is a growing body of opinion in the health care professions that has helped to move this process on its way, and that this is an expression of social consciousness among the members of the health care professions. Though this attitude is far from universal, I am sorry to say, it is nonetheless impressive and very promising for the future.

Now a few observations on my own life as a "sick man," which may be helpful to others carrying comparable serious disabilities. I do lecture, I do read, and I do write. I dedicate my life to the issues that have dominated it for many decades now, and to my profession as a lawyer. I believe that I can still be useful in many ways.

In short, life does not stop with terminal illness. Only the patient stops if he does not have the intellectual and moral wherewithal to go forward with life until death overtakes him. That happens to everybody. We can be inspired by our disabilities and carry on what is truly life, or we can be dismayed and downed by them.

The greatest therapy is to forget about terminal illness. Everybody is terminal. That is the great message that can perpetuate the useful life of the patient and be of solace and comfort to the patient's family and friends. what is really worthwhile in life is the excitement and the expectation of living, and the giving and the receiving, which is, after all, life's essence.

DOCTORS HEAR JAVITS IN A SALUTE TO LIFE

(By Lawrence K. Altman)

New York Hospital reversed the format for its main weekly medical conference yesterday by letting the patient lecture instead of the doctor.

The patient was former Senator Jacob K. Javits of New York, and in his most introspective discussion of his illness since it was diagnosed in 1980, he said he was speaking out in an effort to be an inspiration to everyone afflicted with similar incurable diseases.

Mr. Javits spoke for almost an hour about how his will to live has helped him survive with a paralyzing terminal illness and still maintain a good quality of life.

Mr. Javits, who will turn 80 years old next week, suffers from a form of motor neuron disease that is also called amyotrophic lateral sclerosis, or A.L.S., also known as Lou Gehrig's disease, for the New York Yankee baseball player who died of the same ailment.

Seated in a wheelchair in a large medical lecture room, Mr. Javits spoke firmly but at a measured pace. Pausing every few words to allow a battery powered mechanical portable respirator help him catch his breath, he told an audience of about 150 doctors:

"WE ARE ALL TERMINAL"

"If there is anything I can leave with you in terms of the treatment of patients with a terminal illness, it is this: We are all terminal—we all die sometime—so why should a terminal illness be different from terminal life? There is no difference."

Mr. Javits said the most important point in staying alive was to "keep my brain in order and functioning." He added, "This is the essence of life."

The disease has not affected Mr. Javits's mental abilities but it has led to striking weakness of the muscles below his neck. He wears a supportive collar to prevent his head from sagging and thereby further interfering with his ability to breathe. That difficulty, his doctors said, was due entirely to the muscle weakness resulting from the damaged nerves.

KEEPS A FULL SCHEDULE

Although it takes him three hours in the morning to prepare for the day, Mr. Javits said, he has written many articles, delivered commencement addresses, received awards and testified before his former colleagues in Congress about the need for more basic research in his disease and others.

Mr. Javits said in an interview that his medical bills totaled "upward of $50,000 a year," and that they were paid by three health insurance polices and from his own pocket.

Mr. Javits said he was upset when he heard reports of remarks by Gov. Richard D. Lamm of Colorado recently, remarks that he and others interpreted as "urging older people with terminal illness to get out of the way and leave medical care for younger, more vital subjects."

But Mr. Javits also said that he felt that Governor Lamm had "raised a question for the profession of deepest gravity; it is true that medical care is very expensive."

Mr. Javits went on to lament that Americans had not established a system to deliver health care to all.

URGES LIFE-OR-DEATH TEST

He called on doctors to develop a test "to enable us to determine socially who should live and die." Such a test, he asserted, should not be based on such factors as age and the name of the ailment, "but on whether your brain is functioning, and I believe that can best be done by peer review" consisting of family members, members of the clergy, physicians, and, if necessary, the court.

Mr. Javits said he had decided to resort to all necessary medical measures if he developed acute respiratory failure, which he did while he was in Palm Beach, Fla., in March 1981.

Mr. Javits's appearance is part of a recent trend in which prominent people have spoken publicly about their feelings of being seriously ill. Mr. Javits credited Norman Cousins, former editor of The Saturday Review, who has written books about his own ailments, for alerting the public to the value of humor in overcoming illness. Mr. Javits also said that patients should realize that their cooperation and optimism "brightens and inspires the total medical staff" and that such attitudes can contribute as much as the doctor or nurse to the patient's well-being.

Mr. Javits also spoke about how his views differed from those of the late David Niven, the actor, who also suffered from ALS. From exchanges of letters, Mr. Javits said, he learned that Mr. Niven was "very resentful and discouraged" about developing ALS.

Like Mr. Javits, Mr. Niven lost his ability to walk. Unlike Mr. Javits, Mr. Niven had difficulty eating because the disease had affected the nerves controlling his swallowing muscles.

"I tried very hard to buck him up, but he just couldn't stand what to him was the disgrace of these infirmities;" Mr. Javits said. "It was a vivid illustration of the psychological impossibility for him, a handsome man with a vivid personality, to accept the limitations that his disease imposed upon him."

The conference at which Mr. Javits appeared is known as medical grand rounds. In past decades, when medical costs were much lower than they are now, patients often stayed in the hospital so they could be present when their case was discussed.●

THE REAL COST OF THE PHILIP A. HART SENATE OFFICE BUILDING

EXECUTIVE SUMMARY

● Mr. JOHNSTON. Mr. President, the press has carried so many stories about the extravagance and exorbitant costs of the Hart Senate Office Building that it has become conventional wisdom that the Hart Building is among the costliest Federal buildings ever built. The facts show otherwise—the Hart Building's cost growth was relatively modest compared with similar structures built in the same period of high inflation. Its actual per square foot construction cost is far less than many corporate headquarters and other modern buildings and, when discounted for inflation, substantially less than other congressional buildings such as the Rayburn House Office Building, as a full report on the construction cost has disclosed.

FOUR ERRONEOUS ASSUMPTIONS ABOUT THE HART COST

Four fundamental fallacies are at the center of the public misconception of the high costs of Hart: First, Hart was originally estimated to cost $48 million; second, the difference between the terms "construction costs" and "project costs" can be ignored; third, cost overruns plagued construction; and fourth, Hart is extravagant. This study shows clearly that all of these assumptions are erroneous. The arguments against Hart then fall like a deck of cards.

TRUE CONSTRUCTION COST PROVES LOW AT $97 SQUARE FOOT

When people say that Hart's costs grew from $48 to $137 million, an increase of almost 300 percent, they distort the cost growth of the building. The $48 million starting point was based on a quick, preliminary estimate of a building that was only half the size of the Hart Building and could not have come close to accommodating the Senate's requirements. The first realistic estimate was $85 million, done in 1974. Thus, the real project cost growth was only about 50 percent, almost five times less than popularly reported. The actual construction costs, as well as their growth in the decade of the project were even less. The $85 million project cost figure includes roughly $12 million for administrative and overhead functions. The correct initial estimated construction

cost was approximately $73 million. The actual construction cost was around $107 million, as opposed to the project cost of $137 million. This works out to $97 per square foot—far less than the $127 per square foot—adjusted for inflation—for the Rayburn House Office Building. The Architect of the Capitol, George White, has studied the inflation factor for all buildings built on the Hill this century—such as the Senate's Dirksen and Russell Office Buildings and the House's Longworth Office Building—and the cost of the Hart Building is substantially lower than any of them. Moreover, the actual contruction cost growth of the Hart Building was approximately 47 percent, far less than the 67 percent recorded in the construction industry during the same period.

FEW COST OVERRUNS

There really were very few cost overruns, as that term is properly used. A true cost overrun occurs when there is a firm contract executed at a specific price or estimated cost, actual costs far exceed that price or ceiling, and the contractor then seeks to recover the difference. This was not the case with Hart. The change orders were extremely small—less than 3 percent—as a function of total construction costs. While there was cost growth—not overruns—from estimated to actual costs, it was due primarily to inflation and changes in the requirements of the building.

Finally, Hart is not extravagant. The Architect of the Capitol and the Associate Architect, John Carl Warnecke & Associates, initiated numerous cost savings measures, for example, substitution plaster for much of the marble, aluminum for bronze, and so forth, which ultimately saved in excess of $30 million in construction costs. Thus, Hart emerges as a balanced building, by no means opulent.

FUNCTIONAL DESIGN APPRECIATED BY OCCUPANTS

The time has come for the "Taj Mahal" myth of the Hart Senate Office Building to die. The Hart Building should be appreciated for what it is—a highly functional building compatible with the monumental architecture on the Hill, well liked by its occupants, which had the misfortune of being constructed in a period of unprecedented inflation. It should be judged on its true costs and function, not on its political mythology.●

MILITARY READINESS

● Mr. GOLDWATER. Mr. President, the July/August issue of the Defense Systems Review magazine contained an article which I feel points out the blatant partisanship involved in the recent release of a biased, outdated and inaccurate report on military readiness by the chairman of the House Appropriations Subcommittee on Defense. This report, containing data as much as 2 years old, was released solely to discredit the Reagan administration's outstanding efforts to bring this country's military posture back from the abysmal state to which the Carter administration had allowed it to deteriorate.

By any criteria, this Nation's military is far better able to perform its mission than at any time in recent history. I know, because I make it a point to visit as many military units as I can and have discussed this issue at length with virtually every military leader of all the services. These men with 30 years or more of experience unanimously state that the equipment they are receiving and the men to operate that equipment have never been better.

As Mr. Martin states: "The Reagan administration is to be commended for its ardent struggle to bring this Nation's defense posture up to its current status. Those in Congress who have acted as obstructionists and who distort the true status of this Nation's military force, should be censored, not only by their respective constituents, but by history itself."

Mr. President, I commend this worthwhile and thought-provoking article to my colleagues and ask that it be printed in its entirety in the CONGRESSIONAL RECORD.

The article follows:

BIASED CONGRESSIONAL DEFENSE REPORT IGNORES THE TRUTH

(By Harry Martin)

A Democratic-controlled congressional subcommittee has issued a critical report claiming that the readiness of U.S. fighting forces has deteriorated under the Reagan Administration. This report was conveniently issued during an election year and became a major issue for the Mondale campaign.

Obviously, the political spectrum from Republican to Democrat differs greatly on this issue—mainly supporting what is considered best for their respective candidates. But what truth is there to this biased congressional report?

Those who have issued the report claim that the Reagan Administration has devoted too much to high-priced hardware—ships, tanks, planes, and missiles—while ignoring ammunition, spare parts, fuel, equipment maintenance, and training. Defense Secretary Caspar Weinberger has accused the House Appropriations Subcommittee on Defense of issuing a "dangerously wrong" study.

To defuse the issue, independent analysis is necessary. Major improvements have been made toward the ability of U.S. forces to wage war today as compared to 1980, according to people like Gen. David C. Jones (USR, Ret.), former chairman of the Joint Chiefs of Staff.

The congressional subcommittee report is correct in stating that the armed forces fall way short in their capability of waging a sustained conventional war in Europe against the Soviet Union, much less the kind of global conflict for which Weinberger insists the nation should be prepared to fight—but it is wrong to maintain that U.S. readiness has deteriorated under the Reagan Administration. The report fails to compare the readiness capability of U.S. forces under the Carter Administration to that of the Reagan Administration—at least in true terms. The report also fails to recognize the road blocks the writers and their congressional colleagues have set up over the years in respect to the defense budget.

The last years of the Carter Administration and all the years of the Reagan Administration have been devoted to the upgrade and readiness of U.S. forces—and congressional Democrats can't fool anyone. Notable gains in the defense umbrella over the last four to five years include more modern and more effective weapons: a new generation tank, armored fighting vehicles, and attack helicopters for the Army; new fighter planes for the Air Force and Navy; armored landing craft for the Marine Corps; to name some. There is a higher caliber of recruits—in 1980 only 68 percent of the recruits were high school graduates—this year the number is 92 percent.

Better training methods are being employed with increased flying hours for Air Force pilots, more days at sea for sailors, and soldiers are receiving more realistic combat simulation. The strategic airlift capability is slowly improving with spare parts and supplies increasing.

The U.S. is still short of war-reserve munitions—and the Pentagon readily admits that this nation may not reach the required reseves until the 1990s. Today the Navy has only 20 percent of these munitions' stockpiles, the Air Force 30 percent, the Marine Corps 43 percent and the Army 75 percent. But these levels were even more seriously deficient four years earlier.

A review of the FY'82 through FY'85 budgets offer substantial evidence to counter the congressional report. Navy aircraft and weapons procurement are up 57.5 percent, whereas munitions, training, and other non-hardware procurement are up 100.8 percent. The Army's budget demonstrates that munitions training, and other procurement has risen faster than weapon systems. Weapon systems rose 69 percent while munitions, training and spares jumped 85.2 percent. Only in the Air Force did weapon systems procurement outpace munitions, training and spares—rising 268 percent as compared to 230.1 percent. Pay raises have also been accomplished to increase morale and reenlistment, and to improve the caliber of today's recruits.

Granted, in election years, the state of the military is always subject to debate by the "ins" and the "outs" of the political community—but for a congressional group who has argued continually for cuts, who has forced reductions, to lie to the American people about the serious question of defense preparedness only re-enforces the important gains the Reagan Administration has made in the U.S. defense posture against sometimes overwhelming odds. Mr. Mondale was part of an administration that cut the defense priorities drastically—and should know the real truth behind the growth of defense readiness in this nation. Such political attitudes bring back recollections of the days in which John Kennedy claimed the Eisenhower-Nixon administration allowed America to fall behind the Soviets on strategic missiles. "The missile gap" helped Kennedy in his narrow victory over Nixon, only to proclaim after the election that he was "mistaken" and that a missile gap did not actually exist.

What these politicians apparently do not realize is what impact such grandstanding can have on foreign policy—and how much undermining it has. But the price of winning in this nation's political sphere supercedes the nation's security—and certainly the truth.

The Reagan Administration is to be commended for its ardent struggle to bring this nation's defense posture up to its current status. Those in congress who have acted as obstructionists, and who distort the true status of this nation's military force, should be censored—not only by their respective constituents, but by history itself.●

IF PRESIDENT REAGAN HAD HIS WAY

● Mr. CHILES. Mr. President, I am told that today the President of the United States said that if Congress had enacted everything he wanted, the deficit would be $40 billion lower.

That is what the President says. But the Congressional Budget Office early this year said that "the budget deficit under administration policies would grow from $186 billion in 1984 to $192 billion in 1985 and $248 billion by 1989."

The Budget Office is not partisan. It has no ax to grind. It only has its best, objective analysis to report. And what it says is that if Congress does exactly what the President wants, if we ratified every spending cut he asked, every military spending increase, and all his revenues requests to the precise decimal, the deficit will be $62 billion higher in 1989 than it is now.

Even if someone were to accept the President's claim that the deficits would be $40 billion lower if Congress had done something else, this year's deficit would still be over $130 billion, more than twice as high as it was during the final year of the Carter administration.

It seems to me that while I don't agree with each of the specifics in Vice President Mondale's deficit-reduction plan, he at least deserves high praise for putting his plan on the table. It is a reasonable, credible approach to our biggest economic threat, the Federal deficit.

Now that Mr. Mondale has made his plan public, I would hope the President would follow suit. I think all Americans would like to hear what the President really has in mind.

In fact, if both candidates had their plans before the public, we might all profit from something akin to a bidding war. Who can cut the deficit the most? Who can do it in the fairest and most effective way? That's certainly a reasonable question, and a major criteria for any voter intent on making an informed decision this fall.

The thrust of the Mondale plan is right on target. The savings the plan would achieve would be applied to deficit reduction. The whole story of this year in Congress and throughout the Nation's economy has been the deficit, the harm it does, the threat it poses.

Mr. Mondale has told us what he would do. The President should do the same. It is in the Nation's best interest.●

THE DURATION OF COEXISTENCE

● Mr. GOLDWATER. Mr. President, it is almost impossible to sit on the floor of the Senate or to listen on our loudspeakers in our offices, to watch television, to read the newspapers, to listen to the candidates, and not hear an almost unceasing, repetitious declaration for arms control.

Now I will admit that theoretically this would be a wonderful thing. To be able to sit down with the other countries of the world and work out a multilateral agreement on the control and number of arms that were to exist in this world would be a great step forward.

But, we are arguing for something that has been used as a weapon of war ever since Lenin lived on this Earth. Lenin believed that it was most useful to his intentions, and this has been accepted as doctrine by the Soviets ever since, that to have pacifists in every enemy group worked to their advantage. In fact, a Russian delegation to the Geneva Disarmament Conference in 1972 was reminded that "who has ever denied the usefulness of pacifists to undermine the enemy?"

With that same philosophy was an accompanying one of "peaceful coexistence." This, they felt, would inevitably lead to war and then the question always came up, who would start the war? And, the Communists' thinking in that general field, was that it would either be started by the capitalists, or between the capitalists, or the whole era of capitalism would disappear, to be replaced by their Socialist concepts in government.

Because the subject of disarmament and talks with the Soviets has so dominated the thinking and speaking of so many people in this country, I want to place in the RECORD a very interesting piece, written by Mr. William Harben, appearing in the Journal of Defense & Diplomacy. Mr. Harben is a senior partner of a research firm here in Washington and is a retired Foreign Service officer, whose tours of duty included 2 years in Moscow. The title of his piece is "The Duration of Coexistence" and because of its importance, I ask that it be printed in the RECORD.

The article follows:

THE DURATION OF COEXISTENCE

(By William N. Harben)

In his first official statement upon assuming office, Konstantin Chernenko offered "peaceful coexistence" to the United States, thus raising the question once again of the definiton of Soviet doctrinal terms.

One aspect of peaceful coexistence has been arms control negotiations, which have been without noteworthy result for decades. The public is weary with the data on throw-weights, MIRVing and the rest, but not one of the authors of the many books and articles on the subject wonders whether it is possible that the stalemate is attributable, not to the failure to make this or that concession, but to the fact that Lenin repeatedly and emphatically rejected as delusion all hopes for disarmament as long as world revolution was incomplete. Generally unnoticed at the time of the first SALT talks was an article in the January 1971 issue of Novyy Mir, by the Soviet ideologue, academician Aleksei Matveevich Rumyantsev, in which he recalled that Lenin has asked Foreign Minister Georgi Chicherin to prepare a "pacifist" program to be used by a Russian delegation to the Genoa disarmament conference in 1972. To Chicherin's protest at the heresy of disarmament, Lenin replied, according to Rumyantsev, "Who has ever denied the usefulness of pacifist to undermine the enemy?"

Hardly a day passes in the Soviet Union without it press justifying a particular policy by referring to Lenin's writtings on the subject. Lenin was vague and contradictory on economics, but he was clear and dogmatic on war. Rumyantsev is not regarded in the Soviet context as a firebreather, and while his anecdote is depressing to us, it was actually rather dovish by Moscow standards. He seemed to be trying to justify to hardliners that it was ideologically permissible to engage in disarmament talks with the West at all.

About a year ago, the Kremlin's chief Yankee-stroker, Georgi Arbatov, revealed that he, too, had been poring over the Holy Writ looking for a ray of light, but all he could come up with was a reminiscence of Nadezhda Krupskaya, Lenin's wife, that her husband had once remarked that weapons of war might some day become so terrible that the masses would reject war.

The point is that doctrine matters in the Soviet Union. No policy can be carried forward unless precedents can be found in the writings of Lenin. If therefore behooves western analysis to become familiar with Leninist doctrine on a major concern. Much of this is published, some is not. Rumyantsev's citation, for example, seems to have been extracted from Foreign Ministry archives (he gives Chicherin as the source).

When Khruschchev declared in Pravda on June 25, 1958, that Soviet foreign policy would continue to be a "Leninist policy of peaceful coexistence," the word "Leninist" was not mere rhetorical decoration, but an assurance to the party that the government would not depart from the agreed definition based on Lenin. Hence the reiteration, on that and other occasions, that "peaceful coexistence" had been Soviet policy since 1918—which would include the Soviet invasions of Poland and Iran in 1921, the invasion of Manchuria in 1929, the attacks on Finland in 1939 and 1941, etc.

Stalin noted (*Collected Works*, X, p. 288) that "We cannot forget the saying of Lenin to the effect that a great deal in the matter of our construction depends on whether we succeed in delaying war with the capitalist countries, which is inevitable but which may be delayed, either until proletarian revolution ripens in Europe or until the colonial revolutions come fully to a head, or finally, until the capitalists fight among themselves over the division of the colonies. Therefore, the maintenance of peaceful relations with the capitalist countries is an obligatory task with us."

INEVITABLE WAR

"Peaceful coexistence" is therefore inevitably to end in War. Who will start this war? According to Lenin, "If war is waged by the proletariat after it has conquered the bourgeoisie in its own country and is waged with the object of strengthening and extending socialism, such a war is legitimate and 'holy'" (*Selected Works*, VII, p. 357). "The Social Democrats [the old name of the Communists] may even find themselves in the position of having to demand agrressive wars" (Lenin, *Works*, XV, p. 176). "We must say that the party congress commissions the Central Committee to denounce all peace treaties and to declare war on every imperialist state and on the whole world as soon as the Central Committee regards the moment as appropriate" (Lenin, *Sochineniya*, 4th ed., XXVII, pp. 96-97).

One is tempted to dismiss this as the rantings of a madman were not the rantings of another madman so fresh in memory. It is more fashionable to dismiss it as having been uttered long ago, in circumstances that hardly prevail at the present time. Apparently it is not so dismissed in Moscow, however. Gen. Yevdokim Yegorovich Maltsev, writing in *Krasnaya Zvezda* on Feb. 14, 1974, asserted that:

"The defense might of the USSR is growing stronger on the basis of Leninist ideas and on Lenin's doctrine on the defense of the socialist homeland. Wholly guided by this doctrine, our party adopts a creative approach to the complex problems of . . . defense capability in strict conformity with the particular features of a given stage of social development and the world situation. . . . Events of the present stage of social development are approaching the point where at any moment a situation may arise in some link of the capitalist system which will pave the way for revolutionary transformations."

Given Lenin's emphatically aggressive intention and the abuse to which the word "defense" has been subjected even by "bourgeois" states, it would be unwise to take much comfort from its use here. As the Sixth World Congress of the Comintern in 1928 put it: "There is no contradiction between the Soviet government's preparations for defense and for revolutionary war and a consistent peace policy. Revolutionary war of the proletarian dictatorship is but a continuation of revolutionary peace policy 'by other means.'"

The continuing validity and immutability of Leninist war doctrine is sometimes proclaimed in the USSR so sharply that one might suspect that Soviet "doves" are frantically trying to warn a bemused West that it is in mortal peril. The idea that "peaceful coexistence" might be permanent has been repeatedly denounced as "unscientific": "It is clear that there can be no continuing, 'eternal' coexistence of socialist and capitalist states. To advance such a demand means to reduce the principle of peaceful coexistence to absurdity," wrote D. Aleksandrov in *Mirovaya Ekonomiya i Mezhdunarodnye Otnosheniya*, XI, 1963.

"Peaceful coexistence" in Moscow's view is therefore no more than a state of uneasy armistice preceding an inevitable war—like the relationship between France and Germany in the Twenties and Thirties. It is simply a restraint of major hostilities until the moment most propitious for attack. But surely they do not intend to attack? Probably not soon, but there is obviously a faction in Moscow that seriously entertains the idea. At the Twenty-second Congress of the Soviet Communist Party, Marshall Rodion Yakovlevich Malinovski's speech contained the following passage: "We must . . . also study means of foiling the aggressive designs of the enemy by inflicting a lightning blow on him at the proper moment [*svoyevremenno*]" (Vol. II, p. 118). *Pravda* tried to put the cat back in the bag on Feb. 23, 1964, by changing this to a "lightning blow in return." But on Jan. 21, 1974, Richard Ivanovich Kosolapov, now editor of *Komunist*, wrote in *Pravda* that "constructive peaceful coexistence . . . by no means signifies the termination of the class struggle in all its forms. . . ." Earlier, Marshal Vasili Danilovich Sokolovski, in his *Voyennaya Strategiya*, 1968, p. 26, had asserted that the "highest form of class struggle" is "war between states with different social systems."

WAITING FOR THE OPPORTUNITY

War has thus far been avoided obviously not because of Moscow's aversion to war, but because the opportunity for certain victory has not yet presented itself. Soviet military writings (Sokolovski's, for example) display a fascination with surprise attack, but Malinovsk's indiscretion, amended for foreign consumption, implies that surprise even then was not easy to achieve—the "means" to achieve it had to be "studied." Peace has therefore been due partly to western surveillance and intelligence networks, which makes it almost impossible to prepare a first strike "lightning blow" on a scale sufficient to ensure victory.

A Soviet attack would have to be on a large, and hence detectable, scale because of the West's military strength. Western armaments have therefore prevented the only kind of war that assures victory to the aggressor. Nuclear weapons are part of that strength. In the 1960s, Soviet military writers dismissed the idea that nuclear weapons changed the nature of war "as bourgeois ideologists assert." Such weapons were just artillery of greater explosive force.

But the increasing power and diversification of nuclear weapons gave rise to doubts and, recently, to admission of the possibility that a great war might be fought without using them at all. If, as Robert McNamara wrote in the fall 1983 issue of *Foreign Affairs*, the sole purpose of a nuclear arsenal is to deter the adversary from using *his* arsenal, then each arsenal cancels the other out, with the possible exception of small tactical devices used in sparsely inhabited areas or at chokepoints like the Rhine crossings or the Pyrenees passes. But this enhances the possibility of war. Once nuclear weapons are swept from the chessboard, the Soviet proletariat may once again be able to "fulfill its international duty" across frontiers, not in Afghanistan, but in Europe or the Middle East. The vast coventional armament of the USSR seems to indicate that its leaders never gave up hope that conventional war might some day again be possible.

PAST INVASIONS

Why 42,600 tanks and 176 divisions (to NATO's 13,500 and 86, respectively)? A currently popular explanation is paranoia induced by past invasions, particularly by Germany. Let us examine these invasions. In 1914 it was Russia that invaded Germany, not the other way around. Defeated in East Prussia, the Soviet army was then pursued onto its own soil. But, far from developing a paranoia as a result of the deep German thrust into the Ukraine in 1918, Lenin in 1923 actually invited the German Reichwehr of Gen. Hans von Seeckt, prohibited by Versailles from possessing tanks or an air force, to violate these provisions of the treaty on Soviet soil, out of the sight of Allied inspectors. It was in Von Seeckt's Soviet training camps that the Luftwaffe and the panzer divisions were born.

The second German invasion is 1941 was preceded by a massing of Soviet troops close against the German-Soviet demarcation line that was so alarming that Berlin cabled its ambassador, Count Werner von der Schulenburg, in Moscow and asked if the USSR intended to attack. Von der Schulenburg replied that they did not, that it was just Stalin's idea of 300 percent security. Whatever the facts about who was about to invade whom, Moscow again seemed to be curiously free of paranoia: following the war, the Soviets were even inducting surrendered SS-men into the militarized Kasernierte Volkspolizei which it set up in its zone of occupation while the western allies were still requiring the Germans to account for spears used in Wagnerian operas. More recently, the "paranoid" Soviets forced the unhappy East Germans to introduce military training in the high schools, matching the militarization of Soviet youth.

The notion that Moscow fears invasion by the Germans or by any nation is in any case belied by the offensive deployment of its armies. Their ammunition dumps, for example, are close to the border with the West, where they would be overrun in the first few hours of a NATO attack.

Over the years the USSR has howled abuse at purely defensive measures of the western countries, probably striving to inspire a numbing fear by advertising western measures that pre-suppose retreat. In the 1950s, they pointed to the chambering of West German bridges to facilitate their demolition in the path of the expected Soviet advance and later the planting of nuclear mines in the passes of the Erzgebirge. Radio Moscow even denounced the sending of German Leopard tanks far away to Spain, where they could hardly launch an attack against the East, but could be used very easily to seal the gorges of the Pyrenees. The campaign against neutron weapons is the latest example.

NUCLEAR WEAPONS

If strategic nuclear weapons are militarily useless as McNamara claims, why do not the Soviets agree to their abolition, thus saving enormous expense? Because they are of enormous political use, as the Soviets began to realize in the 1960s, when the Communist Santiago Alvarez, writing in the World Marxist Review in June 1963, noted:

"Acute political crises may give rise to revolutionary situations in the western countries. We have in mind such things as a sharp deterioration of international relations fraught with the danger of nuclear war. . . . It may well be that any immediate danger of nuclear war would cause a leftward swing among the masses. . . ."

He was echoed by Pravda on August 13 of the same year, and Khrushchev set out, through highly publicized speeches, to provoke the necessary terror with lurid visions of accidental missile launchings caused by a "flock of geese" (on radar) and missiles being turned out "like sausages" in Soviet arms plants. The credit for developing the strategy of using the masses' fear of nuclear war to incite them to revolution probably belongs to the noted Marxist historian E.P. Thompson whose scenario of escalating protests and demonstrations, summarized by Scott McConnell in Commentary in April 1983, appeared in 1960.

The Soviet government will be very reluctant to dispel nuclear fear by concluding agreements to limit nuclear weapons, particularly now, when Alvarez's and Thompson's predictions are beginning to come true. Having lost its economic appeal, moreover, communism has no political issue left that is as potentially effective as the "Schrecklichkeit" of the nuclear bogey. Many in the West assume that the Soviets share this dread, having endured terrible loss of life and devastation in World War II. But the government of the USSR ensures that the memory of that period passes from Soviet minds.

Only nine years after the end of World War II, a Defense Ministry pamphlet by Viktor A. Chaprakov (*Militarizatsia Stran Severo-Atlanticheskogo Bloka*, Voyeni Izdat) reminded Soviets that "The bourgeois-pacifist attitude toward war which stresses the 'horrors of war' and inculcates hatred of all wars is alien to us. Communists are against imperialistic wars as being counterrevolutionary wars, but they are in favor of liberating, anti-imperialist, revolutionary wars."

While suppressing at home films and literature that dwell on the horrors of war, the Soviet government encourages them abroad, on one occasion even lending troops of the Czechoslovak army as extras in an American television remake of Erich Maria Remarque's classic *All Quiet on the Western Front*.

From the age of seven, Soviet children are given military training; when I was in Moscow, 15 million children took part in the annual field maneuvers of the "Children's Army," also known as *Zarnitsa*.

CIVIL DEFENSE

Many members of antinuclear groups in the West are puzzled and worried by the vast Soviet civil defense program, which appears to contradict their firmly held belief that there is no effective defense against nuclear attack. Perhaps they are right, but they forget the political value of the Soviet civil defense program, which by instilling a probably false sense of security, immunizes the Soviet people against any spillover of the nuclear terror being drummed up abroad.

Bilateral nuclear disarmament will not take place until Moscow loses more domestically than it gains abroad by maintaining the nuclear threat. Discouraged by jamming and censorship from any serious attempt at educating Soviet public opinion, we have contented ourselves with broadcasting jazz, literary comment, politically uplifting homilies and the news. The great mass of Soviets has no idea of the war doctrine of the Communist Party, nor do even most Soviet officials know of the enormous preponderance of Soviet conventional forces. It is surely evidence of neglect on the West's part that even Soviet negotiators must be given the most elementary information by their western counter-parts on the strength and deployment of their own armed forces. One representative of a Soviet bloc country once asked me, during a negotiation, for information on his own country's armed forces. Noting my startled expression, he added, "Nothing secret . . . . just a magazine article, like those in the *U.S. News and World Report*."

WITHHOLDING INFORMATION

There must be a good reason why the Kremlin keeps such information from its people and from its diplomats. If awareness spreads that the USSR has about 29,000 tanks more than "aggressive" NATO, the Soviet people might begin to wonder how many family cars might have been manufactured with the same money. The Soviet poor have no say in government, but their political courage has been great on those occasions when the truth was obvious. The loyalty of the aristocracy, the *nomenklatura*, is bought with perks and maintained by instilling the fear that too many questions may plunge a man into the gray masses of the faceless toilers. The latter now have no great fear of the Gulag. Once, when I warned a persistent Leningrad blackmarketeer to disappear before my "tails" picked him up and sent him to a labor camp, he laughed. "Let them!" he said. "I just got out of one, and it's the same out as in!"

If we are to rid ourselves of this orchestrated nuclear nightmare, we must spend years educating the Soviets using all available media on the apocalyptic doctrine of the Communist Party and on the superfluity of the armaments that keeps them in unending poverty, even at the expense of the latest trends in jazz and sports.●

EMPLOYEE EDUCATIONAL ASSISTANCE EXTENSION ACT

● Mr. MOYNIHAN. Mr. President, I rise today to speak about an important and worthy proposal, the Employee Educational Assistance Extension Act, S. 249.

This legislation would extend the employee educational assistance provisions of the Internal Revenue Code of 1954. In 1978, Congress opened the classroom door to thousands of American workers by adding section 127 of the Tax Code and thereby providing tax incentives for employers to pay for the further education of their employees—regardless of whether or not that education was, as under prior law, narrowly defined as job-related.

Section 127 has provided new opportunities for the advancement of women and minority workers, improved America's competitiveness, and contributed to the general enlightment of the American public by encouraging employers to provide tax-free educational fringe benefits to their employees.

Over 7 million employees have been able to further their educations and improve their job skills as a result of the employee educational assistance provisions of the Tax Code. Because these provisions expired in December of 1983, employer-provided educational assistance, such as the payment of tuition, is no longer considered excludable from an employee's income, unless the employee takes courses that are directly related to his job. S. 249, of which I am proud to be a cosponsor, would extend these employee educational assistance provisions and make them a permanent part of the Tax Code.

Congress broadened the employee educational assistance incentives in 1978 because the prior requirement that only assistance for job-related courses could be excluded from employee income precluded many non-management workers from taking courses necessary for advancing their own careers.

Before 1978, a firm could provide tax-free tuition for executives to improve their management skills or to clerks and secretaries to improve their shorthand skills, but, essentially, little more. Many low-level employees, who could not otherwise afford to take courses that might enable them to move into the professional managerial ranks, could not receive tax-free, employer-provided assistance to do so.

That all changed in 1978 under the expanded section 127 of the Tax Code, and American workers—many of them women and minority workers—have benefited measurably. The American Telephone Co., for example, reports that 85 percent of its nonmanagement employees who earned degrees thought AT&T's tuition assistance program have moved into management positions.

The employee educational assistance provisions of the Tax Code also have been responsible for retaining many thousands of America's industrial workers. If we are to compete with our trading partners, American industry must retool and update its manufacturing technology. This process leaves many unskilled workers ill-prepared for increasingly complex jobs. Section 127 of the Tax Code has helped many of these workers to adapt to new technology by learning new skills. In the end, this saves American jobs. Section 127, then, has been an invaluable hedge against unemployement and, at the same time, has helped American business train American workers to compete with foreign labor.

Employee educational assistance is also vital to our efforts to improve America's educational system. Just 1 year ago, the President's Commission on Excellence in Education declared that the Nation is "at risk" due to a nationwide decline in educational standards.

One answer, the Commission suggested, was to expand resources to improve the quality of teaching at all levels. The employee educational assistance incentive is important in this effort, as it enables school systems and universities to offer teachers new opportunities for intellectual growth. Section 127 has enabled many underpaid teachers to take courses they otherwise would be unable to afford and then bring what they learn to their students and colleagues.

Educational assistance benefits also are an important tool to help educational institutions attract quality teachers. A school district or college which cannot provide their teachers higher salaries may, still, be able to offer tax-free tuition assistance. The National Educational Association estimates that almost 60 percent of all

school districts in my home State of New York offer educational assistance benefits to their teachers.

In addition, the distinguished former Congressman John Brademas, now president of New York University, has informed me that some 70 percent of NYU graduate and teaching assistants have received some sort of tuition assistance under section 127, assistance which will no longer be available to attract talented scholars unless Congress extends section 127.

Mr. President, the educational assistance benefits provided under section 127 of the Tax Code not only contribute to American commerce, they also are vital for an informed and enlightened American public. Thomas Jefferson, as ever, was right to observe that American liberty depends on an educated electorate. In 1816, Jefferson warned: "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

Educational opportunity has been a national priority since Jefferson's days. Section 127 of the Tax Code has provided women and minorities in particular a chance to learn and advance which earlier they often could not afford. Section 127 has helped improve the quality of American managers and teachers and assisted countless American workers to secure the skills they need in this new age of high technology. And this, Mr. President, provides our Nation with a better informed citizenry.

I urge my colleagues to support S. 249, to extend tax-free educational assistance to working Americans.●

AUNTY KAU'I AND HULA AS FOLK ART

Mr. MATSUNAGA. Mr. President, it was my privilege last Thursday to attend a Capitol reception to honor 17 distinguished American folk artists, winners of the Third Annual National Heritage Fellowships sponsored by the National Endowment for the Arts. I can report to my colleagues that it was a richly awarding event to meet such talented artists in many fields representing 13 States, 6 of them new to the Endowment's Folk Arts Program including my own. The 1984 fellows join 31 others recognized in the previous 2 years. Arts Endowment Chairman Frank Hodsoll observed that theirs is "an assemblage of remarkable people, reminding us forcefully of the artistic depth and cultural breadth that is our national heritage."

The work of selecting among those nominated for these fellowships was a "happy task" for the members of the National Council on the Arts and the advisory panel to the Arts Endowment's Folk Arts Program, in the words of Bess Hawes, program director. "We were forced to grow in our understanding of the people of our Nation and the artistic skills they value," she told us.

Hers is a most worthwhile program in support and recognition of folk art in our national culture. "We have been as unbureaucratic as a Federal agency can be in making guidelines for nominations for these fellowships," she wrote. "They are no forms. Any citizen can send in a nomination. The evaluation process is rigorous, but we have left the door open to all the keepers of American folk traditions."

The representative of my own State among those honored this year is the "kumu hula" or Hawaiian dance teacher affectionately known as Aunty Kau'i. Some of us may have seen her perform the traditional hula of the Hawaiian, together with her daughter Noenoe and granddaughter Hauolionalani, on the National Mall earlier this summer as participants in the 18th Annual Festival of American Folklife staged by the Smithsonian Institution. No one fortunate enough to have witnessed those three generations of women perform with rare grace and beauty could come away without a new appreciation of Hawaiian hula. Most of us are accustomed to "hula auwana" or modern hula, accompanied by languid-sounding music. In contrast "hula kahiko" or traditional hula is much more forceful and performed often to a drumbeat sound and an almost mesmerizing chant.

Aunty Kau'i, born Emily Kau'i-o-makawelina - lanio - kamano'okalanipo on the island of Oahu in 1908, was among five people, all women, identified by the Bernice P. Bishop Museum in 1970 as "Loea hula," or experts in the traditional hula; of the five only Mrs. Emily Zuttermeister is still active in its performance and instruction.

She is of Hawaiian descent and her parents, following the Hawaiian "hanai" practice of the time, gave her to her maternal grandparents to raise. Thus she grew up surrounded by old Hawaiian custom. Her uncle, Sam Pua Ha'aheo, a police officer and elder of his church, also held the traditional position of "lawai'a kilo" or fish spotter who stands on a high place and directs the fishing boat. He kept his knowledge of the hula and the ancient chants secret until he was an old man.

In 1933, he decided it was time to pass on this knowledge. He opened a "hula halau" or hula house on the shore of Oahu's Kahana Bay beside his fishing shack. Emily had married Karl Zuttermeister, a mainlander of German descent who was fascinated with all things Hawaiian and eager for his wife to learn the old forms. She reluctantly agreed; her study and practice demanded every week night for 3 years. After her graduation, she began to teach her uncle's chants and hulas to other Hawaiian girls, including her daughter Noenoe and in time her granddaughters. She has been passing these deep traditions to others of 50 years.

Today Aunty Kau'i serves as a model of purity and classicism for hundreds of younger artists of all races and, indeed, from other parts of the world. During World War II she was asked to teach the hula to servicemen and women in order to provide recreational release. She recalls instructing at all the military posts on Oahu, including Pearl Harbor, and sometimes had as many as 500 in a class.

Learning the hula was a natural extension of her early life, a life steeped in Hawaiian cultural tradition. Her grandfather, a teacher of Hawaiiana, and her grandmother, a local authority in herbal Hawaiian medicine, trained her to read the Bible in Hawaiian. Now at 75 she continues to provide continuity in the preservation of Hawaiian cultural tradition and young people consider the opportunity to study under her to be a rare privilege, as indeed it is.

Ms. Hawes observed of the 1984 folk arts fellows: "In a larger sense we did not choose them; they have used their lives to choose creativity, beauty and quality and it was that life process which recommended them to this celebration of artistry in American life."

The artistry of "Aunty Kau'I" Zuttermeister is an outstanding reason why it is a great privilege for me to represent the vastly gifted Hawaiian people of our Aloha State in this Chamber, Mr. President.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M., FOR THE RECOGNITION OF CERTAIN SENATORS, AND DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow; that after the recognition of the two leaders under the standing orders there be special orders in favor of the following Senators: Senators QUAYLE, MURKOWSKI, STENNIS, NUNN, and PROXMIRE for not to exceed 15 minutes each, to be followed by a period for the transaction of routine morning business until 11:30 a.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 10 a.m. After recognition of the two leaders under the standing order, there will be five special orders, followed by a period for the transaction of routine morning business until 11:30 a.m., in

which Senators may speak for not more than 5 minutes each.

At 11 a.m., or prior thereto if there is no further requirement, the Senate wil resume consideration of the pending bill, S. 2651.

Mr. President, does the distinguished minority leader have anything further?

Mr. BYRD. Mr. President, I have nothing further, I say to the distinguished majority leader.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I now move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to and, at 6:09 p.m., the Senate recessed until tomorrow, Wednesday, September 12, 1984, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 11, 1984:

THE JUDICIARY

William D. Keller, of California, to be U.S. district judge for the central district of California vice a new position created by Public Law 98-353, approved July 10, 1984.

Ronald E. Meredith, of Kentucky, to be U.S. district judge for the western district of Kentucky vice a new position created by Public Law 98-353, approved July 10, 1984.

F.A. Little, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana vice Nauman S. Scott, retiring.

William G. Young, of Massachusetts, to be U.S. district judge for the district of Massachusetts vice a new position created by Public Law 98-353, approved July 10, 1984.

George La Plata, of Michigan, to be U.S. district judge for the eastern district of Michigan vice a new position created by Public Law 98-353, approved July 10, 1984.

R. Allan Edgar, of Tennessee, to be U.S. district judge for the eastern district of Tennessee vice H. Ted Milburn, elevated.

Walter S. Smith, Jr., of Texas to be U.S. district judge for the western district of Texas vice a new position created by Public Law 98-353, approved July 10, 1984.

HOUSE OF REPRESENTATIVES—*Tuesday, September 11, 1984*

The House met at 12 o'clock noon.

The Reverend Carol Davies, United Methodist Church, Stevenson, WA, offered the following prayer:

Gracious God, for the blessings of this day we give You thanks. As we acknowledge Your presence among us, we ask You to be with these men and women as they go about their work today. May they continue to be faithful servants always being mindful of those for whom they serve. May they be caring and compassionate, patient and understanding, yet bold to speak out for justice and peace for all people. May their ears be open to hear what You are saying, their eyes open to see the needs of others, their minds open to discover new truth about You and the world, and their hearts open to love. Give us all courage to meet the challenge of today motivated by the vision of Your kingdom. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4164. An act to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.

The message also annouced that the Senate insists upon its amendment to the bill (H.R. 4164) "An act to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capacilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. DENTON, Mr. WEICKER, Mr. EAST, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, Mr. EAGLETON, and Mr. DODD to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2878) "An act to amend and extend the Library Services and Construction Act," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. DENTON, Mr. WEICKER, Mr. EAST, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, Mr. EAGLETON, and Mr. DODD to be the conferees on the part of the Senate.

THE REV. CAROL DAVIES

(Mr. MORRISON of Washington asked and was given permission to address the House for 1 minute.)

Mr. MORRISON of Washington. Mr. Speaker, there is a tradition within the Methodist Church of circuit riders and today's guest chaplain, the Reverend Carol Davies, is a modern-day version of the circuit rider made famous by history.

She serves two small districts in the beautiful Columbia River Gorge that divides the States of Washington and Oregon, serving the Stevenson United Methodist Church with 125 members and 34 miles away the Lyle United Methodist Church with 50 members.

Some of you can perhaps place the location of these two churches because they are in the shadow of America's active volcano, Mount St. Helens.

Reverend Davies is a northwest native, took her undergraduate work at Willamette University in Oregon, her theological training at the Pacific School of Religion in Berkeley, CA.

Like most churches, her churches speak through community activities. She is president of the Domestic Violence Council, vice president of the Senior Citizens Board and serves on the Mental Health Board.

Our guest pastor today serves in one of the most beautiful places in America, ministering to America's finest folks.

I thank the Speaker, Chaplain Jim Ford and our guest chaplain today, Rev. Carol Davies.

APPOINTMENT OF CONFEREE ON S. 38, H.R. 1904, H.R. 5167 AND S. 2496

The SPEAKER. The Chair appoints the gentleman from California, Mr. HAWKINS, as a conferee to fill the vacancies caused by the death of Representative Perkins of Kentucky on the following conferences:

S. 38, Longshoremen's and Harbor Workers' Compensation Act amendments;

H.R. 1904, Child Abuse Amendments of 1984;

H.R. 5167, Department of Defense Authorization Act; and

S. 2496, Adult Education Act Amendments of 1984.

COMMUNICATION FROM THE CHAIRMAN OF THE DEMOCRATIC CAUCUS

The SPEAKER laid before the House the following communication from the chairman of the Democratic Caucus:

DEMOCRATIC CAUCUS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 6, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to inform you that Representative Andy Ireland is no longer a Member of the Democratic Caucus.

With best wishes, I am,
Sincerely,

GILLIS W. LONG.

COMMUNICATION FROM THE SPEAKER OF THE HOUSE

The SPEAKER laid before the House the following communication from the Speaker of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 11, 1984.

Hon. PARREN J. MITCHELL,
Chairman, Committee on Small Business, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Andy Ireland's election to the Committee on Small Business has been automatically vacated pursuant to clause 6(b) of Rule X, effective today.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

COMMUNICATION FROM THE SPEAKER OF THE HOUSE

The SPEAKER laid before the House the following communication from the Speaker of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 11, 1984.
Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Andy Ireland's election to the Committee on Foreign Affairs has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

APPOINTMENT OF CONFEREES ON H.R. 4164, VOCATIONAL-TECHNICAL EDUCATION ACT OF 1984

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

The Chair hears none, and appoints the following conferees: Messrs. HAWKINS, FORD of Michigan, BIAGGI, ANDREWS of North Carolina, MILLER of California, CORRADA, KILDEE, WILLIAMS of Montana, BOUCHER, and ACKERMAN; Mrs. BURTON of California; Messrs. HAYES, ERLENBORN, and GOODLING; Mrs. ROUKEMA, and Messrs. GUNDERSON, BARTLETT, PACKARD, NIELSON of Utah, and CHANDLER.

WHERE'S THE BUDGET, MR. PRESIDENT?

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, yesterday Walter Mondale forthrightly spelled out precisely what he would do to bring down the staggering deficits of this administration. Instead of the radical Reagan policy of borrow-and-spend, borrow-and-spend, Mr. Mondale plans to restore moderation to the Federal budget.

Mr. Reagan responded to the Mondale initiative by providing a photo opportunity for White House reporters.

In 1980, Ronald Reagan promised a balanced budget by 1983, or even 1982 if we were lucky. We now know that we were not lucky. Instead of a balanced budget, Ronald Reagan has given us 4 years of historic deficits which—when added together—exceed the total of all deficits from all Presidents from George Washington through Jimmy Carter.

Mr. Speaker, we now have Fritz Mondale's budget plan. Four years later, we still have only Ronald Reagan's promise.

Last spring the American people were asking, "Where's the beef?"

Today they are asking, "Where's the budget?"

A SEVERE THREAT TO THE COPPER INDUSTRY

(Mr. DAVIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS. Mr. Speaker, today I am introducing, with nine of my colleagues, a concurrent resolution to implement the International Trade Commission's recommendations to provide import relief to the American copper industry. Last Thursday, the President chose not to accept the ITC's finding of injury. The very existence of a vital American industry is threatened. The severity of that threat is illustrated by the ITC's unanimous injury vote.

Since 1979, over 40 percent of American copper workers have lost their jobs. Seventeen of the Nation's 25 largest copper mines have closed. On the day of the President's announcement, the single remaining copper mine in my district—which used to employ over 3,000 people—shut down all operations. If we do not act this strategic material soon will be available only from foreign sources. This is not in the best interest of our national security or in the interest of the tens of thousands whose jobs depend on a viable American copper industry.

I urge my colleagues to join me in this effort.

□ 1210

GUARDSMEN SHOULD NOT TAKE PART IN PARAMILITARY ACTIVITIES

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, at this time I do not have all of the information I need to determine if the Alabama National Guardsmen involved in the Nicaraguan incident last week were hired by or were acting under the orders of our Government.

While I personally support covert actions by the United States, I am opposed to the involvement of National Guardsmen or Reservists who are currently active members of a Guard or Reserve unit to be involved in covert activities.

The National Guard is no longer just a support for the regular forces. The National Guard now has just as many combat missions as the active forces. If guardsmen are hired for covert activities, you are in effect putting active military personnel in a covert operation.

Mr. Speaker, I am seriously considering introducing legislation or a sense of the Congress resolution to prohibit National Guardsmen who are members of a Guard unit from participating in a covert action, whether they are working for our Government or for private groups.

URGING PASSAGE OF THE FAIR TRADE IN STEEL ACT

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, the most recent monthly figures for imports of foreign steel clearly underscore the urgent need for legislation to control the relentless pace of imported steel. In July of this year, over 2½ million tons of foreign steel were shipped to the United States, marking an almost 1 million ton increase over the June level of imports. The latest figure, moreover, represents nearly a twofold increase in imports from the already high July 1983 level. In fact, July's figures establish a new monthly high for steel imports and represent a new penetration record for foreign steel.

Mr. Speaker, as distressing as these new import figures are, they only portend even further unemployment and plant closings for the domestic steel industry. Foreign steel imports have now captured an unacceptable 25 percent of the U.S. market while American steelworkers continue to lose their jobs to a tidal wave of unfairly traded steel. With thousands of other steel jobs now seriously threatened by this new flood of imports, we can no longer delay passage of H.R. 5081, the Fair Trade in Steel Act.

As one of the 221 cosponsors of this bill—a majority of the House of Representatives—I strongly urge the House leadership to bring the Fair Trade in Steel Act to the floor and to support import relief for America's steelworkers and firms.

BALANCED BUDGET AMENDMENT AND SOCIAL SECURITY

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, the constitutional amendment to balance the budget is clearly designed to gut the Social Security Program. If Social Security is excepted from the Federal budget, as it should be, the Federal budget is revealed as being preponderantly military, over 50 percent of Government programs now spent in the military.

Those promoting the constitutional amendment to balance the budget clearly do not want to cut the military. They want to gut the Social Security Program.

I suggest, therefore, that we bring the constitutional amendment to balance the budget to the House floor; there offer an amendment to except the Social Security Trust Fund and pass the constitutional amendment without Social Security within the provisions of the balanced budget amendment. Then I believe the advocates of that amendment will let it die a quiet death.

MONDALE TAX CUTS AND FARM PROGRAMS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I, like most of my colleagues, I think, was interested yesterday in what former Vice President Mondale said in revealing his plan for how to reduce this country's deficits.

Coming from rural western Wisconsin, I was particularly interested in that section focusing on agriculture, and surprised that the man who says he is going to help America's farmers was going to do so by cutting $4 billion in the cost of our agricultural programs.

I became even more surprised as I looked at the details of his programs. He said he was going to do so by enacting multiyear farm programs. He was going to match foreign export subsidies. He was going to stop all Farmers Home Administration farm foreclosures. He was going to provide a stronger soil conservation program. He was going to enact a stronger and better crop insurance program, and spend more money for better research. Yet he was going to do all of this and still cut spending in agriculture by $4 billion.

I know there will be a lot more taxes under Walter Mondale and I think there also will be a lot more spending, and a lot more deficits.

DEFICIT REDUCTION: IT TAKES A PLAN, NOT MAGIC

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, yesterday Walter Mondale unveiled his plan for dramatically cutting projected Federal deficits by fiscal year 1989. It has now become a political ritual, virtually a matter of orthodoxy in Presidential campaigns over the last decade to promise a balanced budget by the end of the first term in office.

Mondale offered a refreshing change. Instead of a vague promise he told the American public where he would propose cuts, where he would raise taxes, and where he would even make some add-ons to the budget. The contrast to the President's call for a balanced budget amendment, which would take years to put into effect and would still be without any reasonable enforcement mechanism, is dramatic. It is something the American people should take note of.

I do not agree with every item in the Mondale plan. But we should not fixate on what we do not like. We should fixate on starting a specific process on tough points to reduce the budget deficit.

I commend him for putting a plan on the table from which to work. Without a plan it looks like we are going to be left with a President who seems to think that a couple of constitutional amendments will magically erase the deficits without ever having to grapple with the details.

Budgets are made of details and I say right on to Fritz Mondale for having the guts to show the American people the kinds of things that will need to be done if deficit reduction is going to be more than campaign rhetoric.

TIMBER BAILOUT BILL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, yesterday, a full page ad in the Washington Post called on the Congress to cut the deficit.

The self-proclaimed bipartisan budget coalition predicted economic doom unless a deficit reduction plan is adopted, and they said that "no spending program should be off-limits * * *." As true statesmen, these leaders of our country asked the elderly, the poor, veterans, and retired civil servants to put the country first and their own interests second.

But at the same time, two organizations signing this ad have begged the Congress for a Government bailout program that could dwarf an effort to save the *Titanic*.

Speculators in the timber industry want the Congress to terminate $3 billion in Federal timber contracts made in the 1970's. These companies planned to make millions using fixed-priced Government contracts. Now, because of poor judgment and low inflation, they want a Federal bailout—a business welfare program that will cost the Treasury $1.5 billion.

I commend these organizations for their interest in solving the deficit problem, but in this case they're barking up the wrong tree.

COVERT ACTIVITIES IN NICARAGUA

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, several years ago the President of the United States came to the House and asked for permission to carry on a covert war against the people and the Government of Nicaragua, and this House agreed to that for a period of time.

Four times in the last year this House has emphatically said we do not agree with that covert war against the Government of Nicaragua and we have voted to preclude funds being used for that purpose.

We now read in the paper that the President and this administration are sitting idly by while private citizens violate the laws of this land to participate in that covert war. The Neutrality Act specifically prohibits the funding or sponsorship of private military expeditions against governments with which we are at peace.

We are currently engaged in negotiations with the Nicaraguan Government. We are currently represented in their country by an Embassy and they are represented by an Embassy here.

□ 1220

And yet we find out that American citizens have gone into Nicaragua to disrupt their economy, to kill their civilians, and to topple their Government.

It is time for this administration to support and enforce the laws of this land. And if our Government wants to make war against the country of Nicaragua it ought to come to the Congress and ask for a declaration of war.

This Congress has refused to declare war. And yet we find out that two American citizens participating in that covert war were recently killed in a helicopter crash, that U.S. officials at least knew of their activities, and that officials of the American Embassy in El Salvador helped these individuals' organization provide military supplies to the Salvadoran Army.

The President ought to come out against these kinds of actions. The President ought to enforce the law.

HONORING MIAMI UNIVERSITY

(Mr. KINDNESS asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, it is with great pride that I rise today to pay tribute to an outstanding educational institution on the occasion of its 175th anniversary. Founded in the beautiful rolling wooded hills of southwestern Ohio in 1809, Miami University in Oxford, OH, has long been known for its commitment to excellence.

Through the years, Miami University has been distinguished by its exceptional academic reputation and contribution to our society. Among the more notable graduates of Miami are U.S. President Benjamin Harrison, editor and publisher of the New York Tribune Whitelaw Reid, and Prof. William H. McGuffey, creator of the famed "McGuffey Readers."

Miami has achieved national recognition not only for graduating well-rounded and successful individuals, but also as the "Cradle of Coaches." In addition to Miami's main campus in Oxford, two southern Ohio branch campuses and the European campus in Luxembourg round out the opportunities available to a Miami student.

In a recent address, Miami President Paul G. Pearson said "we look to the past to understand our present and to help define our future." Through troubled times and much hard work, Miami has maintained its commitment to offering an excellent, well-rounded education and has been able to build on its rich inheritance. If the grand achievements and triumphs of its past are any indication of what lies ahead, then the next 175 years hold special promise for Miami University.

Today I am introducing a resolution commemorating the 175th anniversary of Miami University. I urge my colleagues to join us in supporting the resolution.

A RERUN OF 1972 WITH THE OPPOSITE RESULTS

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALGREN. Mr. Speaker, the American public is thinking these days about how much credit to give this administration for the recovery that we are now experiencing. Some political commentators are even comparing the 1984 election year with 1972 when the Democratic candidate lost every State except one, Massachusetts.

I believe that if the American people apply the same standard to the election of 1984 as they did in 1972 we will indeed have a rerun of the 1972 election, but it will be Ronald Reagan who will lose every State in the Union except one; perhaps he might carry Massachusetts.

And that is because Ronald Reagan has simply done what the American people laughed George McGovern right off the political stage for simply proposing.

You will remember he proposed giving everybody $1,000. If you take our population of some 200 million and divide it by the yearly budget deficits we have been running it comes out to $1,000 for every man, woman, and child in America. It is no wonder we have recovery.

But in thinking back on George McGovern, I think we ought to remember two things: At least he proposed that we give everybody $1,000 instead of $20,000 to some people and $250 to others, and at least he proposed we do it only once.

THE DEFENSE AUTHORIZATION BILL

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, the unwillingness of Congress to pass a fiscal year 1985 Defense authorization bill can only be viewed in this election year by the voters as yet another indicator of the collective inability of Government to face and make the necessary hard choices in determining what's best for America's defense.

To continue to fail to come to grips with the resolvable differences existing between the House and Senate on defense spending will force us to pass a continuing resolution. This will seriously disrupt and slow production of critical weapons programs, delay or prevent new programs from starting and end up costing the taxpayers an additional $1 billion for every month that passes without a Defense bill.

When we, the architects of the Congressional Budget Act, ignore its provisions by failing to pass a Defense bill as required by this law, we further lose public credibility.

I urge my colleagues in Congress to face reality; bite the bullet; adhere to the provisions of the Budget Act and resolve our differences quickly. Don't make the defense of America a hostage to partisan politics.

WALTER F. MONDALE, THE ACTOR

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, much has been said by others on the other side of the aisle for many years about President Reagan being the consummate actor, and that has been generally been considered to be a criticism.

Well, now, Walter Mondale has revealed himself as the consummate actor, perhaps with the biggest role.

Remember at the beginning of the primary he was Mr. Nice Guy. In fact, he was so nice some people called him Mr. Dull.

Then he decided to be Mr. Bad Guy. You will recall that, against Senator HART. Then in and around my district in his visit just last week he became Mr. Mad Guy.

Remember his line: "I am mad, I am damned mad."

Now we have Captain Courageous. Yes, Captain Courageous has jumped out of the box and told us that he is going to raise our taxes. Well, it might take great courage to admit that he is going to take more money out of our pocketbooks. So let us congratulate him for his courage, Mr. Speaker, and defeat him for his continuing old-time role as Mr. Liberal, Mr. Tax and Tax, Mr. Spend and Spend.

WALTER MONDALE'S BOLD AND IMAGINATIVE PROPOSAL ON THE HUGE BUDGET DEFICIT

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. I thank the Speaker.

Mr. Speaker, yesterday Walter Mondale proposed a bold and imaginative proposal to address the critical domestic issue, the huge budget deficit.

His analogy to a poker game was quite appropriate. He put his specific proposal on the table of the American electorate, but the President has refused to show his cards, and that certainly sounds like a bluff.

The American people deserve something more than election year rhetoric, some of which we have just heard, in this crucial effort to control the budget deficit.

The President is acting like a prisoner of the present. It is time that the President tell us his specific thoughts about the future, including on the huge deficits. Optimistic platitudes simply are not enough.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or in which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 12, 1984.

LIBRARY OF CONGRESS MASS BOOK DEACIDIFICATION FACILITY

Mr. YOUNG of Missouri. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5607) to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal civilian or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes.

The Clerk read as follows:

H.R. 5607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is authorized and directed, subject to the supervision and construction authority of a Federal civilian or military agency, to construct the Library of Congress Mass Book Deacidification Facility in accordance with the general design developed by the Library of Congress and reviewed by the Architect of the Capitol, as set forth in the document entitled "Library of Congress Mass book Deacidification Facility, Engineering, Design, and Cost Estimate and Drawings", dated December 1983. Such facility shall be constructed on Federal property within seventy-five miles of the United States Capitol Building.

SEC. 2. Notwithstanding any other provision of law, the Librarian of Congress shall equip, furnish, operate, and maintain the Library of Congress Mass Book Deacidification Facility.

SEC. 3. There are authorized to be appropriated for fiscal years beginning after September 30, 1983, sums not to exceed $11,500,000 to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. YOUNG] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. YOUNG].

□ 1230

Mr. YOUNG of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5607 authorizes and directs the Librarian of Congress, subject to the supervision and construction authority of a Federal civilian or military agency, to construct the Library of Congress Mass Book Deacidification Facility within 75 miles of the U.S. Capitol at an estimated cost of $11.5 million.

Construction of this facility will allow for the deacidification of approximately 500,000 items of the Library of Congress' vast collection of approximately 80 million items on an annual basis. Currently, over 77,000 books of the Library's collection deteriorate to the extent that they can no longer be used on an annual basis.

Mr. Speaker, the Library of Congress, and libraries throughout the world, are facing an increasingly pressing problem, namely, the rapid deterioration of their collections due to the unstable nature of paper produced since around 1850.

Prior to the 1850's, paper was made from cotton or linen rags, and it could last for hundreds of years. By then, however, the industrial revolution and the growing demand for reading matter called for a cheaper and more plentiful source of paper. Technologists discovered their new paper supply in the cellulose fibers from ordinary wood pulp. But untreated pulp based paper was too absorbent to take a sharp imprint, so chemicals must be added to prevent the ink from running and provide for the proper absorbency. These chemicals, especially aluminum sulphate, sooner or later combine with moisture in the paper to form sulphuric acid. This acid, which forms at varying rates on all books published since 1850, is the direct cause of the disintegration of books.

Mr. Speaker, 12 years ago the Library of Congress' Preservation Research and Testing Office undertook a major program to identify the most universal approach for deacidifying books on a very large scale. This program involved a systematic investigation of all known liquid and gas phase deacidification processes and a study of new possibilities. After much research and experimentation of vapor phase deacidification, a process was developed and patented in 1976 by chemists in the Library of Congress which arrests the degradation of paper and increases the life of books and other library materials by a factor of 2 to 5 times. At present the effective life for acid paper books is 30 to 40 years, whereas this new process will extend the life of books in the Library's collections by 400 to 600 years. This process based on vapor phased impregnation of books with zinc, will neutralize the acidity and leave a residue of zinc carbonate to protect the paper from further acid induced loss of strength.

Invention of this deacidification process by the Library's chemists began with tests in an ordinary pressure cooker in the Library's Preservation Research and Testing Office. Further successful tests with large numbers of books were conducted in facilities of the General Electric Co. in Valley Forge, PA. In 1982 and 1983, the Library of Congress, in consultation with the National Aeronautics and Space Administration successfully conducted a large scale 5,000 volume test and did smaller scale testing in order to refine the process.

The present proposed facility consists of twin vacuum chambers made in a rectangular shape to accommodate pallets loaded with books. The building includes staging areas for book loading and unloading, a series of rehumidification rooms, and a complete developmental test facility which has its own small DEZ test chamber independent of the production system. In addition, the building includes support facilities for maintenance, storage, offices, heating and air conditioning. It is anticipated the Army Corps of Engineers will construct the facility for the Library of Congress.

The capital costs authorized by this legislation include $11.5 million for the construction of a new laboratory building, equipment and related facilities. The Army Corps of Engineers estimates that the building will cost $3.5 million; laboratory facilities and equipment, together with directly related costs will total $8 million. Funds for this activity are included in the Library's fiscal year 1985 budget.

The Library of Congress enlisted the support of the Army Corps of Engineers in locating a suitable federally-owned site for the facility. Consideration was given to existing facilities which could be converted for use by the Library of Congress, as well as the construction of a new facility. Based on the findings of the corps and the Library it was determined that the most cost effective facility would be one constructed at Fort Detrick which is located approximately 50 miles from the U.S. Capitol. This kind of arrangement is highly desirable because of the availability of engineering and maintenance services, fire protection and safety services, and security.

Enactment of this bill, together with subsequent appropriations, will enable the Library of Congress to preserve the Library's vast collection of books from rapid and total disintegration. It will also make it possible to preserve these books in their natural and original state, that magnificent product of the printer's and publisher's art, the hand held book. This "first of a kind" laboratory facility will be available not only to the Library of Congress but to the library and scholarly community throughout the country, and for that matter, throughout the world.

The Librarian of Congress is to be commended for his outstanding leadership in this matter.

Mr. Speaker, I urge enactment of H.R. 5607.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this legislation just annotated by my good friend and distinguished chairman of the Subcommittee on Public Buildings and Grounds and I would like to associate myself with his remarks.

As we have just heard, H.R. 5607 authorizes the Librarian of the Library of Congress to construct a Mass Book Deacidification Facility at Fort Detrick, MD. This facility is to be con-

structed by the Army Corps of Engineers, on federally owned property, at an estimated cost of $11.5 million.

Since the innovation of inexpensive paper manufacturing techniques, utilizing wood pulp and chemicals, in 1850, libraries throughout the world have been plagued with the problem of books and manuscripts deteriorating due to the acidic nature of the pages from which they are made. Because of this, a great of time and energy has been spent to perfect a system to neutralize the acids in the paper. By neutralizing this acid, deterioration is stopped and the life of the books is prolonged.

With a collection of nearly 80 million items, of which 77,000 deteriorate annually to the point that they can no longer be used, the Library of Congress has long needed a preservation system that was both efficient and inexpensive. The Library's scientist quickly determined that the most universal approach would be a gaseous system; which in the words of one leading book preservationist would be the absolute ideal from every point of view, if it could be made to work.

Roughly 12 years ago, the Library set to work on the problem and now has proven that a gaseous system can work and be both efficient and cost-effective. Their unrelenting and unparalleled efforts resulted in the development and patenting of a vapor-phase impregnation process utilizing the chemical diethyl zinc, or DEZ as it is commonly referred.

In cooperation with the National Air and Space Administration, the Library constructed a pilot facility and jointly they successfully demonstrated the viability of this new, high-tech process. This legislation would authorize the construction of a full scale production facility, capable of initially treating and preserving 500,000 books annually and as many as 1.5 million when the facility becomes fully operational.

At this time, I think I speak for all of us here, today when I say that the men and women of the Library of Congress and at NASA are to be commended for their pioneering efforts in this very important field of library science.

The Public Buildings and Grounds Subcommittee has extensively reviewed the design of the proposed facility, as well as the Library's need for the facility, and agrees that such a facility is needed. The building is estimated to cost roughly $3.5 million and the laboratory facilities, equipment and other directly related costs are estimated to be $8 million.

I would like to point out to the Members that during the hearings on this issue concern was expressed regarding the hazards associated with the use of diethyl zinc. Our investigations revealed that like most things, safety is not inherent, it is planned and an extensive amount of safety planning has gone into this project.

Our primary interests were to insure appropriate steps were taken to minimize or eliminate all potential risks. During the hearings and in subsequent communications the Library demonstrated that the elimination of these risks was of critical concern to them as well.

The Library undertook a 6-step safety approach, in consultation with outside engineers, to identify potential hazards and minimize the associated risks. As currently engineered, the Library states they have eliminated any potential hazard to personnel or books with the process.

I think we all recognize that safety features can be engineered into any system but we still must contend with the human element. It is imperative, as the Library plans to do, that all personnel involved with the operation, either directly or indirectly, receive structured training in the handling of hazardous materials as well as safety procedures to be followed in the event of an accident.

This training should involve knowledgeable personnel from the chemical manufacturer. Training manuals should be documented and formated in such a manner so that even those unfamiliar with the process have sufficient background and other relevant information regarding the procedure to operate the system safely.

I know the Library is as equally concerned about the safety aspects of the facility and through their continued efforts I am confident all potential hazards can be eliminated.

In conclusion, the Library is to be commended for their outstanding efforts and I am honored to have had the privilege to be associated with this legislation which will enable them to bring their many years of work to fruition.

I urge my colleagues to support the passage of this bill.

● Mr. HOWARD, Mr. Speaker, I rise in support of H.R. 5607 and first I would like to commend the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the Honorable ROBERT A. YOUNG, the distinguished ranking minority member of the Subcommittee on Public Buildings and Grounds, the Honorable E. CLAY SHAW, and the distinguished ranking minority member of the Committee on Public Works and Transportation, the Honorable GENE SNYDER, for their fine leadership in bringing this legislation before the House.

Mr. Speaker, the facility called for In H.R. 5607 will enable the Library of Congress to extend the life of its books by 400 to 600 years. For the past 100 years, scholars, librarians and archivists have been concerned about the deterioration of books produced after the 1850's. With over 80 million items in its collection, the Library of Congress is regarded to be one of the foremost centers of knowledge in the world. However, three-fourth of all its books are in danger of total disintegration.

Twelve years ago the Library of Congress' Preservation Research and Testing Office was faced with three alternatives in handling the deterioration of their collection: they could have allowed the books to continue to deteriorate; they could have transferred the books onto microfilm; or, they could have searched for a method to remove the harmful acid from the books. After detailed research, the scientists of the Library of Congress, in cooperation with scientists at NASA, developed and patented an inexpensive yet cost effective method of deacidification. The process they developed, diethyl zinc gas phase book deacidification, will annually treat 500,000 books at a mere 10 percent of the cost of microfilming each book.

The cost of contructing this facility is a small price to pay in order to preserve the very embodiment of knowledge—the hand held book. The Librarian of Congress is to be commended for his pioneering leadership in this matter, for this facility will be a prototype, serving as a model to libraries all over the world.

Mr. Speaker, I urge enactment of H.R. 5607.●

● Mr. SNYDER Mr. Speaker, I rise in support of H.R. 5607, which authorizes the Librarian of the Library of Congress to construct a mass book deacidification facility at Fort Detrick, MD, and ask unanimous consent to revise and extend my remarks.

For nearly 12 years now, the preservation scientists at the Library have been working to perfect a system to deacidify the books in the Library's vast collection of over 80 million items on a large or mass-production-type scale.

For those unfamiliar, since about 1850, paper manufacturers have been using a chemical process to convert wood pulp into a fiberous chemical mat which we know as paper.

With time, the chemicals, which are acidic, cause the fibers in the paper to break down or deteriorate, which we easily recognize when a slip of paper or the pages of a book begin to turn yellow or crumble at the touch. To arrest this deterioration. processes were developed to deacidify the paper, but most of these processes are costly and time consuming, particularly if applied on a large scale.

The Library's scientists quickly determined that the most ideal and universal process or deacidifying books on a large scale would be a gaseous system, and their research efforts resulted in the development and patent-

ing of a vapor-phase impregnation process utilizing the chemical diethyl zinc.

This process involves loading books and other Library materials into a chamber which is then sealed and into which gaseous diethyl zinc is then injected. The diethyl zinc reacts with the paper, neutralizing the acid and leaving a thin residue of zinc oxide to prevent further degradation.

When properly treated, the life of these books, which is currently 30 to 40 years, can be extended by as much as five times.

In cooperation with the National Aeronautics and Space Administration's scientists and technicians at the Goddard Space Flight Center, the Library has been operating a pilot test facility and has already successfully treated over 5,000 books and other materials.

The results of these tests, together with the engineering data collected, has culminated in the planning and design of the mass book deacidification facility which this legislation authorizes.

The estimated cost of the facility is $11.5 million, of which $3.5 million will be used for the construction of the building and the balance for laboratory equipment, instruments, and other directly related costs.

The facility will be constructed on federally owned land at Fort Detrick, which is located in Maryland about 50 miles northwest of here, by the Army Corps of Engineers in consultation with an outside architectural and engineering firm.

When completed, the facility will be capable of initially treating about 500,000 books annually and as many as 1.5 million books when the facility is fully operational.

The projected unit cost of treating the books using this process will be roughly $3.50 per volume at plant startup and is projected to drop to about $1.80 per volume as the plant output and efficiency is increased. I might add that this is considerably less than the current procedure of microfilming books, which costs approximately $30 per volume.

In conclusion, Mr. Speaker, it gives me great personal pleasure to have been associated with this legislation, which will enable the Library of Congress to put into production this new high technology process which they have pioneered.

The men and women associated with this project are to be commended for their outstanding achievements, and I hope that we can show our support and appreciation for their accomplishments by supporting the passage of this legislation.●

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 5607.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 2418) to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress mass book deacidification facility, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SHAW. Mr. Speaker, reserving the right to object, and I do not intend to object, I do so so that the gentleman from Missouri could give the House an explanation of what he is doing.

Mr. YOUNG of Missouri. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, on May 18, 1984, the Senate passed S. 2418, a bill authorizing to be appropriated to the Librarian of Congress funds in the amount of $11.5 million necessary for the construction of the Library of Congress mass book deacidification facility. H.R. 5607 just passed by the House also provides for such construction, however, the language incorporated in H.R. 5607 simply clarifies the language in S. 2418. Therefore, as the gentleman from Florida is aware, the committee proposes to strike everything after the enacting clause in S. 2418 and substitute the contents of H.R. 5607 just passed by the House.

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Mr. SHAW. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is authorized and directed, subject to the supervision and construction authority of a Federal, civilian, or military agency, to construct the Library of Congress Mass Deacidification Facility in accordance with the general design developed by the Library of Congress and reviewed by the Architect of the Capitol. Such facility shall be constructed on Federal property within seventy-five miles of Capitol Hill.

SEC. 2. The Library of Congress Mass Book Deacidification Facility shall be operated and maintained by the Librarian of Congress, whose authority under the first section of the Act entitled "An Act to abolish the office of Superintendent of the Library Building and Grounds and to transfer the duties thereof to the Architect of the Capitol and the Librarian of Congress", approved June 29, 1922 (42 Stat. 715; 2 U.S.C. 141), shall be exercised to equip, furnish, and maintain the facility.

SEC. 3. There are authorized to be appropriated for a fiscal year beginning after September 30, 1983, sums not to exceed $11,500,000 to carry out the provisions of this Act.

MOTION OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Missouri moves to strike all after the enacting clause of the Senate bill, S. 2418, and to insert in lieu thereof the text of the bill, H.R. 5607, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5607) was laid on the table.

COMPREHENSIVE DRUG PENALTY ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4901) to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONTROLLED SUBSTANCES PROVISIONS

SEC. 101. This title may be cited as the "Comprehensive Drug Penalty Act of 1984".

SEC. 102. (a) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new matter:

"(7) If the offense involved is a felony, all land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2) or for cultivation of any plant that is such property, except that no land or building shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

The court may order forfeiture of less than the whole of any land or building under paragraph (7) if the owner establishes that forfeiture of the whole would be grossly disproportionate to the severity of the offense or to the extent of the use or intended use. If land under paragraph (7) is used or intended to be used for cultivation, the court shall order forfeiture of only the portion of the tract so used or intended to be used, and if the cultivation is dispersed over less than all of the tract, the court may order forfeiture of a portion of the tract equal to the areas used or intended to be used for cultivation.".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by inserting "(1)" before "The provisions of law"; and

(2) by adding at the end the following new paragraph:

"(2) In addition to the venue under section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture under this section, a proceeding for forfeiture may be brought in the judicial district in which the defendant is found or in which the prosecution is brought.".

(c) Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended in the sentence beginning "The Attorney General" by striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the".

SEC. 103. Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsections:

"(h) During the period beginning on the date of the enactment of this subsection, and ending on September 30, 1987, the Attorney General shall forward to the Treasurer of the United States for deposit in the Department of Justice Forfeiture Fund any amounts of moneys and proceeds remaining after payment of expenses of proceedings for forfeiture under subsection (e) of this section.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

SEC. 104. (a) A reference in this section to a section or other provision is a reference to a section or other provision of the controlled Substances Act (21 U.S.C. 801 et seq.).

(b) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$550,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(c) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(1) in the sentence beginning "in the case of", by striking out "$15,000 or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "if any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(d) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(e) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(f) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(1) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(g) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(1) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000" and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(h) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(i) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(j) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(k) Section 403(c) (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(l) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(m) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time, and method of payment of a fine, the court shall—

"(1) give primary consideration to the need to deprive the defendant of profits or other proceeds from the offense;

"(2) consider the defendant's income, earning capacity, and financial resources;

"(3) consider the burden that the fine will impose on the defendant and on any person who is legally or financially dependent on the defendant; and

"(4) consider any other pertinent equitable factor.

"(b) As a condition of a fine, the court may require that payment be made in installments or within any period that is not longer than the maximum applicable term of probation or imprisonment, whichever is longer. If not otherwise required by such a

condition, payment of a fine shall be due immediately.

"(c) If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has paid part of a fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) If an indictment or information alleges that property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall order seizure if there is probably cause to believe that—

"(1) the property is subject to forfeiture; and

"(2) an order restraining transfer of the property is not sufficient to ensure availability of the property for forfeiture.

"(b) Any person who is convicted of a felony under this title or title III shall forfeit to the United States such person's interest in—

"(1) any property constituting or derived from gross profits or other proceeds obtained from the offense;

"(2) any property used, or intended to be used, to commit the offense; and

"(3) in the case of a conviction under section 408 of this title, in addition to the property described in paragraphs (1) and (2), such person's interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprise.

"(c) The court shall order forfeiture of property referred to in subsection (b) if the trier of fact determines beyond a reasonable doubt that such property is subject to forfeiture.

"(d) The United States shall, to the maximum extent practicable, provide notice of the provisions of subsections (e), (f), and (g) to any person with an alleged interest in property forfeited under subsection (c) and shall, in the manner prescribed by the Attorney General, provide public notice of the forfeiture.

"(e)(1) Not later than 60 days after the date of an order under subsection (c), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture.

"(2) Not later than 90 days after the filing of a petition under paragraph (1), the Attorney General shall make a written determination with respect to the petition. Except as provided in subsection (f), the property shall be disposed of pursuant to such determination, which shall not be subject to review.

"(3) A period specified in this subsection may be extended by the court for good cause shown.

"(f)(1) Any person (other than a defendant convicted of the offense on which the forfeiture is based) may petition the court for remission or mitigation of the forfeiture. A petition under this subsection shall be filed not later than 60 days after the date of the order under subsection (c), or, if a petition is filed under subsection (e), not later than 60 days after the date of the determination of the Attorney General.

"(2) The court shall grant appropriate relief if, after a hearing, the petitioner establishes by a preponderance of the evidence that—

"(A) at the time of the offense the petitioner had an interest in the property that was separate from or superior to the interest of the defendant; or

"(B) in the case of an interest acquired for value after the offense, when acquiring the interest the petitioner did not know or have reason to know of the offense or of any order restraining transfer of the property.

"(g) A petition to the Attorney General or the court under this section shall be verified and shall set forth the relief sought, the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest, and any additional facts and circumstances supporting remission or mitigation.

"(h)(1) Except as provided in paragraph (2), the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, to the extent that such laws are not inconsistent with this section.

"(2) The duties of the Secretary of the Treasury with respect to dispositions of property under the customs laws shall be performed under paragraph (1) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(i) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

"(j) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(k)(1) In addition to any order authorized by subsection (j), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any person against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, except that the court may extend the effective period of the order for not more than 10 days for good cause shown and for a longer period with the consent of each person affected by the order.

"(l) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the offense or within a reasonable time after the offense; and

"(2) there was no likely source for such property other than the offense.".

SEC. 105. (a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(b) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(c) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end of the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(d) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(e) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

SEC. 106. Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(1) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

SEC. 107. (a) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"SEC. 413. Alternative fine.

"SEC. 414. General provisions relating to fines.

"SEC. 415. Criminal forfeiture.".

(b) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"SEC. 1017. Applicability of section 413 and section 414.".

SEC. 108. (a) Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Department of Justice Forfeiture Fund

"(a) There is established in the Treasury a fund to be known as the Department of Justice Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the Attorney General, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1963(c) of title 18, United States Code, and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) for payment (to the extent that such payment is not otherwise provided for by law)—

"(1) of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) of rewards for information resulting in a conviction or forfeiture;

"(3) of liens against forfeited property;

"(4) of amounts with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and

"(6) for purchase of evidence of any violation.

"(b)(1) Any reward under subsection (a)(2) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. Any such reward shall not exceed $250,000, except that a reward for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one-quarter of the amount realized by the United States from the property forfeited.

"(2) Any amount under subsection (a)(6) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. No such payment shall exceed $250,000.

"(3) Amounts under subsection (a) of this section shall be available, at the discretion of the Attorney General, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section and ending on September 30, 1987—

"(1) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324);

"(2) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title; and

"(3) earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, such sums as may be necessary under subsection (a) of this section, except that not more than $10,000,000 are authorized to be appropriated from the fund under paragraphs (2), (5), and (6) of such subsection for each such fiscal year.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Department of Justice Forfeiture Fund.".

TITLE II—TARIFF ACT PROVISIONS

SEC. 201. (a) Section 602 of the Tariff Act of 1930 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(b) The sentence beginning "All vessels," in section 605 of the Tariff Act of 1930 (19 U.S.C. 1605) is amended by inserting "aircraft," after "vehicles," the first place it appears.

(c) Section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

SEC. 202. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intension to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 203. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended—

(1) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(2) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

SEC. 204. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended—

(1) by striking out "if no" and inserting in lieu thereof "(a) If no";

(2) by inserting "aircraft," after "vehicle,";

(3) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(4) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

SEC. 205. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended—

(1) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(2) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

SEC. 206. Section 611 of the Tariff Act of 1930 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

SEC. 207. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) in the sentence beginning "whenever it appears"—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(B) by striking out "the value of"; and

(C) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(3) in the sentence beginning "If such value"—

(A) by striking out "such value of"; and

(B) by striking out "exceeds $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(4) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

SEC. 208. (a) The sentence beginning "Except as" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by inserting "aircraft," after "vehicle,".

(b) The sentence beginning "If no" in section 13(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(1) by striking out "If no application" and inserting in lieu thereof "Except as provided in subsection (c), if no application"; and

(2) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States".

(c) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

SEC. 209. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such a year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

SEC. 210. (a) Section 614 of the Tariff Act of 1930 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(b) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended—

(1) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(2) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

SEC. 211. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by section 209 of this Act, is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all know interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

SEC. 212. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears, and

(2) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

SEC. 213. The sentence beginning "Whenever any" in section 618 of the Tariff Act of 1930 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

SEC. 214. (a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by sections 209 and 211 of this Act, is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed to the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, The Comprehensive Drug Penalty Act of 1984, H.R. 4901, which is now before us is the net result of a thorough examination by the Committee on the Judiciary and the Committee on Ways and Means of the problems confronting Federal law enforcement agencies and their attempts to take the profits out of drug dealing and streamline forfeiture procedures.

In the 97th Congress, the Subcommittee on Crime and the full Committee on the Judiciary developed the predecessor to this bipartisan bill (H.R. 7140), and it passed the House of Representatives without dissent on September 28, 1982. A compromise version of this bill—now in essence H.R. 4901, along with other bills, H.R. 3963, the anticrime package—passed the House and Senate late in the lame-duck session of the 97th Congress by

the margin of 271 to 72 in the House and unanimously in the Senate. The President, primarily on an issue unrelated to this bill, decided to pocket veto the anticrime package. In the 98th Congress, Mr. SAWYER and I introduced legislation similar to H.R. 7140 (H.R. 3299) and this bill was reported out as a clean bill from the Subcommittee on Crime on October 27, 1983 as H.R. 4901. This bill was reported as amended by the Committee on the Judiciary on February 28, 1984. Subsequently, the Subcommittee on Trade reported H.R. 4901 on June 1, 1984—they have jurisdiction over title II—and the full Committee on Ways and Means reported the bill on August 9, 1984.

I emphasize this extensive process since I believe that H.R. 4901 with the refinements made by the Ways and Means Committee is a careful and considered product of the House of Representatives.

As to the substance of the bill, at the present time we are faced with the ridiculous situation where drug dealers have been able to accumulate huge fortunes as a result of their illegal activities and the sad truth is that the financial penalties for drug dealing are frequently seen by dealers as only a small cost of doing business. For example, under current law the maximum fine for many serious drug offenses is only $25,000. The Comprehensive Drug Penalty Act of 1984 will substantially reform these fines and bolster forfeiture procedures. H.R. 4901 would increase tenfold and more the fines for major drug trafficking offenses and empower the courts to impose an alternative fine of up to twice the gross profits of the criminal enterprise. The bill provides, for the first time, criminal forfeiture provisions for all felony drug cases.

Additionally, the measure would create a presumption that all property acquired by major traffickers during the period of the criminal enterprise are the fruits of drug-related crime, if no other legitimate source for the property exists. The courts would also be granted greater power to forfeit the fruits of drug-related crime including land and buildings, and authorizes them to restrain the transfer of property pending the outcome of the trial.

Proceeds of these forfeitures would go into two $10 million per year revolving funds that would be used to finance further drug enforcement efforts and better maintain seized goods.

In addition, this bill would increase the scope of property subject to Customs Service "administrative forfeiture," which is a default judgment process, from $10,000 to $100,000, with no dollar limit on the default proceeding where cars, boats, and planes are involved; set up a customs forfeiture fund; allow the United States to discontinue forfeitures on property in favor of similar proceedings by State and local agencies; and increase some law enforcement authority of the U.S. Customs Service.

In this fashion not only will we increase efficiency and provide additional law enforcement funding, we will be making the punishment fit the enormity of the dollar volume involved in organized drug trafficking.

I urge your support for H.R. 4901 as amended.

I might say that in this Congress my distinguished colleague from Florida, CLAY SHAW, asked the Subcommittee on Crime to visit Florida, and Mr. GIBBONS of the Subcommittee on Trade was also concerned with this problem at a time when we had an enormous amount of inventory of seized boats and planes in Florida. Hundreds of boats and dozens of airplanes were rotting in the water or rusting at airstrips because we do not have the capability to process administratively through the present forfeiture process these assets. I saw yachts worth $350,000 that after 2 or 2½ years in the water were worth no more than $25,000 or $30,000. This situation was a criminal waste of money. More importantly, these belong to fictitious persons that gave a cemetery somewhere in Arkansas or some other place in the country as their address, and we know they are not going to show. To permit these assets to rot and to rust in this fashion, without bringing the proceeds in and managing these resources in a way where we can utilize them to foster and to finance other law enforcement operations, is just unforgivable. We have lost 3½ years of valuable time because we do not have new forfeiture provisions in the law.

So I want to say to my colleague from Florida: Thank you for hosting that particular hearing. It was a productive one, because it helped us to sharpen our focus.

I also want to thank my distinguished colleague, HAL SAWYER, who I think is a lawyer's lawyer, for his great work on this legislation. We have probably wrestled with forfeiture as much as any other crime measure in two Congresses, and we think we have fashioned a good bill.

I want to thank my colleague from Florida [SAM GIBBONS], the distinguished chairman of the Subcommittee on Trade of Ways and Means, for his cooperation. I know that we were delayed somewhat because the full committee was working on a tax bill and was preoccupied in conference, and it took my distinguished friend about 2 months in order to arrange for full committee time so that we could process this legislation.

Well, time is running out. We still have time to pass this forfeiture bill, however, if you want a strong forfeiture bill, if you want to provide new tools for law enforcement, here is your chance. If you really do not want forfeiture, then this is your chance to vote against good, solid crime legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the estimated $100 billion that Americans will spend in 1984 on illegal drugs is the impetus for forfeiture reform. The profit potential of drug dealing is fantastic and is so large that existing fines are merely the cost of doing business. And so there are sometimes up to $1 million of bail treated the same way. Recognition that the drug trade will not be affected unless the profit is removed from the crime has led to the development of forfeiture as a form of penalty. The existing forfeiture laws, however, net only $5 million a year. A bill to strengthen existing forfeiture laws passed the House in the 97th Congress but was pocket vetoed as part of H.R. 3963 on other grounds.

Under current law, assets valued at more than $10,000 must be forfeited in proceedings in U.S. district court. Now, the dockets of the courts are overloaded. The U.S. attorney's office has more sex-appealish things to do than forfeiture and, consequently, it languishes through the procedure for up to several years before anything is really done, and in the meantime the assets sit and deteriorate.

□ 1250

As the chairman of the subcommittee, Mr. HUGHES, said, we went down at the behest of CLAY SHAW of Florida, and looked at the situation in southern Florida. At that time, as I recall it, there were some 400 yachts tied up there that were in the custody of the Customs Service but could not be sold or liquidated because they were worth more than $10,000 each, and it was taking very, very long to forfeit them in Federal court proceedings.

In the meantime, there was pilfering and vandalism going on. The boats were not kept up because the Customs Service had no way of getting reimbursed for what they spent on it, and in addition to that, some $100 a month was being spent per boat for dockage expense to keep them docked. We went up to another area and saw airplanes, which had been used to transport drugs. Some of them were twin jet engine planes that would cost half a million dollars each, sitting there relegated to the same fate as the seized yachts at a small, private airport near Fort Lauderdale.

These things have to be corrected, and this bill is aimed at doing that. Under H.R. 4901, the present bill, we correct that problem in that we leave out completely a ceiling on the value of assets that can be forfeited sum-

marily in administrative proceedings. I may say that the average time when the administrative procedure is able to be used is 30 days, which will turn them over and begin to put some of this money that was taken from the drug dealers, and turn it around and use it to put these dealers and their henchmen in jail, which I think is a very fine use of their assets. This bill will much facilitate that.

I believe that this forfeiture bill is the most important bill that we have turned out of the Subcommittee on Crime, and perhaps even the whole Judiciary Committee, during this Congress. I think it ranks together with the bill we turned out of our Subcommittee on Crime in the last Congress, amending the doctrine of posse comitatus, so that we allowed the armed services, particularly the Air Force and the Navy, to get into the act in interdicting these drugs coming into the United States.

I am very proud that we are able to bring this measure to the floor I am very proud also of posse comitatus, which has worked fantastically well as some of you may have noticed. They say that interdiction, particularly along the huge Florida coastline, some 8,000 miles as I recall it, now makes it very treacherous attempt for any drug smugglers attempting to bring drugs into this country. It is really helping. I think this forefeiture bill is one of the principle steps that we have taken in this Congress and that it will rank with the modification of posse comitatis as a very effective law enforcement tool.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the full Judiciary Committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984.

This bill deals with one of the most important crime problems confronting this country which is the phenomenal increase in drug trafficking in recent years. We are now faced with a situation where drug dealers have been able to amass huge fortunes as a result of their illegal activities. The sad truth is that the financial penalties for drug dealing are frequently only seen by dealers as a cost of doing business. Under current law the maximum fine for many serious drug offenses is only $25,000. Moreover, the Government's ability to obtain civil or criminal forfeiture of the profits or proceeds of drug dealing has been hampered by statutory deficiencies. This bill attempts to address these problems in a manner that will encourage the immediate and effective utilization of these new tools by law enforcement.

An overview of the problems with the current forfeiture statutes by Government officials in this and the last Congress produces a clear consensus about the need for change. What is less clear is the path to achieve that reform. Most observers agree that prosecutors face three major problems: Ambiguous statutes, problems in tracing the proceeds of drug trafficking, and difficulties in proof. The solutions to these dilemmas are numerous and pursuit of them can often create a divergence of views. For example, while it may be desirable to ease Government seizure of property involving drug trafficking, one must also be careful to protect the rights of innocent third parties. Frequently, it is these conflicting values that produce different opinions about the wisdom of particular legislative reforms.

In the legislation before us, the Committee on the Judiciary and the Committee on Ways and Means have attempted to balance the strong societal interest in eradicating trafficking in illegal drugs with the constitutional rights of our citizens. I am satisfied that a proper balance has been struck.

I, therefore, strongly support H.R. 4901 as one of the most important pieces of legislation that can attack the basic economic motive for drug trafficking, and I would like to compliment Subcommittee Chairman HUGHES and the ranking member, Mr. SAWYER, for their bipartisan approach to this significant legislation.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to compliment the gentleman from Michigan [Mr. SAWYER] and also the gentleman from New Jersey [Mr. HUGHES] for the tremendous leadership that you gentlemen have both given our subcommittee, and right through the committee level on this most important piece of legislation.

Mr. Speaker, as was said earlier, the Subcommittee on Crime held a hearing in my district in south Florida to study both the failures of the Federal drug asset forfeiture process and the tremendous successes that the State of Florida has experienced under its progressive State forfeiture state. One of the most shocking examples of the tragedies resulting from the Federal system is the Miami River which is lined with vandalized rotting boats. In some cases, these ruined vessels were at the bottom of the river rather than on it. In many cases, we saw ships that had already piled up more dockage, that is the rent, for just simply the space that it takes up than these vessels were actually worth themselves.

On July 15, 1984, the GAO issued a report, "Better Care and Disposal of Seized Cars, Boats, and Planes Should Save Money and Benefit Law Enforcement." The GAO report documents monetary losses due to serious problems with current Federal procedures for storing, forfeiting, and selling seized conveyances. As of April 1983, Federal law enforcement agencies were holding over 4,518 seized conveyances—3,665 cars, 692 boats, and 161 airplanes—worth $82 million when seized. GAO's evaluation reveals, however, that due to lengthy forfeiture proceedings, inadequate security and a lack of maintenance, seized conveyances—plagued by deterioration, vandalism, and theft—frequently sell for only a fraction of their value at the time they were taken.

H.R. 4901 will end this decay and waste by providing the law enforcement agencies with the authority to properly care for and dispose of these assets.

Another important provision in H.R. 4901 permits the Federal law enforcement agencies to donate the assets to their State and local law enforcement partners contributing to the fight against drug trafficking.

We have found in our study of this issue, that many times turf problems seem to set in. Particularly when you are dealing with an asset of great value, it has been found that some times one agency would not share this information with another for fear that they would take over this asset at the time of seizure. Now with this legislation this can be bridged by our Federal agencies who can turn over the assets to States like the State of Florida.

Also, these Federal agencies can turn over these particular assets to States that have a procedure in their own State statute to accelerate or streamline the sale of these assets. These types of RICO statutes in the State law can be used by the Federal Government simply by the Federal Government contributing or turning over the possession, custody and control of these assets to the States.

When this important measure is sent to the President, I will work to ensure that it includes two provisions adopted by the other body. The first provision, called substitute assets, would permit the Department of Justice to forfeit substitute assets—property not purchased with illegal drug profits—when DOJ can prove the amount of illegal profits gained and hidden beyond the reach of the forfeiture process, such as funds deposited in offshore banks. The second provision would improve the forfeiture provisions in RICO, the Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. 1961-68.

RICO was adopted in 1971, the same year as the drug forfeiture provision amended by H.R. 4901. This proposal

parallels the improvements in the drug forfeiture area in H.R. 4901.

With these two improvements, H.R. 4901 will provide an excellent tool for the law enforcement effort against drugs. More importantly, H.R. 4901 will take the profit out of this murderous crime.

I urge the Members' support for H.R. 4901.

□ 1200

Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished committee chairman, the gentleman from Texas, Mr. JACK BROOKS, and I might say two things before the gentleman speaks; I want to thank the gentleman for his cooperation in fashioning some amendments to the legislation that would enable us to retrofit some of the equipment so it can be used by the law enforcement and other agencies for their particular operations. I want to thank the gentleman for that.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984. H.R. 4901 will provide strong additional tools in the Government's war against drug trafficking by increasing the maximum fines for drug offenses, permitting criminal forfeiture in all felony drug offense situations, and expediting the procedures in civil and criminal forfeitures. In attacking the basis of drug traffic—the huge profits to be made in this activity—H.R. 4901 will tremendously assist our law enforcement personnel.

I am especially pleased that the bill, as brought to the floor by my good friend and Judiciary Committee colleague, BILL HUGHES, incorporates some of the work that has been done by my Committee on Government Operations dealing with conveyances which are used in drug traffic and are seized by Federal law enforcement officials. A study which was done at my request by the General Accounting Office last year suggested improvements in the handling of seized conveyances and urged Congress to expedite the forfeiture process, create an improved funding mechanism for preservation costs and for the acquisition of needed conveyances, and gain more oversight over the use by Federal agencies of forfeited conveyances.

H.R. 4901 follows both the recommendations of GAO and ideas which I incorporated in H.R. 3725, the Forfeited Conveyance Disposal Act.

Mr. Speaker, H.R. 4901 also permits the Secretary of the Treasury and the Attorney General to discontinue forfeiture proceedings under this act in favor of forfeiture under State law, and to transfer seized property under such conditions to the appropriate State or local official. It also permits the transfer of forfeited property to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

In both respects, this represents a major departure from the traditional handling and disposition of Federal property. Current law provides a procedure under which the Secretary of the Treasury and the Attorney General may transfer forfeited property, such as vehicles and vessels, to the General Services Administration, thereby allowing GSA to determine whether other Federal agencies can use such conveyances in their operations. This provision is unchanged by H.R. 4901. I hope the Secretary of the Treasury and the Attorney General will continue to follow current practice in this regard, as it has been particularly beneficial to numerous Federal agencies, including the Coast Guard and the National Oceanic and Atmospheric Administration.

Given the vital importance of an effective war against drug traffic, these new provisions are understandable. Nevertheless, continuous congressional oversight will be needed to ensure that these new authorities are exercised carefully and judiciously.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, I wish I could support H.R. 4901 in its present form. I understand the importance of having a criminal forfeiture procedure before us. I understand the importance of having it enacted into law.

As a matter of fact, this subject was title III of the President's crime package, indicating at least that it was no less than third in line of importance as far as the administration is concerned with respect to the entire area of law enforcement.

But at the same time, the procedure being used here compels me to oppose it in this version. As we know, we are here on the Suspension Calendar. No amendments are allowed. We are limited to 20 minutes of debate a side and we do not have the opportunity to debate two essential amendments and consider two essential amendments to this bill.

I would like to dwell just on one for the moment, and that is the question of substitute assets.

At the very outset, we must realize that one of the reasons that we are dealing with this very bill itself is because of the sophistication of many of the drug traffickers and organized crime figures concealing their financial assets is common practice, not only because of the prospect of forfeiture but also because their financial dealings might expose them to tax and currency laws.

This is particularly relevant with respect to drug trafficking which usually involves the passing of money, and because money is fungible or very fluid, it very frequently is laundered or transferred overseas where it is impossible to trace.

Without the availability of substitute assets, it is my view and the view of the administration and the Justice Department and many in the law enforcement field that you could have a millionaire drug king who imports and sells heroin, then deposits cash in a Swiss account and then the Government would be rendered incapable of reaching that cash itself.

That does not seem to me to be the direction that we want to go and it seems to me if we were offered an opportunity to vote on this floor, we would do much as they have done in the U.S. Senate.

I should note that a substitute asset provision is included in S. 1762 as adopted by the Senate on February 2, 1984, by a vote of 91 to 1. The forfeiture provision in that particular bill is strongly endorsed by the ranking minority member of the Senate Judiciary Committee, Senator BIDEN from Delaware.

We should recognize that in a criminal forfeiture trial, the Government must prove that specified property of the defendant was used and obtained in such a way as to render it subject to forfeiture under applicable statute. If, after entry of the special verdict of forfeiture, it is found that those specified assets have been removed, concealed, or transferred by the defendant so they are no longer available to satisfy the judgment of the forfeiture, the court then may order the defendant to forfeit other of his assets in substitution.

That is the essence of the amendment that we are being denied the opportunity to vote on on this floor.

The problem we have is that major pieces of the President's crime legislation have, for whatever reason, found their way very, very slowly to the floor of the House. We are now told, as the distinguished chairman of the subcommittee has said, if you want forfeiture, vote for this bill. If you do not, do not vote for this bill. If you do not want to strike a hard blow against crime, then do not vote for this bill. Well, that is just not true.

The fact of the matter is this bill has some very good provisions. If you want to gauge it, you could say you could be soft on crime, you could be tough on crime, and in between, you could be semitough on crime, and these rules are allowing us to be semitough on crime because for whatever reason, some have decided that we ought not to have the ability to vote on the provisions suggested by the President of the United States, supported by his Justice Department and supported by a coalition in the Senate

that includes Senator BIDEN of Delaware, Senator KENNEDY of Massachusetts, and Senator STROM THURMOND of the State of South Carolina.

I do not understand why that is being done. Some say that all we have to do is follow this bill which allows the alternative fine provision and that will serve the same purpose. I would suggest to my colleagues that that is discretionary under this bill with respect to the judge.

It was argued in committee, the chairman of the subcommittee suggested that we could use the fine to condition the time served by the individual. I thought this bill was directed at some of the worst criminals we had and it seems to me they ought to serve their full time.

In addition, they ought to be fined and we ought to be able to go against substitute assets.

So, Mr. Speaker, I am very, very sorry that we do not have this bill in the shape that we could have had with a simple opportunity to debate an amendment up or down, have it voted on within 1 hour or less than 1 hour's period of time.

The second provision that I think is extremely important is the RICO statute. The gentleman from Florida has indicated that they have this sort of criminal forfeiture provision in their RICO statues, the racketeering statutes in the State of Florida.

All I am saying is, we ought to be given the opportunity to extend it to racketeering as far as the Federal Government is concerned, as opposed to limiting it here in this bill merely to drug trafficking. It is important that we touch drug trafficking, but we also should be able to attack major organized crime that does not affect drug trafficking.

□ 1310

Mr. HUGHES. Mr. Speaker, before I yield to my distinguished colleague from Florida, I yield myself such time as I may consume.

Mr. Speaker, let me say to my distinguished friend, the gentleman from California, who seems to be my debating partner these days in and out of the House of Representatives on crime legislation, that this committee passed a very strong forfeiture bill in the 97th Congress. I suspect that my colleague from California voted for it. It basically has the same provisions dealing with alternative fine and the presumptions that are in this bill. It was a bill that was strongly supported by the Department of Justice, and I realize that my colleague is carrying water for the Department of Justice today, who all of a sudden decided this morning they are going to oppose the bill.

Let me say that the Department of Justice has opposed just about every bill that we have moved out of our subcommittee, including the posse comitatus legislation that we passed in the 97th Congress that it takes such credit for today. We have had a long struggle in trying to get this bill ready for floor action. The basic fact is that if we want to pass a forfeiture bill, this is the procedure. This is the only procedure where we can be assured that we will have enough time to work any differences out with the Senate.

As chairman of the subcommittee and as ranking Republican, HAL SAWYER of Michigan and I have made some decisions. We have to be the quarterbacks and decide how to move legislation through the process.

There were three other committees that had jurisdiction over aspects of this bill and we have spent the better part of this year just trying to maneuver this bill through committees, trying to get it to the position where we can vote on it. We have less than 3 weeks left.

The fact remains that if the gentleman, who can exercise his right to vote against any legislation he wants, wants to vote against it, that is fine, but the fact is, he is voting against a major crime initiative, one that I think is probably one of the most important crime measures that we will have moved out of the Committee on the Judiciary this year. We have lost 3½ years because the President voted the other version that my colleague supported and, frankly, I wish that we had a different procedure than we do, but we have to live with what we have.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I will briefly yield to my colleague, the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, the fact of the matter is, under the Suspension Calendar, if the gentleman wished to, the gentleman could have amended this bill before he brought it to the floor to allow substitute assets. The gentleman does not support substitute assets.

Mr. HUGHES. Mr. Speaker, if I may reclaim my time, first of all, RICO is not even germane to this legislation; and second of all, as a matter of policy, our committee opted for what we think is the only way to reach assets overseas, through the procedures we devised. It was a procedure that the gentleman from Michigan [Mr. SAWYER] and I devised, the audited fine provision and the presumption of forfeiture, along with other members of the committee, and we think that is far superior, that will reach assets in the Bahamas.

My colleague's substitute assets procedure is not going to reach assets in the Bahamas. That is why we settled on this procedure. It happens to be that the Department of Justice did not think of it. That is why they are opposed to it. They did not think of it. It was our idea and, as a result, they are opposed to it. If we waited for the Department of Justice to agree to anything that we moved out, we would not move any crime legislation out of our committee.

Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Florida [Mr. Gibbons].

Mr. GIBBONS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am here today to support this bill, H.R. 4901. In doing so, I want to pay tribute to the gentleman from New Jersey [Mr. HUGHES], the gentleman from Michigan [Mr. SAWYER], and to the others who have worked so hard on it. It is a fine piece of legislation. The part of it that pertained to the Committee on Ways and Means was handled on a bipartisan basis.

We had hearings. We worked on it hard. The gentleman from Minnesota [Mr. FRENZEL] would be here today supporting this legislation but he has a primary in his State.

In the subcommittee and in the full committee, we did everything we could to improve it. Unfortunately, this same piece of legislation passed this Congress about 2 years ago and it was caught up in some other controversy and did not become law because of the reasons that the gentleman from Michigan [Mr. SAWYER] remarked about in his statement. I hope that this time it can become law. It needs to become law. The reasons for it have been so adequately pointed out by both the gentleman from Michigan [Mr. SAWYER] and the gentleman from New Jersey [Mr. HUGHES].

The forfeiture provisions in this bill are a vast improvement over the forfeiture provisions of the current law, and that is what the Committee on Ways and Means had the responsibility for. Although I have not polled the committee as recently as this morning, I think the Committee on Ways and Means reported this bill out unanimously after we had worked on it and it was done on a broad, bipartisan basis.

Mr. Speaker, I hope the bill will be adopted. If there are any other changes that need to be made in this very tough fight on drugs and narcotics, then I am sure this Congress will take it up. I do not know of a Member of this Congress who in any way wants to coddle any smugglers or drug pushers or bankers or anyone else that is involved in the drug trade. We are doing the best we can in the time limit we have and the very tough subject matter we are dealing with.

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I just want to congratulate the gentleman for his efforts, both in the 97th Congress, because I can remember when the gentleman convened a special hearing in the closing days of the 97th Congress to deal with those areas of jurisdiction that the Committee on Ways and Means deals with. The gentleman has been extremely cooperative through his efforts and the efforts of the gentleman from Minnesota [Mr. FRENZEL] and the committee.

I think we have developed a major initiative, and there are dozens of provisions in this bill that will improve existing law. But more importantly, it will enable us to provide the law enforcement community with some major new tools to deal with drug traffickers.

I spent 10 years in law enforcement. My distinguished colleague, the gentleman from Michigan, was a district attorney in Grand Rapids, MI, for a number of years. We both view this as major initiative, one that we had hoped would have been enacted in the last Congress and we were both sick to see this bill in particular go down the drain, 2 years of our efforts go down the drain, and we have lost 3½ years of valuable time.

I thank the gentleman for his cooperation.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. GIBBONS] has expired.

Mr. HUGHES. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding this additional time to me.

Mr. Speaker, I do not know any tougher problem. I have seen the evidence that the gentleman refers to, and the gentleman from Florida [Mr. SHAW] refers to, in the Miami River and the airports down there and in my own city of Tampa.

This is an honest, good-faith effort and in the Committee on Ways and Means it was certainly a bipartisan effort. There was no, and there has been to this very moment, no opposition to this bill by members of the Committee on Ways and means that I am aware of.

We urge adoption of the bill, and we want to commend the gentleman from New Jersey and his committee for the fine work that he has done on it. I think it would be a shame to shoot down this bill by last-minute opposition, on a bill that has been pending for 2½ years. We have been delayed too long.

I rise in support of H.R. 4901, a bill to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provision and strengthen penalties for controlled substances offenses. This bill is desperately needed by our law enforcement officers to attack one of the most serious problems facing our nation today—the increased trafficking in narcotics which is threatening the youth of America. I commend the gentlemen from New Jersey for the excellent work of the Committee on the Judiciary in putting together this excellent and extremely important piece of legislation to address this problem.

H.R. 4901, as amended, and ordered reported by the Committee on Ways and Means, consists of two titles. Title I, which is entitled the comprehensive Drug Penalty Act of 1984, is under the jurisdiction of the Committee on the Judiciary and as favorably reported by that committee on June 19, 1984. It makes various amendments to the Controlled Substances Act and the Controlled Substances Import and Export Act, including increasing the penalties for convictions in all felony drug trafficking cases and creating a strong criminal forfeiture statute.

Title II, which is under the jurisdiction of the Committee on Ways and Means, amends the Tariff Act of 1930 to provide for a more streamlined approach for handling civil forfeitures and to expand the arrest authority of customs officers. The bill would allow the use of administrative rather than judicial forfeiture proceedings in many more cases by increasing the current ceiling from $10,000 to $100,000 for most articles and by removing the ceiling entirely for prohibited merchandise and conveyances which are used to import, export, transport, or store any controlled substance. The bill also would raise the amount of the bond which is required to be posted in order to require a judicial forfeiture from $250 to the lesser of $2,500 or 10 percent of the value of the property. Additionally, the bill would establish the customs forfeiture fund to help defray the escalating costs associated with forfeiture procedures and provide the authority for customs to transfer seized or forfeited property to State or local law enforcement agencies. Finally, the bill would increase the compensation level which can be paid to informers from $50,000 to $250,000.

Under current law, judicial forfeiture proceedings must be used in all cases where the seized property exceeds $10,000, even though most cases are uncontested. This results in significant delays of up to 2 years, during which time the seized property frequently deteriorates, resulting in a substantial decrease in value.

Further, since customs may not currently use the net proceeds of one seizure to offset the unrecouped costs of another seizure, such losses must be covered by their regular appropriations. Because it is difficult to budget for these unpredictable expenditures, moneys have to be diverted from other important administrative or enforcement functions.

The changes provided for in title II should result in substantial cost savings to the U.S. Government, without adversely affecting the property rights of owners wishing to contest the forfeiture of their property.

This bill is desperately needed and I urge you to support its passage.

Mr. SAWYER. Mr. Speaker, I yield myself one additional minute.

Mr. Speaker, alluding to the two items that the gentleman from California mentioned: substitute assets. If we can find substitute assets, we can certainly levy on them with a judgment fine that has been imposed by the court. If there is an appeal, that will not make any difference because the court has power to not stay any sentence pending appeal if there is not a bond filed. So I do not really see what the substitute asset really adds to the tremendously large fine the court is empowered to levy in this kind of case.

It seems to me, as far as RICO is concerned, that is the racketeering statute, it really deals with other matters and I think we have all the remedies we need in this forefeiture bill for the narrower scope of this bill. I do not see any point of tying it in with RICO.

So while I understand the arguments that are being raised, I think they are, frankly, without merit and the bill should be supported.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is abundantly right. On RICO, as the gentleman well knows, we decided as a matter of policy not to deal with RICO except in the context of a hearing dealing with RICO.

□ 1320

There are a number of problems associated with RICO. The American Bar Association has some concerns with it, and the gentleman and I have both talked about this.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. SAWYER] has expired.

Mr. HUGHES. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Michigan [Mr. SAWYER] and I had both hoped that we could get to RICO before this session was out, but we have just run out of time. But I can tell my colleague, who will be leaving this year, unfortunately, and will not be coming back to Congress, that it is my hope that in the early days of the 99th Congress, if I am privileged to be

here, we want to get into RICO and do the thorough examination that the gentleman and I discussed, which I think needs to be done not just in the context of a forfeiture statute but RICO generally.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Speaker, I agree with the gentleman.

● Mr. BENNETT. Mr. Speaker, I rise today in strong support of H.R. 4901, the Comprehensive Drug Penalty Act. I am an original sponsor of this bill and have sponsored similar legislation for years. It is a positive and essential step in the direction toward taking the profits out of drug dealing. By strengthening financial penalties and reforming forfeiture procedures, this economic attack on the illegal drug business is an essential step in the overall fight against drug abuse.

We are all aware of the epidemic proportions that drug and alcohol abuse have reached in our country. It is clear that efforts to date to mount any economic attack on the illegal drug business have not been very successful. It is time to make drug dealing much more costly for those who profit from such a hideous crime.

This bill dramatically increases maximum fines for drug offenses, improves the Federal Government's ability to use forfeiture proceedings in drug cases, and permits the courts to prevent the transfer of property that may be subject to forfeiture. It also sets up two funds, with revenue derived from forfeiture receipts, to aid antidrug efforts by the Department of Justice and the Customs Service.

I am very excited about the drug penalty forfeiture funds set up by the bill. I think it's an excellent idea to use moneys obtained from forfeiture to finance law enforcement efforts by Justice and the Customs Service. But I think the moneys should be used for drug abuse education and prevention programs as well. I am introducing today a bill that would direct the use of some of the moneys received from forfeiture in drug cases for drug abuse rehabilitation programs. Next year, after the forfeiture program is in place, we can set aside moneys for drug abuse efforts other than enforcement.

I have long supported various measures to combat the problems of drug abuse in this country. I commend Chairman HUGHES for his excellent work in giving us a workable bill which will be a much needed tool in the fight against illegal drugs. I urge my colleagues to approve this legislation.●

● Mr. FISH. Mr. Speaker, the Comprehensive Drug Penalty Act of 1983 will stengthen the use of forfeiture as a weapon in attacking drug trafficking and increase the fines available for serious drug offenses. Title III of the President's comprehensive crime legislation, which I introduced in the House as H.R. 2151, is similarly designed to improve forfeiture and increase drug offense fines, thereby combating one of the gravest crime problems facing our country: the importation and distribution of dangerous drugs.

H.R. 4901 creates a strong criminal forfeiture statute that would be applicable in all felony drug trafficking cases, provides authority for the civil forfeiture of real property used in the commission of major drug crimes, provides a funding mechanism whereby amounts realized in forfeiture cases can be used to defray the mounting costs associated with forfeitures, and amends the forfeiture provisions of the Tariff Act of 1930—a statute which governs civil forfeitures under both the Customs and drug laws—to increase the use of efficient administrative forfeiture procedures in uncontested cases.

This important bill, however, does not include two very important provisions strongly endorsed by this administration and included in the forfeiture bill adopted by the other body.

An important part of the administration's forfeiture legislation focuses on strengthening the criminal forfeiture provisions of the Racketeer Influenced and Corrupt Organization—or RICO—statute (18 U.S.C. 1961 et seq.). H.R. 4901's forfeiture amendments are confined to those applicable to drug offenses. The authority to reach the profits and financial underpinnings of organized criminal activity through forfeiture is a necessary part of effective law enforcement in this area. This is the very reason that, in 1970, the Congress included criminal forfeiture as one of the sanctions applicable to violations of RICO. Combating racketeering is a top priority of Federal law enforcement, and deprivinig those involved in organized criminal activity of the financial resources they amass and use in this crime is an integral part of that enforcement effort. To be successful in this effort, however, we must improve existing forfeiture authority under the RICO statute. H.R. 4901 does not include these important improvements.

A substitute assets provision would also greatly enhance the effectiveness of criminal forfeiture. Briefly, a substitute assets provision works as follows: The Government must prove in the criminal trial that specified property of the defendant was used or obtained in such a way as to render it subject to forfeiture under the applicable statute. If, after the entry of the specified assets have been removed, concealed, or transferred by the defendant so that they are no longer available to satisfy the forfeiture judgment, the court may order the defendant to forfeit other of his assets in substitution. Thus, by applying a substitute assets provision, defendants would not be able to avoid the criminal forfeiture sanction simply by making their forfeitable assets unavailable at the time of conviction. If today's consideration by this body is to have real impact, a substitute assets provision is essential to punishing the organized, and clever, drug trafficker.

Drug asset forfeiture is one of the most important improvements contained in the President's crime package. H.R. 4901 has my pledge of support. In conference, I will work to include the stronger provisions of the Senate bill.●

● Mr. SENSENBRENNER. Mr. Speaker, the most effective law enforcement weapon against the infiltration of drugs is one that takes profit out of crime. Prison terms and insubstantial fines are meaningless as long as drug racketeers know that they can make millions by supplying illegal drugs. The forfeiture bills before us today would enable Federal Government to make substantial progress in taking the profit out of crime. This bill will take from the drug criminal all of his illegal gains and the equipment used in obtaining those gains. The proceeds in forfeiture will be invested in continuing law enforcement efforts.

The impact that this bill will have on all persons in this Nation cannot be overstated. The victims of drug abuse do not share in the profits of these criminals. They are little more than prey in a highly profitable illegal activity. We must take the profit out of this horrendous crime.

Although I enthusiastically support drug forfeiture laws, I will work to ensure that stronger administration-endorsed proposals be included in the final product we send to the President. H.R. 4901 does not include authority to forfeit substitute assets when the profits from the crime are hidden from justice. The version passed by the other body has carefully drafted provisions that would ensure the punishment of sophisticated drug traffickers in a way that is constitutionally sound and just. Another provision in the superior bill passed by the other body improved the provisions of the Racketering Influenced and Corrupt Practices Act, 18 U.S.C. Sections 1961-1968. This provision, if improved under these provisions, would greatly assist law enforcement efforts against the kingpin traffickers.

When drug dealers skip $1 million in bail, tough measures are required. Forfeiture is the tough response.●

● Mr. FEIGHAN. Mr. Speaker, I rise today in support of the Comprehensive Drug Penalty Act of 1984, H.R. 4901, which I cosponsored. This bill will strengthen penalties for drug traf-

ficking and deprive drug dealers of the tools of their trade through forfeiture of their property. Their boats, planes, and estates will be confiscated.

Drugs and crime are linked, whether it is actually the crime of drug dealing, as in this legislation, or the commission of a crime under the influence of drugs: Drugs cause crime. This very important bill will attack the sale of controlled substances by raising the price which dealers have to pay when caught. For example, H.R. 4901 will subject to forfeiture all land and building used with the knowledge of the owner for holding, storing, or cultivating illegal drugs or materials used to manufacture them.

This bill will stiffen penalties against drug dealers by increasing maximum fines more than 3,000 percent from $15,000 to $500,000 and by permitting the imposition of an alternative fine up to twice the gross gain derived from the crime.

These two provisions will go a long way toward ending the reign of terror that has descended upon many American communities. To highlight the importance of this legislation, one need only look at statistics which show that one out of every five American households suffered a rape, robbery, assault, or larceny during 1983. More than one-third of those crimes are drug-related.

This bill provides the country with tough laws which will show the drug pushers that this Congress will do more than pay lipservice to the problems created by drugs and crime. I urge my colleagues to support this bill.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984, and I urge my colleagues to support this urgently needed legislation.

Narcotics trafficking and drug abuse is currently a criminal activity exceeding $100 billion per year, with the Federal Government spending approximately $1 billion annually to interdict illicit narcotics, to educate our citizens on the dangers of drug abuse, and to treat and rehabilitate those individuals who are dependent upon or addicted to drugs. Drug traffickers obviously are making enormous profits and yet, under current law, the maximum fine for most serious drug offenses is only $25,000.

One of the major objectives of H.R. 4901 would be to increase the maximum fine for convicted drug traffickers from $25,000 to $250,000. In addition, it would establish an alternative fine concept where drug offenders can be fined up to twice their gross profits or proceeds from drug trafficking ventures in cases where the alternative fine would be greater than the fine specified for the crime itself. The bill would also establish a $10 million forfeiture fund in the Department of Justice and the U.S. Customs Service. The fund would be used to cover ever-increasing costs of forfeiture procedures, which are provided in the bill for all felony drug cases, and to provide additional resources for law enforcement activities in fiscal year 1985 through 1987.

Another important aspect of this legislation would increase the narcotics law enforcement activities of the U.S. Customs Service. This is accomplished by increasing the current level under which administrative rather than judicial forfeiture proceedings can be initiated from $10,000 to $100,000, and by removing the ceiling entirely for merchandise and conveyances which are used to import, export or store illicit substances. Such actions will result in expedited action to avoid deterioration and decreased value of seized articles, as well as the enormous cost of storage. The Secretary of the Treasury would be authorized to transfer seized or forfeited property to State or local agencies which seized or participated in the seizure of the property. Such action would greatly enhance coordination and cooperation among Federal, State and local agencies that the Select Committee on Narcotics Abuse and Control, of which I am the Ranking Minority Member, has found so seriously lacking.

Finally, H.R. 4901 would increase compensation to informers from $50,000 to $250,000, while retaining the current legal limit of such payments to 25 percent of the net proceeds.

Mr. Speaker, I commend the distinguished chairman of the Judiciary's Subcommittee on Crime [Mr. HUGHES], for his tireless efforts in bringing this important legislation to the floor of the House. Given the epidemic proportions of drug availability and abuse in this country, forceful action is required and this legislation does just that. Narcotics Select Committee hearings held around the country and in Washington have clearly demonstrated that drug availability and drug abuse are increasing, while the price to purchase deadly drugs is decreasing. We must take strong action to punish the drug traffickers who are undermining our institutions and who prey on and profit from the misery of so many of our citizens. This legislation is a step in that direction.

I would also like to take this opportunity to remind my colleagues that increased law enforcement efforts must also be accompanied by increased funding for drug education, treatment and prevention programs, and in this regard I urge that a portion of seized drug assets be turned over to a drug education, treatment and prevention fund.●

● Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984. This is an important piece of legislation deserving of support by every Member of this House who is concerned about the impact of drug abuse on their constituents.

Today the financial penalties for drug dealing are frequently only seen by dealers as a cost of doing business. Under current law, the maximum fines for many serious drug offenses is only $25,000. A major purpose of H.R. 4901 is to increase the use of forfeiture proceedings and criminal finds to attack the phenomenal financial base of the drug trade.

H.R. 4901 contains several salutary provisions designed to increase the penalties imposed on drug traffickers, including the following:

Substantially increases the maximum permissible criminal fines in drug cases, generally tenfold from $25,000 to $250,000, and establishes a new alternative fine concept under drug offenders can be fined up to twice their gross profits or proceeds from drug trafficking where the alternative fine would be greater than the fine specified for the crime itself.

Provides criminal forfeiture provisions in all felony drug cases.

Establishes a $10 million forfeiture fund in the Department of Justice and the U.S. Customs Service to help defray escalating costs associated with forfeiture procedures and provide additional resources to be used for law enforcement in fiscal years 1985, 1986, and 1987.

Creates a permissive presumption in criminal cases that all property acquired by drug offenders during the period of the violations or shortly thereafter is subject to forfeiture if no other likely source for such property exists.

The U.S. Customs Service plays an important role in the enforcement of U.S. narcotics laws. Title II of H.R. 4901 contains provisions designed to increase the drug enforcement effectiveness of the Customs Service.

Under current law, judicial forfeiture proceedings must be used in all cases where the value of the seized property exceeds $10,000, even though most cases are uncontested. This results in significant delays of up to 2 years during which time the seized property frequently deteriorates resulting in a substantial decrease in value. H.R. 4901 authorizes the use of administrative rather than judicial forfeiture proceedings in many more cases by increasing the current administrative ceiling from $10,000 to $100,000 for most articles, and by removing the ceiling entirely for prohibited merchandise and conveyances which are used to import, export, transport, or store any controlled substance.

H.R. 4901 also provides authority for the Secretary of the Treasury to transfer seized or forfeited property to State or local law enforcement agencies for forfeiture under appropriate State law or transfer property already forfeited to any State or local law enforcement agency which participated directly in the seizure of the property. Appropriate use of this provision can go a long way toward promoting timely cooperation among Federal, State, and local law enforcement agencies, which is so essential to effective drug investigations and prosecutions.

Finally, the bill increases the maximum level of compensation which can be paid to informers from $50,000 to $250,000. The current requirement limiting such payments to 25 percent of the net proceeds recovered is retained. I support inclusion of this provision in H.R. 4901 because informants often provide information without which drug traffickers could not be convicted. This is often done at great risk to the informant's personal safety. It is appropriate for the Government to recognize this fact by paying a substantial reward for useful information, where the facts of a particular case merit it.

Drug trafficking is a $100 billion-a-year business in America. I commend Chairman HUGHES of the Judiciary Crime Subcommittee and Chairman GIBBONS of the Ways and Means Trade Subcommittee for their work on H.R. 4901. I support H.R. 4901 because it provides law enforcement agencies with effective new tools to apprehend and prosecute drug traffickers.

Although there is no provision currently in H.R. 4901 providing for it, if the asset forfeiture funds established in the bill for the Department of Justice and the Customs Service prove effective, consideration should be given to establishing a similar forfeiture fund to help finance drug abuse treatment and prevention activities.

The widespread availability of illegal drugs in the United States has created a public health problem of epidemic proportions. Over 94 percent of the States responding to a 1983 survey conducted by the National Association of State Alcohol and Drug Abuse Directors reported an unmet need for treatment and prevention services in their States. According to a recent survey by the National Association for City Drug and Alcohol Coordination, many cities report reductions in treatment and prevention services, waiting lists and gaps in services, and existing programs that are heavily overutilized.

Federal funding for drug abuse services has decreased by about 40 percent under the Alcohol, Drug Abuse and Mental Health Service block grant. Dedicating a portion of forfeited drug trafficking profits to underwrite the costs of treatment and prevention is one way to alleviate 3 years of harsh budget cuts which the States have been forced to endure in their drug abuse services budgets and to make the drug pusher pay for the misery he brings to others. This is an idea that deserves future consideration from the Congress.●

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired. All time has expired.

The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4901, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DRUG ENFORCEMENT COORDINATION ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4028) to amend the Drug Abuse Prevention, Treatment, and Rehabilitation Act to revise the authority of the Office of Drug Abuse Policy, to establish a Deputy Director for Drug Abuse Prevention and a Deputy Director for Drug Enforcement in the Office, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4028

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Enforcement Coordination Act of 1984".

NATIONAL POLICY

SEC. 2. The Congress declares that it is the policy of the United States and the purpose of this Act to focus the comprehensive resources of the Federal Government and bring them to bear against all aspects of illicit drug production and trafficking and to develop and assure the implementation of a comprehensive, coordinated, long-term Federal strategy to combat all aspects of such drug production and trafficking. To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this Act to meet the problems of illicit drug production and trafficking through—

(1) coordination of drug enforcement efforts of all Federal law enforcement agencies and agencies with resources, capabilities, and responsibilities that can complement or assist law enforcement agencies;

(2) cooperation with and sharing of drug enforcement intelligence with State and local law enforcement agencies;

(3) coordination of all international, multilateral, and bilateral efforts to suppress drug trafficking, to control cultivation of crops that are, or are the raw materials for, controlled substances, and to control precursor chemicals and other chemicals essential for the manufacture and processing of controlled substances; and

(4) increased cooperation among nations in carrying out the Single Convention on Narcotics, the Convention on Psychotropic Substances, and any other international effort to control the traffic and abuse of controlled substance.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "drug enforcement" means—

(A) any of the following law enforcement activities:

(i) the investigation and prosecution of drug offenses and other investigations and prosecutions of individuals involved in drug offenses,

(ii) programs or activities involving international narcotics control,

(iii) the detection and suppression of illicit drug production and trafficking;

(B) the interdiction of the illicit commerce in controlled substances wherever it may occur;

(C) the suppression and eradication of the cultivation of crops that are, or are the raw materials for, controlled substances;

(D) any activity or program by any Federal agency which can complement or assist any of the law enforcement activities described in subparagraphs (A), (B), and (C); or

(E) the conduct of formal or informal diplomatic or international negotiations at any level, whether with foreign governments, other foreign governmental or nongovernmental persons or organizations of any kind, or any international organization of any kind, relating to traffic (whether licit or illicit) in drugs subject to abuse, or any measures to control or curb such traffic;

(2) The term "drug" means a controlled substance as that term is defined by section 102(6) of the Controlled Substances Act.

OFFICE OF DRUG ENFORCEMENT COORDINATION

SEC. 4. (a)(1) There is established in the Executive Office of the President the Office of Drug Enforcement Coordination which shall be headed by a Director appointed by the President. The President may appoint the Vice President to be the Director. Any other appointment to the office of Director shall be made by and with the advice and consent of the Senate. The President may direct the Director to represent the Government of the United States in discussions and negotiations relating to drug enforcement.

(2) Unless the Director is the Vice President, the Director shall be compensated at the rate of pay in effect for level II of the Executive Schedule.

(b) In carrying out section 6 the Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him by such section.

(c) The location of the Office in the Executive Office of the President shall not be construed to limit in any manner access by the Congress or committees of either House (1) to information, documents, and studies

in the possession of, or conducted by or at the direction of the Director, or (2) to Office personnel.

COORDINATION OF FEDERAL EFFORT

SEC. 5. (a) The Director shall—

(1) establish policies, objectives, and priorities for Federal drug enforcement;

(2) annually promulgate a strategy, in accordance with section 7, for coordinated Federal drug enforcement;

(3) coordinate and oversee the performance of drug enforcement functions by Federal departments and agencies to insure the implementation of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of their responsibilities under the strategy promulgated under paragraph (2);

(4) make such recommendations to the President respecting—

(A) changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement, and

(B) the allocation of personnel to and within such departments and agencies.

as the Director determines are appropriate to implement the policies, priorities, and objectives established under paragraph (1) and the strategy promulgated under paragraph (2);

(5) consult with and assist State and local governments respecting their relations with Federal departments and agencies in the performance of drug enforcement; and

(6) submit to Congress a report, within 60 days of the end of each fiscal year, which shall specify the objectives, nature, and results of the drug enforcement activities undertaken by the Director in the preceding fiscal year, include the current strategy, and account for the funds expended under the Act.

(b) To carry out subsection (a), the Director shall—

(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug enforcement;

(2) conduct, or provide for, evaluations of (A) the performance of drug enforcement by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such enforcement;

(3) review the annual budgets submitted to the Office of Management and Budget for the Federal departments and agencies engaged in drug enforcement and make recommendations to the President respecting such budgets before they are submitted to the Congress; and

(4) review the allocation of personnel to and by such departments and agencies.

(c) Federal departments and agencies engaged in drug enforcement shall submit to the Director such information and reports as may reasonably be required to carry out this section.

STRATEGY

SEC. 6. (a) The strategy promulgated under section 6(a)(2) shall contain—

(1) an analysis of the nature, character, and extent of illicit drug trafficking and production in and affecting the United States,

(2) a comprehensive plan, with respect to Federal drug enforcement, which shall specify the objectives of the strategy and how all available resources, funds, programs, services, and facilities authorized under relevant Federal law should be used; and

(3) an analysis and evaluation of the major programs conducted, expenditures made, results achieved, plans developed, and problems encountered in the operation and coordination of the various Federal drug enforcement functions.

(b) To facilitate the preparation of the strategy under section 6(a)(2), the Director shall—

(1) engage in the planning necessary to develop the objectives for a comprehensive, coordinated long-term strategy, including examination of the overall Federal investment to combat illicit drug production and trafficking;

(2) require departments and agencies engaged in Federal drug enforcement to submit such information and reports and to conduct such studies and surveys as are necessary to carry out the purposes of this Act, and the departments and agencies shall submit to the Director the information, reports, studies, and surveys so required; and

(3) evaluate the performance and results achieved by Federal drug enforcement and the prospective performance and results that might be achieved by programs and activities in addition to or in lieu of those currently being administered.

ACCEPTANCE OF UNCOMPENSATED SERVICES

SEC. 7. In carrying out section 6, the Director may accept and employ in furtherance of the purpose of such section voluntary and uncompensated services notwithstanding section 1342 of title 31 of the United States Code.

NOTICE RELATING TO THE CONTROL OF DANGEROUS DRUGS

SEC. 8. Whenever the Attorney General determines that there is evidence that—

(1) a drug or other substance, which is not a controlled substance, has a potential for abuse, or

(2) a controlled substance should be transferred or removed from a schedule under section 202 of the Controlled Substances Act,

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health and Human Services to the Director.

STATUTORY AUTHORITY UNAFFECTED

SEC. 9. Nothing in this Act shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There is authorized to be appropriated for the Office of Drug Enforcement Coordination $500,000 for fiscal year 1985 and $500,000 for fiscal year 1986.

TECHNICAL

SEC. 11. (a) The Drug Abuse Prevention, Treatment, and Rehabilitation Act is repealed.

(b)(1) Section 5313 of title 5, United States Code, is amended by adding at the end the following: "Director, Office of Drug Enforcement Coordination.".

(2) Section 5314 of such title is amended by striking out "Director of the Office of Drug Abuse Policy.".

(3) Section 5315 of such title is amended by striking out "Deputy Director of the Office of Drug Abuse Policy.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I might need.

Mr. Speaker, the dimensions of our attack on drug production and trafficking, everywhere it occurs, are enormous. It results from the efforts of more than 17 agencies of the Federal Government, at a cost to the taxpayers this year of more than $1.2 billion.

Last week, Bud Mullen, the Administrator of the Drug Enforcement Administration, told me that 1 million Americans need treatment because they are addicted to cocaine—largely because it is so easy to get. We are failing to control the flow of cocaine into the United States and since 1981, the price of cocaine has dropped through the floor.

Heroin, which we know causes thousands of serious crimes, is at the same high levels of availability that it was at 6 or 7 years ago. Mexican brown heroin is available again in New York City after a long absence. Here, too, our enforcement efforts are failing.

Every day, millions of doses of other powerful and dangerous drugs, manufactured in underground laboratories or diverted from medical sources, are sold in the black market of drugs found on street corners and in suburban malls. Once again our enforcement efforts are a failure.

One reason for our lack of success is that the 17 agencies involved in drug enforcement are not working together.

Everyone knows that a winning football team has someone who writes up the plays, and scopes out the plays of the opposing teams. Well, our current drug enforcement strategy is about as sophisticated as a football team that makes up its plays on the field, drawing X's and O's in the dirt.

Right now, no one is developing realistic objectives for our 17 agency drug enforcement team, and the General Accounting Office has repeatedly found that our team is fragmented and not working together.

Basic, accurate management information is not available about costs or the performance of the programs. GAO found in one audit, for example, that the quantity of drugs seized by Customs, the Coast Guard, and DEA had been overstated by 50 percent.

Decisions seem to be made without regard to the overall effort. For exam-

ple, the Customs Service planned to cut 1,000 of its inspectors and to eliminate its aerial surveillance of drug smugglers operating off our shores until Congress protested.

In response to growing recognition of the need for the kind of centralized coordination and direction of our drug enforcement efforts called for in this bill, the administration established what it calls the National Narcotics Border Interdiction System [NNBIS]. However, rather than providing such leadership to mediate and resolve agency turf battles which cripple our overall effort, NNBIS seems to merely add another competitor into the struggle to see who gets credit when an arrest or seizure is made. Here's what Bud Mullen, Administrator of DEA, said about NNBIS a few months ago in memo to the Attorney General recommending that it be passed out.

The grandiose claims of the National Narcotics Border Interdiction System (NNBIS) are beginning to discredit and devalue the efforts of the administration's numerous drug control programs. False credit claimed by NNBIS spokesmen demoralizes the personnel working for a number of Federal agencies whose bona fide accomplishments either go unrecognized or are relegated to second place by the unwise overemphasis on NNBIS and the South Florida Task Force Interdiction Programs.

Mr. Mullen goes on to report that the self-aggrandizing claims of NNBIS are not only demoralizing our operational frontline drug enforcement troops, but they are confusing foreign law enforcement leaders whose cooperation is essential to stopping drugs in the source countries. He gives accounts of visits of NNBIS officials to Mexico, Canada, and the Bahamas which left leaders in these countries puzzled about who represented the United States in narcotics matters and wondering if there is any coordination of our efforts taking place.

The crisis of drug abuse and our disorganized response, are why we need this legislation. This bill establishes in the Executive Office of the President a Director of drug enforcement coordination. The Director shall develop a comprehensive strategy for drug enforcement that spells out the proper role of each of the agencies involved. The Director is to oversee the performance of each agency. If an agency is not meeting its performance standards, the Director shall recommend to the President changes the Director believes are warranted such as changes in management, in personnel, in organization, or in budgets.

The Director will not have direct operational authority, but the Director will have the clout of speaking directly to and for the President.

We need a strong hand at the reins because right now the Drug Enforcement team is worse than a team of horses running out of control—it is a loose herd of 17 agencies, with a history of bureaucratic turf battles, that will not be easily harnessed.

Without a strategy, and without strong, central leadership, when we send our dedicated law enforcement officers to fight the drug traffickers, we betray their dedication, and I suggest, we betray the American people who demand that we effectively address the problem of drug trafficking and crime.

This bill has broad bipartisan support, in the Judiciary Committee, and the Select Committee on Narcotics Abuse and Control. I urge the House to adopt this bill and keep faith with our Nation's law enforcement officers, with our young people, and with our families. We must turn the tide against the drug traffic, and effective drug enforcement coordination is absolutely necessary to do it.

Mr. Speaker, I want to thank the distinguished gentleman from Florida, Mr. CHARLES BENNETT, who is not a member of the Judiciary Committee—he is on the Armed Services Committee; in fact, he is chairman of the Subcommittee on Seapower—for his great assistance, and I also want to thank the gentleman from Florida, Mr. CLAY SHAW, a very valued member of the Judiciary Committee, for his yeoman work on this particular legislation. The gentleman from Florida [Mr. SHAW] introduced legislation in the early days of the 98th Congress that was directed to this issue. He has been in the forefront of crafting this bill through the entire process.

Once again my colleague, the gentleman from Michigan, Mr. HAL SAWYER, has done yeoman work on this legislation. This is a bill that we worked on since the closing days of the 98th Congress, and he is one of the principal architects of this legislation for a so-called drug czar or Office of Drug Policy.

The chairman of the full committee, the gentleman from New Jersey, Mr. PETER RODINO, has also been extremely cooperative and helpful to us in our efforts to come up with a strong bill.

This bill has broad bipartisan support. It is a bill that we need to pull all the various agencies together to move in one direction.

Mr. Speaker, it is my hope that we will have a good bipartisan vote for what I consider to be an important measure to provide a new direction for our law enforcement team in the fight against drug trafficking.

Mr. Speaker, I reserve the balance of my time.

□ 1330

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I urge this body's support for H.R. 4028, a bill that I believe will contribute substantially to our drug enforcement program. During the current administration, we have seen a budgetary increase for law enforcement, the successful south Florida task force, the expansion of the south Florida prototype across the Nation, the new national narcotics border interdiction system, and the use of the military under this body's posse comitatus legislation.

These improvements, however, are implemented by the FBI and DEA in the Department of Justice, the Customs Service in the Department of Treasury, the Coast Guard, which is part of the Department of Transportation, and the Department of Defense. For obvious reasons, we have a coordination problem that is interfering with our drug enforcement. The concept of a Drug Enforcement Director, or czar, as it has been pegged, is designed to improve coordination by creating one key official with authority to coordinate the various Federal efforts and manage drug enforcement, in general.

As an example of this is the present Vice President. Vice President BUSH directs the successful south Florida task force and now the border system from a position of unique authority and with the help of an expert staff. Following this example, CLAY SHAW of Florida introduced a bill to implement the coordinator concept for all drug enforcement. The chairman of our subcommittee also introduced a bill, and the committee, based on these proposals, adopted the bill before us today. I urge you to support H.R. 4028.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I rise in support of H.R. 4028, the Drug Enforcement Coordination Act. This measure is designed to control the chaos that exists among the 17 different agencies that are now involved in drug enforcement activities. Three times in the last 10 years the General Accounting Office has examined our drug enforcement program and found that it is severely handicapped by a lack of strong, central oversight. There is little coordination of efforts among the numerous law enforcement agencies involved in narcotics control and no comprehensive strategy for our "war on drugs."

While millions of Americans suffer as a result of the scourge of drug trafficking and criminal problems associated with drug abuse grow, the existing bureaucratic inefficiency and waste is inexcusable. Congress has three times in the last 10 years tried to get the executive branch to undertake coherent planning and oversight of drug control efforts. Only limited success has been achieved in immobilizing high-level drug traffickers and only small inroads have been made in reaching and

eliminating foreign sources of the drug trade. The availability of drugs continues to increase in this country. The front pages of many newspapers recently have been filled with articles on our serious drug control problems, particularly focusing on the lack of effective international narcotics control.

The bill that is before us today would provide a much-needed focus and direction to our national drug control efforts by establishing a director to coordinate and review the policies and goals of each of the law enforcement agencies, determine whether they are consistent with the overall enforcement program, and ensure that money is spent where the best results can be achieved. Unbelievably, right now, no one in the administration has that responsibility.

Regrettably, the President vetoed an anticrime package passed by both Houses of Congress in 1982 which contained somewhat similar provisions to establish strong, centralized leadership in our fight against drug abuse. Numerous hearings and investigations by the Congress have strongly demonstrated the critical need for someone to look at the entire drug enforcement mission—whether it is domestic investigations, border and high seas interdiction, crop eradication programs in other countries, or other international narcotics control programs—to determine what the relative priorities and chances of success between them are, and advise the President how best to allocate the very scarce resources that we have.

For example, far too little has been done to convince drug-producing countries that we view their efforts to control the illicit production and distribution of drugs as an essential element in our relationship with them. In my opinion, the problem of international drug control must receive a higher priority on our foreign policy agenda. In many Congresses, I have both authored and supported measures to achieve this result, including limitations on foreign aid to countries that ignore their international narcotics-control responsibilities. As a member of the President's Commission on Organized Crime, I again have emphasized the need for greater focus on controlling this aspect of the drug problem. Unless effective measures are pursued to prevent drug production and trafficking at its source, there is little chance for any real success in the war on drugs.

The Attorney General testified in congressional hearings that $1 spent on drug enforcement overseas is worth $10 spent in the United States. Yet, the General Accounting Office has pointed out that over the last 5 years international drug program expenditures have remained constant at about $60 million, while interdiction expenditures have more than tripled.

We must have greater efficiencies and planning to carefully direct how our drug enforcement dollars are spent. This bill would require the director of drug enforcement coordination to recommend a budget for the drug enforcement agencies independently of the eight Cabinet agencies involved. If implemented, the bill will give us not only our best shot at striking a blow at the heart of the drug traffic, but a chance to do it with cost effectiveness.

I urge the adoption of this measure.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman from Michigan for yielding.

I think in looking at this particular piece of legislation it is important that we just for one moment review the history of how we got to where we are today. We all know the success of the South Florida Task Force, especially the success of the coordinated effort set up by President Reagan under the leadership of GEORGE BUSH who has headed up the South Florida Task Force. In doing that, we have come across some very difficult history. As the gentleman from New Jersey properly pointed out, it was because of the efforts of his subcommittee and his good efforts in this particular regard, together with the efforts of the ranking minority member on the Crime Subcommittee, that we were able last year to bring a posse comitatus bill to this floor and passed.

In passing it and putting it into coordinated effort in south Florida where it has been most successful, we did run into a great deal of resistance from the military. I recall in the Government Operations Subcommittee matter, of which I am not a member, but was requested or invited to participate in, we had some testifying from the military who actually expressed hostility to getting involved in law enforcement.

At that time I reminded him that the Vice President had been involved and also read to him a quote directly from the Vice President.

It was because of the strong leadership and this implementation that we brought about a big nick in the problem, the growing problem of law enforcement in drug trading in south Florida.

When you think of all the departments involved, and I just jotted down a few that came to my mind when I was sitting here listening to the debate: The Coast Guard, under the Department of Transportation; Customs and Firearms Control and Tobacco, under the Department of the Treasury; of course, you have Customs, which also comes under the Treasury. You have the DEA and the FBI and Justice.

The Department of Defense, of course, is a most important element to this total mix.

With this, you even have our Representative to the United Nations, and as we are finding out more and more, it is becoming the responsibility of the Secretary of State to let foreign countries know how we feel about them continuing to grow drugs and import them into this country.

This brings about a nightmare of coordination. We need someone at the highest level in the White House itself to coordinate the efforts of all these departments and someone who has also direct access to the President, as GEORGE BUSH has had over the last 3½ years.

This has brought about the success of the South Florida Task Force.

This important piece of legislation is also going to bring about great success, I believe, as a coordinator in putting together this whole picture on fighting law enforcement throughout not just the United States, but throughout the entire world.

I would say to the people of the administration who might oppose this particular bill because of some of the problems of not wanting a growing bureaucracy, I think that this type of coordination will actually save us money. It will we know keep us from spinning our wheels and having three or four agencies doing the exact same thing, continuously reinventing the wheel.

This is a very important coordinating effort and it is one that should be embraced by this House and hopefully it will be put together in a conference with the Senate's version, the version of the other body, before the 98th Congress finishes its business.

□ 1340

I would just like to say in the few minutes that are left that this may be the last piece of legislation—hopefully it is not. Hopefully we will see more good legislation coming out of the Crime Subcommittee. However, this may be the last time that this particular subcommittee will be managing bills coming through.

I would like to say that in the efforts of fighting crime that the gentleman from Michigan [Mr. SAWYER] will certainly be missed when he retires from Congress at the end of this Congress. I might say it is a retirement that he volunteered for.

I would also like to compliment the gentleman from New Jersey who has put together a team with the gentleman from Michigan [Mr. SAWYER] and I can say that even though occasionally all of us let partisan politics get into a particular argument, we seem to be particularly good at this, but I think that this subcommittee has singularly led the way in showing what a subcommittee in this Congress can do

when we lay partisan politics aside and we work for good laws.

This is the type of politics that this Congress needs. I might say that if more subcommittees and committees of this Congress would work together the way this subcommittee has that the American people would be the ultimate benefactors.

I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I might consume.

First, let me just thank my distinguished colleague who is a treasure on the Judiciary Committee, who works very well with us in a bipartisan fashion and whose own experience in south Florida where we have had a major drug trafficking problem, has I think, enriched our own committee's understanding of the dimension of the problem.

I have no doubt that much of what we have turned out, particularly in this last Congress, but certainly back in the 97th Congress, came about because of the gentleman's understanding of the problem and his ability as an attorney to understand what we could do to direct our efforts to those problems.

I want to thank the gentleman for his cooperation.

I also want to thank our colleague from Florida, Mr. BENNETT, who was instrumental in moving the posse comitatus through the conference committee. I think the gentleman well knows he was not on our committee at that time but he was an observer in the conference and it was CHARLIE BENNETT, who was very tenacious to make sure that we moved to bring about the enactment of what I consider to be one of the more important measures in the 97th Congress modifying the posse comitatus law so that the military could assist justice and share intelligence gathering that they produced as they overfly the Caribbean and other parts of the country and in loaning us equipment and in providing staging areas to us. They have proved to be of invaluable benefit, and even though the military was very resistant and fought us every step of the way, tried to scuttle us at every step of the process they now love it. We hear them sing the praises of the modification of the posse comitatus law and now all of a sudden I wonder whose idea it was. It sounds like it might have been the military's idea.

No matter whose idea it was, we passed it and it has turned out to be good legislation.

The same thing is true with this measure. I am satisfied that until we bring about the kind of coordination that is envisioned in this legislation we are going to have a fragmented approach. The gentleman talked about the various agencies and branches of Government that have some piece of the action. It is not unusual to see three wiretaps being run at one time by three different agencies on one investigation because they are not talking.

We try to do something about the coordination and what we do is we set up a number of different coordinating agencies.

Listen to the number of coordinating agencies we have developed to help coordinate these 17 different agencies. We first of all have the Office of Drug Abuse Policy in the White House. Then we have the Cabinet Council on Legal Policy chaired by the Attorney General. Then we have the Narcotics Working Group chaired by the Associate Attorney General. Then we have the new Regional Drug Task Forces administered by the Justice Department. Then we have the National Narcotics Border Interdiction System headed by the Vice President.

What we need is somebody, some one person to coordinate the coordinators, and that is what it amounts to. We need a coordinator in fact, not just a coordinator as we have had.

Unfortunately, we need a coordinator in fact, not a coordinator in name. I might say to my colleagues we cannot afford to have the kind of goofups we have had in the last few months. It is just uncalled for. It is just inexcusable that we have personnel from NIMBUS going to Mexico, telling the Mexican authorities that they now are the contacts for this country and to have the Mexican authorities say to the Drug Enforcement Administration, who has worked with the Mexican authorities and who really is the premier agency in drug enforcement worldwide, it is not Interpol, it is our own Drug Enforcement Administration, to have those officials say to the Drug Enforcement Administration, "My God, who is in charge; who is running the drug enforcement program in this country?" That is inexcusable and it would not have happened if we had somebody like the Vice President, somebody like the Vice President in charge of the overall coordination.

So I say to my colleagues it is a good bill. If you want to coordinate these agencies and bring some degree of sense and strategy to our efforts to stem drug trafficking, this is the bill.

Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. I have a feeling of great gratitude for the chairman of the subcommittee and the ranking member and the other members who have spoken.

Early on it became pretty clear that there needed to be somebody in charge of the overall operation and efforts that have been made by a lot of people individually and by committees and by a lot of speeches that have been made about it, but the job has not yet been done.

I think if it is done, and we find much more progress being made, it will be because we get an overall and single leadership in this matter. That's what this bill provides for.

I want to thank the committee not only for this bill, which is a very fine bill, very much overdue, but for the other things that have happened in the last year or so in this field.

There has been a little misunderstanding about the comitatus law and about the fact that the Navy can actually make arrests. There is nothing in that law we agreed to that does not allow the Navy to make arrests. So far it has only been the Coast Guard that has been making arrests, but there is a provision in that agreement between the House and the Senate, in that conference, that said that no power that the Navy had before that agreement would be destroyed. So the Navy does have this legal right to make arrests and they should do so!

I want to thank the committee again for its fine work in this field.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

I want to again compliment the gentleman in the well [Mr. BENNETT] for the assistance he has given our subcommittee and really spearheaded the posse comitatus amendment. That perhaps of all of the items that came out in the way of law enforcement out of the 97th Congress, was at the head of the list because it has really made a difference.

I have no further requests for time and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I just want to yield myself such time as I might consume.

I would like to say without the diligent work of staff, the tireless work of staff, we would not be here today. I want to thank Char Vanlier of the minority staff for her efforts on this legislation and all of the other legislation that we have put out of our subcommittee. I think we have passed something like 13 bills out of our subcommittee. This has probably been one of the most productive sessions. It has kept us busy and without the work of staff we would not be here today.

I also want to thank the chief counsel Hayden Gregory of the majority staff of the Subcommittee on Crime and Eric Sterling who worked particularly in the area of drug trafficking and has worked very diligently on this piece of legislation. Also Ed O'Connell who has worked on computer and credit card crime and other legislation. Also Jennie Sloan who worked on trademark counterfeiting in particular. Without their superb efforts we would not have been able to move

these bills through the process as we have over these last 18 or 19 months.

Mr. Speaker, I have no more requests for time and I yield back the balance of my time.

● Mr. SENSENBRENNER. Mr. Speaker, I oppose H.R. 4028 because I believe the only policy czar in the executive branch should be the President of the United States. This bill recognizes that coordination is needed but ignores the new programs in this administration which are now providing coordination and obviate the need for H.R. 4028.

Law Enforcement Coordinating Committee [LECC's] are now in each of the 94 U.S. attorneys' districts. These LECC's bring together Federal law enforcement priorities, to break down traditional jurisdictional barriers and to facilitate cooperation.

For the first time, the resources of the Federal Bureau of Investigation have entered into the war against illegal drugs. The FBI's manpower and the significant professional expertise of the Bureau have added vast new dimensions to the Federal arsenal being applied to this critical crime problem.

The President has established 13 regional task forces on organized drug trafficking in addition to the earlier south Florida task force. These task forces are working very significant cases against major organized crime activities; cases aimed at indicting, convicting and sentencing the top level of criminals who finance and operate the organizations that distribute illicit drugs.

The Vice President also is serving as coordinator for NNBIS, National Narcotics Border Interdiction System, a major effort involving the military as well as domestic law enforcement in a comprehensive border drug interdiction program.

These and other efforts at increased enforcement, cooperation and coordination are supervised by an interagency working group under the Cabinet Council on Legal Policy. Represented are the Departments of State, Treasury, Justice, Defense, and Transportation. Overall policy direction and coordination for the Government's efforts is provided by the Cabinet Council itself and the President.

We have made great progress minimizing historic disputes between and among the various Federal, State and local law enforcement agencies. We are achieving a new level of efficiency and cooperation. Tremendous progress is being made and we are building upon each success. A new layer of bureaucratic administration would impede that progress.

The provisions of H.R. 4028 would abridge the authority of Cabinet officers and disrupt the Cabinet system. They would isolate the policy making function from operational responsibility by removing it from those agencies which must be accountable for both policy and program decisions.

The administration is strongly opposed to H.R. 4028. Last January, the President vetoed a similar bill because drug czar provisions were included.

The premise of H.R. 4028, that effective Federal drug enforcement requires an additional bureaucratic entity with broad new authorities, is fundamentally flawed.

The Department of Justice, the White House and every Department working on drug law enforcement feels that the bureaucratic structure and confusing responsibilities proposed in H.R. 4028 would be disruptive to ongoing enforcement activites and would distract from the focused, coordinated operations currently in place.

For these reasons, I oppose H.R. 4028. It will simply serve to disrupt the efforts of drug enforcement coordination now in place. I believe these relatively new efforts are working and show great promise for the future. It would be a mistake for this body not to allow these programs to develop their full potential.●

● Mr. FEIGHAN. Mr. Speaker. I rise today in strong support of H.R. 4028, the drug czar legislation, which I cosponsored. The bill will help our drug enforcement programs by coordinating enforcement efforts.

More than anything else, drugs and crime are linked. More than one-third of all prisoners were under the influence of drugs at the time they committed the offense which put them behind bars.

As chairman of the Task Force on International Narcotics Trafficking and a member of the Crime Subcommittee, I quickly concluded that Federal antidrug programs lack effective overall coordination. No single individual in the administration supervises the various drug programs. Even the Vice President, who nominally has responsibility for drug programs—has no input into the budgetary process. If we are going to deal with the total problem, we need a single coordinating office with sufficient power and expertise to draw together the resources of the Federal Government at home and abroad. That is why the Judiciary Committee has passed legislation to establish a single antidrug coordinator in the Federal Government. The administration demonstrates its monumental hypocrisy on this issue by shrilly denouncing Congress' purported inactivity on crime, yet stonewalling this—the most effective crime-fighting legislation before Congress this term.

More than one out of every five American households suffered a rape, robbery, assault, burglary, or larceny during 1983. And more than one third of these crimes are drug related. These figures highlight the problems of innocent citizens who have become victims of crime.

We need tough legislation that strengthens enforcement of the drug laws. This bill will do that. It is time to do more than pay lip service to anti-crime programs. It is time to put together a concerted, coordinated and coherent antidrug campaign. H.R. 4028 provides the mechanism we need to launch that campaign. I urge my colleagues' support.●

● Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 4028, the Drug Enforcement Coordination Act of 1984.

This bill would establish an Office of Drug Enforcement Coordination in the Executive Office of the President. The office would be headed by a director who would be appointed by the President. The bill permits the President to appoint the Vice President to be the director of the office.

The director of the office would be responsible for coordinating all Federal drug enforcement activities including investigation and prosecution of drug traffickers, international narcotics control initiatives, interdiction of drug smuggling, and eradication of illicit drug crops. To this end, the director would be required to establish Federal drug enforcement policies and priorities, oversee the performance of drug enforcement functions by Federal agencies, make recommendations to the President concerning the allocation of resources and the organization of Federal agencies needed for effective drug enforcement, and maintain close contact with State and local drug enforcement authorities.

The bill also requires the director to prepare each year a comprehensive strategy for coordinated Federal drug enforcement. The strategy would be submitted to Congress as part of an annual report the director is required to file.

To carry out his responsibilities, the director is empowered to review agency budget and personnel requests submitted to the Office of Management and Budget. The director may also require Federal departments to submit such information and reports as are reasonably required for the director to perform his duties.

It is hardly necessary to spell out for the Members of this body the overwhelming magnitude of the illicit drug trade affecting this country and the awesome social and economic costs we bear as a result. Despite the massive onslaught we face from the producers and distributors of illegal drugs, our Nation's drug enforcement efforts are fragmented among a multitude of departments, agencies, cabinet councils, committees, working groups, and task forces. There is no focal point within the executive branch for determining policies, setting priorities, and assessing the resources that are needed to

carry out an effective drug enforcement program. There is not even any central review of agency budgets to assure that the resources requested for drug enforcement are consistent with an overall plan to attack the drug trade.

Because the responsibility for drug enforcement coordination is dispersed throughout the executive branch, there is also no accountability to Congress. As chairman of the Select Committee on Narcotics Abuse and Control, I have repeatedly asked administration witnesses who is in charge of drug policy. Unfortunately, it seems that no one is in charge.

The purpose of H.R. 4028 is to assure that there is a single, high-level official in the executive branch with the clear mandate and the authority to develop a comprehensive drug enforcement plan and coordinate the implementation of this plan. Creation of the Office of Drug Enforcement Coordination, as contained in H.R. 4028, will provide coherence and direction to our Nation's drug enforcement program. It will also assure greater accountability for results and strengthen congressional oversight of drug enforcement activities. The Office of Drug Enforcement Coordination will not be merely another layer of bureaucracy; rather, it will help cut through the confusing and overlapping array of coordinating bodies this administration has established, which have only served to fragment and conceal responsibility for drug policies.

While I support enactment of H.R. 4028, I do have some serious concerns about the bill. By incorporating and strengthening in H.R. 4028 only the supply control provisions of the Drug Abuse Prevention, Treatment and Rehabilitation Act, this bill fails to sustain the congressional policy that has guided the Federal effort to combat drug abuse and drug trafficking since 1972. That policy recognizes that efforts to reduce the supply of drugs and efforts to reduce the demand for drugs are interrelated and calls for the development and implementation of a comprehensive, coordinated, long-term Federal strategy to combat all aspects of the drug abuse problem. While many of the Federal Government's efforts in the area of drug abuse treatment and prevention have been consolidated in the Department of Health and Human Services, a number of other agencies continue to have significant responsibilities for demand reduction including ACTION, the Department of Education, the Department of Transportation and the Department of Defense. Even our law enforcement agencies such as the Drug Enforcement Administration are involved in drug abuse prevention activities. Drug abuse treatment and prevention require the same high-level attention and coordination that H.R. 4028 would provide for our law enforcement, interdiction and international narcotics control activities.

Notwithstanding these concerns, I support H.R. 4028 because of the pressing need to strengthen the coordination among the many agencies responsible for drug law enforcement. I hope it will be possible to address the demand side of the equation at a later time.●

● Mr. GILMAN. Mr. Speaker, I rise in support of the revised H.R. 4028, the Drug Enforcement Coordination Act of 1984, creating the Office of Drug Enforcement Coordination within the Executive Office of the President [EOP] with a Director who would be responsible for formulating a comprehensive Federal drug enforcement strategy.

Under this measure, the duties of the Director would include establishing objectives and priorities for Federal drug enforcement, coordinating and overseeing the performance of Federal drug enforcement departments and agencies, recommending to the President changes in the organization, management, budget, and personnel of Federal departments involved in narcotics enforcement, and consulting with State and local governments regarding their relations with Federal drug enforcement agencies. The Director would also submit a report to the Congress each year detailing the Director's activities, including the current Federal drug enforcement strategy.

While I support establishing an office within the EOP, I believe that it is essential for us to pass legislation creating a position that has more responsibility, including the responsibility for drug prevention, treatment and rehabilitation functions. That is one reason why I cosponsored the original H.R. 4028, informally known as the "drug czar" bill, which was designed to pull together all aspects of narcotics trafficking and drug abuse under one individual who would have direct access to the President and who would be in charge of formulating and coordinating a Federal drug abuse strategy—a strategy that would include drug law enforcement and drug prevention, treatment and rehabilitation functions. The original H.R. 4028 called for creating an Office of Drug Abuse Policy [ODAP] within the President's Executive Office headed by a Director, and a Deputy Director for Drug Abuse Prevention and a Deputy Director for Drug Enforcement.

Under the revised H.R. 4028, the Office of Drug Abuse Policy, currently headed by Dr. Carlton Turner, would be abolished. Although the Select Committee on Narcotics Abuse and Control, of which I am the ranking minority member, has repeatedly urged a more active and responsive role for this office, abolishing ODAP rather than revising its authority, as the original H.R. 4028 had proposed, leaves no one in charge within the President's Executive Office to formulate and coordinate a comprehensive Federal strategy for drug prevention, treatment, and rehabilitation. Rather, those functions would now be relegated if the recently House-passed H.R. 5603, the alcohol, drug abuse and mental health block grants authorizations, becomes law, to an Alcohol, Drug Abuse and Mental Health Strategy Council located in the Department of Health and Human Services. The critical question now becomes: Who is in charge of the preventing and controlling drug abuse in our Nation? Unfortunately, the revised version of H.R. 4028 leaves us with a fragmented answer.

Mr. Speaker, what concerns me is that the drug prevention, treatment, and rehabilitation aspects of the narcotics problem will be neglected within the Executive Office of the President. One of the reasons that the "drug czar" concept found such popularity among the members of the select committee was that the scattered and half-hearted approach to prevention, treatment, and rehabilitation presently exercised by our Federal agencies necessitated the creation of a position of "drug czar" to direct and coordinate all aspects of the narcotics problem. We now face a "catch as catch can" approach to the drug prevention, treatment, and rehabilitation at a time when drug abuse and the availability of narcotics, especially cocaine, are rising.

I hope that the creation of a Director of Drug Enforcement Coordination will prove to be a positive development in our "war" on drugs, as enforcement has become our last resort in the ever-escalating battle that our Nation is now fighting. However, I also hope that as we focus our attention on the enforcement aspects of the narcotics problem, that we will not neglect drug prevention, treatment, and rehabilitation that is so critical to our Nation's efforts to win the war on narcotics trafficking and drug abuse.

Mr. Speaker, although I am disappointed in the major features of the revised H.R. 4028, I do support this measure since I believe that half a loaf of constructive legislation is better than none at all. In this regard, I also want to commend the distinguished chairman of the Judiciary's Subcommittee on Crime [Mr. HUGHES], who is also a member of the Narcotics Select Committee, for his tireless and dedicated efforts in shepherding a "drug czar" proposal, albeit a modified "czar," to the floor of the House. This task has not been easy for him and I am confident that he, too, would have preferred to see an all encompassing

"drug czar" who would formulate and coordinate a comprehensive Federal strategy to prevent and control drug trafficking and drug abuse.●

The SPEAKER pro tempore (Mr. FRANK). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4028, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish an Office of Drug Enforcement Coordination to coordinate Federal efforts to combat illicit drug production and trafficking, and for other purposes."

A motion to reconsider was laid on the table.

SUPREME COURT MANDATORY APPELLATE JURISDICTION REFORM ACT OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5644) to provide greater discretion to the Supreme Court in selecting the cases it will review, as amended.

The Clerk read as follows:

H.R. 5644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Supreme Court Mandatory Appellate Jurisdiction Reform Act of 1984".

REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

SEC. 2. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 3. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 4. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 5. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 6. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c)(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

(d) Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 7. (a) Section 310 of the Federal Election Campaign Act (2 U.S.C. 437h) is amended by repealing subsection (b).

(b) Section 2 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 29), is amended—

(1) by striking out "(a)" immediately before "Except"; and

(2) by repealing subsection (b).

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court."

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "1252, 1254, 1291," and inserting in lieu thereof "1291".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 933(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

(i) Section 25(a)(4)(E) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)) is repealed.

(j) Section 21(f) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)) is repealed.

(k) Section 12(e) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)) is repealed.

EFFECTIVE DATE

SEC. 8. The amendments made by this Act shall take effect ninety days after the date of the enactment of this Act, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

□ 1350

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be very brief. This bill (H.R. 5644) unanimously passed the House last Congress under the sponsorship of Mr. Railsback. During the 2 years that have inter-

vened, reasons for final enactment have grown rather than diminished.

This bill substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court and the Court is obligated to hear and decide those cases. In most instances, these cases do not involve important issues of Federal constitutional law or conflicts in the interpretation of statutes by the circuit courts of appeals. The net effect of the bill is to convert the method of Supreme Court review to a discretionary, certiorari approach.

This change in appellate review is supported by all nine Justices of the Supreme Court. As stated in a letter of June 17, 1982 to me, they clearly state: "* * * we write to express our complete support for the proposals * * * substantially to eliminate the Supreme Court's mandatory jurisdiction."

The nine Justices further observe that mandatory cases permit litigants to require cases to be decided by the Supreme Court regardless of the importance of the issue presented or its impact on the general public. With limited time and resources at its disposal, "* * * it is impossible for the Court to give plenary consideration to all the mandatory appeals it receives. * * *" The Court must resort to summary dispositions that sometimes treat litigants in a cavalier way. Even though the summary dispositions of the Court are binding on the lower Federal courts and State courts, such decisions, in the Court's own words, "sometimes create more confusion than they seek to resolve."

The bill, in addition to being supported by the nine Justices, has been endorsed by the administration, the Judicial Conference of the United States, and the American Bar Association. The bill has its legislative roots deeply set in the American Law Institute's "Study of the Division of Jurisdiction Between State and Federal Courts" (1969), the "Report of the Study Group on the Caseload of the Supreme Court" (1971), the Department of Justice's "Report on the Needs of the Federal Courts" (1977), and my subcommittee's lengthy hearings on "The State of the Judiciary and Access to Justice" (1977) and "Supreme Court Workload" (1983).

There is no known opposition and the bill entails no cost to the Government.

Mr. Speaker, for a more in-depth examination of the proposed legislation, I refer Members to the House Report (No. 98-986) that has been filed. The report provides a lengthy background statement about the current statutory scheme and changes made to it by H.R. 5644.

I urge an "aye" vote on H.R. 5644.

Mr. Speaker, I reserve the balance of my time.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5644, the Supreme Court Mandatory Appellate Jurisdiction Reform Act of 1984.

This legislation, which originated in the 95th Congress and has been enacted at different times by both Houses of Congress, eliminates the mandatory or obligatory jurisdiction of the Supreme Court. This change in appellate review is supported by all nine Justices of the Supreme Court. As their letter of June 18, 1982, points out:

> It is impossible for the Court to give plenary consideration to all the mandatory appeals it receives, * * * to have done so during the 1980 term would have required at least nine additional weeks of oral argument or a seventy-five percent increase in the argument calendar.

Moreover, even though the summary dispositions of the Court are binding on the lower Federal courts and State courts, such decisions, according to the Court, "sometimes create more confusion than they seek to resolve."

The major shortcoming of the current system is that the Supreme Court is required to decide on the merits of cases of no special importance because they happen to fall within the categories which qualify for review by appeal under the current statutes. For example, 28 U.S.C. § 1254(2) authorizes appeal by a party relying on a State statue held to be invalid on Federal grounds by a Federal court of appeals. The notion of a "statute" in this provision applies to municipal ordinances and administrative orders, and it suffices if a State law is held to be invalid as applied. Obviously, the more time the Court must devote to cases of this type which are not of great importance either to the individual States or to the Nation, the less time it has to spend on more significant cases. H.R. 5644 would rectify this situation in a manner consistent with the intent of the Judiciary Act of 1925 to give the Supreme Court discretion to select those cases it deems most important, by eliminating the Court's mandatory jurisdiction. Accordingly, I urge my colleagues' support for this important court reform measure.

Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I rise in strong support of H.R. 5644, the "Supreme Court Mandatory Jurisdiction Reform Act of 1984."

The U.S. Supreme Court occupies a unique place in our constitutional scheme of government. Created by article III of the Constitution, the Supreme Court sits at the apex of the American legal system.

One of the principal functions of the Supreme Court is to resolve cases involving principles the application of which are of wide public importance or governmental interest, and which should be authoritatively decided by a final arbiter. Another function is to ensure uniformity and consistency in the law by resolving conflicts in decisions between or among trial courts or lower appellate courts.

The High Court can devote plenary consideration only to about 150 cases a year. During the past several terms, a substantial percentage of the Court's workload has been devoted to mandatory cases that do not have significant public importance. Elimination of these cases from the Court's docket will not preclude High Court consideration of cases of significant import to the Nation, will not have a deleterious impact on litigants, and will not adversely affect separation of powers or federalism.

Mr. Speaker, I have heard the pleas of eight Justices of the Supreme Court, and other observers, that the Court's workload is at the saturation point. Elimination of the Court's mandatory jurisdiction, although not a panacea to the Court's problems, is a necessary first step in relieving the Court's calendar crisis. As observed by Justice William Brennan in a recent Judicature article: "Congress could afford the Court substantial assistance by repealing to the maximum extent possible the Court's mandatory appellate jurisdiction and shifting these cases to the discretionary certiorari docket."

I applaud the work of the gentleman from Wisconsin [Mr. KASTENMEIER] in bringing this proposal before the full House. Hopefully, the measure will be passed by the other body and signed by the President before the end of this Congress.

I urge an "aye" vote.

□ 1400

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield myself just enough time to thank and compliment the Members of the subcommittee who over a period of years worked on this subject to produce the bill before us today.

● Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 5644, the Supreme Court Mandatory Appellate Jurisdiction Reform Act of 1984. This important court reform initiative has the support of the administration, the Judicial Conference, all nine Justices of

the U.S. Supreme Court, and the American Bar Association. In fact, there has been no opposition to this proposal since its initial introduction in the 95th Congress. I would like to note that last Congress, this legislation was introduced in the House as H.R. 6872 by by our former colleague from Illinois, Mr. Railsback, who, during his 16 years in Congress, made many significant contributions in the area of court reform.

H.R. 5644 substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court, and the Court is obligated to hear and decide those cases. In most instances, these cases do not involve important issues of Federal constitutional law. Rather, the categories of cases defined by the exisiting appeal provisions are essentially arbitrary. The new effect of H.R. 5644 is to convert the method of Supreme Court review to a discretionary rather than a mandatory approach.

The need for this legislation is heightened by the ever-increasing caseload of the Supreme Court. In all, eight of the nine Supreme court Justices have recently made public statements on the workload of the Supreme Court and the need to do something about it. While H.R. 5644 may not be the final answer to addressing the buregoning workload of the Supreme Court, it is certainly a significant first step that I urge my colleagues to support.●

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5644, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5644, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FEDERAL COURTS CIVIL PRIORITIES ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5645) to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Courts Civil Priorities Act".

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 2. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, 'good cause' is shown if a right under the Constitution of the United States or a Federal statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.".

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 3. The following provisions of law are amended:

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(11)) is repealed.

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h(c)), is repealed.

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(i)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110) is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C.160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "the court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(40)(A) Section 2004(e) of the Revised Statutes of the United States (42 U.S.C. 1971(e)) is amended—

(i) in the third paragraph, by striking out "An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application" and inserting in lieu thereof "The execution of an order disposing of an application pursuant to this subsection"; and

(ii) in the eighth paragraph, by striking out the first sentence.

(B) Section 2004(g) of the Revised Statutes of the United States (42 U.S.C. 1971(g)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the third paragraph.

(41)(A) Section 10(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973h(c)) is amended by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited".

(B) Section 301(a)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973bb(a)(2)) is amended by striking out ", and to cause the case to be in every way expedited".

(42)(A) Section 206(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-5(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(B) Section 706(f)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(2)) is amended by striking out the last sentence.

(C) Section 706(f)(5) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(5)) is amended to read as follows:

"(5) The judge designated to hear the case may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

(D) Section 707(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-6(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under the subheading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of The Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by a law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than sixty days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 405(e) of the Surface Transportation Assistance Act of 1982 (Public

Law 97-424; 49 U.S.C. 2305(e)) is amended by striking out the last sentence.

(55) Section 606(c)(1) of the Rail Safety and Service Improvement Act of 1982 (Public Law 97-468; 49 U.S.C. 1205(c)(1)) is amended by striking out the second sentence.

(56) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(57) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(58) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall not apply to cases pending on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this afternoon the House has before it H.R. 5645, a bill to restructure the way in which the Federal courts prioritize the cases before them. This bill has the support of the administration, the Judicial Conference of the United States, the American Bar Association and the Association of the Bar of the city of New York.

The basic purpose of this bill is to create an orderly system of civil priorities. Under current Federal law there are over 80 types of civil cases which must receive expedited treatment. It is clearly impossible for each of these categories of cases to be first—at the same time. The reason the courts have been presented with this chaotic mix of inconsistent directions is the inability of Congress to rationalize competing interests. Each time a committee passes out a new Federal cause of action it believes that those cases should be given a priority. This ad hoc type of development is incoherent and impossible to follow.

The bill repeals virtually all the existing civil priorities and creates a general rule. The general rule is that cases involving liberty such as habeas corpus or collateral review cases shall be given priority. In addition, Federal courts shall give priority to applications for temporary or preliminary injunctive relief. Finally, the courts may grant a priority status to other cases for good cause shown. This last provision is designed to permit the courts to sort out important cases from the frivolous. Not all civil cases contain the same intrinsic merit, even those brought under important Federal statutes. In sum, we trust Federal judges to decide cases on the merits; the least we can do is to trust them to set their own calendar within these general confines.

I do not believe there is any controversy about this bill; it passed the House unanimously last Congress and it is without opposition this Congress.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that the members of other committees of this House will pay some attention to H.R. 5645 and hopefully not report to this House in the future bills to set up a lot of new civil case priorities. It tends to have happened in a piecemeal fashion over the years.

I would like to commend the chairman and members of the Courts Subcommittee for their excellent work on H.R. 5645, the Federal Courts Civil Priorities Act, which would permit courts of the United States to establish the order of hearing for certain civil cases. The legislation accomplishes the objective basically by repealing most of the statutory provisions that require the expediting of civil cases in the Federal courts.

Now lately we have had a rush of provisions in other legislation to try to establish Federal causes of action, Federal civil actions. That is another thing, another fad, just like the civil priorities that have been established over a period of time and that this bill seeks to wipe out so that we can have an orderly way of dealing with civil litigation in the Federal courts.

The need to bring some semblance of order to the vast array of civil priorities that are spread throughout the United States Code, from title 2 to title 49, is well documented. The Department of Justice in their testimony before the Subcommittee on Courts, Civil Liberties and the Administration of Justice accurately observed that:

> These provisions have been enacted in a piecemeal fashion over the years with no attention to their cumulative impact on the courts and no effort to create an integrated, internally consistent set of instructions that can be effectively implemented by the courts. Thus, for instance, there are a number of provisions which require the court to hear particular categories of cases before all others, but no indication of how conflicts between such categorical priorities are to be resolved.

So, in other words, everything becomes first.

The current situation of unreconciled civil priorities led the Association of the Bar of the city of New York to conclude in their report on "The Impact of Civil Expediting provisions of the U.S. Courts of Appeals," that "* * * it becomes impossible to comply literally with the statutory requirements." H.R. 5645 effectively addresses this problem by revoking all but the most necessary expediting provisions, such as habeas corpus, and replaces them with a single standard which the courts can apply to all cases to determine the need for expedition.

This is as it should be.

H.R. 5645 is needed and important legislation that I urge my colleagues to actively support.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER], a member of the subcommittee.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 5645, the Federal Courts Civil Priorities Act. This bill recognizes that the courts are in the best position to determine which particular cases need to be expedited on their docket. The courts, after weighing the relative needs of various cases on their dockets, can then establish an order of hearing that treats all litigants fairly.

The bill would retain priority status for only three types of cases: Cases involving personal liberty, cases involving requests for temporary restraining orders or preliminary injunctions, and cases where "good cause" had been shown.

I want to commend Chairman KASTENMEIER for addressing the unique nature of cases filed under the Freedom of Information Act [FOIA] and establishing it as a priority under the "good cause" clause.

The Freedom of Information Act is a major tool through which the public and the press obtain information about their Government. Such information is perishable in most cases. Prompt review of decisions denying access to Government information is critical to insure its value to the public.

I offered an amendment to H.R. 5645 during full Judiciary Committee deliberations that would have given expedited treatment to FOIA cases. The committee instead adopted a substitute offered by Chairman KASTENMEIER that defined "good cause" so that FOIA cases could be eligible for expedited treatment. The bill's report language clearly states FOIA cases' priority.

Chairman KASTENMEIER has done a great job of preserving FOIA's strength. He has insured the American public that their right to know their Government's actions is secure.

□ 1410

Mr. KASTENMEIER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentlewoman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I want to compliment the gentlewoman for her role in the subcommittee for bringing forward the concern that the press in this country have continued ability to bring freedom of informa-

tion cases in terms of the timing of cases before Federal courts. And it was in response to that concern that we placed in the bill the "good cause" language, specifically relating to section 552 of title 5, United States Code, and courts' involvement in that type of case.

So I want to commend the gentlewoman from Colorado for her role and reaffirm that what she says is correct in terms of freedom of information cases.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Wisconsin very much.

● Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 5645 which would eliminate most of the existing civil priorities. Over the past 200 years various Congresses have acted in an ad hoc and random fashion to grant priority to particular and diverse types of civil cases. Unfortunately, so many expediting provisions have been added that it is impossible for the courts to intelligently categorize cases.

When this proposal was originally introduced, approximately 40 expediting provisions had been located. As a result of a further computer assisted search by the Library of Congress and Federal Judicial Center, an additional 40 priority provisions have been located.

This bill wipes the slate clean of such priorities with certain narrow exceptions. The courts are instructed under the bill to give appropriate priority to criminal cases and habeas corpus cases, because of the involvement of personal liberty. In addition, the courts are directed to give priority treatment to cases that involve either applications for temporary restraining orders or preliminary injunctions or to any other cases where good cause has been demonstrated. Moreover, because every congressional committee assumes that actions involving their jurisdiction are the most important, it is virtually impossible to reconcile competing priorities among the tens of provisions.

H.R. 5645 which is supported by the administration, the Judicial Conference, the American Bar Association, and the Bar of the city of New York represents an important court reform initiative and I urge my colleagues' support for it.●

Mr. KINDNESS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5645, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I as unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

RECORD RENTAL AMENDMENT OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5938) to amend title 17, United States Code, with respect to the rental, lease, or lending of sound recordings.

The Clerk read as follows:

H.R. 5938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Record Rental Agreement of 1984".

CONDITIONS ON RENTALS

SEC. 2. Section 109 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution.

"(2) Nothing in this subsection shall affect any provision of the antitrust laws. For purposes of the preceding sentence, 'antitrust laws' has the meaning given that term in the first section of the Clayton Act and includes section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition.

"(3) Any person who distributes a phonorecord in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

COMPULSORY LICENSES; ROYALTIES

SEC. 3 Section 115(c) of title 17, United States Code, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right of the maker of a phonorecord of a nondramatic musical work under subsection (a)(1) to distribute or authorize distribution of such phonorecord by rental, lease, or lending (or by acts or practies in the nature of rental, lease, or lending). In addition to any royalty payable under clause (2) and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under clause (2) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause.".

EFFECTIVE DATE

SEC. 4. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of section 109(b) of title 17, United States Code, as added by section 2 of this Act, shall not affect the right of an owner of a particular phonorecord of a sound recording, who acquired such ownership before the date of the enactment of this Act, to dispose of the possession of that particular phonorecord on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before the date of the enactment of this Act.

(c) The amendments made by this Act shall not apply to rentals, leasings, lendings (or acts or practices in the nature of rentals, leasings, or lendings) occurring after the date which is five years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I bring to the floor H.R. 5938, the Record Rental Amendment of 1984. This bill modifies the "first sale" doctrine as embodied in section 109(a) of the Copyright Act to require authorization of the copyright owners in a sound recording before that recording may be commercially rented. It involves no cost to the Federal Government.

Under existing law, a phonorecord of a copyrighted sound recording may be commercially rented without the permission of, or compensation to, the copyright owners. According to testi-

mony received by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, there are approximately 200 commercial record rental establishments in the United States. These establishments rent records at low cost, and frequently sell blank audio cassettes as well. One such establishment even advertised, "Never, ever buy another record."

This direct link between commercial record rental and the making of a copy of the record without the permission of or compensation to the copyright owners is the economic and policy concern behind this legislation.

The Senate has already passed a similar bill, S. 32, unanimously. The subcommittee improved on that proposal (H.R. 1027) by adding amendments exempting nonprofit schools and libraries, exempting existing inventories, adding a 5-year sunset provision, eliminating criminal penalties for infringement, and affirming the continued application of Federal antitrust laws. We also made explicit that songwriters with a copyright in a sound recording share proportionately in any royalties from rentals.

It should be noted that although the subcommittee also considered legislation (H.R. 1029) to prohibit the commercial rental of videocassettes or other audiovisual works, the bill we reported does not include this proposal and is limited to phonorecords. Nor does this bill address the issue of home taping of copyrighted works for private, noncommercial use.

H.R. 5938, a clean bill, was reported unanimously by both the subcommittee and the Committee on the Judiciary. It is supported by the administration, the Copyright Office, and a coalition of music publishers, songwriters, artists, and recording companies. It is a worthwhile proposal that deserves your support as well.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume not to exceed 3½ minutes.

Mr. Speaker, I rise in support of H.R. 5938, relating to the rental, lease or lending of a musical record. This legislation has strong bipartisan support. A similar measure has already passed the other body (S. 32). The effect of this legislation is that unless authorized by the copyright owners, a purchaser of a particular phonorecord may not, for the purposes of direct or indirect commercial advantage, rent or lease a phonorecord to another person. Unlike the renting of a motion picture, the renting of a record is done almost exclusively for the purpose of making a copy of that music without any compensation to the copyright owner and thereby displacing a particular sale of that music. If this practice were permitted to continue and grow it would only be a matter of time before our music industry as we know it today, would be a thing of the past.

During our hearings there were a number of concerns expressed about the effect of H.R. 5938 and they were addressed by amendment in subcommittee, for example, there were witnesses who expressed concern that this legislation might permit the record industry to engage in activity contrary to existing antitrust policy. An amendment was added to make clear that nothing in this bill constitutes an expressed or implied repeal of the Federal antitrust law. This legislation would not permit copyright owners to engage in conduct that is otherwise unlawful under the antitrust law. It was also made clear in subcommittee that H.R. 5938 is not retroactive. That is to say, that a rental store owner who purchased his entire inventory prior to the effective date of this legislation will be free to commercially lend, lease, or rent that inventory without permission of the copyright owner. Also the committee believes that a 5-year sunset provision was in order. The purpose of the sunset provision is to enable the Judiciary Committee to review and reconsider the appropriateness and justification for this legislation at a later time.

Mr. Speaker, this is important legislation. The first sale doctrine was never intended to be used as a mechanism to create a second-hand rental market that would eventually replace a primary sales market or replace a traditional public performance market.

I urge your support for H.R. 5938.

Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. EDWARDS], the author of the bill.

□ 1420

Mr. EDWARDS of California. Mr. Speaker, I am pleased to rise in support of H.R. 5938, the Record Rental Amendment of 1984. H.R. 5938 modifies the "first sale doctrine" of the Copyright Act to protect the interests of copyright owners in sound recordings and the underlying musical composition by requiring that their consent be obtained before sound recordings could be commercially rented.

For some time, I have advocated a number of legislative proposals to bring our copyright laws, which have not always kept current with advances in technology, up to date. This bill, which I first offered as part of a broader package in 1982, is an important part of that effort.

The phenomenon of commercial record rentals is quite recent. In any one of the approximately 200 record rental stores across the country, for as little as 50 cents, a person can rent a record album, copy the album onto a cassette, and then return the record to the rental store. These stores offer to the public a way of obtaining music without having to purchase a record and subsequently without paying a cent to the creator and copyright owner of that music. The result is lost royalties to recording artists, musicians, composers, and publishers, and lost sales for retail record stores, distributors and manufacturers. The threat these stores present to the health of the recording industry and to record retailers is substantial.

The law needs to be revised so that the growing record rental problem does not add to the estimated $1.4 billion annual loss already caused by home music taping. The bill we are considering today will bring the "first sale doctrine" up to date to reflect these recent changes in technology and in the marketplace.

Mr. Speaker, I would like to take a moment to thank the distinguished chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, Mr. KASTENMEIER, for his work on this important bill. The gentleman from Wisconsin has certainly been in the forefront in urging exploration of the implications of technological change for our copyright laws. I look forward to continuing to work with him in this regard, as we strive to reconcile the needs of creators, users of new technologies and the public.

His work on the Record Rental Amendment of 1984, and that of the other subcommittee members and the fine staff, shows that careful deliberation can achieve that balance. The result is a balanced, well crafted bill which addresses fairly the needs of the creative community, the concerns of record retailers, and the public interest.

Mr. Speaker, I also congratulate and thank the distinguished ranking minority member of the subcommittee, the gentleman from California [Mr. MOORHEAD] and, of course, the floor leader on the other side of the aisle for today, the gentleman from Ohio [Mr. KINDNESS] whose contributions to the issue have been large.

Mr. Speaker, I urge approval of this important legislation.

Mr. KINDNESS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SAWYER].

Mr. SAWYER. I thank the gentleman for yielding me this time.

Mr. Speaker, I may say that this bill was a very persuasive case presented by the recording companies. On listening to similar testimony on the video tape I was not nearly as persuaded, and I think that was the general consensus of the subcommittee at the time.

This does not, and I emphasize this, address the so-called Sony case, or the interfering with anybody's private

right to record in their own home for noncommercial purposes or copy a recording in their own home for noncommercial purposes. I think we make clear in our report that we did not intend to approach that question or have any impact on it.

Historically, this problem of first sale comes from the ancient English common law which prohibited the putting of alienations or restrictions on property when you sold it. They call it the restraint against alienation rule. Then it was incorporated in our copyright law in 1909, and again in another redoing of that law in 1947, and then modernized, but still substantially the same, in the 1976 copyright law.

It has become obvious after listening to the testimony that the time had come to change that and give copyright owners the protection against at least the deliberate duplication for a commercial purpose and sale of their records. I would urge full support of the bill.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado, Mrs. SCHROEDER, a member of the subcommittee.

Mrs. SCHROEDER. I thank the gentleman for yielding me this time.

Mr. Speaker, as a cosponsor of this legislation, I am delighted to see it on the floor today. The record rental bill is noncontroversial and has enjoyed overwhelming support from the subcommittee and full committee. The Senate has already passed a separate record rental bill.

The bill simply states that under the copyright laws, prerecorded audio records and tapes may not be commercially rented unless authorized by the copyright owner. It's a bill that acknowledges the constitutional copyright principles that protect intellectual property; namely, that the payment of royalties for the use of creative property is the only method by which the creator is rewarded and provided an incentive to future creativity. That principle serves the interest of both the copyright holders and the public.

Currently, the rental record business ignores the copyright holders' right to be compensated. While record rental stores have only been recently established, there are approximately 200 commercial record rental stores. The stores rent the records for rates of $.50 to $2 per day. Blank tapes are frequently sold in the same stores. People can rent records and tape them, without compensating the copyright holder for his or her work. When one combines that with the fact that audio hometaping displaces record sales of approximately $1.4 billion annually, money that does go to the copyright holder, one can see why it is important to nip in the bud the record rental stores' abuse of the first sale doctrine.

It's the direct relationship between the commercial rental of a record and the making of a copy of the record without the permission of or compensation to the copyright owner that prompted the subcommittee to act on the legislation.

The subcommittee report and the chairman of the subcommittee have stated that the bill does not set a precedent for hometaping issues. However, one cannot overlook the important interrelationship of the two issues.

Both address the copyright holder's constitutional right to be compensated for his or her work.

Both address the economic harm of audio hometaping.

Both address the recent clash between our rapid technological advancement and the copyright laws. Copyright law must keep pace with these new technologies.

The preservation of strong copyright laws is important to the creativity that has become our country's trademark all over the world. I would like to thank Chairman KASTENMEIER for making one more step toward strengthening those laws, and urge him to continue in that tradition by examining further the issue of technology's effect on copyright and in particular the hometaping issue.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to a member of the subcommittee, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding me this time, and I want to thank him for his work on this bill. This is, as the gentlewoman from Colorado has just said, a very important new area. As technology is advancing, the law has to try to keep up, and it is important that we, in a number of areas—not just this one—deal with making sure that those who have legitimate rights of ownership are protected in those rights of ownership, primarily as an incentive, as the gentlewoman has indicated.

Now, we have previously acted on legislation in the subcommittee involving protection of the design of chips, and there will be other areas where it is important that we act not in a way that restricts the flow of information, but which guarantees that the creative people in our society, whether it is in the arts, or whether it is in computer technology or elsewhere, get the kind of protection of rights of ownership which is necessary for an incentive, and, at the same time, does not stifle competition.

This piece of legislation which has received considerable work from the chairman of the subcommittee and the staff and the Members, I think reaches that goal. It protects those who have a legitimate ownership right. It does what we need to do to keep that incentive in place without stifling legitimate competition and access.

I want to stress one particular point. Many of us on the subcommittee and in the full committee and in the House, are motivated in part by our understanding of the need for proper incentive for creative people—for those who write for those who perform, for those who paint. It is sometimes portrayed, when we deal with copyright matters as if it is a handful of the owners of copyrights who are trying to extract more money from the public. I do not doubt that the owners of copyrights, like the owners of everything, want to extract money from the public. Extracting money from the public is an honorable American profession, and everyone who has a shot at it takes that shot.

□ 1430

But there is another side to this particular issue. We have a few very highly paid performers in the music business, but a lot of people who perform in the music business are the musicians, the side men and side women, so-called, who perform on the records who are not highly compensated. We have people who write songs who do not always get the big hits. We have arrangers and other people who perform creatively.

Record rental without this legislation threatens ultimately their source of income because their income comes from the pool that is available to those who hold the copyrights. But I want to add a caveat here very explicitly to those who do hold the copyrights, and that is to say that we are experimenting.

This is new legislation. This is, as the gentleman from Michigan [Mr. SAWYER] pointed out, a change; an adaptation of copyright law. I think it is a very appropriate one because it is an effort to keep up with new technology. But I, and I think many others are going to want to see that the creative people get a share in the revenues generated here.

If we have a situation where the fees generated here out of rentals in no way reach some of the creative people and they do not always have the copyright—in some cases, the songwriter does not hold the copyright, and in other cases, the musicians, the performers, they never have it. It is going to be important to us to see that they participate in the fruits of this legislation.

Mr. KINDNESS. I yield myself such time as I may consume. Mr. Speaker, I am really encouraged and perhaps enlightened by some of the discussion that has occurred here and I am just delighted to see it come forward because I believe we are seeing in this discussion, this debate, more understanding of what is going on internationally with respect to proprietary interests than we saw last week when

the drug patent extension bill was on the floor.

At that time, what we did was we voted as a House to cut back on the protection of intellectual property in order to give the rights to others to copy that intellectual property at an earlier time.

Today we are acting to protect it.

Last week we were acting to cut it back and at international commerce, we were hurting ourselves for a long time to come.

Remember a couple of years ago the infant formula dispute. That controversy that raged did not really have to do very much with the lives of infants. It had much more to do with an economic struggle, a concern over the control of the means of production. That is what that was really about.

When the World Health Organization formulated a code having to do with infant formula and encouraging breast feeding and discouraging or outlawing, in effect, communications about or advertising about infant formula, it was really an attempt to assure that as these things developed in the developing countries they would be manufactured there, not manufactured in the United States or other developed countries and sold into those lesser developed countries.

The same thing is now happening with prescription drugs and over-the-counter drugs.

Now, what does all this have to do with the bill before us? What it has to do with the bill before us is that we are acting entirely in the reverse direction today if we pass this bill as I think we should, as compared to what we did in cutting back on the patent protections for those who produce or develop pharmaceuticals in the bill that we considered last week.

Maybe we ought to be a little more consistent, but at any rate I am glad to see the intelligent light that has dawned upon us in a consideration of the bill before us today which I sincerely hope the House will pass unanimously.

Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, the gentleman from Ohio [Mr. KINDNESS] has broadened the parameters of this debate somewhat, but nonetheless, I will not yield to the temptation to enter into that particular area.

I would like to yield to the gentleman from California [Mr. BERMAN] 3 minutes. He is a member of the subcommittee who contributed to the work developing this bill.

The SPEAKER pro tempore (Mr. MITCHELL). The gentleman from California [Mr. BERMAN] is recognized for 3 minutes.

Mr. BERMAN. Mr. Speaker, it pleases me that the Record Rental Amendment of 1984 has finally reached the House floor. What we are doing here is tackling a problem before the damage to the creative community is too great, and before the practice of renting records and taping them at home grows so widespread that legislative solutions become more difficult to enact.

The problem we seek to address is clear: People who rent albums do so in order to make unauthorized copies at home. For the store that rents out the record, there is an obvious financial gain. For the person who makes an inexpensive tape of the rented LP, there is an obvious savings. But for the musicians, vocalists, composers, publishers, and record manufacturers who's talent and hard work went into making that record, there is no gain, no compensation—only lost royalties.

While there are legitimate reasons for a video cassette rental market to exist, and I might point out parenthetically that the proponents of amending the first sale doctrine with respect to video cassettes accept that principle, I don't see any justification for allowing this home taping of rented records to continue. Records are meant to be enjoyed over and over again, unlike video cassettes which are generally rented so that they may be viewed once. Many consumers would not care to make the investment needed to purchase a video cassette if they only intended to watch it once. Record consumers, however, should not be encouraged to rent albums they would otherwise buy, simply to facilitate the unauthorized taping and dissemination of these recordings. Renting, and then taping, an album is merely a convenient way for the consumer to avoid paying for what he or she is getting.

Royalties, amounting to only a few pennies per album, derive only from sales. As the option of renting and duplicating records at very small cost becomes more widely available, royalties decline. The loss to the record industry that results from the displacement of sales amounts to $1 billion a year. I worry that this will lead to decisions by record companies not to invest in new talent or less commercially popular artists because they can't afford to take the risk. This hurts artists, consumers, and America's musical tradition.

There is another aspect of record rentals which troubles me, and that is the erosion of the principle that a copyright holder is entitled to compensation for the commercial use of his or her creative property. The financial reward is part of the incentive for artists to contribute their talents to the public domain. In the case of rental stores, their success in no way benefits copyright holders, whose works, after all, form the basis of the rental business. This commercial exploitation of another person's creative property without the proper authorization is unfair and should be stopped.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. BERMAN] has expired.

Mr. KASTENMEIER. May I inquire of the Chair how much time I have remaining.

The SPEAKER pro tempore. The gentleman has 7 minutes remaining.

Mr. KASTENMEIER. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me an additional minute.

The bill before us, H.R. 5938, simply amends the "first sale doctrine" in the Copyright Act so that this harmful practice does not gain further momentum. It would require authorization by the copyright owners before a record can be rented out. Private borrowing and the noncommercial lending of public libraries and schools would not be affected. It would still be permissible for stores to rent out their existing inventory without permission of the copyright holders. And there is nothing in this bill that would allow record companies or retailers to engage in activities that are otherwise prohibited by the antitrust laws.

H.R. 5938 represents a fair and reasonable solution to the problem of record rentals and should be passed without further delay. I urge my colleagues to vote "aye."

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. MORRISON], a member of the subcommittee, who contributed to this bill and helped put it in the form it is in.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased today to rise in support of H.R. 5938, the Record Rental Amendments of 1984, which I think is a well-crafted bill, the result of careful study and hearings in our subcommittee, and I am pleased and proud to have been a part of bringing it to the floor.

This proposal came before the subcommittee with a laudable purpose; to insure the copyrighted records cannot be commercially rented and presumably copied without the authorization of and compensation to those who created the copyrighted works.

The practice of commercial rental is not currently widespread. However, technological developments in the form of superior copying equipment and the new compact disc present the prospect that without this legislation, creators in the very near future might be deprived of fair compensation and thus the incentive to create.

I am pleased to report that the subcommittee took this excellent proposal and improved upon it. We specifically

exempted public schools and libraries; made it clear that antitrust laws continue to apply; eliminated criminal penalties for infringement; made the bill prospective only excepting existing inventories; and ensured that both the creator of the song and the record share in any royalties. We also provided a 5-year sunset to enable Congress to take account of the actual practices under the law.

Article I, section 8 of the Constitution provides that:

> The Congress shall have Power * * * to Promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

The monopoly privileges that Congress may confer "* * * are neither unlimited or primarily designed to provide a special private benefit. Rather, the limited grant is a means by which an important public purpose may be achieved." *Sony Corp.* v. *Universal City Studios, Inc.*, 104 S. Ct. 774 (1984).

The congressional role, then, is to define the scope of the monopoly granted to the creator in order to serve as an incentive to the creation of new works for the benefit of the public. Clearly, this necessitates a balancing of interests.

I believe that what we have is an improvement in the copyright law, a proper balancing of the interest of the consumer and the interest of the creator.

□ 1440

That is the central purpose of copyright law. I think it has been realized here.

I would like to commend the chairman for his leadership in forging the necessary changes in this bill that allow it to come to the House floor as a noncontroversial matter and I hope it will be speeded on to passage and sent to the President.

● Mr. FISH. Mr. Speaker, I rise in support of H.R. 5938.

The problem which the record industry faces is more than a clash between titan commercial interest—the larger and more difficult problem is the adaptation of our copyright law, to new technologies. This is not a recent problem. We attempted, with the copyright revision in 1976, to try and adapt the law to various technologies. But the problem and the task of adaptation continues. It grows more serious every day because technology vastly expands the opportunities for copyrighted works to be replicated and used without the owner's control, without the owner's consent, and oftentimes without even the owner's knowledge. And the pace of technological innovation is itself accelerating.

Nowhere is this more apparent than in attempting to adapt the present day use of phonorecords to the traditional concept of the first-sale doctrine. To take a record album that retails at $10.95 and rent it for a day at $2 knowing full well that the album will be recorded and returned—knowing full well that the rental will clearly displace a sale. The idea of copyright is to reward the creator and as a result the public has access to his creation—the problem today is the public has the access like it's never had access before but the creator is not receiving his just reward. That is the adjustment Congress must make in order to preserve the traditional meaning of copyright, which has served this country so very well over the last five decades.

Copyright owners are, because of their creative and entrepreneurial talents, a unique group. They are a minority that cannot readily mobilize grassroots support on legislative issues, particularly copyright ones. This is especially true when the public is offered the choice of using your work product for practically free—but because their contributions to this country's spirit, culture, and economy are so important, the protection of their interest, although at times unpopular, must be on the conscience of the Congress not only as a matter of policy, but as a matter of fairness.

I urge your support for H.R. 5938.●

● Mr. MOORHEAD. Mr. Speaker, I rise in strong support of H.R. 5938, relating to the rental of sound recordings. I have been a consponsor of this legislation for the past two Congresses.

America is the leader in the development of high-technology products—computers and computer software, communications systems, information services, sophisticated chemicals, and the like. We are world leaders, as well, in motion pictures, books, music, records, and cassettes. Similarly, our marketing creativity and ingenuity will continue to be an engine of trade growth. While these products and services hold America's greatest promise for the future, they are also our most fragile commodity—fragile because, while difficult and expensive to create and market, they are easy and inexpensive to copy. The future of U.S. trade in products and services, based on intellectual properties, is critically dependent on a worldwide system of laws that provide adequate and effective protection against theft and unauthorized exploitation by others. In most of the world's developed countries, patent, copyright, trademark, and similar laws exist to protect these important properties. Many of the newly industrialized countries and less developed countries do not have effective intellectual property laws. China, for example, does not have a copyright law, but they have a new patent law which goes into effect in April 1985.

Without improvements in these systems of laws and provision for their effective enforcement, piracy and counterfeiting will become a way of life and will become such a critical portion of the gross national product of those countries that they will be extremely difficult if not impossible to stop. This problem is upon us now. We must create new systems of protection and enforcement. The old wornout systems of the 1960's and 1970's will not serve your industry in the 1980's.

The problems which creators and inventors face today is more than a clash between titan commercial interest, such as Betamax versus motion pictures or performing rights societies versus radio, TV, and jukebox. The larger and more difficult problem is the adaptation of old concepts of copyright law, to new and rapidly changing technologies. The problem today is that the public has access like it's never had access before but the creator is not receiving his just compensation. New technologies have brought the concert into the living room but not the box office, and if our music industry is to remain No. 1 in the world there must be a box office.

Nowhere is this more apparent than in attempting to adapt the present day use of phonorecords to the old copyright concept of the first-sale doctrine. The first-sale doctrine was never intended to be used as means to create a secondhand rental market that, left alone, would eventually replace a primary sales market.

H.R. 5938 would enable copyright owners to control the commercial lending of sound recordings even though ownership of the particular copy has been transferred. A similar measure has already passed the Senate and we expect this to become law this year. I urge your support for this legislation.●

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I ask whether the gentleman from Wisconsin has further requests.

Mr. KASTENMEIER. No; I do not, Mr. Speaker.

Mr. KINDNESS. If not, Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5938.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5938, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 32) to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the Senate bill?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Record Rental Amendment of 1983".

SEC. 2. Section 109(a) of chapter 1 of title 17 of the United States Code is amended by replacing the period at the end thereof with a colon and inserting thereafter the following: *"Provided, however,* That, unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose or authorize disposal of the possession of that phonorecord by rental, lease, or lending, or by any other activity or practice in the nature of rental, lease, or lending.".

SEC. 3. Section 115(c) of chapter 1 of title 17 of the United States Code is amended by renumbering paragraphs (3) and (4) thereof as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right to distribute phonorecords by rental, lease, or lending (or by acts or practices in such nature). Without prejudice to the royalty payable under paragraph (2) of this subsection and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this paragraph equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under paragraph (2) that is payable by a compulsory licensee under such paragraph and under chapter 8. The register of Copyrights shall prescribe regulations to carry out the purpose of this paragraph.".

SEC. 4. This amendment becomes effective upon its enactment.

MOTION OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KASTENMEIER moves to strike all after the enacting clause of the Senate bill, S. 32 and to insert in lieu thereof the provisions of H.R. 5938 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5938) was laid on the table.

EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5479) to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 504(a)(1) of title 5, United States Code, is amended—

(1) by striking out "as a party to the proceeding", and

(2) by adding at the end thereof the following:

"The decision of the adjudicative officer on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) Section 504(a)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal.".

(c) Section 504(b) of title 5, United States Code, is amended—

(1) by amending paragraph (1)(B) to read as follows:

"(B) 'party' means a party, as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $1,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $5,000,000 at the time the adversary adjudication was initiated, and which had not more than five hundred employees at the time the adversary adjudication was initiated; except that (I) an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) may be a party regardless of the net worth of such organization or cooperative association, and (II) the adjudicative officer involved may adjust the net worth standards of $1,000,000 and $5,000,000 contained in this subparagraph, when appropriate, to reflect increases in the cost of living;";

(2) in paragraph (1)(C)—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that Act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof;

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(E) 'position of the agency' includes, but is not limited to, the actions and omissions of an agency which led to the adversary adjudication.".

(d) Section 504(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) A party dissatisfied with a determination of fees and other expenses made under subsection (a) may, within thirty days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. If the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), it may, within thirty days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on all appeals heard under this paragraph shall be based solely on the factual record made before the agency.".

(e) Section 504(d)(2) of title 5, United State Code, is amended to read as follows:

"(2) There are authorized to be appropriated to each agency for any fiscal year beginning on or after October 1, 1984, such sums as may be necessary to pay fees and other expenses awarded under this section.".

(f) Section 504 of title 5, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the fees and other expenses awarded under this section is not made within sixty days after the final agency action making an award of such fees and other expenses, interest shall be paid on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date whch is sixty-one days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or official of the United States";

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)"; and

(3) in subsection (d)(1)(B), by inserting immediately after "action" the following:

"or order of remand for further hearing made pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3))".

(b) Section 2412(d)(2) of title 28, United States Code, is amended—

(1) in subparagraph (B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $5,000,000 at the time the civil action was filed, and which had not more than five hundred employees at the time the civil action was filed; except that (I) an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) may be a party regardless of the net worth of such organization or cooperative association, and (II) the court may adjust the net worth standards of $1,000,000 and $5,000,000 contained in this subparagraph when appropriate, to reflect increases in the cost of living;";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(D) 'position of the United States' includes, but is not limited to, the actions and omissions of an agency which led to the litigation;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment the time to appeal which has expired for all parties;

"(H) 'prevailing party in a civil action' includes a party who, pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3)), has won an order remanding the cause for further hearing; and

"(I) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4)(B) of title 28, United States Code, is amended to read as follows:

"(B) There are authorized to be appropriated to each agency for any fiscal year beginning on or after October 1, 1984, such sums as may be necessary to pay fees and other expenses awarded under this subsection.".

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within sixty days after the award of such costs or fees and other expenses, interest shall be paid thereafter on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is sixty-one days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b)(1) of the Social Security Act (42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code, and section 206(b)(2) of that Act shall not apply with respect to any such award.".

SEC. 4. The amendments made by the first section and sections 2 and 3 of this Act shall take effect on October 1, 1984, and shall apply to any adversary adjudication, as defined in clauses (i) and (ii) of section 504(b)(1)(C) of title 5, United States Code (as amended by the first section of this Act), and any civil action described in section 2412 of title 28, United States Code (as amended by section 2 of this Act), which is ending on or commenced after October 1, 1984.

SEC. 5. Section 203(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 6. Section 204(c) of the Equal Access to Justice Act is repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5479, a bill to extend and improve the implementation of the Equal Access to Justice Act—title II, Public Law 96-481. Portions of the 1980 act expire on October 1, 1984, and urgently need to be extended H.R. 5479 makes the law permanent.

The bill which is before this body is a bipartisan product of the Committee on the Judiciary and was reported by voice vote with no opposition. I would like to commend the members of the subcommittee and the full committee—and in particular the gentleman from New York [Mr. FISH], the gentleman from California [Mr. MOORHEAD], gentlemen from Ohio [Mr. KINDNESS and Mr. SEIBERLING], and the gentleman from Connecticut [Mr. MORRISON] for their assistance in drafting and processing this legislation. I recommend to the Members, the report (H. Rept. 98-992) which the committee has filed on H.R. 5479.

The legislative has widespread support from several organizations including the Small Business Administration's Office of Advocacy, Small Business United, the Small Business Legal Defense Committee, the Small Business Legislative Council, the National Federation of Independent Business, the U.S. Chamber of Commerce, the National Small Business Association, the Independent Business Association of Wisconsin, the Menswear Retailers of America, the Alliance for Justice, and the American Bar Association.

The administration supports the extension of the act, but opposes some of the provisions. I am sure that the administration will agree that H.R. 5479, as reported by the Committee on the Judiciary, has responded to most of the concerns which were raised by the Department of Justice when its representative testified on March 14. H.R. 5479, clarifies and improves many provisions of concern to the Department including: First, the definition of eligible party, Second, the appeal rights and standard of review under the act; and Third, the effect of the act on condemnation proceedings.

The primary purpose of H.R. 5479 is to extend and make permanent those provisions of the Equal Access to Justice Act which will expire on October 1, 1984. These provisions were originally enacted as a 3-year experiment and, I might add, incidentally, not only did the Committee on the Judiciary participate in that regulation (S. 265/H.R. 5612), but certainly so did the Committee on Small Business, of which the present occupant of the chair, the gentleman from Maryland [Mr. MITCHELL] was a principal member. The act provided that the United States shall be liable for attorneys' fees and related expenses to eligible parties who prevail in adversary adjudications and civil actions, unless the United States can show that its position—including its underlying conduct which led to the administrative or court proceeding—was substantially justified or if special circumstances would make an award unjust. The act was aimed at reducing the disparity in resources between the Federal Government and parties in certain administrative and civil court proceedings. Eligible parties under the act are generally small businesses, individuals, units of local government, and other similar organizations. No individual can have a net worth exceeding $1 million. Organizations and businesses—except for agricultural cooperatives and organizations under 501(c)(3) of the Internal Revenue Code—cannot have a net worth exceeding $5 million. All organizations are limited to those with not more than 500 employees.

Rates of compensation for attorneys' fees are generally limited to $75 per hour unless the agency or court deter-

mines that an increase in the cost of living or a special factor, such as the limited availability of attorneys, applies. The act has not been very costly, amounting to only approximately $2½ million in awards since its effective date of October 1, 1981. The Congressional Budget Office [CBO] had originally projected a much higher figure—$100 million.

This year CBO has adjusted its cost estimate[1] downward estimating that the cost of the act, as amended by H.R. 5479, would be approximately $3.7 million for fiscal year 1985 and up to $7 million for fiscal year 1989. If half the parties who prevailed against the United States recovered fees, the figure could go as high as $30 million. However, it is unlikely that the amount would be that high, since there will be no award if the United States can show its conduct was substantially justified.

The major issue which H.R. 5479 clarifies is that the position of the agency or United States which must be substantially justified to relieve the United States of liability when the opposing party prevails is more than the Government's litigation position, and includes the underlying actions and omissions which lead to the proceeding. Although the administration does not like this particular interpretation, this expansive reading of the term is necessary to ensure the basic purpose of the act. Otherwise the Government could act in an unjustified manner until it filed suit or walked into the courtroom, and then escape liability. H.R. 5479 is merely asking that the Federal Government be accountable for its conduct.

In conclusion, Mr. Speaker, I urge your support for this important bill, which will ensure that litigants involved in civil disputes with the Federal Government can vindicate their rights.

□ 1450

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5479, which would permanently authorize the Equal Access to Justice Act and make needed and significant improvements in its provisions.

When the Equal Access to Justice Act was enacted in 1980, it was based on the recognition that, more often than not, individuals and small businesses with limited assets do not have the resources to defend against unjustified Government action. Especially where the cost of vindication routinely exceeds the amount at stake. Moreover, the Government does not have the economic incentive or disincentive to carefully evaluate the merits of its case before proceeding.

[1] See House Report 98-992.

The act rectifies this situation by providing that individuals and small businesses are to be reimbursed for their attorneys' fees if they are successful in certain administrative and judicial actions with the U.S. Government, unless the Government can show that its position was substantially justified or that special circumstances would make such an award unjust.

To date, the number of awards made under the act, especially in administrative proceedings, have been minimal. It has been argued that this is due in large part to the fact that agencies have been reluctant to award attorneys' fees against themselves. As a result of this concern, H.R. 5479 makes it clear that the decisions of adjudicative officers on fee applications in agency proceedings are unreviewable by the agencies. During the full Judiciary Committee's consideration of H.R. 5479, I attempted to strike that provision based on the rationale that creating an unreviewable class of adjudicative officers' decisions is a significant departure from customary agency procedure in that it would be the only issue on which the adjudicative officer makes the final determination. Moreover, in the act's first 2 years, only three adjudicative officers' decisions have been reversed on agency review. However, it was the wisdom of the committee, by a margin of one vote, to give the adjudicative officer the authority to make the final fee determination, rather than the agency itself.

In light of the committee's decision on this issue, I offered a related amendment to ensure that the United States has the same right of appeal of an adverse agency decision on the issue of attorneys' fees and expenses as would a private party. I felt, and the committee apparently agreed in adopting my amendment, that it was inequitable to give a private party the right to appeal while requiring the Government to petition for the leave to appeal.

One of the important improvements in H.R. 5479 is the addition of a new provision which expressly placed Board of Contract Appeals proceedings under the Equal Access to Justice Act. As an author of the Contract Disputes Act of 1978, I have often been frustrated by agency and judicial misinterpretations which run contrary to the spirit of the act. Unfortunately, Equal Access to Justice and its application to the Contract Disputes Act has been yet another example of this type of misinterpretation.

After enactment of the Equal Access Law in 1980, it soon became apparent that Congress inadvertently left the door open to agency and judicial misinterpretation by not specifically authorizing the award of attorneys' fees against the United States in Board of Contract Appeals (BCA) proceedings. It was argued by those trying to limit that liability of the United States that Equal Access had no application to BCA proceedings because Congress had not explicitly authorized the award of attorneys' fees under BCA proceedings. Today, we are overruling this misinterpretation and clearly reestablishing the original intent of Congress to provide Equal Access to Justice in concert with the balanced alternative remedies found in the Contract Disputes Act of 1978. To leave this uncorrected would only undermine the carefully crafted balance set forth for Government contract dispute resolution and further burden the Claims Court with disputes otherwise and perhaps better settled on the BCA level.

In short, Mr. Speaker, the reauthorization of the Equal Access to Justice Act will serve to cement and improve upon the rights of citizens who feel that Government has treated them in an unjustified manner. Accordingly, I urge favorable consideration and passage.

As the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from New York [Mr. FISH] have indicated, the committee adopted several other amendments to the Equal Access to Justice Act in an effort to improve its effectiveness. In light of the importance and complexity, of this legislation I believe that it will be incumbent upon the Judiciary Committee to exercise careful oversight in this area. Having said that, I urge my colleagues to support this significant legislation.

Mr. KASTENMEIER. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER], a member of the subcommittee.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 5479, the reauthorization of the Equal Access to Justice Act. I supported the bill in subcommittee and full Judiciary Committee because it is an important step toward giving individuals, small businesses, and other organizations access to justice in administrative proceedings and civil actions.

H.R. 5479 not only extends, improves, and strengthens the Equal Access to Justice Act—it makes it permanent. The act expands the liability of the United States for attorneys' fees and other expenses to certain parties who prevail against the United States in certain administrative and court proceedings. Therefore, under the bill, prevailing parties in suits against the Government may recover attorneys' fees and certain other expenses when the Government is unable to show that its actions were substantially justified.

In my district of Denver, the small business community considers this bill to be the "magna carta for small busi-

ness." There is a significant number of Federal functions in Denver and Colorado. Consequently, the small business community in Denver is engaged with the Federal Government in many contracts. This bill has had an important impact on small business in my district, and in the country, because it has caused Federal agencies to think twice before it initiates frivolous action. Federal agencies must consider the consequences of this bill.

As a member of the subcommittee, I want to commend Chairman KASTENMEIER and the small business community for their cooperative effort in producing a good, strong piece of legislation.

Mr. KASTENMEIER. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH] who, representing the Committee on Small Business, had taken the original lead on this legislation 3 years ago and contributed so much to the form which the legislation eventually took. I want to compliment the gentleman from Iowa for his efforts.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend the committee not only for making this access to justice law permanent but also for substantially improving the legislation.

I want to point out a couple of things. For one thing, it was never intended by those of us who were the original authors of this bill in 1980 that the reimbursement would be limited to those cases where a U.S. attorney confirms the agency action. That was never intended, but that is the way it was ruled in at least one of the circuits, and that has been cured in this bill.

I do want to point out a couple of things, though, that I hope in conference the gentleman from Wisconsin and the gentleman from Ohio will favorably consider. In the Senate bill, they include the IRS. Now, I know the Judiciary Committee had jurisdictional problems here, but in the Senate bill, they include the IRS as an agency which must reimburse people in certain cases, and in our hearings, we found that there were substantial numbers of cases where there are arbitrary actions taken by the Internal Revenue Service. I hope that when you come back with the final bill, the IRS will be included.

□ 1500

Another thing that I want to point out is that in the Senate bill, an agency required to pay the expenses to defend against an action which should not have been taken, shall be required to take out of their salaries and expenses account whatever it is determined should be reimbursed. By doing this, it keeps the pressure on the agency not to be arbitrary or take actions not substantially justified. That is in the Senate bill and if this is done, I think there will be a zero cost. The administration estimated the cost at $100 million. Well, at that time, they were asking for separate appropriations. The last thing we want to do is to give an agency a separate appropriation so that they can pay for whatever they did wrong. If we make them take such a cost out of their salaries and expenses account, then they will not have so many of these arbitrary decisions. So I want to commend the gentleman for this bill and also for the other bills. There are a whole series of bills here on the floor today, all of which have been revealed as needed in hearings before the subcommittee that I am privileged to chair.

One of the bills handled by the gentleman for New Jersey [Mr. HUGHES] and the gentleman from Michigan [Mr. SAWYER] involved priorities on the courts' time. In 1982, one prisoner had 35 habeas corpus petitions and when that happens, it takes the time of the courts away from something that is more important and it squeezes out something that is more important as far as law enforcement is concerned.

Also, the drug enforcement bill is a very important bill, so I want to commend both the full committee and the chairmen of the two subcommittees that have these bills on the floor today.

Mr. KINDNESS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding.

I just want to say, without belaboring this discussion, that this when we first adopted it in 1980 I thought was one of the most necessary and really justice-sounding type of bill. I know that almost all Federal agencies and Federal prosecutors try strictly to bring only those actions or take those positions that are in their view justified, substantially justified; but on occasion it happens that they do not and when it does happen, some small business, some individual, somebody that can ill afford to bear the expenses involved may be subjected to almost a devastating loss beyond either his individual means or the means of his individual business to sustain, even though they end up prevailing in the action.

Now, I would say that in those cases where the Government did not prevail in the action, but the other party did, it should raise I think somewhat of at least a presumption that the action was not substantially justified, leaving it subject to being corrected by proof that through some happenstance or some other reason the Government was substantially justified at the time, but failed to prevail.

I would hope that with these new amendments that we are adding in this bill, trying more and more to point up that question and to say that reasonably justified is not good enough. We turned that down before in the subcommittee and that by substantially justified we intend to mean more than reasonably justified.

I would hope they would look askance at the Government contending for that position and that exemption, where the Government had decisively and rather clearly lost the case, not to say that it cannot be that case, but it seems to me that the courts, as indicated by the figure of the awards given, have been somewhat loathe to exercise the right given them by this bill, and hopefully this bill amends that and will improve that situation.

Mr. KASTENMEIER. Mr. Speaker, I yield 7 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of H.R. 5479, the Equal Access to Justice Act amendments. I am proud to have helped develop this bill in the Subcommittee on Courts, Civil Liberties, and Administration of Justice. I would like to commend our chairman, the gentleman from Wisconsin, for his able leadership in moving this bill forward.

This bill confronts one of the most fundamental problems in our legal system: The gross inequality between the resources of the Federal Government and those who protest its actions; and as the title of the bill suggests, the aim of this legislation is to help remedy this inequality.

H.R. 5479 makes the Equal Access to Justice Act permanent. Under EAJA, the Federal Government is liable for attorneys' fees in some actions when an eligible party prevails against the Federal Government. The Federal Government is liable unless the United States can show that its position, including its underlying conduct, was substantially justified, or unless special circumstances would make an award unjust.

One section of the bill, that pertaining to the Social Security Administration, warrants special attention. In this section, the bill sends a clear directive to the Social Security Administration to reconsider and correct their policies of the past 3 years.

Since passage of the original EAJA legislation in 1980, the overwhelming majority of cases in which the Government's legal position has been found to be "not substantially justified" have involved the Social Security Administration's wholesale cancellation of disability benefits. SSA itself has just completed a study documenting this problem.

As reported by the September 9, New York Times, SSA has stated that "its efforts to remove people from the disability rolls have produced a major

crisis in litigation" and led to a "huge volume of adverse court decisions" and that "the agency's credibility before the Federal courts is at an all-time low" because many judges were convinced that Social Security will "defend any case in court, no matter how terrible the claimant's circumstances."

The confidential study said that there were now 48,000 Social Security cases pending in Federal courts around the country, up from 19,600 at the end of 1981. Last year, it said, 26,798 new cases were filed, an average of about 100 for each workday. Lawsuits have been filed at a slightly higher rate this year. The Government routinely filed answers to the lawsuits without making a "substantive assessment" of whether its positions were defensible, the Times reported.

H.R. 5479 responds in part to these disastrous policies. The bill makes permanent the coverage under EAJA for court proceedings involving SSA. While hearings at the administrative level are not normally covered, administrative hearings at which the Secretary of Health and Human Services is represented by counsel are made eligible under EAJA by this bill. These include the adversarial experiments, Government representation projects, or pilot projects that have been undertaken.

Another important improvement made by H.R. 5479 is clarification of the concept of "prevailing party" in Social Security and SSI cases. The realities are that when a court rules, for example, that the Secretary failed to apply the proper standards in determining disability, the court will remand the case to the Secretary for a new decision in line with the court's instructions. In cases involving SSA, this is normally how a plaintiff prevails and H.R. 5479 recognizes this in terms of EAJA eligibility.

Despite these improvements, the EAJA does not go far enough, in my opinion, in extending coverage in SSA cases. I offered an amendment in the full Judiciary Committee which would have made fees available in all ALJ hearings, not just those in which the Government is represented. Although the amendment initially passed by division, in a subsequent recorded vote decided by proxies, the amendment was defeated 10 to 11. Of course, consideration of this amendment at this time is precluded by the suspension procedure. However, the Senate version of this bill does include the substance of my amendment and I am hopeful that when this bill is considered in conference that coverage will be extended in the final legislation to Social Security proceedings at the adminsitrative level.

I think it is important that when the actions of the Government are not substantially justified with respect to Social Security recipients, the attorneys' fees that it takes to get that action overturned ought not to come out of the recovery of the disabled person, which has been the case up to this point.

Mr. Speaker, if I might, I would like to ask the chairman if he agrees that this is something that could properly be considered in conference and hopefully resolved in the direction that the Senate has moved.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Connecticut yield?

Mr. MORRISON of Connecticut. I yield to the distinguished chairman.

Mr. KASTENMEIER. I might parenthetically say that the gentleman from Iowa [Mr. SMITH] raised a couple of issues as did the gentleman from Connecticut as to matters which may arise hypothetically in a conference.

Obviously, I think the gentleman from Connecticut knows that I sympathize with him in terms of the merits of the amendment he offered, but I felt that tactically and from a parliamentary standpoint, it was not wise or possible to include his amendment at this point.

Within the parameters of the parliamentary situation, and depending upon what the other body does and whether in fact we go to conference, indeed, those matters may come up. I would hope that if it were a matter of conference, that the gentleman from Connecticut would be a conferee to represent that point of view.

□ 1510

Mr. MORRISON of Connecticut. I thank the chairman and look forward to working with him to accomplish a goal that I think we share.

I yield back the balance of my time.

● Mr. MOORHEAD. Mr. Speaker, I would like to concur in the remarks of the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from New York [Mr. FISH] and indicate my strong support for the extension of the Equal Access to Justice Act. The act provides an important avenue of redress for small businesses and individuals with limited assets when they are forced to litigate against unreasonable Government regulation in order to vindicate their rights. Prior to enactment of the act in 1980, a small businessman subjected to questionable agency regulation would have to assess the costs of contesting the agency action against what was at stake. All too often the amount at stake was exceeded by the costs of contesting the agency action. Under this set of circumstances the small businessman was coerced into compliance even though he may have had a strong case and ultimately prevailed on the merits.

I think it is significant that there have been a relatively low number of applications for awards filed under the act during its first 2 years. While the low number of applications may in part be a result of the act's novelty, as well as certain ambiguities in its provisions, I think they also indicate that the act is helping to provide for a more accountable bureaucracy. Moreover, the experience under the act to date, has helped to highlight existing ambiguities and problems that have been encountered with implementation of the act. H.R. 5479 is designed to address these problems in a manner that will improve the act's effectiveness. The act has wide support from such organizations as the Small Business United, Small Business Legal Defense Committee, Small Business Legislative Council, the National Federation of Independent Business, the Chamber of Commerce, the National Small Business Association, the American Bar Association, and the Alliance for Justice. Accordingly I urge my colleagues to strongly support the passage of H.R. 5479.●

● Mr. FISH. Mr. Speaker, I strongly support the enactment of this legislation which would reauthorize the Equal Access to Justice Act and make important improvements and clarifications in its provisions.

When Congress first approved the Equal Access to Justice Act in 1980 (Public Law 96-481), it was rightfully hailed as landmark legislation by the small business community. This law makes it clear that when individuals, small businesses, and other small organizations prevail against the United States in an administrative proceeding or in a court action, that they should be reimbursed for their attorney's fees and related legal expenses unless the position of the United States is determined to be "substantially justified" or that special circumstances make such an award unjust.

So, Congress intended to place small businesses, other small organizations, and individuals on a more equal footing with the Federal Government in both regulatory proceedings and court actions. Specifically, we wanted to give them an option, rather than simply having to "give in" in the face of costly litigation with the Federal Government. We also wanted Federal departments and agencies to give careful consideration to the real merits of their case before pursuing an administrative enforcement action or a court proceeding. If individuals or small businesses are victims of careless, unreasonable, or unfair governmental action, they should not be forced to merely capitulate or to bear the cost of their successful defense.

H.R. 5479 would permanently authorize the Equal Access to Justice Act. Originally, the statute provided

for a 3-year trial period, from October 1, 1981 to September 30, 1984. Experience under the EAJA has proven to be, on balance, successful and its implementation has been far less expensive than its critics originally estimated. During the first 2 fiscal years of its operation fiscal year 1982 and fiscal year 1983), only 72 awards were made, totaling approximately $2.5 million. Sixty-four of these awards were in court proceedings and eight of these awards were in administrative proceedings. The amount of these awards is far less than the $100 million annual estimate by the Congressional Budget Office when the EAJA was enacted in 1981. It should be emphasized that the updated cost estimate done by the CBO for H.R. 5479 is considerably less than its initial estimate—$7 million per year.

H.R. 5479 also makes important clarifications and additions to the language of the statute. First, this legislation makes it clear that the "position of the agency" and "position of the United States" in the Equal Access to Justice Act means not only the formal position taken in litigation but also includes those actions or omissions by the agency that led to the adversary adjudication or court proceeding in the first place. Second, this measure extends EAJA coverage to proceedings before agency boards of contract appeals under the Contract Disputes Act of 1978 (41 U.S.C. §§ 601-613). Also, this measure gives the United States, for the first time, the right to appeal a fee determination by an administrative law judge. At the current time, only a nongovernmental party can appeal fee awards under this statute.

H.R. 5479 also includes the language of amendment which I offered in the full Judiciary Committee to expand the definition of eligible "party" under this statute. As originally enacted, the definition of party contained the words "corporation" and "organization". The issue as to whether or not units or local government were eligible to be reimbursed for attorney's fees and court costs was left ambiguous. The unfortunate result has been that, for the most part, smaller governmental bodies have not been considered to be eligible parties under the act.

In my estimation, the Equal Access to Justice Act should assist any small organization, whether private or governmental, that is involved in a regulatory or litigation dispute with the United States and where the position of the United States is determined to be not "substantially justified." Units of local government are frequently involved in adjudications or litigation regarding grant eligibility and grant reductions under a variety of Federal assistance programs. Smaller governmental entities face the same cost deterrents and other disadvantages that small businesses do in such proceedings. They should be eligible for reimbursement for their fees and expenses where appropriate. I was most gratified when my amendment was adopted by the full committee.

This extension of the Equal Access to Justice Act has received broad support from such groups as the Chamber of Commerce of the United States, the National Federation of Independent Business, the American Bar Association, the National Small Business Association, the Administrative Conference of the United States, and the Office of Advocacy of the Small Business Administration.

In summary, this legislation permanently codifies a remedial statute that has proven that it can work well and, in addition, makes numerous clarifications in the langauge of the law to further assure fairness to both sides. I strongly urge my colleagues to support the passage of H.R. 5479.●

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and if the gentleman from Wisconsin [Mr. KASTENMEIER] has no further requests, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5479, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended was passed.

A motion to reconsider was laid on the table.

SHOALWATER BAY INDIAN TRIBE — DEXTER - BY - THE - SEA CLAIM SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5714) entitled the "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act".

The Clerk read as follows:

H.R. 5714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in its patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in such civil action;

(6) the pendency of such civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States under section 4 of this Act:

(a) All rights, title, and interest of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot 1 in section 11, township 14 north, range 11 west, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate number 3763, shall be ratified.

SEC. 4. (a)(1) If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, $1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided*, That nothing in this Act shall be construed as requiring that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Washington [Mr. PRITCHARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5714 is a bill by our colleague from Washington, Mr. BONKER, to provide for the settlement of the land claim of the Shoalwater-Bay Indian Tribe in western Washington. The tribe has filed suit in Federal district court against the owners of about 60 parcels of private property located in a subdivision known as Dexter-by-the Sea. It appears that these property owners derive their titles from a patent erroneously given by the United States to one George Brown in 1872. This patent was issued for lands which in 1866 had been reserved by Executive order to the Indian tribe.

H.R. 5714, introduced by Mr. BONKER, would remove the clouds on the titles of these innocent landowners who purchased these lands in good faith and would award $1.115 million to the tribe. In exchange, the tribe would relinquish its claims to these lands.

Mr. Speaker, H.R. 5714 has bipartisan support as an identical bill, sponsored by Senator GORTON, has already passed the Senate. The bill would rectify a mistake that was made some 113 years ago by the United States and in the process would prevent the ejectment of some innocent homeowners. Therefore, I urge its passage by the House.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5714. This is an unusual situation in which clearly the law has been badly bent and the result is that there are a lot of homeowners who have a cloud over their homes.

While normally we would not go this way, I think it makes eminently good sense because it will be far more expensive for the Federal Government if we go ahead with these lawsuits. So I would urge support of my colleagues for this measure and yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the author of the bill, the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, this legislation, H.R. 5714, is designed to settle a longstanding land dispute involving the Shoalwater Bay Indian Tribe and residents of the Dexter-by-the-Sea subdivision near Tokeland in southwest Washington. The bill will provide a monetary settlement to the tribe for land wrongfully transferred to innocent non-Indians.

In 1866, President Andrew Johnson established a reservation for the Shoalwater Bay Indian Tribe by Executive order. This controversy has its roots in an action 6 years later, in 1872, when the United States, because of a technical error, permitted part of the reservation to be patented away. The area in question, part of what is presently known as the Dexter-by-the-Sea subdivision, was sold to individual non-Indian purchasers who had every reason to believe that they were getting clear legal title to the land.

The present Dexter-by-the-Sea landowners, some of whom are retired and depend on their homes as nest eggs, recently found that title to the land in question was clouded when the Shoalwater Bay Indian Tribe brought suit to recover this portion of their reservation. These landowners are faced with a lawsuit for trespass and ejectment and cannot sell their property until this matter is cleared up. This represents a severe hardship for these individuals, who reasonably believed they had good title to the land, brought about by a Government error in granting the original 1872 patent to the land.

Mr. Speaker, where the United States is responsible for this unfortunate state of affairs, it should also be responsible for its resolution. This legislation is the product of careful negotiation between all of the concerned parties. It represents a delicate balancing of the tribe's interest in the land in question, the need to clear the title of the Dexter-by-the-Sea property owners, and local, State, and Federal interests.

If we fail to approve this settlement, the result will be personal hardship and years of expensive and divisive litigation. The Federal Government would not be spared these consequences. Judge Tanner has already ruled that the Federal Government is not immune from liability in this case either under the sovereign immunity doctrine or a narrow construction of the Federal Tort Claims Act. The Government is a party defendant in this action. Liability and legal expenses could involve millions of Federal dollars. Even without figuring in damages, the cost of the property would be well over $1 million (the 1983 assessed value of the 92 lots in the Dexter-by-the-Sea develoment was over $2.5 million—it is estimated that 62 of the lots are within the reservation boundaries). To oppose this legislation on budgetary grounds would be a false economy. The costs to the Government of rejecting this settlement are far greater than accepting it.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill (H.R. 5714).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1735) entitled the "Shoalwater Bay Indian Tribe-Dexter by the Sea Claim Settlement Act," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shoalwater Bay Indian Tribe-Dexter-by-the-Sea Claims Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in it patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in the civil action;

(6) the pendency of the civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States of under section 4 of this Act:

(a) All rights, title, and interests of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot 1 in section 11, township 14N, range 11W, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate numbered 3763, shall be ratified.

SEC. 4. (a)(1) If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, $1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided,* That nothing in this Act shall be construed as requiring that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5714) was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

INDIAN FINANCING ACT AMENDMENTS OF 1984

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5519) to reauthorize and amend the Indian Financing Act, as amended.

The Clerk read as follows:

H.R. 5519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act Amendments of 1984".

SEC. 2. Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended by striking out "which are not members of or eligible for membership in an organization which is making loans to its members".

SEC. 3. Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is amended by striking out "United States: Provided, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)" and inserting in lieu thereof "United States".

SEC. 4. Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended by striking out "who are not members of or eligible for membership in an organization which is making loans to its members".

SEC. 5. Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by striking out "$100,000" in the fourth sentence and inserting in lieu thereof "$350,000",

(2) by inserting the following sentence after the first sentence: "The Secretary shall review each loan application individually and independently from the lender.".

SEC. 6. Section 211 of the Indian Financing Act of 1974 (25 U.S.C. 1491) is amended by striking out "section: Provided, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)" and inserting in lieu thereof "section".

SEC. 7. Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans guaranteed or insured under this title. All collections shall remain until expended.".

SEC. 8. Section 302 of the Indian Financing Act of 1974 (25 U.S.C. 1512) is amended to read as follows:

"There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, an amount which does not exceed $5,500,000 for purposes of making interest payments authorized under this title.

Sums appropriated under this section, shall remain available until expended.".

SEC. 9. Section 402(a) of the Indian Financing Act of 1974 (25 U.S.C. 1522) is amended to read as follows:

"No grant in excess of $100,000 in the case of an Indian and $250,000 in the case of an Indian tribe, or such lower amount as the Secretary may determine to be appropriate, may be made under this title.".

SEC. 10. Section 403 of the Indian Financing Act of 1974 (25 U.S.C. 1523) is amended to read as follows:

"There are authorized to be appropriated not to exceed the sum of $10,000,000 per year for fiscal year 1986 and each fiscal year thereafter for the purposes of this title.".

SEC. 11. The Secretary, in his discretion, may require security other than bonds required by the Miller Act (40 U.S.C. 270a) when entering into a contract with an Indian-owned economic enterprise pursuant to the provisions of the Act of June 25, 1910 (25 U.S.C. 47), for the construction, alteration, or repair of any public work of the United States: *Provided*, That, the alternative form of security provides the United States with adequate security for performance and payment.

SEC. 12. Section 501 of the Indian Financing Act of 1974 (25 U.S.C. 1541) is amended to read as follows:

"Prior to and concurrent with the making or guaranteeing of any loan under subchapters I and II of this chapter and with the making of a grant under subchapter IV of this chapter, the purpose of which is to fund the development of an economic enterprise, the Secretary shall insure that the loan or grant applicant shall be provided competent management and technical assistance for preparation of the application and/or administration of funds granted consistent with the nature of the enterprise proposed to be or in fact funded.".

SEC. 13. Section 503 of the Indian Financing Act of 1974 (25 U.S.C. 1543) is amended to read as follows:

"For the purpose of entering into contracts pursuant to section 502 of this title in fiscal year 1985, the Secretary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to section 302 of this Act. For fiscal year 1986 and for each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. MCCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5519 is a bill to reauthorize and amend the Indian Financing Act of 1974. This act created four programs. Title I authorized the United States to issue direct loans to Indian and Indian tribes from a revolving loan fund. Title II authorized the United States to provide Federal guarantees on loans made to Indians and Indian tribes. Title III allowed the United States to provide interest subsidies on these guaranteed loans, and title IV, created an Indian Business Grants Program. Since title I does not need to be reauthorized, the bill addresses itself to titles II, III, and IV.

The purpose of the Indian Financing Act is to provide credit that is not otherwise available to Indians and Indian tribes from private money markets. In providing capital on a reimbursable basis, it is hoped that Indians will be better able to utilize their own resources and achieve economic self-sufficiency and self-determination.

Mr. Speaker, Indian reservations are suffering from chronic unemployment and are among the poorest areas of this country. One of the biggest problem is the lack of capital necessary to begin economic development. This act has worked well in the past and although it is far from a comprehensive solutions to the problems facing reservations today, its reauthorization would provide an opportunity to many Indian tribes and Indian individuals so that economic self-sufficiency and economic development have a fighting chance to be transposed from concepts to reality. Therefore, I urge the passage of H.R. 5519 by the House.

Mr. MCCAIN. Mr. Speaker, I request to use as much time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5519, the Indian Financing Act Amendments of 1984.

The Indian Financing Act of 1974 was landmark legislation designed to provide for Federal, Indian, and private sector cooperation and funding to develop Indian reservation economies. The programs established by that act have directly contributed to the creation of hundreds of successful businesses and thousands of jobs on Indian reservations in desperate need of economic development.

Over the past 10 years, $41 million appropriated to the revolving loan fund established by the act has generated over $80 million in loan activity. The loan guaranty and interest subsidy program which would be extended by H.R. 5519 has been the key factor in bringing over $100 million in private capital to reservation-based business enterprise.

H.R. 5519 amends the 1974 act to adjust its provisions to changes in the national economy and to expand financing opportunities to individual Indians. It also provides for additional management and technical assistance.

I might add, Mr. Speaker, the technical assistance is much required on the reservations today, and on many of the reservations there is not the kind of technical expertise that must be utilized in order to take advantage of this legislation.

H.R. 5519 has the support of virtually all Indians, Indian tribes, and organizations. As amended, it includes most of the modifications to the original text that were recommended by the administration. H.R. 5519 is entirely consistent with the President's Indian policy, which emphasizes the need for reservation economic development through cooperative efforts by Indians, the Federal Government, and the private sector.

The other body has passed a companion bill by unanimous consent.

It is all too apparent that there is great need for continued Federal support for economic development efforts on Indian reservations.

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H.R. 5519 provides that support. It is meritorious legislation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, many of our colleagues may have seen in the last few days articles in the Washington Post which dramatically and graphically described the economic conditions which exist on some of our reservations.

There are many actions that the Congress needs to take in order to fulfill its obligations to our Indian tribes.

Mr. Speaker, this legislation is only one of many, but certainly an important one.

Mr. Speaker, I urge support of my colleagues for this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill H.R. 5519, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2614) to amend the Indian Financing Act of 1974, a measure similar to the bill just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act Amendments of 1984".

INDIAN REVOLVING LOAN FUND

SEC. 2. Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended by striking out "who are not members of or eligible for membership in an organization which is making loans to its members."

SEC. 3. Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is amended by striking out "United States: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a)" and inserting in lieu thereof "United States".

LOAN GUARANTY AND INSURANCE

SEC. 4. (a) Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking out "who are not members of or eligible for membership in an organization which is making loans to its members", and

(2) by adding at the end thereof the following new sentence: "The full faith and credit of the United States is pledged to the fulfillment of any obligation incurred by the Secretary with respect to loans guaranteed or insured under this title.".

(b) Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by striking out "$100,000" in the fourth sentence and inserting in lieu thereof "$250,000",

(2) by inserting the following sentence after the first sentence: "The Secretary shall review each loan application individually and independently from the lender.",

(3) by striking out "The application" in the first sentence of such section and inserting in lieu thereof "(a) The application", and

(4) by adding at the end thereof the following new subsection:

"(b) Once a loan is approved by the Secretary, the Secretary and the lender shall maintain close supervision and management of the loan until the loan is liquidated. In order to enhance the success of Indian businesses and to facilitate control of losses, the Secretary shall adopt sound credit procedures in order to—

"(1) identify and predict problem situations before such situations occur, and

"(2) ensure that losses are minimized.".

(c) Section 211 of the Indian Financing Act of 1974 (25 U.S.C. 1491) is amended by striking out "section: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a)" and inserting in lieu thereof "section".

(d) Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans guaranteed or insured under this title. All collections and appropriations shall remain until expended.".

INTEREST SUBSIDIES

SEC. 5. (a) Section 301 of the Indian Financing Act of 1974 (25 U.S.C. 1511) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) The Secretary", and

(2) by adding at the end thereof the following new subsection:

"(b) The full faith and credit of the United States is pledged to the fulfillment of any contractual obligation which the Secretary incurs for the payment of any interest subsidy authorized under this section.".

(b) Section 302 of the Indian Financing Act of 1974 (25 U.S.C. 1512) is amended to read as follows:

"SEC. 302. (a) There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, such sums as may be necessary for purposes of making interest payments authorized under this title with respect to any loan made before the close of fiscal year 1984.

"(b) There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, an amount which does not exceed $5,500,000 for purposes of making interest payments authorized under this title with respect to any loan made after the close of fiscal year 1984.".

FUNDING OF CONTRACTS FOR MANAGEMENT AND TECHNICAL ASSISTANCE

SEC. 6. Section 503 of the Indian Financing Act of 1974 (25 U.S.C. 1543) is amended by striking out "the Sectetary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to section 1512 of this title," and inserting in lieu thereof "there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this title.".

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

MR. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 2614, and to insert in lieu thereof the provisions of H.R. 5519, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to reauthorize and amend the Indian Financing Act."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 5519, was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TECHNICAL AMENDMENTS TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT

Mr. FRANK. I move to suspend the rules and pass the Senate bill (S. 2819), to make essential technical corrections to the Housing and Urban Rural Recovery Act of 1983, as amended.

The Clerk read as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Develoment Technical Amendments Act of 1984".

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

SEC. 101. (a)(1) The last sentence of section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "while its population is included in an urban county for such fiscal year";

(B) by striking out "continues" and inserting in lieu thereof "elects"; and

(C) by striking out "such" the last place it appears and inserting in lieu thereof "an".

(2) Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended—

(A) in the penultimate sentence, by inserting before the period at the end thereof the following: ", except that the provisions of this sentence shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (B)(i) of the first sentence or to not renew a cooperation agreement under clause (B)(ii) of such sentence";

(B) by inserting before the semicolon at the end of clause (B) of the last sentence the following: ", (excluding the population of metropolitan cities therein) in all its unincorported areas that are not units of general local government and in all units of general local government located within such county"; and

(C) by inserting before the period at the end of clause (B) of the last sentence the following: "(excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county".

(3) Section 102(a)(20) of the Housing and Community Development Technical Amendments Act of 1974 is amended to read as follows:

"(20)(A) The terms 'persons of low and moderate income' and 'low- and moderate-income persons' mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of low income' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of moderate income, means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

"(B) The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set

forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.".

(4) Section 102(a)(21) of the Housing and Community Development Act of 1974 is amended by striking out "capital or office buildings" and inserting in lieu thereof the following: "capitol or office buildings,".

(5) Section 104(a)(2)(E) of the Housing and Community Development Act of 1974 is amended by inserting before the period at the end thereof the following: "or in the methods of distribution of such funds".

(6) Section 104(b)(5)(B) of the Housing and Community Development Act of 1974 is amended by striking out "low and moderate income who are not persons of very low" and inserting in lieu thereof "moderate".

(7) Section 104(d) of the Housing and Community Development Act of 1974 is amended—

(A) in the third sentence, by striking out the last comma;

(B) in the fifth sentence, by inserting "general" before "local" the last place it appears; and

(C) in the sixth sentence, by inserting "general" before "local".

(8)(A) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting "fiscal year 1982 or" before "fiscal year 1983".

(B) Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "including" and inserting in lieu thereof "and".

(9) Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended by striking out "(B)" and all that follows through "recipient" and inserting in lieu thereof the following: "(B) in any metropolitan city or urban county having no areas meeting the requirements of subparagraph (A), or in any such city or county in which such areas are so few that according to standards established by the Secretary it would be plainly inappropriate for such city or county to address the needs of its residents who are persons of low and moderate income by limiting assisted activities to activities serving such areas, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income".

(10) Section 106(d)(2)(A) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "a State that has elected, in such manner and at such time as the Secretary shall prescribe" any place it appears and inserting in lieu thereof "the State"; and

(B) in clause (i), as such clause may have been amended by subparagraph (A), by striking out "the State" and inserting in lieu thereof the following: "a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts".

(11) Section 106(d)(3) of the Housing and Community Development Act of 1974 is amended—

(A) in the second sentence of subparagraph (A), by inserting after "title" the following: "or section 17(e)(1) of the United States Housing Act of 1937"; and

(B) in subparagraph (C), by inserting after "104" the following: "or to make the certifications required in subparagraphs (C) and (D) of paragraph (2)".

(12)(A) Section 112 of the Housing and Community Development Act of 1974 is amended by striking out subsection (c).

(B)(i) Notwithstanding any other provision of law or other requirement, the City of Baltimore in the State of Maryland is authorized to retain any land disposition proceeds from closed-out urban renewal projects not paid to the Department of Housing and Urban Development, and to use such proceeds, in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Baltimore shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

(ii) Notwithstanding any other provision of law or other requirement, the City of Denver in the State of Colorado, or its designee, is authorized to receive all funds held by the Denver Urban Renewal Authority from the urban renewal project subject to civil litigation in the case of United States v. Denver Urban Renewal Authority, No. 84-K-67 (D. Colo.), for use as a direct grantee under and in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Denver shall retain such funds in a lump sum and shall be entitled to retain and use all past and future earnings from such funds, including any interest.

(13) The last sentence of section 810(f) of the Housing and Community Development Act of 1974 is amended by inserting ", State," after "government".

(b)(1) Section 110(b) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "section" and inserting in lieu thereof "part".

(2) Section 123(b)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "(a)(4)" each place it appears and inserting in lieu thereof "(a)(1)".

(3) Section 123(c) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out "(1)" after the subsection designation; and

(B) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

HOUSING ASSISTANCE PROGRAMS

SEC. 102. (a)(1) Section 235(h)(1) of the National Housing Act is amended—

(A) in the penultimate sentence, by inserting after "1983," the first place it appears the following: "utilizing amounts approved in appropriation Acts before the date of the enactment of the Housing and Urban-Rural Recovery Act of 1983,"; and

(B) in the last sentence, by striking out "November 30, 1983" and inserting in lieu thereof "September 30, 1985".

(2) The first sentence of section 236(f)(4) of the National Housing Act is amended by striking out "up to".

(b)(1) Section 3(b)(5)(C) of the United States Housing Act of 1937 is amended by inserting before the semicolon the following: ", and attendant care and auxiliary apparatus expenses for each handicapped member of any family to the extent necessary to enable any member of such family (including such handicapped member) to be employed, except that the aggregate amount excluded under this subparagraph may not exceed 3 percent of annual family income".

(2) Section 6(j) of the United States Housing Act of 1937 is amended—

(A) by inserting ", acquisition, or acquisition and rehabilitation" after "construction"; and

(B) by striking out "large families" and inserting in lieu thereof "families requiring three or more bedrooms".

(3) Section 6(m) of the United States Housing Act of 1937 is amended by striking out "hearing" and inserting in lieu thereof "housing".

(4) Section 8(d)(2) of the United States Housing Act of 1937 is amended by striking out the last two sentences and inserting in lieu thereof the following: "In addition to any other cases in which the Secretary attaches a contract under this section to the structure, a contract under this section with respect to assistance under subsection (b)(1) may be attached to the structure if (A) the Secretary and the public housing agency approve such action; and (B) the owner agrees to rehabilitate the structure other than with assistance under this Act and otherwise complies with the requirements of this section.".

(5) Section 8(e)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1), if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development in order to ensure the availability of dwelling units in such projects for lower income families.".

(6) Section 8(n) of the United States Housing Act of 1937 is amended by striking out "In" and all that follows through "Secretary" and inserting in lieu thereof the following: "In making assistance available under subsections (b)(1) and (e)(2), the Secretary".

(7) The first sentence under section 8(o)(3) of the United States Housing Act of 1937 is amended—

(A) by striking out "or" before "(B)"; and

(B) by inserting before the period at the end thereof the following: ", (C) a family that is determined to be a lower income family at the time it initially receives assistance and that is or would be displaced by activities under section 17(c)".

(8) section 8(o)(7)(D) of the United States Housing Act of 1937 is amended by inserting "unit of" before "general".

(c)(1) The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "1985" and inserting in lieu thereof "1984".

(2) Section 202(h) of the Housing Act of 1959 is amended—

(A) by inserting "and" at the end of paragraph (1); and

(B) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(3) Section 202(1) of the Housing Act of 1959 is amended by adding at the end thereof the following new sentence: "The Secretary shall not impose different requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower.".

(d) The penultimate sentence of section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking out "up to".

(e) Section 213(d)(2) of the Housing and Community Development Act of 1974 is amended by striking out "532" and inserting in lieu thereof "533".

(f) Section 411(a)(4) of the Congregate Housing Services Act of 1978 is amended by adding at the end thereof a semicolon.

(g)(1) Section 216 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by inserting "of Housing and Urban Development" after "Secretary" each place it appears; and

(B) by striking out "paragraph" each place it appears and inserting in lieu thereof "section".

(2) Section 220 of the Housing and Urban-Rural Recovery Act of 1983 is amended by inserting "of Housing and Urban Development" after "Secretary" each place it appears.

(3) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out "chapter" and inserting in lieu thereof "part";

(B) by striking out ", up to the utility allowance,";

(C) by inserting "in lieu of any rental payment" after "made"; and

(D) by striking out "rental" and inserting in lieu thereof "shelter".

RENTAL HOUSING REHABILITATION AND PRODUCTION PROGRAM

SEC. 103. (a) Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by striking out "to States and units of general local government".

(b) Section 17(b)(2)(B) of the United States Housing Act of 1937 is amended by striking out "(f)" and inserting in lieu thereof "(e)".

(c)(1) Section 17(c)(2)(H) of the United States Housing Act of 1937 is amended by striking out "State or unit of general local government that receives the assistance" and inserting in lieu thereof "grantee".

(2) Section 17(c)(3)(A) of the United States Housing Act of 1937 is amended by striking out "families, including large families with children" and inserting in lieu thereof the following: "families with children, particularly families requiring three or more bedrooms".

(d)(1) The penultimate sentence of section 17(d)(2) of the United States Housing Act of 1937 is amended—

(A) by inserting "general local" before "government"; and

(B) by inserting after "standards" the following: ", and each city that has a population of not less than 450,000 (as determined according to the 1980 decennial census),".

(2) Section 17(d)(4)(E) of the United States Housing Act of 1937 is amended by striking out "persons" and all that follows through "income" and inserting in lieu thereof "lower income families".

(3) Section 17(d)(5)(H) of the United States Housing Act of 1937 is amended by striking out "families, including large families with children" and inserting in lieu thereof the following: "families with children, particularly families requiring three or more bedrooms".

(e)(1) Section 17(e)(1) of the United States Housing Act of 1937 is amended—

(A) in the first sentence, by striking out "(b)(2)" and inserting in lieu thereof "(b)"; and

(B) in the second sentence, by striking out "cities with populations of less than fifty thousand" and inserting in lieu thereof the following: "units of general local government and areas of the State that do not receive allocations under subsection (b)".

(2) Section 17(e)(2) of the United States Housing Act of 1937 is amended by striking out "(b)(2) of this section" and inserting in lieu thereof "(b)".

(f) Section 17(i)(3) of the United States Housing Act of 1937 is amended by striking out "structure" and inserting in lieu thereof "project".

(g)(1) Section 17(k)(5)(A) is amended by striking out "resources under this section" and inserting in lieu thereof the following: "resources under subsection (b), and any unit of general local government receiving resources under subsection (d)".

(2) Section 17(k)(5)(B) of the United States Housing Act of 1937 is amended by striking out "(f)" and inserting in lieu thereof "(e)".

(3) Section 17(k)(5)(C) of the United States Housing Act of 1937 is amended by striking out "(f)(2)" and inserting in lieu thereof "(e)".

(4) Section 17(k) of the United States Housing Act of 1937 is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'State' means each of the several States and the Commonwealth of Puerto Rico;

"(7) the term 'unit of general local government' means (A) any city, county, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe; and (C) the District of Columbia, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

"(8) the terms 'city', 'Indian tribe', and 'urban county' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974.".

(h)(1) Section 17(l)(1) of the United States Housing Act of 1937 is amended—

(A) by inserting a comma after "government"; and

(B) by striking out "(f)(1)' and inserting in lieu thereof "(e)(1)"; and

(2) Section 17(l)(2) of the United States Housing Act of 1937 is amended by striking out "(e)(2)" and inserting in lieu thereof "(e)(1)".

(i) Section 17 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(o) INAPPLICABILITY OF CERTAIN PROVISIONS.—Unless otherwise specifically provided in this section, the following provisions of this Act shall not apply to grants provided under this section: section 3(a), section 3(b)(1), the third sentence of section 3(b)(3), section 3(b)(7), and the last sentence of section 6(a).".

PROGRAM AMENDMENTS AND EXTENSIONS

SEC. 104. (a)(1) The section heading of section 232 of the National Housing Act is amended to read as follows:

"MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES".

(2) Section 234(k) of the National Housing Act is amended—

(A) by striking out "or" before "(3)"; and

(B) by inserting before the period at the end thereof the following: ", or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38, United States Code".

(3) Section 235(j)(2)(C) of the National Housing Act is amended to read as follows:

"(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;".

(4) Section 236(j)(4)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and".

(5) The section heading of section 526 of the National Housing Act is amended to read as follows:

"MINIMUM PROPERTY STANDARDS".

(6) Section 531 of the National Housing Act is amended by striking out "title II" each place it appears and inserting in lieu thereof "this Act".

(7) Section 1101(c)(4) of the National Housing Act is amended to read as follows:

"(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.".

(b) Section 7(o)(6)(C) of the Department of Housing and Urban Development Act is amended by striking out "3 of Public Law 90-301" and inserting in lieu thereof "235 or 236 of the National Housing Act".

(c) Section 906(a) of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) for the purpose of generating income to support the building or rehabilitation of housing primarily for the benefit of families and individuals of low or moderate income (A) design, develop, manufacture and sell products and services for use in the construction, sale, or financing of housing, and (B) design and develop commercial, industrial, or retail facilities that are not directly relating to housing, except that not more than 25 percent of the equity commitment of the corporation may be committed in connection with activities that are not directly related to the building or rehabilitation of housing, and the development and preservation of housing for families and individuals of low or moderate income shall be the primary activity of the corporation.".

(d)(1) Section 514(b)(5)(A) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "loan" and inserting in lieu thereof "grant".

(2)(A) Section 520(b)(5) of the Solar Energy and Energy Conservation Bank Act is amended to read as follows:

"(5)(A) establish explicit criteria, and their relative weights, for the allocation of financial assistance under this subtitle among eligible financial institutions; and

"(B) provide that all amounts available for financial assistance under this subtitle as a result of any one appropriations law, or otherwise available for such assistance, shall be allocated at the same time; and".

(B) The Secretary shall issue the regulations required as a result of the amendment made by this paragraph not later than 90 days after the date of the enactment of this Act.

(e)(1) Section 401(e) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(2) Section 463 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "(c)(1)" the second place it appears and inserting in lieu thereof "(d)(1)".

(3) Section 482 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "305(b)" and inserting in lieu thereof "305".

(f) The Secretary of Housing and Urban Development shall, not later than October 31, 1984, issue regulations to carry out the amendments made to section 242 of the National Housing Act by section 436 of the Housing and Urban-Rural Recovery Act of 1983.

RURAL HOUSING

SEC. 105. (a)(1) Section 501(b)(4) of the Housing Act of 1949 is amended by inserting before the period of the end thereof the following: "in consultation with the Secretary of Agriculture, taking into consideration the subsidy characteristics and purposes of the programs to which such levels are applied under this title".

(2) Section 501(b)(5) of the Housing Act of 1949 is amended to read as follows:

"(5) For the purpose of this title—

"(A) the term 'income' has the meaning given such term under section 3(b)(4) of the United States Housing Act of 1937 by the Secretary of Housing and Urban Development in consultation with the Secretary of Agriculture; and

"(B) the term "adjusted income" has the meaning given such term in section 3(b)(5) of the United States Housing Act of 1937.".

(b) Section 502(d) of the Housing Act of 1949 is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons; and

"(2) not less than 30 percent of the funds allocated to each State under this section shall be available only for very low-income families or persons.".

(c) Section 510(e) of the Housing Act of 1949 is amended by striking out ". Such" and ". Where" and inserting in lieu thereof "; such" and "; where", respectively.

(d)(1) Section 513(a) of the Housing Act of 1949 is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, insured and guaranteed loan authority authorized in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this title.".

(2) Section 513(b)(7) of the Housing Act of 1949 is amended by striking out "531" and inserting in lieu thereof "533".

(e)(1) Section 515(2)(B) of the Housing Act of 1949 is amended by striking out the first comma and all that follows through "assistance" the last place it appears.

(f) Section 517(j)(4) of the Housing Act of 1949 is amended by inserting "and" after the semicolon at the end thereof.

(g) The last sentence of section 520 of the Housing act of 1949 is amended by striking out "1984" and inserting in lieu thereof "1985".

(h) Section 521(d)(1) of the Housing Act of 1949 is amended to read as follows:

"(d)(1) In utilizing the rental assistance payments authority pursuant to subsection (a)(2)—

"(A) the Secretary shall make such assistance available in existing projects for units occupied by low income families or persons to extend expiring contracts or to provide additional assistance when necessary to provide the full amount authorized pursuant to existing contracts;

"(B) any such authority remaining after carrying out subparagraph (A) shall be used in projects receiving commitments under section 514, 515, or 516 after fiscal year 1983 for contracts to assist very low-income families or persons to occupy the units in such projects, except that not more than 5 percent of the units assisted may be occupied by low income families or persons who are not very low-income families or persons; and

"(C) any such authority remaining after carrying out subparagraphs (A) and (B) may be used to provide further assistance to existing projects under section 514, 515, or 516.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER HOUSING AND COMMUNITY DEVELOPMENT LAWS

CONFORMING REFERENCES TO SECRETARY OF HEALTH AND HUMAN SERVICES AND SECRETARY OF EDUCATION

SEC. 201. (a)(1) Section 242(c) of the National Housing Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Section 1104 of the National Housing Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Section 302(c)(2)(B) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education"; and

(2) by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(c) Section 522(a) of the Housing Act of 1949 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(d)(1) Section 402(c) of the Housing Act of 1950 is amended—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively.

(2) Section 404(f) of the Housing Act of 1950 is amended by striking out "Housing and Urban Development" and inserting in lieu thereof "Education".

(e) Section 202(f) of the Housing Act of 1959 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(f) Section 207 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "Health and Human Services".

(g) Section 209 of the Housing and Community Development Act of 1974 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(h) Paragraphs (1) and (2) of section 413(b) of the Energy Conservation in Existing Building Act of 1976 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) Section 207(c)(3) of the Public Housing Security Demonstration Act of 1978 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(j) Section 405(i) of the Congregate Housing Services Act of 1978 is amended by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

CONFORMING CROSS-REFERENCES TO TITLE 5, UNITED STATES CODE

SEC. 202. (a)(1) The second sentence of section 1 of the National Housing Act is amended by striking out "without" and all that follows through "States".

(2) Section 1247 of the National Housing Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".

(b)(1) The first sentence of section 502(a) of the Housing Act of 1948 is amended by striking out "the Classification Act of 1949, as amended" and inserting in lieu thereof the following: "chapter 51 and subchapter III of chapter 53 of title 5, United States Code".

(2) Section 502(c)(1) of the Housing Act of 1948 is amended by striking out "5 U.S.C. 73b–2" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".

(c) Section 601 of the Housing Act of 1949 is amended by striking out "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b–2)" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".

(d) Section 1416(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".

CONFORMING CROSS-REFERENCES TO TITLE 31, UNITED STATES CODE

SEC. 203. (a)(1) Section 304(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(2) Section 306(d) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(3) Section 309(b) of the Federal National Mortgage Association Charter Act is amend-

ed by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(4) Section 315(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(5) Section 316(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(b)(1) Section 4(b) of the United States Housing Act of 1937 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 10(a) of the United States Housing Act of 1937 is amended by striking out "the Government Corporation Control Act, as amended" each place it appears and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(c) Section 502(c)(2) of the Housing Act of 1948 is amended by striking out "section 3648 of the Revised Statutes" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code".

(d)(1) Section 102(f) of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 106(a) of the Housing Act of 1949 is amended by striking out "the Government Corporation Control Act, as amended," each place it appears and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(3) Section 501(b)(6) of the Housing Act of 1949 is amended by striking out "the State and Local Fiscal Assistant Act of 1972 (Public Law 92-512)" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(4) Section 511 of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(5) Section 517(h) of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(6) Section 517(k) of the Housing Act of 1949 is amended by striking out "the Budget and Accounting Act, 1921" and inserting in lieu thereof "chapter 11 of title 31, United States Code".

(e)(1) Section 401(e) of the Housing Act of 1950 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 402(a)(1) of the Housing Act of 1950 is amended by striking out "the Government Corporation Control Act, as amended" and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(3) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "the Accounting and Auditing Act of 1950" and inserting in lieu thereof "chapter 35 of title 31, United States Code".

(4) Section 402(e) of the Housing Act of 1950 is amended—

(A) by striking out "section 309 of the Independent Offices Appropriation Act, 1950 (63 Stat. 662)" and inserting in lieu thereof "section 9107(a) of title 31, United States Code"; and

(B) by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of such title".

(f) Section 203(a) of the Housing Amendments of 1955 is amended—

(1) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(g) Section 15(e) of the Federal Flood Insurance Act of 1956 is amended—

(1) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(h) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking out "the Second Liberty Bond Act" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "that Act" and inserting in lieu thereof "such chapter".

(i)(1) Section 1222(c) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out "section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))" and inserting in lieu thereof "section 1341(a) of title 31, United States Code".

(2) Section 1243(d) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out "law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))" and inserting in lieu thereof "sections 9103 and 9104 of title 31, United States Code".

(j)(1) Section 1310(e) of the National Flood Insurance Act of 1968 is amended by striking out "law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))" and inserting in lieu thereof "sections 9103 and 9104 of title 31, United States Code".

(2) Section 1360(b) of the National Flood Insurance Act of 1968 is amended by striking out "sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5)" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5)".

(3) Section 1373 of the National Flood Insurance Act of 1968 is amended by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of title 31, United States Code,".

(k) Section 502(e) of the Housing and Urban Development Act of 1970 is amended by striking out "section 3648 of the Revised Statutes" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code,".

(l)(1) Section 102(a)(17) of the Housing and Community Development Act of 1974 is amended by striking out "the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(2) Section 108(g) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "the Second Liberty Bond Act, as now or hereafter in force" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(3) Section 119(n)(2) of the Housing and Community Development Act of 1974 is amended by striking out "the State and Local Fiscal Assistance Act of 1972" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(4) Section 802(e)(2) of the Housing and Communtiy Development Act of 1974 is amended—

(A) by striking out "the Second Liberty Bond Act" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "that Act" and inserting in lieu thereof "such chapter".

(m) Section 608(d) of the Neighborhood Reinvestment Corporation Act is amended by striking out "The Budget and Accounting Act, 1921" and inserting in lieu thereof "chapter 11 of title 31, United States Code".

MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 204. (a)(1) Section 4 of the National Housing Act is amended by striking out "such" and inserting in lieu thereof "such".

(2) Section 203(n)(2)(A) of the National Housing Act is amended by striking out "an" and inserting in lieu thereof "a".

(3) The first sentence of section 207(i) of the National Housing Act is amended by inserting "section" before "221(g)".

(4)(A) The National Housing Act is amended by inserting the following section heading for section 214:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, AND HAWAII".

(B) The third sentence of section 214 of the National Housing Act as amended is amended by striking out "Nowithstanding" and inserting in lieu thereof "Notwithstanding".

(5) Section 217 of the National Housing Act is amended by inserting "section 244, section 245," after "236,".

(6) Section 221(d)(3)(iii) of the National Housing Act as amended is amended by striking out "rehabilited" and inserting in lieu thereof "rehabilitated".

(7) The first sentence of section 223(f)(2) of the National Housing Act is amended by inserting "a" before "multifamily".

(8) Section 235(i)(3)(C) of the National Housing Act is amended by striking out "Seretary" and inserting in lieu thereof "Secretary".

(9) Section 236(j)(5)(C) of the National Housing Act is amended by striking out "or residents" and inserting in lieu thereof "of residents".

(10) Section 240(a) of the National Housing Act is amended by striking out "purchasers" and inserting in lieu thereof "purchases".

(11) The first sentence of section 241(a) of the National Housing act is amended by

striking out "to made" and inserting in lieu thereof "to make".

(12) Section 241(b)(1) of the National Housing Act is amended by striking out "of facility" and inserting in lieu thereof "or facility".

(13) Section 242(d)(3)(A) of the National Housing Act is amended by striking out the comma at the end thereof and inserting in lieu thereof a semicolon.

(14) Section 243(d)(2) of the National Housing Act is amended by redesignating subparagraphs (1) through (3) as subparagraphs (A) through (C) respectively.

(15) Section 243(j)(3)(ii) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(16) The fourth sentence of section 302(b)(2) of the National Housing Act is amended by striking out "Corporation" and inserting in lieu thereof "corporation".

(17) The National Housing Act is amended by inserting the following section heading for section 512:

"PENALTIES".

(18) The National Housing Act is amended by inserting the following section heading for the first section 513:

"PROHIBITION AGAINST TRANSIENT HOUSING".

(19) The National Housing Act is amended by redesignating the second section 513 as section 513A. Any reference in any law, regulation, order, document, record, or other paper of the United States to the section redesignated in this paragraph hereby is deemed to refer to section 513A of the National Housing Act.

(20) The National Housing Act is amended by inserting the following section heading for section 515:

"AMENDMENT, EXTENSION, OR INCREASE OF COMMITMENT AMOUNTS".

(21) The National Housing Act is amended by inserting the following section heading for section 516:

"PAYMENT OF CERTAIN FUNDS TO TREASURY".

(22) Section 527 of the National Housing Act is amended by inserting "(a)" after the section designation.

(23) The last sentence of section 904(d) of the National Housing Act is amended by striking out "auhorized" and inserting in lieu thereof "authorized".

(b)(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by striking out "convenants" and inserting in lieu thereof "covenants".

(2) Section 14(a) of the United States Housing Act of 1937 is amended by striking out the comma at the end of each of paragraphs (1) and (2) and inserting in lieu thereof a semicolon.

(c)(1) The last sentence of section 105(f) of the Housing Act of 1949 is amended by striking out "Committees on Banking and Currency of the Senate and the House of Representatives" and inserting in lieu thereof the following: "Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

(2) Section 523(g) of the Housing Act of 1949 is amended by inserting "Housing" before "Land" and second place it appears.

(3) The Housing Act of 1949 is amended by inserting the following section heading for section 528:

"TAXATION OF PROPERTY HELD BY SECRETARY".

(d) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(e) Section 101(j)(1)(D) of the Housing and Community Development Act of 1965 is amended by striking out "divided" and inserting in lieu thereof "dividend".

(f) The second sentence of section 106(b)(1) of the Housing and Urban Development Act of 1968 is amended by striking out "architectual" and inserting in lieu thereof "architectural".

(g) The last sentence of section 1309(a) of the National Flood Insurance Act of 1968 is amended—

(1) by striking out "and Currency" and inserting in lieu thereof ", Finance and Urban Affairs"; and

(2) by inserting a comma after "Housing".

(h) Section 308(f) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "United States Code" and inserting in lieu thereof "United States".

(i) Section 702(d)(8) of the National Urban Policy and New Community Development Act of 1970 is amended by striking out "of" the last place it appears.

(j) The last sentence of section 201(e) of the Flood Disaster Protection Act of 1973 is amended by striking out the quotation marks.

(k)(1) The first sentence of section 108(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (j)".

(2) Section 117(b) of the Housing and Community Development Act of 1974 is amended by striking out "of 1965 (Public Law 81-428;" and inserting in lieu thereof ", 1955 (Public Law 83-428;".

(l) Section 604(1) of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by striking out "than" the last place it appears and inserting in lieu thereof "that".

(m)(1) Section 107 of the Emergency Homeowners' Relief Act is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(B) by redesignating subparagraphs (A) through (C) of paragraph (1) as paragraphs (1) through (3), respectively;

(C) by redesignating paragraph (2) as subsection (b); and

(D) by redesignating subparagraphs (A) and (B) of paragraph (2) as paragraphs (1) and (2), respectively.

(2) Section 110 of the Emergency Homeowners' Relief Act is amended by striking out the subsection designation.

(n)(1) Section 201(c) of the Housing and Community Development Amendments of 1978 is amended by striking out "a" the first place it appears and inserting in lieu thereof "A".

(2) Section 201(j) of the Housing and Community Development Amendments of 1978 is amended by striking out "236(f)(3)(B)" and inserting in lieu thereof "236(f)(3)".

(3) Section 209(d) of the Housing and Community Development Amendments of 1978 is amended by striking out "conjuction" and inserting in lieu thereof "conjunction".

(4) Section 905(b)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting "of 1974" after "Act".

The SPEAKER pro tempore. Is a second demanded?

Mr. McKINNEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Connecticut [Mr. MCKINNEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I act here in the absence of the chairman of the subcommittee, the gentleman from Texas [Mr. GONZALEZ], who will be joining us during the consideration.

Mr. Speaker, this is a noncontroversial bill which makes some technical amendments to the Housing and Urban Rural Recovery Act which was passed by both Houses last year.

Title I of the amendment deals with the specific corrections and clarifications with regard to Public Law 98-181. Title I also makes technical corrections to the community development block grant and the assisted housing programs administered by the Department of Housing and Urban Development and the Farmers Home Administration's rural housing programs.

With regard to the Community Development Block Grant Program, the amendment contains a provision to provide much-needed flexibility for entitlement communities in the principally benefit tests where low-moderate-income people are not densely concentrated. This provision is necessary to insure that the areawide activities can serve low- and moderate-income families in less densely impacted areas and would permit community development block grant activities to be considered to benefit low- and moderate-income families if they are clearly designed to meet the needs of such families and they are located within areas which are among the top 25 percent of all areas within the community having the highest concentration of low- and moderate-income people. This title would also clarify conditions under which an urban county that contained newly identified metropolitan cities can be considered an urban county entitlement jurisdiction if the metropolitan city defers its classification for purposes of the Community Development Block Grant Program. In addition, the cities of Baltimore and Denver may retain the proceeds and interest from certain urban renewal projects as long as those funds are used in accordance with the requirements of the CDBG Program.

With regard to assisted housing programs, this amendment corrects a technical omission with regard to the use of section 235 Homeownership

Subsidy Funds; would permit handicapped employed residents to deduct from their income attendant care costs; would permit the HUD Secretary to increase moderate rehabilitation section 8 assistance to assure that low-income residents can continue to live in rental apartments sold from the HUD inventory; would preserve the HUD Secretary's authority to provide section 8 existing contracts on a project basis in the Loan Management and Property Disposition Program, and would provide an additional 12 cities eligible for grants under the new Rental Housing Development Program.

Title II contains technical and conforming amendments to those provisions of our housing and community development laws not affected by actions taken in last year's Housing Act. Title II corrects archaic references to agencies and departments whose names have been changed, such as the Department of Health, Education, and Welfare to the Department of Health and Human Services.

With regard to the Farmers Home Administration's rural housing program, the amendment would prohibit the transfer of rural housing loan authority to any other program beginning in fiscal year 1985; would resolve the section 502 homeownership targeting issue by adopting Senate language which provides separate set-asides in section 502 authority among very low income borrowers and low income borrowers; and would make clear that States and localities providing rental assistance payments for low income rural projects would not be required to meet any other feasibility requirement in order to obtain a section 515 rental housing loan than is already required by the Farmers Home Administration's Rental Assistance Payment Program.

A provision of the amendment requires the HUD Secretary to issue regulations, by October 31, 1984, to implement section 436 of the 1983 amendments, which was offered by my colleague, Congressman MIKE LOWRY of Washington. That section made FHA hospital mortgage insurance available for the first time to public hospitals. This was a noncontroversial amendment, with considerable bipartisan support, intended to provide needed assistance in obtaining access to capital for those hospitals which continue to maintain a commitment to keep their doors open for all of our Nation's citizens regardless of their ability to pay. Several public hospitals around the country have, in fact, been preparing to submit applications under this new authority.

For this reason, the Banking Committee has been extremely concerned about delays in the implementation of this provision caused by HUD's insistence that additional regulations are needed. The provision thus directs HUD to promulgate any such regulations by October 31, at the latest. Moreover, we strongly urge the Department to promulgate these regulations on an interim final basis, rather than as a nohtice of proposed rulemaking. It is imperative that effective regulations be implemented quickly so that State certificates of need and current feasibility studies do not expire or become outdated.

In addition, HHS Secretary Heckler should immediately begin accepting and processing applications from public hospitals for mortgage insurance, with the expectation that regulations will be in effect by the time the final commitment is required.

While this amendment does not include any statutory changes to the public housing performance funding system, I am concerned that the Department's present effort to apply new standards retroactively to recapture so-called excess investment income is bad policy, as well as unlawful and inequitable. According to the regulations and handbooks in effect when the public housing authorities developed their budgets for authority, fiscal years 1980 through 1983, a public housing authority was to estimate income earned from investments based on their judgement, their past experience and what would be considered reasonable. These budgets were reviewed and approved by HUD personnel. Now, 4 years later, HUD through a field memorandum, is directing public housing authorities to compare the difference between the projected and actual investment income and to recalculate those estimates using the 91-day Treasury bill rate in existence on the date when the budget was originally developed.

I was very pleased to see that in its August 31, 1984, memorandum, the Department decided not to retroactively apply a new standard to procedures used for calculating the rental income estimate used in the performance funding system. This principle should be followed with regard to investment and other income estimates. As long as public housing authorities made a good faith effort to follow the regulations in effect when they prepared their budgets they should not have their operating subsidies reduced. If HUD believes the standards, regulations and directions used in the past need revision, then regulatory or statutory changes should be proposed and applied prospectively. The retroactive application of new more specific guidelines, as proposed in the August 31 and earlier memoranda is unlawful and unfair. I fully expect that the Secretary will not implement an inequitable and retroactive recapture policy.

Mr. Speaker, S. 2819, as amended, is our effort to make technical corrections to our housing authorizations bille of last year and to provide greater policy direction than we were able to give last year because of the sharing of the legislative process and that major piece of housing legislation enacted as part of a larger national financial legislation that it was attached to.

I urge Members to support this bill.

Mr. Speaker, I am including a section-by-section analysis of the legislation for the information of my colleagues:

HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS ACT OF 1984—SECTION-BY-SECTION SUMMARY

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

Community and neighborhood development and conservation

Section 101(a)(1)—CDBG definition of an urban county: Amends Section 102(a)(4) of the Housing and Community Development Act of 1974, as amended, to permit local governments that attain metropolitan city status in 1984 or 1985 to be included in an urban county CDBG program by deferring metropolitan status for fiscal years 1984, 1985, and 1986 if it notifies the Secretary that it has elected to do so.

Section 101(a)(2)—CDBG definition of an urban county:

(A) Amends Section 102(a)(6) of the Housing and Community Development Act of 1974, as amended, to clarify that urban counties which have lost population because units of general local government have either elected to be excluded from the county's population or have not renewed a cooperation agreement with the county will not be permitted to continue to be eligible as an urban county after fiscal year 1983; and

(B) & (C) Clarifies that to qualify for entitlement status growing urban counties must include the population of unincorporated areas that are not units of general local government as well as units of general local government (excluding the population of metropolitan cities located within the county).

Section 101(a)(3)—CDBG definition of low and moderate income:

(A) Amends Section 102(a)(20) of the Housing and Community Development Act of 1974, as amended, to define low and moderate income as families and individuals whose incomes do not exceed 80 percent of the area median income, as determined by the HUD Secretary with adjustments for smaller and larger families; defines persons of low income as families and individuals whose incomes do not exceed 50 percent of the area median income; defines persons of moderate income as families and individuals whose incomes exceed 50 percent, but not 80 percent, of area median income, and clarifies that the area involved shall be determined in the same manner as it is determined for the Section 8 housing assistance program; and

(B) Clarifies that the Secretary may adjust higher or lower the percentages of median income for any area if found to be necessary because of unusually high or low family incomes.

Section 101(a)(4)—Government Buildings: Corrects a spelling error in Sec. 102(a)(21) of the Housing and Community Development Act of 1974, as amended.

Section 101(a)(5)—Citizen notice and comment: Amends Section 104(a)(2)(E) of the 1974 Act, as amended, to clarify that the public notice and opportunity for comment requirements also apply to any substantive changes proposed in the method of distribution of a state's CDBG program funds.

Section 101(a)(6)—Definition of moderate income: Amends Section 104(b)(5)(B) of the 1974 Act, as amended, to conform the term used to describe moderate income persons.

Section 101(a)(7)—Definition of unit of general local government: Amends Section 104(d) of the 1974 Act, as amended, to conform term unit of general local government in the grantee performance and evaluation report provisions.

Section 101(a)(8)—CDBG eligible activities: Amends Section 105(a)(8) of the 1974 Act, as amended, to clarify that either fiscal year 1982 or fiscal year 1983 may be used in calculating the percentage of public service activity under the CDBG program; and clarifies in Section 105(a)(15) that grants made to organizations that have provided shared housing opportunities for elderly families are eligible CDBG activities.

Section 101(a)(9)—Eligible for area-wide activities: Amends Section 105(c)(2) of the 1974 Act, as amended, to clarify that localities having no or few areas with a majority of low and moderate residents, area-wide CDBG activities will be considered to principally benefit low and moderate income persons if, in addition to serving an area generally and being designed to meet the needs of low and moderate income residents, the area serviced by the activity ranks among the top 25 percent of all areas within a community's jurisdiction having the highest concentration of low and moderate income residents.

Section 101(a)(10)—State-run program: Amends Section 106(d)(2)(A) of the Housing and Community Development Act of 1974, as amended, to correct a misplaced portion of the text.

Section 101(a)(11)—Permissible administrative costs: Amends Section 106(d)(3) of the 1974 Act, as amended, to allow states to use CDBG funds to cover part of the cost of administration of Section 17 rental rehabilitation activities in non-metropolitan areas in the same way and to the same extent as is permitted under the state run CDBG program.

Section 101(a)(12)—Urban renewal program income: Amends Section 112 of the 1974 Act by:

(A) Deleting the general provision concerning the retention of urban renewal project income;

(B) Providing that Baltimore, Maryland, is authorized to retain any land disposition proceeds from closed-out urban renewal projects not paid to HUD, for use in accordance with the requirements of the CDBG program. Baltimore shall retain such funds in a lump sum and shall be able to use and retain all past and future earnings, including interest; and

(C) Providing that the City of Denver is authorized to retain funds from certain urban renewal project proceeds provided they are used to fund eligible CDBG activities in accordance with the requirements of the CBDG program.

Section 101(a)(13)—Urban homesteading: Amends Section 810(f) of the 1974 Act, as amended, to clarify that states must also make accessible to the public listings of unoccupied properties.

Section 101(b)—Conforming corrections: Makes technical and conforming corrections to the text of Sections 110 and 123 of the Housing and Urban-Rural Recovery Act of 1983.

Housing assistance programs

Section 102(a)(1)—Section 235 Homeownership Loan Program: Amends Section 235(h)(1) of the National Housing Act, as amended, to clarify the HUD Secretary's authority to enter into new contracts for assistance payments under the Section 235 program through fiscal year 1985.

Section 102(a)(2)—Section 236 Assistance: Amends Section 236(f)(4) of the National Housing Act, as amended, to clarify that HUD is to provide sufficient payments to cover 90 percent of the necessary rent increases and changes in tenants income, subject to available Section 5(c) authority.

Section 102(b)(1)—Adjustments to Tenants Income: Amends Section 3(b)(5) of the U.S. Housing Act of 1937, as amended, to clarify that attendant care and auxiliary expenses can be deducted from income as a medical expense in excess of 3 percent of the family's income when such care is necessary to enable a family member, including a disabled or handicapped family member, to be gainfully employed.

Section 102(b)(2)—Public Housing New Construction Priorities: Amends Section 6(j) of the 1937 Housing Act, as amended, to clarify that the HUD Secretary shall give a priority to projects which involve the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupany by large families requiring three or more bedrooms.

Section 102(b)(3)—Reporting Requirements: Amend Section 6(m) of the 1937 Housing Act, as amended, to make a technical change in the public housing agency in the reporting requirements.

Section 102(b)(4)—Renewal of Section 8 Contracts: Amends Section 8(d)(2) of the 1937 Housing Act, as amended, to clarify that in addition to any other cases in which the HUD Secretary attaches a Section 8 contracts to the structure, a Section 8 contract may be attached to the structure if (A) the Secretary and the public housing agency approve such action; and (B) the owner agrees to rehabilitate the structure other than with assistance authorized by the 1937 Housing Act and complies with Section 8 requirements.

Section 102(b)(5)—Assistance Contracts for Property Disposition: Amends Section 8(e)(2) of the 1937 Housing Act, as amended, to provide that the HUD Secretary shall increase the amount of Section 8 moderate rehabilitation assistance if the Secretary determines such increase is necessary to assist in the sale of HUD-held multifamily housing projects in order to ensure the availability of units in these projects for lower income persons.

Section 102(b)(6)—Single Room Occupancy Housing: Amends Section 8(n) of the 1937 Housing Act, to clarify an improper section reference.

Section 102(b)(7)—Voucher Demonstration: Amends Section 8(o)(3)(A) of the 1937 Housing Act, as amended, to clarify that voucher assistance payments may also be made for a low-income family participating in the rental rehabilitation program.

Section 102(b)(8)—Voucher Demonstration: Amends Section 8(o)(7)(D) of the 1937 Housing Act to clarify the term unit of general local government as used in the voucher demonstration program.

Section 102(c)(1)—Section 202 Elderly & Handicapped Housing: Amends Section 202(a)(4)(B)(i) of the Housing Act of 1959, as amended, to clarify the authorization of such sums as may be approved in an appropriation Act for the Section 202 program for Fiscal Year 1985.

Section 102(c)(2)—Section 202 Housing: Amends Section 202(h) of the 1959 Housing Act to correct punctuation within text.

Section 102(c)(3)—Section 202 Selection of a Contractor: Amends Section 202(1) of the 1959 Housing Act to clarify that the HUD Secretary shall not impose different requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the Section 202 sponsor or borrower.

Section 102(d)—Section 101 Rent Supplement Program: Amends Section 101(g) of the Housing and Urban Development Act of 1965, to clarify that HUD is to provide sufficient payments to cover 90 percent of the necessary rent increases and changes in tenants income, subject to available Section 5(c) authority.

Section 102(e)—Rural Housing Preservation Grants: Amends Section 213(d)(2) of the Housing and Community Development Act of 1974 to clarify a reference to the Section 533 Rural Housing Preservation Grant Program.

Section 102(f)—Congregate housing program: Amends Section 411(a)(4) of the Congregate Housing Services Act of 1978, as amended, to conform punctuation within text.

Section 102(g)(1)—Emergency shelter program: Amends Section 216 of the 1983 HURRA to clarify reference to the terms, "Secretary of Housing and Urban Development" and "section" within text.

Section 102(g)(2)—Report on neighborhood strategy area program: Amends Section 220 of the 1983 HURRA to clarify the references to the term, "Secretary of Housing and Urban Development" within text.

Section 102(g)(3)—Utility payments in assisted housing: Amends Section 221 of the 1983 HURRA to clarify that any payment made in lieu of any rental payment by a tenant in a lower income housing project shall be considered to be a rental payment.

Rental housing rehabilitation and production program

Section 103(a)—Program authority: Amends Section 17(a)(1)(A) of the United States Housing Act of 1937, as amended, to delete reference to States and units of general local government to clarify program authority.

Section 103(b)—Program allocation adjustments: Amends Section 17(b)(2)(B) of the 1937 Housing Act, as amended, to conform the subsection designation for states administering the program.

Section 103(c)(1)—Moderate rehabilitation program: Amends Section 17(c)(2)(H) of the 1937 Housing Act, as amended, to conform the reference to grantees under the moderate rehabilitation program.

Section 103(c)(2)—Moderate rehabilitation program: Amends Section 17(c)(3)(A) of the 1937 Housing Act, as amended, to read "families with children, particularly families requiring three or more bedrooms" to clarify that an equitable share of the moderate rehabilitation grants go to assist the housing needs of families requiring 3 or more bedrooms.

Section 103(d)(1)—New construction and substantial rehabilitation grants: Amends Section 17(d)(2) of the 1937 Housing Act, as amended, to conform the term unit of gen-

eral local government within text, and makes eligible each city that has a population of not less than 450,000, as determined by the 1980 dicennial census.

Section 103(d)(2)—New construction and substantial rehabilitation grants: Amends Section 17(d)(4)(E) of the 1937 Housing Act, as amended, to conform terms used to describe lower income families.

Section 103(d)(3)—New construction and substantial rehabilitation grants: Amends Section 17(d)(5)(H) of the 1937 Housing Act, as amended, to read "families with children, particularly families requiring 3 or more bedrooms" to clarify that an equitable share of the rehabilitation grants goes to assist the housing needs of families requiring 3 or more bedrooms.

Section 103(e)(1)—Rental rehabilitation grant program: Amends Section 17(e)(1) of the 1937 Housing Act to conform subsection to clarify that states may administer a state rental rehabilitation program in communities and areas which are not receiving formula allocations.

Section 103(e)(2)—Rental rehabilitation grant program: Amends Section 17(e)(2) of the 1937 Housing Act by redesignating subsection reference to clarify that States may elect not to administer the rental rehabilitation grant program.

Section 103(f)—Preservation, environmental policy, and labor standards: Amends Section 17(i)(3) of the 1937 Housing Act, as amended, to conform the term project within the text.

Section 103(g)—Program definitions:

(1) Amends Section 17(k)(5)(A) of the 1937 Housing Act, as amended, to read "resources under subsection (b), and any unit of general local government receiving resources under subsection (d)" to clarify that grantee means any city or urban county receiving rental rehabilitation allocations and any unit of local government receiving development grant funds;

(2) Amends Section 17(k)(5)(B) of the 1937 Housing Act, as amended, by redesignating subsection reference to clarify that grantee means any State administering a state rental rehabilitation or development grant program;

(3) Amends Section 17(k)(5)(C) of the 1937 Housing Act, as amended, by redesignating subsection reference to clarify that grantee means any unit of general local government which receives assistance from the HUD Secretary under the State rental rehabilitation program;

(4) Amends Section 17(k) of the 1937 Housing Act, as amended, by inserting new paragraphs which define (6) the term "State" to mean each of the several States and the Commonwealth of Puerto Rico; (7) defines the term "unit of general local government" to mean (A) any city, country, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe; and (C) the District of Columbia, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and (8) defines the terms "city", "Indian tribes, and "urban country" for the purposes of the rental rehabilitation and development grant programs with the same meanings as set forth in the CDBG program.

Section 103(h)—Program review and audit: Amends Section 17(l)(1) of the 1937 Housing Act, as amended, to redesignate a subsection reference to clarify the authority under which a State may conduct a rental rehabilitation program.

Section 103(i)—Inapplicability of certain provisions: Amends Section 17 of the 1937 Act, as amended, to provide a new subsection which makes the following 1937 Act provisions inapplicable to the rental rehabilitation and development grant program as authorized by this section: Section 3(a), Section 3(b)(1), the third sentence of Section 3(b)(3), Section 3(b)(7), and the last sentence of Section 6(a).

Program amendments and extensions

Section 104(a)(1)—Section 232 heading change: Amends Section 232 of the National Housing Act, as amended, to conform punctuation of the Section 232 heading.

Section 104(a)(2)—Mortgage insurance for condominium units: Amends Section 234(k) of the National Housing Act to permit FHA mortgage insurance for units in projects converted to condominiums if an application for a commitment was made for any unit in the project, or any unit received a case number under direct endorsement, or an application for approval was made under the veteran's housing program was in the process before April 20, 1984.

Section 104(a)(3)—Section 235 program: Amends Section 235(j)(2)(C) of the National Housing Act to provide that the HUD Secretary shall set the interest rate for Section 235 mortgages for housing purchasing by a nonprofit organization, public body or agency.

Section 104(a)(4)—Section 236 program: Amends Section 236(j)(4)(B) of the National Housing Act to provide that the HUD Secretary shall set the interest rate for a mortgage under the Section 236 program.

Section 104(a)(5)—Section 526 heading change: Amends Section 526 of the National Housing Act, as amended, to correct punctuation of the Section 526 heading.

Section 104(a)(6)—Amount of insured mortgages: Amends Section 531 of the National Housing Act, as amended, to clarify that the provisions in the limitations on insuring authority refer to insured mortgage commitments under the National Housing Act.

Section 104(a)(7)—Mortgage insurance for group practice facilities: Amends Section 1101(c)(4) of the National Housing Act to provide that interest rate for mortgage insurance for group practice facilities may be an interest rate agreed upon by the mortgagor and the mortgagee.

Section 104(b)—Legislative review: Amends Section 7(o)(6)(C) of the Department of Housing and Urban Development Act to clarify that the 7(o) provisions concerning Congressional review of rules and regulations do not apply to the Secretary's authority to set interest rates for the Sections 235 and 236 programs.

Section 104(c)—National Housing Partnership: Amends Section 906(a) of the Housing and Urban Development Act of 1968 to permit the National Housing Partnership, in order to generate income to support housing for low and moderate income families, to expand its activities by committing up to 25 percent of its equity to activities related to the construction, sale or financing of housing and to the design and the development of commercial, industrial or retail facilities not directly related to housing.

Section 104(d)(1)—Solar Energy and Energy Conservation Bank: Amends Section 514(b)(5)(A) of the Solar Energy and Energy Conservation Bank Act, as amended, to correct the text to refer to grants rather than loans.

Section 104(d)(2)—Solar Energy and Energy Conservation Bank: Amends Section 520(b)(5) of the Solar Bank Act, as amended, to require the Solar Bank to establish in regulation the criteria and their relative weights for an annual allocation of the available financial assistance among eligible financial institutions and to provide that such financial assistance shall be allocated at the same time. Also provides that the HUD Secretary shall issue the regulations not later than 90 days after enactment of this Act.

Section 104(e)(1)—Coinsurance limits: Amends Section 401(e) of the Housing and Urban-Rural Recovery Act of 1983 to delete an incorrect provision.

Section 104(e)(2)—Solar Energy Bank: Amends Section 463 of the 1983 HURRA to correct subsection designations within the text.

Section 104(e)(3)—GNMA commitment extension: Amends Section 482 of the 1983 HURRA to correct a section reference.

Section 104(f)—Mortgage insurance for public hospitals: Requires HUD to issue regulations not later than October 31, 1984, to implement the FHA insurance program for public hospitals as provided for in HURRA.

Rural housing

Section 105(a)—Definition of Income:

(1) Amends Section 501(b)(4) of the Housing Act of 1949 to make clear that in establishing income eligibility limits that will apply to the rural housing programs the Secretary of HUD shall consult with the Secretary of Agriculture and that such limits shall be established taking into consideration the subsidy characteristics and purposes of the rental and homeownership assistance programs to which such limits are applied.

(2) Amends Section 501(b)(5) of the Housing Act of 1949 to clarify that for the purposes of the rural housing assistance programs (a) the Secretary of HUD shall consult with the Secretary of Agriculture in defining income under Section (3)(b)(4) of the United States Housing Act of 1937 and (b) adjusted income will be the same as it is defined in Section 3(b)(5) of the United States Housing Act of 1937.

Section 105(b)—Section 502 Very Low and Low Income Funding Set-Asides: Amends Section 502(b) of the Housing Act of 1949 to require that (1) at least forty percent of the funds available from appropriations for Section 502 loans be set aside and made available by the Farmers Home Administration for families and persons with incomes of fifty percent or less than the median income of the area; and (2) that not less than thirty percent of the Section 502 loan funds allocated to each state be made available only to such very low income families or persons.

Section 105(c)—Administrative Authorities: Amends Section 510(e) of the Housing Act of 1949 to make a grammatical correction to the property disposition provisions.

Section 105(d)(1)—Prohibition on the Transfer of Housing Included and Guaranteed Loan Authority: Amends Section 513(a) of the Housing Act of 1949 to prohibit the transfer of any loan authority authorized under Title V to any other purpose.

Section 105(e)(1)—Conditions for Section 515 Loans With State or Local Rental Assistance Contracts: Amends Section 515(k)(2)(B) of the Housing Act of 1949 as amended to eliminate the requirement that Section 515 loans for low income rental housing projects with state or local rental assistance shall only be approved if the project can be found to be economically feasible without rental assistance.

Section 105(e)(2)—Low and Very Low Income Occupancy Limits in Rural Projects: Amends Section 515(o) of the Housing Act of 1949, as amended, to remove a redundant provision in paragraph (3).

Section 105(g)—Definition of Rural Area: Corrects Section 520 of the Housing Act of 1949, as amended, to assure that areas defined as eligible rural areas continue to be eligible through fiscal year 1985.

Section 105(h)—Utilization of Rental Assistance Payment Authority: Amends Section 521(d)(1) of the Housing Act of 1949 to provide that available rental assistance funds shall be applied by the Secretary first, to existing FmHA rental housing projects to extend expiring rental assistance contracts or to provide additional amounts necessary to assure full funding of the remaining period existing contracts, secondly, to new rental projects under Sections 514, 515 or 516 that have received commitments after fiscal year 1983 to assist very low income persons or families, except that not more than 5 percent of the units assisted with such payments in these projects shall be for low income persons other than very low income persons; and thirdly, any rental assistance payment authority that remains, after being made available as specified above for existing and new projects, can be used to assist additional eligible tenants in rental projects that already are receiving rental assistance payments.

EXPLANATION OF TITLE II OF HOUSE AMENDMENT TO S. 2819, SEPTEMBER 10, 1984

Title II of the bill contains technical and conforming amendments to those provisions of the housing and community development laws not affected by title I.

Section 201 conforms references to the Secretary of Health and Human Services and Secretary of Education. The Department of Education Organization Act (Pub. L. 96-88; 20 U.S.C. 3401 et seq.) established the Departments of Health and Human Services and Education from HEW. However, the references to HEW in the housing and community development laws have never been updated to reflect this change. In addition, section 306 of the Department of Education Organization Act transferred the functions of HUD relating to college housing loans to the Secretary of Education, without amending title IV of the Housing Act of 1950 to reflect that transfer. This section, then, corrects the housing and community development laws to reflect the effect of the reorganizations and transfers effectuated by the Department of Education Organization Act.

Section 202 conforms cross-references to title 5 of the United States Code. Public Law 89-554 codified title 5 of the United States Code. However, the references to title 5 provisions in the housing and community development laws have never been updated to reflect that codification. Most important of these are the refearences to the Administrative Procedure Act, which should now refer to subchapter II of chapter 5, and chapter 7, of title 5. This section corrects these references.

Section 203 conforms cross-references to title 31 of the United States Code. Public Law 97-258 codified title 31 of the United States Code. However, the references to title 31 provisions in the housing and community development laws have never been updated to reflect that codification (except for a few corrections included in HURRA '83). Most important of these are the references to the Second Liberty Bond Act and the Government Corporation Control Act. This section corrects these references.

Section 204 contains miscellaneous technical corrections to housing and community development laws other than the provisions of, and amendments made by, the Housing and Urban-Rural Recovery Act of 1983. This section corrects certain spelling, grammatical, and section designation errors in the housing and community development laws. Section headings are also provided for certain sections of law in which they were inadvertently omitted. Furthermore, references to prior names of the Banking Committees are corrected.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] has consumed 2 minutes.

Mr. McKINNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amendment to S. 2819, Technical Corrections to the Housing and Urban-Rural Recovery Act of 1983.

Last November, this body passed a legislative package involving housing authorizations and IMF funding. In the course of the 11th-hour negotiations with the administration and the Senate to produce that compromise, several technical oversights managed to escape us. Accordingly, title I of this bill makes essential technical amendments to the Housing and Urban Rural Recovery Act of 1983 to conform to the agreed compromise. These amendments have been developed by House and Senate staff and, to the extent possible, with input from the Department of Housing and Urban Development.

This legislation represents an honest effort on the part of both majority and minority to preserve the technical and noncontroversial thrust of those needed amendments. The bill contains no new programs and in only one instance—the section 235 program—do we extend the life of a program. In that case, there was agreement last year to continue the program but the date was not changed in the final draft.

The technical amendments will correct what could otherwise be a very costly and legally confusing situation for HUD. OMB and HUD don't support all elements of this bill, nor do I. In fact, only yesterday did the administration decide to let us know the extent of their concern about a few of the points in the bill. However, I strongly believe that agreements are made to be honored. I don't believe that this legislation breaches any agreements made in good faith last November: to oppose this bill would breach the agreements.

Title II of this bill represents nothing more than "housekeeping" amendments to other housing and community development laws which have been on the books for some time. These changes are necesitated by changes in other statutes that affect laws under the jurisdiction of the Banking Committee, such as making all references to the "Secretary of Health, Education and Welfare" refer to the "Secretary of Health and Human Services." These are truly technical amendments and deserve to be in legislation of this nature.

Mr. Speaker, I urge my colleagues to support this bill. I am supporting it even though I don't support every amendment. The spirit of these amendments was included in the compromise we reached last November. I believe, as honorable men and women, we are bound by that agreement. I have told my friends in the majority and my friends in the administration that there will be ample opportunity in the next session to change the substance of the 1983 legislation. That is the way we normally operate. The intent of our action today and similar action in the other body is only to meet the terms of our agreement. I would point out also that if we fail to pass this technical corrections bill, it is estimated that the cost to the taxpayers could be embarrassing. In one instance alone, we may be talking about as much as $200 million. I urge my colleagues to pass S. 2819.

Mr. Speaker, I would like to elaborate on some of the major provisions of this legislation to clarify the previously agreed upon intentions of the Banking Committee.

COMMUNITY DEVELOPMENT PROGRAMS

One of the major provisions of the Housing and Urban Rural Recovery Act of 1983 pertaining to the Community Development Block Grant Program, stipulates that CDBG Program funds should be focused on activities that directly benefit low- and moderate-income persons or if the activity is a general one in areas where low- and moderate-income persons are in the majority. The present statutory provision provides an exception for jurisdictions only if there are no concentrations of lower income persons. The net result is that jurisdictions that have one or two such areas are forced to spend all their funds in such areas regardless of the size of those areas and the plight of other low-income areas within the jurisdiction. While I believe the congressional intent of targeting aid to lower income areas should be maintained, it obviously was not our intent to prohibit funding in deserving areas if there were only a few areas that met the criteria. Accordingly, the technical amendment amends the statute to reflect that jurisdictions with no area with a majority of low- and moderate-income residents or so few such areas that in the Secretary's opinion the intent of the statute is not being carried out, may still qualify for areawide community development activities if the areas that are served are

among the top 25 percent of all areas within a community's jurisdiction having the highest concentration of low- and moderate-income persons.

Since enactment of the Housing and Urban Rural Recovery Act, various bills have been introduced by my colleagues to correct what was clearly an unforeseen result. This technical amendment addresses those concerns. I must add that we had anticipated having a technical corrections bill passed by Congress earlier in this session. We are now getting close to the time that some urban counties must requalify for another 3-year cycle. To this end, it is expected that HUD will provide some reasonable additional time to those counties who are in the process of requalifying to go back to their areas in view of this statutory change to determine if other areas in the community may now qualify.

Mr. Speaker, this amendment would also severely limit the application of a provision contained in S. 2819 dealing with the proceeds from the sale of urban renewal properties. The legislation Congress passed last fall set certain parameters regarding moneys realized from an urban renewal grant. In an effort to clarify those provisions, which were evidently viewed by some as being too vague, the Senate amended the 1983 amendments to include local public agencies among those eligible to retain program income. The administration has problems with this, and under various scenarios, ran the cost of the amendment up to a worst-case figure of $236 million.

Mr. Speaker, there may be no cost to the Federal Government because the low side of their scenario was zero. In any event, the amendment offered here redirects the funds to units of local government and limits the applicability to two cities who have meritorious claims. It is not clear as to what the cost for those two cities could be, but it would be some place between $10 and $36 million. In addition, it should be noted that this is not new funding authority but funds that would be expected to be paid back to the Treasury.

HOUSING ASSISTANCE PROGRAMS AND RENTAL REHABILITATION AND DEVELOPMENT GRANT PROGRAMS

The technical corrections to the Housing Assistance Programs and the new section 17 program primarily involve typographical and citational corrections. There are some extensions and clarifications to various program provisions. While the minority is in general agreement with most of the provisions, the following should be emphasized.

First, the bill corrects the extension date of the section 235 program, by extending the Secretary's authority to enter into new contracts for section 235 assistance to September 30, 1985. This is consistent with the 2-year extension of other housing programs contained in the Housing and Urban Rural Recovery Act of 1983. While one could question the need for the section 235 program, the agreement was made to extend it and the extending language was inadvertently dropped from last year's bill. In addition, subsequent appropriation measures have appropriated the funds so we are not talking about additional money. However, as the section 235 program has been subject to past abuses costing the Federal Government millions of dollars in defaulted mortgage payments, it is expected that HUD will monitor carefully the implementation of this new authority.

Second, the bill authorizes the Secretary to make necessary adjustments to the section 8 moderate rehabilitation rent limits in order to effectuate the implementation of the property disposition program while ensuring the ability to utilize the units as low-income housing subsidized units. This change was necessitated by the repeal of the section 8, New Construction and Substantial Rehabilitation Program. As a result, section 8 substantial rehabilitation can no longer be used in HUD's multifamily property disposition program.

Mr. Speaker, based on HUD's previous very limited program activity pertaining to substantial rehabilitation in conjunction with property disposition, it appears that the repeal of section 8 substantial rehabilitation will have no ill effect on HUD's implementation of multifamily property disposition. The existing statutory provisions of sections 8 (c)(1) and (e)(2) of the U.S. Housing Act of 1937 provide HUD sufficient authority to make the necessary rental adjustments to assure continued rent subsidies for those previously subsidized units. This provision then is probably not necessary but it does raise a question about the potential costs of this program. While no one disagrees with preserving low-income housing resources, there is a public policy question of "at what cost?" This technical provision unfortunately does not answer that question. At what point, Mr. Speaker, will the taxpayers say "enough?" Repairs of $60,000, $70,000, $80,000 per unit? Monthly subsidy costs of $800 per unit, $1,000 per unit? At some point, a decision must be made to utilize other resources. I hope our committee will address that question next year.

Mr. Speaker, as you know, the 1983 housing authorization bill defines adjusted income, and includes certain exclusions from income. Since the enactment of the bill, questions have arisen pertaining to the applicability of attendant care and auxiliary apparatus expenses that may be necessary to enable a family member to be gainfully employed, including the gainful employment of a disabled or handicapped family member. The apparent confusion exists due to the fact that section 3(b)(5)(C) of the U.S. Housing Act of 1937 provides an exclusion for medical expenses in excess of 3 percent with no mention of unusual expenses which have previously been addressed in HUD occupancy guidelines. It had always been our intention to provide necessary compensation for reasonable attendant care and auxiliary apparatus expenses to assist employment opportunities of disabled or handicapped family members. Auxiliary apparatus is intended to be limited to vans to transport the handicapped and wheelchairs and other auxiliary equipment the Secretary so determines is necessary to assist in employment opportunities. This should be clear as a result of this legislation.

Finally, a clarifying amendment is being made to section 223(e) of the Housing and Urban Rural Recovery Act of 1983 pertaining to preconditions for competitive bidding of construction contracts under the section 202 program. This amendment is necessary to carry out the original congressional intent that sponsors of section 202 housing for the elderly and handicapped have an unfettered choice of contractor selection methods if they meet the statutory criteria specified in the 1983 act.

Since the enactment of the 1983 act, HUD has issued guidelines which prevent HUD loan proceeds from being used for the cost of change orders in connection with negotiated construction contracts. Moreover, the construction contract is amended for sole-source negotiated contracts imposing certain warranties by the contractor with respect to the drawings and specifications and requires that the contractor agree to assume full responsibility for any increased costs resulting from changes in the contract document. This requirement does not exist in other HUD-insured programs. Why should things be different for section 202 sponsors, who, within the existing statutory criteria, choose to negotiate with an individual contractor?

While HUD should be commended for its efforts to contain costs in the section 202 program, HUD should not impose different requirements with regard to construction change orders so as to coerce sponsors in using competitive bidding rather than negotiated bidding. Equal treatment with regard to change orders should be provided nomatter which contractor selection method is used.

Due to the significant differences in both the House and Senate versions of the new section 17, Rental Rehabilitation and Housing Development Grant Program, the final negotiated compromise did not accurately reflect certain agreed upon intentions of both the House and Senate. While the staff

suggested amendments to the Housing Development Grant Program, it was decided to defer any further legislative efforts until the Department of Housing and Urban Development had a chance to review public comments in response to the interim regulation and obtain other program experiences based on an evaluation of the first round of applications.

Therefore, the scope of the changes pertaining to the section 17 program primarily involve the deletion of superfluous language and corrections of typographic and citational errors. In addition, clarifications are made to permit Indian tribes and insular areas to be eligible for development grants, and to permit the State program for rental rehabilitation to operate in any area other than within the jurisdictions of formula allocation grantees and rural areas.

FHA PROGRAM AMENDMENTS AND EXTENSIONS

This section provides clarifications pertaining to condominium conversion restrictions, Charter of the National Housing Partnerships, and the allocation of resources for the Solar Energy and Energy Conservation Bank.

Section 420(c) of HURRA imposes new restrictions on the use of mortgage insurance for individual condominium units in projects that were converted from rental housing. This amendment provides some relief to developers having condominium conversions in process when section 234(k) of the National Housing Act was enacted. These developers, as well as prospective purchasers of condominium units, may be adversely affected by the imposition of these new restrictions. The technical amendment contained in this legislation provides that if an application for mortgage insurance for any unit was filed with HUD before April 20, 1984, all other units in the same project would be eligible for mortgage insurance without regard to the section 234(k) restrictions.

Mr. Speaker, both the House and Senate authorization bills contained provisions amending the charter of the national housing partnerships. Through an oversight, the compromise version was not included in the final bill. This provision implements the previous agreement by authorizing NHP to design, develop, manufacture, and sell products and services for use in the construction, sale, or financing of housing, and design, and develop commercial, industrial, or retail facilities that are directly not related to housing, except that the total equity commitment of the corporation to commercial, industrial, and retail facilities that are not directly related to a housing project shall not exceed 25 percent of its equity commitment to housing activities. The production and preservation of housing primarily for the benefit of families and individuals of low and moderate income shall remain to be the primary purpose of the corporation.

SOLAR BANK

Mr. Speaker, the Solar Energy and Energy Conservation Bank was established by title V of the Energy Security Act of 1980 to encourage energy conservation and the application of solar technology to lessen this country's dependence on imported oil and other foreign energy sources. While the bank is authorized to provide subsidies directly to financial institutions, HUD has elected to use the States as intermediaries. There has been concern over the procedures and criteria for making funding allocations under the Solar Bank Program. The House amendment clarifies the fund allocation procedure by requiring the solar bank to establish in regulation the criteria and their relative weights for an annual allocation of the available assistance.

RURAL HOUSING

This section clarifies provisions contained in the Housing and Urban Rural Recovery Act of 1983 to permit the Farmers Home Administration, Section 502, Low Income Homeownership Loan Program, to operate more effectively in view of last year's targeting provisions. Currently, the statute requires that nationally not less than 40 percent of subsidized homes in section 502, and 30 percent in each State be available only for occupancy by very low-income families. The intent was to get more funds to the truly needy.

Unfortunately, last year's targeting provision has not achieved the results we had intended. Whether through lack of available low-cost housing or because the ceiling of 50 percent or below of area median income is simply too low to actually qualify a homeowner, the Farmers Home Administration is having a difficult time meeting the 40-percent target. As a result, neither the very low-income funds or the low-income funds are being fully utilized because Farmers Home claims there is a linkage between the two.

The technical amendment solves that problem by establishing two funding categories. A set-aside is established in which at least 40 percent of the funds are for subsidized home loans to very low-income families. In addition, not less than 30 percent of funds allocated to States are required to be set aside for use only by very low-income families. This requirement does not preclude FmHA from pooling and reallocating any unused funds from such a State set-aside so long as the funds remain available only for low-income families.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. McKINNEY] has consumed 3 minutes.

Mr. FRANK. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I would like to engage in a colloquy regarding a section of the bill so that there is no question as to congressional intent when the act is carried out.

I hope my understanding of the provision is correct; because an expensive legal battle is being waged against the Denver Urban Renewal Authority by HUD. While DURA has won the first round of court battles, I would hate to see taxpayer dollars being spent on attorney's fees, rather than to provide the housing, community development, and urban renewal assistance so badly needed in Denver. This provision, already adopted by the Senate, will put an end to that court battle and let the funds be spent where they are most needed.

The section authorizes the city of Denver, CO, to receive and use for housing, urban renewal, and community development purposes, certain funds earned by the Denver Urban Renewal Authority in its administration of the Skyline Urban Renewal project. The Skyline funds consist of all moneys received by the Denver Urban Renewal Authority as income from parking lots, as receipts from the sale of land, air, and subsurface rights in the Skyline area, and other funds resulting from the Skyline project retained by the Denver Urban Renewal Authority, as well as all interest earned on the investment of such moneys. As used in this section, receive means that the city of Denver may hold the Skyline funds as its own property, to invest, dispose of or expend the funds and any interest the funds may earn in the future. The only restriction on Denver's retention, investment, disposition, or use of the funds is that the funds must be used in accordance with the requirements of the Community Development Block Grant Program as specified in title I of the Housing and Community Development Act of 1974. It is clear from that act that the Department of Housing and Urban Development does not have the authority to approve or disapprove of the expenditure of those funds in advance as long as city specifies their use in their annual CDBG proposal and these funds in addition to all funds received under the CDBG Program principally benefit low- and moderate-income families and the city complies with the moderate income families and the city complies with the certification and other requirements of the CDBG Program.

Let me extend my thanks to the chairman and this staff as well as the minority for your support and cooperation.

□ 1530

Mr. FRANK. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentlewoman for yielding.

The gentlewoman has correctly stated the intent of the subcommittee and of the Congress in regard to the matter she has just discussed.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman.

Mr. McKINNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in support of the amendment to S. 2819.

In almost 18 years in Congress, I have seen few pieces of legislation that were perfect on the first draft and questions often arise before the final product is brought before the House. Most of the time differences between the House and Senate are ironed out in a conference between the two Bodies.

Last fall we didn't have the luxury of a conference on our housing bill. The situation was such that we had to pass an IMF bill. Part of the package we agreed—include was a housing bill that was constructed without the benefit of a formal conference.

Mr. Speaker, in assessing the impact of that housing bill, it was clear that certain provisions were not working as we had thought. Viewed as a whole, these are not major matters. On the other hand, in some circumstances, and in certain localities, these are indeed major matters. An example of that is the problem some urban counties experienced in spending their CDBG funds. Many of my colleagues, including the gentleman from Pennsylvania [Mr. WALKER] have approached me and asked that we pass legislation correcting a flawed provision in last year's act on the CDBG Program. Well, here it is.

In fact, Mr. Speaker, what we present here is an attempt to correct all the faults we could identify that are noncontroversial. The other body has already passed their version. We have an amendment which I support. Our amendment is somewhat longer but that is misleading. Almost one-half of the text of this amendment has nothing to do with last year's bill. Changes are made in other housing laws under our committee's jurisdiction but they are truly technical in nature. They correct out-of-date citations or Department positions that no longer exist. It is simply an attempt to correct the text of our laws so that when a new version of the compiled laws is printed later this year it will not contain out dated references.

The changes we domake to last year's bill are, for the most part, inconsequential. They have been developed in consultation with the administration and the other body. There are, however, a few provisions that are not favored by the administration. One extends the section 235 Subsidized Homeownership Program for another year. The administration is opposed to this program. So am I. On the other hand, the agreement that was reached last year did extend the program and I believe we should live up to our agreement. In addition, the funds have already been appropriated. Another provision opposed by the administration would allow certain cities to retain urban renewal income. The other body added an amendment to existing law that could be broad ranging. In excess of 150 projects would have been effected. We have severely limited the application of that amendment. In fact, projects in only two cities are now covered. The cost could be as low as $10 million as opposed to $236 million if all projects were included.

There were also questions raised about the 202 Program and some of the Farmers Home provisions. None of these, however, could in any way be construed as budget busters. The objection lies more in philosophy and even OMB admits there are two interpretations on these matters.

Mr. Speaker, in the other portions of the bill there are some very laudatory changes. I have already briefly mentioned that part of the amendment that deals with urban counties and the principally benefiting rule. Last year, as you know, we attempted to further target community development funds by requiring them to be spent either on low- and moderate-income families or in areas where low- and moderate-income individuals are in the majority. We provided an exception but the exception was so narrowly drawn that it had the effect of forcing urban counties to spend all their funds in one or two very small geographical areas while larger but deserving areas were prohibited from receiving funds. This certainly was not our intention and I am gratified that we are clearing this up with this amendment.

In addition, the amendment clarifies a provision in last year's bill dealing with attendant care costs allowed under the new definition of income. As a result of this amendment, handicapped residents of assisted housing would be permitted to deduct from their income attendant care and special transportation costs such as wheelchairs and specially modified vans.

I might also mention an amendment to the Farmers Home Administration section. Many of my colleagues will remember the problem that arose earlier this year when funds for the Farmers Home Administration 502 Homeownership Program were not being spent because of an administrative interpretation. Last year's bill targeted 40 percent of the 502 funds for very low income families. When, for various reasons, the full 40 percent of those funds could not be utilized in some States, the Department of Agriculture refused to spend the 60 percent of the remaining funds. These were funds that were to go to low-income families. The Department claimed a linkage between the two. We were able to sever the link for this year in an appropriation bill. This amendment will take care of the problem for future years.

Mr. Speaker, this legislation does have merit and is of a technical nature. It contains no new grandiose programs and has been approved by both the majority and the minority. I hope my colleagues will suspend the rules and pass S. 2819 as amended.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I understand that these technical amendments are simply correcting oversights of the Housing and Urban-Rural Recovery Act of last year and therefore a matter of importance to my district has not been included. That matter is maintaining the community development block grant [CDBG] entitlement status of those communities which lost their status as central cities after the last census. As I understand it, 19 communities under 50,000 no longer meet the definition of central city of a metropolitan area and therefore will not be entitled for CDBG funding after fiscal year 1985. For the first time, studies of commuting patterns were used to identify central cities, and these cities were dedesignated because they do not attract enough workers. Since attracting workers is a key to a healthy and vibrant economy, this methodology has eliminated some very distressed and struggling communities, which are very much in need of CDBG funding. One of these communities, the city of Hopewell, VA, is in my district. I am also speaking on behalf of my colleague, Mr. HEFNER of North Carolina, who represents the communities of Concord and Salisbury, NC, which are also affected by this change. Mr. Speaker, I can appreciate that in the crush of business the committee has limited its considerations this year to matters of immediate concern, but could you assure me that when the committee considers legislation in the next Congress, it will review the situation of these small cities as the committee conducts hearings and marks up the legislation?

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SISISKY. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for his concern for his district which has led him to be so active in this regard, along with the gentleman from North Carolina [Mr. HEFNER] and others.

The subcommittee, and I speak now after consultation with the chairman of the subcommittee, the gentleman from Texas, very much intends to address this. We share the gentleman's concern. Nine States and nineteen communities, as the gentleman has pointed out, have been so affected.

It is our intention early in the next session to have hearings and to begin legislative consideration of some remedies.

As the gentleman knows, the census data which resulted in these changes was not completed prior to our acting in 1984 and that is why we were not able to act anticipatorially, but we do intend to give very serious consideration to this. We hope we will be able to give some relief to the gentleman and to his colleagues.

I want to commend the gentleman for raising this issue.

Mr. SISISKY. I thank the gentleman.

● Mr. ST GERMAIN. Mr. Speaker, the amendments to the Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, contain important technical corrections and policy clarifications to that act. These are necessary because in passing Public Law 98-181, the usual procedure of a conference meeting, a conference report, and floor action was bypassed. Important omissions and technical defects which resulted must be corrected. This amendment provides those corrections and also includes clarifications of congressional intent that have been brought to our attention.

Title I of this amendment contains technical corrections to the community development block grant and the assisted housing programs administered by the Department of Housing and Urban Development and the Farmers' Home Administration's rural housing programs.

A provision is included that will clear up the issue involving the principally benefit tests where areawide activities are undertaken in communities that have few or no areas with high concentrations of low- and moderate-income people. This amendment would permit community development block grant activities to be considered to benefit low- and moderate-income families if they are located among the top 25 percent of all areas within the community having the highest concentration of low- and moderate-income people. We clarify that an urban county that contained newly identified metropolitan cities can be considered an urban county entitlement community if the city defers its metropolitan classification for Community Development Block Grant Program purposes.

Among the assisted housing provisions included in this amendment the use of section 235 homeownership subsidy funds that the Congress approved will be facilitated by correcting a technical omission. Handicapped employed residents of federally assisted housing would be allowed their income attendant care costs; the HUD Secretary would be authorized to increase moderate rehabilitation section 8 assistance to assure that low-income residents can continue to live in apartments sold from the HUD inventory. And the HUD Secretary's authority to provide section 8 existing contracts on a project basis in the Loan Management and Property Disposition Program would be preserved. Both of these amendments will help in the effort to utilize to the greatest extent possible the existing housing stock in meeting our low-income housing needs. A provision adds 12 more cities that could be eligible for grants under the Rental Housing Development Program.

Title II contains other necessary technical and conforming amendments to the housing and community development laws and makes other corrections of a technical nature. In addition several provisions are included to the Farmers' Home Administration's rural housing programs. Beginning in fiscal year 1985, the transfer of rural housing loan authority to any other program would be prohibited. The unfortunate section 502 homeownership targeting issue is resolved by a provision which allows separate set-asides of section 502 authority among very low-income borrowers and low-income borrowers so that loans for one needy group of borrowers are not withheld because a loan cannot be made to a borrower from the other group. A provision would make clear that States and localities that provide rental assistance payments for low-income rural rental projects in order to obtain a section 515 rental housing loan not be required to meet other feasibility requirements than already are required by the Farmers Home Administration's Rental Assistance Payment Program.

A provision of the amendment requires the HUD Secretary to issue regulations by October 31, 1984, to implement section 436 of the 1983 amendments, which makes FHA hospital mortgage insurance available for the first time to the public hospitals.

I also am concerned about the Department's persistent effort to change the performance funding system that provides operating subsidies. I am advised that an August 31, 1984, memorandum indicates that the Department decided not to retroactively change the procedures used for calculating the rental income estimate used in the performance funding system. But I must express my real disappointment to find that HUD reneged on an agreement it made when we negotiated the 1983 Act. At that time we agreed that nonprofit section 202 elderly housing sponsors to select contractors on a negotiated basis so long as costs were low—if they where high HUD was permitted to step into the selection process. However, to my dismay HUD went ahead and proposed administrative procedures that made a mockery of its agreement. It would not back off and, therefore, we have included a provision preventing the imposition of requirements merely designed to apply because of the method of contractor selection in a nonprofit section 202 project.

I thank the subcommittee chairman, Mr. GONZALEZ, and the ranking minority member, Mr. MCKINNEY, for their work on this complicated technical amendment and urge its adoption by the House.

INDIAN HOUSING ASSISTANCE

The committee is seriously concerned that the Indian Housing Program may be seriously impaired through regulations involving low-income eligibility limits, the proportion of low and very low-income families that may occupy mutual-help projects and the use of manufactured housing standards in an effort to limit the type and cost of construction for all mutual-help projects.

Income eligibility ceilings for the Indian Housing Program should be established to permit as widespread use of the Mutual-Help Housing Program as possible because it is the only program under which individual housing can be built for Indian families especially those who reside on reservations. Indian family incomes are so low that the prescribed percentages of the median used for other housing assistance would include families that could not afford homeownership and would exclude families that have almost equal housing needs but could afford to participate in the program. Also, the Mutual-Help Program should not be subject to the regulation requiring not more than 5 percent of the units in a project to be occupied by families with incomes between 50 and 80 percent of area median income. As with income ceilings, a regulation of this type would virtually stop the program contrary to the intent of the Congress. And, finally, the committee does not believe that the Congress intended to limit all Indian housing construction to a standard no higher than HUD's manufactured housing standards. The Department has indicated that it will reconsider its approach to each of these issues and the concerns of the committee, therefore, no legislative provisions addressing these issues are included in this bill.●

● Mr. LEHMAN of California. Mr. Speaker, I would like to express my support for Senate bill 2819, which makes technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

This important measure clarifies a number of provisions in the housing authorization bill that was signed into law last November, and makes other minor adjustments in the housing programs addressed by this legislation.

I would like to extend my appreciation to Housing Subcommittee Chairman HENRY B. GONZALEZ for all of his hard work on this technical corrections bill. Chairman GONZALEZ has worked closely with Members from both sides of the aisle to insure that all pertinent viewpoints have been addressed in this bill. I commend him for the excellent piece of legislation he has brought to the floor of the House today.

Of particular interest to my constituents in San Joaquin County, CA, is a provision in this bill that clarifies that San Joaquin county is indeed qualified as an urban county for purposes of participation in the U.S. Department of Housing and Urban Development's Community Development Block Grant Program.

The county reached the population figure of 200,000 required for participation in the program in early 1982. However, because of the delay in determining the accurate count of these residents by the Census Bureau, the county was adversely affected by a technical change in the program in 1983 regarding cities designated as central cities by the Office of Management and Budget. The result of these changes was to deny San Joaquin County the deserved benefits of urban county status even now, 2 years after the county qualified for such status.

On behalf of the citizens of San Joaquin County, I would like to extend my thanks to both of these gentlemen, and to the staff of the House Subcommittee on Housing and Community Development, for all of their assistance in helping to resolve this issue.

I urge my colleagues to vote in favor of this measure to make the law evenhanded and equitable.●

● Mr. HORTON. Mr. Speaker, I rise in support of the amendment sponsored by my colleague, Chairman ST GERMAIN. This package of noncontroversial housing amendments contains language addressing a problem of particular concern to the people of New York State.

In early 1982, the State of New York developed a model proposal for combining Federal and State resources to address the housing needs of low- and moderate-income rural citizens. This proposal provides affordable housing by combining New York State rental assistance money with housing constructed through FmHA section 515 program.

This past year, regulations promulgated by FmHA were released, which made this model program all but impossible to administer. Simply stated, the problems are threefold:

First, the regulations require a market survey demonstrating that the units are marketable without a subsidy. Once the grantee demonstrates that the subsidy is unnecessary, the subsidy is denied.

Second, the regulations require the commitment of at least 25 years be made by the State of New York for rental assistance. The New York State Constitution prohibits authorizations for more than a single fiscal year.

Third, the regulations establish an inequitable funding formula that prevents the release of section 515 for otherwise eligible projects.

These regulations resulted in the fact that less than 20 percent of New York's fiscal year 1983 section 515 allocation has been released. The language in this bill will remedy these problems and allow this successful program to continue to serve the needs of my rural constituents.

I commend my colleague, Chairman ST GERMAIN, for his early attention to these problems. In addition, I want to especially commend my good friend and New York State colleague, STAN LUNDINE, for his untiring efforts as a member of the Committee on Banking, Finance and Urban Affairs.●

● Mr. CORRADA. Mr. Speaker, I rise in support of S. 2819, legislation making technical corrections to the Housing and Urban-Rural Recovery Act of 1983, now Public Law 98-181.

This legislation is essentially noncontroversial, but very important in continuing the basis thrust of many housing programs which the legislation passed at the close of the last session of Congress continued and expanded. It certainly helps meet the need for many cities throughout the United States and Puerto Rico to focus on the housing necessities of low- and moderate-income families, and to continue the Federal Government's responsibility in this area.

The Community Development Block Grant Program of the Department of Housing and Urban Development, as the legislation mandates, should continue to focus on the needs of the low- and moderate-income residents within the area affected by the CDBG program and I strongly endorse that mandate. By a minor omission in the legislation passed last year prior to adjournment, this technicality which changed this focus inadvertently would be reinstated.

In addition, the legislation contains various technical provisions which cover a variety of housing programs including the new Housing Development Grant Program of HUD which is just getting underway on the national level. A provision allowing States to use a small portion of their CDBG "State" block grant for smaller cities in helping implement the new housing rental rehabilitation program is particularly useful, it seems to me, in helping provide the much needed technical assistance for smaller communities in helping get a new program started.

I believe this legislation, which is esssentially technical in nature, is important. I commend Chairman HENRY GONZÁLEZ of the Housing Subcommittee for his promptness in bringing this to the floor for consideration.

I urge support of S. 2819 and its speedy passage.●

● Mr. KOSTMAYER. Mr. Speaker, I rise in strong support of S. 2819, making amendments to the Housing and Urban Recovery Act of 1983.

S. 2819 includes legislation I introduced on February 23, 1984 as H.R. 4843, and which was subsequently introduced by Senator JOHN HEINZ in the other body on February 28, 1984. The Banking, Finance and Urban Affairs Committee has incorporated H.R. 4843 into this bill.

The section of S. 2819 I refer to amends section 105(c)(2)(B) of the Housing and Community Development Act.

Last December county and local officials in Bucks County in my congressional district alerted me to an unintended change in the 1983 law which drastically altered project eligibility rules in urban counties, such as Bucks, and neighboring Montgomery County, and several other counties in Pennsylvania. This change was forcing certain jurisdictions with low population density to concentrate community development block grant activity in few or small pockets of poverty, while ignoring the needs of most of their lower income population.

The Kostmayer/Heinz proposal—which was drafted with the assistance of the National Association of Counties and which also has the support of the National Association of Towns and Townships—will enable cities and counties with few or small concentrations of poor to meet the requirement that at least 51 percent of their CDBG spending benefit lower income persons through projects to improve areas among the top 25 percent in concentration of lower income families.

The 1983 act requires that areawide projects be in census tracts or blocks that have a majority of lower income residents, unless the jurisdiction has no such areas. The jurisdiction would then have to target spending on the 25 percent of areas with the highest proportion of lower income households. We have sought to have the exception broadened for urban counties where it would be unrealistic, and contrary to

the intention of the 1983 act, to focus CDBG spending on a few, small and scattered areas where a majority of residents are lower income. Eight counties in Pennsylvania will be precluded from carrying out areawide projects in those parts of the county where most of their lower income households reside, unless the law is changed.

In Bucks County alone, the following 12 projects are at stake, according to information supplied by the county's Office of Community Development:

[In percent]

Sponsor	Project	Low/mod
Chalfont	Street improvements	49.3
Durham	Acquire Durham mill	41.0
Durham	Recreation facilities	41.0
Riegelsville	Ambulance for emergency squad	39.6
Falls	Park acquisition	44.5
Morrisville	Central area renewal	47.6
New Hope	Traffic signal	42.7
Newton Boro	Street improvements	40.8
Richland	Recreation facility	42.0
Springfield	Springtown Community Center	44.6
Springfield	Water system	44.6
Yardley	Historic preservation	37.9

Mr. Speaker, I want to thank the distinguished chairman of the Banking Committee, Mr. ST. GERMAIN, and the chairman of the Housing Subcommittee, Mr. GONZALEZ, for recognizing the urgency of this problem, and moving my legislation so that these and other deserving projects in urban counties can go forward.

I urge my colleagues to approve S. 2819.●

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Mr. McKINNEY. Mr. Speaker, I have no further requests for time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the Senate bill, S. 2819, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to make technical and conforming amendments in certain laws relating to housing and community development."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

SECONDARY MORTGAGE MARKET ENHANCEMENT ACT OF 1984

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2040) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal Home Loan Mortgage Corporation, and for other purposes, as amended.

The Clerk read as follows:

S. 2040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Secondary Mortgage Market Enhancement Act of 1984".

TITLE I—SECURITIES LAWS AMENDMENTS

MORTGAGE RELATED SECURITY

SEC. 101. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding the following new paragraph at the end thereof:

"(41) The term 'mortgage related security' means a security that is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, and either:

"(A) represents ownership of one or more promissory notes or certificates of interest or participation in such notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations), which notes:

"(i) are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974, whether such manufactured home is considered real or personal property under the laws of the State in which it is to be located; and

"(ii) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to sections 203 and 211 of the National Housing Act, or, where such notes involve a lien of the manufactured home, by any such institution or by any financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to section 2 of the National Housing Act; or

"(B) is secured by one of more promissory notes or certificates of interest or participations in such notes (with or without recourse to the issuer thereof) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (A) (i) and (ii) or certificates of interest or participations in promissory notes meeting such requirements.

For the purpose of the paragraph, the term 'promissory note', when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidence by a retail installment sales contract or other instrument.".

APPLICABILITY OF MARGIN REQUIREMENTS

SEC. 102. Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding the following new subsection at the end thereof:

"(g) Subject to such rules and regulations as the Board of Governors of the Federal Reserve System may adopt in the public interest and for the protection of investors, no member of a national securities exchange or broker or dealer shall be deemed to have extended or maintained credit or arranged for the extension or maintenance of credit for the purpose of purchasing a security, within the meaning of this section, by reason of a bona fide agreement for delayed delivery of a mortgage related security against full payment of the purchase price thereof upon such delivery within one hundred and eighty days after the purchase, or within such shorter period as the Board of Governors of the Federal Reserve System may prescribe by rule or regulation.".

BORROWING IN THE COURSE OF BUSINESS

SEC. 103. Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended by adding the following new sentence at the end thereof: "Subject to such rules and regulations as the Board of Governors of the Federal Reserve System may adopt in the public interest and for the protection of investors, no person shall be deemed to have borrowed within the ordinary course of business, within the meaning of this subsection, by reason of a bona fide agreement for delayed delivery of a mortgage related security against full payment of the purchase price thereof upon such delivery within one hundred and eighty days after the purchase, or within such shorter period as the Board of Governors of the Federal Reserve System may prescribe by rule or regulation.".

MORTGAGE RELATED SECURITIES AS COLLATERAL

SEC. 104. Section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by—

(1) inserting "(i)" between "of" and "any"; and

(2) inserting the following immediately after "thirty-five days after such purchase": "or (ii) any mortgage related security against full payment of the entire purchase price thereof upon such delivery within one hundred and eighty days after such purchase, or within such shorter period as the Commission may prescribe by rule or regulation".

INVESTMENT BY DEPOSITORY INSTITUTIONS

SEC. 105. (a) Section 5(c)(1) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

"(S) MORTGAGE BACKED SECURITIES.—Investments in securities that—

"(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

"(ii) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regula-

tions as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.".

(b) Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by redesignating paragraph (15) as paragraph (16); and

(2) by inserting after paragraph (14) the following:

"(15) to invest in securities that—

"(A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

"(B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both;".

(c) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end of paragraph Seventh the following: "The limitations and restrictions contained in this paragraph as to an association purchasing for its own account investment securities shall not apply to securities that (A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or (B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Comptroller of the Currency may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.".

PREEMPTION OF STATE LAW

SEC. 106. (a)(1) Any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in securities that are—

(A) offered and sold pursuant to section 4(5) of the Securities Act of 1933,

(B) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), or

(C) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

to the same extent that such person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

(2) Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, corporation, partnership, association, business trust, or business entity, such securities that are—

(A) offered and sold pursuant to section 4(5) of the Securities Act of 1933,

(B) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), or

(C) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

shall be considered to be obligations issued by the United States for purposes of the limitation.

(b) The provisions of subsection (a) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of seven years after the date of the enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in subsection (a). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto and shall not require the sale or other disposition of any securities acquired prior thereto.

(c) Any securities that are offered and sold pursuant to section 4(5) of the Securities Act of 1933 or that are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))) shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Any State may, prior to the expiration of seven years after the date of the enactment of this Act, enact a statute that specifically refers to this section and requires registration or qualification of any such security on terms that differ from those applicable to any obligation issued by the Unites States.

TITLE II—SECONDARY MORTGAGE MARKET PROGRAMS

LIMITATIONS ON PARTICIPATION AGREEMENTS

SEC. 201. (a) The sixth sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows: "The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation.".

(b) The fifth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended to read as follows: "The Corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total orginal principal obligation of the mortgage and not merely with respect to the interest purchased by the Corporation.".

AUTHORITY OF FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE LOANS ON MANUFACTURED HOMES

SEC. 202. (a) Section 302(d) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after "located" the following: "or a manufactured home that is personal property under laws of the State in which the manufactured home is located."

(b) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new sentence: "The term 'residential mortgage' also includes a loan or advance of credit secured by a mortgage or other lien on a manufactured home that is the principal residence of the borrower, without regard to whether the security property is real, personal, or mixed.".

(c) Section 302 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

"(1) The term 'mortgage insurance program' includes, in the case of a residential mortgage secured by a manufactured home, any manufactured home lending program under title I of the National Housing Act.".

PURCHASE OF SECOND MORTGAGES

SEC. 203. (a) Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) until October 1, 1987, conventional mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) until October 1, 1985, conventional mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the corporation, pursuant to paragraphs (1) through (4), shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

"(B) The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages described in subparagraph (A). In any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage described in subparagraph (A) and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 percent of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

"(C) No subordinate mortgage against one- to four-family residence shall be purchased by the corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 percent of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 percent is guaranteed or insured by a qualified insurer as determined by the corporation; (ii) the seller retains a participation of not less than 10 percent in the mortgage; or (iii) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default. The corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the

mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (ii) of such sentence.".

(b)(1) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended—

(A) in the first sentence, by striking out "first"; and

(B) by striking out "The maximum principal obligation" and all that follows through "associations." and inserting in lieu thereof the following: "Such term shall also include other secured loans that are secured by a subordinate lien against a property as to which the corporation may purchase a residential mortgage as defined under the first sentence of this subsection.".

(2) Section 305(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) until October 1, 1987, residential mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) until October 1, 1985, residential mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the Corporation shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

"(B) The Corporation shall establish limitations governing the maximum original principal obligation of such mortgages. In any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage secured by a subordinate lien and not merely with respect to the interest purchased by the Corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 percent of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

"(C) No subordinate mortgage against a one- to four-family residence shall be purchased by the Corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 percent of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 percent is guaranteed or insured by a qualified insurer as determined by the Corporation; (ii) the seller retains a participation of not less than 10 percent in the mortgage; or (iii) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default. The Corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (iii) of such sentence.".

AUTHORITY OF FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE STATE AGENCY INSURED MORTGAGE LOANS

SEC. 204. Section 302(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "a State or any agency or instrumentality of either" and inserting in lieu thereof "any of its agencies or instrumentalities".

MULTIFAMILY MORTGAGE LOAN-TO-VALUE RATIO

SEC. 205. (a) The second sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended by inserting after "mortgage" the first place it appears the following: "secured by a property comprising one- to four-family dwelling units".

(b) The first sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after "mortgages" the first place it appears the following: "secured by a property comprising one- to four-family dwelling units".

LIMITATIONS ON PURCHASE OF CONVENTIONAL MORTGAGES ON MULTIFAMILY PROPERTIES

SEC. 206. (a) Section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended by striking out the penultimate sentence and inserting in lieu thereof the following: "With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 percent of the dollar amounts set forth in section 207(c)(3) of this Act, except that such limitations may be increased by the corporation (taking into account construction costs) to not exceed 240 percent of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.".

(b) Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by striking out the penultimate sentence and inserting in lieu thereof the following: "With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 percent of the dollar amounts set forth in section 207(c)(3) of the National Housing Act, except that such limitations may be increased by the Corporation (taking into account construction costs) to not exceed 240 percent of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.".

BOARD OF DIRECTORS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 207. The first sentence of section 308(b) of the Federal National Mortgage Association Charter Act is amended to read as follows: "The Federal National Mortgage Association shall have a board of directors, which shall consist of eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom shall be elected annually by the common stockholders.".

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SEC. 208. Section 308(h) of the Federal National Mortgage Association Charter Act is amended by striking out the last two sentences and inserting in lieu thereof the following: "Pursuant to the authority provided in this subsection, the Secretary shall, not later than June 30 of each year, report to the Congress on the activities of the corporation under this title.".

PERIOD FOR APPROVAL OF ACTIONS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 209. Section 309 of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new subsection:

"(i) If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development, after the date of the enactment of the Secondary Mortgage Market Enhancement Act of 1984, a request for approval or other action under this title, the Secretary shall, not later than the expiration of the 45-day period following the submission of such request, approve such request or transmit to the Congress a report explaining why such request has not been approved. Such period may be extended for an additional 15-day period if the Secretary requests additional information from the corporation. If the Secretary fails to transmit such report to the Congress within such 45-day period or 60-day period, as the case may be, the corporation may proceed as if such request had been approved.".

FEDERAL HOME LOAN MORTGAGE CORPORATION GUARANTEE OF MORTGAGE-BACKED SECURITIES ISSUED BY OTHERS

SEC. 210. Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

"(h) The Corporation may not guarantee mortgage-backed securities or mortgage related payment securities backed by mortgages not purchased by the Corporation.".

PREFERRED STOCK OF FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 211. Section 306(f) of the Federal Home Loan Mortgage Corporation Act is amended—

(1) by inserting before the period at the end of the last sentence the following: ", and shall not be entitled to vote with respect to the election of any member of the Board of Directors"; and

(2) by adding at the end thereof the following new sentence: "Such preferred stock, or any class thereof, may have such terms as would be required for listing of preferred stock on the New York Stock Exchange, except that this sentence does not apply to any preferred stock, or class thereof, the initial sale of which is made directly or indirectly by the corporation exclusively to any Federal Home Loan Bank or Banks.".

STUDY OF PREPAYMENT PENALTIES AND THE SECONDARY MORTGAGE MARKET

SEC. 212. Not later than 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development, following consultation with the Board of Directors of the Federal National Mortgage Association, the Board of Directors of the Federal Home Loan Mortgage Corporation, the President of the Government National Mortgage Association, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board, shall submit to the Congress a report regarding mortgage prepayment penalties and their impact on secondary mortgage market activities. Such report shall include—

(1) a review of State laws and regulations regarding prepayment penalties;

(2) an evaluation of the impact of prepayment penalties on the ability to attract investors to the secondary mortgage market;

(3) an analysis of existing authority for lenders to offer mortgage instruments containing prepayment penalties; and

(4) a proposal for federally standardized mortgage instruments that would contain prepayment penalties in combination with features that would be attractive to prospective purchasers of homes, including below-market interest rates and prohibitions on non-risk related settlement charges normally incurred by homeowners upon refinancing.

AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT REGARDING FEDERAL NATIONAL MORTGAGE ASSOCIATION OBLIGATIONS

SEC. 213. (a) The second sentence of section 309(h) of the Federal National Mortgage Association Charter Act is amended by inserting "before October 1, 1985," after "corporation".

(b) The last sentence of section 311 of the Federal National Mortgage Association Charter Act is amended by inserting after "issuances" the following: "by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation".

The SPEAKER pro tempore. Is a second demanded?

Mr. TAUKE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. WIRTH] will be recognized for 20 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I yield 10 minutes of my time to the distinguished gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore. Without objection, the gentleman from Texas [Mr. GONZALEZ] is recognized for 10 minutes.

There was no objection.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

I thank the distinguished chairman, the gentleman from Colorado, for yielding this time.

Mr. Speaker, the amendment being offered today to title II of S. 2040, the Secondary Mortgage Market Enhancement Act, are basically changes in the charter acts of both the Federal National Mortgage Association [FNMA] and the Federal Home Loan Mortgage Corporation [FHLMC] and were previously debated and approved by the House in July 1983 as part of the housing bill known as H.R. 1. However, because of the differences in the House and Senate language these provisions were not included in the compromise housing bill that became law last November.

The major charter act change included in this amendment is a provision that would allow both FNMA and FHLMC to purchase second mortgage loans. This provision extends FNMA's current program and expands FHLMC's authority to purchase seconds other than home improvement and energy loans. This is a very important provision for many would be homeowners around the country and in HUD's recent solicitation of comments on FNMA's second mortgage program, 99 percent of the comments supported a permanent unrestricted authority to purchase second mortgages. While this provision allows for unrestricted purchase of seconds it does have a sunset of 1987 and a limit on the amount of the seconds eligible to be purchased to $57,000 for one to four family homes. Added to the original provision is a limitation that would prohibit FNMA and FHLMC from purchasing both a first mortgage and a second when combined that would exceed the limit of $114,000.

There are a number of other minor changes to the charter acts such as expanding the Board of Directors for FNMA from 15 to 18, and clarifying language dealing with the authority of FHLMC to purchase mortgage loans insured in whole or in part by State agencies. For the record I am including a section-by-section of title II of this amendment.

I urge by colleagues to once again support this legislation that will greatly enhance the critical role that both FNMA and FHLMC play in providing housing for low and moderate income families in our Nation.

The House Banking Committee Report 98-123 provides report language on a number of the Charter Act changes that are being considered today in title II of the amendment to S. 2040. However, the committee wishes to express some additional views to further clarify several of these Charter Act changes.

As in H.R. 1, this amendment provides explicit statutory authority for FNMA and FHLMC to purchase second mortgages. The maximum principal obligation of such mortgages for one- to four-family dwellings has been increased to $57,000 and the sunset date for this authority has been extended to October 1, 1987. This authority in no way lessens the view of the committee that the primary role of FNMA and FHLMC is to deal in mortgages that support and assist the sale and rehabilitation of housing.

Section 209 of this amendment has particular significance in view of the committee's concern that any requests by FNMA for approval by the HUD Secretary as required under the Charter Act be considered in a timely fashion.

Because of the rapidly changing environment in the financial services industry, it is imperative that the role of FNMA in no way be hindered in providing the credit for America's future housing needs. Thus, it is imperative that the Secretary respond to these requests without any unnecessary delays.

The intent of the Secretary's role regarding FNMA's activities was not designed to entangle the corporation in unnecessary delays, bureaucratic redtape, or extraneous considerations. Thus, section 209 was designed to provide a balance between FNMA's need to respond to changing market conditions in a timely fashion, while providing the Secretary with the time necessary to review the requests by FNMA.

The 45-calendar-day period, plus a 15-day extension, if necessary, is ample time for the Secretary to review the request, and the committee does not expect any need for further extensions. If the Secretary does not act in this time period, then FNMA may proceed with the proposal.

Finally, if the Secretary should deny a particular request, a report must be made to Congress explaning the reasons for denial. These views are intended to supercede prior S. 2040 report language relating to this issue.

Section 207 of title II of the amendment to S. 2040 increases the Federal National Mortgage Association Board of Directors to a total of 18 members by adding three new stockholder-elected directors. These new positions may be filled for a term ending with the next annual stockholders meeting.

The need for a secondary market program for manufactured housing has been under discussion for sometime and the Banking Committee is aware of FNMA's current evaluation of a personal property manufactured home secondary market program. The committee urges FNMA to continue to work with industry groups to develop such a program and encourages the implementation of this program in a timely fashion.

And finally, while the committee has agreed to continue the authority of the HUD Secretary to approve FNMA's issuance of obligations to other instruments until September 30, 1985, it wishes to make clear that it does not expect FNMA's requests to meet with any long and unnecessary delays. The committee also does not expect this authority to be used in any way to emphasize or deemphasize certain activities where the HUD direction may not be consistent with congressional intent. And third, the committee expects HUD to keep in mind that FNMA participates in a very competitive market and to not in any way interfere with their response to market developments through the use of obligational authority.

SECTION-BY-SECTION OF TITLE II AMENDMENT TO S. 2040

Sec. 201 states that the statutory limits on first mortgages apply to the original amount of whole loans whether or not partial interest is purchased.

Sec. 202 permits FHLMC to purchase manufactured home loans secured by personal, real or mixed property as long as the homes are principal residences.

Sec. 203 allows FNMA and FHLMC to purchase second mortgages without any restrictions on the use of these mortgages. The maximum original principal obligation cannot exceed $57,000 for one- to four-family dwellings. Sunset is October 1, 1987. FNMA and FHLMC may purchase multifamily mortgages with an October 1, 1985, sunset.

Sec. 204 provides a technical clarification of the definition conventional mortgage so FHLMC could purchase loans insured by State agencies.

Sec. 205 provides that the loan-to-value ratio presently required by FNMA and FHLMC for single-family mortgages no longer applies to multifamily mortgages.

Sec. 206 increases the limitation on the maximum principal obligations of all conventional multifamily mortgages purchased by FNMA/FHLMC to 240 percent of the section 207 FHA multifamily limits in HUD designated high-cost areas.

Sec. 207 increases the FNMA Board of Directors from 15 to 18 with additional members elected by the stockholders.

Sec. 208 requires HUD Secretary to report to Congress no later than June 30 of each year on FNMA's activities.

Sec. 209 requires HUD Secretary to respond to FNMA requests for approval of actions within 45 days with a 15-day extension permitted.

Sec. 210 provides that the Corporation may not guarantee mortgage-backed securities or mortgage-related payment securities backed by mortgages not purchased by the Corporation.

Sec. 211 prescribes standards for FHLMC for issuing perferred stock.

Sec. 212 requires the Secretary to do a study on mortgage prepayment penalties and the impact on the secondary market.

Sec. 213(a) HUD Secretary's general authority to approve issuance of all FNMA obligations expires September 30, 1985.

Sec. 213(b) restricts Secretary's approval of FNMA obligations to issuances of stock and of obligations convertible into stock.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. WYLIE], the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Without objection, the gentleman from Ohio [Mr. WYLIE] is recognized for 10 minutes.

There was no objection.

Mr. WYLIE. Mr. Speaker, I yield myself 3 minutes.

I thank the gentleman for yielding the 10 minutes to the Banking Committee, and I rise in support of the amendment to S. 2040, the Secondary Mortgage Market Enhancement Act.

The primary purpose of this legislation is to increase the efficiency of the housing finance system, along with assuring an adequate future supply of mortgage credit. Title II, over which the Banking Committee has juridiction deals with changes in the charter of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. These two Government-sponsored entities make up the major portion of our secondary mortgage market. The powers they receive will, to a great extent, determine the future of the secondary market.

Congress has a responsibility to promote the economic viability of Fannie Mae and Freddie Mac when that can be done without jeopardizing the status of private enterprise and when it will improve the position of American homeowners. I believe we accomplish that goal in the amendment to title II of this legislation.

For example, we authorize additional powers with regard to second mortgages and also manufactured housing. Both of these subject matters have become much more active in recent years and are very much a part of the mortgage finance scene. Homeowners either utilizing a second mortgage or purchasing a manufactured house should have full access to either Fannie Mae or Freddie Mac. By providing them with this access, we will be lowering the cost of their mortgage credit.

I should point out that, in providing these increased powers to Freddie Mac and Fannie Mae, we have not lost sight of their primary purpose which is to serve the lower to middle segment of the housing market. To ensure this, we have inserted language clarifying the existing statutory limitations on mortgages purchased by either of the two corporations. The law will now clearly read that the mortgage limits apply to the whole loan whether or not only a partial interest is purchased. The intent is to put the so-called luxury market off limits and preserve this market for the rapidly growing private secondary market firms.

In addition, we have prohibited piggybacking of first and second mortgages and we have placed limits on the size of the second mortgage as well as the first mortgage. Under an amendment that enjoyed bipartisan support and was adopted in subcommittee, the second mortgage limits would be 50 percent of the first mortgage limits, or $57,000 at the present time.

For the first time, securities activities and secondary mortgage issues have been dealt with in one comprehensive piece of legislation. In the past, secondary mortgage market legislation has always been linked to various omnibus housing legislation. I believe the significance of the secondary market in today's home financing market warrants separate consideration such as the legislation before us. I applaud the joint efforts of Chairmen ST GERMAIN and DINGELL in bringing this important legislation to the floor, and I urge my colleagues to suspend the rules and pass S. 2040 with the amendment we are considering.

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by saying that it has indeed been gratifying to work with the distinguished chairman of the Committee on Banking, Mr. ST GERMAIN, and with the gentleman from Texas [Mr. GONZALEZ]. This legislation spans the jurisdictions of the Banking and the Commerce Committees. It reflects our shared goals of ensuring adequate financing for housing in this country while protecting investors in our capital markets.

The objective of this bill is to facilitate the growth of a private market for mortgage backed securities. The bill reflects the dramatic changes taking place in housing finance in recent years, as high and volatile interest rates have made traditional mortgage lenders—banks and thrifts—less willing to hold long-term mortgages. Increasingly, Government and Government-sponsored agencies have been called upon to support mortgage originators and have turned to the capital markets as a source of funds for housing. Private participants have entered the arena, and this bill seeks to further encourage their participation. Title I would accomplish this objective by changing certain State and Federal securities regulation requirements for securities backed by mortgages.

In the current interest rate environment, mortgage-backed securities have played a critical role in maintaining the flow of funds to housing. In 1983, $72 billion of the $190 billion of new residential mortgages created were financed through the sale of mortgage-backed securities. At the end of 1983, outstanding mortgage-backed securities issued by the Government-related agencies since the beginning of the early 1970's totaled $243 billion—about 20 percent of all outstanding mortgages—and private firms had issued a total of $10 billion.

The share of the private sector is growing. Last year, private issues accounted for $2 billion of the total. But the market for mortgage-backed securities is estimated to reach $200 billion per year by the mid-1980's to meet the demand for the $1.6 trillion of mortgage credit needed to finance housing through the end of the decade. An increase in the role of private issuers will help meet this need.

This bill was passed by the Senate on November 18, 1983 and was introduced in the House by Mr. ST GERMAIN as H.R. 4557. It was jointly re-

ferred to the Energy and Commerce Committee and the Banking Committee.

Both of our committees have considered the proposal in the context of long-standing public policy goals. The Banking Committee's jurisdiction led them to focus more on encouraging home ownership. Preserving investor protection and maintaining confidence in long-term capital markets are the goals that reflect our jurisdiction. Accordingly, the Energy and Commerce Committee considered only title I of the bill.

Title I of the bill before us is an amendment in the nature of a substitute. It reflects our concern for investor protection and a number of the recommendations of witnesses during our hearing on March 14. The amendment had bipartisan support in committee and has been discussed with the Senate committee. We understand that the Senate does not object to the changes that have been made in title I of the bill.

The substitute amendment would amend the Securities Acts by adding a definition of the term "mortgage-related security." It changes margin requirements governing the timing of purchases and payments to facilitate the trading of mortgage-related securities and provide greater liquidity. It authorizes depository institutions to invest in mortgage-related securities, preempts State law with respect to limitations on the investments in these instruments, and exempts them from registration under State securities law.

The major difference in the bill as introduced and the substitute amendment is the deletion of the section of the bill that would have exempted mortgage related securities from the registration requirements under the Securities Act of 1933. The primary objective of the 1933 act is to ensure adequate disclosure of information to investors. Over the last 50 years, the registration and disclosure requirements have proved to be the bedrock of public confidence in our securities markets. The exemption contained in the bill as introduced would not significantly increase the ability of private issuers of mortgage-backed securities to compete with federally supported agencies, but would significantly erode investor protection.

Other important changes made by our committee include the requirement that mortgage-related securities be rated in the top two—rather than four—rating categories and that they be collateralized by first liens only. In addition, States are given 7 years, instead of 3, to override the preemption of State laws. Finally the section authorizing shelf registration has been deleted as unnecessary.

The substitute amendment provides the mechanisms necessary to encourage expansion of the private market for mortgage backed securities. It does this without compromising requirements for disclosure, the essential ingredient in investor protection. The committee believes that disclosure will enhance investor confidence in this market and thus will contribute to the objective of enhancing the flow of funds to housing through this channel.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the very distinguished ranking minority member of the Housing Subcommittee, the gentleman from Connecticut [Mr. MCKINNEY].

The SPEAKER pro tempore. Without objection the gentleman from Connecticut [Mr. MCKINNEY] is recognized for 1 minute.

There was no objection.

Mr. MCKINNEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to join with my colleagues from the Energy and Commerce Committee and the Banking Committee to urge passage of this important piece of legislation. We are all very aware of the need to stimulate the housing market. This bill represents a major development in the evolution of a market for mortgage-related securities. As that market grows, the ultimate result will be the increased availability of funds for mortgages and more stable rates for home buyers.

Title II of this bill is essentially the same as part of the housing bill, H.R. 1, passed by the House in 1983. The language in title I of this bill has been worked out by the Energy and Commerce Committee in conjunction with the Senate and House Banking Committees. This final product is a comprehensive approach to provide more mortgage liquidity with the necessary support.

I would like to conclude by giving credit to the Texans who have been the moving force in bringing this legislation to the floor. The leadership of the chairman of the respective Housing Subcommittees, Senator TOWER and Congressman GONZALEZ, and the energetic and persistent efforts of Congressman BARTLETT deserve special recognition. Also, the roles played by Chairman ST GERMAIN and ranking Republican CHALMERS WYLIE were instrumental in keeping interest in this legislation alive. Along with the leadership of the Energy and Commerce Committee we have produced a bill that the whole House can endorse.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Connecticut for his contribution.

The next gentleman who will speak is the gentleman from Texas [Mr. BARTLETT]. Much of the credit for this legislation has been through his persistence and just plain, intelligent, hard work, and he is to be commended for it. I yield 4 minutes to the gentleman.

The SPEAKER pro tempore. Without objection, the gentleman from Texas [Mr. BARTLETT] is recognized for 4 minutes.

There was no objection.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from Ohio for his kind words.

I rise today in very strong support of S. 2040, the Secondary Mortgage Market Enhancement Act. This final product is virtually without controversy, and yet this legislation, I predict, will be one of the most significant bills considered this year.

With the passage of this act, we will help to assure that the 63.5 million Americans who will be in their prime home buying years in this decade will have the opportunity to buy their first home. This legislation simply begins to remove many of those regulatory and statutory impediments that are in the secondary-mortgage market.

The secondary market is increasingly important in providing mortgage capital in this country. In 1980, only 14 percent of all mortgages were sold into the secondary market. By 1983, that amount had risen to 43 percent, and some think that by 1990 that figure will rise to 80 percent. So the issue that we address today, Mr. Speaker, is the continued availability and affordability of mortgage capital for this generation and the next generation of home buyers.

Mr. Speaker, we would not have this legislation before us today if it had not been for the distinguished leadership of the chairman of the Banking Committee, and his leadership in helping to frame this legislation. I commend the gentleman for his patience and his leadership and likewise, I commend my friend [Mr. WYLIE] from Ohio, the ranking member and the ranking member on the Housing Subcommittee [Mr. MCKINNEY] and the chairman from my own State, of the Housing Subcommittee [Mr. GONZALEZ] as well as all of the members of the Energy and Commerce Committee.

Many experts predict that the cumulative demand for mortgage credit will exceed $2 trillion between now and the early 1990's. Those in the "baby-boom generation" are reaching their home-buying years, so it is to meet this growing demand for affordable housing that takes a commitment from every sector of the marketplace, and that is the nexus of this bill.

As everyone here knows, I am a strong supporter of Freddie Mac and Fannie Mae, and both of those agencies are supporting this bill. However, the demand is far greater than the existing Federal agencies can provide. So, therefore, we have to look to all

sources for that mortgage capital. It is going to take Fannie Mae, and Freddie Mac, and Ginny Mae, and pension funds, and banks, and savings and loans, both the old kind and the new kind, and new private sources like Sears and GE, and institutional investors, and securities firms, and Wall Street, and indeed all of the participants that we can bring into the secondary-mortgage market.

Mr. Speaker, the main provisions of this bill, and I will run through them very quickly, include: No. 1, defining a mortgage-related security; it has never been done. No. 2, allowing for forward-base trading. No. 3, investment in private mortgage-related securities to be permitted by the depository institutions. No. 4, preempting State laws to simply permit pensions to invest in mortgage-backed securities. Many of those State laws were written when we did not have mortgage-backed securities. We would also permit Freddie Mac to purchase manufactured home loans. We would provide Freddie Mac and Fannie Mae the authority to purchase second mortgages, and we would remove the HUD obligational authority over Fannie Mae using a sunrise provision to give this Congress a chance to revisit that issue by September 30, 1985.

Mr. Speaker, not one of these changes alone is Earth shattering; it is the cumulative effect of all of these changes that will accomplish this House's goal of available mortgage capital so that homebuyers will be able to afford mortgages for their homes in the future. This legislation recognizes the importance of all participants in the secondary mortgage market and in the mortgage market to ensure that we meet that demand.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM].

The SPEAKER pro tempore. Without objection, the gentleman from Florida [Mr. McCOLLUM] is recognized for 2 minutes.

There was no objection.

Mr. McCOLLUM. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in general support of this bill. The last major legislative change affecting the secondary-residential-mortgage market occurred with the enactment of the Emergency Home Finance Act in 1970.

Since 1970, extensive changes have occurred in financing residential mortgages and in bringing needed capital into the residential mortgage market. Perhaps the most significant of these changes has been the development and the financial markets' acceptance of the mortgage-backed securities. This, of course, is an instrument which attracts capital into the mortgage market from both traditional and nontraditional mortgage investors.

However, since 1970, Congress has not looked into the operations of the secondary residential mortgage market to any significant degree.

So, it seems to me that developments in mortgage financing since 1970, in and of themselves, warrant thorough examination of the functioning of the secondary market, particularly to see how the FHLMC and FNMA, which are creations of Congress, have performed. And, there is now the question of how these two entities should operate in light of the emergence of privately sponsored and owned secondary market entities, which are seeking their share to the conventional mortgage market.

The secondary market has been tremendously important to homebuyers and it is obvious that substantial sums of mortgage money will be needed to meet housing demands. Can the two federally sponsored secondary market entities with their existing statutory authority meet the challenge? What financial role, if any, will be required of the Federal Government? What about the emerging privately sponsored and owned secondary market entities? To consider these and other aspects of the basic public policy question of the role of the Federal Government in the unsubsidized mortgage market, I offered and withdrew an amendment in the full Banking Committee which would have established a congressionally appointed commission to study the secondary residential mortgage market. We need a congressionally appointed commission study to insure the fact that all possible solutions are considered before any recommendations are made. The chairman of the housing subcommittee has agreed to work with me on this matter and I look forward to pursuing the issue in the near future with him and his staff. The secondary mortgage market is going to play a major role in the future and I believe the issues should be studied by experts who then sit down with the appropriate committees of the Congress to give us their recommendations and the background for them.

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The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. TAUKE. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the subcommittee, the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, it has been estimated that upwards of $1.6 trillion will be needed to finance the expected housing demand between now and 1990, and that at least 50 percent of this demand will have to be financed in the secondary market. To help meet this demand and ensure that affordable housing remains available to our citizens, we must tap our capital markets through the issuance of mortgage-backed securities.

In recent years, interest has developed in encouraging increased private-sector participation in this growing market. Private issuers such as Norwest, GE Credit, and others have entered the market, and during 1983 sold almost $2 billion in mortgage-backed securities.

Yet structural impediments, such as State laws prohibiting insurance companies, State and local employee pension funds, and other State investment limitations have thwarted the growth of this market. S. 2040, which the House is considering today, will preempt these State limitations and will serve to increase the funds available to finance housing by increasing the participation of the private sector in the secondary mortgage market.

The need for this increased funding has arisen from the reluctance or inability of traditional mortgage lenders to hold long-term, fixed-rate mortgages in a volatile interest rate environment.

I believe that the passage of this legislation will mean an increase in the amount of funds available for home mortgages. It will result in the flow of capital to housing markets and help make it possible for young families to fulfill their dream of owning their own home.

The Subcommittee on Telecommunications, Consumer Protection and Finance has held hearings on this matter, and a number of amendments which decrease the risks associated with these securities were adopted by our subcommittee when it was considered in June. I urge my colleagues to join me in support of this legislation, which I feel is vitally needed and will be of tremendous economic benefit to the people of this Nation.

Mr. Speaker, I yield back the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first wish to commend the distinguished chairman of the subcommittee and the ranking member of the subcommittee, the gentleman from New Jersey [Mr. RINALDO] for this legislation.

Mr. Speaker, the purpose of S. 2040 is to increase the flow of funds to housing by facilitating the participation of the private sector in the secondary market for mortgages. At present, federally sponsored agencies—the Federal National Mortgage Association [Fannie Mae] and the Federal Home Loan Mortgage Corporation [Freddie Mac]—pool loans originated by traditional mortgage lenders to back securities issued by the agencies which are sold in the capital markets. In 1983 alone, $72 billion of the $190 billion of new one-family to four-family home mortgages created were

financed through the sale of mortgage-backed securities. Almost all of these mortgage-backed securities were issued or guaranteed by Government-related agencies.

As the demand for housing continues to rise, the sale of mortgage-backed securities to provide housing credit will become increasingly important. This demand for housing credit is rising at the same time traditional mortgage lenders, such as thrift institutions and banks, are unwilling or unable to hold long-term, fixed rate mortgages in a potentially volatile interest rate environment. Although the pooling of these loans and the sale of mortgage-backed securities by Fannie Mae and Freddie Mac has increased the capital available to finance housing through the creation of a secondary market for mortgages, the existing Federal and quasi-Federal agencies will not be able to meet the anticipated demand without a significant expansion of their activities. Rather than solely rely on an expansion of the activity of these agencies, this legislation is designed to facilitate the growth of the private-sector's ability to issue mortgage-backed securities and increase the flow of funds to housing.

To enable and encourage the private sector to increase its participation in the secondary market for mortgages, S. 2040 amends existing Federal securities laws and State registration requirements, so-called blue sky laws, to remove impediments to the marketing of mortgage-backed securities by the private sector. The legislation also permits the States' to override the Federal preemption in these areas if done within 7 years after enactment of this legislation. This period is sufficient to accommodate any State that believes its investors will be better served by State legislation.

The amendments to Federal and State securities law contained in the legislation do not jeopardize the protection that these laws afford investors. Sensitivity to investor protection is reflected in the provisions of the legislation which do not exempt mortgage-backed securities from the registration requirements of the Securities Act of 1933 and the rules and regulations promulgated thereunder.

In addition, mortgage-backed securities, as defined by this legislation, must be rated in the top two rating categories. Moreover, the securities cannot be backed by second liens if these securities are to qualify under the bill's provisions which liberalize margin requirements, permit investment depository institutions to purchase such securities, and allow for the preemption of State law. The protection afforded investors by the disclosure provisions and the more stringent rating requirements will enhance investor confidence in the market for these securities and thus will contribute to the objective of enhancing the flow of funds to housing through this investment vehicle.

For these reasons I urge my colleagues to join me in support of this legislation.

Mr. TAUKE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. I thank the gentleman from Iowa [Mr. TAUKE] for yielding time to me.

Mr. Speaker, I rise in strong support of S. 2040. This legislation makes several important changes in the secondary mortgage market. Among those changes is a section that allows Freddie Mac to purchase loans on a manufactured home even when the home is considered personal or mixed property under State law.

This change will correct an ambiguity in the law. Under current law, Freddie Mac may purchase loans secured by manufactured homes that are considered to be real property under State law. In some States, however, manufactured homes are considered to be personal or mixed property and, thus, ineligible for coverage by Freddie Mac. This bill will achieve uniform eligibility and assure that coverage includes all manufactured homes, regardless of whether or not those homes are considered to be real property under State law. Fannie Mae already has this authority.

Fannie Mae and Freddie Mac play a very important role in the mortgage market serving lower and middle income home buyers. Manufactured housing provides a lower cost housing opportunity for those home buyers. Consequently, it is necessary to clarify the definition of property, as this bill does, so as to specifically include loans secured by manufactured homes.

Manufactured housing was pioneered in southern California and continues to provide an important source of housing for families of all income levels. Therefore, I strongly support S. 2040 and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Speaker, I rise in support of the House amendment to S. 2040, the Secondary Mortgage Market Enhancement Act of 1984 and ask to revise and extend my remarks.

When the bill was introduced last November, I never thought I would stand in the well of the House and urge my colleagues to vote for its adoption for the bill had serious equity and Federal credit budget problems.

For instance, the original bill called for a change in the charter of the Federal National Mortgage Association so that it could provide direct and permanent financing to home buyers. This proposed policy change set off alarms for those of us who believe that Fannie Mae's traditional function as a provider of supplemental assistance to the secondary market should be preserved.

Wisely, the bill was amended to take care of the direct and permanent financing problem. Additional attempts to have Fannie Mae and Freddie Mac use their preferred presence in the credit market to subsidize affluent home buyers were not made.

The use of the secondary market as a residential housing finance mechanism has grown rapidly in recent years. Seventy-two billion dollars of the $190 billion in primary home mortgage loans was channeled through the secondary market in 1983. Their continued growth is assured.

The work done by the Energy and Commerce Committee in streamlining and updating the securities section of the bill will encourage additional private participation in the secondary housing market. The changes affected by the Banking Committee in the original bill will assure that the basic public policy aspects built into both Fannie Mae and Freddie Mac will be retained.

The bill we debate today is a prime example of how Congress can help meet the Nation's housing finance needs. I urge my colleagues to cast their votes in favor of its adoption.

Mr. Speaker, I yield back the balance of my time.

● Mr. ST GERMAIN. Mr. Speaker, last November after the housing bill passed without the FNMA and FHLMC Charter Act changes originally incorporated into H.R. 1, I introduced H.R. 4557 which included not only those Charter Act changes but a number of changes to the securities laws that we believe would enhance the development of the secondary mortgage marketplace.

Today, I am pleased that we have under consideration an amendment to the Senate bill, S. 2040, that incorporates many of the provisions that were included in H.R. 4557, and I urge my colleagues to support this amendment.

The Banking Committee over the years has been very sensitive to the Nation's mortgage credit requirements, and in this time when the demand for mortgage credit is expanding, I am pleased that we have been able to continue to respond positively to this need through the provisions in this amendment.

The changes in the FNMA and FHLMC Charter Acts, which are incorporated in title II of this amendment, will enable them to continue the very important role that they have played over the years in providing housing credit for our country's home buyers. And, the changes in the securi-

ties laws, which were considered and amended by the Energy and Commerce Committee and are part of title I of this amendment, will greatly enhance the ability of mortgage-backed securities to play a more competitive role in the capital markets.

The issues incorporated in this amendment have been under consideration by both the Banking Committee and the Energy and Commerce Committee for well over a year and have been thoroughly reviewed and debated. Thus, I urge my colleagues to support this amendment that will further enable the secondary mortgage market to meet the demands of the home-buying public.●

Mr. TAUKE. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

Mr. WIRTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. TAUKE] that the House suspend the rules and pass the Senate bill, S. 2040, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2040, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was not objection.

IMPLEMENTATION OF U.S. OPPOSITION TO TORTURE BY FOREIGN COUNTRIES

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 605) regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government, as amended.

The Clerk read as follows:

H.J. RES. 605

Whereas international human rights organizations have investigated and reported on the use of torture in many countries throughout the world;

Whereas the Department of State in its annual country reports on human rights practices has reported that torture is all too frequent in many countries of the world;

Whereas torture knows no ideological boundaries and is practiced in countries in every region of the world;

Whereas torture is absolutely prohibited by international legal standards;

Whereas in those countries where torture is practiced systematically, it is possible to identify laws, institutions, and other forms of politically organization that contribute to the practice and allow its continuation;

Whereas legal, medical, religious, and other groups seeking to combat torture emphasize that access to detainees, the civil and criminal prosecution of torturers, and the rehabilitation of victims of torture are critical steps in reducing the practice and effects of torture;

Whereas the United States Government has supported the work of the United Nations Commission on Human Rights in developing the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which is intended to reduce the practice of torture and lead to its eventual abolition, and the United States Government is supportive of the United Nations Voluntary Fund for Victims of Torture; and

Whereas the good will of the peoples of the world toward the United States can be increased when the United States distances itself from the practice of torture by governments friendly to the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms that it is the continuing policy of the United States Government to oppose the practice of torture by foreign governments through public and private diplomacy and, when necessary and appropriate, through the enactment and vigorous implementation of laws intended to reinforce United States policies with respect to torture. The United States Government opposes acts of torture whenever they occur, without regard to ideological or regional considerations, and will make every effort to work cooperatively with other governments and with nongovernmental organizations to combat the practice of torture worldwide.

SEC. 2. (a) The President is requested—

(1) to instruct the Permanent Representative of the United States to the United Nations to continue to raise the issue of torture practiced by governments; and

(2) to continue to involve the United States Government in the formulation of international standards and effective implementing mechanisms, particularly the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(b) In order to implement the policy expressed in the first section of this resolution, the Secretary of State is requested to issue formal instructions to each United States chief of mission regarding United States policy with respect to torture, including—

(1) instructions—

(A) to examine allegations of the practice of torture, particularly allegations concerning the existence of secret detention, extended incommunicado detention, and restrictions on access by family members, lawyers, and independent medical personnel to detainees; and

(B) to forward such information as may be gathered, including information regarding any efforts made by the host government to reduce and eliminate the practice of torture, to the Assistant Secretary of State for Human Rights and Humanitarian Affairs for analysis in preparing the Department's annual country reports on human rights practices;

(2) in the case of a chief of mission assigned to a country where torture is regularly practiced, instructions to report on a periodic basis as circumstances require to the Assistant Secretary of State for Human Rights and Humanitarian Affairs regarding efforts made by the respective United States diplomatic mission to implement United States policy with respect to combating torture;

(3) instructions to meet with indigenous human rights monitoring groups knowledgeable about the practice of torture for the purpose of gathering information about such practice; and

(4) instructions to express concern in individual cases of torture brought to the attention of a United States diplomatic mission including, whenever feasible, sending United States observers to trials when there is reason to believe that torture has been used against the accused.

(c) The Secretary of Commerce should continue to enforce vigorously the current restrictions on the export of crime control equipment pursuant to the Export Administration Act of 1979.

(d) The heads of the appropriate departments of the United States Government that furnish military and law enforcement training to foreign personnel, particularly personnel from countries where the practice of torture has been a documented concern, shall include in such training, when relevant, instruction regarding international human rights standards and the policy of the United States with respect to torture.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

□ 1610

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 605, as amended, regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

At the outset, I would like to commend all of the cosponsors of the resolution, which now number 189, for their support of this crucial resolution. Such broad bipartisan support is an important demonstration of U.S. seriousness and commitment to eliminating the use of torture around the globe. In particular, I wish to commend the Honorable GUS YATRON,

chairman of the Subcommittee on Human Rights and International Organizations for his efforts and his subcommittee's hearings on the issue. Further, I would like to note the important contributions made by Amnesty International in promoting public awareness on the range of aspects of the torture problem.

House Joint Resolution 605 is supported by the administration. The amendment approved by the Committee on Foreign Affairs in no way affects the substance of the resolution. It is a reworking of language to accommodate the administration which supports the resolution.

Torture is an insidious practice of brutality which is the most egregious example of man's inhumanity toward man. Torture is antithetical to our respect for the rights and dignity of the individual—it is violent; it is abhorrent; and it is illegal.

The exercise of torture is not a unique nor isolated occurrence—it is pervasive throughout the world. It is utilized by governments of the left and by governments of the right; by nations which are friendly and by nations which are our adversaries. It is applied systematically and indiscriminately. Wherever it occurs, it must be eliminated.

Prevention of torture is a multilevel responsibility. No one sector can be expected to singlehandedly abolish it. Torture must be attacked through a multiplicity of channels, both public and private. International fora, regional organizations, governments, intergovernmental organizations, nongovermental organizations and individuals must all be involved. Each has a role to perform.

Effective torture prevention must address the root of the problem. Not only is a general awareness of torture necessary, but there is a need to inculcate basic values and respect for individual rights at the grassroots level. In instances where torture is reported, pressure on offending governments or institutions must be applied to deter it. Amnesty International believes such pressure on offending governments or institutions can be highly effective in combating torture.

Eradicating torture poses a unique and challenging dilemma. Torture is never proclaimed to be a government's policy. Rather, it is shielded from public view, conducted in secrecy, and its existence denied. Therein lies the dilemma—how to combat a practice which is universally condemned, yet clandestinely practiced.

One means of addressing the problem is through the banning of secret or incommunicado detentions. Such types of detention are often a "precondition for torture." During initial hours of such custody a detainee is most vulnerable to torture. In addition, access to detainees by family, lawyers, and medical personnel must be granted. A further preventative measure is the proper training of security forces. Instruction in interrogation techniques as well as familiarization with human rights principles would help foster respect for the dignity and rights of the individual.

There are various international and regional instruments prohibiting torture. Some focus specifically on that brutality. Numerous others have components dealing with particular aspects of torture or condemning its use in broader terms. Furthermore, these legal instruments and codes of conduct are buttressed by national laws and activities of intergovernmental and nongovernmental organizations.

To eliminate torture will require a sustained commitment to confront, publicize, and work to abolish it. Governments must play their part by enunciating clearly their opposition to torture and their determination to assiduously combat it. Adoption of legal and procedural safeguards is essential. Ratification and adherence to relevant international instruments, and formulation of domestic laws making torture a criminal offense subject to prosecution, are important in demonstrating commitment. Subsequent measures can eliminate a milieu which permits torture to occur—banning secret detentions, permitting access to the detained by family, legal and medical personnel, training security officials, and promoting respect for individuals and their rights. All of these conditions will serve to forestall the practice of brutal violations. In the long run, however, it is necessary to internalize basic values which promote respect for individuals and their rights.

Mr. Speaker, I urge adoption of House Joint Resolution 605.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 605, regarding the implementation of U.S. policy in opposition to torture. As a cosponsor of the resolution and as the ranking minority member of the Subcommittee on Human Rights and International Organizations, I want to commend the chairman of the Foreign Affairs Committee [Mr. FASCELL], for bringing this measure before the House and would also like to recognize the chairman of the subcommittee [Mr. YATRON], for holding 2 days of hearings on the problem of torture last May. I am pleased to note that a similar resolution has been introduced in the other body by the chairman of the Senate Foreign Relations Committee and am hopeful both bodies can complete action on this measure as expeditiously as possible.

The Department of State has expressed its support for House Joint Resolution 605 and Assistant Secretary of State for Human Rights, Elliott Abrams, testified before the Subcommittee on Human Rights and International Organizations last May that the United States is "profoundly and unalterably opposed to any and all forms of torture." As a policy, the U.S. Government, under Republican and Democratic administrations alike has expressed this opposition in many ways.

House Joint Resolution 605 seeks to reinforce existing U.S. policy against torture and calls on the President to instruct our Ambassador to the United Nations to continue to raise the issue of torture. It also calls on the President to continue to involve the United States in efforts to develop and implement international standards against torture particularly the draft convention on torture.

I am pleased to say that the United States has played a major role in the development of the new draft convention on torture and am hopeful for its early adoption by the United Nations.

The United States has also supported the establishment at the United Nations of a Voluntary Fund for Victims of Torture and although the United States has not, to date, made a contribution to the fund, the foreign aid authorization bill (H.R. 5119) as passed by the House on May 10, 1984, proposed that a $100,000 contribution be made in the next fiscal year. Hopefully, the United States will soon be able to make a modest contribution to this worthwhile effort to help victims of torture in a very practical way.

The resolution also requests the Secretary of State to issue certain instructions to our Embassies around the world to investigate allegations of torture, to report on actions taken by foreign governments to deal with the problem, to report also on United States Embassy efforts to oppose torture in such countries, to meet with local human rights groups, to send observers to trials and to directly raise individual torture cases with foreign government officials. Many of these steps are already being taken in one form or another but can be done with greater rigor and emphasis.

Finally, the resolution also calls for the continued enforcement of U.S. law limiting exports of crime control equipment to countries engaged in human rights abuses and for the incorporation into military and law enforcement training programs instruction on international human rights standards and U.S policy on torture.

Hopefully, House Joint Resolution 605 will be but the first of a series of steps which Congress will take to deal with the problems of torture. Congress has an obligation to take a careful

look in the near future at U.S. policy regarding the admission into the United States of those who have been found to have engaged in torture. We also have an obligation to look at proposals to clarify the right of torture victims to sue their torturers in U.S. court if those torturers are either visiting or now living in the United States. A third area which needs to be examined is the subject of training of military and law enforcement personnel and the feasibility and effectiveness of discouraging the use of torture through training programs or other incentives. The United Nations has already developed a Code of Conduct for Law Enforcement Officials and has a number of regional institutes for research and training in the field of crime prevention and criminal justice.

Finally, I want to join in the commendations of Amnesty International for its tireless humane efforts on behalf of torture victims worldwide. These private citizens who have acted with an imprimatur of conscience, rather than government, warrant the gratitude of all who are concerned with the rights of individuals to life and liberty.

Mr. Speaker, I urge my colleagues to give this resolution their unanimous support. Thank you.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to commend both the chairman, the gentleman from Florida [Mr. FASCELL] and the gentleman from Iowa [Mr. LEACH] for the leadership roles that they have played in bringing this issue of torture to the forefront.

Mr. Speaker, I rise today to support House Joint Resolution 605, legislation regarding U.S. policy in opposition to the practice of torture by any foreign government.

Millions of individuals throughout the world experience acts of cruelty too brutal to imagine. They are victimized by their governments, the very institution which should protect them. In addition to the inhumanities these people have to endure, they must endure yet another obstacle—the unwillingness on the part of well-meaning people outside of their government to look at or listen to their story. Seeing proof of torture is too difficult for many to face, but face it we must.

The Subcommittee on Human Rights and International Organizations, which I chair, held a series of hearings on the phenomenon of torture. Thanks to the efforts of Amnesty International and various other human rights organizations, we were able to look closely at this heinous crime, to see how it affects human life, and to plan specific actions to combat this cruelty.

Torture is a brutal and powerful enemy. We can combat and ultimately defeat this horrifying practice by supporting positive measures such as House Joint Resolution 605. Our fight to eradicate this universal tragedy, torture, must be a continual and determined one. We in the United States have been spared the endless agony torture victims throughout the world are realizing, but we have not been spared the responsibility of fighting against this injustice.

I would like to commend Mr. FASCELL, the distinguished chairman of the Committee on Foreign Affairs, for introducing this very worthwhile legislation.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say in response to the gentleman from Pennsylvania [Mr. YATRON], if I may, that I would like to commend the gentleman and his subcommittee for their continued interest, dedication and perseverance they have shown on all of these human rights subjects. It is so easy to either be frustrated or just to say that they are motherhood issues and we should not even be bothered with them. The truth of the matter is that, as with torture, violation of human rights are pernicious and our best defense is to expose them. We must make it possible for these issues to be discussed openly and try to shame people into changing their actions. There is no such thing as official torture; it is always done very clandestinely. It takes the kind of action that the subcommittee has taken with respect to hearings, and that this Congress will take in passing the resolution, to call attention to problems that most people do not think really exist.

● Mr. LEVINE of California. Mr. Speaker, I am pleased to join my colleagues in support of House Joint Resolution 605, which reaffirms that it is the continuing policy of the U.S. Government to oppose the practice of torture by foreign governments through public and private diplomacy. I would like to commend the distinguished Chairman of the House Committee on Foreign Affairs, on which I sit, for introducing this important resolution and for bringing it to the floor.

Mr. Speaker, article 1 of the Declaration Against Torture, adopted unanimously by the United Nations on December 9, 1975, defines torture as:

> Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed, or intimidating him or other persons.

The definition also says that torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Torture can take almost any form. In fact, it is limited only by the imagination, and people all over the world have been subjected to mental and physical cruelty of such proportions that it nearly defies comprehension by humane and civilized people.

Amnesty International, a highly respected organization with which we are all familiar, issued a report in April titled "Torture in the Eighties." This report contains everything you need to know about the practice of torture in the world. Torture, this report tells us, is usually part of the state-controlled machinery that suppresses dissent. It is practiced in more than 60 countries in the world—more than a third of the world's governments. Torture knows no ideological bounds, and victims of torture include virtually all social classes, age groups, trades and professions. Reasons differ for why people are tortured, but there is no question that whatever the reason, or the method, torture is a vicious, heinous practice, and one which must be condemned and condemned in the strongest terms.

There appears to be an increasing awareness of the practice of torture. The United Nations and other intergovernmental organizations and several nongovernmental organizations have worked to develop international standards against torture and machinery to combat its use. A growing number of domestic human rights groups are working in their own countries to document and publicize torture used by their governments. The news media carry many more news items about torture and other human rights abuses than they did a decade ago.

With the passage of House Joint Resolution 605 the Congress itself will go on record as taking a strong stand against the practice of torture and in support of enactment and vigorous implementation of laws intended to reinforce U.S. policies with respect to torture. With the passage of the resolution before us the U.S. Government clearly declares that it opposes acts of torture wherever they occur, without regard to ideological or regional considerations, and that we will make every effort to work cooperatively with other governments and with nongovernmental organizations to combat the practice or torture worldwide.

It is important that a country like the United States, with our long history of respect for human rights and the freedom of our own citizens and of citizens everywhere—support the policy declared in this resolution. I

strongly support its passage and I urge my colleagues to do so as well.

Thank you.●

● Mr. FAUNTROY. Mr. Speaker, I rise in strong support of House Joint Resolution 605, which expresses the Congress' concern with the widespread use of torture by governments around the world.

Specifically, this resolution calls for a coordinated effort with other governments and nongovernmental organizations, including the United Nations, to eliminate torture.

Additionally, the resolution would reinforce the Department of State's efforts to monitor and report on allegations of torture and to work with indigenous human rights organizations.

Finally, the resolution urges continued enforcement of restrictions on the export of crime control equipment and requires instructions in human rights principles and U.S. antitorture policy for foreign authorities receiving military or law enforcement training under U.S. auspices.

Mr. Speaker, the need for this legislation is well documented in the Amnesty International publication Torture in the Eighties. I urge my colleagues to support House Joint Resolution 605.●

● Mr. WIRTH. Mr. Speaker, today I would like to urge my colleagues to join me in supporting House Joint Resolution 605. This resolution calls on the United States to base its foreign policy on an unyielding opposition to the use of torture throughout the world. The resolution also directs U.S. ambassadors to monitor and investigate allegations of torture in the countries in which they are representing our country.

Some of my colleagues might argue that America's commitment to the abolition of torture is clear. After all, our country subscribes to article 5 of the United Nations Universal Declaration of Human Rights, which states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." However, it is not enough for America, with her unyielding commitment to human rights and democratic freedoms, to proclaim her opposition to torture and then do nothing to halt the spread of this unjustifiable crime against humanity.

Treaty phrases ring hollow when they stand next to the testimony of torture victims from around the world. Few are aware of the extent to which torture is practiced. According to reports gathered by Amnesty International, the international human rights organization:

In India, people have had their eyes speared by bicycle spokes and then soaked with acid pads;

In El Salvador, torture victims have reported that they were sexually abused, burned with chemicals and subjected to mock executions by paramilitary organizations and the national militia;

In Afghanistan, since the Soviet Union invaded in 1979, detainees have been deprived of food and sleep for weeks, and beaten and subjected to severe electric shock treatment;

In Turkey, one woman among many told of being tied to ceiling pipes and being left hanging in a crucifixion position. She told a representative of Amnesty International, that "the pain became so bad that my screams drowned (the torturers') voices. It was as if my arms were coming off." She was also subjected to falaka, in which her torturers beat the soles of her feet, and to electric shock torture.

Torturers do not rely on brute force alone to cow their victims into submission. Torture has taken a more subtle and sophisticated form in countries that do not want the world to know of their immoral methods of population control. In the Soviet Union, for example, political dissidents are forcibly committed to psychiatric wards where doctors inject them with hallucinatory and debilitating drugs until their will to express their deepest beliefs, and sometimes their will to live, is snuffed out.

The testimony of torture victims is seemingly endless, and the countries it streams from are many in number. In Amnesty International's recently released report, Torture in the 80's, the organization has documented that over one-third of the world's countries engage in the systematic use of torture.

Despite this bleak assessment, human rights groups know that torture is not an irreversible practice. Time after time, the world has seen that international pressure combined with internal opposition to a government's use of torture against its own people has ousted those governments which predicate their rule of a country on brutal coercion. All one has to do to see this truth is look at Argentina's rejection and prosecution of military government leaders responsible for the deaths and disappearances of thousands of innocent Argentine citizens. Amnesty International has learned of the success of this strategy on a smaller scale, through working on behalf of individual torture victims. Consider the moving testimony the prominent South Korean dissident, Lee Shin-Bom, recently gave to Amnesty. After repeated beatings and deprivation of sleep for long periods of time, Mr. Shin-Bom was called in to see the head of the torture camp. Wielding a thick stack of hundreds of letters from Amnesty and other human rights workers (and feeling the pressure of international awareness of South Korea's use of torture), the chief informed Mr. Shin-Bom that he was being removed from his torture regimen.

The United States can lend its considerable political and moral influence to the international campaign to abolish torture. Although the United States does combat torture by publishing reports on human rights in countries around the world and engaging in diplomacy to free political detainees who might be tortured, it is essential that the United States move beyond this limited role. The United States must renew its role as an outspoken and forceful opponent of government-sponsored torture, wherever it may occur. House Joint Resolution 605 begins this renewal by raising the official level of American concern about torture to the top of each American embassy; the detention and torture orders made by foreign government and military officials will no longer be scrutinized by political officers in U.S. embassies, but by the ambassadors themselves. The resolution also provides the first step toward enacting further legislation which will limit the ability of the United States to aid governments and individuals that torture—for example, legislation might be passed which prevents any acknowledged torturer from residing in the United States.

I urge my colleagues to join the House Foreign Affairs Committee in unanimously supporting this important resolution and accelerating the international movement, spearheaded by Amnesty International, to end the use of torture.●

● Mr. BROOMFIELD. Mr. Speaker, I strongly support this joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture. As we approach the end of the 20th century and boast of man's accomplishments in science, medicine and space flight, we fail to realize that man's inhumanity to man is a barrier we have not yet broken. In certain countries in the world, primitive and barbaric torture is a common practice. Let us face the facts. Gross violations of human rights are occurring at this very moment. While the existence of physical and emotional cruelty is rarely acknowledged by governments, it continues to inflict almost unimaginable suffering on victims of every age, religion, ethnicity, and sex.

The U.S. Government has always taken a strong stand against the practice of torture. Our Government has eagerly supported the U.N.'s Commission on Human Rights in developing a Convention Against Torture as well as the U.N.'s Voluntary Fund for Victims of Torture. It is fitting that the Congress reaffirms the continuing policy of our Government to oppose the practice of torture by foreign governments. Our Government can work

through public and private diplomacy and can enact laws intended to reinforce U.S. policies with respect to torture.

Under this proposed legislation, the President is requested to instruct the permanent representative of the United States to the United Nations to continue to raise the issue of torture and to continue to involve the U.S. Government in the formulation of international standards and effective implementing mechanisms. In addition, the Secretary of State is requested to issue formal instructions to our chiefs of mission around the world of our Government's policy regarding torture.

I am confident that my colleagues will join me in saying that favorable consideration of House Joint Resolution 605 will show the American people and the world that we are committed to eliminating from the face of the earth this terrible scourge. As a cosponsor of this measure, I urge my colleagues to adopt this important piece of legislation.●

● Mr. BROWN of California. Mr. Speaker, today we will consider House Joint Resolution 605, a bill expressing the opposition of Congress to the use of torture in foreign countries. I feel strongly that everyone should be tried under a fair and just legal system: such a legal system has no room for torture.

Progress has been made in several regions throughout the world to reduce governmental, political and societal torture, but we have a long road to travel. Amnesty International, a group whose extensive work for human rights is well respected, has launched a worldwide campaign to reduce the incidences of torture. According to their 1984 report, 90 countries still allow or ignore various forms of torture within their judicial systems. These practices range from the cruel to the bizarre; from systematic torture during interrogation to abusive treatment of convicted prisoners; from limited occurrences to rampant abuse.

To Americans living in a society where physical abuse is strongly rejected, it is difficult to conceptualize torture as a common occurrence in other societies. Yet torture is still very much a reality.

This legislation, House Joint Resolution 605, would reaffirm U.S. commitment to the reduction of torture. It will send a message throughout the world that we will not allow physical abuse to go unnoticed. Aside from expressing the concern of Congress, the resolution would also request the President to instruct the U.S. Ambassador to the United Nations to continue to raise the issue of torture practiced by other governments, request the State Department to issue formal instructions to every U.S. mission overseas, require the mission to examine allegations of torture and illegal imprisonment and to express official United States concern about any use of torture. The resolution also calls on the Commerce Department to vigorously enforce current restrictions on the export of crime control equipment.

Some feel that since these abuses occur far from our soil, the United States can do little to stop these activities. However, I choose to differ. By ignoring these practices, we are silently condoning torture and other unjust activities. By expressing official opposition to the use of torture, we are notifying these governments that these practices bring disapproval from the international community. In addition, our reprimands teach citizens of these countries that torture is not a universally accepted practice, nor does it have to be tolerated. It is only through pressure from the international community that improvements will be realized.

Mr. Speaker, the elimination of torture is the goal of many. Several constituents of mine urged me to cosponsor this legislation, and I have. Churches and international organizations, such as Amnesty International, are working to help those who have been the subject of abuse and unjust treatment. It is imperative that the U.S. Government reflect this concern to our international neighbors.

I commend those who have supported House Joint Resolution 605. I would like to urge the administration to carefully consider the proposed policies.●

● Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 605, which reaffirms U.S. policy in opposition to the practice of torture by any foreign government.

Torture—in whatever form and wherever practiced—can never be tolerated if a humane world order is to be achieved and maintained. The sad reality is, however, that the practice of torture is both widespread and persistent throughout the world. It has been reported by the State Department and Amnesty Inernational that torture is practiced in nearly 100 countries and occurs habitually in over 60, although secrecy and censorship make a complete accounting impossible.

Eradicating this inhumane menace poses a formidable challenge, but we must not be deterred, either by its dimensions or by the considerable commitment required to prosecute its elimination. The United States has been active in this regard, supporting the United Nations Commission on Human Rights in developing the draft: "Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the United Nations Voluntary Fund for Victims of Torture." The restrictions on the export of crime control equipment pursuant to the Export Administration Act is another important example of past involvement.

House Joint Resolution 605 complements these past undertakings and suggests a framework within which our efforts may be expanded. In that vein, House Joint Resolution 605 is more than a symbolic statement about the evils of torture; it is also a practical statement on the options we should pursue in implementing our policy in opposition to these methods.

In this age of mass communication, we have all seen and heard too vividly, too often, countless examples of man's inhumanity to man. House Joint Resolution 605 addresses one of the most blatant and tragic violations of internationally accepted principles of human rights—prohibitions on the practice of torture—and I hope my colleagues will join me in lending their support to this measure.●

● Mr. LUNGREN. Mr. Speaker, I rise in support of House Joint Resolution 605, regarding the implementation of the policy of the United States in opposition to the practice of torture by any foreign government. It is my understanding that the other body is proceeding expeditiouly in considering an identical resolution, Senate Joint Resolution 320, in the Senate.

As a cosponsor of this important legislation, I am pleased that we have an opportunity to consider legislation that reflects a strong commitment to reinforce our policy with respect to human rights—because the very meaning of our Nation is human rights. House Joint Resolution 605 is an initial step toward addressing the problem. The resolution delineates specific guidelines to help shape our policy toward combating the practice of torture around the world.

I would like to commend the full committee chairman, Mr. FASCELL, the subcommittee chairman, Mr. YATRON, and the other Members who have worked so diligently in bringing House Joint Resolution 605 to the floor. This bill contains many worthy policy initiatives.

It is equally important that we recognize the fine contribution that Amnesty International has made in publicizing cases of human rights abuse. Perhaps no other nongovernmental human rights organization has been so effective in increasing public awareness of this issue than Amnesty International.

According to their recent report, "Torture in the Eighties," prisoners have been tortured or cruelly treated in at least one out of every three countries within the past 4 years. The numerous recommendations contained in this publication and their other documents on human rights practices have shown to be invaluable and of great

assistance to the application of this administration's human rights policy.

Mr. Speaker, human rights is certainly an important part of foreign policy, since the present struggle for the world is about liberty, and indeed the survival of liberty for the foreseeable future of our civilization. It should not be forgotten that the United States fought its bloodiest war not for territory, but to free the slaves. In fact when the United States recommitted itself to active involvement with the outside world—whether in wars for the liberty of Europe or in the Marshall plan—it has done so because it felt called to the defense of human rights.

As Ambassador Jeane Kirkpatrick wrote in 1981:

> If the United States is "the most destructive power in the world," if we are "capable of genocide," if we are a "graceless land," then the defense of our national interest could not be integrally linked to the defense of human rights or any other morally worthy cause."

The United States of course, does not fit any of those awful descriptions. And we should make this abundantly clear in word and deed. House Joint Resolution 605 makes a real contribution in that effort.●

● Mr. PORTER. Mr. Speaker, I join with my colleagues in expressing my strong support for House Joint Resolution 605. This resolution, of which I am an original cosponsor, sets forth specific recommendations for actions to combat torture.

The resolution outlines three general areas of policy for the U.S. Government to undertake to combat torture in foreign countries. The first of these focuses on the United Nations. The President is requested to instruct the U.S. Representative to the United Nations to raise the issue of torture and to cooperate with efforts to formulate international standards and effective implementing mechanisms, including the draft "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment."

The second policy involves the Secretary of State, and requests the Secretary to instruct all Ambassadors to examine allegations of torture, to forward this information to the Assistant Secretary for Human Rights and Humanitarian Affairs, and to meet with indigenous human rights groups knowledgeable about the torture and express U.S. concern over the use of torture whenever feasible.

The last of these policy areas is the broadest, and calls upon the heads of all departments of the U.S. Government which supply military and law enforcement training abroad to include instruction regarding international human rights standards and the policy of the United States with respect to torture.

The combination of these three policy areas in House Joint Resolution 605 represent a major step toward establishing a U.S. position against torture, and for implementing a policy combating this problem.

I would like to take this opportunity to commend the activities of Amnesty International in calling attention worldwide to the problem of torture. As my colleagues may be aware, last spring AI launched a 2-year campaign to combat torture. Earlier this year the Congressional Human Rights Caucus—which I chair with my colleague, the gentleman from California [Mr. LANTOS] sponsored a briefing for Members and their staffs on AI's campaign against torture, and on possible actions for Members to undertake. Through their research, AI has attempted to learn what types of institutions exist within governments that allow for torture to take place, and what corrective measures need to be undertaken to eradicate the use of torture. The findings of that research, along with documentation of the use of torture around the world is the subject of a book recently published by AI, "Torture in the 80's."

The research by AI, and other human rights organizations, clearly documents an alarming degree of torture being practiced around the world. In fact, studies show that 1 out of 3 countries has practiced torture in the past 3 years, yet many of these countries are signatories to international agreements outlawing the use of torture, including the Geneva Conventions, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

During recent hearings by the House Subcommittee on Human Rights and International Organizations and by the Senate Foreign Relations Committee, victims of torture presented their own tragic tales. The details included in their testimony and that of other torture victims are gruesome and at times emotionally difficult to listen to. Unfortunately, it is all too easy for us in the United States to ignore the problem of torture since it does not exist here in our country. But it is important that we not ignore this problem, and that we turn our efforts abroad and call upon other governments to cease torture activity.

In the past the U.S. Congress has already shown compassion toward the problem of torture by supporting the United Nations Voluntary Fund for the Victims of Torture which provides worldwide humanitarian assistance for victims and their families. I support our commitment to the plight of the victims of torture through this contribution, and hope that in the future we will continue to contribute to this fund.

Mr. Speaker, I urge my colleagues to lend their support to the fight against torture. It is not an easy battle, yet this resolution, House Joint Resolution 605, provides a great opportunity for the U.S. Government to work with other governments in calling for a halt to this practice. I hope my colleagues will join together in unanimously supporting this resolution.●

Mr. FASCELL. Mr. Speaker, I have no further requests for time on this side.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the joint resolution, House Joint Resolution 605, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONCERN REGARDING PLIGHT OF ETHIOPIAN JEWS

Mr. YATRON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 107) expressing the grave concern of the Congress regarding the plight of Ethiopian Jews as amended.

The Clerk read as follows:

H. CON. RES. 107

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantees to all persons the right to freedom of religion, the right to hold opinions without interference, the right to freedom from expulsion, and the right to emigrate;

Whereas Ethiopian Jews are among the oldest continuous Jewish communities in existence, their history extending back for three thousand years;

Whereas this community once numbered several hundred thousand persons, but the scourge of wars, pestilence, persecution, and famine over the years has reduced it to some twenty-five thousand people, several thousand of whom have sought refuge in nearby countries;

Whereas the American people are becoming increasingly aware of the difficulties facing Ethiopian Jews and are seeking ways to assist them as well as all other Ethiopians who suffer difficult conditions, including religious persecution; and

Whereas the plight of Ethiopian Jews demands that the American people and all people of good will do everything possible to

alleviate their suffering: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should—

(1) use all appropriate channels to maintain our dialog with the Ethiopian Government on the issue of the welfare and rights of Ethiopian Jews, as well as of other Ethiopians, including those of other religious faiths;

(2) express to relevant foreign governments the United States concern for the welfare of Ethiopian Jews, in particular their right to emigrate,

(3) seek ways to assist Ethiopian Jews through every available means so that they may be able to emigrate freely, and

(4) express the concern of the American people for the welfare of the Ethiopian Jewish community in every appropriate forum.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on May 8, the Subcommittee on Human Rights and International Organizations unanimously approved House Concurrent Resolution 107 which expresses the grave concern of the Congress regarding the plight of the Ethiopian Jews. On September 7, the Foreign Affairs Committee unanimously approved the resolution with an amendment sponsored by my good friend from New York [Mr. SOLOMON] which enhances the resolution. The amendment calls on the President to use all appropriate channels to maintain our dialog with the Ethiopian Government on the issue of the welfare and rights of Ethiopian Jews, as well as of other Ethiopians, including those of other religious faiths. Sponsored by my good friend and colleague the gentleman from New York [Mr. SOLARZ], House Concurrent Resolution 107 engenders bipartisan support and is cosponsored by 158 Members.

In 1982 the subcommittee, under the chairmanship of Congressman BONKER, conducted a series of extensive hearings on religious persecution as a violation of human rights. Of the great many injustices and degradations experienced by religious and ethnic groups at the hands of ruthless regimes, the cruel treatment of the Falashas by the Marxist government of Ethiopia is clearly one of the most serious cases of persecution and religious intolerance in the world today.

Mr. Speaker, it is certainly a sad commentary about modern civilization that there are governments today which espouse doctrines based on religious indifference. The Marxist regime in Ethiopia, through a policy of forced assimilation, is actively seeking to destroy the faith, customs and traditions of the Falashas. However, at great risk to their personal safety, the 25,000 remaining Jews in Ethiopia continue to proudly observe their spiritual beliefs.

House Concurrent Resolution 107 directs the President to promote greater international awareness of the plight of the Ethiopian Jews and specifically calls for ways to assist these people in their ongoing efforts to emigrate freely. The resolution is not opposed by the administration. I commend the sponsor of the resolution and the sponsor of the amendment for their leadership on this issue and I urge my colleagues to unanimously approve both measures.

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Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 107, regarding the plight of Ethiopian Jewry. As a cosponsor and supporter of this legislation, I want to commend the author, Mr. SOLARZ, for bringing this human rights issue before the House and also to commend my colleagues Mr. YATRON and Mr. SOLOMON, for their efforts to strengthen the text of the resolution.

Just recently, the Subcommittee on Human Rights and International Organizations held a hearing on human rights in several African countries including Ethiopia. Assistant Secretary of State for Human Rights and Humanitarian Affairs Elliott Abrams testified that the human rights situation in Ethiopia is bleak and that the Jewish community in that country is subject to human rights violations including arbitrary arrest and imprisonment. According to the 1983 State Department human rights report for Ethiopia, other religious groups in Ethiopia have also been subjected to substantial official harassment. Accordingly, by this resolution the Foreign Affairs Committee seeks to make clear the concern of the Congress for the harassment within Ethiopia of all minority groups and religions. No individual is truly free unless all individuals are accorded equality before the law.

Mr. Speaker, I urge my colleagues to give this resolution their unanimous support.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON] for his comments.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

First, let me also commend both the gentleman from Pennsylvania and the gentleman from Iowa for the work that their Subcommittee on Human Rights has done in this area and in working in conjunction with our Subcommittee on the African Continent.

Mr. Speaker, I rise in wholehearted support of this resolution and urge its adoption.

In August of last year, members of the Subcommittee on Africa visited the Falasha village of Ambober in the Gondar Province of northern Ethiopia. It was a very moving experience to see the deep faith exhibited by these suffering people, a faith that no ideology or tragedy has been able to undermine. In fact, the various calamities that have befallen Jewish people in Ethiopia and throughout the world have served only to strengthen their faith and commitment.

It is particularly appropriate for this resolution to be considered today. Yesterday, the ruling military regime in Ethiopia announced the establishment of a Communist party as the sole vehicle for political activity within that country. If history teaches us anything, it is that Communists will not tolerate any source of inspiration and instruction among the people that does not conform to the brutal dogmas of Marx and Lenin.

Mr. Speaker, the particular focus of this resolution is with the Falasha people. But during the deliberations on this resolution at the subcommittee and full committee levels, the gentleman from New York [Mr. SOLARZ], agreed to some changes in the wording which would make mention of the broader problem of religious persecution within Ethiopia and I thank the gentleman for his interest and cooperation.

Since the revolution in Ethiopia in 1974, all property owned by Christian churches, including hospitals and schools, has been confiscated by the regime. The patriarch of the Ethiopian Orthodox Church and many other prominent clerics were arbitrarily imprisoned after the revolution. The fate of many of these people, including the patriarch, remains unknown, 10 years after the revolution.

Aside from the officially sanctioned persecution in Ethiopia, the regime has established numerous neighborhood associations called "kebeles." These groups, comprised of the regime's political cadres, have spread an atmosphere of suspicion and terror among the people. There are many reports of local cadres confiscating and destroying Bibles and other religious articles. Families have even been assaulted while on their way to church,

with the children being hauled off to attend political indoctrination classes.

Mr. Speaker, a monumental human tragedy has unfolded in Ethiopia these last 10 years. But just as the Communists in Poland have been unable to quench the faith of the people, so the Communists in Ethiopia will ultimately fail. I hope this resolution today will advance the cause of all those who seek release from spiritual oppression in Ethiopia.

Mr. YATRON. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I thank the distinguished chairman of the subcommittee.

Mr. Speaker, I rise in support of House Concurrent Resolution 107, which expresses the grave concern of the Congress regarding the plight of the Ethiopian Jews. I would like to commend the sponsor of the resolution, Mr. SOLARZ, and the chairman of the subcommittee, Mr. YATRON, for seeking expeditious action on this measure, of which I am a cosponsor.

In 1982, the Subcommittee on Human Rights and International Organizations, which I had the honor to chair, conducted an extensive series of hearings on the problem of religious persecution as a violation of human rights. During those hearings, the subcommittee had the opportunity to learn about the suffering of the Falasha community in Ethiopia. The Falashas, which means "stranger" or "alien" in the Ethiopian language, have steadfastly clung to their faith for almost 3,000 years. Since the 1974 revolution in that country, however, the Ethiopian Jews have been subject to increasingly severe repression. The Government's policy of "Ethiopia First" has spurred attempts of forceful assimilation of the Falasha community, and allowed the local authorities in the Gondar region inhabited by the Falashas to pursue discriminatory policies against the Jewish population there.

The 1983 State Department Country Reports on Human Rights observes: "it is not possible to speak with assurance about the condition of the Ethiopian Jews because access to them is so restricted and carefully monitored by the authorities. . . . Friction between the Ethiopian Jewish community and the authorities continues owing to government efforts to prevent their emigration to Israel, the lack of Hebrew instruction and the evident resistance of the Ethiopian Jews to Marxist-Leninist indoctrination."

Mr. Speaker, the Falasha community has demonstrated a courageous will to maintain its faith and tradition. House Congressional Resolution 107 provides us the opportunity to reaffirm our commitment to ending their persecution because of their religious beliefs. I urge my colleagues to support this important resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me. I want to commend the gentleman from Pennsylvania, the chairman of our Human Rights Subcommittee, and the gentleman from Iowa, our ranking member, for helping to bring this measure to the floor at this highly appropriate time, at a time when the Falasha Jews were having an extremely difficult time in emigrating from that part of the world.

Mr. Speaker, I rise in strong support of the pending resolution. House Concurrent Resolution 107 expresses in the strongest possible terms, the great concern of this Congress for the well-being of Ethiopian Jewry. Although efforts on their behalf continue every day, it is important that our official position on this important human rights matter be relayed to the White House, and all relevant foreign governments.

In the past, Ethiopian Jewry comprised one of the largest Jewish communities in the world; at its height, their numbers were estimated to be over 1 million, and these men and women enjoyed political and economic independence and had their own kings and queens. However, with Muslim forces working against them, their numbers quickly dropped to only 250,000 by the end of the 18th century. By the time Emperor Haile Selassie took the throne, only 50,000 remained, and during his 44-year reign, their situation continued to deteriorate. In the years that have followed, their numbers have been even further decimated. Compounding this serious situation is the famine that plagues the entire region, and which threatens the lives of all Ethiopians.

Unfortunately, however, the Falashas have been singled out for harsh treatment. Individuals were imprisoned and tortured in recent years, charged with being Zionists or CIA agents, and contact with the Falashas in their own villages was extremely limited.

Because of the dangers being faced by the Ethiopian Jewish community, and because their unique culture is in danger of being eradicated forever, it is important that our efforts on their behalf be increased. As an early cosponsor of House Concurrent Resolution 107, I recognized the need to expand the avenues currently being used to alleviate their plight. House Concurrent Resolution 107 asks the President to do all in his power to express to appropriate foreign governments the severity of the dangers being faced by the Falashas, and the need to assist Ethiopian Jews through every available means to secure the right to emigrate freely. This last point is especially important, as the Ethiopian Government made emigration to Israel a treasonable offense in 1981. By adoption of the pending resolution, the House of Representatives can express its official concern of this serious situation, and I urge my colleagues to join us in this important human rights effort.

● Mr. BROOMFIELD. Mr. Speaker, now is the time for the American Congress to go on record expressing our concern about the plight of Ethiopian Jews. I strongly support the resolution before us calling the attention of the world to the unfortunate conditions of the Falashas of Ethiopia.

The Falasha, the Jews of Ethiopia, have maintained their Jewish faith and traditions against incredible odds. As one of the oldest, continuous Jewish communities in existence, they have persevered in that faith despite centuries of wars and oppression by various Ethiopian rulers. They have also been faced with pressures of absorption into the dominant culture. The Falasha, however, have always wanted to return to their homeland—Israel.

The once large group has shrunk to only 25,000. Today, this small group faces drought, disease, and increased instability in their section of Ethiopia.

Under the dictatorial rule of Lieutenant Colonel Mengistu, the Falasha can own land and enjoy the same precarious rights as other citizens. Ethiopia, however, remains a nation under a repressive government which has recently declared the Communist Party as the official party of the state. There is no freedom of speech or press. There is no freedom of assembly and association. Religious denominations have been restricted since the revolution. Some synagogues in Falasha villages have been closed. Visits to Jewish villages are infrequent and controlled.

Today, there is no freedom of emigration in Ethiopia. Anyone attempting to flee the country faces criminal charges with no guarantee of a public trial with counsel.

During the past 10 years. 1 million Ethiopian refugees fled from Ethiopia. Among their ranks were a few thousand Falasha. They were determined to take risks to win the right to practice their religion. Since 1981, however, emigration to Israel has become a treasonable offense.

This resolution recognizes the basic right of the Jews of Ethiopia to their full civil and human rights to include the right to practice their religion and to freely emigrate. Other Ethiopian groups are also suffering under the current regime, and also need our help.

Today is the opportunity for all of us to stand up and offer our support for this important resolution. I call upon my colleagues to join me in this effort.●

● Mr. SHANNON. Mr. Speaker, I rise to join my colleagues in support of House Concurrent Resolution 107, on behalf of Ethiopian Jews. House Concurrent Resolution 107 instructs the President to express the grave concern of Congress and the American people for the welfare and rights of the Falashas, to maintain dialog with the Ethiopian Government, and to assist the Falashas' free emigration.

Ethiopian Jews are members of one of the oldest and most devout religious communities. Yet the majority of Ethiopians, unfamiliar with the practice of Judaism, regard the Falashas as an alien people, as their name, meaning "stranger" implies.

In 1982, the Foreign Affairs Committee Subcommittee on Human Rights and International Organizations held hearings on religious persecution as a violation of human rights. With one witness after another, those hearings documented the pattern and extent of discimination against Ethiopian Jews. Severe economic and social discrimination has reduced the population of Falashas from 250,000 in the 19th century to less than 30,000 today.

I am aware that our diplomatic contact with Ethiopia is limited. Simcha Jacobovici, writing in the New York Times on April 23, 1983, suggested that the Ethiopian Government would be influenced by Western public opinion. American influence is urgently needed to ease repressive conditions and press for substantial reforms. I urge my colleagues to support House Concurrent Resolution 107 so that this important opportunity to communicate our concern will not be lost.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of this resolution which expresses congressional concern over the welfare of Ethiopian Jews and calls on the relevant foreign governments to allow Ethiopian Jews to emigrate freely. As a cosponsor of this resolution I urge all of my colleagues to support this measure as a display of our continued support for and solidarity with both the Falasha community in Israel and those Jews still in Ethiopia.

The Jewish community of Ethiopia is one that has survived for over 2,000 years. It has persevered despite centuries of numerous conflicts, tribal wars, persecution and oppression; and it continues to survive in a land of stark poverty and rampant disease. The Jews of Ethiopia continue to live in a country wrought with internal strife and political insurrections. It is a country that has been devastated by a 2-year drought.

The Ethiopian Jews are a hardy community—one dedicated to preserving its religious traditions and way of life. Despite the fact that some 7,000 have already found greater religious freedom in Israel, a small Jewish community remains in Ethiopia, unable to join their loved ones in Israel and unable to realize their dream of freedom and greater religious liberty. As one who recognizes the courage and perseverence of these people—both those who have already made the trek to the promised land, Israel, and those who remain in Ethiopia—I am proud to be a cosponsor of this resolution.

The Jewish community of Ethiopia is one that yearns to emigrate to Israel to join their loved ones and live a life of freedom and religious liberty. The dreams and aspirations of this brave community must not be forgotten and I feel honored to express my solidarity with these devout and courageous people.●

● Mr. FRANK. Mr. Speaker, I am very pleased that the House is considering House Concurrent Resolution 107; this is an urgently needed expression of the sense of Congress regarding the Ethiopian Jewish community. I and many of my colleagues have long been concerned for the preservation of this ancient community. There are now 7,000 Ethiopian Jews resettled in Israel, 10,000 to 14,000 languishing in refugee camps in adjacent countries, and 7,000 to 8,000 still in Ethiopia.

It is thought that those remaining in Ethiopia are primarily the young, the old, and the sick. These are individuals who cannot survive without the support of their community. In addition, the Gondar region, in which most of the Ethiopean Jews reside, has for a long time suffered under a devastating drought. In addition, it is the tenth anniversary of the revolution in Ethiopia, and security has been tightened; there is apparently heightened guerrilla activity in the region. All of these condition serve to exacerbate the preexisting antipathy which the rest of the Ethiopian population holds for their Jewish compatriots. Though the Jewish communtiy in Ethiopia goes back for many centuries, they are referred to by some as Falashas, which means strangers.

It was at one point hoped that much of the pressure on the Ethiopian Jewish refugee population could be alleviated over the past summer. I am very sorry that this has not proved to be the case. Therefore, it is incumbent upon this body to pass House Concurrent Resolution 107. It should be clear U.S. policy to do everything we can to aid this community, and enable them to emigrate freely and settle in Israel. I urge my colleagues to support this needed measure.●

● Mr. ACKERMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 107, a measure expressing concern for the plight of the Ethiopian Jewish community. These beleaguered people have clung tenaciously to their faith despite the most adverse conditions, both in Ethiopia and in the neighboring countries where they eke out an existence in squalid refugee camps. The community, which once numbered 250,000 at its peak has been reduced to less than 25,000 today, and the grim conditions the valiant Ethiopian Jews must endure create an almost insurmountable challenge to their survival.

As this Congress is well aware, the Horn of Africa has been plagued by a severe drought and famine over the past several years. This factor, combined with the political instability within Ethiopia, has caused a large flow of people over the Ethiopian border. Naturally, this includes a significant number of Ethiopian Jews who now need assistance in leaving the refugee camps. Mr. Speaker, the resolution we are passing today calls on the President to utilize his office to make certain that the United States, in cooperation with other governments, takes every necessary step to assist the Ethiopian Jews in securing their dream of reaching Israel. The passage of this resolution should be taken as a clear signal that the people of the United States are firmly committed to the rescue of all Ethiopian Jews.

Mr. Speaker, these brave individuals have cried out for help to reunify their families which remain tragically divided among Ethiopia, the refugee camps and Israel. By passing this resolution today, we can focus greater attention on the imperative of resolving this critical situation. We cannot afford to ignore the pleas of these courageous people. Each individual and government with the capacity to assist the Jews of Ethiopia must do every thing possible to help this desparate community. To do anything less will result in the meaningless loss of life for individuals who are merely seeking to fulfill their basic right to live freely and to practice their faith in peace. I am proud to speak out today in support of House Concurrent Resolution 107 and for the Ethiopian Jews who have struggled valiantly to attain their freedom.●

● Mr. LANTOS. Mr. Speaker, I wish to join my colleagues who have spoken in favor of the passage of the resolution we are considering here today—House Concurrent Resolution 107 expressing the grave concern of the Congress regarding the plight of Ethiopian Jews. I also wish to commend my colleagues from New York, Mr. SOLARZ, for his consistent efforts in bringing this issue before the House.

Mr. Speaker, as a survivor of the nightmare of the Holocaust, I am determined that I will not be a passive bystander to the annihilation of a very special and unique branch of Judaism. The Ethiopian Jewish community

have maintained their beliefs and principles through centuries of persecution and isolation, through poverty and slaughter through perhaps greater suffering even than their brothers and sisters endured in Europe and the Middle East.

As recently as the beginning of this century, the number of Ethiopian Jews was estimated at over 100,000, but today all that remains is a remnant numbering about one-quarter that size. As appalling as these numbers are, they do not indicate the full extent of the persecution that plagues these dedicated people. Current estimates indicate that about 8,000 still remain in their native Eithiopia—unable to leave the land that does not want them. Even if individuals receive permission to immigrate, family members and friends who remain behind are subject to still greater persecution. As one young Ethiopian Jewish boy explained the problem in a recent issue of Hadassah magazine: "We cannot leave. If we do, our parents must suffer for it. But we cannot stay."

The Ethiopian Government has pursued a policy of systematic assimilation of its Jewish population and has vigorously opposed instruction in Hebrew. There have been frequent burnings of Hebrew books, the incarceration of teachers, and the closing of schools where Hebrew has been taught.

Persecution, however, is only one of many problems that face these long-suffering people. The continuing drought in Northern Africa is also exacting a high toll among the Ethiopian Jews. Those located in isolated villages are particularly subject to its effects, and the Jewish community in Ethiopia inhabits precisely such isolated villages. A second additional problem is the domestic unrest and insurgency that currently infest Ethiopia. The State Department's Country Reports on Human Rights Practices for 1983 notes that "Ethiopian Jews are situated in areas of insurgency and they are getting caught in the crossfire."

Those who have risked their lives and lost their meager possessions through leaving their native Ethiopia have found continuing problems in Sudan, where they have fled. At present it is estimated that some 10,000 to 14,000 Ethiopian Jews are living in camps in the Sudan. Conditions there are also appalling and the prospect for improvement is not good. The numbers who have been able to leave Ethiopia for the Sudan recently are very small.

Mr. Speaker, history has shown again and again the tragic outcome, the vicious injustice that results when religious and racial oppression and persecution are ignored. We are fortunate indeed that many committed individuals continue to work to remind us of the Ethiopian Jews. My good friend Nate Shapiro has been a leader in the effort to remind us of the plight of this people and to take concrete action to help them.

The resolution we are voting upon today is not a solution, but it does indicate the concern of the Congress for the Ethiopian Jews. I urge the administration to take careful note of this resolution that we are approving today, since the administration can take action in many important areas to assist in alleviating the suffering and dislocation of this group.●

● Mr. BROWN of California. Mr. Speaker, I would like to rise in strong support of House Concurrent Resolution 107, which expresses the concern of Congress regarding the plight of Ethiopian Jews.

The Beta Yisrael, also known as the Falashas, have been living in Ethiopia and in refugee camps outside of Ethiopia. These people suffer from poverty, sickness, persecution and neglect. They have been restricted from emigrating to Israel to be reunited with family and friends. Many regions of Ethiopia have suffered from a prolonged drought. The almost complete failure of the secondary harvest several months ago has intensified the difficult conditions under which the Ethiopian Jews live.

This resolution reflects the concerns of many of my constituents and myself. It encourages the President of the United States to maintain a continuing dialog with the Ethiopian Government on the issue of the welfare and rights of all Ethiopian citizens including Ethiopian Jews. The resolution calls on other governments to allow for the free emigration of Ethiopian Jews, and requests the President to seek ways of assisting the Ethiopian Jews in their efforts.

It is easy for many of us to forget that not all people are able to pursue the religious freedom that we enjoy. Everyone should have the right to practice their religion without restrictions and fear of persecution. The Ethiopian Jews do not have this freedom. It is important that the United States express concern for these peoples.

I urge those in Congress, the President, and the American people to send our message to the Government of Ethiopia to give freedom to those wishing to emigrate and to those wishing to practice their religion.●

● Mr. FEIGHAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 107.

Throughout history, the Falashas' struggle to survive has been perilous. Once a powerfully independent family of 1 million faithful, they first felt the harsh sting of persecution some 500 years ago. Christian and Muslim forces plundered Falasha villages, stole their land, enslaved the weak and outlawed the practice of Judaism. Poverty stricken, illiterate, and forbidden from following their faith or from owning land, the Ethiopian Jews became outcasts, forced to scrape out a meager existence from sharecropping and small-scale craftwork. By 1948, there were only 40,000 Jews left in Ethiopia. Today, that number has fallen to 25,000.

Despite this hardship, the Falashas have clung to their faith with a certainty and tenacity that we can only admire. Judaism still survives in Ethiopia, even though synagogues have been closed, the teaching of Hebrew has been banned and rabbis have been imprisoned and tortured. The Marxist government of Mengistu also forbids emigration of any kind.

Falasha means "stranger" or "one who does not own land." More than anything else, the Jews of Ethiopia wish to live where they will not be strangers, on the Jewish land of Israel. This resolution will tell the world that we have not forgotten the Falashas and their dreams, and it reaffirms our pledge to do all we can to help ancient Jewish community of Ethiopia unite with their people in the Jewish State of Israel.

I urge all of my colleagues to support House Concurrent Resolution 107.●

● Mr. FAUNTROY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 107, expressing the grave concern of the Congress regarding the plight of Ethiopian Jews.

I was pleased to be a cosponsor of this legislation which states that the President of the United States of America should utilize our diplomatic capabilities to secure the welfare and human rights of the Ethiopian Jews as well as Ethiopians of other religious faiths.

It is imperative that we pass this resolution placing the Congress on record in its concern for the plight of the Ethiopian Jews.●

● Mr. PORTER. Mr. Speaker, I am pleased to lend my support to House Concurrent Resolution 107, which calls attention to the current plight of Ethiopian Jews.

As a cosponsor of this resolution, I strongly support efforts to assist the Ethiopian Jewish community, the Falashas. The word "Falasha" means stranger, and, unfortunately, that is a very symbolic description of the Ethiopian Jewish community.

The details of the Falasha's history are unclear. Until the 19th century, the existence of the Ethiopian Jewish community was a mystery to all other Jewish communities. There has been some speculation on the origins of the Falashas, and some uncertainty on the exact date of their arrival in Ethiopia. However, most sources agree that by

the 10th century 1 million Jews lived in Ethiopia.

Many historians have been awed by the ability of the Falasha community to adhere to the teachings of their faith despite centuries of isolation from other Jewish communities, anti-Semitism, enslavement, and forced conversion. These Jews closely follow the Torah, including the celebration of the Sabbath and dietary laws.

In recent times the Falashas have continued to face persecution at the hands of their government, despite their location in isolated villages. During the 44-year reign of Emperor Haile Selassie, the Jews were permitted limited religious freedoms, yet faced ongoing harassment by government officials, which included efforts to force the Falashas to convert and denying them permission to emigrate to Israel. Following the 1974 Marxist revolution, the Falashas situation was again in jeopardy. Although the Jews have not been singled out for persecution by their government, the government's antireligious policies have led to the closing of many synagogues, and the Falashas are still denied the right to emigrate to Israel.

Today it is estimated that 20,000 Falashas live in Ethiopia. The drought in that region of Africa has led to a life-threatening famine. In addition, many Ethiopians are caught in the crossfire of the fighting between the Marxist government led by Col. Mariam Menguistu and antigovernment guerrillas.

As a result of the difficulties facing the Falashas, for years many Ethiopian Jews have tried to leave their homeland and live in Israel. Yet, their government has established an unfortunate policy of denying these Jews the right to be repatriated to what they believe to be their ancestral homeland. In response to this obstacle, many determined Falashas have risked their lives to escape Ethiopia. Their paths have led them to refugee camps in neighboring countries and eventually to Israel. Today, several thousand Falashas are living in Israel and countless others are en route to join them.

I admire these people for their determination to leave Ethiopia and live in Israel. I support a course of action to assist these Jews in their desire to emigrate and urge government officials, here in the United States and abroad, to work together to assist this imperiled Jewish community. I hope that through the efforts of the U.S. Congress and human rights organizations to call attention to the plight of Ethiopian Jews, one day soon the Falashas will be safely resettled in Israel.●

□ 1630

Mr. LEACH of Iowa. Mr. Speaker, I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 107, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WILDLIFE PRESERVE FOR HUMPBACK WHALES

Mr. YATRON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 136) calling for a wildlife preserve for humpback whales in the West Indies.

The Clerk read as follows:

H.J. RES. 136

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall seek a treaty or other appropriate international agreement establishing a wildlife preserve for humpback whales in the West Indies, in the area encompassing the Turks Islands, Mouchoir Passage, Silver Bank Passage, Navidad Bank, and such additional areas as may be necessary to insure the protection of the breeding grounds of the humpback whales.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 136 sponsored by our good friend and colleague, Congressman WHITEHURST calls for the President to seek a treaty or international agreement to establish a wildlife preserve for humpback whales in the West Indies.

Mr. Speaker, the governing body in which the United States seeks to pursue its objectives on whaling matters is the International Whaling Commission. The IWC in its wisdom has classified the humpback whale as a protected species thereby prohibiting commercial whaling of this beautiful mammal. Although the IWC clearly defines a policy which calls for the protection of the humpback whale, the application of this policy has proven for the most part ineffective. First, the IWC has no enforcement mechanism. Therefore, it must rely on member nations to voluntarily implement IWC regulations. In the absence of a coordinated effort by member nations, policy application has been inconsistent with the mandate of the Commission. Second, several nations including the Dominican Republic are not members of the IWC and thus do not feel inclinded to abide by IWC regulations. As a result, the humpback whale population has dwindled from a high of 100,000 to an estimated low of 6,000.

Mr. Speaker, the establishment of an international sanctuary for the North Atlantic stock of humpbacks in the West Indies as called for in House Joint Resolution 136, is consistent with U.S. policy. This resolution authorizes the President to strengthen our efforts to protect the humpback whales. It was unanimously approved by the Foreign Affairs Committee and is not opposed by the administration. I commend the sponsor of House Joint Resolution 136, Mr. WHITEHURST, for undertaking a leadership role in this area and I urge my colleagues to unanimously support this measure.

Mr. Speaker, the Committee on Foreign Affairs recognizes that the Speaker has indicated to the Committee on Merchant Marine and Fisheries that if House Joint Resolution 136 had been reported by the Committee on Foreign Affairs that it would have been sequentially referred to the Merchant Marine Committee. By requesting that this resolution be placed on the Suspension Calendar the Committee on Foreign Affairs did not intend in any way to prejudice the jurisdiction of the Merchant Marine Committee. The Committee on Foreign Affairs appreciates the willingness of the Merchant Marine Committee to waive its right to sequential referral in this instance.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 136, calling for the establishment of a wildlife preserve for humpback whales in the West Indies.

The gentleman from Virginia [Mr. WHITEHURST], the newly bewhiskered Neptune of this body, and the gentleman from Pennsylvania [Mr. YATRON], are particularly to be commended for taking such strong leadership roles in Congress is support of maximum protection for whales.

The Department of State in written comments on this resolution had indicated that it supports the provision of as much protection as possible for whales, particularly those like the humpback, which are so endangered today. Thus, the administration has taken a position consistent with, although not in precise agreement with this bill. In fact, it favors an even stronger approach than this bill envisions. However, we have received no concern whatsoever from the administration on this particular resolution.

Clearly, the creation of an international sanctuary by the International Whaling Commission [IWC] to provide protection for the North Atlantic humpback is a step in the right direction. Such a sanctuary will work to complement the sanctuary that has been established in the Indian Ocean.

Scientific estimates calculate the current stock of Western North Atlantic humpback whales at between 2,300 and 4,100 and their habitation in shallow coastal areas puts them at grave risk as they are exposed to human activity. Sanctuaries of this nature may be the only hope to preserve the species.

Again, I want to express my support for House Joint Resolution 136 and a continued strong U.S. policy of maximum protection for the world's whales. I urge my colleagues to give this measure their unanimous support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. WHITEHURST].

Mr. WHITEHURST. Mr. Speaker, I thank my colleague for yielding. I just rise to take this opportunity to thank both the gentleman from Pennsylvania [Mr. YATRON] and the gentleman from Iowa [Mr. LEACH] for their willingness to see this legislation through the House this afternoon.

I also thank the members of the other committees who have contributed to the passage of this bill, as I presume it will be.

I would just close by saying that I cannot imagine a more majestic creature of the sea than the humpback whale. You are correct, this legislation is not going to save the humpback from extinction. But I think it is a major first step forward.

As one who has a maritime district and whose life has always been oriented toward the sea, I feel particularly sensitive about this particular mammal and want to do everything I can to preserve it. I think this bill, as I said, is a major step in that direction.

I thank my colleague for yielding and I yield back.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I am happy to yield to the gentleman from Washington.

Mr. BONKER. I would like to pose a question to the ranking member or to the sponsor of the resolution. I have no doubt that we should make every effort to protect the species. So my question is not with the intent of the legislation but with the approach.

It seems to me that the International Whaling Commission has been established and the United States is a participating member for the purpose of identifying those species that are endangered through technical committees, plenary sessions, attempts to set quotas, and indeed even provide for a moratorium on the capture or killing of whales. So why would it be necessary to call upon the President to seek new agreements or treaties that are outside an established mechanism for dealing with this problem?

Mr. WHITEHURST. Will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Virginia.

Mr. WHITEHURST. I would answer the gentleman in this way: that we have seen the precipitous decline of this species already. Through the established organization we have not been wholly successful in preventing the demise of the humpback whale.

I make no claim that this bill is going to totally solve the problem. It is just a different approach. For that reason, I believe that the bill has merit.

But I am totally in favor of parallel moves within the IWC if it will protect this mammal.

Mr. BONKER. It seems to me that the IWC back in the midsixties actually provided for full protection of commercial exploitation of the humpback whales. So I guess what you are saying to me is based on the data that is presented here, that the population is down from 100,000 to 6,000 and that the IWC is not doing its job that it is not monitoring this thing. And if there is a serious decline of the resource, is it because of commercial exploitation, is it because fishermen of these various countries are engaging in whaling, even though it is contrary to IWC quotas? Is that the problem?

□ 1640

Mr. WHITEHURST. I can only presume that, unless the whales themselves are contributing to it in some way.

Mr. BONKER. Well, in which case the treaty would not be necessary.

Mr. WHITEHURST. Absolutely. I do not think that is the case at all.

Mr. BONKER. Mr. Speaker, does the ranking member have any light to shed on this question?

Mr. LEACH of Iowa. Mr. Speaker, I would only stress to the gentleman that this resolution is neither designed to necessarily go beyond the IWC or to work within the IWC. It is intended to say that we will work with the IWC if it works; if it will not, we will not.

Mr. BONKER. If the gentleman would yield further, that is not what the resolution says.

The resolution calls upon the President to seek other treaties with appropriate international agreements. My question has to do with the mechanism that is now in place. I have attended all four or five IWC sessions and I think their track record is pretty good. When they set quotas, when they establish moratoria, when they call upon participating countries to cease whaling activity, generally everybody complies. And I do not know if it is necessary to call upon the President to seek new treaties or agreements under these circumstances.

Mr. LEACH of Iowa. I think from the perspective of the standpoint of the committee, the statistics tell the tale. We are prepared to go beyond the IWC if it is necessary but preferably to work within the IWC if it works. But there is nothing in this resolution that is intended to undermine the IWC. There is also nothing in this resolution that is intended to say that we cannot work to develop treaties with IWC leadership. I think that is implicit in the assumptions of those who drafted the resolution.

Perhaps the author of the joint resolution has a comment.

Mr. WHITEHURST. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman.

Mr. WHITEHURST. The gentleman is absolutely correct. As I said it is a parallel move, it is an additional arrow in the quiver, if you will, to try to save this mammal.

Mr. LEACH of Iowa. If I may comment further, let me stress that the Dominican Republic is not a member of the IWC. That is one reason why there may need to be parallel efforts.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I did not know the Dominican Republic was a whaling country. You know, at the outset all of the whaling countries actually belonged to the IWC. Then over a period of time the so-called conservation countries joined the organization.

Now I am not against the resolution. I am for protecting whales but I have to differ with my distinguished colleague that if you instruct the President to seek other treaties you are in effect undermining the IWC unless somehow they can explain why they cannot do the job of protecting the humpback whales.

Mr. YATRON. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. YATRON. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows I do support the IWC. But as I said in my statement, first the IWC has no enforcement mechanism. Therefore it must rely on member nations to voluntarily implement the IWC regulations, and in the absence of a coordinated effort by member nations policy application has been inconsistent with the mandate of the commission and second, several nations, including the Dominican Republic, are not members of the IWC and thus do not feel inclined to abide by IWC regulations.

Also in responding to the gentleman's [Mr. BONKER] question about the Dominican Republic as to whether they were a whaling nation, they are a fishing nation. But I think part of the problem is that some of the member nations have not been as cooperative as they could be.

Mr. BONKER. Mr. Speaker, will the gentleman yield further?

Mr. LEACH of Iowa. I would be delighted to yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, insofar as I know almost all the participating members of the IWC do indeed comply with the quotas and with other restrictions that are imposed. That is why they fight so vigorously when these recommendations are put forth by the IWC, Japan being a case worth noting.

The only enforcement that we have presently is through the possible cutoff of fishing rights for countries that do violate those quotas.

That law applies I think to both participating and nonparticipating members of the IWC.

It is not worth raising many more questions at this point. I want to commend the author of the resolution [Mr. WHITEHURST] for drawing our attention to the plight of the humpback whales, and for that reason alone I will support the resolution.

Mr. LEACH of Iowa. I thank the gentleman.

Let me just conclude by stressing that what we are not dealing with here is the issue of quotas, we are dealing with the issue of a sanctuary. In establishing a sanctuary there are two prominent governments, the Dominican Republic and the United Kingdom, which have interests in this region and the Dominican Republic is not a member of the IWC. The IWC certainly provided an excellent role in establishing a sanctuary in the Indian Ocean. It would be our hope that they would establish a similar type of role here in this particular region of the world. We are not dealing within this resolution the issue of quotas, we are dealing with the issue of a sanctuary. It is a role that the IWC can play but in this particular region it might be helpful to bring in other parties.

Mr. BONKER. Mr. Speaker, will the gentleman yield further?

Mr. LEACH of Iowa. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I am pleased that the gentleman pointed out the IWC action to designate the Indian Ocean as a sanctuary.

Does the gentleman know whether there have been efforts made to the IWC or initiatives to the IWC to establish the West Indies as a sanctuary for this purpose? If not, would that not be a proper course of action rather than entering into new agreements?

Mr. LEACH of Iowa. Mr. Speaker, the administration has informed us by letter that they are willing to work with the IWC, very willing, in terms of making a sanctuary type of agreement.

But let me stress that whether or not the IWC is a part, the idea of a sanctuary stands in and of itself. What this resolution does is make sure that it is all-inclusive, that whether or not the IWC is involved, a sanctuary shall be our goal and that is not at all irrelevant.

Mr. LEACH of Iowa. Mr. Speaker, I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I see the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES] has entered the Chamber, and at this time I would like to thank the chairman for his cooperation in helping to bring this bill to the floor of the House at this time.

Mr. Speaker, I have no further requests for time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the joint resolution, House Joint Resolution 136.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, House Joint Resolution 136, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ESTABLISHING THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5464) to establish a Chimon Island National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 5464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSES

SECTION 1. (a) Findings.—The Congress finds that—

(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plower;

(3) Falkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

(4) Sheffield Island is an excellent potential nesting habitat for heron.

(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

(1) to enhance the populations of herons, egrets, terns, and other shore and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

DEFINITIONS

SEC. 2. As used in sections 1 through 5 of this Act—

(1) The term "refuge" means the Connecticut Coastal National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Falkner's Island, and Sheffield Island in the State of Connecticut.

ESTABLISHMENT OF REFUGE

SEC. 3 (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Falkner's Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island.

(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters and interests therein, acquired under section 3 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Department of the Interior $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended.

ATCHAFALAYA BASIN

SEC. 6. The lands and waters and interests therein acquired in the Atchafalaya Basin with funds provided under Public Law 98-396 shall be considered to be an area within the National Wildlife Refuge System; except that (1) the area shall be administered by the State of Louisiana after a mutually satisfactory cooperative agreement regarding the administration of the area is entered into with the United States Fish and Wildlife Service, and (2) during such time as the State of Louisiana administers the area, it shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the Refugee Revenue Sharing Act (16 U.S.C. 715s) to the local governments concerned.

EFFECTIVE DATE

SEC. 7. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Washington [Mr. PRITCHARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the next bill before us today is H.R. 5464, legislation to establish the Chimon Island National Wildlife Refuge, consisting of approximately 140 acres.

The bill authorizes an appropriation of $2.5 million to purchase these islands including Chimon Island, Milford Point, Faulkner Island, and Sheffield Island.

These islands contain diverse wildlife habitat and this habitat is threatened due to the close proximity to New York City. There is a great deal of pressure to develop these natural areas due to the scarcity of undeveloped real estate in the vicinity.

The bill also makes those lands acquired under the recently signed Supplemental Appropriations Act and located in the Atchafalaya basin of Louisiana a part of the National Wildlife Refuge System and states that such lands will be managed by the State of Louisiana under a cooperative agreement with the U.S. Fish and Wildlife Service.

The Merchant Marine and Fisheries Committee reported this measure by a unanimous voice vote.

I urge my colleagues to pass H.R. 5464.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. RATCHFORD].

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman from North Carolina for yielding time to me.

Mr. Speaker, I am pleased to rise in support of H.R. 5464 as an original cosponsor of this legislation to create a National Wildlife Refuge from several properties along the Long Island Sound. On behalf of the Connecticut congressional delegation and the people we represent, I would like to thank Chairmen WALTER JONES and JOHN BREAUX for moving this bill forward as quickly as they have.

For those of us in Connecticut and elsewhere who are concerned about quality of life, this legislation clearly is worthy of our support. The Connecticut coastline and the islands that are sprinkled along its edge have long been known as a tremendous natural resource, full of shorebirds, wading birds, and the habitat required to sustain them.

With time, however, has come tremendous pressure on the vital nesting places, rookeries, and other sites needed to keep these bird species thriving. If the habitat needed for these birds is not preserved now, it, and the birds that depend on it, will soon be gone forever.

H.R. 5464 will set aside four tracts of land—Chimon Island, Falkner Island, Sheffield Island, and Milford Point—to keep them protected from encroachment by the bulldozer. It is a small but greatly needed step toward preserving the vanishing natural heritage of the Long Island Sound.

Mr. Speaker, I know of no opposition in Connecticut to this legislation. I know of no opposition to it here in Congress. I do know the administration has objections to it at this time, but I believe they can be persuaded. This bipartisan legislation which is supported by Connecticut public officials at the local, State, and Federal levels, deserves our support.

If we are willing to authorize the creation of this refuge, the funds required to purchase the properties will be available. An amendment of mine in H.R. 5973, fiscal year 1985 appropriations for the Department of the Interior, sets aside $2.5 million for land acquisition if this authorizing bill is enacted.

Mr. Speaker, this bill merits quick action and quick passage. I urge my colleagues to give it their full support.

□ 1650

Mr. PRITCHARD. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. Mr. Speaker, as the author of H.R. 5464, the Chimon Island National Wildlife Refuge Act, I rise today to urge the adoption of this important conservation measure.

On behalf of the citizens of Connecticut, I would like to thank my colleagues in the State delegation, particularly the gentleman from Connecticut [Mr. RATCHFORD] of the Appropriations Committee, and particularly the Governor of the State of Connecticut, William O'Neill, for the overwhelming support they have given to this effort.

I also would like to thank the distinguished chairman of the Merchant Marine and Fisheries Committee, the gentleman from North Carolina [Mr. WALTER JONES], for his prompt attention to this legislation, and the subcommittee chairman, the gentleman from Louisiana [Mr. BREAUX], for all of his help.

This has been a bipartisan effort from the start and one which will surely enhance the quality of life in southwestern Connecticut.

As amended by the Subcommittee on Fisheries, Wildlife Conservation, and the Environment, H.R. 5464 would establish the second national wildlife refuge in Connecticut. Encompassing the islands of Chimon, Sheffield, and Falkner's as well as the 10-acre barrier beach at Milford Point, the new refuge would total 145 acres and be called the Connecticut Coastal National Wildlife Refuge. This refuge is designed to enhance the populations of herons, egrets, terns and other shore and wading birds. And is by many considered to be the second or third most important such breeding area on the east coast of the United States. Its creation would be a great step for wildlife preservation not only in Connecticut, but also our Nation. The lands to be pro-

tected clearly are of national significance, particularly for many of these endangered species.

The urgent nature of this legislation is underscored by ongoing attempts to purchase these coastal sites for real estate development. With land values in southwestern Connecticut among the highest in the country, and with a serious lack of undeveloped coastal land within a reasonable proximity to New York City, there is immiment danger that these lands will be lost for future generations. Serious offers have been made for Chimon, Sheffield, and Milford Point—offers that, if accepted, would level an irreversible blow to the habitat of the Northeast's shore birds. Unless action is taken soon, this critical coastal habitat will be lost forever.

Presently, only three-tenths of 1 percent of Connecticut land is federally owned, the smallest percentage of Government-owned land in the 50 States. We in Connecticut have waited 15 years for the chance to create our second Federal refuge. Now, the House-passed version of the Department of the Interior appropriation bill for fiscal year 1985 includes $2.4 million for acquisition of the proposed refuge. Expenditure of funds, however, is of course contingent upon enactment of this measure. Since the entire $2.4 million will be nontax money taken from funds not otherwise appropriated from the Land and Water Conversation Fund and, therefore, will not add to our mounting Federal deficit or be a drain on the U.S. Treasury, I am eager to see this legislation become law.

Mr. Speaker, I must also add that there is an individual by the name of Mr. William Garafalo who has been a constituent of mine and a native of Norwalk, CT, for all of his life.

He is the gentleman who owned Chimon Island and he has, in truth, given this country quite a gift because he has been offered as high as $2.6 million for that one island alone and has agreed to sell it to the Nature Conservancy which will transfer it to the Federal Government for $1.3 million so that this priceless asset, which, by the way, is zoned for development, which is cut up on the plat plan, will never fall prey to the developer and be lost to the birds that make it such a beautiful and incredible area just a few miles away from one of the major interstate highways and three major cities in the lower part of Connecticut.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. I thank the gentleman for yielding.

The gentleman is absolutely correct. If this land is gone, it is gone forever, because throughout this entire area what we have seen is development after development after development spring up right on the edge of the coast and that then means that coastal area is not available.

Second, it needs to be said that the funding is in place, at least as far as the House is concerned. We have already passed through this body the Interior appropriation which provides the funding for this critical area of land.

We face a crisis and that is the onslaught of the bulldozer. But we have an opportunity and that is an opportunity to say to our children and their children we have done something to preserve quality of life in southern Connecticut.

I think this unique combination is one that sought to be taken advantage of and this bill provides that opportunity.

Mr. McKINNEY. I thank the gentleman.

Mr. Speaker, I would simply add that it is very seldom that we are able in this body to do something that will be permanent. So many of the things that we do are transitory in nature, but I think that it is a great accomplishment for us to be able turn around and say to the State of Connecticut and the people of the Northeast that forever this land will be there as we see it today.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 5464, which establishes a Connecticut Coastal National Wildlife Refuge and provides that lands and waters acquired in the Atchafalaya Basin, LA, with the $10 million appropriated under the fiscal year 1984 supplemental appropriations, shall be considered to be an area within the National Wildlife Refugee System to be managed by the State of Louisiana under cooperative agreement with the Fish and Wildlife Service.

Testimony before the Merchant Marine and Fisheries Committee dramatically underscored the need for the establishment of a Connecticut Coastal Wildlife Refuge as proposed by the Connecticut congressional delegation. The lands and waters included in this bill represent a valuable wildlife habitat resource which, at present, is subject to extremely active urban development.

The gentleman from North Carolina has already described the value of the resources of the Atchafalaya basin in Louisiana. It is appropriate that we begin the process of acquisition which was contemplated in a plan developed by the Corps of Engineers for the basin. It is also appropriate that these lands and waters be managed by the Louisiana Department of Wildlife and Fisheries, since they will be responsible for the rest of the area which will be acquired for public access. Inclusion of these lands and waters in the National Wildlife Refugee System will ensure that the refuge will be administered in a manner consistent with the rest of the areas in the National Wildlife Refugee System.

Mr. Speaker, I believe that both of these areas will be worthy additions to our protected wildlife habitat, and therefore urge my colleagues to support H.R. 5464.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the chairman for his leadership and initiative in helping to move this bill so promptly through his committee to consideration on the floor.

□ 1700

As my two colleagues from Connecticut, Mr. McKINNEY and Mr. RATCHFORD, have both pointed out, this is a critical move that I hope we will make in approving this legislation.

We have in my district two pieces of property that are covered by this legislation, both of which are critical to the wildlife which survives along the coast of Connecticut despite the enormous development activities that have gone on there. Falkner Island, which is located off the town of Guilford, is perhaps the easiest to preserve of the properties that are contained in this legislation. Falkner Island already belongs to the Coast Guard; so what is involved is a transfer of ownership.

On the other hand, without this transfer of ownership we have no guarantee that the Coast Guard might not develop in the future other plans for this land rather than to preserve it as a wildlife refuge.

Milford Point, which is in the city of Milford, is right now threatened with development, and through the vehicle of this legislation it can be preserved forever. Yet if this legislation were not to pass and if time were to pass instead with this property continuing in private hands, we are certain that this land will be turned to development. This is some of the very last land that exists in the city of Milford that has not already been built up, and it is critical land for a great variety of species of wildlife, in particular birds that otherwise may become extinct in our area of the country if not in the whole world.

Connecticut has so far, as has been mentioned, had very little assistance from the Federal Government in the creation of parklands and lands set aside for wildlife. It is extremely important and appropriate that we at this time get this assistance from the Federal Government out of funds that are set aside for this purpose in order that the people of Connecticut may

benefit from the continuation of the wildlife and the birds, in particular, that are so rare, and also that the whole country be benefited by these lands being set aside, these species being protected, and the onslaught of development which is otherwise inevitable being kept at least within some reasonable bounds.

With respect to Milford Point, right now there is litigation in the Connecticut courts that could result in 22 condominium units being built on this 10 acres of land, totally obliterating the opportunity of the birds to nest there and the wildlife to exist there. It is just this kind of threat that this legislation is aimed to cure.

I would like to once again thank the chairman of the full committee, as well as the chairman of the subcommittee, the gentleman from Louisiana [Mr. BREAUX], for their support and assistance, along with the ranking minority members, and I would like to commend my colleague from Connecticut [Mr. MCKINNEY] for his initiative in moving this bill, and my colleague [Mr. RATCHFORD] for his work in the appropriations process which has put in our House-passed legislation the funds to make this purchase possible. I would also like to commend the Nature Conservancy in Connecticut which has played a key role in assembling the information to support the presentation before this House to allow this legislation to gain approval at the committee level and, I hope, very shortly, in the full House.

I thank the chairman again.

● Mr. BREAUX. Mr. Speaker, H.R. 5464, would establish a National Wildlife Refuge consisting of several small islands and a barrier beach along the Connecticut coast. These islands are valuable habitat for a number of species of wildlife, most notably herons, terns, and other shore and wading birds. The refuge would become part of the National Wildlife Refuge System and would be managed by the U.S. Fish and Wildlife Service pursuant to the National Wildlife Refuge System Administration Act of 1966 and other applicable statutes. The legislation contains an authorization of $2.5 million for acquisition of the refuge.

Mr. Speaker, the areas that would be included in the National Wildlife Refuge System following the passage of this legislation will be worthy additions to a system that now includes over 400 national wildlife refuges. Chimon Island, the largest of the areas that would be included, supports Connecticut's most significant heron rookery and one of the largest wading bird colonies on the northern seaboard. Falkner's Island, currently owned by the Coast Guard, supports Connecticut's only breeding population of roseate terns and most of the nesting population of common terns. Milford Point is one of the few nesting areas remaining for the piping plover and other shore birds. Sheffield Island also has great potential as habitat for shore and wading birds.

The legislation was amended in committee to change the name of the proposed refuge to the Connecticut Coastal National Wildlife Refuge to reflect the fact that the refuge contains a number of units along the Connecticut coast.

H.R. 5464 also includes a provision to clarify the use of funds appropriated to the Fish and Wildlife Service under the Supplemental Appropriations Act, recently signed by the President, to acquire lands within the Atchafalaya Basin in Louisiana. That act appropriated $10 million to the U.S. Fish and Wildlife Service to acquire lands under the Fish and Wildlife Act of 1956 and other authority.

For those of you not familiar with Louisiana, the Atchafalaya Basin is one of the great natural areas of this Nation. It is essentially a huge river swamp, encompassing more than 500,000 acres of wetlands that may produce as much wildlife as any area in the country. It is home to an astonishing diversity of wildlife, including herons, egrets, and other wading birds; mallards, wood ducks, and countless other waterfowl; black bears, deer, bobcat, muskrat, and other mammals; and countless alligators. From its wasters comes the Louisiana crawfish, an indispensable part of cajun cuisine, as well as bass, catfish, and other fish.

The debate over conservation of the Atchafalaya Basin has been going on for years in Louisiana. Flood control, agriculture, energy development, recreation, and other interests in the basin were difficult to reconcile. Recently, however, all of the parties involved developed an agreement that resolves the major disputes. The agreement, which is incorporated in a plan developed by the Corps of Engineers for the basin, specifies flood control measures, water flow rates, and the purchase of flowage easements designed to keep the basin in a natural state while providing flood protection for surrounding communities.

The plan also calls for the acquisition and management of 90,000 acres within the basin for public access. The Dow Chemical Co. has donated 40,000 acres. The acquisition of the remaining 50,000 acres is to be split between the State of Louisiana and the Federal Government. All of the public access lands are to be managed by the State of Louisiana. The State has recently purchased approximately 10,000 acres and has plans to acquire additional lands in the near future.

Authorization for the implementation of the comprehensive plan for the Atchafalaya, including the acquisition of public access lands by the Corps of Engineers, is included in the water resources legislation that has passed the House.

The provision relating to the Atchafalaya included in H.R. 5464 simply clarifies how the Service is to use funds contained in the fiscal year 1984 Supplemental Appropriation Act. Lands acquired will become part of the national wildlife refuge system but will be managed by the State under a cooperative agreement with the Fish and Wildlife Service. The National Wildlife Refuge Administration Act requires that refuges are to be administered by the Secretary of the Interior through the Fish and Wildlife Service. However, it would make little sense to split the management responsibilities of the basin between Federal and State agencies. Since the State is already managing in excess of 50,000 acres in the basin, it is only sensible that they should be the management authority. It is our intent that the area be managed by the State in a manner consistent with the provisions of the National Wildlife Refuge Administration Act and other applicable statutory authority.

The legislation, as amended, also provides that the area is to be considered as part of the refuge system for the purposes of the Refuge Revenue Sharing Act. This act provides in lieu of tax payments to local governments. This is consistent with the policy for other refuges managed under cooperative agreements, such as Matagorda Refuge in Texas.

Mr. Speaker, I would like to congratulate the members of the Connecticut delegation, al of whom cosponsored this legislation and all of whom have worked diligently to assure its passage. Through their efforts, we will protect one of the few remaining natural areas in Connecticut for future generations.●

● Mrs. KENNELLY. Mr. Speaker, I rise in strong support for H.R. 5464, the Connecticut and Louisiana wildlife refuge bill. This legislation establishes a Connecticut Coastal National Wildlife Refuge on Chimon Island, Milford Point, Faulkner's Island, and Sheffield Island in the State of Connecticut. In addition, the legislation directs that Public Law 98-396 lands in the Atchafalaya Basin in Louisiana be included in the national wildlife refuge system.

The wildlife refuge proposed in this bill is important to the State of Connecticut. Our State, in the middle of the Boston-New York corridor, is highly urbanized, the cost of land is high and open spaces are at a premium. Although there is a great appreciation of nature and a strong commitment to the conservation and preservation of environmental resources among the residents of Connecticut, the pressures to develop open land increase daily, and fewer and smaller

ecologically valuable properties remain.

Given these circumstances, it is little short of incredible that the Federal Government has the opportunity to designate as a wildlife refuge such outstanding areas in Connecticut as the three islands and the tombolo included in H.R. 5464. Chimon Island, the largest of the four sites, is Connecticut's most important heron rookery and, according to the U.S. Fish and Wildlife Service, the site of one of the three largest wading bird colonies on the northeast coast of the United States. In addition, it is a breeding ground for several species that nest nowhere else in Connecticut. Milford Point, a barrier beach, provides a nesting site in Connecticut for two rare birds, the piping plover, a candidate for the endangered species list, and the least tern, a species considered to be on a long-term decline throughout North America. Likewise, Faulkner's Island provides a habitat for the roseate tern and for the State's only major colony of common terns. Sheffield Island, like Chimon Island within commuting distance of New York City, is an undeveloped area with the potential to be an important nesting habitat for Chimon Island herons.

Time is running out for the preservation of land in Connecticut. On the local level, the Nature Conservancy is to be commended for having embarked on an ambitious program to purchase and conserve irreplaceable environments in the State of Connecticut and the Audubon Society is to be commended for its scientific research providing information on the ecological importance of many of these areas. The Federal Government also has a responsibility in the preservation of critical areas. Chimon Island, Sheffield Island, Faulkner's Island, and Milford Point are of national significance and well worth being held in public trust through designation as a Federal wildlife refuge. I urge the House's favorable consideration of H.R. 5464.●

Mr. PRITCHARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 5464, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish the Connecticut Coastal National Wildlife Refuge, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of the special order today by the gentleman from South Dakota [Mr. DASCHLE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

HOUR OF MEETING ON THURSDAY NEXT

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow it adjourn to meet at 11 o'clock a.m. on Thursday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LEGISLATION ON REGULATION OF PORNOGRAPHY TRANSMITTED OVER LOCAL CABLE TELEVISION

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NIELSON of Utah. Mr. Speaker, today Mr. ECKART and I are introducing legislation to ensure that local and State government authorities continue to have power to regulate pornography transmitted over cable television systems.

Earlier this summer, the U.S. Supreme Court ruled that the Federal Communications Commission in Washington, DC, has the exclusive power to regulate the content of programing transmitted over cable TV.

Unfortunately, the Supreme Court's decision has the effect of nullifying hundreds of State laws, city ordinances, and local cable television franchise agreements around the country which give local and State officials the power to regulate pornography.

In my own State of Utah, for example, a group is attempting to get a Federal district court to nullify a Utah State statute that regulates pornography on cable television because of the Supreme Court's ruling.

The bill we are introducing today is quite simple. It merely states that, notwithstanding the Supreme Court's decision, local and State governments may continue to regulate pornography just as they do today.

I include in the RECORD at this point the text of our bill.

H.R. 6220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Communications Act of 1934 (47 U.S.C. 152) is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this Act shall be deemed to affect the criminal or civil liability of programmers or operators of cable television systems pursuant to the Federal, State, or local law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that operators of such systems shall not incur any such liability for any program carried on any channel designated for public, educational, or governmental use or on any channel designated for commercial use by persons unaffiliated with the operator.".

GENERAL CONAWAY CITED FOR ZUCKERT MANAGEMENT AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, I want to add my name to those who have already congratulated Maj. Gen. John B. Conaway, Director of the Air National Guard, for his selection as the 1983 winner of the Eugene M. Zuckert Management Award.

General Conaway's work in the force modernization and in improving mission readiness of the Air National Guard as part of the total force has been an outstanding contribution to the overall capability of the Armed Forces of the United States.

General Conaway has been a strong and decisive leader within the National Guard Bureau and I am proud to know that his efforts have not gone unnoticed. I want to include the text of the citation which accompanied this fine award and again, I offer my congratulations on a job well done.

The citation reads:

CITATION TO ACCOMPANY THE 1983 EUGENE M. ZUCKERT MANAGEMENT AWARD TO MAJ. GEN. JOHN B. CONAWAY

Major General John B. Conaway, as Director, Air National Guard, demonstrated superior management ability in improving the Air National Guard as a vital element of the Total Force.

With personal expertise, outstanding initiative, foresight and direction, General Conaway concentrated his talents on force modernization and mission readiness. His management accomplishments extend to every functional area and his credibility as an astute manager of resources is known and accepted throughout Congress, OSD, the Air Staff, States and ANG units. His many achievements contributed significantly to insuring the Air National Guard can achieve its goals as part of the Total Force and that as a nation we can meet our worldwide commitments. His actions dramatically increased the combat readiness and sustainability of units nationwide and led to attainment of the highest state of equipment modernization in the history of the Air National Guard. His efforts to emphasize recruiting, retention, training, ground and air safety, operational, logistical, and facility support are indeed commendable and will have a lasting favorable impact both on the national and international scene. Numerous programs he developed, guided, or directed have been acknowledged and accepted Guard and Air Force-wide. Additionally he improved many programs affecting human relations and employee motivation.

These distinctive achievements of Major General Conaway demonstrated his outstanding management talents and reflect great credit upon himself, the Air National Guard, and the United States Air Force.●

JUVENILE INDIAN ALCOHOL AND DRUG ABUSE PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota [Mr. DASCHLE] is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, last Thursday, September 6, Congressman DOUG BEREUTER and I introduced the Juvenile Indian Alcohol and Drug Abuse Prevention Act.

Even though alcoholism is the No. 1 health and social problem among Indian people, the Federal Government has made only scattered and noncoordinated efforts at preventing and treating alcohol and drug abuse. Substance abuse is a serious problem in all of American society, but it is even more grievous in Indian country, where extreme poverty and unemployment rates up to 90 percent prevail. It is estimated that alcoholism is at least 8 times more prevelant among Indian people than the Nation as a whole.

Alcoholism is a tragedy for its victims, but its manifestations and effects on other people, especially children, is almost beyond comprehension. One of the manifestations is child neglect and abuse. Parents are role models, negative or positive, for their children. Many Indian families are now into their third or fourth generation of alcohol abuse.

I have seen many children in South Dakota who have been neglected or abused physically and sexually by alcoholic parents. And although it is difficult to accept, I also know that these children may, as adults, emulate their parents behavior. There are homes at Pine Ridge where people, thankfully, take in young children because the children's parents, victims of alcoholism are not able to help them get fed, dressed and off to school. Many children are born with fetal alcohol syndrome. I know that Congressman BEREUTER, who coauthored this legislation, visited a special education school for Indian children last week where 25 percent of the children have fetal alcohol syndrome. And I have received letters and phone calls about the use of lysol on Indian reservations.

I have been told of school yards littered with lysol cans. In some instances grocers now have to keep lysol behind the counter, as though it was a prescription drug. Even this, however, is not a sure way to keep lysol from being abused.

It is important for us to be cognizant of the fact that the Indian population is very young. Indian people have the highest birth rate in the Nation. They also die the youngest. The average age of death for Indian people is 45. Among the Oglala Sioux, the median age is only 18. These statistics point to the importance of focusing efforts on the prevention of alcohol and drug abuse at an early age, not just the sporadic treatment after the fact.

I received a letter recently from an Indian woman from California, Roxanne Villa, whose 15-year-old daughter, Shannon, died last year at a BIA boarding school of ethanol poisoning. This dedicated mother wrote to offer her assistance in getting legislation passed to help prevent future tragedies such as happened in her family. Mrs. Villa is also beginning an organization to help young people, especially Indian youth, through recreational activities. There are, tragically, many such incidences of preventable deaths of young Indian people.

Our legislation aims to focus on youth by requiring that all BIA and contract schools have alcohol and drug curriculums, developed at the school level, for grades K through 12. We also hope to bring a much more sensitive and learned reaction to alcohol and drug problems by requiring that a wide range of Government employees on reservations whose jobs bring them into contact with substance abuse receive training in this area. And our bill would also offer to school board and child protection committee members and others this same training.

Very importantly, the legislation requires Indian Health Service, within 2 years to integrate the treatment and followup care of alcoholism into their health services. While IHS funds nearly 200 tribal alcohol programs, they are, by and large, programs to deal with people in the late stages of alcoholism and they do not focus on prevention. IHS medical personnel do not receive training in the No. 1 health problem of Indian people—alcoholism. Our legislation will change that.

As we hold hearings on this legislation, there will be more information forthcoming regarding the human tragedy, incidence, and cost of alcohol and drug abuse. I will share the contents of these hearings with my colleages. I would ask of my colleages with Indian constituencies to solicit comments on this legislation and participation in hearings. This effort should serve to increase the sensitivity of Members of Congress to the causes and effects of alcohol and drug abuse in Indian country, and will also serve to strengthen our resolve to provide appropriate assistance to Indian people in their efforts to gain control of their lives and their future by preventing substance abuse among their youth.

George Hawkins of the National Indian Board on Alcoholism and Drug Abuse said in his testimony in April of this year on the Indian Health Care Improvement Act about alcoholism:

If a disease caused uncounted preventable deaths . . . if that disease ranked at the top in cases but at the bottom in support per victim, if that disease reduced life expectancy by at least two decades, was responsible for abused and battered spouses, children and broken homes, if that disease accounted for untold number of homocides and suicides—would not the medical and political world declare an emergency.

I hope Mr. Hawkins is right. There is such a disease in our country. It is not cancer or heart disease. It is alcoholism, and we should all work together to end its ravage.

I include a summary of the Juvenile Indian Alcohol and Drug Abuse Prevention Act at this point in the RECORD:

SUMMARY OF JUVENILE INDIAN ALCOHOL AND DRUG ABUSE PREVENTION ACT, H.R. 6196

Section 101. Memorandum of Agreement to be made between Secretaries of Interior and Health and Human Services to share resources and coordinate programs dealing with the prevention, identification, treatment and follow-up care of alcohol and drug abuse. Memorandum will include authority for agency level BIA Superintendents and IHS Service Unit Director to enter into agreements with tribes regarding alcohol/drug abuse efforts.

Section 102. At the request of a tribe, IHS Service Unit Director and BIA Superintendents will enter into agreement with the tribe to share resources and coordinate programs dealing with the prevention, identification, treatment and follow-up care of alcohol and drug abuse.

Sections 201, 202 and 203. Amend the Indian Education Act to:

(a) include as Part A eligible activities drug and alcohol abuse counselling

(b) earmark in Part B fellowships a 10 percent setaside of fellowships for people pursuing degrees in counselling with an emphasis on alcohol and drug abuse counselling.

(c) include as Part C eligible activities alcohol and drug abuse counselling.

Section 204. Require the Secretary of Interior to keep open some BIA schools in the summer to be available as recreation and counselling centers.

Section 205. Require all BIA and Contract schools to provide alcohol and drug education curricula in grades K-12.

Section 206. Secretary of Interior shall publish, in cooperation with the Secretaries of Education and HHS, a quarterly alcohol and drug abuse newsletter to report on tribal alcohol and drug abuse projects and programs. Publication shall be circulated free of charge.

Section 301(a). Community Health Representatives shall receive, as part of their regular training, one week of training regarding alcohol and drug abuse, which shall include education in crisis intervention and family relations.

Section 301(b)(1). IHS shall provide, directly or through contract, alcohol and drug abuse training to the following people: BIA Education Superintendents, BIA Agency Superintendents, IHS Service Unit Directors, BIA social workers, IHS doctors, nurses, nurses' aides and paramedics.

Section 301(b)(2). IHS shall offer, directly or through contract, alcohol and drug abuse training to the following people: BIA, Contract and public school boards (on or near reservations, including Oklahoma and Alaska) and parent advisory committee members, child welfare protection committee members, Urban Indian Center counsellors, home-school liaison personnel funded under the Indian Education Act, supervisors of emergency shelters and tribal college educators (unless the college already offers this service to its employees).

Section 401. BIA shall provide, as part of its training for law enforcement personnel, education regarding alcohol and drug abuse.

Section 402(a)(1). Indian juveniles arrested by any tribal, federal or BIA law enforcement officer shall, whenever possible, be detained in a temporary emergency shelter, foster home, or community-based treatment facility in lieu of incarceration. Where states exercise criminal jurisdiction in Indian country, law enforcement personnel are encouraged to place juveniles in above mentioned places in lieu of incarceration.

Section 402(b)(1). BIA shall establish a program to compensate families to serve as temporary emergency shelters for juveniles apprehended for alcohol and drug related offenses.

Section 501. IHS shall, within 6 months, report to Congress on the size of the juvenile Indian population in need of residential alcohol or drug treatment, where such facilities should be located, and the cost of providing such treatment.

Section 502. IHS, within 2 years, shall provide comprehensive alcohol and drug treatment services, including detoxification and counselling.

Section 503. IHS is authorized to construct or expand existing facilities to serve as regional residential juvenile alcohol and drug treatment centers.●

TARGET DATE FOR METRIC CONVERSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. WIRTH] is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the Congress passed the Metric Conversion Act of 1975 with the intention of bringing America's measurement system in line with that of the rest of the world. Then and now, it has been clear to many Americans that one of the most effective ways of improving our country's trade prospects, integrating our military into the NATO alliance, and simplifying the learning of science and mathematics by our schoolchildren is the complete adoption of the metric measurement system. Yet, voluntary implementation of the metric system, which is called for in the 1975 act, has taken place at an extremely slow pace.

Part of the responsibility for this delay rests with the Congress. In its consideration of H.R. 5172, the House amended the bill to delete a modest appropriation for a study of ways in which American business can more easily and effectively convert their measurement systems to metric. The House deleted this study even though many American businesses desired the guidance that such a study would supply. Any momentum toward further metrification has also been hampered by administration efforts to weaken the authority of the U.S. Metric Board.

Accordingly, Mr. Speaker, I commend to you and my colleagues the following resolution passed by the U.S. Metric Association, calling on the Congress to set a target date for the implementation of the metrification of America's measurement system, a step which is long overdue.

[From the U.S. Metric Association, Inc.]

RESOLUTION

To Members of the Congress of the United States of America:

Whereas, President Ronald Reagan has stated, "Let me assure you of my support for the policy of voluntary metrication expressed in the Metric Conversion Act of 1975;" and

Whereas, The U.S. Deputy Secretary of Commerce stated recently, "Metric is a key for competing in world markets (and) the lack of widespread production of metric products in the U.S. has had a negative impact on sales both at home and abroad;" and

Whereas, The Assistant Secretary of Commerce for Productivity, Technology and Innovation concluded, "To compete in the metric world we have to be metric . . . it is baffling to me that not everyone understands the need to use metric;" and

Whereas, The acting director of the Office of Metric Programs in the Department of Commerce stated, ". . . there appears to be a growing recognition in the marketplace of the advantages of an international system of units, and if U.S. industry is to compete effectively in the international marketplace, more widespread use of the metric system will become necessary;" and

Whereas, The Executive Secretariat, Metric Committee, of the Department of Defense pointed out, "Our country is shifting to the (metric) system . . . in order to be able to better compete in the world marketplace and to enhance the allied defense position;" and

Whereas, In this time of educational crisis, the education of today's youth who will be the workers in industry tomorrow, would be greatly enhanced and simplified if the decimal-based metric system which is the language of science and technology, were taught as the principal measurement system in the nation's schools; and

Whereas, An increasing number of foreign countries are requiring imports to be manufactured and labeled in metric dimensions and it is not cost effective for industry to manufacture in two measurement systems, and

Whereas, Companies that have already implemented metric conversion are reporting long-term economic gains as a result of metric conversion and improved manufacturing processes adopted concurrently; and

Whereas, Accelerated depreciation allowances and investment tax credits for modernizing plants and equipment are now in place, these incentives are important to metric conversion, because the retooling and rebuilding process is an ideal time to change to metric.

Therefore be it resolved, That the U.S. Metric Association Board of Directors strongly urges that the Congress set deadlines for completion of the metric transition to ensure that the best interests of industry and the consumer are served. ●

THE LATE HONORABLE CARL D. PERKINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. NATCHER] is recognized for 60 minutes.

Mr. NATCHER. Mr. Speaker, one of the nicest things that has happened to me during my lifetime is the opportunity that I have had to serve in the Congress with CARL D. PERKINS.

I will remember him as a friend, an outstanding legislative leader, a symbol of strength, and an example of the character and accomplishment that our legislative branch of Government should always stand for. Few public servants have held such a warm and well-loved place in the hearts of their constituents. The country has lost one of its greatest patriots. I have lost one of my close friends.

CARL PERKINS always believed that if you keep your eyes on the people, you will never lose your way. To CARL PERKINS, there was no limit to the greatness, the glory, and the grandeur of America. He was proud of the privileges he had of serving that country he loved so much. He lived his beliefs; he was a rock of integrity; he was a monument of decency; he was a tower of principle; he was a pillar of compassion and concern for his fellow man.

He was a man of high integrity, a man of conviction, a man with determination and firmness, a man with sure knowledge, a man who cherished and protected the prerogatives of the

House, and a man endowed with the qualities of greatness.

He was a practical man. He knew that politics is the art of the possible. He knew also that at times, it is better to bend than to break; that if you want a rose, at times you must put up with the thorns. He also knew extremely well the traditions and the history of our great country. He realized that if you do not know the mistakes of history, you have to live those mistakes all over again.

To CARL PERKINS, there was no such thing as the impossible. He was a gifted man, possessing courage and stubborn determination. He will be missed by his colleagues, but more importantly, he will be missed by the entire Nation.

During the 20th century, Kentucky has not sent a Member to the House of Representatives that established a better record than CARL PERKINS. He was elected chairman of the Committee on Education and Labor in 1967 and served in this capacity for 17½ years. His seniority was No. 4 in the House of Representatives. Among his legislative achievements, he always counted the Vocational Education Act of 1963, the landmark Elementary and Secondary Education Act of 1965, and the provisions for black lung benefits in the Coal Mine Health and Safety Act of 1969. These are only a few of the major bills that he sponsored and succeeded in passing in the House of Representatives.

I recall back in the late 1950's when Gus Kelly of Pennsylvania would bring out each year, his school construction bill. This bill was turned back on a number of occasions and a great many Members in the Congress became discouraged over the failure of such legislation to be enacted. This discouragement did not apply to CARL PERKINS because he believed that the time would soon arrive when elementary and secondary education and higher education would be in order in the House of Representatives and in the U.S. Senate. This time arrived during the early 1960's and CARL PERKINS was one of the leaders in the move to enact such legislation.

CARL D. PERKINS' memorial will not be of bronze or marble. His memorial lives and breathes and walks among us. His memorial is every man and woman and child whose life has been improved as a result of the legislation and the programs he succeeded in enacting while serving as a Member of the House of Representatives. His memorial is to be found in every classroom in this Nation where young people are receiving a better education because of CARL PERKINS' understanding and compassionate handling of his authorization bills. His memorial is to be found in the programs that have benefited the working men and women in this country.

He served with eight Presidents and five Speakers of the House. During the 35 years that he served in the House of Representatives, he had an opportunity on more than one occasion to be elected to other offices, but he believed that he was in the right place to serve his people, his State, and his country, and he had no desire to change positions.

He was a giant in the center of national power, but at all times he remained a modest man. He was a good man who served his country well. He remained always a man's man and he kept the common touch. He was a man who could be compared to the giant, sturdy oak that grows on the rolling hillsides of Kentucky.

The Commonwealth of Kentucky has lost a distinguished son and dedicated servant. The Congress has lost one of its most effective legislators. The people of the United States have lost one of their great champions in the fields of education and labor. I remember his strong voice in behalf of the working people of his district and of the Nation.

His concept of public trust was without parallel and never did he hesitate to speak out against any proposal which he felt was not sound and not to the best interests of our people. In every position he held, either private or public, he achieved distinction. As a Member of Congress, he had those qualities that are essential for leadership, sound justice, patience, perseverance and unyielding adherence to the principles and policies advocated by his party for the welfare of the country. His character, his achievements and his faithful service will be an inspiration to generations yet to come.

□ 1710

Mr. Speaker, I deem it a great privilege and a high honor to have been a friend of CARL D. PERKINS. I have lost a true friend, and this country has lost a great statesman. To his lovely wife and family, I extend my deepest sympathy in their bereavement.

Mr. Speaker, at this time I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman for yielding to the gentleman from Kentucky, and I would like to first salute my friend from the Second District for having established this special order to honor our departed colleague, CARL PERKINS, and of course, to salute my friend as the new dean of the Kentucky delegation.

The gentleman from Kentucky who is now speaking came to the House 14 years ago, and my first committee assignment was the gentleman from Kentucky's committee, the Committee on Education and Labor. I served on the gentleman's committee for 4 years until I switched to another. If there were one individual who stands out as my political mentor, it would be CARL PERKINS. A more dissimilar person from the gentleman from Kentucky who is now speaking probably did not exist. I am from a city, I have never been on a farm. My people came to this country in relatively recent years. Mr. PERKINS is a man of the soil. He came to his area of Kentucky many generations ago, and yet, Mr. PERKINS took me under his wing and showed me the legislative ropes and enabled me to be a productive Member of Congress at an early age, and at an early time in my service.

If I could, just for one second, Mr. Chairman, perhaps illustrate, as we all have many stories about Mr. PERKINS, and I am sure the gentleman would remember that when he would engage with Mr. PERKINS in one of those treks to the floor, you did not escape that big, burly hand which would grab you just about the middle of your bicep and squeeze and steer you into a wall and away from a wall and bounce you off the place, because he was a very persuasive man and very physical in the way he could make his point.

The gentleman from Kentucky remembers one specific incident I would like to relate as perhaps crystallizing the entire service of CARL PERKINS. It was the conference, the very historic conference of 1972 in which we finally settled on a higher education bill. As my friend from Kentucky, Mr. NATCHER, remembers, Mr. PERKINS labored for week after week after week on that bill. He never could quite get the conference report written.

I will never forget this as long as I live. One day we met at 2 in the afternoon down in the old Supreme Court chamber, which had not been remodeled at that point. This was before the bicentennial. We met at 2 in the afternoon and I figured it would be another one of those desultory meetings that never quite reached home base. Came suppertime and we did not rise, we kept working. I got a little hungry, but they sent out for food, and I said, well, we will probably rise at 8:30, 9 o'clock. Eight-thirty, 9 o'clock came and we were still working. There was no sign or symbol that Mr. PERKINS was going to let up and we kept going. Ten o'clock, eleven o'clock, finally midnight and people starting kind of wilting. One o'clock in the morning, 3 o'clock in the morning, I could not believe it, but at 5 o'clock in the morning we got a bill.

I thought that illustrated something very important: Mr. PERKINS would sometimes not necessarily outscintillate and outerudite his opponents, but he would outwork them; he would outlast them; he would outpersevere them. No one could outwork, outlast, or outpersevere CARL PERKINS.

□ 1720

So, in that particular instance, more than any in the world, I remember how his tenacity as a human being got a bill which continues to serve to this day young people across America.

So, as a member of the Kentucky delegation, as a Member of the House of Representatives, but perhaps more particularly as a kind of political protege of our departed friend, I want to take this opportunity to extend my condolences, which of course the gentleman and I extended in person in Hindman at the time of the funeral to the family to express to them the wonderful, fond memories I will carry to my grave of the chairman, of his wonderful attitude as a human being, of the tremendous things he did for the poor, the impoverished, the young people, the mothers and babies of America, and to hope that though I do not expect that to happen soon that perhaps some day this House will be graced with a person like Mr. PERKINS.

His progeny and successor will be a very fine and effective Member of the House but there will be few ever to match our departed friend.

I want to thank my friend for yielding and to again wish him well in his new responsibilities as dean of our delegation.

● Mr. O'NEILL. Mr. Speaker, this morning I took part in a very moving and beautiful memorial service for our beloved friend and colleague, Chairman CARL PERKINS. I would like to share those remarks with my colleagues at this time:

Mrs. Perkins, Chris, my colleagues and friends. I am honored to take part in this ceremony honoring one of the truly great and special legislators of our time, Chairman Carl Perkins of Kentucky.

When I was elected to Congress almost 32 years ago, Carl was beginning his third term—having won his first election to the house the same year Truman defeated Dewey. It seems like such a long time ago when you put it that way—and yet it seems like the time passed on by effortlessly.

In 1965, Carl Perkins was chairman of the General Education Subcommittee and he was floor manager of the first major piece of legislation to provide aid to primary and secondary schools.

Two years later, he become Chairman of the full Committee on Education and Labor and he oversaw the drafting of the war on poverty bills and he guided them through the House.

The great strides made in the 1960's on behalf of the poor and the middle class—on behalf of the unemployed, the hungry the handicapped—all were guided by the expert and loving hands of the Chairman. His accomplishments were as big as his great Kentucky heart—and he fought for the needs of coal miners in Appalachia suffering black lung disease; and for the school lunch program and child nutrition throughout the nation.

Carl Perkins was a man of iron will. His stubbornness was unequalled!

Carl never gave up. He fought for what he believed in and he never gave up!

Carl was a deeply caring person. His heart went out to the poor, to the old, to the handicapped, and to the children—and where went his heart, there went his work—and his successes!

I miss Carl. We all miss him—the country, as well as the people of Kentucky. Carl and I shared many views and beliefs. Our political philosophies were fine-tuned in the 1930's and efforts on behalf of labor and the needy came naturally to us.

We shared something else, too—a belief in a simple truth: All politics is local.

Carl Perkins believed "all politics is local" and he lived his public service career with this in mind. No matter what the issue, no matter what the time—Carl Perkins remembered his friends back home.●

Mr. NATCHER. At this time I yield to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding and I will not take much time, although I could take a great deal of time to praise the memory of my dear departed friend, CARL PERKINS.

For those people in Kentucky who will read these remarks and for those who may be tuned in, I want to describe CARL PERKINS' work in this House with three D's. He was absolutely devoted to the wonderful people that he represented in his district in eastern Kentucky. Oftentimes describing them in ways which denoted affection for those whom he knew so well.

He was absolutely dedicated to the principles that he learned as a boy that are deeply rooted in the mountains of Kentucky and he was thoroughly diligent in the pursuit of the goals that he established for their interest that they help establish in the election process.

At his funeral, which I attended, many bills were recited that bore his name: I would say that those bills did not pass this Congress. CARL PERKINS made them happen and that the laws which bear his name are truly a monument to the great service of a great man whom I am pleased and proud to remember as my dear friend.

I thank the gentleman for yielding.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to join my colleagues today in expressing a few thoughts in memory of CARL PERKINS, and thank our distinguished colleague from Kentucky [Mr. NATCHER] and the other members of the Kentucky delegation for making this time available to us today. There is much to be said about the life and accomplishments of our departed colleague, not the least of which is the legacy CARL PERKINS left the American people.

Congressman PERKINS' long record of dedication to education began at the early age of 19, when, after 2 years of college, he began teaching. Later, having received his law degree from the Louisville School of Law, he practiced law, became the Knott County attorney, and served in the Kentucky General Assembly. Following Service in World War II, CARL PERKINS ran for office, and was elected to the Congress in 1949. For more than three decades he faithfully served the people of eastern Kentucky, a testament to his popularity and service.

The many years of his service on the Education and Labor Committee culminated CARL PERKINS taking over the chairmanship of that panel in 1967. Under his leadership, Congress enacted legislation and expanded social and labor programs so important to the fabric of this Nation. CARL's legislative abilities were sometimes underestimated by some of his colleagues, yet the seemingly unsophisticated country lawyer was almost always able to achieve successful passage of measures he had crafted. I remember well the early years of the seventies, when as a freshman Member, I looked to Chairman PERKINS for guidance on the many important issues of the day, including measures authorizing Federal aid to education, college-student assistance, child-nutrition requirements, aid to handicapped children, and the many complex laws pertaining to our labor force. Throughout consideration of these bills, Chairman PERKINS set high standards for promoting American educational advances and maintained a long record of leadership and advocacy for the working man and woman. These outstanding efforts and contributions continue to stand as important examples of congressional concern and action.

All of us in the Congress, and many throughout our land will miss CARL's leadership. The education and labor communities mourn his passing with us, as do the residents of CARL's congressional district in eastern Kentucky. I join in extending our sincerest condolences to his wife, Vera, and to his son, Chris, a Kentucky State legislator. CARL PERKINS left a legacy of achievement that will long endure in this Nation. We will miss him dearly.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the distinguished gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding to me.

Mr. Speaker, you know upon the death of a Member, we almost always say, well, he cannot be replaced. Sometimes I do not think we really mean that, but in this case every single Member really means it when they say there is no way to fully replace this late departed colleague of ours.

I served on the committee with him beginning in January 1961. I remember at that time the National Defense Education Act was about the only education act or any of those acts of that nature that was on the books. And

since that time almost every one of this long list of acts have had his mark on them.

I remember when they first started considering black lung a number of people said: "Well, that could never pass." Certainly that is not a national problem but he certainly made us aware that it is a national problem as soon as it passed.

He came to me, and probably the gentleman in the well, and he said: "Is not there some way we can fund this right away?" As I remembered, it was like July or August. "We cannot wait until there is money in the bank or money in the trust fund before we start funding it," and I went to the subcommittee that day.

It happened to be we were meeting that day to mark up the bill and with the help of the gentleman in the well we borrowed some money from the Social Security Trust Fund for 1 year to fund that black lung bill until they could get some money from the trust fund.

He never stopped working on something that was his objective and that was just one example of how effective he was.

I saw him here three or four times on the floor the 2 or 3 days before he died, and we all knew that he was not feeling well, but we certainly did not assume that he would be taken as soon as he was.

I went to his funeral. I would not have missed that for anything. We saw there how he was loved by the people as he should have been and I considered him to be a personal friend and I consider it to be a great loss not only to this body but to the country as well and so I extend my condolences to his family.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. I thank the distinguished gentleman from Kentucky for yielding.

Mr. Speaker, Mr. Vocational Education, Mr. School Lunch, Mr. Title I, and Mr. Equal Access, and I could go on and on, using titles such as these in describing our late beloved Chairman CARL PERKINS. CARL had a philosophy which became his guiding principle as chairman of the Education and Labor Committee. That philosophy embodied his belief that if children were going to live in dignity and contribute to the greatness of this Nation they must have the very best education possible no matter who they are or where they live. He also believed that good nutrition is very closely tied to good learning.

I had the privilege of visiting with CARL in the northwestern part of his district on several occasions but had never visited his home area until I attended the funeral. From these visits I can only say that if we all represented our constituents as well as CARL did we certainly should receive "A" on our report card. CARL could fight as hard or harder than anyone for what he believed in, but the beauty of CARL as a leader was that he did not seek confrontation and in fact with Jack Jennings as his emissary, sought to work things out in a bipartisan fashion because he believed that children were too important to get caught up in some political battle on Capitol Hill. CARL and I had another common interest in that he loved having thoroughbred brood mares and raising and selling yearlings and I have always dreamed about doing both. We talked at great length about this common interest even at times when people were earnestly testifying before us.

I thank you, CARL for the opportunity to sit by your side during the last 10 years so that I could learn from the master. For millions of Americans who were once children I say thank you for fighting so long and so hard to ensure equal educational opportunities and good nutrition for all. We'll miss your leadership as well as those brisk walks we took from the floor back to the office; when you would say: "Let's walk rather than ride," as your firm grip lifted us a foot off the ground and propelled us onto the walkway rather than onto the subway. You fought a good fight and won a place in the hearts of all who believe that equal education opportunities and good nutrition are a must for all no matter who they are or where they live. Thanks CARL for a job well done. Thanks Verne and Chris for sharing a wonderful man with us.

□ 1730

Mr. NATCHER. At this time, Mr. Speaker, I yield to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. I thank the gentleman for yielding.

Mr. Speaker, I had the great pleasure of coming to Congress at the same time as CARL PERKINS came. We were in the same class and our families were close together. Our first children were born about the same time and we really were close friends.

In life, not many people are blessed like we in Congress are with the tremendous opportunity to be of benefit to mankind and to the people we represent. It is a rather rare and exciting and wonderful privilege we have, and nobody that I have served with in Congress in the 36 years I have been here more adequately and fully used that for other people than CARL PERKINS.

He thought of his constituents constantly. He thought of America, for which he had a deep and abiding love because of what he had done abroad fighting for our country and the upbringing he had and the way he presented himself here on the floor of the House was truly warm and personal every time. I remember times when I would introduce a bill and he would say: "Well, CHARLIE, let us work on that a little bit more and come up with something we can really pass," and finally it would come through because of his great knowledge and experience in passing legislation.

Finally, I would just like to say that the memories we have of great people like CARL PERKINS are among the most treasured memories we have in life. To serve with a man like him, with his great spirit, his great dedication to mankind, and to his God, and to his fellowman has certainly been a tremendous inspiration to me.

When I went back, as so many of you all did, too, to his funeral in those beautiful hills, we could not get there all the way by airplane, we went on a bus, I could not help thinking that if any man every really represented the area from which he came, this man did. I can see why his character had that special quality of a frosty early morning, pure, and the sunlight coming down, a real inspiration to be with him every time I was with him. I am blessed that I had the opportunity to serve with him.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. pro tempore (Mr. SMITH of Iowa). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, at this time I yield to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. I thank the gentleman for yielding and for taking this special order to give all of us an opportunity to pay tribute to our departed colleague and friend, CARL PERKINS.

Mr. Speaker, it was an honor to serve on the Education and Labor Committee under Chairman CARL PERKINS. He was a man of honor and a man who pursued his commitments with a quietly fierce tenacity.

CARL PERKINS was committed to the American dream of education. It is a unique dream, even an amazing dream. It seems so impractical and so difficult to realize that we are at times tempted to surrender it for the easier systems of other nations. The American dream of education is that each person, regardless of color, of social status and parental income, regardless of "IQ" or disability, each person will be educated to reach the fullest possible personal potential. We do not winnow our students early on, deeming this one suited for further academic pursuits and that one suited for training in a

trade. We seek, instead, to offer a variety of opportunities and directions to try. We try to help our youth shape their dreams of who they are not according to who their parents are, or what their family income is, or even according to what the supposed limits of disability they may have are. We try to offer each student a chance to discover potentials within himself or herself and to build upon that discovery.

It would be a lot easier on all of us—on teachers and school boards, on us in government struggling to find money to pay for the special programs to meet the special needs, and even, I suspect, on our youth—if we opted for an easier path of winnowing our youth at an early age, of offering the possibility of post-10th grade or postsecondary education only to those who showed promise, as measured by success on a test or two.

CARL PERKINS rejected that easier path and sought the harder one of the American dream of universal education, a dream that he insisted must prevail in rural Kentucky classrooms and in inner-city classrooms.

When he believed in a program, when he had determined that this approach as opposed to that was the one to follow in pursuit of the American dream of education, CARL PERKINS would not be turned aside. Not by the furor in the committee, not by delay, not by opposition on the House floor. He had a quiet tenacity of purpose for which he has my deepest respect.

That tenacity was clear, too, in his representation of his district. His people came first. He knew them, he respected them, he wanted to do all that he could to ensure their quality of life.

Education in our Nation has lost a great friend in CARL PERKINS, and his constituents have lost an outstanding representative and spokesman for their needs. His example will be before us as we continue his work in education, recommitting ourselves to the American dream of universal education, and his example will be before us as we seek to represent our constituents with his dedication and tenacity of purpose.

I would like to take this opportunity to provide for the record a copy of an outstanding tribute to Congressman PERKINS written by Congressman Mike Blouin, who represented Iowa's Second District before me. Mike's fine tribute was published in the Cedar Rapids Gazette.

The letter follows:

TRIBUTE TO PERKINS

(By Michael T. Blouin)

A good friend of mine died the other day—Carl Perkins. That name might not mean anything to most people, but it should, because in the 71 years he walked this earth, he accomplished a great deal that affected the lives of all of us.

He was the "gentleman from Kentucky"—the "third senator" of that state—a member of Congress for 39 years, and in this day when public officials are held in such low esteem, Carl Perkins stood out as an example of everything right with government.

When I first met him nearly 10 years ago, he was chairman of the House Education and Labor Committee and I was a freshman member bent on voting out as many sitting chairmen in the House as I could justify. I researched the backgrounds of the chairmen, looking for reasons to vote against them. In Perkins, I thought I'd find a strong-armed domineering dictator who was completely entrenched in the system and insensitive to others. Instead, I found a warm, personable, caring human being who ran his committee in as open a fashion as anyone in Congress. . . .

He surrounded himself with topnotch staff, most of whom joined him for an early morning prayer meeting in his office each day. His belief in God wasn't something he'd talk about; he just lived it.

Too often, when seniority begins to pile up, congressmen become too "national" in scope and forget about their constituencies. Not so with Carl Perkins. He grew up in Kentucky's hills and never forgot his people—and they never forgot him. . . . In trying to respond to what he saw as their needs, he left a legacy of legislative accomplishments few in Congress have ever measured up to—and for which the people of America should be extremely grateful. . . .

Without Carl Perkins, millions of young Americans would never have had the opportunities provided them these past few decades. For he understood, better than most, the connection between an empty stomach and the brain's ability to learn—between a reason for hope and a desire to grow.

Carl Perkins helped to make this world a better place. He was a shining star—a true beacon of hope for the bottom end of our society, for the downtrodden, the forgotten, the ignored, the abused. He was a true friend to millions. He was a friend of mine, and I shall miss him.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. I thank my friend for yielding to me.

Mr. Speaker, the Nation lost one of its most outstanding leaders, the House lost one of its able Members, and I personally lost one of my dearest friends with the untimely passing of the Honorable CARL PERKINS of Kentucky.

His service in Congress, spanning 35 years and the terms of eight Presidents, enabled CARL to gain a deep insight into our country's most pressing needs and he worked to fill those needs through prudent and beneficial legislative programs which will service our Nation well for decades to come.

Perhaps CARL's greatest contribution to America was the aggressive and effective legislation he championed in his position as chairman of the Education and Labor Committee in the House. Through CARL's chairing of that important committee since 1967 and due largely to his tireless efforts, Congress developed educational programs which reaffirms America's promise to its children the right to a meaningful and productive education belongs to all our people and CARL saw to it that our country was able to deliver on its guarantee of that education for all its citizens.

I remember just this past year, CARL and his committee worked to reauthorize our programs in the Vocational Education Act of 1963. As educators from around the Nation testified before CARL's committee, they told of story after story showing the success of these programs and the life changing effects they have had for millions of our citizens.

Equally important, the black lung benefits CARL fought hard to secure for this Nation's coal miners are today providing needed compensation to those whose health was damaged working in our mines. Each day I see the success of this program in my own Fourth District of Alabama.

CARL's concern for his fellow citizen was more than mere lipservice, he dedicated himself to helping all out citizens be able to participate in the greatness of America.

Each year, CARL would bring a number of his constituents to testify before my Subcommittee on Energy and Water Development. CARL's Seventh District of Kentucky was a victim of flooding and his constituents needed assistance in controlling the waters which ravaged their communities. CARL's efforts on behalf of the Yatesville Dam and Reservoir and the Levisa and Tug Forks of the Big Sandy and Cumberland Rivers will mean that flood control can be brought to that area of the country.

While CARL's loss will deeply diminish our House, he has left us and his district with a final gift—the son he was proud of, Chris Perkins. I know that Chris will continue to work to represent the Seventh District of Kentucky with the same dignity, love, and success that his father brought to that office.

At the funeral services for CARL in the small Kentucky town of Hindman, more than 5,000 of us gathered in the high school gymnasium to pay our respects to this truly great American. CARL's friend of more than 30 years and one of the most dignified and respected Members of Congress, the Honorable WILLIAM NATCHER of the Second District of Kentucky, paid tribute to this friend.

Mr. Speaker, I would like to insert BILL NATCHER's eulogy of CARL PERKINS in the RECORD. It is a fitting tribute for a man who loved his country and its people. We will all miss him dearly, but our land will grow strong because of the many contributions he made to his fellow Americans.

EULOGY DELIVERED BY HON. WILLIAM H. NATCHER AT FUNERAL OF CARL PERKINS

One of the nicest things that has happened to me during my liftime, is the opportunity that I have had to serve in the Congress with my friend, CARL PERKINS.

During my tenure in the Congress, I have served with about 1,500 Members. None more dedicated than CARL PERKINS and none more courageous.

He was born in Hindman, Knott County on October 15, 1912. He attended the Knott County Grade Schools, Hindman High School, Alice Lloyd College, Lee's Junior College and was graduated from Jefferson School of Law, which is now the University of Louisville Law School, Louisville, KY, in 1935. He was admitted to the bar in 1935 and began the practice of law in Hindman, KY. In 1939, he served an unexpired term as commonwealth attorney from the 31st Judicial District. He was a member of the Kentucky General Assembly from the 99th District in 1940 and in the year 1941, was elected Knott County attorney. He was reelected county attorney in 1945 and resigned on January 1, 1948 to become counsel for the Department of Highways in Frankfort, KY. He was elected to the 81st Congress in 1948 and was sworn in as a Member on January 3, 1949.

He loved his family. I can recall the many occasions when a big smile would result from a question as to how Chris and his wife were doing. He was proud of his son and his daughter-in-law.

During the 20th century, Kentucky has not sent a member to the House of Representatives that has established a better record than CARL PERKINS.

He was elected chairman of the Committee on Education and Labor in 1967 and served in this capacity for 17½ years. His seniority was number four, in the House of Representatives. Among his legislative achievements, he always counted the Vocational Education Act of 1963, the Landmark Elementary and Secondary Education Act of 1965 and the Provisions for Black Lung Benefits in the Coal Mine Health and Safety Act of 1969. These are only a few of the major bills that he sponsored and succeeded in passing in the House of Representatives.

He served with eight Presidents and five Speakers of the House. During the 35 years that he served in the House of Representatives, he had the opportunity to be elected to the Senate on more than one occasion and during this time, he could have been elected to the office of Governor. He believed that he was in the right place to serve his people, his State and his country and he had no desire to change positions.

He was a giant at the center of national power but at all times, he remained a modest man. He was a good man who served his country well. He remained always a man's man and he kept the common touch. A man who could be compared to the giant sturdy oak that grows on the rolling hillsides of Kentucky.

He was a fighter for social justice. He was a legislator for the common people he knew so well.

His concept of public trust was without parallel and never did he hesitate to speak out against any proposal which he felt was not sound and not to the best interest of our people.

In every position he held, either private or public, he achieved distinction. His character, his achievements and his faithful service, will be an inspiration to generations yet to come.

CARL PERKINS was good for the State of Kentucky and for the United States.

During World War II, he enlisted in the Army and saw service in a great many of the major battles in the European Theatre.

During the time that he served on the Committee on Education and Labor, he passed many of the social legislation bills of our history and these landmarks will serve as a living monument to him for years to come.

When first elected to this committee, he served with two men on the committee who later were elected to the Office of President. These two men were John F. Kennedy and Richard Nixon. Both later served in the Senate prior to their election as President. While on the Committee, John Kennedy had a great many speaking engagements, so he had to be away at times when the committee was in session. He believed in CARL PERKINS and he always left his proxy to vote with his friend. He trusted CARL PERKINS.

The committee staff and his office staff loved the chairman and they worked long hours to make their committee and their office the best on the Hill.

No Member has served in the House during the past 35 years that knew more about the Education acts passed in the 1960's, than CARL PERKINS. The same applies to all of the major agriculture bills, higher education, school lunch, child nutrition, head start, adult education, VISTA, student grants and loans, job training and many others.

CARL PERKINS believed that our children are our greatest asset. I remember back during the 1981 reconciliation days when each legislative chairman was called upon to go back and reduce authorizations in order to bring down Federal spending and the deficits. CARL PERKINS had all kinds of difficulty in bringing into line authorizations pertaining to the children in this country, the poor and the helpless and the acts pertaining to the working people in our country.

I deem it a great privilege and a high honor to have been a friend of CARL PERKINS. I have lost a true friend and this country has lost a great Statesman.

To his lovely wife and family, we extend our deepest sympathy in their bereavement.

□ 1740

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I appreciate the distinguished gentleman yielding.

I cannot think of a more distinguished host for this special few minutes to remember our esteemed colleague.

As I have been listening, I am quite confident that I am the youngest colleague who has had an opportunity to speak thus far. I must tell you that when we all heard the tragic news and since then have had the chance to reflect upon the life and the meaning of CARL PERKINS to all of us and in particular to me, I could not help but reflect that we were looking at a person who was a country lawyer, but also a national leader, a person who was in the truest sense a liberal, but yet one of the strongest advocates of equal access, a person who was as comfortable in the hills of Kentucky as he was in the hierarchy of our National Government, a person who was a strong partisan Democrat, but one of the more bipartisan committee chairmen of the people we had in the Congress when it came to working for the goals which he believed in.

I had the opportunity over the last two sessions to work on the Education and Labor Committee with Chairman PERKINS, particularly on four different issues. The most important issue I guess in my opinion would have been vocational education. We had a common interest, a common interest because we both came from rural parts of this country. We never wanted to forget the impact of our national programs and our national formulas and our national rules and regulations on those small schools and their ability to also provide an opportunity for education for their people.

Likewise, we saw that same commitment to title I of the School Nutrition and Equal Access, where CARL PERKINS would do anything he found necessary to bring reasonable people together and put together some kind of a bipartisan bill. CARL, as partisan as he was in believing the values of the Democratic party, wanted education to always be a bipartisan effort.

I suppose that I will never forget CARL because as a freshman colleague in our last session of Congress I will never forget the day when there were no Democrats in the committee room and the chairman had to go and make a speech here I believe on the floor, so he turned the gavel over to me and as a young freshman member of the minority party, all of a sudden I was chairing an Education and Labor Subcommittee dealing with home economics and consumer education and preparation.

That is the kind of guy he was. He had his job to do and he wanted to get what was done for education and he certainly was not going to in any way put partisanship in front of the goals that he was after.

The last time that I talked to CARL PERKINS happened to be as CARL was sitting back here near the back of the aisle on the Republican side. I thought when I heard the tragic news of his death that for me it was appropriate, the last time I talked to CARL PERKINS was on the Republican side of the aisle because here was a man who was willing to work with people on both sides.

About a month ago the Milwaukee Journal carried a story on the progress on each Member of the Wisconsin delegation, a performance report card, so to speak, on what each and every one of us had done. The reporter that did the article on me went to CARL PER-

KINS and asked him what he thought of STEVE GUNDERSON. CARL said some very, very nice things.

I came up to CARL that week after, the last week of CARL's life, and I said, "Mr. Chairman, you didn't have to say those kind things about me, but I want you to know I appreciate it."

He said, as he always did in that southern Kentucky accent, and he never pronounced the "D" in my name, he said, "Mr. GUNDERSON, I want you to remember that whether you are a Republican or a Democrat, if you are for education, I'm for you."

I think that is really what CARL PERKINS' legacy on the floor of the House of Representatives was all about.

You know, I must tell you again that CARL serves not only in life, but also in death, because so many of you have talked about that day as we traveled to Hindman, KY, and I as a young legislator was taught that day something very important and that was, never forget, no matter how appealing those foreign trips may be, those national positions might be, never forget where you come from, because if you never forget where you come from and the people you are elected to serve, as CARL never did, you will then have that opportunity to truly be a national leader. That is what CARL PERKINS did. That is what I will remember. Most important, that is what this country will benefit from.

I thank the gentleman very much.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Texas [Mr. KAZEN].

Mr. KAZEN. Mr. Speaker, I thank the distinguished chairman for yielding to me.

Although few had the privilege and honor of knowing him as well as we in the House of Representatives and his constituents in Kentucky, the people of my district in south Texas—and all Americans—lost a friend, an ally and a leader in the untimely passing of the honorable CARL PERKINS of Kentucky.

No job was too large or too small for this plain-spoken, strong and honest gentleman from Kentucky. He believed that Government was meant to serve the people, and he was a master in seeing that it did.

The Nation knew him as the tenacious chairman of the House Education and Labor Committee, a position from which he endeared himself to all persons who believe that the strength of our Nation is built upon the foundation of a good education for all of its citizens.

Time and again, as he managed the myriad of problems that go into this great endeavor, he took the time to meet with local educators and school officials from across the country on scores of local problems. He listened and he felt compassion, he saw his duty and he helped. Although I was not privileged to serve under his leadership on the Education Committee, I went to him many times on problems in my area, particularly on the subjects of impact aid and bilingual education. He never turned me away without an answer, whether it was a hearing, support for an amendment, or simply telling me the right button to push.

I must add that he was more than an effective legislator and a leader in this House. He was a good, decent man who was a friend to us all. He loved his native Kentucky, but he also felt a responsibility to the entire Nation.

I will miss him, and the Nation is poorer because of his passing, but I believe he has left a legacy for future generations that will serve them well. It is our great fortune to have known him.

I know all of my colleagues join me in offering heartfelt condolences to his wife, Verna, and his son, Carl.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from the First Congressional District of Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, today I join with my colleagues in paying tribute to our late colleague, CARL DEWEY PERKINS, who represented the Seventh Congressional District of Kentucky in the House of Representatives from his election in 1948 to his death on August 3, 1984.

To those of us who knew and respected CARL PERKINS, he epitomized the dual role of the Congressman: his devotion to his constituents and his service to the Nation.

There was hardly a citizen of eastern Kentucky who did not know CARL PERKINS personally, and CARL never forgot his roots in the Appalachian Mountains. As Pamela Glass of the Ottaway News wrote in her eloquent article:

> In towns like Hazard, Mousie, Neon, Quicksand, and Lost Creek, PERKINS had been in their homes. He had eaten their apple pie, gone squirrel hunting with them, often stayed overnight in their spare rooms. He knew their daddies, their granddaddies, their aunts, uncles, cousins, sons, and daughters.

Yet, on the other hand, his colleagues in the House of Representatives knew CARL as one of our most savvy leaders in his capacity as chairman of the Committee on Education and Labor and on the House floor. CARL's ironclad knowledge of the legislative process and his compassion for the people provided him with the zeal and energy to spearhead the enactment of virtually every piece of social legislation passed by the Congress during his generation. Let me cite just a few of the landmark laws that bore the stamp of CARL PERKINS: the Elementary and Secondary Education Act of 1965, the Coal Mine Health and Safety Act of 1969, and the Occupational Safety and Health Act of 1970.

CARL PERKINS won his first congressional term in 1948, the year Harry S. Truman became President. CARL faced few serious challenges after that, and drew no opposition in this year's Democratic primary. He was reelected for his 18th term in 1982, winning with nearly 80 percent of the vote. During his years of office, he worked with 8 Presidents, cast more than 20,000 rollcall votes and promoted the political philosophies of Franklin D. Roosevelt and Lyndon B. Johnson in the House of Representatives.

One of CARL's last legislative battles was his fight for enactment of legislation favoring prayer in the public schools. His efforts for prayer in school and to allow religious meetings after school hours caused him a lot of hard work and effort during the last 2 weeks. Indeed, I sincerely believe that the last 2 weeks of CARL's life were his finest hours in Congress.

Many of us realize his favorite Congressman was WILLIAM H. NATCHER of Kentucky.

To many of his constituents in eastern Kentucky who had voted for CARL PERKINS throughout their entire adult lives, and whose social and economic condition was elevated and dignified by CARL's tireless efforts, CARL's memory will remain for generations to come. And to his colleagues in the House of Representatives, CARL PERKINS' memory will remain enshrined in the legislation he fought for and serve as a beacon to guide us in our future deliberations.

My wife Carol and I both were represented by CARL PERKINS in our earlier years. My wife Carol grew up in Whitesburg, KY. I grew up at Ashland, KY.

My wife and I were very fond of CARL PERKINS. When we married, CARL PERKINS and his son, State Representative Chris Perkins, were in attendance.

We extend our sympathy to his lovely wife Verna, his son Chris and daughter-in-law Cathy.

□ 1750

Mr. NATCHER. Mr. Speaker, at this time I yield to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for organizing this special program this evening.

Mr. Speaker, CARL PERKINS was a special kind of man. When he believed in something he was tough as nails. But always he was able and willing to listen to both sides of the question, able and willing to compromise and find the best solution possible.

CARL was always a gentleman. He had civility in superabundance and he displayed a deep wisdom and common sense of the Kentucky hill country from whence he came. The memory he

leaves behind is a good and decent one, for CARL PERKINS was a good and decent man.

CARL cared deeply, as others have said, about the people he represented. I once had the opportunity to participate in committee field hearings in his district in Kentucky where we met some of the people served by the Great Society programs that Chairman PERKINS was so instrumental in passing. Often field hearings move at a rather leisurely pace but not those conducted by CARL PERKINS. We were up at dawn and moved around the district so fast that he literally wore all of us out. And at every stop it was apparent how much CARL PERKINS cared about his constituents and their problems, and how much they appreciated his work in their behalf.

CARL PERKINS' concern was not limited to eastern Kentucky. He sought to help all Americans, especially those most vulnerable to neglect or exploitation in our society.

I was proud to have had the opportunity to welcome and have as my guest Chairman PERKINS for hearings in my district in the Sixth District of Wisconsin, and traveled across that district in typical winter Wisconsin weather. In Kentucky it was beautiful and balmy and warm, and in Wisconsin in February the snow was about 6 or 7 feet deep and we had to go practically by caravan from Fond du Lac to Cleveland, WI, to make the different hearings that we had agreed to have.

Chairman PERKINS stayed at my house as a houseguest and had the opportunity to spend an evening with my family. I very much appreciated the opportunity to work under him as chairman of the Education and Labor Committee from the first day of my service here in the U.S. House of Representatives.

There are those in this House who had political differences with Chairman PERKINS. But CARL was a man with many friends and with no enemies. Perhaps in the end that is enough to remember a man by, the way he treated his fellow human beings.

I am glad I had the opportunity to know CARL PERKINS, and I am proud that we were friends.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank my chairman in the well.

I think the first time I ever heard the name CARL PERKINS was right after I came here and I had a conversation with Larry O'Brien who was, as people will remember, or used to be, among other things, the Democratic National Chairman. He was also head of the congressional relations for Jack Kennedy when he was President.

When I was elected Larry said to me, he said, "You know one fellow you ought to get to know is a fellow by the name of CARL PERKINS because" he said, "he has a district a lot like yours." And he said, "If you really want to know how to get things done and get things out of the system," he said, "just watch CARL for a while."

□ 1800

He said, "Now I can remember the first time that I was lobbying on the Hill for Jack Kennedy after I was appointed. I would go and I would see a Member about something that I was trying to persuade them on and they would have something that they wanted to talk to me about." After they were finished they would say "Oh, by the way, CARL PERKINS knew you were coming by and he asked me if I would mention that he has such and such a problem in his district and I would really appreciate it if you can help CARL."

He said, "My God, by the time I got off Capitol Hill that day I had 17 different requests from CARL PERKINS."

I think that pretty well sums up the way CARL operated. He never hesitated to push as hard as he could for things he believed in and people he cared about.

This place is a very human institution and I think CARL exemplified that to a fantastic degree.

I think everybody who knew about it appreciated and respected the friendship that CARL had with the gentleman in the well [Mr. NATCHER].

I know that was a deep and abiding friendship with tremendous respect on both sides. When you see those kinds of friendships it strengthens your feeling about this place because as we all know our service here is temporary and friendships which we gain here are friendships which are often lost as people leave the institution or as conditions change within the House. It is always inspiring to see a friendship that stays and a friendship that is strengthened throughout time.

I also remember a night in the Longworth cafeteria when we were at the Texas party, I believe it was, and we were playing a little bluegrass music and CARL wanted us to play "Amazing Grace," which we did. We kind of butchered the tune but we got through it. He liked that and he mentioned it several times.

A lot has been said about morality lately in the country. And I think one of the unique things about CARL PERKINS is that not only did he believe in practicing his religion in his daily life and not only did he believe in trying to further the ability of people to engage in religion in their lives, but he also brought his religious beliefs to bear on issues such as education, child nutrition, and other programs.

So, in the fullest sense I think he represented his deep and abiding faith.

I know I will miss him. He is one of those rare people here who comes, who does his job, who never brags much about it; you could truthfully say of him that he never forgot who he was, where he came from, and who sent him.

I think that is probably the finest compliment you can pay any person in this institution.

Mr. Speaker, I thank the gentleman [Mr. NATCHER] for his time.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I thank my distinguished friend from Kentucky for yielding and for giving us this opportunity to pay special tribute to our very dear friend, CARL PERKINS.

Mr. Speaker, it was my privilege to have CARL PERKINS not only as a colleague but as a neighbor across the hall in the Rayburn Building. His passing has thus been a particularly painful loss for me and my entire staff. It has become customary for our staffs to share holiday and birthday parties, and we had grown used to the happy visiting back and forth across the hall. This year's highlight, of course, had been the legendary Derby Day party in CARL's office. Amid the sometimes austere formalities of Washington life, it has become a special blessing to share in the kind of gentle neighborliness that CARL PERKINS expressed as naturally as breathing.

To me, that was what was so extraordinary about CARL—how clearly and simply he followed the precept of the master, that, "He who loves his neighbor will fulfill the whole law." It seemed so easy for CARL to make everyone his neighbor. He genuinely loved people, with such immensity and warmth that he was compelled to express that love, not just in ordinary speech, and gesture but in a lifetime of action. Not only his family knew that love, but innumerable people in his beloved home State of Kentucky; and in the wider world many millions of Americans will continue to experience the effects of his caring for them, particularly those who have been limited by life's circumstances and who needed a champion on their side.

He not only loved people but he loved their possibilities—and so he loved principles as well, especially the principle that in this abundant land it was wrong for a person to have to remain choked by poverty and lack of opportunity. Though he was gentle and caring by nature, his unwavering dedication to that principle made him tough and extraordinarily effective in the political arena. That arena was, for so many years of his life, this legislative body. He loved this institution of the people's House, and his exem-

plary energy as a legislator will continue to honor this body and to inspire those who were privileged to serve with him.

The American educator Horace Mann once said, "Be ashamed to die until you have won some victory for humanity." By any definition, CARL PERKINS was not only a winner but a great champion, but the definition I like best, for its simple eloquence, is that of his dear friend and Kentucky colleague, BILL NATCHER: "CARL PERKINS was a good and kindly man whose delight in life was working for his district, his State, and his country."

I know I will continue to feel his presence any time we gather to celebrate life and its goodness its possibilities. And I can almost feel CARL whispering to me, especially on Derby Day!

I thank the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, Mr. NATCHER, I was privileged to come to serve in this body in January 1963 and was assigned to the Committee on Education and Labor by the House.

It was there that I first met CARL PERKINS. I remember our first meeting; the offer for cooperation, the friendship which seemed sincere and friendly.

As I watched him work I realized I had found a great and true friend and a wonderful man.

Mr. PERKINS ultimately became the chairman of the House Committee on Education and Labor.

When he took it over it was a very difficult task for him because the committee was in disarray and its staff had become dispirited.

But CARL PERKINS was a good leader. He organized the committee members, both Democrats and Republicans; he organized the staff and got it going again.

In his kindly but firm and determined manner he became a great leader in the education works of this Nation and of the world.

He believed in protecting the people who needed help. He believed in fighting for the people who shared the miseries that so many people of lesser financial means have.

He fought for the people in eastern Kentucky and as he fought for them he fought for all the poor people and disadvantaged people of the Nation.

He realized that education was the great hope of mankind and I believe he was inspired in this work not only by his love for education but by his great love and respect for his wife who was also a teacher.

He inspired me to try to do better in all of the things that I have been privileged to participate in here in the House. He was a skillful parliamentarian, he was a skillful bargainer, always keeping in mind that it was not so much in the winning but in the quality of the fight that you put up and what you stood for.

He stood for raising up America, for lifting its goals, for helping its downtrodden and its handicapped.

When word was released about his death, even though I live a thousand miles away from his district, I received a great many phone calls from concerned constituents of mine who had known or had been touched by CARL PERKINS, who had received something of an inspirational gift from him because of his concern.

□ 1810

The Nation is poorer for his passing, but all of us are richer for having associated with him.

I thank the gentleman.

A TRIBUTE TO THE HON. CARL D. PERKINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. SNYDER] is recognized for 60 minutes.

Mr. SNYDER. Mr. Speaker, With the passing of CARL PERKINS, the Nation lost a great man, the House of Representatives lost an outstanding Member and I lost a very dear friend.

CARL was never much of a socializer. He didn't spend much time on the reception circuit. He didn't dine out a lot. But whenever the House was in late for an evening session, he would stop by the office and we would talk.

It didn't matter to him that my political affiliation was different than his. Not a bit.

It didn't matter to him that my political philosophy was different than his. Labels didn't mean much to CARL. We became close friends.

Sometimes we would just sit and watch the proceedings on the floor. Or we would try to find some country music show on the cable. Sometimes we would call up Bob Jones, the former chairman of Public Works, whom CARL and I both like a lot and we would chat with him in Scottsboro, AL. But most of the time we would just talk.

In those evening chats, I learned a lot. I learned a lot about how Congress works—because few people knew it any better than CARL PERKINS. In his 36 years of service, under eight Presidents there wasn't much CARL hadn't seen—and there wasn't anything that he had forgotten.

In those chats I also learned quite a bit about the history of the Seventh District of Kentucky. CARL had a fabulous memory and he never missed a detail.

And I got quite a geography lesson too. He knew every nook and cranny of the Seventh District—and there are a lot of nooks and crannies in the Seventh District. But he knew them because he had been out in his old "Galaxie" as he called it and driven every inch of that district countless times. He knew the people. He knew their names. And he knew their sons and their daughters. And he loved to talk about them.

You didn't have to sit through many of these office chats to learn one thing about CARL PERKINS and that was that his love of his native State and his love of her people dominated most of his thought.

That's probably why he didn't care much about labels. His was not a philosophy hammered out of the stone of political dogma—His was a philosophy of the heart.

He knew his district. He knew his people and he cared.

It was that love—that compassion for "his" people—the people of Knott County—the people of Kentucky—and just people in general—that motivated CARL. That and a great faith in the ability of the Federal Government to solve the problems of those people, if it sets its mind to do it.

And that is exactly what he set his mind to do—36 years ago and the legislative record he achieved in those 36 years is one that will be hard to ever match again.

Education, agriculture programs, health and safety programs. He had a hand in weaving just about every piece of legislation that we now call the safety net, all of it was motivated by that deeply felt concern for "his people."

Because of that compassion and his singleminded persistence. Because of his patience and hard work, millions of Americans have been educated. Millions have been trained for jobs. Millions have received health care that they might not have received otherwise. In fact, his compassion has touched the life of virtually every American in some way and made those lives a little brighter.

Of course, compassion alone cannot explain his accomplishments. He also had great ability. Because of his rambling country boy walk and drawling down home talk, many people would doubt it and underestimate him—once. Never twice. Once you had seen him in action, you knew that CARL PERKINS knew the ropes, knew the rules and knew how to use them both.

CARL never believed in pretense. He didn't get into Gucci loafers or fancy suits just because he had been in the big city of Washington for so many years. Those things didn't matter to him. In 36 years, a good many fads and trends came and went but they didn't affect him too much.

He didn't care whether he was in fashion or not. A rumpled suit and white socks were good enough for him. He said, his wife Verna, finally put her

foot down and convinced him the white socks were out but he would often mention to me that it still seemed downright wasteful to have a whole drawer of white socks and not be able to wear them.

But these things were simply not important to him. All he cared about was getting the job done.

He had the same disdain for changing political trends. Like fashion—a good many political trends and fads came and went in his 36 years. But they didn't have any more affect on CARL than clothing styles. Like the rugged hills that he came from, changing times had little affect on CARL PERKINS.

He didn't care what the political "in thing to do" was each passing moment. He held a straight course, apologizing to no one for it, and did what his heart told him was right every step of the way.

He was like the man described by John Greenleaf Whittier when he wrote:

> Formed on the good old plan a true and brave and downright honest man loathing pretense, he did with cheerful will what others talk of while their hands were still.

On Wednesday evening, August 1, 2 days before his death, the House of Representatives was in late. CARL PERKINS stopped by the office. He had been there the night before. He wasn't feeling well then. He had what he thought was "an awful cold." He could still muster a gleam in his eye and a big CARL PERKINS grin when you mentioned the equal access bill. He was still enjoying his victory on that battle.

But it was obvious that he felt terrible.

I suggested that he ought to get home and get some rest. He wouldn't have any of it. He said, "GENE, there's just so much to do."

Yes, we still have much to do but, I hope and pray that we never forget how much we have accomplished because CARL PERKINS was here.

Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentlemen from Kentucky [Mr. SNYDER and Mr. NATCHER] for having this special order.

My roots go deep in the hill country of the poverty area of southwest Arkansas, southeast Oklahoma. Mr. PERKINS was my kind of Congressman. Mr. PERKINS was a country Congressman who loved to represent his people. He was a Congressman of the soil of that hill country of Kentucky and his roots remain very, very deep there. I do not think any of his constituents ever doubted that.

I visited with him on the floor many times. First, I always enjoyed to visit and swapping stories about the hill country and also the problems and concerns and needs of constituents, like constituents, that maybe did not have as much as a lot of other people.

Also, Mr. Speaker, I learned at his knee. I listened and occasionally he would slap my knee and occasionally I would slap his. I learned a great deal.

The last time I visited with CARL PERKINS was the Thursday afternoon before his death. In fact, I kindly remarked, GENE, that I though he kind of looked a little bad and he kind of looked at me with a strong look out of his eye that I thought first might have meant, "You young whippersnapper, why don't you just kind of mind your own business."

But, he said, "Well, you know I kind of got the croup or a cold, one."

I asked him he should go get him a syrup cloth for his chest, because we always talked about those old time remedies.

□ 1820

And the next morning, when I flew to Oklahoma, when I got off the plane in Oklahoma City, I was going to have to drive the hour and a half more on down to my district in rural Oklahoma, my staff member asked me if I had heard the news about CARL PERKINS, and he told me about the death of our friend and a man who has accomplished a great deal for this country.

There are two things that I would like to share that I learned: CARL PERKINS, I do not know whether he ever twisted anyone's arm, but he had a powerful grip, and he would just lead you down to the well or out to wherever he wanted to do a little counseling with you. He was a fighter for his folks, and you could look in his eye and you knew he was genuinely speaking from the heart about his concern and about the needs of his people. I shared a mutual problem of having a water project on the hit list, and he and I teamed up to try to make sure that Yatesville, as he said, "WATKINS, I have got a hole down there that needs to be filled up," and he would grab my arm and he would shake my arm and, let me assure you, I cast every vote that I could to help CARL PERKINS fill that hole up down at Yatesville on that particular water project.

Also, his personal love for the unfortunate. And when you really analyze and think about what our responsibilities and duties are that I think our Creator put us on Earth here to do, whether it is in this Congress or whether it is a minister, a teacher, a housewife, if I interpret the Scriptures correctly, it is try to help those who are less fortunate.

The second thing I remember of CARL PERKINS long ago is that he was recognized as the—and I underline "the"—leader in America for vocational education.

Mr. Speaker, I am a product of vocational education. I would not be standing here today if it had not been for vocational education. I would not be standing here today if it had not been for vocational agriculture and a Future Farmers of America organization. And I know that there have been many hundreds of thousands of young men, and now women, who wear the blue and gold FFA Jacket who have had their lives molded and shaped because the FFA and vocational education was a tool that helped mold them as a product in their lives. They may not know it today, but as they sit in their giant corporations, or whether it is in the various leadership capacities around the world, they had their start because of a man, CARL PERKINS, who cared.

In the Good Book, in the Scripture, John, 15th chapter, 13th verse, it says the greatest gift of love that anyone can have is when they lay down their life for their friends and for others. I think CARL DEWEY PERKINS exemplified that Scripture, John 15:13. And I want to thank his family for sharing CARL PERKINS with all of us. I want them to know and his constituents to know that America is a lot better place for many young persons who grew up in the hill country and in poverty because he passed this way.

Mr. SNYDER. Mr. Speaker, I will be glad to yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding, and I thank him and Chairman NATCHER for arranging this special order to pay tribute to our very good friend, CARL PERKINS.

CARL PERKINS spent as much time in Congress as many years as I am old. And while I am sure the good Lord takes you when He is ready for you, He does not always take you when your friends are ready to have you leave.

One of the things I enjoyed about serving on the Education and Labor Committee with CARL PERKINS was that he was a teacher and you were able to sit and to watch and to listen and learn more than you could ever learn by any other means. And to watch CARL PERKINS in action is something that nobody else who comes to this body will ever be able to observe because he is gone. And we will be poorer for it.

The career of CARL PERKINS, as mentioned by previous speakers, is written across this land. It is written across this land in that the American public is so much better for his having been here. To me, CARL PERKINS embodied the best of what we like to believe a government should be, because he clearly understood that while the

people of Kentucky were independent, while the people of Kentucky were tough and fearsome, he understood that there were things that had to be done that they could not do for themselves because they did not have the resources to do those things. He understood that a government could build bridges, a government could contain streams, a government could clean up the mines, a government could pay for the wrecked health of those individuals who mined the coal to turn the wheels of industry of this country and that those were debts that this Government had to its citizens and that were obligations that had to be met.

I do not think CARL really understood or cared about the fashion of politics that the gentleman from Kentucky has just mentioned, and that was when our party went through a little spat here with neoliberalism and those people who were trying to run away from the tenets of the Democratic Party and what they stood for, and I remember an article was written in the Washington Post suggesting perhaps that people like CARL PERKINS had become an anachronism, that they were not really relevant to this new political fashion, to this new political reform. And I remember telling a reporter, "Well, let's just see at the end of the term who has got all of the chips when it is time to get up from the table." And I dare say that tribute was paid by one of the Republican Senators who said that they were afraid to go to conference with CARL PERKINS because they were afraid they would go back to their office and find all the furniture was gone.

Many, many people sat down to play poker with CARL PERKINS; very few got up with any chips. I had the privilege of attending those all-night conference sessions while he would wait them out and while he would wait for them to come around to his point of view. I think it was a tribute to conviction, because those convictions were so strongly rooted they would not be swayed by public opinion polls, they would not be swayed by the popularity or the gimmickry, they were rooted in the belief about the Government and about the people which that Government served.

I think it was rather interesting, when this administration came to town and many people ran for cover, CARL PERKINS said, "No, let's invite them up to the committee." And he was famous for very, very long hearings, maybe 3, 4 days on a particular subject. He would say, "Let's invite them all up here." Well, of course, that meant that somebody had to sit there all day. Well, CARL PERKINS would sit there, and he would have the cabinet secretary, the assistant secretary and the assistant to the assistant secretary, and all of the organizations, to talk about the ideas of this administration. He would lean over and he would grab your elbow and he would say, "Now, we are going to sit here as long as they want to talk, but we are not going to do a thing they want." And that was kind of the way it was, because he did not believe in what they wanted to do. He believed in the Government that understood the plight of the unfortunate. As the gentleman from Kentucky has said, what has become known as the safety net is the tribute that will go on to protect American citizens long, long after CARL PERKINS has left this Congress.

I also think that there is another side that we all enjoyed, and that was the friendship between CARL PERKINS and BILL NATCHER. Again, as a young Member of Congress, and up until CARL's death, I used to try to get to the lunch room on time so I could sit at that table where inevitably BILL NATCHER would stir up trouble by telling a story on CARL PERKINS. No matter now often that story was told, CARL would start to say, "Now, BILL NATCHER, don't go telling that story." Pretty soon that story would come out, and there would be people there who perhaps had not heard it before, and the laughter and the friendship was a part of, I guess what makes this a great institution for those of us who are privileged to serve here and fortunate enough to serve here. But that kind of friendship is not often shared with so many others to their enrichment, and we will clearly miss that.

Lastly, many people have commented on CARL's strong grip when he grabbed hold of you and he told you that you were going to walk along with him, because he would never use the underground subway that connects the office buildings here. I think I was here 4 terms before I found out a young Member of Congress could use that tram. I thought you had to walk with CARL PERKINS from time to time. But I will tell you again that in that short journey you could find out more about what was going to happen in the Education and Labor Committee and what was not going to happen in the Education and Labor Committee. While we had some disagreements on legislation from time to time, when I did, I would always go overground so I would not run into the chairman in the tramway there, because I was afraid that he would change my mine immediately.

We are going to miss him, but we will never forget him because I am not sure that there will be others to replace that style or that conviction. It is difficult in this day and age to stand as fast as CARL PERKINS did. But I will say that there is no tribute, there are no words that we can utter here today that will outshine what CARL PERKINS accomplished. It is a debt of all Americans because whether they know it or not, they have all been touched by his actions in this legislative body to try to better society in this country and to better the lives of those who perhaps did not get out of the starting block with the same speed as other.

□ 1830

It was a rare opportunity, it was a joyous opportunity, I only wish sometimes perhaps that I had taken his invitation to join the gentleman from Kentucky in his office in those late night sessions. I heard about those phone calls to Bob Jones, but I wish that sometime I had been there, because this was a wonderful man who I simply, there is no way that you can talk about CARL PERKINS without a smile coming to your face. I would expect as we reminisce around here among his friends, the laughter and the knee slapping and the stories will continue on until clearly those who come here after all of us will remember the name of CARL PERKINS.

Mr. SNYDER. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank my colleague from Kentucky, as well as our distinguished chairman, Mr. NATCHER, your colleague from Kentucky, for this opportunity to evoke the memory of CARL PERKINS. He was certainly a great Congressman and a great American who has been called to death's dateless night.

It seems strange to be here evoking that memory. It just seems as if CARL PERKINS is still among us. Those of us that had worked with CARL, had been blessed with his friendship, I think share that feeling that death really has very little meaning when it comes to the case of a CARL PERKINS. His spirit certainly hovers here even now. Even in this area where you, the distinguished Members from Kentucky, and some of us would congregate during a rollcall or during a heated debate.

When we do evoke, reverentially, the memory of this great American, I think one must stress the fact that CARL PERKINS was a wise man to know, and very bold to perform. Here was a man that over the span of three decades served his constituents; upheld his sworn oath of office faithfully, honorably, and most effectively. At the same time, he transcended that purely local, parochial responsibility and served every single nook and cranny of this Nation who had any kind of education need.

I, for one, for instance, must give testimony to the debt we have to CARL PERKINS in our areas. We have great dependency on those very programs that CARL PERKINS initiated, authored and worked desperately hard over a period of 30 years to erect and construct as national policy.

I say he is bold to perform because in the fact of very adamant challenge and opposition and determined effort to undo those 30 years of labor with the current attacks on those programs that the Congress had in its wisdom enacted as national policy, CARL PERKINS, even despite those odds, bold to perform, efficient in that boldness, safeguarded, preserved, and we continue to transmit those programs. Even against those odds.

I think that in my case, I must go back to the point in time when I arrived on the scene as a Member of the House of Representatives in midterm of the 87th Congress. I was most anxious to gain a seat on the Education and Labor Committee. Even though political pressures were great, and great political issues were raised about the fact that I should seek membership on the Armed Services Committee, given the nature of the stake in defense that my district has. But I could not there, and I could not on the Labor and Education Committee for the plain and simple reason that the chairman then, Adam Clayton Powell, refused adamantly to accept any kind of new addition to the committee.

That is how I met CARL PERKINS; he was then one of the higher ranking members of the committee. I met him here on the floor when he came and introduced himself. He admitted that he had knowledge of the fact that there was some pressure to have me join that committee. He expressed his willingness to do anything he could to help. I explained to him that I did not work that way. I had had the privilege of serving 5 years in the State Senate of Texas, and I knew and was respectful of the precedents, the rules, written and unwritten, seniority and the like.

The Speaker called me and asked me if I would force the issue. That he could, with the help of the Texas colleagues, since Texas did not, and for many years has not had a Member on the Education and Labor Committee, and again, I said no. But CARL PERKINS came to me and he said something that I will never forget. He said, "Young man," even though I came here at the age of about 44, he still called me a young man, he said, "you know, you are a long-distance runner, aren't you?" He said, "You are very wise. Had you made an issue, you would not only have antagonized your own colleagues in the Texas delegation, but you would have found it a little difficult, even in the new assignment to this committee."

The truth of the matter was that I was lucky even at that. For there were three of us sworn in simultaneously at that midterm point. Lucien Nedzi from Detroit; Joe Wagner from Louisiana. Of the three of us, I was the only one that obtained an assignment to a full standing committee, which was the Banking Committee, because in the meanwhile, the ranking member then from Texas, Wright Patman, interceded. He did so after he had conversed with CARL PERKINS. So that is the history of my present committee assignment.

Had I indicated, the fact is that CARL PERKINS assured me that he would have done everything in his power, and I think at that time, though he was not the immediate ranking member, if I recall correctly, it was considerable. Ever since then, and after many, many occasions of importuning him on behalf of the district, on behalf of adjacent and neighborly school districts, and his coming through on basic programs, there is no way that the RECORD could show the depth of feeling of gratitude, the high respect, the warm feeling of affection that one has for CARL PERKINS, and that many, many educators in my district, upon knowledge that he had passed, called to express. I would like the RECORD to show that I am speaking also for the many, many voices of very, very impressive pedagogues, educators, and leaders in Texas, in my area and out that forever will have enshrined in their hearts the memory and affection for CARL PERKINS.

Politics and fame in politics is transitory at best. Our foot prints are on sand.

□ 1840

But the real memories, I think, are reflected in the case of CARL PERKINS and what Chairman NATCHER told me upon his return from the funeral services in which he reported the outpouring of expression from neighbors and others in Kentucky.

I think the monument in the hearts of constituents living and dead and the monuments in our hearts, those still remaining will be there, of course, the length and extension of our lives. But CARL'S contribution as a legislator, faithful first in his trust to his own district reflected nationally is most permanent and I conclude as I started by thanking the two gentlemen from Kentucky for giving us this chance to place into the RECORD our feelings and our thinking about CARL PERKINS.

Mr. SNYDER. Mr. Speaker, I am pleased to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, it is with a heavy heart that I pay tribute today to one of the giants of the U.S. House of Representatives, my friend and long-time colleague, CARL D. PERKINS of Kentucky.

CARL PERKINS was elected to Congress in 1948 and served with great wisdom for 36 years. A strong believer in the ideals of the Democratic Party, he was a compassionate legislator who saw an active and vital role for Government in improving the quality of life for those in his Kentucky district and for the people of this Nation. A champion of quality public education, CARL PERKINS strove to improve our Nation's educational system so that all of America's children might reach their education potential. As the Chairman of the House Committee on Education and Labor, he was the guiding force behind a number of landmark education and child nutrition bills during the 1960's and 1970's. He knew the intimate details of the bills before his committee and fought bravely to protect crucial education and social programs from the budgetary knife.

He also worked diligently to protect the health and safety of the many families in his district whose livelihoods depended upon the coal mines. The people of Kentucky have lost a dedicated and very talented public servant.

Countless schoolchildren owe their education and knowledge to this man of vision. I will miss his wisdom, his knowledge and his down-home humor. I extend my most sincere sympathies to his family and to the people of Kentucky's Seventh Congressional District.

Mr. SNYDER. I thank the gentleman, and yield to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, if there has ever been a Member who came to Congress and remained the same person in spite of all the pomp and the prestige and the honor bestowed on him as a Member of Congress, it was CARL PERKINS.

After 35 years, CARL PERKINS was absolutely the same down-to-earth, hard-driving, hard-working, unpretentious man who never forgot the average citizen he represented, many of whom were hard-pressed workers in Kentucky.

As chairman of the Education and Labor Committee, his influence was keenly felt in the legislation on education, labor, health and the environment and the other great issues of our time. It is no understatement to say that every piece of social legislation passed over the last 25 years has a strong influence of CARL PERKINS imprinted upon it.

He was far-seeing, kind, loveable but he was as tenacious as a bulldog. CARL just kept advancing good legislation and he never let anyone come up for air until he had passed the bill. If we ever had a man who came from the common people, it was CARL PERKINS.

Now, from a personal standpoint, Mr. Speaker, I am in debt to CARL PERKINS for the help he gave me in my district in maintaining the Gary Job Corps Program in my district.

Whenever a problem arose, CARL PERKINS came roaring out of the mountains of Kentucky and in a defi-

ant manner, and he challenged anybody that stood in his way that wanted to change that program.

I remember one time the Gary Job Corps was threatened in my district. The administration at that time had indicated they wanted to cut back on it and they were going to either reduce it or maybe eliminate the job corps program.

That got the ire of Mr. CARL PERKINS worked up and he let them know in no uncertain terms that if they attempted to do that he was going to call them here to the Hill and he was going to have hearings from now until Doomsday and he was going to make them eat every word they ever said against this program.

And I thought he stated himself very clearly but before we could even clear your throat, he started in on them again. And about the third or fourth time he was shouting so loud that they literally ran for cover, trying to get out the door and get away from CARL.

Well, he was that kind of individual. If he was for you and with you and believed in your program, he stood up and fought for you just as he did for the people in his district. He was not a gentleman. He was very blunt and very straightforward. If he wanted your attention, he would grab you on the floor by the elbow and it was not just a nudge; a little grip to say that I want to chat with you. He would grab your elbow in a vice and he would hold you and he would literally steer you in a chair and he would hold you there until he could talk to you, until you finally agreed that you would help him.

I can still feel the grip on my elbow now, on any matter that he was interested in, because he was determined that he would get your attention and determined in some way to help people.

Well, we have lost a great friend and a great man. If a person can say that he was part of our times, CARL PERKINS was a vital part of the times of the last 30 years in this country.

He made a great influence on this country and his influence will be felt for years and years and years, and we are better people because the Lord sent us a good man like CARL PERKINS.

I personally am indebted to this good and thoughtful man for his tireless efforts, a man who left his good will imprinted on the hearts and minds of our Nation. CARL PERKINS is a man who's life did make a difference—not just for his constituents, but for everybody.

Mr. ANDERSON. Would the gentleman yield?

Mr. SNYDER. I will be glad to yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman [Mr. SNYDER] for yielding, and Mr. Speaker, I don't think it is any exaggeration on my part to say that no congressional district in the United States has been as well served during the last 36 years as the Seventh District of Kentucky. CARL PERKINS was born, raised, and recently laid to rest in the same small town in eastern Kentucky that he lived in all his life. He was truly one of this State's favorite sons and one of this Assembly's most effective and honored Members.

Having been elected to the House of Representatives in 1948 after serving with distinction on the front lines in World War II, CARL PERKINS saw the history of post-war America unfold from the privileged vantage point of Capitol Hill. More importantly, he took a leading hand in shaping our future. He served in this Chamber during the Korean conflict, the McCarthy hearings, and when the Supreme Court made its historic ruling in Brown against Topeka Board of Education that segregation in our public schools is unconstitutional. This historic decision marked the beginning of the modern era of American education, so much of which our departed colleague has personally shaped.

He was one of only 11 Southern Democrats in the House to vote for the Civil Rights Act of 1984. As chairman of the Subcommittee on Elementary and Secondary Education, he authored the Elementary and Secondary Education Act and pushed it to the House floor. After 3 weeks of hard work his unprecedented bill was signed into law by President Johnson. In 1967 he ascended to the chairmanship of the Committee on Education and Labor, a year before I joined the ranks of U.S. Congressmen.

In the intervening 16 years, I have seen CARL steer through the House a mind-boggling amount of major legislation to help protect the workers and educate the children of this Nation. I am proud to be able to stand here today and say that I had the opportunity to support such landmark legislation as the Occupational Safety and Health Act, the Older Americans Act, the Higher Education Act, the Vocational Education Act, the Employee Retirement Income and Security Act, and others. All of these precedent-setting initiatives trace their beginnings to our departed friend.

It may be redundant to say that CARL PERKINS was a great friend of the rank-and-file American but I am saying it anyway. His departure has left a tremendous vacancy that we will have to work together to fill. I am honored to have been a friend and colleague of CARL'S. He will be sorely missed here, in Kentucky, and across the country.

● Mr. JONES of North Carolina. Mr. Speaker, I can't think of anything I could say which would increase the high regard that all Members of Congress had for the late CARL PERKINS. We are all familiar with his strong leadership and his dedication to legislation to make life better for our middle- and low-income citizens.

Sometimes one is more impressed with the little things than with the great activities of an individual. Some years ago while serving as chairman of the House Subcommittee on Tobacco, I conducted field hearings in Lexington, KY, and after the hearings had begun, in comes my friend CARL with some 15 or 20 constituents of his, and he seated himself in the audience with his constituents. I interrupted the proceedings to invite Chairman PERKINS to come to the platform and sit with the other Members of Congress. He thanked me very much, but said he much preferred to sit with his own people.

This devotion to his constituents made it possible for him to serve more than 35 years in the U.S. House of Representatives. His strength and leadership will be sorely missed. To his family, I share with them a sense of loss and feel privileged to have served some 18 years with a man of his caliber.●

● Mr. RODINO. Mr. Speaker, the death of CARL PERKINS took from us a kind and generous man and one of the most masterful legislators of this century.

It was an honor and a privilege to work closely with him over the years in the enactment of many, many laws in the areas of civil rights, social welfare, education, and labor. These laws will remain forever his legacy not only to the poor people of his district in the heart of Appalachia but to all Americans who seek a leg up from an active and compassionate government.

CARL PERKINS was a caring man, and his quiet demeanor gave small indication of the fervor inside him as he brought about enactment of some of the most important legislation of the last quarter century. The laws he shepherded through the Congress in such areas as health, education, food, job training, and worker safety are testament to his skill as legislator, politician, and parliamentarian; to the great affection and high regard he had for working men and women, and to his abiding concern for their well-being and that of their children.

Although he was a Member of Congress for more than three decades, CARL PERKINS never forgot or lost touch with his background or the people in it.

He visited his rural Kentucky district often, and it was on such a visit that he died—denied the chance to see his beloved hills and their people one more time.

CARL PERKINS and I had been friends and allies almost from that day we arrived in Congress together more than 35 years ago. He came to this body as a

country teacher, a country lawyer. I shall remember him as a leader with heart, a counselor of wisdom and sympathy, a staunch ally, and a valued friend. Through his triumphant years and those sad, recent times, when he saw so much that he fought for decimated, he was a wonderful, warm human being. His passing is a great loss to his legion of friends and admirers, his colleagues in this body, and to the Nation.

We shall miss him.●

● Mr. HOPKINS. Mr. Speaker, I rise in tribute to the life and service of our departed colleague and friend, CARL DEWEY PERKINS, whose unwavering dedication and personal integrity earned him a place of honor among the greatest of those who served in the U.S. House of Representatives.

While we must mourn the passing of a valued legislative craftsman of historic proportions, we gratefully celebrate his life's work as a faithful, tireless, productive public servant and true representative of those he affectionately accepted as his people.

In a career which spanned more than three decades, CARL PERKINS never lost touch with the needs and aspirations of his beloved eastern Kentucky constituents.

Yet his vision extended far beyond a home district and State to encompass the cares and concerns of an entire Nation. His faith in that Nation and his compassionate understanding of America's fundamental commitment to public education and equal opportunity were the inspiration of his passionate, relentless support of those causes.

Our colleague was both a pilgrim and pioneer whose efforts as a Member of this House touched and brightened the lives of millions now living and yet unborn who may never know of the useful life and revered name of CARL D. PERKINS.

It is enough, however, that we who remain after him today dedicate ourselves to keeping alive the spark of hope he kindled in the hearts of the disadvantaged and downtrodden that they, too, might attain freedom's fullest blessings.●

● Mr. CONYERS. Mr. Speaker, we all share the grief over the loss of Representative CARL PERKINS. A public servant of the highest order, CARL PERKINS will be remembered by working men and women, students, the elderly, and the humble throughout the Nation as a person of compassion and warmth, a champion of labor, a friend of education, and a leader among those who would extend a hand and heart to uplift all sectors of humanity.

As a veteran of 35 years in Congress, and the dean of the Kentucky delegation, Representative PERKINS chaired the Education and Labor Committee since 1967 at a time when President Lyndon Johnson and the Nation called upon his wisdom and skill to advance the most far-reaching social legislation since the New Deal.

Not only did CARL PERKINS answer that call with an enthusiasm and commitment that persisted throughout his life, but he counted among his major successes other great social measures including the Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965, and the black-lung benefits in the Coal Mine Health and Safety Act of 1969. Some will remember CARL PERKINS for his struggle for school lunch programs, the aid to crippled children, and the Federal aid to schools. Others will recall his name in efforts to establish assistance to college students, or nutrition programs for needy youth.

In addition to all those awards, I remember him simply as a great human being who would not sit by, as Edmund Burke warned the good people of his day, and let evil prevail by doing nothing. I remember his warmth and his smile, and I am happy to have shared the same space with the gentleman from Kentucky who in his quiet way has made our world a better place to live in.●

● Mr. ROGERS. Mr. Speaker, I thank the gentleman from Kentucky, my colleague and good friend Mr. NATCHER, for holding this special order so that those of us who knew and loved CARL PERKINS could say a few words in his memory.

Mr. Speaker, I know I speak for many on my side of the aisle when I say that CARL PERKINS was not only an outstanding lawmaker, but, more inportantly, he was also a caring and warm human being. Here was a man who cared deeply about his people and his call to their service. From humble beginnings in the hills of eastern Kentucky, CARL PERKINS became a giant in the Halls of Congress.

CARL's imprint on national issues, particularly education, will be a lasting one. But he was also an able and articulate spokesman for coal, an issue which ties our two districts together and which is of primary importance to our State.

From the days when he was young, CARL spent countless days, weeks, and months out on the road, visiting with his constituents and working to help them pull themselves out of the poverty which still lingers today in Appalachia. This close personal contact with his people was a mater of great pride to CARL, and the rest of us can only try to emulate his willingness to devote nearly all his time to the personal problems of his people.

For over three decades, CARL PERKINS' deep sense of commitment, his total honesty, his dedication to his people and their welfare, and his tireless work on behalf of America has been a shining beacon for this House.

On a personal note, I want to also speak briefly about CARL PERKINS the man: Someone who I counted as a good friend, who shared our love for Kentucky and our Nation. I recall those events back home which we shared in our adjoining districts—many in bad weather and outdoors. CARL never let the elements, or anything for that matter, stand between him and his people. They adored him, and he them. He never left his roots in Hindman, KY, where he was born, lived, and worked; and was laid to rest.

The great poet perhaps said it best when he wrote:

He walked with kings, nor lost the common touch.

I think that says it all about CARL, about his love for his people, and about the hard work and dedication which he gave to his people and to the Congress.

All of us feel the loss of CARL PERKINS. His contributions to education, to the less fortunate, and to our Nation will long be remembered by those of us who had the honor and privilege to work beside him.

In his memory, I would hope that all of us will rededicate ourselves to the continuation of the high standards which CARL PERKINS set for this Congress. Our hearts go out to his wife and family at their loss. Yet even as we speak here today, you can still feel CARL's presence among us.

His spirit will live on in our hearts and in these Halls and in those Kentucky hills for many, many years to come.●

● Mr. DE LA GARZA. Mr. Speaker, last week, the schoolchildren in south Texas lost a great friend, one who has had a major influence on their lives; our friend and respected colleague, chairman of the Committee on Education and Labor, CARL PERKINS. While those of us who had the pleasure to know him and work with him will miss Chairman PERKINS, it is for the youth of the country that I am saddened.

I doubt there are more than a handful of men and women under the age of 30 who have not directly or indirectedly benefited from Chairman PERKIN's efforts in this body. Wherever students enrolled in a Head Start, took advantage of school lunch programs, or were able to pursue a college education with student loans or grants, we see the hand of CARL PERKINS. Few among us could ever dream of having such a positive and lasting impact on our Nation.

Many of us speak about the "American dream," but CARL PERKINS dedicated his life to providing young people the means of pursuing it on their own. Untold numbers of young people were the first in their family to complete a high school education, or obtain a college degree because CARL PERKINS helped provide the tools they needed.

While others may worry about the deindustrialization of the United States and its need to be competitive in world markets, proposing new tax policies, trade policies, or even industrial policies, CARL PERKINS knew that education is key. Machines may wear out or become obsolete, and ore deposits may be exhausted, but more important than all, our greatest resource, is our people. Chairman PERKINS knew that as long as we invested in our people, new and better machines would be built. It is a lesson we should all remember.

A number of my constituents in south Texas had the pleasure of meeting CARL PERKINS, or testified before him on education issues. I wish many more of my constituents and people throughout the country had had the opportunity to meet this great man for they too would be saddened by his death. On behalf of the people of the 15th Congressional District of Texas I extend condolences to his wife, Verna, his son Carl Christopher, to all his family and friends, to the people of the 7th District of Kentucky, and to the Nation. We have lost a leader and good friend to us all.●

● Mr. FORD of Michigan. Mr. Speaker, the death last week of our friend and colleague CARL PERKINS is a deep loss to all Americans and especially to those who cherish fairness and opportunity.

For the better part of two decades Mr. PERKINS served as chairman of the Education and Labor Committee. And from my point of view, as one who had the good fortune to work with him on that committee for most of his chairmanship, I don't think it was ever served so well.

We all knew Mr. PERKINS as a skillful representative who deftly brought legislation before us. We admired these skills, but I, for one, more admired his abiding concern for the people of this land. I never knew him as anything but a gentleman who cared deeply about his country and the welfare of its people.

Even when it was unpopular to do so, he remained an unswerving champion of social legislation ranging from job training to school lunches. During the past 3 years he devoted his enormous energies to protecting programs for education assistance, employment, and child nutrition from reckless budget cuts.

In his heart he understood that Americans from disadvantaged families could share in our Nation's economic progress only through education. And he made the goal of equal educational opportunity a personal crusade.

He was, as well, a steadfast friend of working men and women, convinced that they are the source of America's greatness.

He understood the ravages of poverty because he was from a poor area of eastern Kentucky where both jobs and educational opportunities were often scarce. Even though he spent 33 years in this body and was the dean of his State's delegation, he never forgot his own origins or the people he represented.

He never lost touch with his people. And he did it the old-fashioned way, getting out to meet with them whenever he could at their homes, in stores, and around the countryside of his rural district.

When he died he was flying home.

His death is indeed a great loss. Men of his skill, style, and compassion come this way all too infrequently.●

● Mr. JONES of Oklahoma. Mr. Speaker, despite his quiet demeanor and soft-spoken delivery, CARL PERKINS was among the brightest and most effective legislators with whom I have had the privilege of serving in this body.

All his life he had one agenda: to defend the oppressed and poor in Kentucky and our Nation. Because he knew what he wanted, and most importantly, knew how to achieve it, he was most tenacious and successful in protecting his position, particularly in conference committee meetings with the other body.

His achievements in increasing the education level of all Americans are far too numerous to list. While he represented a district which is primarily rural, the education programs he advocated have brought greater opportunities to children in all parts of our country, from the hills of Appalachia to the streets of New York and Chicago.

I am certain my colleagues will agree that CARL PERKINS worked so hard and achieved so much that he must be ranked with President Lyndon Johnson as one of the most important public figures in this century to provide quality education to America's youth.

As we in Congress search for ways to ensure that our Nation's educational needs are met fully, I know that that quest will be all the more difficult without the guidance and wisdom of CARL PERKINS.●

● Mr. MONTGOMERY. Mr. Speaker, I am honored to participate today, with so many of my colleagues, in this tribute to the late CARL PERKINS.

He was a fixture on Capitol Hill, having served here since 1949. CARL PERKINS never forgot his Kentucky roots and worked for the people of the Seventh District with distinction.

As chairman of the Education and Labor Committee, CARL PERKINS was a driving force behind so many pieces of legislation over the past two decades and his pleasant manner won the respect of Members on both sides of the aisles, as evidenced by the fact that so many of his colleagues took the time to attend his funeral.

I know the people of Kentucky, who had come to count on his leadership over these years, will miss CARL PERKINS. He will certainly be missed here on Capitol Hill as well.●

● Mr. ROE. Mr. Speaker, I take great pride today in rising to join my colleagues in commemorating the memory of our dear friend, the Honorable CARL D. PERKINS of Kentucky.

For 35 years CARL PERKINS served with distinction and honor in this great body and his achievements during that period of time are legendary. Perhaps no other man in recent congressional history has been more responsible for advancing our Nation's educational programs than CARL PERKINS.

His work as chairman of the House Education and Labor Committee, a post he held since 1967, and as chairman of the Subcommittee on Elementary, Secondary and Vocational Education, insured that millions of Americans would have the opportunity to receive an education.

Among the legislation that he developed and led through the political process were bills dealing with job training and school lunch programs, remedial education for the disadvantaged, vocational education, school libraries, child care, and nutrition, adult education and math and science education programs.

His crowning achievement, the landmark Elementary and Secondary Education Act of 1965, benefited the lives of millions of American school children. And think of millions of others who received a school lunch, perhaps their only hot meal of the day thanks to CARL PERKINS.

Mr. Speaker, despite the fact that his achievements have affected the lives of nearly every American, the fact of the matter is that CARL was not very well known outside the House and his beloved Kentucky congressional district.

If ever a man truly fit the job description of "Representative" it was CARL PERKINS. Rather than seeking national news coverage for his outstanding achievements in the field of education and aid to the rural parts of our Nation, CARL was more interested in returning home each weekend to the little town of Hindman, KY, where he could sit down with his constituents and find out how they were doing and what he could do to make their lives a little better. No problem in Appalachian Kentucky was too small for him to pay attention to, for he was truly one of the people he served.

He knew that the coal miner in Pike County, KY, had the same problems as the poorly paid farm workers in southern California and that both needed the on-the-job health protec-

tion that only Federal legislation could provide.

We have lost both a dear friend and a great leader. Our best wishes go out to CARL's wife Verna and the other members of the Perkins family.

They can rest assured that the legacy that CARL PERKINS left us will never be forgotten. It is my prayer that his memory will inspire us as we move toward solving the enormous problems facing our great Nation.●

● Mr. YATES. Mr. Speaker, CARL PERKINS and I were both elected to this House in 1948 and he was my dear friend for all of those years. I will miss him very much and the entire House, which he served with endless dedication and rare legislative skill, will miss him, but it will be the people of his district and people like them everywhere who will miss him the most.

CARL PERKINS was their champion. He understood in the most fundamental way that this country is stronger, safer, and richer when the policies and resources of the Government are utilized to assist those who need the help and opportunities that an enlightened Government can provide. His was a practical and humane approach to Government that was as fair and decent as the man himself. CARL PERKINS believed in what he was doing and he was right. It saddens me that we will not have the opportunity to work together again and I can say that I am proud to have known CARL PERKINS and to have served with him. I extend my most sincere condolences to Mrs. Perkins and to all of his family.●

● Mr. BOLAND. Mr. Speaker, the death of Congressman CARL D. PERKINS was a tremendous loss for the people of our country and the Members of this House.

CARL PERKINS came to Congress in 1949 as a representative of the people of eastern Kentucky. He never lost sight of the needs of the people who sent him to Washington, but in his 35 years in the House of Representatives he assumed a much broader constituency. The people whose cause he championed were the people in need in our society; the poor, the undereducated, the sick, and those who worked in unsafe conditions. He worked for their interests tirelessly and effectively, not in a way which sought publicity but in a way which focused on results. His ability to persuade was legendary in the Halls of Congress, and his skill as a legislator was well known and appreciated far beyond Capitol Hill.

It is impossible to estimate how many lives were positively affected by the work of CARL PERKINS. The Vocational Education Act of 1963, the Coal Mine Health and Safety Act of 1969, and the Elementary and Secondary Education Act of 1965 were shaped by his hand and they have eased the burden of, and expanded opportunities for millions of Americans. His legacy is one of commitment to the ideals on which this country was founded and his career is a testament to the things Government can do for its people, rather than to its people.

I want to express my deepest sympathies to CARL's wife, Verna, his son Chris, and the other members of his family. I hope that in the days ahead their sorrow will be lessened by the knowledge that the contributions made by CARL PERKINS to the quality of life in this country will never be forgotten.●

● Mr. GORE. Mr. Speaker, I join with my colleagues today to pay tribute to the Honorable CARL PERKINS, a champion of people young and old—children, working men and women, senior citizens, and all who needed a tireless leader to work on their behalf.

CARL PERKINS was committed to making our country a better place in which to live and a true land of opportunity. His legislative guidance in the areas of education, labor, and welfare have brought our Nation closer to the ideal he envisioned.

I feel deeply privileged to have had the opportunity of knowing and working with Congressman PERKINS. He is one of those rare persons of whom it can be said: "he leaves our world a better place than he found it."

He will be deeply missed.●

● Mr. HUGHES. Mr. Speaker, it is with a deep sense of sadness and loss that I join my colleagues in honoring our respected colleague, CARL PERKINS.

All of us who had the opportunity to serve with Chairman PERKINS will always remember it as a true learning experience in shrewd and aggressive lawmaking. CARL PERKINS believed deeply in the Government's obligation to help the helpless, and throughout his 18 terms in the House of Representatives, he remained dedicated to the expansion of human dignity and equal opportunity. He never stepped back, never accepted defeat, never gave up, and never abandoned his principals or his commitment.

As a result, countless measures to enhance the social welfare bear Chairman PERKINS' imprint. He impressed his colleagues not only with his extraordinary tenacity, but also with his real compassion for our Nation's disadvantaged. He truly cared about people as individuals, and in caring about them, he took the trouble to understand them, to know their problems, and to do everything he could to help them.

Throughout this Congress, the State of Kentucky, and the Nation, there are many thousands of people who know what CARL PERKINS did for them, and they will never forget him. There are many millions more, though, who have benefited from his life's work without even knowing it, perhaps without ever having heard of him. This is the true measure of his contribution to our Nation.

His leadership, courage, and commitment will be sorely missed by all who had the honor of working with him.●

● Mr. MITCHELL. Mr. Speaker, I deeply value the honor at this moment of paying tribute to our colleague and good friend, CARL DEWEY PERKINS.

Through dedication, diligence, and determination, CARL PERKINS set forth many efforts that resulted in great achievements. CARL PERKINS was a moving force behind the House Committee on Education and Labor where he forged the landmark Elementary and Secondary Education Act of 1965 through his subcommittee, led a strong commitment of Federal support in the Vocational Education Act, and encouraged the cause that resulted in an expanded Federal role in child nutrition and school feeding programs.

In addition, CARL PERKINS became an active voice in the field of industrial safety. He sponsored the fight for passage of the Federal Coal Mine Health and Safety Act of 1969 and managed the passage of the Occupational Safety and Health Act in 1970.

Few words can describe this prime architect of existing Federal social programs. We came to know CARL PERKINS as a leader in the poverty fight. His consistent voting record of social legislation in the House helped us to recognize his cause as one for the people. I am delighted to acknowledge his dedicated support of civil rights legislation which displays clearly that his struggle was dedicated to all people.

CARL PERKINS was not only involved in legislative measures. He was well known among his constituents in the Seventh District of Kentucky as he traveled and recognized the causes of his people. He was often present whenever a disaster struck, usually offering comfort and resources to those suffering.

These are only a few of his accomplishments and we shall not dwell upon them individually put recognize them as the results of an illustrious character of social legislation and a pioneer of merit. The passing of CARL PERKINS, marking the end of a dedicated 36 years in the U.S. House of Representatives, is a great loss for us all. However, spiritually these 36 years of dedication will not be forgotten because, as quoted by his son, "our tribute to his memory shall be a dedication to his cause."●

● Mr. QUILLEN. Mr. Speaker, I wish to join my colleagues in saluting the life and work of our friend CARL PERKINS who passed away on August 3.

Congressman PERKINS served with distinction in the House of Representatives since his election to the Congress in 1948. His death is loss to the people of his eastern Kentucky dis-

trict, his family and we who worked with him here in the House.

Congressman PERKINS served as chairman of the House Committee on Education and Labor since 1967 and he certainly made his mark on many important Federal programs under his committee's jurisdiction. But for me, my lasting impression of CARL PERKINS is that of a good and decent man who worked diligently for what he believed was in the best interest of the people he represented in the Congress.

I wish to extend to his entire family my sorrow at CARL'S passing and my condolence and deep sympathy at this sad loss.●

● Mr. JONES of Tennessee. Mr. Speaker, it is with great respect that I join with my colleagues in paying tribute to our late friend and colleague, CARL PERKINS. He was truly a great man who made many contributions to this Nation yet never lost the unassuming manner that characterized his many years of service.

I know that his constituents will miss the hard work he put in for his district, but I also know that this Nation will greatly miss his work on behalf of education and the working people of this country. There are many young people today who have promise for a better future because of the programs he advocated and guided through this body.

There is no greater legacy that anyone can leave than to offer hope for a better tomorrow to the generations that follow after them. CARL PERKINS has done that through his unfailing advocacy of strong public education. For that, this Nation can be proud of his service and mournful of his absence.

It was with deep regret that I learned of the death of CARL PERKINS back in August. I extend to his family my deepest sympathy.●

● Mr. WAXMAN. Mr. Speaker, for more than 35 years the people of the Seventh District of Kentucky sent to Washington one of the ablest and most progressive Congressmen ever to serve in the House of Representatives. CARL PERKINS, who came from one of the country's poorest and most isolated regions in the heart of Appalachia, became a leading authority and advocate of Federal educational and social programs that have changed the course of this Nation's history.

As chairman of the Education and Labor Committee, CARL was one of the major influences on the antipoverty programs of the 1960's. The educational assistance programs he sponsored changed the concept of education in America by giving students from every background educational opportunities beyond any previous generation's highest dreams. The school lunch and employment programs he created and strengthened have improved the lives of millions of Americans, from rural east Kentucky to urban west Los Angeles.

CARL'S efforts in Congress were guided by principle, not the tides of political change. His vision for a better America which he brought with him from the hills of Kentucky remained constant throughout his career. During a conversation in 1981 when virtually every social, educational, and health program was under siege by the new administration, CARL told me that times may change, but principles do not, and that those who shared his broad view of America would prevail.

We all will miss CARL'S brilliant leadership. He was a statesman, a model legislator, and an inspiration to us all.●

● Mr. JEFFORDS. Mr. Speaker, I regret that I could not be present for the special order of the House honoring the late CARL D. PERKINS, the distinguished chairman of the House Education and Labor Committee and a Member of this body for 36 years. Unfortunately, this special order came on the day of my State's primary elections.

My absence is something I think CARL would understand. He knew politics, and was not reluctant to use the means at his disposal to get things done. As chairman, he made no secret of his goals and eagerness to reach them. And he got things done.

During his leadership of the Education and Labor Committee, he created a long and proud record of service and concrete results. He was certain of what he wanted to do, and wasted no time getting there.

On more than one occasion, we in the minority differed with his views and were soundly and quickly defeated in the committee. Good naturedly we would joke about the "Perkins Express," the locomotive that powered legislation through the committee on a remarkably smooth and fast track.

Now and then we all get a little cocky, and on occasion some of us thought we had CARL beaten, only to find we had overlooked some parliamentary procedure or the dozen proxies in his pocket. The Perkins Express rolled right over us.

But CARL PERKINS was too decent and kind a person to get too upset about such setbacks. And behind all of his actions, there was no question as to his motives. He seemed to have little use for personal gain, and a large devotion to the public good.

The Perkins Express is a long, crowded train. Its cars are filled with the less fortunate people of his district and our country; the disabled, the poor, the elderly, and the ill. And it is filled with our brightest hopes, the children who fill our classrooms from kindergarten through graduate school.

CARL PERKINS has left a legacy that is the envy of any Member of this body. His mark is on dozens of programs that serve Americans, from child nutrition to the Older Americans Act. His career was one of great achievement.

I was one of the many Members of Congress who traveled to CARL'S district for his funeral. Most of us had never been to eastern Kentucky. Riding on the bus, I sensed that a lot of Members better understood CARL after seeing the land and people he represented. A bus ride is not a very scientific survey, but the signs of economic distress were everywhere. If before you had thought that black lung benefits or child nutrition programs were overgenerous, you could not help but understand why CARL PERKINS fought for every last penny.

Vermont and eastern Kentucky are a lot alike in many respects. Especially in northeastern Vermont, we have many of the same problems as those that faced CARL. The similarities of our districts made it even easier to respect his views and work with him. I will miss doing so. I have lost a good friend, as have the people of Kentucky, Vermont, and the Nation. His family and many friends have my condolences.●

● Mr. LEHMAN of Florida. Mr. Speaker, I was most saddened about the loss of Congressman CARL PERKINS. As chairman of the House Education and Labor Committee, he was the chief proponent for the best of our Federal social programs.

During my first two terms the Education and Labor Committee, under the leadership of Congressman PERKINS, provided the best congressional training a new Member could receive.

CARL PERKINS was an outstanding example of unselfishness, integrity, dedication, and hard work. He was our best advocate for those most vulnerable and those less fortunate. He was always aware of and moved by the deprivations and sufferings of others.

In our congressional forest, a great tree has fallen.●

● Mr. ANNUNZIO. Mr. Speaker, like so many of my colleagues in the House of Representatives, I was shocked at the untimely death of our distinguished colleague, the Honorable CARL D. PERKINS. His death is a tremendous loss to his constituents from the Seventh Congressional District of Kentucky, and to all people of this Nation.

CARL was a good friend of mine during the period we had served in Congress together. I am proud I had the honor to have worked with him, and I shall always cherish his wise counsel, advice, and good will. CARL PERKINS dedicated his life to public service, and throughout his career worked toward improving the quality of life for all working men and women. He graduated from the University of Louisville Law School, and began the practice of law in 1935. In 1941 and in

1945, he was elected to the office of Knott County attorney, and served in the Kentucky General Assembly and as counsel to the Kentucky Department of Highways. He also served our country with distinction in Europe during World War II.

Elected to the 81st Congress in 1948, CARL PERKINS served in the House of Representatives for 18 consecutive terms, and was dean of the Kentucky delegation. As a Member of Congress, he compiled an outstanding record of achievement, and was the architect of some of the most important social legislation passed during the last 25 years. The Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965, and the Coal Mine Health and Safety Act of 1969 to provide black lung benefits, all bear his mark. Serving as chairman of the House Education and Labor Committee since 1967, he handled the bulk of President Johnson's antipoverty legislation.

CARL PERKINS was a champion of social welfare programs, and as chairman of the House Education and Labor Committee, he moved legislation through his committee to improve the quality of education, provide Federal college student loans and free school lunches, and he also initiated many labor reforms. He tirelessly worked to protect the interests of all working men and women, of the underprivileged, and the uneducated. Most recently, he passionately fought the many budget cut proposals which tore deeply into the worthwhile social programs he helped to create.

Born in the small Kentucky town of Hindman, CARL PERKINS ably represented his constituents in Congress for almost 36 years. He was a soft-spoken man, known for his fairness, honesty, and integrity. His dedication to the highest standards was an inspiration to his friends and fellow citizens, and he was highly respected as one of the ablest Members of the House. He will long be remembered by those of us who had the privilege to serve with him in the Congress of the United States.

Mr. Speaker, CARL PERKINS was an outstanding American. He will be missed by both those whom he served and those who had the privilege of knowing him. Mrs. Annunzio and I extend our deepest sympathy to his wife, Verna, his son, Carl Christopher, and the other members of his family who survive him.●

● Mr. ERLENBORN. Mr. Speaker, I rise to honor the memory and legend of CARL DEWEY PERKINS in this Chamber, and the mark of this man on the scores of laws which bear his name and the imprint of his hand and his heart.

A trade publication, in writing of CARL's precipitous death on August 3, quoted me as referring to him as a "bulldog." Having worked with him for almost two decades on the Education and Labor Committee, where he served as chairman for 17 years, I believe I knew CARL well enough to know he would have felt it an honor to be likened to a bulldog.

A bulldog is usually a stubborn critter, and CARL was the most tenacious in the pursuit of his legislative objectives of any of the people with whom I have served and, perhaps, of any who have served in this House. That is why, or at least one of the reasons why, he was one of the most successful in achieving the goals in which he believed.

CARL was not only a legislator par excellence. He practiced what he preached, especially about the rights of minorities. In allowing the committee minority to manage their own funds, he was a rarity among committee chairmen.

CARL put forth a special effort to maintain a spirit of cooperation with the minority. Shortly after I became the ranking Republican on the Education and Labor Committee, I suggested to him that we reestablish the "Perkins-Quie Principle" regarding staff travel. He replied, "* * * in tribute to the expected harmony of this era, I would like to suggest a rechristening to be known as the 'Erlenborn-Perkins principle'."

I have no hesitation to predict that CARL PERKINS will go down in history as having played as great or greater role in education in this land of ours than any who have been known formally as educators. Members of this body need not be reminded that the stamp of his devoted, personal, pioneering, and persevering leadership can be found in every education program passed by Congress over the past 35 years.

Another of the memorable characteristics of CARL that I must touch upon is his love for his family and the people in the hills of Kentucky. The dean of his delegation said it best: "CARL PERKINS was a good and kindly man whose delight in life was working for his district, his State, and his country."

CARL must have known much delight in life. He worked tirelessly for all of them, as we—his colleagues, his office, and committee staff, both majority and minority—can attest.

Along with you, Mr. Speaker, CARL's loyal staff, and all who have served here during CARL's three and one-half decades in office, I feel fortunate to have been associated with him. His family can find much comfort in knowing that CARL DEWEY PERKINS' service in the House will live after him.●

● Mr. O'BRIEN. Mr. Speaker, we have yet to realize the extent of the loss to the advancement of education that follows the death of our sage and valued companion, CARL PERKINS, the veteran Kentucky legislator.

Perhaps CARL PERKINS' last legacy to a fruitful 20-year tenure as chair of the House Education and Labor Committee was his effort to bring us together in support of Federal funding for training and retraining schoolteachers in mathematics, science, computer education, and foreign languages.

No doubt, CARL PERKINS was a staunch believer in the cooperation and compromise that best represents our constitutional system. And he continually showed this from before the time of the enactment of the first major Federal programs to aid elementary and secondary schools, almost 20 years ago.

One only need look at his work on education legislation in the 1960's to see how today's policies on funding for education on the local, State, and Federal levels have evolved. And his influence on the lives of all school children is demonstrated every day, not only in our better schools, but even in the breakfast and lunch programs that feed our most needy youngsters.

For his district as well, CARL PERKINS was a crusader for those in need and a champion of the dispossessed. Kentucky's mine-oriented Seventh Congressional District, whose economy swings with coal demand, nonetheless was the fastest growing congressional district in the 1970's of all those in Kentucky.

Please join with me in recognizing CARL PERKINS' distinguished 33-year career as one of our most trusted and competent lawmakers in recent history. He will be missed.●

● Mr. MINETA. Mr. Speaker, I rise with so many of my colleagues to pay tribute today to one of the very special people who have walked these halls—our good friend CARL D. PERKINS.

CARL was a man who earned such respect and stature among his colleagues that we all addressed him as nothing other than "Mr. Chairman." But behind his back, we showed our deep and abiding affection for the man we really knew as "PAPPY PERKINS."

At his funeral, we stood under cloudy skies and watched hundreds and hundreds of ordinary people come in mourning and in sadness to pay tribute to man they loved so deeply. There was humanity, a sense of caring and committment that day that stands as the model of all of the chairman's life.

No Member of Congress has ever worked harder, or more successfully for the people he loved and the values he honored.

As the Almanac of American Politics says of the chairman, on reason for his great success was his own strength of character. The almanac goes on to say of the chairman "far from fashiona-

ble, he is one of those old fashioned liberals—Sam Rayburn was another—who know their legislation cold, negotiate like master poker players, and refuse to compromise their principles."

We were all richer because of the chairman's old fashioned uncompromising devotion to principle. And the Nation will reap the fruits of his work for decades to come.

We all have our fond memories of the chairman. One memory I am glad I do not have is having to sit across from him in a conference committee. As we all know, the chairman was a tough negotiator. He just did not want to give up when he knew he was right.

And most of the time, he knew he was right and he was correct in that belief.

We will all miss the chairman. He was one of those rare men whose mark will last on this House and this Nation for years to come.

Thank you.●

● Mr. CLAY. Mr. Speaker, the Congress of the United States, the Nation, and the people of the Seventh District of Kentucky have suffered a great loss in the death of our late and highly respected colleague, CARL D. PERKINS.

I, personally, feel a very special loss for since I first entered the Halls of Congress over 15 years ago, CARL and I had developed a long, profitable, and stimulating working relationship.

His life was a genuine profile in courage, the epitome of decency and integrity.

He came from one of our Nation's poorest constituencies, and though he gained and wielded great power in the Congress, he never lost the common touch.

CARL PERKINS was indeed a people's Representative and he exemplified the best of a public servant: Gentle, respectful, unassuming, thorough, a nonsense approach, and high commitment to the task at hand.

CARL did not talk compassion, he demonstrated it; he not only talked about the need for education as a passport, he was an unceasing advocate for it; he did not verbalize about civility and courtesy, he served as a living example of it in this Chamber and across the country; he not only talked about justice, he was the personification of it in his daily interaction with his colleagues and his constituency in the Seventh District of Kentucky; he not only talked about the need for economic justice, he was in the forefront working for legislation to provide full employment for our Nation's work force. He was a marvelous example of one who believes that a public office is indeed a public trust that should be used to enhance and ennoble human kind.

CARL PERKINS believed in Government as an advocate for the people. He transformed that belief into effective legislative service that benefited the 235 million who comprise our Nation. At all times, he strived to make Government an instrument for hope, opportunity, and justice for all.

If any Member of Congress could be said to personify what is in the best interest of public education in this Nation, then CARL PERKINS would be in the forefront.

For over 16 years as chairman of the Education and Labor Committee, with vigor, he stood for and fought for the children and youths enrolled in our public schools. Every major piece of education legislation, over the last 16 years, bore the imprint of CARL D. PERKINS. He was a strong, untiring advocate for our Nation's workers, and he was a leading proponent of the landmark workers' health and safety legislation of the late sixties and early seventies.

He worked inspirationally, long before it was fashionable, to assure all people access to all facets of the public education network.

Mr. Speaker, while I grieve the death of the distinguished chairman from the Seventh District of Kentucky, I also rejoice that I was privileged to work with such a remarkable and caring individual.

His passion for promoting educational opportunity, his concern for the workers of our Nation, his deep love and affection for this august body, his fondness for his constituents in the Seventh District, and above all his gentility and loving manner mark him a colleague extraordinaire.

We suffer an immeasurable loss because he no longer walks, talks, and works among us.

CARL PERKINS' works are monumental and pervasive. He was a modest and just man, and I am reminded of him when I think of the principles expressed by Longfellow in one of his poems: "Ah to build, to build! That is the noblest art of all the arts."

I bid farewell to a master builder, a gentleman, and an advocate of the improvement of the quality of life for all of our citizens.

I know that all of my colleagues in the House join me in expressing sincere condolences to his wife, his son, and other family members. May they find strength and peace in the days ahead.●

● Mr. GAYDOS. Mr. Speaker, today we are paying homage to our late colleague, the Honorable CARL D. PERKINS of Kentucky, who, through 36 years in this Congress, devoted his entire energies to making life a little better for the people of this country.

CARL never claimed to be a great legislator; he never claimed to be a hero; but he was both a great legislator and a hero to people who didn't even know him.

It's no secret that CARL labored in anonymity, making great progress for America's coal miners, our schoolchildren, those who lived in rural areas, without drawing attention to himself.

CARL probably didn't care about fame or fortune. He was concerned with the well-being of Americans.

And that concern, that caring, can be seen in the important legislation he personally guided through the House Education and Labor Committee and directed through the House as a whole.

Billions of American schoolchildren have learned to read and to experience the joy of learning because of CARL's efforts in passing the Elementary and Secondary Education Act of 1965, a measure that insured heavy concentration on developing reading skills for our disadvantaged children, enhanced school library services, and so forth.

Millions of American schoolchildren ate a hot lunch in our schools because CARL promoted and pushed through the school-lunch program.

Thousands of mineworkers and their families have been rescued from danger because of CARL's work in passing mine health and safety legislation and measures to help those with black lung disease.

Untold numbers of American high school graduates have been able to attend college and receive their education because CARL PERKINS was instrumental in securing passage of student-aid programs that paid the way.

Hundreds of thousands in this Nation's rural areas have been able to experience the joy of reading because of CARL's constant interest in providing special assistance to public libraries in the rural parts of America.

CARL's contributions to America and its people are legendary, but are probably best known only by those of us who worked with him and, often in the face of overwhelming odds, passed those bills that made life for all Americans, but especially our forgotten Americans, a little bit better and broadened the opportunity for those disadvantaged to achieve a better life.

For 17 years, CARL chaired the House Education and Labor Committee and, even though he didn't receive the publicity for the tremendous successes of the committee in passing landmark legislation, we who worked with him day in and day out are well aware of his impact on the final products of that committee.

When an issue arose that would have a great impact on the lives of Americans, it would be no surprise to any one of us in the House that CARL would be ready to speak on behalf of those who couldn't speak for themselves, for those who had no advocates.

CARL spoke quietly—and convincingly—knowing that what he was supporting was right for all Americans.

CARL served this body with dignity and integrity. I doubt that he would have defined himself as a great legislator or a hero, but, if we look at two of Webster's definitions of greatness—"remarkable in magnitude, degree, or effectiveness" and "markedly superior in character or quality"—then surely he was describing CARL PERKINS.

But, perhaps, the definition of greatness that would appeal most to CARL would have been one by Bernard Baruch in August 1964, at a press conference on the occasion of his 94th birthday. Asked who was the greatest man in his time, Baruch replied:

The fellow that does his job every day. The mother who has children, and gets up, and gets the breakfast, and keeps them clean, and sends them off to school. The fellow who keeps the streets clean—without him we wouldn't have any sanitation. The unknown solider. Millions of men.

CARL would have appreciated that definition of greatness because it symbolizes CARL himself. It symbolizes the love of mankind for each other through the little things that count—like learning to read, getting a hot lunch, saving a life, and so on.

Perhaps this body would be better if we all followed CARL's approach to legislative work: Worry about the people and forget about grabbing the headlines.

This body will surely feel the loss of CARL PERKINS as much as his family and many of us individually already do.●

● Mr. ROYBAL. Mr. Speaker, in paying tribute to our esteemed colleague and good friend CARL PERKINS, we must recognize above all else that he was a legislators legislator. He will be sorely missed.

I can't think of another Member of Congress who worked as tirelessly and effectively for the benefit of his district as did CARL PERKINS. His accomplishments on behalf of Kentucky's Seventh District, one of the Nation's poorest, were remarkable. That his people came first is clear from the long list of what CARL considered his proudest achievements—dams, flood control projects, hospitals, schools, and roads.

The greatness of CARL PERKINS was his ability to translate his concern for his constituents to a concern for all the underdogs in this Nation. Seeing the conditions under which the coal miners in his district labored, he sponsored and/or supported Federal programs to aid those suffering from black lung disease, as well as to improve worker health and safety generally. The legislation he supported benefited workers nationwide who had been working in unsafe and unhealthy conditions and often paying with their lives.

Seeing the lack of opportunity for many of his constituents, CARL was a tireless advocate of Federal aid to education at all levels. He was instrumental in shaping such programs as Federal aid to libraries, vocational training, Head Start, student loans, adult education and job training programs. As chairman of the Education and Labor Committee, he was able to secure passage of these programs he knew would prove invaluable. How many millions of Americans have benefited from this dedication and vision?

Even those who didn't agree with CARL's views could not doubt his motives. He never forgot his origins, never lost his humility and never compromised his principles. All of us admired his legislative prowess. We loved and respected CARL PERKINS, both as a colleague and a friend. And we will miss him very much.●

● Mr. KILDEE. Mr. Speaker, I appreciate this opportunity to participate in the honor being paid to my late chairman, colleague and personal friend and advisor—the Honorable CARL D. PERKINS of Kentucky.

It was with great personal sadness and a sense of loss that I heard of the passing of Chairman PERKINS. In the 7½ years I have served as a Representative in Congress, he was always generous and helpful toward me, as he was with everyone, and I benefited greatly from his advice and assistance as a member of the House Education and Labor Committee.

Chairman PERKINS loved the people of the Seventh Congressional District of Kentucky, and they loved him. He personified the highest ideals of public service, working untiringly on behalf of the people he represented and on behalf of the entire Nation. He understood that education was the weapon with which to break the cycle of poverty, and no one else was as effective as he in working to ensure that education was made more available to all. For education to be most effective, good nutrition for the children also was vital, and Chairman PERKINS saw that clearly and worked to ensure that good nutrition was available to the children of economically deprived families. He was the unquestioned champion of making education programs more effective so that the level of education in our country could be raised. He was fearless and unshakeable in his opposition to those who felt that our Nation should cut back on its financial commitment to education, strongly believing that such action was the most false of all economies.

I am proud to have had the privilege of serving with such a great man. He will be greatly missed by all of us on the committee and in the Congress. His legacy to us must be the example he set for us to continually strive to improve the educational system of our Nation, to see education as an investment instead of as a cost, and to recognize that education is one of our greatest resources in our effort to ensure that all of our citizens can live in dignity and in decency.●

● Mr. RUDD. Mr. Speaker, I join with my colleagues in expressing deep sorrow at the passing of our friend and colleague, the dean of the Kentucky delegation, the Honorable CARL PERKINS.

As Representative of Kentucky's Seventh District for 36 years and as distinguished chairman of the Education and Labor Committee, CARL made major contributions to the improvement of his district, his State and to American society at large.

We did not always agree on policy, but I admired so good and kindly a man as was CARL PERKINS for his forthrightness and his ability as an outstanding Congressman.

He will be sadly missed by all of us.●

● Mr. SCHULZE. Mr. Speaker, I rise in tribute to one of this body's most dedicated public servants and chairman of the important Committee on Education and Labor, the Honorable CARL D. PERKINS.

Who, then, do I call educated? First, those who control circumstances instead of being mastered by them; those who meet all occasions and act in accordance with intelligent thinking; those who are honorable in all dealings, who treat good-naturedly persons and things that are disagreeable; and furthermore, those who hold their pleasure under control and are not overcome by misfortune; finally those who are not spoiled by success.

Those words were said in another age by, perhaps, this world's greatest educator, Socrates. And yet those words apply to our colleague, CARL PERKINS, the man, the politician and the educator.

CARL certainly took control of events and never let himself be directed by them. He was, indeed, a sensible and wise individual. He was a man true to his word and was known by all to stand by it. His sense of humor saw him through many acrimonious debates; he kept a tight reign on his public and private demeanor and was a gentleman at all times; and it certainly never occurred to him to complain to others of his misfortunes, knowing they had many of their own to face. By any measure, CARL was a successful man— he set his goals to serve the people of Kentucky and he did not waiver in his direction in all the years he was in Congress. He was neither spoiled by the easy election victories nor impressed with the heady politics and personalities of Washington, DC. Yes, he was a successful man who was humbled by his success rather than overcome with the importance of it.

Finally, and certainly on an equal par with all of this, CARL PERKINS not only lived those Socratic words, he tried to impose upon this country that quality of education which would instill those ideals within each child taught so that our future strength

through knowledge would be ensured. He wanted education to be more than book knowledge. He wanted the system to encourage inquisitiveness and imagination. And he wanted it to support the moral fabric of family values. I know he was proud of what we have achieved over the years, but there was so much left to accomplish. He left us a legacy of hope for the future through our children and we will honor him by building upon the goals that he set.●

● Mr. HAYES. Mr. Speaker, I had the sad duty to attend the funeral of our friend and colleague, the honorable Representative of the Seventh District of Kentucky, CARL DEWEY PERKINS. Although I have only been a Member of this body for slightly less than a year, I have had the honor and fortune to serve under CARL's leadership on the Committee on Education and Labor. I realized early on that behind his quiet approach and soft manner, was a master politician, and legislator, whose dedication and compassion for his fellow man ran deep and unwaivering.

While I have had the great personal privilege and honor to work with and know CARL PERKINS, there are millions of Americans who did not have that opportunity. Nevertheless, in one way or another, they indeed had the privilege to benefit from his dedication, compassion and good will. His 1963 Vocational Education Act and the 1965 Elementary and Secondary Education Act have literally changed the lives of untold numbers of our young people. While they may not know who was responsible for the programs they participated in, they will forever benefit from his leadership.

I know CARL PERKINS was a friend of many Members of this body. I am certain he was a friend to many of "his people" as he fondly called the residents of the Seventh Congressional district of Kentucky. He was indeed my friend, and I will miss him.●

● Mr. DWYER. Mr. Speaker, it is an honor for me to take part in this special order paying tribute to one of the most distinguished Members of this House, CARL PERKINS. I want to thank my good friend and chairman, Mr. NATCHER, for calling this special order. There is no one in this House more familiar with the many contributions of the man we are honoring today, both in this House, and in his beloved home State of Kentucky.

Education had no greater friend and advocate than the chairman of the Education and Labor Committee here in the House. Chairman PERKINS steadfastly and effectively championed some of the most important education initiatives of our time.

He never wavered in his commitment that all Americans be afforded a good education and a fair chance to earn a decent wage and provide for their families. The chairman's sense of fairness was equally evident in the employment area as well, as he took the lead in such vital areas as job training, worker health and workplace safety.

I am proud to have had the opportunity to serve for a short time during the chairman's tenure at the helm of the Education and Labor Committee. He had a vision for the future early in his career that has served to inspire us now in shaping the priorities of the coming decades. CARL PERKINS knew long ago the intrinsic value of education to our people, and he generously gave of his time and many talents as a legislator and statesman to see this goal realized.

We still have a long way to go in educating our children and retraining our work force for the challenges of the future. The Perkins legacy will serve us well in these pursuits. He will be missed, to be sure, but remembered always for his courage, conviction and sense of fairness concerning the great issues of our time.●

● Mr. HUTTO. Mr. Speaker, I did not get to know our beloved friend, Congressman CARL PERKINS, as well as those who served on his Education and Labor Committee. However, I did have the opportunity to visit with him on several occasions and to observe him in action on the House floor. My observations, I believe, accurately reflect the depth of this great man. He was, without doubt, one of the kindest and warmest Members of Congress. I gained a strong impression that he never allowed Potomac Fever to deter him from the grassroots. His compassion for people transcended his own district in Kentucky, and he was instrumental in bringing relief to the downtrodden and sought to ease the plight of those who could not help themselves. CARL PERKINS is gone from this body, but he left his mark and he will be missed. I'm only sorry I did not get to know him better.●

● Mrs. ROUKEMA. Mr. Speaker, I join my colleagues today in expressing a sense of loss over the passing away of one of the great legislators of our day. CARL PERKINS was a friend, a leader and a teacher.

How fitting a monument to his leadership and statesmenship that he fashioned a successful bipartisan coalition to pass the equal access bill. If there was one person in the House who was most responsible for overcoming the many obstacles toward passage of equal access, it was without question CARL PERKINS, who took on his own leadership to shepherd through a bill that he believed in.

Equal access was a battle that I and a lot of my colleagues joined CARL to fight. But, a year ago, there was another job that needed to be done which was of a more personal interest to me. A New Jersey paper had just run a shocking series concerning allegedly scandalous practices by the Department of Education of my own State of New Jersey.

I was stunned at these allegations. I knew something had to be done. But, in all frankness, as a member of the majority side of the Education and Labor Committee, and one who was just entering her second term, I felt lost. How could I ever convince the majority to do anything about these allegations, which involved accusations against a Democratic administration at both the Federal and State level?

Nevertheless, I knew I had to at least try. I owed it to the people of New Jersey. Mr. Speaker, the response I received from CARL PERKINS convinced me that on matters of principle, CARL PERKINS rose above political implications. CARL not only agreed with me that the committee should respond, but he ordered a full-blown, no-holds-barred investigation. He immediately assigned the issue as a top priority to one of his ablest staff members who was joined by a minority staff member in the investigation. And, Mr. Speaker, this investigation was no cosmetic exercise in whitewashing. CARL eventually scheduled four hearings in New Jersey and Washington, for which the committee exercised its subpoena power for the first time in many years, and order committee staff to prepared a lengthy report.

The findings of that investigation were not easy for CARL. They showed misspent funds under education programs which were very near and dear to him. For many, they raised serious questions about the effectiveness of Federal education programs in general, at a time when the Federal role is the subject of considerable debate. CARL never waivered. The committee pulled no punches.

When I look back on my own career, I will always remember that investigation as my maiden voyage in learning the potential effectiveness and limitations of congressional power. I will also remember what CARL PERKINS taught me about bipartisanship and statemanship and how reassuring his example was to me.

We have lost a man of principle, whose magnificant stature never diminished his gentle humanity. CARL's legacy is one to the generations of those, young and old, who's hardships were eased because of his dedication and compassion. ●

● Mr. RAY. Mr. Speaker, among the 435 Members of the U.S. House of Representatives, there are a few individuals who have, through years of diligence and hard work, come to symbolize effective, compassionate representation. The man we honor tonight was such an individual.

Congressman CARL PERKINS made friends easily with his unassuming

manner, but House colleagues soon learned that behind his Kentucky drawl was one of the keenest minds in the Congress. CARL was an aggressive and tenacious opponent when he disagreed with you, but one of the strongest and most effective supporters a Member could have when he was on your side. CARL PERKINS was indeed a force to be reckoned with in the House of Representatives, and his leadership will be solely missed in this body.

Congressman PERKINS has left his mark on this Congress and on our Nation. This is a mark, however, that we can proudly wear, for it is a mark of compassion, a mark of concern, and a mark of love for humanity.

In his early years in the Congress, CARL PERKINS had a dream—a dream that seemed impossible at the time. He believed that it was the right of every American citizen, even the poor and the handicapped, to have a solid education. CARL knew that education was the key which all Americans use to unlock their potential.

Years of hard work made this dream a reality. In 1965, the landmark Elementary and Secondary Education Act was passed, and for the first time Federal resources were steered toward education. Throughout his career, Congressman PERKINS continued his fight for proper education for handicapped and disadvantaged children, and many of our programs today are a direct result of his efforts.

Vocational education grew in the United States with the assistance of Congressman CARL PERKINS. He championed education and educators, for he believed America should have the finest educational system in the world. CARL was a fighter for "excellence in education" long before the phrase became the catchword it is today. As his stature and reputation grew, the name of CARL PERKINS became synonymous with persistence and by his example he showed us that a cause we believe in is worth all the effort we can muster.

Although we will sorely miss Congressman PERKINS in the Congress, the Seventh District of Kentucky bears the greatest loss, for these are the people that he loved most. His efforts and his thoughts were always for the district he served and he represented the people of eastern Kentucky with expertise and empathy.

CARL PERKINS served a long and distinguished career in the U.S. Congress and he will be sorely missed by all of us. There is no more fitting tribute to this man who cared for his fellow man than to say that our world and our Nation are truly better for the time that he spent here.●

● Mr. DUNCAN. Mr. Speaker, CARL D. PERKINS was a man who cared about the people of his district, loved his country, and tried to help the needy. One can hardly ask for more from a Member of this body.

It was because of his concern for the people of Appalachia that he sought social changes to reduce the suffering of hungry children, unemployed workers, and coal miners crippled with black lung disease. Through his leadership the Education and Labor Committee took on increasing importance.

One could never doubt his sincerity or concern. While his colleagues were always struck by his disarming grin, they also knew that he would fight for what he believed with stubborn pride and determination. He was able to win because of his perseverance, yet he never allowed animosity to creep into his character.

We will miss his shy grin, and his shrewd legislative mind. But we will miss most the example he left us of dedication to his job, his country, and his district.●

● Mr. OTTINGER. Mr. Speaker, I am pleased to join my friend and colleague, BILL NATCHER, in this statement in memory of my friend and late colleague, CARL PERKINS. I thank him for giving us this opportunity.

CARL PERKINS spent his life working for the improvement of human condition, particularly of the poor and disadvantaged in our society. As chairman of the Education and Labor Committee, he was responsible for much of the progressive job and education legislation which President Reagan is now trying to destroy. CARL PERKINS probably helped the lives of more of our citizens than any other Member of Congress.

CARL PERKINS was the classic example of the "country boy." He spoke with the native accent of his rural Kentucky constituents and always played the role of the modest country bumpkin who didn't have the answers to the Nation's complex, sophisticated social problems. Behind that simple facade, however, was the keenest of minds and the ablest of strategists. His simple mannerisms allowed him to achieve more than he ever could have with a more sophisticated demeanor. Anyone who entered negotiations with him on substantive issues soon learned that this was no country pushover—he was just as keen and persistent and knowledgeable as a person could be in the areas of his interest.

CARL will be missed by his family, many friends and his colleagues in Congress from whom he well earned overwhelming respect.●

● Mr. SUNIA. Mr. Speaker, it is with great respect that the territory of American Samoa pays tribute to the Honorable CARL PERKINS of Kentucky. Throughout his career of public service he offered assistance to many whom he never knew, but who held him in great regard.

The people of the territory of American Samoa are specially appreciative of the work that he did for them during his tenure as chairman of the House Education and Labor Committee. For many years to come, our youth will be enjoying much of the outstanding social legislation championed by Mr. PERKINS. Such things as the Vocational Education Act of 1963 and the Elementary and Secondary Education Act of 1965 have been most beneficial to our local Department of Education.

While I did not know Mr. PERKINS as long as I might have liked, I have a great deal of respect for the work that he did. He was one legislator who cared a great deal for the little people. Not only did he rise as a leader of the education field, but he has surpassed many in his concern for the poor, underprivileged and those who seldom have a voice where important Federal decisions are made.

I will always admire the conviction he displayed in 1981 when he fought a long but losing battle against budget cuts proposed by the Reagan administration in Federal education assistance, employment programs and child nutrition. His rebuttal was always sincere, not just for the sake of argument.

In my pursuit of better representation for the people of American Samoa I will always remember the example set by CARL PERKINS. He fought ethically for his enthusiasms and was accustomed to besting his opposition. He served his country well and his district well. While both his family at home and his family across the United States will miss him very much, we will always be very proud of his achievements and will always remember his service to others.●

● Mr. ACKERMAN. Mr. Speaker, this legislative body takes this time out from our deliberations to honor the late CARL D. PERKINS, a truly decent and dedicated colleague. Chairman PERKINS was a man of exceptional sincerity and tireless effort on behalf of this great Nation and his beloved State of Kentucky.

Although I am one of the more junior Members of this Congress and of the Committee on Education and Labor, CARL PERKINS greatly influenced my perception of the legislative process and the workings of this House. He always strove, with great leadership and dedication, to take the morally correct and appropriate step. He has set a lofty standard for me and the other new Members of Congress to emulate.

"PAPPY" PERKINS, as he was affectionately called, has left us a legacy of unparalleled commitment to equality of educational opportunity, and an equally strong quest for safety in the workplace. Through the chairman's tireless and meticulous stewardship, the Congress enacted such monumen-

tal legislation as the Elementary and Secondary Education Act, the Vocational Education Act, the School Lunch Program, and the black-lung benefits in the Coal Mine Health and Safety Act of 1969. These major programs reached out to children and adults who had been left behind in the wake of educational progress and economic prosperity.

Of course, CARL PERKINS' work remains unfinished. There would be no greater memorial to him than to continue the special work he began: to strive to educate those children who have been left out of the educational system, and to protect those workers who have been harmed by and who remain exposed to industrial hazards.

Mr. Speaker, our Nation will deeply miss CARL PERKINS. The Congress of the United States will be at a loss to find someone as capable, as committed and as compassionate to fill the void his death created. Congressman PERKINS was a distinguished gentleman and an inexhaustible crusader who was an inspiration to all of us in this House.

I extend my sympathies to his entire family at this difficult time. They can take comfort in knowing that his life was full of accomplishments, and that this Nation can never forget the important contributions that CARL PERKINS made to the people of the United States.●

● Mr. PENNY. Mr. Speaker, when you think of the title chairman—you think of someone like Mr. PERKINS.

He was a grandfather figure. He elicited the respect and exhibited the wisdom that comes with years of experience.

He was firm. No one doubted the authority of this chairman. Everyone trusted his word.

He was committed. He knew the importance of his role as chairman. He fought hard to protect and to promote the "people" programs under his jurisdiction.

He took care of his district. You had only to travel his district to understand the benefit of his work on education, health care and economic development programs.

He was true to his roots. Through his long tenure in Congress—he remained a "man of the mountains" of eastern Kentucky. He loved his district and its people and they loved him.

"He was a faithful friend;

"He was a loving husband and father;

"He was a noble, dedicated public servant;

"He was a good and honest man."

Thank you Chairman PERKINS for the example you set. Every time I hear or speak the title chairman—I'll think of you and miss you.●

● Mr. MILLER of Ohio. Mr. Speaker, I want to join my House colleagues today in paying tribute to a man who had great impact on the educational, health and welfare of this Nation over the past two decades.

CARL PERKINS was much more than a House colleague, since we shared a common interest in the concerns which historically involved the Bluegrass and Buckeye States. We shared a genuine interest in the economic strength and future of the entire Ohio Valley and a special interest in such monumental projects as the Gallipolis Locks and Dam undertaking. Citizens who reside in my congressional district worked in his. Constituents who lived in CARL PERKIN'S counties of Kentucky worked in the industrial plants of southern Ohio.

The bond between CARL and I in this Chamber was a common bond. The bond is strong, as well, between the people of his district and the people of mine. Our loss, then, is their loss. And in a much greater sense, our loss is the loss to a nation that knew CARL PERKINS cared simply because he placed the concerns of people, and the needs of America, before any consideration of personal or political benefit.

I extend my deepest sympathy to his family.●

● Mr. MURPHY. Mr. Speaker, last month this Congress, and the American people, lost a great leader, the Honorable CARL D. PERKINS.

For those of us familiar with CARL PERKINS' long and distinguished record of having fought to alleviate the suffering of others—hungry children, unemployed workers or coal miners crippled by black lung disease—we will deeply miss his leadership and his faith in the Government's ability to help people.

As a member of the Education and Labor Committee throughout his 18 terms and its chairman since 1967, CARL PERKINS worked to protect the rights of the handicapped and the disadvantaged. Through his efforts as chairman of the Education and Labor Committee, the 1978 amendments to the Rehabilitation Act added new programs to expand employment opportunities and a new and innovative program was established to promote independent living of persons with severe disabilities.

CARL PERKINS would not shrink from any challenge if he believed in the human value of a particular program. For example, PERKINS forged ahead to help create Federal education, employment and antipoverty programs, despite the constant attacks on these programs by this administration. It was his commitment to improving the quality of education that led Congress to pass, nearly two decades ago, the first major Federal program of aid to elementary and secondary schools.

Mr. Speaker, I know this Congress mourns the passing of one of its great leaders. I share the sadness of this Congress, and extend my sympathy to Verna Perkins, CARL'S wife, and his family and friends.

As chairman of the Subcommittee on Select Education, I developed a great deal of admiration and respect for CARL PERKIN'S work in improving the lives of handicapped adults and children. Chairman PERKINS was dedicated to the cause of protecting the rights of our disabled individuals.

Chairman PERKINS had been a major contributor to the growth and improvement of the National Vocational Rehabilitation Program through his legislative activities. The following list contains just a few of Chairman PERKINS' outstanding achievements:

First, in 1968, Chairman PERKINS was the principal sponsor of legislation which became Public Law 91-61, which provided for a National Center on Educational Media, and materials for the handicapped.

Second, in 1971, Chairman PERKINS was the principal sponsor of a bill to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation service and other purposes. The bill which passed Congress on October 14, 1972, was vetoed by the President. On May 23, 1973, Chairman PERKINS sponsored a bill similar to the previous bills which was signed into law by the President.

Third, in 1974, Chairman PERKINS was one of four cosponsors of the bill which led to Public Law 93-516 which: extended authorization of appropriations in the Rehabilitation Act of 1973 for 1 year and transferred the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare; amended and strenthened the Randolph-Sheppard act for the blind; and provided for a White House conference of handicapped individuals.

Fourth, through his efforts as chairman of the Education and Labor Committee, the 1978 Amendments to the Rehabilitation Act added new programs to expand employment opportunities and a new and innovative program was established to promote independent living of persons with severe disabilities.

As a member of the Education and Labor Committee throughout his 18 terms and as the chairman of the committee since 1967, CARL PERKINS had been an active participant in the struggle for the rights of disabled individuals. He has proven to be one of the strongest allies of Vocational Rehabilitation Services during the 1981 battle to prevent the inclusion of rehabilitation programs in a proposed block grant. He was essential to the successful vote to maintain the Vocational Rehabilitation Program as a separate and identifiable entity.

Chairman PERKINS' invaluable leadership helped promote and expand vital programs for our Nation's handicapped and disadvantaged. The effective and creative leadership of Chairman PERKINS will be missed by this Congress, and the American people. CARL PERKINS' deep concern for the dignity of those who suffer in our society, and his determination to alleviate this suffering, will continue to inspire us to protect and preserve the fundamental rights and protections of our most vulnerable citizens.●

● Mr. WEISS. Mr. Speaker, the Congress is lesser today with the passing of Congressman CARL D. PERKINS.

CARL PERKINS was a man of wisdom, skill, and compassion. As a former member of the Education and Labor Committee, I quickly came to admire and respect this slow-talking, unobtrusive Kentuckian as a shrewd and effective legislator who remained unswervingly devoted to the highest principles.

But it is not only the Congress that has suffered with his passing. The people of Kentucky have lost a friend who rose from their ranks and who always remained committed to their needs and their views. And students, workers, and poor people across America have lost an invaluable ally who stood for them when others would not.

Under the leadership of CARL PERKINS, the Education and Labor Committee produced some of the most important and far-reaching social legislation this country has ever known. Less than a year after assuming the committee chairmanship in 1967, he shepherded President Johnson's antipoverty program through the House without major alteration. His other important successes included the Vocational Education Act of 1965 and the Appalachian Regional Development Act of 1965. Millions of Americans have directly benefited from his work, including coal miners with black lung disease, lower- and middle-income college students, Social Security and medicare beneficiaries, and children who participate in school feeding programs.

During the first years of the Reagan administration, CARL PERKINS saw many of his most important achievements offered up as sacrifices on the budget-cutting altar. I shared his sense of frustration and outrage as the progressive achievements of many years suffered devastating cutbacks that resulted in nothing but misery and hardship, and I joined him in his attempts to salvage and rebuild these programs into what they were meant to be. With the passing of CARL PERKINS, the cause of compassion and fairness has been deeply wounded.

On this sad occasion, I wish to express my profound sorrow at the loss of my cherished colleague and to extend my deepest sympathies to the family, friends, and constituents of CARL D. PERKINS.●

● Mr. HARRISON. Mr. Speaker, last month the board of the Association of Urban Universities received a report from its Washington director, Jim Harrison, entitled "Crossing Troublesome Creek." That report was in the nature of a eulogy for our departed colleague, CARL D. PERKINS. It merits inclusion in today's RECORD for its insight into the late great chairman:

CROSSING TROUBLESOME CREEK

As I am sure most of you have heard by now, Carl Dewey Perkins, Member of Congress from the 7th District of Kentucky, and 17 years Chairman of the House Committee on Education and Labor, died on August 3rd.

The commonplace observation will be that education, or labor, or the people of the Kentucky hills, or the coal miners have lost a friend. And all these commonplaces will be accurate. The sophisticated observer of the Congressional scene will supplement those observations by remarking on Carl Perkins' "shrewd use of parliamentary procedure" or his "seniority-based influence" to explain his monumental record of legislative accomplishment. I hope that those who, as I do, love Carl Perkins and will honor his memory forever, will not take it amiss if I suggest that those journalistic shortcuts are mostly nonsense.

Carl Perkins was not a student of the minutiae of parliamentary procedure, (though he knew well how the House functioned), nor was his unquestioned influence engendered by some kind of unthinking respect for seniority (though only two other present Members of the House have served the House longer than he).

No, when Carl Perkins won a legislative battle against the odds, when he whipped an unfriendly Administration, insolent bureaucrats and tough and sophisticated pressure groups (and he did all of that a lot), he unually did so because he was usually right!

One of my fondest memories of Carl Perkins, as a parliamentarian, was that of a full Committee markup some years ago on a Black Lung bill. The chairman had moved an amendment to make it easier for those suffering from black lung to demonstrate that a lifetime spent in the bowels of the Kentucky earth had some connection with the shortness of their breath—and their lives.

One of Mr. Perkins' distinguished colleagues, opposed to the amendment, made a very eloquent, a very learned and, to be honest about it, a logically and legally impeccable argument that the amendments were out of order. Mr. Perkins presided over the discussion with the gentle patience and good humor which were his trademark. He offered no parliamentary rebuttal, probably because there was none. He had made his case earlier on the facts of the tormented lives black lung sufferers know.

When his colleague ended listing the citations, analyzing the precedents and quoting the cases, Chairman Perkins simply said "The gentleman may well be right. Is there objection to the adoption of my amendments?"

There was none, of course. In the silence that ensued, as the Chairman waited patiently for objection, it became perfectly clear that no one could bring himself to fight against Carl Perkins' compassion for the dying on the basis of parliamentary considerations alone.

Similar, perhaps less well encapsulated stories can be told about Carl Perkins' lifelong effort to bring education to the educationally deprived, school lunches to hungry children, student assistance to those for whom college had never been even a dream, safety in the mines and construction sites and—the list is long and moving. He did what he needed to do to accomplish what a nation needed to have done.

Another commonplace I have noticed in the obituaries is that much of what Carl Perkins did is "no longer fashionable". Unfashionable may be the mot juste, but it was a never a word to bother Carl Perkins. Those whose compassion begins and ends with the tax returns of the very-well-to-do may find a concern for the necessitous and a penchant for wearing white socks and brown shoes on the House floor to be equally unfashionable. And those gentlemen may well be right. But the Recording Angel will probably spend more time looking at the statute books than at Carl's socks.

There are two kinds of legislators—and we need both of them. There are those—you know some of them—who will appeal convincingly to your intellect, jabbing their index finger into your chest as they make each statistically unassailable point. And there are those who will fold you in one great arm, hugging you to their great heart, while simply relying on your sense of decency. The world's intellect often needs to be prodded by the jabbers. But enough can be enough. In the long run, it is the huggers who do the great things. In the long run, they are irresistible.

I have tried, in these pages, to sum up a man who defies summation. Could it be that he was just not complex enough to be easily characterized and filed away? Perhaps the closest anyone has come to a definitive statement came from one of his neighbors back home.

Carl was buried just across Troublesome Creek, in Knott County, Kentucky. Hundreds of his colleagues, political figures whose lives had touched his, labor leaders, educators, and the people of the hills came to the funeral. It was, according to the Troublesome Creek Times, the biggest such event in Knott County history. The front pages and editorial pages of the Troublesome Creek Times were filled with the usual quotes from the usual notables. But in the back pages, where for years, Bertha Gayheart and Daisy Hall and Martha Baldridge have reported about the lives of their neighbors in Garner and Beaver Creek and Caney and Red Fox and Mousie, they all paused among their account of the births and deaths and church socials, to comment on how their neighborhoods were affected by Carl's life.

Bertha Gayheart said this: "Carl was raised poor just like the rest of us, but he never got above his raising." In the press galleries and cocktail parties, this could be taken as a put-down. God knows it was not.●

● Mr. RANGEL. Mr. Speaker, our dear friend, CARL PERKINS, was truly a stalwart and distinguished Member of our House of Representatives. His leadership of the House Committee on Education and Labor for the past 17 years enabled the House to pass some of the most valuable social legislation of this century. His efforts on behalf

of the homeless, the poor, and the disadvantaged served to benefit all Americans. And his valuable contributions stand as a hallmark of how much can be achieved by hard work and sheer determination.

He was a big man, both in body and spirit. And he was an ally to all who would address the concerns and needs of the less fortunate among us. He represented his district as well as any Member of Congress, and he stayed in touch with those he so ably represented.

Mr. Speaker, CARL PERKINS' legacy was one of progress and hope. We can give no greater tribute to him than to pursue most diligently those principles that he so vividly etched for us in this House.●

● Mr. JACOBS. Mr. Speaker, in doing this tribute to our dearly departed colleague, CARL PERKINS, BILL NATCHER does honor to this House and one of its historic giants.

CARL PERKINS began his congressional service in 1949 when my father, Andrew Jacobs, Sr., came to Congress. CARL and my father became friends forever. And CARL was like a father to me when I arrived in 1965.

When the Federal programs which reflected the best instincts of all Americans were under forceful attack early in this decade, CARL kept the faith and stood at the bridge to defend them.

Generations yet unborn will be in CARL's debt as they live in an ever-better America because of his vision of education and therefore liberty and justice for all.

He was a friend of mine. And I hurt at his loss.●

● Mr. KASTENMEIER. Mr. Speaker, I firmly believe that every governmental body, every organization, every collection of people brought together for a specific purpose, needs individuals who are there to remind them that, above all, one must not forget basic human values in making decisions.

This governmental body lost such an individual when we lost CARL PERKINS last month.

The Congress of the United States, I suspect like legislative bodies everywhere, deals mainly in the abstract. We deal with blueprints for programs, statistics to verify needs, and hope that somehow our vision is ultimately vindicated by the results of the programs we enact.

CARL PERKINS was unique. The abstract, for him, was of least concern. His focus was always on people—children who go to bed hungry at night, coal miners crippled by black lung disease, working families suffering as a result of unemployment, the youth of our country who deserve the best possible education we can provide them.

This has been particularly evident in the past 4 years as he fought relentlessly as chairman of the Education and Labor Committee, to preserve programs targeted for serious reductions or total extinction. Programs to feed children, to help provide a college education for millions of young people, jobs programs for the millions unemployed as a result of economic policies of the past 4 years. His persistence and dedication to those human values which he so cherished, played an enormous role in reversing some of the cuts of recent years in these programs and warding off even further reductions in other programs.

For this special man very little was abstract; virtually everything took on a very personal meaning.

I recall this characteristic when dealing with him back in 1978 on the matter of adding the city of Ashland in his congressional district as an additional place of holding Federal court in the eastern district of Kentucky. The Judiciary Subcommittee on Courts, which I chair, has jurisdiction over authorizing new places for holding court.

It is common practice for the staffs of subcommittees to work closely with the staffs of the particular Member of Congress whose district is potentially affected by legislation. It is also common practice for the Member of Congress to make contact with the subcommittee chairman to express personal interest in the legislation. But, CARL PERKINS was not a common man insofar as representing the needs of his constituents.

My subcommittee staff relates the instance whereby one morning a tall, lanky gentleman came into the subcommittee office, asked for the staff person handling the court reorganization bill, walked over, sat down at that person's desk, who at first did not recognize the gentleman from Kentucky, and patiently waited until he finished a lengthy phone call. In a most unassuming, but persuasive manner, he made his case and ultimately the addition was made in the final bill. In this personal manner, without pretense, CARL PERKINS served as a quiet giant in the House of Representatives.

Mr. Speaker, this quiet, but forceful voice for social justice has been silenced. But CARL PERKINS left behind a legacy of programs for the poor, disadvantaged, children, working families, and countless others for whom he worked so hard that will live as testament to his kind heart and strength as a legislator.

My sympathies are extended to his family. We will miss CARL PERKINS.●

● Mr. HAWKINS. Mr. Speaker, I want to express my profound satisfaction with the passage of the House Talented Teacher Act, which will encourage and inspire students to pursue a teaching career and to keep talented teachers in the profession.

I am especially pleased that the scholarship program will be named after our great colleague, CARL PERKINS, whose untimely death was a shock to all of us. CARL PERKINS leadership on the Education and Labor Committee opened the way for significant and lasting opportunities for our Nation's citizens. He was continually seeking to make America a better place for all Americans, and consistently and tirelessly sought alternatives to the social and economic deprivations experienced by those who at times were leaderless and friendless.

Among CARL PERKINS' legislative triumphs were landmark measures such as the Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965 and the provision for black-lung benefits in the Coal Mine Health and Safety Act of 1969.

He helped to spearhead Lyndon B. Johnson's war on poverty and took on the task of eradicating human conditions of illiteracy, malnutrition, and joblessness. He revered the words of John F. Kennedy that "a child miseducated, is a child lost" and set into motion a number of sweeping education measures to combat ignorance and poverty.

CARL PERKINS left this Nation a treasured legacy—one which we will continue to honor in his memory.

● Mr. BONKER. Mr. Speaker, the news of CARL PERKINS' passing comes as sad news to me personally, and it is a heavy loss for this House, the people of Kentucky and the Nation as a whole.

Chairman PERKINS will be remembered as a truly great Member of the U.S. Congress. He leaves behind a legacy of social, educational, health, and job-training programs, many of which he personally authored in his 16 years as chairman of the House Education and Labor Committee.

His personal gifts will be sorely missed as well. CARL PERKINS was a tough, formidable chairman, but he was also fair-minded, compassionate and a deeply principled man. Everyone in the House loved and respected the gentleman from Kentucky.

Recently, I had the privilege of working side by side with Chairman PERKINS to enact equal access legislation to protect high school students' free speech rights, particularly in the area of religious speech. Without the tenacity, faith and near genius leadership of CARL PERKINS, this measure would never have become law.

On the week he died, I wrote to Chairman PERKINS to express my appreciation for his work on the equal access bill. Here is what I said:

All of us who believed in equal access are indebted to you, Mr. Chairman, for your tenacity and adroit handling of the issue. There is simply no way this proposal could make it to the President's desk without your faith and unrelenting efforts.

I am personally grateful for the occasion to work closely with you. Having seen a master at work, I am much wiser of the ways of the House than before.

CARL PERKINS possessed the energy and enthusiasm of a new Member while displaying the shrewdness and authority of his 36 years in Congress. His work of 2 weeks was a testimony to his effectiveness. He won passage of the equal access measure, steered legislation through the House to preserve many critical education programs, secured $1 billion to boost math and science education, and was actively involved in the complex floor battle over school prayer.

As so often is the case when someone close has died, I regret not having taken the initiative to tell CARL PERKINS how much I appreciated him as a colleague an as a friend. Hopefully he knew and understood how many of us felt about him. We in the House and the American people are far richer for his many years of distinguished public service.●

● Mr. RAHALL. Mr. Speaker, from the time I came to the House of Representatives in 1977, I valued CARL PERKINS as one of my closest friends and advisors. We shared similar congressional districts, even though they were in two different States, that produced one of the world's greatest resources—coal.

The coal miners of Kentucky and West Virginia have always held a special place in their hearts for CARL PERKINS, for he was the man who fought and won for them compensation and protection from the chief hazard of their profession, black lung disease.

I am honored to have joined CARL PERKINS in his fight, because we both knew of the horrible effect this disease could have on these brave individuals. But it was not the only fight CARL PERKINS waged.

As chairman of the House Education and Labor Committee, CARL PERKINS held firm against budget cuts, regulatory redtape, and nearly every other attempt of various administrations to gut valuable social programs. He carried out this task as a labor of love, because he knew he was serving not only his constituents, but people all over this great land who needed someone to take up their cause, and CARL PERKINS did it with delight.

To show the depth of love and respect the people of West Virginia for their neighbor, I would like to share with my colleagues an editorial that appeared in the Huntington, WV, Herald Dispatch, on the day of CARL PERKINS' funeral:

CARL PERKINS NEVER STOPPED WORKING FOR FOLKS BACK HOME

Funeral services will be conducted today for a Kentucky legend—Rep. Carl D. Perkins.

The 71-year-old Hindman, Ky., native, who died Friday, had served in the House for 36 years, making him one of that body's most senior members. But despite his long tenure on Capitol Hill, he never forgot his Kentucky roots—and never stopped working for the people he represented.

As Kentucky Gov. Martha Layne Collins has said, his strength "was that the people he represented always came first. He never sought headlines. He remained unassuming. He retained the ways of his native Hindman."

Born Oct. 15, 1912, Perkins was first elected to Congress in 1948 after twice serving as county attorney in Knott County and in the Kentucky House of Representatives. But it was with his appointment as chairman of the House Education and Labor Committee in 1967 that he truly came into his own.

As chairman of that key committee from the liberal spending days of Lyndon Johnson through the belt-cinching years of Ronald Reagan, Perkins authored legislation designed to bring improved education, job training and medical care to poverty-stricken Eastern Kentucky. Much of that legislation eventually became national in scope.

The Vocational Education Act of 1963, the Secondary Education Act of 1967 and the Coal Mine Health and Safety Act of 1969 are but three of the landmark bills that Perkins pushed to enactment.

Perkins was stricken by a heart attack Friday while flying from Washington to Kentucky. The trip was a typical one for him—a visit to a mountain school at Blackey, Ky. As an aide explained: "There is a little school up there and they were having a ceremony of some kind and wanted the congressman to attend. It was nothing formal but he wanted to go by and visit them."

That was the kind of congressman Carl Perkins was. And that's why he will be sorely missed.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, CARL PERKINS was certainly a man who truly believed that Government could help people obtain the American dream, and he made that dream a reality by making Government work.

From the School Lunch Program, to providing education for the disadvantaged and assistance for those seeking higher education, CARL PERKINS and the work he did as a member and chairman of the Education and Labor Committee touched literally hundreds of thousands of lives.

As author of the Elementary and Secondary Education Act and the Vocational Education Act, CARL PERKINS' efforts have enabled millions of young Americans from disadvantaged areas to obtain useful educations.

Most recently, Congress approved legislation authorizing scholarships—named in honor of CARL PERKINS—to draw bright students into teaching and to keep good teachers in the profession.

His commitment to our Nation's coal miners was evidenced through his authorship of Federal black lung legislation which enables coal miners who have sacrificed their health to receive just compensation.

Mr. Speaker, all of our colleagues are aware of CARL PERKINS' contribution to this body which strengthened our Nation's commitment to the disadvantaged and disabled. But I have a great personal affection for the man, who when I arrived in Washington, took the time to guide me through the intricacies of the legislative process.

CARL PERKINS will be missed by everyone who looks toward Congress as a body of compassion and good will, by our colleagues who value leadership and understanding, and by those whose lives CARL PERKINS touched as a man, a legislator, and a friend.●

● Mr. CHAPPELL. Mr. Speaker, I commend the gentleman from Kentucky [Mr. NATCHER], for calling this special order to honor our dear late colleague, CARL PERKINS.

CARL was truly a giant of the House of Representatives. He came from Kentucky to this body in 1949, as part of a great class of freshmen that included my good friend from Florida, CHARLIE BENNETT, the chairman of the Judiciary Committee, PETER RODINO, and Clem Zablocki, the chairman of the House Foreign Affairs Committee who passed away less than a year ago. In this class of outstanding freshmen who went on to greatness, CARL stood out for his leadership as chairman of the Education and Labor Committee over the last 17 years. Most Federal programs in the areas of education and labor today bear witness to his strong concern for children and working men and women.

As chairman, CARL PERKINS was instrumental in managing many of President Johnson's antipoverty initiatives on the floor of the House. These programs were vital to the well-being of the people in CARL's district, located in the mountains of eastern Kentucky. His constituents were mindful of this, and since 1968 he received over 70 percent of the vote in every election but one.

CARL recently received widespread attention for his instrumental role in congressional passage of the equal access bill. I know it was not easy for him to buck the leadership on this issue; CARL had learned the value of party unity from Sam Rayburn. However, he felt that the issue of allowing student religious groups the same right to gather as other student groups was important enough for him to take this step, and the Equal Access Act, which has been signed into law, is a monument to CARL PERKINS' legislative skills and his common sense approach to Government.

Finally, I would like to say in closing that I feel a deep sense of personal loss over the death of CARL PERKINS. Having served together since 1969, I was deeply saddened and shocked to learn of his passing. Incidentally, CARL and I shared a strong love for horses; his home State of Kentucky being prime horse country, as is the Marion County region of Florida in which I

was born and raised. We often discussed this topic during quiet moments on the House floor, and I felt a special kinship with him.

CARL was always a pleasant, amiable man with a kind word for everyone, and I know that I speak for my colleagues, past and present, when I say that we all benefited from his friendship. My sympathies go out to CARL's widow, Verna, and his son, State Representative Chris Perkins, who has been nominated to succeed him. Our condolences must especially go to the good people of eastern Kentucky, who have been deprived of his outstanding representation in Congress, and to the students and workers of all the United States, who have lost a great champion.

I thank the gentleman for permitting me this opportunity to pay tribute to CARL PERKINS, and I appreciate his calling this special order.●

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from Kentucky and chairman of the House Labor, HHS, Education Appropriations Subcommittee, Mr. NATCHER, for reserving this time to pay tribute to our colleague, the late Chairman CARL D. PERKINS. Mr. Speaker, I was shocked and saddened to learn of the passing of CARL PERKINS on August 3. With his death, this House and this Nation lost a great leader and a good friend.

Upon learning of CARL's death, I thought a great deal about his career in public service which spanned over four decades. I know that Members of both sides of the aisle will agree that CARL PERKINS was truly a great statesman.

Since his first election to the House of Representatives in 1948, CARL D. PERKINS worked vigorously to strengthen this Nation and particularly its disadvantaged citizens. Most of the great society programs, antipoverty programs, and job training programs such as the Humphrey-Hawkins bill would not have been enacted if it had not been for CARL PERKINS. For that, the American people and the people of the Seventh District of Kentucky have much to be proud and thankful.

Mr. Speaker, when I first came to the Congress, my initial committee assignment was on the House Education and Labor Committee. CARL PERKINS was chairman of the committee. Although I served on the committee for only 2 years, I had a firsthand opportunity to get to know CARL PERKINS. As a result of that association, I formulated a high regard for CARL's legislative ability. Moreover, Mr. Speaker, I developed a deep sense of respect for CARL's compassion and commitment to the American people.

After I left the committee, I still had the occasion to make appearances before Chairman PERKINS and the Committee on Education legislation which I sponsored. I also appeared before the committee, on many occasions, to introduce my former superintendent of schools, Dr. Bridges. Each time, CARL PERKINS was courteous, considerate, and patient.

He was that kind of individual. He was always concerned about his fellow man whether they resided in his home of Hindman, KY, or walked the streets of any city of America.

Through the years, my respect and admiration for CARL grew. I know that many of my colleagues share that assessment of CARL.

I will miss his compassion and dedication to the Congress, to America, and to the people. At this time, I send my condolences to his family and his constituents.

Again, thank you Mr. Speaker and Mr. NATCHER for allowing me to join in this tribute to my friend, the late CARL D. PERKINS.●

● Mrs. BURTON of California. Mr. Speaker, I would like to join my colleagues in paying tribute to CARL PERKINS.

CARL and I were friends for many years before I came to Congress and he was my subcommittee and full committee chairman over the past year. My husband Phillip served with CARL on the Education and Labor Committee for almost 20 years.

As a legislator, he had few equals. His record of achievement in education is historic; his commitment to education was strong long before it became the latest political trend.

CARL PERKINS was champion of the powerless—he used his influence and power for those who had little of their own. His mighty ambition was to ensure that these people worked in safe places, that they had adequate nutrition, and that they had good schools for their children. Millions of families throughout this country live better lives because of his work.

This body will miss him. We look forward to his son, Chris, carrying on his fine tradition in the House.●

● Mr. CARR. Mr. Speaker, I am truly saddened over the passing of our friend and colleague CARL D. PERKINS. He was a good man, a fine and able Congressman, and truly a man of the people from the rolling hills of Kentucky. His life was dedicated to the belief that government should be a positive force reaching out to help the less fortunate in our society. The great improvement in the quality of the lives of the people in the Seventh District of Kentucky is a monument to his achievements.

Millions of Americans have benefited enormously from CARL PERKINS' efforts on their behalf. Students from disadvantaged areas have gained a valuable education, and been given the means to better themselves, by the 1963 Vocational Education Act and the 1965 Elementary and Secondary Education Act. CARL PERKINS wrote and played an instrumental role in the passage of both of these acts. He had a strong commitment to the goal of improved educational opportunities for all Americans and great strides were made under his leadership.

Education was not the only area where CARL PERKINS worked to help those in need. Coal miners in Kentucky and elsewhere across the Nation who suffer from black lung disease now receive deserved compensation, largely thanks to CARL PERKINS. The Johnson administration's War on Poverty programs were passed under his guiding hand. Always a man of principle, he was 1 of only 11 Southern Democrats in the House to vote for the Civil Rights Act of 1964. In this and so many other ways, CARL PERKINS demonstrated what a great man he was. I have nothing but praise for him, and we are much the poorer for his absence.

I wish to express my sincere condolences to his family and to his wife Verna. He will be missed by all of us.●

● Mr. LONG of Louisiana. Mr. Speaker, during his 35 years as a Member of the U.S. House of Representatives, CARL D. PERKINS served a constituency far broader than his own. His eastern Kentucky mountain district strengthened the Nation by providing an effective spokesman and tireless worker for the poor, the old and disabled, the educationally deprived, the hungry, and those whom the economic system left behind.

He was born and brought up among the poor. Although a long career of distinguished public service brought him many honors and gained him wide recognition in the world, CARL shunned the trendy sophistication of the hour. He held fast the simple beliefs and direct action of his heritage.

CARL PERKINS was an early advocate of Federal aid to education, a position spurred by his firsthand knowledge that the children of the poor were triply handicapped by inadequate schools, poor nutrition, and limited career opportunities. After years of stalemate in a hostile Congress, CARL finally prevailed when the landmark Elementary and Secondary Education Act was signed into law in 1965. Also, he sponsored the Vocational Education Act of 1963 which expanded and unified prior Federal programs in that field. And 5 years later, he steered to passage the 1968 amendments which authorized Federal support for vocational education on a scale never before thought possible. His long-fought-for Adult Basic Education Act became law in 1964.

CARL was an early and enthusiastic supporter of President Lyndon Johnson's War on Poverty and a key sponsor of the Economic Opportunity Act

of 1964. During the early years of the Office of Economic Opportunity's efforts to stimulate jobs, training, health care, and organization of the underprivileged of society, CARL was the agency's champion in the House. Some of the more conservative interests of the House and of the country were unnerved by OEO's success, and the agency was threatened with extinction when it came up for reauthorization in 1967. CARL worked endless hours during the first months of his chairmanship of the Education and Labor Committee and glued together a successful coalition that astounded OEO's friends as well as its enemies.

When the Nixon administration came to power in 1969 with the announced intention of dismantling the antipoverty program, it was the silhouette of CARL PERKINS that appeared on the battlements to rally the troops and wave the banner of the poor against the attack.

CARL's advocacy and strong leadership in enacting student aid legislation made it possible for thousands of poor young people to attend college and move on to successful, contributing careers.

He is recognized throughout the Nation for his work in support of child nutrition and school feeding programs which immensely benefitted poor children.

He has been a strong force for area development legislation which he viewed as a tool to provide jobs, decent public facilities, and an end to the isolation that weighs so heavily upon poor people.

Because he has seen hundreds of coal miners in his native Appalachia sicken and die with pulmonary diseases induced by coal dust in the work place, CARL wrote and literally hammered to passage the black lung benefits provision of the Coal Mine Health and Safety Act of 1969. He thereby brought recompense to thousands of American miners and their families for whom industrial disability would have meant the end of income and the rapid descent into poverty and want.

There is no way to adequately reiterate the accomplishments of CARL D. PERKINS. But his eminent role in the Congress is very clear: The No. 1 public servant of the poor.●

● Mr. KINDNESS. Mr. Speaker, the death of our colleague, CARL D. PERKINS, is an inestimable loss to the Congress of the United States. There are no words to describe the breadth of his influence in this Chamber.

CARL PERKINS will be remembered as a friend of the working man and a friend of education; but his devotion to the people of eastern Kentucky, to the people of his country, and to the institutions which protect our freedom reached far beyond the interests of any specific constituency. Among the many men and women who have served so well in this body, he was truly a giant.

Many of CARL's constituents were descended from the settlers who came to Kentucky with Daniel Boone, and everything about CARL, from his soft voice to his perpetual grin, reflected his mountain heritage. Is it any surprise that he was a major figure, a pioneer, in the fields of education, social services, and labor?

The many laws and programs that bear his imprint will assure that CARL PERKINS will not be forgotten. But those of us who were privileged to serve with him will not only remember his accomplishments, we will remember his friendship as well. CARL was determined and tenacious, but he was also gentle and kind.

CARL PERKINS was the embodiment of all that is honorable and upright in public service.●

● Mr. FUQUA. Mr. Speaker, it was with great shock and sadness that I learned of the passing of our colleague, the Honorable CARL PERKINS on August 3, 1984. CARL PERKINS was both a personal friend and a friend of the Committee on Science and Technology. He was a man of unswerving integrity and of dedication to the programs in which he believed whether or not they were in fashion with an administration. There never has been and may never be again a more knowledgeable and articulate spokesman for Federal education programs. In his 17 years as chairman of the Committee on Education and Labor he did as much as anyone to invent and fashion the current Federal role in education. He was a leader in the development of employment and antipoverty legislation and a strong advocate for the use of coal. Those of us who survive him have lost a mentor and a legislative force to be reckoned with. The fact that he did not have a serious challenger in almost 30 years in a bipartisan State says much about the respect and admiration that Representative PERKINS enjoyed both at home in Kentucky and here in the Nation's capitol.

We on the Committee on Science and Technology were honored to work with Representative PERKINS many times over the years on matters of lasting importance. I remember with gratitude in the early 1970's Congressman PERKINS' effort to help launch a synthetic fuels industry. He was cosponsor with our great former chairman, Olin Teague, in the 93d Congress of the first serious effort to establish loan guarantee programs for new technologies using our vast coal resources. Representative PERKINS supported these programs with equal tenacity during the early years when the technologies were emerging into public awareness, during their popular years when they were touted as the primary answer to our energy problems of the future, and in the latter years when they had lost some of their popularity. CARL PERKINS had been around Washington long enough to know what he believed in and he stuck to his guns.

He also exerted strong leadership in those problems directly affecting his district, coal mining health and safety, and flood control. When he came to Congress there was no Federal legislation on health, and only very limited requirements for mine safety. He was among the first to push for stronger coal mine health and safety legislation, and worked very hard in the 1970's to assure that the legislation then on the books was implemented for coal miners and their families.

He was well aware of the enormous benefits of proper flood control in the area of eastern Kentucky which was plagued by floods. Through his unrelenting efforts the Tug Fork River and others along the Big Sandy were dammed. As a result, millions of dollars in property losses did not occur and many lives have been saved.

It also has been a great pleasure over the years to work with CARL PERKINS in an area of crucial importance to both of us, scientific and technical education. For these programs, Representative PERKINS' last year was one of his most effective. He was a moving force behind the recently enacted legislation to boost the quality of math and science curricula and teacher training that were considered both by the Education and Labor Committee and the Committee on Science and Technology. He is the father of this year's vocational education amendments that will make sure that the Nation's vocational schools participate fully in the current technological revolution. He also was a prime mover behind the computer literacy bill which may soon be considered on the floor of the House of Representatives. We can all be grateful that this work was well underway before Representative PERKINS was taken from us.

Mr. Speaker, as you and I well know from years of firsthand experience, CARL PERKINS was one of the true giants of the House of Representatives and he is sorely missed by those of us who knew and respected him.●

● Mr. SAM B. HALL, JR. Mr. Speaker, for over 35 years our dear friend and cherished colleague, CARL PERKINS, was an imposing figure in the Congress. His name is synonymous with landmark social legislation that has had a monumental impact on the body politic. His success as a legislator is legend, and an incredible amount of statutes bear his name as author.

When CARL PERKINS departed this life he was in the process of doing what he had done for 35 years; namely, returning to eastern Kentucky to meet with his friends and constituents. He loved the people of eastern Kentucky and he fought tena-

ciously for them. His people loved him too, and the proof is found in the overwhelming majority he received every other November at election time.

CARL PERKINS was the epitome of the Kentucky gentleman. He was courtly, generous, and kind. As he moved about the Halls of Congress, no one was a stranger to him. He knew no class or priority of class. He was an egalitarian in the classic sense, a man who loved democracy, preached democracy, and practiced democracy.

As I pointed out, so much legislation bears his name until a recapitulation would be almost impossible. He awakened the Nation to the plight of the poor. He fought for the working men and women. He believed in education, quality education and universal education for all our citizens, and again, far-reaching, landmark educational measures bear his name and his genius. In short, he knew how to legislate, and when the future historian writes the utimate handbook on how to legislate that historian can use CARL PERKINS as his role model.

Kentucky, the Nation, and Congress will sorely miss CARL PERKINS. He was a giant of a man, the kind of man that can only be produced by a free society that places ultimate value on the wealth and dignity of its citizens. He excelled in every aspect of citizenry and public service—a combat soldier, elected official, community leader, family man and a person of deep and abiding faith in the Almighty.

Mr. Speaker, the CARL PERKINS kind of man is not easily replaced, and in the months and years ahead, we'll all realize this more and more. We've lost a great friend, and I for one will cherish his memory.●

● Mr. NICHOLS. Mr. Speaker, I would like to thank Bill Natcher for this opportunity for Members of Congress to say good words about our friend CARL PERKINS.

Good words are all I know to say about CARL PERKINS, because he was that sort of Congressman. Whether you agreed with him or not he never lost his temper in dealing with his colleagues on the floor.

CARL had special feelings, special love, and special devotion for the people he represented in the great State of Kentucky. He was especially mindful of those individuals throughout America, through no fault of their own, were not privileged to get an education, and he spoke for them continuously in the Halls of Congress.

I was not privileged to attend his funeral because of other commitments, but I understand there was a tremendous outpouring of affection from all walks of life, and that the numbers were so large that many had to stand on the outside.

Mr. Speaker, poets have written, "lives of great men all remind us, we too can make our lives sublime and departing leave behind us footprints on the sands of time." CARL PERKINS left footprints—great footprints—deeply imprinted on the hearts and lives of those of all races, creeds, and colors, who because of his untiring efforts, received a better education and a better place to live. He did all of these things because CARL PERKINS cared. I extend my deepest sympathy to his entire family in their time of need.●

● Mr. RUSSO. Mr. Speaker, the sudden death of Congressman CARL PERKINS is a great loss to us all. This fine gentleman and highly respected Congressman for over 35 years served his constitutents, his State, and his country with wisdom and unflagging commitment to his work as a representative of the people. It's hard to believe he won't be here anymore, to guide us, inspire us, and demonstrate the finest skills of legislative work.

Someone once said that there is no outward sign of true courtesy that does not rest on a deep moral foundation. Representative PERKINS' courtesy indeed came from the heart, and it was a pleasure to know him and be the recipient of his kindness and consideration. In his personal relationships and in his work he always acted with respect for the opinions and feelings of others and this served him as well as the process well.

He will be greatly missed, but he leaves behind a rich legacy of legislation that benefited many and will serve as a lasting memorial to this good man.●

● Mr. SEIBERLING. Mr. Speaker, I rise today to pay tribute to an outstanding Member of Congress and a good personal friend, the late CARL D. PERKINS.

CARL PERKINS devoted most of his professional life to improving education in this country. Few Congressmen have had a greater impact on their colleagues and this Nation. As dean of the Kentucky delegation, and as chairman of the Education and Labor Committee since 1967, CARL PERKINS was the driving force behind Federal aid to education and to students. His legislative accomplishments are well known. He was the author of the landmark Elementary and Secondary Education Act of 1965 and the Vocational Education Act of 1963. He was an outspoken advocate of student aid programs, including Federal scholarships, work-study, and student loans. In 1978, he engineered passage of the Middle Income Student Assistance Act which for the first time extended Federal education benefits to students from middle income families. And he was the primary founder and a fierce supporter of the School Lunch Program. If anyone in Congress deserves the title of "Mr. Education," it is CARL PERKINS.

Early this year, CARL accompanied me back to my district, where he met with educational leaders, parents, students, and others interested in education issues. Through similar discussions around the country, Congressman PERKINS kept in touch with the concerns and needs of the people most directly affected by the decisions we make here in Congress. He always spoke up for providing educational opportunities to the poor and disadvantaged so that they could improve their chances of sharing in the "American Dream." He never forgot the people whom he was elected to serve.

In addition to his many professional achievements, he was a compassionate, genuine, unpretentious, warm, and sympathetic person. He was a close friend and an admired colleague. With his death, this Nation lost a great Member of Congress and an outstanding human being. It is a privilege to join with so many colleagues in honoring this humble, great man.●

● Mr. WHITTEN. Mr. Speaker, I can add little to the many, many fine statements made about our late friend and colleague, CARL PERKINS of Kentucky. I merely say that I concur with those statements and when the record is written of the thousands of Members of Congress, CARL PERKINS will stand out as one of the most effective Members; one who never lost sight of the people he represented nor of the rightness of his position as their spokesman.

CARL leaves a deep imprint on our country and thousands of people are better off because of his service.

We extend to his family our sympathy and understanding. We have lost a friend and the country has lost a great man.●

● Mr. DINGELL. Mr. Speaker, I rise to express my great sadness at the loss of our great colleague, CARL PERKINS of Kentucky. I want to thank my good friend from Kentucky, Mr. NATCHER, for arranging this special order; there is no Member and no chairman more deserving of the thoughts expressed by our colleagues than CARL.

Ever since I first came to Congress nearly 30 years ago, CARL PERKINS served as a model for me and for other Members of this House. He was always honest, always honorable and always caring.

CARL PERKINS worked unstintingly for Americans in need. The list of his legislative accomplishments is extremely long, and I must say that his view of what our Federal Government should do for our people was invariably consistent with my own.

CARL PERKINS believed, deep in his heart, that there is a covenant between our Government and our people, that there is a faith which must be kept.

In education, in workplace safety and workers' health and compensation, in black lung benefits, and in

hoards of other areas, CARL PERKINS acted on his beliefs. More, of course, he acted fairly and successfully. Over the years, I should add, CARL PERKINS assembled a superb staff who shared completely his sense of fairness and his vision for our country.

CARL PERKINS was a great Member of Congress and a great committee chairman. More than that, he was a great American. I will miss him, and want to express my deepest sympathy to his family, for I grieve at their loss.●

● Mr. McDADE. Mr. Speaker, I commend my colleague from Kentucky for taking this special order to commemorate our late colleague, CARL PERKINS.

The House of Representatives has lost one of its truly great humanitarians. Congressman PERKINS devoted his life to improving the lot of others, particularly his constituents from the hollows of Kentucky.

CARL PERKINS was determined to make life better for succeeding generations and to improve opportunity for everyone, particularly the physically handicapped, economically disadvantaged and poorly educated.

Every major piece of legislation coming through the House of Representatives dealing with education or rehabilitation in the last 36 years bore his stamp. While it would take hours to review his entire legislative record, I would like to remind my colleagues of just a few of his legislative contributions.

Significant improvements were enacted in the Vocational Rehabilitation Program as a result of his efforts. He helped enact the war on poverty which established many new innovative programs to help the economically disadvantaged. He played a major role in the enactment of the National Defense Education Act which ultimately led to expanded student grant and loan programs for higher education so that no one would be denied higher education due to the lack of financing. He was the major sponsor of the Education of All Handicapped Children Act—Public Law 94-142. This act opened public education's door to physically and emotionally handicapped children and provided assurance that their educational needs would be met.

Congressman PERKINS was also a strong supporter of the School Lunch Program and spearheaded the drive to provide free and reduced-price lunches as well as initiating the Breakfast Program.

The Seventh District Congressman can certainly be used as a role model for those Members who place top priority on serving the needs of their own constituents. However, it was not only the residents of the Seventh District of Kentucky who profited from the programs that resulted from Congressman PERKIN's work, but economically and educationally disadvantaged across the Nation.

With these major programs in place, it is up to those of us who follow him to make sure that they live up to his expectations.●

● Mr. DANIEL. Mr. Speaker, our friend and colleague, CARL D. PERKINS, left a lasting imprint not only on the memory of those who served with him but on the history of America.

His devotion and dedication to the cause of education are reflected in the legislation which bears his name or which came out of the Education and Labor Committee, which he so ably chaired. CARL took pride in his roots. He was an able representative of rural America; yet he recognized that education is perhaps the single most valuable asset a young person can have. He strove hard to make education more available to the average person—and insisted on making that education of the highest possible quality.

In his quiet, unobtrusive way, CARL became one of the most effective legislators in Washington. The reservoir of respect which he built over the years started with a solid foundation of basic values. Whether it was education, tobacco, labor legislation, or any of the other host of areas in which he maintained an interest, he was zealous in behalf of those he represented and recognized his role in behalf of the national interest.

CARL is missed by all those who knew him, but his family can take consolation in knowing that he left his imprint for good.●

● Mr. BIAGGI. Mr. Speaker, more than a month has passed since the stunning news came of the sudden death of our beloved friend and colleague CARL PERKINS. Yet, as I participate in this special order today with so many of my colleagues—I still grieve over the enormity of this loss—to this institution—to this Nation and to me as an individual.

CARL PERKINS was returning home to his Kentucky district on Friday, August 4, when he was struck with the fatal heart attack. He was doing what he had been doing for each of the almost 36 years that he served the people of the Seventh Congressional District—he was going home to them. CARL PERKINS served longer than any other Member of the House of Representatives from Kentucky. History may well record that no one served any better.

On this occasion we try and discuss the individual relationships we had with the gentleman from Kentucky, CARL PERKINS. Mine was an especially close and rewarding one for I served with CARL in the arena where his influence was the greatest—on the House Education and Labor Committee. When I began my service in the House in 1969—CARL PERKINS was the chairman of the House Education and Labor Committee, a position he held until his death on August 4. Literally and figuratively—he was Mr. Chairman to me for all of these 15 years.

An appreciation of CARL PERKINS cannot be accomplished just by reciting his enormous list of legislative accomplishments. Rather one should view his legacy as an ongoing one—that can be seen in each of our congressional districts. It can be seen in the eyes of a young schoolchild receiving a school lunch or on the day that a college or university student graduates helped by the student grant or loan that helped provide him with the opportunity to pursue his higher education. Perhaps it will be seen in the eyes of a handicapped person who has been able to effectively mainstream him or herself into society through the passage of legislation to end discrimination against them. The CARL PERKINS legacy will be seen each and every day in senior citizen centers where millions of senior citizens are able to get one hot meal a day 5 days a week from the Older Americans Act. This list could go on and on but suffice it to say that CARL PERKINS will be remembered not for being a skilled legislator—but for what he legislated.

Let us recall for a moment the last days of CARL PERKINS. On the very day before he died one of the last insertions in the CONGRESSIONAL RECORD of August 2 was a motion by Chairman PERKINS for the House to go to conference with the Senate on H.R. 1904, the Child Abuse Prevention and Treatment Amendments of 1984. It was one of several bills which were reported out by the Education and Labor Committee that were awaiting conferences with the Senate. It is tragically ironic that Chairman PERKINS died during an especially productive year for his Education and Labor Committee. The committee seemed to have renewed energy and purpose as reflected in its ambitious legislative agenda which included new initiatives to improve math and science teaching in our schools to providing equal access to groups meeting in our schools—to reauthorization and expansion of such landmark laws as child abuse prevention, vocational education, the Older Americans Act, and a host of others.

CARL PERKINS was an activist chairman. He saw to it that he knew all facets of the work of his committee. No issue was too small for him—no issue too complex for him. He was a fair, determined and even a noble chairman for he always had the good of the people as his paramount concern.

As we remember CARL PERKINS tonight—we all have anecdotes of this man. It seems they are easy to recall because they were so much a part of our lives in this town. I recall so many markup sessions in the House Educa-

tion and Labor Committee when CARL would not only preside—he would display an awesome ability to prevail. Yet he did not do this by intimidation—he did it largely through the immense influence he had over the committee which came from his knowledge and commitment to the many causes and issues which came before him on the committee. He combined this knowledge with his unique brand of congeniality which resulted in people being cajoled rather than coerced into supporting the chairman. I know this because there were times when I might not have been disposed to support the chairman but more often than not—a word from the chairman accompanied by the strong right arm around your shoulder did the trick.

Those of us with increasing seniority in this body realize that we are sometimes measured by the quality and relationship we have with our staffs. CARL PERKINS both on the Committee on Education and Labor and in his personal office had staff who were loyal to him and who cared for him so much. They gave him many years of productive service and CARL PERKINS in turn gave each and every one of them something in return—a unique learning experience—himself and his work.

CARL PERKINS was a warm, friendly, and dedicated man. He was a man not prone to be unduly casual to his fellow colleagues—he would always call me Mr. BIAGGI over the years but that was more his sign of respect than formality. We all remember his unique characteristics—his rambling walk—his mountain drawl and his incredibly strong right arm which he would use to wrap around you to gain support for a position—or to gavel the committee into session—or to end a vote expeditiously.

How does one pay the proper tribute to CARL PERKINS? I was one of those who traveled to Hindman, KY, that warm day in August. I remember the trip and the awesome but simple beauty of the parts of the Seventh Congressional District that we traveled through. It was easy to see why CARL loved it so much—and why he felt honored to represent its people in the Congress of the United States.

What I also saw that day at the packed funeral service was the genuine love and respect which the people of CARL's district felt for him. They knew that despite more than three decades in the city—that he never lost touch with them. They realized that when he was championing a cause—he was fighting for them. They realized as his seniority increased—so too did his influence on their behalf.

I remember in the audience that day were coal miners and their families. What better example was there of CARL's commitment to the people of Kentucky. He made coal mine safety and black lung benefits personal crusades that he followed through to their fruition. The result of this is, of course, a reduction in the number of mine deaths in America—and the provision of benefits to victims of black lung as well as their families.

CARL DEWEY PERKINS—a quiet statesman—a gentle giant—a good and caring man. CARL PERKINS—a man of courage, competence, commitment, and compassion. CARL PERKINS—a legislator's legislator, both in terms of his tenure in Washington and his service to the people of his District. CARL PERKINS, devoted family man—many of us had the good fortune to meet and know his lovely wife, Verna—who for some 45 years was more than a wife to CARL—she was a partner in all aspects of their lives. His son, Carl Christopher, who has announced his intention to run for his father's seat, was also such an important part of CARL's life. I extend to them again my deepest condolences and assure them that their loss is felt by the House and the Nation.

I in my own way will work especially hard as a senior member of the House Education and Labor Committee to see to it that the many initiatives which have emerged from the committee under the leadership of our late chairman reach their final legislative status. What more effective and meaningful tribute could we pay to this great man than to allow the programs he loved and sheparded so well in the House be continued and expanded to help those in need as well as those who cannot help themselves.

Thomas Hardy once wrote: "Measurement of life should be proportioned rather to the intensity of its experience than to its actual length." If one applies that measurement to the life of CARL PERKINS—what a marvelous productive and rewarding life this great man had.●

● Mr. CONTE. Mr. Speaker, at this time I wish to remember my long-time friend and esteemed colleague, CARL D. PERKINS. When I first arrived in Congress, CARL had already been here for some years. I soon recognized him for what his other colleagues already knew him to be—a forthright and honest person, and a skilled legislator.

CARL was a devoted and caring man, and his soft-spoken charm combined with his limitless energy made him a pursuasive legislator. As chairman of the Committee on Education and Labor, he was both sponsor and prime mover for the bulk of this country's social welfare legislation. He frequently spent long hours preparing a single bill and convincing his colleagues to support it. The issues of education and public health and safety were closest to his heart, and it was his gains in these areas of which he was proudest. During the numerous times we worked together on various education bills, I was impressed by his tireless labors and endless concern for the plight of others.

CARL never forgot those he was elected to represent. Even after over 35 years in Washington, you could tell that he hadn't ever really left Kentucky. When he returned home, CARL would tour the countryside by car, often alone, stopping to visit with friends and strangers alike. There were few people in his constituency who didn't know CARL. And though he felt a responsibility to the entire Nation, he never forgot his Appalachian roots. These people were not merely voters, but also his friends and his inspiration. It was clear to me while attending the funeral service held for him in Hindham, KY, that CARL's constituents felt the same way about him. In a touching tribute, over 5,000 people crowded into the local high school gymnasium to pay their final respects to this great man. It has been an honor and a privilege for me to have had CARL PERKINS as a friend and colleague.●

● Mr. PATMAN. Mr. Speaker, one of the giants of our Congress, CARL D. PERKINS, will be remembered by his colleagues not only for the number of important bills that bear his name, but also because of the strong leadership and dedication to moral principles that he provided.

I had a great admiration for the late distinguished chairman of the Education Committee because he was such an outstanding person apart from his legislative achievements. He was always truthful and frank in expressing his views, yet he was also always a gentleman through and through. His integrity could never be questioned. He was a man we could depend on to provide leadership in the important field of education.

The programs that CARL D. PERKINS succeeded in enacting will provide generations of schoolchildren an opportunity to achieve their potential. Every classroom in America has benefited from his devotion to encouraging education.

The wise counsel and concern for education expressed by the life of CARL D. PERKINS will remain an inspiration for those who follow in his path. We shall all miss him, a truly outstanding man.●

● Mr. EDWARDS of California. Mr. Speaker, it was with immense shock and sadness that I learned of the passing of our beloved colleague, CARL PERKINS. His death will be mourned by millions of Americans, but those of us who were his friends are desolate.

When I came to this great House of Representatives in January 1963, CARL PERKINS was not yet the chairman of the Education and Labor Committee, but even then he was referred to as "Mr. Public Education." The school-

children of America had a friend in high places who was making certain that their education needs were being addressed.

In the late 1970's, I was privileged to occupy a congressional office in the Rayburn Building next door to CARL PERKINS. My staff and his competent and friendly staff became friends as well as neighbors. Their door was always open to us. I personally spent many congenial hours chatting with CARL and the splendid men and women who worked with him.

Earlier this year, CARL and I had our first disagreement. It was regarding the legislation known as "equal access." CARL, in his most sincere and honest way, wanted it enacted. I didn't, and I worked to defeat it. CARL won, of course, and equal access is now Federal law. It was a hard fight, involving considerable emotion and pressure from outside groups, but CARL and I, while each ardently pursuing our goals, never had an angry word. Many days we walked together to the House Chamber, with CARL in that inimitable friendly way of his, holding my arm.

It seems fitting to mention, that even as CARL and I fought a spirited battle on one issue, we were engaged in another equally spirited endeavor—working closely together this time—to obtain approval of the Civil Rights Act of 1984. This bill to reaffirm civil rights laws which prohibit Federal aid to institutions that discriminate was passed by the House on June 26, in no small measure due to the diligent efforts CARL made. Its approval by the Senate and enactment into law will be a fitting tribute to CARL's outstanding tenure in Congress and to his decades of service to the cause of quality education.

Mr. Speaker, we miss CARL. The children and teachers of America miss CARL. He was truly a giant.●

● Mr. MCEWEN. Mr. Speaker, I am proud to join with my colleagues, friends, and neighbors from Kentucky today to honor one of America's great legislators and a champion of our Nation's poor and disadvantaged. CARL PERKINS' influence in this Chamber and across our land has been felt over the course of five decades.

In 1948, the good people of Kentucky's Seventh District elected CARL PERKINS to represent their concerns in Washington. For the next 36 years he did not disappoint them—for while CARL PERKINS will be remembered by most Americans for his efforts on behalf of the disadvantaged and disabled in our country, he will be remembered by the citizens of northeastern Kentucky as a kind and gentle man who responded to their needs and represented their views to the best of his ability. That is a lasting tribute.

CARL PERKINS was a people's Congressman who went about his work here with quiet dignity. He was a principled man who stood up for what he believed in, even if those beliefs flew in the face of so-called "traditional political wisdom." CARL PERKINS didn't do things simply because that was "what was expected." He did what he felt was right and good for the people of Kentucky and the Nation.

CARL PERKINS was an advocate for social justice and a leader in the education field. During his 16 years as chairman of the Education and Labor Committee, CARL left his mark on American history through programs designed to help our Nation's children, poor and elderly and others who could not help themselves.

For more than a quarter of a century, Congressman PERKINS was at the forefront of health and education reform in our Nation. From the school lunch program to education for the disadvantaged and assistance for higher education, he always led the fight for the needy in America. His 1963 Vocational Education Act and the landmark 1965 Elementary and Secondary Education Act are but two examples of CARL PERKINS' historic accomplishments.

Just a week before his death, CARL PERKINS led another fight for fairness and justice in our Nation's schools. By bringing the equal access bill to a vote on the House floor, Congressman PERKINS assured that generations of schoolchildren will have the same simple freedoms of speech and assembly granted to others in the United States. The equal access bill exemplified what CARL PERKINS was all about—fairness, equal opportunity and a helping hand for the young, elderly, poor, disabled and disadvantaged.

CARL PERKINS will be missed in this Chamber, but he will not be forgotten because he has left his gentle and kind touch on the very fabric of our society through his legislation.●

WHAT MR. MONDALE DID NOT DETAIL IN HIS PLAN TO CUT THE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I was not going to take a special order today. I would just like to start off by saying I wish I had known CARL PERKINS better. I have listened with a great deal of interest to all of the remarks that were made about him today and he must have been a giant of a man and I have only been here one term and I did not have a chance to get to know him better. But I think I would like to be a lot like him and I would like to say that to his friend and relatives who are with us today. I wish I had known him a lot better.

Mr. Speaker, we are in an election year and there is a great deal of rhetoric that is going to be heard by the people of this country regarding this administration, and what they have or have not accomplished and along with that, unfortunately, there will probably be a lot of demagoguery and that concerns me a great deal because I think that the people of this country want to hear the issues discussed and what should or should not be done for America in the coming 4 years and not listen to a lot of political rhetoric that is designed to scare various segments of our society.

Now, the reason I took this special order tonight is because the Vice Presidential candidate on the Democratic Party ticket, Ms. FERRARO of New York, indicated the day before she came to my district in Indiana that she was very fearful that the President of the United States was going to, in effect, let the Social Security system go down the drain, cause the demise of it.

And that, Mr. Speaker, is nothing but pure political rhetoric and demagoguery and it should not be allowed in the campaign this political year, this presidential year. Everybody knows, Mr. Speaker, that this Chamber and the Chamber down the hall is not going to allow Social Security to go down the drain. And the President of the United States is not about to let Social Security become a thing of the past.

As a matter of fact, we all know that the President was the person who appointed the bipartisan Committee on Social Security to come up with a program and a plan to save that system and it was done during this last year.

So for the Vice Presidential candidate GERALDINE FERRARO to indicate that President Reagan is going to be the author and finisher of the Social Security System is just irresponsible and I would like to ask her to refrain from that kind of rhetoric throughout the remainder of this campaign.

□ 1850

Former Vice President Mondale just yesterday announced his program for solving the economic problems facing America. He came up with a deficit-reduction program and he said that was going to be the cure-all for this country for the coming 4 years. I think it is important that we talk to the American people about that tonight and let them know what the Mondale-Ferraro ticket has advocated and how that will stack up against the Reagan program.

There was a headline in the paper today here in Washington that said, "$85 billion tax hikes: Mondale's solution for the United States," the cure-all for the United States. The middle class is targeted for much of the cost,

and I would like to read just a few excerpts from this newspaper article:

"Walter F. Mondale's newly unveiled deficit reduction plan relies almost exclusively on higher taxes, with much of the burden falling quietly on the middle class. $85 billion in new taxes. The Democratic presidential candidate apparently rejected any sweeping proposals for tax simplification, some of which originated within his own party. By doing so, Mr. Mondale risked evoking criticism from both Democrats and Republicans that he lacks initiative and boldness in tackling stubborn economic problems that persist, despite a 23-month-old economic recovery. There was no consideration of a new and creative tax scheme," said Robert Gough, a senior vice president at Data Resources Inc. in Lexington, Massachusetts.

"He, Mr. Mondale, is dealing with the traditional pieces of the tax code, and you don't get a lot of bang for the buck by playing with the traditional pieces," said Mr. Gough, a self-described, middle-of-the-road Democrat.

Mr. Mondale's plan, announced at a news conference yesterday, would postpone beyond January indexing—a plan that protects lower- and middle-income workers from creeping into higher tax brackets as inflation increases their income.

Rough calculations indicate the delay in indexing would raise about $50 billion of Mr. Mondale's proposed $85 billion tax hike, Mr. Gough said.

Throughout the 1970's, inflation pushed all but the wealthiest taxpayers into higher tax brackets.

And this is very important.

For example, it now requires about $25,000 to purchase what in 1970 could be bought with $10,000.

But a worker who earns $25,000 today finds his tax burden more than double that of a $10,000 wage earner in 1970 because he is in a higher tax bracket.

Other things being equal, a worker today takes home less of his paycheck, can purchase less and has a lower standard of living than he did in 1970.

So Mr. Mondale's proposal is going to cause a larger burden on the already over-burdened middle-income taxpayer.

I would like to do a summary of Walter Mondale's proposals that he made in January and then contrast that with what he advocated September 10, yesterday.

In January, Walter Mondale repeatedly emphasized the need to reduce budget deficits through a combination of tax and spending action and to that end he set forth a plan in January 1984 that he claimed would reduce deficits by more than one-half by 1989. At the Democratic National Convention this July, he pledged to reduce deficits by more than one-half, up to two-thirds, by 1989, but just yesterday was the first time he came up with a plan to do that.

The present study, and they are talking about the one based upon his January proposal, details the dimensions of the Mondale budget problem based on information published to date and assesses the impact on the American taxpayer. The basic conclusions are as follows:

No. 1, Mondale has already made campaign promises that would increase spending by at least $69 billion per year and by as much as $176 billion per year, and I am going to enumerate those increases in just a few moments.

No. 2, Mondale's proposed spending reductions would realistically save only $26 billion, and certainly no more than $40 billion.

No. 3, in proposing to cut deficits which he projects at $200 to $263 billion by two-thirds, Mondale would have to reduce deficits to between $67 and $88 billion.

No. 4, since his spending cuts do not even finance all of his proposed spending increases, Mondale would have to achieve all of his deficit reduction—all of his deficit reduction—through tax increases, and that would require an average tax hike—and I hope everybody in America gets this—of between $1,890 per family to $3,350 per household.

These conclusions are summarized, and I am going to summarize those right now.

The projected deficit that he talked about in the Mondale budget was, on the low estimate, $200 billion, and the highest, $263 billion. The spending increases that he talked about were $69 to $176 billion. The spending reductions were $26 to $40 billion.

So the pretax deficit, after you take into consideration the spending increases and spending reductions, would be between $243 and $399 billion.

Less the deficit goal that he talked about, $67 to $88 billion, that leaves a required tax increase that Walter Mondale is advocating of between $176 billion and $311 billion. When you figure that based upon 92.9 million households in this country, it would cost $1,890 on the low end per family to $3,350 on the high end.

I think the American people ought to know that, because the Democrat Party, which embraces Walter Mondale and GERALDINE FERRARO, must stand responsible for the projected tax increases that they are advocating because they are going to have to implement the programs that Mondale has talked about during this campaign season.

Now we are going to go into this in detail. Mondale spending increases are as follows:

In social spending he advocated an increase on the low end of $1.4 billion for AFDC. For nutrition programs he advocated a $3.5 billion increase. For social community services, he advocated $1.1 billion in increases. For health care he advocated on the low end $6.8 billion in increases, and on the high end $11.8 billion in increases.

Housing assistance, $1.4 to $5.4 billion.

Education, elementary and secondary, between $8.5 and $22.7 billion in increases.

Higher education, between $2.5 and $3.3 billion in increases.

In the area of labor, public service jobs, he advocated increasing that area at $13.6 to $20.4 billion.

Federal pay policy, an increase of between $3.3 and $10.3 billion.

In the area of commerce and trade, Walter Mondale advocated increasing spending to the tune of $8.5 billion.

Export subsidies, between $9 and $50 billion in export subsidies.

As far as the infrastructure of the country is concerned, he advocated increasing spending by between $5 and $33 billion.

In the area of energy, he advocated increasing spending by $2 billion.

In the area of the environment he advocated increasing spending by $2 billion.

In the area of agriculture, which is a very important area, I might add, he advocated spending by one-tenth of a billion dollar to three-tenths of a billion dollars. I wonder why he slipped up there and kept that so low?

□ 1900

I would like to note here that Mondale has defended himself by arguing that he has set forth only general objectives and therefore cannot be charged with particular spending increases, the ones I have just enumerated, but he is either telling the truth when he promises to enact these programs or he is making empty promises and we would like to assume that he means what he says and we therefore have attempted to provide reasonable conservative estimates of the costs to implement the promises that he has actually made.

Now, these figures that I just gave you are based upon the program that he set forth in January of this year.

Now, let us look at what he promised yesterday. Mr. Mondale did not detail his plan—this is what he did not detail in his plan to cut the deficit. He did not talk about these things. Mondale called for raising taxes by $85 billion. That is $25 billion more than he advocated in January; but that was for 1 year alone, 1989.

According to preliminary Treasury estimates, the 1985 to 1989 tax hike implemented by the Mondale plan would be $250 billion in new taxes. That is twice as large as TEFRA, which was $98 billion for 3 years.

The Mondale cap of 10 percent growth on medicare expenditures implies a $32 billion cut in medicare from the CBO baseline over the period 1985 to 1989. The President's January budget called for $13 billion less in savings over the same period and Mon-

dale accuses the President of unfair deficit reduction. That is sheer hypocrisy. He is advocating a $32 billion reduction in this program and the administration has talked about $13 billion less in savings over the same period.

Nothing new in Mondale's plan. Cut national security and national domestic spending. It is incredible, but Mondale's plan would add more to domestic spending than it would cut. The net increase in domestic spending in Mondale's plan as articulated yesterday, the increases in this plan are $30 billion and decreases are $29 billion. That is a net increase in spending of $1 billion, or if you look at the second way you can interpret his promise yesterday, promises as of January were $45 billion in new domestic spending and the decreases he promised yesterday were $29 billion. That is a $16 billion increase, or the platform promises at the Democrat National Convention were $91 billion in new spending and you take into consideration his $29 billion decrease yesterday, that leaves us $62 billion increase.

The grossly speculative claim of $51 billion in outlay savings from the net interest cost in the latest Mondale budget is either a charbroiled number or a return to the high inflation policies of the Carter-Mondale administration of 4 years ago.

There is plenty of detail about tax increases in Mondale's plan, but where are the details on spending cuts?

Unspecified smoke and mirrors deficit reductions in the Mondale plan are as follows: He talked about management savings of $5 billion. He does not tell how.

He talks about agricultural savings of $4 billion. He does not tell how.

Nondefense discretionary savings, he talks about $8 billion, but he does not tell how.

Medicare savings, $12 billion, but he does not tell how.

Growth, he projects at $17 billion in revenues, but he does not explain how he came to that figure.

And interest he said would save $51 billion and that is pure speculation because he is talking about getting the Federal Reserve Board to go along with reducing interest rates because he came up with a deficit reduction plan and that is pure speculation. There is no way of telling whether or not he could get any kind of a concession from the Fed, which is an autonomous agency.

So his total unspecified reductions are $97 billion, which is 55 percent of his total overall reduction plan. I do not know where he came up with the rest of the $180 some billion that he said he was going to cut.

In fact, there is so little detail to the Mondale plan, no budget office in Washington, DC, could even tell you what Mondale would do year by year during his first term. All his plan lists are some broad goals for the first year of his second term.

The biggest nonsequitur of the entire campaign is this. On the one hand, Mondale's plan says a trust fund would be created so his tax increases would have to be used to reduce the deficit. On the other hand, it says that any new spending would be subject to the pay as you go principle.

Does that mean his $30 to $90 billion of new spending for 1985 would require an added tax increase of $30 to $90 billion over the $85 billion he claims will be used to reduce the deficit?

I think the American people are entitled to answers, Mr. Mondale and Ms. FERRARO. I hope in the weeks to come you will explain this in detail, because as a Member of the House of Representatives who has studied your proposal very thoroughly, I am totally confused.

Mr. Speaker, I include the Washington Times newspaper article of September 11, referred to, as follows:

$85 BILLION TAX HIKE MONDALE RX FOR U.S.—$75 BILLION IN SPENDING CUTS IN PLAN

(By Alan McConagha)

PHILADELPHIA.—Walter Mondale, charging President Reagan with ducking the issue of budget deficits, yesterday disclosed his plan to boost taxes by $85 billion at the end of four years to reduce federal red ink.

Mr. Mondale's plan is to bring the deficit down to $86 billion by 1989. The tax increases would be earmarked specifically for cutting the deficit, which is expected to be about $170 billion for this fiscal year.

The plan also includes net spending reductions of $75 billion and an estimated additional $17 billion in anticipated revenue resulting from economic growth.

Assailing Mr. Reagan for conducting "a happy-talk campaign," the Democratic presidential nominee challenged the White House to "respond to the most important economic problem facing the country."

"I'm putting my plan on the table. Mr. President, where's yours?" Mr. Mondale asked. Asserting he is leveling with the nation, the Democrat said the president is a "radical" spender in serving a debt created by a tripling of the deficit.

In a press conference here, Mr. Mondale added: "Listening to Mr. Reagan, you'd never know that our economy faces a crisis. In fact, the economic Dunkirk Mr. Reagan once warned of has arrived—and on his watch."

"Enough is enough, Mr. President," Mr. Mondale said, calling for debates on the issue. The former vice president added: "You can't hide your red ink with blue smoke and mirrors. Let's tell the truth about the future."

Mr. Mondale also led a teleconference here on the effects of the deficit on the American family. By satellite he conferred with his wife, Joan, in Chicago and his running mate, Rep. Geraldine Ferraro, in Lexington, Ky.

After discussing with three families at those locations the families' economic situation, the Democratic candidate charged that the administration has no sense of the pressures it is creating for average Americans.

In another appearance here, the candidate took a walk with Philadelphia Mayor Wilson Goode through the heart of the city's commercial district. Today he begins a four-day swing through the Midwest and the South.

The Mondale campaign contends its plan will lead in four years to 3.5 percent annual economic growth with an inflation rate of 4.85 percent. Interest rates are projected to drop to 7.5 percent and unemployment is expected to fall to 5.8 percent.

The Mondale program would not raise taxes for families with annual incomes of $25,000 or less—an estimated half of federal income taxpayers this year. It would, however impose a 75 percent increase on the wealthiest 14 percent of American families.

The tax hike would reduce the 1989 federal deficit from the Congressional Budget Office's projected $263 billion to $86 billion, according to Mondale associates.

The Mondale program contemplates a reduction in federal spending that hits hard at defense outlays. It proposes to save $25 billion by a variety of measures including tightened spending procedures and an end to funding for the MX missile and B-1 bomber.

Mr. Mondale contended this reduction of defense spending by 1989 would be consistent with annual real growth of between 3 and 4 percent in Pentagon budget authority.

Other savings proposed by Mr. Mondale include: a health-cost containment program that would save $12 billion; scaling back of farm programs to save $4 billion and better management of those programs to save an additional $5 billion, and lower borrowing and interest rates resulting from his overall deficit-reduction program, which would save $51 billion.

Under the Mondale recommendations, all of the increased revenues would be placed in a trust fund earmarked by law for deficit reduction, and they would not be used for increased spending or new programs.

The Mondale proposal stesses the adoption of a "pay-as-you-go" principle, with no new spending for which a source of revenues has not been identified. However, it continues to advocate a $30 billion increase in spending for domestic programs outlined in January.

By proposing to place the new revenues in a trust fund limited to deficit reduction, Mr. Mondale apparently seeks to sidestep opposition charges that the tax hike is yet another measure designed to facilitate the easy spending of the Democratic Party's past.

Mr. Mondale's tax hike would fall most heavily on upper-income wage earners.

He would eliminate future benefits from the final installment of Mr. Reagan's tax cut for individuals earning more than $45,000 and couples making more than $60,000. Those taxpayers would be permitted to keep the tax cut they received in 1984 and will receive in 1985, but then their tax rate would revert to the higher level that existed before the final tax cut took effect.

The plan also would permit tax indexing to take effect for families making $25,000 or less. It would protect families above that amount only to the extent that inflation exceeds 4 percent.

There also would be a 10 percent tax surcharge for individuals with incomes over $70,000 and couples making more than $100,000.

Mr. Mondale would impose a 15 percent minimum corporate tax on economic

income, and limitations on "tax shelters, loopholes and accounting abuses."

MIDDLE CLASS TARGETED FOR MUCH OF COST

(By Willis Witter)

Walter F. Mondale's newly unveiled deficit-reduction plan relies almost exclusively on higher taxes, with much of the burden falling quietly on the middle class.

The Democratic presidential candidate apparently rejected any sweeping proposal for tax simplification, some of which originated within his own party.

By doing so, Mr. Mondale risks evoking criticism from both Democrats and Republicans that he lacks initiative and boldness in tackling stubborn economic problems that persist despite a 23-month-old economic recovery.

"There was no consideration of a new and creative tax scheme," said Robert Gough, a senior vice president at Data Resources Inc. in Lexington, Mass.

"He [Mr. Mondale] is dealing with the traditional pieces of the tax code, and you don't get a lot of bang for the buck by playing with the traditional pieces," said Mr. Gough, a self-described middle-of-the-road Democrat.

Mr. Mondale's plan, announced at a news conference yesterday, would postpone beyond January indexing—a plan that protects lower- and middle-income workers from creeping into higher tax brackets as inflation increases their income.

Rough calculations indicate the delay in indexing would raise about $50 billion of Mr. Mondale's proposed $85 billion tax hike, Mr. Gough said.

Throughout the 1970s, inflation pushed all but the wealthiest taxpayers into higher tax brackets.

For example, it now requires about $25,000 to purchase what in 1970 could be bought with $10,000.

But a worker who earns $25,000 today finds his tax burden more than double that of a $10,000 wage earner in 1970 because he is in a higher tax bracket.

Other things being equal, a worker today takes home less of his paycheck, can purchase less and has a lower standard of living than he did in 1970.

Beginning next year, Republicans say workers will receive some protection because tax brackets are slated to be indexed to the inflation rate.

That is, unless Mr. Mondale is elected and keeps his campaign promise to delay indexing for taxpayers earning more than $25,000.

Assuming a 4 percent annual inflation rate, a family earning $25,000 today can look forward to a $1,000 tax hike by 1989 under the Mondale plan.

"The whole thing is silly," said Arthur Laffer, the supply-side guru associated with the 1981 Reagan tax cuts.

"We'd be a lot better off if we went for the Bradley-Gephardt plan which moves in exactly the opposite direction," Mr. Laffer said. "It just shows how far out of sync he [Mr. Mondale] is with the Democratic party's thinking."

The Bradley-Gephardt measure, proposed by Sen. Bill Bradley, D-N.J., and Rep. Richard Gephardt, D-Mo., drastically simplifies the current tax code.

It reduces the top tax bracket from the current 50 percent to 30 percent while eliminating numerous exemptions.

Under the new Mondale plan, the top tax bracket increases to 55 percent for individuals earning more than $100,000.

Besides raising taxes, the former vice president's plan calls for spending cuts of just $11 billion and assumes the government will save $51 billion from reduced interest payments on the national debt.

"He [Mr. Mondale] is specific, he wants to cut the deficit on the tax side," said Barry Bosworth, an economist at the Brookings Institution who was director of the Council on Wage and Price Stability in the Carter-Mondale administration.

"From an economist's point of view, you have to do something about the deficit," Mr. Bosworth said. "The issues of where to cut are more political than economic."

Analysts say the federal budget deficit—the amount by which government spending exceeds taxes—threatens the nation's long-term economic health because it pushes up interest rates.

THE COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BATEMAN] is recognized for 15 minutes.

● Mr. BATEMAN. Mr. Speaker, today I am introducing, with the gentlelady from Louisiana [Mrs. BOGGS], the Competitive Shipping and Shipbuilding Act of 1984.

Few would dispute the fact that our Nation's security depends on shipbuilding and shipping resources capable of responding to the demands of mobilization. Yet almost 15 years have gone by without meaningful congressional action while these resources have disappeared at a growing and alarming rate.

We have tried many times to solve bits and pieces of this problem. As a result, our policies are a patchwork of responses to small problems, while the principal issue, survival of national defense resources, remains unresolved.

In just the last 3 years, 19 American shipyards have closed. Almost 40,000 American workers have lost their jobs. And this trend is continuing.

At the same time, the American cargo fleet continues to dwindle and we go on losing our pool of skilled seamen. It is critical that we have available for emergencies not only merchant ships, but those mariners whose experience and availability are vital to national security.

Last month Exxon signed a contract for construction of two Alaska-trade tankers with National Steel & Drydock in San Diego. It was the first order for a deepwater commercial ship placed in an American yard in about 3 years. Until the order was placed, there were no oceangoing commercial vessels either under construction or on order in any U.S. yard. No one can remember when the situation was as bad as this.

It is painfully obvious that we no longer can rely on existing commercial policies and programs to maintain the shipbuilding and shipping resources necessary for mobilization. American shipyards cannot compete with foreign yards that pay no taxes, pay their workers only $2 an hour, build ships with materials bought at subsidized prices, and enjoy subsidized financing at depressed interest rates. American ship operators cannot compete with nations whose ships sail with new equipment and small, low-paid crews.

In the bulk trade, American operators could not compete even if they were given new ships for free. More and more nations have restricted access to cargo from their ports to their own merchant ships.

I believe a comprehensive answer to this problem must be enacted quickly. The Competitive Shipping and Shipbuilding Act is such an answer.

Under this bill, a bulk trading market is created for U.S.-built, U.S.-crewed ships. In the first year after enactment, American importers and exporters are required to move on U.S. ships at least 5 percent of their bulk and neobulk cargoes—chiefly grain, coal, oil, ores, steel, and automobiles. The amount reserved will increase by 1 percent per year until it reaches 20 percent.

Right now, America's bulk shipping fleet carries only about 4 percent of our international trade. We have only about 21 ships in these trades. Under this bill, over 300 ships would be built.

This legislation is crafted to ensure that the ships qualifying to trade will be of high military utility in time of mobilization and war. About 214 of the 330 ships estimated to be built under this bill will be geared vessels—capable of loading and unloading themselves—of 35,000 deadweight tons or less, according to a study by the center for naval analyses. Nearly all the remainder will be gearless oil-bulk-ore carriers of 60,000 to 80,000 ton class, which are easily convertible into ships useful in sealift.

The expanded market for bulk cargo vessels will result in ship production and operation requiring 20,000 shipyard workers and about 6,000 shipboard jobs for American mariners. The need for this pool of skilled workers in time of war is clear, and without this bill they will not be there.

But how can we pay the cost of this proposal? We cannot do what has been suggested in the past—we cannot make our farmers, our miners, our oil producers, and our consumers alone bear the cost of our merchant marine. We cannot say to them, "America is willing to sacrifice your industries for the benefit of the Nation." Because such a sacrifice would be just as damaging as the decline of the merchant marine. We cannot make American exports too expensive to compete for world trade, nor can we ask American consumers to pay for the merchant marine in higher-priced imports.

What we can do is to finally say, the cost of the merchant marine is a cost of national security. It must be paid for by all Americans.

To do this, this bill provides for a tax credit to offset the additional cost of shipping on U.S.-flag ships. The credit is designed to go directly to the importer or exporter—the person who pays the ship operator to carry his goods. In this manner, the tax credit would offset the additional cost without causing any rise in the price of imports or exports.

Last year, some 140 Members of the House joined in cosponsoring H.R. 1242, introduced by the gentlelady from Louisiana [Mrs. BOGGS]. I was pleased to be among the cosponsors of that measure, upon which the legislation I am offering today is based. The gentlelady from Louisiana is among the Members who have joined with me in sponsorship of the new measure which adds the mechanism of the tax credit to her concept of an expansion of the bulk cargo fleet.

In these days of high deficits, we dare not overlook the fiscal consequences of any legislation. Fortunately, there should be little or no impact upon the deficit as a result of this measure. Estimates of the revenues which can be expected from increased employment and corporate activity in the shipping and shipbuilding industries under this bill indicate that they will completely or almost completely offset the loss of the Treasury resulting from the tax credit.

It is estimated that about 100,000 jobs in shipbuilding, ship operation and related industries will be created by this bill in the years ahead. And all the people holding those jobs will pay taxes.

To put this another way, the measure I am introducing should not result in any real loss to the Treasury. It will, to be sure, deny the Treasury new revenues, but that denial is necessary in the name of equity to those who will be shipping in new American-flag vessels.

Mr. Speaker, I am convinced that a bulk cargo fleet expansion program, with a tax credit for our shippers, is an important forward step in rebuilding the American merchant marine. I urge my colleagues to support prompt enactment of this important measure.

In conclusion I am including at this point in the RECORD a statement of Mr. M. Lee Rice, president, Shipbuilders Council of America with respect to this measure Mr. Rice's statement is as follows:

STATEMENT OF M. LEE RICE, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA, CONCERNING THE "COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1984"

We applaud the efforts of the authors and cosponsors of H.R. 6222 in focusing the attention of Congress, on the emerging crisis in national security caused by the parlous state of our shipbuilding and shipping industries.

If we are to be able to meet the demands of mobilization, significant commercial shipbuilding and ship repair industries must be maintained because construction and repair of naval vessels alone will not sustain capabilities required to mobilize for and fight a global war.

Eleven of America's 15 top trading partners, including the top seven nations, engage in cargo reservation to protect their own fleets.

The Warsaw Pact nations reserve their cargoes for large state-owned fleets that are used for military, political, and other noncommercial purposes.

In this atmosphere, an American company wishing to operate profitably in the world market for bulk vessels faces the insurmountable obstacle of a market which has no reserved place for him. With the higher costs attendant to domestic ship construction and operation, his only hope rests on the willingness of the United States to act as many of its major trading partners have in reserving a place in the market for its own fleet.

We strongly support a systematic process, as envisioned by H.R. 6222, whereby U.S.-flag ships—built in American shipyards with American labor and American equipment and materials—will be enabled to transport a modest share of U.S. bulk exports and imports as a means of ensuring the availability of maritime and shipbuilding resources in time of crisis.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARTLETT) to revise and extend their remarks and include extraneous material:)

Mr. BATEMAN, for 15 minutes, today.
Mr. DANNEMEYER, for 60 minutes, today.
Mr. GINGRICH, for 60 minutes, today.
Mr. WALKER, for 60 minutes, today.
Mr. WEBER, for 60 minutes, today.
Mr. LOEFFLER, for 5 minutes, today.

(The following Members (at the request of Mr. NATCHER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.
Mr. DASCHLE, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. GAYDOS, for 15 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.

Mr. ALEXANDER, for 5 minutes, on September 12 and 13.

Mr. DOWNEY of New York, for 60 minutes, on September 25.

Mr. STARK, for 60 minutes, on October 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. LENT.
Mr. MCCAIN.
Ms. SNOWE in three instances.
Mr. BROOMFIELD.
Mr. O'BRIEN in two instances.
Mr. SHUMWAY.
Mr. MCKERNAN.

(The following Members (at the request of Mr. NATCHER) and to include extraneous matter:)

Mr. SYNAR.
Mr. LANTOS.
Mr. REID.
Mr. FAUNTROY.
Mr. MARTINEZ.
Mr. ACKERMAN.
Mr. OTTINGER.
Mr. MACKAY.
Mr. MRAZEK.
Mr. HOWARD.
Mr. STOKES.
Mr. LELAND.
Mr. EDWARDS of California.
Mr. FOWLER.
Mr. FORD of Michigan.
Mr. YATRON.
Mr. LEVINE of California.
Mr. FLORIO.
Mr. MARKEY.
Mr. KOSTMAYER.
Mr. CLAY.
Mr. SKELTON.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 743. An act for the relief of Theda June Davis, and

H.R. 2387. An act for the relief of Benjamin B. Doeh.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 12, 1984, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred to as follows:

4000. A letter from the Secretary of State, transmitting notification that during the month of August the Commodity Credit Corporation made payments to the U.S.

creditors on credits guaranteed by the CCC for which payments had not been received from the Polish People's Republic, pursuant to Public Law 97-257, section 306; Public Law 98-151, section 101(d); to the Committee on Appropriations.

4001. A letter from the Director, Office of Management and Budget, transmitting a report on the status as of September 1, 1984, of 9 rescission proposals and 65 deferrals contained in the first 12 special messages of fiscal year 1984, pursuant to Public Law 93-344, section 1014(e) (H. Doc. No. 98-258); to the Committee on Appropriations and ordered to be printed.

4002. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for Ambassador-designate Harvey J. Feldman, as Alterntive Representative of the United States of America for Special Political Affairs in the United Nations with rank of Ambassador pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4003. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for William L. Eagleton, Jr., Ambassador-designate to Syrian Arab Republic, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4004. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for Melvyn Levitsky, Ambassador-designate to the People's Republic of Bulgaria, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4005. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for William A. Rugh, Ambassador-designate to the Yemen Arab Republic, pursuant to Public Law 96-465, section 304(b)(2): to the Committee on Foreign Affairs.

4006. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for Carl Edward Dillery, Ambassador-designate to Fiji, Kingdom of Tonga, Tuvalu, and the Republic of Kribati, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4007. A letter from the Executive Director, American Historical Association, transmitting a copy of the audit of the Asssociation for the year ended June 30, 1984, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

4008. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to repeal the provision exempting aircraft owners or operators from reimbursing the Federal Government or any agency thereof for certain Sunday and holiday overtime services; to the Committee on Public Works and Transportation.

4009. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed disposal of land, without structures, at the Lyndon B. Johnson Space Center, pursuant to Public Law 85-568, section 207 (87 Stat. 175); to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3082. A bill to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes. Supplemental (Rept. No. 98-440, Pt. IV). Ordered to be printed.

[Pursuant to the order of the House on September 6, 1984, the following report was filed on September 7, 1984]

[Omitted from the Record of September 10, 1984]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1511. A bill to provide for jurisdiction over common carriers by water engaging in foreign commerce to and from the United States utilizing ports in nations contiguous to the United States; with an amendment (Rept. No. 98-1007). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 4028. A bill to amend the Drug Abuse Prevention, Treatment, and Rehabilitation Act to revise the authority of the Office of Drug Abuse Policy, to establish a Deputy Director for Drug Abuse Prevention and a Deputy Director for Drug Enforcement in the Office, and for other purposes; with amendments (Rept. No. 98-1008, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 6211. A bill to authorize the Secretary of Health and Human services to provide assistance for drug abuse prevention, treatment, and rehabilitation and related programs and to authorize the use of drug forfeiture funds for such purpose; to the Committee on Energy and Commerce.

By Mr. BOUCHER:

H.R. 6212. A bill to amend title 18 of the United States Code to extend the protections of certain assault and homicide provisions to probation officers and members of the intelligence community; to the Committee on the Judiciary.

By Mr. BREAUX (for himself and Mr. YOUNG of Alaska):

H.R. 6213. A bill to establish a National Fish Hatchery System within the Fish and Wildlife Service, and for other purposes; to the Committee on Merchant Marines and Fisheries.

By Mr. BREAUX:

H.R. 6214. A bill to amend the Coastal Zone Managment Act of 1972, and for other purposes; to the Committee on Interior and Insular Affairs and to the Committee on Merchant Marine and Fisheries only for consideration of section one.

By Mr. DUNCAN:

H.R. 6215. A bill to amend title II of the Social Security Act to treat great-grandchildren, nieces, and nephews in the same manner as grandchildren in applying the 1-year dependency test to adopted children in determining entitlement to child's insurance benefits; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself, Mr. RODINO, Mr. FISH, Mr. HYDE, Mr. SAWYER, Mr. SENSENBRENNER, and Mr. BOEHLERT):

H.R. 6216. A bill to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 6217. A bill to amend the Federal Aviation Act of 1958 to permit smoking on board passenger-carrying aircraft in only one designated area; to the Committee on Public Works and Transportation.

By Mr. MOODY (for himself, Mr. SAM B. HALL, JR., Mr. MAZZOLI, Mr. FRANK, Mr. BERMAN, Mr. BOUCHER, Mr. KINDNESS, Mr. MCCOLLUM, and Mr. SHAW):

H.R. 6218. A bill to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

H.R. 6219. A bill to authorize the Administrator of the Federal Aviation Administration to impose additional restrictions on the use of airspace in the area of launches and landings of space vehicles, to increase civil penalties for violators of such restrictions, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. NIELSON of Utah (for himself and Mr. ECKART):

H.R. 6220. A bill to amend the Communications Act of 1934 to clarify the authority of State and local governments to regulate obscene and certain other programming distributed to the public over cable television systems; to the Committee on Energy and Commerce.

By Mr. SYNAR (for himself and Mr. WINN):

H.R. 6221. A bill to provide for the use and distribution of certain funds awarded to the Wyandotte Tribe of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. BATEMAN (for himself, Mrs. BOGGS, Mr. PRICE, Mr. BIAGGI, Mr. PEPPER, Mr. DYSON, Mr. WHITEHURST, Mr. MCKERNAN, and Mr. LOTT):

Hr. 6222. A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag ships, to strengthen the defense industrial base, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. WAXMAN:

H.J. Res. 645. Joint resolution to designate the week of February 18 through February 24, 1985, as "CPR Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. DAVIS (for himself, Mr. MCNULTY, Mr. UDALL, Mr. SKEEN, Mr. RUDD, Mr. LUJAN, Mr. RICHARDSON, Mr. MCCAIN, Mrs. VUCANOVICH, and Mr. STUMP):

H. Con. Res. 353. Concurrent resolution disapproving the action of the President under title II of the Trade Act of 1974 with respect to import relief for unwrought

copper; to the Committee on Ways and Means.

By Mr. KINDNESS (for himself, Mr. DEWINE, Mr. OXLEY, Mr. APPLEGATE, Mr. GRADISON, Mr. HALL of Ohio, Ms. KAPTUR, Mr. KASICH, Mr. REGULA, Mr. WILLIAMS of Ohio, Mr. KEMP, and Mr. MARTIN of North Carolina):

H. Con. Res. 354. Concurrent resolution to congratulate Miami University, in Oxford, Ohio, on the 175th anniversary of its founding; to the Committee on Post Office and Civil Service.

By Ms. SNOWE (for herself, Ms. OAKAR, Mrs. MARTIN of Illinois, Mr. HAWKINS, Mr. FRENZEL, Mrs. SCHROEDER, Mr. LEWIS of California, Mr. FRANK, Mr. MCKERNAN, Mr. DICKS, Ms. FERRARO, Mrs. SCHNEIDER, Mrs. BOGGS, Mrs. KENNELLY, Ms. MIKULSKI, Mrs. BOXER, Ms. KAPTUR, Mrs. BURTON of California, Mrs. COLLINS, Mrs. HALL of Indiana, Mr. MRAZEK, Mr. WON PAT, Mr. RODINO, Mr. MITCHELL, Mr. RICHARDSON, Mr. DENNY SMITH, Mr. STOKES, Mr. BERMAN, Mr. KOLTER, Mr. HOYER, Mr. LELAND, Mr. FLORIO, Mr. GRAY, Mr. MOODY, Mr. JEFFORDS, Mr. O'BRIEN, Mr. PURSELL, Mr. OTTINGER, Mr. GREEN, Mr. MATSUI, Mr. FROST, Mr. WEISS, Mr. WISE, Mr. BEDELL, Mr. RATCHFORD, Mr. EDWARDS of California, Mr. GEJDENSON, Mr. SOLARZ, Mr. BATES, Mr. SCHAEFER, Mr. MORRISON of Connecticut, Mr. OBERSTAR, Mr. YATES, Mr. FISH, Mr. ROE, Mr. CROCKETT, Mr. MARKEY, Mr. DAVIS, Mr. EDGAR, Mr. EVANS of Iowa, Mr. SIMON, and Mr. LUNDINE):

H. Con. Res. 355. Concurrent resolution establishing a Commission to Study Wage Discrimination and Other Discriminatory Personnel Policies and Practices in the Legislative Branch; to the Committee on House Administration.

By Mr. RODINO (for himself, Mr. EDWARDS of California, and Mr. SENSENBRENNER):

H. Res. 577. Resolution authorizing the printing as a House document of the committee print entitled "FBI Undercover Operations"; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1473: Mr. WEAVER.

H.R. 1881: Mr. BLILEY, Mr. BURTON of Indiana, Mr. COATS, Mr. JACOBS, Mrs. JOHNSON, Mr. MCNULTY, Mr. MYERS, and Mr. RATCHFORD.

H.R 2300: Mr. DE LUGO and Mr. OBEY.

H.R. 2568: Mr. BONIOR of Michigan, Mr. NOWAK, and Mr. YOUNG of Missouri.

H.R. 3141: Mr. SCHUMER.

H.R. 3996: Mr. CAMPBELL, Mr. HARTNETT, Mr. DERRICK, Mr. SPRATT, and Mr. TALLON.

H.R. 4459: Mrs. KENNELLY and Mr. DAUB.

H.R. 4837: Mr. TOWNS.

H.R. 5031: Mr. PATTERSON.

H.R. 5107: Mr. HAYES, Mr. WILLIAMS of Montana, Mr. TALLON, Mr. KOSTMAYER, Mr. FAUNTROY, Mr. MATSUI Mr. MCCLOSKEY, and Mr. FORD of Michigan.

H.R. 5361: Mr. LAFALCE.

H.R. 5396: Mr. MCNULTY.

H.R. 5608: Mr. EVANS of Illinois.

H.R. 5725: Mr. AKAKA, Mr. CHANDLER, Mr. GUARINI, Mr. KASICH, Mr. KASTENMEIER, Mrs. KENNELLY, and Mr. LUNDINE.

H.R. 5727: Mr. HORTON, Mr. WILLIAMS of Montana, Mr. ACKERMAN, and Mr. ECKART.

H.R. 5918: Mr. TAUKE.

H.R. 5959: Mr. ACKERMAN, Mr. GOODLING, Mr. WEISS, and Mr. TAUKE.

H.R. 5964: Mr. CHANDLER.

H.R. 5990: Mr. DOWNEY of New York, Mr. LEHMAN of Florida, Mr. LAGOMARSINO, Mr. MILLER of California, Mr. BORSKI, Mr. WILLIAMS of Montana, Mr. DUNCAN, Mr. KILDEE, Mr. MARTINEZ, Mr. KOSTMAYER, Mr. HOYER, Mr. BOEHLERT, Mr. FAZIO, Mr. ACKERMAN, Mr. DE LUGO, and Mr. ECKART.

H.R. 6021: Mr. WEBER, Mr. CARR, Mr. SHAW, Mr. YOUNG of Florida, Mr. OXLEY, Mr. BEVILL, Mr. PETRI, Mr. O'BRIEN, Mr. ORTIZ, Mr. MONTGOMERY, and Mr. SHUSTER.

H.R. 6066: Mr. KOSTMAYER and Mr. MARTINEZ.

H.R. 6113: Mr. HYDE.

H.R. 6117: Mr. AUCOIN, Mr. BEDELL, Mr. BIAGGI, Mr. BOLAND, Mr. BRITT, Mr. BROWN of California, Mr. BRYANT, Mr. CLAY, Mr. CONYERS, Mr. COUGHLIN, Mr. COYNE, Mr. CROCKETT, Mr. DAUB, Mr. DELLUMS, Mr. DE LUGO, Mr. DORGAN, Mr. DOWNEY of New York, Mr. FAUNTROY, Mr. FRANK, Mr. FRENZEL, Mrs. HALL of Indiana, Mr. HAWKINS, Mr. HOYER, Mr. HUNTER, Mr. JEFFORDS, Ms. KAPTUR, Mr. KOSTMAYER, Mr. LEACH of Iowa, Mr. LEVINE of California, Mr. LOWERY of California, Mr. LOWRY of Washington, Mr. LUNDINE, Mr. MARTINEZ, Mr. MITCHELL, Mr. MOODY, Mr. MRAZEK, Mr. PANETTA, Mr. PARRIS, Mr. PATTERSON, Mr. ROYBAL, Mr. SAVAGE, Mrs. SCHNEIDER, Mr. SCHUMER, Mr. SILJANDER, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. SWIFT, Mr. WAXMAN, Mr. WEISS, Mr. WHEAT, Mr. WILSON, Mr. WIRTH, Mr. WON PAT, and Mr. WORTLEY.

H.R. 6163: Mrs. MARTIN of Illinois.

H.R. 6164: Mr. HORTON, Mr. ENGLISH, Mr. RAHALL, Mr. NOWAK, Mr. MCCURDY, Mr. KRAMER, and Mr. BOUCHER.

H.R. 6172: Mr. COELHO, Mr. DYSON, Mr. EDWARDS of California, Mr. ANDREWS of North Carolina, Mr. BONER of Tennessee, Mr. BURTON of Indiana, Mr. ENGLISH, Mr. BOSCO, Mr. EVANS of Iowa, Mr. DIXON, Mr. LUKEN, Mr. LUJAN, Mr. NICHOLS, Mr. STUMP, Mr. BEDELL, Mr. LEHMAN of California, Mr. WILSON, Mr. LEVITAS, Ms. KAPTUR, Mr. REID, Mr. SABO, Mr. MICA, Mr. BOUCHER, Mr. PENNY, Mr. COLEMAN of Texas, Mr. CHAPPELL, Mr. DREIER of California, Mr. BROYHILL, and Mr. FOGLIETTA.

H.R. 6210: Mr. CONTE and Mr. MATSUI.

H.J. Res. 392: Mr. HOYER, Mr. LENT, Mr. PATMAN, Mr. COELHO, Mr. ORTIZ, and Mr. PANETTA.

H.J. Res. 512: Mr. HOPKINS and Mr. SCHUMER.

H.J. Res. 514: Mr. WIRTH and Mr. MCKINNEY.

H.J. Res. 565: Mr. ARCHER, Mr. BARNARD, Mr. BONER of Tennessee, Mr. CARPER, Mr. FLORIO, Mr. GUARINI, Mr. JACOBS, Mr. KOSTMAYER, Mr. MOAKLEY, Mr. MURTHA, Mr. NATCHER, Mr. PAUL, Mr. ROWLAND, Mrs. ROUKEMA, Mr. RODINO, Mr. SCHUMER, Mr. STENHOLM, Mr. VANDER JAGT, Mr. VENTO, Mr. WHEAT, Mr. APPLEGATE, Mr. BIAGGI, and Mr. WALGREN.

H.J. Res. 580: Mr. LOWERY of California, Mr. DYMALLY, Mr. BERMAN, Mr. FROST, and Mr. LEVINE of California.

H.J. Res. 582: Mr. HYDE and Mr. RODINO.

H.J. Res. 595: Mr. BEILENSON, Mr. BONIOR of Michigan, Mrs. BURTON of California, Mr. BURTON of Indiana, Mrs. COLLINS, Mr. CORCORAN, Mr. CORRADA, Mr. GRADISON, Mr. GRAY, Mr. RALPH M. HALL, Mr. HARKIN, Mr. HOPKINS, Mr. JEFFORDS, Ms. KAPTUR, Mr. LUNDINE, Mr. MCCLOSKEY, Mr. MCKERNAN, Mr. MITCHELL, Mr. MOAKLEY, Mr. NATCHER, Ms. OAKAR, Mr. OBERSTAR, Mr. PEPPER, Mr. PURSELL, Mr. RATCHFORD, Mr. RINALDO, Mr. RITTER, Mr. SISISKY, Mr. STENHOLM, Mr. VANDERGRIFF, Mr. VOLKMER, and Mr. ROSTENKOWSKI.

H.J. Res. 605: Mr. ANDERSON, Mr. FAZIO, Mr. EDGAR, Mr. BATEMAN, Mr. SIMON, Mr. BORSKI, Mr. DWYER of New Jersey, Mr. FROST, Mr. EVANS of Illinois, Mr. CARPER, Mr. MCNULTY, Mr. MCGRATH, Mr. LEVIN of Michigan, Mr. MORRISON of Connecticut, Mr. NELSON of Florida, Mr. FISH, Mr. CONYERS, Mr. DAUB, Mr. HANSEN of Utah, Mr. YOUNG of Alaska, Mr. ROBERT F. SMITH, Mr. LUNGREN, Mr. MITCHELL, Mr. HERTEL of Michigan, Mr. WAXMAN, Mr. LEVITAS, Mr. MINETA, Ms. MIKULSKI, Mr. LEWIS of Florida, Mr. SHUMWAY, Mr. GOODLING, Mr. CHANDLER, Mr. ERLENBORN, Mr. SPRATT, Mr. RODINO, Mr. CORCORAN, Mr. WHEAT, Mr. SCHAEFER, and Mr. FORD of Michigan.

H.J. Res. 611: Mr. SMITH of Florida, Mr. MONTGOMERY, Mr. SHAW, Mr. BOSCO, Mr. HANSEN of Idaho, Mr. DURBIN, Mr. ANDERSON, Mr. MCDADE, Mr. ARCHER, Mr. BONIOR of Michigan, Mr. MOAKLEY, Mr. PHILIP M. CRANE, Mr. HOWARD, Mr. ROEMER, Mr. TRAXLER, Mr. SILJANDER, Mr. BOUCHER, Mr. BOLAND, Mr. SUNDQUIST, Mr. DYSON, Mr. CARNEY, Mr. ERDREICH, Mr. NICHOLS, Mr. PACKARD, Mr. KASICH, Mr. ORTIZ, Mr. HYDE, Mr. NEILSON of Utah, Mr. EMERSON, Mr. MAVROULES, Mr. AKAKA, Mr. MOLLOHAN, Mr. DONNELLY, Mr. LEVITAS, Mr. ST GERMAIN, Mr. SCHAEFER, Mr. BROWN of California, Mr. HAWKINS, Mr. MCKERNAN, Mr. SAVAGE, Mr. FEIGHAN, Mr. ALEXANDER, Mr. CROCKETT, Mr. ROYBAL, Mr. MARTIN of New York, Mr. REGULA, Mr. FLIPPO, Mr. CAMPBELL, Mr. SISISKY, Mr. LOWRY of Washington, Mr. KRAMER, Mr. BREAUX, Mr. KOGOVSEK, Mr. PANETTA, Mr. COUGHLIN, Mr. MINETA, Mr. VENTO, Mr. CARPER, Mr. SNYDER, Mr. CHAPPIE, Mr. FOLEY, Mr. BRITT, Mr. SKEEN, Mr. SABO, Mr. BURTON of Indiana, Mr. ANDREWS of Texas, Mr. OTTINGER, and Mr. VANDERGRIFF.

H.J. Res. 621: Mr. ACKERMAN, Mr. HALL of Ohio, Mr. DE LUGO, Mr. HILER, and Mr. GINGRICH.

H.J. Res. 623: Mr. FORD of Michigan, Mr. LEVIN of Michigan, Mr. MCCOLLUM, Mr. WYLIE, Mr. FASCELL, Mr. RAHALL, and Mr. MAVROULES.

H.J. Res. 624: Mr. HORTON.

H.J. Res. 631: Mr. RAHALL, Mr. HORTON, Mr. CROCKETT, Mr. BRYANT, Mr. BROOKS, Mr. VANDERGRIFF, Mr. BONIOR of Michigan, Mr. ROBERTS, Mr. ANDREWS of North Carolina, Mr. YOUNG of Alaska, Mr. ROE, and Mr. MARTINEZ.

H.J. Res. 637: Mr. LAGOMARSINO, Mr. HAYES, Mr. SCHEUER, Mr. TALLON, Mrs. HOLT, Mr. BRITT, Mr. FROST, Mr. FRENZEL, Mr. BRYANT, Mr. RANGEL, Mr. SHAW, Mr. ROBINSON, Mr. DEWINE, Mr. ANDREWS of North Carolina, Mr. FLIPPO, Mr. ARCHER, Mr. DYMALLY, Mr. RAY, Mr. DE LUGO, Mr. DIXON, Mr. HUCKABY, Mr. LELAND, Mr. CLAY, Mr. HOYER, Mr. TORRICELLI, Mr. LEWIS of California, Mr. MCNULTY, Mr. LONG of Louisiana, Mr. FASCELL, Mr. OWENS, Mr. REID, Mr. BATES, Mr. BERMAN, Mr. SPRATT, Mr. LANTOS, Mr. CARPER, Mr. WILSON, Mr. SISISKY, Mr. JONES of North Carolina, Mr. DELLUMS, Mr. DAUB, Mr. MORRISON of Connecticut, Mr. BATEMAN, Mr. DYSON, Mr. HORTON, Mr. RATCHFORD, Mr. FIELDS, Mr. BETHUNE, Mr. ERDREICH, Mr. FOLEY, Mr. WHEAT, Mr. GUARINI, Mr. BLILEY, Mr. MINETA, Mr.

CROCKETT, Mr. VANDERGRIFF, Mr. LOEFFLER, Mr. DUNCAN, Mr. FRANKLIN, Mr. RICHARDSON, Mr. BEVILL, Mr. MONTGOMERY, Mr. NEAL, Mr. BARTLETT, Mr. PATTERSON, Mr. EDGAR, Mr. KEMP, Mr. WORTLEY, and Mrs. COLLINS.

H. Con. Res. 107: Mr. BEREUTER and Mr. BROOMFIELD.

H. Con. Res. 260: Mr. FAUNTROY and Mr. LOWERY of California.

H. Con. Res. 344: Mr. JACOBS.

H. Res. 50: Mr. MOAKLEY.

H. Res. 170: Mr. CHANDLER.

H. Res. 518: Mrs. MARTIN of Illinois, Mr. CHAPPIE, Mr. EDWARDS of Oklahoma, Mr. HARTNETT, and Mr. MCDADE.

H. Res. 540: Mr. FAUNTROY, Mr. HORTON, Mr. CONYERS, Mr. MITCHELL, Mr. BARNES, Mr. ROE, Mr. RANGEL, Mr. LANTOS, Mr. FRANK, Mr. DE LUGO, Mr. COLEMAN of Texas, Mr. MONTGOMERY, Mr. YOUNG of Missouri, Mr. ST GERMAIN, Mr. PANETTA, Mr. BIAGGI, Mr. LEVINE of California, Mr. DYMALLY, Mr. EDGAR, Mr. LELAND, Mr. WILSON, Mr. SUNIA, Mr. COYNE, Mr. BERMAN, Mr. OWENS, Mr. KOLTER, Mr. BATES, Mr. DOWNEY of New York, Mr. MINETA, Mr. FISH, Mr. SIMON, Mr. EDWARDS of California, Mr. SYNAR, Mrs. BURTON of California, Mr. TORRICELLI, Mr. WON PAT, Mr. MARTINEZ, Mr. FAZIO, Mr. BONER of Tennessee, Mr. ORTIZ, Mr. WOLF, Mr. BATES, Mr. MINISH, Mr. STAGGERS, Mr. RANGEL, Mr. KILDEE, MR. DE LA GARZA, Mrs. HOLT, and Mr. FORD of Michigan.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3082

By Mr. JONES of North Carolina:

(An amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Wetlands Resources Act of 1984".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation, and economic well-being of all our citizens;

(2) wetlands provide habitat essential for the breeding, spawning, nesting, migration, wintering, and ultimate survival of a major portion of the Nation's migratory and resident fish and wildlife, including migratory birds, endangered species, commercially and recreationally important finfish, shellfish, and other aquatic organisms, and contain many unique species and communities of wild plants;

(3) our Nation's migratory bird treaty obligations with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, require Federal protection of wetlands used by migratory birds for breeding, wintering or migration, and are needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(4) wetlands, and the fish, wildlife, and plants dependent thereon, provide significant recreational and commercial benefits, including—

(A) contributions to a commercial marine harvest valued at over $10,000,000,000 annually,

(B) support for a major portion of the Nation's multi-million-dollar annual fur and hide harvest, and

(C) fishing, hunting, birdwatching, nature observation, and other wetland-related recreational activities that generate billions of dollars annually;

(5) wetlands enhance the Nation's water quality and supply by serving as groundwater recharge areas, sediment and nutrient traps and chemical sinks;

(6) wetlands provide a natural means of flood and erosion control by retaining water during periods of high runoff, thereby protecting against loss of life and property;

(7) wetlands constitute only a small percentage of the land area of the United States, are estimated to have been reduced by half in the contiguous States since the founding of our Nation, and continue to disappear by hundreds of thousands of acres each year;

(8) certain activities of the Federal Government have inappropriately altered or assisted in the alteration of wetlands, thereby unnecessarily stimulating and accelerating the loss of these valuable resources and the environmental and economic benefits that they provide; and

(9) the existing Federal, State, and private cooperation in wetlands conservation should be strengthened in order to minimize further losses of these valuable areas and to assure their management in the public interest for this and future generations

(b) PURPOSE.—It is the purpose of this Act to promote, in concert with other Federal and State statutes and programs, the conservation of our Nation's wetlands in order to maintain the public benefits they provide and to fulfill international obligations contained in various migratory bird treaties and conventions with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere by—

(1) intensifying cooperative efforts among private interests and local, State, and Federal governments for the management and conservation of wetlands; and

(2) intensifying efforts to protect the Nation's wetlands through acquisition in fee, easements, or other interests and methods by local, State, and Federal governments and the private sector.

TITLE I—REVENUES FOR MIGRATORY BIRD CONSERVATION FUND

SEC. 101. ADMISSION FEES AT CERTAIN NATIONAL WILDLIFE REFUGE UNITS.

(a) DEFINITIONS.—As used in this section—

(1) The term "admission permit" means a single visit permit provided for in subsection (c)(1)(A) or a group visit permit provided for in subsection (c)(1)(B).

(2) The term "designated unit" means any unit of the National Wildlife Refuge System that the Secretary designates, for purposes of this section, as a unit for which admission permits are required of the public for entry thereto.

(3) The term "duck stamp" means a migratory bird hunting and conservation stamp issued under section 2 of the Act of March 16, 1934 (commonly known as the "Duck Stamp Act", 16 U.S.C 718b).

(4) The term "related individuals" means, with respect to an individual holding a valid single visit admission permit issued under subsection (c)(1) or an unexpired duck stamp—

(A) all other individuals accompanying such individual in a single, private, noncommercial vehicle at the time of entry into a designated unit; or

(B) if entry into a designated unit is made other than by such a vehicle, the spouse, any child, and any parent accompanying such individual at the time of entry.

(5) The term "Secretary" means the Secretary of the Interior.

(b) IN GENERAL.—(1) Notwithstanding the provisions of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.), the Secretary shall charge reasonable fees for admission permits to designated units and shall pay the revenues accruing from the collection of such fees, less 10 per centum thereof which shall be used by the Secretary—

(A) to defray the administrative costs incurred in issuing such permits, and

(B) to carry out the purposes for which the respective designated units were established,

into the migratory bird conservation fund established under section 4 of the Act of March 16, 1934 (16 U.S.C. 718d). The Secretary may also sell, at designated units, Golden Eagle Passports and shall treat the revenues accruing from the sale in the same manner as are fees collected for admission permits under the preceding sentence.

(2) Notices that admission permits issued under this section are required for entry shall be prominently posted at each designated unit and, to the extent practicable, included in appropriate publications of the Department of the Interior.

(c) ADMISSION PERMITS.—(1) The Secretary shall have available for sale, and issue upon payment of the required fee, at each designated unit, and at such other locations he deems appropriate, the following permits:

(A) INDIVIDUAL VISIT PERMITS.—An individual visit permit for a designated unit authorizes the purchaser thereof and the related individuals unlimited entries into, and exits from, such unit during such period of consecutive days (but not exceeding fifteen consecutive days) as the Secretary considers appropriate taking into account the nature and size of, and other relevant factors pertaining to, the unit.

(B) GROUP VISIT PERMITS.—A group visit permit authorizes a group of individuals to make such number of entries into, and exits from, a designated unit within such period of time, and subject to such other terms and conditions, as may be established by the Secretary after taking into account the nature and size of, and other relevant factors pertaining to, the unit and the purposes for which the group visit is made.

(2) The fees charged by the Secretary for admission permits to each designated unit shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable fees charged by non-Federal public agencies, and the economic and administrative feasibility of fee collections and other pertinent factors.

(d) EXCEPTIONS.—(1) The Secretary may not require an admission permit, nor charge any fee, under this section with respect to the entry into—

(A) any designated unit by—

(i) any individual who has in his possession at time of entry a valid Golden Eagle Passport, Golden Age Passport, or any other lifetime admission permit issued in accord-

ance with section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 1-6a),

(ii) any individual who has in his possession at the time of entry a valid duck stamp issued to him,

(iii) any individual who is a related individual to any individual described in clause (i) and (ii), or

(iv) any individual who has been issued a special permit under subsection (e); or

(B) the Back Bay National Wildlife Refuge, during such time as it may be a designated unit, by any individual who has been issued a special permit under section 3 of Public Law 96-315 for that refuge.

(2) The Secretary may not require an admission permit, nor charge any fee, under this section with respect to travel over any national parkway or any road or highway established as a part of the Federal-aid highway system described in section 103 of title 23, United States Code, which is commonly used by the public as a means of travel between two places which are outside a designated unit.

(e) SPECIAL PERMITS.—(1) Upon application therefor, the Secretary shall issue to any individual who is a citizen of the United States, or is domiciled in the United States, and who—

(A) has been medically determined to be blind or permanently disabled for purposes of receiving benefits under any other Federal law; or

(B) at the time of such application is age 62 or older;

a special permit which entitles the individual, during his or her lifetime, to free entry into all designated units.

(2) Upon application therefor, the Secretary shall issue to any individual a special permit which entitles the individual, during such period as may be appropriate, to free entry to a designated unit for purposes to travel to an inholding within the unit.

(3) Upon application therefore, the Secretary may issue to any individual a special permit which entitles the individual, during such period as may be appropriate, to free entry to a designated unit for any nonrecreational purpose considered appropriate by the Secretary.

(4) The Secretary shall issue special permits under this subsection without charge.

(f) PERMIT CONDITIONS.—An admission permit or special permit issued under this section—

(1) is valid only with respect to the individual or group to whom it is issued; and

(2) does not authorize such individual or group to engage in any use for which a fee charged under the Land and Water Conservation Fund Act of 1965.

(g) REGULATIONS.—The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

(h) REPORTS.—The Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate no later than March 31 of each year a report on the administration of this section during the period covered by the report including, but not limited to, a list of current designated units, a list of units, if any, being considered for designated status, designated unit capacity and visitation data, the amount and disposition of the fees collected under this section, such other information as the Secretary deems appropriate, and any recommendations the Secretary may have for improving the operation of the admission permit program.

SEC. 102. PRICE OF MIGRATORY BIRD HUNTING AND CONSERVATION STAMPS.

Section 2(b) of the Act of March 16, 1934 (48 Stat. 451; 16 U.S.C. 718b) is amended by striking out "$7.50" and inserting in lieu thereof "$10", and by striking out "any hunting year" and inserting in lieu thereof "hunting years 1984 and 1985, $12.50 for hunting years 1986 and 1987, and $15 for each hunting year thereafter,".

TITLE II—FEDERAL AND STATE WETLANDS CONSERVATION

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The term "effective period" means the period beginning on October 1, 1984, and ending on the close of September 30, 1994.

(2) The term "eligible State" means, with respect to any fiscal year, a State that is eligible under section 204 for payment of moneys under an apportionment made under section 203(b) for that year.

(3) The term "enhancement project" means a project (which may include, but is not limited to, construction, fresh-water flow control, or the introduction of appropriate flora) that will establish (other than by acquisition) a wetland, increase the size (other than by acquisition) of an existing wetland, or restore the natural quality of an existing wetland.

(4) The term "fund" means the Wetlands Conservation Fund established under section 208.

(5) The term "preservation project" means a project (which may include, but is not limited to, construction, fresh-water flow control, or the introduction of appropriate flora) that will minimize or prevent the loss of an identified area of a wetland.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and, to the extent practicable may include the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(8) The term "wetland" means land that is—

(A) transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water; and

(B) generally inundated or saturated by surface or ground water frequently enough, and for long enough duration, to support plant populations or animal populations, or both, which are adapted to the limiting stresses of the environment characterized by saturated soil conditions or conditions of occasional flooding;

and includes, but is not limited to, a tidal or inland marsh, swamp, small pond, pothole, bog, ox bow, pocosin, slough, mudflat, or bottom land hardwood forest.

(9) The term "wetlands acquisition" means the obtaining of a property interest in a wetland or associated area by purchase or lease if the obtaining of such interest contributes appreciably to the long-term preservation of the weland and the associated populations of fish, wildlife, and plants.

(10) The term "wetland conservation project" means a wetlands acquisition, a preservation project, or an enhancement project.

SEC. 202. NATIONAL WETLANDS PRIORITY CONSERVATION PLAN.

The Secretary, after consulation with the States, shall establish, and perodically review and revise, a national wetlands priority converstion plan which shall specify, on a region-by-region or other basis deemed appropriate by the Secretary, the types of wetlands to which priority should be given with respect to wetlands acquisition and the implementation of preservation projects and enhancement projects. In establishing such priorities, the Secretary shall take into account—

(1) the significance of the loss or threat of loss of the respective types of wetlands; and

(2) the contributions which the respective types of wetlands make to—

(A) wildlife, including endangered and threatened species, migratory birds, and resident species,

(B) commercial and sport fisheries, and

(C) surface and groundwater quality and quantity, and flood control.

SEC. 203. ALLOCATION AND APPORTIONMENT OF AMOUNTS AVAILABLE TO CARRY OUT THIS TITLE.

(a) Of the sum appropriated for any fiscal year under section 209—

(1) such percentage of that sum (but not more than 66⅔ per centum thereof) as is considered appropriate by the Secretary, less such amount (but not more than 4 per centum of such percentage) considered necessary by the Secretary to defray the costs of administering sections 202 through 207 during such fiscal year, shall be apportioned by him among eligible States in accordance with subsection (b); and

(2) the remainder of such sum after paragraph (1) is applied shall be retained by the Secreatary for expenditure by him to carry out Federal wetlands acquisitions that are consistent with the wetlands priority conservation plan established under section 202.

Each wetland acquired by the Secretary under paragraph (2) shall be included within the National Wildlife Refuge System.

(b) The moneys allocated under subsection (a)(1) for any fiscal year during the effective period shall be apportioned by the Secretary among the eligible States as follows:

(1) 50 per centum thereof shall be apportioned on the basis of the ratio, as determined by the Secretary, which each eligible State's expenditure of funds (other than Federal funds) for wetlands conservation projects in that State bears to the total amount of funds (other than Federal funds) expended by all eligible States for wetlands conservation projects in such States in that year. As used in this paragraph, the term "year" means the most recent year for which the calculation of such funds, for purposes of this paragraph, is practicable.

(2) 50 per centum thereof shall be opportioned to eligible States consistent with the national wetlands priority conservation plan established under section 202.

Apportionments made under this subsection shall be adjusted so that no eligible State is apportioned less than one-half of 1 per centum of the total amount available for apportionment under this subsection in any fiscal year.

SEC. 204. ELIGIBILITY OF STATES FOR PAYMENT UNDER APPORTIONMENTS.

(a) A State is eligible for payment of moneys under an apportionment made under section 203(b) if—

(1) the Secretary determines that a wetlands conservation plan submitted to him by the State—

(A) is comprehensive and will ensure the perpetuation of wetland resources,

(B) was prepared with opportunity for public comment,

(C) is substantial in character and design, and

(D) is in a format required by the Secretary which shall be compatible with standards and formats required of States for grants administered by the Secretary, particularly the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669 et seq.), Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777 et seq.), and Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.); or

(2) the Secretary determines, after opportunity for public comment, that a wetland conservation project submitted to him by the State is substantial in character and design and meets standards as the Secretary deems appropriate, and the State submits to the Secretary such surveys, plans, estimates, and other specifications for the project as the Secretary may require.

A comprehensive wetlands conservation plan or an individual wetland conservation project with respect to which such a determination is made under paragraph (1) or (2) is an approved plan or approved project for purposes of section 205.

SEC. 205. CONDITIONS RELATING TO APPORTIONMENTS.

(a) The moneys apportioned to an eligible State under section 203(b) may be used for the payment of not to exceed 75 per centum of the costs of (1) any segment of an approved plan, or (2) an approved project, as the case may be.

(b) No payment of any money apportioned under section 203(b) may be made by the Secretary with respect to any approved plan or any approved project unless—

(1) an agreement on the part of the eligible State setting forth its undertakings to implement the plan or project is submitted to, and approved by, the Secretary; and

(2) the Secretary finds that the approved plan segment or approved project has been completed, or is being undertaken, in compliance with such plan or project.

If the conditions in paragraphs (1) and (2) are met, the Secretary shall cause payment to be made to the proper authority of such State.

(c) The Secretary may from time to time make payments on an approved plan segment or approved project as it progresses, but such payments, including previous payments, if any, shall not be more than the United States pro rata share of the segment or project in conformity with the plan or project specifications.

(d) The Secretary may enter into agreements to fund an initial portion of an approved plan segment or approved project and to agree to fund the remaining costs from subsequent apportionments if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this section.

(e) Moneys paid to an eligible State under this section shall be applied only to approved plans or approved projects and, if otherwise applied, shall be repaid by the State before it may participate in any further apportionment under this title.

(f) No property acquired or developed with assistance under this title shall, without the approval of the Secretary be converted to other than wetland conservation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive wetlands conservation plan and only upon such conditions as he deems necessary to assure the substitution of other properties of at least equal fair market value or a reasonably equivalent usefulness and location.

(g) No enhancement project or preservation project shall be approved unless the State holds an interest in perpetuity on the wetlands being conserved.

SEC. 206. TREATMENT OF UNOBLIGATED AMOUNTS.

(a) The amount of any apportionment made to an eligible State under section 203(b) for any fiscal year that remains unobligated at the close thereof shall continue to be available to that State for obligation until the close of the succeeding fiscal year.

(b) If any amount to which subsection (a) applies remains unobligated at the close of the two-fiscal year period referred to in that subsection, such amount shall be used by the Secretary in accordance with subsection (c).

(c) During the fiscal year after any two-fiscal year period referred to in subsection (b), the Secretary shall make available—

(1) any, all, or none (as he deems appropriate) of the aggregate of all of the amounts unobligated by eligible States at the close of such period to those eligible States not having unobligated amounts at the close of such period for expenditure to implement wetland conservative projects that are consistent with the national wetlands priority conservative plan established under section 202; and

(2) if all such aggregate is not made available to eligible States under paragraph (1), the balance of such aggregate for expenditure under section 203(a)(2), which balance shall remain available until expended.

Any part of any amount made available under paragraph (1) for any fiscal year that remains unobligated at the close of such year shall be available, until expended, for expenditure under section 203(a)(2).

SEC. 207. REGULATIONS.

The Secretary shall issue such regulations as are necessary or appropriate to carry out this title.

SEC. 208. WETLANDS CONSERVATION FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Wetlands Conservative Fund consisting of the amounts that are transferred to it under subsection (c).

(b) Amounts in the fund shall be available, as provided by appropriations Acts, only for making expenditures to carry out this title.

(c) For each fiscal year within the effective period, there are transferred $75,000,000 to the fund from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5).

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

For each fiscal year within the effective period, there are authorized to be appropriated from the fund to the Department of the Interior $75,000,000 to carry out this title.

SEC. 210. CONFORMING AMENDMENT.

Section 2(c)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5(c)(1)) is amended by inserting immediately before "September 30, 1989." the following: "September 30, 1984, and $975,000,000 for fiscal year 1985 and each fiscal year thereafter through". striking all after the word "thereafter" and inserting the following: "through September 30, 1984, and $975,000,000 for fiscal year 1985 and each fiscal year thereafter through September 30, 1994."

TITLE III—WETLANDS INVENTORY AND TREND ANALYSIS AND MISCELLANEOUS PROVISIONS

SEC. 301. CONTINUATION OF NATIONAL WETLANDS INVENTORY PROJECT.

(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall continue the National Wetlands Inventory project and shall—

(1) produce, by September 30, 1987, National Wetlands Inventory maps for the areas that have been identified by the Service as top priorities for mapping, including the entire coastal zone of the United States, floodplains of major rivers, and the Prairie Pothole region;

(2) produce, by September 30, 1989, National Wetlands Inventory maps for those portions of the contiguous United States for which maps have not been produced earlier;

(3) produce, as soon as practicable, National Wetlands Inventory maps for Alaska and other noncontiguous portions of the United States; and

(4) produce, by September 30, 1985, and at ten-year intervals thereafter, reports to update and improve the information contained in the report dated September 1982 and entitled "Status and Trends of Wetlands and Deepwater Habitat in the Coterminous United States, 1950's to 1970's".

(b) NOTICE.—The Secretary shall notify the appropriate State and Local units of government at such time as he proposes to begin map preparation under subsection (a) in an area. Such notice shall include, but is not limited to, an identification of the area to be mapped, the proposed schedule for completion, and the identification of a source for further information.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior the following sums, to remain available until expended:

(1) $14,500,000 for each of the fiscal years occurring in the period beginning on October 1, 1984, and ending at the close of September 30, 1987, to carry out subsection (a)(1).

(2) $6,750,000 for each of the fiscal years occurring in the period beginning on October 1, 1987, and ending at the close of September 30, 1994, to carry out subsection (a)(2) and (3).

(3) $900,000 for each of the fiscal years occurring in the period beginning on October 1, 1984, and ending at the close of September 30, 1996, to carry out subsection (a)(4).

SEC. 302. WETLANDS LOSS REPORT TO CONGRESS.

(a) IN GENERAL.—The Secretary shall, by September 30, 1985, prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate a report regarding wetlands losses in the United States.

(b) REPORT CONTENTS.—The report required under

(1) an analysis of the causes of wetlands destruction and degradation;

(2) a compilation and analysis of Federal statutory and regulatory mechanisms, including expenditures and financial assistance, which induce wetlands destruction or degradation;

(3) a compilation and analysis of Federal expenditures resulting from wetlands destruction and degradation;

(4) an analysis of the environmental and economic impacts (including, but not limited to, the impact on property values and local economic impacts) of eliminating or restricting future Federal expenditures and financial assistance, whether direct or indirect, which have the effect of encouraging the destruction or degradation of wetlands, including but not limited to: public works expenditures; assistance programs such as price-support programs, commodity loans and purchase programs, and disaster assistance programs; soil conservation programs; and certain income tax provisions;

(5) an analysis of the environmental and fiscal impact of failure to restrict future Federal expenditures and financial assistance which have the effect of encouraging the destruction or degradation of wetlands, including but not limited to: assistance for normal Silviculture activity (such as plowing, seeding, planting, cultivating, minor drainage, or harvesting for the production of fiber or forest products); Federal expenditures required incident to studies, evaluations, design, construction, operation, maintenance, or rehabilitation of Federal water resource development activities, including channel improvements; the commodity loans and purchases program, and cotton, feed grain, wheat, and rice production stabilization programs administered by the Department of Agriculture; Federal expenditures for the construction of publicly owned or publicly operated highways, roads, structures, or facilities that are essential links in a larger network or system; and general revenue-sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221); and

(6) recommendations for the conservation of wetlands resources based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions, Federal actions, and initiatives by private organizations and individuals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section, which sum shall be available until expended.

SEC. 303. WETLANDS LOAN ACT.

Section 3 of the Wetlands Loan Act (16 U.S.C. 715k-5) is amended by striking out the first three sentences thereof.

SEC. 304. MIGRATORY WATERFOWL AREA ACQUISITION.

Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(a)(1)) is amended by striking out "except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended".

TITLE IV—PROVISIONS AFFECTING FEDERAL LANDS AT MANTEO BAY, NORTH CAROLINA

SEC. 401. MANTEO BAY PROJECT.

(a) COST-BENEFIT RATIO REQUIRED.—Not withstanding any other provision of law, no funds may be expended to carry out the project at Manteo (Shallowbag) Bay, North Carolina (authorized by section 101 of the River and Harbor Act of 1970 and hereinafter referred to as the "Manteo Bay project") unless a cost-benefit analysis of the Manteo Bay project is first prepared by the Secretary of the Army, acting through the Chief of Engineers, and that analysis discloses a favorable cost-benefit ratio regarding that project.

(b) USE OF CERTAIN FEDERAL LANDS.—Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to use land within the boundaries of the Cape Hatteras National Seashore and land within the boundaries of the Pea Island National Wildlife Refuge which he determines to be necessary to carry out the Manteo Bay project.

(c) EFFECTS OF USE.—In implementing the authority under subsection (b), the Secretary of the Army, in consultation with the Secretary of the Interior, shall, to the extent practicable and consistent with the construction and continued operation of the Manteo Bay project, carry out the project in such manner as to (1) maintain the essential integrity of the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore; and (2) ensure that adverse impacts to the uses and purposes of the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore are avoided, if possible, or minimized, and that, if the Secretary of the Army finds appropriate, unavoidable adverse impacts are mitigated.

H.R. 5609

By Mr. BARTLETT:

—Page 5, after line 14, insert at the end of section 101 of the bill the following new subsection:

(c) Notwithstanding any other provision of this Act, funds made available to any local educational agency under this title may be used for performance-based payments to teachers in accordance with a locally developed program for rewarding meritorious teaching.

By Mr. DANNEMEYER:

—Page 18, after line 8, insert the following new subsection:

(f) Notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out this Act for any fiscal year unless the Secretary of the Treasury, in consultation with the Secretary of Education, certifies to the Congress that expenditures incurred under such an appropriation will not result in an increase in the national debt of the United States.

By Mr. GOODLING:

—Page 17, line 7, insert before the period the following: ", or if the amount appropriated to carry out such chapter for such fiscal year does not equal or exceed the amount required to provide services under such chapter to 75 percent of the educationally deprived children eligible for such services".

EXTENSIONS OF REMARKS

A SALUTE TO DR. RONDLE EDWARDS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. STOKES. Mr. Speaker, thank you for providing me with this opportunity to salute a man whose life has been committed to quality education for our Nation's youth—Dr. Rondle Edwards. In 1976, Dr. Edwards assumed the position of superintendent of schools for the city of East Cleveland which is in my congressional district. On August 1, Dr. Edwards officially left that position and assumed a new job as the superintendent of schools in Portsmouth, VA.

Mr. Speaker, on behalf of my constituents in East Cleveland, let me say that we are saddened by Dr. Edwards' move to Portsmouth. It is truly East Cleveland's loss and Portsmouth's gain.

However, what I want to emphasize today is not the loss of a great educator from one school system to another but rather a story about a committed individual whose No. 1 priority is the education of young people. Dr. Edwards not only possessed that priority but also made education a major agenda item for all school personnel, students, and the community of East Cleveland. Almost singlehandedly, he turned the school system around to the point that it has received national attention in the media in recent months for improved test scores and achievements.

Mr. Speaker, when Dr. Edwards assumed the position as the superintendent of schools in East Cleveland, the test scores of the students were below the national average. Teacher morale was low. Vandalism in the schools was prevelant. The community maintained a pessimistic attitude toward the schools.

Dr. Edwards changed all of that. Although he is a native Virginian, Dr. Edwards joined the community as if he had lived in East Cleveland all of his life. We went door to door to meet people, talk about their concerns about the schools, and urged the passage of an increase in the tax levy to benefit the schools.

Some might have thought that Dr. Edwards, armed with his effervescent personality and positive confidence in the schools, was asking too much. What the community really got was a bargain.

After the passage of the tax levy, Dr. Edwards put the increased funds to use. He improved teacher pay, enhanced instruction with incentives to teachers, created new programs, revived old ones, and put the school system back on the proper road of educating the young people in East Cleveland. As a result, test scores improved dramatically and the students received the high quality of instruction that should be standard in all of our public schools.

Not only did he improve the financial and instructional aspects of the schools in East Cleveland, but also Dr. Edwards was a positive catalyst in terms of improving the attitude of the school personnel and in enhancing the perception of the school system by the public.

Because of his dedication and achievement, Dr. Edwards has gained the respect and admiration of people not only in Ohio but throughout this Nation. Just recently, he was named one of the top 10 educators in North America.

Mr. Speaker, my young constituents have been the beneficiaries of his expertise, commitment, and kindness. Because of him, East Cleveland city schools are better places for the students as well as the teachers.

On behalf of my constituents, I take this opportunity to salute Dr. Edwards for his exceptional work in the field of education. At this time, I would like to insert an article from the Cleveland Plain Dealer in the RECORD on Dr. Edwards.

[From the Cleveland Plain Dealer, July 23, 1984]

TOP 100 EDUCATOR READY TO MOVE ON

(By George E. Jordan)

When Supt. Rondle Edwards took over the East Cleveland schools, he inherited a system haunted by truancy, assaults on teachers, vandalism and apathy among some teachers and pupils about academic excellence.

Eight years later, the East Cleveland schools have emerged as one of the finest districts in Cuyahoga County, making a quick departure from the days when athletic competition overshadowed class-room activities.

Edwards, 50, officially relinquishes the helm Aug. 1 to become superintendent of schools in Portsmouth, Va. He seemed to make all the right moves during his tenure in East Cleveland.

In the fall of 1976, he spent the first few months of his tenure going door to door in the community, successfully lobbying for passage of a 719-mill school levy and getting to know the area.

The school board, impressed with his diplomatic air and bold proposals for sweeping change, gave their new superintendent a blank check and free rein to turn the district around. "They just threw this thing open to me," he recalled.

"I came here to interview with little or no intent of taking the job. But I saw citizens truly prepared and committed to developing a community. I was totally turned on by their commitment," said the former assistant superintendent of the Richmond, Va., schools. He is a Richmond native.

In early 1976, during a second interview for the post, he recalled encountering teachers "who did not really believe in what they were doing" and the unexpected responses to his inquiries about courses for gifted and talented pupils.

"I was appalled. I got this expression from the general staff and questions like, 'Do we have the youngsters to serve in a gifted and talented program?' I think that was a function of low expectations," Edwards said.

"Nothing disturbs me more than a person who does not realize the importance of education in all of our lives. What really bothers me most is a person who doesn't respect the pupils he or she is working with."

There are now waiting lists for enrollment in the many special programs, particularly in math and science, at W.H. Kirk Junior High School and Shaw High School.

Edwards, initially assuming the role of tough guy, drew the scorn of teachers union officials by firing or reassigning teachers and principals in the early years of his administration.

The changes paid off, however. He later won praise for stressing academics, fighting for pay increases, insisting on stricter classroom discipline and encouraging workers to propose new ideas.

"I'm going to be sad to see him go," said Deborah Crosby, president of the East Cleveland Education Association. "There has been a lot of emphasis on higher test scores. That's one thing that stands out the most."

Crosby, ECEA president for two years, said teachers' and parents' pride in the district's academic offerings became apparent in the 1980s, after the superintendent's shakeup.

Edwards' leadership in bolstering the district's academic programs won him recognition earlier this year as one of North America's top 100 educators.

He attributes his successes to community involvement in the schools and luck in surrounding himself with capable teachers and midlevel administrators. Edwards gives his staff the freedom to do their jobs, and they relish the dirty work that makes the boss look good because a job well done translates into an even better quality education for pupils.

"I think the school system is well along the way, but there's a lot more to be done," he cautioned. "This district is at a point where a real strong administrator can move it to even higher heights. We need a superintendent who will build upon the progress of the system.

"We have been saying over the years that the board of education has been committed

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

to what is good for education and less time on political" infighting, he said.

During Edwards' tenure, the board has focused on broad policy issues affecting delivery of classroom services, he said. "I hope that this type of orientation continues," he said.

In Portsmouth, Edwards said he plans to expand instructional programs for minority pupils and broaden the district's class offerings. "I'm looking forward to it. I think it's time to move," he said.●

PLIGHT OF POLITICAL REFUGEES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. OTTINGER. Mr. Speaker, last week the House appointed members to the conference committee on H.R. 1510, the Simpson-Mazzoli immigration bill. There are many advantages to such legislation, but I would caution my colleagues that we achieve nothing if we allow ourselves to ignore the plight of political refugees by confusing political and humanitarian questions with an attempt to control legal and illegal immigration.

Included in the House version of this bill is sense of the Congress language that the United States should grant extended voluntary departure to Salvadoran refugees who have fled here to escape the unrelenting violence in their homeland. There is also legislation pending before the Judiciary Subcommittee on Immigration which would suspend deportation of Salvadorans until such time as the Congress determined El Salvador to be safe enough for their return. Both of these initiatives represent the only fair and thoughtful response the United States could take in the face of a rush of refugees fleeing danger; a response that we have taken in the past for refugees from Poland, Nicaragua and other nations in turmoil.

Unfortunately, refugee status is increasingly becoming victim to the political climate. In the case of Salvadorans, the administration refuses to recognize the danger in El Salvador and so maintains that Salvadorans have no right to extended voluntary departure. In an op-ed from the Wall Street Journal of August 28, Doug Bandow outlines the problems and contradictions within this posture. I commend the article to the attention of my colleagues:

SINKING THE HOPES OF POLITICAL REFUGEES

(By Doug Bandow)

President Reagan concluded his acceptance speech last Thursday night with a moving reminder of our nation's "golden door." Beside it, he said, the Statue of Liberty's torch has been "lighting the way to freedom for 17 million new Americans."

Yet as tens of thousands of people around the world flee their repressive and strife-torn homelands every year and request political asylum here, the U.S. government treats them as a threat. Our embassy in Warsaw has even become reluctant to allow Poles to visit the U.S., rejecting some 40% of all visa requests, apparently fearing that some Polish tourists might request asylum while here.

An applicant may stay in America if he has been persecuted or has "a well-founded fear of persecution." The Immigration and Naturalization Service (INS), which normally follows the recommendations of the State Department's Bureau of Human Rights and Humanitarian Affairs in granting asylum, has a backlog of 143,500 applications; 18,758 requests were filed in the first eight months of fiscal 1984.

DOES BIAS EXIST?

All applications are to be judged individually, but appearances of group political bias exist. There is a vindictive undercurrent to the administration's treatment of Haitians, for example, not present in the handling of the earlier flood of Cuban immigrants. Haitian refugees have been imprisoned in Northern states for more than a year while waiting for resolution of their asylum claims, and boatloads of Haitians are turned away—forever preventing any assessment of their appeals—because they are assumed to be purely economic migrants. Yet the Duvalier regime is highly repressive; the New York-based Lawyers Committee for International Human Rights has described Haiti as having a "climate of fear in which the democratic process has little meaning."

For years, people fleeing Nicaragua have been far more likely to be granted asylum than Salvadorans. A 1981 report by the U.N. High Commissioner for Refugees concluded that the U.S. was followed "a consistent practice designed to secure the return of Salvadorans, irrespective of the merits of their asylum claims."

And the administration's attitude toward defectors from the People's Republic of China has been particularly bizarre—except when considered in relation to America's courtship of the Communist state. So far this year, only one out of seven applicants from China is being granted asylum; those rejected include Chu Jiangang, a member of an opera troupe, who had been in political trouble at home in China, and atmospheric physicist Xia Yuren, who escaped via a window from China's San Francisco consulate.

Both Messrs. Xia and Chu have gravely embarrassed China, where, the Human Rights Bureau reports, critics are "dealt with swiftly and sometimes harshly." One is forced to wonder whether the threat of another freeze in athletic and cultural exchanges of the sort that followed the granting of asylum to tennis star Hu Na last year is being taken into account.

However, officials at both the State Department and the INS deny that political considerations enter the process, and argue that such anomalies are explainable on other grounds. INS spokesman Verne Jervis says many Salvadorans, for example, enter the U.S. from other countries, such as Mexico, in which they've already found a "safe haven."

Laura Dietrich, deputy assistant secretary of state of humanitarian affairs, emphasizes that "country conditions in general, either poverty or civil unrest or whatever, are not grounds for asylum"—the person has to show that he's been "singled out for persecution." In the general case of Chinese applicants, Ms. Dietrich says that their presence in "a certain field, like the arts, sports, science, or certain professions indicates that those people already are part of a privileged class." Indeed, the "very fact that those people are in those occupations and are allowed to travel abroad" is evidence that "their reasons for staying in the U.S. were not valid." People whose request for U.S. political asylum is denied may seek to enter another country or, since their requests are secret, may take the risk of returning home.

Overall, asylum policy doesn't appear to be dictated by world politics. Approval rates for many nations fluctuate greatly from year to year, and are unrelated to any apparent government policy shift.

Moreover, the fact that 16.8% of Nicaraguan requests for asylum have been approved compared with only 3% of those by Salvadorans so far this year tells us less about the political persuasion of the administration than the niggardliness of the law itself. Officials may be subconsciously biased against Salvadorans, believing them to be applying solely for economic reasons, but granting asylum to just one out of six Nicaraguans hardly seems to be a political move calculated to embarrass the Sandinista regime.

The fundamental problem is that the Human Rights Bureau and the INS are upholding the law, not that they are flouting it. A refugee may have no right to criticize his government, own property or direct his own life. But if he merely faces the same totalitarian strictures as everyone else in his country, he can't stay in America.

Such an approach is not worthy of "the land of the free." Some 40,000 people have died in El Salvador in the past five years, victims of left and right; why should we care whether an applicant has been singled out? The Soviet Union is an 8½-million-square-mile gulag. Refusing refuge to even 18% of potential Soviet defectors, as the U.S. did last year, is incredible.

And we shouldn't worry overly about the distinction between political and economic refugees. Most foreigners who want to live in the U.S. hope to take advantage of both its economic freedoms and its political opportunities; their exact rationale can be very difficult to disentangle, particularly if they are unsophisticated. The U.N. High Commissioner for Refugees reports that "Some refugees are politically inarticulate in the sense of not being able to express their political views though they may have very definite opinions for which they have had to suffer."

Also, economic liberty is as fundamental a human right as political freedom; it underlies the founding of our nation. Who can say what causes people more suffering—restrictions on political activities, or control of their economic destinies?

Until passage of the Refugee Act of 1980, most applicants from Communist and some Middle Eastern countries, in contrast with other asylum applicants, were automatically treated as refugees. We should return to this more generous standard and apply it more generally. (Some may fear massive immigration across the Southern U.S. border, but only five Mexicans requested asylum in all of 1983. They apparently eschew the process because they are primarily transient migrants and do not meet the requirements for asylum, though that could change if the law were sufficiently loosened.)

AN ASSET TO AMERICA

Even a large increase in the number of refugees (which is unlikely) would pose no

threat. Immigrants constitute a far smaller percentage of the population today than they did at the turn of the century, and less than in such countries as Canada, Britain and France today.

Immigrants benefit us all economically and culturally. Studies consistently show that they use less in public services than they pay in taxes. Most don't displace native workers, and higher-skilled immigrants are more likely than natives to create new businesses and jobs.

Miss Liberty is being renovated, even as we daily repudiate her message by turning down the majority of asylum requests from citizens of such civil-libertarian hells as China, Czechoslovakia, Vietnam and Cambodia, and from such economic basket cases as Bangladesh, Zaire and Ethiopia. We should mark the restoration of the statue with passage of new legislation that shows we still understand our heritage of freedom and are, as the president suggested, willing to share its bountiful opportunities with others.●

H.R. 4684: NUTRITION MONITORING

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. MACKAY. Mr. Speaker, I want to call to the attention of my colleagues on August 26, 1984, article in the Washington Post coauthored by Dr. Jean Mayer, a world-renowned nutritionist and currently the president of Tufts University, and Jeanne Goldberg. The article underscores the longstanding need for a national nutrition monitoring system and emphasizes the importance of H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984, in fulfilling that need.

H.R. 4684 has been endorsed by over 50 organizations representing: Scientific societies, government, health and service organizations, food producers and processors, and consumer, antihunger, senior and religious groups. The bill will be before the Science and Technology Committee on September 13. I urge my colleagues to support H.R. 4684 when it comes before the House and to review the article which follows.

NUTRITION

(By Dr. Jean Mayer and Jeanne Goldberg)

The recent recession has retaught us an old lesson: We desperately need a way to keep tabs on the nutritional health of America, especially high-risk groups like children, pregnant women and the elderly poor.

It's an old lesson because a national nutrition-monitoring system was strongly recommended by the White House Conference on Food, Nutrition and Health way back in 1969.

Readers who remember the shocking discovery in the 1960s of widespread, poverty-related hunger in the United States, the land of plenty, will also recall the heartbreakingly long struggle to get the national government to recognize and tackle the problem. Teams of health experts had to scour the nation evaluating reports and assessing each situation. Only then, when it grew clear that people from every ethnic group and region of the country were affected, did Congress and the executive branch take heed.

When it came, action was thorough and bipartisan. And it worked: America was fed, from sea to shining sea. Not until 1981, when cutbacks in the federal food programs appeared along with unemployment in the recession, did the shadow of hunger fall upon us again.

And because there is still no good way to measure the nation's nutritional health, once more we are hearing the old push-me pull-you, "Yes, there is," "No, there isn't," kind of exchange.

Now, finally, if a new bill before the House of Representatives is passed by Congress, we will have the beginnings of a comprehensive, coordinated national nutrition-monitoring system.

The words may have a cold, technical ring. But this is what they mean: a window to give our federal, state and local governments and private organizations a reliable, up-to-date look at a very complex realm. It will provide a view of the food picture from many vantage points, to learn who's eating what and getting what nutrients, which groups have nutrition-related problems and what treatment they're receiving, what foods are available and at what cost—in short, complete nutritional surveillance for the entire country. It's the who, where, what and why of our food supply and eating patterns.

In good times, this information would offer American consumers of all incomes help in choosing a healthy diet. It would provide health professionals with the guidance they need to advise the general public on food selections and to plan therapeutic diets for their patients. And it would give the federal government tools for long-range nutrition and agricultural planning.

In bad times, such information would give our national and local agencies a rational basis for allocating scarce resources to those most in need—and soon enough to make a real difference in their nutritional state.

The magic number is H.R. 4684. That's the new bill coming before the House to set up the system. In charge would be a directorate whose members are slated to represent the federal agencies with a stake in nutrition monitoring.

Two arms of the Department of Agriculture (the Agricultural Research Service and Human Nutrition Information Service) and two of the Health and Human Services Department (the National Center for Health Statistics and the Centers for Disease Control), which have major responsibility for our current nutrition-monitoring programs, would manage the new, expanded system.

An advisory council drawn from experts in the fields of nutrition and dietetics, public health, medicine, food technology, health statistics, health education and economics would also be at the helm.

The program would coordinate our two intermittent dietary and nutrition status surveys—the Health and Nutrition Examination survey from HHS, and the Nationwide Food Consumption Survey from USDA—and put them on an ongoing basis. At present, the most recent data are about six years old.

In addition to state-of-the-art assessment, analysis and reporting of America's dietary status and trends, the new network would explore future monitoring and research priorities, and set up necessary research. It would develop data banks for national nutritional and dietary status. It would perform a key service in focusing the activities of federal agencies on emerging problems, and would make a special point of helping state and local government build their own monitoring and surveillance networks.

For various reasons, this program has been a long time coming. At last we have the chance to make the idea a reality. We should seize the moment. A nutrition surveillance system could safeguard the nutritional well-being of all Americans, in prosperous times or lean years. It could also help us put our money where the need is greatest.●

A SALUTE TO THE FAIRMOUNT THEATRE OF THE DEAF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. STOKES. Mr. Speaker, on behalf of the residents of the Cleveland metropolitan area and the avid theatre patrons in the 21st Congressional District, I salute the Fairmount Theatre of the Deaf. For many years, the theatre, located in my congressional district, has provided quality entertainment. They have received warm receptions by audiences and rave reviews by critics in Cleveland, throughout Ohio and around the globe.

Recently, the theatre artists, under the direction of Mr. Michael G. Regnier, departed for Amman, Jordan where they participated in the Jerash Festival, August 23–29. This annual international arts festival, headed by Her Majesty Queen Noor, was an important event which encouraged and promoted talent from all over the world. The United States and Jordan have maintained cultural exchanges for many years.

Mr. Speaker, this is only the most recent international invitation and honor bestowed upon this group of talented Clevelanders in the last year. In November 1983, artists from the theatre represented the United States at the VIII International Pantomime Festival of the Deaf in Brno, Czechoslovakia. There, Cleveland's ambassadors to the world, as we call them, won two top awards. They were the Audience Prize for Most Popular Group and the Jean Kaspar Duburau Grand Prize for the best overall performance.

In other words, Mr. Speaker, the Fairmount Theatre of the Deaf has a tradition of excellence not only in national but also international competition. They continue to provide quality artistic performance for people from every walk of life.

In honor of their recent participation in the Jerash Festival in Jordan and the fine work they have done in

the community through the years, I salute the Fairmount Theatre of the Deaf in Cleveland, OH.

Mr. Speaker, I ask that my colleagues join me in this salute.●

H.R. 5791

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, last June the International Trade Commission [ITC] ruled against the U.S. nonrubber footwear industry in deciding that foreign imports are not having an impact on the American industry.

It is difficult to comprehend the ITC decision in light of the fact that plants across the Nation are closing at a rate of one a week. Forty-eight plants have closed since January, with job losses estimated at 5,000 to 6,000 for the first 6 months of this year. Imports are 27 percent higher than a year ago, and imported shoes have captured 70 percent of the domestic market.

In June I introduced H.R. 5791, a bill to provide for orderly trade and reduced unemployment in the U.S. nonrubber footwear industry. The bill takes the simple approach of capping imports of nonrubber footwear into the United States to 400 million pairs annually, which would allow importers to retain 50 percent of the U.S. retail market. More than 50 of our colleagues have cosponsored this legislation, which we feel may be the only way left to save this important U.S. industry.

When the bill is considered by the House, I will recommend the following amendments. All except the last are purely technical. The last change would add a new section to give the legislation a termination date of 8 years. This is done to show that it is not our intent to create a permanently protected industry, but to allow the U.S. industry a period to strengthen itself to compete fairly against foreign imports. Printed below is the bill and the suggested modifications:

H.R. 5791

A bill to provide for orderly trade in nonrubber footwear, to reduce unemployment and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress, That the Act may be cited as the American Footwear Act of 1984.

SEC. 2. FINDING, PURPOSE, AND POLICY.

(a) The Congress recognizes the importance of the domestic nonrubber footwear industry to the national economy. The domestic nonrubber footwear industry is highly labor intensive, and footwear firms are vital to the economic health of small towns throughout the United States. The low capital requirements for entry into footwear production makes it a primary target for industrializing or newly-industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world. Congress recognizes that tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and non-tariff barriers by foreign countries designed to protect their domestic footwear industries.

(b) The Congress acknowledges that the United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the U.S. market has become a focal point for world trade in nonrubber footwear. The diversion of international trade to the U.S. market has resulted in serious injury to domestic producers as manifested by the loss of 120,000 footwear jobs since 1968, a decline in domestic production and production capacity, and the permanent closure of more than 400 plants during the same period. The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(c) The Congress finds that domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment. Since the termination of temporary import relief in 1981, however, capital investment has declined as the industry struggled to battle the massive surge in imports which captured 70 percent of the U.S. market by early 1984. Without the restriction of import levels this capital investment will continue to decrease.

(d) The Congress notes that the domestic nonrubber footwear industry has twice been judged by the International Trade Commission to be seriously injured by imports. Since the termination of the four-year orderly marketing agreements in 1981, the present harm to the domestic industry is even more critical than the serious injury which triggered the Commission's two unanimous findings in 1976–77.

(e) Congress finds that the domestic nonrubber footwear industry has not been afforded adequate and appropriate relief; therefore, the Congress concludes that:

(1) the administrative process has proved inadequate; and

(2) in the absence of an effective remedy, legislative relief is essential.

(f) It is the intent of Congress in enacting this Act to promote and expand the economic health of the United States nonrubber footwear industry, preserve the jobs of American workers, and to prevent the further decline of this important domestic industry. It is therefore declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States' balance of payments problems. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear to no more than 400 million pairs per year into the U.S. market.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States;

(2) the term "Secretary" means Secretary of Commerce;

(3) the term "nonrubber footwear product category" means the following categories for nonrubber footwear products, identified by reference to the following five digit item numbers of the Tariff Schedule of the United States (Annotated) as in effect on January 1, 1984: TSUS items 700.05 through 700.45, 700.56, 700.72, through 700.83, and 700.95.

SEC. 4. QUANTITATIVE RESTRICTIONS.

(a) Imports in the "nonrubber footwear product category" shall be restricted to 400 million pairs per year beginning on the effective date of this Act.

(b) The Secretary shall allocate global product limitations among foreign countries taking into consideration:

(1) average levels of imports for the period 1978–1982;

(2) findings of unfair trade practices with respect to nonrubber footwear products;

(3) recent market trends; and

(4) such other considerations as the Secretary deems appropriate.

(c) Upon the effective date of this Act, and in each October thereafter, the Secretary shall determine, and publish in the Federal Register the permissible level of imports by country, group of countries or area as required by this section, to take effect for 12 month period beginning the following January 1.

SEC. 5. ENDORSEMENT AND IMPLEMENTATION.

The Secretary and the Secretary of the Treasury shall take all such actions within their respective departments as may be necessary or appropriate to enforce the provisions of this Act, including, without limitation, the issuance of order to customs officers to bar entry to merchandise the entry of which would cause the limitations established under this Act to be exceeded. The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this Act and to enforce its provisions; except that before issuing any such regulations, the Secretary or the Secretary of the Treasury, as the case may be, shall consult with interested domestic parties; shall afford an opportunity for comments from such parties to be provided with respect to proposed regulations; and shall consider all such comments before promulgating final regulations.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect sixty days from Presidential signature.

PROPOSED AMENDMENTS TO S. 2731 AND H.R. 5791 (AMERICAN FOOTWEAR ACT OF 1984)

In subsection (a) of section 2 of the bill, change the word "makes" to "make".

In subsection (d) of section 2 of the bill, change the word "through" to "and".

In subsection (e) of section 2 of the bill, insert the phrase "from imports" after the word "relief"; insert the phrase "under sections 201–203 of the Trade Act of 1974, as amended," after the word "process" in paragraph (1); and insert the phrase "under that process" after the word "remedy" in paragraph (2).

In subsection (3) of section 3 of the bill, delete the phrase "product category"; change the word "for" to "of"; change the word "Schedule" to "Schedules"; and delete the word "(annotated)".

In subsection (a) of section 4 of the bill, replace the phrase "in the" with the word "of"; delete the phrase "product category";

and insert the phrase "and continuing for a period of eight years" after the word "Act".

In subsection (b) of section 4 of the bill, change the word "product" to "import"; after the word "countries", insert a comma and the phrase "groups of countries, or areas"; and delete all of paragraph (2) and redesignate paragraphs (3) and (4) as (2) and (3), respectively.

Replace present subsection (c) of section 4 of the bill with the following:

"(c) Upon the effective date of this Act, the Secretary shall determine, and publish in the Federal Register, the permissible levels of imports by country, group of countries or area as required by this section, to take effect for the remainder of the calendar year in which this Act is enacted, based on a pro-rata share of the quota level of imports. In addition, if this Act becomes effective on or after October 1 of the year in which it is signed, the Secretary shall, upon such effective date, also determine, and publish in the Federal Register, the permissible levels of imports by country, group of countries or area as required by this section, to take effect for the 12-month period beginning January 1 of the following year. By the following October 1, and again by October 1 of each of the subsequent years, the Secretary shall determine, and publish in the Federal Register, the permissible level of imports by country, group of countries or area as required by this section, to take effect for the 12-month period beginning January 1 of the following year, except that the levels for the calendar year in which the authority contained in section 7 terminates shall be based on a pro-rata share of the quota level of imports."

In section 5 of the bill, change the word "departments" to "authority"; change the word "order" to "orders"; and replace the phrase "shall afford an opportunity for comments from such parties to be provided with respect to proposed regulations" with the phrase "shall afford an opportunity for such parties to comment on the proposed regulations".

At the end of the bill, add the following new section:

"TERMINATION DATE

"SEC. 7. The authority contained in section 4 of this Act shall terminate eight years from the effective date of this act." ●

WE MUST CONTINUE TO WELCOME BAHA'I REFUGEES FROM IRAN TO THE UNITED STATES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LANTOS. Mr. Speaker, I wish to address a serious issue today, one with which I have been personally involved for many years, as have many of my colleagues. We have discussed the issue of Iranian persecution of the Baha'i religion at great length, both here on the floor of the House and in the Foreign Affairs Committee. You are familiar with the facts: mass arrests, confiscation of property, desecration of graveyards, torture and execution of hundreds of peaceful people. There can be no doubts about the extent of this systematic and brutal persecution occuring in Iran today.

The intent of most Baha'is in Iran is to wait out the Khomeini regime, and to pray that change comes quickly to that beleaguered country. Some, though, cannot or will not remain in a country that endangers their lives, and these are the refugees. At present, the refugees go to Pakistan and await resettlement to Canada, Australia, the United States, or elsewhere. This safety valve is sometimes the only path open to a Baha'i who wishes to save his or her life.

There has been some concern recently that the ceiling for refugees from the Middle East/Southwest Asian area will be lowered for the next fiscal year. If this were to happen, I fear it would be a grave and costly mistake for the hundreds of refugees who might be rejected from entering the United States.

Firuz Kazemzadeh, the leader of the National Spiritual Assembly of the Baha'is of the United States, has prepared a cogent argument urging that the number of Baha'i refugees be kept at its present level. I recommend it here for my colleagues' attention:

THE CLASSIFICATION OF IRANIAN BAHA'I REFUGEES APPLYING FOR ADMISSION TO THE UNITED STATES

The severe persecution of the Baha'is in Iran is a well established fact, amply documented in U.S. State Department and congressional reports. In the last 5 years more than 175 Baha'is, most of them leaders of the community, have been killed. As of today over 750 Baha'is are languishing in Iranian prisons, and 32, who have been sentenced to death, are awaiting execution. The entire Baha'i population of some 300,000 is denied basic human rights. The thousands of Baha'is who served as members of local spiritual assemblies—the community's elected governing bodies that were outlawed by the Islamic regime in August 1983—are particularly vulnerable to arrest, imprisonment, and execution.

Because of constant danger, small numbers of Baha'is (on the average 25 a week) are leaving the country. At present there are no fewer than 1,000 refugees in Pakistan. Of these, at least half will go to Canada, Australia and countries of Europe and a few even to Latin America. The remaining 400 to 500 will seek admission to the United States.

While the Congress has, in H. Con. Res. 226 (adopted June 15, 1984) expressed its interest in assisting Baha'i refugees and the administration has shown great sympathy, the status of Iranian Baha'i refugees causes apprehension among American Baha'is.

We sincerely hope that the next fiscal year's ceilings for refugees from the Middle East/Southwest Asian area will remain at least at the level of the current year, providing some 2,400 slots for Iranian refugees. We also hope that Iranian applicants in priority categories 5 and 6 will continue to be eligible for the refugee program, for there are Baha'is in great need of resettlement who do not easily qualify for higher priority categories.

In view of the exceptionally severe treatment to which Baha'is are subject in Iran, it would be appropriate to consider as eligible for priority category 1 those Baha'i refugees who have suffered or been personally threatened with particularly severe hardships and dangers on account of their religious beliefs:

1. Those who have been tortured or incarcerated because of adherence to the Baha'i Faith, and members of their immediate families.

2. Immediate members of families of those who were executed, assassinated, or lynched because of being Baha'i (widows or widowers, children, parents, and siblings).

3. Those who served on elected national or local spiritual assemblies, governing bodies of Baha'i communities, before these were disbanded and membership in them declared a crime by the Revolutionary Prosecutor-General in August 1983.

4. Those who actively participated in the work of spiritual assembly committees, operating Baha'i schools, study classes, libraries, charitable funds and institutions, cemeteries, shrines, and other Baha'i properties. (It should be noted that in June 1983 three teen-age Baha'i girls were hanged in Shiraz because they taught Baha'i children's classes.)

5. Those who solely because of their Baha'i affiliation have been deprived of jobs (for example, all university professors and school teachers, all government employees), or old age pensions, had their businesses or properties confiscated or looted, and can no longer earn a livelihood in Iran.

6. Those who were driven from their homes by expropriation, confiscation, arson or looting by mobs or by government agents. (Thousands of Baha'is, mostly in the provinces, have been forced to seek shelter in makeshift tent cities or in the homes of friends or relatives.)

7. Those who have been expelled, solely because of their religious faith, from the universities, primary and secondary schools thus disabling them for the future in the genocidal attempt by the Islamic regime aimed at the complete destruction of the Baha'i community. ●

THE SANDINISTAS: EXPERT DECEIVERS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. BROOMFIELD. Mr. Speaker, by betraying their promises to the Organization of American States, the Sandinistas have betrayed the original Nicaraguan revolution. I commend Ambassador J. William Middendorf for his frank appraisal of growing OAS disenchantment with the Sandinistas, the professional deceivers of Central America. I strongly recommend the following excerpts from his recent address before the OAS Permanent Council.

In 1979, the Sandinistas made three vital commitments to the members of the OAS. The Sandinistas promised to establish full respect for human rights, to enforce civil justice, and to hold free elections. In exchange for the Government of Nicaragua's solemn pledges to follow through on

its formal promises, the OAS took the unprecedented step to provide support for the removal of the Somoza Government. The OAS and other countries kept their promises. Unfortunately, the Sandinistas did not. They, like Fidel Castro in the 1950's, deceived the gullible West and democratic states in the area. As Castro had one in earlier days, the Sandinistas convinced these countries that they were democratically oriented and that they wanted to give the Nicaraguan people an open and pluralistic society.

On the fifth anniversary of these broken promises, the U.S. Delegation expressed its serious concern about the deception of the Sandinistas in failing to live up to these commitments. Today, Marxist-Leninist Nicaragua is an armed camp committed to the export of its failed revolution to the region. With advisers from Cuba, the Eastern bloc and Soviet weaponry, the Nicaraguan military is the largest in Central America, and the build-up continues every day. The church has been attacked along with opposition parties. Neighborhood mobs attack the homes of those who dare voice an opposing point of view. The Nicaragua of today is a far cry from what the members of the OAS wanted it to become. I trust that the following excerpts from Ambassador Middendorf's speech to the OAS will put into perspective the real tragedy of Nicaragua.

[From the U.S. Department of State, Bureau of Public Affairs]

REVIEW OF NICARAGUA'S COMMITMENTS TO THE OAS—JULY 18, 1984

(Following is an address by Ambassador J. William Middendorf II, U.S. Permanent Representative to the Organization of American States (OAS), before the OAS Permanent Council, Washington, D.C., July 18, 1984.)

The U.S. delegation wishes to raise the matter of the solemn commitments made to the Secretary General of this body by the Sandinista junta 5 years ago on July 12, 1979. This is not intervention—this is reviewing our own role after commitments made to it by a member state. As a result of these commitments and our own OAS resolutions, we brought down a sitting government. Tomorrow will be the fifth anniversary of the date that the junta took effective control of Managua; but, regrettably, very little progress has been made in putting into effect these commitments.

You will recall that these commitments were made as a response to the resolution of the 17th Meeting of Consultation of the Ministers of Foreign Affairs of member countries of the OAS. According to Document 25 of this body, published June 30, 1981, this resolution "for the first time in the history of the OAS, deprived an incumbent member government of legitimacy" when it asked that the Nicaraguan Government be "immediately and definitively" replaced.

The resolution in question said that a solution to Nicaragua's problems was exclusively within the jurisdiction of the Nicaraguan people but then proceeded to dictate how the problems should be settled. In addition to demanding a sitting president's ouster, the resolution:

Said that a "democratic" government was to replace the existing government. Its composition was to include "the principal representative groups which oppose the existing regime and which reflect the free will of the people of Nicaragua";

Said that the human rights of all Nicaraguans, without exception, should be respected; and

Called for the holding of free elections as soon as possible, leading to the establishment of a "truly democratic government that guarantees peace, freedom, and justice."

The Ministers of Foreign Affairs went on to urge the member states to take steps that were within their reach to facilitate an enduring and peaceful solution of the Nicaraguan problem based on these points "scrupulously respecting the principle of nonintervention."

They also asked that member states promote humanitarian assistance to Nicaragua and contribute to the social and economic recovery of the country. Many countries responded with an open heart, including my own, with the United States donating $118 million in the first 2 years.

It is in this context that I propose to examine the record here today, in order to see exactly what has been happening in Nicaragua since the Sandinista junta assumed power there.

It should be noted that those who signed for the Sandinista junta were Commandante Daniel Ortega, Violeta de Chamorro, Commandante Sergio Ramirez, Alfonso Robelo, and Moises Hassan. Violetta de Chamorro is no longer a member of the junta, and Alfonso Robelo is in exile in Costa Rica, where he is an outspoken critic of the junta of which he was once a member.

COMMITMENT NUMBER ONE—HUMAN RIGHTS

". . . [O]ur firm intention to establish full respect for human rights. . . ."

Nothing has demonstrated the callous disregard of human rights by the Sandinista regime so much as their treatment of the Miskito Indians. Approximately 20,000 Miskitos—one-third of the entire Miskito population—have crossed the border into neighboring Honduras thus far, where they live in refugee camps. They have been victims of the Sandinistas' constant campaigns against them.

It all began with efforts by the Sandinista government to try to force the Miskitos into adapting their way of life to a preconceived Sandinista model. Many of these human rights offenses are detailed in a report just released by the OAS General Assembly on June 4 transmitting a report by the Inter-American Human Rights Commission dated November 29, 1983.

Miskitos have been forcibly relocated from their traditional villages. In a few cases where they resisted, they were killed. Many were force marched to the new area and not allowed to take their belongings with them. In other instances, the government appropriated their farm animals for itself. On February 18, 1982, the Episcopal Conference of Nicaragua, headed by Managua's archbishop, directed a message to the people and Government of Nicaragua denouncing the human rights violations against the Miskitos.

But by no means have human rights violations been limited to indigenous peoples. As you will recall, the Pope, on his visit to Managua, was treated with unheard-of rudeness. Sandinista militants set up a parallel loudspeaker system over which they heckled the Pope and attempted to drown out his sermon. Most of the areas close to the Pope were assigned to these militants, and ordinary Catholics who turned out to receive the Pope's blessing were kept at a distance.

This is a fitting illustration of how the Sandinista government has treated the Catholic Church.

In recent years, the Archbishop of Managua, Monsignor Obando y Bravo, has not been able to have the traditional holy week services broadcast on radio and televison because the government wanted to subject the process to prior censorship, a demand to which the Archbishop underestandably refused to accede. In a crude ploy, a priest, who is the spokesman for the archbishop and director of the Catholic radio station, was accused of have sexual relations with the wife of another man, stripped naked, and paraded in public where Sandinista mobs jeered at him while government press photographers and television crews, which "just happened" to be on the scene, took pictures.

The Sandinistas have attempted to infiltrate Catholic youth groups, and when this largely failed, they set up their own so-called "peoples' church." In November of 1983, all Nicaraguan churches closed for a day in protest against attacks by Sandinista youth mobs on numerous churches.

The current president of the Nicaraguan human rights group, Marta Patricia Baltodano, told the Inter-American Human Rights Commission in May of this year that Sandinista laws have institutionalized the violation of human rights. The setting up of so-called Neighborhood Committees for the Defense of the Revolution are really attempts to limit the freedom of the individual Nicaraguan by instituting a control system over the population at the neighborhood level.

Freedom of the press also suffers in Nicaragua. The only independent newspaper, La Prensa, has had its publication suspended by the government on numerous occasions and is subject to prior censorship. On countless days, the paper has been so heavily censored that its editors decided not to publish.

The lack of the right for families to determine how their children will be educated, which we in the United States consider a fundamental human right, has been denounced by the Nicaraguan Parents' Association. The Sandinista government tries to use education to brainwash the young against the ideals of their parents and even to get them to denounce their parents' lack of revolutionary zeal to the authorities in some cases. Intellectual freedom and the freedom to belong to independent labor unions are also restricted in today's Nicaragua.

COMMITMENT NUMBER TWO—CIVIL JUSTICE

Let us turn our attention to the second Sandinista commitment to ". . . let justice prevail for the first time in half a century. . . ."

Presumably, the Nicaraguan Supreme Court, under the original Sandinista plans, was supposed to have complete autonomy in the judicial area, and lower courts would be dependencies of it. The Inter-American Human Rights Commission in 1981, as well as an international commission of jurists, said that the judicial branch in Nicaragua should be independent from the legislative

and executive branches of the government, not to mention the Sandinista party.

But, in reality, other courts have been established which have nothing to do with the concept of judicial independence as we know it. The Supreme Court has no authority over them. One of them is the so-called Peoples' Court at the neighborhood level. These courts spend their time ferreting out so-called counterrevolutionaries in the neighborhood. For example, a neighbor who does not show up for a meeting to promote the Sandinista cause may find himself labeled a counterrevolutionary by one of these courts.

There exists no constitution, as such. There was the Economic and Social Emergency Law of 1981 which in 1982 became the State of Emergency. This State of Emergency has been routinely extended every time it was about to expire. Under this system, all laws are issued by government decree. The State of Emergency does not provide for the right of the individual to a defense in a court of law in some cases and in others suspends the civil rights of the individual. This has been denounced by Amnesty International.

COMMITMENT NUMBER THREE—ELECTIONS

So much for Sandinista justice. Let's turn now to commitment number three, dealing with elections.

We see that elections have been scheduled in the Sandinista government for November 4 of this year, 2 days before our own. As we once had high hopes for the new Nicaraguan Government 5 years ago, can we now have high hopes that at least this commitment will be fulfilled? This is, in itself, a welcome development, but there are some disturbing statements on the record which lead one to question just how open this election process will be. In the letter of July 12, 1979, the Sandinista leaders committed to the OAS to "call Nicaragua to the first free elections our country will have in this century." This was in reply to the resolution of the 17th Meeting of Consultation of the Ministers of Foreign Affairs which had said free elections should be held as soon as possible, leading to the establishment of "a truly democratic government that guarantees peace, freedom, and justice."

Yet on August 25, 1981, Commander Humberto Ortega said that elections would not be to contest power but to strengthen the revolution. On July 7 of this year, less than 2 weeks ago, Commander Carlos Nunez Tellez said on Radio Sandino:

"The electoral process is the result of a political decision made by the FSLN [Sandinista National Liberation Front], its revolutionary leaders, and government to reinforce the historical popular plan. There is nothing more alien to the electoral process than sectarianism, dogmatism, and other vices that are characteristic of certain so-called democracies."

The electoral council which has been set up is made up exclusively of prominent members of the Sandinista party. Will they be fair to the opposition parties?

And will the state of emergency be lifted for the elections?

Will the opposition parties be able to campaign without interference by authorities or by Sandinista-sponsored youth mobs?

Will opposition parties have equal access to radio and television as compared with the Sandinista party? Will they be able to have party representatives at the polls?

Will the Sandinistas allow international observers to move freely about the country during the election process? How will the ballots be counted and how will results be relayed to election headquarters?

We also note that, as time has gone on, the government has arbitrarily concentrated more and more power in the hands of the Sandinista party. What was once the Government of National Reconstruction is now the Sandinista Peoples' Revolutionary Government. Will the Sandinistas allow this process to be reversed, or are we in for a sham election in November just before our own general assembly?

We have seen how the Sandinistas of Nicaragua have thus far failed to live up to their commitments to the OAS of 5 years ago. It is a shame that the people of Nicaragua, so hopeful in 1979 that their situation would improve, have seen their revolution betrayed by a group of leaders who have aligned themselves with international communism and whose principal concern has been to maintain themselves in power and, indeed, to export communism to their neighbors virtually from the day they took over. We in the OAS, which was deeply involved in the process by which the Sandinistas took power, have a grave responsibility to monitor the fulfillment of these commitments.

In June 1979 a respected scholar on Latin America, Dr. Constantine Menges, wrote: "The defeat of the Somoza Army by the Sandinistas will be followed by a Cuban-type process from which the pro-Castro guerrilla leaders will emerge as the only group with real power." Five years after he wrote this, and 5 years after the Sandinistas' commitments to the OAS, it developed that he was prophetic.●

IF GOP DIDN'T HAVE GOLDWATER, IT WOULD HAVE TO INVENT HIM

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. McCAIN. Mr. Speaker, those Americans who attended and watched the GOP Convention in Dallas can attest to the high esteem in which Senator BARRY GOLDWATER continues to be held by Republicans and all Americans.

Senator GOLDWATER, I am proud to say, is from Arizona—but he is also a national treasure. His unique appeal was recently captured by Phoenix Gazette political reporter, John Kolbe. The article follows:

IF GOP DIDN'T HAVE GOLDWATER, IT WOULD HAVE TO INVENT HIM

DALLAS.—If Republicans didn't have Barry Goldwater, someone would have to invent him.

Like bread, water and Xerox machines, in his golden years he has become a staple of political life, an anchor of reassuring consistency in a phony and superficial world of cheap promises and mushy rhetoric.

Some practitioners of the political arts are more outrageous. Many are more eloquent. Maybe most are smarter. None is more real.

Which is why they came in herds, cynical journalists as well as the GOP faithful, when Goldwater staged his patented road show—a quadrennial convention news conference—here the other day.

Attending a Goldwater performance is much like taking a course in American literature from a professor who used to drink with Hemingway . . . it's not literature you're after, it's *life*.

Never was he livelier than here in Dallas, bad hip and fuzzy memory and all.

Goldwater acts like a star, which is socially acceptable only when it's true. And it is. He's a living legend, the once-vilified candidate who talked too straight for his own good and lived to see his premature revolution finally succeed, and to earn the sort of roar emitting from deep in the political gut which greeted him from the convention floor last night.

He gets away with it because nothing in the years after his humiliating defeat has shaken his confidence. Yet it is a confidence borne with ease, and without a hint of arrogance.

Is he a prophet, he once was asked. "No, I just came around back then to what people are thinking today." Which, of course, is the very definition of a prophet, but Goldwater leaves the labeling to others.

Part of acting like a star is toying with the newsmen who once made life so miserable for him. Reporters who saw taking a chunk out of his political hide as a sacred duty now sit happily while Goldwater scores points at their expense.

"What's on your brain?" he asked by way of recognizing a reporter with a question. "Of course, I use the term advisedly."

Newsmen serve as foils for his rapier thrusts, scattering questions across the political landscape not with an eye to eliciting news so much as entertainment. And he seldom disappoints.

Had the White House tried to get him to moderate his convention speech? "Oh, some people are worried about what I might say, but I'll say what I want to say . . . I haven't heard the phone ring. I wouldn't pay any attention to them anyway."

It wasn't quite true. Even Goldwater fudges to protect his friends.

A Reagan aide did call, he admitted privately, suggesting the deletion of an offending passage: "I told him I could take it out, but I'd just hop on the next plane and go back." Chalk up one more White House aide who's seen the soul, and learned the appeal, of Barry Goldwater.

Campaign advice from GOP history's least successful campaigner: "I told Lyn Nofziger (Reagan's political adviser) don't mention Mondale, don't mention Mrs. Zaccaro." To the snickers which greeted the use of the vice presidential candidate's married name, he added: "I'm old-fashioned. I don't want my wife calling herself Mrs. Johnson."

"I used to look at them as the biggest collections of lies ever put together," he said of party platforms. Now, however, he has moderated, and simply considers them irrelevant to the campaigns they are designed to guide.

The coming GOP scramble for the 1988 nomination won't be "a dogfight," he observed. "They're not dogs. I wouldn't say it's a catfight . . . It'll be (pause) an interesting altercation."

He has a way of reducing the great and the near-great to bare essentials: "The first time I say George (Bush) he came down from Yale and sang the Whiffenpoof."

Goldwater, who's frequently given to earthy conversation, isn't above a double entendre where it suits his purposes. He denied he had ever favored combining Puerto Rico, the Virgin Islands and Grenada in a single "archipelago state," but con-

ceded "anything that's virgin I'd like to include."

"If they want to make Cuba the 51st state, I might even go down and run for governor," he added playfully.

The years have taken their toll, as they do on all of us, and Goldwater is no longer at the top of his political form. The energy and passion for philosophical principle have waned, and he finds the easy life more appealing.

But his passion for the country and the people he loves with such uncritical devotion still burns brightly. In a stock question reserved for those in their sunset years, he was asked to name the proudest achievement of a well-spent lifetime. He didn't hesitate a moment:

"It's coming up Sept. 22. We'll have been married 50 years. You can't beat that. I'd have given you 100-to-1 odds it wouldn't last five.

So help me, the man had tears in his eyes.

"Politics is filled with brighter, and more diligent, and more vigorous men," we wrote four years ago after a similar convention performance, "but few with more unabashed patriotism and simple wisdom, and the perspective and humility to keep it all straight."

In four years, another slightly dimming intellect hasn't come up with a more apt description of a unique man. We'll just add, amen.●

HOUSE CONCURRENT RESOLUTION 333—10TH ANNIVERSARY OF SENIOR COMPANION PROGRAM

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, 1984 marks the 10th anniversary of the Senior Companion Program. This program reflects a long-standing tradition of voluntarism in this country but is, nevertheless, unique in that it puts to use the valuable talents and contributions of approximately 5,000 older volunteers who are working in over 90 Senior Companion Programs across the country.

The Senior Companion Program provides a stipend volunteer peer-support system for the frail elderly. Through this program, low-income Americans over the age of 60 serve as senior companion for older adults in their homes, nursing homes, or residential institutions. Senior companions generally are required to work 20 hours per week. For their services they receive a stipend of $2 per hour, a hot meal, transportation, an annual physical examination, and insurance coverage. Such remunerations are, in turn, of significant help to senior companions as they themselves are often living on only minimal retirement and/or Social Security benefits.

In addition to providing companionship, senior companions take updated knowledge and skills to their clients who face a variety of limiting health conditions and often isolation. As volunteers, they work under the direction of supervisors in health and social services agencies and often attend educational programs addressing such topics as health, nutrition, household management, consumer issues, and energy conservation.

Demographers predict that we are moving toward a population with more older people, including a large number of healthy people over the age of 60. As the number of elderly increases, however, so does that segment of the population with functional impairments—those in need of long-term care. Nearly 12 million frail older people will need some type of long-term care in this decade, but as health care costs continue to rise, the financial ability to access these services becomes difficult, if not impossible, for most needy families. A recent Federal study, as reported in the Wall Street Journal of March 8, 1983, found that if present trends continue, the $23 billion a year that it now costs to support skilled nursing facilities would more than triple by 1990.

The value of senior companions is that they can provide or arrange for the personal services needed to keep the frail elderly in their homes. Expensive professionals are used only for emergency or highly defined services rather than for activities that a companion can do as well or even better. Although long-term care professionals are a key element, they function primarily as trainers and emergency caregivers rather than as providers for all services. This frees the professional to handle more complex situations.

Senior companions constitute a vital link between professional service providers and the elderly while also creating a network linking frail older people in a sustaining and nurturing relationship. In effect, through the Senior Companion Program, the elderly help the elderly, and as was recently reported by the Select Committee on Aging Subcommittee on Human Services, "* * * who better knows the needs of elders than those that are senior adults?"

Senior Americans constitute the single most neglected human resource we have. This is an unfortunate and an unnecessary waste to this society, as they possess a lifetime of experience and talents to offer this Nation. I am proud to have been an original cosponsor of House Concurrent Resolution 333, commemorating the Senior Companion Program, and I will continue to support programs and legislation that appreciate the community involvement of our older citizens.

I am certain that as this and similar programs become better known, they will be welcomed in every community. But more importantly, I am hopeful that through their implementation, the valuable talents of our senior citizens will be fully acknowledged and utilized at long last.●

THE SALE OF CONRAIL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FLORIO. Mr. Speaker, the Department of Transportation is currently considering various offers for the sale of Conrail. Congress will have to consider the Department's recommendation, and the various offers, very carefully. Any sale should ensure continued rail service and maximize the return to the United States on its investment.

The New Republic recently had an article about the Conrail sale process. For the information of interested Members, the article from the July 30 issue follows:

GREAT TRAIN ROBBERY

(By Bob Kuttner)

Uncle Sam has a railroad for sale, and it looks like whoever buys it is going to get one honey of a deal. The railroad is Conrail, the line that rose from the wreckage of the old Penn Central. The seller is the U.S. Department of Transportation, which is currently considering fifteen private bids. And the various prospective purchasers—some of whom helped run Conrail's precursors into the ground in the first place—don't have to kick any wheels or slam any freight-car doors to know if the deal is sweet. They just have to look at the numbers. The taxpayers have been kind enough to spend $7.6 billion to clean up Conrail's debts and upgrade the line. Conrail is profitable: Last year it earned $313 million. It has nearly $700 million in cash in the bank. And it has tax write-offs worth over $1 billion. An attractive package. The probable price? Perhaps $500 million net, maybe a lot less. And why does the Reagan Administration want to do this? For the usual reason: it believes in free enterprise.

If Congress concurs, the abrupt privatization of Conrail will bring full circle a 15-year process of private default, public subsidy, and private enrichment. The bankruptcy of the Penn Central Company in 1970 reflected equal failures of private management and public policy. On one level, it was an epic debacle of modern managerial capitalism. For decades, the proprietors of the big eastern rail lines had failed to modernize, had let maintenance slide, and had diverted capital to real estate speculation. Poor management was camouflaged through consolidation and merger; expensive contracts and featherbedding substituted for effective labor relations. The terms "disinvestment" and "paper entrepreneurship" had not yet been coined, but the big railroads practiced them. In the endgame, just before the bankruptcy, the Penn Central hid its true, deteriorated condition from the shareholding public only by borrowing large sums of money in order to keep paying dividends.

According to Congressional and SEC investigations, the last days of the Penn Central were a hidden frenzy of insider dealing. In the months before the Penn Central's

terminal condition became public knowledge, top executives and Penn Central's bankers dumped huge blocks of stock. Chase Manhattan alone unloaded more than half a million shares.

On another level, the downfall of free enterprise railroading signaled the collapse of a particular economic bargain between private ownership and public regulation, a bargain struck in 1887 with the creation of the Interstate Commerce Commission. But the ICC was in the business of regulating rates and routes, not of long-range planning. In the 1950's the railroads came under increasing competitive pressure from buses and trucks traveling on subsidized interstate highways. Public policy was ostensibly agnostic on competition among different modes of transportation. But in practice, public policy, though inchoate, favored highway interests. Congress, reflecting the pressure of shippers and rail labor, insisted that the railroads keep unprofitable lines open, rates low, and wages high. Meanwhile the truckers got highway subsidies. The slow decline of the railroads was obvious to everyone, but there was no constituency for a long-term transportation policy.

During the five years of legal tangling over how to satisfy the railroads' creditors and at the same time keep an east coast rail system running, it became clear that nothing would suffice but a massive government bailout. So the United States, in what seemed the ultimate case of lemon socialism, nationalized the Penn Central and six other bankrupt railroads. The result was Conrail, possibly the most reluctant and ideologically unacknowledged nationalization in the history of the mixed economy.

That was in 1976. The government has since spent some $7.6 billion on Conrail—over $3 billion to pay off creditors, another nearly $3 billion on modernization, and several hundred million more to pension off some forty thousand redundant workers. Over a 12-year period, the railroad system in the Northeast has been restructured and rationalized, not via public regulation but under public ownership. Surprisingly enough, public ownership in a deregulated competitive environment has proven far superior to the earlier social bargain of private ownership under obsessive government supervision.

Conrail today is one of America's most modern and best-managed railroads. It has been able to consolidate lines, streamline a bloated and inefficient labor force, and practice good management and aggressive marketing. It is expected to earn over $400 million in 1984. In the busy Northeast corridor, it is giving two private competitors, Norfolk Southern and CSX (the Chessie system), a run for their money.

The Reagan Administration finds this progress fiscally encouraging but ideologically unthinkable. Thus the fire sale. James Burnley, Deputy Transportation Secretary and a prime promoter of the sale, is one of the Administration's most determined free enterprises. In 1981 the Reagan people insisted that Conrail be sold because it was losing money. Today they insist it be sold because it's making money.

Upon taking office in 1981, the administration moved quickly to sell the railroad back to private enterprise, in bits and pieces if necessary. Conrail was then still operating in the red. The original Reagan plan, however, was blocked by Congress, which was committed to long-term modernization of the rail system. Compromise legislation enacted in June 1981 mandated further modernization, but agreed in principle that Conrail should eventually be sold. It got rid of Conrail's passenger commuter lines, streamlined staffing and work rules, and set criteria for eventually selling off the line either as a whole (if it became profitable) or in parts—subject, however, to a legislative veto.

By the end of 1981, Conrail was back in the black. A new management team, under L. Stanley Crane, formerly an exective with the highly regarded Southern Railroad, is widely credited with the turnaround. For the Administration, three profitable years for a public enterprise mean the hour has come to return it to the private sector—and price is no object.

Last April the Transportation Department set June 18 as a deadline for submitting bids to buy Conrail. But before other bids came in, officials received a pacesetting $1 billion bid from the Alleghany Corp., a holding company which, ironically enough, was once a part owner of the Penn Central.

Alleghany is sitting on $800 million from the sale of its subsidiary, Investor Diversified Services, to the American Express Co. Ostensibly, Alleghany offered the Government $1 billion. But according to an analysis conducted by the leading independent trade journal, "Traffic World," and confirmed by the Democratic chairman of the House Commerce, Transportation, and Tourism Subcommittee, James Florio, Alleghany is actually proposing to buy Conrail substantially with Conrail's own money. In theory, Alleghany would pay the government $1 billion, but it would get back Conrail's own cash reserves and tax credits—with the result that Alleghany's true out-of-pocket cost would be only about $350-$500 million.

Conrail, incidentally, currently has total assets valued at $5-$6 billion, and cash reserves of $675 million. If the Alleghany deal goes through, this private investor will pick up a company in which the taxpayers have invested nearly $8 billion for the cost of about 1 year's operating profits. In stock market terms, that translates to a price-earnings ratio of about 1 to 1.

After Alleghany submitted its initial proposal last April, the Transportation Department sought advice from Goldman, Sachs, the investment banking house. Goldman, Sachs gave the department the answer it wanted to hear: it declared that the Alleghany offer was about right. When that became known, other bidders made their offers in the same $1 billion range. Therefore, even if Alleghany ultimately loses out, its bid has set the terms of the market, and the Government is likely to sell off Conrail for substantially less than it's worth. Goldman, Sachs, now giving the government independent advice on the worth of Alleghany's offer, once handled transactions for Alleghany itself. In fact, Alleghany's president, John Burns, once worked for Goldman, Sachs for a period of 6 years. A further oddity is that Drew Lewis, the Reagan administration's first Transportation Secretary and now head of Warner Amex, of which Alleghany is a large shareholder, has been lobbying Congress on behalf of the Alleghany deal. Lewis appointed five of the current Conrail board members.

Interestingly, too, when Penn Central was quietly going down the tubes, Alleghany was one of those insiders that dumped stock. Alleghany is largely a creature of the Kirby family, which previously had controlling interest in the old New York Central. After the Central was merged with the Pennsylvania Railroad to form Penn Central in 1968, the Kirbys and Alleghany together held about 2.5 percent of the total Penn Central stock, and there were five Alleghany directors on the twenty-two-member Penn Central board.

On May 27, 1970, Penn Central's board was informed that Penn Central's worsening financial condition made it impossible to sell $100 million worth of bonds. That publicly singled that Penn Central was in deep trouble. but before that information was released on May 28, Alleghany and Investors Diversified Services dumped 212,000 shares fo Penn Central stock.

Still another intriguing circumstance is Alleghany's eagerness to acquire Conrail as part of its long-term strategy to avoid SEC regulation under the 1940 Investment Company Act, which limit self-dealing and restricts financial wheeling in several other respects. Because of its large cash holding from the IDS sale, Alleghany needs to find a major operating company to own by next January, or it will find itself subject to the 1940 act, which would also force Alleghany to sell its big interest in American Express. It is, of course, perfectly reasonable that Alleghany should want to buy Conrail as part of its regulatory strategy. But that is no reason for the Government to select Alleghany as Conrail's most suitable buyer.

Nor are any of the other bidders necessarily preferable to Alleghany. They include three other railroads: the Norfolk Southern, CSX, and Timothy Mellon's Guilford Co., which controls three smaller eastern rail lines. On major stretches of the Northeast corridor there is vigorous three-way competition between Conrail, Norfolk Southern, and CSX. Each of the latter two lines has put in bids mainly to keep the other from getting Conrail. If either does get Conrail, the result would be consolidations and diminished competiton.

Other serious bidders include CitiCorp, which proposes to parcel out pieces of the deal to other investors as yet unnamed (commercial banks playing investment banker is one of the latest fruits of bank deregulation); Allen & Company, a New York investment banking house, famous for its efforts to keep David Begelman at the helm of Columbia Pictures despite financial shenanigans; J. Willard Marriott, Jr., the Republican restaurant and hotel magnate, in a joint venture with the Bass family, Texas oil men; and the Railway Labor Executives Association, representing Conrail's unionized workers, who already own 15 percent of the company under an employee stock ownership plan. To some extent, Conrail's present health is attributable to concessions made by the unions.

With the exception of the rail employees, every one of these prospective buyers seems attracted mainly by the prospect of taking over Conrail's paper tax losses and its ample cash, or by the chance to shut down a competitor, or by the possibility of a quick financial windfall—not by any long-term interest in running a railroad.

Congress, taxpayers, rail employees, and business shippers who depend on rail service have endured twelve years of turmoil and expense in order to leave in place a durable, restructured rail system for the Northeast. The overriding policy need, therefore, is that the eventual private owner of Conrail be someone committed to running a railroad. Ironically, the more cheaply Conrail is sold, the more likely it is that the buyer will cannibalize its most profitable parts for a quick profit rather than operate the whole system for the long term. (In railroading

jargon, this is known as cherry picking.) Nominally, the Administration is committed to maintaining a unified private Conrail system. But the rush to sell Conrail all but guarantees dismemberment.

What, then, to do with Conrail? A moderate solution, suggested last year by Goldman, Sachs but rejected by the Transportation Department, would be a public offering of Conrail stock. That would privatize Conrail, but allow the market to set its worth and keep it intact under its present competent management. There is another obvious solution. Conrail is doing a fine job as a public enterprise. Perhaps, at least for the immediate future, it should stay in the (shocking thought!) public sector. But that, of course, is unfortunately outside the current ideological consensus.

It speaks volumes about American capitalism that the Government may be the most trustworthy entrepreneur to run a railroad. Trouble is, the Government right now belongs to Ronald Reagan. And for Mr. Reagan it remains a contradiction in terms that the Government can run something well—and if it does, that's just another reason to sell that something, fast. Even though the legislative veto as such has been struck down by the Supreme Court, Congress retains an effective veto over any Conrail sale because the tax complexities, if nothing else, require legislative clarification. Therefore it is up to Congress, not always a great exemplar of Government efficiency, to save the Government from itself.●

THREAT TO AIRLINE DEREGULATION

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. HOWARD. Mr. Speaker, 6 years ago, the Airline Deregulation Act of 1978 was enacted to remove Government from the aviation business. That legislation resulted in widespread benefits for airline passengers through increased competition which led to lower fares and a more varied selection of flights.

Today, however, those benefits are being threatened through Federal Aviation Administration pressure on certain airlines to voluntarily coordinate and reduce their schedules at six major airports. By this pressure, the FAA is allowing the opponents of deregulation, those who are threatened by economic competition, to take advantage of unrelated factors to attempt to reimpose regulation.

All parties involved agree that a shortage of air traffic controllers, for which the FAA bears responsibility, and unusually bad weather play as much of a role in flight delays as the high-volume peak schedules. Even with those factors 95 percent of all operations have been on time, that is, within 15 minutes of scheduled arrival time.

While there may be a need for short-term action on a voluntary basis, any attempt to mandate future schedule changes and reductions through FAA rulemaking should be rejected. In a speech before the Aviation Fuel Conservation Symposium yesterday, the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation, gave an eloquent description of this situation. I am submitting the text of the speech for the RECORD.

REMARKS OF HON. NORMAN Y. MINETA

I am very pleased to be here today to talk to this symposium on fuel efficiency in the aviation industry. We have witnessed tremendous gains in fuel efficiency by the airlines since the early 1970's when fuel was inexpensive and plentiful.

That improved efficiency was not just the product of a few specific engineering fixes, but was part of a broad move by the industry to improve efficiency all across the board: more efficient use of aircraft, more efficient route structures, more efficient aircraft, more efficient operations, more efficient use of labor, and so on. And that more than anything else is my message here today: we're not just talking about tacking a winglet on the end of a wing and achieving x% improved fuel efficiency. We are talking about an industry which as responded aggressively to new pressures and has improved efficiency in many ways. In looking at the question of efficiency we need to see not so much a few specific trees; we need to look up and see the entire forest.

The improvements have been remarkable. From 1970 to 1983 the fuel consumed by the national and major carriers per passenger mile has been cut by 45.6%—nearly in half, from 68 gallons per thousand miles in 1970 to 37 gallons per thousand passenger miles in 1983.

Where did that phenomenal improvement come from? Ultimately it came from two new pressures on the airlines, pressures that they felt and responded to in every aspect of their businesses.

The first was the price of fuel. If the carriers had not achieved fuel savings in that period, their fuel bill for 1983 would have been $16 billion, as compared to the $8.7 billion they actually spent in that year. So in part the problem was the solution: over time the high price of fuel caused improved fuel efficiency.

The second new pressure on the airlines began gradually in the mid-1970's and then became an overriding force by 1978: airline deregulation. The competitive forces it raised put a whole new premium on efficient operations: everything from more efficient aircraft scheduling to fewer corporate vice presidents.

The General Accounting Office's review of deregulation shows that from 1978 to 1982 the index of airline costs went up 87.4% while their fares went up only 40.4%. You can't make all that up from your vice presidents.

The twin economic pressures of fuel prices and deregulation led airlines to seek improved efficiencies everywhere:

More fuel efficient aircraft and engines.

More efficient flight operations and increased reliance on flight management computers. The silicon chip and the "glass cockpit" have become a major part of technology's contribution to improved efficiency in the last new years.

Weight savings everywhere they could find them. I keep expecting to get a notice in my frequent flyer newsletter that if I'll just lose 10 pounds they'll give me bonus mileage.

Increased use of hub-and-spoke systems, to aggregate thin traffic loads into larger groups which can be moved more efficiently: the same principle Federal Express applied to packages.

Increased load factors. They had been in the low 50's at the beginning of the decade. They now run in the low 80's That's an example of a non-technological response that produced nearly a 20% improvement in efficiency.

Improved labor productivity.

Increased use of simulators for training.

And so on, the list is nearly endless.

All these things have worked together to make possible these remarkable gains in efficiency. In short, efficiency has not been created by technology alone, but by broad economic pressures which put a premium both on the efficiencies of new technology and on other efficiencies as well. Improvement has come not just from the engineer, it has also come from the deregulator. And the ultimate beneficiary has been the traveling public, which enjoys air travel at prices far below what they would have been without deregulation and without these improved efficiencies. The GAO found, for example, that the consumer price index between 1978 and 1982 rose at an annual rate 23% higher than air fares did in the same period. Improved efficiency is steadily making air travel a better buy.

My concern here today, however, is that we do not always appreciate the forces which have driven this extraordinary improvement in efficiencies, with its attendant public benefits. There are, in fact, a broad range of governmental policies which are not thought of, first, and foremost, as affecting the efficiency of air travel, yet have considerable effect on it, either for better or worse.

We are sometimes lucky, as in the case of fleet noise rules requiring older, noisier jets to comply with newer noise rules or cease operations in the U.S.

The primary objective of these rules was environmental: to reduce jet noise impact around our nation's airports. An important secondary effect, however, has been to push the operators of these older, less efficient aircraft toward new technology aircraft, whether that be new aircraft, reengined aircraft, or retrofit kits. The fuel savings which result range from minimal in the case of the kits up to 35% in the case of some new and reengined aircraft. Even if not all operators are pushed by the rule to the most fuel efficient options, many will be, and considerable savings will result.

Another case is the National Airspace System Plan, which had a number of objectives, one of which was improved efficiency for the users of the system. All users of the airway system, not just the airlines, were to benefit substantially from airspace modernization, with the benefits coming in reduced delays, improved fuel efficiency, improved reliability in bad weather, and so on. It was estimated in a 1982 study that just the improved enroute metering, route planning, and flow planning features of the modernization plan would generate $10 billion in 1982 dollars in fuel savings for the users over the first 20 years and another $8 billion in reduced airport delays.

I think it suffices to say that the efficiency savings offered to aviation users by the airspace modernization program were so great that most of them came to Congress and said: Yes, tax me more, so that I can get the benefits of modernization. The number of instances in which any group supports increased taxes on itself are rare indeed.

What has happened, however, is that the Administration's public policy of airspace modernization has run smack into the Administration's head-long rush to cut almost any non-military spending. Having advocated and won increased aviation user taxes, justified by plans to spend significantly increased amounts to improve airport and airway capacity and efficiency, the Administration, promptly reneged on the spending commitments while keeping the higher taxes in place. Last year, for example, the users were supposed to get a $1.4 billion investment in the air traffic control system and they were taxed at a level necessary to support a $1.4 billion investment, but at the Administration's insistence they got only a $750 million investment, barely more than half what it should have been. We are trying to prevent a similar shortfall this year. But we are clearly running the risk that, unless spending commitments can more consistently be lived up to, the users may never get the efficiencies they were promised and taxed for in the name of the airspace modernization.

But the case that most concerns me today is the public policy response to the great airline delay crisis of 1984. Delays have been discussed here today and delays are clearly an impediment to efficient operations. The FAA has done a good job of minimizing that problem by taking the vast majority of delays on the ground rather than in the air, but delays in any form are both an inefficiency for the airlines and an inconvenience for the traveling public.

But I think that so much misunderstanding has been generated in recent weeks about the nature of the delay problem and about the government's response to it that a little plain talk is in order.

This Administration has simply failed to provide an air traffic control system adequate to meet the demand of the traveling public. They are, by their own admission, more than a thousand controllers short of where they need to be. That didn't just happen, it was the product of a major miscalculation by the administration. After the strike, obviously the hiring and training of new controllers was stepped up. In late 1982 new hires for terminal and center controllers were running at nearly 600 per month.

For whatever reason—whether it was budgetary, a miscalculation of future traffic, undue optimism about washout rates of controllers in training, I don't know—the Administration decided that they could drastically cut back the hiring of new controllers at that point and not suffer a shortfall in the future. Beginning in early 1983 the hiring of new controllers was cut back dramatically: by June 1983 it was down to one-third of what it had been in late 1982 and the rate of new hires has been reduced since then.

How much of our current delay problem can be traced to a shortage of controllers? Our Subcommittee investigation suggests that roughly half of all current delays would be eliminated if the FAA had an adequate controller workforce. And that by itself would be enough to return us to our normal rate of airline delays.

The problem was masked until this Spring by the artificial post-strike restrictions imposed on air traffic and by the depressing effect the general economy had on air traffic. But beginning in March of this year there has been a marked surge in traffic trying to use the air traffic contol system. Operations at the 22 busiest airports from March through August have been running more than 10% higher per month than they were in the year leading up to March.

And in fairness to the FAA, the weather has also been significantly worse than normal in the Eastern part of the country. Combine all this with inadequate controller staffing, and the result has been an increase in the rate of delays to double in the Summer of 1984 what they were in the Summer of 1983.

Having dug ourselves into this hole, what should the government's response to the problem be?

The FAA has said that its planned hiring of controllers will make up the missing thousand by March of 1985. But that just means they will be hired, not that they will be trained and adding to the capacity of the system. Expect the rate of climb in the number of operational controllers to grow much more slowly.

But the most vocal response of the government to the delay problem has been to direct blame away from themselves and toward the airlines for having peaks and valleys in their scheduling. The most quoted statistic suddenly became that the carriers had scheduled 46 departures from Atlanta in a 15-minute period when on an average day the airport could only handle 17 departures. Clearly the carriers were attempting to do the impossible and they had to be straightened out.

Let me make it clear that I think the delay problem is serious enough to justify, in the short term, the type of schedule slide meetings permitted under the CAB's order. The airlines have their own credibility with the passengers on the line. If passengers are frequently missing their connections, or missing their business meetings, they are going to shift to another carrier which can deliver on its schedules with greater reliability. So if a particular time of day is consistently producing large delays, the carrier is under severe market pressure to correct that situation, and many of them have been individually making schedule adjustments to deal with delay problems. Sometimes, however, it is helpful to carriers to be able to meet so that they don't both slide their schedules to the same new time, and that is the kind of situation where voluntary schedule slide meetings can help.

But what the Department has indicated it has in mind for airline schedules is something far beyond that, far beyond what was envisioned in the Board order, something in fact that I believe would be injurious to deregulation, to the efficiency of our airline system, and to the interests of the traveling public.

Let's look for a moment at the nature of the problem. In reality all those 9:15 departures at Atlanta don't push back and try to depart exactly at 9:15; the natural course of airline operations spreads them out somewhat, and FAA flow control then spaces them out even farther. So we do not in reality have 29 airplanes attempting to do the physicially impossible. The printed schedules are much more peaked than the actual flights are. In fact, by the FAA's own data it would be difficult to make the case that there is a major delay crisis at Atlanta: roughly 94% of all operations are on time, meaning delays of less than 15 minutes. Furthermore, of those 8% of delays, nearly three-quarters are listed by FAA as caused by weather, something over which the schedule slide meeting has no control. So the remaining potential of the schedule slide meetings to alleviate the problem is minimal at best, and I think the Department does the traveling public a real disservice by trying to create a contrary impression.

Much as the Department would like us to believe that peaking was a surprise development early this summer, airline peaking has been around for years, and in fact peaking in various transportation modes has been around since long before the first rush hour on the Appian Way. Adequate transportation systems are those that can accommodate all or at least most of the peaks. The Administration in fact committed to the Congress at the time they were asking us to increase aviation user taxes that they would be able to accommodate most of the peaks. Now they are saying they can't handle the traffic because it has peaks in it.

In my hearings in 1982 I specifically said to the FAA Administrator:

"I think the issue of whether the system will be built to accommodate demand or whether demand will have to be constrained to fit existing capacity is still a core issue in this airspace plan." I asked him specifically when we could expect constraints on management to return to pre-strike levels.

The FAA responded that "we will not have 100-percent free entry and egress until the 36-month point," meaning until last month. But instead of 100 percent free entry and egress, we have the threat of severe new restrictions on scheduling.

The FAA went on to say that "We are not rebuilding the system with a view of constraining capacity. I don't believe we as an agency should put a constraint on the travelling public."

I think it is important that we note the basic distinction between controlling airplanes and regulating schedules. Airplanes are those large aluminum things; schedules appear on a printed page. Controllers control the airplanes and ignore the schedules, as they should. For all its discussion of the problem of peaked schedules, DOT itself has stated that there is no connection between peaked schedules and the FAA's ability to safely control airplanes. In their recent proposed rulemaking, they say:

"It must be emphasized that regardless of the total number of scheduled operations, the safety of the air traffic system is not lessened. Air traffic procedures, including flow control, ensure that aircraft remain on the ground until they can be accommodated."

But going beyond controlling airplanes, and going beyond voluntary schedule slide discussions among the carriers, as permitted by the Board order, is exactly what the Department has proposed in the last few weeks.

In its proposed rulemaking, the Department itself would dictate the schedules of the carriers at six major airports, not only how many flights per hour but the distribution of those flights all during each hour. Those carriers permitted to fly under this restrictive regime would be free of the threat of new competition. Similarly the Department has proposed that these supposedly voluntary schedule slides, once agreed to,

would then be frozen in place by rulemaking, again effectively barring any new competition in those time periods. In so doing the Department would make these meetings something fundamentally different than what the Board's order approved. Rather than being voluntary meetings designed to assist carriers who wish to adjust schedules to achieve better schedule reliability, the Department's proposed rulemakings would make these schedule slide agreements into something they were never intended to be: the granting of monopoly or semi-monopoly rights to a few carriers for the most important times at the most important airports in the country.

What this does to the passenger is that instead of not getting to his meeting or his connection on time because of an ATC delay he now doesn't get there because his flight has been forceably moved to another time period and others have been barred from providing him the service he wants. This is not a solution, it is a perpetuation of the problem by alternate means. Most peaks exist primarily because they meet the needs of the traveling public and if you forceably break them up you have done harm to the public. I don't need to get to Chicago just any old time; I need to get to Chicago to make my connection.

What it also does to the traveling public is that it increasingly robs them of the one protection they have under deregulation, and that is competitive pressure on the carriers. If the Department by rulemaking extends capacity controls at airports, restricts more and more locations more and more tightly during more and more hours, then the passenger is going to find himself increasingly facing carriers who don't have to worry about new competition.

That is what happens when you cross over from controlling airplanes to regulating schedules. Controlling airplanes is necessary for safety; regulating schedules too often deprives the consumer of any hope of competition, and it will ultimately affect the quality of service offered to the public, the prices they have to pay for a ticket, and for many of our small and medium-sized communities, whether they will have good access to the major points in the airline system at all. Furthermore, as a result of all this highly restrictive regulation of schedules, there would not be any reduction in the number of airplanes in the air at any one time: they only allow what they think they can handle into the system now and that's all they will allow into the system in the future. Regulating schedules does not reduce the number of blips on the radar screens, but it does tell carriers at those select airports and times that they no longer have to worry about new competition for your business.

In our 1982 hearings the FAA took the position that FAA knew the difference between controlling airplanes and regulating schedules, and they testified that they would not be getting into the latter. They said:

". . . For their own marketing reasons, the air carriers all like to depart at 8 o'clock. . . . In some cases, we have one carrier who is going to depart 22 flights in 9 minutes by himself. Now, this is just physically not possible. The air carrier knows that. It is not possible to get that many airplanes on the runway. But we, at the FAA, should not interfere with their marketing decisions. If that is the way they want to publish it, how they handle that with the traveling public is their business."

I think that if the FAA would focus more on controlling airplanes and less on regulating schedules, both the public and the airlines would be better served.

To some extent we had capacity restrictions at four airports when we adopted deregulation, although we had hopes those restrictions could be somewhat diminished over time. What the Department is proposing now is to move in the opposite direction: to extend capacity controls to three new airports—Atlanta, Denver, and Newark—and to make these restrictions at six of the seven airports much tighter than they have been. 26% of all passenger enplanements in this country are at those 7 airports. At some point the underlying premise of deregulation—which is that airlines would have the flexibility to make competitive responses and to enter into competition in new markets where they feel the public could be better served—could be sufficiently restricted throughout enough of the system so that deregulation itself would no longer be defensible.

Frankly, I am disappointed that the Office of the Secretary, which will soon be taking on the CAB's responsibilities for insuring that this industry is as competitive as possible and which has often professed its commitment to deregulation, did not recognize or seem concerned with the anti-competitive effects of these proposed rulemakings.

Yes, delays are a problem, but it is a problem for which the proposed regulatory cures would be far worse than the disease. I think the Department has panicked and over-reacted. In the worst month of this year, roughly 95% of all operations were on time. Is that a crisis worth undermining competition and the position of the consumer over? Having failed to provide an adequate controller workforce, and caused the public to suffer from increased delays, the Administration now proposes to compound the misery it has created by depriving the public of competition. Shouldn't we see first what voluntary schedule slides and the decline in traffic which normally occurs in September would accomplish before vastly expanding the regulation of schedules? It is now September: Shouldn't we be working on the Summer of 1985 rather than the Summer of 1984? This Administration is accused of a great many things, but insensitivity to the public benefits of the competitive marketplace is usually not one of them. In this case, however, they seem to have lost their own bearings.

As the Department considers these various rulemaking options it has proposed, they should keep in mind that controlling airplanes and regulating schedules are two very different matters, that the FAA is well equipped to do the former and ill-equipped to do the latter, and that the public would be much better served by efforts to remedy the delay problem than by proposals to compound delay with reductions in the passengers' competitive recourse.

This has been is in fact a classic case of public policymakers focusing too narrowly on the trees and missing the forest. We need to keep in mind that the performance and efficiency of the entire system—and its ability to meet the needs of the traveling public—are based on the broadest kinds of competitive pressures, and we restrict those only at our own peril.●

COMMISSION ON EMPLOYMENT DISCRIMINATION IN THE LEGISLATIVE BRANCH

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, last January, I introduced House Concurrent Resolution 239, legislation to establish a Commission on Pay Equity to examine wage discrimination in the legislative branch. The bipartisan Commission, comprised of Representatives, Senators, and private sector members representing labor and management would: First, hire an independent consultant to conduct a pilot study of job classifications and wage differentials in one agency of the legislative branch; second, make specific recommendations for ensuring compliance with existing law, based on the findings of the study; and third, establish a comprehensive plan for implementing pay equity throughout the legislative branch.

Today I am introducing a revised version of my original legislation that I believe, if passed, will improve the Commission's efforts to study the problem of wage discrimination in the legislative branch, and will enhance the prospect of joint House-Senate action during the 98th Congress.

The new resolution makes the following changes in my original legislation. The declaration of policy has been rewritten in a way that makes it more clearly consistent with title VII of the Civil Rights Act. The resolution affirms that Congress is committed to the elimination of all forms of discrimination that adversely affect pay or working conditions of legislative branch employees and that it is the policy of Congress that differences in pay and working conditions of employees in the legislative branch shall not be based on race, color, religion, sex, or national origin.

The name of the Commission has been changed from the Commission on Pay Equity to the Commission on Employment Discrimination in the Legislative Branch, to reflect the broadening of its scope to the examination of all forms of wage discrimination and other discriminatory personnel policies and practices.

The Commission membership has been expanded from 12 members to 13. Four will be Members of the House, four will be Senators, and five will be noncongressional members with expertise in job evaluation. The four House Members and two of the noncongressional members will be appointed by the Speaker of the House upon the recommendation of the majority and minority leaders. The four Senate Members and two of the noncongres-

sional members will be appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders. The 13th member of the Commission will be appointed by the Speaker of the House and the President pro tempore of the Senate upon the recommendation of the other 12 Commission members.

Although the specific requirements for labor and management representatives in my original bill were deleted due to anticipated difficulties in defining the qualifications of these members, it is my intention that labor and management will be represented on the Commission. I believe these issues, among others, can be more thoroughly addressed in report language on the bill.

The new resolution designates the Library of Congress as the agency in which the pilot study will be conducted. I believe that the history of employment discrimination allegations at the Library and the fact that all employees of this agency are covered by title VII of the Civil Rights Act make it an ideal site for such a study. The functions of the Commission, however, remain unchanged in the new resolution.

The resolution I am introducing today will extend the life of the Commission from 12 to 18 months providing the Commission with a more reasonable length of time to complete their work. It further specifies that one-half of the expenses will be paid from the contingent fund of the House and one-half will be paid from the contingent fund of the Senate.

The administrative provisions of House Concurrent Resolution 239 have been streamlined, providing that the Committee on House Administration and the Senate Committee on Rules and Administration shall prescribe such regulations as may be necessary to carry out this resolution.

The Congressional Budget Office has tentatively estimated the cost of the resolution to be between $1.5 and $2 million. I believe that the Congress has the responsibility, as an employer, to identify and eliminate such wage discrimination as may exist among its employees. The benefits of conducting the important preliminary steps provided for in my legislation in my view justify the expenses that would be incurred by the Commission.

The House of Representatives is to be commended for seeking to address the problem of wage discrimination in the legislative branch. Extensive hearings on the issue of pay equity have been held in the House Administration Committee, the Post Office and Civil Service Committee, and the Joint Economic Committee. The House Administration Committee has scheduled a second and final hearing on House Concurrent Resolution 239 for September 12, which will be followed by a full committee markup.

A similar legislation to require a study of wage differentials in the executive branch was introduced by my colleague MARY ROSE OAKAR and passed by the House last June by a vote of 413 to 6. During floor debate on the rule for H.R. 5680, some Members expressed their reluctance to authorize an executive branch study without bringing the legislative branch under similar scrutiny. I believe my legislation provides a necessary complement to the efforts already taken by the 98th Congress to promote equity in compensation for Federal workers, and I urge the support of my colleagues.

H. CON. RES. 239

Resolved by the House of Representatives (the Senate concurring),

DECLARATION OF POLICY

SECTION 1. The Congress is committed to elimination of all forms of discrimination that adversely affect pay or working conditions of any employee because of the race, color, religion, sex, or national origin of the employee and it is the policy of the Congress that differences in pay and working conditions of employees in the legislative branch shall not be based on race, color, religion, sex, or national origin.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established in the legislative branch the Commission on Employment Discrimination in the Legislative Branch (hereinafter in this resolution referred to as the "Commission").

(b) The Commission shall consist of thirteen members to be appointed for the life of the Commission as follows:

(1) Four shall be Members of the House of Representatives, appointed by the Speaker, two upon recommendation of the majority leader and two upon recommendation of the minority leader.

(2) Four shall be Senators, appointed by the President pro tempore, two upon recommendation of the majority leader and two upon recommendation of the minority leader.

(3) Two shall be other than Members of Congress, appointed by the Speaker of the House from among persons with expertise in job evaluation. One such member shall be appointed upon recommendation of the majority leader and one upon recomendation of the minority leader.

(4) Two shall be other than Members of Congress, appointed by the President pro tempore of the Senate from among persons with expertise in job evaluation. One such member shall be appointed upon recommendation of the majority leader and one shall be appointed upon recommendation of the minority leader.

(5) One shall be appointed by the Speaker of the House and the President pro tempore of the Senate, acting jointly, upon recommendation of the members appointed under paragraphs (1) through (4) of this subsection.

(c) The person making an appointment may remove a member of the Commission for neglect of duty or malfeasance in office.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment is made.

(e) The Commission shall elect a chairman and a vice chairman from among its members. The chairman and vice chairman shall not be of the same political party.

(f) Seven members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number for holding hearings, taking testimony, and receiving evidence.

(g) Members shall be appointed and the Commission shall commence operation not later than four weeks after the date on which this resolution is agreed to.

FUNCTIONS OF COMMISSION

SEC. 3. The Commission shall—

(1) employ a nongovernmental consultant with expertise in job evaluation to study and compare the compensation paid within and between job classifications in the Library of Congress and to analyze personnel policies and practices in the Library of Congress;

(2) evaluate the compensation system and personnel policies and practices in the Library of Congress for compliance with title VII of the Civil Rights Act of 1964 and make specific recommendations (other than any recommendation that, if implemented, would result in a reduction in the rate of pay payable for any position) to the Congress for such action as may be necessary to achieve that compliance;

(3) develop a comprehensive plan for application of the principles of title VII of the Civil Rights Act of 1964 throughout the legislative branch; and

(4) make specific recommendations (other than any recommendation that, if implemented, would result in a reduction in the rate of pay payable for any position) to the Congress for improvement of personnel policies and practices in the legislative branch may be necessary to carry out the policy declared in section 1 of this resolution.

STAFF OF COMMISSION

SEC. 4. (a) The Commission shall have a Staff Director who shall be appointed by the Chairman and who shall be paid not more than the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code.

(b) With the approval of the Commission, the Chairman may appoint, terminate, and fix the pay of additional staff. No person so appointed may be paid more than the annual rate of basic pay payable for GS-15 of the General Schedule, under section 5332 ot title 5, United States Code.

COMPENSATION OF MEMBERS

SEC. 5. (a) A member of the Commission who is a Member of Congress or a full-time officer or employee of the United States shall receive no additional pay by reason of service on the Commission.

(b) Any other member of the Commission shall be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, for each day, (including travel time) such member is engaged in the performance of duties of the Commission.

POWERS OF COMMISSION

SEC. 6. The Commission may hold hearings, take testimony, receive evidence, administer oaths or affirmations to witnesses appearing before it, and authorize any member or agent of the Commission to exercise such powers.

REPORTS AND TERMINATION OF COMMISSION

SEC. 7. The Commission may submit interim reports to the Congress and shall submit a final report to the Congress not later than 18 months after the date on which this resolution is agreed to. The Commission shall cease to exist thirty days after submitting the final report.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) There shall be paid from the contingent fund of the House of Representatives and the contingent fund of the Senate such sums as may be necessary to carry out this resolution. One-half of the total of such sums shall be paid from each such fund. Payment shall be upon vouchers submitted by the Chairman of the Commission and approved by the Chairman of the Committee on House Administration or the Chairman of the Committee on Rules and Administration of the Senate, as appropriate.

(b) Members of the Commission (other than Members of Congress) and the staff of the Commission shall be treated as detailed employees, or as temporary or intermittent employees of the House or of the Senate, as appropriate.

(c) The Committee on House Administration of the House of Representatives and the Committee on Rules and Administration, acting jointly, shall prescribe such regulations as may be necessary to carry out this resolution. Employment of experts and consultants, travel, procurement of support services, procedures for securing information, and other administrative matters with respect to the Commission shall be in accordance with such regulations.●

THOMAS J. KELLY RECEIVES AWARD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FLORIO. Mr. Speaker, I'd like to bring to the attention of my colleagues an outstanding labor leader, humanitarian, and citizen, Thomas J. Kelly. As chief operating officer and president of the Sheet Metal Workers' International Association, Local 19, Tom Kelly has clearly distinguished himself through service to his fellow workers. Through dedication, skill, and hard work, he worked his way up from apprentice to president in 14 years, and helped the local grow to its present strength and vitality. In 1982, Tom was unanimously reelected to a second 3-year term as chief operating officer and president of local 19, a tribute to his outstanding leadership.

It should be noted that Tom Kelly's union activities don't end with his membership in local 19. He is also president of the Mechanical Trades District Council of the Delaware Valley; board member of the Private Industry Council of Philadelphia; vice president of the Philadelphia Building Trades Council, member of the executive board of the New Jersey State Building Trades, and a vice president of the Philadelphia AFL–CIO.

More than just a distinguished labor leader, Tom Kelly is also deeply concerned about, and responsive to, human needs. He is a member of the board of trustees of the southeastern Pennsylvania chapter of the Leukemia Society of America, and is the recipient of the Bronze Medallion Award of the Chapel of Four Chaplains. Early this year, Tom was honored at a labor tribute dinner of the Philadelphia chapter of UNICO National, which is widely known for its service to the developmentally disabled and senior citizens.

On Sunday, September 16, 1984, at the Bellevue-Stratford Hotel in Philadelphia, Thomas J. Kelly will be the recipient of the State of Israel Solidarity Award, in recognition of his service and dedication to the labor movement worldwide, and for his outstanding support for the State of Israel and its economic development. Mr. Speaker, I respectfully request that my colleagues join me in congratulating Tom Kelly on his exemplary career of service, and on receiving this outstanding and prestigious award. I can think of no one more deserving of such a fine honor.●

HOUSE JOINT RESOLUTION 247

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mrs. JOHNSON. Mr. Speaker, I am delighted to note the passage of House Joint Resolution 247, commemorating a day of man's inhumanity to man, and especially commemorating the genocide of the Armenians.

The passage of this commemorative legislation has a dual significance. We honor the memory of those who suffered not only in hopes that remembrance will shield future generations against such atrocities, but also in recognition of preserving an honest record of the past. Genocide is an act against humanity, for it demonstrates a disregard for the dignity of the individual that must serve as the foundation of any free society.

The evidence that there was a systematic attempt by the Ottoman government to eliminate the Armenians from their historic homeland is clearly and responsibly documented. No amount of denial, whether by the present-day Government of Turkey or by others, can alter the reality of the past, both as it is written in books and as it is seared on the hearts and minds of those who suffered.

Political opportunism did not allow us to forget the horror of Dachau, the shock of Pearl Harbor, or the shame of the Japanese internment camps. House Joint Resolution 247 emphasizes our commitment to the integrity of the historical record. Historical revisionism is too often used for political advantage by totalitarian governments who had values and principles with which we are loath to associate ourselves. To commemorate the crimes of man's inhumanity to man is to commit ourselves to preserving the memory of the past to serve as the conscience of the future.●

OVERHAUL OF SUPERFUND

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FLORIO. Mr. Speaker, as you know, the House recently passed a bill to reauthorize the Superfund Program, H.R. 5640, by a vote of 323 to 33. One of the key sponsors of this important legislation is my esteemed colleague from Ohio, Representative DENNIS ECKART. He recently published an article in the Christian Science Monitor analyzing the Superfund Program and the need to reform its basic operation. I commend his thoughtful column to my colleagues' attention.

[From the Christian Science Monitor, July 2, 1984]

HAZARDOUS WASTE SUPERFUND NEEDS A SUPER OVERHAUL

(By Dennis E. Eckart)

Since Congress enacted the so-called Superfund program more than three years ago, the Environmental Protection Agency (EPA) has cleaned up only six hazardous chemical waste sites, only two with direct assistance from the Superfund. Surely, this snail-like pace is a prescription for disaster.

If Superfund is supposed to be an effective war against hazardous chemical waste dumps, then we have yet to fire the first shot. And if this is a marathon, then the EPA is in danger of failing to reach the finish line. At the present cleanup rate it's going to take the agency 273 years to clean up the 546 hazardous chemical waste sites on the national priorities list.

Unfortunately, the EPA is proving that lethargy is the common enemy of progress and good government. And, as is the case with many other issues in Washington, neglect of a problem becomes our worst enemy and intransigence is the ally of that neglect. Under the administration of President Reagan, EPA seems to have forgotten its mission: that "protection" of the environment and the public health and welfare is what its mission is all about.

The record becomes all the more disturbing when one analyzes the magnitude of the nation's hazardous waste problem. Consider, for example, that there are probably 1,000 to 2,200 other hazardous waste sites waiting in the wings to be added to the national priorities list. Consider, too, that a study paid for by the Chemical Manufacturers Association estimates—probably conservatively—that there are 13,400 "inactive" hazardous waste dumps littering the nation's landscape. At least 3,700 of these are likely to require some federal assistance in the cleanup process.

In evaluating hazardous waste sites for the national priorities list, the EPA has identified at least 444 separate chemical pollutants. An agency task force reports that "virtually all of the most commonly encountered of these are known to exhibit chronic toxicity and therefore may cause human health injuries after months or years at extremely low levels of exposure."

There is ample evidence of these chemical pollutants mixing with one another and leaking into ground-water supplies. An EPA study estimates that 29 percent of the ground-water supplies of larger communities contain chemical contaminants. Of the 546 hazardous waste sites now on the national priorities list, more than 300 pose a threat to water supplies. Serious cases of chemically contaminated water have been reported in 34 states.

The Harvard School of Public Health has found increases of illness in children who drank chemically contaminated water in some neighborhoods of Woburn, Mass. The Harvard study in Woburn also found that it is no exaggeration to argue that the hazardous waste problem poses a threat to those yet unborn.

The House is considering a bill to fundamentally reform the Superfund program. The original five-year, $1.6 billion program is likely to be able to finance the cleanup of only about 170 of the 546 hazardous waste sites on the national priorities list. The new bill proposes to expand Superfund to a five-year, $9 billion program. At the very least the reforms under consideration would begin to more significantly address the scope of a problem on which Congress's Office of Technology Assessment has put a $10 billion to $40 billion price tag.

More important, the new Superfund bill contains strict provisions requiring the EPA to respond to a reasonable and timely cleanup schedule. It's time to give the agency explicit cleanup orders that force more aggressive and effective action. Congress can no longer afford to rely on the EPA to act based on implied and well-intentioned discretionary authority in the language of the Superfund law.

The new legislation also addresses the serious issue of compensation for victims of hazardous waste sites. The present Superfund program fails to provide an adequate remedies for health care costs or deaths associated with exposure to hazardous chemical wastes.

The judicial system and programs such as workers' compensation in the states have failed to provide proper assistance to victims of hazardous wastes. The new legislation establishes a strict right to sue either in state or federal courts and puts into effect a uniform statute of limitations that is fair and reasonable to victims of hazardous wastes.

Surely, the case for reform is persuasive. Preserving the status quo is unacceptable. Business as usual won't do. Superfund must be made to mean what its title implies. Otherwise we will continue to put in jeopardy the health of too many of our citizens. People who suffer hardship essentially through no fault of their own have a basic right to petition their government for assistance. And a govenment worthy of their trust and confidence must respond in a proper and fitting fashion.●

BASEBALL DIPLOMACY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LEVINE of California. Mr. Speaker, as we all know, watching and playing the game of baseball is the American pastime. It is hard to imagine anything more patriotic than spending an afternoon or evening at the ball park with a hot dog in one hand and the pennant of your favorite team in the other.

Yet, baseball has become more than an American spectator sport. Young athletes from all over the world now play baseball. In fact, baseball was a demonstration sport in the Los Angeles Olympic games, and will be a full-fledged Olympic sport for the 1988 games in Korea.

In a recent column in the Los Angeles Times, Derek Shearer proposes that we use the love we and many of the other nations in Central and South America share for baseball—he calls his idea "Baseball Diplomacy"—as a means of improving relations and understanding between the nations of the region.

It is a unique proposal, and one which I wanted to share with my colleagues in Congress.

The article follows:

[From the Los Angeles Times, Aug. 6, 1984]

LET BASEBALL DIPLOMACY WIN ONE FOR PEACE

(By Derek Shearer)

I spent an afternoon last week with my 6-year-old son out at Chavez Ravine, munching a Dodger Dog, sipping a beer and watching the Nicaraguan Olympic baseball team play Canada. I rooted for Nicaragua, and was pleased when they won 4-3 in extra innings. However, my son Casey was upset.

"Why are you rooting for Nicaragua and not Canada?" he asked. "Isn't the United States fighting Nicaragua?"

I tried to explain that in my view it was President Reagan and the CIA who were fighting Nicaragua, not the United States. At that moment it struck me as absurd that the Nicaraguans could be playing baseball at Dodger Stadium at the same time that the U.S.-funded, right-wing contras were trying to overthrow their young revolutionary government.

If the United States can reestablish friendly relations with China, what prevents us from taking similar steps with Nicaragua and Cuba—two small, relatively powerless countries and, what's more, two countries that share our love for the Great American Pastime, baseball. Perhaps what I'll call "baseball diplomacy" could play a role in bringing about more harmonious U.S. relations with Cuba and Nicaragua.

Why not have the U.S. Olympic baseball team make a tour of Central America, after the Olympics, to play exhibition games against the Cuban and Nicaraguan Olympic teams? Peter V. Ueberroth, president of the Los Angeles Olympic Organizing Committee and thus richly steeped in the ways of international sport, would in his new position as commissioner of baseball be the perfect person to handle the negotiations.

A few years ago former Sen. George McGovern tried to arrange for an American major league team to play exhibition games in Cuba. According to McGovern, the idea was nixed by then-Baseball Commissioner Bowie Kuhn. I hope that Ueberroth would be more open-minded.

Baseball is the sport in Cuba, and Fidel Castro, an ex-college pitcher himself, is a big fan. As some aficionados of the sport remember, Havana actually had a minor league team (the Sugar Kings of the International League) for many years. The Rochester Red Wings were playing in Havana during Castro's successful overthrow of dictator Fulgencio Batista. The Cuban team that pulled out of the Olympics this year under pressure from Moscow was a favorite to win the baseball demonstration tournament. There reportedly are a number of players on the Cuban team of major league caliber.

Once arrangements were set, it would make sense to televise a U.S.-Cuban exhibition game, adding to its good-will potential. Castro and Ueberroth could meet at home plate, and Castro could throw out the first ball.

A successful tour of Nicaragua and Cuba by a U.S. Olympic team could be just a first step in baseball diplomacy. It could be followed by a winter tour by a major league team and then a reciprocal tour in the United States by the Cuban national team. The ultimate step, which would of course require lengthy negotiations, might be that, following normalization of relations between Cuba and the United States and a peaceful resolution of the Central America conflict, arrangements would be made for simultaneous major league expansion teams for Washington, D.C., and Havana, and then perhaps even Managua. If we can expand major league baseball to include the Canadian cities of Toronto and Montreal, it is certainly possible to envision a team wearing Havana's colors.

The time is certainly right for some new approaches to the deteriorating situation in Central America. Diplomat Wayne Smith, former chief of the U.S. interests section in Havana, recently reported on a lengthy meeting that he had with Castro. Smith believes that Cuba wants to improve relations with the United States in order to distance itself, if possible, from the Soviet Union. He contends that Castro has been sending the United States serious peace signals, which have been ignored by the Reagan Administration.

If we truly believe that sport and the Olympic spirit transcend international tensions, then baseball diplomacy not only makes good sense. There is little risk involved, and much to be gained by reaching out to the baseball-loving ciltizens of Cuba and Nicaragua. Let's play ball, not make secret war in Central America.●

CALL TO CONSCIENCE VIGIL—IDA NUDEL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FAUNTROY. Mr. Speaker, in conjunction with the call to conscience

vigil, I wish to speak once again to the situation of that courageous refusenik, Ms. Ida Nudel, suffering in exile at the hands of the Soviet authorities. When I last addressed the plight of Ms. Ida Nudel, on the occasion of the observance of the International Day of Concern for Soviet Jewry on March 15, 1984, she was being denied her mail and visitors in her place of exile in the Moldavian town of Bendery.

I am pleased to report that while Ms. Nudel remains in exile and still is subjected to state surveillance and harassment, she was permitted to receive a birthday visit from actress Jane Fonda. Ms. Nudel said of Ms. Fonda's visit, "You have made me safe."

Mr. Speaker, we also must continue to try to make Ms. Nudel safe by raising the case time and time again, thus keeping it in the public conscience, and on our diplomatic agenda with the Soviet Union.

I know my colleagues share my concern for the human rights of Ms. Ida Nudel and that she will not be forgotten.●

TRIBUTE TO ELIAS KARMON

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. BIAGGI. Mr. Speaker, I am proud and honored today to pay a special 75th birthday tribute to one of our Nation's truly outstanding citizens, Bronx community activist Elias Karmon.

Businessman, philanthropist, and civic activist are some of the words used to describe Elias Karmon, but they tell only part of the story behind this dynamic figure. At a time when much emphasis is being placed on voluntarism, it should be noted that Elias Karmon wrote the book. Committed to making the Bronx a better place to work and live, Elias has served on a voluntary basis with dozens of community organizations, which share his deep resolve. For example, he has served as president of the Bronx Chamber of Commerce; president of the Bronx Rotary Club; chairman of the Bronx Council of the Albert Einstein College of Medicine; vice president of the American Jewish Congress, Bronx Division; chairman of the executive committee of the Bronx Boys' Club; chairman of Vacations and Community Services for the Blind; and chairman of the advisory committee of the Bronx Venture Corp., a nonprofit development corporation in the South Bronx.

In addition, he currently serves on the board of directors of the Ponce De Leon Federal Savings & Loan Association, Bronx House, the YMCA, the Fordham Road Area Development Corp., Regional Aid for Interim Needs [RAIN], the South Bronx Mental Health Council, the Pelham Parkway Mall Local Development Corp., the Bronx Dance Theatre, the Bronx Overall Economic Development Corp., and the Pelham Parkway Jewish Center.

He is also a past chairman of the Bronx Urban League Advisory Board. In fact, this past February, the New York Urban League cited Mr. Karmon as a "charter member and founder of the Bronx office of the New York Urban League," and they saluted him for more than 35 years of dedicated service and leadership on behalf of his fellow men.

His vital community services have not gone unnoticed. He has received countless awards, including the coveted Jefferson Award for Public Service in 1979, and his tireless devotion to his community has made him something of a local legend. But awards and prominence are not what Elias Karmon seeks. The fruits of his work are not the accolades he receives, but rather the community improvements he helps achieve. Certainly, he appreciated the fact that the new Lincoln Medical Center board conference room was named in his honor, but the real satisfaction came from knowing the people of his community would have a new medical facility to better meet their vital health care needs.

Even the work he has performed for pay has demonstrated his raging desire to give something useful to his community, to help the Bronx grow. He builds parking lots, and is a developer of office buildings for use by public and private agencies. He is currently president of EMK Enterprises Inc., a real estate firm based at the same south Bronx office he has conducted his business ventures since 1940.

Elias Karmon's deep compassion for his fellow man is perhaps best illustrated by the fact that for many years beginning in 1959, he would throw a huge Christmas party for over 3,000 local children at a community theater. After 45 years of these and other similar deeds, I am pleased to report that this same unselfish spirit lives on, not only at Christmas time, but every single day of the year.

The Bronx community, which I am proud to represent, is a far better place thanks to Elias Karmon and as long as Elias has even an ounce of energy left, we can be certain that the Bronx will continue to improve. Thank you for caring so much, Elias, and may you and your lovely wife Sylvia, share that same happiness you have given so many others—for many years to come.●

GRANDPARENT'S DAY—TIME TO RECALL THE NEED FOR CONGRESSIONAL ACTION ON GRANDPARENTS' RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LANTOS. Mr. Speaker, Sunday, September 9 was Grandparent's Day—an occasion to remember our grandparents and the special role they play in our lives. It is also a time to remember their importance in the lives of their grandchildren.

It is unfortunate that we have marked another Grandparent's Day without completing congressional action on House Concurrent Resolution 45, in which the Congress expresses its support for uniform State legislation providing grandparents with rights to visit their grandchildren following the dissolution—because of divorce, separation, or death—of the marriage of the children's parents.

The Senate has not acted on this resolution, although it was adopted by the House more than a year ago. This important legislation was unanimously approved by the House on April 19, 1983, after careful consideration and review by the House Committee on Education and Labor and the Committee on the Judiciary.

The legislation in the Senate was referred to the Senate Judiciary Committee. Senate hearings were held last year by the Subcommittee on Separation of Powers, which then voted to send the bill to the Senate for a vote. The resolution, however, has still not seen action. I urge our colleagues in the Senate to act on this important matter which will benefit both grandparents and grandchildren.

When the Senate acts on this legislation, grandparents' rights will be protected and they will be better able to help provide responsible, stable family relationships for their grandchildren from broken homes. More important, the rights, needs, and wants of the child—the one who often suffers most in many cases of family breakup—will also be given consideration.

Broken homes have left many children in our Nation without the proper upbringing, and thus they lack important elements that contribute to future family stability. The grandparent is often in a unique position to provide the child from a broken home with a sense of continuity as well as an emotional nurturing that can be missing in the upheaval which follows the breakup of a family. A child needs to know his living ancestors. A child needs the love and security which comes from a vital relationship with his or her grandparents.

I urge the Senate to take a quick action on this most important legislation.●

H.R. 5602: HEALTH PROFESSIONS AND SERVICE AMENDMENTS

HON. HARRY M. REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. REID. Mr. Speaker, defining the well-being of a nation—especially in legislative terms—can be designated under hundreds of bill titles, lobbied by dozens of concerned citizens' groups, and considered by several subcommittees.

However, one definition of well-being is familiar and common to us all—that, or course, is the physical well-being of our Nation's people.

In order to guarantee the benefits and peace of mind that good physical health can provide, it is important for us to make secure both our existing health programs and the qualified support professionals that have, up to this time, provided our people with the greatest popular health care in the world.

That is why I recently voted for H.R. 5602, the health professions and service amendments, a bill to extend the authorizations for:

Various programs that aid the training of health professionals—physicians, dentists, pharmacists, veterinarians, optometrists, nursing, and others;

The National Health Services Corps;

Loans to health maintenance organizations; and

Grants to migrant and community health centers.

Because of the equitable balance in this bill, those who receive educational assistance will, in return, eventually provide health care services to health manpower shortage areas. In a State like Nevada where so many small, isolated communities constantly are concerned about adequate health care, this legislation will provide a needed source of physical and mental well-being long needed and long sought.

Through this kind of legislative cooperation, attention to good health can be affordable for both those who seek careers professionally and those who seek care personally.●

POSTCARDS FOR PEACE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. KILDEE. Mr. Speaker, I am pleased to bring to the attention of my colleagues in the Congress an unusual and inspiring effort to encourage world peace.

The Postcards for Peace project began in the Kirkridge United Presbyterian Church in Grand Blanc, MI. The earnest simplicity of this idea belies its scope. On World Communion Sunday, October 7, 1984, each participant will send postcards to President Reagan and Soviet General Secretary Chernenko urging the two to work together for world peace with justice.

"Postcards for Peace" was adopted nationally by the Presbyterian Church (USA) at its general assembly in June. Since then the project has been growing steadily, embraced by different denominations in houses of worship throughout the country. Individuals of every faith are invited to join in this grassroots effort with a global vision, so that millions of cards will reach the leaders of the world's superpowers and renew hope for international understanding.●

DEDICATION OF BUST OF HON. HUBERT H. HUMPHREY

HON. THOMAS P. O'NEILL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. O'NEILL. Mr. Speaker, I would like to take this opportunity to share with my colleagues remarks I made earlier today here in the Capitol Building upon the dedication of the portrait bust of Vice President Hubert H. Humphrey:

I am honored to take part in this ceremony today to dedicate this portrait bust of the Honorable Hubert Horatio Humphrey and I want to express my affection and appreciation to Mrs. Muriel Humphrey Brown and the entire Humphrey family for sharing this great man with us.

Hubert Humphrey was a man who believed that public service was his duty—and to him it was a labor of love.

He was a man of inspiration whose strength was drawn from the needs of the helpless; whose principles were founded on faith, love and charity; whose greatness came from his selfless dedication to others.

And what an awesome heart he had!

He loved his family and he was so proud of them.

He loved his country and his patriotism and public service was a demonstration of that love.

And he loved people—he loved everybody! His tireless efforts and stubborn determination to make the world a better place was his way of showing that great love.

And we loved Hubert Humphrey.

We admired his great courage.

We respected his leadership.

We were grateful for his loyalty and friendship.

He fought against bigotry—against discrimination of any and every kind—and he was a beacon to the Nation.

He was determined to see the end of poverty and despair in a land of plenty—and his tireless efforts brought us forward.

He left behind a legacy of good will, . . . of generosity and decency . . . and the overriding principle of fairness.

I have on my desk a quotation taken from the last speech Senator Humphrey made, and I'd like to share it with you:

"The moral test of government is how it treats those who are in—the dawn of life—the children;—those who are in the twilight of life—the aged;—and those who are in the shadows of life—the sick, the needy and the handicapped."

Hubert Humphrey was truly a man of inspiration. And his life and tremendous accomplishments continue to inspire the Nation.●

WILDERNESS IS COMING: WATCH OUT MAINSTREET

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. SHUMWAY. Mr. Speaker, Members of the House deserve to know that small, rural communities will bear the brunt of anticipated social and economic impacts resulting from the proposed California Wilderness Act, H.R. 1437. As amended by the Senate, this proposal will designate 1.8 million acres of Forest Service land as wilderness—a total 50 percent higher than the RARE II recommendation supported by true conservationists.

According to the U.S. Forest Service, the potential annual yield for timber will be reduced by approximately 150 million board feet [mmbf], with a corresponding loss of about 2,086 jobs—the RARE II proposal would result in the loss of about 840 jobs. The additional loss of over 1,200 jobs is of tremendous concern to my constituents—and for good reason.

Listed below are communities in Forest Service region 5 that were dependent upon national forest timber in 1976. While some of the figures have changed since that time, the table as a whole plainly illustrates that excessive wilderness designations can jeopardize the very existence of mountain communities in California. As a case in point, designation of the Golden Trout Wilderness contributed to the demise of Johnsondale—now a ghost town.

Perhaps that is why the great majority of people who live and work in these and other small towns support wilderness additions in California of no more than 1.2 million acres as recommended in RARE II. The so-called wilderness compromise of 1.8 million acres is an unreasonable land-use designation that more than doubles the amount of timber loss inherent in the RARE II proposal—a consensus heavily swayed toward preservationist demands, and a classic example of the arrogance shown to lower and middle income rural families by a vocal political elite.

The table follows:

COMMUNITY DEPENDENCY ON NATIONAL FOREST TIMBER

Community	No. of plants	1976 percent of national forest timber	Forest products share of total basic employment
1. Malin, OR	1	80	60
2. Alturas, CA	1	100	50
3. McCloud	1	10	100
4. Adin	1	80	80
5. Bieber	1	98	100
6. Little Valley	1	100	100
7. Burney	2	53	90
8. Central Valley	1	70	90
9. Susanville	2	90	90
10. Chester	1	38	95
11. Greenville	1	100	100
12. Crescent Mills	1	100	100
13. Quincy	2	95	95
14. Sloat	1	88	100
15. Loyalton	1	78	100
16. Comptonville	1	65	100
17. Truckee	1	30	25
18. Grass Valley	4	70	25
19. Marysville	2	53	15
20. Foresthill	2	60	75
21. Jackson	1	59	90
22. Sonora	3	75	75
23. Oakhurst	1	95	100
24. North Fork	1	100	75
25. Auberry	1	98	70
26. Dinkey Creek	1	100	100
27. Madera	1	80	7
28. Dinuba	1	91	20
29. Porterville	1	82	10
30. Johnsondale	1	100	100
31. Cave Junction	1	90	80
32. Happy Camp	2	100	92
33. Yreka	3	75	89
34. Weed	1	30	80
35. Mount Shasta	2	20	60
36. Hoopa	2	55	100
37. Arcata	12	20	90
38. Salyer	2	95	95
39. Burnt Ranch	1	100	100
40. Weaverville	1	40	100
41. Hyampom	1	100	100
42. Hayfork	1	96	70
43. Rio Dell	2	15	90
44. Dinsmore	1	92	90
45. Anderson	7	40	85
46. Wildwood	1	60	100
47. Garberville	1	54	50
48. Red Bluff	4	40	70
49. Paskenta	1	30	100
50. Covelo	1	89	75
51. Potter Valley	1	75	60●

A DOODLING CONGRESSMAN WHOSE DEPARTURE IS A LOSS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LENT. Mr. Speaker, my good friend and respected colleague BARBER CONABLE is going to retire from Congress at the end of this year. This is a loss many of us, myself included, feel very deeply. We will miss him a great deal.

For many of us, it is difficult to put these feelings into words. However, I'd like to share with my colleagues here today an article written by columnist Otis Pike which appeared in Newsday, August 19, 1984. Otis Pike sums up BARBER CONABLE'S outstanding career in Congress as one of our great Nation's most able and respected legislators.

As a fellow member of the New York delegation, I have had the distinct privilege of serving with BARBER throughout my years in Congress. Speaking from experience, I can personally attest to his responsible leadership and commitment to his constituents. BARBER CONABLE is a man of the highest integrity, honesty and decency. He is a man who has earned our admiration and respect. Mr. Speaker, thank you for the opportunity to share this tribute today.

[From the Newsday, Aug. 19, 1984]

A DOODLING CONGRESSMAN WHOSE DEPARTURE IS A LOSS

(By Otis Pike)

If the way a person doodles is truly revealing of the processes of his mind, then the mind of Rep, Barber Conable (R-Rochester), is precise, well-organized and mighty in scope.

Conable sits as the ranking Republican on the Ways and Means Committee of the House of Representatives. The hearings before that committee, in which the placement of a comma can take half an hour of debate, are not always the most exciting in the world, and Conable passes the time in creating some of the most expansive doodles known to man.

He starts with some small shape, a rectangle or a triangle or some more exotic figure, and by the time the proper location of the comma has been resolved, the whole page is devoured by the forms, piled upon each other in precise and orderly fashion, as a spider builds its web, or as soap bubbles cling to one another to create foam.

He does humorous caricatures of some of the witnesses which are well worth publication, but at the end of each hearing he carefully folds the day's creations and sticks them in his pockets—not even entrusting them to the wastebaskets that adorn the room, lest some sensitive soul have his feeling hurt.

Barber Conable is packing it in at the end of the session.

A few thousand men and women have served in the Congress of the United States since the birth of the Republic, and of the vast majority even their names have been forgotten. Their legislative accomplishments, if any, have long since been lost.

But Barber Conable will be remembered as long as those who have served with him have memories. If any serious students of Congress cares to write a book about what has happended to the institution in the past couple of tumultuous decades, the Republican from Rochester, will deserve a whole chapter.

It isn't very rewarding to serve as a Republican in a legislative body wholly run by Democrats, and that has been Conable's fate through his entire congressional career.

It is even worse to serve on a committee that has been purposely loaded in favor of the Democrats out of all proportion to their strength in the House as a whole. This minority status means that your name will not appear on the top of any bill reported out of your committee. If Conable introduces, at the request of the president, a tax bill that the administration wants, the legislation will be picked apart by the committee, modified, changed, and when it finally emerges—if it ever emerges—it will bear first some Democrat's name.

There are two ways you can play the minority role. You can "demagogue it," constantly carping at everything the majority does, criticizing everything and offering nothing, taking refuge in the knowledge that whatever goes wrong, you aren't responsible. It wasn't your fault. You warned them it was no good, but you didn't have the votes to change it.

You can vote for all the popular things, like increasing payments and benefits to every constituent group there is—old people, federal workers, farmers, the military—and then vote against the taxes necessary to pay the benefits for which you have taken credit. It gets you re-elected, even if it is outrageously bad government.

Or, you can try. Conable has tried.

He has tried to be responsible. He has offered sensible proposals, solutions, compromises. He has argued on behalf of his positions precisely, neatly, building carefully on his basic premise with care and with unfailing good humor. He has tried to be a leader, even when no one cared or dared to follow.

He knows that when you vote to spend money, it is essential that you tax to raise the money—or at the least vote to increase the debt ceiling so you can borrow it—and he argues for the responsible course.

He is basically a budget-balancer, not a deficit spender, and has probably been uncomfortable as President Ronald Reagan's lead man on economic affairs in the House. Or perhaps almost a generation of public service in an unrewarding role has been enough.

In any case, there are few people in Congress whose retirement could be construed as a national tragedy—and Conable is among them.

He has shaped and influenced more legislation than ever bore his name. He has set an immaculate standard of honesty, decency and intelligence.

The institution in which he serves is better for his presence, and will be a lesser place when he is gone.●

HONORING MADELINE POMEROY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, I am very honored that one of my constituents, Mrs. Madeline Pomeroy of Presque Isle, ME, has been selected to receive the 1984 Outstanding Volunteer Award of the U.S. Department of Health and Human Services.

Mrs. Pomeroy was nominated for the award by Mr. Stephen Farnham, executive director of the Aroostoock Area Agency on Aging. In making the nomination, Mr. Farnham stated: "There is no other individual that we know of that puts so much of herself back into helping others."

Mrs. Pomeroy has dedicated many, many hours toward voluntarism, as a board member of the Aroostook Area Agency on Aging, Inc., and the Presque Isle Congregate Housing Development Corp., Inc., and as a member of the Retired Senior Volunteer Advisory Council.

Mrs. Pomeroy is a special volunteer at the Presque Isle Nursing Home, raising funds, tending to the special needs of patients, and regularly visiting the residents of the nursing home.

For over 50 years, she has been an active member of the Aroostook Union

Grange #143, serving as an officer for most of those years.

Certainly, such exemplary service to her community should be an inspiration to us all. I ask my colleagues to join in special tribute to Madeline Pomeroy.●

DR. ROBERT BECKER: UNPARALLELED LEADER IN MEDICINE AND EDUCATION

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. O'BRIEN. Mr. Speaker, today I would like to recognize and congratulate an outstanding leader in the medical and educational fields in my district, Dr. Robert J. Becker, who will be honored by the Quad River Foundation for Medical Care and Professional Standards Review Organization on September 28, 1984.

In one of his many contributions to the Joliet community, Dr. Becker founded the Quad River Foundation a dozen years ago. He well deserves this honor for having helped maintain the quality and cost efficiency of health care in our area.

Dr. Becker is now serving as chairman of the board of HealthCare Compare Corp., an organization devoted to the monitoring of professional review activities. In order to devote his full attention to this consulting work, Dr. Becker left his private practice in allergy and clinical immunology in October 1982, after a distinguished 26-year career.

Not only a pioneer in medical cost containment, Dr. Becker has also served two terms as president of Joliet Township High School District 204. During his 9 years as a member of the high school board, Dr. Becker oversaw the construction of the Trainable Mentally Handicapped Center, the formation of an alternate school designed to encourage troubled students to return to the regular academic system, and the general organization and development of the board's policy.

A graduate of Marquette University and the Medical College of Wisconsin, Dr. Becker performed his internship at Michael Reese Hospital in Chicago and completed his residency in internal medicine at the Veterans' Administration Hospital at Wood, WI, and at Roosevelt Hospital in New York City.

In the academic world, Dr. Becker has served as a clinical instructor at both Marquette University and Northwestern University School of Medicine. He has also served as an associate in internal medicine at Northwestern.

Dr. Becker has also served twice in the U.S. Army, first as an enlisted man from 1943–45 and as a captain between 1953 and 1955.

A noted expert in the fields of allergy and clinical immunology, Dr. Becker is widely respected for his articles in such publications as the Journal of Allergy, Annals of Allergy and the Illinois Medical Journal.

I ask my fellow Members of Congress to join with me in offering Dr. Robert Becker my most sincere congratulations for his years of extraordinary service and leadership to his community and profession.●

TRIBUTE TO THOMAS KANE

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. HARRISON. Mr. Speaker, on August 31, 1984, American Legion Post 132 of Greater Wilkes-Barre, PA, will install Thomas Kane as commander.

Mr. Kane is the son of Mary Kane of Wilkes-Barre and the late Martin Kane. The new commander served with the U.S. Navy during the Korean conflict. Mr. Kane was assigned to the aircraft carriers U.S.S. *Leyete* and the U.S.S. *Coral Sea*. Commander Kane is employed as a tractor trailer driver with the Pennsylvania Department of Transportation.

Mr. Kane is married to the former Mary Jean Abend. The couple has seven children: Kathleen, Mary Jean, Karen, Patricia, Maureen, Patrick and Michele.

Mr. Speaker, it gives me a great deal of pleasure to salute Mr. Thomas Kane on the occasion of his installation as commander of the American Legion Post in Wilkes-Barre.●

FIFTH ANNIVERSARY OF CONGREGATION MACHANE CHODOSH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. ACKERMAN. Mr. Speaker, it is with great pleasure that I rise today to extend warm congratulations to the distinguished spiritual leader and the entire membership of Congregation Machane Chodosh on the forthcoming celebration of the fifth anniversary of their new synagogue, to be held on Sunday, September 16, 1984. I am particularly delighted to note the occasion as a milestone in the growth and development to the thriving Jewish community of Forest Hills, NY.

Responding to the ever-increasing spiritual and cultural needs of this vibrant neighborhood, Congregation Machane Chodosh has already established itself as an active center of learning and worship, distinguished for its conviviality and fellowship.

On a personal note, Mr. Speaker, I am grateful to Rabbi Manfred Gans and the members of his congregation for their interest, concern, and participation in the civic and political affairs of our district, and for the responsible cooperation which they demonstrate in matters of local and national importance. It is a distinct privilege to have them as my constituents.

It is therefore, Mr. Speaker, that I call upon my colleagues in this Chamber to join me in saluting the accomplishments of Congregation Machane Chodosh and to wish a hearty mazel tov to its president, Mr. Sol Wachenheimer, and his dedicated board of directors upon this happy occasion. May the upcoming Hebrew new year bestow its blessing upon them within their sanctuary of peace.●

THE ATLANTA NONPROFIT SECTOR IN A TIME OF GOVERNMENT RETRENCHMENT

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FOWLER. Mr. Speaker, yesterday, the Urban Institute released a report, begun in late 1982, on how the private nonprofit sector in Atlanta has been affected by recent cuts in the Federal budget. Among the major findings of the study were the following:

Nonprofit, human service agencies in Atlanta experienced a 22.9-percent real decrease in Government support between 1981 and 1982.

While Government support was declining, demand for services either increased or remained stable for nearly all of Atlanta's nonprofit human service providers between 1981 and 1982.

Atlanta's nonprofit agencies were able to make up about 35 percent of the loss in Federal funding by turning to other sources for financial support. Atlanta's agencies therefore ended up with an overall decline of 6.5 percent in total revenues between 1981 and 1982.

Generally speaking, the agencies that did worst, because of the cutback of Federal support, were those with limited capacity to impose fees and service charges on a generally needy clientele.

Fifteen percent of the agencies apparently found it necessary to eliminate specific services or programs, while 8 percent tightened eligibility for service and 11 percent reduced the number of clients served.

I commend the Urban Institute study to my colleagues, and enclose an executive summary for your information.

The executive summary follows:

[The Atlanta Nonprofit Sector in a Time of Government Retrenchment]

EXECUTIVE SUMMARY

The major changes under way in the funding of human services activities by government in this country have focused attention on the thousands of social service, agencies, day-care centers, health clinics, family counseling centers, museums, advocacy groups, arts organizations, hospitals, and related organizations that make up the private, nonprofit sector.

These organizations play a vital role in coping with community problems in Atlanta and elsewhere in the country, but they are usually overlooked in policy debates and serious analysis. As a result, decision makers both within the nonprofit sector and outside it are ill-equipped to evaluate the important changes the sector is facing or the implications these challenges have for community life.

To remedy this situation, a major national project was launched at the Urban Institute in 1982 to learn more about this important set of institutions, to determine the scale of government activity in the fields in which nonprofits are active, to guage the extent of government support for nonprofits in these fields, and to analyze the impact that changes in government funding are having on this set of institutions. This project involves work in Atlanta and fifteen other communities of varying sizes throughout the country. The work in Atlanta is being carried out under the direction of an advisory committee chaired by Arthur C. Baxter of the First National Bank of Atlanta, with the assistance of a local associate, Winsome Hawkins.

This report presents the results of one facet of this work: a mail survey of Atlanta's nonprofit human service agencies carried out in late 1982 and early 1983 to determine what the scope of the nonprofit sector is in Atlanta, how it is funded, and how it has been affected by recent changes in government funding. This survey focused on nonprofit agencies that provide services for the public's benefit, and covered all types of agencies of this sort except two, hospitals and higher education institutions. However, alternative sources of information were tapped to clarify the role that these two types of organizations play in the Atlanta nonprofit scene.

The major findings of this report can be grouped under five broad hearings, as follows:

1. The Size and Composition of the Atlanta Nonprofit Sector:

The Atlanta nonprofit sector is big.—The public service nonprofit sector is a major component of the Atlanta economy. Including hospitals and institutions of higher education, the sector comprises approximately 570 organizations and had expenditures in 1982 of approximately $829 million, about five times the size of the budget of the city of Atlanta. Excluding hospitals and higher education institutions, which are not covered by our survey, the remaining portions of Atlanta's nonprofit sector, which we have termed "nonprofit human service agencies," embrace some 539 agencies and account for $290 million in expenditures, still a substantial economic force.

National comparison.—Although large in absolute terms, Atlanta's nonprofit sector nevertheless appears to be smaller than its counterparts in other metropolitan areas of similar size and degree of urbanization.

Activities.—Nonprofits are active in virtually every human service field in Atlanta. The typical nonprofit human service agency provides a variety of services, but the three most numerous types of agencies are those involved primarily in social services; education and research; and culture, arts, and recreation. A higher proportion of the nonprofits in Atlanta concentrate their activity in the education and research area than is the case in the other sites. By contrast, nonprofits in Atlanta appear to play a relatively more limited role in the health care field, a pattern that perhaps reflects the relatively small proportion of nonprofit hospitals in Atlanta.

Agency size and concentration of resources.—Most Atlanta human service nonprofits are small or medium-size, but most of the expenditures of the nonprofit human service sector in Atlanta are made by a relatively small number of large agencies. Thus, the 84 percent of agencies with 1982 expenditures of less than $1 million accounted for just 27 percent of all the expenditures of Atlanta's nonprofit human service sector. By contrast, the 16 percent of agencies with expenditures of $1 million or more each accounted for 73 percent of total sector expenditures.

Many types of Atlanta agencies are unusually large.—The size of institutional and residential care agencies in Atlanta is, on average, almost twice the average size for such agencies in our all-site sample. Also somewhat larger, on average, than their all-site counterparts are Atlanta's cultural, arts, and recreation agencies, social service agencies, and agencies operating in the fields of employment and training, housing and community development, and legal services and advocacy. The size of health/mental health, education and research, and multi-service organizations in Atlanta is, on average, smaller than the average for all sites.

Geographic focus.—Atlanta's nonprofits generally serve a broader geographic area than do their counterparts in the other sites, reflecting the dominant role Atlanta plays in the region and the absence of a strong tradition of neighborhood identity like that found in the older ethnic cities of the North. This factor may also help explain the relatively large size of many nonprofits in Atlanta.

Age.—Atlanta's nonprofit human service agencies are relatively young. Most (68 percent) have been created since 1960, 44 percent since 1970. Unlike the pattern in the other sites studied, in which organizations formed before 1930 account for almost 40 percent of the expenditures, older agencies do not dominate Atlanta's nonprofit sector, controlling less than one-fourth of the funds.

Clientele.—Atlanta's nonprofits serve a diverse clientele. Most agencis do not concentrate on a particular age or ethnic group. Nor do most agencies concentrate primarily on the poor. In fact, a third of the agencies reported providing no services to the poor, and more than half of the agencies (53 percent) indicate that the poor make up less than 10 percent of their clientele.

2. Sources of Revenue:

Government funding.—Government funding is the largest single source of support for Atlanta's nonprofit human service organizations. As of 1981, government support accounted for almost 44 percent of the revenue of Atlanta's nonprofits, slightly higher than the average for all sites (41 percent). Even after deep cuts in government support in the early 1980s, more than one-third (36 percent) of the total income of these organizations was derived from government sources in 1982. Moreover, reliance on government support is widespread, with more than half (53.1 percent) of all Atlanta agencies receiving at least some of their 1982 funding from government. Government support plays a particularly important role in the funding of agencies concentrating in the fields of employment, housing and community development, legal services and social services. It is more important for newer agencies and for large organizations.

Earned income.—Income from service fees, dues, and charges is the second-largest funding source for Atlanta's nonprofit human service agencies, accounting for about a third of total 1982 revenues. Atlanta exceeds all other sites but Phoenix in the share of its nonprofit income that comes from fees, dues, and charges. About 70 percent of agencies reported some reliance on service charges.

Private charity.—Private giving—from individuals, corporations, and foundations—ranks behind government and fee income as a source of revenue for Atlanta's non-profits. Such contributions accounted for about 22 percent of total nonprofit income. United Way is the largest private funding source in Atlanta, providing more than 8 percent of the total revenues of organizations surveyed. However, United Way supports only about one-fifth of the agencies surveyed.

3. Impact of Government Budget Cuts:

Overall impact.—Nonprofit, human service agencies in Atlanta experienced a 22.9 percent real decrease in government support between 1981 and 1982. This was the sharpest decline of all the study sites, almost four times more severe than the average decline for all sites (6 percent). As a result of these cuts, government funding dropped from 43.6 percent of Atlanta's nonprofit revenues in 1981, one year before our survey, to 35.9 percent of total nonprofit revenues in 1982.

Variations by type of agency.—In Atlanta, the government cuts hit large agencies, newer agencies, and those primarily engaged in employment and training, housing and community development, legal services, and education and research, particularly hard. These agencies lost from one-fourth to one-third of their government funding.

Increased demands.—While government support was declining, demand for services either increased or remained stable for nearly all of Atlanta's nonprofit human service providers between 1981 and 1982. Increases in demand were most likely to be registered in program areas where government funding cuts were the sharpest—employment and training, housing and community development, legal services and advocacy, social services, and institutional and residential care.

4. Nonprofit Response to Retrenchment:

Net loss overall.—Atlanta's nonprofit agencies attempted to replace the government funding losses by turning to other sources of support. Their overall performance in increasing nongovernment support was about average among the sites we examined, making up about 35 percent of the government losses. Atlanta's agencies therefore ended up with an overall decline of 6.5 percent in total revenues between 1981 and 1982—the sharpest decline of all the sites in our study.

Increased reliance on fees.—Most (two thirds) of the replacement revenue for Atlanta nonprofits came not from private charity, but from heavier reliance on dues, fees, and other charges for services provided by nonprofits. Such earned income made up for slightly less than one-fourth of the gov-

ernment funding losses. This apparent trend toward a more "commercial" orientation raises important questions about the ability of the Atlanta nonprofit sector to continue to serve the people in greatest need.

Other sources.—With the sole exception of private foundation support, which dipped modestly, all other sources of nongovernment funding—United Way, religious and other federated charities, direct individual giving, corporate philanthropy, endowment and investment income, and proceeds from sales and special events—increased for Atlanta nonprofits between 1981 and 1982. However, these increases made up for only about one-tenth of the government funding losses.

Agencies serving the needy fared worse.—Reflecting their different funding patterns, some types of agencies managed to do better than others during the recent retrenchment. For example, health-related agencies and arts organizations registered real growth. Education and research and multipurpose agencies turned double-digit government losses into modest real losses in total funding. By contrast, social service and employment, housing, and legal service organizations remained deep in the red. Generally speaking, the agencies that did worst were those with limited capacity to impose fees and service charges on a generally needy clientele.

Management and service changes.—In addition to seeking alternative funding, many agencies responded to retrenchment by reducing staff levels, increasing staff workloads, instituting management reforms, and increasing reliance on volunteers. Even so, 15 percent of the agencies apparently found it necessary to eliminate specific services or programs, while 8 percent tightened eligibility requirements for service and 11 percent reduced the number of clients served.

5. Conclusion:

A period of strain.—Atlanta's nonprofit human service agencies are experiencing considerable fiscal and programmatic strain. As a result of major changes in government funding levels, many of these organizations have been forced to seek alternative sources of funding, limit their staff size, alter some of their internal operations, and reduce their activities. These pressures may have some positive results, improving agency productivity and strengthening the sector's fiscal base. But the increased pressures on agency personnel and the growing reliance on fees and charges also raise troubling questions about the future course of the organizations.

The need for redirection.—This is therefore an opportune time to assess the role that nonprofit organizations play in the Atlanta community and to develop a more coherent understanding of the way these organizations might usefully fit into the community's service-delivery structure in the future. This report is intended to provide such an understanding and thus to help inform the public debate that is needed on these questions.●

10TH ANNIVERSARY OF THE MOTHER CABRINI AWARD

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. RUSSO. Mr. Speaker, this year celebrates the 10th anniversary of the Mother Cabrini Award. The Columbus-Cuneo-Cabrini Medical Center bestows, this, its highest honor, on those individuals who have worked unselfishly for the benefit of those less fortunate, very much like Mother Cabrini herself. St. Cabrini was born to a family of 12 children in Lombardi, Italy. Although she was never physically strong, she worked to carry the burden of others.

At the age of 24 she took her first religious vows, and 6 years later she founded her own order, the Missionary Sisters of the Sacred Heart. When she recognized the needs of Italian immigrants in the United States, Mother Cabrini sailed to New York where she established an orphanage. In 1892, she founded Columbus Hospital. In 1909, Mother Cabrini became a naturalized citizen of the United States. She had already given so much to this country's poor and homeless, but she treasured the honor of becoming an American and worked harder to be worthy of her new home. She traveled the country, opening schools and orphanages in Denver, Seattle, Los Angeles, and Chicago. Her cheerfulness and sense of humor were an inspiration to all of those she helped. Mother Cabrini became ill and died in 1917.

The love and hope she brought to so many immigrants prompted the Vatican to declare her life an heroic one, and she was canonized on July 7, 1946.

The Mother Cabrini Award, which this year honors Mr. Irv Kupcinet, Sun-Times columnist, and Mr. Stephen Ruff, Sr., Chicago attorney, reminds us that service to others is the highest calling. Our service to others is rendered in the way we live our lives each day, regardless of what work we have chosen. Both men honored by this award richly deserve this recognition. Highly successful in their chosen fields, they could have been satisfied with this as enough. Instead, they have chosen to remember the needs of others and have given unselfishly of their time and talents. I join with their friends in congratulating them and commend the Columbus-Cuneo-Cabrini Medical Center for their own dedicated service.●

OPAL HENN: WORKING TO HELP PEOPLE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. ANDERSON. Mr. Speaker, on Friday, September 14, a very special lady will be honored at a dinner to be held at the Rio Hondo Inn in Downey, CA. Opal Henn will receive this tribute from her friends for all the many community activities that she has been involved with over the years.

Opal was born in Redlands, CA, and later moved to Orange County where she attended schools in Placentia, Huntington Beach, and Santa Ana. She then moved to Downey where she comnpleted high school. After attending Long Beach City College for 1 year, Opal began working for the Pacific Telephone Co. While there, her most exciting job was manager of the Bell System's "America the Beautiful" exhibit at Disneyland.

With her retirement from Pacific Telephone, Opal began working at her true love, volunteer service and helping people. She has been involved with many groups as a volunteer. She has been a member of the American Heart Association for the past 26 years, a member of the American Cancer Society, charter member of the Downey Quota Club International, and helped organize the Downey Coordinating Council as a member of the Quota Club. Opal is a member of the Downey Historical Society, and the Downey Rose Float Association where she has acted as chaperon for Miss Downey and her court for the past 10 years. It is interesting to note that Opal was the first Miss Downey, and continues to be active in the Miss Downey pageant.

She is a member of the American Association of Retired Persons, Chapter 262, in Downey; a volunteer for the Downey Youth Employment Office; the Downey Theatre; member of the Keep Downey Beautiful Committee; and serves on the Sister City Committee.

Opal was also the organizer and coordinator of the Robbie Diaz Olympic Committee to send Robbie, Downey's deaf swimmer, to the Deaf Olympic games held in Berlin, Germany. She also worked with the city, the chamber of commerce, and the RTD Transportation Committee, selling Olympic tokens to businesses in Downey.

An active member and past president of the Downey Republican Women Federation, Opal is a newly elected member of the Los Angeles County Republican Central Committee, 63d Assembly District. She is a member of the California Republican Assembly and honorary member of

the Downey Soroptimist International.

I join with my wife, Lee, in honoring Opal Henn for her very active community involvement. We wish her all the best in years to come, and know she will continue to be a valued participant in making Downey, CA, a better place to live.●

RESOLUTIONS OF MUHLENBERG COUNTY FARM BUREAU

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. HUBBARD. Mr. Speaker, my wife, Carol, and I attended the annual Muhlenberg County Farm Bureau dinner on Friday, September 7, at Greenville, KY.

The Muhlenberg County Farm Bureau adopted the following resolutions given to me by Charles W. Gatton, Jr., president, and James M. McPherson, resolution chairman:

We the Muhlenberg County Farm Bureau present the following resolutions:

1. We favor legislation to balance the United States budget except when Congress determines an extreme emergency exists.

2. We recommend limiting imports and educating the American consumer to buy American products.

3. We favor aid to foreign countries to be in the form of United States farm products rather than tax dollars.

4. We recommend a new method of exchange between the United States and Foreign countries. Instead of United States dollars for foreign oil and other imports, we recommend farm commodities instead of United States dollars.

5. We believe the federal and state estate taxes are unfair and should be rescinded.●

FBI'S UNDERCOVER ACTIVITIES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. EDWARDS of California. Mr. Speaker, the House Judiciary Subcommittee on Civil and Constitutional Rights, which oversees the Federal Bureau of Investigation, has conducted more than 4 years of intense study of the FBI's undercover activities. The result of our labors is a report which the subcommittee issued on May 1.

The subcommittee made a number of recommendations which it believes would help eliminate many of the dangers inherent in undercover operations. One of the recommendations was that there be a judicial check on use of the technique, through a warrant requirement. There is growing support for our position. For example, I invite your attention to an editorial which appeared in the Los Angeles Times on August 15, entitled "Sting in Law Enforcement."

The editorial focuses on the fundamental questions regarding police undercover operations. In particular, it notes that internal administrative controls are not adequate and that a scam warrant or court order to authorize sting operations is necessary to protect innocent persons from Government-initiated temptations. The five Democratic Members on the subcommittee—Congresswoman PATRICIA SCHROEDER (CO) and Congressmen ROBERT KASTENMEIER (WI), JOHN CONYERS (MI), CHARLES SCHUMER (NY) and I—strongly agree. Mr. Speaker, I urge our colleagues' close attention to the editorial.

The editorial follows:

STING IN LAW ENFORCEMENT

(By Otis Chandler)

"Sting" operations have become a most effective tool of law enforcement. To some critics they also pose dangers and raise troublesome questions of Government ethics. Can an honest person be entrapped into committing a crime? The easy answer is no, but suppose he is under intense financial pressure, the bait dangled before him by the Government is hugely attractive, and he takes it. The question now is: Did the Government push a citizen into committing a crime that he ordinarily would not have committed?

At this point in the sting, a Chicago criminal defense lawyer argued at the recent meeting of the American Bar Assn., the Government's "efforts are not to see if the target will commit a crime but to get him to commit a crime."

James F. Neal, the former Watergate special prosecutor, agreed. Neal, who also served as counsel for the Senate Select Committee reviewing the Government's Abscam prosecutions, told the ABA that "the proof that the defendant was predisposed to some criminal act now seems to be nothing more than the fact that he took the bait. We need more protection for the defendants in these cases. And one of the (defenses) available to them should be a determination whether these efforts would cause even normally law-abiding citizens to commit a crime."

The Justice Department has established guidelines for undercover operations, but Neal called them "merely recommendations" that often are ignored, and he advocated legislation to govern sting investigations. This approach also is recommended by Harvard law professor Alan Dershowitz, who recently wrote in these pages:

"The Government may trick a criminal into commiting a crime that he would commit anyway—but under circumstances in which he can be caught and convicted. For example, if the police know that John Smith is a drug dealer, it is perfectly proper for an undercover 'narc' to buy some drugs from Smith. Smith is tricked, but properly so. But the Government is not permitted to talk an innocent person into trying crime for the first time." Dershowitz favors legislation that would require a court order—a "scam warrant"—to authorize undercover sting operations. A federal prosecutor who heads the Government's probe into corruption in Cook County (Ill.) courts, counseled against further controls. The Cook County investigation, he said, "has been a learning process, but let time march on a bit."

When time marches on a bit, whether Congress will enact strict controls on sting operations will depend on the answer to this question: Did the government persuade the target to commit a crime that he otherwise would not have committed? That question calls for a highly subjective judgment, but one that is inherent in the very nature of the undercover investigations.●

TRIBUTE TO PATRICK SCANLAN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to say a few words about Mr. Patrick Scanlan, a member of Boy Scout Troop 651 and son of Vincent and Bonnie Scanlan of Schuylkill Haven, PA.

Patrick is an outstanding young man who recently passed his Eagle Scout Board of Review for the advancement to the rank of Eagle Scout. A court of honor will be held on October 28, 1984, to honor this young man for this admirable achievement.

The rank of Eagle Scout is not easily accomplished and it is awarded only to those few who have excelled in many dimensions of Scouting and citizenship. It is a testimony to an individual's character, integrity, intelligence, perseverance, dedication, and loyalty to community and country.

I know that Patrick's parents, teachers, and friends are extremely proud of him for earning this noteworthy and important award. It is young people like Patrick who instill confidence in the next generation to carry the mantle of leadership in building a better America and a better world. I know that my colleagues will join me in congratulating Patrick and wishing him the very best in all his future endeavors. Patrick Scanlan will serve as an inspiration to other young Americans and is deserving of this special recognition.●

HOW TO SWAY A COUNTRY TOWARD WAR

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. JACOBS. Mr. Speaker, with the following contribution from Hermann Göring, I tilt slightly toward the proposition that no one is useless.

Naturally the common people don't want war . . . but after all it is the leaders of a country who determine the policy, and it is always a simple matter to drag the people along, whether it is a democracy, or a fascist dictatorship, or a parliament, or a communist dictatorship. Voice or no voice, the

people can always be brought to the bidding of the leaders. That is easy. All you have to do is to tell them they are being attacked, and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same in every country.

—HERMANN GÖRING.●

TRIBUTE TO MS. YVONNE PRICE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Ms. Yvonne Price for her sincere and dedicated work in the civil rights movement during the past 20 years. Ms. Price was, to the best of my knowledge, the first black woman to lobby on Capitol Hill.

Working jointly with the Conference on Civil Rights and the National Association for the Advancement of Colored People, she was instrumental in the passage of the Civil Rights Act of 1964 and the Fair Housing Act of 1968.

She continues to work for legislative initiatives with other national organizations such as the Congressional Black Caucus.

Ms. Price's current involvement with the newly formed Black Women's Political Caucus, the Black Women's Roundtable, the National Association of Negro Business, 100 Black Women, and other professional women's groups reflects her continued commitment to the struggle for equal opportunity for all.

Ms. Price has been a role model for blacks, minorities, and women.

I am well acquainted with her accomplishments and am sure that all of my colleagues in the House of Representatives join me in this tribute to a remarkable woman.●

A TRIBUTE TO MRS. EMMA M. MEYER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. SKELTON. Mr. Speaker, I would like to take a moment to recognize the outstanding performance of Mrs. Emma M. Meyer of Mora, MO, who has, for the last 40 years, served her country as a volunteer in the National Weather Service's Cooperative Weather Observer Program.

Recently, the National Weather Service presented Mrs. Meyer with the John Campanius Holm award for 40 years of continuous and exceptional public service. This award, honoring Mrs. Meyer for "outstanding accomplishments in the field of meteorological observations" is one of the highest honors paid a cooperative observer.

Mrs. Meyer's service has benefited the people of Mora and surrounding areas invaluably over the past 40 years by helping to make the National Oceanic and Atmospheric Administration's river and flood forecasts and warnings more accurate. Her dedication to her job is tremendous, and she often braves severe weather conditions to make sure that accurate readings are taken and that her equipment stays well maintained. She has even trained a substitute who can take the daily readings when she is unavailable.

A homemaker, Mrs. Meyer supplies the local media with her observations, and acts as the local authority on Mora's climate, as she well should, for her records make up much of Mora's hydrological history.

The data collected by Mrs. Meyer, and the 11,000 volunteers like her throughout our Nation benefit many segments of American life. It helps form our national climatic record, as well as providing valuable information to various public and private users, including farmers, ranchers, builders, and utility companies.●

THE 25TH ANNIVERSARY OF THE INCORPORATION OF THE CITY OF ROSEMEAD

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. MARTINEZ. Mr. Speaker, this year marks the 25th anniversary of the incorporation of the city of Rosemead, CA. Since the early days when city hall was located in a single room in the back of a local bank, the city has developed into a well planned, financially sound community, dedicated to meeting the needs of all its citizens.

Projects for public improvements began immediately following incorporation. Today, more than 90 percent of the city's streets have been upgraded with the installation of curbs, gutters, driveway approaches and sidewalks.

The city's recreation department offers year-round classes, leisure activities, and organized sports for youngsters, teens, adults, and seniors. To make leisure activities even more accessible, the city is rebuilding the Zapopan Community Center. In conjunction with the Garvey School District, the city is also upgrading the Fern School Sports Complex by installing lights, two football fields, and two baseball diamonds.

In planning the city's future, the Rosemead Redevelopment Agency created an environment which contributes to the influx of several new businesses. A cornerstone in Rosemad's redevelopment program is the creation of a 94-acre garden-like commercial/industrial park that has become home for the corporate offices of Southern California Edison, Ticor Title Insurance, and California Federal Savings & Loan. Another project which will greatly contribute to Rosemead's continued prosperity is the development of a 40-acre shopping mall in conjunction with the neighboring city of Montebello.

Future projects which will also improve the quality of life in Rosemead include the introduction of a cable television system and the installation of handicap ramps, bus stop shelters, and concrete pads to reinforce city streets along the bus routes within the city.

All in all, the citizens of Rosemead have every reason to look proudly upon their city's past, and look with confidence to the promise of the future.●

LEGISLATION TO DISTRIBUTE JUDGMENT FUNDS TO WYANDOTTE TRIBE

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. SYNAR. Mr. Speaker, I am pleased to introduce legislation today which will provide for the distribution of judgment funds plus accrued interest resulting from four dockets to the members of the Wyandotte Tribe of Oklahoma and to the lineal descendants of individuals listed in the "Census of Absentee or Citizen Wyandotte Indians."

On August 17, 1978, the Indian Claims Commission awarded $561,424.21 to the Wyandotte Tribe as it was constituted in 1805 as their share for ceded land in north-central Ohio. Funds to cover this award were appropriated on October 1, 1978.

The U.S. Court of Claims on January 19, 1979, awarded $2,349,679.60 to the Wyandotte Tribe as it was constituted on January 4, 1819, as additional compensation for land in northwestern Ohio. The necessary funds for this debt were appropriated on March 2, 1979.

The U.S. Claims Court, on December 9, 1982, awarded the Wyandotte Tribe $200,000 in dockets 212 and 213 as additional compensation for reservation lands in northwestern Ohio and southeastern Michigan ceded to the United States by the tribe under several treaties. Funds were appropriated to satisfy this judgment on January 20, 1983.

As of March 30, 1984, the total of these claims plus accrued interest was $5,710,545.84.

This bill would repeal Public Law 97-371, which allocated previously appropriated funds to the Wyandotte Tribe and Absentee Wyandottes. The formula for distribution of these funds, as contained in that act, has been determined to be inequitable by the Bureau of Indian Affairs, the Wyandotte Tribe, and many Absentee Wyandottes.

The bill contains a new distribution formula which would provide for the fair distribution of judgment funds between the Wyandotte Tribe and Absentee Wyandottes. In addition, this bill provides for the distribution of funds appropriated under dockets 212 and 213.

Mr. Speaker, I urge the quick passage of this bill so that the Wyandotte Tribe and the Absentee Wyandottes can receive the judgment funds that are rightfully theirs.●

SENATE—*Wednesday September 12, 1984*

(Legislative day of Wednesday, September 5, 1984)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, the Senate is losing some very good men at the end of this session. We are profoundly grateful for the 23 years of effective, loyal public service given by Senator JOHN TOWER. We thank You for leading this eminently qualified university professor to the Senate and for his unsurpassed devotion to the mandate which brought him here. We thank You for the strong leadership he has given the committees on which he has served and for his perseverance and patience in managing legislation through to fruitful consummation. We thank You not only for his dedication to public service, but for his active involvement in significant ways in the private sector. Gracious Lord, as he enters the next phase of his productive life, may he and his family enjoy the richest of divine blessing. We pray in the name of Him who is Lord of Life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after morning business today, we will resume consideration of the banking bill. Cloture has been filed on the bill and a vote will occur on Thursday. I will consult with the minority leader to try to set a time certain for that vote other than the time that will occur automatically under the rule. I have not yet had an opportunity to fully do that so I will not pursue it at the moment, but there will be a cloture vote on Thursday. Debate will continue on the banking bill and amendments will be offered, I hope, to the banking bill between now and Thursday. If it should stall down—I hope it will not. I hope we will continue on the bill and dispose of amendments as they may be presented, but if we are dead in the water, so to speak, I would hope that we could find something else to do temporarily. I have not had an opportunity to talk to the minority leader about this either, but there are a long list of things that come to mind: The highway bill, if it is available; a trade bill perhaps; a clean water bill, if it can be cleared. There are other things, I am sure. But since we have a day and a half, almost 2 days before the cloture vote on the banking bill, may I say to my friend, the minority leader, if things do not move along in a good way today on the banking bill, I would like to consult with him on that. Members who may be listening in their office should be on notice of the possibility that other matters may be brought up and cleared for action on a temporary basis pending the vote on cloture on Thursday.

I am sure all Members will understand why that would occur to me since we are in our second week of a 5-week period before sine die adjournment and we need to take maximum advantage of the time we have available.

So, Mr. President, I hope we can proceed with the banking bill today, that amendments will be processed, and that we can make good progress. But if we were to stall down, then I will consult with the minority leader on the possibility of turning to some other measure temporarily.

Mr. President, I have no good view of what Friday looks like yet. I guess that depends partly on what happens to cloture on Thursday, but I know Members by now will want to make their weekend plans, especially since we are in the shadow of an election and many Members are running for reelection. So I will try to have an announcement later today on the outlook for the agenda of the Senate for the remainder of this week.

Madam President, I have nothing further this morning. As I say, I will confer with the minority leader during the course of the day and try to have a further announcement about today, tomorrow, and Friday before the Senate concludes its business. I offer my remaining time to the minority leader. Madam President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mrs. KASSEBAUM). The minority leader is recognized.

THE BATTLE OF POINT PLEASANT, WV

WAS THIS THE FIRST BATTLE OF THE AMERICAN REVOLUTION?

Mr. BYRD. Madam President, the Declaration of Independence catalogues scores of grievances held by the American colonists against King George III. Among those grievances was the following:

> He has endeavoured to prevent the Population of these States; for that Purpose . . . raising the Conditions of new Appropriations of Lands.

In part, that clause refers to the Royal Proclamation of 1763, by which the British Crown sought to stem English settlements beyond the Blue Ridge and Allegheny Mountain ranges. Prior understandings with the Iroquois Confederation of the Six Nations, on the one hand, and with the Cherokees, Choctaws, and Creeks, on the other, had temporarily pacified the northern and southern frontiers of British North America. To buy a truce with the tribes of the middle frontier—largely the Shawnees, Mingoes, and their allies—in the wake of the French and Indian War, British authorities pledged to prohibit colonists from entering the eastern Ohio River watershed wilderness—today's western Pennsylvania, Kentucky, and particularly western Virginia—and to order those settlers already occupying land in that area to withdraw.

That containment and evacuation policy, however, flew in the face of certain earlier Crown promises to the colonists—specifically, land grants across the Blue Ridge and Alleghenies to those colonists in exchange for military service during the French and Indian War. And with that understanding before them, countless pioneer settlers, as well as such Colonial notables as George Washington, Thomas Jefferson's friend and neighbor Dr. Thomas Walker, and Colonel Andrew Lewis, had staked claims and launched settlements along the New and Holston Rivers, and on the banks of the Ohio and some of its transmontane Virginian tributaries. Thus, in spite of the Proclamation of 1763 and the treaties of Fort Stanwix in 1768 and Lochaber in 1770, with the collusion of Colonial Virginian authorities, settlers continued to pour in the proscribed wilderness territories.

By the early 1770's bloody clashes between those pioneer interlopers and Indian bands on the western shores of the Ohio River had become so numer-

ous and the frontier so alarmed and terror-stricken that Lord Dunmore, the Royal Governor of Virginia, declared war on the Ohio Valley Indian tribes. Though an often imperious and arbitrary governor, on the issue of expanding Virginia's boundaries westward Dunmore sided with the colonists against the Crown. While rationalizing his efforts to London, Dunmore in April 1774 called on Virginia militiamen to organize for the defense of the colony's frontier settlements.

In answer to that call, in late summer of 1774, from Virginia's southwestern counties and from as far east as Culpeper and Bedford counties, flint-eyed American giants—reports declared that every man in one company stood at least six feet tall in his flat moccasins, a prodigious height for the 1700's—assembled at Camp Union, now Lewisburg, West Virginia, to answer muster under the seasoned leadership of Colonel Andrew Lewis.

We are talking about what is now Lewisburg, West Virginia—W-e-s-t. Not w-e-s-t-e-r-n Virginia, but West Virginia a State separate and apart from the State of Virginia.

Of that army, one historian wrote:

This army at Camp Union was the most remarkable body of men that had ever assembled on the American frontier. Of the men comprising it, some had been with Washington at the surrender of Fort Necessity; some with Braddock at the fatal field of Monongahela; others with Forbes at the capture of Fort DuQuesne; and still others with Boquet in the Ohio wilderness; and all, or nearly all, had been engaged all their lives in Border wars. Hence the men collected at Camp Union were not only schooled in both English and Colonial military systems, but were familiar with the methods of Indian warfare as well. Every man knew his duty and the importance of the undertaking in which he was engaged. As Theodore Roosevelt later wrote, "It may be doubted if a braver or physically finer set of men will ever get together on this continent."

Leading that extraordinary body of approximately 1,100 men across the mountains and down the hostile ravines and savage bends of the Great Kanawha River, Lewis arrived on October 6 at the confluence of the Kanawha and Ohio Rivers—the site later christened Point Pleasant—Point Pleasant, West Virginia. There, four days later, October 10, 1774, Lewis's army fought one of the largest set battles recorded between Europeans and Indians on the territory currently under United States jurisdiction, involving more than 2,200 colonists and Indians. The Indians, mostly Shawnees under the command of a bold strategist named Keigh-tugh-que and since dubbed "The Cornstalk" by historians, battled fiercely, but Lewis held his ground. Throughout that entire October 10th the warfare continued, until about a half-hour before sunset Cornstalk withdrew, retreating across the Ohio under the mistaken impression that Lewis was in immediate receipt of reinforcements. Thus ended the Battle of Point Pleasant, the most telling clash in "Lord Dunmore's War." Two days later, Cornstalk sued for peace. Subsequently, the Shawnees agreed to withdraw north and west of the Ohio, giving the Virginia frontier several years of relative peace.

Some historians have called the Battle of Point Pleasant "The First Battle of the American Revolution." In his book *The Winning of the West*, none less than Theodore Roosevelt wrote, "Lord Dunmore's War was the opening act of the drama whereof the closing scene was played at Yorktown." Indeed, in Dunmore's War, American dissatisfaction with British policy for the first time on a large scale reached a boiling point. Already, Boston was under British blockade, the Virginia House of Burgesses had been dissolved by Governor Dunmore because of its expressions of protest and solidarity over the Boston affair and other irritants, and the First Continental Congress had been gaveled to order in Philadelphia.

Even with Lord Dunmore's complicity, the expedition into the West Virginia wilderness was in direct defiance of British policy, and the men of Andrew Lewis's command knew that. And emboldened by their recent victory, angered still by Britain's now discredited settlement fiats, and sympathetic to the rising signs of independence and liberty in their sister colonies to the north, within days of burying their dead and restoring the wounded, the victors of the Battle of Point Pleasant assembled at one of their encampments and addressed the following sentiments to the palace in London and their comrades in Philadelphia:

Gentlemen, having now concluded the campaign, by the assistance of Providence, with honour and advantage to the Colony and ourselves, it only remains that we should give our country the strongest assurance that we are ready, at all times, to the utmost of our power to maintain and defend her just rights and privileges. We have lived about three months in the woods without any intelligence from *Boston*, or from the Delegates at *Philadelphia*. It is possible, from the groundless reports of designing men, that our countrymen may be jealous of the use such a body would make of arms in their hands at this critical juncture. That we are a respectable body is certain, when it is considered that we can live weeks without bread or salt; that we can sleep in the open air without any covering but that of the canopy of Heaven; and that our men can march and shoot with any in the known world. Blessed with these talents, let us solemnly engage to one another, and our country in particular, that we will use them to no purpose but for the honour and advantage of *America* in general, and of *Virginia* in particular. It behooves us then, for the satisfaction of our country, that we should give them our real sentiments, by way of resolves, at this very alarming crisis.

Lewis's army continued further:

Resolved, that we will bear the most faithful allegiance to his Majesty King George the Third, whilst his Majesty delights to reign over a brave and free people; that we will, at the expense of life and every thing dear and valuable, exert ourselves in support of the honour of his Crown and the dignity of the *British* Empire. But as the love of Liberty, and attachment to the real interests and just rights of *America* outweigh every other consideration, we resolve that we will exert every power within us for the defense of *American* liberty, and for the support of her just rights and privileges; not in any precipitate, riotous, or tumultuous manner, but when regularly called forth by the unanimous voice of our countrymen.

Those remarks, contained in the "Fort Gower Address," predate the "Mecklenburg County Resolves" of North Carolina by 6 months and add significance to the Battle of Point Pleasant. From that standpoint, one can see why Theodore Roosevelt and other historians have tied Point Pleasant to the American Revolution. For the first time in our country's natal history, experienced American Colonial troops, most of whom later became stalwarts of the Continental Army, at Point Pleasant took up arms, if not against the British Crown, at least and importantly in direct contradiction to that Crown, fighting for a distinctly American cause in defiance of King George's ministers.

The Battle of Point Pleasant is a little-known but salient event in West Virginia. And that battle evinces a spirit that is, to this day, distinctive of West Virginians. Lord Dunmore's War, perhaps more appropriately Colonel Lewis's War, forever made West Virginia part of America. The descendants of many of those men who fought at Point Pleasant, and of many like them, populated the valleys, hollows, coves, and hills of Trans-Allegheny Virginia, later carving out of the Old Dominion the new, great, and beautiful State of West Virginia. That fierce devotion and incipient patriotism demonstrated at Point Pleasant in 1774, 210 years ago, and proclaimed in the Fort Gower Address today characterize West Virginians. I am deeply moved by that spirit as I consider West Virginia's history, and I feel that spirit every time I speak in my State or elsewhere or discuss with West Virginians our country's future and security. I am proud and honored to represent such a group of people in the Senate, and I wanted to share with all who read the RECORD some of the history of West Virginia and of our America, and some of the fire that has made this country great.

Madam President, I yield the floor.

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDING OFFICER. Under the previous order, the Senator from

Alaska [Mr. MURKOWSKI] is recognized for not to exceed 15 minutes.

Mr. MURKOWSKI. Thank you, Madam President.

SOUTHEASTERN ALASKA'S PULP MILLS

Mr. MURKOWSKI. Madam President, I have asked for this special order this morning to call attention to a matter of great concern to my State of Alaska and particularly to the fourth and fifth largest communities in our State, Ketchikan and Sitka.

These communities are located in southeastern Alaska, an area that does not have the diverse economic base that many areas of the lower 48 States enjoy.

The area is geographically isolated. Limited transportation services, coupled with the high cost of importing virtually every necessity of life make the day-to-day living costs that most of us take for granted very, very high. They have limited industrial development in the Panhandle area of Alaska primarily to the fishing and timber industries. The abundance of harvestable timber in southwestern Alaska has become over the years a major component of the region's economic base. For the cities of Sitka and Ketchikan, the harvesting of timber and the operation of pulp mills and saw mills has played a most significant role in the development of these two communities.

For my colleagues who have and are familiar with single industry towns in their States, I do not need to belabor the obvious: what affects the industry will affect all the citizens who depend either directly or indirectly on the industry—forest products in our case—for support. For those of my colleagues who are from States that enjoy diversity of industrial development in their cities and areas, I can only ask you to consider what your actions might be if the fifth largest community in your State as well as the fourth stood to lose nearly one-third of its tax base through the inappropriate action or inaction of Federal agencies. You would certainly do everything in your power to attempt to solve the problem and to ensure that the problem will not arise again to threaten the existence and livelihood within those communities.

In future statements that I will make on the floor I intend to detail the evolution of the problem that threatens these two communities, Ketchikan and Sitka. But for today's statement let me say that every good faith attempt has been made to date to negotiate an administrative and legislative solution to the problems faced by the mills in these two communities that I have already mentioned. The legislative solution would, by necessity, be a part of the Clean Water Act. I want to be clear to my colleagues, and to the distinguished Senator from Rhode Island: I want a Clean Water Act to emerge from this session of Congress. I support our national effort to clean up our rivers and streams. At the same time, I oppose treatment for treatment's sake which is what is involved in the case of the two Alaska mills. I expect other proponents of the Clean Water Act, including the staff of the Environment and Public Works Committee, to accommodate the serious concerns of the people of these communities within my State. I know that an accommodation can be fashioned that will take into consideration the peculiar situation of the Alaska mills—which ironically EPA itself has recognized since 1974—and that will do no violence whatsoever to either the intent or practical application of the Clean Water Act.

The fact remains that the mills in Alaska, because of their isolation, have to generate their own power sources and the mills outside Alaska have power grids to call upon for their energy needs. And, the consequence of the application of that differential has not been considered or reflected in the consideration given by the Environment and Public Works Committee staff.

The legislative solution to the problem of the mills has even been the subject of discussions with concerned environmental groups. Clearly, these groups would prefer to have a Clean Water Act without any amendment dealing with consideration of the Alaska mills. However, if the adoption of the act will be affected by dealing with the mills, then certain members of the environmental community who have reviewed our legislative proposal, I am told, would not oppose it.

Our problem, quite frankly, does not appear to be negotiating with various environmental groups; rather, we have been told by some of the committee staff members, through the Alaska delegation staff, that they will propose no accommodation for the Alaskan mills in question. It appears that if the Alaskan mills are forced to close their doors, it will be because any and all attempts to negotiate some kind of agreement for their continued operation by the appropriate staffs will have been foreclosed by that committee.

Madam President, if the Clean Water Act does not come before this distinguished body in 1984, it will not be because we have failed to seek a responsible solution to the problems which I have outlined on behalf of the citizens of my State and the respective communities of Sitka and Ketchikan.

Mr. BYRD. Madam President, the distinguished majority leader has requested that I ask unanimous consent that the orders that were entered on yesterday for today not appear necessarily in the sequence in which they were ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF MR. STENNIS

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi, [Mr. STENNIS,] is recognized for not to exceed 15 minutes.

Mr. STENNIS. Madam President, I certainly thank the Chair, and I will appreciate your not calling time on me, if I should last beyond 15 minutes.

THE CONSTITUTIONAL RESPONSIBILITY OF THE SENATE REGARDING DEFENSE AND SECURITY

Mr. STENNIS. Madam President, I have no grievance to speak today. I have no individuals to blame. I want to speak for this institution, the U.S. Senate, its committees, its official chairmen and ranking Members, all Members, and for this body as a whole.

We are here now at this late date in the calendar year, and every day we are setting more bad precedents with reference to the budget. But the act we operate under was passed, as you know, in 1974. From then until now we have always complied with the requirements of the law, and passed a budget resolution in the form of a concurrent resolution. When we passed the Budget Act, we provided for a concurrent resolution on the budget which left the President out of it altogether. There is no right of veto.

Also, this decade represents 10 years where we have complied with the legal requirements of having the budget resolution, and the money bills that were enacted were passed in conformance with that resolution. I refer now particularly to appropriation bills, and more particularly to the armed services appropriation bill which first requires an authorization. Every year until this year we have complied with that law with a little variation as to date. But the fundamental thing was that we had the budget resolution. We also had an authorization act for the entire military program. To be specific, that means that a committee, the Armed Services Committee in that case, had minutely gone over every single item in one way or another. In

some years there were a few thousand items contained in the bill. We had made a judgment certainly on all the major, or semi-major, matters involved, policies involved, and a recommendation. That bill went to the body here. It has been approved in its official form, gone to conference with the House, and had adjustments there. I illustrate how carefully House bills are gone over.

I remember one time we had over 2,000 adjustments at a conference on the military bill. But that is where you get down to the fine print, make judgments on these things by men that are experienced, and particularly by the staff members that are so valuable. We have always complied with that, and the appropriation bill then is based on the authorization bill which again by different membership went through a similar but different process, and passed on every item in those appropriations bills.

This year, we do not have the budget resolution. We do not have the authorization bill. I hope it is not tied up hopelessly. But we had a meeting, went over a great many of the things, and on the last day that we were here before the recent 4-week recess, we had the last meeting. The conference did not adjourn never to reconvene, but we just finished our session subject to the call of the Chair. I am not criticizing the Senator from Texas, Mr. TOWER. He does a fine job. Personalities are not involved in my thinking.

But anyway, I never dreamed that we would not have another meeting at some time and try to finish settling those differences.

As the Senator from Georgia has pointed out on the floor, the main difference relates to the MX missile. I have supported the MX missile, I did at that conference, and I did on the last vote that we took. But after all, it is not written in blood. I can change my mind to some degree. I am not making any promise. But it is certainly my duty to further weigh, in order to comply with the law, those facts, which I would propose to do the best I can, and I might partly change my position or I might not. That is not the question here now. My plea is that we not abandon everything, walk off, and leave this thing unfinished—these items I have mentioned, these bills that I have mentioned, this budget resolution that I have mentioned—then come back at the last minute, and in an emergency attitude just take whatever may be put out and have sine die adjournment in order.

By the way, there is a provision in the Budget Act, Madam President, that says, in effect, there shall be no sine die adjournment by any Congress until they have completed compliance with that act, meaning the budget resolution, and disposition of matters under it. That was written into the law 10 years ago and has been abided by. I picked up yesterday that still we are talking about a sine die adjournment now on the date of October 4.

Madam President, I just plead with the membership to take a relook at what their responsibilities are as Members of this body. I have never complained to any Member as to how they vote. But they should look again as to just what their responsibilities are and determine whether or not they should not be aroused to action of some kind.

The Constitution of the United States creates the Congress in the first paragraph—before it say anything about a President or a court. It sets out the Congress shall be composed of the State and the House of Representatives. Then there is a provision in there that the Congress shall provide for the military security of the Nation. They put that first and it has always been obeyed.

I am not trying to use that as an argument that we should vote great big appropriations bills for the military. But I am talking about duty. The arrow of duty points directly at us in the legislative branch in every one of these steps I have mentioned. There is no doubt about it. With the words of the Constitution, with that interpretation, the practices, the precedents, everything points to us. It is not the chairmen of the committees or anyone else, but it is for each individual Member to consider what his duty is, representing the people of his district or his State that he is honored to represent.

So we cannot avoid this matter. It comes right in on us.

We are blessed here with leadership on these committees about which I have been talking, both in the chairmen and the ranking minority members, blessed with their dedication and experience, their activities. I do not believe that any of them can or will take exception to what I have pointed out here as a requirement spelled out in the Constitution and spelled out in the language of the Budget Act of 1974, which I had the privilege of supporting.

I do not know how long we will be here. I am not shooting for any date. That rests within the bosom of the membership. But I point out with the greatest emphasis I know that if we feel our responsibility and duty, we have no choice about it. We ought to comply, and we must comply, with these requirements of the law.

Incidentally, I understand this appropriation bill for the Department of Defense, based on the authorization bill, which will mean four committees will pass on it in addition to the bodies as a whole, is the largest amount that has ever been appropriated in one bill within the entire history of our Nation, over 200 years.

We also know that those funds are expended around the world, that they go for everything from the elementals of basic foods on up to the last invention of efforts of all kinds in the fields of science and mechanical and technical achievements. Billions and billions of dollars are involved. So it is not chicken change. In fact, these bills total so much, like it or not—and I am not running down the country—that we are faced already with a possible financial crisis. Men like Volcker, a very competent witness, has said we can be on the verge of becoming a debtor nation. In the field of financing, as I understand it, it means we have taken a rapid decline in our position in the financial affairs of the world, and the conditions are such that when we go down in that respect, we will take with us a lot of people, a lot of nations, whose friendship and support we have had and need. And they need us, by all means.

I am not referring to any individual, but I spent some time with 40 visiting bankers from my State, many of whom I personally know. Everybody knows that being the head of a bank is a highly responsible position anywhere, anytime. I was impressed—whether they said so outright or not—from remarks that they made that they were quite serious about this matter of the soundness of our financial affairs. They generally believed there was a way out, that we could pull ourselves back. I certainly subscribe to that, and I have never believed anything else. But it will not be done without sacrifice.

So we are stumbling around here—and I use that word respectfully—with the largest military authorization and companion appropriation bill we have ever had in the history of the world. The money is used around the world as an indication itself of what we think about the prevalence of trouble spots around the world, trouble for them and trouble for us. But we are delaying, deliberately, or intentionally, or by neglect, to move now, not next year or not after the election but now.

On a personal basis, I think we have to move now to fulfill these voids, showing the mettle that I know we are made of in a personal way, showing the capacity of our Government to meet a crisis, even though it may be a little remote at times to recognize it, and to meet it with whatever it takes to put us back at the head. I say that with deference to other countries, the free countries, the self-governing countries, of the world.

Like it or not, there is nothing we can do except one thing, to take this accusing finger which is pointed at us. It is our responsibility. We can only get that accusing finger pointed away from us by fulfilling to some degree, at least, and that means to every extent

of our capability, and we have the capability and know how to do it, to go on and carry out these duties and functions.

I just pray that we will have an opportunity to get in here, even if we have to more or less demand it, to have the chance to get in here and reconsider or consider again this matter and work more on it. I want us to send up the banner that Congress does not abdicate these responsibilities; Congress does not run from these responsibilities. Congress does not postpone them when it is doubtful that there is time left to postpone them to a more convenient time.

So I hope that we can get back. I thought we were going back for further conferences on that bill I mentioned, where I was a conferee. I know that something can be done about it. I think we are mighty close together already, but we have to have a will to move. I hope that those who have responsibilities will be more willing to move, but I hope there will be movement, if it does not happen that way, among our membership. That means within our rules and within the law, too, of course. But this is not a matter that can be brushed aside nor solved by good intentions. We have to meet this problem as it is and do enough about it to show that we are going all the way at whatever may be necessary.

I thank the Senate for granting me this time.

Mr. NUNN. Madam President, will the Senator yield to me for just a brief observation?

Mr. STENNIS. Yes, Madam President; I am glad to yield to the Senator from Georgia. I have already mentioned that he has addressed this matter in a very forceful way and I am mighty grateful for it.

Mr. NUNN. Madam President, I think that today the Senator from Mississippi has made one of the most important statements we have had made on this floor in many weeks, because he has outlined the constitutional responsibility of Members of this legislative body regarding our Nation's defense and security and tied that also into the profound economic problems that potentially affect our Nation and the world.

We do have a constitutional responsibility independent of the executive branch to pass our authorization bills and appropriations bills. This will be the first time since I have been in the Senate that we will have failed to pass an authorization bill if we continue down the course we are on now. The Senator has outlined the consequences of that. He has outlined the terrible precedent that we set. He has also outlined what I think is the very important fact that we are the ones responsible.

Certainly, the executive branch has a role to play. Certainly, they can protest things they do not agree with in the authorization bill. But in the final analysis, whatever their feelings, it is up to this body, the Senate, and the House to come to agreement on differences as to issues, to come to agreement on things even as important as the nuclear weapons systems and antimissile defense. If we go home from this session without having fulfilled that responsibility, I think it will be a sad day for this Senate, a sad day for the House, and particularly injurious to our national defense.

I think the Senator's statement is timely; I think it is appropriate; I think it is 100 percent correct. I am proud the Senator from Mississippi notified me about this statement and that I was able to hear his words of wisdom and advice to this body.

Madam President, I yield the floor.

(Mr. WILSON assumed the chair.)

Mr. STENNIS. Mr. President, I thank the Senator from Georgia. I appreciate every remark he made. All of us in the Senate are indebted to him for his hard work, his diligence, his perspicuity, and perspicacity that he has shown here uniformly in defining a problem, and then he will come up with a solution or a part solution. It may take him two bills to make a full solution, but I commend him highly for what he does and the contribution he makes here.

I do not think we can point that finger, Mr. President. I do not think we can blame the President for this or blame somebody else for that, or blame the other body. I think we have to act in the field of our own power and responsibility and the people are feeling that more and more, I think. No doubt about it.

I thank the Senator. I yield the floor, Mr. President.

RECOGNITION OF SENATOR QUAYLE

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized for not to exceed 15 minutes.

Mr. QUAYLE. Mr. President, my special order today is not totally unrelated to what the distinguished Senators from Mississippi and Georgia have been talking about as far as the committee process is concerned.

REFORM OF THE SENATE COMMITTEE SYSTEM—AND MORE

Mr. QUAYLE. Mr. President, the Temporary Select Committee to Study the Senate Committee System has held 2 days of hearings, a summary of which was published in the CONGRESSIONAL RECORD of August 10, 1984. We received testimony from 14 Senators, including the majority leader, the assistant majority leader and the chairmen and ranking minority members of the Appropriations, Budget, and Armed Services Committees. In studying that hearing record, in discussions with my colleagues and in looking more broadly into general literature on the Senate, it seems to me that there is a widespread concern that the Senate is not functioning as well as it should. These concerns expressed go far beyond the details of committee structure and assignment.

Mr. President, I believe any reforms, changes, resolutions, and recommendations from our committee should place as a No. 1 priority the institution of the Senate.

Over the years it is my feeling that the Senate has become bogged down in detail with a record number of extraneous votes, a proliferation of subcommittees, and a three-layer process that has difficulty in working efficiently. Instead of being policy makers, at times we are nothing more than number-crunching bureaucrats. Instead of entering into debate on the floor, our staff busily prepares amendments and puts out press releases that may be of questionable value. It seems at times many are more interested in just generating publicity or obtaining another committee, rather than in focusing on the major issues of the day.

Somehow, Mr. President, we need to reestablish the Senate as a forum for national debate and the premier political institution for the formulation of policy. I am hopeful that the suggestions our committee makes will be the beginning of a serious look at ourselves. Furthermore, as we examine the problem, and there is a problem, any solutions will require self-restraint. The Senate needs to understand that as each Senator gains a new committee or subcommittee chairmanship, or committee or subcommittee slot the other 99 Senators lose. As we each gain individually at some point the institution loses. We have such a pluralistic decentralized process where everybody has to be self-important that no one can really take charge. If the majority leader wants to take up a bill, all 100 senators basically have to agree.

Instead of operating under the rules of the Senate, we tend to only operate under unanimous consent. Under this system we have witnessed in my opinion the trivialization of the Senate. Let us look at the last couple of months in the Senate. The defense authorization bill had 103 amendments. There were many more that were scheduled to be offered but weren't. Of the 103 I would imagine 10 would have been considered substantive. The Armed Services Committee spent 5 months in preparing the bill and then had to deal with all these amendments. The chairman of the committee spent more time organizing and dispatching amendments than he did

on substantive debate. The Senate appears to like it this way or we would change our habits. I hope we change. When you have 103 amendments to deal with over a 10-day period of time, each amendment is going to receive little, if any, attention. One of the major amendments offered to the bill dealt with our commitment and obligations to NATO. This is a very serious and important issue. The Senate, if it is going to be a forum for debate and establishment of national policy, should have spent 1 or 2 days on the amendment. Instead, the amendment was brought up late and voted on after a few hours of debate. The problem is with every Senator having to have his amendment to major bills then is simply no time for debate. We are bogged down in detail and thus are running the risk of becoming less important as an institution.

The first time cloture was ever invoked was in 1919 on the Treaty of Versailles. The last time cloture was invoked was Monday, September 11 on a procedural motion to proceed to the banking deregulation bill. The manner in which we used to and now use cloture in an example of where the Senate has come from and where it may be going if things aren't changed.

Let me illustrate Senators' concerns with just a few quotations from some of the witnesses before our committee.

Senator BAKER, our distinguished majority leader, put the problem and its cause this way:

> Two factors interrelate—the loss of the status of a public forum in the Senate and the proliferation of bills and amendments and issues in the committee system. We focus too much on detail and too little of the broad general principles.

Senator NUNN expressed a very similar point when he said:

> Without some prudent, thoughtful changes in how the Senate and its committees conduct their business, we run the risk of becoming increasingly mired in duplication and details while we accomplish less and less. In essence, the Senate and the Congress as a whole is choking on its own processes.

Senator STEVENS put it as follows:

> I think it is the redundancy of the process that has destroyed the confidence that the public used to have in the Senate because we never finish anything. Never make a decision. It is always a preliminary decision which may be addressed later at the whim of anybody.

In studying the views of these thoughtful Senators and others who testified before our committee, it seems to me that there are two basic problems that can be described as "proliferation" and "trivialization." We have proliferated the number of committees and subcommittees, the number of staff, the number of floor amendments, the number of cloture votes, the number of rollcall votes, the number of fiscal processes and so forth and so on. At the very same time as we have proliferated, and probably as a consequence, we have trivialized the matters with which we are concerned. We use our processes more and more to emphasize small issues rather than large ones, and that is turning the Senate away from its historic function as the focus of national debate. It sometimes seems that the Senate is trying to become a mirror of the House of Representatives rather than to fulfill the historic role that was given to it by the constitutional framers.

HISTORICAL BACKGROUND

When we look at history to see what the Senate was intended to be, there is no better source than the Federalist papers. Hamilton describes the need for a body with stability and continuity, a body that can review the actions of the more numerous branch, and for one that will be not constantly swept by the whims of change. The Senate was designed to protect us, in his words, against the "effects of a mutable policy." Such a policy, he said, "poisons the blessings of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man who knows what the law is today can guess what it will be tomorrow."

The tradition is clear—the Senate is not to be judged by how much it does but rather by how well it does it. The early Senate fulfilled those expectations. Lord Bryce, that learned and astute commentator and author of the "American Commonwealth," writing at the beginning of this century, noted that "the Senate has expressed more adequately the judgment, as contrasted with the emotion, of the nation." He went on to say, "the Senate has succeeded in making itself eminent and respected * * * and has furnished a vantage ground from which men of ability may speak with authority to their fellow citizens."

The case for the Senate being the "greatest deliberative body in the world" or even of it being, in the words of Prime Minister Gladstone, "that remarkable body, the most remarkable of all inventions of modern politics" would not hold up well today. Over the post-World War II period, many changes have occurred in the Senate—many of them desirable, but they have had an impact on our capacity to act as the deliberative, reviewing, judgmental body that the founders of our Nation envisaged. Power in the Senate was concentrated in the so-called establishment in the early postwar era, and the reforms of the 1960's and 1970's were designed to disperse that power. Some dispersion was certainly called for, but we have now gone too far in that direction. The fractionalization of power, accompanied by increased numbers of committee assignments, increased number of personal and committee staff, multiplication of the numbers of issues considered, all have an impact on our ability to deal with issues in depth.

THE PROBLEMS: PROLIFERATION AND TRIVIALIZATION

It may be worthwhile to look at some numbers which at least illustrate the extent that dispersion and fractionalization of power has occurred in the Senate from the early postwar era to the present. In the 80th Congress (1947–48) there were 61 subcommittees; today there are twice as many. In the early 1950's the average number of committee assignments was slightly over 9; today it is just about 12. Committee staff has increased from 290 in 1947 to 1,129 today, and rollcall votes have gone from 248 in the 80th Congress to 595 in the 90th Congress (1967–68) to 966 in the 97th Congress (1981–82). We must recognize that the Senate cannot, no matter how much it increases the number of committees and staff, duplicate the House of Representatives. We have 100 Members and the House has more than four times as many. The Senate can perform well only if it sticks to its own function rather than attempting to duplicate the more numerous Chamber.

Trivialization of the Senate's work, a subjective judgment, is admittedly harder to document than the fact of proliferation, which can be statistically documented. But the relation of the two is clear—as the Senate multiplies the issues that it deals with, the focus of attention shifts from major issues to less important ones.

Perhaps the trivialization of the Senate process is most dramatically shown in the denigration of the filibuster and the cloture vote. The history of the tradition of unlimited debate in the Senate and the development of the cloture process has been comprehensively described by the distinguished minority leader in one of his series of statements on the history of the Senate (March 10, 1981). The cloture rule was adopted in response to a filibuster against a Wilson administration bill that would have permitted the arming of merchant vessels during World War I—a matter of the gravest national importance. Cloture was first invoked to limit debate on the Treaty of Versailles—another matter in which the most fundamental principles were at stake. However, the day before yesterday we invoked cloture on the motion to proceed to the banking bill: A bill of significant economic importance as we try to adapt the practices of the financial industry to the modern age, but certainly not the kind of fundamental matter of principle for

which unlimited debate was preserved nor for which the cloture process was adopted. And let me emphasize, this cloture vote was on the motion to proceed—not even on the bill itself.

Let me put it another way. We have had 30 cloture votes in the last 4 years—the same number we had in the 45 years that span the time from the Treaty of Versailles through the Civil Rights Act of 1964. The multiplication of votes has accompanied the trivialization of the process.

The same combination of factors seems to be working during Senate consideration of major bills. Too many amendments are offered—and too little debate is devoted to the major issues. Let us look at the defense authorization bill of this year. One hundred and eight amendments were offered over a 2-week period, but it would be a courageous Senator who would defend the majority of these amendments as ones raising the fundamental issues of defense policy of our time. It is during such debates that the public should be informed of the major critical choices that are facing this country; that the country should become aware that what we are dealing with are not just disputes about numbers but about fundamental policy; and it is in such debates that Senators should listen as well as speak if the Senate is to be truly a deliberative body. I venture to say that did not happen during the debate on the defense authorization.

Another example is instructive of the trend we must reverse. In 1983, we debated a major social security bill to restore the solvency of the system; in 1965, we also debated a major social security bill that provided health care coverage for the aged and poor. The bills were on the floor for 6 and 5 days respectively—but 98 amendments were offered in 1983 and only 45 were offered in 1965. I have not found an objective measure of distinguishing "significant" amendments from the trivial—but it is clear that twice as many amendments considered in the same time period leaves less room for significant policy debate.

I would be the last to suggest that something as fundamental as the nature of the Senate and its activities can be affected merely by a change in the rules. The basic answer to doing too much and not doing it well enough is not rule change, not formal action by the body, but rather a collective understanding that we need to exercise self-restraint.

It seems obvious to each Senator that if he hires just one more staff assistant that it will reduce his workload. But what actually happens? If he hires one more staff assistant, so do 99 other Senators, and those 99 staff assistants to those 99 Senators produce more amendments, more bills, more work so that actually our burdens have been increased rather than reduced by the addition. The same is true with committee assignments and with all the other activities, which, looked at from the point of view of one Senator alone, make eminent sense. However when we recognize that what 1 Senator does will be done by 99 others, the cumulative effect is more bills, more amendments, more attention to the less important details and less opportunity to study and debate the basic issues with which we should be concerned.

PROPOSED SELECT COMMITTEE ACTIVITIES

Mr. President, some may wonder what these broad philosophic reflections have to do with the Temporary Select Committee to Study the Senate Committee System. It is a fair question. The committee was established because of concern over the proliferation of committees and committee assignments, but as we have studied this issue it has become clear that the committees operate in the context of the Senate as a whole and that reform of committees cannot be divorced from what goes on in the Senate as a whole. Therefore, it seems to me that the responsible course for the committee is to look at the entire spectrum of problems, whether they come directly within our charter or not. Certainly, any resolution we report should be strictly within the terms of the jurisdiction that has been granted to us, but it seems to me that it is also our responsibility, as we encounter related problems, to report those matters to the Rules Committee for further consideration and action by that body or other interested Senators.

I, therefore, intend to make two kinds of proposals. The first will be those that fall strictly within the subject matter assigned to our committee, but I will also suggest to our committee that we discuss and make recommendations on the broader problems that we have encountered so that the Senate will get the benefit of these views for whatever action it may choose to take.

COMMITTEE SYSTEM REFORMS

Let me turn first to those matters that are specifically within the select committee's jurisidiction. In that context, I intend to offer recommendations in four basic areas. The first area concerns the reduction of the number of committee and subcommittee assignments; the second, jurisdiction over amendments to the budget process; third, the establishment of a joint intelligence committee and, fourth, a procedure to promote the use of the current capacity for computerized scheduling for committeee meetings. An outline of these proposals that I intend to present to the select committee follows.

I. NUMBER OF COMMITTEE/SUBCOMMITTEE ASSIGNMENTS

Reduce the number of committee assignments that a Senator may have by one or more of the following:

1. Reduce exemptions from the "2 A and 1 B" committee limitations and provide that, if any Senator has more than that number of assignments, that Senator is nonetheless limited to a total of 11 A and B committee and subcommittee assignments.

2. Make majority and minority leaders ex officio members of all committees (with protection for existing seniority on former committees).

3. In addition, it is essential to ensure that a Senator's staff allowance is not increased by increased committee assignments.

II. REVIEW OF THE BUDGET PROCESS

Jurisdiction over the Budget Act is currently split among three committees: Budget, Governmental Affairs and Rules. There is growing support for a two-year budget process and for other reforms of the Act, but the jurisdictional division has made action impossible. I will therefore recommend that we establish a committee composed of representatives of Rules, Governmental Affairs and Budget to report on a two-year budget process within a specific time period.

III. JOINT INTELLIGENCE COMMITTEE

Under current rules, 9 members of the Select Committee on Intelligence would be required to leave the Committee because membership on the Committee is limited to eight years. This limitation should be abolished to provide stability and experience in the membership of the Committee; however, the staff of the Committee should be non-partisan professionals jointly appointed by the Chairman and Vice-Chairman. That is the first step; we should then move towards a Joint Intelligence Committee, similarly staffed by a small, professional staff.

IV. COMPUTERIZED SCHEDULING OF COMMITTEE MEETINGS

We are all concerned with the problem of multiple executive sessions scheduled at the same time. It has been suggested that a computerized schedule would do much to solve these time conflicts.

The Senate Computer Center and the Secretary of the Senate currently maintain a computerized scheduling system that shows days and times of committee and subcommittee executive sessions and hearings and the meeting conflicts for the members of the committee and subcommittees involved. But that system is not used.

How can we encourage chairmen to use this system when scheduling their meetings? For example, my staff checked the computerized schedule on August 27. There were already three committee and one subcommittee mark-up scheduled two weeks ahead, all at the same time and all on the same day. Because of overlapping memberships, 8 members of one committee would have conflicts, but if that committee moved its mark-up one day earlier, conflicts would have been reduced to two.

One means of encouraging chairmen to use the system would be to require the chairman, when he announces a mark-up, to also announce which members on his committee have conflicts.

BROADER REFORMS

I now want to turn to those broader matters that are not within the specific jurisdiction of the select committee

but are of such concern, and have such an impact on the context within which the committee system operates that I feel the committee should at least report its concerns and recommendations to the Senate. These concerns are in three broad areas: Cloture and unlimited debate; the excessive reconsideration of issues resulting from duplication between authorization and appropriations processes; and the inefficient use of floor time.

First, cloture and unlimited debate: First, provide 2-hour time limit on motion to proceed; second, rigid time limit on postcloture action; and third, require two-thirds vote for cloture.

These reforms would mean that cloture once invoked would be meaningful, that unlimited debate would not be available to prevent the Senate from debating an issue that a majority want to take up, and in recognition of the more important role that cloture would have, making it somewhat more difficult to invoke.

As a historical note, Senators may be interested to know that in 1868 the Senate adopted a rule that "Motions to take up or proceed to the consideration of any question shall be determined without debate . . ." Quoted by Senator BYRD in the CONGRESSIONAL RECORD, March 10, 1981, p. 3879.

Second, excessive reconsideration of issues:

There is a broad spectrum of agreement that there is excessive duplication of effort between authorization and appropriations committees—particularly in the case of 1-year authorizations. This agreement breaks down when solutions are suggested. It does not seem feasible either to vest authorizing authority in the appropriation committee or appropriating authority in the authorization committee. Yet, the fact that both the Armed Services Committee and the Appropriations Committee consider over 4,000 line items annually suggests that reductions in the duplication between the processes are called for.

The situation is exacerbated because annual authorizations cover an ever larger number of programs and, even worse, the majority of annual authorizations are passed after the appropriation is enacted into law. See Appendix for action on fiscal year 1984 annual authorization and appropriation bills.

The problem is both so complex and so large, that I suggest two approaches that may be worth exploring on an experimental basis:

First, require multi-year authorizations—perhaps just in specified areas (defense) or programs over a specified amount ($1 billion) and second, refer annual authorizations after they are reported by the authorizing committee (or some of them) to the Appropriations Committee to add appropriation so that the authorization and appropriation can be jointly considered on the floor.

Third, inefficient use of floor time: First, the Constitution requires that there be a yea and nay vote at the request of one-fifth of those present. This requirement should be strictly enforced and Members should be encouraged not to support requests for rollcall votes that are not supported by the leadership; second, require advance notice for nongermane amendments; third, require/authorize majority leader to publish schedule and permit departure from that only by affirmative vote.

Such a schedule might consist of 2 full 5-day legislative weeks followed by a week for field hearings and other oversight activity.

Mr. President, as I reviewed these remarks it struck me that some might consider me harsh in my criticisms of the Senate.

These criticisms are not meant to be harsh, but are an attempt to shed some light on the problems that the Senate is experiencing. At some time we have to deal with the process and organization of the Senate. The only way to move forward is to simply state the problem and facts as I see them. I am sure some will disagree. However, through the competition of ideas we can make this a more orderly Senate. We can and we must retain the Senate as the premier political institution in the world. As it stands now I believe there is a serious question of whether the Senate will retain its rich heritage being the premier forum of the world for debate, deliberation and establishment of public policy.

Mr. President, I ask unanimous consent to have printed in the RECORD an appendix in connection with this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX.—SENATE ACTION ON FISCAL YEAR 1984 APPROPRIATIONS AND RELATED ANNUAL AUTHORIZATIONS: 98TH CONG., 1ST SESS.[1]

Appropriation/authorizations	Date passed Senate		Date enacted into law		Authorization enacted before appropriation considered [2]
	Authorization	Appropriation	Authorization	Appropriation	
Commerce, State, and Justice appropriation (Public Law 98–166):					
Department of Justice	Aug. 4	Oct. 21		Nov. 28	No (H. Res. 221).
International Trade Commission and Trade Representative [3]		do		do	Do.
NOAA—Program support	June 15	do		do	No (H. Res. 221).
National Bureau of Standards	Apr. 7	do		do	Do.
Defense appropriation (Public Law 98–212): Department of Defense	July 26	Nov. 8	Sept. 24	Dec. 8	Yes.
Energy and water development appropriation (Public Law 98–50):					
Department of Energy—National security [4]	do	June 22		July 14	No (H. Res. 210).
Department of Energy—Civilian R&D		do		do	Do.
Foreign assistance appropriation (Public Law 98–151), continuing appropriation): International Security and Development Cooperation.		Nov. 11		Nov. 14	No.
HUD-independent agencies appropriation (Public Law 98–45):					
National Aeronautics and Space Administration	June 15	June 21	July 15	July 12	No (H. Res. 221).
National Science Foundation		do		do	Do.
Clean Water		do		do	Do.
Environmental research, development, and demonstrations		do		do	Do.
Veterans' emergency job training	June 15	do	Aug. 15	July 15	No.
Labor-HHS-education appropriation (Public Law 98–139): Alcohol and drug abuse.	Apr. 5	Oct. 4	Apr. 26	Oct. 31	Yes.
Military construction appropriation (Public Law 98–116): Military construction	July 26	July 27	Oct. 11	Oct. 11	No (H. Res. 228).
Transportation appropriation (Public Law 98–78): Panama Canal		July 15		Aug. 15	Do.
Treasury-Postal Service appropriation (Public Law 98–151, continuing appropriation):					
Public buildings	June 29	Nov. 11		Nov. 14	No.
Customs Serivce [3]		do		do	No.

[1] The table lists annual authorizations for fiscal year 1984 that exceed $100,000,000. For additional information on these measures, see table 2.

[2] House and Senate rules generally provide that measures authorizing the enactment of appropriations for agencies or programs must be enacted into law before it is in order to consider measures appropriating for them. There are exceptions to these rules as well as procedures for circumventing them. In some cases, the House waives possible points of order against unauthorized appropriations by adopting a "special rule" in the form of a simple House resolution (special rules that pertain to the items contained in the annual authorization measures are identified by their House resolution number).

[3] Authorizations for the International Trade Commission and the U.S. Trade Representative (funded in the Commerce, State, and Justice Appropriation) and the Customs Service (funded in the Treasury-Postal Service Appropriation) were combined in S. 1295, reported by the Senate Finance Committee, and a companion House bill, H.R. 2602.

[4] An annual authorization was reported but not considered in the House. In the Senate, an annual authorization originally was included as title III of S. 675, the Omnibus Defense Authorization Act, but was dropped from the bill. Subsequently, the Senate passed a biennial authorization, S. 1107. Both S. 675 and S. 1107 were passed by the Senate on July 26, 1983.

Source: Prepared by the Congressional Research Service.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

WHY HANS BETHE OPPOSES REAGAN NUCLEAR STAR WARS PROGRAM

Mr. PROXMIRE. Mr. President, no one understands the full implications of nuclear weapons, their danger and their possibilities as does Dr. Hans Bethe. In the 1940's, a young Dr. Bethe probably did more to develop the atomic bomb than any other person. He headed the theoretical division of the Manhattan project between 1943 and 1946, in which 3,000 scientists, technicians, and military personnel working at Los Alamos in New Mexico developed the bomb. In 1967, Bethe won a Nobel Prize in physics. He is acknowledged as a true giant in physics, with special expertise about nuclear weapons. Dr. Bethe is particularly expert on the feasibility of antiballistic missiles. He has been studying them closely since 1956. So Dr. Bethe's opinion on the strategic defense initiative, or star wars, deserves our earnest attention.

The Senate has already acted on the authorization of this vast new expenditure. But we may soon have a second shot if and when the Defense appropriation bill comes before the Senate. In the debate on the strategic defense initiative during consideration of the authorization bill, proponents of the weapons system argued that the hundreds of millions we are spending currently will not commit us to procure or deploy an anti-missile system. They will simply answer the question as to whether it is worthwhile for us to spend hundreds of billions—and perhaps a trillion dollars or more—to procure and deploy the system. Anyone who has served in this body for more than a year or two understands how very hard it is for the Congress to admit it has mistakenly spent hundreds of millions of dollars, cut its losses, and walk away from such a program. With each passing year, this will be harder to do. The sooner we stop a mistaken program, the easier it is.

So what does this giant of a physicist, this expert on nuclear weapons, Dr. Bethe, who has studies antiballistic missiles since 1956, tell us? He tells us that the antimissile system will not work. First, he says, it will be easy to design offensive missiles to outsmart defensive missiles in two ways: First, says Bethe, the other side could harden the skin of its offensive missiles and make it difficult or impossible for the defensive missiles to knock them out. Second, offensive missiles could overwhelm defensive missiles in three ways. The offense could simply rain so many offensive missiles on the target it selects that it would exhaust the defenses. Incidentally, Under Secretary De Lauer—a prime advocate of the antiballistic missile defense conceded that the offense could do this. Second, the offense could send in decoys to lure the defense into wasting its defensive missiles against empty shells. Third, the offense could penetrate with ground hugging, hard-to-detect cruise missiles that would escape the antimissile defense.

Lt. Gen. Daniel Graham, who is the outstanding expert in this area and has been pushing so hard for the program more than perhaps anyone in our Government, concedes there is no way that the antimissile system can stop cruise missiles.

How can the bright scientists working on the antimissile defense be so wrong? Why are they fooling themselves? Dr. Bethe argues that the antiballistic defense will not work because it falls for the alluring argument that technical perfection can solve anything. As a man of science, a Nobel Prize winner who has devoted his life to the laws of physics, Bethe's view on how to find security in this nuclear armed world will surprise many. Bethe tells us that "only humane reasoning and the struggle to foster human relationships will stem the drift to nuclear war." Bethe calls for a return to "the policy of the six Presidents preceding President Reagan—and including President Eisenhower." Bethe contends that those Presidents emphasized a policy of understanding—insisting on our rights of course but "having some understanding of the concerns of the Russians."

Mr. President, it is always tempting to spend more and more money on research with the vague hope that somehow that research will give us the answer to an offensive nuclear attack from the Soviets. It is certainly easier to spend more and more billions than it is to bring ourselves to make the hard decision and recognize that this spending is a grave mistake. Here is why it is more difficult to stop this spending with each passing year. First, we dig ourselves into a commitment to go ahead because it is as I have said very hard in politics to admit your mistake and stop the spending. Second, with every dollar we spend we build a constituency for spending more. The Star Wars Program at its height would dig a colossal hole in the Federal budget. Testimony by Defense Department advocates of the program tells us that the cost could be—when we start procurement and deployment—$20 or $25 billions per year or more. That would mean close to a million jobs, and some very sweet profits. And that spells some plain and fancy lobbying that will be very hard indeed for Congress to resist, no matter how foolish or futile we may feel the program has become.

Indeed, Dr. Bethe is concerned not simply about the waste involved in a program that will not work, but in the instability it will contribute as both super powers compete to develop the program. In the 1960's during the debate over antiballistic missiles, Dr. Bethe said:

> We exist in peace today only because each side knows it cannot win a nuclear war. Once this balance of terror is broken—as it will be with the ABM, since that will let one side think it has an advantage—then we will have a continuing spiral of increasing arms and further instability.

Mr. President, I ask unanimous consent that the article from the New York Times of June 12, 1984, by William Broad, entitled "Hans Bethe Confronts the Legacy of His Bomb," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HANS BETHE CONFRONTS THE LEGACY OF HIS BOMB

(By William J. Broad)

An impatient young weapons designer wrote to Dr. Hans A. Bethe not long ago, urging the eminent physicist to stop his opposition to the development of a new generation of nuclear weapons.

"Look here, you were very enthusiastic when you made the atom bomb, even though there were some old people who said it couldn't be done," the young physicist wrote the elder one. "Now don't tell us the same thing. We want to have our chance."

The young physicist's frustration over the opposition of Dr. Bethe (pronounced BAY-ta) is not an isolated case. His feelings are shared by many of the young scientists at work at national laboratories on what they regard as the next generation of nuclear weapons—those designed to be used as a "defensive shield" in space.

And given Dr. Bethe's past involvement with nuclear weaponry, the frustration is not hard to understand. Dr. Bethe, whom time magazine in 1940 called "one of Nazi Germany's greatest gifts to the United States," was a key architect of the atom bomb. And yet he is adamantly opposed to the current thrust of nuclear-arms development.

Why is it so important to the younger generation of physicists to have Dr. Bethe's approval? And why do they not have it?

Dr. Bethe, a 1967 Nobel laureate in physics, stands out as among their leading and most articulate opponents. Moreover, at 77, his research work continues to have the kind of importance and fascination that demands their deepest respect.

And why his opposition? He says, to begin with, that it is not a result of some lingering regret over his contribution to the atom bomb in World War II. He has, he said in a recent interview, no regrets at all.

"It's important to be clear about the different situations," he said. "Today the arms race is a long-range problem. The second world war was a short-range problem, and in the short range I think it was essential to make the atomic bomb."

"However," he continued, "not much thought was given to the time 'after the bomb.' At first, the work was too absorbing,

and we wanted to get the job done. But I think that once it was made it had its own impulse—its own motion that could not be stopped."

He said he has spent the years since then trying to stop the bomb's "own impulse" and that he believes this motion can and must be stopped.

Dr. Bethe, now a professor emeritus of theoretical physics at Cornell University, was from 1943 to 1946 the head of the theoretical division of the Manhattan Project, the program in which 3,000 scientists, technicians and military personnel were assembled in the remote mountains of New Mexico to develop the bomb.

His intellect bore in on the problem, according to his peers, like a kind of indomitably precise psychic engine.

The story is often told about the day during the Manhattan Project when one colleague, Dr. Richard Feynman, who would also win a Nobel, could be heard protesting loudly to Dr. Bethe: "No, no, you're crazy. That's nuts?" Dr. Feynman's objections may have been soundly reasoned but, at least as the lore has it, Dr. Bethe rolled along to prove himself exactly right.

Now Dr. Bethe has turned his technique on the proponents of space based missile defenses.

"These people want to eliminate the danger of nuclear weapons by technical means," he said. "I think this futile. The only way to eliminate it is by having a wise policy. That means going back to the policy of the six Presidents preceding Reagan," he said, meaning back to and including President Eisenhower. Dr. Bethe said those Administrations pursued a policy of "understanding—still insisting on our rights, of course, but also having some understanding for the concerns of the Russians."

PRIME MOVER BEHIND ARMS CONTROL

Dr. Bethe's views on defensive technology derive much of their energy from his Government experience in the 1940's and other work in the three decades that followed—including successful arms-control negotiations with the Soviet Union in the 60's and, at the same time, the seeming failure to date of technological solutions to the arms race.

After the war Dr. Bethe advised the Federal Government on matters of weapons and arms limitation, becoming the prime mover behind the first and most successful arms control treaty between the superpowers, the 1963 Limited Test Ban Treaty, which confined nuclear tests to beneath the earth.

Between 1956 and 1959 he was a member of the President's Science Advisory Committee, and was asked to study the feasibility of developing antiballistic missiles. From the start, he said he was not optimistic. He had already developed decoys that could be jettisoned from offensive missiles to confuse defensive systems. Dr. Bethe and his colleagues became convinced that all antiballistic missile systems (ABM's) could be defeated. It was just too easy and economical, they thought, to improve offensive missiles.

Moreover, even if they worked, defensive systems might still touch off a holocaust, they said. In the 1960's, during the debate over antiballistic missiles, Dr. Bethe said: "We exist in peace today only because each side knows it cannot win a nuclear war. Once this balance of terror is broken—as it will be with the ABM, since that will let one side think it has an advantage—then we will have a continuing spiral of increasing arms and further instability."

"BALANCE OF TERROR" DESTABILIZED

Today Dr. Bethe argues the same point, saying so-called defensive systems could lull an aggressor into thinking he could make a sudden, massive attack on a foe and then block the response.

To strike back at defensive systems before they destabilize the "balance of terror," Dr. Bethe recently helped write a report for the Boston-based Union of Concerned Scientists that dismissed space-based beam weapons, the 1980's ideal of a shield. The report said an enemy could easily outsmart such weapons with countermeasures such as "hardening" the skin of a missile or simply overshelming them with increased numbers of missiles, decoys, and hard-to-detect cruise missiles.

Lately Dr. Bethe has been particularly intrigued by one of the most futuristic of the beam weapons—the X-ray laser, a device that would take the power of a nuclear blast and channel it into powerful beams that would flash across space at the speed of light to destroy enemy missiles. During an attack, the lasers would be "popped up" into firing position high above the atmosphere.

Last year Dr. Bethe visited the young inventors of the X-ray laser, many of whom are in their 20's, at the Lawrence Livermore National Laboratory in California. "The young people who work on these projects are very enthusiastic" and they have done an "ingenious job" in creating the device, he said. But, he added, it would never work in time of war because the Earth itself would get in the way.

CRITICS QUESTION HIS EXPERTISE

"The great question is whether you can get an X-ray laser up high enough before the booster has burned out and started to dispense decoys and warheads," he said. "But that," he added with dry understatement, "is not so easy because the earth is round."

There are those who vigorously disagree.

"Is Hans Bethe a good physicist?" asked Dr. Lowell Wood, the physicist who is in charge of the group of young weapons designers at Livermore. "Yes, he's one of the best alive. Is he a rocket engineer? No. Is he a military systems engineer? No. Is he a general? No. Has he ever put a weapon in the stockpile? No. Has he ever fought a war? No. Everybody around here respects Hans Bethe enormously as a physicist. But weapons are my profession. He dabbles as a military systems analyst."

In response, Dr. Bethe said the simple calculations of physics tell everything. After all, he noted, defensive systems must be judged on how well they work in the real world.

"And there is another component in all this," he added." "There isn't much more to be done about offensive weapons, so people in the weapons establishment say, 'let's try defensive ones.' "

Rather than building a new generation of nuclear weapons, Dr. Bethe said, the national laboratories would better serve the country by developing technologies that would lower the risk of nuclear war, such as "smart" munitions and computer-guided conventional missiles that could be used instead of nuclear weapons to deter Soviet aggression.

Yet after all is said and done, Dr. Bethe ultimately places his faith not in technology but in human beings—a remarkable stance for a man who has dedicated his life to the pursuit of science. Only humane reasoning and the struggle to foster human relationships, he said, will stem the drift toward nuclear war.

"We need to try to understand the other fellow and negotiate and try to come to some agreement about the common danger," he said. "That is what's been forgotten. The solution can only be political. It would be terribly comfortable for the President and the Secretary of Defense if there was a technical solution. But there isn't any."

HE STUDIES POWER OF AGING STARS

One reason the young physicists want Dr. Bethe's approval so badly is that he has been considered a giant of science for more than half a century, and is still respected for his insights into questions of pure science.

In 1938 Dr. Bethe wrote the equations that explain why the sun shines, and how stars in the prime of life stoke their nuclear fires. In 1967 he won a Nobel Prize for his discovery.

Today it is poetically appropriate that this vibrant scientist is studying the power of aging stars—why, for instance, an old star can suddenly explode with the brilliance of an entire galaxy of 100 billion stars.

An average star like the sun dies quietly, he explained. But larger stars can die violently, although no one is quite sure why.

"They go on a rampage," he said with a smile. "In a year they emit as much energy as the sun does in 10 billion years of history. Why does this happen? Everybody pretty well agrees on the beginning. A central part of a star becomes iron, and it can't get any more energy to support itself. So it collapses."

"It does it so fast that essentially it does it without involving the outside of the star," he said. "It takes about a second. And this center, which is about the mass of the sun, collapses to 10, maybe 20 kilometers. After this collapse, because of kinetic energy, it bounces back."

"The question we are studying," he said, "is whether that shock wave is strong enough to go all the way through the star and to expell essentially all its outside, because that is what is observed in supernovas."

DR. MENGELE'S TWINS

Mr. PROXMIRE. Mr. President, the September 2 issue of the Washington Post included an article by Jack Anderson entitled "The Twins of Auschwitz." Mr. Anderson's somber piece of journalism is the latest in a long line of books and articles which describe the gruesome history of the Nazi concentration camp at Auschwitz. Unlike many others, however, this article focuses on a very small minority of the camp's inhabitants—those who were chosen to remain alive solely because they were accompanied by a twin brother or sister.

Forty years after attaining their freedom, the survivors of Auschwitz are still haunted by indelible memories of Dr. Josef Mengele, known to many as "The Angel of Death." Mengele supervised the selection process, whereby inmates were either sent to the gas chambers or consigned to an unendurable existence, depending on

the direction in which Mengele pointed his finger.

The selection process generally did not apply to young twins. They were removed from the line because of their usefulness in satisfying Mengele's bizarre, inhumane, and misguided penchant for genetic experimentation. He believed that the study of twins could hasten the emergence of the Aryan master race, and consequently he saved scores of children and young adults from the gas chambers.

They remained alive, but they were not necessarily lucky to be alive. Their reprieve from possible imminent death commenced their experiences as human laboratory animals. As Mr. Anderson writes:

> The twins were prodded, poked and probed by Mengele and his assistants, photographed and X-rayed from every angle and constantly given blood tests and injections. Some were subjected to experiments of unspeakable horror. Their bodies were plundered, their limbs mutilated, their organs removed, their eyes injected with dyes in an attempt to change the color of their irises. Many died as a result of Mengele's sickening experiments.

The twins who survived their ordeal in the lab attempted to rebuild their lives following their liberation by the Red Army in January 1945. Some have succeeded in fashioning existences that are normal by outward appearances; others were less fortunate and lost their grip on sanity. Few, however, have managed to outrun the apparition of Auschwitz. Nightmares, episodic trembling and crying, periodic institutionalization, tranquilizer dependence—that is the legacy of Auschwitz. Meanwhile, Josef Mengele remains a fugitive from justice.

The Angel of Death may live out his days as a free man, and humankind may never be purged entirely of its barbaric impulses, but the bleak reality of our violent and unfair world must not be allowed to dissuade us from doing everything in our power to prevent future genocidal horrors.

We can take one important action right now by ratifying the Genocide Convention that President Reagan has just recommended to this Senate that we ratify, and we have just a golden opportunity in the few days that remain to act on it. That has been pending in the Senate since 1948. Today, every developed nation in the world, except the United States, has joined the effort to make the most abhorrent act of all an international, punishable crime, and we cannot rightfully aspire to the title of world leader if we lag behind so many other nations in the struggle to safeguard the fundamental human right to live. The United States is the world's most powerful country, and by giving our assent to the Genocide Convention, we can reduce the chances that future Josef Mengeles will be able to impose their monstrous desires on the children of tomorrow. While keeping alive the memory of the past, we must vigilantly guard the future. We owe at least that much to the twins of Auschwitz.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

REMARKS OF SENATOR BYRD AT THE DEDICATION OF THE HUMPHREY BUST

Mr. BYRD. Mr. President, I ask unanimous consent that the remarks I made yesterday in the Capitol at the time of the dedication of the Hubert Humphrey bust be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS DEDICATION OF HUMPHREY BUST BY U.S. SENATOR ROBERT C. BYRD FROM WEST VIRGINIA

Harry S. Truman once said, "Men make history and not the other way around."

Certainly, again and again in American history, the impact of character and personality on events has been borne out. Again and again, by personal force, by the quality of their lives, by their eloquence, and by their dedication and sacrifice, men and women have made history.

Hubert Horatio Humphrey was one of those history-shaping men. Those of us who shared with him "the Humphrey era" will always remember him—his energy, his earnestness, his dauntless optimism, his prophetic vision. Hubert Humphrey left his imprint on our times, our minds, our consciences, our hearts, and our country.

His biography is known to most of us and to most thinking Americans. Growing up the son of a Midwestern druggist, the hardships and frustrations he shared with millions of other Americans during the Great Depression, his elections as mayor of Minneapolis and as Senator from Minnesota, his Vice-Presidency, his races for the Nation's supreme office, and his final struggle—taken by themselves, Hubert Humphrey's life and career compose a modern American saga.

But the sum of Hubert Humphrey's life is more than the total of his political victories and the chronological benchmarks he left in Minnesota and in Washington. Like Daniel Webster, Henry Clay, John C. Calhoun, and Robert Taft before him—all his predecessors in the Senate and some, like him, aspirants to the White House—Hubert Humphrey's influence reached beyond the elected offices he held. Hubert Humphrey's life also counted in ways no yardstick can measure, no computer calculate, and no detached observer assess.

Capturing Hubert Humphrey in one sentence, one paragraph, or even in a whole volume is hardly possible. His interests were so wide-ranging, his intellectual ability so awesome, his compassion so deep, and his hope so limitless. Hubert Humphrey was excited by ideas. He believed in human potential, and he was dedicated to freeing people from the artificial and arbitrary shackles binding them, whether poverty, disease, ignorance, or tyranny. Through whatever night Hubert Humphrey walked, he seemed ever able to pick out even the faintest candle-flicker, and to direct his fellow-toilers toward that light.

The final chapters on Hubert Humphrey have yet to be written. But today, in this ceremony dedicating a token memorial of our esteem for him, we are taking another step toward engraving history's lasting judgment on this great man. Here we are placing Hubert Humphrey's likeness in the proper company—among the faces and forms of many others with whom he marches through America's history—and we are setting his image in its proper place—among the halls, columns, and chambers where he helped determine so much of America's destiny. And let us hope that the recognition that this beautiful work of art affords to such a brilliant and forceful man will serve to inspire the future, as his words and deeds inspired those in our time who were honored to share history's stage with him.

CLEVELAND'S NEW POLICY RE: POLICE USE OF DEADLY FORCE

Mr. METZENBAUM. Mr. President, I am pleased to rise today to inform the Senate about an important report which has just been filed by a special committee of Cleveland citizens, which has recommended a detailed, balanced and sensible policy toward the use of deadly force by Cleveland police officers.

The report recognizes that the use of firearms is the most serious act in which a police officer will engage, with far-reaching consequences. It reaffirms that public safety is to be the guideline for police officers: use of force being contemplated only where necessary to prevent death or serious bodily injury to the officer or other citizens; such force being considered inappropriate in other circumstances. Weapons should only be drawn when the officer has reason to fear for the safety of himself or others.

The report reflects the work of an outstanding group of Cleveland citizens, drawn from diverse parts of my home community. The commission was chaired by Jordan C. Band, vice chairman of the community relations board and a Cleveland attorney. Its other members are: former Judge Sara J. Harper, president of the NAACP Cleveland Chapter; Daniel T. Clancy, director of the Center for Criminal Justice at Case Western Reserve University; Rubie J. McCullough, member of the Harvard Community Service Center; Philip T. Tobin, director of Risk Management at the Oglebay Norton Co.; James A. Draper, a Cleveland attorney; Santiago Feliciano, legal office director of the Catholic diocese of Cleveland; William T. Hanton, Cleveland police chief; and John E. Barnes, member of the Cleveland City Council. They are to be commended for a job well done.

Mr. President, I ask unanimous consent that the report of the special committee and its proposed policy be printed at this point in the RECORD.

There being no objection, the report and proposed policy were ordered to be printed in the RECORD, as follows:

REPORT OF THE SPECIAL COMMITTEE ON THE USE OF DEADLY FORCE BY CLEVELAND POLICE OFFICERS

Hon. GEORGE V. VOINOVICH,
Mayor of Cleveland,
Cleveland, OH.

DEAR MAYOR VOINOVICH: On June 6, 1984 you announced the creation of a special committee to examine policies on the use of deadly force by Cleveland police officers. We now submit our conclusions and recommendations.

A. THE PRESENT POLICY STATEMENT

The present written policy statement of the Cleveland Police Department on the use of deadly force (Chapter 10 of police regulations) limits the use of deadly force to those situations where the life of the officer or others is subject to an immediate threat of death or bodily injury. It prohibits using deadly force in apprehending a fleeing felon except in violent crimes where the subject's escape would likely cause death or serious bodily injury if not apprehended. This standard is actually more restrictive than that mandated by Ohio state law.

Nevertheless, the committee believes the present policy is in need of some revision. In its present form it is difficult to interpret and to apply. Some sections are unclear and confusing, and could raise doubts in the minds of public officials, the public and police officers. This in turn can undermine the confidence of the public in the credibility of the policy and impair its effective use by police officers. Lack of clarity can be fatal when dealing with the use of deadly force. Decisions of police officers must often be made in seconds, even split seconds.

We propose a revision of the policy statement which we believe will improve and clarify it and which clearly states that deadly force may be used by police officers only to protect themselves or others from a clear threat of death or serious bodily injury, and only when there is no other reasonable alternative. Our proposed revision is attached to this report.

B. ADDITIONAL RECOMMENDATIONS

We also believe that problems involving police use of deadly force will never be fully resolved by the mere rewriting of a policy statement. Even the most perfectly drawn policy statement cannot address all of the justifiable concerns of the public and the police as to when police officers should use their weapons. We are convinced that a report which fails to deal with related issues involving police use of deadly force would be fatally deficient. Accordingly, we make the following recommendations:

1. Police Understanding of the Policy Statement. It is essential that every police officer be intimately and continually familiar with the policy statement. Every police officer should know and understand that he is authorized to use his weapon only under the circumstances described in the policy statement, and not otherwise. We recommend a series of seminars within the Department, so that the policy can be carefully reviewed and fully understood by police officers throughout their careers. Questions should be encouraged and doubts resolved. A police officer should be required to review the policy statement at least once annually. Any doubts should be promptly discussed with his superior officer.

2. Encouraging Community Awareness. We believe that there is a critical lack of understanding in the community and even among public officials as to the policy of the Cleveland Police Department on the use of deadly force. We doubt that more than a few in the general public are aware of the limited circumstances, even under the current policy, under which police officers are permitted to fire their weapons. Neither the media nor public officials have thus far succeeded in informing the public on the existing policy. As a result, relations between the police and segments of the community remain strained, to the disadvantage of both. Every citizen should know precisely when and under what circumstances a police officer is permitted to use deadly force.

3. Public Disclosure of Deadly Force Incidents. The policy statement requires the convening of a deadly force inquiry board to review the facts involving police use of deadly force. We recommend full and prompt public disclosure of the factual findings and conclusions of such reviews, whether or not the use of deadly force was held to be justified. Every effort should be made to avoid community misunderstanding.

4. Role of the Media. Improved methods must be found within the media to overcome public lack of information as to the deadly force policy of Cleveland police. Newspersons should be urged to become familiar with the policy statement and to utilize it in reporting police shootings. Less sensational reporting methods in presenting the story of a death of a citizen at the hands of a police officer would also be helpful. Thoughtful public affairs programs on radio and television, and op-ed articles in newspapers and local magazine could add to public understanding. We are not recommending doctored news coverage which apologizes for or covers up the actions of anyone, whether police officer, victim or concerned citizens. We call for dispassionate and accurate reporting, without unjustified or premature judgments. At the moment of a shooting, which in any circumstance is a civic tragedy, the community needs mature and thoughtful reactions from the media.

5. Publishing a Brochure. We recommend that the City of Cleveland publish and widely disseminate a brochure in clear and uncomplicated language understandable to the average citizen, explaining its policy and philosophy on the police use of deadly force.

6. Involvement of the General Public. We urge that the district community relations committees and other neighborhood advisory committees and community relations organizations familiarize their constituencies with the policy statement. Often community groups are in the best position to create community understanding. Every citizen needs adequate and lawful police protection; and the police are equally in need of citizen cooperation and support. A clear understanding in the neighborhoods of Cleveland as to the rules applicable to deadly force should be helpful to both.

7. Police Outreach Programs. We recommend that the Cleveland Police Department develop a policy of continuous outreach to schools and churches, explaining its firearms policy and seeking public understanding and support.

8. Distinguishing the Policy Statement from Criminal and Civil Actions. Better methods must be found to educate the public on the differences which exist between Police Department policy on the one hand, and criminal prosecutions and civil suits resulting from police shootings on the other. There are important differences in the burden of proof and the standards applicable to these different situations. The public is not now informed as to these differences.

9. Reducing Police Stress. We acknowledge that police work is very stressfull and that police are subject to serious psychological pressures. Situations involving the use of deadly force can add measurably to those pressures, and the mix of stress and firearms can have potentially fatal effects. We recommend a serious study by qualified persons into the causes of stress endured by police officers and the ways of alleviating it. In the interim we recommend the creation and strengthening of an adequately staffed stress unit, operating independently within the Police Department, capable of offering professional help to those officers who are in need of it. We also recommend intensified enforcement of health, mental and other proficiency qualifications for police officers throughout their careers. Psychological testing, physical and mental examinations of all police officers should occur at regular intervals. After involvement in a deadly force incident, a police officer should be removed from street duty until it is clear that he is emotionally prepared to return to duty.

10. Improved Pre-Hiring Requirements. Police applicants presently undergo vigorous physical examinations before they are accepted as police officers, but we are informed that pre-hiring psychological testing is inadequate. This could be very dangerous in incidents involving deadly force. We urge thorough psychological testing of all police recruits. Such tests should be conducted by qualified persons, using objective standards and avoiding criteria which would be unfair to minority applicants.

11. Weapons Training. It is elementary that police officers who bear weapons for the protection of the public must be skilled in their use, and that adequate training and qualification is absolutely essential. We make no judgment as to the firearms proficiency and training methods of the Cleveland Police Department. But we have been informed that, according to a recent article in the FBI Law Enforcement Bulletin, on a nationwide basis police officers are accurate in the use of their firearms only between 10% to 25% of the time. Officers with marginal firearms ability should not have the power of life and death. Only officers who meet the Department's minimum requirements for demonstrated proficiency should be permitted to carry firearms.

12. Intensified Police Sensitivity Training. It is no secret that much but not all of the community concern over police use of deadly force emanates from minority communities. There is a common assumption among many minorities that a different standard is applied by police officers in incidents involving the use of deadly force against racial minority subjects, and that police officers are rarely punished for acts of misconduct against minorities. We make no accusations or judgments to that effect, but we do believe that the existence of this perception makes it absolutely essential that police-community relations and sensitivity training be intensified above and beyond that presently existing. Police officers must clearly understand that it is in

the best interests of the Department that a police officer be guided by a policy which the people believe to be fair and which creates public confidence in the Department and its officers.

13. Leadership Within the Police Department. As with every successful endeavor, performance by rank and file officers is often affected by the quality of their leadership. Ranking officers at every level in the Department, starting at the top with the Chief of Police, must find improved methods of communicating to police officers that the policy statement was not prepared merely to satisfy the concerns of minorities or of "do gooders"—or to deflect pressure from City Hall, but is a genuine expression of policy and philosophy which must be adhered to by every officer, every day. We make no accusations to the contrary, but we urge the leadership of the Department at all levels to find new and more effective ways of communicating this concept to police officers.

14. Implementation of the Policy Statement. Procedures within the Department of Police must be strengthened to make it absolutely certain that the policy statement will be vigorously enforced. Every use of deadly force must be fully and conscientiously investigated. Police officers should know that the improper use of deadly force will result in serious department discipline, up to and including permanent separation from the Department, as well as the likelihood of criminal prosecution and civil suit.

15. Investigations not to be Delayed by Criminal or Civil Actions. The deadly force inquiry board referred to in the policy statement must be understood to be a departmental fact-finding body, separate and apart from any other investigative procedures or tribunals now or hereafter established by local or state law. Investigations must be completed and appropriate actions taken despite any pending criminal prosecutions or civil actions.

16. Monitoring Investigations. Police Department investigators looking into issues of deadly force should know that failures or delays in investigating shooting incidents must be avoided and will themselves be the subject of Departmental inquiry.

17. Care of Weapons. We note in passing that the present policy statement on deadly force contains a section on the care of weapons, which has been deleted from our own proposed revision. It is elementary that police weaponry must be kept in excellent condition, and it is not our intention to suggest otherwise, but we understand that other police regulations adequately cover this subject.

18. Complaint Procedures: Citizens Review Board. We are aware of the efforts made last year to improve complaint procedures involving the conduct of police officers, through the creation of the Investigative Standards Section in the Department of Public Safety. We are also aware of the recent call by various groups and elements in the community, including the Mayor and members of City Council, for the creation of a Citizens Review Board. We have not made a thorough study of the proposed charter amendment to create a Citizens Review Board or of other proposals which have been suggested recently. Nor have we evaluated the performance to date of the Investigative Standards Section. We do not suggest that a Citizens Review Board is a panacea. Nevertheless, a majority of us are convinced that some form of citizens review procedure is essential. It is clear that the present procedure lacks credibility in much of the community, especially among minorities. Unless a review system is in place which is regarded as fair and effective by the public and the police, incidents involving police use of deadly force will continue to inflame the community.

19. Rights and Obligations of Police Officers. We suspect that at least part of the concern of police officers to any tightening of enforcement procedures involving the use of deadly force is their fear that they may become scapegoats, unfairly judged by their superiors and by the public following a harrowing incident in which their own lives were in great danger. We urge that, whatever compliance procedures are adopted, legal and constitutional rights of police officers be scrupulously safeguarded. Police officers must be confident that they will be accorded due process, the right of legal counsel and the right to confront their accusers; and that if cleared by a review process they will be actively supported by their superiors and the review tribunal. We suggest that, in addition to punishment when appropriate, there also be recognition and praise for police officers who adhere to the guidelines.

20. Community Relations Impact. Virtually every use of deadly force by police officers can let loose reactions throughout the community which will threaten the delicate fabric of domestic peace essential to our communal well being. In other words, each such incident creates a community relations problem of major proportions. The Community Relations Board of Cleveland was created by law to help prevent such crises and to reduce inter-group tensions. We suggest a more regularized role for the staff of the Community Relations Board in incidents involving police shootings. We are not suggesting that the Board become involved in the complaint or investigation procedure. Instead, we envision a process, carefully worked out in advance, in which the staff of the Board would promptly seek to lessen community tensions and improve community understanding where that need exists.

21. Non-Lethal Alternate Weapons. William H. Webster, Director of the Federal Bureau of Investigation, declared on April 1, 1984:

"I think it is regretable that . . . there is still no non-lethal alternative weapon available to police officers on the street which will permit them to stop a fleeing suspect without running the risk of causing his death in less than life threatening situations. Surely a nation that can put a man on the moon can provide this additional weaponry to police officers. Our citizens are entitled to this alternative choice and so are we."

We acknowledge that there is very little which Clevelanders alone can do about this dilemma, other than to heighten awareness of it. However, we are aware of certain scientific improvements in the development of non-lethal techniques and equipment. We urge that these advances be carefully studied by the Department. We also recommend intensified training of police officers in the use of safe and effective non-deadly methods of apprehension and arrest.

22. Funding. At a time when the City of Cleveland faces a severe crisis we hesitate to recommend expenditure of additional public funds which we know to be in critically short supply. Nevertheless, we suspect that improper police use of deadly force could be related to inadequate funding. We urge a careful study to determine whether there is at present adequate funding for police weapons training and police sensitivity training, and whether improper use of deadly force could be a consequence of inadequate numbers of police officers on the streets and in the neighborhoods. We do not prejudge these questions, but we believe that they should be carefully studied. The public is entitled to know whether the lack of funding for police activities is eroding the effectiveness of the Cleveland Polic Department.

C. CONCLUSION

Our primary function was to revise the Cleveland Police policy on deadly force. This has been completed, and we urge that our revision be promptly accepted and implemented.

We acknowledge that in the short life span of this committee it was not possible for us to give adequate study and attention to each of the outside factors which are mentioned in the Section B of this report and which materially affect the policy statement. We believe that some of our recommendations can be implemented quickly. Others will likely require further study. We stress that the proper use of the policy guidelines requires a careful consideration of these additional factors.

Our aspiration is to create both a structure and a community climate in which police officers will confidently and willingly adhere to the guidelines, and in which the general public will accept both the guidelines and their implementation as being fair and credible.

Sincerely,

Jorden C. Band, Chairman, John E. Barnes, Daniel T. Clancy, James A. Draper, Santiago Feliciano, Chief William T. Hanton, Judge Sara J. Harper, Rubie J. McCullough, Philip T. Tobin.

A PROPOSED POLICY ON THE USE OF DEADLY FORCE BY CLEVELAND POLICE OFFICERS

CHAPTER 10—USE OF DEADLY FORCE

10.01 Policy

A. Cleveland police officers are authorized to use deadly force only to protect themselves or others from a clear threat to death or serious bodily injury and only when there is no other reasonable alternative.

B. "Deadly force" is that force that is likely to cause death or great bodily harm.

10.02 Purposes and Philosophy

A. A reverence for the value of human life must always guide police officers in the use of deadly force. Respect for the sanctity of life will not impair effective law enforcement or public safety. Deadly force is never justified merely to protect property.

B. It is in the interest of the public and this Department that a police officer be guided by a policy which the people believe to be fair and which creates public confidence in the Department and its officers.

C. The use of firearms is the most serious act in which a police officer will engage. It has the most far-reaching consequences. The officer must therefore act within the guidelines, but most also be guided by good judgment, high ethical conduct, proper training and direction in using his firearm.

D. This policy statement is not intended to create doubt in the mind of the officer at the moment when action is critical and there is little time for meditation or reflection. It is an administrative guide for decision-making before the fact so that the officer can be confident in exercising good judgment. It is not the standard used in civil or

criminal litigation. Those matters are covered by established law, involving due process, courts and juries.

E. These guidelines are to be administratively and immediately enforced by the Department whether or not a civil or criminal action is also pending or is under investigation; and enforcement shall not be delayed because of such other pending actions or investigations.

10.03 Specific practices and procedures

To insure that the basic policy statement is carried out within the spirit of the purpose and philosophy mentioned above, the following additional practices and procedures are hereby adopted:

A. Qualfications for Use of Firearms by Police Officers. Only officers who meet the Department's medically accepted physical and mental requirements and who have demonstrated proficiency in the use of firearms shall be allowed to carry firearms in the course of their duties.

B. Protection of General Public. Officers must remember that their basic responsibility is to protect the public. Officers shall not use deadly force under conditions which would subject bystanders or hostages to possible death or injury, except to preserve life or prevent serious bodily injury.

C. Justification Limited to Facts Known to Officer. Justification for the use of deadly force must be limited to the facts known to or perceived by the officer at that moment. Facts then unknown to an officer, no matter how compelling, cannot be considered at a later date to justify the use of deadly force.

D. Drawing and Displaying Firearms. An officer should draw, display or point a weapon only if there is a reason to fear for his personal safety or the safety of others.

E. Shooting at Fleeing Subjects. Police officers shall not use deadly force to effect the arrest or prevent the escape of a person when there is no threat of death or serious bodily injury from such person.

F. Youthful Felony Suspects. Extreme caution must be exercised in using deadly force against youthful offenders. Nothing in this policy statement however, is intended to reduce the degree of care required in such cases.

G. Moving Vehicles. Firing at or from moving vehicles is rarely effective and is extremely dangerous to innocent persons, particularly when the officer driving the vehicle attempts to shoot. Firing a weapon at a moving vehicle is prohibited unless the occupants of the vehicle are using deadly force against the officer or another person by means other than the vehicle, or unless it is clear that the vehicle is being used as a deadly force.

H. Firing Warning shots. Warning shots shall not be fired under any circumstances.

I. Reporting the Use of Deadly Force. An officer using any type of deadly force (whether or not such involves a death or injury) shall immediately notify his superior officer and promptly make a written report giving full particulars. A complete investigation shall be made of the incident and reports forwarded through channels. This provision does not apply to weapons fired on the practice range.

J. Deadly Force Inquiry Board. A board of inquiry shall be appointed by the Chief of Police to conduct an objective, impartial and complete review of the facts of the use of deadly force by police officers. The board shall expeditiously report to the Chief of Police, setting forth the facts of the incident including any violation of law or Department directive found to have occurred. The board is a Departmental fact-finding body separate and apart from any other investigative procedures or tribunals now or hereafter established by local or state law.

K. Surrendering Weapon; Removing Officer from Street Duty. After any incident in which a police officer shall have caused death or injury he shall be immediately removed from street duty, assigned to nonsensitive work and shall immediately surrender his weapon (and any other weapons he is authorized to carry) to his superior officer. If a weapon is discharged but no death or injury occurs the Chief of Police or his designee shall promptly determine whether the officer should surrender his weapon and be removed from street duty. A police officer for whom a board of inquiry is convened shall undergo a psychiatric evaluation, and shall not return to street duty until the results of his evaluation are known and until so ordered by the Chief of Police.

L. Use of Authorized Weapons Only. An officer shall carry and use only those weapons, ammunition and holster as are furnished by the City of Cleveland or which have been specifically authorized to such officer by the Chief of Police. All firearms used in the performance of duty (on or off duty) shall be registered with a person designated by the Chief of Police.

M. Off-Duty Conduct. Standards for the use of deadly force shall be and are the same whether an officer is on duty or off duty. However, off duty officers should avoid becoming involved in minor incidents or fights, and should never use their police office to adjudicate disputes to which they themselves are a party. Officers are prohibited from carrying weapons when they anticipate consuming alcoholic beverages.

N. Refresher Review of Police Statement. Every sworn member of the Police Department should be trained and tested at least once a year on the proper use of deadly force and appropriate methods of effecting arrests and apprehending fleeing subjects, and as to his full understanding of this policy statement. If it is not fully understood by the officer, he should promptly discuss it with his immediate superior. Officers will be presumed to understand this policy statement at all times.

O. Amendments. If it becomes necessary to revise this policy statement, it shall be restated in its entirety as revised, so that it shall at all times appear in a single and complete document.

SPEAKER VERN RIFFE—AN OHIO LEGEND

Mr. METZENBAUM. Mr. President, more than a quarter of a century ago, a young insurance agent from New Boston, OH, came to the State capitol to begin serving his first term in the Ohio Legislature.

Nearly 10 years ago, he had risen to the point where he was chosen by his colleagues to be speaker of the Ohio House of Representatives. He is now completing his fifth term as speaker, setting the record for longevity in the 181-year history of our State.

Mr. President, it has been my pleasure and my honor to have worked closely with Vernal G. Riffe Jr. over these many years.

"Vern," as he is known to everyone in the State, has become one of the top legislators in the Nation, not by flamboyance, but by hard work and diligence.

As the TV commercial puts it, he has done it the good, old-fashioned way—"he has earned it."

Mary Anne Sharkey, of the Cleveland Plain Dealer, has written a fine article that appeared in that newspaper's Sunday Magazine on August 26, 1984.

I ask unanimous consent that the article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Cleveland Plain Dealer, Aug. 26, 1984]

KEEPING AN ORDERLY HOUSE

(By Mary Anne Sharkey)

Growing up along the banks of the Ohio River, Junior Riffe was too small—just 110 pounds in high school—to play his favorite sport, baseball. But his competitive drive found application elsewhere, and he became a scrappy, dive-head-first politician.

No less than Pete Rose—a scrappy southern Ohio boy who did make it in baseball—Vernal G. Riffe Jr. is an overachiever, someone who made it more on heart and guts than pure natural ability.

Known as Mr. Speaker at the Statehouse, Riffe has set a longevity record by serving five terms as speaker of the House of Representatives. At 59, he is a legend in Ohio politics, and someday will have his own plaque or statue on the Statehouse lawn.

He has come a long way in 25 years.

Riffe, who grew up in the grimy, steel city of New Boston, arrived in Columbia in 1959 as a small-town insurance agent. His pants were slightly too short and he had a shy, backward manner.

"Vern sat in the back of the room with his little bow tie on and didn't say a word for 10 years," recalled Lt. Gov. Myrl H. Shoemaker, who was a member of the same freshman legislative class.

But they play hardball politics along the river, and Riffe was masking an eagerness to break into the major leagues. He had been coached by his father, New Boston's then-mayor Vernal G. Riffe.

"He took off like a mushroom, popping up overnight," said Shoemaker. "He has the discipline to be a strong leader. There's never been one like him, and I don't think there will be in the future."

Other legislators agreed Riffe would have been named "most unlikely to succeed" during his early years because he didn't give floor speeches, didn't sponsor major bills and avoided the limelight.

Riffe is not a gifted orator, in fact is uncomfortable with public speaking, and he does not have a cause to promote, because he lacks a strong ideology other than traditional Democratic views. He is pro-labor and has been a strong advocate for women and blacks.

When he pitched out former House Speaker A.G. Lancione in 1975, he stunned those—including Lancione—who had not seen him coming. Only his closest confidants knew that Riffe had carefully and painstakingly put together a game plan, lining up his supporters for the overthrow.

Surprisingly, Lancione does not seem bitter and heaps praise on Riffe as a "great speaker."

Outside Statehouse circles, the governor would be named as the most powerful figure in state government. But inside the Statehouse it is a hotly debated question whether the governor or the speaker is in control.

Riffe wears his trademark a diamond gavel stick-pin, a sign of power for the country politician who now has a closetful of tailored suits and drives a Lincoln—and presides over the Ohio House of Representatives with an oversized gavel and the sternness of a school marm.

He poses with his fingers looped in his belt and casts a withering glance at those who step out of line on the House floor.

A few years ago, Riffe was clocked at moving 19 bills through the House in less than two hours. He has no patience for long-winded speeches, dismissing them as meaningless.

"Everybody has already made up their mind," said Riffe, who never has trouble making up his own. He can't abide by those who are weak-willed.

Even Riffe's critics fear him and grumble about the speaker, outside of his earshot. Recently a Republican legislator was complaining about Riffe's highhandedness on the floor, but halted in mid-sentence when he saw Riffe walking toward him.

A rump caucus of young, liberal legislators nicknamed Riffe "Darth Vernal" last session as a protest of his iron-fisted control of the House. But soon they discovered that the force was with him and their short lived rebellion was quashed. He uses the carrot-and-the-stick approach to leadership. Vote right, go along with the program, and here comes a committee chairmanship, a secretary and an aide, a bigger office, and a few pet projects for the home district.

But dare to be disruptive and say goodby to your bills and hello to a back office with only the pigeons for company.

Rarely does Riffe hold a caucus meeting to see how the House majority members want to vote on an issue. They vote the way he tells them to, whether they like it or not.

In turn, he takes care of his loyal members. He can include that highway project in the transportation bill, he can pass that special-interest bill, he can send enough money to assure re-election. And he can shield his members by bottling up in some subcommittee an emotional abortion or gun-control bill.

Riffe's reach even extends over to the other side of the aisle, to the House Republican minority. If he needs Republican votes, he can get them. The Republicans also play ball with the House Democratic leader—knowing if they don't, he'll shut them out altogether.

It was widely rumored that tickets to Riffe's fund-raiser last year were being scalped to those unfortunate enough not to have been first in line for the $200-a-plate dinner.

Riffe, the champion Ohio fund-raiser, had packed the Columbus Sheraton Plaza with paying guests in the ballrooms, the private dining rooms and even the lobby restaurant. Many never got a glimpse of the host.

Spending time with Riffe is considered invaluable to those doing business with the state. Lobbyists line up to get his ear whenever he sips a cocktail at a downtown Columbus watering-hole.

When he was at a booth in his favorite tavern, a lobbyist asked to sit down next to him for a few minutes. "Look, just to be seen with you earns me $10,000," the lobbyist said, only half-joking.

Unlike other top leaders, Riffe does not have an aide trailing him around keeping notes of what people have requested or what commitments he has made. That's because Riffe has a steel-trap mind and remembers even the most trivial matters.

State Sen. Richard C. Pfeiffer Jr., who was Riffe's executive assistant in the House and a close confidant, said, "He has the best memory I've ever seen.

"I've never known anybody smarter. I've seen people better educated, but not smarter. He doesn't have a formal education (beyond a high school diploma), but he doesn't need one."

Shoemaker and Riffe have the same gut-instinct for politics. They are both gee-whiz, aw shucks, country politicians who will pick your pocket and make you feel good about it.

Shoemaker said, "We're like brothers." Before the 1982 election, Shoemaker was House Finance Committee chairman under Riffe.

A die-hard Democrat, Riffe's closest ally is former Gov. James A. Rhodes, the four-term Republican governor. Riffe and Rhodes remain in contact, forging a relationship through the years of mutual understanding and mutual benefit.

"The two most influential people in my life were my dad and Jim Rhodes," Riffe said. Rhodes was born in Jackson County, coal country, just 35 miles from New Boston.

Rhodes said what makes Riffe so potent at the Statehouse is that, "When he tells you something, you can go to the bank with his word."

Rhodes said Riffe's success as a legislative leader is his willingness to compromise. "In this business you must learn your way is not always the best way," he said. Some critics of Rhodes said he never learned that lesson himself.

It was known Rhodes secretly pushed Riffe to succeed him as governor, even though they belong to different parties. "He'd have made a great governor," Rhodes said.

But Riffe was handicapped with a low name-identification; his name, indeed, is frequently mispronounced by TV and radio reporters. (It rhymes with "life.") He is well-known in central and southern Ohio, but not in voter-rich Northern Ohio.

Riffe did wind up the kingmaker in the 1982 election. By his endorsement, Riffe gave Richard F. Celeste the final advantage needed to win the crowded Democratic gubernatorial primary.

Celeste's campaign coffers were empty until Riffe charged in and helped raise the millions needed to win the election. Celeste openly credits Riffe with the primary victory which led to a blow-out in the fall election against his Republican opponent.

The last-minute endorsement by Riffe was so coveted by Celeste that he was visibly on edge the week prior to the speaker's announcement. Celeste knew it was a make-or-break decision for him.

Yet, Riffe and Celeste have had a rocky relationship which seems to have smoothed recently.

Riffe has been quietly concerned about the governor's propensity to publicly stub his toe. He also has expressed dismay about a lack of good, old-fashioned common sense in the governor's office.

Celeste and his advisors were solicitous of Riffe, fearing he would undermine them before they even found the restrooms in the Statehouse. He has not done that, and instead guided Celeste's agenda through the House.

Riffe's power base is in Columbus, but his home base remains in New Boston where they don't call him Mr. Speaker. They call him "Junior" or "Jun" (pronounced Joon), because he is still better known to them as the mayor's son.

A favorite anecdote involves a state employe who ran into a woman from New Boston at a lunch counter in Columbus. The state worker said, "Well, then you know Vern Riffe." The woman responded, "Oh, he was the greatest mayor we ever had."

"Oh, no," said the state employe, "I mean Vern Riffe Jr."

The woman appeared perplexed and said, "I don't know what ever happened to Jun."

Jun is an unabashed fan of his father, who set the record as mayor of New Boston, serving from 1947 to 1972. No other mayor in Ohio has been in office for 25 years.

Riffe spends his weekends next to his ailing father's bedside. "When I lose my dad, not only do I lose my father, but I lose my best friend," Riffe said.

He often quotes his father. "Son, don't make a commitment unless you can keep the commitment;" "Son, you have to vote, but you don't have to put your name on the bill;" "Son, if you're not sure, then don't do it."

Shoemaker said he remembers during their early legislative years, "Vern's dad was a big influence on us. When we had something tough, I'd ask Vern to check with his dad to see how he should vote. Then I'd vote the same way."

Shoemaker said Riffe's father had great political instincts, and "politics gets pretty rough along the Ohio River."

Even in later years as speaker, Riffe relied on his father's advice. Pfeiffer said he and Riffe would run into what seemed an insoluble problem "and would kick it around in his office on a Friday afternoon."

When Riffe returned on Monday from New Boston, Pfeiffer said the speaker would have the problem resolved after talking it over with his father. "When his father got sick, he lost something very important," Pfeiffer said.

Jun recalls that his father was "tough but fair" as mayor, even to the point that he sentenced a relative to jail in mayor's court for public drunkenness.

In high school, Riffe played hooky and fibbed to his dad about his whereabouts that day. "He called me in that evening and said, 'Son, you'd make a great lawyer.' " The son asked why. "Because you lie," his father retorted.

His father and mother, Jewell, were born in Kentucky—the original family name was Reiff—and moved to Scioto County to find jobs. His father worked as a traffic officer for New Boston and his mother worked in a shoe factory in Portsmouth. They were married in 1924 and had two children, Vernal Jr. and his younger sister, Ilene McKenzie.

On a recent tour of his legislative district, it was his father's accomplishments, from the city hall complex named after his father to the children's playground, that Riffe proudly showed off first.

"Dad had the lights put in the first Little League park," he said, always mindful of baseball and political statistics. "It was the first Little League park in Ohio to have lights."

He was saddened by the sight of the huge, empty steel plant which blocks the resi-

dents' view of the river. "This was the busiest little town in Ohio when we had that going. It's a little, old town, but when we had that mill going, boy, oh, boy."

New Boston has since lost its city status because of the emigration of young people looking for jobs. The village is hemmed in on three sides by Portsmouth, and on the fourth by the Ohio River.

Those who live in New Boston take pride in keeping up its humble appearances with neatly painted homes and manicured yards. But they liked the city better when it was covered by dirty soot from the steel mill. "People would say, we'd rather see that than see nothing coming out of there," Riffe said.

The Speaker lives just a couple of blocks from his childhood home and around the corner from his parents in an older, but modest area of New Boston. He and his wife, Thelma, have been married 36 years and have four children and five grandchildren.

After Riffe returned home from overseas duty in the Army during World War II, he and his father opened a grocery store which closed within two years. He then took a job as a railway express messenger, but was laid off.

In 1950, Riffe joined the New Boston Fire Department. There is still on display a black-and-white photograph of Riffe spraying a hose toward a raging fire at the Fraternal Order of Eagles lodge.

He began working as a part-time insurance agent while still on the fire department, but quit the department to work full-time selling insurance. Riffe still works out of his insurance office in downtown New Boston, but no longer sells insurance. "I don't think I know how to write a policy anymore," he said.

New Boston Fire Chief Edward Turner said residents are proud of Riffe. "He's got more power than the governor, we know that. Still, if you want to talk to Jun, all you do is call over there to his office. He still puts on his pants one leg at a time."

A Statehouse associate of Riffe's quipped, "In his district, if God isn't there, Vern is."

And that is evident when he launches his second half of the tour of what the Speaker has brought in the way of state goodies to his part of the country.

"Ohio is the largest employer in Scioto County, there are about 2,000 state jobs here. When I went up there, the state only had employed about 300 to 400. So, I've added a little bit of money to this county," Riffe said.

The depressed area needs all the help it can get. Unemployment stands at 17%, and hit 25% at its peak a few years ago.

Portsmouth, the largest city in his district, was the shoe capital of the world at one time, but that industry, too, has walked away.

The combination of Riffe and Rhodes brought to the area the Appalachian Highway, connecting Cincinnati to Athens; the development of Shawnee State Park, which has a boat marina, lodge, and golf course; Shawnee State Community College in downtown Portsmouth; the Southern Ohio Correctional Facility in Lucasville, the state's maximum security prison; and the Scioto County Vocational School, located on Vern Riffe Drive.

He doesn't shy away from using his influence to benefit his home area. When the legislature agreed to increase the gasoline tax, Riffe extracted a promise to complete the Appalachian Highway.

"I told them there would be no gas tax if I didn't get my highway. I made the director (of transportation) put it in writing for me," Riffe said.

Riffe is proud of the state park: "It gives you pleasure to know you had a part in this." He added $2.3 million for a lodge expansion and $500,000 to enlarge the boat marina in the recent capital-improvements bill.

Did Riffe and Shoemaker—the latter unabashedly loaded down bills when he was House Finance Committee chairman with projects for his district—ever have a contest to see who could get the most state money for his home area?

"Oh, no, we were glad to see each other do well," said Riffe. Pause. "But he didn't get a lodge for his park until last year." Pause. "I don't even think the lodge is in his district."

As a tribute to Riffe, the commissioners posted signs at the Scioto County line that proclaim it "Vern Riffe County." Looking at the sign, Riffe said, "Maybe they'll take it down when I leave. Well, maybe not."

Retirement is beginning to enter his mind. "I know I can't stay here forever. But I've got to find something else to do, it'd drive me buggy not to do something."

Just then, a conductor blasted his horn in recognition of the speaker as a train rumbled through Scioto County. Riffe waved back.

"I bet that was Don. He likes the horses. I get him race-track passes," Riffe laughed. Mr. Speaker may be a heavy-hitter, but he has not forgotten the basics.

DEFENDERS' DAY

Mr. MATHIAS. Mr. President, today Marylanders celebrate Defenders' Day. On this day in 1814, the Battle of Baltimore, the turning point of the War of 1812, began. As we observe the 170th anniversary of this triumph of the American spirit, it is worth recalling some of the details of that historic confrontation.

Gen. Samuel Smith, Revolutionary War hero, Baltimore merchant and U.S. Senator, had spent the previous year training the local citizens to defend themselves and the city in case of attack. Baltimore watched anxiously as the U.S. forces were defeated at Bladensburg and the British sacked and burned Washington, DC. As the Royal Navy sailed up the Chesapeake Bay and landed at Northpoint, 3,200 citizen-soldiers marched from Baltimore to meet the 4,000 British regulars. In a valiant 2-day campaign, the Baltimoreans courageously repulsed the British attack.

On September 12, while the land battle raged, the British began a naval bombardment of Fort McHenry that lasted through the night. As dawn came, a lawyer, negotiationg for the release of a prisoner on a flag-of-truce ship anchored in the harbor, watched, heart pounding, until he caught a glimpse of "Old Glory" still waving over the Fort. Clearly, the British had been defeated. And an exultant Francis Scott Key memorialized the moment in the "Star-Spangled Banner."

During that long night when victory hung in the balance, I am sure that neither Francis Scott Key nor the citizen-soliders of Baltimore could conceive that the day would come when the British would be our comrades-in-arms, our closest allies and welcomed to our shores with all the ceremony and enthusiasm we reserve for our own heroes.

But this year, during the observance of the 350th anniversary of the founding of Maryland, Britons were welcomed to our celebrations with open arms. In March, Lord Eden of Winston, a direct descendant of Maryland's last proprietary Governor, participated in the 350th anniversary celebrations in Annapolis where his ancestor, Sir Robert Eden, once held sway and from whence, on the eve of the American Revolution, Sir Robert was escorted by the local citizenry to a boat waiting in the harbor to take him back to England—a gesture of civility unique in the annals of revolution.

In June, at the official observances of the anniversary of the founding of St. Mary's City by British settlers, the Duke and Duchess of Kent arrived to symphonic music, fireworks and a parade. As personal representatives of Queen Elizabeth II, they were the guests of honor at the celebrations.

This spring, Maryland also welcomed a British parliamentary delegation which met with Members of the U.S. Senate and Governor Hughes at Wye Plantation to discuss international economic issues and defense policies. This meeting, designed to promote mutual understanding between the two great legislative bodies, was typical of the cordiality and goodwill that now suffuse United States-British relations. All these events reflect the beneficial changes that can occur in the relationships between nations and peoples over the course of time. And they reconfirm the pragmatic wisdom of Lord Palmerston's observation that:

> We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual and these interests it is our duty to follow.

Today, as we observe the anniversary of a battle in one of our Nation's too many wars, it should be clear that our eternal and perpetual interests lie in keeping the peace and in transforming enemies into friends.

As George Washington reminded the Nation in his farewell address:

> The Nation which indulges toward another in habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest.

ELIZABETH FARRINGTON, FIGHTER FOR HAWAII STATEHOOD

Mr. INOUYE. Mr. President, the year 1984 is an especially historic year for the citizens of Hawaii, marking the

25th anniversary of statehood. Regardless of race, creed or political belief, all citizens in Hawaii shared a united aspiration for the worthy cause of statehood.

Several weeks ago Hawaii mourned the passing of an individual who played an important role in the enactment of statehood, Mrs. Elizabeth Farrington.

Betty Farrington served at the side of her husband, Joseph R. Farrington, during his service as delegate to Congress from the Territory of Hawaii from 1942 until his untimely death in 1954. Following his death, she was elected delegate in her own right and helped carry the fight for statehood in the Halls of Congress and the townhalls of our Nation.

Betty Farrington was widely respected on the national level as an eloquent spokesperson for Hawaii, a leading member of the Republican Party, and president and publisher of the Honolulu Star-Bulletin newspaper.

Her loss is mourned by all of Hawaii, but her achievements will not be forgotten.

Mr. President, I ask unanimous consent that the following editorial column from the Star-Bulletin be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ELIZABETH FARRINGTON, FIGHTER FOR STATEHOOD

Elizabeth Farrington, who died Saturday at age 86, was a liberated woman long before women's lib became a cause.

At the height of her career in the 1950s she may have had at least as many credentials to be a vice-presidential nominee as Geraldine Ferraro.

She had been a twice-elected non-voting member of Congress from Hawaii.

She had been national president of the National Federation of Republican Women for five years.

She was president and publisher of the largest newspaper in Hawaii, the *Honolulu Star-Bulletin.*

McCall's magazine had named her in 1951 as one of the 10 most influential women in national politics.

The General Federation of Women's Clubs in 1952 had named her one of the 12 most outstanding women in the U.S. in any field.

She was an achiever and a doer, first fighting at the side of her husband, Joseph R. Farrington, and carrying on alone after his death in 1954.

The Farrington family owned this newspaper from before their marriage in 1920 until 1961. They dedicated it and their lives to the cause of Statehood for Hawaii and helped mightily to move the battle forward.

From 1942 through 1956 their forward battle base was Washington, D.C., where they successively (she after his death) filled the lone non-voting seat in Congress given to each incorporated U.S. territory.

They still, however, kept close touch with the newspaper back in Hawaii and were abreast of its affairs daily at great expense for cables and telephone calls.

From Washington, Betty Farrington, even more than her husband, fanned out on nationwide engagements to speak and lobby for Statehood for Hawaii. Her status as the national GOP women's leader helped give her a base.

The lobbying assault was bipartisan, however. One Democrat it appeared to persuade was Harry S Truman who played the piano at the Farrington home in Washington the night before Franklin D. Roosevelt died and he became president. Truman later became the first president to advocate immediate Statehood for Hawaii. And he and his wife were said to refer to that night at the Farrington home as their last night of freedom.

The daughter of missionaries to Japan, Elizabeth Pruett (Betty) Farrington seemed to grow up in a state of near-equality with men. She was studying journalism at the University of Wisconsin when she and her future husband met.

She was writing for the *Wisconsin State Journal* then. Later, when her husband was getting some journalistic seasoning in Washington, she became a Washington correspondent for several newspapers and set up a press service that grew to serve 200.

Back home in Hawaii in the 1920's, her father-in-law, Wallace Farrington, was serving as the presidentially appointed governor of Hawaii. She had a hand in establishing the residence of the late Queen Liliuokalani as Washington Place, still the official residence of governors of Hawaii.

She gladly stood aside for her husband while he lived, and was his great adviser and helper, though much too active to be said to be "in his shadow".

Later, on her own, she recorded an impressive record of bills passed in Congress. Most notable, perhaps, was a bill to reapportion the Hawaii Territorial Legislature to break a 50-year Neighbor Island stranglehold on both houses and give Oahu the control of the lower house that was long overdue because of its population predominance. This involved navigating through a legislative minefield to achieve something that Oahu had sought and deserved for 30 years. Since the first effective election was 1958 the feat tended to be obscured when Statehood was achieved and brought with it the same result in 1959.

As president and publisher of the *Star-Bulletin* after her term in Congress, she led the newspaper to such strong advertising and circulation predominance that the rival *Advertiser* was forced to seek a joint production agreement as an alternative to closing its doors. The agreement came, however, only after the Farrington family interest in the paper had been sold.

Age and poor health moved Mrs. Farrington into public eclipse in recent years. Last month, however, the Chamber of Commerce of Hawaii re-focused attention on the Farringtons by giving its highest award posthumously to Joe Farrington for his Statehood contributions. It was an honor to her as well, and she was immensely pleased by it even though her health was so poor she could not go to the award ceremony.

She remained mentally alert to the last and conversed lucidly with her son, John, shortly before her peaceful death Saturday afternoon.

She was a major builder of modern-day Hawaii. She also showed, long before it became a cause, that women in politics and in business can be every bit the equal of men.

TED KENNEDY, JR., APPEALS FOR UNDERSTANDING OF THE NEEDS OF DISABLED PEOPLE

Mr. RANDOLPH. Mr. President, I have long been committed to constructive aid for citizens who are disabled. Our Subcommittee on the Handicapped has worked diligently to enact legislation to improve services, opportunities, and the quality of life for handicapped. With the help of concerned colleagues we have made progress.

Now, the voices of handicapped people are growing louder. Their desires are simple. They only ask for access to all aspects of American life—every right—and freedom from attitudinal discrimination.

At the recent Democratic National Convention, Ted Kennedy, Jr., eloquently conveyed this message. I am placing his speech in the RECORD.

Mr. President, I commend its logic and appeal to my colleagues. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ADDRESS OF EDWARD M. KENNEDY, JR., DEMOCRATIC NATIONAL CONVENTION, JULY 18, 1984, SAN FRANCISCO, CA

Thank you very much for that warm introduction. And I also thank the Democratic Party for inviting me here to address this convention.

I want to speak to you in these few moments about what it means to be taken seriously ill, to become disabled for life, and then to receive the miracle of hope and opportunity that my family, my faith, and my country have given to me.

The disability movement in America should be considered a human rights movement. The disabled as a community have been unfairly isolated and segregated from society for too long. However varied our disabilities, we are all tied together by the common thread of alienation and rejection.

We have come here to this convention to insist that we have much to contribute to America, if only America will give us the chance to make that contribution. Disabled people are not unable people.

We come from many different backgrounds. We come in all sizes and shapes and colors.

We have families, friends, dreams and talents like every other American. In 1984, the thirty-six million disabled people across this land deserve the same fundamental human rights as every other citizen—to go to school, to work, to have a family, to paint a picture, to vote, to contribute, to belong in America.

Eleven years ago, I learned a little of what it means to look death in the eye and to wonder if there will be a tomorrow. Fortunately, I had two indispensable things that saw me through—round-the-clock medical care, and round-the-clock family love from a father, mother, sister and brother that I shall never forget and can never repay. Without their support and without the excellence of American medicine, I would not be here today.

But we cannot forget the millions of others who are being held down and held

back because they do not have the opportunities I had. The same high quality care I received should not be beyond the reach of any person in America.

It is not that people are handicapped, as that they are physically and mentally challenged. We want to face up to our challenges. We want to be treated as human beings, not foreign objects. We want to be understood and respected, not feared and pitied.

We are people first, and disabled second. We want to be participants in life, not spectators on the sidelines. We refuse to be confined by the oppressive and outdated attitudes of the nineteenth century. We must reject a mentality that would put disabled Americans in warehouses and throw away the key.

People deserve to be recognized for their abilities, not their disabilities. I want to be called a good skier, not a good handicapped skier. Franklin Delano Roosevelt was a great president, not a great handicapped president.

The hard long battle over access for the disabled is being waged because disabled Americans want access to America. The real handicap we face is not the handicap of accident or birth, but the handicap created by society. And the sooner we remove the physical barriers, the sooner the stifling barriers of attitudes will fall, and the sooner we shall attain our goals, our equality, and our dignity.

I believe I speak for legions of young disabled Americans when I suggest that the best way to achieve these goals is to build a ramp to the White House next November, wheel Ronald Reagan out, and send him on his way.

And then we will have a government that believes justice in America means justice for the disabled too. We will have a government prepared to argue in the Supreme Court that federal assistance must never be used to subsidize discrimination against the handicapped.

We will work for the right of disabled citizens to hold a job and to live independently in their communities.

We will commit adequate resources to education for the handicapped.

And we will honor social security and provide the full benefits to which the disabled are entitled by law.

When Walter Mondale and Geraldine Ferraro say that America is about opening doors, they are speaking to the disabled, too. America has opened doors for me—and on election day 1984, I want to feel that I am part of a country that will start opening doors again for all its people.

JACK WATSON MADE HIS MARK IN HISTORY

Mr. CHILES. Mr. President, a man who helped chart much of the early development of Miami and left a number of indelible impressions on that city has moved on. John W. (Jack) Watson died August 24, 1984, at the age of 89. His legacy to the community includes a son, John W. Watson III; daughter, Patricia Daly; and four grandchildren plus three great-grandchildren.

A resident of Miami since 1897, Jack Watson was called a pioneer by the Miami Herald, which said editorially of him:

Mr. Watson did here what pioneers do everywhere. He settled in, made a life, served his community, helped to build a city. Today the city that he helped to construct is the center of a metropolis that some 1.75 million people call home. It is one of the hemisphere's most idiosycratic cities, known around the globe, and it bids to become a cosmopolitan, world-class center. . . . In the space of this one man's life, all that is here has been created from empty space. In bidding a fond farewell to Jack Watson, a pioneer in whose tracks 1.75 million have followed, let not this symbolic importance be overlooked.

Mr. Watson was in World War I as commander of a submarine chaser, then earned a law degree from the University of Florida. In 1922 he joined the city attorney's staff and was appointed city attorney 2 years later, serving in that capacity for 33 years. In 1951 he also became city manager and in 1961 assumed the responsibilities of special counsel for the city, handling validation of municipal bonds and advising the city commission on municipal projects.

The devastating effects of the Depression forced Miami to put its improvements on a self-paying basis, and Jack Watson initiated such successful projects as a major water system, the city's incinerator, the Orange Bowl stadium, and an addition to Jackson Memorial Hospital. He led the legal battle which pioneered the use of parking meters by cities nationwide.

Jack Watson retired from city service over 25 years ago but his interest in Miami's continuing progress never waned. His attitude regarding his revered city is best seen in this comment he once made:

If the Lord made any better city, he kept it for himself.

In recognition and tribute to his years of dedication, the city commission in 1961 named the city's law and communications building the Watson Building. Watson Island, a vital part of the community, is named jointly for him and his father.

Many, of course, have contributed along the way to making Miami the powerful city it is today. But the city's history will reflect that Jack Watson's strong hand was there over the years, laying foundations and guiding it through difficult times. He will be remembered—and missed.

POLL RESULTS SHOW ILLEGAL NARCOTICS AMERICANS' TOP CONCERN

Mrs. HAWKINS. Mr. President, the results of the most recent Roper poll have been released, and the findings are nothing less than extraordinary.

For the first time since 1977, a non-economic issue has been selected by the American people as the top need for Government action. The choice of American people to become our Nation's top priority, by a startingly large majority, was the problem of drugs and crime. This topic was chosen by 84 percent of the people polled; the next item was unemployment, at 75 percent.

Mr. President, this indicates just how clear it is becoming to each and every citizen of our country how devastating are the problems stemming from drug abuse. It has been shown in recent Government reports that a majority of criminal activity is drug-related, and the American people are beginning to realize that. It has been shown, also with certainty, that the drug industry's proceds are upward of $90 billion, rivalling our largest corporation, Exxon, in profits.

It is becoming increasingly obvious that our children are using more drugs, starting drug use at an earlier age, ingesting more dangerous drugs, and demonstrating even greater ignorance as to the potential dangers of the use of recreational drugs.

Government has been trying to battle this problem for some time: both the administrative and legislative branches have been focusing many of its resources on eradicating drug abuse through various methods. Our battle will continue until we win the war, but now that our concern is equalled by individual Americans, our fight is made that much more winnable. Awareness of a problem, of its scope and of its effects, is a giant step in solving it; Americans, therefore, in demonstrating themselves as being aware of the cancer of drug abuse, are taking a much-needed step toward finding that solution.

MEETING BETWEEN PRESIDENT REAGAN AND ANDREI GROMYKO

Mr. CHAFEE. Mr. President, the announcement yesterday that President Reagan will meet with Soviet Foreign Minister Andrei Gromyko later this month is a welcome development. The current impasse in the talks on limiting strategic and intermediate-range nuclear weapons must be broken, and I am hopeful that a meeting such as this will help to provide the needed breakthrough.

We should not be disappointed if no concrete developments occur at this meeting. What is important is that top officials of the United States and the Soviet Union sit down and discuss frankly those issues which divide us.

The President and the people of the United States are earnest in their desire for peace and for progress in arms control. The administration and the Soviets can be faulted, in my view, for not pressing hard enough soon enough to achieve results in this area. But on issues of such great importance, it is never too late to begin.

If the Reagan-Gromyko meeting indicates that the two sides are once again prepared to discuss these vital issues seriously and at the highest levels of Government, then perhaps we can look forward to the early resumption of the suspended arms control talks, talks which are essential if we are to make progress controlling the arms race.

PAUL D. HAROLD

Mr. KENNEDY. Mr. President, I welcome this opportunity to bring to the attention of my colleagues the recent recognition given to State Senator Paul D. Harold of Massachusetts in being selected as 1 of the 10 outstanding young leaders of Boston by the Boston Jaycees.

Paul Harold, who represents the Norfolk District in the Massachusetts Senate, is certainly deserving of this award. I have known him for a number of years, and have worked with him on a number of projects in his district.

For a young man, he has an impressive record of involvement and achievement in government and politics, spanning more than a decade.

In 1975, Paul Harold was elected city councilor-at-large in his hometown of Quincy, MA, and was reelected in 1977 with the highest vote total in the history of that city for any councilor. During that time he led the successful efforts to place the Adams birthplaces, which had been owned and maintained by the city, under the protection of the National Park Service.

In 1978, Paul Harold was elected to the State senate, an office to which he was returned without opposition in 1980 and 1982.

As senate chairman of the joint committee on local affairs, Paul Harold has proven himself an effective and conscientious leader. He has worked tirelessly with mayors and selectmen in helping them to cope with the fiscal constraints of proposition 2½, an initiative petition adopted by the people of Massachusetts which drastically reduced property taxes and also curtailed the revenue base for local governments. For these efforts, last year he was named Legislator of the Year by the statewide Massachusetts Municipal Association.

Paul Harold has and continues to represent what is good in politics and government in Massachusetts. He has brought tireless dedication and integrity to his public service and to his efforts to help those in our society who cannot help themselves.

Paul Harold's reputation as a hardworking and effective senator is known not only in Massachusetts, but also here in Washington. His compassion for working men and women, for senior citizens and veterans, and for the poor and the homeless, is legend.

I join with the Boston Jaycees, with his family, friends, colleagues and constitutents, in recognizing a truly outstanding young leader, a sincere and honest young man who devotes his full time and his full efforts to the service of his constituents. The people of Quincy, Braintree, Holbrook, and Avon, MA, are to be congratulated for sending a man of such high caliber to represent them on Beacon Hill.

PRESIDENT'S COPPER DECISION

Mr. DECONCINI. Mr. President, after months of study, weeks of deliberation and the presentation of a lengthy bill of particulars, the International Trade Commission suggested in late June that the President take several actions to bolster the present dangerous conditions of the domestic copper producing industry. The President made his decision yesterday. It was to do nothing.

There is something haywire in a foreign policy that yields this kind of decision. There is just as much missing in the thinking of those who manage a domestic policy that is permitted to come up with such a conclusion.

How does the decision to do nothing square with the national security implications of a devastated U.S. copper industry? How does this do nothing approach answer the economic questions that result when the largest copper producer in the world gives up any hope of self-reliance in the production of a strategic mineral.

Mr. President, I don't quite understand how those in the administration who have counseled the President to do nothing can explain the hard economic fact that this country is also the major consumer of copper in the world.

President Reagan's decision says that this country will no longer even try to meet its own copper needs. We will, however, continue to aggressively fund any other copper producing country in the world that wishes to sell us its copper. Here is a President who made a reputation as the Nation's greatest opponent of foreign aid. Once in office, he has been generous in dispensing U.S. foreign aid that serves the specific purpose of resurrecting competition to our own ailing copper industry.

In the last 3 years, the Reagan administration has presided over loans of over $1 billion to six copper producing countries that needed help to bolster their own sagging copper industries. Our foreign aid program has in effect taken on the objective of assuring that nations in Africa and Latin America remain healthy enough to supply enough copper to meet the growing consumer demand in the United States. It is strange to me that the political philosophy of this administration in no way permits it to devote such attention to our own copper industry needs.

In the midst of a surge of increased U.S. copper consumption, the administration is willing to maintain a policy that has resulted in the loss of 13,000 copper mining jobs in my State, and the closure of 16 out of 20 Arizona copper mines. Within the confines of Arizona we now have a universe of economic disaster, of personal and family hardship, and an economic tidal wave that has crashed throughout Arizona business.

It is beyond me why no one in the adminstration has managed to put these events together. Has anybody there really tried, Mr. President? After I had specifically requested it, the White House staff committed last month to assist me in bringing my case to the President. Not only was I not given that opportunity, there is a long line of Senators and Congressmen from the West who were in no way consulted.

Perhaps we should furnish the White House with a weekly subscription to TV Guide, since the national TV networks have given considerable attention to the contradictions I have just pointed out. Maybe a subscription to one of the national news magazines would do the trick. Whatever it takes, Mr. President, the point has not gotten across.

It is not a farsighted foreign policy based on U.S. national interest and security to oversee the gutting of a domestic resource capability, while investing a billion dollars of U.S. tax money in the prospects of overseas copper mines.

Mr. President, I will fight this administration and its strange set of ideas in every way that I can. In this system of government, the Congress has frequent opportunities to right such wrongheadedness. I will take every one of those opportunities.

SOCIAL SECURITY DISABILITY INSURANCE REFORM

Mr. BYRD. Mr. President, I want to commend the junior Senator from Michigan [Mr. LEVIN] for the statement he made on Monday of this week on the subject of Social Security disability insurance reform—and for the mixture of tenacity and compassion with which he has pursued the task of bringing order to the inexcusable chaos in the Social Security Disability Insurance Program that has been inflicted on the disabled of this Nation by the Reagan administration's budget cutters.

To date, the administration has obstructed all reasonable solutions to this situation. This has happened on two fronts: in the courts and the Congress. In the courts, the administration has been fighting, appealing, and

losing cases where Federal district courts have found its actions indefensible where it has stripped disability benefits from obviously disabled persons. Incredibly, the administration appealed some of these cases even though it apparently realized it had no substantive grounds for its position: its appeals relied solely on various technicalities of law.

On the congressional front, the administration has been nothing short of recalcitrant in the conference committee on legislation designed to remedy this nightmarish situation. With respect to several critical issues, the administration has refused to participate in searching for a middle ground approach that would reasonably and effectively remedy the problems its own actions have created. Instead, its approach has been to procrastinate and fritter away time.

This legislation was sent to conference committee on June 11—and yet, while the tens of thousands of affected disabled citizens slowly twist in the wind, the White House continues to stall, stall, stall.

Mr. President, it is time for the White House to change its tune and help to fashion a suitable compromise on these matters.

The August 31, 1984, issue of the New York Times contained a very timely and pertinent editorial on this subject, titled "The Disability Disaster." I direct attention to its final paragraph, which reads,

One explanation for such stubbornness is that the administration continues to let obsessive cost cutting limit its vision. That's a charitable excuse for a policy that looks more like official cruelty.

Mr. President, it should not be possible for an administration to talk out of both sides of its mouth at once. Either the administration ought to just admit it does not care about our disabled citizens, and is quite prepared to see them suffer needlessly in order to save a few dollars in our budget, or it should take realistic steps to reach a reasonable agreement on the legislation now in conference committee and begin to implement the decisions on this subject returned by court after court. Surely this President, who claims a record of fairness, will choose the latter course.

Mr. President, I ask unanimous consent that the editorial from the New York Times I mentioned earlier in my comments be inserted at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE DISABILITY DISASTER

In October 1981, a Manhattan social agency found him living as a vagrant in Central Park. At that time he was delusional, filthy, hostile . . . . His application for . . . benefits was rejected initially and on reconsideration despite a medical report stating that he hallucinated, had delusions of people being after him and spent most of his time wandering the streets. . . . In the denial of reconsideration of his application . . . it was stated that while his condition prevented him from returning to his "usual job," there were "many other jobs" that he could perform.

What usual job? Which many other jobs? Such examples of bureaucratic callousness run through lawsuits over the Social Security Disability program, which the Reagan Administration has turned into an administrative disaster area. Now an appeals court decision in New York makes clear that the disaster is moral as well as managerial.

Early in President Reagan's term, Administration budget-cutters considered the $18 billion program a sitting duck. Carter Administration officials, alarmed by astronomical increases in disability payments, had ordered reviews of all disability cases in order to identify cheaters. It would be a simple matter, their successors figured, to make deep cuts by speeding up the review schedule—and by quietly tightening the rules for eligibility. New interpretations of the rules ordered by internal memo meant that an ability to boil water or rake leaves immediately established one's "employability," thereby disqualifying hundreds of thousands of the obviously disabled.

But getting away with such interpretations wasn't so easy. Social Security workers found themselves telling pathetically crippled or schizophrenic people to go out and find work. Many state officials refused to carry out the harsh new policy. Soon, Federal courts and administrative law judges were swamped with pitiful appeals—and they handed down a steady stream of rulings in favor of the disabled claimants. By last spring, more than 200,000 of 491,300 people disqualified had won reinstatement on appeal.

Frederick A. O. Schwarz Jr., New York City's corporation counsel, led a legal battle against the change in the rules for the most vulnerable group the mentally handicapped. A Federal appeals court this week affirmed a favorable ruling he had won from a lower court. What's remarkable about the decision is the need to appeal, and the attitude it reflects in the Administration. For the Federal Government did not contest the merits. It insisted on appealing only on technical grounds of jurisdiction. In effect, Washington admitted that its initial policy was wrong.

When Federal dollars support the helpless, to be wrong is to be painfully wrong. "On the day that he received the notice that he was cut off," a psychiatric nurse testified of one patient. "He became very upset. . . . That day he became more and more depressed, mute, unresponsive, crying. And finally, several hours later he was found in his apartment by his roommates in a mute and unresponsive position; curled up on the couch, not responding to people trying to rouse him or call his name. . . ."

Despite such stories, the Administration even now persists in defending its policy with technicalities. It might yet appeal the New York case to the Supreme Court. In addition, the White House defends "nonacquiescence"—refusal to accept defeats in some disability cases as precedents in others. And its objections to sensible measures to restore some decency to the system have stalled reform legislation for months.

One explanation for such stubbornness is that the Administration continues to let obsessive costcutting limit its vision. That's a charitable excuse for a policy that looks more like official cruelty.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

Mr. BAKER. Mr. President, the time for morning business has expired. I ask the Chair to lay before the Senate the pending business.

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 2851, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2851) to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3756

(Purpose: To revise the definition of bank, and for other purposes)

Mr. GARN. Mr. President, Senator PROXMIRE and I have a noncontroversial managers' amendment concerning several provisions of the bill. Most of these are matters which Banking Committee members expressed interest in resolving during floor consideration of the bill and others are technical and conforming revisions to the bill.

The amendment would:

First, resolve the issue of which Federal agency would regulate the holding company of a traditional State savings bank, by permitting it to be within the bank holding company structure (without the 10 percent commercial loan test in S. 2851) and subject to supervision by the Federal Reserve or be within the savings and loan holding company structure, have its thrift subsidiary subject to the 60 percent qualified thrift lender test, and

be subject to supervision by the Federal Home Loan Bank Board.

The 10 percent commercial loan test, insofar as State-chartered FDIC-insured savings banks are concerned is eliminated. The 10 percent test would continue to apply to State-chartered State-insured savings banks and savings and loan associations.

Since State-chartered FDIC-insured savings banks would be treated as banks, the amendment preserves those activities which savings banks have traditionally performed but which are not on the 4(c)(8) list or otherwise permitted to commercial banks. Examples of this type of activity are real estate development and savings bank life insurance. This is not intended to affect in any way the powers which State-chartered commercial banks may have or acquire in the future.

A change of control involving a savings bank by any company other than a savings bank or savings bank holding company would result in the forfeiture of the State authority subject to a 2-year divestiture.

A savings bank holding company would be defined in the Bank Holding Company Act to mean any company which owns or controls a State-chartered savings bank (in existence as such on or before October 15, 1982), provided the assets of such a savings bank, and any other bank affiliated with the savings bank prior to the date of enactment of S. 2851, constitute at least 70 percent of the total assets of the holding company. Including previously affiliated banks in computing the 70 percent is necessary in those States, such as New Hampshire and Rhode Island, where commercial banks and savings banks have been permitted to affiliate for many years.

Since some State-chartered State-insured thrift institutions could come under the Bank Holding Company Act (when their commercial loans exceed 10 percent), it is necessary to change the current requirement under the Bank Holding Company Act that all bank subsidiaries have FDIC insurance. This amendment accomplishes this by permitting such institutions to continue to be State insured.

The amendment would also permit a company controlling a State-chartered savings bank which meets the qualified thrift lender test to be regulated, for holding company purposes, on the same terms as a Federal savings bank, that is, subject to the jursidiction of the Federal Home Loan Bank Board. As is the case with a federally chartered or Federal Savings and Loan Insurance Corporation-insured savings institution, failure to meet the qualified thrift lender test will result in a 5-year ineligibility period and make the holding company subject to the restrictions in the bill for companies owning non-QTL thrifts.

The amendment also deletes the 10 percent commercial loan test for State-chartered FDIC-insured savings banks insofar as the QTL test is concerned.

Second, clarify the definition of bank to exclude specifically credit unions, credit card banks (which do not accept transaction accounts or make commercial loans) acquired by a bank holding company prior to enactment of the bill, pursuant to approval from the Federal Reserve Board, and industrial loan companies in Hawaii which were recently required by State law to obtain FDIC insurance and which do not offer transaction accounts.

Third, amend provisions affecting the status of grandfathered companies owning nonbank banks to:

Clarify that such companies may engage in activities authorized for a depository institution securities affiliate;

Permit a company that acquired, prior to June 27, 1984, the date of the Banking Committee's markup of S. 2851, a nonbank bank from a company which acquired the same nonbank bank prior to July 1, 1983, to have grandfathered status under the bill; and

Clarify that the application of the Glass-Steagall Act to nonmember, nonbank banks controlled by such grandfathered companies does not prohibit the continuation of any affiliation or relationship commenced on or prior to June 27, 1984, between the nonbank bank and a securities firm. This would also permit the establishment of a personnel relationship in connection with any affiliation established on or prior to June 27, 1984.

Fourth, mandate separate studies by the FDIC, Comptroller of the Currency and the Federal Reserve Board on how the risk of bank failures may be reduced. The studies, to cover such areas as capital requirements, loan portfolio management, and agency examination procedures, is to be submitted to the Senate and House Banking Committees within 6 months after the date of enactment of S. 2851. Senator PROXMIRE introduced this as a separate amendment to S. 2851 and we have included it in this package.

Fifth, specify that real estate loans to acquire, improve, develop or construct residential or commercial properties are not commercial loans under the Bank Holding Company Act. This narrows the scope of the types of real estate loans which are not considered commercial loans, one of the terms used in defining what is a bank under the Bank Holding Company Act.

Sixth, specify that securities backed by manufactured housing are to be treated in a similar fashion to mortgage-backed securities, which the bill authorizes depository institution securities affiliates to deal in and underwrite.

Seventh, revise provisions affecting thrift institutions to:

Permit affiliations between a thrift institution and a firm engaged in securities activities involving real estate investments, insurance products deemed to be securities, mutual funds, and securities activities in which national banks may engage. Thrifts would also be permitted to continue control affiliations or personnel relationships begun prior to June 27, 1984, the date of the Banking Committee's markup session. This revision is necessary to take into account activities and relationships which thrifts have historically had and to recognize the concerns of Banking Committee members and others that the application of the Glass-Steagall Act to thrifts was not formally considered until the Banking Committee's markup session.

Permit the continuation of contractual arrangements between securities firms and depository institutions under which a securities firm may offer securities services through such institutions. An example of this is the Invest brokerage service, which offers securities brokerage and investment advisory services primarily through thrift institutions. While 34 thrifts have an equity interest in Invest, none of the thrifts has a controlling interest. There are just over 100 depository institutions which use the Invest service in 36 States. This provision would only permit a program such as Invest to expand its securities activities to the extent they are authorized under new section 4(c)(15) of the Bank Holding Company Act.

Authorize the Federal Savings and Loan Insurance Corporation to grant exceptions to the 60 percent qualified thrift lender test when extraordinary conditions exist, such as when high interest rates reduce mortgage demand to such an extent that thrifts have an insufficient opportunity to invest in mortgages. This authority is intended to be used only in unusual circumstances.

Authorize the Bank Board to adopt expense reimbursement regulations similar to those which Congress authorized the Securities and Exchange Commission to adopt about a year ago.

Clarify the manner in which institutions transfer from FDIC insurance coverage to FSLIC insurance coverage.

Eighth, revise the check holding provisions in title VI to take into account that some institutions, especially smaller ones, calculate interest without the use of computers or other sophisticated electronic equipment.

The savings bank provisions in the managers amendment address the question which the distinguished ranking member of the committee, Senator WILLIAM PROXMIRE, raised

during the markup session on this legislation. At that time, he brought forward a suggestion that FDIC-insured State-chartered savings banks, which do business in approximately 15 States, be treated as "banks" for purposes of the BHCA, rather than "nonbanks" if their commercial loans do not exceed 10 percent of total assets. Senator GORTON stated during the markup that the concept seemed to have considerable merit but required further study and consultation with the industry and other affected parties.

We have used the intervening weeks to work on the suggestion made by Senator PROXMIRE, and I believe we have arrived at an appropriate compromise. The key issue for the savings bank industry is the full preservation of their State granted powers, and this would be accomplished under these amendments by making it clear that Federal law does not override State authorized activities in those areas such as real estate development and Savings Bank Life Insurance which savings banks have traditionally performed, but which have not generally been permitted to either bank holding companies or commercial banks. This authority covers operating powers which may be express, incidental or implied under State statute, regulation or judicial interpretation thereof. This is very important in the case of savings banks where chartering statutes are not always as specific as they are for other types of depository institutions. In taking this particular action for savings banks, we do not intend to interfere in any way with the legal issues involved in whether State-chartered commercial bank subsidiaries of holding companies may exercise whatever powers may be authorized under State law.

Also included with these amendments is a change to the definition of a "commercial loan" which is relevant not just to savings banks but to all State-chartered nonfederally insured deposit-taking institutions since they would still operate under the so-called 10 percent commercial loan test. As was also discussed during the committee markup, the change being made here would narrow the definition to make sure that commercial loans could not be disguised as mortgage loans and thereby avoid inclusion under the 10 percent test. The revised exclusionary language is tied more directly to the financing of real estate transactions to include refinancing.

There is one other matter of clarification which is particularly relevant in those FHLB districts, such as New England, where savings banks constitute the bulk of the institutions which belong to the FHLB. These amendments do not alter the committee bill which preserves eligibility for savings banks to obtain advances from the district banks of the FHLB system provided they meet the qualified thrift lender test or otherwise qualify under the discretionary authority which section 109 of S. 2851 now provides.

I also have some additional comments regarding the provisions amending title VI, the Delayed Availability Provisions, of S. 2851.

This bill requires financial institutions to credit interest earned on interest bearing accounts no later than the date that provisional credit is granted for a deposited check. The amendment exempts from this requirement those financial institutions which now credit interest at a later date, and cannot credit interest more immediately because of data processing limitations.

Credit unions and smaller financial institutions are not able to immediately credit interest to deposit accounts because they do not possess the more sophisticated and expensive data processing equipment employed by their larger competitors. For this reason, they have traditionally offered a variety of interest payments plans, including paying interest from the 1st of the month for funds deposited by the 10th of the month, and paying no interest on any deposits made between the 11th and 31st of the month; or paying interest on low or average monthly accounts. The Credit Union National Association estimates that 9,000 credit unions still do not have automated data processing, and must use simple interest calculations to insure easier and more accurate records.

Compliance with section 604 may be particularly burdensome for thousands of these smaller credit unions, banks and savings and loan associations who have not shifted to ADP systems. Consequently, this amendment does not require crediting of interest on accounts by date of provisional credit for institutions which now begin crediting interest at a later date for all deposits. However, these institutions must disclose, in writing, when they begin to compute interest on deposited funds.

Second, I would like to comment on the disclosure requirements of this title. Section 603 of the bill requires depository institutions to provide a written disclosure of their general policy with respect to when a customer may withdraw funds deposited by check. If depository institutions have not already provided this disclosure, it must be included in the first regularly scheduled mailing to the customer. However, if a depository institution has provided this disclosure, it need not duplicate the time and expense of again disclosing in the first regularly scheduled mailing.

Financial institutions in significant numbers have recently begun to disclose their delayed availability policies to customers; prompted by the exhortations of the Federal financial regulatory agencies, the recommendations of their trade associations, and as a service to their customers and community. The American Bankers Association has twice written its members urging them to adopt a bank policy statement of funds availability and to use a consumer disclosure statement. In these two letters, the ABA enclosed sample policy statements and sample customer disclosure statements, which I am placing in the RECORD.

I would like to make it clear that a financial institution does not need to again disclose its general delayed funds policy to an account holder in the first regularly scheduled mailing where such disclosure has already been made using these sample disclosure statements, or disclosing the same information required by these samples.

Mr. President, I ask unanimous consent that sample disclosure statements be printed in the RECORD at this point.

There being no objection, the samples were ordered to be printed in the RECORD, as follows:

SAMPLE POLICY STATEMENT

Holds on Retail Customer Accounts

It is (name of bank) 's policy to place holds on customer accounts to reduce the risk of check kites and of checks returned for insufficient funds or any other reason to customer accounts in which the balance is insufficient to cover the returned item.

Generally, holds will be placed on checks deposited from sources not known to the bank in newly opened retail customer accounts. A new account is considered to be one that has been open for no more than (period of time—e.g., one month, six months or other). In addition, unusually large items deposited to an account, such as those over (dollar value, e.g., $500) may also have a hold placed on them.

The length of a hold will reflect the bank's normal experience in dealing with checks returned from the location on which the deposited item was drawn. Normally, the hold will not exceed days from any location within the United States.

Customers will be informed at the time an account is opened of this bank's hold policy. (Include the following if applicable) And tellers will inform customers at the time a deposit is made on which a hold is placed of the applicability and duration of the hold. (Branch managers, personal banking officers, or other title), upon customer request, have the authority to release holds on items, in their discretion, when a customer is known to them, the drawer of the check is reliable, or other circumstances exist to justify releasing a hold. It is the policy of this bank to minimize the use of holds to the extent consistent with the safety and soundness of the bank and the avoidance of unnecessary losses to the bank.

SAMPLE DISCLOSURE STATEMENT

Holds on Deposited Checks

When you deposit a check drawn on another bank, there is always a time delay before the check reaches the bank on which it was drawn and we receive payment. Our policy is to provide the earliest realistic availability of funds on deposited items. But we must reserve the right to place a "hold"

for the amount of the check you deposit until we have collected those funds.

Normally, we would place "holds" on a check you deposit if:

(Include only those that apply)

1. Your account is new, and it has not yet developed enough history of activity for us to know you;

2. You deposit a check for an unusually large amount;

3. Your check is drawn on another bank or financial institution;

4. You make a cash back or split deposit;

5. Your check is issued by a person or organization whose reliability is not known to us.

(Use the following if applicable)

When we must place a "hold" on your deposit, it may be necessary for us to ask you not to withdraw these "uncollected funds" from your account. When this occurs, your teller will inform you that a "hold" has been placed on your checks, and the estimated time it will take for the check to be paid. Normally, holds will for business days on checks drawn on banks in (town, city, state) and for business days on checks drawn from outside this area.

Of course, deposits into any interest-bearing account will begin to earn interest as soon as they are made whether a "hold" is placed on the deposit or not. We hope this policy will not inconvenience you, and encourage you to speak with one of our officers concerning any questions you may have about this policy.

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER [Mr. ANDREWS]. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr.GRAN] for himself and Mr. PROXMIRE, proposes an amendment numbered 3756.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 15, after the first period insert the following: "For purposes of this section, the term 'depository institution securities affiliate' also means any securities broker or dealer, within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), that (1) enters into a contractual arrangement with a member bank pursuant to which such broker or dealer makes its securities services available on the premises of such member bank, and (2) limits its activities to those in which a depository institution securities affiliate may lawfully engage pursuant to section 4(c)(15) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)) or ection 408(c) of the National Housing Act (12 U.S.C. 1730a(c)).".

On page 6, line 13, before "deposits" insert "demand deposits or".

On page 6, strike out everything after the words "making commercial loans" on line 16, through "savings bank" on line 22.

On page 7, line 3, strike out "or".

On page 7, line 8, before the period, insert th efollowing: "; (vi) any credit union described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; (vii) an industrial loan company chartered by the State of Hawaii which was required to obtain insurance under the Federal Deposit Insurance Act by the laws of the State of Hawaii as a requisite to accepting thrift accounts from the public, except that any such industrual loan company that accepts deposits after the date of enactment of the Financial Services Competitive Equity Act that are withdrawable by check or similar means for payment to third parties shall be a 'bank' for the purposes of this Act; or (viii) any institution which is acquired by a bank holding company pursuant to approval granted by the Board under section 4 of this Act prior to the enactment of the Financial Services Competitive Equity Act and which engages solely in credit card operations and that does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or make commercial loans".

On page 7, line 23, after "it" insert "(A)".

On page 7, line 25, before the period insert the following: ", or (B) is a company that owns, controls or is affiliated with a bank but does not become a bank holding company because of the amendment to section 4(a)(2) of this Act made by section 104(c)(2) of the Financial Services Competitive Equity Act".

On page 8, line 6, strike out "secured by real property" and insert in lieu thereof "to finance the acquisition, improvement, development, and construction of residential or commercial properties".

On page 12, line 15, after the period, insert the following: "For purposes of the preceding sentence, a company which, prior to June 27, 1984, acquired control of an institution that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in this Act, from an entity (not a bank holding company) which acquired such bank before July 1, 1983, shall be deemed to have controlled such bank (and any insured institution that is acquired from the same entity pursuant to a contract entered into prior to June 27, 1984) on and prior to July 1, 1983.".

On page 12, line 18, strike out "preceding sentence" and insert in lieu thereof "two preceding sentences".

On page 12, line 22, strike out "either of the two" and insert in lieu thereof "any of the three".

On page 25, line 11, before "and" insert "or credit obligations secured by real or personal property manufactured housing".

On page 25, line 11, before "or" insert "and credit obligations".

On page 30, between lines 4 and 5, insert the following:

(i) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) Notwithstanding any other provision of this Act, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, which is chartered under State law, and which is or becomes a subsidiary of a bank holding company may engage, directly or through an affiliate, in any activity which it is permitted to conduct as a State-chartered savings bank, pursuant to express, incidental, or implied powers under State statute or regulation or under judicial interpretation of State law. The activities conducted pursuant to the preceding sentence shall be terminated within two years if any covered savings bank is acquired by a company which is not a savings bank or savings bank holding company.".

(j) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following:

"(m) The term 'savings bank holding company' means any company which owns or controls one or more State-chartered savings banks if the assets of the subsidiary (which was chartered by a State as a savings bank on or before October 15, 1982), and any other bank affiliated with the savings bank prior to the date of enactment of this subsection, constitute at least 70 percent of the total assets of the holding company. In calculating compliance with the 70 percent test, assets acquired by such other bank by merger after the date of enactment of this subsection shall not be inlcuded.".

(k) Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by inserting before the period at the end thereof the following: "or to any depository institution the deposits, accounts, or obligations of which are insured or guaranteed under State law".

(l) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended to read as follows:

"(i) The term 'thrift institution' means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, (3) a Federal savings bank, and (4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.".

(m) Section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)) is amended to read as follows:

"(E) No company is a bank holding company by virtue of its ownership or control of any State chartered bank or trust company which is wholly owned by thrift institutions or savings banks and which restricts itself to the acceptance of deposits from thrift institutions or savings banks, deposits arising out of the corporate business of its owners, and deposits of public moneys.".

Beginning with page 35, line 12, strike out all through page 36, line 6, and redesignate succeeding paragraphs accordingly.

On page 35, line 2, strike out all after the period.

On page 35, between lines 2 and 3, insert the following:

"(E) This paragraph shall not prohibit (i) the continuation of any affiliation or relationship with a nonmember bank that is controlled by a company that is not a bank holding company under the Bank Holding Company Act of 1956 but that controlled an institution on July 1, 1983, that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in the Financial Services Competitive Equity Act, where the affiliation or relationship commenced on or prior to June 27, 1984, or (ii) the establishment of such an officer, director, or employee relationship in connection with any such affiliation established on or prior to June 27, 1984."; and

On page 40, strike out all beginning with the colon on line 5 through "capital" on line 10.

On page 44, beginning after "Corporation" on line 14, strike out all through "(ii)" on line 20 and insert in lieu thereof a comma.

On page 45, line 4, strike out "clause (ii) of".

On page 45, lines 15 through 17, strike out the following: ", and which is a Federal association on the date of enactment of the Financial Services Competitive Equity Act,".

On page 46, between lines 5 and 6, insert the following:

"(C) The Corporation may grant such temporary and limited exceptions from the 60 percent of assets requirement set forth in subparagraph (B) as the Corporation deems necessary when the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirement."

Redesignate succeeding subparagraphs accordingly.

On Page 50, between lines 18 and 19, insert the following:

(g) Section 408(a)(1)(A) of the National Housing Act is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, shall be deemed to be an 'insured institution' for purposes of this section and section 408(o)(1), if the Corporation determines that it is in compliance with section 408(c)(4)(B). Any institution so notifying the Corporation that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of five years.".

On Page 51, line 23, strike out "(ii)".

On Page 53, lines 5 and 7, strike out "July 1, 1983" and insert in lieu thereof "June 27, 1984".

On Page 53, strike out lines 12 and 13, and insert in lieu thereof the following:

"(4) Nothing in this subsection or section 18(j)(3) of the Federal Deposit Insurance Act prohibits an affiliation or officer, director, or employee relationship between an insured institution or an institution which is eligible to become a member of a Federal Home Loan Bank, and an organization engaged principally in the issuance, sale, underwriting, or distribution, at wholesale or retail, or through syndicate participation, of—

"(A) securities representing or secured by interests in real estate or real estate loans or pools of real estate loans;

"(B) interests in partnerships formed primarily to own, operate, manage, or invest in real estate;

"(C) insurance products deemed to be securities, including without limitation variable annuities and variable life insurance;

"(D) securities of an investment company, as such term is defined in the Investment Company Act of 1940; and

"(E) any securities to the extent such issuance, sale, underwriting, or distribution is permitted for national banks.

"(5) The Corporation is authorized to issue rules and regulations and to publish interpretations governing the implementation of this subsection, and shall enforce the provisions of this subsection, except that for the purpose of paragraph (4), the Federal Deposit Insurance Corporation is authorized to issue rules and regulations and publish interpretations with respect to savings banks and other institutions subject to section 18(j)(3) of the Federal Deposit Insurance Act.".

On page 56, between lines 16 and 17, insert the following:

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of law, a savings bank operating in mutual form may reorganize so as to form a holding company pursuant to the procedures specified in paragraphs (1) through (3) of section 408 (p) of the National Housing Act. A corporation organized as a holding company under this subsection shall be regulated on the same terms and be subject to the same limitations as a stock savings bank holding company.".

On page 64, line 4, strike out "1983" and insert in lieu thereof "1984".

On page 94, between lines 9 and 10, insert the following:

"(f) A depository institution that does not begin to compute interest or dividends on funds deposited by check or similar instrument to an interest bearing deposit account or a time deposit on or before the date on which that depository institution receives provisional credit for the deposit (or if provisional credit is given on a nonbusiness day, the next business day) shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.".

Redesignate the succeeding subsections accordingly.

On page 95, strike out lines 12 through 22, and insert in lieu thereof the following:

"SEC. 604. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument (or if provisional credit is given on a nonbusiness day, on the next business day) unless the computation of interest begins at a later date for all deposits, including cash deposits, made to the account or deposit. Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.".

On page 131, line 8, strike out "July" and insert in lieu thereof "June".

At the end of the bill, add the following:

FEDERAL HOME LOAN BANK BOARD

SEC. . Section 18 of the Federal Home Loan Bank Board Act (12 U.S.C. 1438) is amended by adding at the end thereof the following:

"(d) In accordance with regulations which the Board shall prescribe to prevent conflicts of interest, the Board may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Board members and employees in attending meetings and conferences concerning the functions or activities of the Board. Any payment or reimbursement accepted will be credited to the appropriated funds of the Board. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Board may include in its regulations under this subsection a limitation on such amounts.".

BANK REGULATION STUDY

SEC. . (a) The Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency shall each conduct an independent study of how the risk of bank failures may be reduced. In the course of such study, each such agency shall consider—

(1) changing examination procedures to provide earlier indications of potential financial difficulties;

(2) increasing the amount and quality of required primary capital;

(3) requiring the issuance of subordinated debt as a supplement to primary capital;

(4) placing restrictions on contingent liabilities including loan commitments and stand-by letters of credit;

(5) limiting the extent of any mismatch in the maturities of assets and liabilities;

(6) establishing liquidity requirements commensurate with the volatility of a bank's liabilities and the illiquidity of its assets;

(7) increasing deposit insurance premiums for larger banks to compensate for the implicit guarantee provided for all deposit liabilities;

(8) alternatives to liquidation of troubled banks;

(9) changing liquidation procedures for failed banks; and

(10) other related issues.

(b) A report containing the results of each study shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate not later than six months after the date of enactment of this Act.

CONVERSIONS

SEC. . (a) Section 403 of the National Housing Act (12 U.S.C. 1726) is amended by adding at the end thereof the following:

"(e) If, upon application, and pursuant to a plan of conversion to an institution of a type eligible to be an insured institution, the Corporation, in its discretion, determines to grant insurance of accounts to a savings bank that is an insured bank (as the term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), such insurance shall become effective at such time as the Corporation stipulates, at which time such institution automatically shall lose its status as such an insured bank. No change of deposit insurance agencies from the Federal Deposit Insurance Corporation to the Corporation shall be treated, for the purposes of section 18(i) of the Federal Deposit Insurance Act, as involving a conversion to a noninsured bank or institution, except that the Corporation shall provide the Federal Deposit Insurance Corporation with notification of any application that, if granted, would involve such a change of deposit insurance agencies, shall consult with the Corporation before disposing of the application, and shall provide the Federal Deposit Insurance Corporation with notification of the detemination with respect to such application.".

(b)(1) Section 18(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(12)) is amended to read as follows:

"(12) The provisions of this subsection shall not apply to any transaction where the acquiring, assuming or resulting institution is an insured Federal savings bank or an institution insured by the Federal Savings and Loan Insurance Company, except that any insured bank involved in the transaction shall notify the Corporation in writing at least 30 days prior to consummation of the transaction and, if any approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation is required in connection therewith, such approving authority shall provide the Corporation with notification of the appli-

cation for approval, shall consult with the Corporation before disposing of the application, and shall provide notification to the Corporation of the determination with respect to said application.".

(2) Section 18(i) of such Act is amended by adding at the end thereof the following:

"(5) Nothing in this subsection shall apply to a conversion of an insured bank to an insured institution pursuant to section 403(e) of the National Housing Act (12 U.S.C. 1727(e)).".

Amend the table of contents accordingly.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I want to thank my good friend, the chairman of the committee and the manager of the bill, for incorporating into his amendment a proposal which I made to require the regulators to study the soundness and safety of our banking system and make recommendations to us so that we can act to make sure that our banking system does not decline into the kind of a situation which could be very difficult.

I say that because, as I have recently said on the floor several times, we have had a series of bank failures in the last year, more than in any other year in the last 50, and the year is only 8 months gone.

I say that also because the difficult situation of the Continental Illinois Bank is fresh in our minds and we want to avoid that kind of a disaster in the future. There is no question that more effective regulation could, and should prevent such problems from arising.

The amendment is directly relevant to one of the bill's stated purposes—that is, to provide for the safe and sound operation of depository institutions. My amendment simply requires the Federal Deposit Insurance Corporation [FDIC], the Comptroller of the Currency, and the Federal Reserve System, our principal bank regulators, to each conduct an independent study of how the risks of bank failures may be reduced, and to submit their separate reports to the Banking Committee of each House of Congress within 6 months of enactment of S. 2851. I believe each agency should submit its own views because that will help ensure that Congress does not receive a watered down, lowest common denominator, combined, consensus report.

While my amendment would require each regulator to consider and address certain key factors important to banking safety such as capital adequacy requirements, it is not limiting, and each banking agency can make recommendations on other issues it believes are relevant to the safety and soundness of our financial system. The reports should provide Congress with a blueprint of actions needed to restore confidence in commercial banking which has been the catalyst of our Nation's economic growth. I believe this amendment is particularly important in light of the abuses in sound banking practices that are coming to light in the wake of the disaster at the Continental Illinois Bank.

Again, I want to thank my good friend, the chairman of the committee, for agreeing to incorporate this matter into the comprehensive amendment, which I strongly support.

Mr. NICKLES. Mr. President, this amendment requiring a study of ways to strengthen our present system of bank regulation will provide an excellent resource in mapping the future of our Federal banking system.

Our Nation has enjoyed more than 50 years of a relatively sound banking industry. This is a tremendous freedom Americans have enjoyed year after year. Congress is now in the process of insuring many more years of similar security. However, in order to gain a better perspective on the issues facing this vital sector of our economy, we need to have the insight and expertise of those involved in the regulation of our banks. For this reason the study proposed by Senator PROXMIRE is very appropriate.

The amendment calls upon the three primary bank regulators, the Federal Reserve Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, to conduct independent studies of how the risk of bank failures may be reduced. It also gives them the leeway of providing other information which they deem as appropriate to be included in their work. Mentioned in the amendment are seven areas to be addressed in the studies. They are directed at precautionary steps that may be taken to prevent bank failures.

In addition to these precautionary items, I believe the studies should also look at the options available to the banking regulators once the bank has been determined to be in trouble or actually has commenced the liquidation process. For this reason I have asked Senator PROXMIRE to include in the scope of this study: First, options available to bank regulators when considering the disposition of troubled banks and possible changes in that process; and second, changes that could be made in the liquidation procedures for failed banks. The soundness of the banking system also depends upon the process the regulators use to close banks. The risk of bank failures is reduced when an overall confidence in the banking system exists with the public and bank depositors. This confidence is increased when the public is aware of the process used to close banks and that this process is being evaluated and revamped due to changing economic conditions.

I recommend these two additional items with an acute awareness of the problem of failed and troubled banks. In my State of Oklahoma, we experienced two significant bank failures within the past 3 years involving losses to uninsured depositors. The complexity and difficulty of the liquidations has created extremely difficult situations in the banking system in the State resulting in harsh economic consequences.

Laying out the options available to the regulators when considering the closure of a bank and the ongoing liquidation of its remaining assets and liabilities gives both the Congress and bank depositors a better understanding of what can be done in such instances.

I commend the senior Senator from Wisconsin for offering this amendment and urge that it be adopted.

Mrs. HAWKINS. Mr. President, I support the managers' amendments to S. 2851, especially regarding the provisions relating to a securities brokerage network of the sort operated by the ISFA Corp. Participation in a securities brokerage network gives smaller, less amply capitalized financial institutions the opportunity to remain more competitive with the financial industry giants who can afford to acquire or establish their own securities brokerage businesses.

This amendment is designed to achieve equality—no more and no less between institutions that establish depository institution securities affiliates and institutions that find it more economical or efficient to participate in a securities brokerage network. It enables firms like ISFA to continue to make their existing securities brokerage and investment advisory services available on the premises of financial institutions and would make clear that such firms could even broaden their activities somewhat to remain competitive with depository institution securities affiliates. However, it does not allow such firms to engage in underwriting activities in which a depository institution securities affiliate could not itself engage. Thus, competitive parity is achieved—no more and no less.

Mr. RIEGLE. Mr. President, I want to thank the managers of S. 2851, The Financial Services Competitive Equity Act, for taking care, in the managers' amendments, of a situation of particular concern to me which I have brought to their attention.

Comerica Inc. is a Michigan bank holding company that received permission from the Federal Reserve Board in November 1983 to acquire Comerica-Midwest, N.A., a national bank located in Ohio. Unlike other nonbank banks, Comerica-Midwest, N.A., neither accepts demand deposits or NOW accounts, nor makes commercial loans.

It makes personal credit card loans funded by time deposits from affiliated banks—and is authorized to accept $100,000 time deposits from financial institutions.

Although the bank neither accepts demand deposits nor makes commercial loans, it is a bank under section 104(a)(1) of the Garn legislation because it is chartered as a national bank and is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act. Accordingly Comerica would have been required to divest it within 180 days of adoption of the legislation—section 104(b)(2)—under the original language of the bill.

Comerica's purpose in acquiring the bank was neither to engage in interstate banking nor to mix banking and nonbanking activities. Its purpose, as authorized by the Federal Reserve Board, November 16, 1983, was to offer credit card and related personal lending services.

The case of Comerica-Inc. and Comerica-Midwest, N.A., clearly presents a unique fact situation which was recognized and positively addressed by the managers. On August 23, 1984, I solicited the views of the Federal Reserve Board regarding the merits of grandfathering Comerica-Midwest, N.A. My letter and the response from the Federal Reserve Board are included below. Once again, I thank the managers of the bill for taking care of my particular problem with the legislation as originally drafted.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, August 23, 1984.

MICHAEL BRADFIELD, Esq.,
General Counsel, Federal Reserve Board, 20th and L Streets NW, Washington, DC.

DEAR MR. BRADFIELD: I am writing regarding Comerica Incorporated, a Michigan bank holding company that received permission from the Federal Reserve Board in November 1983 to acquire Comerica-Midwest, N.A., a national bank located in Ohio.

Comerica-Midwest neither accepts demand deposits or NOW accounts, nor makes commercial loans. It makes personal credit card loans funded by time deposits from affiliated banks (and is authorized to accept $100,000 time deposits from financial institutions).

As you know, pending banking legislation would require the holding company to divest Comerica-Midwest.

While the Board has been justifiably critical of companies taking advantage of the nonbank loophole, it appears that in the past you found this particular application unobjectionable.

I have been approached by constitutent representatives of Comerica Incorporated who have asked me to introduce the attached amendment on their behalf for the sole purpose of permitting this bank holding company to retain its nonbank bank.

My inclination is to offer the amendment but before doing so, I would appreciate your written views on the merits of grandfathering this particular institution. Given the past position of the Federal Reserve Board in approving the application of Comerica Incorporated it would be my intention to use your response in support of the amendment.

Since the Financial Services Competitive Equity Act may come up on the floor of the Senate shortly after we reconvene from our current recess, I would appreciate receiving your views on this subject by Monday, September 3, 1984.

Many thanks.

Sincerely,

DONALD W. RIEGLE, Jr.

Enclosure.

COMERICA AMENDMENT

In lieu of the present section 104(b) (2) of S. 2581, substitute the following, which adds the underlined language in the parenthesis:

(2) by adding at the end of subsection (d) the following: "Any company that controls a company which was established or acquired on or after July 1, 1983 *(other than an acquisition for which an application had been submitted under this Act by that date)* which became a bank as a result of the enactment of the Financial Services Competitive Equity Act and the establishment or acquisistion of which would have been prohibited by this subsection had the definition of a bank in such Act been in effect at the time of establishment or acquisition shall divest such bank within 180 days of the effective date of such act.

FEDERAL RESERVE SYSTEM,
Washington, D.C, September 4, 1984.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR RIEGLE: I am writing in response to your letter of August 23, requesting my views regarding a proposed amendment to the bank definition in S. 2851. This amendment would modify the grandfather provision in that definition so that a nonbank bank acquired by Comerica, Inc., Detroit, Michigan, in November of 1983 could be retained. Comerica is a bank holding company and it secured the Board's approval to acquire this nonbank bank on November 16, 1983.

As presently drafted, S. 2851 would require the divestiture of any nonbank bank acquired after July 1, 1983. The nonbank bank acquired by Comerica is Comerica-Midwest, N.A., Toledo, Ohio, a limited purpose bank that engages solely in credit card operations. This bank does not accept demand deposits or offer any type of transaction accounts, nor does it offer savings accounts to the general public. Similarly, it does not make commercial loans of any type. Comerica acquired this bank in order to take advantage of the less restrictive policy of the State of Ohio with regard to credit card interest rates.

The amendment to S. 2851 enclosed with your letter would expand the grandfather provision contained in that bill to encompass acquisitions for which an application had been submitted under the Bank Holding Company Act as of July 1, 1983. Since the Comerica application was filed before this date, enactment of this language would allow Comerica to retain Comerica-Midwest.

Four other bank holding company acquisitions of industrial banks or trust companies across state lines would also appear to be covered by bthis amendment. However, these institutions would be exempt from the ank definition under S. 2851 as presently drafted and it therefore appears that the effect of the amendment accompanying your letter would be to grandfather solely Comerica's acquisistion of Comerica-Midwest.

In view of the extremely limited functions of Comerica-Midwest, grandfathering the ownership of this institution by Comerica would be not at variance with the general purpose of S. 2851 to close the nonbank bank loophole. In this regard, as is the case with an institution acquired before the July 1, 1983 grandfather date, Comerica would not be permitted under the proposed section 3(d)(2) of the Bank Holding Company Act to expand the activities of Comerica-Midwest beyond those originally approved by the Board or acquire additional banks in Ohio through Comerica-Midwest.

Thank you for the opportunity to express my views on this matter. If I can be of further assistance, please contact me.

Sincerely,

MICHAEL BRADFIELD,
General Counsel.

Mr. MATSUNAGA. Mr. President, I rise to express my strong support for the amendment, No. 3756, offered by the distinguished chairman of the Banking Committee, Mr. GARN, which addresses a problem relating to the treatment of industrial loan companies in my home State of Hawaii.

The Financial Services Competitive Equity Act (S. 2851), which is currently pending before this body, amends the present definition of a bank under the Bank Holding Company Act to help eliminate the loophole that has allowed the so-called "nonbank banks" to avoid the restrictions of the Bank Holding Company Act. Under this bill as reported by the Senate Banking Committee, a bank for the purposes of this act is redefined to include all institutions insured by the Federal Deposit Insurance Corporation [FDIC]. Under a Hawaii State law which took effect on July 1, 1983, all industrial loan companies are required to obtain Federal Deposit Insurance Corporation membership in order to continue their thrift activities. Therefore under this bill, the Hawaii industrial loan companies would become subject to the restrictions of the Bank Holding Company Act even though these companies were not established or acquired to evade the restrictions on bank holding companies and are specifically forbidden under Hawaii State law from engaging in the banking business. The pending amendment makes it clear that these industrial loan companies, which were required without exception to become members of the Federal Deposit Insurance Corporation as a requisite to accepting accounts under State law, would not be treated as a bank, provided that they do not accept deposits which the depositors may withdraw by check or similar means for payment to third parties.

Mr. President, the amendment is necessary to enable a number of industrial loan companies in Hawaii to continue in business.

I thank the chairman for his offering the amendment upon my request, and I join him in urging its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3756) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, at this point, after adopting the committee amendment, may I explain for all of my colleagues what the situation is on the bill at this point?

Yesterday, I described to the Senate the fact that we had ongoing negotiations all afternoon in an attempt to achieve a time agreement. Although we came very close to achieving one, we were not successful. However, as everyone will note, there is no extended debate going on today.

Mr. President, we have adopted the committee amendment. We will proceed with other amendments this afternoon. The Senator from New York, and others opposed to various sections of this bill, however, have not yet agreed to a time agreement, but at least for the time being, they have called off their extended debate with the assurance that the issues we have been talking about will not come up today.

Therefore, the issues of insurance, regional banking, and securities powers—the four major controversial items we have been discussing at great length for the last few days—will not come up today. I think that was certainly a fair trade, the assurance from me that these issues would not be brought up today in exchange for our being able to proceed with other amendments that are not of the same controversial nature.

I would expect that tomorrow will be when we get to some of those key issues, the most controversial ones.

Mr. President, the Senator from Ohio is on the floor and he does have some amendments he wishes to present. However, I do believe it is possible that with some additional discussions, we might be able to accept at least some of his amendments.

Mr. President, at this time I would simply suggest the absence of a quorum while negotiations proceed.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I send to the desk four amendments that are reported to amend the present bill. I ask that these amendments be made available to be called up at a later time.

The PRESIDING OFFICER. The Senator has that right.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3761

(Purpose: To require certain disclosures with respect to fees and charges)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 3761.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, line 15, after "account." insert the following:

A depository institution shall also provide a written disclosure to the potential customer of all fees and charges that can be assessed against deposit accounts.

On page 93, line 16, after "account," insert: "or any change in the fees and charges to be assessed against a deposit account",

On line 18 change "the change" to "such changes"

Mr. METZENBAUM. Mr. President, a parliamentary inquiry. Will the Parliamentarian be good enough to advise, there are, in fact, three different sections which have been changed. Must it be considered as three different amendments or will it take unanimous consent to have it considered en bloc?

The PRESIDING OFFICER. Unanimous consent is required.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the three portions of the pending amendment be considered en bloc as if they were one.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be considered as one.

CHECKING ACCOUNT DISCLOSURE

Mr. METZENBAUM. Mr. President, this amendment requires banks to provide potential deposit account customers a list of all fees and charges that can be assessed against their accounts. It does not prohibit fees, nor does it limit them in any way. It is purely and simply a disclosure amendment.

Some banks do this already. But in an era of deregulation, when these fees are increasing to burdensome—sometimes exorbitant—levels, it is especially important to make sure consumers receive this information.

A Consumer Federation of America survey found that penalties for bounced checks range from $7 to $20. Some banks do not charge anything for depositing a check drawn against insufficient funds. Others charge $12. Obviously, it pays to shop around.

A Wall Street Journal article last month, headlined "Bank's New Services Prompt Higher Fees and a need for Consumers to Shop Around" said that:

If you think banking deregulation has spawned only now accounts, super-now accounts and automated tellers on every corner, you should know one more thing: these options are probably costing you money.

Today's varied banking choices come with a not-so-obvious price tag—new and rising service fees. And sometimes you're paying these fees needlessly.

The Federal Reserve Board has estimated that banks collected $10 billion in service charges on deposit accounts in 1983—double the figure of just 4 years ago.

Mr. President, I have no quarrel with the fees. I just want consumers to receive vital information to help them make thoughtful banking decisions in the fast-changing financial service industry. This amendment accomplishes that.

Mr. President, this is a very simple amendment. We find in today's banking programs that many banks have changed the fees charged their customers without giving them adequate notice. As I have said, I have no problem about banks changing their fees, but I do have strong feelings about the fact that the customer ought to be advised in advance of the change; then if the customer does not approve of it, the customer always has the ultimate right to withdraw his or her funds.

The amendment would also cover the fact that when a potential customer opens a new account, the potential customer would be advised in advance as to what the banking charges are. I have heard of cases where people had rather modest deposits in a bank and they had no activity with respect to the account and some months thereafter, they learned that most of their funds had been depleted, in some instances all of their funds, because of banking charges. All I am suggesting and all that this amendment would require is that the bank give adequate notice.

Mr. GARN. Mr. President, I have reviewed this amendment of the Senator from Ohio, and I am willing to accept it.

Mr. PROXMIRE. Mr. President, I commend my good friend from Ohio. I am always impressed by the way he is a man for all committees as well as a man for all seasons. He is the closest thing we have to Senator Javits, who did such a marvelous job in his terms here in the Senate.

I have served on the committee for many, many years. The Senator has never served on the committee, as far as I know, yet he comes up with amendments that I think are first class. This is an amendment that provides for the kind of disclosure every customer should have had long ago. I think it is a fine amendment; I am delighted to support it.

Mr. METZENBAUM. I am pleased with the comments of my good friend from Wisconsin as well as with the fact that the manager of the bill is accepting this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3761) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3763

(Purpose: To require lenders to limit adjustable rate mortgage increases)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 3763.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

ADJUSTABLE RATE MORTGAGE LIMITS

SEC. (a). In connection with a residential mortgage transaction of less than $500,000 a creditor shall limit the total amount of the increase in the interest rate on variable rate mortgages to not more than five percentage points above the initial rate over the term of the loan. As used in this Section, the term "residential mortgage transacton" and "creditor" shall be the same as defined in Section 103 of the Truth-in-Lending Act.

(b) The Board of Governors of the Federal Reserve Board shall prescribe regulations to carry out this section. Compliance with this section and such regulations shall be enforced as provided in Section 108 of the Truth-in-Lending Act.

(c) This section shall take effect on June 1, 1985.

Mr. METZENBAUM. Mr. President, this amendment would require the Federal Reserve Board to limit the total increase in interest rates of adjustable rate mortgages of 5 percent over the term of the loan. Thus, if the initial fate is 11 percent, the loan would be capped at 16 percent. Some responsible lenders already apply a 5 percent lifetime cap in their ARM's. I believe all lenders should follow this practice. But many lenders prefer to shift the entire interest rate risks to borrowers by selling only uncapped mortgages.

I think this is not only unfair, it is a classic case of cutting off your nose to spite your face. They have shifted the risk but also sown the seeds for more defaults as borrowers fail to meet unchecked rising monthly payments.

Interest rate caps provide a measure of protection to borrowers. They are a safety net. Without caps, there is no way borrowers can make short or long term financial plans.

Further, the absence of interest rate caps raises the real danger that unsuspecting borrowers will find their homeownership dreams shattered by ever-soaring payments.

Mr. GARN. Mr. President, I have discussed this amendment with the distinguished Senator from Ohio. With a couple of small modifications which he made before submitting the amendment, it is acceptable to the majority side.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment. I have had a chance to discuss it with the staff, and I think it is a good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3763) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3766

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 3766.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following:

"(1) It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 12, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 20 per centum of such class unless—

"(1) such person is the issuer of that security; or

"(2) the same tender offer, request, or invitation is made to the holders of all outstanding shares of the class.".

Mr. METZENBAUM. Mr. President, there has been a practice developed in this country in connection with takeovers of companies where certain corporations or individuals have come in with a tender offer and have offered the principals of the company a specified price, a price high enough to give them control of the company.

This amendment would prohibit two-tier front-end loaded tender offers because what has then occurred is after they get control of the company and assuming they offer $60 a share and they get control, then they offer to buy up the balance of the company from the common shareholders, the people who are just the individuals, for $50 or $40 a share.

That, to this Senator, is wrong. The practice is coercive and unfair to the minority shareholders. It treats shareholders unequally. It puts a premium on rushing to tender to get the best financial deal rather than encouraging a more thoughtful decision which could provide greater benefit to both the individual and the general econo-

my. Many in the investment and corporate community have denounced two-tier offers and called for their abolition.

Martin Lipton, a member of the SEC's Advisory Committee on Tender Offer Reform and one of the Nation's most prominent takeover specialists, said in House testimony this year that two-tier front-end loaded bootstrap offers are "an abuse that should be eliminated."

They are devices through which unsophisticated shareholders are taken advantage of by professional investors. They present a very serious threat to our free enterprise corporate system. They spawn corporate raiders where otherwise none would exist.

Today, even the largest and most successful company is not immune from a front-end loaded bootstrap raid, according to Mr. Lipton. This means that management attention must be shifted from long-term planning to raid defense.

Felix G. Rohatyn, a senior partner in the investment banking house of Lazard Freres, and one of the Nation's most prominent investment bankers, has said that "two-tier tender offers should be prohibited." And that is the thrust of this amendment. He has observed that two tiers are unfair because "the benefits of a very high priced first step benefit largely professional investors and are used to create a stampede, while the less informed, smaller stockholder receives the lower priced second step."

Finally, the National Association of Manufacturers has called two-tier offers "inherently coercive and unfair." In House testimony this year, Paul Elicker, chairman and president of the SCM Corp., representing N.A.M., said:

A heavy front-end-loaded offer, with a reduced second step, puts tremendous pressure on shareholders to reach a complex decision based upon personal capital maximization. The front-end acceptance, with its financial price advantage, dissuades shareholders from delaying final decision on acceptance of offers. In effect, delay and rational consideration is heavily penalized with no economic justification for that penalty.

Mr. GARN. Mr. President, I certainly understand the intent of the Senator from Ohio and what he is trying to accomplish in this amendment. We have had the opportunity to discuss this prior to his introducing it, and both Senator PROXMIRE and I feel that we have not focused on these issues in detail. These issues are in an area that does need to be addressed, does need some attention. I do not think there is any doubt about that.

What I would say to the Senator from Ohio is that I would certainly be willing—if he were willing to withdraw his amendment at this time—to schedule a hearing, not next year as we often hear on the floor—that technique to get the amendment off the floor we promise anything. We will schedule a hearing before the end of this month, before we adjourn, and I will be happy to have the Senator from Ohio attend that hearing and sit as an ex officio member of the Banking Committee and have an opportunity to question witnesses.

Mr. METZENBAUM. I thank the Senator.

Mr. President, I appreciate the consideration of the manager of the bill and I know that he is acting in concert with the minority manager of the bill.

There is another amendment that I was about to offer which I think could be taken up at the same time, and that has to do with the fact that as to tender offers, the law today only requires 20 days for tender offers to be extended. There are many of us who feel very strongly that the period should be extended to 60 days or at least some period in between 20 and 60, and with the assurance of the chairman of the committee that that issue as well could be taken up at that hearing, I would be prepared to withdraw the amendment.

I think that the chairman of the committee has indicated he would be willing to do that.

Mr. GARN. Yes. I say to the Senator from Ohio I certainly would be willing to consider that in a hearing, and I would also add that the Senator from New York [Mr. D'AMATO], who is chairman of the Securities Subcommittee, has been very interested in the same subjects, and I have assurance from his staff that he would be willing to work with the Senator from Ohio in the hearings.

So we will take a look at both, and we will have the chairman of the subcommittee there.

Mr. METZENBAUM. Under those circumstances, I will not offer the second amendment having to do with the matter of extension of time from 20 days to 60 days, and with those assurances I will withdraw this amendment.

I think it is a matter of great urgency that we should give our attention to and must give our attention to, and I think the willingness of the chairman to set up a hearing in the closing weeks of this session is very reassuring to the Senator from Ohio, and I thank him for his cooperation.

The amendment is withdrawn.

The PRESIDING OFFICER. The Senator has withdrawn his amendment.

Mr. GARN. I thank the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the Chair.

Mr. President, I have just caused to be entered and printed in the RECORD an amendment to the measure presently before us. I have also supplied a copy of the proposed amendment to the manager and the minority manager of the bill that is before us.

It has to do with the agricultural problems in the great breadbasket of America.

I am pleased to say at this time I have three cosponsors of the amendment, Senators BAUCUS and MELCHER from Montana, and the distinguished Senator from North Dakota, who presently occupies the presiding officer's chair.

I would just like to enlighten my colleagues on what this is all about. When the Senate considers the Financial Services Competitive Act of this year, S. 2851, I will be offering the amendment that I have just caused to be printed to make it possible for troubled financial agriculture lenders to participate in the Net Worth Assistance Program.

As you will remember, the Net Worth Assistance Program was established by Congress in 1982 as part of the Garn-St Germain Depository Institutions Act. It was intended to provide capital assistance to troubled depository institutions which had a strong commitment to home mortgage lending. Many of these institutions were facing severe financial straits because they had a large portfolio of low-interest mortgages during a period of high-interest rates.

To qualify for the assistance, the institutions must have incurred losses during the preceding two quarters which were not the result of speculation or mismanagement, must have a net worth equal to 3 percent or less of assets and must have at least 20 percent of its loans in residential mortgages.

Mr. President, I suggest that the idea and the concept instituted by the distinguished manager of this bill, Senator GARN, and his counterpart in the House of Representatives was a meaningful piece of legislation, that it was extremely timely, and I believe that that action that he took at that time by the way in opposition to the FSLIC had a very constructive and positive effect trying to help out some of our institutions that were engaged in loans that affected real estate and were caught I say through no basic fault of their own except the fast-rising interest rates.

The measure that I have just caused to be printed and will call up for debate and vote at an appropriate time does the same thing, does the same thing, I emphasize, for agricultural banks in serious straits today. My amendment would effectively make commercial banks eligible for net worth assistance and would add an agricultural loan commitment test to the existing residential mortgage test. Commercial banks which have a ratio of primary capital to adjusted total sales equal to less than 5.5 percent and

which have at least 20 percent of their loans in agriculture would qualify for the net worth assistance program.

The 5.5-percent capital requirement is equivalent to the 3-percent net worth requirement for thrift institutions that was adopted in 1982.

The amendment would provide the FDIC with the additional tool for assisting troubled banks as an alternative to a merger or liquidation. A significant number of banks that are committed to agricultural lending face severe straits due to high real interest rates, the high value of the U.S. dollar, and the very weak market currently for farmland. These institutions face the difficult choice of foreclosing on farmers or risking their own liquidation or merger by the FDIC.

Making these institutions eligible for the Net Worth Assistance Program would buy them some time to work through these difficult economic times and provide an alternative to more drastic measures, such as liquidation or merger.

S. 2581 extends the Net Worth Assistance Program for 3 years. My amendment would simply make it possible for institutions with a commitment to agriculture to qualify for the same program. As a matter of equity and in recognition of the difficult times that many agriculture lenders are facing, this amendment should be adopted.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, the Senator from Nebraska did, a few moments ago, bring me a copy of this amendment. I appreciate the fact that he is not offering it at this point—at least that was my understanding—because we are taking a look at it. It is new to us and we are trying to check it out and will continue to do that. I will notify the Senator from Nebraska when I have an answer as to whether it is something we can consider or whether it is something we do not desire to enter into and press to a vote.

Mr. EXON. I thank my friend, the manager of the bill. He has adequately described the situation. That is why I presented it to him at this time and made the brief remarks so that we could get it out on the floor. If it is necessary to debate it further, I will do so and call it up for a vote at an appropriate time if we cannot reach an agreement, which I hope we can, because I think it is a significant step in the right direction. It merely builds upon the constructive actions taken by the manager of the bill a couple of years ago when we faced similar circumstances in another banking area.

Mr. GARN. Mr. President, I thank the Senator from Nebraska for his consideration and also indicate to him that in this bill, S. 2851, is an extension of that program. So whether or not we accept his amendment or adopt it on a vote, the amendment would be moot unless we are able to adopt this bill. The section he wishes to amend would die at the end of next year. That is one of the things I continue to talk about when we become so focused on the security powers and regional banking. There are those who would try to kill everything in the bill because of those particular issues. There are a lot of items in the bill that need to be passed and the extension of that assistance program is one of them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I send a number of amendments to the desk.

The PRESIDING OFFICER. The amendments will be received.

Mr. HATCH. I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I send to the desk a series of amendments.

The PRESIDING OFFICER. The amendments will be received.

Mr. GARN. Mr. President, I suggest the absence of a quorm.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I send some additional amendments to the desk.

The PRESIDING OFFICER. The amendments will be received.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT

Mr. HATCH. Mr. President, I intend at this time to ask that the Chair lay before the Senate a message from the House on S. 1538, the patent law amendments of 1984.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. BYRD. Can the Senator or Senators give me assurance there will be no amendments to or pertaining to any aspect of the message, and that there will be no motions?

Mr. HATCH. That is certainly the intent of this side. I do not believe there are any amendments on this side or any motions contemplated.

Mr. BYRD. Mr. President, would the distinguished Senator ask unanimous consent that there be no amendments in any manner, shape, or form, and no motion except the motion to concur in the House amendments?

Mr. HATCH. I ask unanimous consent, Mr. President, that there be no further amendments to S. 1538 nor any motions permitted other than the motion that the Senator concur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator.

Mr. HATCH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1538.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1538) entitled "An Act to amend the patent laws of the United States", do pass with the following amendments: Strike out all after the enacting clause and insert:

That this Act may be cited as the "Drug Price Competition and Patent Term Restoration Act of 1984".

TITLE I—ABBREVIATED NEW DRUG APPLICATIONS

SEC. 101. Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following:

"(j)(1) Any person may file with the Secretary an abbreviated application for the approval of a new drug.

"(2)(A) An abbreviated application for a new drug shall contain—

"(i) information to show that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new drug have been previously approved for a drug listed under paragraph (6) (hereinafter in this subsection referred to as a 'listed drug');

"(ii)(I) if the listed drug referred to in clause (i) has only one active ingredient, information to show that the active ingredient of the new drug is the same as that of the listed drug;

"(II) if the listed drug referred to in clause (i) has more than one active ingredient, in-

formation to show that the active ingredients of the new drug are the same as those of the listed drug, or

"(III) if the listed drug referred to in clause (i) has more than one active ingredient and if one of the active ingredients of the new drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the other active ingredients of the new drug are the same as the active ingredients of the listed drug, information to show that the different active ingredient is an active ingredient of a listed drug or of a drug which does not meet the requirements of section 201(p), and such other information respecting the different active ingredient with respect to which the petition was filed as the Secretary may require;

"(iii) information to show that the route of administration, the dosage form, and the strength of the new drug are the same as those of the listed drug referred to in clause (i) or, if the route of administration, the dosage form, or the strength of the new drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), such information respecting the route of administration, dosage form, or strength with respect to which the petition was filed as the Secretary may require;

"(iv) information to show that the new drug is bioequivalent to the listed drug referred to in clause (i), except that if the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the active ingredients of the new drug are of the same pharmacological or therapeutic class as those of the listed drug referred to in clause (i) and the new drug can be expected to have the same therapeutic effect as the listed drug when administered to patients for a condition of use referred to in clause (i);

"(v) information to show that the labeling proposed for the new drug is the same as the labeling approved for the listed drug referred to in clause (i) except for changes required because of differences approved under a petition filed under subparagraph (C) or because the new drug and the listed drug are produced or distributed by different manufacturers;

"(vi) the items specified in clauses (B) through (F) of subsection (b)(1);

"(vii) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the listed drug referred to in clause (i) or which claims a use for such listed drug for which the applicant is seeking approval under this subsection and for which information is required to be filed under subsection (b) or (c)—

"(I) that such patent information has not been filed,

"(II) that such patent has expired,

"(III) of the date on which such patent will expire, or

"(IV) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new drug for which the application is submitted; and

"(viii) if with respect to the listed drug referred to in clause (i) information was filed under subsection (b) or (c) for a method of use patent which does not claim a use for which the applicant is seeking approval under this subsection, a statement that the method of use patent does not claim such a use.

The Secretary may not require that an abbreviated application contain information in addition to that required by clauses (i) through (viii).

"(B)(i) An applicant who makes a certification described in subparagraph (A)(vii)(IV) shall include in the application a statement that the applicant will give the notice required by clause (ii) to—

"(I) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

"(II) the holder of the approved application under subsection (b) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

"(ii) The notice referred to in clause (i) shall state that an application, which contains data from bioavailability or bioequivalence studies, has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of such drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

"(iii) If an application is amended to include a certification described in subparagraph (A)(vii)(IV), the notice required by clause (ii) shall be given when the amended application is submitted.

"(C) If a person wants to submit an abbreviated application for a new drug which has a different active ingredient or whose route of administration, dosage form, or strength differ from that of a listed drug, such person shall submit a petition to the Secretary seeking permission to file such an application. The Secretary shall approve or disapprove a petition submitted under this subparagraph within ninety days of the date the petition is submitted. The Secretary shall approve such a petition unless the Secretary finds—

"(i) that investigations must be conducted to show the safety and effectiveness of the drug or of any of its active ingredients, the route of administration, the dosage form, or strength which differ from the listed drug; or

"(ii) that any drug with a different active ingredient may not be adequately evaluated for approval as safe and effective on the basis of the information required to be submitted in an abbreviated application.

"(3) Subject to paragraph (4), the Secretary shall approve an application for a drug unless the Secretary finds—

"(A) the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the drug are inadequate to assure and preserve its identity, strength, quality, and purity;

"(B) information submitted with the application is insufficient to show that each of the proposed conditions of use have been previously approved for the listed drug referred to in the application;

"(C)(i) if the listed drug has only one active ingredient, information submitted with the application is insufficient to show that the active ingredient is the same as that of the listed drug;

"(ii) if the listed drug has more than one active ingredient, information submitted with the application is insufficient to show that the active ingredients are the same as the active ingredients of the listed drug, or

"(iii) if the listed drug has more than one active ingredient and if the application is for a drug which has an active ingredient different from the listed drug, information submitted with the application is insufficient to show—

"(I) that the other active ingredients are the same as the active ingredients of the listed drug, or

"(II) that the different active ingredient is an active ingredient of a listed drug or a drug which does not meet the requirements of section 201(p),

or no petition to file an application for the drug with the different ingredient was approved under paragraph (2)(C);

"(D)(i) if the application is for a drug whose route of administration, dosage form, or strength of the drug is the same as the route of administration, dosage form, or strength of the listed drug referred to in the application, information submitted in the application is insufficient to show that the route of administration, dosage form, or strength is the same as that of the listed drug, or

"(ii) if the application is for a drug whose route of administration, dosage form, or strength of the drug is different from that of the listed drug referred to in the application, no petition to file an application for the drug with the different route of administration, dosage form, or strength was approved under paragraph (2)(C);

"(E) if the application was filed pursuant to the approval of a petition under paragraph (2)(C), the application did not contain the information required by the Secretary respecting the active ingredient, route of administration, dosage form, or strength which is not the same;

"(F) information submitted in the application is insufficient to show that the drug is bioequivalent to the listed drug referred to in the application or, if the application was filed pursuant to a petition approved under paragraph (2)(C), information submitted in the application is insufficient to show that the active ingredients of the new drug are of the same pharmacological or therapeutic class as those of the listed drug referred to in paragraph (2)(A)(i) and that the new drug can be expected to have the same therapeutic effect as the listed drug when administered to patients for a condition of use referred to in such paragraph;

"(G) information submitted in the application is insufficient to show that the labeling proposed for the drug is the same as the labeling approved for the listed drug referred to in the application except for changes required because of differences approved under a petition filed under paragraph (2)(C) or because the drug and the listed drug are produced or distributed by different manufacturers;

"(H) information submitted in the application or any other information available to the Secretary shows that (i) the inactive ingredients of the drug are unsafe for use under the conditions prescribed, recommended, or suggested in the labeling proposed for the drug, or (ii) the composition of the drug is unsafe under such conditions because of the type or quantity of inactive ingredients included or the manner in which the inactive ingredients are included;

"(I) the approval under subsection (c) of the listed drug referred to in the application under this subsection has been withdrawn or suspended for grounds described in the first sentence of subsection (e), the Secretary has published a notice of opportunity for hearing to withdraw approval of the listed drug under subsection (c) for grounds described in the first sentence of subsection (e), the approval under this subsection of the

listed drug referred to in the application under this subsection has been withdrawn or suspended under paragraph (5), or the Secretary has determined that the listed drug has been withdrawn from sale for safety or effectiveness reasons;

"(J) the application does not meet any other requirement of paragraph (2)(A); or

"(K) the application contains an untrue statement of material fact.

"(4)(A) Within one hundred and eighty days of the initial receipt of an application under paragraph (2) or within such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall approve or disapprove the application.

"(B) The approval of an application submitted under paragraph (2) shall be made effective on the last applicable date determined under the following:

"(i) If the applicant only made a certification described in subclause (I) or (II) of paragraph (2)(A)(vii) or in both such subclauses, the approval may be made effective immediately.

"(ii) If the applicant made a certification described in subclause (III) of paragraph (2)(A)(vii), the approval may be made effective on the date certified under subclause (III).

"(iii) If the applicant made a certification described in subclause (IV) of paragraph (2)(A)(vii), the approval shall be made effective immediately unless an action is brought for infringement of a patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(i) is received. If such an action is brought before the expiration of such days, the approval shall be made effective upon the expiration of the thirty-month period beginning on the date of the receipt of the notice provided under paragraph (2)(B)(i) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that—

"(I) if before the expiration of such period the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of the court decision,

"(II) if before the expiration of such period the court decides that such patent has been infringed, the approval shall be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code, or

"(III) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent is not invalid or not infringed, the approval shall be made effective on the date of such court decision.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of forty-five days from the date the notice made under paragraph (2)(B)(i) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

"(iv) If the application contains a certification described in subclause (IV) of paragraph (2)(A)(vii) and is for a drug for which a previous application has been submitted under this subsection containing such a certification, the application shall be made effective not earlier than one hundred and eighty days after—

"(I) the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing of the drug under the previous application, or

"(II) the date of a decision of a court in an action described in clause (iii) holding the patent which is the subject of the certification to be invalid or not infringed,

whichever is earlier.

"(C) If the Secretary decides to disapprove an application, the Secretary shall give the applicant notice of an opportunity for a hearing before the Secretary on the question of whether such application is approvable. If the applicant elects to accept the opportunity for hearing by written request within thirty days after such notice, such hearing shall commence not more than ninety days after the expiration of such thirty days unless the Secretary and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within ninety days after the date fixed by the Secretary for filing final briefs.

"(D)(i) If an application (other than an abbreviated new drug application) submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of an application submitted under this subsection which refers to the drug for which the subsection (b) application was submitted effective before the expiration of ten years from the date of the approval of the application under subsection (b).

"(ii) If an application submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), is approved after the date of the enactment of this subsection, no application may be submitted under this subsection which refers to the drug for which the subsection (b) application was submitted before the expiration of five years from the date of the approval of the application under subsection (b), except that such an application may be submitted under this subsection after the expiration of four years from the date of the approval of the subsection (b) application if it contains a certification of patent invalidity or noninfringement described in subclause (IV) of paragraph (2)(A)(vii). The approval of such an application shall be made effective in accordance with subparagraph (B) except that, if an action for patent infringement is commenced during the one-year period beginning forty-eight months after the date of the approval of the subsection (b) application, the thirty-month period referred to in subparagraph (B)(iii) shall be extended by such amount of time (if any) which is required for seven and one-half years to have elapsed from the date of approval of the subsection (b) application.

"(iii) If an application submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application approved under subsection (b), is approved after the date of enactment of this subsection and if such application contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application submitted under this subsection for the conditions of approval of such drug in the subsection (b) application effective before the expiration of three years from the date of the approval of the application under subsection (b) for such drug.

"(iv) If a supplement to an application approved under subsection (b) is approved after the date of enactment of this subsection and the supplement contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the supplement and conducted or sponsored by the person submitting the supplement, the Secretary may not make the approval of an application submitted under this subsection for a change approved in the supplement effective before the expiration of three years from the date of the approval of the supplement under subsection (b).

"(v) If an application (or supplement to an application) submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of an application submitted under this subsection which refers to the drug for which the subsection (b) application was submitted or which refers to a change approved in a supplement to the subsection (b) application effective before the expiration of two years from the date of enactment of this subsection.

"(5) If a drug approved under this subsection refers in its approved application to a drug the approval of which was withdrawn or suspended for grounds described in the first sentence of subsection (e) or was withdrawn or suspended under this paragraph or which, as determined by the Secretary, has been withdrawn from sale for safety or effectiveness reasons, the approval of the drug under this subsection shall be withdrawn or suspended—

"(A) for the same period as the withdrawal or suspension under subsection (e) or this paragraph, or

"(B) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

"(6)(A)(i) Within sixty days of the date of the enactment of this subsection, the Secretary shall publish and make available to the public—

"(I) a list in alphabetical order of the official and proprietary name of each drug which has been approved for safety and effectiveness under subsection (c) before the date of the enactment of this subsection;

"(II) the date of approval if the drug is approved after 1981 and the number of the application which was approved; and

"(III) whether in vitro or in vivo bioequivalence studies, or both such studies, are required for applications filed under this subsection which will refer to the drug published.

"(ii) Every thirty days after the publication of the first list under clause (i) the Secretry shall revise the list to include each

drug which has been approved for safety and effectiveness under subsection (c) or approved under this subsection during the thirty-day period.

"(iii) When patent information submitted under subsection (b) or (c) respecting a drug included on the list is to be published by the Secretary, the Secretary shall, in revisions made under clause (ii), include such information for such drug.

"(B) A drug approved for safety and effectiveness under subsection (c) or approved under this subsection shall, for purposes of this subsection, be considered to have been published under subparagraph (A) on the date of its approval or the date of enactment, whichever is later.

"(C) If the approval of a drug was withdrawn or suspended for grounds described in the first sentence of subsection (e) or was withdrawn or suspended under paragraph (5) or if the Secretary determines that a drug has been withdrawn from sale for safety or effectiveness reasons, it may not be published in the list under subparagraph (A) or, if the withdrawal or suspension occurred after its publication in such list, it shall be immediately removed from such list—

"(i) for the same period as the withdrawal or suspension under subsection (e) or paragraph (5), or

"(ii) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

A notice of the removal shall be published in the Federal Register.

"(7) For purposes of this subsection:

"(A) The term 'bioavailability' means the rate and extent to which the active ingredient or therapeutic ingredient is absorbed from a drug and becomes available at the site of drug action.

"(B) A drug shall be considered to be bioequivalent to a listed drug if—

"(i) the rate and extent of absorption of the drug do not show a significant difference from the rate and extent of absorption of the listed drug when administered at the same molar dose of the therapeutic ingredient under similar experimental conditions in either a single dose or multiple doses; or

"(ii) the extent of absorption of the drug does not show a significant difference from the extent of absorption of the listed drug when administered at the same molar dose of the therapeutic ingredient under similar experimental conditions in either a single dose or multiple doses and the difference from the listed drug in the rate of absorption of the drug is intentional, is reflected in its proposed labeling, is not essential to the attainment of effective body drug concentrations on chronic use, and is considered medically insignificant for the drug.".

SEC. 102. (a)(1) Section 505(b) of such Act if amended by adding at the end the following: "The applicant shall file with the application the patent number and the expiration date of any patent which claims the drug for which the applicant submitted the application or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If an application is filed under this subsection for a drug and a patent which claims such drug or a method of using such drug is issued after the filing date but before approval of the application, the applicant shall amend the application to include the information required by the preceding sentence. Upon approval of the application, the Secretary shall publish information submitted under the two preceding sentences.".

(2) Section 505(c) of such Act is amended by inserting "(1)" after "(c)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following:

"(2) If the patent information described in subsection (b) could not be filed with the submission of an application under subsection (b) because the application was filed before the patent information was required under subsection (b) or a patent was issued after the application was approved under such subsection, the holder of an approved application shall file with the Secretary the patent number and the expiration date of any patent which claims the drug for which the application was submitted or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If the holder of an approved application could not file patent information under subsection (b) because it was not required at the time the application was approved, the holder shall file such information under this subsection not later than thirty days after the date of the enactment of this sentence, and if the holder of an approved application could not file patent information under subsection (b) because no patent had been issued when an application was filed or approved, the holder shall file such information under this subsection not later than thirty days after the date the patent involved is issued. Upon the submission of patent information under this subsection, the Secretary shall publish it.".

(3)(A) The first sentence of section 505(d) of such Act is amended by redesignating clause (6) as clause (7) and inserting after clause (5) the following: "(6) the application failed to contain the patent information prescribed by subsection (b); or".

(B) The first sentence of section 505(e) of such Act is amended by redesignating clause (4) as clause (5) and inserting after clause (3) the following: "(4) the patent information prescribed by subsection (c) was not filed within thirty days after the receipt of written notice from the Secretary specifying the failure to file such information; or".

(b)(1) Section 505(a) of such Act is amended by inserting "or (j)" after "subsection (b)".

(2) Section 505(c) of such Act is amended by striking out "this subsection" and inserting in lieu thereof "subsection (b)".

(3) The second sentence of section 505(e) of such Act is amended by inserting "submitted under subsection (b) or (j)" after "an application".

(4) The second sentence of section 505(e) is amended by striking out "(j)" each place it occurs in clause (1) and inserting in lieu thereof "(k)".

(5) Section 505(k)(1) of such Act (as so redesignated) is amended by striking out "pursuant to this section" and inserting in lieu thereof "under subsection (b) or (j)".

(6) Subsections (a) and (b) of section 527 of such Act are each amended by striking out "505(b)" each place it occurs and inserting in lieu thereof "505".

SEC. 103. (a) Section 505(b) of such Act is amended by inserting "(1)" after "(b)", by redesignating clauses (1) through (6) as clauses (A) through (F), respectively, and by adding at the end the following:

"(2) An application submitted under paragraph (1) for a drug for which the investigations described in clause (A) of such paragraph and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted shall also include—

"(A) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the drug for which such investigations were conducted or which claims a use for such drug for which the applicant is seeking approval under this subsection and for which information is required to be filed under paragraph (1) or subsection (c)—

"(i) that such patent information has not been filed,

"(ii) that such patent has expired,

"(iii) of the date on which such patent will expire, or

"(iv) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new drug for which the application is submitted; and

"(B) if with respect to the drug for which investigations described in paragraph (1)(A) were conducted information was filed under paragraph (1) or subsection (c) for a method of use patent which does not claim a use for which the applicant is seeking approval under this subsection, a statement that the method of use patent does not claim such a use.

"(3)(A) An applicant who makes a certification described in paragraph (2)(A)(iv) shall include in the application a statement that the applicant will give the notice required by subparagraph (B) to—

"(i) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

"(ii) the holder of the approved application under subsection (b) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

"(B) The notice referred to in subparagraph (A) shall state that an application has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

"(C) If an application is amended to include a certification described in paragraph (2)(A)(iv), the notice required by subparagraph (B) shall be given when the amended application is submitted.".

(b) Section 505(c) of such Act (as amended by section 102(a)(2)) is amended by adding at the end the following:

"(3) The approval of an application filed under subsection (b) which contains a certification required by paragraph (2) of such subsection shall be made effective on the last applicable date determined under the following:

"(A) If the applicant only made a certification described in clause (i) or (ii) of subsection (b)(2)(A) or in both such clauses, the approval may be made effective immediately.

"(B) If the applicant made a certification described in clause (iii) of subsection (b)(2)(A), the approval may be made effective on the date certified under clause (iii).

"(C) If the applicant made a certification described in clause (iv) of subsection (b)(2)(A), the approval shall be made effective immediately unless an action is brought for infringement of a patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under paragraph (3)(B) is received. If such an action is brought before the expiration of such days, the approval may be made effective upon the expiration of the thirty-month period beginning on the date of the receipt of the notice provided under paragraph (3)(B) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that—

"(i) if before the expiration of such period the court decides that such patent is invalid or not infringed, the approval may be made effective on the date of the court decision,

"(ii) if before the expiration of such period the court decides that such patent has been infringed, the approval may be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code, or

"(iii) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent is not invalid or not infringed, the approval shall be made effective on the date of such court decision.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of forty-five days from the date the notice made under paragraph (3)(B) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under such section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

"(D)(i) If an application (other than an abbreviated new drug application) submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of another application for a drug for which the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted effective before the expiration of ten years from the date of the approval of the application previously approved under subsection (b).

"(ii) If an application submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), is approved after the date of the enactment of this clause, no application which refers to the drug for which the subsection (b) application was submitted and for which the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted may be submitted under subsection (b) before the expiration of five years from the date of the approval of the application under subsection (b), except that such an application may be submitted under subsection (b) after the expiration of four years from the date of the approval of the subsection (b) application if it contains a certification of patent invalidity or noninfringement described in clause (iv) of subsection (b)(2)(a). The approval of such an application shall be made effective in accordance with this paragraph except that, if an action for patent infringement is commenced during the one-year period beginning forty-eight months after the date of the approval of the subsection (b) application, the thirty-month period referred to in subparagraph (c) shall be extended by such amount of time (if any) which is required for seven and one-half years to have elapsed from the date of approval of the subsection (b) application.

"(iii) If an application submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application approved under subsection (b), is approved after the date of the enactment of this clause and if such application contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application submitted under subsection (b) for the conditions of approval of such drug in the approved subsection (b) application effective before the expiration of three years from the date of the approval of the application under subsection (b) if the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and if the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted.

"(iv) If a supplement to an application approved under subsection (b) is approved after the date of enactment of this clause and the supplement contains reports of new clinical investigations (other than bioavailabilty studies) essential to the approval of the supplement and conducted or sponsored by the person submitting the supplement, the Secretary may not make the approval of an application submitted under subsection (b) for a change approved in the supplement effective before the expiration of three years from the date of the approval of the supplement under subsection (b) if the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and if the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted.

"(v) If an application (or supplement to an application) submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this clause, the Secretary may not make the approval of an application submitted under this subsection and for which the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted and which refers to the drug for which the subsection (b) application was submitted effective before the expiration of two years from the date of enactment of this clause.".

SEC. 104. Section 505 of such Act is amended by adding at the end the following:

"(l) Safety and effectiveness data and information which has been submitted in an application under subsection (b) for a drug and which has not previously been disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

"(1) if no work is being or will be undertaken to have the application approved,

"(2) if the Secretary has determined that the application is not approvable and all legal appeals have been exhausted,

"(3) if approval of the application under subsection (c) is withdrawn and all legal appeals have been exhausted,

"(4) if the Secretary has determined that such drug is not a new drug, or

"(5) upon the effective date of the approval of the first application under subsection (j) which refers to such drug or upon the date upon which the approval of an application under subsection (j) which refers to such drug could be made effective if such an application had been submitted.

"(m) For purposes of this section, the term 'patent' means a patent issued by the Patent and Trademark Office of the Department of Commerce.".

SEC. 105. (a) The Secretary of Health and Human Services shall promulgate, in accordance with the notice and comment requirements of section 553 of title 5, United States Code, such regulations as may be necessary for the administration of section 505 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 101, 102, and 103 of this Act, within one year of the date of enactment of this Act.

(b) During the period beginning sixty days after the date of the enactment of this Act and ending on the date regulations promulgated under subsection (a) take effect, abbreviated new drug applications may be submitted in accordance with the provisions of section 314.2 of title 21 of the Code of Federal Regulations and shall be considered as suitable for any drug which has been approved for safety and effectiveness under section 505(c) of the Federal Food, Drug, and Cosmetic Act before the date of the enactment of this Act. If any such provision is inconsistent with the requirements of section 505(j) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall consider the application under the applicable requirements of such section. The Secretary of Health and Human Services may not approve such an abbreviated new drug application which is filed for a drug which is described in sections 505(c)(3)(D) and 505(j)(4)(D) of the Federal Food, Drug, and Cosmetic Act except in accordance with such section.

SEC. 106. Section 2201 of title 28, United States Code, is amended by inserting "(a)"

before "In a case" and by adding at the end the following:

"(b) For limitations on actions brought with respect to drug patents see section 505 of the Federal Food, Drug, and Cosmetic Act.".

TITLE II—PATENT EXTENSION

SEC. 201. (a) Title 35 of the United States Code is amended by adding the following new section immediately after section 155A:

"§ 156. Extension of patent term

"(a) The term of a patent which claims a product, a method of using a product, or a method of manufacturing a product shall be extended in accordance with this section from the original expiration date of the patent if—

"(1) the term of the patent has not expired before an application is submitted under subsection (d) for its extension;

"(2) the term of the patent has never been extended;

"(3) an application for extension is submitted by the owner of record of the patent or its agent and in accordance with the requirements of subsection (d);

"(4) the product has been subject to a regulatory review period before its commercial marketing or use;

"(5)(A) except as provided in subparagraph (B), the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred; or

"(B) in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of a product manufactured under the process claimed in the patent.

The product referred to in paragraphs (4) and (5) is hereinafter in this section referred to as the 'approved product'.

"(b) The rights derived from any patent the term of which is extended under this section shall during the period during which the patent is extended—

"(1) in the case of a patent which claims a product, be limited to any use approved for the approved product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred;

"(2) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent and approved for the approved product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred; and

"(3) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the approved product.

"(c) The term of a patent eligible for extension under subsection (a) shall be extended by the time equal to the regulatory review period for the approved product which period occurs after the date the patent is issued, except that—

"(1) each period of the regulatory review period shall be reduced by any period determined under subsection (d)(2)(B) during which the applicant for the patent extension did not act with due diligence during such period of the regulatory review period;

"(2) after any reduction required by paragraph (1), the period of extension shall include only one-half of the time remaining in the periods described in paragraphs (1)(B)(i), (2)(B)(i), and (3)(B)(i) of subsection (g);

"(3) if the period remaining in the term of a patent after the date of the approval of the approved product under the provision of law under which such regulatory review occurred when added to the regulatory review period as revised under paragraphs (1) and (2) exceeds fourteen years, the period of extension shall be reduced so that the total of both such periods does not exceed fourteen years; and

"(4) in no event shall more than one patent be extended for the same regulatory review period for any product.

"(d)(1) To obtain an extension of the term of a patent under this section, the owner of record of the patent or its agent shall submit an application to the Commissioner. Such an application may only be submitted within the sixty-day period beginning on the date the product received permission under the provision of law under which the applicable regulatory review period occurred for commercial marketing or use. The application shall contain—

"(A) the identity of the approved product and the Federal statute under which regulatory review occurred;

"(B) the identity of the patent for which an extension is being sought and the identity of each claim of such patent which claims the approved product or a method of using or manufacturing the approved product;

"(C) information to enable the Commissioner to determine under subsections (a) and (b) the eligibility of a patent for extension and the rights that will be derived from the extension and information to enable the Commissioner and the Secretary of Health and Human Services to determine the period of the extension under subsection (g);

"(D) a brief description of the activities undertaken by the applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities; and

"(E) such patent or other information as the Commissioner may require.

"(2)(A) Within sixty days of the submittal of an application for extension of the term of a patent under paragraph (1), the Commissioner shall notify the Secretary of Health and Human Services if the patent claims any human drug product, a medical device, or a food additive or color additive or a method of using or manufacturing such a product, device, or additive and if the product, device, and additive are subject to the Federal Food, Drug, and Cosmetic Act, of the extension application and shall submit to the Secretary a copy of the application. Not later than 30 days after the receipt of an application from the Commissioner, the Secretary shall review the dates contained in the application pursuant to paragraph (1)(C) and determine the applicable regulatory review period, shall notify the Commissioner of the determination, and shall publish in the Federal Register a notice of such determination.

"(B)(i) If a petition is submitted to the Secretary under subparagraph (A), not later than one hundred and eighty days after the publication of the determination under subparagraph (A), upon which it may reasonably be determined that the applicant did not act with due diligence during the applicable regulatory review period, the Secretary shall, in accordance with regulations promulgated by the Secretary determine if the applicant acted with due diligence during the applicable regulatory review period. The Secretary shall make such determination not later than ninety days after the receipt of such a petition. The Secretary may not delegate the authority to make the determination prescribed by this subparagraph to an office below the Office of the Commissioner of Food and Drugs.

"(ii) The Secretary shall notify the Commissioner of the determination and shall publish in the Federal Register a notice of such determination together with the factual and legal basis for such determination. Any interested person may request, within the sixty-day period beginning on the publication of a determination, the Secretary to hold an informal hearing on the determination. If such a request is made within such period, the Secretary shall hold such hearing not later than thirty days after the date of the request, or at the request of the person making the request, not later than sixty days after such date. The Secretary shall provide notice of the hearing to the owner of the patent involved and to any interested person and provide the owner and any interested person an opportunity to participate in the hearing. Within thirty days after the completion of the hearing, the Secretary shall affirm or revise the determination which was the subject of the hearing and notify the Commissioner of any revision of the determination and shall publish any such revision in the Federal Register.

"(3) For the purposes of paragraph (2)(B), the term 'due diligence' means that degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period.

"(4) An application for the extension of the term of a patent is subject to the disclosure requirements prescribed by the Commissioner.

"(e)(1) A determination that a patent is eligible for extension may be made by the Commissioner solely on the basis of the representations contained in the application for the extension. If the Commissioner determines that a patent is eligible for extension under subsection (a) and that the requirements of subsection (d) have been complied with, the Commissioner shall issue to the applicant for the extension of the term of the patent a certificate of extension, under seal, for the period prescribed by subsection (c). Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent.

"(2) If the term of a patent for which an application has been submitted under subsection (d) would expire before a certificate of extension is issued or denied under paragraph (1) respecting the application, the Commissioner shall extend, until such determination is made, the term of the patent for periods of up to one year if he determines that the patent is eligible for extension.

"(f) For purposes of this section:

"(1) The term 'product' means:

"(A) A human drug product.

"(B) Any medical device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act.

"(2) The term 'human drug product' means the active ingredient of a new drug, antibiotic drug, or human biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act) including any salt or ester of the active ingredient, as a

single entity or in combination with another active ingredient.

"(3) The term 'major health or environmental effects test' means a test which is reasonably related to the evaluation of the health or environmental effects of a product, which requires at least six months to conduct, and the data from which is submitted to receive permission for commercial marketing or use. Periods of analysis or evaluation of test results are not to be included in determining if the conduct of a test required at least six months.

"(4)(A) Any reference to section 351 is a reference to section 351 of the Public Health Service Act.

"(B) Any reference to section 503, 505, 507, or 515 is a reference to section 503, 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act.

"(5) The term 'informal hearing' has the meaning prescribed for such term by section 201(y) of the Federal Food, Drug, and Cosmetic Act.

"(6) The term 'patent' means a patent issued by the United States Patent and Trademark Office.

"(g) For purposes of this section, the term 'regulatory review period' has the following meanings:

"(1) (A) In the case of a product which is a human drug product, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

"(B) The regulatory review period for a human drug product is the sum of—

"(i) the period beginning on the date an exemption under subsection (i) of section 505 or subsection (d) of section 507 became effectice for the approved human drug product and ending on the date an application was initially submitted for such drug product under section 351, 505, or 507, and

"(ii) the period beginning on the date the application was initially submitted for the approved human drug product under section 351, subsection (b) of section 505, or section 507 and ending on the date such application was approved under such section.

"(2)(A) In the case of a product which is a food additive or color additive, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

"(B) The regulatory review period for a food or color additive is the sum of—

"(i) the period beginning on the date a major health or environmental effects test on the additive was initiated and ending on the date a petition was initially submitted with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and

"(ii) the period beginning on the date a petition was initially submitted with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and ending on the date such regulation became effective or, if objections were filed to such regulation, ending on the date such objections were resolved and commercial marketing was permitted or, if commercial marketing was permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings were finally resolved and commercial marketing was permitted.

"(3)(A) In the case of a product which is a medical device, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

"(B) The regulatory review period for a medical device is the sum of—

"(i) the period beginning on the date a clinical investigation on humans involving the device was begun and ending on the date an application was initially submitted with respect to the device under section 515, and

"(ii) the period beginning on the date an application was initially submitted with respect to the device under section 515 and ending on the date such application was approved under such Act or the period beginning on the date a notice of completion of a product development protocol was initially submitted under section 515(f)(5) and ending on the date the protocol was declared completed under section 515(f)(6).

"(4) A period determined under any of the preceding paragraphs is subject to the following limitations:

"(A) If the patent involved was issued after the date of the enactment of this section, the period of extension determined on the basis of the regulatory review period determined under any such paragraph may not exceed five years.

"(B) If the patent involved was issued before the date of the enactment of this section and—

"(i) no request for an exemption described in paragraph (1)(B) was submitted,

"(ii) no major health or environmental effects test described in paragraph (2) was initiated and no petition for a regulation or application for registration described in such paragraph was submitted, or

"(iii) no clinical investigation described in paragraph (3) was begun or product development protocol described in such paragraph was submitted,

before such date for the approved product the period of extension determined on the basis of the regulatory review period determined under any such paragraph may not exceed five years.

"(C) If the patent involved was issued before the date of the enactment of this section and if an action described in subparagraph (B) was taken before the date of the enactment of this section with respect to the approved product and the commercial marketing or use of the product has not been approved before such date, the period of extension determined on the basis of the regulatory review period determined under such paragraph may not exceed two years.

"(h) The Commissioner may establish such fees as the Commissioner determines appropriate to cover the costs to the Office of receiving and acting upon applications under this section.".

(b) The analysis for chapter 14 of title 35 of the United States Code is amended by adding at the end thereof the following:

"156. Extension of patent term.".

SEC. 202. Section 271 of title 35, United States Code, is amended by adding at the end the following:

"(e)(1) It shall not be an act of infringement to make, use, or sell a patented invention (other than a new animal drug or veterinary biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Act of March 4, 1913)) solely for uses reasonably related to the development and submission of information under a Federal law which regulates the manufacture, use, or sale of drugs.

"(2) It shall be an act of infringement to submit an application under section 505(j) of the Federal Food, Drug, and Cosmetic Act or described in section 505(b)(2) of such Act for a drug claimed in a patent or the use of which is claimed in a patent, if the purpose of such submission is to obtain approval under such Act to engage in the commercial manufacture, use, or sale of a drug claimed in a patent or the use of which is claimed in a patent before the expiration of such patent.

"(3) In any action for patent infringement brought under this section, no injunctive or other relief may be granted which would prohibit the making, using, or selling of a patented invention under paragraph (1).

"(4) For an act of infringement described in paragraph (2)—

"(A) the court shall order the effective date of any approval of the drug involved in the infringement to be a date which is not earlier than the date of the expiration of the patent which has been infringed,

"(B) injunctive relief may be granted against an infringer to prevent the commercial manufacture, use, or sale of an approved drug, and

"(C) damages or other monetary relief may be awarded against an infringer only if there has been commercial manufacture, use, or sale of an approved drug.

The remedies prescribed by subparagraphs (A), (B), and (C) are the only remedies which may be granted by a court for an act of infringement described in paragraph (2), except that a court may award attorney fees under section 285.".

SEC. 203. Section 282 of title 35, United States Code, is amended by adding at the end the following: "Invalidity of the extension of a patent term or any portion thereof under section 156 of this title because of the material failure—

"(1) by the applicant for the extension, or

"(2) by the Commissioner,

to comply with the requirements of such section shall be a defense in any action involving the infringement of a patent during the period of the extension of its term and shall be pleaded. A due diligence determination under section 156(d)(2) is not subject to review in such an action.".

TITLE III—AMENDMENTS TO THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT AND THE WOOL PRODUCTS LABELING ACT OF 1939

SEC. 301. Subsection (b) of section 4 of the Textile Fiber Products Identification Act (15 U.S.C. 70b) is amended by adding at the end thereof the following new paragraph:

"(5) If it is a textile fiber product processed or manufactured in the United States, it be so identified.".

SEC. 302. Subsection (e) of section 4 of the Textile Fiber Products Identification Act (15 U.S.C. 70b) is amended to read as follows:

"(e) For purposes of this Act, in addition to the textile fiber products contained therein, a package of textile fiber products intended for sale to the ultimate consumer shall be misbranded unless such package has affixed to it a stamp, tag, label, or other means of identification bearing the information required by subsection (b), with respect to such contained textile fiber products, or is transparent to the extent it allows for the clear reading of the stamp, tag, label, or other means of identification on the textile fiber product, or in the case of hosiery items, this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products

contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.".

SEC. 303. Section 4 of the Textile Fiber Products Identification Act (15 U.S.C. 70b) is amended by adding at the end thereof the following new subsections:

"(i) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of such textile fiber product, unless such textile fiber product description states in a clear and conspicuous manner that such textile fiber product is processed or manufactured in the United States of America, or imported, or both.

"(j) For purposes of this Act, any textile fiber product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the inside center of the neck midway between the shoulder seams or, if such product does not contain a neck, in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product, or in the case of hosiery items on the outer side of such product or package.".

SEC. 304. Paragraph (2) of section 4(a) of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(a)(2)) is amended by adding at the end thereof the following new subparagraph:

"(D) the name of the country where processed or manufactured.".

SEC. 305. Section 4 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b) is amended by adding at the end thereof the following new subsections:

"(e) For the purposes of this Act, a wool product shall be considered to be falsely or deceptively advertised in any mail order promotional material which is used in the direct sale or direct offering for sale of such wool product, unless such wool product description states in a clear and conspicuous manner that such wool product is processed or manufactured in the United States of America, or imported, or both.

"(f) For purposes of this Act, any wool product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the inside center of the neck midway between the shoulder seams or, if such product does not contain a neck, in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product or in the case of hosiery items, on the outer side of such product or package.".

SEC. 306. Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended—

(1) by striking out "Any person" in the first paragraph and inserting in lieu thereof "(a) Any person",

(2) by striking out "Any person" in the second paragraph and inserting in lieu thereof "(b) Any person", and

(3) by inserting after subsection (b) (as designated by this section) the following new subsection:

"(c) For the purposes of subsections (a) and (b) of this section, any package of wool products intended for sale to the ultimate consumer shall also be considered a wool product and shall have affixed to it a stamp, tag, label, or other means of identification bearing the information required by section 4, with respect to the wool products contained therein, unless such package of wool products is transparent to the extent that it allows for the clear reading of the stamp, tag, label, or other means of identification affixed to the wool product, or in the case of hosiery items this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with repsect to the hosiery products contained therein, the information required by subsection (4), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with repsect to each hosiery product contained therein.".

SEC. 307. The amendments made by this title shall be effective ninety days after the date of enactment of this Act.

Amend the title so as to read: "An Act to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications, to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes.".

Mr. HATCH. Mr. President, I bring to the floor S. 1538, the Drug Price Competition and Patent Term Restoration Act of 1984. This is the successor to S. 2926, which the Senate passed on August 10, 1984. When S. 2926 was received by the House, Representative HENRY WAXMAN, the House sponsor, took up the House version, H.R. 3605, brought it into conformity with the Senate bill, with a few minor additional amendments, and substituted H.R. 3605 for the text of S. 1538, a separate Senate bill. That bill was passed by the House and is now before us.

Perhaps the most significant difference between the House and Senate bills is the change in the 5-year moratorium on abbreviated new drug application or [ANDA] filings after the approval of a new chemical entity NDA. As now modified by the House, a prospective competitor could file its ANDA after 4 years, but only if it filed a patent challenge under the statute at the same time. Nevertheless, the competitor could not get its ANDA made effective during the pendency of the litigation until 7½ years had passed from the NDA approval, the same result as under S. 2926. Still, this provision as changed offers some relief to those concerned about patent challenges during the 5 years. And I would add that nothing would prevent a prospective competitor from taking the same steps to set up an infringement action—where it could challenge the patent—as it could under current law. In no case would the ability of a generic manufacturer to challange a patent be less than it is now.

I would also note that the House added as title III of the bill a measure earlier passed by the Senate, dealing with the labeling of textiles. I am unaware of any objection to this step, and understand that Senator THURMOND, the sponsor, is willing to accept the House changes.

Finally, I would like to address the matter of the release of information submitted to FDA by manufacturers. In the debate on S. 2926, I engaged in a colloquy on the floor with Senator DECONCINI confirming that the intent of the bill is simply to continue current FDA policy and procedures in this area. I would simply like to reaffirm that colloquy to make plain that it refers to this bill—whose language is identical on this point with S. 2926—just as it did to S. 2926:

Mr. DECONCINI. I would like to engage in a colloquy with my friend, Senator HATCH. I understand that S. 2926, as amended statutorily codifies FDA's current regulation and practice with reference to standards for the release of trade secret, confidential commercial and financial information contained in NDA files, is that correct?

Mr. HATCH. Yes, the bill carries over from the existing regulation the provision that information is releasable—if other requirements are met—unless extraordinary circumstances are shown. Under current practice, which will be the practice under this bill, extraordinary circumstances are present for example when the information is trade secret or confidential commercial or financial information. As one specific example, release would not be permitted if the information has never been previously released and would support the application of a competitor for approval before a foreign regulatory agency. As another example, safety and efficacy data contained in an application that was not approved will not be released if the data retains possible commercial, competitive value. In short, the provision retains the applicability of the (b)(4) exemption under the Freedom of Information Act.

Mr. DECONCINI. That is my understanding also.

Further, I would like to read at this point a letter I received today from the Food and Drug Administration confirming its current treatment of this issue. Again, it is our intent to ratify FDA's present interpretation of the extraordinary circumstances regulation.

PUBLIC HEALTH SERVICE,
FOOD AND DRUG ADMINISTRATION,
Rockville, MD, September 12, 1984.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Thank you for your September 4 letter requesting comment on section 104 of S. 1538, the Drug Price Competition and Patent Term Restoration Act of 1984. Section 104 would amend section 505 of the Federal Food, Drug, and Cosmetic Act to require, unless "extraordinary circumstances" were shown, the disclosure of safety and effectiveness data if any of the following five conditions were met:

1. if no work is being or will be undertaken to have the application approved.

2. if the Secretary has determined that the application is not approvable and all legal appeals have been exhausted,

3. if approval of the application under subsection (c) is withdrawn and all legal appeals have been exhausted,

4. if the Secretary has determined that such drug is not a new drug, or

5. upon the effective date of the approval of the first application under subsection (j) which refers to such drug or upon the date upon which the approval of an application under subsection (j) which refers to such drug could be made effective if such an application had been submitted.

Section 104 essentially restates FDA's current regulations governing the disclosure of information in new drug application files where the data are no longer important to the marketing status of the drug in the United States. See, e.g., 21 C.F.R. 314.14(f).

During testimony on S. 1538, FDA Chief Counsel Tom Scarlett testified that the agency interprets the term "extraordinary circumstances" as including a situation in which safety and effectiveness data have commercial value as confidential business information, even though their submission is not required as a condition to the approval of a marketing application by FDA. As you know, that interpretation is set forth explicitly in a pending proposal to revise FDA's new drug approval regulations. Mr. Scarlett noted that the agency's interpretation of the term "extraordinary circumstances" had not been judicially tested, and suggested that clarification of the intended meaning of the term as it appeared in the bill would be useful.

In the colloquy between you and Senator DeConcini, you stated that the term "extraordinary circumstances" as used in the bill is intended to retain the applicability of exemption (b)(4) of the Freedom of Information Act, relating to confidential commercial or financial information. The proposed revision in FDA's regulations would eliminate the term "extraordinary circumstances" in 21 C.F.R. 314.14(f), and provide that safety and effectiveness data in new drug application files are subject to disclosure in the events described unless they continue to represent trade secret or confidential commercial or financial information, which is the standard for exemption under section (b)(4) of the FOIA. Thus, the understanding expressed in the colloquy about the meaning of "extraordinary circumstances" in the bill is the same as the proposed revision in FDA's regulations. That revision, which is meant to conform the agency's disclosure standard with that of exemption (4), also reflects FDA's current interpretation of the term "extraordinary circumstances" as it now appears in the regulations.

As your letter points out, that interpretation has not often been applied in practice. For this reason, it would be difficult to specify the conditions under which safety and effectiveness data in new drug applications would continue to have commercial value as confidential information even though they no longer needed to be submitted to obtain FDA marketing approval. Under the bill language, decisions on the status of particular safety and effectiveness data would be made on a case-by-case basis, as they are at the present time.

I hope this letter is responsive to your request.

Sincerely yours,

FRANK E. YOUNG, M.D., PH.D.,
Commissioner of Food and Drugs.

Before concluding, I cannot fail to acknowledge the yeoman efforts of Representative WAXMAN as manager of the House bill in fighting off amendments which would have doomed this great compromise.

Mr. President, this is a significant day for the American consumer and the American drug industry. This is one of those rarest of measures under which everyone wins—the consumer will from this time forward reap every day the benefits of lower drug prices. The research drug companies will gain substantial new encouragement to redouble their efforts, efforts which have brought us one miracle drug after another.

Mr. THURMOND. Mr. President, I rise in strong support of S. 1538, the Drug Price Competition and Patent Term Restoration Act of 1984. This important compromise measure builds upon legislation which was reported by the Judiciary Committee and passed by the Senate in the 97th Congress. I was a cosponsor of that bill and its successors, and I am pleased to join the distinguished chairman of the Labor and Human Resources Committee, Senator ORRIN HATCH, in urging concurrence in the House amendment.

Mr. President, patent term restoration is important for both business and consumers. It encourages progress by making patent terms real and useful. The new approval procedures for drugs coming off patent will expedite the availability of generic drugs. This is a balanced measure which deserves our strong support.

Mr. President, I want to commend Senator HATCH and other involved parties for their hard work on this bill. I am sorry that the House was unwilling to accept my "Diabeta" amendment and hope that we can pass it on other legislation.

In addition, S. 1538 contains language pertaining to proper labeling of textile/apparel products. This is the exact language that the Senate agreed to on June 29, 1984, when S. 1538 was approved and sent to the House of Representatives for review.

I originally introduced this language as S. 1816 in an effort to strengthen domestic law as it relates to country of origin labeling requirements for textile and apparel products. While present law requires country of origin marking on textile products entering the United States, there have been increasing instances where textile and apparel products are entering the United States in violation of domestic labeling laws.

One of the major problems in the effectiveness existing law is the fact that labels are often placed in inconspicuous places. This bill would designate that the label be attached to the neck of the garment if applicable, or if the garment does not contain a neck, to the most conspicuous place on the inner side of the foreign made textile/apparel product. This will allow easy identification of the label by consumers and will help with enforcement of present textile agreements.

My bill will also require that textile/apparel products produced in this country carry origin labels. Since there is no present law which requires American-made textile and apparel products to be labeled as such, foreign textile/apparel products that are misbranded are often mistaken for American-made products.

Another provision of the bill will require that, in the case of bulk packaging of textile products, both the package, as well as the garments within be labeled as to country of origin.

The final major feature of this legislation would mandate that mail order catalog sale descriptions contain country of origin information. A large portion of all textile/apparel products sold in this country are purchased through mail order catalog-type systems. Through these mail order transactions, the consumer dose not have access to country of origin information for textile/apparel products at the actual point of purchase.

Reports have shown that U.S. consumers prefer to buy American-made textile products. My legislation will simply allow consumers to better identify the products they wish to purchase.

Mr. President, it is most important for this legislation to be approved by the full Senate and signed into law as soon as possible. The domestic textile, fiber, and apparel complex employs over 2 million Americans nationwide. This industry provides more jobs than the U.S. auto and steel industries combined. Unfortunately, the U.S. textile/apparel industry is suffering through its most severe crisis in recent history. Textile/apparel imports from low-wage paying countries, such as the People's Republic of China, Taiwan, Hong Kong, have flooded our markets and displaced thousands of American workers.

In 1983, imports of textile/apparel products increased 25 percent over 1982. For the first 4 months of 1984, textile/apparel imports were up 49 percent over the same period in 1983. Last year's trade deficit for textiles and apparel was $10.6 billion—15 percent of the entire U.S. trade deficit, which totaled $69.3 billion. Finally, over the past 7 years, 413,000 textile and apparel jobs have been lost in this country. While this legislation will not correct all the problems confronting our domestic textile/apparel industry, it is a positive step toward preserving one of America's most vital and strategically important industries.

Mr. President, S. 1816 was unanimously approved by the Senate Commerce, Science, and Transportation Committee on June 13, 1984. I ask unanimous consent that a list displaying the numerous textile/apparel re-

lated associations that fully support this bill be printed in the RECORD following my remarks.

Before concluding, Mr. President, I would like to thank the 22 Members of this body who chose to cosponsor S. 1816. I would also like to especially thank Senators PACKWOOD and KASTEN, and their very capable committee staff members, for their invaluable assistance on this legislation during its review by the Commerce Committee.

In closing, Mr. President, I strongly believe that this bill is a positive step toward stabilizing the jobs of the over 2 million Americans employed in the textile, fiber, and apparel complex, and I hope that the Senate will give this legislation the strong vote of approval which it merits.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Amalgamated Clothing & Textile Workers Union.
American Apparel Manufacturers Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Clothing Manufacturers Association of America.
International Ladies' Garment Workers Union.
Knitted Textile Association.
Luggage & Leather Goods Manufacturers of America.
Man-Made Fiber Producers Association, Inc.
National Association of Hosiery Manufacturers.
National Association of Uniform Manufacturers.
National Cotton Council of America.
National Knitwear Manufacturers Association.
National Knitwear & Sportswear Association.
National Wool Growers Association.
Neckwear Association of America.
Northern Textile Association.
Textile Distributors Association, Inc.
Work Glove Manufacturers Association.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to indicate my concern and my opposition to this bill, but I do not intend to fight the concurrence in the conference report.

This is a bill which has received a lot of hoopla, a lot of excitement. This is the so-called pro generic drugs bill. I think that I, as well as probably the overwhelming majority of my colleagues, support the concept of permitting the sale of generic drugs because by permitting the sale of generic drugs, we are able to bring down the price that the American consumer has to pay for pharmaceuticals.

But that is only part of the bill. The other part of the bill has to do with the price that we are paying in order to get this bill passed.

It is a fact that the Pharmaceutical Manufacturers Association has really not been enthused about helping the generic drug industry. So in order to meet their objections, there were concessions made that in fact and in reality will give the pharmaceutical manufacturers additional extended time in connection with their patented drugs.

As a matter of fact, they will have under this bill protection from competition for a period in excess of 20 years. The specific time is difficult to determine by reason of some of the details of the legislation and some of the procedures of the FDA.

The fact is that the American consumer who has to buy these patented pharmaceuticals is going to be paying more money, and in some instances they will be able to get generics, but not the same kinds of drugs. As a matter of fact, in the rush to pass this legislation, there were some last-minute changes that even those who were involved in the drafting process were not aware of. They learned about it too late.

I now hear word that some of the consumer groups and some of those who were supporting the whole concept of generic drug authorization now have tongue-in-cheek reservations and are not really sure they are for the bill. They are not quite sure whether they are for it or against it, as I understand it.

The fact is that I think many Americans will rue the day that this legislation passed. It provides some new legal concepts. It provides an extension of time in connection with the protection of those drugs on which there is an application for patenting in which the generic drugs are precluded from challenging the validity of the patent application until 7, 8, or 10 years. That certainly is not going to help the American consumer in connection with the purchase of pharmaceuticals.

I determined that I was not going to make an all-out effort to defeat this legislation because everything I have read about it in the papers and other news media would give one the impression that it is the answer to the problem of high-priced drugs. It is not and we ought not to be kidding ourselves. The generic drug lobbyists who were involved in connection with this bill were gung ho—they wanted a bill. But they were not so concerned about the price that the American people would be paying and will be paying for patented drugs.

I do not intend to hold the floor any longer. I do want it recorded that my vote is in the negative.

I ask unanimous consent that when the vote on this measure is taken, and I assume it will be without a record vote, that the Senator from Ohio's vote be recorded as being in the negative.

The PRESIDING OFFICER. The record will so show.

Mr. HATCH. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

Mr. HATCH. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, reserving the right to object, I would suggest that the distinguished Senator include a motion to table the motion to reconsider.

Mr. HATCH. Mr. President, the distinguished Senator is correct.

Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the motion was agreed to and include in that a motion to table the motion to reconsider.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank my dear friend from West Virginia.

I so move.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The Senate continued with consideration of the bill.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, we have before the Senate today S. 2851, the Financial Services Competitive Equity Act. On June 27 of this year, the bill was reported by the Senate Banking Committee, on which I serve. The markup was lenghty and controversial and followed many months of hearings and debate.

I believe the number of witnesses testifying on the original bill was near-

ing 250 when the committee heard from the last panel. These issues are complex, and it was vital that the committee become as knowledgeable as possible about the legislative proposals. At this point, it is vital that the full Senate become knowledgeable about the issues involved in the bill reported by the committee.

The Banking Committee has, of course, been very deeply involved with these matters for several years. The so-called revolution in financial services has created an ever increasing need for congressional oversight. The stability of our financial system depends in large measure on the soundness of national banking law and the degree to which Federal guidance can encourage prudent management and fair competition among institutions. The role of Congress in designing the basic framework for financial institutions was established in the early 1930's. For most of the intervening 50 years, the various institutions have operated within their own market sectors. They built and maintained clearly-defined roles within the financial marketplace. Consumers, businesses, investors, and depositors generally knew which way to turn for a particular type of service.

All that is changing, Mr. President, and it is changing at an accelerating rate. The increasing sophistication of computer technology has spurred innovations in financial product lines and has created incentives to break out of old boundaries, geographic and otherwise. Adding to the pace and volatility of change has been the gradual deregulation of the economic environment generally. The two most noteworthy developments being the Federal Reserve Board's interest rate policy, begun in 1979, and the deregulation of interest rate ceilings on deposits, provided for in previous banking reform bills and completed in the Garn-St Germain bill in the previous Congress. These two developments have created a sometimes-chaotic competition for deposits among institutions of all types. Overall, the more the competition, the better it is for the consumer. Individual and business consumers of financial services have profited a great deal in recent years from this new competitive environment, and I think in general principle it has been a good thing.

What we must look for, and what the Banking Committee has been monitoring and debating, is the point at which the competitiveness among these institutions threatens to destabilize the financial system as a whole. The watchword for banks has always been "safety and soundness." You do not have to be a member of the Banking Committee to have become deeply concerned about the implications of Continental-Illinois's problems. To those of us who have expressed some concern about the difference in treatment given to Continental and to smaller banks in trouble, one response from the regulators has been that if Continental were allowed to fail, 2,100 smaller banks would also be at risk. These smaller banks are the financial backbone of the communities they serve. The disruption to small business and individual depositors could have been enormous; it could have been catastrophic.

So we are not talking about isolated institutions. This country's banks and financial institutions are linked with one another in literally millions of ways. They serve as the machinery for the use of capital in the United States and, increasingly, around the world. As such, their health and stability are very much an item of appropriate oversight and direction from Congress.

Preserving safety and soundness, then, and promoting fair competition among institutions were the key priorities during the Banking Committee markup. As the record will show, however, there were major differences of opinion in the committee about how to approach those two goals. Most votes were counted at 9 to 9 or 10 to 8. There was, and is, major disagreement about what constitutes fair competition. I think the national significance of these issues, and the importance of their impact on the economy of every State as well as the national economy, require the full attention of every Member of this body.

That is going to take time, Mr. President. The complexity and importance of the issues addressed in S. 2851 demand thorough consideration by the Senate. I do not intend to presuppose how long these deliberations should be only to state that my experience in the committee tells me that it will be a time-consuming process.

We have approximately 4 weeks remaining in his session. There are a number of items of major importance remaining on the legislative calendar. Decisions on setting priorities for consideration of bills before adjournment will not be easy to make. It becomes even more difficult when items requiring as much time as S. 2851 are part of the process. However, it is clear that a throughgoing debate is appropriate and necessary. I will be supporting the approach to a full deliberation and then hopefully to have a consent agreement on the final configuration of the bill.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3942

(Purpose: To prohibit the Student Loan Marketing Association from owning a depository institution)

Mr. STAFFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. PELL, proposes an amendment numbered 3942.

Mr. STAFFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

STUDENT LOAN MARKETING ASSOCIATION

SEC. . (a) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured bank', 'mutual savings bank', or 'savings bank' as those terms are defined in section 3 of the Federal Deposit Insurance Act or any bank that is eligible to make application to become an insured bank under section 5 of that Act. Any assets or shares of any such bank that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

(b) Section 408(e) of the National Housing Act (12 U.S.C. 1730(a)(e)) is amended by adding at the end thereof the following:

"(5) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured institution' as that term is defined in section 401 of the National Housing Act, any institution that is eligible to make application to become an insured institution under section 403 of that Act, or any institution that is a Federal Home Loan Bank 'member' as that term is defined in section 2 of the Federal Home Loan Bank Act. Any assets or shares of any such institution that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

Mr. STAFFORD. Mr. President, I offer an amendment today to S. 2851 which will resolve a problem which has developed in the Guaranteed Student Loan Program. My amendment will require that the Student Loan Marketing Association divest itself within the next 6 months of the savings and loan association it acquired on July 27.

As the chairman of the Senate Education, Arts and Humanities Subcommittee, I have been deeply concerned

about the increasing proprietary nature of the GSL Program, along with the decreasing emphasis on students. In listening to discussions on the GSL Program, one would be hard-pressed to see where the interests of students and their parents fit in after the needs of the banks, State guarantee agencies and secondary markets, bond counsels and other assorted lawyers, and Sallie Mae have all been met. In an era where the Federal Government finds it difficult to increase the amount of grant aid available for students from low- and middle-income families, we seem to be moving toward a GSL Program which first meets the needs of those who make money from the program. This phenomena troubles me deeply and will be addressed when the subcommittee turns to the reauthorization of the Higher Education Act next year.

However, subcommittee members were faced in late July with a more immediate problem, what to do about the bank Sallie Mae had purchased after the subcommittee had made clear its opposition to such a purchase. This banking bill is our first opportunity to correct this serious problem.

Mr. President, I will not address today the many irrelevant points which have been raised by Sallie Mae in its efforts to justify its foray into the private banking community. I will simply state that there is no reason for Sallie Mae to own and operate a bank. Created as a national secondary market for guaranteed student loans, and enormously successful by anyone's measure because of Sallie Mae's special relationship to the Federal Government and the Federal guarantee on GSL's, there is no valid reason for Sallie Mae to own a bank. No one involved in the operation of Sallie Mae has ever expressed to the subcommittee a legitimate reason which would require such a radical departure from Sallie Mae's mission and structure. The very idea of allowing a national student loan secondary market into a State to possibly compete with small local banks is appalling.

The intent of my amendment is to prevent the purchase by Sallie Mae of any financial institution, including banks, thrifts, savings and loans, privately insured financial institutions and industrial loan companies.

I am deeply disappointed that I have to even offer this amendment today, as in my mind the opposition to such a purchase by members of the Senate Education Subcommittee should have put a stop to such activity. However, it did not, and I urge my colleagues to support this amendment.

Mr. GARN. Mr. President, the Senator from Utah personally is willing to accept this amendment, and I understand that the ranking minority Member is as well. However, we are in the process of making a phone call or two to some Members who are interested in this matter. In courtesy to those colleagues, I think it is necessary to contact them first.

So, while we do that, I suggest the absence of a quorum, unless the Senator from Vermont wishes to speak further.

Mr. STAFFORD. The Senator from Vermont does not wish to speak further at this point, and is willing to yield the floor.

Mr. GARN. Mr. President, in that brief moment, I have received word that we are not able to find any objection, so I am willing to accept the amendment.

Mr. PROXMIRE. Mr. President, I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3942) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I thank the chairman and the ranking minority member of the committee for their courtesy.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have conferred with the minority leader and with other Senators who are involved in respect to a judicial nomination. I refer to calendar order No. 954, which is the nomination of the U.S. district judge for the northern district of Illinois. Could I inquire of the minority leader if it might be possible for us to proceed to the consideration of that item at this time very briefly?

Mr. BYRD. Mr. President, I am pleased to state to the majority leader that the minority has cleared this item and we are ready to proceed.

Mr. BAKER. Mr. President, I am most grateful to the minority leader for that clearance.

May I observe that I am sure both Senators from Illinois would be grateful, as is the distinguished Governor of the State of Illinois, who is present in the Chamber at this time by reason of his privilege to do so under the rules of the Senate.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination of Ilana Diamond Rovner, of Illinois.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

THE JUDICIARY

The PRESIDING OFFICER. The nomination will be stated.

The bill clerk read the nomination of Ilana Diamond Rovner, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

Mr. PERCY. Mr. President, it is with great pleasure that I recommend Ilana Diamond Rovner be confirmed to fill a vacancy on the U.S. District Court for the Northern District of Illinois.

Ms. Rovner currently serves as deputy governor and legal counsel to Illinois Gov. James R. Thompson, a post she has held with distinction. Prior to joining Governor Thompson's administration, she served 4 years as assistant U.S. Attorney for the Northern District of Illinois and for 1 year as clerk to Judge James B. Parsons, Chief Justice of the U.S. District Court for the Northern District of Illinois.

A former president of the Chicago chapter of the Federal Bar Association, Ms. Rovner is highly regarded in the Chicago legal community. She earned a reputation as an active and aggressive prosecutor.

There is, however, another side to Ilana Rovner—an aspect which wonderfully illustrates the ideals upon which our great Nation is founded. Born in Riga, Latvia, Ms. Rovner and her family became refugees and fled to the United States in search of a new and better life. They struggled through times of poverty to rebuild their lives here, eventually becoming successful and productive citizens. While many of us unfortunately take our lives for granted under our great democratic system of government, Ms. Rovner has never forgotten her roots nor the opportunities which are denied the citizens of so many other countries. Rather, she has served as a great example and inspiration for those of us who will hopefully never experience a lack of freedom.

If I may quote from an editorial which appeared in the Chicago Sun-Times: "President Reagan picked a real winner in appointing Ilana Diamond Rovner to a U.S. District Court vacancy here." Ms. Rovner's base of support extends far beyond the legal community, and she will be a credit to the President and this Congress.

It was indeed an honor to recommend Ms. Rovner to the President, and I thank my distinguished Senate

colleagues for their consideration of this fine candidate today.

Mr. DIXON. Mr. President, I am very pleased to be able to strongly recommend Senate confirmation of the nomination of Ilana Diamond Rovner to be a U.S. District Court judge for the Northern District of Illinois.

Ilana Rovner is already a distinguished and well-qualified lawyer. She has had extensive experience in the public protection unit of the special prosecutions division of the U.S. Attorney's office. My staff and I have had an outstanding working relationship with Ms. Rovner in her most recent capacity as deputy to the Governor and legal counsel.

Ilana Rovner's confirmation will continue the tradition of excellence that has characterized the Federal judiciary in Illinois. She has every qualification to make an outstanding jurist: A strong intellectual capacity, a thorough knowledge of the law, integrity, and sound judgment. She is independent and analytical. I have no doubt that her future service will justify the faith the Senate is putting in her today.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The Senate continued with the consideration of the bill S. 2851.

AMENDMENT NO. 4096

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 4096.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, line 2, insert the following: "The term 'deposit broker' shall not include a person in an agency relationship with an insured institution as of September 12, 1984, if such person exclusively serves a single insured institution for the purpose of soliciting deposit funds and providing loan application services, and such person is regulated and examined by the government of the State in which they are located. The Corporation may issue rules and regulations as necessary to implement this subsection."

Mrs. KASSEBAUM. Mr. President, I very much appreciate the support of the staff of the Banking Committee, the Federal Home Loan Bank Board, and the Federal Deposit Insurance Corporation in working out a particular problem that applies to a very limited area. But if not addressed, this problem could severely affect savings and loan institutions in Kansas as well as several other States. Therefore, I beg to briefly state the problem.

Mr. President, my amendment addresses a problem which could severely affect savings and loan institutions in Kansas and in several other States. The amendment is narrowly drawn and is intended to remedy a specific situation which I will describe more fully in a moment. I have been working closely with the Banking Committee staff, the Federal Home Loan Bank Board, and the Federal Deposit Insurance Corporation in order to be able to propose an amendment acceptable to all parties.

Let me briefly explain my reasons for offering this amendment. Earlier this year, the FDIC and the Home Loan Bank Board issued a regulation commonly known as the "sledgehammer" rule. The rule would have limited the amount of FSLIC and FDIC insurance available to deposit brokers. Funds solicited and organized by a deposit broker and placed in a federally insured institution would be limited to an aggregate of $100,000 in Federal insurance coverage. That altered the then-existing system under which each account placed by a deposit broker was insured up to the $100,000 maximum. A Federal district court has overturned this rule and enjoined its implementation.

The FDIC, the FSLIC, and the Banking Committee have all recognized that brokered deposits, if left unregulated, could threaten the Federal deposit insurance system. Some restrictions are necessary in order to assure the public that the Federal insurance funds will not be depleted due to the abuse of brokered deposits by struggling or failing institutions.

Title VIII of S. 2851 addresses the broad problem of brokered deposits and limits the amount of brokered deposits which may be accepted or maintained by a federally insured institution to 15 percent of the institution's total deposits or 200 percent of the institution's unimpaired capital and unimpaired surplus. Although these specific regulatory provisions may not satisfy everyone, I believe they represent a reasoned and responsible attempt to deal with the problems posed by abuse or brokered deposits.

A major problem exists, however, in this title. Kansas and other States allow savings and loan institutions the option to utilize agents to solicit funds and provide loan application services throughout the State. For rural States, with many small towns otherwise unable to support an S&L branch, this type of agency system is necessary not only for the S&L to remain viable but for the consumers in those communities to have access to needed financial services. These agents are regulated and approved by the State and exclusively serve a single insured institution.

Subsection (e) of section 801 defines the term "deposit broker" as any person, other than an insured institution or an affiliate thereof in respect of funds placed with that insured institution, which, for a fee, places funds or facilitates the placement of funds of third parties in accounts issued by an insured institution.

The broad definition of deposit broker sweeps in agents used by S&L's in Kansas, subjecting these institutions, which have historically used agents to serve rural communities, to the brokered deposits limitations. This limitation would drastically affect some institutions. The Railroad Savings and Loan Association of Newton, KS has 99 agents serving communities across the State. These agents raise over 75 percent of the S&L's deposits and provide loan services to consumers who would not otherwise have them available. These agents are regulated and examined regularly by the State savings and loan department which is charged with regulating and examining savings and loans chartered by the State of Kansas.

To cap the amount of deposits garnered by these agents at 15 percent would devastate S&L's which have been safe and sound and which have a history of serving otherwise underserved areas. My amendment would simply state that agents who exclu-

sively serve a single institution, are regulated by the appropriate State authority, solicit deposits, and provide loan application services, would not be included in the definition of deposit broker. I believe this is a reasonable solution to the problem facing institutions in my State and in others and urge the adoption of this amendment.

Mr. GARN. Mr. President, I have discussed this amendment with the distinguished Senator from Kansas. It does address a situation which is unique to her area of the country. I am willing to accept the amendment.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 4096) was agreed to.

Mrs. KASSEBAUM. Mr. President, I certainly thank the distinguished chairman of the Banking Committee, the Senator from Utah [Mr. GARN], and the ranking member. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I thank the Senator from Kansas and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4097

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 4097.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert:

Section 203 of the Depository Institutions Deregulation and Monetary Control Act of 1984 (12 U.S.C. section 3502) is hereby amended by deleting from subsection (b) thereof the following sentence: "The Deregulation Committee shall hold public meetings at least quarterly.".

Mr. GARN. Mr. President, I know of no objection to this amendment.

Mr. President, in 1980, we created the Depository Institutions Deregulation Committee as a special committee. The St Germain amendments of 1982 renewed all ceilings and we gave that committee nothing to do. Some people think we should have given them something to do while they had nothing to do, but we did not. The law requires that they meet quarterly. This amendment removes the requirement for them to meet quarterly because they are required by law to have nothing to do when they meet.

Mr. President, I know of no one who objects to this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4097) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3:15 P.M.

Mr. BAKER. Mr. President, it had been previously announced and I wish to remind Senators that there is now a reception going on in S-207 for Members only in honor of Lord Carrington, former Foreign Minister of Great Britain and the new Secretary General of NATO. All Members are invited to attend the reception, and I urge them to do so. It is in S-207. It began at 2:30.

I have consulted with the minority leader, who is agreeable and joins me in thinking that it would be appropriate now to recess the Senate for 30 minutes so that we may have an opportunity to visit with Lord Carrington and engage in a dialog and conversation with him.

I ask unanimous consent that the Senate now stand in recess until 3:15 p.m.

There being no objection, the Senate, at 2:41 p.m., recessed until 3:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HECHT].

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HAWKINS. Mr. President, I commend my distinguished colleague and the chairman of the Banking Committee, the Senator from Utah, for his progressive leadership and for the time he has devoted to S. 2851, the Financial Services Competitive Equity Act. I had the privilege of serving on the Banking Committee during much of the time that the provisions within the bill were considered and deliberated, and believe it is timely for the Senate to address these numerous issues. While portions may be highly controversial, other provisions provided by S. 2851 are desperately needed.

It has been stated many times that consideration of the impact of technological developments on the marketplace as well as other aspects of the evolving financial industry must be deliberated while always bearing in mind the unique role that banks have in our society. We cannot take lightly our responsibility to do everything possible to ensure the safety and soundness of the system, and we must work endlessly to create a competitive atmosphere within that security which will benefit the consumer. The closing of the nonbank loophole is a vital portion of S. 2851, and shares the support of numerous observers of this legislation.

In recent years, a growing list of securities, retailing, and insurance corporations have found ways to circumvent safety restrictions provided by the Bank Holding Company Act by either discontinuing demand deposits or commercial lending—both part of the definition of a bank in the Bank Holding Company Act.

This emergence has sparked controversy and criticism from many financial sources, including the Federal Reserve, which last December attempted to close the loophole administratively.

This effort was clouded, however, by a decision in the 10th U.S. Circuit Court of Appeals invalidating the Fed's regulations which classify bill-paying NOW accounts as demand deposits. The result is that a company can acquire a depository offering a full range of commercial banking services and activities while escaping Federal Reserve regulation.

Additionally, when the previously imposed moratorium placed by C. Todd Conover, the Comptroller of the Currency, on accepting new nonbank applications expired, loophole exploration increased substantially. Throughout a 2-month period in 1983, many giant bank-holding companies filed applications for almost 300 out-of-State banking facilities, thus circumventing the McFadden Act's geographical limitations on interstate banking.

In May of this year, the moratorium was reimposed, but only after 10 applications were approved. Conover has made it quite clear that he will approve the 300 applications unless this Congress changes the law or instructs him otherwise. The entry of conglom-

erates into the depository business through acquisition of federally insured depositories can be highly disruptive to our financial system.

It expands by default the number of federally insured deposit-taking entities without adequate and extensive regulatory oversight. This issue must therefore be resolved now.

Another provision of this bill which I consider to be important and timely to consider is the extension of the sunset date for net worth certificates. At the time that the Garn-St Germain Act was deliberated, many FSLIC- and FDIC-insured institutions were experiencing net worth erosion. This was the result of rapidly increasing cost of money in a high interest rate environment, and as a result of the DIDC deregulation, income rose slowly because of the substantial amount of long-term, fixed-rate assets held in portfolio.

The Garn-St Germain Act of 1982 wisely established a program of capital assistance designed to provide savings institutions with some time in which to restructure their loan portfolios. Since the program began, savings institutions have gradually worked to do that restructuring, and declining interest rates have helped their situation.

However, full recovery is not yet complete. In 1984, almost 4 out of every 10 FSLIC-insured institutions were still in the red. Most of the reported profits in those 6 months represent nonoperating income.

Even a modest rise in interest rates could be harmful to the fragile condition of the industry, given the current scenario of high interest rates and budget deficits. Federal Home Loan Bank Board Chairman Edwin Gray has essentially said that the savings institutions' ability to absorb losses in this situation is highly questionable.

Thus, in an effort to insure that the original objective and purposes of the program are achieved, this program has been extended for another 3 years, until October 15, 1988, by S. 2851. In my opinion, the decision to extend this program is a prudent one, and its value should not be underestimated.

I turn now to other provisions within S. 2851 which are of equal concern to me. In 1983, I chaired a hearing of the Subcommittee on Consumer Affairs on the issue of credit card fraud and am therefore very familiar with this problem.

Credit card fraud, which can take many different forms, is growing rapidly and now exceeds $1 billion a year. One form of fraud involves counterfeiting. Losses due to counterfeiting in the worldwide credit industry were estimated at $50 million in 1982, up from $15 million in 1981, a staggering increase. Counterfeit losses involving Visa cards alone were $10 million in 1982, 15 times greater than the previous year, and seven times greater than the total counterfeit losses for the previous 9 years.

Available statistics indicate that New York and Florida lead in credit card counterfeiting. For example, Visa International suffered 42.7 percent of its total U.S. counterfeit losses in New York and 19.1 percent in Florida.

In some cases, preimprinted sales drafts were used; in others, cards only with numbers on them, called "white plastics." From intelligence reports, it is apparent that major criminal organizations are involved.

On January 5, 1980, postal authorities arrested a New York mobster at a Miami hotel with preimprinted sales drafts. The defendants stated that they had processed 12,000 dollars' worth of sales drafts for 20 days for a total of $24,000. The Plantation, FL, police department in May 1982 seized a Ryder rental truck that was obtained with an altered credit card from department stores in Tampa, FL. As a result of this, a search warrant was executed and an embosser was seized. This embosser was one of two that was purchased in New Rochelle, NY, by a suspected member of a crime organization.

The other embosser was seized in an arrest of a suspect in Los Angeles, CA, where 139 altered cards were found. Similar reports indicate that the counterfeit problem facing New York and Florida are spreading to other areas.

Another form of fraud involves false billing by merchants who first acquired credit card numbers through ordinary transactions and then process others that did not take place. The potential for danger is apparent from the following example: In May 1982, a merchant in Sunrise, FL, attempted to deposit $24,000 in fraudulent sales drafts. This transaction was halted by an alert bank teller and her manager.

In other cases, merchants or their employees pass on to others carbon copies of charge slips. These slips are then used to generate false documentation for phony transactions.

These are just a few examples of credit card scams operating in Florida and other States. But one thing is clear: Fraud involves more than lost or stolen credit cards.

Rising credit card fraud affects each of us daily, not just those who are direct victims.

It is true that financial institutions that issue cards and merchants who accept them without following authorization procedures bear the immediate costs. That is because cardholders' liability when a card is used fraudulently is usually limited to $50 per card. However, these losses are passed back to cardholders and consumers eventually as a component of the cost of credit and merchandise.

In the past, credit card fraud generally occurred only after cards were lost or stolen. Those bold enough to try using these cards continued doing so only until they felt that knowledge of the theft had been widely distributed. As reporting and authorization systems improved, reducing the period during which stolen cards were usable, more sophisticated approaches were devised.

Fundamental to most scams today is obtaining valid credit card account numbers, then listing these numbers on manufactured cards that appear valid. Witnesses testified that there are several methods for fraudulently obtaining credit card numbers.

First, some search merchants' trash and recover carbon sheets from valid card transactions that contain legible cardholder information. Second, others buy stolen cards from prostitutes. Third, another technique requires posing over the telephone as a card company representative or legitimate businessman and persuading cardholders to give their account numbers. Fourth, finally, rings often use confederates in banks, post offices, or retail establishments to obtain cardholder information. Once account numbers are obtained, they are embossed on pieces of plastic and used in various fraudulent schemes. Following are examples of such schemes.

SHAVE AND PASTE

The "shave and paste" scheme requires manually altering credit cards. Account-holder information on the face of lost or stolen cards is removed using a razor blade. New numbers removed from other credit cards are then glued on to the credit cards using fast-drying cement. Attempts have been made to change validation and expiration date lines as well as account numbers.

WHITE PLASTICS

A more sophisticated scheme requires manufacturing "white plastics." These are made from plain plastic and they fit in sales draft embossing equipment widely available. These bank cards are embossed with an account number, cardholder name and expiration date, without any issuer's name. These frauds require the cooperation of collusive merchants who submit bogus sales slips for transactions that never took place to their banks.

These cited examples are just some of the abuses of credit card fraud which give credence to the inclusion in this bill of corrective measures.

Another area of banking which has been the target of extensive criticism and deliberation is the delayed availability of deposited funds.

Delayed funds availability is a policy adopted by many banks and thrifts whereby funds deposited by check are not available for withdrawal by the depositor until sufficient time has passed so that the depository institution can be reasonably certain that the check will not be returned to it.

These practices have serious consequences. Some consumers have lost their credit standing because the banks bounced their checks without giving fair warning that the account is not credited for checks that are deposited even after several weeks. Some consumers complain that banks even refuse to give immediate credit to cashier's checks and Government checks, even after acceptable identification has been given.

I believe that the refusal to honor immediately, Social Security or annuity checks imposes an unconscionable hardship on retired citizens who make up a large part of my Florida constituency.

Critics charge that banks and savings institutions which intentionally delay crediting funds do so to profit from the float. Thus, during the time when the checks are honored by the payor, banks and the customers have access to these funds. The banks earn interest on their customers' money.

The institutions maintain that it is necessary to place holds on checks deposited by customers to lower the risks that checks will return unpaid from the institution on which they are drawn. Most institutions have a policy, based on their own experience, on how long they wait before honoring deposits. However, these policies do vary widely and many institutions do not make public disclosures of these policies.

While only about 1 percent or less of all checks deposited are returned, and while more than half of those are for relatively small amounts—6 percent are reported to be under $100—institutions are subject to the prospect of any given check being returned. The Uniform Commercial Code recognizes the right of the depository institutions to withhold funds by providing that—

Credit given by a bank for an item in an account with its customer becomes available for withdrawal as for right when (the provisional) settlement becomes final and the bank has a reasonable time to learn that the settlement is final.

On the forward trip of check clearing the physical movement of checks from depository banks to payor banks through the check clearing process is a high speed, highly automated, technically sophisticated process. On the other hand, the return trip is a cumbersome paper process that is manually operated, and often extends to 3 or 4 weeks.

Title VI of the Financial Services Competitive Equity Act addresses the problem of delayed availability of deposited funds by including provisions that would require institutions to provide consumers with written disclosure of general policies on check holds. It also requires the Secretary of the Treasury to issue regulations designed to expedite the availability of checks payable to and endorsed by a customer with an established relationship with the bank of deposits.

These are progressive movements which will greatly improve the convenience of banking for millions of Americans. I am pleased that these provisions have been included in this bill and believe that they will adequately end future frustrating conflicts similar to those which I previously mentioned.

Another provision which I feel demands careful consideration is that consumer leasing provision. I introduced S. 1152, the Consumer Lease and Rental Purchase Agreement Act, which has been incorporated into S. 2851 as one of its provisions. It seeks to extend Federal consumer protection coverage to those who enter into short-term rental-purchase agreements, and to simplify disclosure provisions required by current law for leasing agreements.

Increasingly, consumers, particularly lower income working people who feel they cannot obtain credit, are renting household items such as furniture and television sets without being informed of the total costs they may incur. It has been estimated that the number of such agreements is growing by up to 15 percent a year. However, consumers often enter into such agreements without adequate disclosures.

Consumers are afforded no abuse protection on the Federal level, and only spotty protection on the State level, from such sharp practices. The current applicable Federal law, the Consumer Leasing Act, covers only leases of 4 months or longer. It does not cover rental-purchase agreements, however, that are automatically renewed if each payment is due in less than 4 months. Thus, these arrangements escape disclosure requirements of the Consumer Leasing Act. Nor are they covered by State usury statutes.

Many have registered complaints against businesses taking advantage of this loophole in the Federal and State consumer protection acts.

According to one report, consumers in Miami, FL, are being encouraged to enter into "buy by renting" arrangements under which they will be the owner of a TV retailing for $637.95, after making a total of $2,109.12 in weekly payments. The renter is not told of this total, and the Federal law does not require its disclosure.

Consumers had been attracted to leases because of the absence of a down payment and because monthly payments were lower than under installment credit sales.

They may also have preferred other unique characteristics offered by some leases, such as the lack of long-term obligations and freedom from maintenance responsibilities.

Like the Truth-in-Lending Act, the Consumer Leasing Act is primarily a disclosure statute. Lessors are required to give their customers summary data that is easily understood, describing the costs and terms of the agreement.

The law also contains provisions that limit a consumer's liability at the end of the lease term in open-ended leases. In this type of lease, the customer is responsible for the difference between the estimate made at the beginning of the lease of what the property will be worth at the end of the term and what the property is, in fact, worth at that time. The law limits the amount paid by the customer at the end of the term to no more than three times the monthly payment, with certain limited exceptions. This "three monthly payment" rule is intended to prevent lessors from offering low monthly payments while giving an unrealistically high value to the estimated end-of-term value of the property. This practice can result in consumers having to pay very large balloon payments. Thus, the Leasing Act was an important step toward greater consumer protection.

In closing, Mr. President, I commend not only the chairman of the Senate Banking Committee, but the other Members of that committee as well, for their diligence in pursuing these measures over the years. I understand fully the obstacles which had to be overcome. Again, this bill includes many necessary provisions, and while I have certain reservations regarding the new powers authorized in S. 2851, I am interested in promoting new progressive and needed measures, such as revisions in check availability, within a safe and sound banking system.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

AMENDMENT NO. 3676

(Purpose: To strike title IV)

Mr. PROXMIRE. Mr. President, I call up my amendment No. 3676.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] for himself and Mr. CHILES, proposes an amendment numbered 3676.

Beginning with page 64, line 1, strike out all through page 65, line 13.

Redesignate the remainder of the bill and modify the table of contents accordingly.

Mr. PROXMIRE. Mr. President, I ask that the amendment I called up be set aside temporarily. I understand the distinguished Senator from Rhode Island [Mr. CHAFEE] has an amendment. I ask that mine be set aside.

Mr. GARN. I thank the distinguished Senator from Wisconsin. The distinguished Senator from Rhode Island has an amendment that is agreeable and will take about 30 seconds.

AMENDMENT NO. 4098

(Purpose: To express the sense of the Congress with respect to executive compensation disclosures)

Mr. CHAFEE. Mr. President, I thank the Senator. I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 4098.

At the end of the bill, add the following:

SECURITIES AND EXCHANGE COMMISSION EXECUTIVE COMPENSATION DISCLOSURE REQUIREMENTS

SEC. . (a) The Congress finds that—

(1) the disclosure of detailed information concerning executive compensation provides stockholders and potential investors with valuable information about a company's management;

(2) information regarding management compensation is necessary in evaluating corporate efficiency;

(3) the Securities and Exchange Commission liberalized its rules regarding disclosure of executive compensation in December 1983;

(4) at a time when more specific and meaningful management compensation information should be publicly available, the Securities and Exchange Commission has moved in the direction of requiring less public information; and

(5) the current reporting requirements limit disclosure of cash compensation to executive officers thereby exempting a significant segment of management who may be among the most highly paid, and no longer require disclosure of unexercised stock options or stock appreciation rights, thereby denying the investing public another block of useful information.

(b) It is, therefore, the sense of the Congress that the Securities and Exchange Commission should reinstate the requirements for the disclosure of executive compensation which were in effect immediately prior to December 31, 1983.

Mr. CHAFEE. What this amendment does is take care of the situation in which the SEC recently changed the disclosure rules concerning executive compensation, stock options, and a series of factors which were disclosed in the annual reports. This amendment says that it is the sense of the Congress that the Securities and Exchange Commission should reinstate the requirements for the disclosure of executive compensation which were in effect immediately prior to December 31, 1983.

This does not direct them to do it, this does not order them to do it. What it does is state it is the sense of the Senate that they should do it.

Mr. President, I have discussed this with the managers of the bill. It is my understanding that it is acceptable.

Mr. GARN. Mr. President, the Senator from Rhode Island is correct. I have no objection to the amendment and am willing to accept it.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

Mr. CHAFEE. I thank the managers, and I ask passage of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4098) was agreed to.

Mr. CHAFEE. I move to reconsider the motion by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3676

Mr. PROXMIRE. Mr. President, the title which I would strike requires the Federal Reserve to pay interest on certain reserve balances maintained by banks and other depository institutions. This is the first time, as I am going to point out, that the Federal Reserve or any other Federal agency has ever paid interest on reserves to the banks. It will be a subsidy to the banks and a big one, as I am going to point out.

This amendment I am offering is supported by the Reagan administration, as indeed it should be. They oppose the payment of interest on reserves and, according to the Congressional Budget Office, this action will increase the Federal budget deficit by nearly $4 billion over the next 6 years. Similar cost estimates were arrived at by the Federal Reserve and the Treasury. So there is no conflict about the fact that this is going to cost our Treasury billions of dollars in a subsidy to the banks. Under the Federal Reserve Act, banks are required to maintain reserves against a specified percentage of their profits. These reserves are held at Federal Reserve banks and help the Fed to control the Nation's money supply.

Since 1913, when the Federal Reserve system was created, it has never paid interest on reserves, as I have indicated. As I have also indicated, no Federal agency has ever done this before in our long 200-year economic history.

The principal assets of the Federal Reserve are U.S. Treasury obligations which it buys and sells through open market obligations. These assets are financed through two principal liabilities. These are Federal Reserve notes, that is currency, and bank reserves. After paying its administrative expenses, the Federal Reserve returns the interest income from its assets to the Treasury. The amount of interest returned shows up as a revenue item on the books of the Treasury. If the Fed were to pay interest on a portion of its own liabilities, it would have less money to return to the Treasury. Federal revenues would decline and the Federal budget deficit would increase.

Although there are nearly 40,000 depository institutions in the United States, only 4,600, a little more than 10 percent, are required to maintain reserves at the Federal Reserve. Moreover, just over 122 banks—Mr. President, I hope you get this—just over 122 of the Nation's banks account for 65 percent of all the reserves of the Fed—so that two-thirds of this subsidy would go to only 1 percent—less than 1 percent—of the banks. From the standpoint of the Federal budget, the payment of interest on reserves has exactly the same effect as if Congress were to appropriate unrestricted cash grants to be given directly to the Nation's largest banks, with the bulk of the payment going to a mere handful of giant money-center banks.

Think of that, Mr. President, if Congress gives interest on reserves we will be making a gift to our largest banks. Incidentally, the gift would be unsolicited as the banks have not lobbied for this. They have not asked for it. I went through the hearings. I could not find any place in the hearings where witnesses appeared and called on the committee to provide this. They have not said they want it or need it. So it is an unasked for subsidy.

If we were to put this to the American people in a nationwide referendum, I do not think it would get 1 percent of the vote, if that. Indeed, I doubt very much, in view of the deep concern of the bankers about the Federal deficit, that even a majority of the bankers would vote for this. As a matter of fact, I saw a big ad just the other day in the Washington Post, a full-page ad, appealing to the country to get to work on Members of Congress to reduce the deficit. Among those who endorsed and paid for the ad were the American Banking Association and the Independent Bankers Association. They recognize that the deficit is a serious problem and have not asked for this new subsidy to financial institutions, particularly when 65 percent would be paid to just 1 percent of the banks—in other words, the big banks.

As reported, S. 2851 requires the Federal Reserve to pay interest on reserves held against money-market-deposit accounts and super NOW accounts—not against all of the accounts that the banks have, but against those particular accounts. Both of those accounts were authorized in 1982; both enable banks to offer instruments that are competitive with money-market mutual funds. Reserves against these accounts now comprise about 10 percent of total reserves. However, a big change is projected in the next few years and such accounts may require interest on half of all reserves by 1988 if interest were paid on them. Those who favor interest on reserves make three arguments: One—noninterest-bearing reserves are an unfair tax on banks.

I want to come to that tax on banks in a minute.

No. 2, noninterest-bearing reserves place banks at a competitive disadvantage compared to nonregulated entities such as money-market mutual funds offering similar products.

Large money center banks are in financial difficulty because of their foreign loans and need to have their earnings bolstered.

None of these arguments stand up under close scrutiny. First, banks are one of the least taxed industries in the country. According to the Joint Committee on Taxation, the 20 largest banks—and they are the ones who would get the benefit from this—paid taxes equal to 2.7 percent of their income in 1981, the most recent year for which we have figures. Their tax is less than 3 percent of their income. Ironically, banking spokesmen attempting to explain this embarrassingly low tax rate often cite the requirement to maintain noninterest-bearing reserves as a partial justification.

Now, Mr. President, before I came to the Senate, I was a reporter for a newspaper in Madison, WI. At that time we had public access to everybody's tax returns, not only Members of Congress, not only public officials, but everybody, every corporation.

So, as a reporter, I decided I would see what kind of taxes the banks paid. At that time we had a corporation income tax, I think, of 6 percent in Wisconsin. I took the five biggest banks in the State. I was able to add up their taxes for a period of 5 years.

Now, how much do you think those banks paid in taxes? They paid a total of $75 in 5 years—$75, not $75 million, not $75,000, not $7,500, but $75, the five biggest banks in the State. I have more than $75 in my pocket, and I am almost broke.

Now, I do not think Wisconsin is any different than other States, and I do not think that our big banks are different than the banks in Nevada or elsewhere. Banks are good institutions. I used to be in banking myself before I came to the Senate. I think that was before I was a reporter. I greatly admire banks. I think one of the reasons for the strength of our economy is that we have good banks and they do a good job. There just is not any question that the reasons they do not pay taxes are good reasons; they are perfectly legal, but the banks do not pay State income taxes because all the income they get from Federal obligations is exempt from State taxes. So in calculating their income for State taxes, they can leave out that income and show a loss. In calculating their income for Federal tax purposes, they can leave out the income they get from municipal and State obligations and again in most cases they show a loss or a very low income. That is why the biggest banks in the country paid only 2.7 percent of their income in taxes.

So I think we should keep in mind the fact that in this bill we are paying subsidies to the banks that will amount, as I say, according to the Treasury Department and the other agencies, to $4 billion over 6 years and we are doing it to an industry that is about as lightly taxed as any industry in America.

Second, commercial banks do not need any financial help from the U.S. taxpayers to enable them to compete with money market mutual funds.

I might say, Mr. President, that this morning Wednesday, September 12, the No. 1 story in the Wall Street Journal—this does not deal with all banks but it deals with most of the banks because most banks are small and in small towns—is headlined, "Banks in Small Towns Stay Highly Profitable Despite Deregulation."

I think we must keep that in mind in determining whether or not we should pass legislation that would compensate the banks at a time when we are holding down, and should hold down, social programs that are good programs for education, for welfare, for health, and other areas where we would like to be more generous but find we cannot because we simply cannot afford to spend the kind of money we would like and still have a responsible fiscal policy.

As I say, commercial banks do not need any financial help from the U.S. taxpayer to enable them to compete with money market mutual funds. They have been hugely successful on their own. For example, in December 1982, money market mutual funds had assets of $233 billion compared to only $43 billion in money market deposit accounts at bank and thrift institutions.

Now, later on, Senator HEINZ and others are going to make a defense of this provision in the bill on the grounds that the banks have a disadvantage with respect to money market mutual funds. That is why I am brining this up.

By March 1984, money market mutual assets declined to $186 billion while money market deposit accounts at banks and thrifts soared to an astonishing $393 billion. In other words, the banks dramatically improved their portion of the deposits in money market accounts in the last 2 years. As a practical matter this is because the marketing benefits of having Federal deposit insurance and access to the Federal Reserve discount window more than outweigh the cost of noninterest-bearing reserves.

Mr. President, no commercial bank spokesman has ever argued that interest on reserves is needed as a bailout for improvident foreign loans, nor have the bank regulators. If a bailout is indeed required, it should be justified on the record and targeted to those institutions that actually need it.

Mr. President, at a time when Congress has cut back on virtually every program to aid the poor—and, frankly, I voted for those cutbacks—we did it with a heavy heart. Most of those programs are fine programs, good programs but, again, it is something we cannot afford. We have cut down programs, for the poor, for the elderly, for the disadvantaged, for the handicapped in order to curb our budget deficit. It is ludicrous for us now to go ahead and provide for a $4 billion subsidy in order to benefit a handful of large money-center banks who have absolutely no need for relief. They have not asked for it. They have not lobbied for it. Congress should not give it to them. I urge my colleagues to support my amendment that will eliminate this proposed amendment.

Mr. GARN. Mr. President, this has been a controversial issue for many years in the Senate. It is not new. It was brought before the committee several years ago when Senator PROXMIRE was chairman of the committee. It was brought up as part of the 1980 act and was deleted. The House did not have it. I expect the House is still not that favorable toward it.

In the past, I have supported having the Fed pay interest on what I consider sterile reserves. My colleagues know I still support the concept, but the fact is that at this time, with the deficits we are facing, I intend to vote with Senator PROXMIRE—not because I think he is right on the substance of the issue; he is right on the budgetary impact. It is similar to my position on tuition tax credits. I still believe we ought to have tuition tax credits. The last time it came up I voted against it for the same reasons. We have $200 billion deficits sitting out there. We can talk all we want about trying to restrain spending.

So while we are waiting for Senator HEINZ to appear and take the opposite viewpoint, I want to make my position known that although I am voting with Senator PROXMIRE, it is because of the budgetary impact and not that I have changed my mind on the substance of the issue; I do think the Fed ought to pay interest on reserves. It puts banks at a competitive disadvantage. I hope the time comes that this body and the House of Representatives will finally decide that $200 billion deficits are incredibly harmful to this economy and start to make some of the tough choices which are necessary to bring that budget into balance. At that time maybe we can reconsider this issue, tuition tax credits, and others which I think should be done. But I do not think it is responsible of me to go around the country giving speeches about how we need to balance the

budget, like all of our colleagues are doing this year, and vote different than I talk. This does have budgetary impact, and for that reason I will be supporting the Senator from Wisconsin on this issue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The bill clerk proceeded to call the role.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I take this opportunity to join the Senator from Wisconsin [Mr. PROXMIRE], who is the prime sponsor of this amendment. I am a cosponsor.

It seems to me that at a time when we are running deficits of over $170 billion and the outlook is that those deficits are going to be growing in the future and not getting better, it does not make much sense for us now to be tacking on something which, it is my understanding, has not even been requested by the banking interests and which is going to cost us a tremendous amount of money.

The Congressional Budget Office has done a study at the request of Senator PROXMIRE, and that study shows that the revenue effects of S. 2851 without this amendment, assuming it was in effect for 1984, would be $0.2 billion in 1984, $0.3 billion in 1985, $0.4 billion in 1986, $0.7 billion in 1987, $1 billion in 1988, and $1.2 billion in 1989.

So we see that over a period of 6 years, if this were in effect—or even the next 5 years, if we look from next year—we are going to see more than $3 billion added to the deficit, almost $3.5 billion, on top of the tremendous deficit we already have, by virtue of this legislation, which would have us paying interest on these reserves. There is no reason I know of why we should be doing this at a time we are in such desperate trouble.

I ask the Senator from Wisconsin: My understanding is that this administration opposes this move. Is that correct?

Mr. PROXMIRE. The Senator is correct. The Reagan administration has gone on record against this provision. It is part of the bill, and they support my amendment to strike that provision in the bill.

Mr. CHILES. It seems to make sense. Certainly, the reason for the reserve is to protect the consumers, to protect the investors, to protect the depositors.

So what we start off with is a very valid reason for protection, a necessary thing in that regard. It is not that the Federal Government just says, "We are going to do this and take this money." There is certainly a necessity for doing that. To turn around now and say that we are going to charge the Federal Government for making this protection does not seem to make good sense.

I know that the Senator from Wisconsin has already spoken on this, and I associate myself with his remarks.

Mr. PROXMIRE. I thank the Senator from Florida.

As we know, the Senator from Florida is the ranking Democratic member of the Budget Committee. Nobody has worked harder to try to bring a more responsible fiscal policy to this Government than has the Senator from Florida. There is nobody whose support I would rather have on this amendment, because he understands it thoroughly.

As I recall, when I first called this to the attention of the Senator from Florida, he could see immediately what a serious mistake this is.

What strikes me is that the symbolism of this is so bad, because the banking institutions are known to be profitable, by and large. There are some exceptions. They are the symbol of wealth in this country.

I honestly believe that if you were to ask the bankers, themselves, they would say no to this provision in the Senate bill. They have not asked for this. I think that if we could get a poll of bankers, they would say, "The thing for us is to get the deficit under control." It is disturbing for the banking community, and we have to get it under control.

Mr. CHILES. It is not as though the banking community is overtaxed.

Mr. PROXMIRE. Exactly.

Mr. CHILES. I think that is one reason why the banks, themselves, would not be coming in here and making this as a demand, that you have to provide this money, when we look at some of the current tax rates and the amount of taxes collected from a number of our banks.

Mr. PROXMIRE. The 20 biggest banks in this country, in the years for which we have figures, up to 1981, paid an average of 2.7 percent of their net income in taxes to the Federal Government.

Mr. CHILES. It would not make sense that we would then be providing interest of a subsidy to those banks that are not doing badly under the tax laws now, the way they are applied.

I am happy to associate myself with the remarks of the Senator from Wisconsin. I am delighted to see that the chairman of the Banking Committee has said that he will support this amendment. It seems to me that it would make all kinds of sense for the Senate to remove this provision from the bill.

Mr. President, I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, my friend, the ranking minority member on the committee, the Senator from Wisconsin, has moved to strike title IV of the bill which would remove interest on certain reserves that bill seeks to place in effect. I would like to give a brief history as to why the banking committee voted by a fairly substantial margin to adopt title IV of this bill.

I think if you look at the difficult times that the depository institution industry has been through during the last 5 or 6 years, at the arranged merger and acquisitions and millions of dollars of insurance payouts that the two Federal deposit insurance agencies and [FSLIC and FDIC] have had to make because of these difficult times, that it is true (leaving aside the $4.5 billion Government rescue of Continental Illinois Bank) that literally billions of dollars from the Treasury, although collected over time nonetheless by the FDIC and FSLIC, have been paid out, to save, merge, protect, or rescue institutions that have gotten themselves in trouble over the last 4, 5, or 6 years.

Here we are debating a banking deregulation bill, and I wonder how long during this debate we have actually discussed the conditions in the banking industry that have caused us to come to the floor of this body three times in 5 years.

The result of our debate in 1980 was to deregulate the liability side of the balance sheet for banks so that they could pay higher interest rates to their depositors. That was not only something the consumers wanted, it was something we had to do because banks, if you remember correctly, in 1980 were facing that awful condition known as disintermediation. Their deposits were running out faster than they were able to either find new deposits or liquidate their loan portfolios or other assets to redeem their liabilities, which of course are deposits.

We achieved a measure of survivability for banks when we passed the 1980 Act. We slowed the hemorrhage somewhat.

But in 1981 and in 1982 we realized that that hemorrhage, while no longer a gusher, was substantial enough to cause massive failure among thrift institutions as well as a large number of banks.

For 2 years under the capable leadership of Senator GARN examined the problem and concluded that at a mini-

mum two steps were absolutely necessary.

First, the banks had to have a competitive account with which to compete for the deposits that they were then losing continually to money market mutual funds.

And second, we had to have some kind of an intelligent rescue operation to quiet both depositor and investor fears about the savings and loans. In that regard we lowered the capital reserves required by S&L's, recognizing that we were taking a very substantial risk to the tune of many billions of dollars in doing so but nonetheless agreeing that the alternative was substantially worse, namely hastening the massive S&L failures that we feared.

Now, none of that is any secret to my colleagues on the Banking Committee and it is not to them that I address these remarks but to our other colleagues who have not for the last 6 years had the privilege of being present at Senator GARN's thorough and comprehensive review of banking legislation.

But what is less obvious is that there is a real problem with commercial banking in this country that we must keep in mind as we legislate, and that problem may be nothing less than the fact that the structure of the American financial markets and the institutions needed to service them is changing in as fundamental, far-reaching, and permanent a way as the revolution of air travel of the forties, fifties, and sixties changed the facts and circumstances for the railroads.

What do I have in mind? On the one hand, because for all intents and purposes, we have gotten rid of virtually all interest rate ceilings on deposits, or will do so shortly over time, it is no longer going to be as profitable for banks to take deposits as it used to be.

There is, therefore, an inevitable shrinking on their margins on deposit taking. And you can see in the closing of so many branches of banks, you can see through the installation of all those stainless steel machines that have replaced people and become automatic tellers, that the change in the banking industry is here, it is now, and it is only just beginning. And that point, I think, is self-evident to even the most casual observer—bank margins on their deposits are shrinking.

But, a less obvious problem in banking today is that their main business, namely, making loans—loans to homeowners, loans to businesses, particularly the latter, which are the commercial and industrial loans—is also a shrinking market, particularly for high quality loans.

Why is that? It is because the banks largest and, indeed, their best customers are going more and more into self-banking. They no longer call up the bank and say "I need $100 million tomorrow." There are any number of places, including Europe that they can go, and do go, to get it. They can go to the commercial paper market. They can go to a money market fund. There is virtually no place now that they do not go. And the result is, if you look at the statistics for the first quarter of this year, that, even though the economy was recovering and you would expect banks, therefore, to be lending more money to very credit-worthy businesses, fully one-third of all, commercial and industrial loans, went to leveraged buyouts.

Now, I am not here to discuss whether leverage buyouts are a good, bad, or indifferent thing. But one thing they are, by all accounts, is a method of taking what was a credit-worthy customer of a bank and converting them, by virtue of the heavy leverage required in terms of debt for the buyout, into, in most cases, a marginally credit-worthy customer, if not an uncredit-worthy customer by virtue of the amounts of money borrowed.

A third result of these two forces, and one of the reasons why we are here today, is that banks have said, "Although our business is taking retail deposits, and although it has been doing commercial loans, those businesses are pretty tough these days and what we need to do is get into lots of other lines of business."

They want to get into mutual funds. The Banking Committee said no. They want to get in on other securities. The committee had a variety of votes on that issue and we will later have this issue on the floor. Banks have wanted to get into many other lines of business. And the reason, I submit, that they want to enter these businesses is that they want to make more money. That is the profit motive. There is nothing wrong with it. It is human nature. As someone once said, "What business firms, banks, everybody are interested in is the principle that made this country great—greed; the profit motive."

Mr. President, the problem that poses for us as arbiters of financial policy is whether we believe it is sound policy to encourage and/or allow banks to start concentrating more and more of their attention, their management talent, and their resources on other lines of business that have nothing to do with conventional commercial banking as we know it.

Just last week, I had the privilege of discussing the practice of commercial banking with a bank customer, a man who had started a business back in the 1950's, now a billion-dollar-plus corporation. And I asked him what his views were on banks doing things other than banking. His answer to that was fascinating.

He said, "In the 1950's and 1960's, when I had a small business and when I was builidng it, the president of one of the largest banks in Boston knew as much or more about the financial condition of my company than I did." He said, "Over the last 5 to 10 years, it is difficult to find anybody at that bank who knows anything really significant about the financial condition of my now billion-dollar company even though we are a much larger customer, both in absolute terms and proportionally to that bank, than we were back in the fifties and sixties."

Mr. MURKOWSKI. I wonder if my colleague from Pennsylvania would yield for a question.

Mr. HEINZ. Not at this time. I am just warming up.

He indicated that he did not believe that his experience was in any way unique.

Now, that is not to say that every commercial banker has forgotten how to make careful loans, but I do think that it is indicative in particular of how many banks, because of what they perceive to be the changed dynamics of their industry, are looking at some other business, some other lines of business in an effort to grow in some other direction.

Now, normally you would say, "What is the problem with that? It is a free country. Why shouldn't banks be allowed to grow wherever they want?"

And if we did not provide Federal deposit insurance, if we did not have a low-interest loan facility called the window at the Federal Reserve, if we did not have failsafe insurance as evidenced by the $4.5 billion bailout of Continental Illinois this summer, I would say fine, let banks go into whatever lines of business they choose. And there is no philosophical objection to that.

We, however, chose many years ago, I think correctly, to recognize that banks perform a unique and essential function in our monetary system. They are the custodians of the payments system in this country. It is very important that when somebody writes a check that the person who writes it and the person who receives it understands, without any doubt whatsoever, that all they have to do is present that promise to pay to the financial intermediary, a bank or a S&L, and that will be immediately redeemed and/or credited to their account.

Banks are the custodians of the depository base and the payments system and, because of their sensitive nature, we have chosen to ask them, by regulation—to compel them, I suppose you could say—to observe a higher standard of underwriting than we ask of other financial institutions or of other businesses. Hence, we have been cautious and careful for most of the last 50 years as to which lines of business, in financial services, banks could compete in.

Senator PROXMIRE objects to my amendment to pay interest on reserves because he thinks it costs money—and it does cost some money—because he thinks it has some attractions to the larger banks, because he thinks that banks do not want it very much; they certainly do not object to it.

I am not offering this amendment because of its cost. I am not offering it because it is not going to help banks. I am not offering it because banks do or do not want it. I am offering it because if banks are ever going to really get back into the business of banking, they have to have some incentives, they have to have the ability to compete, and they have to have their eye upon the apple which is the core of their system, namely taking deposits. I mean that we would not have had the 1980 and 1982 banking bill, and we would not have paid out billions upon billions of taxpayers' or the Treasury's money if banks had paid more attention to deposit taking and commercial lending instead of going overseas, trying to make fast bucks in the currency markets, trying to speculate on real estate through real estate investment trusts, and doing a lot of other questionable things. So I suggest that the principal argument for this amendment is that if you want banks to have a good reason to do what we need them to do in this country, which is to be aggressive in seeking deposits and to be careful in making commercial loans with those deposits, we need to make sure that they have a reason to take commercial deposits right now.

Without title IV in this bill, banks do not have the strongest of all reasons to seek deposits. Deposits are less profitable to them than they ought to be because they are in competition with money market funds that do not have to hold reserves down at the Federal Reserve and, therefore, cannot earn interest on all of the money that is deposited with them; that is, invested with them.

Banks do not have the luxury of doing that. A portion of money market deposit accounts and super NOW accounts is reserved. And in aggregate, the amount of money reserved is extremely large. It is in excess of some $20 billion at this time. It is not a question here that we seek to pay interest on all bank reserves. That is not what we are seeking to do. We are seeking to make sure that banks are fully competitive on those deposit attracting accounts, money market deposit accounts and super NOW's which we created in 1982 so that the banks will not be back here another 2 years from now or 2 years after that saying you have to help us, you have to bail us out again, you have to pass another $5 or $6 billion supplement to the International Monetary Fund, and you are going to have to lower the reserve requirements for S&L's so that in the middle of the night at the very end of the session we don't have to pass a last-minute deregulation of interest rates, or let banks into general lines of commerce because the only way they are going to be able to survive is for General Motors to own them or for them to own General Motors. That is what this amendment is about.

I hope, Mr. President, that we do not kid ourselves into thinking that in some way this really is going to have a net cost to the Government. Even if it was true as the Senator from Wisconsin says that somehow we would be out $4 billion over the next 6 years, even if I grant that—I am not ready to do so—the fact is that with this amendment in effect the amount of money the Federal Reserve is going to extract by virtue of taking the reserves that are required at banks and reinvesting those reserves in Government securities and the income from that investment is going to continue to grow, grow, and grow each and every year in the future notwithstanding title IV that Senator PROXMIRE seeks to strike.

There is sometimes an attitude around here that just because the Government has the power to take something—in this instance, reserves—that means that those reserves are the property of the Government. That is probably the most flawed kind of thinking we could ever get into around here.

It reminds me of those people who say, you know, however much money it is that people earn we, the Government, are doing them a favor not to tax all of it away and bring it here to Washington, DC. The President of this country has made an eloquent argument that this country is better off when we leave the maximum amount of money in the hands of a free people and let them exercise their freedom of choice with what they want to do with that money. I do not much care about the argument that somehow this is going to cost the Federal Government money because the Federal Government does not have a right to make this kind of money. The reason reserves were established in the first place was not to create a profit center for the Federal Government. The reason they were established—by the way it was at a time when interest rates were tiny—was because of the Government's concern about the security of the deposit base and they wanted an extra lock of 5, 10, or 15 percent on the door. The fact they might earn 1 or 2 percent reinvesting that money in Government securities was not a part of anyone's thinking except maybe a few of the Governors of the Federal Reserve Board who want a new office building.

Mr. President, it seems to me that the argument that we have to keep these reserves and we can never pay interest on them because it is the Federal Government's money—both the interest and the principal—is deeply flawed, and, indeed, is preposterous on its face.

So I hope that we reject the motion of my friend, the Senator from Wisconsin, for that reason.

I think it is important to get a few facts on the record. There are some $20 billion that are now reserved, and the result is that the Fed is earning about $2 billion a year tax free off the reserves it now holds. In the coming year, if we adopt this amendment, the Fed will earn about $200 to $300 million less than it otherwise would have earned—not less in total. It will be earning something more than will be reduced by that amount, but the fact is it will earn about $200 or $300 million less than it otherwise would have earned on a much higher base.

Let me say that if interest rates should go up, 1 percent—I hope they do not—on the $20 billion, there will not be any diminution in the amount of money the Fed will earn. I hope interest rates are not going to go up, but unfortunately they have been going up.

Mr. President, I do not think this is a question of financial hardship on the Fed or its client, the Treasury.

Year in and year out, reserves do grow, and the question is, do we want to perpetuate unnecessarily and very counterproductively, at least in this Senator's judgment, this competitive inequity, when we went on record in passing the Garn-St Germain Act in 1982 that we wanted the competitive instruments we created to be truly competitive?

That, Mr. President, is the final reason why I hope and trust we will defeat the Senator's amendment.

If the Senator from Alaska still wishes to ask a question, I would be pleased to answer.

Mr. MURKOWSKI. No. The Senator from Alaska will refrain from his question at this time, but when the Senator from Pennsylvania has completed, I will proceed, when he yields the floor.

Mr. HEINZ. The Senator from Pennsylvania is finished. If the Senator seeks the floor, he may do so.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my colleague, the senior Senator from Pennsylvania. I rise in support of S. 2851. However, I would like to informally reflect on some of the generalizations by my colleague, the senior Senator from Pennsylvania.

With regard to the causes or reported causes for the rise by the banking industry to involve itself in "other lines," the realities of competition

have dictated the survival of America's banking system as we know it today. As a consequence of such actions, the allowance by such national firms as J.C. Penney and Sears to pay interest on a credit balance, is the reason why the banks have, out of necessity, been forced to look at other lines. The question of whether this is in the best and long-range interests of America's banking industry today is certainly a legitimate subject for the Senate to debate. But, let us make no mistake that this did not come through a process of osmosis. It came from an invasion into the areas that traditionally were within the realm of services offered by banks and the expansion of these banking services by other institutions in this country. As a consequence, the banks have responded by saying, "Let us get into other areas of competition."

I would also like to make a distinct reference to the so-called city banks and the country banks.

I would be the first to agree with some of the generalities made by my colleague from Pennsylvania with regard to the role of the major banks in moving into areas and into overseas loans with perhaps not the degree of prudence one would expect. But the bankers that serve the majority of this country are the so-called country bankers who are still providing a high level of quality service to their communities. They are monitoring their loan portfolios with prudence. They are the stability and backbone of America's banking industry today.

The legislation before us is of keen interest to me personally. As many of my colleagues know, I have been in the banking industry for some 20 years. During that time, I have had an opportunity to closely observe the changes the past banking legislation has had on the banking industry and in this country's financial network.

My visit here this afternoon brings to mind a story that I would like to relate to my colleagues about Oliver Wendell Holmes, the eminent Supreme Court Justice. Holmes was on the train one day reading the paper when the conductor came by to punch the appropriate ticket. He approached the justice who reached into his coat pocket for this ticket and then he reached into his pants pocket. Finally he reached into his vest pocket. Each time he came up empty.

Finally, the conductor recognized him and said, "Mr. Justice Holmes, don't worry, I am sure that great Pennsylvania Railroad won't mind if you sent your ticket to us when you find it."

The old justice looked up at the conductor and said, "My dear young man, that is not the problem. The problem is not where is my ticket; the problem is, where am I going?"

I think that is the question before this body this afternoon.

In banking, where do we go from here? We have a bill that has been brought to the floor, that is not being debated, that we are seeing amendments offered to, and the question is, Just what kind of traditional financial banking institutions will we have in this country? Will we have the large city banks dictate a policy of banking within this country, or will the traditional service-oriented country banks that remain the backbone of America's banking industry and service industry to the communities within our country prevail?

I would like to take this opportunity to share with you some remarks made by Mr. William Kennedy, chairman of the American Bankers Council of the American Bankers Association. I read as follows:

For the most part, banking today is operating under a set of laws and regulations enacted half a century ago during the dawn of the New Deal. The centerpiece of this legal framework is the Glass-Steagall Act of 1933, which separated investment banking from commercial banking. But almost as significant as these legal and regulatory guidelines is a set of deeply-ingrained attitudes about banking which are shared by the general public and many policymakers. These attitudes, which are really nothing more than popularized myth, portray banks as monopolies of the wealthy which require strict and constant regulatory oversight. They portray banks as semipublic entities which have contributed to or have even caused most of the major economic downturns in our Nation's history.

Even before our Constitution was ratified, there was wide appreciation of the fact that banks were more than simple private economic enterprises.

The charter of the First American Bank, the Bank of North America, tells part of that story.

Created in an effort to help combat the devastating depreciation of colonial currency, the bank's charter provided the bank with the power to "make and put into execution such regulations as shall seem necessary and convenient to the Government."

While the Bank of North America was not by any means a central bank, it nevertheless demonstrated clearly and early on that private capital could and would be utilized to meet public ends and public benefits. This fact was largely responsible for the creation of the First Bank of the United States in 1791 and its successor, the Second Bank, in 1860.

The Second Bank was a central bank by every measure. Although the Second Bank had extraordinary powers, it really did not exercise them at first, preferring instead to take a hands-off attitude. But as inflation rose, the bank took dramatic steps to curtail it and in part helped cause the 1819 business depression, America's first depression, I might add.

Although many historians now add that the depression was inevitable, the bank was held responsible and its prestige suffered a blow from which it never recovered.

The rise of Andrew Jackson only served to strengthen the general public's distrust of the Bank of the United States in particular; I might add, all banks in general.

With the death of the Second Bank of the United States, the boom and bust cycle returned with a vengeance. Along with massive business failures, the panic of 1837 brought renewed public distrust of banks. The belief that banks somehow were somehow directly responsible—were a cause rather than a symptom—of economic downturns gained further credence.

My reason for very briefly sketching the early history of banking is to point out that modern banking still suffers from many of the negative images assigned to it during the formative years of our Republic. Images, which, in some instances, were not totally without foundation but which nevertheless were cultivated for purely political reasons.

The way the public has perceived the banking industry has, or course, had a significant impact on the way banking has been regulated in our country.

After all, if the public believes that "banking problems" cause economic downturns or depressions, then surely banking ought to be vigorously and tightly regulated. And so, it has been that after every major downward cycle in the economy, banking reform legislation has been passed.

The 1819 depression led to the creation of an independent treasury system; economic difficulties during the Civil War led to the adoption of the National Banking Act of 1863; and the depression of 1907 led ultimately to the creation of the Federal Reserve System. And lastly and perhaps most significantly for commercial bankers, the Great Depression of the 1930's led to the enactment of the Glass-Steagall Act of 1933.

The Glass-Steagall Act was the cornerstone of New Deal banking legislation. Based on the premise that excessive banking involvement on Wall Street had helped bring about the Great Depression, this legislation barred banks from underwriting or trading securities. In short, it built a Chinese Wall between commercial and investment banking.

But the premise of the law was wrong. It has never been proven that any bank folded as a result of extensive involvement in the securities market. Most banks which specialized in providing investment banking services in the 1920's and early 1930's survived the Depression. The overwhelming majority of bank failures was among small unit banks, many of which had large agricultural loan portfolios which soured in the depressed economy.

Moreover, the intellectual father of the Glass-Steagall limitations, Senate Banking Chairman Carter Glass, based this artificial division on an incorrect historical analogy.

Senator Glass was a distinguished legislator. A popular southerner of great charm, Glass frequently referred to himself in the 1920's as one of the few unreconstructed rebels still in National Government.

In other words, he was disturbed that financial institutions were being drawn into securities underwriting and financing, supposedly leaving less money for other uses.

Groping for a model to follow, he hit upon what he thought was the British banking system.

He thought that in Britain commercial banks—what the British call clearing banks—were the depositories for the public's money and makers of loans, while investment houses provided long-term financing through debt and equity issues. This system, he thought, was in contrast with the model in Europe where banks and investment houses were the same.

He put a great deal of thought into his analysis. He put a great deal of thought into how to make the U.S. System conform to the British model. He put a great deal of thought into manuevering his pet theory into the Banking Act of 1933. Unfortunately, he failed to put any thought into checking out his theory.

He was completely mistaken.

All modern financial functions with the exception of insurance arise from the practices of the British Merchant banks 200 years ago. These merchant banks combined depository, lending, and securities functions.

With the rise of the middle class in Britain during the 19th century, the merchant banks decided they would refrain from offering banking services to the general public, thus preserving their elite status. Clearing banks were created to meet the banking needs of the general public.

The merchant banks, however, continued to do what we would call the banking business with their commerical and more affluent clients, as well as their securities activities. They still do.

Sen. Glass saw a split in the British system that simply wasn't there. Neither British law nor practice justify this aspect of the Glass-Steagall Act.

Yet, for the last 50 years commercial bankers have had to labor under a system that arose from one man's distorted view of the world.

Modern banking, then, must overcome two obstacles in order to survive and thrive as an industry in the years ahead.

The first obstacle, as I mentioned earlier, deals with the public misperception that banking must be separated from other business enterprises if our economy is to remain stable.

The second obstacle is more subtle. It has to do with American reverence for the law.

More than most societies, we have a healthy respect for the law. And because we do, we are naturally hesitant to change the law—even when such changes are made in recognition of new realities.

As you know the law is not static. The law changes in reaction, sometimes even in anticipation to, changes in society. Historian James Willard Hurst described this tendency well in a short volume entitled "Law and the Conditions of Freedom."

Writing of American law during the early days of the 19th century, Hurst noted that laws frequently changed to provide individuals with a better opportunity to express their abundant creative energies.

As manifest destiny pushed pioneers into the distant reaches of the continent, property laws, contract laws, tort laws and other laws that were originally developed to protect the status quo in the settled colonies were changed to accommodate, indeed to encourage, development in the wilderness environment.

The legal order, according to Hurst, was used to shape an environment which would give men more liberty by increasing the practical range of choices open to them and by minimizing limiting forces already in existence.

And this is precisely what must happen with the set of laws originally written to preserve the status quo in the financial services industry.

For like the frontier environment of 18th century America, the financial services environment of 20th century America is changing. And the laws must reflect the changes positively.

These changes come in three basic forms: economic, demographic and technological.

First, let's look at the economic changes.

The laws of the 1930s represented an attempt to meet the demands for financial services in an environment that was shocked by the significant decline in the money supply.

This decline, in turn, led to rapid deflation, a large number of financial institution failures, and a very high level of unemployment.

The economic environment of today, however, is much different from then and has altered the financial needs of both businesses and consumers.

Instead of rapid deflation and its challenges, we now have lived through a decade of unprecedented inflation, a decade that brought its own set of problems.

The seeming inability of the government to control inflation during that time created great uncertainty about the future.

Indeed, at this time it is still uncertain whether the recent decline in inflation brought with it a return of confidence in the government's ability to manage the economy.

After all, it was just four short years ago when the inflation rate was reaching up toward 20 percent.

As inflation put the nation on a cost/price roller coaster ride, interest rates swung widely. Hit by the double whammy of inflation and volatile interest rates, the financial service customer sought a way to keep his or her assets safe from erosion in value.

The consumer demanded, and received, new savings and investment instruments that would parallel movements in inflation and interest rates.

Unfortunately, banks constrained by the restrictions of the 1930s could not offer these new instruments, so the securities industry stepped in to fill the void with products like money market mutual funds and the Cash Management Account.

Generally, these products allowed the customer to write a check on his or her funds, something previously permitted only at banks. Indeed, the checking function was the heart of banking. The securities industry thus entered banking through the back door.

At the same time, an important demographic shift occurred that affected the public's demand for financial services.

Specificially, the people who were born during the post-World War II baby boom came of age and began the process of acquiring housing and other durable goods.

By 1990 this generation will head half the households in America, and will command the greatest concentration of economic resources in the land.

Because of the economic uncertainty of the 1970s, this generation became sophisticated financial service customers intent on searching out the best deal.

Moreover, this was the first generation in history to be born to and grow up in an electronic age. They were accustomed to change in their everyday lives and were open to trying out new ways to meet their needs.

They feel comfortable with machines in a way no other generation has. It would be impossible to understate the importance of this adaptation.

For just as important as economic and demographic change—if not more so—are revolutionary breakthroughs in technology that have enhanced the ability of financial institutions to meet the public's needs.

One result of this new technology—particularly in communications and data processing—is that it now may be cheaper for a single firm to produce two different types of financial services together than for two individual firms to produce them separately.

It might even be said that technology is propelling the banking industry through the most rapid period of change since the 1930s, precipitation fundamental structural changes in the exchange of information and the way that products and services are sold, marketed and priced.

Let us look at the way this new technology has affected routine banking transactions.

Take those automated teller machines that you see on the walls and in the lobbies of bank buildings.

In 1973, there were about 2,000 such machines in operation. By 1983, there were more than 28,000.

For the consumer, the ATMs—as they are called in the banking industry—are a tremendous advance in convenience.

It used to be when you wanted to make routine banking transactions—put money into your account at a bank or withdraw funds from it—you were a prisoner of the hours when the bank was open with an ATM, you can make such a transaction 24-hours-a-day, 7-days-a-week.

ATMs, however, are only the first step.

Bankers believe that the technological revolution will eventually lead to a totally new way to market banking services.

These systems, it is envisioned, will provide the consumer a complete list of products, service and price information on a home computer screen—with the consumer being able to purchase goods and services using the electronic media.

You may have read that American Express has teamed up with the Times Mirror and Knight-Ridder news companies to provide a variety of electronic services.

American Express will shortly allow its cardholders to communicate directly with their customer service representatives, get on-screen travel informaiton, shop through the American Express catalog, and receive a variety of weekly newsletters. Subscribers will also have the opportunity to execute routine banking chores, purchase theater tickets, get late-breaking news, restaurant and movie reviews, and communicate with other subscribers.

The fact is, the future is here right now it is no longer "just around the corner."

And we know that Americans learn fairly quickly to rely on computerized transactions. About 70 percent of the families in the United States have checking accounts today, and 55 to 60 percent of all adults use credit cards. Electronic funds transfer systems—the name that bankers give to methods of moving money electronically—have a current market penetration of about 10 percent.

It has been estimated that by 1986 ATMs will handle more than six billion transactions a year, and by the end of the decade they are expected to handle half the transactions in the banking system.

By the year 2000—just 16 years from now—EFT systems are expected to reach an estimated 50-to-60 percent of the nation's families and the delivery of services in the home via computer will probably be the principal method of delivering consumer financial service.

Some people have expressed concern for privacy as the computer continues to play a growing role in virtually all aspects of our lives. There are plenty of horror stories around to feed the fears of the alarmists. But the fact is, there can be tighter security

for banking customers through the use of computers than through the use of traditional methods. Fewer people have access to computerized files, and even fewer people have the sophisticated knowledge needed to get information from or into the systems.

As the banking business becomes more computerized, our goal will be to continue to meet peoples' needs. Although the future will bring more automation, banks will still be people-oriented. The personal touch in banking will still be an essential part of the picture. Our major concern will be to continue to offer the best and most personalized service to our customers in the most efficient way we can.

In fact, I think more customized service is just as much a wave of the future for banking as are technological applications. I envision a bank of the future that offers a variety of investment instruments that are tax efficient and flexible. The bank of the future should be able to put together customer investment packages that offer a balance of convenience, earning potential, safety, and tax advantage.

In this regard, it is essential for the banking industry to be allowed to adapt to the changing financial needs of our customers. Federal regulation has, in the past, though, made it difficult for us to offer even the most basic of new services.

I cannot over-emphasize the importance of a legal and regulatory climate that is conducive to progress. One of the major frustrations I experience in working with the public is that when we perceive a need and want to offer a new service, we are hampered by laws and regulations which make the new service difficult or even impossible to implement.

One example that comes to mind again is the Automated Teller Machine. The technology existed long before banks actually used ATMs. But many states considered these machines to be actual branches of the bank and, since it was illegal for banks in those states to have branches, automated teller machines were also illegal. It took many years for bankers to work around this legal roadblock.

I can think of another example that involves services instead of technology. Ever since the 1930s, banks were not allowed to offer interest on checking accounts. It was not until 1980 that this regulation was changed, even though it was obvious that interest on checking accounts is a benefit to customers.

The 1980 law that allows banks to pay interest on checking accounts was an important first step. In 1982 there was another breakthrough, when banks were authorized to offer two new accounts: the SuperNOW and the Money Market Deposit Account. Both accounts offered bank customers the advantage of market rate returns on their money, convenient access to their accounts, and federal deposit insurance.

I think the trend away from the kinds of regulations that keep banks from giving their customers the kinds of financial services they need is a healthy trend.

I am not suggesting that all regulations of the banking industry be abolished. We are, after all, in the business of handling other people's money, and we have a great responsibility to our depositors. But, as we have seen all too often, laws and regulations fall behind the times and become unreasonably restrictive.

In the coming months, you will hear a great deal about how bankers are lobbying Congress for expanded powers—for the opportunity to offer new products and services in securities, real estate and insurance.

Bankers believe significant consumer benefits will be generated by a system in which every type of financial institution can offer a package of products and services tailored to a customer's individual needs.

Consumers do not buy soda by the sip, toothpaste by the squeeze, or butter by the pat; and they should not have to purchase their financial services at different locations, one-at-a-time, either.

Increased competition among various vendors in the financial services industry will push prices down as consumers shop for the best possible product at the best possible price.

We know an integrated approach to financial planning and services is in demand because it is being offered more and more in the marketplace today.

As I have said, some of those firms, including Sears and Merrill Lynch, would not be investing their time and extensive resources in this area if they did not recognize a demand.

Nevertheless, the securities, real estate and insurance people will claim that providing banks with the freedom to compete will simply create an open invitation to economic disaster.

In addition to the increased convenience of being able to conduct various types of financial business at one location, the services themselves should also become less expensive.

They will argue their cause in the loftiest of economic terms but they will not succeed. Why? Because attempts to protect a market niche and to impede the natural forces of competition have failed before.

Many of you may recall what happened when margarine was first marketed as a substitute for butter. The dairy industry went to great lengths to discourage consumption of margarine. They claimed it was bad for your health. Many states where the dairy lobby was powerful even went so far as to require that margarine be colored pink. Other states levied significant taxes on the product, while also requiring that margarine be sold in its unappetizing, uncolored form.

Today, margarine is in as much, if not more, demand than butter. The lesson here is: the public will not be denied products it finds beneficial, especially once it has a chance to utilize them. And the same will hold true in the financial services industry.

Once all the rhetoric and the mythology are peeled away, the public will be comfortable with banks providing a whole range of financial services. And banks, themselves, will prove very competent in providing these services.

That concludes Mr. KENNEDY's remarks.

Mr. President, I feel strongly that Congress must address the issues raised in this bill before the current legislative session ends. Certainly these issues are the type that should be fully debated and resolved by the elected representatives of the people of this country, rather than the staff of a governmental agency. Today, I will share a number of articles with you that I feel provide a broad overview of the topic under discussion today.

Many articles have been written about the role of Government in restructuring financial institutions. The first article was written by James V. Elliott. He is the former Director of the Bank Organization and Structure Division of the Comptroller of Currency. The article appeared in the Journal of Bank Research in spring 1983. The article posits the theory that all past significant changes made to the structure of financial institutions in this country can be attributed to a financial crisis or at least a perceived crisis by the people of this country. In his article, Elliott suggested that if this is true, we will not see any major banking reform legislation in this country unless a crisis is perceived by the public and media. Whether or not we adhere to this crisis theory of financial reform, or whether or not we believe we have reached that crisis, I believe you will agree that this is enlightening and appropriate information on which to reflect. It provides a well-documented account of the history of bank legislation in this country.

Mr. Elliott writes:

WHAT IS THE ROLE OF GOVERNMENT IN A MAJOR RESTRUCTURING OF FINANCIAL INSTITUTIONS IN THE 1980's?

INTRODUCTION

The provision of financial services is undergoing a profound change in the United States. This is occurring at a time of considerable financial stress. Concurrently, rapid strides are being made in technology and in the creation and delivery of new types of financial services.

Structure can facilitate, inhibit or be neutral in its effect on the financial service industry. Until the recent innovations in financial services offered by nonregulated entities, the structure of the financial service industry was dictated by government regulation. Thus, we have a system of 15,000 state and federally chartered banks, 4,000 savings and loan associations, 22,000 credit unions and smaller numbers of mutual savings banks, Morris Plan banks, industrial banks and trust companies.

Structure has a more subtle impact on the financial service industry than monetary control efforts. However, under certain circumstances, structure, perhaps through an indirect link to the money supply, can have as profound an impact on the industry as direct regulation of the amount of money in the economy.

Government, by its nature, must respond to diverse and even antagonistic constituent forces. For example, a government in the hands of debtors will facilitate the payment of debts with cheap money (see Schlesinger, Jr. [1953]). A credit government will enforce debts at par or better. Usually, a division of interest on the constituent level, although no less severe than debtor-creditor, is a reflection of standing at different points in the production of goods and services. Conscientious elected representatives can be confronted by compelling cases for easy or hard money from various constituents with different occupations. Such representatives are likely to vote in favor of the largest constituent blocks. If, however, a program can be presented that appears to meet the needs of all factions or a popular political mandate, such as war, there is likely to be a consensus and the program

will be adopted. Crisis has often produced the required consensus among opposing factions on the issue of financial reform.

This paper explores the historical relationship between crisis and financial reform. The present circumstances are analyzed in light of the historical precedents to make a judgment about the likelihood of significant governmentally imposed reform in the 1980s.

HISTORICAL PRECEDENTS

Since the invention of coinage by the Lydians, governments have been active in the monetary affairs of their citizens. It was soon discovered that control over the price, quantity and stability of money could have a profound effect on the well-being of a nation's inhabitants. Furthermore, as a user rather than a producer of wealth, government is also a potential beneficiary of its own economic and monetary policies.

Governments have a tendency to be under a state of dynamic tension with regard to financial and monetary policy. Thus, policies skewed too far in favor of one set of constituents eventually dampen the economy so strongly that even the initial beneficiaries recognize a need for more even handed policies. However, if the governmental mechanism is slow and the disadvantaged constituents are politically weak and geographically distant from the center of decision, then a lopsided financial policy may long continue. Such was the case with the Mercantile system imposed on the North American colonies by Great Britain (see Ernest [1973] p. 14-16 and Documentary History [1969] p. 87). A persistent adverse balance of payments led to a continual flow of metallic exchange out of the colonies to England. There was a resulting chronic shortage of capital and medium of exchange within the colonies. The colonies, however, were rich in land and labor. Paper money appeared ideal as a vehicle for liquefying these assets and filling the money void (see Ernest [1973] and Miller [1927] p. 125). Thus, the colonies issued bills of credit secured by mortgages. Later the security behind the bills became the general obligation of the colonial governments. Where the paper issued was reasonable and closely controlled, as in Pennsylvania, the tactic was successful. But where the bills were printed without responsibility, hyper-inflation resulted (see Hepburn [1924] p. 11).

The Revolutionary War created a government without taxing power, but capable of forcing a significant portion of its citizens to accept its general obligation notes in payment for goods and services (see Documentary History [1969] pp. 146-147). Unable to tax directly, the Continental Congress did so indirectly with the printing press. Even at the time, it was recognized that this monetary device served the purpose of financing a lengthy war (see Hammond [1957] p. 29).

Against this background, Alexander Hamilton proposed the First Bank of the United States. He made the following arguments in support of his proposal: (1) The bank would serve the fiscal needs of the government; (2) if would give credit to government bills; (3) it would serve as a convenience to the Treasury in its functions and (4) it would facilitate commerce by creating a circulating medium and a vehicle for the payment of taxes (see Miller [1927] pp. 22, 31 and 51 and Documentary History [1969] pp. 230-231).

The proposal was bitterly opposed and has the dubious distinction of delineating the developing demarcation between Federalists and Republicans (see Hammond [1957] p. 118). Opponents stressed the following arguments: (1) The bank would create a powerful money interest; (2) the bank would interfere with states' rights, that is, ". . . would interfere so as indirectly to defeat a state bank at the same place"; (3) it would ". . . directly interfere with rights of states to prohibit as well as establish banks," (see Hammond [1957] p. 115); and (4) the bank was an unconstitutional exercise of the federal government's money power.

It cannot be said without qualification that the First Bank of the United States was conceived during or in response to a crisis, although it was debated vehemently. On the other hand, one can make a case for the First Bank as a response to the continuing fiscal crisis caused by the Revolutionary War and the continued lack of developmental capital.

In any case, the First Bank illustrates the soundness of adopting a unitary program in banking matters. The First Bank bill passed largely as Hamilton wrote it. The debate and contest became an all-or-nothing struggle. Consequently, the Bank functioned largely as the author intended (see Hilldreth [1837] p. 55 and Documentary History [1969] p. 350). Its disabilities also tended to be those suggested by the original detractors. It remains an excellent model for addressing the totality of bank structure problems in a comprehensive fashion. The question today is whether the political process will again permit a thorough-going reform or whether we are doomed to piecemeal tinkering.

In 1811, the Congress failed to recharter the bank, and in 1812 its charter expired. The nation could not have picked a worse time to conduct an experiment in unrestrained banking (see Documentary History [1969] p. 350). The state banks proliferated. War began and the national government raised funds on credit rather than by taxation (see Hilldreth [1837] p. 57). By 1814 payment in specie was suspended everywhere except New England (see catterall [1902] p. 4). Currency of all kinds, including government notes, circulated at wide discounts or was refused altogether. The party opposing the First Bank now became its sponsors and champions; and, after seven attempts and two years of effort, the Second Bank of the United States was established in a form similar to the first (see Catterall [1902] p. 21). The Second Bank of the United States was as successful as the first, perhaps more so. It re-established a uniform currency and helped stabilize the state bank system. Payments in specie were resumed. Like its predecessor, the Second Bank served as an effective fiscal agent for the national government. As long as its founding party was in power, relations with the government were harmonious. However, with the arrival of President Jackson, the relationship became antagonistic.

It is interesting to note that the conflict between the Jacksonians and the Second Bank of the United States did not arise out of crisis. Indeed the conflict took place during a period of extraordinary growth and stable monetary behavior, the latter due largely to the Bank. Rather, the destruction of the Bank seems to be the triumph of a single segment of the economy, the agrarian hard-money Jacksonians.

Regardless of its political causes, the removal of the Bank constituted a major and comprehensive reform of the banking system. The effects were similar to present day efforts to deregulate the airline and trucking industries. The federal government chose not to exercise its constitutional power over banking and the money supply. Consequently, government control fell to the states, which resulted in systems ranging from outright prohibitions on banks to soundly run banking systems.

The need for circulating currency was met by state banks. This currency was placed into interstate markets; and, in the absence of national control, local markets discounted these notes to take account of the wide variations in state bank powers and safety. The effect was similar to today's floating exchange rates between national currencies, whose relative values vary in part due to the monetary policy of the issuing nation state.

After the demise of the Second Bank in 1837, the federal government ceased to have an instrumenality that could influence economic activity nationwide. During its life, the Second Bank could and did respond to general economic conditions in a unified manner. It is credited with both accentuating and flattening effects of the business recycle in response to political forces. Its destruction formed the basis of the system we have today. From 1837 to the Civil War, the nation, buoyed by tremendous growth in population, industry and agriculture, saw no need to address again the volatile issue of banking reform (see Hammond [1957] p. 741).

The National Banking Act of 1864 is a product of the Civil War and one of the clearest examples of the impact of crisis on banking legislation. While there is some disagreement on whether the Act's main purpose was to provide a national currency or to help create a demand for government bonds to fund the war, the result was the reentry of the federal government into banking.

Several important changes came about as the result of the National Banking Act. First, by combining the act with a tax on state bank notes, the nation finally achieved a uniform currency that circulated at par with specie. The tax on state banks' notes also inadvertently hastened the age of the demand desposit as a major source of the nation's money supply. Fractional reserve banking became a national norm.

Significantly, the National Banking Act did not restore a central banking authority. It can be argued that the National Banking Act was really an elevation of the best of the state banking codes to the national level. Consequently, the banks issued a sound currency and were relatively sound financially as individual institutions; but they were exposed to weaknesses in the overall system. As one commentator has put it, the national banks were responsible only to themselves and for themselves, a condiition that effectively prevented any united action by the banks when abnormal circumstances prevailed (see West [1974] p. 29). Two problems were recognized and, through the action of the panics of 1873, 1884, 1893 and 1907, became the basis for the Federal Reserve solution (see West [1974] pp. 27, 29).

The national currency was based on liabilities of the national government: The bonds securing national bank notes and the government's own direct issue notes. A national bank's ability to buy the government bonds necessary to back a note issue was not a function of a need for currency, but rather the debt level of the federal government and the market for bonds. Growth in a bank's assets had no real relation to the notes issued. Reformers wished to change the basis of the notes from liabilities to assets, that is, from government bonds to

short-term, self-liquidating commercial loans. Note issue would then grow with growth in economic activity and, presumably, would shrink as the demand for the note's commercial-credit collateral feel off.

The second reform urged in the 1864–1903 period was to reintroduce a central bank function into the banking system. Absence of this function inhibited development of adequate clearing facilities, precluded a lender of last resort and prevented the development of a sound reserve system (see West [1974] p. 29). The central bank deemed appropriate for the United States was generally seen to be more of a banker's bank than an economic policy-making instrument for the national government. A Third Bank of the United States was not seriously urged.

By the time the Federal Reserve Bill of 1912 was considered, the issues and players had assumed a form similar to those of today. The American Bankers Association was in existence and prepared a lobbying position (see Hepburn [1924] p. 397). Wall Street was the recognized financial center and was involved and feared (see West [1974] p. 43). The bill had many partisan overtones and, unlike the First and Second bank bills, was a creature of compromise rather than an all-or-nothing proposition. Notwithstanding a long study and planning effort ultimately running to 38 published volumes, the bill's drafters were not free to craft a new banking system but rather were striving to correct defects in an otherwise acceptable system. Elaborate efforts were made to prevent any faction from gaining undue advantage from the efforts to correct perceived defects. Consequently, the central authority's powers were weak and the system had a strong federalistic bias characterized by the 12 autonomous banks.

The period 1912–1933 marks the first segment of the Federal Reserve System's history. The ability of the banking system to handle the financial demands of World War I and the lack of a 19th century-style panic led to the belief that the old evils would not recur (see West [1974] p. 227).

There is a debate in the literature between those who hold the structure of the Federal Reserve system as passed in 1912 responsible for the banking collapse of the 1932–33 period and those who view the persons holding the highest positions in the Federal Reserve at fault for failure to use the powers at their command. It is not necessary for the purposes of this paper to resolve this debate or even to choose sides.

The critical aspect to note is that the 1933 period was a full-blown crisis, perhaps the worst since the Revolutionary War. It is important to note that a significant aspect of the crisis was a large-scale loss of money held by the public in the form of demand deposits in banks that failed. The losses resulting from widespread bank failures led to bank holidays and ultimately to a breakdown in the payments mechanism throughout the nation. In response, Congress molded the banking system that is still in operation today. Evils that were believed to have led to bank failures, such as speculating in investment securities and loans to affiliated companies, were seen as directly harming the public through the vehicle of bank failure. Thus the Banking Act of 1933 prohibited payment of interest on demand deposits, prohibited loans to broker dealers, restricted loans to bank affiliates and enacted the Glass-Steagall provisions preventing underwriting by commercial banks and severing investment and commercial banking. The Banking Act of 1935 created the Federal Deposit Insurance Corporation in its present form and gave the Federal Reserve Board control over open-market operations as well as the appointment of Federal Reserve bank presidents. The Housing Act of 1933 created the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, thus beginning a federally sponsored and nurtured banking system dedicated to financing the nation's housing needs. This Act responded to the crisis-related phenomena of massive numbers of defaults on home mortgages brought about in part by the depression and in part by the use of balloon-payment mortgage devices.

Analysis of the historical record from colonial times through 1935 shows that major banking reform has occurred as a result of crisis with one exception, the veto of the bill to recharter the Second Bank of the United States.

For the purposes of this paper, crisis is defined as follows:

(1) Severe depreciation or total loss of significant portions of the public's supply of money. This effect must be widespread and not isolated by geography or segment of the economy.

(2) Inability of the national government to conduct its finances or to raise funds for widely accepted national policies, especially war.

It is important to note what factors are not included in the definitions of crisis:

(1) Hardship to and failure of financial institutions that does not translate into widespread loss of money by the public.

(2) Hardship in one sector of the economy or section of the country.

A definition of reform is also required. Reform, for purposes of this paper, is meant to be a signficant change in the nation's financial system. The First and Second Banks of the United States, the National Bank Act, the Federal Reserve Act and the Depression Acts all meet this test. Recombining commercial and investment banking, repeal of the interstate banking restrictions and total deregulation of thrifts would all meet this definition.

CURRENT ENVIRONMENT

It is now appropriate to examine the present situation. Two facts dominate today's financial service industry and are responsible for most of the reform discussion. The first and most significant is sustained high interest rates. Higher rates produce the following effects:

(1) Currency and noninterest bearing demand deposit accounts are not acceptable stores of value to the public. They are, however, the only legal medium of exchange. The public is given a large incentive to place funds at market rates in a form that permits a quick conversion to currency, demand deposit accounts or plastic substitutes.

(2) Housing construction, purchase and resale cannot be encouraged by special institutions required to hold long-term, fixed-rate mortgages funded by short-term, below-market-rate liabilities.

(3) Regulations and laws such as Regulation Q, the Glass-Steagall Act and the prohibition on the payment of interest on demand deposit accounts prevent existing financial intermediaries from meeting the public's requirement for an inflation-proof store of value, giving rise to non-regulated substitutes that threaten the profitability of the regulated financial service industry.

(4) Special-purpose institutions dedicated to housing are book insolvent on a market-to-market basis, are in a negative earning state leading to zero or negative net worth, but are usually in positive cash flow position.

A second important factor in today's environment is technology. One of the major reasons the public holds demand deposit accounts and passbook accounts is convenience. Brick-and-mortar branches enable the consumer to convert cash and checks into demand deposit accounts or passbook balances that can then be drawn down or reconverted into cash as needed. Technology will soon enable these functions to be performed at home over the telephone with statements available on the TV screen or in hard copy. Widespread automated teller machines (ATMs) capable of accepting any plastic card, bank or nonbank, and converting an account balance into cash will complete the technological revolution. The home computer will permit the consumer to pay bills and transfer funds even to other individuals without using demand deposit accounts at all, or only for an instant if required by law. The plastic card will serve all needs away from home, including cash, by virtue of widespread ATMs. Once this day arrives there is the possibility of a near-instantaneous electronic run.

VIEWS OF MAJOR GOVERNMENT SECTORS

At this point, one should examine the present situation as seen by the relevant sectors of the government. The House, Senate and Administration have all proposed varying degrees of reform. All are reacting to perceived problems in the present financial system, primarily the problems generated by sustained high interest rates.

The perceptions differ, depending on which government sector is involved. The significance of this fact for major reform is obvious. The House Committee's published material stresses the need for equal access to credit by all ". . . individuals and communities" and the need to restore a flow of funds to the housing market. The erosion of the depression inspired regulatory structure is viewed as an evil or problem requiring attention because of the impact on the availability of low-cost credit for housing, small business, consumers and communities. The House also perceives certain unfairnesses requiring correction. Thus, the consumer's inability to receive a market rate for surplus funds is unfair, as is regulated institutions' inability to offer an instrument competitive with money market funds.

The current administration is more market oriented than previous administrations. Rather than seeing the unavailability of credit at low cost to various segments of the economy as a problem, the administration views government restraints on the players in the market as an evil in itself. On the housing issue, the administration would suggest that, if subsidies are national policy, they should be directed and aboveboard. Therefore, the administration would allow banks, savings and loans and nonregulated financial institutions to compete on a par for all sources and uses of funds. The requirements for safety of the medium of exchange would be met by regulating this function and applying deposit insurance and regulation only as necessary to insure public confidence. At the heart of this view is the firm belief that an unencumbered market will best meet the needs of all sectors of the economy for credit and transaction services.

This writer's impression of the feeling in the Senate is that the plight now facing the S&L industry does constitute enough of a

crisis to generate reform. There is concern not about a "panic" run on S&Ls but a slow, steady, "silent" run forcing S&Ls to replace more and more low-cost borrowed funds and certificates of deposit with market-rate funds or federal home loan bank borrowings. There is a feeling that deposit insurance is the only reason the S&Ls as a whole have not faced a depression-style run. Consequently, there is a belief and prediction that something akin to S. 1720's grant of commercial bank powers to S&Ls will pass in the near future.

POSSIBILITY OF MAJOR REFORM

Having reviewed the various positions within the government, it is appropriate to examine the likelihood of governmentally induced reform of the financial system in the 1980s. Returning to the historical thesis which finds that only crisis inspires fundamental governmentally imposed reform, one must ask if a crisis exists or is perceived. The answer appears to be a fairly clear "no." The market in the form of money market funds has, in fact, met the public's need for an inflation hedged store of value. Innovative techniques for converting these assets into demand deposits or plastic money satisfy the need for a medium of exchange. In short, there is no currency crisis at hand or on the horizon. Of course, this state of affairs could change overnight if the safety of these funds were questioned or a run destroyed their ready convertibility to cash. However, the Federal Reserve's existing powers could arguably cover such a crisis.

The second definition of crisis requires a failure of the banking system to meet a clear national policy. In his opening remarks, Chairman St Germain recalls the policy embodied in the Housing Act of 1949: ". . . A decent home and a suitable living environment for every American family." Certainly this policy is not being fullfilled in the current environment. Housing starts are at their lowest level since 1946, and resales are also at an extremely low level. The average price of a new home is beyond the capability of the average family.

The savings and loan industry has been central to the nation's housing policy since the Housing Act of 1933. In an environment of low and stable interest rates where the public cared only about convenience and safety, the government could cheaply and unobtrusively foster housing by devices such as Regulation Q, the Federal National Mortgage Association, the Government National Mortgage Association, FHA loans and VA loans. Rising real wages and low inflation insured a steady demand for housing credit and a continual ability to lend long and fund short. Savings and loans maintained the appearance of health private institutions performing a specialized lending function.

Persistent high rates have unmasked the the Government's role in housing and thwarted its aims. Savings and loans have become insolvent on a mark-to-market basis. On a book basis, their net worths are deteriorating steadily due to consistent high negative earnings stemming from adverse liability-asset spreads. The result is an entire industry in a state of crisis. But is this crisis real or illusionary? The vast majority of savings and loans are mutuals. There are no equity holders capable of losing large sums of invested capital. The government is insurer, not investor. By allowing savings and loans to make variable-rate mortgages and perform commercial bank powers, the government has taken steps that will bring back book profits over time. The government could grant savings and loans permission to operate for a period with a negative net worth rather than close them at the worst possible time. If the government adopts this policy and the public remains confident about funds held by savings and loans, there is no real crisis and the insurance fund would remain intact. However, pursuit of this approach effectively severs the government's special relationship with savings and loans and withdraws them from their role in housing finance.

Finally, this paper should attempt to answer the question posed by the title, "What is the Role of Government in a Major Restructuring of Financial Institutions in the 1980s." History suggests that crisis is essential to an overhaul of the nation's financial system. Crisis usually occurred when there was a real breakdown in the performance of the system that was clearly perceived by the public and their elected representatives. This writer concludes that this is not the case today. Consequently, a major overhaul is unlikely.

Nevertheless, government has a role to play. It must maintain public confidence in the soundness of money. Deposit insurance has performed this role for 50 years, but widespread use of noninsured liabilities as a store of value raises the old specter of runs and panics. This is dimly recognized today but will become a central issue in the 1980s and can expand overnight into a real crisis in the historical sense. The government, therefore, must recognize this problem and address it.

The government has the responsibility and the power to redirect a portion of society's productivity into commonly accepted goals. Universal, decent housing is such a goal, enacted into law in the 1949 Housing Act. The present mechanism for effecting this goal has broken down. Savings and loans will be saved only at the cost of abandoning the housing solution of the 1930s. The government must craft a new housing program.

Finally, the government has a role short of total restructuring. It can fine tune an otherwise acceptable system. Modifying Glass-Steagall to permit banks to underwrite industrial revenue bonds and to pay interest on demand deposit accounts would not work a profound change in the existing system. Neither would repeal of the present restrictions on interstate banking. Such actions would simply accelerate trends already clearly established. This type of action is often referred to as providing a "level playing field." On the issue of revenue bonds and interest on accounts or bank sponsored money market funds, there seems to be sufficient support from all active players and no perceived public opposition. Consequently, some action will probably occur. Interstate banking, on the other hand, has a politically weak constituency and a politically strong opposition so that legislative reform appears unlikely. Interstate banking will continue to develop via the interaction of innovation and technology.

Following publication of Mr. Elliott's article, two responses appeared commenting on it. The first is by Robert A. Eisenbeis, Wachovia professor of banking at the University of North Carolina at Chapel Hill. He writes:

DISCUSSANT'S COMMENTS—WHAT IS THE ROLE OF GOVERNMENT IN A MAJOR RESTRUCTURING OF FINANCIAL INSTITUTIONS IN THE 80'S?

(By Robert A. Eisenbeis)

In his paper, James V. Elliott (1982) addresses the issue of the appropriate role for the government in restructuring financial institutions during the 1980s. As the key analytic framework, he relies on what is acknowledged to be the widely accepted view that major reform and significant change in the financial structure are usually not realized unless there is a financial crisis.

Almost two-thirds of the paper is devoted to an historical review of the events up to the 1933-35 collapse to support use of this crisis framework. It is suggested that most of the major financial reforms and changes in financial structure, such as the creation of the First and Second Banks of the United States and passage of the National Banking Act and Federal Reserve Act, all followed closely on the heels of financial crises.

Further, Elliott argues that such crises could be of two principal types: Those resulting in widespread depression and significant reduction in the money supply and those associated with a critical problem in funding a nationally accepted policy. While the latter type of crisis is framed in general terms, the only historical examples Elliott provides concern the financing of wars.

Finally, while Elliott does not define precisely what would constitute a significant reform or change in the financial system, he does provide several examples, such as the creation of three central banks. He also indicates that a recombination of commercial banking and investment banking, repeal of the McFadden Act restrictions on interstate banking or total deregulation of the thrifts all would meet his criteria. From this discussion, I would infer that a "significant reform" would also include changes in the functions of the central bank or changes in the geographic scope over which financial services could be provided.

Against these definitions and framework, Elliott examines whether the conditions exist today for either of the two types of crises he has identified in order to make inferences about the likelihood for significant reform. He concludes that the money supply is safe and that there is not likely to be a currency crisis. Innovative techniques such as money market mutual funds have evolved to satisfy the store-of-value function of money, and technologies exist for quick conversion of such funds into currency or for making transactions directly.

In evaluating the second type of crisis, failure to meet a national policy, Elliott turns his attention to housing policy rather than focusing on the problems of war finance which provided the only empirical support for this aspect of his crisis hypothesis. He concludes that, with the recent authorization for thrifts to hold variable-rate loans and to broaden their asset and liability powers, the major steps have been taken which will bring their maturity matching problems into balance. Also, he notes that thrifts could be given authority to operate temporarily with low or negative net worth until they become viable again.

Based on this analysis, Elliott is led to the overall conclusion that there is little prospect for significant financial reform. He does argue, however, that there is still an important role for government in shaping the structure of the financial system. Specifically, government has the responsibility

to maintain public confidence in the money supply through support of the deposit insurance system. Second, there is an important problem to restructure the nation's housing goals. Finally, the system can be "fine tuned" by, for example, modifying Glass-Steagall to permit banks to underwrite revenue bonds, authorizing interest to be paid on demand deposits and revising the McFadden Act.

DISCUSSION

I have two major comments on the paper. The first is that the crisis framework does not deal with the issue of the appropriate role of government in financial reform. Rather, it focuses on the conditions under which reforms may be likely to take place. In this respect the paper does not really deliver what it promises. Furthermore, when the issue is finally addressed at the end of the paper, the three roles for government which Elliott describes— maintenance of the public's confidence in the money supply, creation of a new housing policy and "fine tuning" the structure—do not flow from the analyses contained in the paper.

The second comment is that the crisis framework is too limited. Moreover, it can be shown that the existence of the kinds of crises Elliott defines is neither a necessary nor sufficient condition for reform to take place. For example, looking at the period of U.S. financial history prior to 1933-35 (from which Elliott has derived the major empirical support for the crisis theory), it is possible to point to numerous periods of severe financial panic, significant and widespread bank failures and currency crises in the form of suspension of specie redemption than did not result in significant financial reform.[3] There were panics in 1818-19, 1832-38, 1841, 1853, 1873, 1884 and 1893 that were not followed by financial reforms.[4] Furthermore, the financing needs of World War I and all subsequent wars did not precipitate specific legislative reforms.

Conversely, it can also be argued that since 1950 there have been numerous instances of financial reforms that were not rooted in crisis. The Bank Holding Company Act of 1956 and its amendments of 1970, the International Banking Act, the FIRA Act and, most important, the Monetary Control Act are all clear examples of significant financial reforms that would seem to meet Elliott's criteria that significantly affected the payments system, the powers and functions of the central bank and the range of permissible bank powers and their geographic scope.

Of all these examples, the Monetary Control Act is the most striking in terms of the changes in the permissible powers for banks and federally insured thrifts, its impact on the Federal Reserve's monetary policy functions and the role of our Federal Reserve in the payments system. To be sure, the Federal Reserve argued for the Monetary Control Act in a quasi-crisis environment centered on its membership problem and the implications for its ability to implement monetary policy. But the Fed's concerns wer prospective and not in response to an actual collapse or to an inability to conduct monetary policy.

AN ALTERNATIVE FRAMEWORK

An alternative to Elliott's crisis framework that helps to describe better the role of government in the financial reform process and to assess the likelihood of further change in the future is the regulatory dialectic framework that Kane (1977, 1981) and Eisenbeis (1976, 1977, 1981a, 1981b) have discussed at some length. The regulatory dialectic framework does not require a crisis to create the necessary conditions for financial reform to take place. It relies instead on economic incentives and temporary competitive disequilibria.

The regulatory dialectic views financial reform and restructuring as a continual, interactive process that is the natural by-product of economic incentives created by binding regulatory constraints. Persistent inflation and the high and variable interest rates that seem to accompany it repeatedly have driven regulated depository institutions, especially banks, against regulatory constraints such as deposit-rate ceilings, usury ceilings and reserve requirements. When binding, such regulations restrict profit opportunities and, thus, function like a tax.

When a tax begins to bite, people seek ways to avoid paying it. So too do financial institutions; and, because of the fungibility of funds and flexibility of financial markets, it has been relatively easy for regulated institutions to innovate new instruments and other means to avoid paying the tax. In addition, binding regulations also create economic incentives for less regulated institutions to evolve effective substitutes for the more heavily regulated services.

Successful financial innovation often creates competitive inequities and temporary disequilibrium in financial markets. This creates the demand on the part of firms that have been competitively disadvantaged to close the regulatory loophole exposed by the successful innovation. These demands are, of course, opposed by those who have gained or profited from the new innovation and seek to protect those gains.

Since binding regulatory constraints are the consequence of regulatory and/or legislative policies, the affected parties turn to the political arena to achieve a new, compromise equilibrium. The process of compromise requires arranging of tradeoffs involving mixtures of both short and long-term costs and benefits for the affected parties. Of course, the regulators and legislators may also have their sets of public and private interests to balance in achieving the new competitive equilibrium and in responding to the pressures of the affected interest groups. Legislators, for example, by virtue of the relatively short periods between elections and the need to demonstrate they are effective representatives, naturally seem to have a short-run focus and tend to prefer solutions that generate easily perceived short-run gains or avoid incurring additional short-run costs.

This interactive process between regulation and financial innovation creates disequilibrium conditions and initiates the political trading off of costs and benefits. Whenever a consensus can be achieved by the affected parties, significant financial reform and reregulation to achieve a new compromise equilibrium take place. I might add that, if one were to go back and review most of the major reforms cited by Elliott, the final form was shaped by just such political compromises and not by some grand scheme decided by the regulators or legislators seeking optimal policies or an optimal financial structure.

Applying this regulatory dialectic framework to the present financial environment, it is clear that a competitive disequilibrium situation exists, resulting from binding regulatory constraints and successful financial innovation. Money market mutual funds and brokerage houses, for example, have a clear actual and potential competitive advantage over banks and thrifts with respect to their ability to avoid reserve requirements, Regulation Q, Glass-Steagall restrictions and the limits on interstate banking. There also is a disequilibrium situation with respect to the short-term problems of mutual savings banks and savings and loan associations. The thrift problem is a complicating constraint on achieving a political compromise with respect to the reservability of money market mutual funds and cash management type services. The most obvious way to restore competitive equity for banks would be to remove deposit rate ceilings and related regulations inhibiting banks from offering competing services. But to do so, it is perceived, would only aggravate the thrift industry problem with high attendant taxpayer costs should the actual failure of the industry be precipitated.

It also appears that the existing disequilibrium is becoming more significant, both with respect to the competitive problems and to the condition of the thrifts, which are also raising the costs of not finding an acceptable compromise. Thus, I am more hopeful than Elliott about the prospects for financial reform. The longer interest rates remain high, the more costly are binding constraints on commercial banks, and the higher are the expected costs of not resolving the thrift industry problem. Both of these factors will push the affected parties toward compromise.

Paul Gunnar Nelson, then general counsel for the minority on the House Banking Committee, also commented on Elliott's article.

He wrote:

DISCUSSANT'S COMMENTS—WHAT IS THE ROLE OF GOVERNMENT IN A MAJOR RESTRUCTURING OF FINANCIAL INSTITUTIONS IN THE 80's?

In my comments on James V. Elliott's paper, I will discuss two themes. First, I will quibble with his crisis theory of major banking legislation. Second, I will offer my own theory of the proper role of government and offer my not-very-risky projection of the prospects of major bank deregulation, at least in the short term.

The strongest proofs of the crisis theory are the National Banking Act of 1864 and the Banking Act of 1933. Other enactments may be crisis inspired, but they occurred considerable time after the crises that inspired them. The Federal Reserve Act was stimulated by the panic of 1907. But it was a 1913 enactment which followed the crisis and the report of a national commission organized in 1910 by several years. Similarly, the Banking Act of 1935 may not be crisis legislation. It followed its crisis by two years.

Apart from those acts, there are others that call into question the reliability of the crisis theory. There are some major enactments that have come out of noncrisis environments. The McFadden Act of 1927 (12 U.S.C. 36) formally empowered national banks to establish branches. In its time it was a deregulatory piece of legislation, as it matched state and national bank branching powers. Since then, it has become a burden to banks' competition with nonbank financial institutions.

The Bank Holding Company Act of 1956 (P.L. 84-511; 70 Stat. 133) and the Bank Holding Company Act Amendments of 1966 (P.L. 89-485; 80 Stat. 236) and of 1970 (P.L. 91-607; 84 Stat. 1760) have involved the cre-

ation of a new structure for banking and a system of regulating it. At least in terms of volume of assets and flexibility of activities, the holding company is the dominant form of banking today.

There are recent examples of less noticeable, but possibly important, structural legislation that has been enacted without crisis. The International Banking Act of 1978 (P.L. 95-369; 92 Stat. 607) has been in effect for only a short time, but it may yet have a major influence on the structure of banking in the United States. And in granting new powers to institutions within the Farm Credit System, the Farm Credit Act Amendments of 1980 (P.L. 96-592; 94 Stat. 3437) may produce some unexpected structural changes. The banks for cooperatives have received the power to own or control entities very similar to export trading companies.

EMPHASIS ON DEREGULATION

The crisis theory diverts attention from the broader subject of deregulation. Using the crisis theory, Elliott has focused primarily on major structural change. Deregulation, at least as I perceive it, extends beyond major structural change into some of the more remote corners of the U.S. Code and the Code of Federal Regulations. For example, a change from pre-approval to pre-notification for establishing a branch of a bank would be deregulation, but would not cause a major change in the structure of financial institutions.

Let me offer two analogies for the role of government in deregulation: That of a referee in a sporting contest and that of a rudder on a ship. Neither is a creative role and neither is an initiator of action. Both merely direct a course of action. Both affect the result of action.

As I view the situation, the market is always ahead of the Congress, and that is as it should be. Congress never imposes an entirely new structure on the financial system without seeing it somewhere else first. National banks follow the patterns earlier established for state banks. Credit unions existed for several years apart from any federal chartering scheme. Federal deposit insurance parallels earlier forms of deposit insurance. In sum, the federal government will be little more in the future than it has been in the past. It will respond to the market and synthesize ideas that have appeared elsewhere.

Thus far I have dwelt on the role of the federal government (especially the federal legislature), and this is also the principal emphasis of Elliott's paper. There are other players who should not be ignored, however.

State governments have led the way in opening some important breaches in the McFadden-Douglas restrictions on interstate operations. Florida, apparently unintentionally, gave three banks valuable grandfather rights so that North Carolina National Bank has, through its ownership of a trust company, acquired a Florida commercial bank and apparently plans further acquisitions. Northern Trust, the other U.S. bank with similar rights in Florida, may make a similar move. South Dakota and Delaware have opened their states in a limited way to banks seeking a usury or tax haven. Minnesota rewrote its banking statutes to give recognition to inter-industry mergers, possibly on an interstate basis. And I have heard that Maine, New Jersey and Virginia may be considering changes affecting statewide banking structure.

On some very important issues, the states may force action by Congress. And on those issues, Congress may actually welcome the pressure. The constituencies on both sides of McFadden-Douglas (and Glass-Steagall, as well) do not follow party, or even regional, distinctions. They are loathe to work for compromise, and they are not graceful in accepting it. These issues are always extremely difficult for most Members of Congress. To have a compromise forced upon Congress by the states makes everyone's job easier, especially the members of the Banking Committee.

Other players, in addition to the Congress and state governments, are the federal regulatory agencies. The Federal Reserve is the least creative of them and seems reluctant to push for major changes. In contrast, the Comptroller of the Currency, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation seem willing to push the law to its limits, at least occasionally. They have been responsible for the creative legal interpretations that lead to the idea of a nonbank bank that can be merged or acquired outside of certain customary channels. They have been responsible for the creation of large interstate thrift institutions. And the FHLBB, through its service corporation proposal, has posed a direct challenge to the Glass-Steagall separation of commerce and banking through the proposed authority to engage in certain securities and manufacturing activities.

EXPECT MANY NONSTRUCTURAL CHANGES

Finally, I succumb to the temptation of prediction. For Elliott has offered his thoughts on the future for deregulation, and I feel obliged to do so as well. For this year I expect little from Congress in the way of comprehensive banking legislation. A rescue of the thrift institutions is possible. Major legislation could be assembled from a number of disparate pieces being attached to a popular bill. My current candidate as the vehicle is export trading company legislation, even though that bill has passed the Senate.

As to the prospects for major change in the next few years, I think change depends on the trends in interest rates. The key is the savings and loans. Interest rates could stay so high that the FSLIC's resources may be severely strained through arranging mergers or paying off depositors. If FSLIC resources go so low that it must tap its Treasury draw, we will almost surely have major legislation to relieve the problem and end a threat to public confidence in deposit insurance.

I share Elliott's conclusion in that I, too, foresee no major structural change in the 1980s except as a result of a crisis. I do not believe that the problems of thrift institutions will become so serious as to be a full-blown crisis. I also foresee a successful and broad attack on a variety of regulatory controls now limiting banking. The result should be a reduced regulatory burden through a series of small and uncoordinated steps by various levels and branches of government.

Mr. President, I thank my colleagues for allowing me the time to speak this afternoon. Again, I would like to reiterate my general support for the bill. I hope we will be able to move through the amendments tomorrow and complete consideration of this important piece of legislation.

Mr. President, I yield to the distinguished Senator from the State of New York.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise today in an effort to dissuade the Senate from the amendment before it by my distinguished friend from Wisconsin, who has been chairman of the committee and for the longest while a perspicacious and thoughtful spokeman in this body on the complex subject of banking, a subject with which this body has dealt for getting on two centuries and very likely will be dealing with for two centuries more.

The whole question of who can create money in the United States was with us at the beginning when Hamilton presented his message to George Washington on the national bank, and it continued through the creation of national banks and their rise and fall, the coming and going of greenbacks, bullion, wampum, whatever. Now we have the Federal Reserve System. It is a complicated situation which arose out of the panic of 1907.

It is my concern that two matters be addressed:

One, the Senator asks that the Federal Reserve not pay interest on the reserves on super NOW accounts, which are sent to them from national banks in the normal course of maintaining the service.

Title IV of the banking bill is a departure from the normal practice of the Federal Reserve not to pay interest on the reserves deposited with it, for the simple reason that it is a national bank. The Federal Reserve System was designed to supply liquidity in times of crises. It now has many functions beyond that. But it was never intended to be a profit-making enterprise in its own right. It does occasionally return to the Treasury moneys, but not as a specific point of providing interest on this kind of reserve and not on that kind of reserve.

The plain fact is that the present arrangement with the super NOW account is such that it is a new type of banking instrument which is different from other accounts. Accordingly, the normal reserve arrangements which have been in place now since 1913 should not apply to the super NOW accounts. These accounts have arisen in terms of bank deregulation, which allows banks basically to provide the consuming public with a going rate of return, with a market rate of return.

These super NOW accounts have been extraordinarily successful. They have grown to quite enormous dimensions in recent years. And, as a consequence of the banks having this larger set of deposits, which are of a different order than previously was the case, the banks maintain at the Federal Reserve a measure of reserves relating to those accounts. But these super NOW accounts are a different order of

accounts from the accounts involved in normal commercial banking, and they are perfectly liquid. They do not represent any of the kinds of risk associated with markets and enterprises that are characteristic of most commercial bank loans. It is entirely in order, at least in the view of this Senator, that the banks which paid interest on these accounts should receive interest from the Federal Reserve on the reserves which are placed with it as part of the general reserve requirements.

Not paying interest on these super NOW account reserves is something that will inhibit the whole savings process. It necessarily lowers the real rates of interest available and, in the normal course of events, will lower the total amount of deposits held by banks. This is a market function which is as clear as any ought to be.

The real question arises, why do we want to continue an arrangement which, I think it to be the judgment of economists, continues to inhibit the growth of savings?

We have the lowest rates of savings of any of the industrial nations. Inexplicably perhaps, but certainly inexorably, this low savings rate seems to characterize the American economy. We have a lower rate of savings than the United Kingdom, and that has been traditionally the lowest in the 20th century. About 30 years ago, if memory serves, we began to save even less than the British.

For years we have had a banking system which, at some level, can be said to have contributed to this low rate of savings. Since the 1930's, it has been illegal to pay interest on checking accounts. As that anomaly emerged, it began to impress upon the Congress, could this be a source of a situation which in the long run has adversely affected the fundamental well-being of the economy, to wit, by reducing the rate of savings?

Congress has allowed some evolution over the years by creating the so-called NOW accounts which pay a very distinctly below market rate of 5¼ percent interest, but which did not attract funds.

Then in 1982, Congress cleared the way for an account called, as they will do, the super NOW account, which has no specific rate ceiling but which has been subject to a 12 percent reserve requirement, which, since the interest has been paid on these reserves, has the effect of knocking the yield on those accounts down well below the current market rate.

Title IV of this bill would solve that problem and permit individual bank customers to have, for the first time, an account that pays a full market rate of interest, which permits unlimited checking transactions, and which enjoys the protection of the Federal deposit insurance.

It is simply an anomaly that over a generation of banking regulations, two generations, to be fair in judgment of the time period, we have required lenders to subsidize borrowers, and having required lenders to subsidize borrowers we ought not to be surprised if lenders have been reluctant to lend—if consumption rates have been high, by industrial nation standards, and savings rates the lowest of any major industrial country in the world.

It was our low savings rate, and our understanding of marginal rates of taxation, that have brought about such extraordinary changes in our tax structure in this body over the last 3½ years, changes in response to which we now face the largest deficits in our history. The Federal Government has ceased to save and commenced to borrow at a level without equivalent in history. Indeed, Mr. President, we are commencing to borrow to pay interest on what we have previously borrowed. Not only is the Nation as a whole in its individual consumer arrangements not saving at anything like a desired rate, but the Federal Government is dissaving at an unprecedented rate. The Senator from Wisconsin does not need to be told that the Federal Government is borrowing as it has never borrowed in its history. He has spoken on this floor to that subject for many years and never without greater import, but perhaps less effect, than in the last 3 years.

Consumers were denied a market rate for their deposits between 1966 and 1982, when regulation Q, as it is called, imposed a cap on the rates that could be paid on time deposits. Under the leadership of the chairman of the Banking Committee [Mr. GARN] that barrier was breached but not destroyed in 1982, when Congress ordered the Depository Institutions Deregulation Committee (DIDC) to create new, fully competitive accounts. The DIDC is moving as quickly as possible to phase out those regulation Q rate ceilings and they will all be gone no later than 1985.

However, one barrier to payment of a full market rate remains that is outside the jurisdiction of the DIDC. That barrier is sterile reserves, as deposits at the Federal Reserve are called. Title IV of the banking bill would require the Federal Reserve to pay depository institutions a fair market rate on the reserves that they must hold against super NOW accounts. That money would pass through to consumers, permitting banks to finally pay a full, fair market rate of interest to their depositors.

Congress mandated in the Garn-St Germain bill that all depository institutions be allowed to offer customers an account "directly equivalent to and competitive with money market mutual funds." However, it remains the case that sterile, to use that term, reserve requirements make it impossible for depository institutions to offer an account that permits unlimited check writing and pays a full market rate of interest. Money market mutual funds have no restrictions on checking and are not required to hold reserves, so they are able to pay that full market rate of interest.

Again, Mr. President, it comes to this elemental question: Do we think the U.S. economy is creating savings in a sufficient amount? Are we aware that, owing to the actions in this body on taxation, more in taxation than on any other matter, according to the current issue of the Economist, the Federal Government last year absorbed over 50 percent of all of the savings that became available in the economy, just to borrow enough to meet its own deficits.

We are beginning to borrow to pay interest. We are at that point in which a deficit commences to explode. The actual rates of the primary deficit of the U.S. Government, which is to say the costs of programmatic services minus revenues is, if not negligible, at least stable. What is not stable is the moneys we pay for the interest on the debt, which begins to compound itself at an exponential geometric rate. There are large and radical measures which are going to be required to deal with this, but one surely which we ought to do and can do is make it viable for persons to maintain super NOW accounts, if that term is to be used, and let them receive market rates of interest and let the depositors be encouraged to do what anyone coming to the market does do. If the Government artificially requires that they be paid less than the fair market interest rate that they ought to receive, they will save less than they ought to do.

I see the distinguished ranking member, although from the days of the New York loans, I always think of him as the chairman and not just the chairman, but the man who most recently had perhaps the most heroic effort of advocacy of the U.S. Senate: 3,000 consecutive speeches on the subject of the Genocide Treaty—I cannot help interpolate that fact—rewarded by Presidential acknowledgment that it ought to be sent before this Senate and considered by it.

I see that he is listening to me with characteristic courtesy and attention. It is not my purpose to hold the Senate further. If it wishes to vote, it ought to vote. But I wonder if I may ask the Senator to offer me his thoughts on what it is I have said that he cannot agree with. I would be particularly honored if the chairman of the committee, the distinguished Senator from Utah, would rebut the Senator from Wisconsin.

(Mr. DURENBERGER assumed the chair.)

Mr. PROXMIRE. Mr. President, will the Senator yield to permit me to ask for the yeas and nays?

Mr. MOYNIHAN. Of course, Mr. President. Before yielding, may I say it has characterized this long debate that both managers of the legislation have been fair and open and patient beyond perhaps the normal span for these matters. Without any hesitation, I yield the floor knowing that if I wish to ask for it again, I shall be permitted to.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, the hour is late. Senators are anxious to meet their commitments. If the Senator will permit me—he asked me to respond. I was not going to speak further, but the Senator has asked for a response.

Mr. MOYNIHAN. I have done that, and I am ready for it.

Mr. PROXMIRE. The Congressional Budget Office, the Treasury, and the Federal Reserve Board all agree that this amendment would save $4 billion over the next 4 years. In other words, title IV would cost the Treasury $4 billion. With the deficit we have, it seems to me that is enormous.

No. 2, we have never paid interest on reserves in the history of our country.

No. 3, let me just say the banks have not asked for this. They have shown no indication that they need it, or want it, or should have it.

Let me further say that in the competition which Senator HEINZ and others have discussed between the banks and the money market mutual funds, the banks have been enormously successful in this.

In December 1982, money market mutual funds had assets of $233 billion compared to only $43 billion in money market deposit accounts at banks and thrift institutions. Ninety percent of what we are talking about are money market deposit accounts. The super NOW accounts only constitute about 10 percent. So that at that point, the money market mutual funds—get this figure—had assets of $233 billion, the banks had only $43 billion.

What happened in the next year and a half? By March 1984, the money market mutual funds deposit accounts had declined to $186 billion and the banks had gone to $393 billion. In other words, they exploded ninefold at the expense largely of the money market mutual funds. So obviously, the banks are doing extremely well in this area. They are competing very well. Why? There is a simple explanation.

The marketing benefits of having Federal deposit insurance and having access to the Federal Reserve discount window more than outweigh the cost of non-interest-bearing reserves.

There is one other point I would like to make. I made it earlier, but I will make it again. That is that the banks should not get this kind of a subsidy. As I said, they have not asked for it partly because for years they have pointed out that they should not have to pay higher taxes because they are required to have reserves, on which they do not get interest.

Let me point out that the 20 biggest banks in this country paid taxes to the Federal Government on their net income of 2.7 percent in 1981, the latest year for which we have figures.

The Senator from New York is a distinguished member of the Finance Committee. He is very well informed on taxes and on the payment of taxes by our firms. He knows that the average rate of taxes paid by firms is about 30, 32 percent on their income, so that banks do extraordinarily well because they are very lightly taxed. To require them to have reserves without getting interest on it makes a lot of sense, it seems to me, under all these circumstances.

Mr. MOYNIHAN. Mr. President, I thank my friend from Wisconsin for his forthright statement on this matter. He and I do not agree. It is not an unprecedented arrangement in this body, but neither is it one which I welcome, because I have such respect for his views. I can only say that I have stated my view, as have others. The Senator from Wisconsin has stated his, and I believe the Senate may be at this point prepared to work its will.

Mr. PROXMIRE. I thank my friend.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from New York [Mr. D'AMATO], and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 76, nays 20, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—76

Abdnor	Gorton	Metzenbaum
Bentsen	Grassley	Mitchell
Bingaman	Hart	Nunn
Boschwitz	Hatch	Packwood
Burdick	Hawkins	Pell
Byrd	Hecht	Percy
Chafee	Heflin	Pressler
Chiles	Helms	Proxmire
Cochran	Hollings	Quayle
Cohen	Huddleston	Randolph
Cranston	Humphrey	Roth
DeConcini	Jepsen	Rudman
Denton	Johnston	Sarbanes
Dixon	Kassebaum	Simpson
Dodd	Kasten	Specter
Dole	Kennedy	Stafford
Domenici	Lautenberg	Stennis
Durenberger	Laxalt	Stevens
Eagleton	Leahy	Symms
East	Levin	Tower
Evans	Long	Tsongas
Exon	Lugar	Warner
Ford	Mathias	Wilson
Garn	Matsunaga	Zorinsky
Glenn	McClure	
Goldwater	Melcher	

NAYS—20

Andrews	Heinz	Riegle
Armstrong	Inouye	Sasser
Baucus	Mattingly	Thurmond
Biden	Moynihan	Trible
Boren	Murkowski	Wallop
Bumpers	Nickles	Weicker
Danforth	Pryor	

NOT VOTING—4

Baker	D'Amato
Bradley	Hatfield

So Mr. PROXMIRE's amendment (No. 3676) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I ask for recognition at this time for the purpose of making an inquiry to the distinguished assistant majority leader as to what the program will be for the rest of the evening and tomorrow and as far down the road as he can see.

Mr. STEVENS. Mr. President, if the Senator would yield, there will be no further votes this evening. There is a cloture vote scheduled for tomorrow, and we hope we can get an agreement to schedule it at 4:45 p.m. The Senate will reconvene tomorrow at 9:45 a.m. We will have the banking bill up tomorrow, we feel, all day.

If we can get an agreement to move on one other item, we will, but it has not cleared yet. But the cloture vote will be at 4:45 if we reach the agreement I mentioned earlier. We anticipate we will finish this bill, hopefully, tomorrow night.

Mr. GARN. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. GARN. I think it is fair to put our colleagues on notice that the most

controversial amendments—we have made good progress today in processing a lot of amendments that have been accepted—the most controversial amendments are still to come tomorrow. I hope we can finish tomorrow. I do not know whether we can or not, but I would expect our colleagues should expect to stay late tomorrow evening whether or not cloture is invoked. Thursday night has normally been our late night. I think the manager on the minority side would agree that we could expect to stay quite late tomorrow evening.

Mr. STEVENS. Mr. President, the Senator from West Virginia has the floor and I apologize.

Mr. BYRD. No; I was well aware of what was going on. I am sure the Chair would protect me and the Senator did not intend to take the floor away from me anyway.

Can the distinguished Senator tell us any more about what is going to happen before cloture tomorrow? Will we be in on Friday?

Mr. STEVENS. It is my understanding that the leader will be absent tomorrow until the afternoon, therefore I will be the acting leader. We would intend, as I say, to try and finish the bill tomorrow evening. There is a possibility that we will have another bill cleared that we can take up on Friday. We are awaiting, as my good friend knows, the response of the House to the proposal that the majority leader has suggested with regard to trying to break this gridlock on the defense bill and the budget resolution. We are hopeful we can get that.

We have not gotten clearance, as I understand it, on a matter for Friday yet. I cannot answer the question for Friday. It is the intention of the leadership to be in session on Friday, but to finish this bill tomorrow night, if it is at all possible. With the assurance of the managers of the bill that they prefer to run late tomorrow night, I think that the Senate should be on notice that we will be in session late tomorrow night.

Mr. BYRD. Will the distinguished Senator indicate what other bills the distinguished Senator has in mind? I know it is the hope of the leadership that we can go to another bill.

Mr. STEVENS. We have been hopeful that we might get an agreement that we can proceed with the Interior appropriations bill, which is ready to go and is currently being subject to a point of order under the Budget Act. I heard some conversation that led me to believe that that objection might be withdrawn in view of the progress that has been made in the talks on the budget. If that is the case, we would go to that.

We also have Labor-Health and Human Services, subject to a similar point of order. We also have the highway bill, the water resources bill, the clean water bill, and the trade bill, none of which are totally cleared to proceed as yet.

Mr. BYRD. I thank the distinguished Senator. I have no further questions. I yield the floor.

Mr. STEVENS. Mr. President, it is our hope that we can now go off of this bill. I know the Senator from Nebraska wishes to lay down an amendment. I would like to see that take place so that we can get off this bill and we will then go to a period for the transaction of routine morning business so that other Senators may have some time in routine morning business.

May I inquire, is the Senator from Nebraska ready now to lay down an amendment that could be the pending amendment tomorrow when we resume consideration of this bill?

Mr. EXON. The answer is in the positive, yes, I am prepared.

Mr. STEVENS. I yield the floor.

AMENDMENT NO. 3767

(Purpose: To make commercial banks eligible for capital assistance, and to extend such assistance to troubled agricultural lenders)

Mr. EXON. Mr. President, I call up amendment No. 3767 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. BAUCUS, Mr. MELCHER, Mr. ANDREWS, and Mr. BOREN proposes an amendment numbered 3767.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 52, between lines 4 and 5, insert the following: Section 13(i)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(A)) is amended to read as follows:

"(A) has net worth equal to less than 3 per centum of its assets, or, in the case of a commercial bank, has a ratio of primary capital to adjusted total assets (as such ratio is measured pursuant to regulations adopted by the principal Federal supervisor of such bank) equal to less than 5.5 per centum: *Provided, however,* That in the instance of a commercial bank which meets one of the criteria for a qualified institution based upon its investments in agricultural loans as defined in section 13(i)(2)(F) of this Act, the Corporation shall be required to consider the purchase of net worth certificates as an alternative to merger, purchase and assumption, liquidation, or any other enforcement action where such bank is required to maintain a minimum ratio of primary capital to adjusted total assets greater than 5.5 per centum by a State or Federal banking agency.".

(c) Section 13(i)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(E)) is amended to read as follows:

"(E) will have a net worth as a percentage of assets or ratio of primary capital to assets of not less than one-half of one per centum after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth or ratio of primary capital to adjusted total assets pursuant to this paragraph; and".

(d) Section 13(i)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(F)) is amended to read as follows:

"(F) has investments in residential mortgages or securities backed by such mortgages, or in agricultural loans, respectively, aggregating at least 20 per centum of its loans. For purposes of the preceding sentence, agricultural loans includes all loans secured by agricultural land, crops, or production, processing, or marketing assets, and also includes all secured and unsecured loans, credit sales, forebearances, advances, renewals, or other extensions of credit made to any person or organization engaged in an agricultural enterprise and for an agricultural purpose.".

(e) Section 13(i)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(5)) is amended to read as follows:

"(5) The Corporation may initially purchase net worth certificates as follows:

"(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, or a ratio of primary capital to assets greater than 4.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or by speculation in futures or forward contracts), as determined by the Corporation.

"(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, or a ratio of primary capital to assets greater than 3.5 per centum and less than or equal to 4.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures of forward contracts), as determined by the Corporation.

"(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, or a ratio of primary capital to assets greater than zero and less than or equal to 3.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures of forward contracts), as determined by the Corporation.".

(f) Section 13(i)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(10)) is amended to read as follows:

"(10) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this subsection shall be deemed to be net worth or primary capital for statutory and regulatory purposes.".

Mr. EXON. Mr. President, I thank the managers of the bill and I thank the acting majority leader for his consideration.

Mr. President, the purpose of my amendment is to provide some equity and fairness in the way that Federal

bank regulators deal with agricultural banks and their customers.

We are all very aware of the unprecedented, comprehensive protection that the FDIC extended to the depositors of Continental Illinois, as well as the consideration that has been given to foreign creditors through the money center banks. My amendment will give the FDIC an additional tool to work with troubled agricultural lenders. It will also send the FDIC the message that we want them to work with these lenders and to go the extra mile to avoid a forced merger or liquidation.

My amendment will make it possible for agricultural lenders to participate in the Net Worth Assistance Program. That program was established in 1982 as part of the Garn-St Germain Depository Institutions Act. It is intended to provide capital assistance to troubled depository institutions which have a strong commitment to home lending. Many of these institutions were in serious trouble 2 years ago because they had a large number of low-interest mortgages during a period of high interest rates. To qualify for assistance, the institution must have incurred losses during the preceding two quarters which were not caused by speculation or mismanagement, must have at least 20 percent of its loans in residential mortgages, and must meet the statutory test for distress.

The amount of aid an institution receives is based on its net worth and its actual losses, as determined by the Federal regulators. If an institution qualifies for the program, the aid is in the form of a paper-for-paper exchange. The institution issues a net-worth certificate which is purchased by the FDIC or the FSLIC with a promissory note. The institution receives no cash so there is no cost to the Treasury. The promissory note is retired as the institution's capital position improves. The only circumstances where Federal dollars are involved is in the event of liquidation of the institution, when the normal guarantee provisions of the FDIC or FSLIC are triggered. Basically, this program provides an accounting tool whereby a troubled financial institution can keep its doors open and attempt to reorganize and restructure to improve its financial condition.

As a practical matter, due to the net-worth test that was adopted in 1982, thrifts have been the only institutions that have been able to participate in the program. This is because commercial banks are required to have a minimum capitalization roughly double that required for thrifts. So the FDIC would close or merge a commercial bank long before it reached the distress test adopted in 1982. My amendment will make it possible for commercial banks to qualify for the program.

Second, at the present time the program is limited to the residential lending area. My amendment would extend the program to agricultural lenders.

Under the amendment, a commercial bank which had at least 20 percent of its loans in agriculture and which met the primary capital test for a distressed bank would qualify for the Capital Assistance Program. The capital requirement for commercial banks included in the amendment, 5.5 percent, is the minimum capital required by Federal regulators and is equivalent to the net-worth requirement for thrift institutions that is now in the law.

Mr. President, a significant number of agricultural lenders face serious problems because of high real interest rates, the high value of the dollar and the very weak market for farmland. It is very clear to this Senator that the agricultural economy is still in a very depressed condition. Just last week, the FDIC closed a bank in David City, NE, due to severe loan losses in the rural economy.

Across the Nation, agricultural bankers face the difficult choice of foreclosing on farmers or risking their own liquidation or merger by the FDIC. Mr. President, if the FDIC can guarantee all of the deposits of Continental Illinois, it should be willing to go the extra mile with small rural banks to give them a chance to work through these difficult economic times.

Over the last several months, a number of Nebraska bankers and I have met with Federal Reserve Chairman Volcker and FDIC Chairman Isaac, to discuss the problems that agricultural lenders and their customers are having. We have received assurances that these agencies would do what they could to be sensitive to the problems we face in rural America. My amendment will give the FDIC an additional tool to work with these lenders.

The number of commercial banks that would qualify for the assistance if this amendment is adopted is small. As a group, agricultural banks exhibit higher than average capital levels among commercial banks. Nevertheless, we all know how important the hometown bank is to rural America, and this tool may help keep some troubled lenders open during these difficult times. I point out again that this program does not cost the Federal Treasury anything.

Mr. President, section 110 of this bill, S. 2851, extends the Capital Assistance Program for an additional 3 years. As a matter of equity, if we extend this program for the thrifts, it should also be available for other depository institutions. Just like the housing industry, the agricultural economy runs in cycles and is very sensitive to high interest rates and the Federal deficit. The conditions that existed in 1982 for the housing industry are similar to the conditions of the agricultural economy now in 1984, and the Capital Assistance Program should be extended to ag lenders.

Mr. GARN. Mr. President, I appreciate the Senator laying down his amendment. We have been working with him on a possibility to accept the amendment. We will pursue that. In any event, it is laid down, so we can look at that in the morning.

Mr. BOREN. Mr. President, I would like to join with my colleague from Nebraska in sponsoring this amendment to assist financially troubled banks with large agricultural loan portfolios.

Our farm economy is in trouble. For 1984, farmland value has declined 5 percent, marking the fourth consecutive year that the real value of farmland has fallen. At the same time after adjusting for inflation net cash income for 1984 could be down by more than 25 percent. To make matters worse, farm production expenses are forecast to rise 6 to 8 percent and cash expenses are expected to rise by 8 to 10 percent.

It is no wonder then, that when the Independent Bankers surveyed their membership among the mostly rural banks, the lenders expect that about 17 percent of their present farm borrowers will not be able to meet all of their loan obligations in 1984.

It is now crucial that the Congress act to include not only thrifts but also those ailing rural commercial banks in the net worth assistance program. While the thrifts were and are still in sad straits due to their mortgage lending activities, so are those commercial banks which service primarily agricultural communities. This amendment would add a measure of capital adequacy which permits troubled commercial banks to participate in the net worth assistance program and would expand the test for assistance from just those depository institutions which are in financial trouble due to a commitment to residential housing lending to include those with a commitment to agricultural loans.

It is clear, the economic situation confronting American agriculture today is worse than the condition experienced by the housing finance market when the net worth assistance program was enacted.

The adoption of this amendment will provide a means, through FDIC, for banks and thrifts that service agricultural communities to have time to handle these farm credit problems without having to foreclose on farmers or risk their own institutions' failure.

AMENDMENT NO. 4100 TO AMENDMENT NO. 3756

Mr. GARN. Mr. President, earlier today the managers' amendment was adopted. We already have a technical

correction of the addition of two words to correct an inadvertent omission affecting the provisions concerning the regulation of savings banks.

I ask unanimous consent that this amendment be in order and that it be adopted.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. What is the request?

Mr. GARN. I will be happy to go through it again.

Mr. BYRD. I apologize to the Senator.

Mr. GARN. Today when we adopted the managers' amendment to the bill, Senator PROXMIRE's and my amendment, we left out two words in the section, "upon application." I was asking unanimous consent that an amendment be in order to add those two words back in.

Mr. BYRD. I remove my reservation. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 4100 to amendment No. 3756.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Language to be added to managers' amendment: On page 7, line 8 of amendment 3756 to S. 2851, insert the following after the comma: "upon application."

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Utah [Mr. GARN].

The amendment (No. 4100) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SAVINGS BANK PHASEIN AS QUALIFIED THRIFT LENDER

● Mr. GORTON. I would like to ask the Senator a question concerning the effects of the amendments to S. 2851 concerning the regulatory regime applicable to a State-chartered savings bank that was in existence on October 15, 1982, and that is owned by a holding company. In particular, I would like to ask the Senator if my understanding is correct that such a savings bank that elects to meet the requirements of a qualified thrift lender would be able to use the 10-year phase-in provided in the bill?

Mr. GARN. Yes; your understanding is correct. S. 2851, as amended, would permit any savings bank chartered under State law prior to October 15, 1982, to utilize the 10-year phase-in as a qualified thrift lender and be deemed an insured institution for purposes of section 408 of the National Housing Act.●

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 7:05 p.m. in which Senators may speak therein for not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIGARETTE LABELING REQUIREMENTS

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, has H.R. 3979 been received from the House of Representatives?

The PRESIDING OFFICER. It has.

Mr. PACKWOOD. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the bill be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask that the bill be read a second time.

Mr. FORD. Mr. President, reserving the right to object, and before I do object, I wonder if the distinguished Senator from Oregon would enter into a colloquy with me to discuss the possibilities as it relates to this piece of legislation.

Mr. PACKWOOD. Yes. I would be happy to do my best.

Mr. FORD. Mr. President, it is my understanding that we will not get a second reading on this bill until sometime next week.

Mr. PACKWOOD. That is correct.

Mr. FORD. That is because the legislative day will run, and we have had 2 weeks under 1 legislative day.

The leadership may decide that the Senator would not get the second reading under this piece of legislation.

Mr. PACKWOOD. If there is not an adjournment; that is correct.

Mr. FORD. So it means that the motion the Senator has made has prevented this bill from going to the committee to be considered. I wonder if the distinguished Senator would be in the posture to have me lift my objections, or I would not object, if the Senator would agree to allow this bill to go to the committee after the second reading, and that after the second reading we have a markup of this piece of legislation with the understanding that the Senator from Kentucky would only try to have amendments to the bill, would not try to obstruct or use frivolous amendments to delay this piece of legislation, and then allow it to come back on the floor forthwith.

Mr. PACKWOOD. I say to my distinguished colleague that I have to object to following that process now for this reason: There are many parties involved in this other than the Senator from Kentucky and myself, and I am speaking for them in this process. They would object. Second, we have now three bills relating to tobacco labeling.

One came from our Labor and Public Welfare Committee. It is on the calendar. Another currently resides in the Commerce Committee, and has not been reported. Now we have this bill that has come from the House.

If an agreement can be reached among the parties concerned, we have ample vehicles. We now have the House bill, the Labor Committee bill reported, and the bill from the Commerce Committee. If, indeed, the Senator from Kentucky wants to see what he can do to have a meeting, a conversation, and strip everything out of it, put on it what can be agreed, and report it out, or we can do the same thing with the bill held at the desk.

I am perfectly aware, whether this bill is controversial or not agreed to, we will have a dickens of a time with it. All I am saying is that I cannot do otherwise because of the commitments to other people.

Mr. FORD. I appreciate the frankness of the distinguished Senator from Oregon, who is chairman of the Commerce Committee.

The only thing I was looking at is that the bill in the Commerce Committee is not the full bill that is now on the Senate calendar.

Mr. PACKWOOD. No. If we can reach agreement on the provisions of tobacco labeling—if that is the vehicle that we want to use—we can strip everything out, put it in the agreement, and send it out.

Mr. FORD. I am not sure that we can get an agreement of all the members of the Commerce Committee. That means that I would have to stand here, and not have a shot at it. I intend to have my shot. This is purely a manufacturers' decision as it relates to the labeling of cigarettes. It is not a growers' decision. I want to say to the distinguished Senator from Oregon

that tobacco is to me as timber is to him. I intend to defend my growers as best I can, even if I am rolled like a log. That may happen to me. But I am trying to find an opportunity. It may be days before this particular piece of legislation will be available.

There is one other thing that I will say to the chairman. We lost jurisdiction of this bill under the split of the cigarette labeling bill that was presented in the Senate. It is my understanding that the Parliamentarian has agreed, if this bill is allowed to go to a committee, that it would go to the Commerce Committee.

Mr. President, I say one of the problems we have had in my time here is jurisdiction, and how we play cute games with it. I think this will reestablish the jurisdiction of this legislation, and types like it in the future. It might reestablish the predominance of the Commerce Committee.

Mr. PACKWOOD. If I might then lay the groundwork clearly as to what has happened, I am chairman of the Commerce Committee. I do not want to give up any jurisdiction, and this bill would go to the Commerce Committee, if it were referred. We already are to have hearings on the bill that we have. But I want to read from a letter of August 25, 1983, to myself from Senator FORD, and Senator TRIBLE.

The letter says that they have prepared and are circulating an amendment in the nature of a substitute to the Comprehensive Smoking Education Act of 1983 which embodies the compromise warning label "which has been agreed upon by HHS and the industry". The letter also says that they have gained a substantial number of cosponsors in support. The letter goes on to say that the body of the introduction of S. 116 in requesting referral to the Commerce Committee has recognized the committee's jurisdiction, thus resolving any jurisdictional questions which they may have had. The letter goes on to say:

> Because of our strong commitment to the substitute, we feel no hearings are necessary by the Commerce Committee and are requesting that the hearings presently scheduled for September 15, 1983, be canceled.

Which I did at the request of the Senator from Kentucky, and the Senator from Virginia.

We could have had those hearings a long time ago. The Senator from Kentucky has been very honest in this. There is now a split between the growers and the tobacco companies. He has very clearly said which side he is coming down on—the growers. Those are his farmers.

Mr. FORD. That is right.

Mr. PACKWOOD. If I were from Kentucky, I would be on the Senator's side. But what I did a year ago was to follow the request of the Senator from Kentucky, and the Senator from Virginia, Senator TRIBLE, in canceling hearings because the jurisdictional issue had been resolved.

At this particular time, with three vehicles, I do not need another vehicle in the Commerce Committee. We have established the jurisdiction. If we reach an agreement, we have a vehicle in the Commerce Committee.

Mr. FORD. I would say to my distinguished colleague—

Mr. STEVENS addressed the Chair.

Mr. FORD. Mr. President, I say to my distinguished colleague that we are going to stay a while.

Mr. STEVENS. Point of order. We are in a period of routine morning business not to extend beyond the hour of 5 minutes after 7 with the right of Senators to speak for 2 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, I am reserving the right to object, and enter into colloquy with the distinguished Senator from Oregon to determine what the procedure might be as it relates to my objection.

Mr. STEVENS. If objection is heard under this procedure, the bill goes over.

Mr. FORD. I understand that.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, may I do that?

The PRESIDING OFFICER. The Senator is within his rights.

Mr. STEVENS. Mr. President, point of order. The Senator's time under morning business has expired. We have a time limit insofar as this Senator is concerned on the session of the Senate this evening.

Mr. FORD. Mr. President, I know you are going to give me the decision from the Parliamentarian, and I respect that very much. The only point I was trying to make is to get into the posture where these bills are, and about the jurisdiction. That would give me the opportunity not to object. I may want to object. I am just reserving the right to object under my right as a Senator.

Mr. STEVENS. Mr. President, I have no objection to the Senator getting that ruling. I would like to get on with the business of the Senate. We are in a period of routine morning business. If I am correct, the Senator's time has expired.

The PRESIDING OFFICER. Regular order under the unanimous consent request is that it is not debatable.

Mr. STEVENS. Mr. President, I am not asking for regular order. I am asking the Senator if there is some way he could get the ruling that he wants within the timeframe of the Senate.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the time for the 7:05 p.m. conclusion of routine morning business be extended until 7:10 p.m., and that I be allowed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. I thank the Chair.

Will the Senator from Oregon give me 1 more minute?

Mr. PACKWOOD. I want to cooperate.

Mr. FORD. I am trying to work it out. I am doing the best I can under the circumstances.

As the distinguished Senator said, if he were from Kentucky he would take the same position that I am taking. Therefore, he understands my position. If we take the legislation into the Commerce Committee and we strip that and put the House bill on—that is what the Senator is saying—then we rewrite the language of the report.

Mr. PACKWOOD. I want to answer this without unduly committing the Senator from Kentucky. I think he is the only one that I know of who finds the House language not acceptable. I do not want to speak for the Senator.

Mr. FORD. No; the House language is not acceptable. That is the biggest problem with the legislation as it relates to industry.

Mr. PACKWOOD. What we will do is hold this bill at the desk, if the Senator objects. I will attempt to see if I can get an agreement with the Senator from Kentucky to an acceptable tobacco labeling bill or agreement, call it what you want, and then decide whether we will have a markup in the committee or attempt to add it on the floor, whatever will be the most expeditious process.

I am fully aware that if a complete agreement cannot be arrived at, if the Senator from Kentucky does not agree with that, that getting the bill passed in 2 weeks, the last 2 weeks, will be very difficult. That is about all I can say.

It was my understanding that the great objection to the House bill was not the bill but the report language, and there was some hope we could pass the bill in the Senate with some different bill number so that the House report language was not technically part of the bill. That we can do.

We cannot stop the House Members from speaking on the floor. They can say anything they want. They can take the report language and read it into the RECORD. We cannot exorcise it. But we cannot take a bill that has that report enhanced in it and send it back to them.

Mr. FORD. This may be a question that the distinguished Senator does

not want to answer at this time, but if I remember correctly he said earlier that if given an agreement then he would have markup in the Commerce Committee and if he could not get agreement he would take the bill from the calendar——

Mr. PACKWOOD. No; I have not reached that agreement, as to what we can do if we cannot get an agreement. If we can get an agreement, we have no problems. If we cannot, I do not know whether we will take up Senator HATCH's bill and amendments, which is already on the calendar, try to take up this bill which has come from the House, or try to work it out in the Commerce Committee. We have not decided yet which avenue we would take.

Mr. FORD. I would make this observation, that if the distinguished Senator will allow this bill to go to the committee and have a markup, let us make our best effort and go with whatever comes out. I will not stall the bill or hold it up. The Senator's motion will delay it for some time, the motion to ask for second reading. If you do not get second reading, it will go no further to second reading, but it would automatically go to the committee.

Mr. PACKWOOD. If that is what the Senator is offering, we do not need this bill at all. We have a bill in the Commerce Committee.

Mr. FORD. Will the Senator say he will have a markup of the bill and allow me to offer amendments in the committee, try to rewrite the bill, do the best job we can, and once the markup is over to come back to the floor and do whatever is necessary without being dilatory?

Mr. PACKWOOD. I do not want to promise that because I have not made a decison as to what route we are going to go, but I am fully aware of the powers of individual Senators on this floor to delay legislation. The process is designed for delay, I think wisely.

Mr. FORD. Mr. President, I am not going to delay the bill. I have made an offer to expedite.

Mr. PACKWOOD. I understand, but what I am saying is that the Senator and I could reach an agreement and he would have great powers in the last 2 weeks to decide.

Mr. FORD. Mr. President, I promise I will not use those powers. All I want is a day in the committee to have a markup.

Mr. PACKWOOD. I know the Senator wants a day. Now I do feel put upon when I canceled the hearings in the committee and canceled the markup at the Senator's request a year ago.

Mr. FORD. The Senator is absolutely right, but it was the introduction of a bill which I though was proper and it was assigned to the Commerce Committee. Previous to that, they had been divided and they had gone to the Health and Labor Committee. Now we have a bill coming over from the House that has a lot of things in it that I do not think even the distinguished Senator from Oregon likes, that he would like to make some changes in.

So we leave it on the table instead of letting it come to the committee.

One, it strengthens our jurisdiction and gives us an opportunity to change it. That is all I think I am asking for.

The PRESIDING OFFICER. The 5 minutes allowed to the Senator from Kentucky have expired.

Mr. FORD. Mr. President, I object.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, may I inquire, is there a time for the Senate to convene on tomorrow?

The PRESIDING OFFICER. Not at this time.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the previous time limit for routine morning business be extended until the hour of 7:25 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 168

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for fiscal year 1983, pursuant to the provisions of Section 7(b)6 of the Railroad Retirement Act, enacted October 16, 1974, and Section 12(1) of the Railroad Unemployment Insurance Act, enacted June 25, 1938.

The Railroad Retirement Board informs me that, despite recent legislation, Railroad Sickness and Unemployment Insurance benefit payments continued to greatly exceed tax revenues in FY83 thereby requiring additional loans from the Railroad Retirement Account. The Railroad Sickness and Unemployment Insurance debt to the Railroad Retirement Account more than doubled in FY83 to a total debt of $575 million by the end of the year. Legislation will be needed before September 1985—when borrowing authority expires—to ensure the restoration of the Railroad Sickness and Unemployment Insurance Account to financial balance and ensure the repayment of its debt to the rail pension fund. I urge the Congress to enact promptly my legislative proposal which would restore the solvency of the RSUI fund without imposing an undue burden on any party involved—the general taxpayer, rail management, rail labor or the rail pension fund.

RONALD REAGAN.

THE WHITE HOUSE, *September 12, 1984.*

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1538. An act to amend the patent laws of the United States.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3194. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes;

H.R. 6031. An act to improve the criminal enforcement of provisions of law relating to currency and foreign transactions; and

H.J. Res. 247. Joint resolution to designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man".

At 10:46 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3194. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes; to the Committee on Energy and Natural Resources.

H.J. Res. 247. Joint resolution to designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man"; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The Committee on Labor and Human Resources was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 44. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

MEASURE HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 6031. An act to improve the criminal enforcement of provisions of law relating to currency and foreign transactions;

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, September 12, 1984, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 743. An act for the relief of Theda June Davis; and

H.R. 2387. An act for the relief of Benjamin B. Doeh.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-764. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

"ASSEMBLY JOINT RESOLUTION No. 127

"Whereas, Women who have been raped while serving on active duty in the Armed Forces of the United States have been denied damages from the Armed Forces; and

"Whereas, The basis for this denial is a decision of the United States Supreme Court that, based on the provisions of the Federal Tort Claims Act, a member of the Armed Forces may not claim damages for injuries incurred incident to military service; and

"Whereas, The Army considers rape an injury incident to military service; and

"Whereas, A recent example of the injustice perpetrated by this state of affairs is the denial by the Army of a claim for damages filed by Betty Ann Buckmiller who, while serving in the Army, was raped and savagely beaten by two soldiers at an Army base; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to (1) enact legislation compensating Betty Ann Buckmiller for her damages; (2) direct the Department of Defense to review and change its definition of "injuries incident to military service" with regard to its claims procedure; (3) require the Department of Defense to provide counseling and other services to assist the recovery of military personnel who are the victims of sexual assault; and (4) require the Department of Defense to provide rape education and prevention programs on all military bases and to provide training materials which include rape education information; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-765. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION No. 63

"Whereas, Since the Pacific Fishery Management Council was created by the Fishery Conservation and Management Act of 1976, California fishermen, fish processors, and state fishery managers have been frustrated in their attempts to harvest and manage the state's fishery resources because of the decisions and management plans issued by the council; and

"Whereas, California has never had a representative voice in the council's decision-making process in spite of this state's predominate position with regard to total tonnage, value of landings, the number of separate fisheries, the number of state fishermen, and the length of the state coastline; and

"Whereas, California's $1 billion fishing industry is and has been unduly burdened by management decisions of a council in which California currently has a four to nine voting disadvantage to the northwest states; and

"Whereas, A better and more equitable approach for all the states involved is the creation of a new fishery management council for the fisheries seaward of California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to establish a new fishery management council, the South Pacific Fishery Management Council, consisting of seven members representing the States of California (five members), Oregon (one member), and the National Marine Fisheries Service, and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-766. A joint resolution adopted by the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION No. 95—

"Whereas, The Coastal Zone Management Act of 1972, as amended, ("CZMA" 16 U.S.C. Sec. 1451 et seq.) was enacted to encourage the coastal states of this nation to establish and carry out effective and enforceable coastal management programs, for the purpose of preserving, protecting, beneficially using, and developing coastal resources in a manner that promotes local, state, and national interests; and

"Whereas, CZMA provides for incentives, including financial aids through grants to coastal states, and requires that, once a state coastal program has been certified by the Secretary of Commerce as being in conformity with this federal act, all federal agencies conducting or supporting activities including leasing or other Outer Continental Shelf activities which affect the state's coastal zone, to carry out those activities in a manner consistent with the approved coastal management program of the state; and

"Whereas, The people of this state approved Proposition 20 in 1972, and the California Legislature enacted the California Coastal Act of 1976, on the understanding that the CZMA authorizes states with federally approved coastal management programs to review federal activities, occurring outside the coastal zone as defined in the CZMA, which affect the state's coastal zone for consistency with its own coastal program; and

"Whereas, This state and the United States Government have spent in excess of fifty million dollars ($50,000,000) to prepare, adopt, and implement a comprehensive, effective, and enforceable coastal management program, which was approved by the United States Department of Commerce in 1977; and

"Whereas, California's coastal program established a unique partnership between state and local governments which imposed substantial burdens on local governments on the assumption that those burdens constituted a necessary trade-off for the increased role local governments would be given in the review of federal activities having impacts on state and local coastal resources; and

"Whereas, The State of California and its local coastal governments have made good progress in completing local coastal programs required by the California Coastal Act of 1976, and the California Coastal Commission has, in numerous cases, exercised the federal consistency review author-

ity provided pursuant to CZMA, to ensure that federal activities are conducted in a manner which takes into account, and is protective of, state and local government interest and concerns; and

"Whereas, This state's experience, in carrying out the federal consistency review provisions, has clearly demonstated that federal activities, occurring both within and outside the state's coastal zone can have significant and far-reaching impacts on California's coastal zone resources; and

"Whereas, The California Coastal Commission has exercised consistency review over federal activities outside of the coastal zone boundaries only, as required by CZMA, where there are direct significant impacts on the coastal zone resources; and

"Whereas, The United States Supreme Court has rendered a decision in Secretary of the Interior, et al. vs. California, et al., January 10, 1984, which severely narrows and limits the application of the federal consistency review provisions of the CZMA and which threatens to erode the meaningful and constructive partnership that has been established over the past 11 years between coastal states and the federal government; and

"Whereas, That decision exempts federal oil and gas leasing activities on the Outer Continental Shelf from consistency review requirements, even though at that stage of the oil and gas development process significant effects on the coastal zone resources are initiated which cannot be reversed or avoided at a later phase without great costs to oil and gas companies and the public, and even though it is only at the leasing stage that the cumulative effects of multiple leases can be adequately analyzed and coordinated so that meaningful long-range planning can occur; and

"Whereas, Although the specific issue before the United States Supreme Court dealt with oil and gas leasing activities, the court's opinion appears to be broad in scope and raises questions about the ability of coastal states to exercise review authority in relation to a wide range of federal activities which occur outside a state's coastal zone boundaries but which have effects within that zone; and

"Whereas, That decision casts a legal cloud over the ability of coastal states to exercise a meaningful role in federal decisions which affect them and, therefore, threatens the viability of the partnership which had returned to coastal states and local governments some measure of meaningful local control; and

"Whereas, One direct result of the decision is to create confusion and a situation of legal uncertainty which will result in extensive litigation that will be costly to taxpayers, as well as oil and gas companies; and

"Whereas, Vital interests of coastal states and local governments are at stake, and there is an urgent need for the Congress of the United States to initiate legislation to resolve the situation of uncertainty and ambiguity caused by that decision of the United States Supreme Court; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the President and Congress of the United States to amend, by urgency legislation, Section 307(c) of the Coastal Zone Management Act of 1972 to make clear that all federal activities, specifically including the sale of leases for mineral extraction such as oil and gas resources are subject to the federal consistency review provisions of that federal act whenever the activities significantly affect the natural resources of, or land or water uses in, the coastal zone, and that all federal license and permit activities are subject to the federal consistency review whenever they significantly affect coastal resources within the coastal zone, unless a federal activity is undertaken to counter the immediate effects of a declared national emergency or it is necessary for reasons of national security; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States."

POM-767. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 124

"Whereas, cigarette smoking is the largest preventable cause of illness and premature death in the United States, and is associated with the unnecessary deaths of over three hundred thousand Americans annually; and

"Whereas, Cigarette smoking in the United States is a major cause of cancer of the lung, larynx, oral cavity, and esophagus and is a contributory factor in cancer of the urinary bladder, kidney, and pancreas; and

"Whereas, Cigarette smoking is a major cause of chronic bronchitis and emphysema in the United States; and

"Whereas, Cardiovascular disease accounts for nearly one-half of the deaths in the United States and it is estimated that one-third of the deaths attributed to cardiovascular disease are associated with smoking; and

"Whereas, Pregnant women who smoke have an elevated risk of miscarriages, stillbirths, and premature births, and giving birth to infants with low birth weight; and

"Whereas, Quitting or never starting cigarette smoking will reduce an individual's risk of illness or premature death; and

"Whereas, Cigarette smoking is addictive and is the most widespread example of drug dependence in the United States; and

"Whereas, Present federal, state, and private initiatives have been insufficient in conveying to the American people information on the adverse health effects of smoking; and

"Whereas, A new strategy is needed for making Americans more aware of the adverse health effects of smoking; and

"Whereas, The State of California is prevented by federal law from improving the warning on cigarette labels; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to strengthen the warnings on cigarette labels and permit the states to improve the warnings on cigarette labels; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POW-768. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

"ASSEMBLY JOINT RESOLUTION NO. 67

"Whereas, The Harbor Masters and Port Captains Association has met, conferred, and agreed that the Coast Guard's Vessel Traffic Service directed over 65,000 vessel movements in San Francisco Bay in 1981; and

"Whereas, The direction provided by the Vessel Traffic Service provided essential safety services for vessels using the bay, its ports and harbors, and inland delta ports; and

"Whereas, The United States Department of Transportation, from time to time, announces cutbacks in the funds for the Vessel Traffic Service, which is a major factor in avoiding ship collision; and

"Whereas, There is no alternative system for navigation, direction, and control of marine traffic which could immediately replace the Vessel Traffic Service; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Department of Transportation to maintain funding for the Coast Guard to operate the Vessel Traffic Service on San Francisco Bay; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation."

POM-769. A resolution adopted by the Oklahoma State Board of Education opposing Tuition Tax Credits; to the Committee on Finance.

POM-770. a resolution adopted by the Council of the County of Maui, Hawaii supporting the Japanese American Citizens League and supporting S. 2116 which provides redress and reparation for Americans and resident aliens of Japanese ancestry and Alaskan Aleuts who were subject to forced evacuation and interned in detention camps during World War II; to the Committee on Governmental Affairs.

POM-771. A resolution adopted by the City Commission of the City of Key West, Florida calling for mutual and verifiable United States and Soviet Nuclear Weapons Freeze; to the Committee on Foreign Relations.

POM-772. A resolution adopted by the Maritime Law Association of the United States relating to oil pollution and other national legislation; to the Committee on Foreign Relations.

POM-773. A petition from a Citizen of Concord, New Hampshire relating to Communist take-over in Central America; to the Committee on Foreign Relations.

POM-774. A resolution adopted by the Reformed Church in American concerning the Civil Liberties Act of 1984; to the Committee on Governmental Affairs.

POM-775. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on the Judiciary.

"JOINT RESOLUTION TO RATIFY AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROVIDE FOR A DELAY IN AN INCREASE IN COMPENSATION TO MEMBERS OF CONGRESS UNTIL AN INTERVENING ELECTION OF REPRESENTATIVES HAS OCCURRED

"Whereas, the 1st Congress of the United States of America at its first session, in both Houses, by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words to wit:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following [article] be proposed to the legislatures of the several states, as [an amendment] to the constitution of the United States, . . . which [article], when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz. :

"ARTICLE

"No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.", now, therefore, be it

"Resolved: By the Members of the Senate and the House of Representatives of the 111th Legislature, now assembled, that such proposed amendment to the constitution of the United States of America be and the same is hereby ratified; and be it further

"Resolved: That certified copies of this resolution be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

POM-776. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"HOUSE RESOLUTION NO. 46

"Whereas, April 13, 1984, marks the 241st anniversary of the birthday of Thomas Jefferson, the third President of the United States; and

"Whereas, Thomas Jefferson was founding father of our nation and America's most eloquent spokesman for freedom; and

"Whereas, In 1776, he authored the Declaration of Independence, considered to be the most articulate statement of democratic principles ever set forth and which became the charter of American liberties and a beacon of hope to oppressed peoples everywhere; and

"Whereas, The Declaration of Independence enumerated the many abuses of the American people by the King, which abuses were achieved mainly through excessive and unreasonable tax policies; and

"Whereas, He was the originator of the precept of free public education and author of the Bill for Establishing Religious Freedom, which enshrined the fundamental American principle of separation of church and state; and

"Whereas, A true Renaissance Man, he was a renowned political leader, philosopher, inventor, architect, naturalist, and translator of a dozen Native American languages; and

"Whereas, From 1784 to 1793, as Minister to France and Secretary of State, he negotiated vital trade agreements and skillfully represented America's interests at a critical time in our history; and

"Whereas, While serving as our third President, he purchased the Louisiana Territories from France, an act which changed America from a small coastal nation to a continental giant; and

"Whereas, He championed the rights of the common man against the tyranny of centralized government, and fought to limit taxation so that the citizens could keep the fruits of their labors; and

"Whereas, It is appropriate that our citizens, whose rights were so ably championed by Jefferson, be given a legal holiday to celebrate his birthday, re-read the Declaration of Independence, and fill out their tax forms; now, therefore, be it

"Resolved by the Assembly of the State of California, That California designate Thomas Jefferson's birthday, April 13, as a state holiday to honor Jefferson, the champion of American liberties."

"HOUSE RESOLUTION NO. 46, AS AMENDED; HOUSE RESOLUTION NO. 46

"Whereas, April 13, 1984, marks the 241st anniversary of the Birthday of Thomas Jefferson, the third President of the United States; and

"Whereas, Thomas Jefferson was a founding father of our nation and America's most eloquent spokesman for freedom; and

"Whereas, In 1776, he authored the Declaration of Independence, which is considered to be the most articulate statement of democratic principles ever set forth and which became the charter of American liberties and a beacon of hope to oppressed peoples everywhere; and

"Whereas, The Declaration of Independence set forth the many abuses of the American people by the King, which abuses were achieved mainly through excessive and unreasonable tax policies; and

"Whereas, He was the originator of the precept of free public education and author of the Bill for Establishing Religious Freedom, which enshrined the fundamental American principle of separation of church and state; and

"Whereas, A true Renaissance Man, he was a renowned political leader, philosopher, inventor, architect, naturalist, and translator of a dozen Native American languages; and

"Whereas, From 1784 to 1793, as Minister to France and Secretary of State, he negotiated vital trade agreements and skillfully represented America's interests at a critical time in our history; and

"Whereas, While serving as our third President, he purchased the Louisiana Territories from France, an act which changed America from a small coastal nation to a continental giant; and

"Whereas, He championed the rights of the common man against the tyranny of centalized government, fought to limit taxation so that the citizens could keep the fruits of their labors, and championed the Bill of Rights in the Constitution of the United States; and

"Whereas, It is appropriate that our citizens, whose rights were so ably championed by Jefferson, be given a legal holiday to celebrate his birthday, re-read the Declaration of Independence, and fill out their tax forms; now, therefore, be it

"Resolved by the Assembly of the State of California, That California designate Thomas Jefferson's birthday, April 13, as a state holiday to honor Jefferson, the champion of American liberties; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Heritage Task Force, the Governor of California, the Speaker of the United States House of Representatives, the President pro Tempore of the United States Senate, and to the President of the United States.

"Resolution, as amended, re-referred to the Committee on Rules."

POM-777. A petition from a citizen of Concord, New Hampshire relating to spending to increase federal control over public schools; to the Committee on Labor and Human Resources.

POM-778. A resolution adopted by the Senate of the State of Illinois; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION NO. 442

"Whereas, many civilian noncombatants volunteered to serve in combat zones during the American involvement in Vietnam, risking their personal health and safety for the sake of helping our combat soldiers as members of the Red Cross and other volunteer organizations; and

"Whereas, while serving in combat zones, these valorous noncombatants were regularly subjected to the same health stresses as members of the armed forces, including exposure to Agent Orange and various other pesticides, herbicides and defoliants; and

"Whereas, although these civilian noncombatants served in combat zones and were directed by military orders, the United States Government has not given them the benefits afforded to veterans of the armed forces, and although they have been exposed to the same health stresses as our military personnel, they have not received the medical examination and treatment which has been determined to be necessary and appropriate for such military personnel; and

"Whereas, due to their exposure to Agent Orange and the many other health stresses to which they were subjected while serving in combat zones, many former civilian noncombatants are suffering from a wide variety of serious health problems and the cost of private medical diagnosis and treatment is creating a staggering financial burden for these former civilian noncombatants and their families; and

"Whereas, the Illinois Agent Orange Study Commission and the Illinois Commission on the Status of Women have examined this situation, and have indicated their support for the concept of providing additional medical examination and treatment at public expense for civilian noncombatants who served in combat zones; therefore, be it

Resolved, by the Senate of the Eighty-Third General Assembly of the State of Illinois, That appropriate medical examination and treatment for former civilian noncombatants who served in combat zones should be encouraged; and be it further

Resolved, That the Senate of the Illinois General Assembly strongly urges the President and Congress of the United States to take all actions available to ease the plight of such former civilian noncombatants and their families, and we do hereby respectfully urge that the Administrator of Veterans' Affairs be directed to revise the current regulations of the Veterans' Administration to allow for the provision of health care benefits to former civilian noncombatants who served in combat zones during the Vietnam conflict; and be it further

Resolved, That this Senate further respectfully requests that other appropriate

agencies of the United States be encouraged to employ their resources for the investigation and amelioration of the health problems of these former civilian noncombatants, whose laudatory service to this Nation and its ideals should not go unremembered in their hour of need; and be it further

Resolved, That a suitable copy of this preamble and resolution be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to each member of the Illinois Congressional Delegation."

POM-779. A resolution by the Goodwill Industries of America relating to the 21 million Americans who are disabled; to the Committee on Labor and Human Resources.

POM-780. A joint resolution by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 118

"Whereas, engineering plays a major role in the economic well-being of the State of California; and

Whereas, California represents over 20 percent of the science, engineering, and technical capability of the United States; and

"Whereas, over 11 percent of all of the engineers educated in the United States receive their education in California institutions; and

"Whereas, fundamental engineering research is vital to the national welfare and security; and

"Whereas, historically, the National Science Foundation has been the principal source of basic scientific research and support of academic programs in the field of science; and

"Whereas, there is a critical need that engineering education and engineering fundamental research receive increased attention and parity with basic scientific research to permit the United States to maintain its leadership and competitive position in the world markets; and

"Whereas, the current structure of the National Science Foundation limits its mission, with certain exceptions, to basic scientific research and education, thus making it difficult to provide high-level support to engineering research and education; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to modify the National Science Foundation Act of 1950 to increased the foundation's commitment to engineering, in the following ways:

"(1) To change the name of the National Science Foundation to the National Science and Engineering Foundation;

"(2) To change the name of the Science Board to the National Science and Engineering Board;

"(3) To change Section 1862 of Title 42 of the United States Code (Functions) by adding a new function, as follows:

"To initiate and support research fundamental to the engineering process, to strengthen engineering research potential and engineering education at all levels in the various branches of engineering by making contracts or other arrangements (including grants, loans, and other forms of assistance), to support such engineering and educational activities, and to appraise the impact of such research upon the industrial productivity and competitiveness and upon general welfare."

"(4) To add the word 'engineering' where appropriate, to further emphasize the equal emphasis of science and engineering; and

"(5) To expand the qualifications for board membership to include engineering; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of the National Science Foundation."

POM-781. A joint resolution adopted by the Legislature of the State of California, to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 103

"Whereas, the Older Americans Act is the governing document for policy direction used to determine how the nation's elderly will be served; and

"Whereas, California receives the largest allocation of Older American Act funds; and

"Whereas, California has 3.4 million people over the age of 60, comprising 14.4 percent of the State's population and the Nation's largest number of elderly citizens; and

"Whereas, approximately 14 percent of older Americans have incomes below the proverty line and another 10—15 percent clustered just above the poverty line; and

"Whereas, the Older Americans Act and the Older Californians Act call for Government assistance to be provided to those seniors in the greatest social and economic need; and

"Whereas, many elderly who presently use social and nutritional services provided through Title III of the Older Americans Act are socially and economically needy; and

"Whereas, these same elderly cannot afford on meager and fixed incomes to pay even minimal costs for these services; and

"Whereas, reauthorization of the Older Americans Act is scheduled for 1984; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, that the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to resist any attempts to institute a means test or mandatory contribution for services provided under Title III of the Older Americans Act; and be it further

"Resolved, that the Commissioner on Aging be directed to deemphasize the Project Income Initiative as far as user contributions are concerned and emphasize program income through a partnership with the private sector; and be it further

"Resolved, that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-782. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban affairs.

"ASSEMBLY JOINT RESOLUTION No. 146

"Whereas, The United States trade deficit is expected to be at least 130 billion dollars by the end of 1984; and

"Whereas, The total number of export license applications processed by the U.S. Office of Export Services was over 90,000 in 1983, and is projected to be over 110,000 in 1984; and

"Whereas, The average time necessary to process an export license application is eight weeks; and

"Whereas, Small- and medium-sized businesses are experiencing increased difficulty with the export licensing system in terms of the time required to process export license applications and in obtaining information about the status of export license applications; and

"Whereas, Delays in the export licensing process represent a significant nontariff barrier to exports and contribute to the loss of millions of dollars in overseas sales; and

"Whereas, The California trade deficit went from 2 billion dollars in 1982 to 8.6 billion dollars in 1983; and

"Whereas, Eliminating long delays in the export licensing process will help to reduce the U.S. and California trade deficits by speeding the flow of exports; and

"Whereas, California leads all other states in manufactured exports; and

"Whereas, The value of California's exports exceeded 18 billion dollars in 1981; and

"Whereas, California export-related employment totaled nearly 1 million jobs; and

"Whereas, California's exports of electronic components and communications equipment have more than doubled since 1977; and

"Whereas, One-quarter of the 3,500 to 4,000 weekly telephone calls to the United States Office of Export Services regarding export administration and documentation come from California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, and the Department of Commerce and the Department of the Treasury, immediately to initiate measures to locate additional regional export licensing offices, inlcuding one in California, in order to increase exports and jobs, facilitate the rapid processing of export license applications and improve communications between export license applicants and the Office of Export Services regarding licensing requirements and the status of individual export license applications; and, to the extent possible, confer with representatives of the State of California, the California Legislature, and that business community involved in international trade, in order to determine what state resources may be available to assist in the establishment of a regional export licensing office in California; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Commerce, to the Secretary of the Treasury, and to each Senator and Representative from California in the Congress of the United States."

POM-783. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs.

"ASSEMBLY JOINT RESOLUTION No. 99

"Whereas, California will continue to require an increasing supply of mortgage cap-

ital to finance development of new homes and the resale of existing homes; and

"Whereas, The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation purchase mortgages originated by institutional lenders and thereby replenish the funds available to those lenders to make new home loans; and

"Whereas, The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation only purchase mortgages if the mortgages do not exceed the maximum dollar limits set by federal law; and

"Whereas, The median value of mortgages originated in California exceeds the national median; and

"Whereas, The current limitations on the mortgages eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation affect California's ability to raise mortgage capital; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to increase the dollar limit on mortgages eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation."

POM-784. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science and Transportation.

"ASSEMBLY JOINT RESOLUTION No. 125

"Whereas, The Merchant Marine Act of 1936 calls for a substantial percentage of United States imports and exports to be carried in United States flag vessels; and

"Whereas, The United States maritime fleet's share of United States trade has been substantially reduced by foreign competition; and

"Whereas, Other nations subsidize their maritime fleets, which amounts to unfair competition; and

"Whereas, Congress has called for at least 20 percent of all United States bulk cargo to be carried in United States ships built in United States shipyards; and

"Whereas, The United States has hundreds of thousands of military personnel and their dependents deployed overseas; and

"Whereas, The United States Maritime Fleet assists in the support and defense of United States citizens stationed overseas in the name of national defense; and

"Whereas, The United States Maritime Fleet has insufficient resources to support those isolated Americans in case of a major emergency; and

"Whereas, The maritime fleets of other nations should not be relied upon to look after our interests; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to provide for the planning and resources necessary to establish an effective maritime fleet capable of meeting any contingency; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-785. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION No. 106

"Whereas, The United States Department of the Interior is proposing to open major portions of the outer continental shelf along the northern California coastline for hard-rock mineral leasing as of August 1984 under the title of the Gorda Ridge Lease Sale; and

"Whereas, Whether or not the United States Department of the Interior has jurisdictional authority over the Gorda Ridge is a matter of dispute because the Gorda Ridge may not be on the continental shelf as that term is defined by accepted domestic and international standards; and

"Whereas, The management of the outer continental shelf is to be conducted in a manner which considers economic, social, and environmental values, as well as the potential impact of developmental on the marine, coastal, and human environment, in accordance with the Outer Continental Shelf Lands Act Amendments of 1978, the National Environmental Policy Act of 1969, and the Federal Coastal Zone Management Act of 1972, as amended; and

"Whereas, The United States Department of Interior has identified a number of severe deficiencies in scientific information available about the areas proposed for leasing under the Gorda Ridge Lease Sale, and has formulated plans to begin appropriate scientific studies during the 1985 fiscal year, and is seeking funds for these studies; and

"Whereas, Adequate scientific information is necessary in order to provide a basis for a reasoned decisionmaking process with regard to the Gorda Ridge Lease Sale; and

"Whereas, The Gorda Ridge Lease Sale planning process calls for an accelerated decisionmaking timetable which will not permit the necessary scientific studies to be completed in a timely fashion to ensure that the proposed mining operations will not threaten the health and productivity of the marine environment and will not adversely impact coastal communities; and

"Whereas, Minerals of strategic importance to the United States are not expected to be located within the Gorda Ridge Lease Sale area but, rather, common minerals which are readily available from onshore sources are the target of the sale; and

"Whereas, Biological resources of importance to the economic productivity of the coastal region could be adversely impacted by undersea mining operations proposed for the Gorda Ridge Lease Sale area; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, that the Legislature of the State of California, memorializes the President and the Secretary of the Interior to delay the Gorda Ridge Lease Sale for a period of at least five years to permit the gathering and analysis of scientific data necessary as a basis for reasoned leasing decisions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the United States Department of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-786. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 121

"Whereas, The laboratory experience is crucial to the education of engineers and scientists; and

"Whereas, The laboratory environment permits physical demonstrations, the application of theory and fundamentals to engineering and scientific systems, and the teaching of experimentation and research; and

"Whereas, The cost of equipping and operating laboratories in postsecondary education is significant, because laboratories must be capable of demonstrating engineering and scientific fundamentals and be current to the state of the art; and

"Whereas, Much of the equipment utilized in engineering and scientific laboratories is complex and requires specialized talent and test equipment to maintain and repair it properly; and

"Whereas, Current federal law provides an income tax deduction for a donor of equipment for educational, instructional, and research purposes, but does not provide a deduction for the equipment used to check and test this equipment, nor for donor maintenance or service of this equipment; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation amending the Internal Revenue Code to provide a tax deduction to persons who donate testing equipment and services to maintain and provide upkeep for engineering and scientific laboratory equipment in postsecondary educational institutions; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-787. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 121

"Whereas, The laboratory experience is crucial to the education of engineers and scientists; and

"Whereas, The laboratory environment permits physical demonstrations, the application of theory and fundamentals to engineering and scientific systems, and the teaching of experimentation and research; and

"Whereas, The cost of equipping and operating laboratories in postsecondary education is significant, because laboratories must be capable of demonstrating engineering and scientific fundamentals and be current to the state of the art; and

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ries is complex and requires specialized talent and test equipment to maintain and repair it properly; and

"Whereas, Current federal law provides an income tax deduction for a donor of equipment for educational, instructional, and research purposes, but does not provide a deduction for the equipment used to check and test this equipment, nor for donor maintenance or service of this equipment; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation amending the Internal Revenue Code to provide a tax deduction to persons who donate testing equipment and services to maintain and provide upkeep for engineering and scientific laboratory equipment in postsecondary educational institutions; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-787. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 115

"Whereas, The Government of the Federal Republic of Germany established a Holocaust victims reparation program to compensate victims of Nazi war crimes; and

"Whereas, The United States government excludes such reparation payments from federal income taxes; and

"Whereas, The United States government has established the Supplemental Security Income (SSI) program to aid needy, aged, blind, and disabled persons; and

"Whereas, The courts have found that, barring specific Congressional legislation, Holocaust reparation funds shall be included in a person's income for the purpose of determining SSI elibility; and

"Whereas, It has been demonstrated that there are needed Californians who are Holocaust victims who are currently being deprived of SSI benefits because their reparation payments cause them to be found ineligible for SSI; and

"Whereas, The Honorable Henry Waxman, Member of the United States House of Representatives from California, has introduced HR 6291 to provide that reparation payments received from the Federal Republic of Germany by Holocaust survivors shall not be considered income for the purpose of determining eligibility for SSI benefits; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to support and enact HR 6291; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Member of Congress in the California delegation."

POM-788. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 102

"Whereas The New River, which originates in Mexico and flows northward across the International Boundary into California's Imperial Valley, is the most contaminated stream in the United States relative to its flow, a gross public health hazard, and an aesthetically repulsive spectacle to over 40,000 United States residents of communities along the river's course, as well as to visitors from the nearby metropolitan centers; and

"Whereas contaminated waters of the New River discharge into the Salton Sea, a condition incompatible with the ecology and the varied public uses of that body of water in one of southern California's most important recreational areas; and

"Whereas contamination of the New River is caused by uncontrolled discharges of raw and inadequately treated sewage, highly toxic industrial chemical wastes, solid wastes, geothermal wastes, leaching from a major garbage dump, slaughterhouse wastes, and other wastes discharged by the municipal government and industries within or near the City of Mexicali in Mexico; and

"Whereas contaminating discharges from the vicinity of Mexicali, Mexico, have continued for a recorded period of over 40 years, during which time the city's population has increased to approximately 750,000, while the area has developed into a major industrial center; and

"Whereas the magnitude of the resulting waste discharge is comparable to that from a city the size of San Francisco, if that city's sewage and industrial waste could be imagined as flowing untreated in an open channel through urban and rural areas; and

"Whereas Mexicali's sewer system, which covers only a portion of the city and which includes two pumping stations and treatment lagoons, has not been expanded and improved sufficiently to keep pace with the very rapid growth of Mexicali and its increasing industrial developments, and Mexican authorities have not adequately maintained the facilities so that there are frequent breakdowns; and

"Whereas in order to elevate New River water quality to standards required for comparable streams in the United States, numerous problems must be addressed, and an explanation of the entire array of problems to be addressed can only be determined following studies by the Environmental Protection Agency in coordination with California state agencies and in cooperation with authorities of the United Mexican States; and

"Whereas a preliminary indication of the problems to be addressed are as follows:

"(a) Elimination of all point-source discharges of raw sewage into the New River, particularly the eight major sources presently identified.

"(b) Relocation and sewering of unsewered residences situated along the banks of the New River and its tributaries.

"(c) Enforced prohibition against septic tank pumpers discharging their tank contents into the New River system.

"(d) Upgrading and effective operation of pumping plants No. 1 and No. 2 of Mexicali's sewer collection system, so that no raw sewage, under any circumstances, is bypassed into the New River system.

"(e) Replacement of deteriorating sewer pipelines along Mexicali's north and south collectors to eliminate breaks that result in raw sewage discharges into the New River system.

"(f) Upgrading of Mexicali's sewage treatment lagoons to provide a secondary level of treatment.

"(g) Segregation and separate treatment of domestic wastes from toxic industrial wastes presently being discharged to Mexicali's sewer system.

"(h) Prevention of all untreated or inadequately treated industrial wastes from spillage into the New River and its tributaries.

"(i) Prevention, by any means necessary, of the discharge of wastes from slaughterhouses, hog farms, and dairies into the New River and its tributaries.

"(j) Relocation of Mexicali's landfill garbage dump away from the New River and its tributaries.

"(k) Rerouting of geothermal wastewater away from the New River system; and

"Whereas the quickest and least costly procedures to correct current pollution problems are source-controls within Mexicali's, but history confirms that Mexico's federal, state, and municipal governments have been incapable of effectively imposing these controls; and

"Whereas the Hazardous Substance Account ("California Superfund") may be used for remedial and removal actions concerning hazardous substances polluting water resources, including the New River; and

"Whereas since the New River is the second most toxic river in the United States and the most toxic river in California, the New River should be listed as a site on the California Superfund priority ranking list, which will make the river eligible for remedial and removal action funded in part by the California Superfund and will also allow federal funds to be used to carry out the actions, stated above; and

"Whereas the President of the United States and the President of the United Mexican States signed an agreement on August 14, 1983, titled "Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area," Article 8 of which designates the Environmental Protection Agency as the national coordinator for the United States; and

"Whereas it is the obligation of the United States government, on behalf of the residents of Imperial Valley, to obtain adequate correction of the gross pollution and contamination of the New River from discharges within Mexico; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to appropriately recognize and declare that a clear and present threat to public health and safety exists in the Imperial Valley of California as a direct consequence of continuing toxic contamination and organic pollution of the New River, originating within Baja California, Mexico, requiring immediate and comprehensive mitigation through cooperative international initiatives; and be it further

Resolved, That the President is respectfully requested to immediately direct the Secretary of State and the Administrator of the Environmental Protection Agency, in cooperation with authorities of the State of California, the California Regional Water Quality Control Board (Colorado River Basin Region), and the County of Imperial, to expedite the development of alternative proposals and a recommended plan for halting

the flow of contaminants and pollutants in the New River from both Baja California and California sources; and be it further

"Resolved, That the Congress is respectfully requested to appropriate, and the President is respectfully urged to allocate and direct, sufficient federal funding, staffing, and technical resources for the implementation and completion of an effective water quality control system within the New River watershed, with the active cooperation of the government of the United Mexican States; and be it further

"Resolved, That the Legislature also requests the State Department of Health Services to list the New River on the priority ranking of sites pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, so that federal funds can be used to finance these requested actions to clean up the New River; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the State Director of Health Services."

POM-789. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 119

"Whereas the prompt and accurate reporting of income and the timely payment of federal and states taxes thereon by the citizens of this nation and this state are goals which are of vital concern to both the government of the United States and the government of the State of California; and

"Whereas, The accomplishment of those goals would be greatly facilitated by increasing the availability to taxpayers of the necessary tax forms and tax instruction publications produced by taxing agencies of those governments; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature urges the Franchise Tax Board to make available to California taxpayers at its various offices throughout the state copies of all of the federal income tax instructions publications which are commonly used by taxpayers; and be it further

"Resolved, That the Legislature respectfully memorializes the President and the Congress of the United States to direct the Internal Revenue Service to make available to California taxpayers at its various offices located within this state copies of all of the California income tax forms and California income tax instructions publications which are commonly used by taxpayers; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Franchise Tax Board, to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Member of Congress in the California delegation."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Commmittee on Energy and Natural Resources:

Richard H. Francis, of Virginia, to be president of the Solar Energy and Energy Conservation Bank.

(The above nomination was reported from the Committee on Energy and Natural Resources with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

Robert D. Stuart, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States to Norway:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert D. Stuart.

Post: Ambassador—Norway.

Contributions, amount, date, and donee:

1. Self: Robert D. Stuart.

2. Spouse: Barbara E. Stuart.

3. Children and spouses: R. Douglas Stuart III; Mr. & Mrs. James McClure Stuart (Cheryl); Mr. & Mrs. Donaldson C. Pillsbury (Marian Stuart); Mr & Mrs. Alexander D. Stuart (Robin Peake).

4. Parents: None.

5. Grandparents names: None.

6. Brothers and spouses names: None.

7. Sisters and spouses: Mr & Mrs. Clifton B. Batchelder (Anne Stuart); Mr. & Mrs. Augustin S. Hart, Jr. (Margaret Stuart): Mr. and Mrs. Edson W. Spencer (Harriet Stuart).

FEDERAL POLITICAL CONTRIBUTIONS—1980

Donee, amount, and date:

Citizens for Buckley, $200, January 9;

Paul Findley, $5, January 9;

Porter for Congress, $100, January 11;

George Bush Campaign, $250, January 11;

Anderson for President, $250, January 11;

Americans Against Union Control of Government, $250, February 20;

1980 Senate House Dinner, $1,000, February 20;

James McClure Clarke for Senate Committee, $200, February 22;

Findley for Congress Committee, $200, February 27;

Dave O'Neal U.S. Senate, $1,000, March 7;

The Baker Committee, $250, March 13;

John LeBoutillier, $200, March 13;

Symms for Senator, $500, March 13;

Frank Lee for Senate Committee, $150, April 2;

Reagan for President Committee, $300, April 15;

Defeat Udall Now Committee, $150, April 15;

Republicans Abroad, $100, May 6;

Reagan Mailings—Postage, $84.15, May 8;

Reagan—Electroword Services, $459.00, May 29;

Republican Presidential Unity Committee, $1,000, June 6;

Crane for Congress, $250, June 6;

Republican National Committee, $50, June 10;

Republican State Senate Dinner, $600, July 2;

Republican National Committee—Star Spangled Evening, $1,000, July 8;

George Bush for President, $500, July 9;

Citizens for Buckley, $100, July 10;

Republican Eagles (Republican National Committee), $5,000, July 10;

Republican Eagles Dinner, $381, July 17;

Reagan for President Committee, $200, July 27;

Andrews for Senate Committee, $150, August 7;

Andrews—Anderson Secretarial Services, $91, August 20;

Andrews—The Chicago Club, $724, August 20;

Dave O'Neal U.S. Senate, $1,000, August 27;

Republican Eagles, $5,000, September 15;

O'Brien for Congress, $50, September 15;

Findley for Congress, $100, September 15;

Republican Congressional Boosters Club, $1,000, October 1;

National Republican Senatorial Committee, $1,000, October 1;

Citizens for Buckley, $150, October 1;

Findley for Congress, $200, October 1;

Grassley for Senate, $200, October 1;

Symms for Senate, $200, October 1;

Quayle for Senate, $200, October 1;

Total, $24,794.15.

FEDERAL POLITICAL CONTRIBUTIONS—1981

Donee, amount, and date:

Republican National Committee, $600, January 31;

Republican National Committee, $1,370, January 31;

1981 Senate House Dinner, $2,000, March 17;

Dick Lugar for Senate, $200, April 3;

Andy Scott for Senate, $100, April 9;

Porter for Congress Committee, $100, June 25;

Liles Williams for Congress, $100, June 25;

Republican State Senate Dinner, $600, July 2;

Republican National Committee/Eagles Membership $10,000, September 11;

Republican Senatorial Inner Circle, $1,000, September 11;

Congressman Bob McClory Finance Committee, $500, October 31;

Political Action Committee, Quaker Oats, $1,500, November 9;

Citizens for Barkhausen for U.S. Senate, $200, November 30;

Hayakawa for U.S. Senator, $150, December 2;

Reelect Senator Chafee Committee, $500, December 18;

Senator Chafee postage reimbursement, $33.20, December 24;

Total, $18,953.20.

FEDERAL POLITICAL CONTRIBUTIONS—1982

Donee, amount, and date:

Donald Duester for Senator Committee, $150, January 26;

Citizens for Bob Kustra (Senate), $150, January 27;

Bertini for Congress (Primary), $1,000, January 31;

Erlenborn for Congress, $125, March 31;

Barkhausen for U.S. Senate, $300, March 31;

Friends of Dick Lugar, $100, March 31;

Wilmar Printing Corp.—Prescott Bush Campaign, $19, April 19;

Anderson Secretarial Services—Prescott Bush Campaign, $113.15, April 19;

Findley for Congress, $250, April 20;

Chicago Club—Reception for Richard Williamson (Reagan's Assistant for Intergovernment Affairs), $236.57, April 30;

Friends of Prescott Bush, $880, April 30;

Illinois Republican Senate House Dinner, $600, May 12;

Wesley Dixon—Porter for Congress Coffee Event Expenses, $107.53, June 16;

Illinois Republican House Campaign Dinner, $400, June 23;

The Cathy Bertini for Congress Committee, $250, June 29;

Findley for Congress, $150, June 30;

Fenwick for State Senate, $250, July 6;

John LeBoutiller for Congress, $150, July 28;
Danforth for Senate Committee, $250, July 28;
Michaux for Congress Committee, $250, July 29;
Republican National Committee—Eagles Membership, $10,000, August 31;
Friends of Dick Lugar, $200, September 2;
Michel for Congress Committee, $500, September 24;
Porter for Congress, $500, September 24;
Dave Durenberger for U.S. Senate, $250, September 24;
The Cissy Baker Committee, $125, September 27;
Citizens for Barkhausen, $200, September 27;
Citizens for Barkhausen, $50, September 27;
Cathy Bertini for Congress (General Election), $1,000, September 28;
O'Brien for Congress, $200, September 28;
Friends of Prescott Bush, $100, September 28;
Michael for Congress Committee, $500, October 12;
Lynn Martin for Congress Committee, $500, October 12;
McMillan for Congress, $300, October 13;
O'Brien for Congress, $300, October 13;
The Mid-America Committee—Percy Dinner, $200, October 21;
Crane for Congress Committee, $125, October 22;
Merchants and Manufacturers Club—Cathy Bertini and Tom Roeser, $35.18, October 31;
Salute to Senate Leadership—Percy (Primary), $1,000, December 29;
Quaker Oats PAC Contribution—Salary Deduction, $90.90, December 31;
Total, $21,907.33.

FEDERAL POLITICAL CONTRIBUTIONS—1983

Donee, amount, and date:
Food Marketing Institute PAC, $100, January 24;
Illinois Bar LAWPAC, $10, January 31;
Quaker Oats PAC—January Salary Deduction, $90.90, January 31;
Quaker Oats PAC—February Salary Deduction, $90.90, February 28;
Porter for Congress, $100, March 1;
Quaker Oats PAC—March Salary Deduction, $90.90, March 31;
Republican Senatorial Inner Circle, $1,000, April 7;
1983 Republican Senate House Dinner, $1,000, April 8;
Illinois Republican Senate Dinner Committee, $200, April 26;
Quaker Oaks PAC—April Salary Deduction, $90.90, April 30;
Republican Governors Association, $100, May 5;
Quaker Oats PAC—May Salary Deduction, $90.90, May 31;
Clark for Young Republicans National Federation Chairman, $100, June 20;
Quaker Oats PAC—June Salary Deduction, $90.90, June 30;
Quaker Oats PAC—July Salary Deduction, $90.90, July 31;
GOP Victory Fund, $1,000, August 16;
Senator Bob Dole's Campaign America, $250, August 31;
Quaker Oats PAC—August Salary Deduction, $90.90, August 31;
Republican Majority Fund Candidate Account, $1,000, September 6;
Republican National Committee—Eagle Membership, $10,000, September 20;
GOPAC Fund—10/3/83 Dinner, $500, September 30;
Quaker Oats PAC—September Salary Deduction, $90.90, September 30;
Dan Evans Committee for U.S. Senate, $250, October 11;
The Public Interest Committee—PAC—The Quaker Oats Company, $1,000, October 12;
O'Brien for Congress Committee, $200, October 28;
Reagan-Bush '84, $1,000, October 31;
Quaker Oats PAC—October Salary Deduction, $90.90, October 31;
Citizens for Percy (General Election), $1,000, December 8;
Republican Congressional Boosters Club, $1,000, December 25;
Total, $20,719.

FEDERAL POLITICAL CONTRIBUTIONS—1984 TO DATE

Donee, amount, and date:
Food Marketing Institute PAC, $1,000, January 12;
Republican Senatorial Inner Circle, $1,000, January 23;
Republican Senatorial Inner Circle/Barbara E. Stuart, $1,000, February 13;
Pressler for Senate, $250, February 13;
President's Dinner 5/10 (Republican Party), $3,000, April 12;
Mike Strang for Congress, $250, April 30;
Republican State Senate Campaign Committee Dinner 6/7, $1,000, May 4;
Illinois Vietnam Veterans Leadership Program Dinner 5/27, $125, May 17;
Crane for Congress Committee, $200, May 29;
Porter for Congress Committee, $600, June 14;
Total, $8,425.

MRS. BARBARA E. STUART—FEDERAL POLITICAL CONTRIBUTIONS—JANUARY 1, 1980 TO PRESENT

Donee, amount, and date:
National Federation of Republican Women Regents Membership, $1,000, February 13, 1984;
Citizens for Percy ($1,000 primary, $1,000 general election), $2,000, January 18, 1984;
Reagan-Bush '84, $1,000, October 1983 and December 13, 1983;
Republican Senatorial Inner Circle, $1,000, October 24, 1983;
National Federation of Republican Women Regents, $1,000, May 2, 1983;
Percy for Senate Committee, $1,000, December 29, 1982;
Cathy Bertini for Congress (general election), $1,000, October 6, 1982;
Friends of Prescott Bush, $100, September 27, 1982;
National Federation of Republican Women Regents, $1,000, April 5, 1982;
Cathy Bertini Campaign Fund (primary); $1,000, March 5, 1982;
National Federation of Republican Women Regents; $1,000, May 6, 1981;
Reagan for President Committee, $1,000, May 27, 1980;

R. DOUGLAS STUART III—FEDERAL POLITICAL CONTRIBUTIONS JANUARY 1, 1980 TO THE PRESENT

Donee, amount, and date:
PAC 1st National Bank of Chicago, $400, 1980;
PAC 1st National Bank of Chicago, $400, 1981;
PAC 1st National Bank of Chicago, $400, 1982;
Cathy Bertini for Congress (primary), $1,000, 1982;
Cathy Bertini for Congress (general election), $1,000, 1982;
George Hortly for Congress, $400, 1982;
PAC 1st National Bank of Chicago, $400, 1983.

MR. AND MRS. JAMES M. STUART—FEDERAL POLITICAL CONTRIBUTIONS—JANUARY 1, 1980 TO THE PRESENT

Donee, amount, and date:
J. LeBoutillier for Congress, $100, February 21, 1980;
Citizens for Barkhausen, $100, February 21, 1980;
Republican National Committee, $100, February 21, 1980;
Republican National Committee, $500, July 30, 1980;
Citizens for O'Neal (Mr. & Mrs.), $1,000, September 26, 1980;
Dave O'Neal (Mr. and Mrs.), $500, October 22, 1980;
Regular Republican Organization, $60, November 14, 1981;
Citizens for Barkhausen, $100, November 25, 1981;
Cathy Bertini for Congress (primary—Mr.), $1,000, January 31, 1982;
Citizens for Barkhausen, $250, March 30, 1982;
Cathy Bertini for Congress (general—Mr.), $1,000, March 30, 1982;
Cathy Bertini for Congress (primary—Mrs.), $1,000, March 30, 1982;
Citizens for Barkhausen, $200, October 25, 1982;
RNC 500 Club, $500, December 3, 1983;
Reagan-Bush '84, $1,000, December 19, 1983;
GOPAC, $250, February 3, 1984;
R.P.S.L.M.C., $25, February 3, 1984;
Citizens for Percy, $1,000, February 3, 1984.

MR. AND MRS. DONALDSON C. PILLSBURY—FEDERAL POLITICAL CONTRIBUTIONS JANUARY 1, 1980 TO THE PRESENT

Donee amount, and date:
Bertini for Congress (primary—Mr. & Mrs.), $1,000, January 26, 1982;
Cocktail Party for Bertini (Mr. & Mrs.), $150, March 1982;
Bertini for Congress (primary—Mr. & Mrs.), $1,000, March 1982;
Charles Ravenal for Congress, $500, June 1982;
Bertini for Congress (general—Mr. & Mrs.), $1,000, November 1, 1982;
Friends of Senator D'Amato, $1,000, December 2, 1983;
Friends of Jay Rockefeller, $1,000, December 7, 1983;
Senator Charles Percy, $250, January 1984;
The President's Dinner, $1,000, April 1984.

MR. AND MRS. ALEXANDER D. STUART—FEDERAL POLITICAL CONTRIBUTIONS JANUARY 1, 1980 TO THE PRESENT

Donee, amount, and date:
Connally for President, $1,000, February 9, 1981;
Citizens for Barkhausen, $50, December 8, 1981;
Catherine Bertini for Congress, $100, April 18, 1982;
Catherine Bertini for Congress, $100, September 20, 1982;
David N. Barkhausen, $75, October 4, 1982;
Friends of Leonard S. Coleman, $75, October 9, 1983;
Citizens for Barkhausen, $35, November 15, 1983;
Rob Mosbacher for Senate, $100, November 23, 1984;
Rob Mosbacher for Senate, $75, March 1, 1984;

Rob Mosbacher for Senate, $50, March 16, 1984;
Rob Mosbacher for Senate, $50, April 1, 1984;
Rob Mosbacher for Senate, $50, May 28, 1984.

AUGUSTIN S. HART, JR.—FEDERAL POLITICAL CONTRIBUTIONS JANUARY 1, 1980 TO THE PRESENT

Donee, amount and date:
David Barkhausen for State Representative, $200, 1980;
Reagan for President Committee, $1,000, 1980;
National Republican Senatorial Committee, $100, 1980;
1980 Republican Presidential Unity Committee, $500, 1980;
Republican National Committee, $200, 1981;
Chuck Percy Senate Club, $100, 1981;
Congressman Bob McClory Finance Committee, $500, 1981;
The Re-elect Senator Chafee Committee, $200, 1981;
Chuck Percy Senate Club, $100, 1982;
Republican National Committee, $250, 1982;
1984 Presidential Trust thru RNC, $300, 1983;
Reagan-Bush '84, $1,000, 1983.

MARGARET S. HART—FEDERAL POLITICAL CONTRIBUTIONS JANUARY 1, 1980 TO THE PRESENT

Donee, amount, and date:
National Republican Federation of Women, $1,000, 1982;
Catherine Bertini for Congress, $700, 1982;
Porter for Congress, $300, 1982;
National Republican Federation of Women, $1,000, 1983;
Reagan-Bush '84, $250, 1983;
Citizens for Percy, $400, 1984.

MR. AND MRS. EDSON W. SPENCER—FEDERAL POLITICAL CONTRIBUTIONS—JANUARY 1, 1980 TO THE PRESENT

Donee, amount, and date:
Bush for President Committee, $1,000, 1980;
Weber for Congress Committee, $100, 1980;
Frenzel for Congress Committee, $500, 1980;
Durenberger for Senate Committee (primary—Mr. & Mrs.), $1,000, 1980;
Durenberger for Senate Committee (primary—Mr. & Mrs.), $1,000, 1981;
Boschwitz for Senate Committee, $1,000, 1981;
Clarke for Congress Committee, $250, 1981;
Durenberger for Senate Committee (general—Mr. & Mrs.), $1,000, 1982;
Bertini for Congress Committee, $500, 1982;
Weber for Congress Committee, $100, 1982;
Erdahl for Congress Committee, $750, 1982;
Clarke for Congress Committee, $250, 1982;
Boschwitz for Senate Committee (primary—Mr. & Mrs.), $1,000, 1983;
Frenzel for Congress Committee, $200, 1984;
Boschwitz for Senate Committee, $500, 1984;
Senate Republican Finance Committee, $1,000, 1984;
Trueman for Congress Committee, $500, 1984.

MR. AND MRS. CLIFTON B. BATCHELDER—FEDERAL POLITICAL CONTRIBUTIONS—JANUARY 1, 1980 TO THE PRESENT

Donee, amount, and date:
National Federation of Republican Women, $1,000, January 11, 1980;
Reagan for President Committee, $1,000, March 3, 1980;
Berenter for Congress, $100, March 5, 1980;
Hal Daub for Congress Committee, $100, March 5, 1980;
Committee to Elect Reagan Delegates, $500, April 5, 1980;
Committee to Elect Reagan, $100, April 11, 1980;
Reagan Delegate Committee, $300, April 30, 1984;
Reagan Delegate Committee, $100, May 7, 1980;
Independent Voters for a Republican Victory, $50, May 27, 1980;
Republican National Committee, $25, June 9, 1980;
Black Silent Majority Committee, $100, June 27, 1980;
Republican National Committee (Star Spangled Evening), $100, June 27, 1980;
Friends of Hal Daub for Congress, $500, July 9, 1980;
Black Voters for a Republican Congress, $150, August 7, 1980;
Black Voters for a Republican Congress, $150, September 4, 1980;
Daub for Congress Committee, $100, September 7, 1980;
Independent Voters for a Republican Congress, $150, September 24, 1980;
Republican National Committee/Eagles (stock), $10,000, October 30, 1980;
Republican National Committee-Inaugural events, $600, December 17, 1980;
Republican National Committee-Inaugural events, $1,200, December 17, 1980;
Republican National Committee-Inaugural events (Hotels), $465, December 17, 1980;
Keck for Senate, $1,000, January 15, 1981;
National Federation of Republican Women (Regents), $1,000, January 19, 1981;
Black Silent Majority Committee, $200, March 20, 1981;
Friends of Hal Daub, $250, April 1981;
National Republican Statesman, $150, April 21, 1981;
Berenter for Congress, $100, April 22, 1981;
Friends of Hal Daub, $50, July 1, 1981;
Friends of Hal Daub, $100, July 7, 1981;
Friends of Marshall Coleman, $100, August 3, 1981;
National Republican Statesman, $150, August 31, 1981;
Black Silent Majority Committee, $350, September 1, 1981;
Citizens for the Republic, $100, September 1, 1981;
Friends of Hal Daub, $250, September 9, 1981;
Citizens for the Republic, $150, September 15, 1981;
Republican National Committee/Eagles, $10,000, September 1981;
Republican Presidential Task Force, $120, September 30, 1981;
Black Republican Journal, $100, September 30, 1981;
James Keck for Senate, $500, December 1981;
National Federation of Republican Women Regents (for 1982), $1,000, December 26, 1981;
National Republican Statesman, $350, January 30, 1982;
Catherine Bertini for Congress, $300, January 30, 1982;
Republican Presidential Task Force, $120, January 30, 1982;
Citizens for the Republic, $200, January 30, 1982;
Black Silent Majority Committee, $350, January 30, 1982;
Hal Daub for Congress, $82, April 2, 1982;
Friends of Jim Collins, $100, May 17, 1982;
Keck for Senate, $1,000, May 21, 1982;
Black Silent Majority Committee, $250, July 15, 1982;
Hal Daub for Congress, $500, July 15, 1982;
Republican National Committee/Eagles, $10,000, July 15, 1982;
Republican National Committee, $100, July 15, 1982;
Berenter for Congress, $150, August 8, 1982;
Black Silent Majority Committee, $250, December 9, 1982;
National Federation of Republican Women Regents, $1,000, January 13, 1983;
RNC Reagan Campaign Fund, $150, January 21, 1983;
Citizens for Reagan, $100, January 26, 1983;
Berenter for Congress, $100, May 18, 1983;
National Federation of Republican Women-Special Project, $500, May 18, 1983;
RNC Reagan Campaign Fund, $100, August 22, 1983;
Republican National Committee, $100, September 9, 1983;
Republican National Committee/Eagles, $10,000, September 13, 1983;
Daub for Congress, $1,000, September 23, 1983;
National Federation of Republican Women Regents, $15, October 12, 1983;
The Black Conservative Journal, $50, October 26, 1983;
Republican National Committee, $100, November 22, 1983;
Reagan-Bush '84, $1,000, December 30, 1983;
Nebraskans for Nancy Hock, $500, January 16, 1984;
National Federation of Republican Women, $1,000, January 19, 1984;
Republican National Committee/Eagles one-half payment for year, $5,000, April 10, 1984;
National Federation of Republican Women, $200, April 29, 1984;
Berenter for Congress, $100, May 31, 1984;
National Republican Senatorial Campaign, $100, May 31, 1984.

Richard A. Derham, of Washington, to be an Assistant Administrator of the Agency for International Development.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PERCY. Mr. President, for the Committee on Foreign Relations, I also report favorably four nomination lists in the Foreign Service which were printed in their entirety in the CONGRESSIONAL RECORD of September 5, 1984, and ask, to save the expense of reprinting them on the Executive Calendar, that they lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

H. Con. Res. 321. Concurrent resolution expressing the sense of the Congress with respect to the adverse impact of early projections of election results by the news and media (Rept. No. 98-600).

By Mr. PERCY, from the Committee on Foreign Relations, with amendments and an amended preamble:

H. Con. Res. 111. Concurrent resolution to commemorate the Ukrainian famine of 1933.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and an amended preamble:

S. Con. Res. 94. Concurrent resolution expressing the sense of Congress that the president of Syria should permit Jewish emigration.

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment and an amended preamble:

S. Con. Res. 119. Concurrent resolution expressing the sense of the Congress concerning infringements of religious freedom by the Governments of the Warsaw pact states.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2986. A bill to amend the Ethics in Government Act of 1978 to provide for programs designed to inform Federal employees of applicable standards of conduct, to improve the administration of ethics programs in the Federal government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 2987. A bill to amend the Internal Revenue Code of 1954 to increase the investment credit for the purchase of used telecommunications property which effectuates policies of the Federal Communications Commission and to provide that the nonrecognition of gain on FCC-certified sales or exchanges of radio broadcasting stations shall apply to systems of communication by wire or radio; to the Committee on Finance.

By Mr. PERCY:

S. 2988. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 with respect to the effect of the 1985 increase in the Federal unemployment tax rate on certain small business provisions contained in State unemployment compensation laws; to the Committee on Finance.

By Mr. DECONCINI:

S. 2989. A bill to require foreign persons who acquire, transfer, or hold interests in oil retail outlets and oil refineries to report such transactions and holdings to the Secretary of Energy and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have on the domestic economy, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WEICKER (for himself and Mr. BUMPERS):

S. Con. Res. 140. A concurrent resolution authorizing the printing of a revised edition of the "Handbook for Small Businesses" as a Senate document; to the Committee on Rules and Administration.

By Mr. STEVENS (for Mr. HATCH):

S. Con. Res. 141. A concurrent resolution to correct technical errors in the enrollment of the bill S. 1538; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 2986. A bill to amend the Ethics in Government Act of 1978 to provide for programs designed to inform Federal employees of applicable standards of conduct, to improve the administration of the ethics programs in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

ETHICS IN GOVERNMENT ACT AMENDMENTS

● Mr. LEVIN. Mr. President, today I am introducing legislation to amend the Ethics in Government Act of 1978 to implement several of the recommendations embodied in the House Subcommittee on Human Resources' report on the "Unauthorized Transfers of Nonpublic Information During the 1980 Presidential Election." My colleague from Michigan and the chairman of the subcommittee, Congressman ALBOSTA, first introduced this legislation on May 23, 1984. A provision in the original Albosta bill which would have imposed a criminal penalty for the theft of confidential campaign information in Federal elections was removed by the subcommittee in its markup of the bill. The legislation I am sponsoring is identical to H.R. 5917, which was reported by the House Post Office and Civil Service Committee in June 1984.

This legislation is primarily designed to establish mechanisms which will generate a greater awareness on the part of employees and officers of the Federal Government of their obligations and duties under the ethics laws and the standards of conduct. Toward that goal, the bill requires the Office of Government Ethics [OGE] to establish a program of mandatory briefings for all officers and employees of Federal agencies on the ethics laws and the standards of conduct.

Mr. President, during the subcommittee's investigation of how the Reagan campaign obtained President Carter's briefing books, the staff of the subcommittee asked interviewees what information they have received about the laws and standards governing ethical conduct in the Federal Government. According to the subcommittee report,

> the responses were generally disappointing. While most witnesses believed they understood their general obligations under the law, relatively few could recall specific ethics education focusing on the Standards of Conduct. Many thought they might have been given written materials on the Standards of Conduct, along with numerous other materials such as pay, insurance, tax and other forms when they entered the Executive Branch. However, few indicated that they actually read the material carefully.

Mandatory briefings which are geared toward the varied duties and responsibilities of employees and officers in the Federal agencies would increase their awareness of the importance of avoiding even the appearance of impropriety by strictly adhering to both the letter and the spirit of the laws and regulations governing ethical conduct.

Second, this bill requires Federal agencies, pursuant to regulations to be promulgated by the Director of OGE, to publish summaries of sample agency decisions involving financial disclosure, standards of conduct, and postemployement conflict of interest regulations. The Director would also be required to establish and maintain a system of reporting these cases. The Albosta subcommittee concluded in its report at the end of its investigation on how President Carter's papers were obtained by the Reagan campaign that establishing such a system "could help warn against future violations by providing anonymous case histories illustrating how the standards have been applied." Furthermore, if we are to hold employees and officers of the Federal Government to the highest ethical standards, we should ensure that they understand how the law has actually been applied. In her testimony before the Human Resources Subcommittee on the Albosta bill, Louise S. Greenfield, staff attorney for Public Citizen's Congress Watch stated that

> Agency decisions on actual ethics cases clarify the responsibilities of agency employees who are subject to the ethics laws and regulations. Exposure to such decisions will deepen employees' understanding of their duties and will make them more aware of the sanctions for violating them. Employees need and deserve the additional guidance which reports of these decisions will offer.

Finally, the bill requires the Director of the OGE, beginning in fiscal year 1986 and every 4 years therefter, to submit to the Congress a report containing findings about changes which should be made in the ethics law. The bill makes clear that the Director of the Office of Government Ethics is responsible for promoting ethical conduct as well as preventing conflicts of interest on the part of offi-

cers and employees. Because of those responsibilities, the Director is in the best position to assess the effectiveness of current programs and to make recommendations on how they can be improved.

Mr. President, I hope many of our colleagues will cosponsor this bill, which will establish programs designed to improve, on an agencywide basis, our efforts to inform Federal employees and officers about the standards of conduct which are applicable to them. Better programs should decrease the number of violations of the ethics laws, particularly among high-ranking officials, which shake the public's confidence in the integrity of the Federal Government. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 402(a) of the Ethics in Government Act of 1978 is amended by inserting "and promoting ethical conduct" after "interest".

(b) Section 402(b) of such Act is amended—

(1) by striking out paragraph (12) and inserting in lieu thereof the following:

"(12) evaluating, with the assistance of the Attorney General and the Office of Personnel Management, the need for changes in this Act and in rules and regulations issued or administered by the Director and the agencies regarding conflict of interest and ethical problems, with a view toward making this Act and such rules and regulations effective, in and of themselves, and effective supplements to—

"(A) the conflict of interest laws, and

"(B) Executive orders pertaining to ethical standards in executive agencies;";

(2) in paragraph (14), by striking out "agencies; and" and inserting in lieu thereof "agencies, and promulgating regulations under which each executive agency shall establish a program of mandatory briefings on applicable ethics laws and standards of conduct for officers and employees in the agency;";

(3) in paragraph (15), by striking out the period and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following:

"(16) promulgating regulations under which each executive agency shall—

"(A) compile, publish, and make available to agency ethics counselors and the public, summaries of representative agency decisions (providing for the deletion of names and any other identifying information in appropriate circumstances) in cases involving financial disclosure requirements, standards of conduct, and post-employment conflict of interest regulations; and

"(B) transmit to the Office of Government Ethics copies of any summaries under subparagraph (A) of this paragraph which may have application in other agencies; and

"(17) establishing and maintaining a case reporting system under which any summaries referred to in paragraph (16)(B) of this subsection which the Office considers to be of general applicability or to involve matters of first impression shall be compiled, published, and made available to agencies and the public.

The Director shall submit to Congress in fiscal year 1986 and every fourth fiscal year thereafter a report containing the findings and recommendations of the Director based on the evaluations made under paragraph (12) of this subsection during the period covered by such report.".

SEC. 2. The amendments made by this Act shall take effect on January 1, 1985.●

By Mr. DOMENICI:

S. 2987. A bill to amend the Internal Revenue Code of 1954 to increase the investment credit for the purchase of used telecommunications property which effectuates policies of the Federal Communications Commission and to provide that the nonrecognition of gain on FCC-certified sales or exchanges of radio broadcasting stations shall apply to systems of communication by wire or radio; to the Committee on Finance.

MINORITY TELECOMMUNICATIONS OWNERSHIP TAX ACT

● Mr. DOMENICI. Mr. President, today I am introducing a bill to encourage greater opportunities for minorities to own and operate telecommunications properties. In introducing this legislation I want to make certain that our system encourages, to the maximum degree possible, the opportunities for all citizens to own and operate telecommunication properties. This legislation recognizes two problems in telecommunications today: First, minority ownership of telecommunication properties is very low; and second, a major reason for this low participation is the lack of adequate financing and investment capital.

Mr. President, there is no dispute that the level of minority participation and ownership of telecommunication properties is low. According to figures compiled from the National Association of Broadcasters, the New Mexico Broadcasters Association, and the FCC, the approximate percentage of minority-owned broadcast properties nationally is about 1.7 percent. To the best of our knowledge this figure is about one-half of 1 percent if all telecommunications properties are included. In my own State of New Mexico, we estimate that perhaps 7 percent of broadcast properties are minority-owned; however, if all telecommunications properties are included, the number would undoubtedly be substantially smaller. The legislation which I am introducing today recognizes this disturbing fact and seeks to increase this very low figure by encouraging increased minority ownership through the use of tax incentives.

Mr. President, my bill does not propose to solve the problem by throwing money at it. Instead, it seeks to modify the financial circumstances under which telecommunication properties are bought and sold, in a way that makes financing these properties easier for minorities. In making these changes the bill follows the recommendations of an FCC Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications, which was chaired by FCC Commissioner Henry M. Rivera. In 1981 this Committee was established by FCC Chairman Mark Fowler and was charged with recommending ways to increase sources for financing minority ownership of telecommunications facilities. The advisory committee recommended two significant changes in the way telecommunication properties are financed. The bill I am introducing today seeks to incorporate these two recommendations. Neither of these two recommendations calls for new Government programs or increased Government spending to finance the acquisition of telecommunications properties by minorities.

Briefly stated, the purpose of the bill is to help increase minority ownership of commercial TV and radio stations and cable TV systems as well as cellular radio and specialized mobile radio systems. The bill would make two changes in the Tax Code. One would increase to a maximum of $500,000 the investment credit a taxpayer can claim against tax liability for purchase of qualified, used telecommunications property in situations that further the policies of the FCC. The other would provide that nonrecognition of gain in FCC-certified sales or exchanges of radio broadcasting stations be extended to all systems of communications by wire or radio. Under present law, only sellers of radio and television stations are permitted to defer the gain—capital or ordinary—upon sale of a radio or TV station to a minority purchaser. The sale has to be in accordance with an FCC policy encouraging minority ownership of radio and television stations. The FCC issues a document to the seller which will be recognized by the IRS as qualifying for the special treatment provided under Internal Revenue Code section 1071.

My bill would simply expand the category of telecommunication facilities that qualify for deferral of gain upon sale to minorities, to include all telecommunications properties. This could be particularly helpful in some of the newer and expanding nonbroadcast properties, including cellular radio, multipoint distribution systems, specialized mobile radio systems, and other private land mobile and common carrier systems.

Mr. President, the second feature of the bill would amend the Internal Revenue Code and raise to a maximum of $500,000, the investment tax credit a minority taxpayer can claim against tax liability for the purchase of qualified used telecommunications

property. This feature would be triggered solely where the transfer of a telecommunications property would further Commission policy, for example, when a minority-owned or controlled firm purchases directly, or through a limited partnership, an existing telecommunications property. Adoption of this amendment would allow increased investment credit only in those limited cases where ownership or control of a telecommunications property is transferred and the Commission certifies that the transfer furthers its minority or other ownership policies. By allowing for a more substantial investment credit to be passed on to investors, this limited scale proposal will make the investment credit for purchase of used property a more effective financing tool for minority buyers to use in attracting investment capital to purchase operating telecommunications properties, especially existing cable television systems.

Mr. President, I view these two proposals as just the beginning. We have a long way to go to achieve a fairer balance in the ownership patterns of telecommunications facilities. This bill certainly won't solve all the problems but I believe it represents a first step worthy of serious thought and consideration. Passage of this bill will provide us with a framework to redress the serious shortage of minority owners of telecommunications properties, and I urge my colleagues to join me in improving the opportunities for minority entrepreneurs in the rapidly expanding telecommunications industry.●

By Mr. PERCY:

S. 2988. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 with respect to the effect of the 1985 increase in the Federal unemployment tax rate on certain small business provisions contained in State unemployment compensation laws: to the Committee on Finance.

FEDERAL UNEMPLOYMENT TAX RATE

Mr. PERCY. Mr. President, I am introducing legislation today which is critically important to over 50,000 small businesses in my home State of Illinois. It will prevent an immediate and substantial increase in the State unemployment insurance taxes paid by small employers in Illinois. Unless action is taken, small businesses in Illinois will see their unemployment taxes increase from $401 per employee in 1984, to $598 per employee in 1985.

The Tax Equity and Fiscal Responsibility Act [TEFRA] of 1982 increased the maximum tax credit an employer would be allowed from 2.7 to 5.4. To ease the transition for specific industries where a flat rate was in effect in a State prior to the enactment of TEFRA, Congress permitted a 5-year phase in wherein the flat rate would be increased by 20 percent each year until the 5.4 rate was reached.

The State of Illinois has a flat maximum tax of 3.7 percent applicable to small employers. Until January 1, 1985, this presents no problem since it is in excess of the maximum tax credit allowed—2.7 percent. After that date, however, it would not be permissible for a State to assign a reduced rate below 5.4 percent other than on an experience-rated basis. Unfortunately, the exceptions to this rule did not recognize small firms as a category eligible for the phase-in rates.

My legislation would allow small firms, in States that permitted a flat maximum tax rate for such employers prior to the enactment of TEFRA, to phase in the higher rates over a 5-year period similar to what is allowed for employers in specific industries under TEFRA. The bill would define a small employer as one with a quarterly payroll of less than $50,000. It allows a phase in over a 5-year period with the base rate being 3.1 percent.

This legislation will treat all employers who were paying a flat rate at the time of TEFRA on the same basis regardless of whether the reason for assigning the flat tax was due to size of firm or type of industry. It would also give small employers additional time to arrange for financing of the added costs.

Congressman ROSTENKOWSKI has introduced similar legislation in the House.

With the economic recovery now underway, the worst thing that Washington could do now is to raise the taxes of thousands of small businesses. This legislation will put off what would be a costly tax hike for small businesses, 52,000 of them in Illinois.

By Mr. DECONCINI:

S. 2989. A bill to require foreign persons who acquire, transfer, or hold interests in oil retail outlets and oil refineries to report such transactions and holdings to the Secretary of Energy and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have on the domestic economy, and for other purposes; to the Committee on Energy and Natural Resources.

PETROLEUM FOREIGN INVESTMENT DISCLOSURE ACT

● Mr. DECONCINI. Mr. President, the economics of the oil and gas industry are among the more inscrutable puzzles of our national economy. At just about the point when learned observers had convinced us all that by 1985 the price of oil would be $50 a barrel, crude prices plunged below $30. Such twists of fate would be amusing if their impacts did not cut so sharply into the fabric of world politics and economics.

Instead of a world soon to run out of oil, we now have countries which cannot sell millions of barrels of oil they produce. Instead of pursuing offshore exploration programs running into the billions of dollars, we have the major oil and gas companies spending tens of billions of dollars prospecting for oil on the New York stock exchange. Texaco is buying Getty. Standard of California captures Gulf, and Mobil gets into the action by stalking the huge independent producing company, Superior.

In the newspapers this clash of the titans is of one giant sallies down from the mountain to vanquish another. But what does it all mean to you and me? What does it mean to automobile drivers, to consumers of electricity, to U.S. industry? My strong suspicion is that no one really knows.

There is a quiet confidence in the halls of the oil and gas industry that nothing has changed. This merger activity is just another episode in the swashbuckling life of a colorful industry. In Congress and in some corners of Wall Street, there is more concern. It is speculated by a few financial columnists that if for no other reason than their huge financial dimensions, these merger actions will have their impacts.

We in the Senate considered legislation to bring a halt to the merger activity. A conscientious effort by our colleague from Louisiana, Senator JOHNSTON, sought to put the brakes on its growing momentum. Our closely divided vote on that unsuccessful legislation may have reflected more than anything else the lack of any real measuring stick to permit a confident assessment.

At the time of that debate last March, I noticed a news report speculating that one offshoot of the merger activity might be an increase in foreign ownership of U.S. refineries and gas stations. As I began to look further, I found strong basis indeed for the speculation.

Some of the OPEC producing countries have made clear demonstrations that they intend to enter the refining and marketing side of the oil business. Saudi Arabia has invested significantly in the construction of refineries and petrochemical plants within its own borders, as have other OPEC countries. Such efforts are extending far beyond those borders, however. The Government of Kuwait purchased almost the entire gasoline station and refinery network of the Gulf Corp. in Western Europe. Some 3,000 gas stations became the property of Kuwait as a result of that transaction. Recall also that in 1981, Kuwait purchased the Santa Fe International Corp., A U.S. oil and gas production company.

More recently, Venezuela became a partner in West German refineries,

and a private group of Saudi Arabian investors purchased the Italian refining and marketing chain of Standard Oil of Indiana.

Our national economy has greatly benefited from foreign investment, and I do not want to suggest that foreign investment should be restricted. This may be the point, however, when our Federal Government should begin to monitor foreign participation in the domestic oil and gas industry more directly.

Congress made a decision of this nature in 1978 when it passed the Agriculture Foreign Investment Disclosure Act. The reasons for that action were not dissimilar to our present situation. Obvious change was taking place in the balance of ownership of U.S. farmland. Congress moved to make it the responsibility of the Federal Government to understand the dimensions of any change in the status of food production. In requiring the disclosure of foreign purchases of U.S. farmland, Congress took a prudent step to begin measuring those transactions. The annual report now made by the U.S. Department of Agriculture provides policymakers and the public the percentage of privately owned U.S. farmland held by foreigners—currently about 1 percent—as well as the countries of origin of those owners.

I am proposing in legislation I introduce today that we undertake the same monitoring process for foreign purchases of U.S. oil and gas facilities, specifically refineries and gasoline stations.

Because of long-term realignments underway in the oil and gas industry, it is likely that a few oil refineries and thousands of gas stations will go on the sales block during the coming months. Major oil companies have abandoned entire regions of the country in their efforts to adjust to new market conditions, and more of this behavior is expected. Some observers speculate that Gulf Oil Co., may want to sell as many as 15,000 of its U.S. gas stations.

Should Saudi Arabia, Kuwait, or another large oil-producing country choose to purchase these stations, that purchaser may end up with a substantial marketing position in a particular region of the country.

All citizens are painfully aware of the politics of oil after the 1973 OPEC oil embargo and the 1979 OPEC crude oil price increase. It is not alarmist to ask what might happen in the future if conditions ripen for another OPEC action and member countries of that organization then own a portion of the refining and marketing network in the United States. To anticipate such consequences, policymakers and the public should know with some preciseness the degree of such holdings.

Because of its success so far, I have patterned my legislation after the earlier mentioned Agriculture Foreign Investment Disclosure Act of 1978. My bill requires that present and future foreign holdings of any U.S. based oil refinery or any single foreign holding totalling 20 or more U.S. gasoline stations be reported to the Secretary of Energy.

Mr. President, at this point, let me briefly outline the provisions of the Petroleum Foreign Investment Disclosure Act of 1984.

Section 1 lists the title of the act.

Section 2 spells out reporting requirements for any foreign person or entity who owns, acquires, or transfers an interest in either an U.S. sited oil refinery or a block of 20 or more gasoline stations.

Section 3 specifies the civil penalties for failure to report or for improper reporting. The maximum penalty would equal 25 percent of the fair market value of the assets in question.

Section 4 empowers the Secretary of Energy to take those investigative actions necessary to monitor compliance with the reporting provisions.

Section 5 requires that the Secretary of Energy analyze the information obtained from the reports and transmit his findings and conclusions to Congress on an annual basis.

Section 6, 7, and 8 provide authorization to undertake the administrative actions necessary to carry out the requirements of the bill and specify the definitions of terms used in the bill.

Section 9 specifies that the act becomes effective on the date of enactment and the reporting requirements take effect at the time of approval of the implementing regulations.

Mr. President, I hope that the legislation I have introduced will contribute to an accurate perspective and to good decisionmaking in an area of energy policy that so strongly affects the daily lives of our citizens as well as the overall security of the country. The fact of foreign participation in our economy is not new. The prospect of significant foreign entry into the U.S. petroleum refining and marketing network is a departure, and one that merits close observation. I call the attention of my colleagues to this legislation and invite their cosponsorship.●

ADDITIONAL COSPONSORS

S. 919

At the request of Mr. DOMENICI, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 919, a bill to amend the Equal Access to Justice Act, and for other purposes.

S. 1597

At the request of Mr. STAFFORD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1597, a bill to amend the Elementary and Secondary Education Act of 1965 to provide comprehensive elementary school guidance and counseling programs for elementary students through States and local educational agencies.

S. 2257

At the request of Mrs. KASSEBAUM, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2257, a bill entitled the "Senior Citizens' Tax Improvement Act."

S. 2524

At the request of Mr. DOMENICI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2524, a bill entitled the "Copper and Extractive Industries Fair Competition Act of 1984."

S. 2687

At the request of Mr. PERCY, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2687, a bill to authorize an employer to pay a youth employment opportunity wage to a person under 20 years of age from May through September under the Fair Labor Standards Act of 1938 which shall terminate on September 30, 1987, and for other purposes.

S. 2774

At the request of Mrs. KASSEBAUM, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from West Virginia [Mr. BYRD], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2774, a bill to grant a Federal charter to the National Society, Daughters of the American Colonists.

S. 2794

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 2794, a bill to prohibit the Postal Service from purchasing, erecting, or installing any mail receptacle, mailbox, neighborhood delivery and collection box, or parcel locker for the purpose of providing, with or without charge, any such receptacle, box, or locker to any person.

S. 2848

At the request of Mr. BOSCHWITZ, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from New Mexico [Mr. DOMENICI] were was added as cosponsors of S. 2848, a bill entitled the "Women's Small Business Ownership Act of 1984."

S. 2894

At the request of Mr. MELCHER, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest-accrual rules in the case of sales of residences, farms, and real property used in a trade or businesses,

S. 2953

At the request of Mr. BOSCHWITZ, the name of the Senator from Georgia [Mr. MATTINGLY], was added as a cosponsor of S. 2953, a bill to amend title 38, United States Code, to allow the use of upright grave markers in national Veterans' Administration cemeteries.

SENATE JOINT RESOLUTION 262

At the request of Mr. PACKWOOD, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from New York [Mr. MOYNIHAN] were added as a cosponsor of Senate Joint Resolution 262, a joint resolution to designate March 16, 1985, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 269

At the request of Mr. LEVIN, the name of the Senator from Oklahoma [Mr. BOREN], was added as a cosponsor of Senate Joint Resolution 269, a joint resolution designating the week beginning September 23, 1984, as "National Adult Day Care Center Week."

SENATE JOINT RESOLUTION 310

At the request of Mr. LEVIN, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Montana [Mr. BAUCUS], the Senator from Missouri [Mr. DANFORTH], and the Senator from Massachusetts [Mr. KENNEDY] were added as a cosponsor of Senate Joint Resolution 310, a joint resolution to designate the week beginning September 16, 1984, as "National Osteopathic Medicine Week."

SENATE JOINT RESOLUTION 320

At the request of Mr. PERCY, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Oklahoma [Mr. NICKLES] were added as a cosponsor of Senate Joint Resolution 320, a joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

SENATE JOINT RESOLUTION 346

At the request of Mr. LEVIN, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. MELCHER], the Senator from Alabama [Mr. HEFLIN], the Senator from Florida [Mr. CHILES], the Senator from Arkansas [Mr. PRYOR], the Senator from Mississippi [Mr. STENNIS], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Connecticut [Mr. DODD] were added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate the year of 1985 as the "Year of the Teacher."

SENATE RESOLUTION 439

At the request of Mr. PRESSLER, the name of the Senator from North Dakota [Mr. ANDREWS], was added as a cosponsor of Senate Resolution 439, a joint resolution to express the sense of the Senate that the continental scientific drilling program is an important national scientific endeavor, benefiting the commerce of the Nation, which should be vigorously pursued by Government and the private sector.

SENATE CONCURRENT RESOLUTION 140—AUTHORIZING THE PRINTING OF A REVISED EDITION OF "HANDBOOK FOR SMALL BUSINESS"

Mr. WEICKER (for himself and Mr. BUMPERS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 140

Resolved by the Senate [the House of Representatives concurring,] That a revised edition of Senate Document Numbered 96-44, entitled "Handbook for Small Business," explaining programs of Federal departments, agencies, offices, and commissions of benefit to small business and operating pursuant to various statutes enacted by the Congress, shall be printed with illustrations as a Senate document; and that there shall be printed six thousand additional copies for the use of the Senate Committee on Small Business, and three thousand additional copies for the use of the Committee on Small Business of the House of Representatives.

AMENDMENTS SUBMITTED

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

GARN (AND PROXMIRE) AMENDMENT NO. 3756

Mr. GARN (for himself and Mr. PROXMIRE) proposed an amendment to the bill (S. 2851) to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes; as follows:

On page 4, line 15, after the first period insert the following: "For purposes of this section, the term 'depository institution securities affiliate' also means any securities broker or dealer, within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)), that (1) enters into a contractual arrangement with a member bank pursuant to which such broker or dealer makes its securities services available on the premises of such member bank, and (2) limits its activities to those in which a depository institution securities affiliate may lawfully engage pursuant to section 4(c)(15) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)) or section 408(c) of the National Housing Act (12 U.S.C. 1730a (c)).".

On page 6, line 13, before "deposits" insert "demand deposits or".

On page 6, strike out everything after the words "making commercial loans" on line 16, through "savings bank" on line 22.

On page 7, line 3, strike out "or".

On page 7, line 8, before the period, insert the following: "; (vi) any credit union described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; (vii) an industrial loan company chartered by the State of Hawaii which was required to obtain insurance under the Federal Deposit Insurance Act by the laws of the State of Hawaii as a requisite to accepting thrift accounts from the public, except that any such industrial loan company that accepts deposits after the date of enactment of the Financial Services Competitive Equity Act that are withdrawable by check or similar means for payment to third parties shall be a 'bank' for the purposes of this Act; or (viii) any institution which is acquired by a bank holding company pursuant to approval granted by the Board under section 4 of this Act prior to the enactment of the Financial Services Competitive Equity Act and which engages solely in credit card operations and that does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or make commercial loans".

On page 7, line 23, after "it" insert "(A)".

On page 7, line 25, before the period insert the following: ", or (B) is a company that owns, controls or is affiliated with a bank but does not become a bank holding company because of the amendment to section 4(a)(2) of this Act made by section 104(c)(2) of the Financial Services Competitive Equity Act".

On page 8, line 6, strike out "secured by real property" and insert in lieu thereof "to finance the acquisition, improvement, development, and construction of residential or commercial properties".

On page 12, line 15, after the period, insert the following: "For purposes of the preceding sentence, a company which, prior to June 27, 1984, acquired control of an institution that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in this Act, from an entity (not a bank holding company) which acquired such bank before July 1, 1983, shall be deemed to have controlled such bank (and any insured institution that is acquired from the same entity pursuant to a contract entered into prior to June 27, 1984) on and prior to July 1, 1983.".

On page 12, line 18, strike out "preceding sentence" and insert in lieu thereof "two preceding sentences".

On page 12, line 22, strike out "either of the two" and insert in lieu thereof "any of the three".

On page 25, line 11, before "and" insert "or credit obligations secured by real or personal property manufactured housing".

On page 25, line 11, before "or" insert "or credit obligations".

On page 30, between lines 4 and 5, insert the following:

(i) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) Notwithstanding any other provision of this Act, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, which is chartered under State law, and which is or becomes a subsidiary of a bank holding company may engage, directly or through an affiliate, in any activity which it is permitted to conduct as a State-chartered savings bank, pursuant to express, incidental, or implied powers under State statute or

regulation or under judicial interpretation of State law. The activities conducted pursuant to the preceding sentence shall be terminated within two years if any covered savings bank is acquired by a company which is not a savings bank or savings bank holding company.".

(j) Section 2 of the Bank Holding Company Act of 1956 (112 U.S.C. 1841) is amended by adding at the end thereof the following:

"(m) The term 'savings bank holding company' means any company which owns or controls one or more State-chartered savings banks if the assets of the subsidiary (which was chartered by a State as a savings bank on or before October 15, 1982), and any other bank affiliated with the savings bank prior to the date of enactment of this subsection, constitute at least 70 percent of the total assets of the holding company. In calculating compliance with the 70 percent test, assets acquired by such other bank by merger after the date of enactment of this subsection shall not be included.".

(k) Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by inserting before the period at the end thereof the following: "or to any depository institution the deposits, accounts, or obligations of which are insured or guaranteed under State law".

(l) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended to read as follows:

"(i) The term 'thrift institution' means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, (3) a Federal savings bank, and (4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.".

(m) Section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)) is amended to read as follows:

"(E) No company is a bank holding company by virtue of its ownership or control of any State chartered bank or trust company which is wholly owned by thrift institutions or savings banks and which restricts itself to the acceptance of deposits from thrift institutions or savings banks, deposits arising out of the corporate business of its owners, and deposits of public moneys.".

Beginning with page 35, line 12, strike out all through page 36, line 6, and redesignate succeeding paragraphs accordingly.

On page 35, line 2, strike out all after the period.

On page 35, between lines 2 and 3, insert the following:

"(E) This paragraph shall not prohibit (i) the continuation of any affiliation or relationship with a nonmember bank that is controlled by a company that is not a bank holding company under the Bank Holding Company Act of 1956 but that controlled an institution on July 1, 1983, that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in the Financial Services Competitive Equity Act, where the affiliation or relationship commenced on or prior to June 27, 1984, or (ii) the establishment of such an officer, director, or employee relationship in connection with any such affiliation established on or prior to June 27, 1984."; and

On page 40, strike out all beginning with the colon on line 5 through "capital" on line 10.

On page 44, beginning after "Corporation" on line 14, strike out all through "(ii)" on line 20 and insert in lieu thereof a comma.

On page 45, line 4, strike out "clause (ii) of".

On page 45, lines 15 through 17, strike out the following: ", and which is a Federal association on the date of enactment of the Financial Services Competitive Equity Act,".

On page 46, between lines 5 and 6, insert the following:

"(C) The Corporation may grant such temporary and limited exceptions from the 60 percent of assets requirement set forth in subparagraph (B) as the Corporation deems necessary when the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirement.

Redesignate succeeding subparagraphs accordingly.

On page 50, between lines 18 and 19, insert the following:

(g) Section 408(a)(1)(A) of the National Housing Act is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, shall be deemed to be an 'insured institution' for purposes of this section and section 408(o)(1), if the Corporation determines that it is in compliance with section 408(c)(4)(B). Any institution so notifying the Corporation that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of five years.".

On page 51, line 23, strike out "(ii)".

On page 53, lines 5 and 7, strike out "July 1, 1983" and insert in lieu thereof "June 27, 1984".

On page 53, strike out lines 12 and 13, and insert in lieu thereof the following:

"(4) Nothing in this subsection or section 18(j)(3) of the Federal Deposit Insurance Act prohibits an affiliation or officer, director, or employee relationship between an insured institution or an institution which is eligible to become a member of a Federal Home Loan Bank, and an organization engaged principally in the issuance, sale, underwriting, or distribution, at wholesale or retail, or through syndicate participation, of—

"(A) securities representing or secured by interests in real estate or real estate loans or pools of real estate loans:

"(B) interests in partnerships formed primarily to own, operate, manage, or invest in real estate;

"(C) insurance products deemed to be securities, including without limitation variable annuities and variable life insurance;

"(D) securities of an investment company, as such term is defined in the Investment Company Act of 1940; and

"(E) any securities to the extent such issuance, sale, underwriting, or distribution is permitted for national banks.

"(5) The Corporation is authorized to issue rules and regulations and to publish interpretations governing the implementation of this subsection, and shall enforce the provisions of this subsection, except that for the purpose of paragraph (4), the Federal Deposit Insurance Corporation is authorized to issue rules and regulations and publish interpretaitons with respect to savings banks and other institutions subject to section 18(j)(3) of the Federal Deposit Insurance Act.".

On page 56, between lines 16 and 17, insert the following:

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of law, a savings bank operating in mutual form may reorganize so as to form a holding company pursuant to the procedures specified in paragrpahs (1) through (3) of section 408(p) of the National Housing Act. A corporation organized as a holding company under this subsection shall be regulated on the same terms and be subject to the same limitations as a stock savings bank holding company.".

On page 64, line 4, strike out "1983" and insert in lieu thereof "1984".

On page 94, between lines 9 and 10, insert the following:

"(f) A depository institution that does not begin to compute interest or dividends on funds deposited by check or similar instrument to an interest bearing deposit account or a time deposit on or before the date on which that depository institution receives provisional credit for the deposit (or if provisional credit is given on a nonbusiness day, the next business day) shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.".

Redesignate the succeeding subsections accordingly.

On page 95, strike out lines 12 through 22, and insert in lieu thereof the following:

"Sec. 604. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument (or if provisional credit is given on a nonbusiness day, on the next business day) unless the computation of interest begins at a later date for all deposits, including cash deposits, made to the account or deposit. Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.".

On page 131, line 8, strike out "July" and insert in lieu thereof "June".

At the end of the bill, add the following:

FEDERAL HOME LOAN BANK BOARD

SEC. . Section 18 of the Federal Home Loan Bank Board Act (12 U.S.C. 1438) is amended by adding at the end thereof the following:

"(d) In accordance with regulations which the Board shall prescribe to prevent conflicts of interest, the Board may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Board members and employees in attending meetings and conferences concerning the functions or activities of the Board. Any payment or reimbursement accepted will be credited to the appropriated funds of the Board. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Board may include in its

regulations under this subsection a limitation on such amounts.".

BANK REGULATION STUDY

SEC. . (a) The Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency shall each conduct an independent study of how the risk of bank failures may be reduced. In the course of study, each such agency shall consider—

(1) changing examination procedures to provide earlier indications of potential financial difficulties;

(2) increasing the amount and quality of required primary capital;

(3) requiring the issuance of subordinated debt as a supplement to primary capital;

(4) placing restrictions on contingent liabilities including loan commitments and stand-by letters of credit;

(5) limiting the extent of any mismatch in the maturities of assets and liabilities;

(6) establishing liquidity requirements commensurate with the volatility of a bank's liabilities and the illiquidity of its assets;

(7) increasing deposit insurance premiums for larger banks to compensate for the implicit guarantee provided for all deposit liabilities;

(8) alternatives to liquidation of troubled banks;

(9) changing liquidation procedures for failed banks; and

(10) other related issues.

(b) A report containing the results of each study shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate not later than six months after the date of enactment of this Act.

CONVERSIONS

SEC. . (a) Section 403 of the National Housing Act (12 U.S.C. 1726) is amended by adding at the end thereof the following:

"(e) If, upon application, and pursuant to a plan of conversion to an institution of a type eligible to be an insured institution, the Corporation, in its discretion, determines to grant insurance of accounts to a savings bank that is an insured bank (as the term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), such insurance shall become effective at such time as the Corporation stipulates, at which time such institution automatically shall lose its status as such an insured bank. No change of deposit insurance agencies from the Federal Deposit Insurance Corporation to the Corporation shall be treated, for the purposes of section 18(i) of the Federal Deposit Insurance Act, as involving a conversion to a noninsured bank or institution, except that the Corporation shall provide the Federal Deposit Insurance Corporation with notification of any application that, if granted, would involve such a change of deposit insurance agencies, shall consult with the Corporation before disposing of the application, and shall provide the Federal Deposit Insurance Corporation with notification of the determination with respect to such application.".

(b)(1) Section 18(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(12)) is amended to read as follows:

"(12) The provisions of this subsection shall not apply to any transaction where the acquiring, assuming or resulting institution is an insured Federal savings bank or an institution insured by the Federal Savings and Loan Insurance Company, except that any insured bank involved in the transaction shall notify the Corporation in writing at least 30 days prior to consummation of the transaction and, if any approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation is required in connection therewith, such approving authority shall provide the Corporation with notification of the application for approval, shall consult with the Corporation before disposing of the application, and shall provide notification to the Corporation of the determination with respect to said application.".

(2) Section 18(i) of such Act is amended by adding at the end thereof the following:

"(5) Nothing in this subsection shall apply to a conversion of an insured bank to an insured institution pursuant to section 403(e) of the National Housing Act (12 U.S.C. 1727(e)).".

Amend the table of contents accordingly.

PROXMIRE AMENDMENT NOS. 3757 THROUGH 3760

(Ordered to lie on the table.)

Mr. PROXMIRE submitted four amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3757

At the end of the bill, add the following:

FDIC ASSESSMENT BASE AND ASSESSMENT RATE

SEC. 1107. The Federal Deposit Insurance Act is amended—

(1) by inserting "except as provided in section 7 (b)(5)," after "(A)" in section 3 (1)(5);

(2) by striking out "one-twelfth" in the first sentence of section 7 (b)(1) and insert in lieu thereof "one-fifteenth";

(3) by striking out "and" at the end of clause (A) of section 7 (b)(5); and

(4) by striking out the period at the end of section 7 (b)(5) and inserting in lieu thereof the following: "; and

"(C) any deposits received in any foreign branch, other than a foreign branch of a foreign bank as defined in section 1 (b)(7) of the International Banking Act of 1978.".

At the end of the table of contents, add the following:

"Sec. 1107. FDIC assessment base and assessment rate.".

AMENDMENT No. 3758

On page 10, lines 19 and 20, strike out the parenthetical phrase.

On page 13, line 8, strike out "shares of any insured institution, or".

Beginning with page 17, line 10, strike out all through page 18, line 5, and insert in lieu thereof the following:

"(C) A bank holding company may not acquire control of an insured institution except as authorized by section 13(f) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act, or by section 406 or 408 of such Act in the case of an insured institution eligible for assistance pursuant to section 406(f) of such Act.".

On page 39, line 17, strike out "acquiring shares of any bank or".

On page 40, strike out all after "(12 U.S.C. 1843(c))" on line 15, through line 25, and insert in lieu thereof "; and".

On page 44, between lines 3 and 4, insert the following:

"(G) A savings and loan holding company may not acquire control of a bank except as authorized by section 13(f) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act.".

AMENDMENT No. 3759

On page 111, strike out lines 4 through 17.

On page 112, line 7, strike out "short-term".

On page 112, line 12, strike out "fifteen" and insert in lieu thereof "twenty".

On page 113, strike out lines 1 through 7, and insert in lieu thereof the following:

"(c) In administering the provisions of this section, the Corporation may issue rules and regulations and may establish lower or higher limits on brokered deposits than those provided by this section for particular categories of financial institutions based upon their financial condition or supervisory status or for particular categories of brokered deposits based upon their maturities. Any such lower or higher limits may not be established until 90 days following the date the proposed limits are published in the Federal Register with opportunity for hearing. The Corporation may not establish lower limits unless it determines they are essential to prevent an unacceptable risk to the insurance fund. In determining whether higher limits are feasible, the Corporation shall give equal weight to both competitive factors and safety and soundness considerations.".

Beginning with page 113, line 17, strike out all through page 114, line 3.

On page 114, line 19, strike out "short-term".

On page 114, line 23, strike out "fifteen" and insert in lieu thereof "ten".

On page 115, strike out lines 11 through 18, and insert in lieu thereof the following:

"(c) In administering the provisions of this section, the Board of Directors may issue rules and regulations and may establish lower or higher limits on brokered deposits than those provided by this section for particular categories of financial institutions based upon their financial condition or supervisory status or for particular categories of brokered deposits based upon their maturities. Any lower or higher limits may not be established until 90 days following the date the proposed limits are published in the Federal Register with opportunity for hearing. The Board of Directors may not establish lower limits unless it determines they are essential to prevent an unacceptable risk to the insurance fund. In determining whether higher limits are feasible, the Board of Directors shall give equal weight to both competitive factors and safety and soundness considerations.".

On page 11, strike out

AMENDMENT No. 3760

On page 10, line 7, strike "1983" and insert "1980" in lieu thereof.

On page 11, line 14, strike "1983" and insert "1980" in lieu thereof.

On page 11, line 24, strike "1983" and insert "1980" in lieu thereof.

METZENBAUM AMENDMENT NO. 3761

Mr. METZENBAUM proposed an amendment to the bill S. 2851, supra; as follows:

On page 92, line 15, after "account," insert the following:

A depository institution shall also provide a written disclosure to the potential custom-

er of all fees and charges that can be assessed against deposit accounts.

On page 93, line 16, after "account," insert: "or any change in the fees and charges to be assessed against a deposit account".

On line 18 change "the change" to "such changes".

KENNEDY (AND PACKWOOD) AMENDMENT NO. 3762

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. PACKWOOD) submitted an amendment intended to be proposed by them to the bill S. 2851, supra; as follows:

On page 131, after line 8, insert the following new title:

TITLE XII—CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. 1201. This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. 1202. (a) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) For the purpose of this title, the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education"; and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act is amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu thereof "so found".

(3) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. 1203. (a) Section 504 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) For the purpose of this section, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. 1204. (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

(b) Section 303 of the Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(3) by striking out "under, any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(c)(1) Section 304(a)(4) of the Act is amended by striking out "to any program or activity".

(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", in the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu thereof "operations of the recipient"; and

(C) by striking out "of such program or activity" in clause (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

(3) Section 304(c)(1) of the Act is amended by striking out "any program or activity receiving".

(d)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

(2)(A) The second sentence of section 305(b) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(4) the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assigness, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. 1205. (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" is clause (1) and inserting in lieu thereof "so found".

(c) Title VI of the Act, is amended by adding at the end thereof the following new section:

"SEC. 606. For the purpose of this title, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organiza-

tion, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

METZENBAUM AMENDMENT NO. 3763

Mr. METZENBAUM proposed an amendment to the bill S. 2851, supra; as follows:

At the appropriate place in the bill, insert the following:

ADJUSTABLE RATE MORTGAGE LIMITS

SEC. . (a) In connection with a residential mortgage transaction of less than $500,000 a creditor shall limit the total amount of the increase in the interest rate on variable rate mortgages to not more than five percentage points above the initial rate over the term of the loan. As used in this Section, the term "residential mortgage transaction" and "creditor" shall be the same as defined in Section 103 of the Truth-in-Lending Act.

(b) The Board of Governors of the Federal Reserve Board shall prescribe regulations to carry out this section. Compliance with this section and such regulations shall be enforced as provided in Section 108 of the Truth-in-Lending Act.

(c) This section shall take effect on June 1, 1985.

KASSEBAUM AMENDMENT NOS. 3764 AND 3765

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted two amendments intended to be proposed by her to the bill S. 2851, supra; as follows:

AMENDMENT No. 3764

On page 111, line 3 insert the following:

"The term 'deposit broker' shall not include persons in an agency relationship with an insured institution where those persons exclusively serve a single insured institution, solicit deposit funds, provide loan application services, and are regulated and examined by the government of the state in which they are located. The Corporation may issue rules and regulations as necessary to implement this subsection."

AMENDMENT No. 3765

On page 113, line 7, insert the following:

Add a new subsection "(d)" as follows:

"(d) The limitations on brokered deposits specified in subsection (a) of this section shall not apply to insured institutions which can establish, to the satisfaction of the Corporation, a history of soliciting and receiving deposit funds through persons exclusively serving that insured institution. Insured institutions which establish a history of utilizing persons to solicit deposits on a commission basis as of September 11, 1984, shall be entitled to maintain that agency system, regardless of the limitations contained in subsection (a) of this section, where the agents exclusively serve that insured institution. Provided, however, that the insured institution may not significantly increase the number of agents it utilizes or otherwise significantly alter its historical use of such a system without prior permission of the Corporation. Such permission shall be granted by the Corporation in a manner consistent with the historical nature of the insured institution's deposit gathering system, giving consideration to safety and soundness concerns. The Corporation may issue rules and regulations as necessary to implement this subsection."

METZENBAUM AMENDMENT NO. 3766

Mr. METZENBAUM proposed an amendment to the bill S. 2851, supra; as follows:

At the end of the bill, add the following:

SEC. . Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following:

"It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 12, or any equity security of an insurance company which would have been rquired to be so registered except for the exemption contained in section 12(g)(2)(G), or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 20 per centum of such class unless—

"(1) such person is the issuer of that security; or

"(2) the same tender offer, request, or invitation is made to the holders of all outstanding shares of the class.".

EXON (AND OTHERS) AMENDMENT NO. 3767

Mr. EXON (for himself, Mr. BAUCUS, Mr. MELCHER, and Mr. ANDREWS) submitted an amendment intended to be proposed by them to the bill S. 2851, supra; as follows:

On page 52, between lines 4 and 5, insert the following:

Section 13(i)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(A)) is amended to read as follows:

"(A) has net worth equal to less than 3 per centum of its assets, or, in the case of a commercial bank, has a ratio of primary capital to adjusted total assets (as such ratio is measured pursuant to regulations adopted by the principal Federal supervisor of such bank) equal to less than 5.5 per centum: *Provided, however,* That in the instance of a commercial bank which meets one of the criteria for a qualified intitution based upon its investments in agricultural loans as defined in section 13(i)(2)(F) of this Act, the Corporation shall be required to consider the purchase of net worth certificates as an alternative to merger, purchase and assumption, liquidation, or any other enforcement action where such bank is required to maintain a minimum ratio of primary capital to adjusted total assets greater than 5.5 per centum by a State or Federal banking agency.".

(c) Section 13(i)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(E)) is amended to read as follows:

"(E) will have a net worth as a percentage of assets or ratio of primary capital to assets of not less than one-half of one per centum after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth or ratio of primary capital to adjusted total assets pursuant to this paragraph; and".

(d) Section 13(i)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(F)) is amended to read as follows:

"(F) has investments in residential mortgages or securities backed by such mortgages, or in agricultural loans, respectively, aggregating at least 20 per centum of its loans. For purposes of the preceding sentence, agricultural loans includes all loans secured by agricultural land, crops, or production, processing, or marketing assets, and also includes all secured and unsecured loans, credit sales, forebearances, advances, renewals, or other extensions of credit made to any person or organization engaged in an agricultural enterprise and for an agricultural purpose.".

(e) Section 13(i)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(5)) is amended to read as follows:

"(5) The Corporation may initially purchase net worth certificates as follows:

"(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, or a ratio of primary capital to assets greater than 4.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or by speculation in futures or forward contracts), as determined by the Corporation.

"(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, or a ratio of primary capital to assets greater than 3.5 per centum and less than or equal to 4.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, or a ratio of primary capital to assets greater than zero and less than or equal to 3.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.".

(f) Section 13(i)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(10)) is amended to read as follows:

"(10) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this subsection shall be deemed to be net worth or primary capital for statutory and regulatory purposes.".

GORTON AMENDMENT NOS. 3768 THROUGH 3770

(Ordered to lie on the table.)

Mr. GARN (for Mr. GORTON) submitted three amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3768

On page 13, delete line 16 and replace it with the following:

"banking or banking-related products or services and whether the activity is competitive with banking or banking-related products or services."

EXPLANATION

This amendment would clarify the Board's authority, in determining whether a particular activity is closely related to banking, to consider changes in the market for bank and banking-relating products that are not directly attributable to technological factors. The amendment eliminates a possible inconsistency between the bill's proposed section 4(c)(8)(B)(vi), which required the Board to promote competition in drawing up the "laundry list" of permitted activities, and the factors that the Board may consider in deciding whether an activity is permitted, which do not explicitly include competition from suppliers of banking related products.

AMENDMENT No. 3769

(1) On page 29, line 3, replace the word "that" with "on whether".

(2) On page 49, line 11, replace the word "that" with "on whether".

EXPLANATION

This amendment would make clear that both bank holding companies and their competitors can obtain judicial review of a Federal Reserve Board finding that a proposed activity is permitted under the Bank Holding Company Act, and that both S&L holding companies and their competitors can obtain judicial review of a Federal Home Loan Bank Board finding that a proposed activity is permitted under the National Housing Act.

AMENDMENT No. 3770

(1) On page 29, delete lines 1 through 6 and replace "(c)", "(d)", and "(e)" in lines 7, 16, and 23, respectively, with "(b)", "(c)", and "(d)".

(2) On page 49, delete lines 9 through 13, and replace "(3)" and "(4)" on lines 14 and 23 with "(2)" and "(3)", respectively, and on page 50, line 5, replace "(5)" with "(4)".

EXPLANATION

This amendment would remove the provisions of S. 2851 that restrict the judicial review available to bank holding companies, S&L holding companies, and their competitors. Under this amendment, orders under sections 4(c)(8) or 4(c)(15) of the Banking Holding Company Act and under section 408(c)(2) of the National Housing Act would be subject to the same judicial review as other orders under those Acts.

TOWER AMENDMENT NO. 3771

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill S. 2851, supra; as follows:

On page 31, line 17, delete the last word "a" and lines 18 and 19, and insert the following:

"the Board may prohibit a member bank and its depository institution securities affiliate from using similar names if it determines that the use of similar names would result in decreased or unfair competition, conflicts of interests, or unsound financial practices."

MOYNIHAN AMENDMENT NOS. 3772 THROUGH 3776

Mr. MOYNIHAN submitted five amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3772

On page 123 beginning on line 6, strike:

"(II) the agreement and plan for the merger or acquisition was dated August 2, 1983."

And insert the following:

"(II) the agreement and plan for the merger or acquisition was dated on or before August 2, 1983."

AMENDMENT No. 3773

On page 126 strike lines 12 through 14 and insert the following new subparagraph (2):

"(2) Section 3(d) of the Bank Holding Company Act of 1956 is repealed;

AMENDMENT No. 3774

Beginning on page 121 line 1 strike all that appears through line 5 on page 127 and insert in lieu thereof the following:

SEC. 1002. Subsection 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(a) by inserting a "(1)" after "(d)";

(b) by inserting immediately before the last sentence of such paragraph (1) the following: "Such statute law of a State specifically authorizing the acquisition of such shares or assets of a bank by an out-of-state bank holding company may authorize such acquisition on the basis of the location of the out-of-state bank holding company.";

(c) by inserting before the period at the end of such paragraph (1) the following: "and the District of Columbia, and any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be considered to be a State."; and

(d) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the prohibition in paragraph (1) of this subsection, effective two years from the date of enactment of the Interstate Banking Act of 1984, an application may be approved under this section which will permit a bank holding company to merge or consolidate with, or to acquire directly or indirectly voting shares of, or interest in, or all or substantially all of the assets of, a bank holding company the home State of which is:

"(A) a State contiguous to the home State of the merging or acquiring bank holding company; or

"(B) contained, in whole or in part, in a Federal Reserve District, as such Districts were defined on June 27, 1984, that contains, in whole or in part, the home State of the merging or acquiring bank holding company.

"For the purposes of this paragraph, the home State of a bank holding company is that State in which the total deposits of its banking subsidiaries were largest as of June 30, 1984. Nothing in this paragraph shall be construed as preventing the Board from approving an application permissible under paragraph (1) of this subsection."

SEC. 1003. Effective four years from the date of enactment of this Act, section 3(d) of the Bank Holding Company Act of 1956 is repealed.

AMENDMENT No. 3775

At the end of the bill, add the following:

TITLE XII—REGIONAL AND NATIONAL ACQUISITIONS

REGIONAL BANK HOLDING COMPANY ACQUISITIONS

SEC. 1201. (a) Section 3 of the Bank Holding Company Act of 1956 is amended—

(1) by striking out "Notwithstanding any other provision of this section, no" and inserting in lieu thereof "Except as provided in subsection (f), no" in subsection (d); and

(2) by adding at the end thereof the following:

"(f) With the prior approval of the Board, a bank holding company may acquire voting shares of, interest in, or all or substantially all of the assets of another bank holding company the banking subsidiaries' operations of which are principally conducted in the same State as the State in which the acquiring company's banking subsidiaries' operations are principally conducted, or in any contiguous State or in any other State in the same Federal reserve district or districts where the State in which such operations are principally conducted is located if such contiguous or other State, by statute law, permits any such acquisition.".

(b) The amendment made by subsection (a) shall take effect upon the expiration of 2 years after the date of enactment of this Act.

NATIONAL BANK HOLDING COMPANY ACQUISITIONS

SEC. 1202. (a) Section 3(f) of the Bank Holding Company Act of 1956 is amended to read as follows:

"(f) With the prior approval of the Board, a bank holding company may acquire voting shares of, interest in, or all or substantially all of the assets of a bank holding company located in another State without regard to the location of the State in which either company's banking subsidiaries' operations are principally conducted if such other State by statute law permits any such acquisition.".

(b) The amendment made by subsection (a) shall take effect upon the expiration of 4 years after the date of enactment of this Act.

AMENDMENT No. 3776

At the end of the bill, add the following:

TITLE XII—REGIONAL AND NATIONAL ACQUISITIONS REGIONAL BANK HOLDING COMPANY ACQUISITIONS

SEC. 1201. (a) Section 3 of the Bank Holding Company Act of 1956 is amended—

(1) by striking out "Notwithstanding any other provision of this section, no" and inserting in lieu thereof "Except as provided in subsection (f), no" in subsection (d); and

(2) by adding at the end thereof the following:

"(f) With the prior approval of the Board, a bank holding company may acquire voting shares of, interest in, or all or substantially all of the assets of another bank holding company the banking subsidiaries' operations of which are principally conducted in the same State as the State in which the acquiring company's banking subsidiaries' op-

erations are principally conducted, in any contiguous State, or in any State in the same Federal reserve district or districts where the State in which such operations are principally conducted is located.".

(b) The amendment made by subsection (a) shall take effect upon the expiration of 2 years after the date of enactment of this Act.

NATIONAL BANK HOLDING COMPANY ACQUISITIONS

SEC. 1202. (a) Section 3(f) of the Bank Holding Company Act of 1956 is amended to read as follows:

"(f) With the prior approval of the Board, a bank holding company may acquire voting shares of, interest in, or all or substantially all of the assets of another bank holding company without regard to the location of the State in which either company's banking subsidiaries' operations are principally conducted.".

(b) The amendment made by subsection (a) shall take effect upon the expiration of 4 years after the date of enactment of this Act.

HATCH AMENDMENT NOS. 3777 THROUGH 3916

(Ordered to lie on the table.)

Mr. HATCH submitted 139 amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3777

(a) by striking out "in"' the second time it appears;

SEC. 1201. That this act may be cited as the "Grove City Reversal Act of 1984".

SEC. 1202. That the matter preceding clause (1) of section 901(a) of the Education Amendments of 1972, relating to the prohibition of sex discrimination, is amended—

(a) by striking out "in" the second time it appears;

(b) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(c) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any educational institution, school districts, government education agencies, or other educational entities".

SEC. 1203. The first sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "education program or activity" and inserting in lieu thereof "educational institution, school districts, government education agencies, or other educational entities"; and

(b) by striking out "such program or activity" and inserting in lieu thereof "such institution, school district, government education agencies, or other educational entities".

SEC. 1204. The third sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "under such program or activity"; and

(b) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time.

SEC. 1205. The term "any program or activity receiving Federal financial assistance" in 29 U.S.C. 794, 42 U.S.C. 2000d, and 42 U.S.C. 6102 shall be construed without reference to, consideration of, or regard to the term "any education program or activity receiving Federal financial assistance" in section 901(a) of title IX of the Education Amendments of 1972 as that term was construed by an court prior to the effective date of the amendments enacted by this Act.

SEC. 1206. The definition of "educational institution" in section 901 is amended by inserting a period after "higher education" and striking everything that follows in such definition.

AMENDMENT No. 3778

(a) by striking out "in" the second time it appears;

SEC. 1202. That the matter preceding clause (1) of section 901(a) of the Education Amendments of 1972, relating to the prohibition of sex discrimination, is amended—

(a) striking out "in" the second time it appears;

(b) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(c) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any educational institution".

SEC. 1203. The first sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "education program or activity" and inserting in lieu thereof "educational institution"; and

(b) by striking out "such program or activity" and inserting in lieu thereof "such institution".

SEC. 1204. The third sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by stiking out "under such program or activity"; and

(b) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time.

SEC. 1205. The term "any program or activity receiving Federal financial assistance" in 29 U.S.C. 794, 42 U.S.C. 2000d, and 42 U.S.C. 6102 shall be construed without reference to, consideration of, or regard to the term "any education program or activity receiving Federal finanical assistance" in section 901(a) of title IX of the Education Amendments of 1972 as that term was construed by any court prior to the effective date of the amendments enacted by this Act.

AMENDMENT No. 3779

Add this at the appropriate place notwithstanding any other provision in this bill:

Provided, however, That no entity shall be deemed to receive Federal financial assistance because they transact business with individuals or other entities receiving Federal welfare or other social services benefits."

AMENDMENT No. 3780

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That no entity shall be deemed a 'transferee' of Federal financial assistance because they transact business with individuals or other entities receiving Federal welfare or other social services benefits."

AMENDMENT No. 3781

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That no person or entity engaged in the business of farming or ranching shall be deemed the "transferee" of a grocery store or the supplier of a grocery store which receive Federal financial assistance."

AMENDMENT No. 3782

Add this at the appropriate place notwithstanding any other provision in this bill:

"Nothing in this Act shall be deemed to expand existing Federal authority to terminate financial assistance for the failure to comply with Federal rules and regulations under Title IX, Title VI, section 504 of the Rehabilitation Act, and the Age Discrimination Act."

AMENDMENT No. 3783

Add this at the appropriate place notwithstanding any other provision in this bill:

"(d) Section 901(a)(3) is amended by adding the following language at the end thereof: "Any applicant seeking such an exemption shall make an initial showing of a sincerely held religious belief with the burden then laying upon the Government to demonstrate why such applicant is not entitled to the benefit of such exemption.' "

AMENDMENT No. 3784

Add this at the appropriate place notwithstanding any other provision in this bill:

"(d) Nothing in Title IX shall require an education institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies."

AMENDMENT No. 3785

Add this language at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That Medicare or Medicaid reimbursements to pharmacies shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3786

Add this language at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That no nonprofit organization devoted generally to the achievement of civil rights shall be deemed to be the 'recipient' of Federal financial assistance for purposes of this section."

AMENDMENT No. 3787

Add this language at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That nonprofit organization shall be deemed to receive Federal financial assistance because it utilizes Federal facilities or because it utilizes the facilities of State or local governments which receive Federal financial assistance."

AMENDMENT No. 3788

Add this language at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That no individual recipient of Federal welfare or other social services benefits shall be deemed to receive Federal financial assistance for purposes of this section."

AMENDMENT No. 3789

Add this language at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, strike the word "State" or "State or."

AMENDMENT No. 3790

Add this language at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That no newspaper receiving special exemptions from Federal antitrust laws shall be deemed to receive Federal financial assistance for purposes of this section."

AMENDMENT No. 3791

Add this at the appropriate place notwithstanding any other provision in this bill:

"No individual or other entity shall be found to be in violation of Title IX, Title VI, section 504 of the Rehabilitation Act, or the Age Discrimination Act unless such individual or entity shall be determined to have had the intent or purpose of treating an individual in violation of such laws. Such intent or purpose may be established on the basis of the totality of circumstances."

AMENDMENT No. 3792

Add this at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* That federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c) shall not constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 3793

Add this at the appropriate place notwithstanding any other provision in this bill:

"Federal financial assistance provided to one program or activity of a recipient does not 'support', as that term is used in this Act, other programs or activities of the recipient solely because other resources have been made available to such latter programs or activities as a result of the assistance provided to the former program or activity."

AMENDMENT No. 3794

Add the following at the appropriate place notwithstanding any other provision of this bill:

"(d) Nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education."

AMENDMENT No. 3795

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions."

AMENDMENT No. 3796

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself."

AMENDMENT No. 3797

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government."

AMENDMENT No. 3798

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision."

AMENDMENT No. 3799

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal financial assistance to a particular subunit, department, or instrumentality of a State or political subdivision thereof shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State or political subdivision thereof."

AMENDMENT No. 3800

Add the following at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, strike the words "public or" preceding the words "private agency".

AMENDMENT No. 3801

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Nothing in Title IX, Title VI, section 504 of the Rehabilitation Act, or the Age Discrimination Act shall be construed to require any entity to adopt quotas or numerical goals on the basis of race, color, national origin, sex, handicap, or age, or to adopt policies of preference with respect to individuals classified on the basis of these characteristics."

AMENDMENT No. 3802

Add the following at the appropriate place notwithstanding any other provision of this bill:

"(d) Insert the word 'religion,' following the word 'color,' wherever the latter word appears."

AMENDMENT No. 3803

Add the following at the appropriate place notwithstanding any other provision of this bill:

"(d) Nothing in this Act shall be construed to extend authority to the Federal Government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education."

AMENDMENT No. 3804

Add the following at the appropriate place notwithstanding any other provision of this bill:

Strike everything following the title and insert in lieu thereof the following:

"SEC. 2. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by any educational institution, including any of said institution's component programs or activities, if said institution controls or administers, in its sole and lawful discretion, Federal financial assistance provided to said institution or any of its component programs or activities."

AMENDMENT No. 3805

Add the following at the appropriate place notwithstanding any other provision of this bill:

"For the purpose of this title, the term 'recipient' means—

"(A)(i) any State or political subdivision thereof;

"(ii) any person, or private agency, institution, organization, or other entity;

"(iii) any subunit of any such State or political subdivision thereof, or of any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another recipient as defined in (A) (i), (ii), or (iii); or through a person for use at an educational institution); or

"(B)(i) the successor or assignee of any recipient as defined in (b)(2)(A); or

"(ii) the transferee of Federal financial assistance from any recipient as defined in (b)(2)(A).

"*Provided, however,* That—

"(1) Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subdivisions or subunits, shall be presumed to be extended to all its subdivisions or subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received;

"(2) Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to the entire such agency, institution, organization, or other entity unless it is established by clear and convincing evidence that any administratively separate operating unit or subsidiary entity was not directly involved in providing the service or benefit supported by the Federal financial assistance; and

"(3) the ultimate beneficiary of any Federal financial assistance shall not be deemed a recipient.

"(3) The term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal departments and agencies are subunits of municipalities."

AMENDMENT No. 3806

Add the following at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, strike the words "or other entity" and "or entity".

AMENDMENT No. 3807

Add the following at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, insert "or" before "assignee" and strike the word "transferee".

AMENDMENT No. 3808

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That no organization which is the beneficiary of a Federal charter shall be deemed to receive Federal financial assistance for purposes of this section."

AMENDMENT No. 3809

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal assistance shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 3810

Add this at the appropriate place notwithstanding any other provision in this bill:

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 3811

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That the extension of Federal vocational or job training funds to businesses shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 3812

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That Federal tax credits for businesses engaged in vocational training programs shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 3813

Add this language at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That the reimbursement of Federal rent vouchers to landlords shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3814

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That Federal tax exemptions for religious, charitable, and educational institutions shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3815

Add this language at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That Federal tax exemptions shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3816

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State."

AMENDMENT No. 3817

Add this at the appropriate place notwithstanding any other provision in this bill:

"Provided, however, That the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity."

AMENDMENT No. 3818

Add the following at the appropriate place notwithstanding any other provision of the bill:

"Section 2. Part II of the Supreme Court's decision in Grove City v. Secretary of Education, Bell (relating to programmatic coverage of Title IX) is hereby overturned."

AMENDMENT No. 3819

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Upon the enactment of this Act, the General Accounting Office shall undertake a study which shall analyze the extent to which the provisions of the four laws affected by this Act may be enforced by private lawsuits and shall make whatever recommendations it sees fit with regard to this situation. Such study shall be completed and submitted to the Congress within ninety days of the enactment of this Act."

AMENDMENT No. 3820

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Upon the enactment of this Act, the General Accounting Office shall undertake a study which shall analyze the extent of personal liability on the part of State and local government officials existing under the law and shall make whatever recommendations it sees fit with regard to this situation. Such study shall be completed and submitted to the Congress within ninety days of the enactment of this Act."

AMENDMENT No. 3821

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the provision of Federal safety or health inspectors for an industry shall not be deemed to constitute the extension of Federal financial assistance to such industry, or to any individual business within the industry, for purposes of this section."

AMENDMENT No. 3822

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the provision of Federal air traffic controllers shall not constitute the extension of Federal financial assistance to an airport or an airline for purposes of this section."

AMENDMENT No. 3823

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Upon the enactment of this Act, the Office of Management and Budget shall promulgate, within ninety days, rules and regulations which shall ensure that there is no duplication of Federal regulatory or compliance efforts under Title IX, Title VI, section 504 of the Rehabilitation Act, and the Age Discrimination Act."

AMENDMENT No. 3824

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the extension of a Federal license for operation to an entity shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3825

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the term 'receives support' shall be construed to refer to the receipt of Federal financial assistance."

AMENDMENT No. 3826

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That nothing in this section shall be construed to affect the Revenue Sharing Act."

AMENDMENT No. 3827

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the administration of Medicare or Medicaid programs by an entity engaged in the business of insurance shall not constitute the extension of Federal financial assistance to such entity."

AMENDMENT No. 3828

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the participation by a farmer in a Federally administered program of marketing orders shall not constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 3829

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the participation of a community in the Federal school lunch program shall not constitute the extension of Federal financial assistance to such community."

AMENDMENT No. 3830

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That contracts relating to agricultural research shall not constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3831

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That loans made by the Rural Electrification Administration to rural electric and telephone cooperatives shall not constitute Federal financial assistance to such cooperatives."

AMENDMENT No. 3832

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That loans made by the Rural Electrification Administration to rural electric and telephone cooperatives shall not constitute Federal financial assistance to consumers of electric or telephone service from such cooperatives."

AMENDMENT No. 3833

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That direct and insured loans made by the Farmers Home Administration shall not constitute Federal financial assistance for the purposes of this section."

AMENDMENT No. 3834

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal programs providing contracts of insurance or guaranty shall not constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3835

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That housing and mobile home loans made by the Veterans Administration shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 3836

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided,* That contracts for the purposes of providing Federal assistance to handicapped persons shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3837

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That an entity does not 'receive support', as that term is used in this section, solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance."

AMENDMENT No. 3838

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* that Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance."

AMENDMENT No. 3839

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* that no charitable organization shall be deemed to be in receipt of Federal financial assistance unless it actually receives Federal financial assistance."

AMENDMENT No. 3840

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* that no church or religious organization shall be deemed to be in receipt of Federal financial assistance because of their administration of Federal food programs."

AMENDMENT No. 3841

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* that no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance."

AMENDMENT No. 3842

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* that technical assistance provided to a community from another community receiving Federal financial assistance shall not constitute Federal financial assistance to the former community."

AMENDMENT No. 3843

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* that no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact."

AMENDMENT No. 3844

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* that nothing in this section shall be deemed to include within the term 'recipient' any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell.*"

AMENDMENT No. 3845

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* that nothing in this section shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities."

AMENDMENT No. 3846

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* that this section shall not be deemed to affect the admissions policy of any institution of higher education."

AMENDMENT No. 3847

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* that an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit."

AMENDMENT No. 3848

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* that a wholesale business shall not be deemed to be the 'transferee' of a retail business receiving Federal financial assistance for purposes of this section."

AMENDMENT No. 3849

Add this language at the appropriate place notwithstanding any other provision in this bill.

"*Provided, however,* That food stamp reimbursements to grocery stores shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3850

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* That reimbursement or payment for goods supplied or services rendered shall not constitute Federal financial assistance for purposes of this Act."

AMENDMENT No. 3851

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* That Medicare or Medicaid reimbursements to providers of goods or services relating to health care shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3852

Add this language at the appropriate place notwithstanding any other provision in this bill:

"*Provided, however,* That no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADS); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgment of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights."

AMENDMENT No. 3853

Add at the appropriate place notwithstanding any other provision of this bill:

"(d) Section 901(a)(3) is amended by striking everything following "educational institution which is" and inserting in lieu thereof the following: ", in whole or substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, or society, or in which the curriculum is directed toward the propagation of a particular religion if the

application of this subection would not be consistent with the tenets of such religion."

AMENDMENT No. 3854

Add at the appropriate place notwithstanding any other provision of this bill:

SEC. 2. That the matter preceding clause (1) of section 901(a) of the Education Amendments of 1972, relating to the prohibition of sex discrimination, is amended—

(a) by striking out "in" the second time it appears;

(b) By striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(c) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any educational institution".

SEC. 3. The first sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "education program or activity" and inserting in lieu thereof "educational institution"; and

(b) by striking out "such program or activity" and inserting in lieu thereof "such institution".

SEC. 4. The third sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "under such program or activity"; and

(b) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time.

SEC. 5. The term "any program or activity receiving Federal financial assistance" in 29 U.S.C. 794, 42 U.S.C. 2000d, and 42 U.S.C. 6102 shall be construed without reference to, consideration, or regard to the term "any education program or activity receiving Federal financial assistance" in section 901(a) of title IX of the Education Amendments of 1972 as that term was construed by any court prior to the effective date of the amendments enacted by this Act.

AMENDMENT No. 3855

Add at the appropriate place notwithstanding any other provision of this bill:

(A)(i) any State or political subdivision thereof;

(ii) any person, or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or of any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another recipient as defined in (A) (i), (ii), or (iii); or through a person for use at an educational institution); or

(B)(i) the successor or assignee of any recipient as defined in (b)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (b)(2)(A).

Provided, however, That—

(1) Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received;

(2) Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate operating units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance; or

(3) The term "subunit" shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal departments and agencies are subunits of municipalities.

AMENDMENT No. 3856

Add at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, insert a period in lieu of the comma following the second parenthetical provision and strike the remainder of the definition.

AMENDMENT No. 3857

Add at the appropriate place notwithstanding any other provision of this bill:

Strike everything from page 3, line 22, through page 4, line 2.

Strike everything from page 6, line 23, through page 7, line 2 and renumber accordingly.

On page 9, strike lines 6 through 10.

AMENDMENT No. 3858

Add at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, strike the language in the second parenthetical provision and insert in lieu thereof: "(directly or through another recipient; or for the use of a person at an educational institution)".

AMENDMENT No. 3859

Add at the appropriate place notwithstanding any other provision of this bill:

In the definition of "recipient", wherever it appears, insert the following language at the end thereof, "*Provided,* however, that the ultimate beneficiary of any Federal financial assistance shall not be deemed a recipient."; insert "person," following "organization," wherever that term appears.

AMENDMENT No. 3860

Add at the appropriate place notwithstanding any other provision of this bill:

"(A)(i) any State or political subdivision thereof;

(ii) any person or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (c)(2)(A).

AMENDMENT No. 3861

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the receipt of loans from the Small Business Administration shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 3862

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That Federal contracts in which private businesses provide goods or services in return for fair consideration shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 3863

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal government shall not constitute the extension of Federal financial assistance to such business for purposes of this section."

AMENDMENT No. 3864

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the term 'recipient' shall not be deemed to include national or state political parties."

AMENDMENT No. 3865

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the receipt of Federal funds by a political party organization under the Federal Election Campaign Act shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 3866

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided however, That the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities."

AMENDMENT No. 3867

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the receipt of Federal crop loans or subsidies shall not constitute the receipts of Federal financial assistance for purposes of this section."

AMENDMENT No. 3868

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the application of Federal rules and regulations to a business shall not constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 3869

Add the following at the appropriate place notwithstanding any other provision of this bill.

"(d) Nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education."

AMENDMENT No. 3870

Add the following at the appropriate place notwithstanding any other provision of this bill:

(d) Title IX of the Act is amended by adding at the end thereof the following new section:

"CONSTRUCTION WITH RESPECT TO RECIPIENTS NOT PRIMARILY EDUCATIONAL INSTITUTIONS

"SEC. 908. Notwithstanding any other provision of this title, this title shall apply to a recipient which is not primarily an educational institution only with respect to the educational programs or activities of the recipient which receive Federal financial assistance.".

AMENDMENT No. 3871

Add the following at the appropriate place notwithstanding any other provision of this bill:

SEC. 6. (a) Title IX of the Education Amendments of 1972 is amended by inserting at the end thereof the following new section:

"INTERPRETATION WITH RESPECT TO TRADITIONAL EMPLOYMENT PRACTICES

"SEC. 908. Notwithstanding any other provision of this title, no employment practice which is lawful under title VII of the Civil Rights Act of 1964 or section 6 (d) of the Fair Labor Standards Act of 1938 (known as the Equal Pay Act) shall be an unlawful practice under this title.".

(b) Title VI of the Civil Rights Act of 1964 (as amended by section 5 (c) of this Act) is amended by adding at the end thereof the following new section.

"SEC. 607. Notwithstanding any other provision of this title, no employment practice which is lawful under title VII of the Civil Rights Act of 1964 or section 6 (d) of the Fair Labor Standards Act of 1938 (known as the Equal Pay Act) shall be an unlawful employment practice under this title.".

AMENDMENT No. 3872

Add the following at the appropriate place notwithstanding any other provision of this bill:

SEC. 6. (a) This section applies to—

(1) title VI of the Civil Rights Act of 1964, relating to nondiscrimination in federally assisted programs,

(2) title VII of the Civil Rights Act of 1964, relating to equal employment opportunity,

(3) title IX of the Education Amendments of 1972, relating to prohibition of sex discrimination,

(4) the section 6(d) of the Fair Labor Standards Act of 1938, (known as Equal Pay Act),

(5) any other Federal provision of law prohibiting employment discrimination.

(b) Whenever a claim or a charge is made under any statute set forth in subsection (a) alleging an unlawful employment practice or other illegal employment discrimination and a Federal department or agency begins an investigation of that claim or charge, no other Federal department or agency may investigate such claim or charge.

(c) Whenever—

(1) a final agency action is made and no appeal has been taken from such action, or

(2) a final judgment is entered by a court, with respect to any claim or charge made under a statute set forth under subsection (a) no civil action may be brought in any court of the United States with respect to such claim or charge.

AMENDMENT No. 3873

Add the following at the appropriate place notwithstanding any other provision of this bill:

"Provided, however, That the term 'recipient' shall not be construed to include a church, convention, or association of churches, religious order, or other religious organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance."

AMENDMENT No. 3874

Add the following at the appropriate place notwithstanding any other provision of this bill:

"SEC. 6. Nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities."

AMENDMENT No. 3875

Add the following at the appropriate place notwithstanding any other provision of this bill:

"SEC. 6. The Congress and the Federal judiciary may be considered to be recipients of Federal financial assistance for purposes of section 901 of the Education Amendments of 1972, section 504 of the Rehabilitation Act, section 303 of the Age Discrimination Act, and section 601 of the Civil Rights Act of 1964 to the same extent that other federal entities are covered by those acts."

AMENDMENT No. 3876

Add the following at the appropriate place notwithstanding any other provision of this bill:

SEC. 6. With respect to matters relating to the performance of their official duties, Members of the Congress and all subunits of the Congress shall be deemed to be recipients of Federal financial assistance and educational institutions for the purposes of section 901 of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, section 303 of the Age Discrimination Act of 1975, and section 601 of the Civil Rights Act of 1964.

TITLE II—CONGRESSIONAL OFFICE OF CIVIL RIGHTS

SEC. 201. (a) IN GENERAL—

(1) There is established an office of the Congress to be known as the Congressional Office of Civil Rights (hereafter in this chapter referred to as the "Office."). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on Ethics and the Ranking Majority and Minority Leaders of each House, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director first appointed shall expire at noon on January 3, 1985, and the terms of office of directors subsequently appointed shall expire at noon on January 3 or each fourth year thereafter. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5) The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule in section 5314 of Title 5. The Deputy Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as so in affect, for level IV of the Executive Schedule in section 5315 of such title.

(b) PERSONNEL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, expenses of the Office shall be paid from the contingent fund of the Senate upon vouchers approved by the Director.

DUTIES OF THE OFFICE

SEC. 202. DUTIES.—It shall be the duty and function of the Office to enforce in the Congress and the agencies of the Congress Title IX Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and title VI of the Civil Rights Act of 1964 by:

(1) investigating all complaints by employees of the Congress of unlawful discrimination in the Congress and its agencies.

(2) imposing financial and other penalties upon Members of Congress, their offices, the offices of Congressional committees, and agencies of the Congress as a whole in accordance with schedules of penalties that are established by the Ethics Committee of the House of Representatives for House members and offices, the Ethics Committee of the Senate for Senate members and offices, and jointly by both House and Senate ethics committees for agencies of the Congress as a whole.

(3) using as a guide for compliance the regulations that are promulgated by the executive agencies regarding title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and title VI of the Civil Rights Act of 1964.

REVIEW AND APPEAL

SEC. 203 The Ethics Committee of the House of Representatives for the House and the Ethics Committee of the Senate for the Senate may review, adjust or reverse any action taken by the Office in the pursuit of its duties in the House and Senate respectively. Either the House or Senate ethics committees can review, adjust or reverse any action taken by the Office in pursuit of its duties regarding agencies of the Congress as a whole.

SCHEDULES OF PENALTIES

SEC. 204 The Ethics Committee of the House of Representatives for the House, the Ethics Committee of the Senate for the Senate and both Committees jointly for agencies of the Congress as a whole will develop schedules of penalties to be imposed upon Members of Congress, their offices, committee offices, and agencies of the Congress as a whole when any of these parties discriminates against an employee or prospective employee of the Congress in manner that is unlawful under title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

AMENDMENT No. 3877

Add the following at the appropriate place notwithstanding any other provision of this bill:

"The term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities."

AMENDMENT No. 3878

Add the following at the appropriate place notwithstanding any other provision of this bill:

"*Provided, however,* That Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received."

AMENDMENT No. 3879

On page 46, line 21, strike the word "may" and insert in lieu thereof the word "shall".

AMENDMENT No. 3880

On page 50, line 14, delete the word "shall" and in its place insert the word "may".

AMENDMENT No. 3881

On page 51, delete lines 9 through 16 and renumber the succeeding pages and paragraphs accordingly.

AMENDMENT No. 3882

On page 53, line 7, strike "July 1, 1983," and insert in lieu thereof "July 15, 1983".

AMENDMENT No. 3883

On page 8, line 15, strike the word "may' and insert in lieu thereof the word "shall".

AMENDMENT No. 3884

On page 8, line 1, strike the word "not".

AMENDMENT No. 3885

On page 8, line 16, strike the word "not".

AMENDMENT No. 3886

On page 5, line 1, strike the word "occurs" and insert there in lieu of the following "does not occur".

AMENDMENT No. 3887

On page 4, line 13, insert between the words "shall" and "have" the word "not".

AMENDMENT No. 3888

On page 4, line 10, insert between the words "may" and "serve" the word "not."

AMENDMENT No. 3889

On page 4, line 9, insert between the comma following the word "section" and the word "on" the word "no".

AMENDMENT No. 3890

On page 4, line 2, insert between the words "may" and "be" the word "not".

AMENDMENT No. 3891

On page 33, line 5, insert the word "not" between the words "may" and "prescribe".

AMENDMENT No. 3892

On page 33, line 9, insert the word "not" between the "(3)" and the word "exclude".

AMENDMENT No. 3893

On page 33, line 8, delete everything beginning with "(2) exempt" through the word "section" on line 9.

AMENDMENT No. 3894

On page 49, line 9, insert the word "not" after "subsection (c)(2)" and before "shall be".

AMENDMENT No. 3895

On page 49, line 15, change the word "shall" to "may".

AMENDMENT No. 3896

On page 49, line 19, remove the word "shall" and insert the word "may".

AMENDMENT No. 3897

On page 42, line 10, strike the word "shall" and insert in lieu thereof the word "may".

AMENDMENT No. 3898

On page 43, line 4, strike the word "shall" and insert in lieu thereof the word "may".

AMENDMENT No. 3899

On page 45, lines 10 and 11, strike "10 per centum" insert in lieu thereof "per centum".

AMENDMENT No. 3900

On page 45, line 15, strike "October 15, 1982", and insert in lieu thereof "November 1, 1982".

AMENDMENT No. 3901

On page 119, line 1, delete "100,000", insert "200,000".

AMENDMENT No. 3902

On page 118, line 11, delete "$10,000" insert "$20,000."

AMENDMENT No. 3903

On page 46, line 15, strike "June 1, 1984" and insert in lieu thereof "July 1, 1984".

AMENDMENT No. 3904

On page 49, line 23, change the word "may" to "shall".

AMENDMENT No. 3905

On page 46, line 9, strike "5 years" and insert in lieu thereof "years".

AMENDMENT No. 3906

On page 50, line 5, delete the word "findings" and insert "preliminary report and taskforce resolution".

AMENDMENT No. 3907

On page 53, line 5, strike "July 1, 1983" and insert in lieu thereof "July 15, 1983".

AMENDMENT No. 3908

On page 101, line 6, strike "$50" and insert "$1,000".

AMENDMENT No. 3909

On page 101, line 6, strike "$500" and insert "$20,000".

AMENDMENT No. 3910

On page 101, line 13, strike "$500,000" and insert "$50".

AMENDMENT No. 3911

On page 101, line 13, strike, "1" and insert "5".

AMENDMENT No. 3912

On page 102, line 15, strike the words "one year" and insert "five years".

AMENDMENT No. 3913

On page 103, line 12, strike the words "or reject".

AMENDMENT No. 3914

On page 118, line 11, strike "$10,000" and insert "$50,000".

AMENDMENT No. 3915

On page 119, line 1, strike "$100,000" and insert "$500,000".

AMENDMENT No. 3916

On page 119, line 2, strike "20" and insert "10".

D'AMATO AMENDMENT NOS. 3917 THROUGH 3932

(Ordered to lie on the table.)

Mr. BAKER (for Mr. D'AMATO) submitted 15 amendments intended to be

proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3917

Strike out title X and in lieu thereof insert the following:

SEC. 1001. Effective thirty days from the date of enactment of this Act, the first sentence of subsection (c) of section 5155 of the Revised Statutes (12 U.S.C. 36) shall be amended by repealing the part thereof that follows the word "recognition" and precedes the period.

SEC. 1002. Effective thirty days from the date of enactment of this Act, section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) shall be repealed.

AMENDMENT No. 3918

Strike title X and in lieu thereof insert the following:

SEC. 1001. This Title may be cited as the "Banking Geographic Deregulation Act of 1983".

SEC. 1002. Section 3(d) of the Bank Holding Company Act (12 U.S.C. 1842(d)) is amended by inserting before the period at the end of the first sentence the following: ": *Provided*, That, for each year following the date of enactment of this proviso, a bank holding company may apply to acquire additional banks in each of two States selected by such bank holding company, and, notwithstanding that such acquisitions would otherwise be prohibited hereby each such application may be approved under this section: *Provided further*, That the foregoing proviso shall not permit (i) an acquisition of shares or assets of, or interests in, a bank located in a State which adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want to permit the acquisition of such shares, assets, or interests by an out-of-State bank holding company, or (ii) any such acquisition by a bank holding company the operation conducted in any such State as defined by subparagraph (i) of this subsection.".

SEC. 1003. Effective five years from the date of enactment of this Act, section 3(d) of the Bank Holding Company Act (12 U.S.C. 1842(d)) is hereby repealed.

AMENDMENT No. 3919

On page 24, strike all after line 14, through page 25 line 7.

AMENDMENT No. 3920

On page 25, strike all after line 7, through line 10.

AMENDMENT No. 3921

On page 23, strike all after line 10, through page 24 line 11.

AMENDMENT No. 3922

On page 23, strike all after line 6, through page 25 line 10.

AMENDMENT No. 3923

SEC. 1. Section 13(d) of the Securities Exchange Act of 1934 is amended by striking the words "within ten days after such acquisition," and inserting in lieu thereof the following words: "within such time after such acquisition, and in such manner, as the Commission shall prescribe, announce such acquisition, and".

SEC. 2. Section 13(d) of the Securities Exchange Act of 1934 is amended by adding a new paragraph (7) as follows:

"(7) the Commission, by rule or regulation, in the public interest or for the protection of investors, may restrict or prohibit any person subject to the requirements of subsection (d)(1) of this Section from acquiring, directly or indirectly, beneficial ownership of any additional shares of the equity security that is the subject of the statement required by subsection (d)(1) for such time period subsequent to the acquisition subjecting such person to the filing requirement of subsection (d)(1) as the Commission shall designate, *Provided*, That such time period shall not exceed 2 business days after the filing of the statement required by subsection (d)(1)."

SEC. 3. Section 13(d)(3) of the Securities Exchange Act of 1934 is amended by inserting, after the word "acquiring," the word: "voting,". Section 13(g)(3) of the Securities Exchange Act of 1934 is amended by inserting, after the word "acquiring," the word: "voting,".

SEC. 4. Sections 1, 2, and 3 shall be effective as of September 12, 1984.

SEC. 5. Section 14(b) of the Securities Exchange Act of 1934 is amended by inserting, after the phrase "under this title," the phrase "or any bank, association or other entity that exercises fiduciary powers,".

SEC. 6. Section 5 shall be effective as of January 1, 1985.

AMENDMENT No. 3924

On page 10, line 10, immediately after the period, insert the following: "Provided that the above sentence shall not apply to any company having a state-chartered trust company subsidiary for which an application to convert to a deposit-taking facility was filed with the Office of the Comptroller of the Currency on or before June 11, 1982, and for wich an application for approval by the Board of Governors of the Federal Reserve System on or before November 22, 1983 which application was approved on or before March 23, 1984 by the Board of Governors, and which engaged in the business of deposit-taking on or before June 1, 1984."

On page 11, line 16, immediately after "1984.", insert the following: "Provided that the above sentence shall not apply to any company having a state-chartered trust company subsidiary for which an application to convert to a deposit-taking facility was filed with the Office of the Comptroller of the Currency on or before June 11, 1982, and for which an application for approval by the Board of Governors of the Federal Reserve System was filed with the Federal Reserve System on or before November 22, 1983 which application was approved on or before March 23, 1984 by the Board of Governors, and which engaged in the business of deposit-taking on or before June 1, 1984."

AMENDMENT No. 3925

Strike that part of section 107(a) beginning on page 36, line 13 through line 10, ending on page 37, reletter paragraph "(L)" to "(K)" where it appears on page 37, line 11.

AMENDMENT No. 3926.

Strike that part of section 104(e) beginning on page 22, line 3 and ending on page 26, line 11.

AMENDMENT No. 3927

Strike that part of section 104(a) beginning on page 8, line 22, and ending on line 23, and renumber the subsequent subparagraphs (2) and (3) (1) and (2).

AMENDMENT No. 3928

Strike that part of section 104(a) beginning on page 7, line 13, and ending on page 7, line 25, and reletter the subsequent subsections accordingly.

AMENDMENT No. 3929

Strike section 103 (beginning on page 5, line 14 and ending on page 6, line 2) in its entirety.

AMENDMENT No. 3930

Strike section 101 (beginning on page 3, line 4 and ending on page 4, line 15) in its entirety.

AMENDMENT No. 3931

On page 126, strike out lines 2 through 24 and insert in lieu thereof the following:

Section 1007 effective two years from the date of enactment of this title, a state which has enacted a statute granting authority on the basis of limitations such as the geographic location or proximity of another state shall be deemed to have specifically authorized by its statute laws in accordance with the requirements of section 3(d) of the Bank Holding Company Act (12 U.S.C. 1842(d)) the acquisition of shares or assets of a bank in that state by an out-of-state bank holding company.

AMENDMENT No. 3932

On page 126, strike out lines 2 through 24 and insert in lieu thereof the following:

"SEC. 1007. Effective two years from the date of enactment of this title, the provisions of a State statute which grant authority on the basis of limitations such as the geographic location or proximity of another State shall be null and void and such State shall be deemed to have specifically authorized by its statute laws such authority without regard to the geographic location or proximity of another state. A State may not amend or repeal its statute, if an acquisition, merger, or branch has been approved by the relevant Federal or State banking regulator in reliance upon the authority of such statute, in a manner which would have the practical effect, directly or indirectly, of limiting the ability of institutions in another State to participate in an equal manner under such statute after the two year period, notwithstanding any conflicting provisions of a State's constitution or statutes, which are hereby preempted".

MOYNIHAN AMENDMENT NOS. 3933 AND 3934

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3933

At the appropriate place in the bill, insert the following:

SEC. . Section 13(i)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(6)) is amended by striking out all after "(5)" and inserting in lieu thereof the following:

"and the Corporation may, upon application of a qualified institution setting forth an asset-liability management plan in such form as, in the sole discretion of the Corporation, is deemed acceptable, purchase net worth certificates from such qualified institution in an amount equal to the losses at-

tributable to such asset-liability management plan."

SEC. . Section 506(f)(5)(F) of the National Housing Act (12 U.S.C. 1729(f)(5)(F)), is amended by striking out all after "(E)" and inserting in lieu thereof the following:

"and the Corporation may, upon application of a qualified institution setting forth an asset liability management plan in such form as, in the sole discretion of the Corporation, is deemed acceptable, purchase net worth certificates from such qualified institution in an amount equal to the losses attributable to such asset-liability management plan."

AMENDMENT No. 3934

On page 126, strike line 8 through line 5 on page 127 and insert in lieu thereof the following:

"TRANSITION PROVISIONS"

Section 1007(a)(1) Notwithstanding any conflicting provision of the State's constitution or statutes, which are hereby preempted, effective two years from the date of enactment of this Title, the provisions of a State statute which grant authority for acquisitions, mergers, or branching on the basis of the locations of the States involved shall be deemed to include as qualifying for such authority (A) States which are contiguous to the State which adopted such statute and (B) States which are, in whole or in part, in a Federal Reserve District which contains, in whole or in part, such State.

(2) Notwithstanding any conflicting provision of a State's constitution or statutes, which are hereby preempted, effective four years from the date of enactment of this Title, if a State statute grants authority for acquisitions, mergers, or branching on the basis of such statute relating to the location of the States involved shall be null and void; and such State shall be deemed to have specifically authorized by its statute laws such authority without regard to the location of the States involved.

(b) Notwithstanding any conflicting provision of a State's constitution or statutes, which are hereby preempted, if an acquisition or merger has been completed or branch opened under the authority of a State statute granting authority on the basis of the location of the States involved, a State may not repeal or amend its statute in a manner which would have the practical effect, directly or indirectly, of limiting the ability of institutions in another State to utilize the authority contained in subsection (a) of this section.

(c) Any binding written contract for an acquisition, merger, or branch made in reliance on the provisions of subsection (a) of this section may be performed and enforced, notwithstanding the subsequent amendment or repeal of such subsection, as if such provisions were in effect at the time of such performance.

CHAFEE AMENDMENT NOS. 3935 THROUGH 3937

(Ordered to lie on the table.)

Mr. CHAFEE submitted three amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3935

At the end of the bill, add the following:

SECURITIES AND EXCHANGE COMMISSION EXECUTIVE COMPENSATION DISCLOSURE REQUIREMENTS

SEC. . (a) The Congress finds that—

(1) the disclosure of detailed information concerning executive compensation provides stockholders and potential investors with valuable information about a company's management;

(2) information regarding management compensation is necessary in evaluating corporate efficiency;

(3) the Securities and Exchange Commission liberalized its rules regarding disclosure of executive compensation in December 1983;

(4) at a time when more specific and meaningful management compensation information should be publicly available, the Securities and Exchange Commission has moved in the direction of requiring less public information; and

(5) the current reporting requirements limit disclosure of cash compensation to executive officers thereby arbitrarily exempting a significant segment of management who may be among the most highly paid, and no longer require disclosure of unexercised stock options or stock appreciation rights, thereby denying the investing public another block of useful information.

(b) It is, therefore, the sense of the Congress that the Securities and Exchange Commission should reinstate the requirements for the disclosure of executive compensation which were in effect immediately prior to December 31, 1983.

AMENDMENT No. 3936

On page , line , insert the following:

SEC. . Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end thereof the following:

(f) The Commission shall by regulation require that each such director of an issuer the equity securities of which are registered pursuant to section 12 either own at least one thousand shares of those equity securities, or agree to make periodic purchases of such shares using the total amount of that director's fees for service as a director of such issuer until that director owns one thousand shares of equity securities of such issuer.

AMENDMENT No. 3937

On page , line , insert the following:

SEC. . Section 14 of the Securities Exchange Act of 1932 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(h)(1) No issuer whose securities are registered under this title, or any affiliate of any such issuer, shall engage in any transaction in contemplation of effecting, or of defending against, a change in control of such issuer that is not prudent for the issuer and fair to the issuer's shareholders. The commission or any shareholder of that issuer may bring a suit in the proper district court of the United States or of the District of Columbia to enjoin any such relief as may be appropriate. In any such suit, the burden shall be upon such issuer or such affiliate to prove by a preponderance of the evidence that the transaction complained of is both prudent for the issuer and fair to the issuer's shareholders. A court may award attorney's fees to a shareholder in such a case.

"(2) The provisions of this subsection shall only apply to transactions taken by an issuer or by any officer or director on or after June 27, 1984."

GORTON AMENDMENT NO. 3938

(Ordered to lie on the table)

Mr. GARN (for Mr. GORTON) submitted an amendment intended to be proposed by him to the bill S. 2851, supra; as follows:

On page 18, lines 8 and 9, strike out "or any subsidiary or affiliate thereof" and insert in lieu thereof, "or for a bank holding company's State bank subsidiary which is chartered by a State other than the State where the holding company's banking subsidiaries' total deposits are largest,".

GARN AMENDMENT NO. 3939

(Ordered to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to the bill S. 2851, supra; as follows:

Section 203 of the Depository Institutions Deregulation and Monetary Control Act of 1984 (12 U.S.C. section 3502) is hereby amended by deleting from subsection (b) thereof the following sentence:

"The Deregulation Committee shall hold public meetings at least quarterly.".

EXPLANATION

This amendment would delete the existing statutory language directing the Depository Institutions Deregulation Committee ("DIDC") to meet quarterly. Most of the DIDC's objectives of phasing out interest rate ceilings have already been accomplished and there is a schedule in place to eliminate those that remain. Even after the quarterly meeting directive is deleted, the DIDC could meet to deal with a particular problem or adjust its phaseout schedule to address economic conditions if necessary.

WILSON AMENDMENT NOS. 3940 AND 3941

(Ordered to lie on the table.)

Mr. WILSON submitted two amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3940

At the appropriate place in the bill, insert the following:

PRIORITY OF CERTAIN ACTIONS

SEC. . Section 13(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B), as redesignated, the following:

"(A) Prior to closing a bank, the Corporation shall attempt to arrange for a merger or sale of assets of such bank.".

AMENDMENT No. 3941

At the appropriate place in the bill, insert the following:

PROHIBITION OF FDIC PAYOUT PLAN

SEC. . (a) Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end thereof the following:

"(f)(1) The Corporation shall not put into effect a procedure used in paying deposits of a closed bank unless it has published notice of the procedure at least 30 days prior to any closing to which the procedure would apply.

"(2) The district courts of the United States shall have jurisdiction of any action

brought by any person against the Corporation relating to the payment of deposits in closed banks.".

(b) The provisions of this section shall take effect 90 days after the date of enactment.

STAFFORD AND PELL AMENDMENT NO. 3942

Mr. STAFFORD (for himself and Mr. PELL) proposed an amendment to the bill S. 2851, supra; as follows:

At the end of the bill, add the following:

STUDENT LOAN MARKETING ASSOCIATION

SEC. . (a) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured bank', 'mutual savings bank', or 'savings bank' as those terms are defined in section 3 of the Federal Deposit Insurance Act or any bank that is eligible to make application to become an insured bank under section 5 of that Act. Any assets or shares of any such bank that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

(b) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended by adding at the end thereof the following:

"(5) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured institution' as that term is defined in section 401 of the National Housing Act, any institution that is eligible to make application to become an insured institution under section 403 of that Act, or any institution that is a Federal Home Loan Bank 'member' as that term is defined in section 2 of the Federal Home Loan Bank Act. Any assets or shares of any such institution that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

HATCH AMENDMENT NOS. 3943 THROUGH 4040

(Ordered to lie on the table.)

Mr. HATCH submitted 97 amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 3943

On page 120, line 19, strike "20" and insert "10".

AMENDMENT No. 3944

On page 119, line 3, delete section 902.

AMENDMENT No. 3945

On page 117, line 7, strike "$500" and insert "$1,000".

AMENDMENT No. 3946

On page 117, line 6, strike the words "one year" and insert "six-month".

AMENDMENT No. 3947

On page 117, line 13, strike "one-year" and insert "six-month".

AMENDMENT No. 3948

On page 117, line 14, strike "$1,000" and insert "$2,000".

AMENDMENT No. 3949

On page 116, line 6, delete the words "one year" and insert "six-month".

AMENDMENT No. 3950

On page 116, line 7, delete "$1,000" and insert "$2,000".

AMENDMENT No. 3951

On page 116, line 21, delete the words "one year" and insert "six-month".

AMENDMENT No. 3952

On page 53, strike lines 12 and 13.

AMENDMENT No. 3953

On page 120, line 18, strike "$100,000" and insert "$200,000".

AMENDMENT No. 3954

On page 57 line 23 strike "fifteen" and insert in lieu thereof "fourteen".

AMENDMENT No. 3955

On page 37, line 11, insert the word "not" between the words "shall" and "have".

AMENDMENT No. 3956

On page 37, line 7, strike the word "means" and insert in lieu thereof the words "does not mean".

AMENDMENT No. 3957

On page 33, delete everything on lines 14 through line 19, and renumber the lines accordingly.

AMENDMENT No. 3958

On page 10, line 17, strike paragraph (1).

AMENDMENT No. 3959

On page 10, line 7, change "July 1, 1983" to "June 1, 1983".

AMENDMENT No. 3960

On page 10, line 14, change "180 days" to read "270 days".

AMENDMENT No. 3961

On page 38, line 10, change "1983" to "1979".

AMENDMENT No. 3962

On page 98, line 3, delete lines 3 and 4 and renumber accordingly.

AMENDMENT No. 3963

On page 98, line 5, delete lines 5 and 6 and renumber accordingly.

AMENDMENT No. 3964

On page 98, delete lines 7 and 8 and renumber accordingly.

AMENDMENT No. 3965

On page 98, delete lines 9, 10, and 11 and renumber accordingly.

AMENDMENT No. 3966

On page 97, delete lines 21 and 22 and renumber accordingly.

AMENDMENT No. 3967

On page 97, line 1, delete lines 1 and 2 and renumber accordingly.

AMENDMENT No. 3968

On page 97, delete lines 23 and 24 and renumber accordingly.

AMENDMENT No. 3969

On page 38, line 5, strike the word "not".

AMENDMENT No. 3970

Page 50, line 9, delete the word "shall" and insert instead the word "may".

AMENDMENT No. 3971

On page 38, line 1, strike the word "two" and insert in lieu thereof the word "fifteen".

AMENDMENT No. 3972

Page 51, line 17, delete the words "Section 10", and insert instead the words "Sections 2 and 6".

AMENDMENT No. 3973

On page 37, line 17, strike the word "no" and insert the word "every".

AMENDMENT No. 3974

Page 59, delete lines 4 and 5 and renumber the lines and page accordingly.

AMENDMENT No. 3975

On page 8, line 18, strike the word "not".

AMENDMENT No. 3976

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "90".

AMENDMENT No. 3977

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "72".

AMENDMENT No. 3978

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "73".

AMENDMENT No. 3979

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "74".

AMENDMENT No. 3980

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "75".

AMENDMENT No. 3981

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "76".

AMENDMENT No. 3982

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "77".

AMENDMENT No. 3983

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "78".

AMENDMENT No. 3984

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "79".

AMENDMENT No. 3985

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "80".

AMENDMENT No. 3986

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "81".

AMENDMENT No. 3987

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "82".

AMENDMENT No. 3988

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "83".

AMENDMENT No. 3989

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "84".

AMENDMENT No. 3990

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "85".

AMENDMENT No. 3991

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "86".

AMENDMENT No. 3992

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "87".

AMENDMENT No. 3993

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "88".

AMENDMENT No. 3994

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "89".

AMENDMENT No. 3995

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "91".

AMENDMENT No. 3996

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "92".

AMENDMENT No. 3997

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "93."

AMENDMENT No. 3998

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "94."

AMENDMENT No. 3999

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "95."

AMENDMENT No. 4000

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "96."

AMENDMENT No. 4001

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "97."

AMENDMENT No. 4002

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "98."

AMENDMENT No. 4003

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "99."

AMENDMENT No. 4004

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "40".

AMENDMENT No. 4005

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "41".

AMENDMENT No. 4006

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "42".

AMENDMENT No. 4007

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "43".

AMENDMENT No. 4008

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "44".

AMENDMENT No. 4009

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "45".

AMENDMENT No. 4010

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "46".

AMENDMENT No. 4011

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "47".

AMENDMENT No. 4012

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "48".

AMENDMENT No. 4013

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "49".

AMENDMENT No. 4014

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "50".

AMENDMENT No. 4015

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "51".

AMENDMENT No. 4016

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "52".

AMENDMENT No. 4017

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "53".

AMENDMENT No. 4018

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "54".

AMENDMENT No. 4019

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "55".

AMENDMENT No. 4020

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "56".

AMENDMENT No. 4021

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "57".

AMENDMENT No. 4022

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "58".

AMENDMENT No. 4023

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "59".

AMENDMENT No. 4024

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "60".

AMENDMENT No. 4025

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "61".

AMENDMENT No. 4026

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "62".

AMENDMENT No. 4027

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "63".

AMENDMENT No. 4028

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "64".

AMENDMENT No. 4029

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "65".

AMENDMENT No. 4030

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "66".

AMENDMENT No. 4031

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "67".

AMENDMENT No. 4032

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "68".

AMENDMENT No. 4033

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "69".

AMENDMENT No. 4034

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "70".

AMENDMENT No. 4035

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "71".

AMENDMENT No. 4036

On page 8, line 19, strike the numeral "10" and insert in lieu thereof the numeral "39."

AMENDMENT No. 4037

On page 11, line 1, strike "not".

AMENDMENT No. 4038

On page 11, line 4, strike "1983" and inset in lieu thereof "1984".

AMENDMENT No. 4039

On page 11, line 4, strike "1983" and insert in lieu thereof "1993".

AMENDMENT No. 4040

On page 11, line 4, strike "1983" and insert in lieu thereof "2003".

GARN AMENDMENT NOS. 4041 THROUGH 4053

(Ordered to lie on the table.)

Mr. GARN submitted 13 amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 4041

On page 65, between lines 13 and 14, insert the following:

EFFECTIVE DATE

SEC. 403. This title shall take effect on October 1, 1985.

AMENDMENT No. 4042

On page 18, lines 8 and 9, strike out "or any subsidiary or affiliate thereof".

On page 28, line 9, insert "or investments" after "activities".

On page 28, line 10, insert "for national banks or" before "under".

On page 28, line 10, after "Act" insert the following: "for bank holding companies

unless such bank subsidiary was lawfully engaged in such activity on or before June 27, 1984, and (3) a State chartered bank subsidiary of a bank holding company whose principal place of business is outside the State which chartered that subsidiary may not engage in any activity or make any investment which is not permitted for national banks or under section 4(c) of this Act for bank holding companies unless such bank subsidiary was lawfully engaged in such activity or made such investment on or before June 27, 1984: *Provided,* That for the purpose of clause (3), the principal place of business of a bank holding company is the State in which the total deposits of its banking subsidiaries are largest".

AMENDMENT NO. 4043

Beginning with page 18, line 8, strike out all through page 28, line 10 and insert in lieu thereof the following: "banks for a bank holding company to provide insurance as a principal, agent, or broker except (i) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (ii) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earner and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (iii) any insurance agency activity in a place that (I) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (II) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (iv) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (I) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (II) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (v) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (I) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (II) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (vi) any insurance agency activity engaged in by a bank holding compnay, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in clause (i), (ii), or (iii); or (vii) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

"(E) Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing.".

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(IV) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution se-

curities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

(f) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c)(1) The Board from time to time may require reports under each oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this Act and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporing requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act, that are engaged in the same or similar lines of business, not more frequently than quarterly. In particular circumstances, the Board may require additional information in order to fulfill its responsibilities under this Act.

"(3) The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which may be assessed against, and paid by, such holding company. The Board shall, however, insofar as possible, minimize the scope and frequency of examinations of nonbank subsidiaries of a bank holding company by utilizing, where feasible, reports of applicable regulatory agencies or other bodies public or private, and by directing, to the extent feasible, the focus of such examinations to the activities or financial condition of such nonbank subsidiaries that may have a materially adverse effect on the safety and soundness or financial condition of a subsidiary bank of the bank holding company.".

(g) Section 7 of the Bank Holding Company Act of 1956 is amended by inserting before the period at the end thereof the following: ", except that (1) no State may prohibit the affiliation of a national banking association with a company engaged only in one or more of the activities described in paragraphs (8) and (15) of section 4(c) of this Act, and (2) a State chartered bank subsidiary of a bank holding company may not engage in activities or make investments outside the State where it is chartered unless those activities or investments are permitted for national banks or under section 5(c) of this Act for bank holding companies unless such bank subsidiary was lawfully engaged in such activity on or before June 27, 1984, and (3) a State chartered bank subsidiary of a bank holding company whose principal place of business is outside the State which chartered that subsidiary may not engage in any activity or make any investment which is not permitted for national banks or under section 4(c) of this Act for bank holding companies unless such bank subsidiary was lawfully engaged in such activity or made such investment on or before June 27, 1984: *Provided*, That for the purpose of clause (3), the principal place of business of a bank holding company is the State in which the total deposits of its banking subsidiaries are largest".

AMENDMENT No. 4044

Beginning with page 21, line 24, strike out all through page 26, line 11, and insert in lieu thereof the following:

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however*, That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projects of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

(f) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c)(1) The Board from time to time may require reports under oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this Act and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15

AMENDMENT No. 4045

Beginning with page 21, line 24, strike out all through page 26, line 11, and insert in lieu thereof the following:

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in

accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any despository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository instititon holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, be regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidential to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) render investment advice to an investment company other than a closed-end investment company;

"(II) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(III) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT No. 4046

Beginning with page 21, line 24, strike out on page 26, line 11, and insert in lieu thereof the following:

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligatons of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, it considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) organize, sponsor, operate, and control an investment company, as such term is defined in section 3 of the Investment Company Act of 1940;

"(IV) underwrite, distribute, and sell securities of any investment company, as such terms are defined in section 3 of the Investment Company Act 1940;

"(V) deal in an underwrite promissory notes secured by real estate mortgages and participation interest in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and;

"(VI) underwrite, deal in, sell, and distribute, as principal or agent or both, commmercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT No. 4047

Beginning with page 21, line 24, strike out all through page 26, line 11, and insert in lieu thereof the following:

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph

(iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT No. 4048

Beginning with page 24, line 1, strike out all through page 26, line 11, and insert in lieu thereof the following:

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any enitity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT No. 4049

Beginning with page 24, line 1, strike out all through page 26, line 11, and insert in lieu thereof the following:

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT No. 4050

Beginning with page 24, line 1, strike out all through page 26, line 11, and insert in lieu thereof the following:

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) render investment advice to an investment company other than a closed-end investment company;

"(II) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(IV) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT No. 4051

Beginning with page 24, line 1, strike out all through page 26, line 11, and insert in lieu thereof the following:

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section

103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) organize, sponsor, operate, and control an investment company, as such term is defined in section 3 of the Investment Company Act of 1940;

"(IV) underwrite, distribute, and sell securities of any investment company, as such terms are defined in section 3 of the Investment Company Act of 1940;

"(V) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(VI) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

AMENDMENT NO. 4052

On page 65, between lines 13 and 14, insert the following:

EFFECTIVE DATE

SEC. 403. This title shall take effect on October 1, 1985.

AMENDMENT NO. 4053

Beginning with page 18, line 8, strike out all through page 28, line 10 and insert in lieu thereof the following: "banks for a bank holding company to provide insurance as a principal, agent, or broker except (i) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (ii) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau fo Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (iii) any insurance agency activity in a place that (I) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (II) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (iv) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (I) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (II) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982 shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (v) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (I) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (II) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (vi) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in clause (i), (ii), or (iii); or (vii) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

"(E) Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing.".

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any despository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in an underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institution may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal

in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local government unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(IV) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

(f) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c)(1) The Board from time to time may require reports under oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this Act and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act, that are engaged in the same or similar lines of business, not more frequently than quarterly. In particular circumstances, the Board may require additional information in order to fulfill its reponsibilities under this Act.

"(3) The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which may be assessed against, and paid by, such holding company. The Board shall, however, insofar as possible, minimize the scope and frequency of examinations of nonbank subsidiaries of a bank holding company by utilitzing, where feasible, reports of applicable regulator agencies or other bodies public or private, and by directing, to the extent feasible, the focus of such examinations to the activities or financial condition of such nonbank subsidiaries that may have a materially adverse effect on the safety and soundness or financial condition of a subsidiary bank of the bank holding company.".

(g) Section 7 of the Bank Holding Company Act of 1956 is amended by inserting before the period at the end thereof the following: ", except that (1) no State may prohibit the affiliation of a national banking association with a company engaged only in one or more of the activities described in paragraphs (8) and (15) of section 4(c) of this Act, and (2) a State chartered bank subsidiary of a bank holding company may not engage in activities or make investments outside the State where it is chartered unless those activities or investments are permitted for national banks or under section 4(c) of this Act for bank holding companies unless such bank subsidiary was lawfully engaged in such activity on or before June 27, 1984, and (3) a State chartered bank subsidiary of a bank holding company whose principal place of business is outside the State which chartered that subsidiary may not engage in any activity or make any investment which is not permitted for national banks or under section 4(c) of this Act for bank holding companies unless such bank subsidiary was lawfully engaged in such activity or made such investment on or before June 27, 1984: *Provided*, That for the purpose of clause (3), the principal place of business of a bank holding company is the State in which the total deposits of its banking subsidiaries are largest".

HATCH AMENDMENT NOS. 4054 THROUGH 4073

(Ordered to lie on the table.)

Mr. HATCH submitted 20 amendments intended to be proposed by him to the bill S. 2851, surpa; as follows:

AMENDMENT No. 4054

On page 96, delete lines 11, 12, and 13 and renumber accordingly.

AMENDMENT No. 4055

On page 59, line 20, strike the word "shall" and insert in lieu thereof the word "may."

AMENDMENT No. 4056

On page 58, line 5, strike the word "shall" and insert in lieu thereof the word "may."

AMENDMENT No. 4057

On page 115, line 15, strike the word "shall" and insert in lieu thereof the word "may."

AMENDMENT No. 4058

On page 115, line 6, strike the word "may" and insert in lieu thereof the word "shall."

AMENDMENT No. 4059

On page 116, line 6, strike "one year period" and insert in lieu thereof "two-year period."

AMENDMENT No. 4060

On page 116, line 7, strike "$1,000" and insert in lieu thereof "$2,000."

AMENDMENT No. 4061

On page 11, line 13, strike "any" and insert "many."

AMENDMENT No. 4062

On page 11, line 4, strike "1983" and insert in lieu thereof "1995."

AMENDMENT No. 4063

On page 11, line 4, strike "1983" and insert in lieu thereof "2013."

AMENDMENT No. 4064

On page 11, line 11, after "may" insert "not."

AMENDMENT No. 4065

On page 10, line 10, delete "or acquisition"

AMENDMENT No. 4066

On page 11, line 12, strike "any" and insert "some."

AMENDMENT No. 4067

On page 7, line 24, delete "or is owned or wholly, controlled by a bank holding company."

AMENDMENT No. 4068

On page 97, line 14, delete 36 and insert "2."

AMENDMENT No. 4069

On page 95, line 16, delete "18 months" and insert "2 years."

AMENDMENT No. 4070

On page 95, line 16, delete "18" and insert "2."

AMENDMENT No. 4071

On page 96, delete line 10.

AMENDMENT No. 4072

On page 10, line 3, strike the word "not."

AMENDMENT No. 4073

On page 9, line 25, strike the word "not."

HEINZ AMENDMENT NOS. 4074 THROUGH 4095

(Ordered to lie on the table.)

Mr. HEINZ submitted 22 amendments intended to be proposed by him to the bill S. 2851, supra; as follows:

AMENDMENT No. 4074

Beginning with page 25, line 9, strike out all through page 26, line 1.

AMENDMENT No. 4075

On page 26, strike out lines 2 through 5.

AMENDMENT No. 4076

Beginning with page 24, line 5, strike out all through page 25, line 5.

AMENDMENT No. 4077

Strike Sec. 101 (beginning on page 3, line 4, and ending on page 4, line 15) in its entirety. Strike Sec. 103 (beginning on page 5, line 12 and ending on page 6, line 2) in its entirety.

Strike that part of Sec. 104(a) beginning on page 7, line 13, and ending on page 7, line 25, and reletter the subsequent subsections accordingly.

Strike that part of Sec. 104(a) beginning on page 8, line 22, and ending on line 23, and renumber the subsequent subparagraphs (2) and (3) to (1) and (2).

Strike that part of Sec. 104(e) beginning on page 22, line 3 and ending on page 26, line 11.

Strike that part of Sec. 107(a) beginning on page 36, line 13 through line 10, ending on page 37, reletter paragraph "(L)" to "(K)" where it appears on page 37, line 11.

Strike that part of Sec. 107(b) beginning on p. 40 line 10 all after "and", and ending on line 25.

AMENDMENT No. 4078

Strike Sec. 101 (beginning on page 3, line 4, and ending on page 4, line 15) in its entirety.

AMENDMENT No. 4079

Strike Sec. 103 (beginning on page 5, line 14, and ending on page 6, line 2) in its entirety.

AMENDMENT No. 4080

Strike that part of Sec. 104(a) beginning on page 7, line 13, and ending on page 7, line 25, and reletter the subsequent subsections accordingly.

AMENDMENT No. 4081

Strike that part of Sec. 104(a) beginning on page 8, line 22, and ending on line 23, and renumber the subsequent subparagraphs (2) and (3) (1) and (2).

AMENDMENT No. 4082

Strike that part of Sec. 104(e) beginning on page 22, line 3, and ending on page 26, line 11.

AMENDMENT No. 4083

Strike that part of Sec. 107(a) beginning on page 36, line 13 through line 10, ending on page 37, reletter paragraph "(L)" to "(K)" where it appears on page 37, line 11.

AMENDMENT No. 4084

Strike that part of Sec. 107(b) beginning on page 40, line 10 all after "and", and ending on line 25.

AMENDMENT No. 4085

At the end of the bill insert the following new section:

SEC. . Section 3(a)(12) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c(a)(12)), is hereby amended by deleting the words: "any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian"; and by deleting the words: "or a collective trust fund maintained by a bank.".

AMENDMENT No. 4086

At the end of the bill insert the following new section:

SEC. . Section 202(a)(11) of the Investment Advisers Act of 1940, as amended (15 U.S.C. 80b-2(a)(11)), is hereby amended by deleting the words "(A) any bank, or any bank holding company as defined in the Bank Holding Company Act of 1956, which is not an investment company," and by renumbering subparagraphs "(B)", "(C)", "(D)", "(E)", and "(F)" of Section 202(a)(11) as "(A)", "(B)", "(C)", "(D)", and "(E)", respectively.

AMENDMENT No. 4087

At the end of the bill insert the following new section:

SEC. . Section 3(a)(2) of the Securities Act of 1933, as amended (15 U.S.C. 77c (a)(2)), is hereby amended by deleting, after the words "a Federal Reserve Bank", the words: "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian"; and by deleting, after the words "a single trust fund", the words "or in a collective trust fund maintained by a bank"; by deleting from the last sentence thereof the words: "a security issued or guaranteed by a bank shall not include any interest or participation in any collective trust fund maintained by a bank"; and by deleting from the last sentence thereof the words: "except that in the case of a common trust fund or similar fund or a collective trust fund, the term 'bank' has the same meaning as in the Investment Company Act of 1940."

AMENDMENT No. 4088

On page 7, line 13, strike subsection (j) and insert in lieu thereof;

"(j) The term 'depository institution securities affiliate' means any corporation that is organized *de novo* by a bank holding company to engage in the United States in one or more of the activities authorized pursuant to subsection 4(c)(15) of this Act, and is a broker or dealer within the meaning of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c(a)(4) and (5)), or an investment adviser within the meaning of the Investment Advisers Act of 1940, as amended 15 U.S.C. 80b-2(11)). A corporation engaged in any such activities shall be deemed to be a depository institutions securities affiliate only so long as it is a bank holding company or is owned or controlled by a bank holding company."

AMENDMENT No. 4089

On page 4, line 6, strike subsection (b) and insert in lieu thereof:

(b) "Section 32 of the Banking Act of 1933, as amended (12 U.S.C. 78), is hereby amended by adding the following paragraphs at the end of the first paragraph of such section: "Notwithstanding any other provision of this section, an officer, director or employee of any member bank may serve at the time as a director of any of its depository institution securities affiliates, provided, that the membership of the board of directors of any such affiliate is comprised of not less than forty (40) percent of individuals who have neither association with nor affiliation as a director, officer or employee of the member bank or any of the member bank's affiliates, other than the bank securities affiliate. The term "depository institution securities affiliate" shall have the meaning ascribed to it in section 2(j) of the Bank Holding Company Act of 1956, as amended, (12 U.S.C. 1841(j))."

AMENDMENT No. 4090

On page 4, insert the following paragraphs after line 15:

Section 32 of the Banking Act of 1933, as amended, (12 U.S.C. 78), is hereby amended by adding the following paragraphs.

(c) "Nonpublic information, including customer lists, account information or financial data, received by any director, officer or employee of any bank, subsidiary of affiliate, other than a depository institution securities affiliate, in the course of his duties shall not be disclosed by any such person to any director, officer or employee of the securities affiliate. A director, officer or employee of the securities affiliate is likewise prohibited from disclosure of all such information to any director, officer or employee of an affiliated bank, subsidiary or affiliate."

(d) "Notwithstanding any other provision of this section, an officer, director or employee of any bank, subsidiary or affiliate (including a depositary institution securities affiliate) may disclose such information to: (1) any department or agency of the United States Government, but only as may be necessary or expedient for proper disclosure in the course of official functions prescribed by statute or (2) pursuant to court order."

AMENDMENT No. 4091

Strike subsection (d) of Section 104 (page 13, line 3 through page 21, line 23 inclusive) in its entirety.

AMENDMENT No. 4092

On page 28, line 13, add the following subsection:

(i) "Section 106(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1972), is hereby amended by adding a new subparagraph (3) as follows:

"No bank or affiliate of such bank shall, directly or indirectly, extend credit or provide any banking service to an issuer in connection with any distribution of obligations described in subsection 4(c)(15)(iii) of this act with respect to which a bank securities affiliate of such bank acts as a principal underwriter, as defined in Section 23A of the Federal Reserve Act, as amended (12 U.S.C. 371c)."

AMENDMENT No. 4093

On page 31, strike lines 20 through 25 and insert in lieu thereof:

"(c) A member bank and any subsidiary of such bank (1) shall not purchase as fiduciary any assets from any affiliate unless such purchases are permitted specifically by court order or by law of the jurisdiction applicable to the fiduciary relationship; and "

AMENDMENT No. 4094

On page 32, line 5, insert a period in lieu of the semicolon following "bank" and strike the remainder of the sentence.

AMENDMENT No. 4095

Strike everything after the enacting clause and insert in lieu thereof the following:

SHORT TITLE OF ACT

SECTION 1. This Act may be cited as the "Financial Services Competitive Equity Act."

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TITLE I—FINANCIAL INSTITUTIONS COMPETITIVE EQUITY AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 101. (a) Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is amended by inserting the following new paragraph after the first paragraph of such section:

"Notwithstanding any other provision of this section, a member bank may be affiliated in any manner described in section 2(b) of this Act with a depository institution securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)).".

(b) Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by inserting the following sentence at the end of the first paragraph of such section: "Notwithstanding any other provision of this section, an officer, director, or employee of any member bank may serve at the same time as an officer, director, or employee of any of its depository institution securities affiliates. The term 'depository institution securities affiliate' shall have the meaning ascribed to it in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)).".

AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 102. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or in connection with the acquisition of an insured institution by a company under section 408 of the National Housing Act (12 U.S.C. 1730a), if such acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank or insured institution for shares of a newly formed bank holding company or savings and loan holding company and receive, after such reorganization, substantially the same proportional share interests in the holding company as they held in the bank or insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law.".

AMENDMENTS TO THE SECURITIES EXCHANGE ACT

SEC. 103. (a) Subparagraphs (i), (ii), and (iii) of paragraph (34)(A) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) are each amended by inserting immediately before the semicolons at the end thereof the following: "other than a depository institution securities affiliate as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) or as defined in section 408(a)(1)(K) of the National Housing Act (12 U.S.C. 1730a(a)(1)(K))".

(b) Section 15B(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)(1)) is amended by striking out "subsidiaries" in subparagraphs (B) and (C) and inserting in lieu thereof "affiliates".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT

SEC. 104. (a) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by amending subsection (c) to read as follows:

"(c) 'Bank' means (1) an 'insured bank' as defined in section 3(h) of the Federal Deposit Insurance Act; (2) any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that accepts deposits that the depositor may withdraw by check or similar means for payment to third parties and is engaged in the business of making commercial loans; or (3) a State-chartered stock savings bank the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, which was in existence on October 15, 1982, which is engaged in the business of making commercial loans, and which, on the date of enactment of the Financial Services Competitive Equity Act, is not a Federal savings bank. The term 'bank' does not include (i) a foreign bank having an insured or uninsured branch in the United States; (ii) an insured institution; (iii) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; (iv) an organization that does not do business in the United States except as an incident to its activities outside the United States; or (v) any institution that functions solely as a trust company, such as the type described in subsection (a) of the first section of the Act of September 28, 1962 (12 U.S.C. 92a(a)), and all or substantially all of the deposits of which are received solely in a fiduciary capacity.";

(2) by inserting "or section 4(c)(15)" after "section 4(c)(8)" in subsection (h)(2); and

(3) by inserting after subsection (i) the following new subsections:

"(j) The term 'depository institution securities affiliate' means any corporation that (1) is engaged in the United States in one or more of the activities authorized pursuant to section 4(c)(15) of this Act, and (2) is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)). For purposes of this Act, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it is a bank holding company or is owned or controlled by a bank holding company.

"(k) The term 'commercial loans' does not include (1) loans to natural persons primarily for personal, family, or household purposes, whether directly, indirectly or through the use of leases; (2) loans to charitable persons; (3) loans secured by real property; (4) loans to natural persons through use of credit cards or similar means of access; (5) the purchase of or investment in retail installment loans and accounts receivable; or (6) investments such as commercial paper, certificates of deposit, bankers acceptances and similar money market instruments, the extension of broker call loans, the sale of Federal funds, the deposit of interest-bearing funds, mortgage-backed securities, obligations of the United States and local and State governments, or agencies and instrumentalities thereof, and such other similar types of investments as may be permitted by the institution's primary regulator. An institution shall not be deemed to be 'engaged in the business of making commercial loans' if the aggregate principal amount of its outstanding commercial loans does not exceed 10 percent of the institution's total assets in three out of every four quarters and two out of every three years.

"(l) For purposes of this Act—

"(1) the term 'depository institution holding company' means a bank holding company;

"(2) the term 'depository institution' means bank; and

"(3) the terms 'savings and loan holding company' and 'insured institution' have the meanings ascribed to them in section 408(a)(1) of the National Housing Act.".

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) by inserting before the period at the end of the second sentence of subsection (a) the following: "; or (C) with thirty days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law if, immediately following such acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization that is required for a similarly sized bank that is not a subsidiary of a bank holding company"; and

(2) by adding at the end of subsection (d) the following: "Any company that controls a company which was established or acquired on or after July 1, 1983, which became a bank as a result of the enactment of the Financial Services Competitive Equity Act, and the establishment or acquisition of which would have been prohibited by this subsection had the definition of a bank in such Act been in effect at the time of establishment or acquisition shall divest such bank within 180 days of the effective date of such Act.".

(c) Section 4(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)(2)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following: "(B) those permitted under paragraphs (8) (except for those of an insured institution) and (15) of subsection (c) of this section subject to all the conditions and requirements specified in each respective paragraph or in any order or regulation issued by the Board under such paragraphs"; and

(2) by adding at the end thereof the following: "The two-year period referred to in this paragraph shall not apply to a company that becomes a bank holding company as a result of the enactment of the Financial Services Competitive Equity Act and that acquired an institution between July 1, 1983, and the effective date of such Act which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Financial Services Competitive Equity Act. A bank holding company that controlled an institution on July 1, 1983, which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Financial Services Competitive Equity Act may continue to own and control such institution and engage in any activity that it would have been permitted to engage in on July 1, 1983, under this Act, unless (i) such company acquires control of an additional bank or an insured institution, (ii) such company's existing subsidiary bank commences accepting deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans, or (iii) such company engages in any activity of a financial nature not authorized for bank holding companies under section 4 of this Act in which it was not engaged on June 27, 1984. A company that controlled an institution on July 1, 1983, which become a bank by virtue of the amendment to section 2(c) of this Act contained in the Financial Services Competitive Equity Act and that was not a bank holding company on the date of enactment of the Financial Services Competitive Equity Act, shall become a bank holding company only if, after the enactment of the Financial Services Competitive Equity Act, (i) such company acquires control of an additional bank or an insured institution, (ii) such company's existing subsidiary bank commences accepting deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans, or (iii) such company engages in any activity of a financial nature not authorized for bank holding companies under section 4 of this Act in which it was not engaged on June 27, 1984. The Board may by order, after opportunity for hearing, having due regard to the purposes of this Act (I) determine that a company described in the preceding sentence shall register as a bank holding company and shall be considered to be a bank holding company for purposes of this Act pursuant to section 5 of this Act, or (II) determine that a company described in either of the two preceding sentences shall terminate any activity, if such action is necessary to prevent undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices or is in the public interest.".

(d) Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended to read as follows:

"(8)(A) in accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any insured institution, or shares of any company the activities of which consist of activities that the Board has determined (by order or regulation) to be closely related to banking or managing or controlling banks. In determining whether an activity is closely related to banking or managing or controlling banks, the Board shall take into account technological or other innovations in the provision of banking or banking-related services.

"(B)(i) No bank holding company shall engage in any activity authorized under this paragraph either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given sixty days prior written notice of such proposal and, within such period, the Board has not issued an order (I) disapproving the proposal, or (II) suspending the time period in accordance with clause (iii) below.

"(ii) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written notice of its intent not to disapprove the action. The Board may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a bank holding company establishes de novo an office to engage in any activity previously authorized for such a bank holding company under this paragraph or changes the location of an office engaged in such activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice: *Provided, however,* That the Board may only require such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the criteria provided for in clause (iv) hereof. In the event the Board requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Board may by order suspend the time period provided in clause (i) hereof until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within thirty days of the date of such receipt unless the Board issues a disapproval order as provided in clause (i) hereof. Such a suspension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in such notice by a bank holding company or subsidiary

thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board shall also consider the managerial resources of the companies involved; and the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of the going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(vi) The Board shall, within one hundred and eighty days of enactment of the Financial Services Competitive Equity Act and from time to time thereafter, promulgate regulations under this paragraph designating particular activities that are closely related to banking. A bank holding company may petition the Board to determine by regulation that a particular activity is closely related to banking. The Board may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraphs (8) and (15) of this subsection consistent with the criteria in clause (iv) hereof and with safe and sound finanicial practices. In administering this paragraph, the Board shall promote competition between bank holding companies and all other companies engaged in activities closely related to banking.

"(vii) The regulation required under clause (vi) of this paragraph shall include any activity determined by the Board by regulation prior to the date of enactment of the Financial Services Competitive Equity Act to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. The Board shall not authorize under subparagraph (A) of this paragraph any activity, other than an activity authorized by the preceding sentence, expressly prohibited or limited by any other provision of this paragraph or any activity that is described in paragraph (15) of this subsection or prohibited to a member bank or an afiliate of a member bank under section 16 or section 20 of the Banking Act of 1933 (12 U.S.C. 24 Seventh and 377).

"(C)(i) Notwithstanding any other provision of this paragraph, an acquisition involving direct or indirect control of an insured institution by a bank holding company (except an acquisition resulting from a transaction authorized under section 13(f) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act) shall be subject to the restrictions of section 3(d) hereof, as if the insured institution were a bank.

"(ii) Except for a branch or branches resulting from an acquisition under section 408(m) of the National Housing Act, any insured institution that becomes a subsidiary of a bank holding company may retain and operate its existing branch or branches, but otherwise its branches shall be subject to locations where a national bank may establish and operate branches in the State in which such insured branch is located.

"(iii) In any acquisition under this paragraph involving direct or indirect control of an insured institution by a bank holding company, the competitive standards in section 3(c) of this Act shall apply to the acquisition as if the insured institution were a bank.

"(D) For purposes of this paragraph, it is not closely related to banking or managing or controlling banks for a bank holding company or any subsidiary or affiliate thereof to provide insurance as a principal, agent, or broker except (i) where the insurance is limited to assuring repayment of the outstanding balance due on a special extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (ii) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase on the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (iii) any insurance agency activity in a place that (I) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (II) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (iv) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (I) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (II) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as a result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (v) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (I) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (II) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (vi) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in clause (i), (ii), or (iii); or (vii) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.,

"(E) Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing.".

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (ii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pusuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States of any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation, or order of the Board, however, shall prohibit a depository institution from engaging in those se-

curities or securities-related activities that are necessary or incidential to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages and participation interests in such notes or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(IV) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

(f) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c)(1) The Board from time to time may require reports under oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this Act and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act, that are engaged in the same or similar lines of business, not more frequently than quarterly. In particular circumstances, the Board may require additional information in order to fulfull its responsibilities under this Act.

"(3) The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which may be assessed against, and paid by, such holding company. The Board shall, however, insofar as possible, minimize the scope and frequency of examinations of nonbank subsidiaries of a bank holding company by utilizing, where feasible, reports of applicable regulatory agencies or other bodies public or private, and by directing, to the extent feasible, the focus of such examinations to the activities or financial condition of such nonbank subsidiaries that may have a materially adverse effect on the safety and soundness or financial condition of a subsidiary bank of the bank holding company.".

(g) Section 7 of the Bank Holding Company Act of 1956 is amended by inserting before the period at the end thereof the following: ", except that (1) no State may prohibit the affiliation of a national banking association with a company engaged only in one or more of the activities described in paragraphs (8) and (15) of section 4(c) of this Act, and (2) a State chartered bank subsidiary of a bank holding company may not engage in activities or make investments outside the State where it is chartered unless those activities are permitted under section 4(c) of this Act".

(h) Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) is amended to read as follows:

"JUDICIAL REVIEW

"SEC. 9. (a) Except as provided in subsection (b) of this section, any party aggrieved by an order of the Board under this Act may obtain a review of such order in the United States Court of Appeals within any circuit where such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Board's order, a petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28, United States Code.

"(b) A Board order under section 4(c)(15) of this Act shall be subject to judicial review solely with respect to the Board's finding that the proposed activity is permissible for a bank holding company under those sections and with respect to any Board finding regarding unfair competition.

"(c) Upon the filing of a petition for judicial review, the court shall have jurisdiction to modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper, except that in any petition for review of a Board order not to disapprove a notice under section 4(c)(8) or section 4(c)(15) of this Act, the court shall not be authorized to stay the effectiveness of the Board's order, or to prevent consummation of the proposal, pending judicial review.

"(d) The court may assess against any person that petitions for judicial review under this section of a Board order under section 4(c)(8) or section 4(c)(15) of this Act reasonable attorney's fees or other costs of litigation incurred in connection with such petition for judicial review by any other party to the action, if the court finds such petition for judicial review to be nonmeritorious.

"(e) The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive except that the Board's findings (by order or regulation) under section 4(c)(8) or section 4(c)(15) of this Act regarding the permissibility of an activity or regarding unfair competition shall not be overturned unless demonstrated to be plainly in error and at variance with the facts.".

AMENDMENT TO THE FEDERAL RESERVE ACT

SEC. 105. (a) The Federal Reserve Act is amended by inserting after section 23A the following:

SEC. 23B. RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—(a) A member bank and its subsidiaries may engage in any of the following transactions, only on terms and under circumstances, including credit standards, that are substantially the same as, or at least as favorable to such bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies or, in the absence of comparable transactions, those terms and circumstances that in good faith would be offered to, or would apply to nonaffiliated companies—

"(1) any covered transaction, as defined in section 23A, with an affiliate;

"(2) the sale of securities or other assets, including assets subject to an agreement to repurchase, to an affiliate;

"(3) the payment of money or the furnishing of services to an affiliate, under contract, a lease, or otherwise;

"(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or any other person; or

"(5) any transaction or series of transactions with a third party (A) if an affiliate has a financial interest in the third party, or (B) if an affiliate is a participant in such transaction or series of transactions.

For the purposes of this subsection, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate of such bank to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) A member bank and the affiliates of such bank shall not publish any advertise-

ment or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates. A member bank and its affiliates may use similar names, except that a member and its depository institution securities affiliate may not use similar names.

"(c) A member bank and any subsidiary of such bank—

"(1) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchases are permitted under the instrument creating the fiduciary relationship, by court order or by law of the jurisdiction under which the trust is administered; and

"(2) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an affiliate of such bank; except that this prohibition shall not apply where the purchase of such securities has been approved, prior to the time at which such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

For the purpose of this paragraph, the term 'security' means a 'security' as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)); and the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(d) For the purpose of this section—

"(1) the term 'affiliate' means an 'affiliate' as defined in section 23A of this Act (12 U.S.C. 371c) excluding a bank; and

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (c)) have the same meaning given to them in section 23A of this Act (12 U.S.C. 371c).

"(e) The Board may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to (1) further define terms used in this section; (2) exempt transactions or relationships from the requirements of this section; or (3) exclude from the definition of 'affiliate' in this section any subsidiary of a bank holding company, if the Board finds such exemptions of exclusions to be in the public interest and consistent with purposes of this section.".

"(b) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

SECURITIES AFFILIATIONS OF NONMEMBER INSURED BANKS

SEC. 106. Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting * * *.

"(3)(A) The provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall be applicable to every insured nonmember bank in the same manner and to the same extent as if such insured nonmember bank were a member bank.

"(B) This paragraph does not prohibit the continuation of such an affiliation or relationship which commenced prior to July 1, 1983, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before July 1, 1983.

"(C) An affiliation or officer, director or employee relationship that becomes unlawful as a result of the enactment of this paragraph may continue for a period of two years after the date of enactment of this paragraph.

"(D) The provisions of this paragraph shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978, solely because it has an insured branch in the United States, except that the provisions of section 32 of the Banking Act of 1933 shall apply to an insured branch as if it were an insured bank."; and

(2) by inserting after the words in first sentence of paragraph (4)(A), as so redesignated under paragraph (1) of this section, "or any lawful regulation issued pursuant thereto," the following words: "or any provision of section 20 of the Banking Act of 1933, as amended,".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 107. (a) Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) 'insured institution' means a savings and loan association, a savings bank, a building and loan or homestead association, or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, but such term does not include a bank as defined in section 2(c)(3) of the Bank Holding Company Act of 1956;";

(2) by amending subparagraph (B) to read as follows:

"(B) 'uninsured institution' means any association or bank referred to in subparagraph (A), the accounts of which are not insured by the Federal Savings and Loan Insurance Corporation, except for a savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(3) by striking out "and" at the end of subparagraph (I);

(4) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following:

"(K) 'depository institution securities affiliate' means any corporation organized de novo by a savings and loan holding company' that (i) is engaged in the United States in one or more of the activities authorized for depository institution securities affiliates pursuant to section 4(c)(15) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)) and subject to the limitations specified therein, and (ii) is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)). For purposes of this title, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it is owned or controlled by a savings and loan holding company. For purposes of applying section 4(c)(15) of the Bank Holding Company Act to this title—

"(i) the term 'depository institution holding company' means savings and loan holding company; and

"(ii) the term 'depository institution' means 'insured institution'; and

"(L) 'bank holding company' and 'bank' shall have the meanings ascribed to them in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

(b) Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended to read as follows:

"(c)(1) Except as otherwise provided in this subsection, no savings and loan holding company (except a unitary savings and loan holding company that acquires an insured institution pursuant to subsection (m) of this section) or subsidiary thereof which is not an insured institution shall—

"(A) for or on behalf of such subsidiary insured institution, engage in any activity or render any service for the purposes or with the effect of evading law or regulation applicable to such insured institution; or

"(B) commence or continue, after two years from the date as of which it becomes a savings and loan holding company, any business activity other than those specified in paragraph (2) of this subsection, except that such two-year period shall not apply to any company that acquires an insured institution between July 1, 1983, and the effective date of the Financial Services Competitive Equity Act: *Provided*, That any company that controlled an insured institution prior to July 1, 1983, may engage in any activity in which it was lawfully engaged, directly or through a subsidiary, on June 27, 1984. The authority conferred by the preceding proviso shall terminate at such time, after the date of enactment of the Financial Services Competitive Equity Act, as (i) a covered savings and loan holding company acquires control of a bank, (ii) the subsidiary insured institution of a covered savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or (iii) a covered savings and loan holding company engages in any activity of a financial nature not authorized pursuant to paragraph (2) for savings and loan holding companies (except for the acquisition of a bank), in which it was not engaged on June 27, 1984. Any such activity may be terminated by the Corporation, after opportunity for hearing, if it determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interests, unsound practices, or in the public interest.

"(2) The prohibitions of subparagraph (1)(B) of this subsection shall not apply to the following business activities—

"(A) furnishing or performing management services for a subsidiary insured institution;

"(B) conducting an insurance agency or escrow business;

"(C) holding or managing or liquidating assets owned or acquired from a subsidiary insured institution;

"(D) holding or managing properties used or occupied by a subsidiary insured institution;

"(E) acting as trustee under deed of trust;

"(F) acquiring shares of any bank or engaging in one or more of the following activities subject to the limitations, conditions, and requirements specified in paragraph (3) of this subsection: (i) activities determined by the Board of Governors of the Federal Reserve System (by regulation) to be closely related to banking or managing or controlling banks under section 4(c)(8) of the Bank Holding Company Act of 1956: *Provided, however,* That the Corporation may (by regulation) prohibit or limit any such activity for savings and loan holding companies; (ii) activities in which multiple savings and loan holding companies were authorized (by regulation) to engage directly on June 27, 1984: *Provided, however,* That in the case of real estate investment and development, a savings and loan holding company may only maintain investments lawfully held on June 27, 1984, and make additional investments up to 5 per centum of the company's primary capital; and (iii) engaging in the activities of a depository institution securities affiliate in accordance with the terms under which such activity may be conducted pursuant to the provisions of paragraph (15) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), except that notwithstanding any other provision of this subparagraph, an acquisition involving the direct or indirect control of a bank by a savings and loan holding company (except an acquisition resulting from a transaction authorized under section 13(f) of the Federal Deposit Insurance Act) shall be subject to the restrictions of section 3(d) of the Bank Holding Company Act of 1956, as if any insured institution subsidiary of the savings and loan holding company were a bank and as if the savings and loan holding company were a bank holding company; and

"(G) acquiring shares of any company which is an export trading company, as that term is defined in paragraph (14) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), and subject to all the requirements, conditions, and limitations of such paragraph (14) as if the acquiring or establishing savings and loan holding company were a bank holding company within the meaning of that paragraph, except that any notice required to be given pursuant to that paragraph shall be given to the Corporation, which shall have the same authority with respect to such notice procedure for savings and loan holding companies as the Board of Governors of the Federal Reserve System has pursuant to such paragraph (14).

"(3)(A) No savings and loan holding company shall engage, either de novo or by an acquisition, in whole or in part, of a going concern, in any activity authorized under paragraph (2)(F) of this subsection unless the Corporation has been given sixty days' prior written notice of such proposal and, within such period, the Corporation has not issued an order disapproving the proposal or extending for up to an additional thirty days the period within which such a disapproval may be issued.

"(B) An acquisition may be made prior to the expiration of the disapproval period if the Corporation issues a written notice of its intent not to disapprove the action. The Corporation may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a savings and loan holding company establishes de novo an office to engage in any activity previously authorized for such savings and loan holding company under this paragraph or changes the location of an office engaged in such activity.

"(C) The notice submitted to the Corporation shall contain such information as the Corporation shall prescribe by regulation for the notice or by specific request in connection with a particular notice: *Provided, however,* That the Corporation may only require such information as may be relevant to the nature and scope of the proposed activity and to the Corporation's evaluation of the criteria provided for in subparagraph (D) hereof. In the event the Corporation requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Corporation may by order suspend the time period provided in subparagraph (A) of this paragraph until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within thirty days of the date of such receipt unless the Corporation issues a disapproval order as provided in such subparagraph (A). Such suspension order is reviewable under subsection (k) of this section.

"(D) In determining whether to disapprove a notice under this paragraph, the Corporation shall consider whether the performance of the activity described in such notice by a savings and loan holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound financial practices. The Corporation shall also consider the managerial resources of the companies involved; and the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities. In orders and regulations under this paragraph, the Corporation may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part of the going concern.

"(E) The Corporation shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(F) The Corporation may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraph (2)(F) of this subsection other than limitations on activities conducted pursuant to clause (iii) thereof, consistent with the criteria in subparagraph (D) hereof and with safe and sound financial practices.

"(4)(A) Notwithstanding any other provision of this subsection, any savings and loan holding company (including any subsidiary thereof which is not an insured institution) the sole insured institution subsidiary of which is a qualified thrift lender shall not be subject to the limitations and prohibitions of this subsection: *Provided, however,* That nothing in this paragraph shall exempt a bank holding company or its subsidiaries or affiliates from the provisions of the Bank Holding Company Act.

"(B) A qualified thrift lender is any insured institution that, as determined by the Corporation—

"(i) is, on the date of enactment of the Financial Services Competitive Equity Act, a State-chartered stock savings bank the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation; or

"(ii) has an aggregate of not less than 60 per centum of its assets (including investments made by any subsidiary of such an institution) invested in loans, equity positions or securities related to domestic residential real estate or manufactured housing and property used by an institution in the conduct of its business, and does not thereafter fall below such percentage on an average basis in three out of every four quarters and two out of every three years.

For the purpose of clause (ii) of the preceding sentence, there shall be included liquid assets of the type required to be maintained under section 5A of the Federal Home Loan Bank Act, and 50 per centum of the dollar amount of the residential mortgage loans originated and sold within 90 days of origination, except that the total amount of assets which may be included pursuant to this sentence may not exceed 10 per centum of the institution's assets. For the ten-year period following the date of enactment of the Financial Services Competitive Equity Act, a qualified thrift lender shall also include any insured institution which was chartered prior to October 15, 1982, as a savings bank under State law, and which is a Federal association on the date of enactment of the Financial Services Competitive Equity Act, if the Corporation determines that the institution does not decrease the percentage of its assets invested in investments described in clause (ii) below the percentage it held on such effective date, and increases such percentage of its assets by an amount at least equal to the following percentages of the difference between 60 per centum and the percentage of its assets so invested on the date of enactment of this paragraph within the following time periods from the date of enactment of this paragraph:

"(I) within 2½ years, 25 percent;

"(II) within 5 years, 50 percent; and

"(III) within 7½ years, 75 percent.

"(C) Any insured institution that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years. For good cause shown, the Corporation may allow any company that controls such an institution, up to three years to comply with the investment and activities restrictions contained in this subsection.

"(D) Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not an insured institution), which owns a single insured institution shall not be subject to the limitations and prohibitions of this subsection with respect to the activities of such holding company conducted exclusively in a foreign country.

"(E) The Corporation may issue such rules or regulations, and conduct such examinations, as it determines to be necessary to carry out the provisions of this paragraph, and may enforce them with respect to any qualified thrift lender. With respect to a stock savings bank insured by the Fed-

eral Deposit Insurance Corporation, the Corporation shall rely to the maximum extent possible on examinations conducted by that agency.".

(c) Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is hereby amended as follows:

(1) The introductory phrase is amended to read as follows:

"(d)(1) Except as otherwise provided in this section, no subsidiary insured institution of a savings and loan holding company shall—";

(2) Paragraphs (1), (2), (3), (4), (5), and (6) shall be redesignated as subparagraphs (A), (B), (C), (D), (E), and (F), respectively, and subparagraphs (A), (B), and (C) shall be redesignated as clauses (i), (ii), and (iii), respectively; and

(3) The following subsection (d)(2) shall be added at the end thereof:

"(2) The prohibitions of subsection (d)(1) shall not apply to the transactions of any subsidiary insured institution of a savings and loan holding company with an affiliate engaged in the business activities specified in subparagraphs (F) and (G) of subsection (c)(2) of this section except for clause (ii) of subparagraph (F); unless the context otherwise requires, such transactions by an insured institution shall be subject to the same limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371 c and d) as if such insured institution were a member bank. The Corporation may prescribe rules or regulations for purposes of defining and clarifying the applicability of the limitations and prohibitions described in the preceding sentence.".

(d) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended by striking out clause (ii) of subparagraph (1)(B) and inserting in lieu thereof the following:

"(ii) acquired in connection with a reorganization in which a person or group of persons exchange their shares of an insured institution for shares of a newly formed holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law.".

(e) Section 408(k) of the National Housing Act (12 U.S.C. 1730a(k)) is amended to read as follows:

"(k) JUDICIAL REVIEW.—(1) Except as provided in paragraph (2) of this section, any party aggrieved by an order of the Corporation under this section may obtain a review of such order in the United States Court of Appeals within any circuit where such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Corporation's order, a petition praying that the order of the Corporation be set aside. A copy of such petition shall be forthwith transmitted to the Corporation by the clerk of the court, and thereupon the Corporation shall file in the court the record made before the Corporation, as provided in section 2112 of title 28, United States Code.

"(2) An order under subsection (c)(2) shall be subject to judicial review solely with respect to the Corporation's finding that the proposed activity is permissible for a savings and loan holding company and with respect to any Corporation finding regarding unfair competition.

"(3) Upon the filing of a petition for judicial review, the court shall have jurisdiction to modify the order of the Corporation and to require the Corporation to take such action with regard to the matter under review as the court deems proper, except that in any petition for review of an order not to disapprove a notice under subsection (c)(2), the court shall not be authorized to stay the effectiveness of the Corporation's order, or to prevent consummation of the proposal, pending judicial review.

"(4) The court may assess against any person that petitions for judicial review under this section of a Corporation order under subsection (c)(2), reasonable attorney's fees or other costs of litigation incurred in connection with such petition for judicial review by any other party to the action, if the court finds such petition for judicial review to be nonmeritorious.

"(5) The findings of the Corporation as to the facts, if supported by substantial evidence, shall be conclusive, except that the Corporation's findings (by order or regulation) regarding the permissibility of an activity under subsection (c)(2) or regarding unfair competition shall not be overturned unless demonstrated to be plainly in error and at variance with the facts.".

(f) Section 408(n) of the National Housing Act (12 U.S.C. 1730a) is amended to read as follows:

"(n) No State shall prohibit the affiliation of an association, as that term is defined in section 2 of the Home Owners' Loan Act of 1933, with a company engaged solely in one or more of the activities described in subparagraphs (F) and (G) of subsection (c)(2) of this section.".

AMENDMENT TO THE HOMEOWNERS' LOAN ACT OF 1933

SEC. 108. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) An association may raise capital in the form of such deposits, shares, or other accounts (all of which are referred to in this section as accounts) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, certificates, or other evidence of accounts as are so authorized."; and

(2) by striking out the first sentence of subparagraph (B).

AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT

SEC. 109. (a) Section 5A(b)(1)(D) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(D) is amended by striking out "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C)" and inserting in lieu thereof "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C), (F), and (G)".

(b) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following:

"(e) Except as the Board may prescribe, no member shall be eligible for advances unless such members meets the qualified thrift lender asset test contained in section 408(c)(4)(B)(ii) of the National Housing Act.".

EXTENSION OF CAPITAL ASSISTANCE PROGRAMS

SEC. 110. Section 206 of the Garn-St Germain Depository Institutions Act of 1982 is amended by striking out "three years" and inserting in lieu thereof "six years".

LEASING AUTHORITY OF NATIONAL BANKS

SEC. 111. Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.".

SECURITIES AFFILIATIONS OF FSLIC INSURED INSTITUTIONS

SEC. 112. Section 408 of the National Housing Act is amended by adding at the end thereof the following:

"(o)(1) The provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall be applicable to every insured institution in the same manner and to the same extent as if such insured institution were a member bank.

"(2) This subsection does not prohibit the continuation of such an affiliation or relationship which commenced prior to July 1, 1983, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before July 1, 1983.

"(3) An affiliation or officer, director or employee relationship that becomes unlawful as a result of the enactment of this subsection may continue for a period of two years after the date of enactment of this subsection.

"(4) The Corporation shall enforce the provisions of this subsection.".

MUTUAL HOLDING COMPANY AMENDMENT

SEC. 113. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(p)(1) Notwithstanding any other provision of law, an insured institution operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings institution, the stock of which is to be wholly owned by the mutual institution; and

"(B) transferring the substantial part of its assets and liabilities, including all its insured liabilities, to the interim savings institution. Persons having ownership rights in the mutual institution pursuant to section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 or State law shall have the same ownership rights with respect to the holding company.

"(2) A reorganization plan authorized under this paragraph must be approved by a majority of the board of directors of the mutual savings institution. In the case of an institution in which holders of accounts and obligors exercise voting rights, the plan of reorganization shall also be submitted for approval by a majority of such individuals at a meeting to be held at the call of the directors in accordance with the procedures prescribed by the institution's charter and bylaws.

"(3)(A) An insured institution seeking to establish a holding company pursuant to this subsection shall provide the Federal Home Loan Bank Board with sixty days prior written notice. The notice shall contain such relevant information as the Board

shall require by regulation or by specific request in connection with any particular notice.

"(B) Unless the Board within such sixty-day notice period disapproves the proposed holding company formation, or extends for another thirty days the period during which such disapproval may issue, the insured institution providing such notice may proceed with the transaction.

"(C) The Board may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the insured institution involved warrant disapproval; or

"(iii) the insured institution fails to furnish the information required under subparagraph (A).

"(D) In connection with the transaction described in paragraph (1), an insured institution may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that such capital exceeds adequate reserves as prescribed pursuant to section 403(b) or the comparable provisions of State or Federal law.

"(4) A corporation organized as a holding company under this subsection may only—

"(A) invest in the stock of an insured institution;

"(B) acquire a mutual institution through merger into an insured institution subsidiary or an interim savings institution subsidiary;

"(C) merge with or acquire another holding company one of whose subsidiaries is an insured institution, except that the resulting holding company may only invest in assets and engage in activities authorized under this paragraph;

"(D) invest in a corporation the capital stock of which is available for purchase by an insured institution by Federal law or by the law of such State where the subsidiary insured institution or institutions have their home office; and

"(E) engage in the activities described in subsection (c)(2), except subparagraph (B).

Not later than two years following a merger or acquisition subject to subparagraph (C) of the preceding sentence, a holding company established pursuant to this subsection shall dispose of any assets or cease any activities the exercise of which is prohibited by such subparagraph.

"(5) Unless the context otherwise requires, a holding company established pursuant to this subsection shall be subject to the other requirements of this section regarding regulation of holding companies.".

MORTGAGE SECURITIES CORPORATIONS

SEC. 114. (a) Section 5(c)(4) of the Homeowners' Loan Act of 1933 (12 U.S.C. 1464(c)(4)) is amended by adding at the end thereof the following:

"(E) MORTGAGE SECURITIES CORPORATIONS.—Investments in the capital, stock, obligations, or other securities of a trust or corporation, the entire capital stock of which is available for purchase only by Federal associations and which engages solely in the business of issuing * * * as described in section 4(c)(15)(iii)(III) of the Bank Holding Company Act of 1956.".

(b) Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is amended by adding at the end thereof the following: "For the purposes of this subsection, the term 'affiliate' shall not include any subsidiary of an insured institution where such subsidiary is a mortgage securities corporation authorized under section 5(c)(4)(E) of the Home Owners' Loan Act of 1933.".

TITLE II—CREDIT UNION AMENDMENTS

CREDIT UNION LOANS TO HOMEOWNERS

SEC. 201. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended to read as follows:

"(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member, shall have a maturity not to exceed fifteen years or any longer term which the Board may allow unless such loan is insured or guaranteed as provided in subparagraph (iii);".

FAITHFUL PERFORMANCE

SEC. 202. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended by striking out the third sentence and inserting in lieu thereof the following: "The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 113(2) of this Act".

MEMBERSHIP OFFICER

SEC. 203. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out "of the board of directors" in paragraph (1) and inserting in lieu thereof "of the credit union.".

POWERS OF THE BOARD OF DIRECTORS

SEC. 204. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;".

NONPARTICIPATION IN THE CREDIT UNION

SEC. 205. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended—

(1) by striking out "subject to" in subsection (a) and inserting in lieu thereof "except as provided in"; and

(2) by inserting "and enforce" after "adopt" in subsection (b).

CHANGE IN INSURANCE STATUS

SEC. 206. Section 206(d)(2) of the Federal Credit Union Act (12 U.S.C. 1786(d)(2)) is amended to read as follows:

"(2) No credit union shall convert from status as an insured credit union under this Act as provided under subsection (a)(2) of this section until the proposition for such conversion has been approved by a majority of all the directors of the credit union and by affirmative vote on a majority of the members of the credit union who vote on the proposition. Following approval by the directors, written notice of the proposition and of the date set for the membership vote shall be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. The written notice of the proposition shall in boldface type state that the issue will be decided by a majority of the members who vote. The membership shall be given the opportunity to vote by mail ballot. If the proposition is approved by the membership, prompt and reasonable notice of insurance conversion shall be give to all members.".

SUNSET OF CREDIT UNION CONSERVATORSHIP AUTHORITY

SEC. 207. Section 141(a)(8) of Public Law 97-320 is amended by striking out "sections 131 and 132" and inserting in lieu thereof "section 131".

TITLE III—BANKERS BANKS AMENDMENT TO SECTION 5136 OF THE REVISED STATUTES

SEC. 301. The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by striking out *"Provided further,* That" and all that follows through the end thereof and inserting in lieu thereof the following: *Provided further,* That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank or holding company which owns or controls such a bank if (1) the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (2) such bank or company and all subsidiaries thereof are engaged exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each. In no event shall the total amount of stock held by the association in any bank or holding company described in the immediately preceding proviso exceed at any time 10 per centum of the association's capital stock and paid-in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company.".

AMENDMENT TO SECTION 5169 OF THE REVISED STATUTES

SEC. 302. Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended to read as follows:

"(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association if (A) such association or its parent holding company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (B) the association, its parent holding company, and all subsidiaries thereof are organized to engage exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT

SEC. 303. (a) Section 202(3) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)) is amended—

(1) by striking out "; or" after paragraph (C) and inserting in lieu thereof a period; and

(2) by striking out paragraphs (D) and (E).

(b) Section 205(6) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(6)) is amended to read as follows:

"(6) A Federal Home Loan Bank or any bank or the parent holding company thereof organized specifically to serve depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 304. (a) Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by inserting after the first sentence thereof the following: "The term 'bank' also includes a State chartered bank or a national banking association if (A) such bank or its parent holding company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (B) such bank, its parent holding company, and all subsidiaries thereof are organized to engage exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officer, directors, and employees of each.".

(b) Section 4(c)(14)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(F)) is amended—

(1) by striking the period after clause (i) and inserting in lieu thereof a semicolon;

(2) by inserting "and" after clause (ii);

(3) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) notwithstanding any other provision of law, the term 'bank holding company' shall include a bank if (1) such bank or its parent holding company is owned primarily by depository institutions, and (2) such bank, its parent holding company, and all subsidiaries thereof are organized to engage exclusively (except as provided in this paragraph) in providing services for depository insitutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each. No depository institution, owning stock in a bank or a holding company described in this clause which invests in an export trading company, shall extend credit to an export trading company in an amount exceeding at any one time 10 per centum of such depository institution's capital and surplus."; and

(4) by striking out clause (iv).

TITLE IV—COMPETITIVE SAVINGS INCENTIVE

SHORT TITLE

SEC. 401. This title shall be referred to as the "Competitive Savings Incentive Act of 1983".

MONEY MARKET DEPOSIT ACCOUNTS

SEC. 402. Section 19(c) of the Federal Reserve Act (12 U.S.C. 461) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, reserves held by—

"(A) any bank, savings and loan association or mutual or stock savings bank against accounts authorized by section 327 of the Garn-St Germain Depository Institutions Act of 1982 and regulations promulgated thereunder or transaction accounts authorized after December 1, 1982, pursuant to section 327 of the Garn-St Germain Depository Institutions Act of 1982 or sections 203 and 204 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 3502 and 3503);

"(B) any insured credit union against any ceiling free accounts authorized by section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) and regulations promulgated thereunder; or

"(C) any other institution against any comparable accounts authorized under laws and regulations applicable to such institutions, where such reserves are held pursuant to Federal law,

may be in the form of vault cash, or as deposits in an Earnings Participation Account at a Federal Reserve Bank which shall receive earnings to be paid each month at the rate earned on the securities portfolio of the Federal Reserve System during that month. The earnings on such portfolio shall be passed through on a prorated basis. The Board may prescribe rules and regulations concerning the maintenance and administration of Earnings Participation Accounts under this paragraph.".

TITLE V—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

SHORT TITLE

SEC. 501. This title may be cited as the "Consumer Lease and Lease-Purchase Agreement Act".

AMENDMENT TO THE CONSUMER CREDIT PROTECTION ACT

SEC. 502. The Consumer Credit Protection Act is amended by adding at the end thereof the following new title:

"TITLE X—CONSUMER LEASE AND LEASE-PURCHASE ACT

"Chap. Sec.
"1. General Provisions 101
"2. Consumer Leases and Lease-Purchase Agreements 111
"3. Enforcement and Liability 121
"4. Miscellaneous 131

"CHAPTER 1—GENERAL PROVISIONS

"Sec.
"101. Short title.
"102. Findings and declaration of purpose.
"103. Definitions and rules of construction.
"104. Exempted transactions.
"105. Regulations.

"CHAPTER 2—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

"Sec.
"111. General requirements of disclosure.
"112. Consumer lease disclosures.
"113. Consumer's liability at early termination or at the end of the lease term.
"114. Lease-purchase disclosures.
"115. Renegotiations and extensions.
"116. Consumer lease advertising.
"117. Lease-purchase advertising.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"Sec.
"121. Administrative enforcement.
"122. Civil liability.
"123. Defenses.
"124. Liability of assignees.
"125. Criminal liability.

"CHAPTER 4—MISCELLANEOUS

"Sec.
"131. Relation to State laws.
"132. Effect on governmental agencies.
"133. Reports by Board and Attorney General.
"134. Effective date.

"TITLE X—CONSUMER LEASE AND LEASE-PURCHASE ACT

"CHAPTER 1—GENERAL PROVISIONS

"§ 101. Short title

"This title may be cited as the 'Consumer Lease and Lease-Purchase Act'.

"§ 102. Findings and declaration of purpose

"(a) The Congress finds that the leasing of consumer goods continues to be a popular alternative to installment credit purchases. It is the purpose of this title to assure a more meaningful disclosure of the terms of leases of personal property for personal, family or household purposes, permitting the consumer to compare more readily the various lease terms available; to limit the potential balloon payment in consumer leases to a reasonable amount; and to assure accurate disclosures of lease terms in advertising.

"(b) The Congress also finds that a significant number of consumers have begun to acquire ownership of personal property through lease-purchase agreements. These lease-purchase agreements have been offered without adequate cost disclosures. It is the purpose of this statute to assure meaningful disclosure of the terms of lease-purchase agreements; to make the consumer aware of the total cost of the agreement; to inform the consumer when ownership will transfer; and to assure accurate disclosures of lease-purchase terms in advertising.

"§ 103. Definitions and rules of construction

"(a) The following definitions apply to this title:

"(1) 'Advertisement' means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer lease or a lease-purchase agreement.

"(2) 'Agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, and manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmlands, real property with a farm residence, and personal property and services used primarily in farming.

"(3) 'Board' refers to the Board of Governors of the Federal Reserve System.

"(4) 'Consumer' means a natural person who leases personal property under a consumer lease or rents personal property under a lease-purchase agreement.

"(5) 'Consumer lease' means a contract in the form of a lease or bailment for the use of personal property, and the purchase of services incidental thereto, by a natural person primarily for personal, family, or household purposes, for a period exceeding four months, in which the total lease cost is not more than $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the expiration of the lease. The term does not include any 'credit sale' as defined in title I.

"(6) 'Consummation' means the time a consumer becomes contractually obligated on a consumer lease or lease-purchase agreement.

"(7) 'Lessor' means a person who regularly provides the use of property through consumer leases or lease-purchase agreements and to whom the obligation is initially payable on the face of the lease or lease-purchase agreement.

"(8) 'Personal property' means any property that is not real property under the laws of the State where it is located when it is made available for a consumer lease or a lease-purchase agreement.

"(9) 'Lease-purchase agreement' means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term does not include any 'credit sale' as defined in title I.

"(10) 'Residual value' means the wholesale or retail fair market value of the leased property at early termination or the end of the lease term in a consumer lease.

"(11) 'State' refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

"(b) Unless the context indicates otherwise, the term 'lease' means consumer lease, and the term 'agreement' means lease-purchase agreement.

"(c) Any reference to any provisions of this title includes reference to the regulations of the Board under this title.

"§ 104. Exempted transactions

"This title does not apply to the following:

"(1) Consumer leases and lease-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with government agencies of instrumentalities or with organizations.

"(2) A lease of a safe deposit box.

"(3) A lease or bailment of personal property which is incidental to the lease of real property, and which provides that the consumer has no liability for the value of the property at scheduled expiration except for abnormal wear and tear and that the consumer has no option to purchase the leased property.

"§ 105. Regulations

"(a) The Board shall write regulations to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements. The regulations may contain classifications and differentiations and may provide for adjustments and exceptions for any class of transaction.

"(b) The Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements and to aid the consumer in understanding the transaction. In designing forms, the Board shall consider the use by lessors of data processing or similar automated equipment. Use of the models shall be optional. A lessor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.

"(c) Any regulation of the Board, or any amendment or interpretation thereof, that requires a disclosure different from the disclosures previously required shall have an effective date of October 1 that follows the date of promulgation by at least six months. The Board may at its discretion lengthen that period of time to permit lessors to adjust their forms to accommodate new requirements. The Board may also shorten that period of time if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, lessors may comply with any newly promulgated disclosure requirement prior to its effective date.

"CHAPTER 2—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

"§ 111. General requirements of disclosure

"(a) The lessor shall disclose to the consumer the information required by this title. In a transaction involving more than one consumer, a lessor need disclose to only one of the consumers who are primarily obligated. In a transaction involving more than one lessor, only one lessor need make the disclosures.

"(b) The disclosures shall be made at or before consummation of the consumer lease or lease-purchase agreement.

"(c) The disclosures shall be made clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required under sections 112 and 114 shall be segregated from all other terms, data, or information provided.

"(d) Information required to be disclosed may be given in the form of estimates and identified as such when the lessor does not know the exact information.

"(e) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosures, the resulting inaccuracy is not a violation of this title.

"§ 112. Consumer lease disclosures

"For each consumer lease, the lessor shall disclose the following items, as applicable:

"(1) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(2) The number, amounts, and timing of scheduled payments.

"(3) The total of scheduled payments.

"(4) The total of amounts payable at the expiration of the lease (not including any difference between the anticipated residual value and the actual residual value).

"(5) The total lease cost, which is the sum of items (1), (3), and (4).

"(6) The amount of any required security deposit.

"(7) When the consumer buys required insurance from or through the lessor, the total cost. When the consumer does not buy required insurance from or through the lessor, a statement that the consumer must buy insurance and that the cost is not included in the numerical disclosures.

"(8) When any official fees and taxes are paid to or through the lessor, the total cost. When any official fees or taxes are not paid to or through the lessor, a statement that the consumer must pay official fees or taxes and that the amounts are not included in the numerical disclosures.

"(9) Any dollar charge or percentage amount that may be imposed for a late payment, other than a deferral or extension charge.

"(10) A statement that the consumer may be liable for additional amounts if the lease is terminated early.

"(11) When the consumer's liability is based on the residual value of the property, a statement that the consumer may have the property appraised at the consumer's expense by an independent third party agreed to by the consumer and lessor, and that the parties will be bound by the appraisal.

"(12) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the property:

"(A) The anticipated residual value of the property, marked as wholesale or retail;

"(B) A brief statement of the consumer's potential liability at the end of the lease term;

"(C) The product of three times the average payment allocable to a month; and

"(D) A statement that the consumer's liability will generally be limited to item (12)(C) unless the excess is a result of excessive use or unreasonable wear and use, or the lessor brings a successful court action proving that the estimate of the anticipated residual value was reasonable.

"(13) A statement that the consumer may have other costs and that the consumer should refer to the appropriate lease document for information about nonpayment and default, wear and use standards, and maintenance responsibility.

"§ 113. Consumer's liability at early termination or at the end of the lease term

"(a) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the leased property, the anticipated residual value shall be a reasonable estimate of the actual residual value of the property at the end of the lease term. There shall be a rebuttable presumption that the anticipated residual value is unreasonable to the extent that it exceeds the actual residual value at the end of the lease term by more than three times the average payment allocable to a month. The lessor shall not collect any amount in excess of three times the average payment allocable to a month unless the lessor brings a successful action in court providing that the estimate was reasonable. If the lessor fails to rebut the presumption, the lessor must pay the costs of the action and the consumer's reasonable attorney's fees.

"(b) The presumption in subsection (a) shall not apply to the extent that the excess of the anticipated residual value over the actual residual value is due to damage to the property beyond reasonable wear and use or to excessive use. The lessor may set reasonable standards for wear and use in the lease.

"(c) Subsection (a) does not preclude the right of a willing consumer and lessor to make a mutually agreeable final adjustment with respect to the excess of three times the average payment allocable to a month, provided the agreement is made after the end of the lease term.

"(d) In the lease the lessor may specify penalties or other charges for delinquency, default, or early termination, if the amounts are reasonable in light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

"(e) When the consumer's liability is based on the residual value of the leased property, the consumer may obtain at the consumer's expense a professional appraisal of the property by an independent third party agreed to by both parties. This appraisal shall be binding on the parties.

"§ 114. Lease-purchase disclosures

"For each lease-purchase agreement, the lessor shall disclose the following items, as applicable:

"(1) The number, amounts and timing of all payments necessary to acquire ownership of the property.

"(2) The total of payments necessary to acquire ownership of the property.

"(3) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership.

"(4) A statement that the total of payments does not include other charges, such as late payment, default, pickup, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges.

"(5) A statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

"(6) A statement indicating whether the property is new or used.

"§ 115. Renegotiations and extensions

"(a) A renegotiation occurs when an existing consumer lease or lease-purchase agreement is satisfied and replaced by a new lease or agreement undertaken by the same lessor and consumer. A renegotiation is a new lease or agreement requiring new disclosures. However, events such as the following shall not be treated as renegotiations:

"(1) The addition or return of property in a multiple-item lease or agreement or the substitution of the leased property, if in either case the average payment allocable to a payment period is not changed by more than 25 per centum.

"(2) A deferral or extension of one or more periodic payments, or portions of a periodic payment.

"(3) A reduction in charges in the lease or agreement.

"(4) A lease or agreement involving a court proceeding.

"(5) Any other event described in regulations prescribed by the Board.

"(b) No disclosures are required for any extension of a consumer lease or a lease-purchase agreement. However, a lessor that extends or permits a consumer to extend a consumer lease for more than one month beyond the end of the lease term shall (for purposes of section 113) recalculate the anticipated residual value of the leased property to reflect the depreciation resulting from the extended term.

"§ 116. Consumer lease advertising

"(a) If an advertisement for a consumer lease states the amount of any payment or states that any or no initial payment is required, the advertisement must also clearly and conspicuously state the following item, as applicable:

"(1) That the transaction advertised is a lease.

"(2) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(3) That a security deposit is required.

"(4) the number, amounts, and timing of scheduled payments.

"(5) For a lease in which the consumer's liability at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

"(b) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"§ 117. Lease-purchase advertising

"(a) If an advertisement for a lease-purchase agreement refers to or states the amount of any payment or the right to acquire ownership, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a lease-purchase agreement.

"(2) The total of payments necessary to acquire ownership.

"(3) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.

"(b) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"§ 121. Administrative enforcement

"(a) Compliance with the requirements imposed by this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation; and

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the National Credit Union Administration with respect to any Federal credit union; and

"(4) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to, a violation of a requirement imposed by this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each agency may exercise any other authority conferred on it by law in enforcing any requirement imposed under this title.

"(c) Except to the extent that enforcement of the requirements imposed by this title is specifically committed to some other agency under subsection (a), the Federal Trade Commission shall enforce the requirements. For the purpose of exercising its functions and powers under the Federal Trade Commission Act, a violation of any requirment imposed by this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed by this title, whether or not that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed by this title.

"§ 122. Civil liability

"(a) Except as otherwise provided in this title, a lessor who fails to comply with a requirement of sections 111, 112, 113, 114, or 115 with respect to a consumer is liable to the consumer in an amount equal to the sum of—

"(1) actual damage sustained by the consumer as a result of the violation;

"(2) in the case of an individual action relating to a consumer lease, 25 per centum of the total of scheduled payments under the lease, but not less than $100 nor greater than $1,000;

"(3) in the case of an individual action relating to a lease-purchase agreement, 25 per centum of the total of payments necessary to acquire ownership, but not less than $100 nor greater than $1,000;

"(4) In the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member. The total recovery in any class action or series of class actions arising out of the same violation may not be more than the lesser of $500,000 or 1 per centum of the net worth of the lessor. In determining the amount of the award in any class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional; and

"(5) the costs of the action and reasonable attorney's fees as determined by the court.

"(b) In the case of an advertisement, any lessor who fails to comply with the requirements of sections 116 and 117 with regard to any person is liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees.

"(c) When there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. When no disclosures have been given, liability shall be imposed on all lessors.

"(d) When there are multiple consumers in a consumer lease or a lease-purchase agreement, there shall be only one recovery of damages under subsection (a) for a violation of this title.

"(e) Multiple violations in connection with a single consumer lease or lease-purchase agreement entitle the consumer to a single recovery under this section.

"(f) An action under this section may be brought in any United States district court or in any other court of competent jurisdiction within one year of the date of the occurrence of the violation, except that in the case of a violation under section 113 an action may be brought within one year of the end of the lease term. This subsection does not bar a consumer from asserting a violation of this title in an action to collect the debt brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or setoff, except as otherwise provided by State law.

"(g) A consumer may not take any action to offset any amount for which a lessor is potentially liable under subsection (a) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdication in an action in which the lessor was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action brought by the lessor to collect amounts owed by the consumer.

"§ 123. Defenses

"(a) A lessor is not liable under sections 121, 122, or 125 for a violation of the requirements of sections 111, 112, and 114 if within sixty days after discovering the error, and before an action under section 122 is filed or written notice of the error is received from the consumer, the lessor notifies the consumer of the error and makes whatever adjustments in the account are necessary to assure that the consumer will not be required to pay an amount in excess of the amounts actually disclosed. This provision applies whether the discovery of the error was made through a final written examination report or the lessor's own procedures.

"(b) A lessor is not liable under section 122 for a violation of this title if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error even though the lessor maintained procedures reasonably adapted to avoid such error. Examples of a bona fide error include, but are not limited

to, clerical, calculation, computer malfunction and programing, and printing errors. An error of legal judgment with respect to the requirements of this title is not a bona fide error.

"(c) A lessor is not liable under this title for any act done or omitted in good faith in conformity with any rule, regulation, interpretation, or approval promulgated by the Board or by an official duly authorized by the Board. This rule applies even if, after the act or omission has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"§ 124. Liability of assignees

"(a) For purposes of sections 122 and 123, the term 'lessor' as used in those sections shall include an assignee of the lessor. However, a civil action for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the disclosure statement. A violation apparent on the face of the disclosure statement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned. An assignee has no liability where the assignment is involuntary.

"(b) In an action by or against an assignee, the consumer's written acknowledgement of receipt shall be conclusive proof that the disclosures were made, provided the assignee had no knowledge that disclosures had not been made when the assignee acquired the obligation.

"§ 125. Criminal liability

"A fine of $5,000 or a prison term of not more than one year, or both, may be imposed on anyone who willfully and knowingly fails to comply with any requirement imposed under this title.

"CHAPTER 4—MISCELLANEOUS

"§ 131. Relation to State laws

"(a) This title does not annul, alter, or affect the laws of any State regarding the disclosure of consumer leases or lease-purchase agreements, nor does this title exempt any person subject to the provisions of this title from complying with the laws of any State with respect to consumer leases or lease-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The laws of a State are inconsistent if a person is unable to comply with them without violating a provision of this title. The Board is authorized to determine whether such inconsistencies exist.

"(b) The Board shall by regulation exempt from the requirements of this title any class of lease transactions and lease-purchase agreements within any State if it determines that the State law contains requirements substantially similar to those imposed by this title or gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement.

"(c) Except as specified in sections 122 and 123, this title does not affect the validity or enforceability of any contract or obligation under State or Federal law.

"(d) Determinations under this section may be requested by any State.

"§ 132. Effect on governmental agencies

"No civil or criminal penalty provided by this title for violations may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of any State or political subdivision.

"§ 133. Reports by Board and Attorney General

"Each year the Board and the Attorney General shall report to the Congress concerning the administration of their functions under this title, including any recommendations necessary or appropriate. In addition, the Board's report shall include its assessment of the extent to which compliance with the requirements imposed by this title is being achieved.

"§ 134. Effective date

"(a) This title shall take effect on the October 1 that is at least two years after the date of its enactment.

"(b) All regulations, forms, and clauses required to be prescribed shall be promulgated one year prior to such effective date.

"(c) Notwithstanding subsections (a) and (b), any lessor may comply with the requirements of this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.".

CONFORMING AMENDMENTS

SEC. 503. (a) Section 102 of the Truth in Lending Act is amended by striking out "(a)" before "The Congress" and by striking out subsection (b).

(b) Section 105(b) of such Act is amended by striking out "or lessee", by striking out "or lessors", and by striking out "or lessor" each place it appears.

(c) Section 105(d) of such Act is amended by striking out ", or chapter 5", by striking out "or lessors" each place it appears, and by striking out "or lessor".

(d) Section 121(a) of such Act is amended by striking out "a consumer lease or", and by striking out "or lessor".

(e) Section 121(b) of such Act is amended by striking our "or one lessor as defined in section 181(3)," and by striking out "or lessor" each place it appears.

(f) Section 122(b) of such Act is amended by striking out "or lessor" and by striking out "chapters 4 and 5" and inserting in lieu thereof "chapter 4".

(g) Section 130(a) of such Act is amended by striking out "or 5", by striking out "(i)", by striking out "or (ii) in the case of an individual action relating to a consumer lease under chapter 5 of this title, 25 per centum of the total amount of monthly payments under the lease,", and by striking out "or 5".

(h) Section 130(b) of such Act is amended by striking out "or chapter 5".

(i) Section 130(d) of such Act is amended by striking out "or consumer lease".

(j) Section 130(g) of such Act is amended by striking out "or 5" and by striking out "consumer lease,".

(k) Chapter 5 of title I of the Consumer Credit Protection Act is repealed.

TITLE VI—DEPOSIT AVAILABILITY

SHORT TITLE

SEC. 601. This title may be cited as the "Fair Deposit Availability Act of 1984".

DEFINITIONS

SEC. 602. As used in this title—

(1) the term "depository institution" means—

(A) any insured bank or domestic branch as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act, other than a foreign bank having an insured or uninsured branch;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(D) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act:

(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(F) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act;

(2) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawal accounts, share draft accounts, savings deposits, and share accounts. Such term does not include time deposits;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "check or similar instrument" means a check, negotiable order of withdrawal, share draft, money order, or similar instrument, but does not include noncash items.

DISCLOSURE OF FUND AVAILABILITY POLICIES

SEC. 603. (a) Before opening a deposit account, a depository institution shall provide a written disclosure to the potential customer of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account. In the case of a deposit account which was opened prior to the effective date of this section, the depository institution shall include such disclosure with the first regularly scheduled mailing pertaining to the account which occurs after such effective date (but not later than 90 days after such effective date) unless the depository institution has provided a disclosure which meets the requirements of this section prior to such effective date.

(b) Each depository institution shall post at each location where its employees receive deposits a clear and conspicous notice setting forth its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument.

(c) Each depository institution shall—

(1) provide at each automatic or electronic terminal location where deposits may be made a brief reminder that deposits by check or similar instrument may not be available for immediate withdrawal; and

(2) mail at least annually a brief reminder with respect to an account that deposits by check or similar instrument may not be available for immediate withdrawal.

(d) Any change to a depository institution's general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account, other than a change which expedites the availability of such funds, may take effect only after the depository institution has provided notice of the change to the customer.

(e) Each depository institution shall provide disclosure, consistent with the disclosures required under subsection (a), by telephone of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into a customer's account upon the telephone request of any person.

(f) The Board shall prescribe regulations to carry out this section. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines are necessary to effectuate the purposes of this section, to prevent circumvention or evasion of this section, or to facilitate compliance with this section. The regulations of the Board shall require all disclosures, statements, and notices provided to be clear and conspicuous and in language that can be readily understood.

(g) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this title requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format.

(h) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

INTEREST ON DEPOSITS

SEC. 604. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument, or if provisional credit is given on a nonbusiness day, on the next business day. Nothing in the preceding sentence requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.

IMPROVED CLEARING PROCEDURES

SEC. 605. (a) Not later than 18 months after the date of enactment of this title, the Board shall publish for comment a regulation for the purpose of improving the check clearing system used by depository institutions by expediting the process for returning checks or other means in order to achieve the goal of—

(1) making deposits of funds by check or similar instrument drawn on local depository institutions available for withdrawal upon the expiration of one business day after deposit, and

(2) making deposits of funds by check or similar instrument drawn on other depository institutions available for withdrawal upon the expiration of three business days after deposit.

This subsection does not apply to any check or similar instrument which poses a serious risk of loss to a depository institution.

(b) In prescribing the regulation under subsection (a), the Board shall consider—

(1) adopting a uniform endorsement standard;

(2) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit;

(3) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(4) providing for return of all checks and similar instruments through the Federal Reserve System's clearinghouse;

(5) extending limits for returns;

(6) establishing schedules for the availability of funds deposited by checks and similar instruments;

(7) prescribing the availability of funds deposited by checks and similar instruments based on the nature of the account to which the deposit was made or the nature of the account holder;

(8) the use of electronic means of collecting and returning checks;

(9) providing for check truncation;

(10) the establishment of an automated return system;

(11) creating incentives for depository institutions to return unpaid items promptly to the depository institution of first deposit; and

(12) keeping the costs of any improvements to be implemented to a minimum.

(c) The regulation prescribed under subsection (a) shall become effective not later than 36 months after the date of enactment of this section. Each depository institution shall comply with the provisions of such regulation.

(d) The Board shall establish an Expedited Funds Availability Council (hereinafter referred to as the "Council") to advise and consult with the Board in the exercise of its functions under this section. The Council shall consist of—

(1) the Comptroller of the Currency or his delegate;

(2) the Chairman of the Federal Deposit Insurance Corporation or his delegate;

(3) the Chairman of the Federal Home Loan Bank Board or his delegate;

(4) the Chairman of the National Credit Union Administration Board or his delegate;

(5) two members of the Consumer Advisory Council designated by the Board;

(6) one representative from the users of payment systems services; and

(7) one representative from the providers of payment systems services in competition with the services offered by the Federal Reserve System.

The Council shall meet from time to time at the call of the Board.

AVAILABILITY OF CERTAIN FUNDS

SEC. 606. The Secretary of the Treasury shall by regulation require that funds deposited by a check drawn on the Treasury of the United States, which is first endorsed for deposit by a customer who has an established relationship, as defined by the Board, with the depository institution shall be available for withdrawal by that customer not later than the date when the depository institution is given provisional credit for that check or, if provisional credit is given on a nonbusiness day, on the next business day.

ADMINISTRATIVE ENFORCEMENT

SEC. 607. (a) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owner's Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the appropriate State regulatory authority shall enforce such requirements.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other authority designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

CIVIL LIABILITY

SEC. 608. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under section 603 (other than subsection (e)), 604, or 606 with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $50 nor greater than $500; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among

other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

(b) A depository institution may not be held liable in any action brought under this section for a violation of sections 603, 604, or 606 if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

(c) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(d) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

EFFECT ON CHECK ACCEPTANCE POLICIES AND OTHER LAWS

SEC. 609. (a) Nothing in this title—

(1) prevents a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than is provided in this title or in regulations adopted by the Board; and

(2) affects a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check is accepted for deposit and the depository insitution has made provisional settlement with the depositor, pursuant to law to—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

(b) Except as provided in subsection (a), the provisions of this title or the regulations of the Board prescribed under this title shall supersede the provisions of any State law which the Board determines to be inconsistent with the provisions of this title or such regulation, but only to the extent of the inconsistency.

IMPROVING PAYMENT MECHANISMS

SEC. 610. Not later than one year after the implementation of any regulations under section 605 of this title, the Board shall prepare a study and submit its findings to the Congress on the effect of improvements and changes in the payments system, including—

(1) the effect of the changes made by section 605 of this title, and the advisability and feasibility of further changes;

(2) an assessment of improvements that can be made in the check collection system, including improved procedures for the return of unpaid items, reduction of costs, reduction in the number of returned checks, greater speed and efficiency in the check collection and return system, utilization of more efficient technology, and parity of treatment of depository institutions; and

(3) an assessment of the use of electronics in payments and of the need for improvements in the way the payments system provides services so as to insure efficient and affordable services, inluding the possible development of additional electronic services.

EFFECTIVE DATE

SEC. 611. Except as provided in section 605, this title takes effect upon the expiration of twelve months following its enactment.

TITLE VII—CREDIT DEREGULATION AND AVAILABILITY

SEC. 701. This title may be cited as the "Credit Deregulation and Availability Act of 1984".

BUSINESS AND AGRICULTURAL CREDIT

SEC. 702. (a) Section 511 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 161; Public Law 96-221) is amended to read as follows:

"BUSINESS AND AGRICULTURAL LOANS

"SEC. 511. (a)(1) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of business of agricultural credit, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge, interest at a rate of not more than 5 per centum in excess of the United States Treasury's 3-year constant maturity rate series.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

"(b) As used in this part, the term—

"(1) 'agricultural credit' means credit extended primarily for agricultural purposes to a person that cultivates, plants, propagates, or nurtures an agricultural product;

"(2) 'agricultural purposes' include the production, harvest, exhibition, marketing, transportation, processing, or manufacturing of an agricultural product and the acquisition of farmland, real property with a farm residence and personal property and services used primarily in farming;

"(3) 'agricultural product' include agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish and any products thereof, including processed and manufactured products and any and all products raised or produced on farms and any processed or manufactured products thereof;

"(4) 'business credit' means credit extended primarily for business or commercial purposes, including investment, and any credit extended to a person other than a natural person; and

"(5) 'credit' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals and other extensions of credit.".

(b) Section 512 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended to read as follows:

"APPLICABILITY

"SEC. 512. (a) The provisions of this part shall apply with respect to business and agricultural credit extended on or after April 1, 1980, and prior to the earlier of July 1, 1987, or a date determined under subsection (b).

"(b) The provisions of this part shall not apply to any business or agricultural credit extended in any State after the effective date (if such effective date occurs on or after April 1, 1980, and prior to three years after the effective date of the Credit Deregulation and Availability Act of 1984) of a State law or a certification that the voters of such States have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to credit extensions subject to the laws of such State, except that such provisions shall apply to any credit extended on or after such effective date pursuant to a commitment to extend such credit which was entered into on or after April 1, 1980, and prior to such effective date.

"(c) Credit shall be deemed to be extended during the period to which the provisions of this part apply if such credit extension—

"(1)(A)(i) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(ii) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(iii) is a renewal, extension, or other modification of an extension of credit made prior to April 1, 1980, and such renewal or extension or other modification is made during such period with the written consent of any person obligated to repay such credit; and

"(B)(i) has an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980 or any amount on or after the effective date of the Credit Deregulation and Availability Act of 1984); or

"(ii) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980 or any amount on or after the effective date of the Credit Deregulation and Availability Act of 1983); or

"(2) is a renewal, extension, other modification or use of a credit agreement or extension made during such period, including an agreement entered during that period that contemplates future extensions of credit from time to time in which the charges that are assessed for or in connection with credit are calculated from time to time, in whole or in part, on the basis of the outstanding balance and the credit is extended not later

than eighteen months after the effective date of the State law or certification.".

"(c) The Board of Governors of the Federal Reserve System shall conduct a study of the effects of the amendments made by this section on interest rates and on the availability of business and agricultural credit, and shall report its findings to the Congress not later than December 31, 1986.

FEDERAL CREDIT UNIONS

SEC. 703. Section 107(5)(A)(vi) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)) is amended to read as follows:

"(vi) rates of interest shall be established by the board of directors of the Federal credit union;".

EFFECTIVE DATE

SEC. 704. This title shall take effect upon its enactment.

TITLE VIII—DEPOSIT BROKERS

SHORT TITLE

SEC. 801. This title may be cited as the "Brokered Deposits Act of 1984".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 802. (a) Section 401 of the National Housing Act (12 U.S.C. 1724) is amended by adding at the end thereof the following:

"(e) The term 'deposit broker' means any person, other than an insured institution or an affiliate thereof in respect of funds placed with that insured institution, which, for a fee, places funds or facilitates the placement of funds of third parties in accounts issued by an insured institution.

"(f) The term 'short-term account' means any savings account which is (1) payable on a certain date less than one year after the date of deposit, (2) payable at the expiration of a specified period less than one year after the date of deposit, (3) payable upon written notice to be given less than one year before the date of repayment, (4) payable one year or more after the date of deposit and which bears interest at a rate indexed to the rate or yield on obligations or loans having a maturity of one year or less, (5) payable upon demand, or (6) a savings account which has no fixed maturity and with respect to which the insured institution must reserve the right to require notice (or the account holder may be required at any time to give notice) of less than one year before any withdrawal is made.".

(b) The National Housing Act is amended by adding at the end thereof the following:

"INSURANCE OF BROKERED DEPOSITS"

SEC. 415. The Corporation may not promulgate any rule or regulation or issue any order or interpretation which would have the effect of causing the deposit insurance available to a person for deposits or accounts placed by or through a deposit broker to differ from the deposit insurance available to such person for deposits or accounts not placed by or through a deposit broker. The Corporation may issue rules and regulations in connection with the deposit insurance available pursuant to this section.

"LIMITATIONS ON BROKERED DEPOSITS

"SEC. 416. (a)(1) On and after the date of enactment of the Brokered Deposits Act of 1984, an insured institution may not accept or maintain short-term insured accounts placed by or through a deposit broker in excess of the lesser of—

"(A) two hundred percent of such insured institution's unimpaired capital and unimpaired surplus; or

"(B) fifteen percent of such insured institution's total deposits.

"(2) Except as provided in subsection (c), an insured institution which fails to satisfy the minimum net worth requirements established by the Board shall not accept any additional insured accounts placed by or through a deposit broker.

"(b) Any accounts held by an insured institution as of the date of enactment of the Brokered Deposits Act of 1984 in excess of the limitations set forth by this section may be held by such insured institution until their stated maturity. For purposes of this section, an account without a fixed or stated maturity shall be deemed to have a maturity of one month from the date of enactment of the Brokered Deposits Act of 1984.

"(c) The Corporation may grant permission to any insured institution, upon notice and application, to have or obtain short-term insured accounts placed by or through a deposit broker in excess of the limitations established by this section. Such permission shall be granted by the Corporation in a flexible manner giving equal weight to both competitive factors and safety and soundness considerations.".

AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 803. (a) The Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following:

"(u) The term 'deposit broker' means any person, other than an insured bank or an affiliate thereof in respect of funds placed with that insured bank, which, for a fee, places funds or facilitates the placement of funds of third parties with insured banks.

"(v) The term 'short-term deposit' means a deposit which is (1) payable on a certain date less than one year after the date of deposit, (2) payable at the expiration of a specified period less than one year after the date of deposit, (3) payable upon written notice to be given less than one year before the date of repayment, (4) payable one year or more after the date of deposit and which bears interest at a rate indexed to the rate or yield on obligations or loans having a maturity of one year or less, (5) payable upon demand, or (6) a deposit insured bank must reserve the right to require notice (or the despositor may be required at any time to give notice) of less than one year before any withdrawal is made.".

(b) The Federal Deposit Insurance Act is amended by adding at the end thereof the following:

"INSURANCE OF BROKERED DEPOSITS

"SEC. 28. The Board of Directors may not promulgate any rule or regulation or issue any order or interpretation which would have the effect of causing the deposit insurance available to a person for deposits placed by or through a deposit broker to differ from the deposit insurance available to such person for deposits not placed by or though a deposit broker. The Board of Directors may issue rules and regulations in connection with the deposit insurance available pursuant to this section.

"LIMITATIONS ON BROKERED DEPOSITS

"SEC. 29. (a)(1) On and after the date of enactment of the Brokered Deposits Act of 1984, an insured bank may not accept or maintain short-term insured deposits placed by or through a deposit broker in excess of the lesser of—

"(A) two hundred percent of such insured bank's unimpaired capital and unimpaired surplus;

"(B) fifteen percent of such insured bank's total deposits.

"(2) Except as provided in subsection (c), an insured * * * ments established by the appropriate Federal banking agency shall not accept any additional insured accounts placed by or through a deposit broker.

"(b) Any deposits held by any insured bank as of the date of enactment of the Brokered Deposits Act of 1984 in excess of the limitations set forth by this section may be held by such insured bank until their stated maturity. For purposes of this section, a deposit without a fixed or stated maturity shall be deemed to have a maturity of one month from the date of enactment of the Brokered Deposits Act of 1984.

"(c) The appropriate Federal banking agency may grant permission to any insured bank, upon notice and application, to have or obtain short-term insured deposits placed by or through a deposit broker in excess of the limitations established by this section. Such permission shall be granted by such agency in a flexible manner giving equal weight to both competitive factors and safety and soundness considerations.".

TITLE IX—FRAUDULENT USE OF CREDIT CARDS AND DEBIT CARDS

FRAUDULENT USE OF CREDIT CARDS

SEC. 901. Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more;

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card;

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards;

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently

obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained.

"(7) in a transaction affecting interstate or foreign commerce, knowingly furnishes, transfers, or obtains a credit card for use in connection with a scheme to defraud a consumer or any other person;

"(8) in a transaction affecting interstate or foreign commerce, with unlawful or fraudulent intent, furnishes, acquires or uses any actual or fictitious credit card account numbers or identification or other access codes, whether alone or together with names of credit card holders, or other information pertaining to a credit card account in any form, and as they may be reflected or retained in any medium; or

"(9) with unlawful or fraudulent intent, possesses five or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards that have moved in, been a part of, or constituted interstate or foreign commerce,

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b)(1) In determining the aggregate value for the purpose of any provision of subsection (a), there shall be included the dollar value of all transactions by a person using one or more credit cards in a course of conduct in violation of such provision.

"(2) As used in this section, the term 'credit card' includes account numbers or any other means of account access that can be used, alone or in conjunction with another means of access to obtain money, goods, services, or any other thing of value.

"(c) Any person who is convicted of a violation of any provision of subsection (a) or section 916 shall, for any subsequent violation of a provision of subsection (a) or section 916, be fined not more than $100,000 or imprisoned not more that 20 years, or both.".

FRAUDULENT USE OF DEBIT CARDS

SEC. 902. (a) Section 916(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693n(b)) is amended by striking out "obtained—" in paragraph (6) and inserting in lieu thereof the following: "obtained; or

"(7) in a transaction affecting interstate or foreign commerce, knowingly furnishes, transfers, or obtains a debit instrument for use in connection with a scheme to defraud a consumer or any other person; or

"(8) in a transaction affecting interstate or foreign commerce, with unlawful or fraudulent intent, furnishes, acquires, or uses any actual or fictitious account numbers or identification or other access codes, whether alone or together with names of account holders, or other information pertaining to a debit instrument in any form, and as they may be reflected or retained in any medium; or

"(9) with unlawful or fraudulent intent, possesses five or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instruments that have moved in, been a part of, or constituted interstate or foreign commerce—".

(b) Section 916(c) of such Act is amended by inserting after "card, code," the following: "account number, other means of account access (that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other things of value or for the purpose of initiating a transfer of funds (except a transfer originated solely by a paper instrument)),".

(c) Section 916 of such Act is amended by adding at the end thereof the following:

"(d) In determining the aggregate value for the purpose of any provision of subsection (b), there shall be included the dollar value of all transactions by a person using one or more debit instruments in a course of conduct in violation of such provision.

"(e) Any person who is convicted of a violation of any provision of subsection (b) or of section 134 shall for any subsequent violation of a provision of subsection (b) or section 134, be fined not more than $100,000 or imprisoned not more than 20 years, or both.".

TITLE X—INTERSTATE BANKING

SHORT TITLE

SEC. 1001. This title may be cited as the "Interstate Banking Act of 1984".

AMENDMENT TO SECTION 5155 OF THE REVISED STATUTES

SEC. 1002. The first sentence of subsection (c) of section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by striking out "and" before "(2)"; and

(2) by inserting before the period the following: "; and (3) within any other State if (A) under the statute laws of the State in which the association is located, State banks are expressly authorized to establish and operate such branches, and (B) under the statute laws of the State in which the association is seeking to establish such branches, State banks located in the State in which the association is located are expressly authorized to establish such branches, subject to restrictions as to location of branches that such State may impose on such out-of-State banks. In determining whether or to what extent to permit establishment or operation of a branch by a bank the principal place of business of which is in another State, a State may allow such branching (i) without restriction, or (ii) on the basis of the location of the States involved, the existence of laws providing for reciprocal treatment of banks located in its State, or other similar conditions".

AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 1003. Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by inserting before the period at the end of the next to the last sentence the following: ", and the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be considered to be a State"; and

(2) by inserting before the last sentence thereof the following: "For the purposes of this section, a State may authorize a bank holding company, the banking operations of which are principally conducted in another State, to acquire, directly or indirectly, voting shares of, interest in, or all or substantially all of the assets of a bank located in such State. In determining whether and to what extent to permit such an acquisition by such a bank holding company, a State may allow such acquisition (1) without restriction, or (2) on the basis of the location of the States involved, the existence of laws providing for the reciprocal treatment of bank holding companies located in its State, or other similar conditions. Notwithstanding any other provision of law, the Board may consider and approve an application for approval of a merger or acquisition without regard to the limitations or conditions contained in a State law described in the preceding sentence if—

(I) the proposed merger or acquisition otherwise meets the requirements of this section, and

(II) the agreement and plan for the merger or acquisition was dated August 2, 1983.".

AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 1004. Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(5)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(5)"; and

(3) by adding at the end thereof the following:

"(B) any proposed merger transaction the result of which will be that an insured bank will operate branches in more than one State unless such transaction is authorized by the laws of the States in which the branches will be operated, except that in determing whether and to what extent to permit such a transaction, a State may allow such a transaction (i) without restriction, or (ii) on the basis of the location of the States involved, the existence of laws providing for the reciprocal treatment of banks located in its State, or * * * * *.

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 1005. (a) Section 407 of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by redesignating subsection (r) as subsection (s); and

(2) by inserting after subsection (q) the following:

"(r) MERGERS INVOLVING MORE THAN ONE STATE.—In considering a reorganization or merger involving insured institutions the principal places of business of which are located in different States, the Corporation shall permit any such reorganization or merger if (1) it is otherwise in conformance with all applicable law, and (2) if the laws of the States in which such insured institutions are principally located expressly permit such a reorganization or merger involving insured institutions located in the States involved or permit establishment or operation of branch offices in the States involved. In determining whether or to what extent to permit such a merger or reorganization or establishment or operation of a branch office by an insured institution, the principal location of which is in another State, a State may permit such reorganization, merger, or branching (i) without restriction, or (ii) on the basis of the location of the States involved, the existence of laws providing for reciprocal treatment of insured institutions located in its States, or other similar conditions.".

(b) Section 408(e)(3) of the National Housing Act (12 U.S.C. 1730a(e)(3)) is amended by inserting new flush language following the end of subparagraph (B) thereof, as follows:

"The corporation may allow a savings and loan holding company whose operations are principally conducted in a State to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional association located in another State, if the laws of such State expressly permit such acquisition. In determining whether and to what extent to permit such an acquisition by such a savings and loan holding company, a State may allow such acqusition (A) without restriction, or (B) on the basis of the location of the States involved, the existence of laws providing for reciprocal treatment of savings and loan holding companies locatd in its State, or other similar conditions.".

REPORT

SEC. 1006. (a) The President, in consultation with the Attorney General, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, shall transmit a report to the Congress concerning the effect, if any, that this title has had on the financial, economic, and banking environment and on particular banks, bank holding companies, savings and loan associations, and savings banks. There shall be included in this report legislative recommendations as to whether the sunset provisions of section 1007 should be allowed to take effect.

(b) The report required by subsection (a) shall be transmitted to the Congress not later than four years after the date of enactment of this title.

SUNSET

SEC. 1007. (a) Effective upon the expiration of five years after the date of enactment of this title—

(1) section 5155(c)(3) of the Revised Statutes, as added by section 1002 of this title, is repealed;

(2) the last two sentences of section 3(d) of the Bank Holding Company Act of 1956, as added by section 1003 of this title, is repealed;

(3) section 18(c)(5)(B) of the Federal Deposit Insurance Act, as added by section 1004 of this title, is repealed; and

(4) section 407(r) and that part of section 408(e)(3) of the National Housing Act which was added by section 1005 of this title is repealed;

(b) The repeal or termination by subsection (a) of any amendments made by this title shall have no effect on any action taken or authorized while such amendment was in effect. Any bank or other institution the shares or assets of which are acquired in reliance upon the amendments made by this title shall after repeal of the amendments made by this title have the same powers with respect to the establishment of branch offices and merger or consolidation with other institutions, as it would have had if its shares or assets not been so acquired.

TITLE XI—MISCELLANEOUS

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 1101. Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

(1) by striking out "(1)" after "(e)";

(2) by redesignating clauses (A) through (D) as clauses (1) through (4), respectively; and

(3) by striking out paragraph (2).

MODEL FORM AMENDMENT

SEC. 1102. Section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Public Law 96-221), is amended by adding at the end thereof the following:

"(h) The Federal Home Loan Bank Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements and to aid the consumer in understanding the transaction. A creditor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.".

AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT

SEC. 1103. (a) The last sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended—

(1) by striking out clause (F) and redesignating clause (G) as (F); and

(2) by inserting "and" at the end of clause (E).

(b) The second sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended by striking out "clause (G)" and inserting in lieu thereof "clause (F)".

PAYMENTS SYSTEM AMENDMENT

SEC. 1104. Section 11A of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(e)(1) In order to provide maximum information to the private sector concerning the service activities of the Federal reserve banks, the Board shall publish prior to the beginning of each calendar year a statement of—

"(A) the approximate timing of generalized price changes expected to take effect during the subsequent year;

"(B) the plans for any significant changes in the services, including new services, provided by the Federal reserve banks that are anticipated to be implemented during the subsequent year; and

"(C) any major initiatives, including significant investments, related to payment services contemplated during the subsequent one to three years.

"(2) The Board shall take all necessary steps to assure that the regulatory responsibilities of the Federal Reserve System with respect to the payments system are determined by the Board itself and not by reserve bank management with responsibilities for the operation of payments services performed by the Federal reserve banks.

"(3) The Board shall establish a Payments System Advisory Council to advise and consult with it or its designated subcommittee in the exercise of its functions under this section. In appointing the members of the Council, the Board shall seek to achieve a fair representation of the interests of providers and users of payments services, including consumers. The Council shall meet from time to time at the call of the Board.

"(4) All depository institutions, as defined in section 19(b)(1), may receive for deposit and as deposits any evidences of transaction accounts, as defined in section 19(b)(1), for the purpose of collecting such items from other depository institutions, as defined in section 19(b)(1), or from any office of any Federal reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.".

NOW ACCOUNT AMENDMENT

SEC. 1105. Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting "political," after "educational,".

AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 1106. (a) Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following:

"(h) It shall be unlawful for an issuer to purchase, directly or indirectly, any of its securities at a price above the market from any person who holds more than 3 per centum of the class of the securities to be purchased and has held such securities for less than two years, unless such purchase has been approved by the affirmative vote of a majority of the aggregate voting securities of the issuer, or the issuer makes an offer to acquire, of at least equal value, to all holders of securities of such class and to all holders of any class into which such securities may be converted.

"(i) It shall be unlawful, during a tender offer for any class of securities of an issuer if (1) with respect at least 10 per centum of such class, the offer is unconditional, and (2) the offer is made at a price at least 25 per centum greater 10 trading days prior to the commencement of the offer, for the issuer to enter into or amend, directly or indirectly, agreements containing provisions, whether or not dependent on the occurrence of any event of contingency, that increase, directly or indirectly, the current or future compensation of any officer or director.".

(b) The amendments made by subsection (a) shall take effect on July 27, 1984.

KASSEBAUM AMENDMENT NO. 4096

Mrs. KASSEBAUM proposed an amendment to the bill S. 2851, supra; as follows:

On page 111, line 2, insert the following: "The term 'deposit broker' shall not include a person in an agency relationship with an insured institution as of September 12, 1984, if such person exclusively serves a single insured institution for the purpose of soliciting deposit funds and providing loan application services, and such person is regulated and examined by the government of the State in which they are located. The Corporation may issue rules and regulations as necesssary to implement this subsection."

GARN AMENDMENT NO. 4097

Mr. GARN proposed an amendment to the bill S. 2851, supra; as follows:

At the end of the bill, insert:

Section 203 of the Depository Institutions Deregulation and Monetary Control Act of 1984 (12 U.S.C. section 3502) is hereby amended by deleting from subsection (b) thereof the following sentence: "The Deregulation Committee shall hold public meetings at least quarterly.".

CHAFEE AMENDMENT NO. 4098

Mr. CHAFEE proposed an amendment to the bill S. 2851, supra; as follows:

At the end of the bill, add the following:

SECURITIES AND EXCHANGE COMMISSION EXECUTIVE COMPENSATION DISCLOSURE REQUIREMENTS

SEC. . (a) The Congress finds that—

(1) the disclosure of detailed information concerning executive compensation provides stockholders and potential investors with valuable information about a company's management;

(2) information regarding management compensation is necessary in evaluating corporate efficiency;

(3) the Securities and Exchange Commission liberalized its rules regarding disclosure of executive compensation in December 1983;

(4) at a time when more specific and meaningful management compensation information should be publicly available, the Securities and Exchange Commission has moved in the direction of requiring less public information; and

(5) the current reporting requirements limit disclosure of cash compensation to executive officers thereby exempting a signifi-

cant segment of management who may be among the most highly paid, and no longer require disclosure of unexercised stock options or stock appreciation rights, thereby denying the investing public another block of useful information.

(b) It is, therefore, the sense of the Congress that the Securities and Exchange Commission should reinstate the requirements for the disclosure of executive compensation which were in effect immediately prior to December 31, 1983.

CLEAN WATER ACT AUTHORIZATION

EVANS (AND GORTON) AMENDMENT NO. 4099

(Ordered to lie on the table.)

Mr. EVANS (for himself and Mr. GORTON) submitted an amendment intended to be proposed by them to the bill (S. 431) to amend the Clean Water Act, as amended, to authorize funds for fiscal year 1983, 1984, 1985, 1986, and 1987, and for other purposes; as follows:

At page 22, line 6, after "the Narragansett Bay,", insert "Buzzards Bay, Puget Sound and/or Long Island Sound".

At page 22, line 8, strike all after "improve" through the end of the sentence, and insert in lieu thereof, "the water quality of these waters.".

At page 22, line 22, after "the Narragansett Bay,", insert "Buzzards Bay, Puget Sound and/or Long Island Sound".

At page 23, line 1, strike all after "affecting the" through line 2, and insert in lieu thereof, "water quality of these waters;".

At page 23, line 6, strike all after "effect on the" through line 7, and insert in lieu thereof, "the water quality of the relevant body of water; and".

At page 23, line 10, strike "Narragansett Bay" and insert in lieu thereof, "relevant body of water".

At page 23, line 20, after "such Bay" add "or Sound".

At page 23, line 21, strike all after "improve" through the end of the sentence and insert in lieu thereof, "the water quality of such body of water.".

At page 24, line 10, strike "Narragansett Bay.", and insert in lieu thereof, "the relevant body of water.".

At page 24, line 22, strike "$1,500,000" and insert in lieu thereof, "$6,000,000".

At page 24, following subsection (d)(4), add the following new paragraph: (5) In addition to any funds made available by subsection (e) of this section, if the Administrator approves a program submitted under paragraph (2) of this subsection, he shall finance the cost of implementing any portion of any plan developed pursuant to such program for the design and construction of combined sewer overflow (CSO) correction projects from sums made available pursuant to section 201(n)(2) of this Act, except that Federal grants under this subsection shall not exceed 75 per centum of the cost of implementing that portion of the program in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing that portion of the plan during any such fiscal year."

FINANCIAL SERVICES COMPTETIVE EQUITY ACT

GARN AMENDMENT NO. 4100

Mr. GARN proposed an amendment to amendment No. 3756, proposed by himself and Mr. PROXMIRE to the bill S. 2851, supra; as follows:

On page 7, line 8 of amendment 3756 to S. 2851, insert the following after the comma: "upon application".

INDIAN HEALTH CARE IMPROVEMENT ACT AUTHORIZATION

ANDREWS AMENDMENT NO. 4101

Mr. STEVENS (for Mr. ANDREWS) proposed an amendment to the bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes; as follows:

On page 46, strike out lines 10 through 20 and insert in lieu thereof the following:

"(i) In determining the eligibility of any Indian for medical or health services provided by, or on behalf of, the Service, the eligibility of such Indian for any medical or health assistance that is provided to indigents by a State or local government (or any agency or instrumentality thereof) shall not be taken into account if—

"(1) the medical or health assistance provided by the State or local government is funded by the revenues from any tax imposed on real property, and

"(2) such Indian resides on a reservation or restricted Indian land which is not subject to taxation.

On page 47, line 13, strike out the end quotation marks and end period.

On page 47, line 14, strike out "(j)" and insert in lieu thereof "'(j)".

On page 47, line 21, strike out the period and insert in lieu thereof "."."

On page 49, between lines 11 and 12, insert the following:

"(c) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1986, 1987, and 1988, planning information documents for the construction of five Indian health facilities which—

"(1) comply with applicable construction standards, and

"(2) have been approved by the Secretary.

On page 49, line 12, strike out "(c)" and insert in lieu thereof "(d)".

On page 55, line 11, strike out "sections" and insert in lieu thereof "section".

On page 55, beginning with line 12, strike out all through page 56, line 10.

On page 56, line 13, strike out "Sec. 306" and insert in lieu thereof "Sec. 305".

ANDREWS (AND BURDICK) AMENDMENT NO. 4102

Mr. STEVENS (for Mr. ANDREWS, for himself and Mr. BURDICK) proposed an amendment to the bill S. 2166, supra; as follows:

The Act is amended by adding the following new section:

"SEC. 712. The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana. The Secretary is directed to conduct a population survey of Indians residing in the Trenton Service Area for the purpose of determining the basis for the distribution of equity health care funds and the provision of contract health care. Should the results of the population survey indicate that additional eligible members of the Turtle Mountain Band of Chippewa Indians reside outside the boundaries of the named North Dakota and Montana counties, the contract health service delivery area shall be defined to include those additional counties of North Dakota or Montana in which such eligible tribal members reside."

ANDREWS AMENDMENT NO. 4103

Mr. STEVENS (for Mr. ANDREWS) proposed an amendment to the bill S. 2166, supra; as follows:

Strike section 704, and insert in lieu thereof the following:

"SEC. 704. (a) Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years. Property leased by the Secretary from an Indian tribe may reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

"(b) Notwithstanding a provision of law, the Secretary is authorized in carrying out the purposes of this Act, to enter into leases, contracts, and other legal agreements with Indian tribes and tribal organizations for the purpose of compensating such tribes or organizations for facility space costs, including but not limited to depreciation based on the useful life of the building, interest paid or accrued, operation and maintenance, and other allowable costs associated with the administration and delivery of health services by the Indian Health Service or tribally-operated programs."

STEVENS (AND OTHERS) AMENDMENT NO. 4104

Mr. STEVENS (for himself, Mr. ANDREWS, and Mr. MURKOWSKI) proposed an amendment to the bill S. 2166, supra; as follows:

On page 60, after line 22, add the following:

DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYMENTS

SEC. 404. (a) The Secretary of Health and Human Services shall establish a demonstration program under which Indian Tribes and Alaska Native health organizations, which are contracting the entire operation of an entire facility of the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act, shall directly bill for, and receive payment for, health care services provided by such facility for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The Federal per-

centage under the medicaid program shall continue to be 100 percent for purposes of the demonstration program.

(b)(1) Each facility participating in the demonstration program described in subsection (a) shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act or section 402(c) of the Indian Health Care Improvement Act, but all funds so reimbursed shall first be used by the facility for the purpose of making any improvements in the facility that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used in accordance with the regulations of the Indian Health Service applicable to funds provided by the Indian Health Service under any contract entered into under the Indian Self-Determination Act.

(2) The amounts paid to the facilities participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Indian Health Service.

(3) The Secretary shall monitor the performance of facilities participating in the demonstration program described in subsection (a), and shall require such facilities to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

(4) Notwithstanding section 1880(c) of the Social Security Act and section 402(c) of the Indian Health Care Improvement Act, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act or section 402(c) of the Indian Health Care Improvement Act for the benefit of any facility which is participating in the demonstration program described in subsection (a).

(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a facility must submit an application to the Secretary which provides assurances that—

(A) the Indian Tribe or Alaska Native health organization contracts the entire operation of the Indian Health Service facility;

(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

(C) the facility meets any applicable requirements which apply to programs operated directly by the Indian Health Service; and

(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1986.

(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1985, select four facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1986, and end on September 30, 1988.

(d)(1) Upon the enactment of this Act, the Secretary, acting through the Indian Health Service, shall commence an examination of—

(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a); and

(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Indian Health Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1), and shall promulgate any regulations necessary to carry out such demonstration program.

(3) Prior to October 1, 1985, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report and shall provide funding for the development of any such accounting system by any facility which has been selected to participate in such demonstration program.

(e) The Secretary shall submit an interim report to the Congress at the end of fiscal year 1987, and a final report at the end of fiscal year 1988, on the activities carried out under the demonstration program described in subsection (a), and an evaluation of whether such activities have fulfilled the objectives of such program. In the final report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian Tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Indian Health Services.

(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.

ANDREWS (AND HATCH) AMENDMENT NO. 4105

Mr. STEVENS (for Mr. ANDREWS and Mr. HATCH) proposed an amendment to the bill S. 2166, supra; as follows:

On page 77, beginning with line 6, strike out all through page 79, line 2.

On page 79, line 4, strike out "SEC. 802." and insert in lieu thereof "SEC. 801.".

On page 85, line 21, strike out "SEC. 803." and insert in lieu thereof "SEC. 802.".

On page 91, line 13, strike out "SEC. 804." and insert in lieu thereof "SEC. 803.".

On page 92, strike out lines 12 and 15.

DISASTER RELIEF ACT AMENDMENTS

HUMPHREY (AND BURDICK) AMENDMENT NO. 4106

Mr. STEVENS (for Mr. HUMPHREY, for himself and Mr. BURDICK) proposed an amendment to the bill (S. 2517) to amend the Disaster Relief Act of 1974, and for other purposes; as follows:

On page 25, line 16, strike out "2.5" and insert in lieu thereof "10".

On page 31, beginning with line 17, strike out through line 15 on page 32 and insert the following:

SEC. 24. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect ninety days after the date of enactment of this Act or on the date on which the President, after consultation with State and local governments, publishes final rules and regulations relating to the definition of costs for which State and local governments may be reimbursed under the Disaster Relief Act of 1974 (as amended by this Act), whichever is later.

(b)(1) This Act and the amendments made by this Act shall not affect the administration of any assistance provided under the authority of the Disaster Relief Act of 1974, for any major disaster or emergency declared by the President prior to the effective date of this Act.

(2) Except with regard to section 409(a) of the Disaster Relief Act of 1974, as redesignated by section 11(c) and 12 of this Act, (relating to disaster unemployment assistance)—

(A) rules and regulations issued under statutory provisions which are repealed, modified, or amended by this Act shall continue in effect as though issued under the authority of this Act until they are expressly abrogated, modified, or amended by the President; and

(B) provision of disaster assistance authorized by statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder, or proceedings involving violations of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are in process prior to the effective date of this Act, may be continued to conclusion as though the applicable statutory provisions had not been repealed, modified, or amended.

(3) violations of statutory provisions or rules and regulations issued under the authority of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are committed prior to the effective date of this Act may be proceeded against under the law in effect at the time of the specific violation.

On page 2, line 5, strike out ", as amended (42 U.S.C. 5122(1))," and insert "(42 U.S.C. 5122(1))".

On page 2, lines 16 and 17, strike out ", as amended (Public Law 93-288)," and insert "(Public Law 93-288)".

On page 5, line 19, strike out ", as amended (42 U.S.C. 5122(2))," and insert "(42 U.S.C. 5122(2))".

On page 6, lines 7 and 8, strike out ", as amended (42 U.S.C. 5131-5132)," and insert "(42 U.S.C. 5131-5132)".

On page 6, lines 17 and 18, strike out ", as amended (42 U.S.C. 5141-5158)," and insert "(42 U.S.C. 5141-5158)".

On page 6, lines 22 and 25, strike out "302" and insert "301, as redesignated by paragraph (1) of this section,".

On page 7, line 4, strike out "311(a)" and insert "308(a) as redesignated by paragraph (1) of this section,".

On page 7, strike out lines 6 and 7 and insert in lieu thereof "SEC. 8. Section 302(a) of the Disaster Relief Act of 1974 (42 U.S.C.

5143(a)), as redesignated by section 7(1) of this Act, is amended by adding".

On page 7, strike out lines 11 and 12 and insert in lieu thereof "SEC. 9. Section 311 of the Disaster Relief Act of 1974 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, is amended by redesignating".

On page 8, strike out lines 13 and 14 and insert in lieu thereof "SEC. 10. Section 312 of the Disaster Relief Act of 1974 (42 U.S.C. 5155), as redesignated by section 7(1) of this Act, is amended to read as".

On page 10, line 10, strike out ", as amended (42 U.S.C. 5141-5158)," and insert "(42 U.S.C. 5141-5158)".

On page 14, strike out lines 4 through 8 and insert in lieu thereof the following: "(b) Title III of the Disaster Relief Act of 1974 is amended by deleting subsections (a) and (c) of section 314 (42 U.S.C. 5157), as redesignated by section 7(1) of this Act, and by renumbering '(b)' from the remaining subsection of section 314 as subsection '(f)' of section 318 as added by section 11(a) of this Act.".

On page 14, lines 9 and 10, strike out ", as amended,".

On page 14, after line 11 add a new subsection as follows: "(d) Section 315 of the Disaster Relief Act of 1974 (42 U.S.C. 5158), as redesignated by section 7(1) of this Act, is further redesignated as section 314.".

On page 14, lines 12 and 13, strike out ", as amended (42 U.S.C. 5171-5189)," and insert "(42 U.S.C. 5171-5189)".

On page 19, strike out lines 16 and 17 and insert in lieu thereof "SEC. 13. (a). Section 405 of the Disaster Relief Act of 1974 (42 U.S.C. 5172), as redesignated by section 12 of this Act, is amended to read as".

On page 20, line 17, strike out "limited to".

On page 21, lines 17 and 18, strike out "based on".

On page 22, line 2, after "government" insert "and".

On page 22, line 5, strike out "based on" and insert in lieu thereof "that shall be".

On page 22, strike out lines 19 through 22 and insert in lieu thereof the following: "(b) The Disaster Relief Act of 1974 is amended by deleting section 421 (42 U.S.C. 5189), as redesignated by sections 11(c) and 12 of this Act, and by striking 'or 419' each place that this phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act.".

On page 22, strike out lines 23 and 24 and insert in lieu thereof "(c) Section 406 of the Disaster Relief Act of 1974 (42 U.S.C. 5173), as redesignated by section 12 of this Act, is amended by adding at the end".

On page 23, line 5, strike out "not exceed" and insert in lieu thereof "be".

On page 23, line 7, strike out "or" and insert in lieu thereof "of".

On page 23, strike out lines 8 and 9 and insert in lieu thereof "SEC. 14. Section 407(a) of the Disaster Relief Act of 1974, as redesignated by section 12 of this Act, is amended to read to follows: ".

On page 24, lines 24 and 25, strike out "limited to".

On page 25, strike out lines 3 through 5 and insert in lieu thereof "SEC. 15. Section 408 of the Disaster Relief Act of 1974 (42 U.S.C. 5176), as redesignated by sections 11(c) and 12 of this Act, is amended by adding '(a)' after '408' and by adding a new subsection '(b)' as ".

On page 25, strike out lines 19 and 20 and insert in lieu thereof "SEC. 16. Section 409(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5177), as redesignated by sections 11(c) and 12 of this Act, is amended to read as ".

On page 27, strike out lines 8 and 9 and insert in lieu thereof "SEC. 17. (a) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding a".

On page 27, line 12, strike out "408(b)" and insert "410(b)".

On page 27, strike out lines 15 and 16 and insert in lieu thereof "(b) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is further amended by adding the following sen-".

On page 28, strike out lines 3 and 4 insert in lieu thereof "SEC. 18. Section 410(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding".

On page 28, strike out lines 12 and 13 and insert in lieu thereof "SEC. 19. Section 415 of the Disaster Relief Act of 1974 (42 U.S.C. 5183), as redesignated by section 11(c) and 12 of this Act, is amended by striking".

On page 28, strike out lines 15 and 16 and insert in lieu thereof "SEC. 20. Section 420(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5188), as redesignated by sections 11(c) and 12 of this Act, is deleted.".

On page 28, line 18, strike out ", as amended (42 U.S.C. 5202)," and insert in lieu thereof "(42 U.S.C. 5202)".

On page 29, strike out lines 1 and 2 and insert in lieu thereof "SEC. 22. The Disaster Relief Act of 1974 (42 U.S.C. 5121-5202) is amended by-".

On page 29, strike out line 13 and insert in lieu thereof "308(b) (42 U.S.C. 5151), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 16 and insert in lieu thereof "tion 307 (42 U.S.C. 5150), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 17 and insert in lieu thereof "(6) striking in section 310(b) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, ev-".

On page 29, strike out line 22 and insert in lieu thereof "the phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 24 and insert in lieu thereof "pears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act and inserting in".

On page 30, strike out line 2 and insert in lieu thereof "work 'disaster' in section 313 (42 U.S.C. 5156), as redesignated by section 7(1) of this Act;".

On page 30, strike out line 8 and insert in lieu thereof "407(d) (42 U.S.C. 5174), as redesignated by section 12 of this Act;".

On page 30, strike out lines 9 and 10 and insert in lieu thereof "(12) striking '311' in secton 407(d)(2) (42 U.S.C. 5174), as redesignated by section 12 of this Act, and inserting in lieu thereof '308';".

On page 30, strike out lines 11 and 12 and insert in lieu thereof "(13) striking 'an emergency or' in section 417 (42 U.S.C. 5185), as redesignated by sections 11(c) and 12 of this Act, and inserting in lieu thereof 'a';".

On page 30, strike out line 20 and insert in lieu thereof "appears in section 309(a), as redesignated by section 7(1) of this Act, and inserting in lieu thereof".

On page 30, strike out lines 22 and 23 and insert in lieu thereof "(17) striking 'rent' in section 310(a)(2) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and inserting in lieu thereof 'income';".

On page 31, strike out lines 1 and 2 and insert in lieu thereof "(18) striking paragraph (1) of section 310(a) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and renumbering subsequent paragraphs".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Wednesday, September 12, at 2 p.m., to hold an oversight hearing to consider the May 1984 DOE/EIA comprehensive review of the status of the U.S. domestic uranium mining and milling industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, September 12, at 10 a.m., to hold a hearing to consider the nominations of Mr. Robert R. Davis, of Illinois, to be a member of the Commodity Futures Trading Commission and Ms. Crete B. Harvey, of Illinois, and Mr. Melvin A. Ensley, of Washington, to be members of the Federal Farm Credit Board, Farm Credit Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, September 12, in order to mark up S. 2892, reauthorization of Superfund.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DRUG ENFORCEMENT BY COMMITTEES, NOT BY COMMITMENT

● Mr. CHILES, Mr. President, yesterday the House passed H.R. 4028, the Drug Enforcement Coordination Act of 1984. Two years ago, the House and the Senate passed and sent to the President an anticrime package containing similar provisions for coordinating the fight against drugs. President Reagan vetoed that crime package because of those provisions. We're back to square one and seem to be repeating ourselves; not just legislatively, but also managerially.

The Federal Government's efforts to reduce the availability of illicit drugs

in the United States, at times, looks like the Keystone Kops tangled in committees and task forces, tripping and falling over each other. During the past 15 years, our fight against drugs could best be characterized as winning a few battles but losing the war.

We have more drugs than ever before on the streets of our cities. There is no corner of our society that is free from the scourge of drug abuse. The crime problems related to drug trafficking and abuse can be measured in the billions of dollars in property losses and funds expended to fight this cancer. The untold damage to the fiber of our great Nation and the erosion of our ideals can never be accurately assessed. These costs are too high to continue leaving enforcement to committee. We must have commitment and leadership. More councils, studies, and coordinating groups won't do any good if the frontline troops are without a general leading the charge.

The Federal, State, and local law enforcement officers of the United States are making more arrests and seizing greater quantities of drugs than was even dreamed of a decade ago. Gigantic amounts of cocaine and marijuana are confiscated on a regular basis in every area of the country. The jailing of major organized drug traffickers occurs almost daily. Convictions of these key criminals leading to lengthy prison sentences is subject of much publicity throughout our land. Notwithstanding these gains, much more must be done. The resilience of the international drug trade remains grimly impressive. Current estimates suggest that we intercept less than 20 percent of the heroin, cocaine and other drugs entering this country. The remaining amounts flooding the streets remain an unacceptable threat to the health of our society.

The true picture must be painted by the responsible politicians and leaders in our country if we are ever to make a real turnaround. The drug problem affects all Americans, young and old, rich or poor, all races, creeds and ethnic backgrounds.

It is time to take a long hard look at the system that we have put in place to counter this menace. We have reorganized our Federal resources over and over again but our sustained impact on this problem is not maintained. We pour seemingly endless resources into the fray but our successes are short-lived with no long-range solution in sight. It is a case of deja vu. We continue to create the same unworkable atmosphere for our enforcement officers to function within. The turf battles abound; the poor interagency communications continue to exacerbate rivalries; coordination is used as substitute for strong leadership and direction; and the end result is the inescapable fact that we are falling further behind the criminal element in this country.

In the legislative review of the reorganization plan of 1973, a great deal of bipartisan effort was directed at the assessment of the President's proposal and all of the underlying needs of the Federal drug enforcement establishment. It must be noted that this was the second reorganization of the Federal narcotic enforcement effort in 5 years, the previous one occurring in 1968.

The administration in 1973 stated in the President's message to the Congress that "The enforcement work could benefit significantly from consolidation of our antidrug forces under a single unified command." The message went on to state that the Federal Government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful elusive worldwide enemy. At that time, the drug law enforcement activities of the United States of America were not in the hands of a leader, but in the hands of a half a dozen.

Admiral Mahan, the master naval strategist, described this handicap precisely when he wrote that "granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

In 1973, we consolidated the resources of our Government into a much smoother operating effort because we had one agency, charged with the responsibility of leading the battle against drug trafficking. The responsible leaders of the Government relied upon that agency to spearhead the drive to wipe out this problem, both foreign and domestic. The Congress gave the kind of support to this effort that we can be justly proud of. We gave our front-line drug agents the tools that they needed to significantly reduce the availability of drugs on our streets in the middle 1970's.

In the mid seventies, we enjoyed a number of successes. Namely, the destruction of the French connection; the reduction of opium and marijuana production in Mexico; and the termination of opium cultivation in Turkey can be looked upon as major accomplishments of that period. But we began to see again the turf battles and fragmentation of effort. We then began another slide backward; bureacratic dividing lines remerged and complicated our antidrug effort.

I find that we are making the same mistakes of a decade ago. As a famous philosopher once wrote, "Those who do not learn from history are doomed to repeat it."

If any one of us in this chamber can stand before our constituents regardless of our party affiliation, and state to them that we are happy with this situation and satisfied with the Government's efforts in their behalf, then we are not acting as their responsible legislators. I suggest that we must not assess guilt for the lack of significant progress. But rather, we should begin today to improve our success rate in this war.

We must craft a new system to combat the jet age drug trafficker and his space age technology along with the billions of dollars at their disposal. The citizens of this great country deserve a better system of drug law enforcement than we see today. It simply is not answering the challenges of the sophisticated criminal adversary we must deal with in the 1980's and 1990's.

The time has arrived for the Congress and the White House to go far beyond the drug Czar issue. We must take the lead and mandate the consolidation of all of our drug control resources into an efficient and effective body of men and women, which will lead this national effort on the streets of our country and in the far-flung reaches of the world, where drugs are grown, converted and transshipped. A strong bipartisan effort is necessary to bring this to fruition and guarantee the safety of generations to come.

The day-to-day leadership and direction of this effort must be given to a full-time law enforcement executive, whose sole responsibility is to oversee the operations of our drug control resources. This person must have direct access to the President to ensure the high level support that the White House can provide.

It is imperative that this Congress act to reverse the course of battle against the No. 1 crime and social problem of our day. We can be assured of that goal if we provide the leadership by pulling this system of law enforcement back together in an efficient and effective operation. The time is now.

Mr. President, the House has passed H.R. 4028 and the Senate has passed S. 1787 this Congress. We both passed similar provisions for a centralized commitment to enforce our drug laws 2 years ago in the last Congress. Two years ago these efforts were vetoed by the President. Today, again, we call for him to join us in a concentrated commitment to free this country from the frightening grasp of the drug pusher and trafficker. Today, I call for the White House to give the go ahead signal to the Republican leadership in the Senate to move this legislation out. Mr. Reagan, let's not repeat history, let's learn from it.●

OPENING THE GRANARY DOORS TO SOVIET BUYERS

●● Mr. NICKLES. Mr. President, I am pleased to take this opportunity to commend President Reagan for open-

ing up the granary doors to Soviet buyers. Yesterday, the Reagan administration announced a 10 million metric ton increase over the established limit of grain allowed to be shipped to the Soviet Union as outlined in our long-term grain agreement. Heading into the second year of the 5-year agreement, the Soviets can now purchase up to 22 million metric tons of grain without further consultation.

It is obvious current Soviet demands have outgrown the agreement's limitations. During the first year of the agreement, they have contracted for delivery of 2.36 million metric tons more than originally established. The marketing year for corn begins October 1 and yet, already the Soviets have arranged for the shipment of nearly 7.4 million metric tons. Under the terms of the grain agreement, unless the sales maximum of 12 million metric tons is raised, wheat or corn purchases cannot exceed the 8.0 million metric ton mark. Therefore, one can easily see the need for action the recent spree of Soviet buying had created.

I share in the belief of my colleague from Oklahoma, Senator BOREN, that we need a new, more expansive long-term agreement. President Reagan has taken effective diplomatic action to address the Soviet's immediate appetite for U.S. grain. As Senator BOREN has suggested in a resolution which I was pleased to cosponsor, the conditions facing the agriculture industry call for a more expansive long-term agreement. President Reagan is to be commended for yesterday's actions, nearly doubling the amount of grain the Soviets can draw from U.S. stocks without consultation. To put it mildly in the out years, I hope we will be faced with the same situation. With this in mind, I encourage the President in future discussions with the Soviets to work toward a more extensive long-term grain pact.●

SENATOR SARBANES SALUTES WARREN M. BLOOMBERG

● Mr. SARBANES. Mr. President, among the thousands of dedicated people in the Federal Service, people of competence, integrity, and skill, people who made that choice out of a strong feeling of public service and of wanting to work in the public sector, it gives me great pleasure to honor someone who chose this most honorable profession, Warren M. Bloomberg. After spending a distinguished 53-year career with the U.S. Postal Service, all but 9 months of which he spent in his native Baltimore, Warren Bloomberg retired on September 3, 1984, as sectional center manager and postmaster. Having served in these dual roles since 1975, Mr. Bloomberg shouldered the tremendous responsibility of managing not only the Baltimore Post Office but 187 associate post offices encompassing a delivery area greater than 6,500 square miles, employing over 7,000 people and serving a population of more than 3 million postal customers.

Mr. Bloomberg, who was appointed by Lyndon B. Johnson, holds the distinction as Baltimore's last postmaster to be appointed by the President of the United States.

At the age of 17, Mr. Bloomberg began his career in 1931 as a part-time clerk at the independent Post Office in Halethorpe, MD. Working three shifts a day, earning $12 a week, one of his duties included meeting the train each day to pick up the mail. He gained more responsibility after being transferred to the Baltimore Post Office where he performed services in practically all areas and was promoted in 1946 to clerk-in-charge of the Postal Inspection Service. In his next role as Investigator, Mr. Bloomberg conducted specialized and confidential investigations for over 11 years. His past experience and successful rise through the ranks led to his appointment in 1966 as Baltimore's 29th postmaster. In 1971 he became district manager of the Chesapeake district, eastern region, and on November 8, 1975 Mr. Bloomberg capped his career by assuming the monumental job of sectional center manager in addition to continuing his duties as postmaster.

As a public servant, Warren Bloomberg demanded from himself and from others the very best, most dedicated and skilled efforts in serving their fellow citizens. He has been a firm believer in the democratic process as well, as evidenced by his efforts in securing equal opportunities and treatment for everyone he employed.

Warren Bloomberg's associates overwhelmingly attest to the high standards he maintained throughout his career. Beginning with his days at Halethorpe, Mr. Bloomberg earned the respect from both his supervisors and subordinates through his vast experience, exceptional knowledge of the postal system, progressive ideas and outstanding leadership. He won outstanding recognition from local employee organizations through his endeavors in the field of labor/management. In this area he enthusiastically utilized his deep understanding of the problems of fellow workers in implementing effective training and development programs and improving working conditions and morale. He was additionally innovative in developing and modernizing supervisory techniques. He originated two programs, the Departmental Safety Program and the Junior Postman Program, which the Post Office Department selected for national use.

It is indeed a tribute to Warren Bloomberg's outstanding integrity and leadership that he has been chosen to receive more than 75 awards, commendations, and citations throughout his career. In recognition of Mr. Bloomberg's achievements in the Postal Service, he received a personal letter from the President of the United States for the professionalism and dedication displayed through one-half a century of Federal service. The Postmaster General of the United States has honored him on several occasions for his extraordinary contribution, outstanding leadership and dedicated support by awarding him the "Special Achievement" and "Partnership for Progress" awards. Mayor William Donald Schaefer of Baltimore honored him most recently by proclaiming March 8, 1984 as "Warren M. Bloomberg Day."

In addition to Warren Bloomberg being an invaluable civil servant, he is truly a model citizen who has provided inspiration, encouragement, and guidance to many as a humanitarian, patriot, and civic leader.

As humanitarian, Mr. Bloomberg earned numerous awards for his work with the deaf and physically handicapped and mentally retarded of Maryland and for his exceptional achievement in the Combined Federal Campaign of central Maryland. He recently became the first postmaster in the eastern region to receive the Handicapped Appreciation Award for his "continuous outstanding contributions to the Handicapped Program." Additionally he has chaired the U.S. Blood Recruitment Committee since 1974.

As patriot, Warren Bloomberg has been recognized many times for his innovation and inspiration on behalf of the flag of the United States and for his "outstanding achievement in bringing about a better understanding of the American Way of Life." He has developed posters such as "This Is Our Flag, Be Proud of It!" which became an all time best seller and can be seen today in public places and offices throughout our Nation. More recently he was made an honorary colonel of the Fort McHenry Guard and was presented with a Flag Day Recognition Award for his support of the program by the National Flag Day Committee. Warren Bloomberg has truly fostered an appreciation for what symbolizes America.

As civic and community leader, Warren Bloomberg has touched thousands of lives through his tireless hard work and dedication. He holds memberships and serves as board member with many organizations and has won countless awards and citations for his contributions to highway safety and fire prevention programs, to name a few. Mayor Schaefer bestowed upon him the Mayor's Citation for his contribution to civic welfare; Gov. Harry Hughes of Maryland awarded him

with a certificate of Distinguished Citizenship and a citation; and various clubs presented him with awards in recognition of his enormous public service to the people of Baltimore.

During his career he met ever increasing challenges by implementing great milestones as the local mail volume grew from over 700 million pieces at the beginning of his career to more than 128 billion pieces at the time of his retirement. At a time when the role of the Federal employee may be denigrated by some, Warren Bloomberg's career exemplifies what is best in our public servants.

Warren Bloomberg's wisdom, strength, and enduring spirit have been invaluable resources not only to the U.S. Postal Service but to the community as a whole where concern for his fellow man and many talents have had an everlasting impact. As he and his wife Lillian enter retirement, I am proud to join with their many friends and the citizens of Maryland in expressing our affection, respect, and best wishes in the years ahead.●

ADVANCE NOTIFICATION—PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the same may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD 423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 5, 1984.
In reply refer to: I-04848/84ct.

Dr. HANS BINNENDIJK,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an African country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

PHILIP C. GAST,
Director.●

HONORING HISPANIC AMERICANS

● Mr. RIEGLE. Mr. President, on September 16, Mexico will celebrate the 174th anniversary of its independence. On that date in 1810, Mexico's greatest patriot, Father Hidalgo y Costilla, led the movement toward independence from Spanish rule. Under the leadership of this rural parish priest, Mexico began its campaign for independence, giving hope for a better life to the poorest people of the country. Fifty-two years later, the dream of an independent Mexico became a reality.

It is appropriate that this anniversary should fall during the week which has been designated "National Hispanic Heritage Week." The spirit of freedom and the pursuit of human rights, equality and justice which are identified with the Mexican independence movement continue to inspire the Hispanic community today.

The many Hispanics who came to the United States made profound contributions to the growth of the Nation. Hispanics fought bravely during World War II. They were the most decorated group of ethnic Americans.

In addition to their bravery in battle, Hispanic Americans have added diversity and creativity to our Nation in the fields of music, the arts, literature, business and architecture. Certain sections of our country have enjoyed over 200 years of Hispanic culture and history.

Just as Hispanics have always been a vital part of our Nation, they are now recognized as a powerful political force. With the help of an effective network of advocacy organizations, Hispanic-Americans are directing the attention of this country to the conditions under which many of them live. Lack of educational and employment opportunities, linguistic and cultural barriers continue to block movement toward greater prosperity.

The fastest growing minority group in this country, Hispanics today are providing a new spirit and force in America which will help shape the future course of our country. As a nation, we must extend to Hispanic Americans the opportunity to participate fully in our social and political system.

As we take time this week to celebrate the achievement of Mexican independence and to acknowledge the important contributions of Hispanic Americans, we must also reaffirm our commitment to ensuring that equality of justice and opportunity are enjoyed by all Americans.●

ACID RAIN

● Mr. QUAYLE. Mr. President, the issue of acid rain is one of great concern to many of us in the Congress. It is a very complex problem and solutions proposed thus far reach into the multimillions of dollars in their cost. In the September 7 issue of the Christian Science Monitor, an article appeared that provides a good overview of the challenges facing policymakers. Hoping that this article will be of interest to my colleagues, I ask that it be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the Christian Science Monitor, Sept. 7, 1984]

CLEANING UP THE CLOUDS

SCIENTISTS ARE FINDING THE GLOBAL PROBLEM OF ACID RAIN IS MORE COMPLEX THAN THEY HAD THOUGHT; AND THE SHIFTING CONTROVERSY POSES CHALLENGES TO U.S. POLICYMAKERS

(By Peter Osterlund)

WHITEFACE MOUNTAIN, N.Y.—On a clear day, the view from this peak is enchanting. Below lies Lake Placid. The surrounding Adirondack mountains undulate lyrically into the horizon. Sometimes the towers of Montreal can be seen, 70 miles away.

This is the front line of America's acid rain effort. When the final answers to this puzzling environmental problem are found, they may well come from such a place as Whiteface.

For the last week, Whiteface's summit has been shrouded in the more typical foggy broth of cloud moisture and various industrial pollutants—a fine forecast for the scientists who trek almost daily to the silo-like laboratory on the mountaintop. Day in and day out, they have been poking at the surrounding mists with their probes and collection devices, hoping to make some sense of the airborne contaminants that waft by in cloud droplets.

"There are many questions, but the marbles are gradually falling into place," reflects Volcker Mohnen, director of the Atmospheric Sciences Research Center at the State University of New York in Albany, which runs the Whiteface facility.

The past year has seen an explosion of scientific interest in acid rain. All that expertise, however, is not making government regulators' task any simpler. Rather than clarifying the question of how acid rain affects plant and aquatic life, recent evidence suggests that the whole equation is more complex than previously thought.

"The field is moving so fast," Dr. Mohnen adds, "that anyone not involved directly in the science will almost certainly be left behind."

Some of the new research linking acid rain to forest damage suggests that other pollutants may be involved as well. Yet the drive to curb sulfur-dioxide (SO_2) gas from industrial sources—a prime cause of acid rain—appears to have a momentum that would ensure some type of action being taken soon.

Some opponents of prompt action on acid rain go far as to suggest that the issue is a Trojan horse being used by environmental-

ists to achieve the broader goal of curbing air pollution in general.

"They don't just want to clean up the rain, but the whole sky," says William Brown, director of technological studies at the Hoover Institute, a conservative New York think tank.

Environmentalists insist that the problem won't wait for the scientists. "Some places are at the breaking point," says Michael Oppenheimer of the Environmental Defense Fund. "They just will not take another generation of stress."

Today's heated discussion of acid rain has grown from just a whisper 20 years ago, when acid rain was an environmental curiosity rarely discussed outside scientific circles. The term "acid rain" itself is a catch phase to describe a whole range of products—fog, snow, mist, dry particles, as well as rain—that arise from the mixing of SO_2 and nitrous-oxide (NO_x) emissions in the atmosphere with water to form acids. Scientists call the whole assortment "acid deposition."

In whatever form, it is blamed for making lakes sterile and lifeless in Scandinavia, eastern Canada, and the Northeastern US. It has been invoked to explain the poor condition of the Statue of Liberty; it is singled out for turning ancient Greek monuments into soft gypsum; and it is thought to be the cause of $2 billion of corrosion damage a year in the US alone.

The problem is also a major irritant in US—Canadian relations: By Canadian estimates, half of the acid deposition in Canada come from the burning of fossil fuels in the US; while only 10 percent of the fallout in the US originates in Canada.

"There is only so much we alone can do," says Canada's environment minister, Charles Caccia. Canada has embarked on a campaign to slash its SO_2 emissions 50 percent by 1990. "It is long past time for action."

Nevertheless, US efforts to mitigate the supposed effects of acid rain are barely moving. The Reagan administration opposes any legislative action on acid rain right now; instead, it is about to double funding for federal research. Most of the dozen or so bills floated in Congress this year that deal with the issue have stalled for one reason or another.

For example, in May the House health and environment subcommittee rejected a bill that sought to finance pollution controls with a nationwide tax on electricity.

"No scientists say that Wyoming and Utah and Colorado and Montana are responsible for acid rain in the East," says Rep. Morris K. Udall (D) of Arizona of the effort. Nearly all the SO_2 pollution in the US comes from 31 Eastern states. "Why should the West be socked for the cost?"

Three Eastern states took matters into their own hands and tried to force the Environmental Protection Agency (EPA) to impose emissions standards on Midwestern states whose industrial discharges were allegedly contributing heavily to their acid rain problem. That was met with a firm rebuff last week: The EPA refused to take action, saying that not enough was known about the transport of air pollutants to take action yet.

Actually, a gradual reduction in SO_2 emisssions has been going on for years under the Clean Air Act, which calls for a decrease by the year 2010 to levels advocated by many environmentalists, according to the EPA. But critics say the timetable of the act needs to be speeded up by several decades. Not doing so, they warn, is a blueprint for environmental disaster.

Yet at the same time, the question of just what substances ought to be controlled is becoming less certain.

"SO_2 isn't the only game in town anymore," asserts Engene Trisko, a Washington-based environmental lawyer. The link of SO_2 emissions to damaged lakes and streams was felt to be fairly well established, but lately some evidence has been cropping up to suggest that here, too, modern science may not know the whole story.

Indeed, scientists studying damaged water systems and forests have been turning their attention to other byproducts of industrial emissions as well: NO_x and hydrocarbons, most of which sputters from the tailpipes of automobiles; ozone, which results partly from the interaction of those two kinds of substances; and heavy metals, such as lead, cadmium, and magnesium.

"In other words, you've got the whole periodic table [of chemical elements] going up in a smokestack," says Jack Calvert, a meteorologist with the National Center for Atmospheric Research who headed a landmark National Academy of Sciences (NAS) study into acid rain last year. "What happens to it all? We don't exactly know."

Scientists are trying to construct theories that describe the complex interactions of these compounds and explain the reasons for forest damage in North America and Europe. But the answers are uncertain.

"If I say to scientists, 'Put your fist on the table and tell me what's responsible for tree decline,' now they invariably say, 'Ozone—but don't quote me, because I can't prove it yet," EPA administrator William Ruckelshaus said.

The regulators who have to decide how to control such problems, however, dwell not in the rarified world of scientists such as State University of New York's Mohnen, but in the noisy realm of buraucrats and lawyers, where scientific knowledge is pitted against such pressing questions as "who pays?" Such uncertainty puts environmentalists in the difficult position of arguing for programs that over the course of time, may ring up $300 billion costs—with uncertain results.

"Do they ever tell you how many lakes and fish will come back to life?" asks the Hudson Institute's Mr. Brown.

While there are models that try to make such predictions, many environmentalists shy away from displaying them too prominently. They say that if the amount of the man-made SO_2 being poured into the atmosphere were halved, significant benefits would almost certainly be obtained. And they point to a considerable body of evidence to support their claim. The Congressional Office of Technology Assessment estimates that a 35 percent decrease in the deposition of sulfate—an acidic form into which SO_2 can be changed—would cause some amount of recovery for 14 to 40 percent of damaged lakes and streams in the Northeast.

While some environmentalists acknowledge that other factors may contribute to the damage attributed to acid rain, they argue that for now, SO_2 is the pollutant that can most efficiently be controlled.

"You go with what you know," says Dr. Oppenheimer. "Right now, the evidence is in on SO_2."

Environmentalists argue that SO_2 is responsible for two-thirds of the unnatural acidity in rain. And logistically, it is easy to control: Of the 27 million tons of SO_2 pumped into the air in 1980 by industrial sources in the US, about 80 percent came from 31 Eastern states. About half of that came from the 50 coal-burning plants clustered around the Ohio River Valley. NO_x sources are more diffuse: Of the 21 million tons lofted into the air annually, nearly half comes from automobile and truck emissions.

So environmentalists want to tighten up some provisions in the 1970 Clean Air Act, which expired in 1982 and is currently up for reauthorization. Under the act, the EPA established "new-source performance standards," sharply limiting emissions of SO_2, NO_x, and other pollutants from all new fossil-fuel-fired utility boilers built after 1971. Between 1973 and 1982, SO_2 emissions from power plants dropped 17 percent, even while coal use by utilities climbed by more than 50 percent. As new plants continue to replace old ones, that figure will continue to drop.

According to some industry and government estimates, it will bottom out somewhere around 14 million tons sometime during the second decade of the next century, before industrial growth sends it creeping back up again.

In the meantime, the EPA also set up ambient-air-quality standards to make sure that emissions from older, uncontrolled plants stayed within reason. The catch was that these standards only monitored air quality on a local scale. So, in order to avoid the installation of costly air-pollution control technology, some utilities dispersed their exhaust through tall smokestacks, which, while taking care of the local pollution problem, released a plume that could stretch hundreds of miles.

Supposedly, that alternative was closed off by the 1977 reauthorization of the act. But the EPA has yet to come up with specific guidelines that say, for instance, when a tall stack is too tall. So in many cases, the tall stacks are still there, poking through a loophole in the Clean Air Act.

"Basically, we want to close that loophole," says Steve Howard of the National Wildlife Foundation. Instead of limiting SO_2 emissions to so many parts per million in air, they would go directly to the polluting source and place a cap on that output. "It's a simple extension of a law that is already in place," he adds.

But others believe that something else may be at work as well. "I think there may be a larger agenda surfacing here," says Charles Bernabo, who heads the National Acid Precipitation Assessment Program, an umbrella organization that oversees all federal acid rain research. "They've wanted SO_2 reductions for a long time, and now acid rain is the drum they're beating."

"Put together the words 'acid' and 'rain' and you have a potent emotional slogan that other pollutants just can't match," observed Paul Stolpman, director of the EPA office of policy analysis.

Skeptics of current acid rain initiatives concede that the publicity surrounding this issue is heightening public awareness of environmental needs. "I don't think acid rain is the problem," says the Hudson Institute's Mr. Brown, "But I do think it's good that people want to clean up the air."

On the other hand, others worry that undue attention may be paid to the SO_2 factor, thus limiting the policy debate. "No one reads the scientific papers," Dr. Bernabo argues. "Too much of the material is being filtered in by special-interest groups."

That fact gives some observers pause when they consider the price of action.

The costs incurred by the type of legislative initiatives being discussed in Congress

transcend just finances. There are social costs, too: Mandated reductions in SO_2 emissions could result in fuel-switching—in which utilities replace high-sulfur coal, mined mostly in the East, with the low-sulfur variety found in the West. That would displace coal mining jobs in the East.

On the other hand, installing scrubbers on plant stacks to remove most of the sulfur often requires an initial investment of about $100 million per plant. And it creates an environmental hazard of its own—about 4,000 tons of toxic sulfur sludge a day. On the horizon are emerging technologies that will enable plants to burn high-sulfur coal without the sludge waste, but many industry analysts believe these breakthroughs will not start to have an impact until the turn of the century.

Then there is the issue of the other airborne industrial wastes. "If we move too fast, we may control the wrong pollutant," the EPA's Mr. Ruckelshaus told a House subcommittee last year. Few of the current legislative proposals deal with NO_x, for instance. But with hydrocarbons, they can produce ozone, perhaps one of the greatest arboreal antagonists to ride the winds. The link between ozone and damage to crops and trees may be greater than the link with SO_2. Some studies indicate that a cut in SO_2 alone may actually help boost the rate of ozone production.

Meanwhile, the United States is being pressed to take some kind of action on acid rain. Ten other countries are already grappling to implement newly drafted international standards that recommended 30 percent reductions in SO_2 emissions.

"The United States' position on this is very disappointing," says Canada's environment minister, Charles Caccia. "We have research coming out of our ears."

But there are questions whether the results of that research will ever be certain enough to dictate an environmental policy. "Make no mistake—there are major areas of scientific disagreement," says Bernabo. "When will we know enough about acid rain to regulate it? That won't be a scientific but a political decision."

Indeed, imperfect knowledge has not prevented US regulatory agencies from taking action before. When the EPA formulated lead standards in the early '70s, it had to work with many unknowns.

"In many ways this is a classic case of balancing uncertainties against costs," says the EPA's Mr. Stolpman. Regardless of who occupies the Oval Office next year, congressional supporters of acid rain legislation say they are sure some form of controls will be passed soon.

Says Sen. Robert T. Stafford (R) of Vermont, coauthor of a bill to reduce SO_2 emissions 10 million tons by 1990: "With the attention this issue is getting, I think it's an inevitability."●

CENTENNIAL OF THE BRYN MAWR SCHOOL

● Mr. SARBANES. Mr. President, at a time when education in our country is the focus of so much attention, it is my great pleasure to commemorate the 100th anniversary of the founding of the Bryn Mawr School, one of the Nation's first independent college preparatory schools for girls.

Sharing the revolutionary idea that girls were entitled to the same opportunity as boys for a challenging college prep education, five visionary women—Martha Carey Thomas, Mary Elizabeth Garrett, Mamie Gwinn, Elizabeth Tabor King, and Julia Rebecca Rodgers—established this outstanding institution and opened its doors on September 21, 1885, in Baltimore, MD. The curriculum, which included science and mathematics as well as the classics, raised the eyebrows of Baltimore parents as did a strenuous athletic program, producing the first women's lacrosse team in the country. This group of young pioneers also made possible the existence of the Johns Hopkins Medical School, for which they raised the necessary funds but turned them over only when the trustees had agreed to admit women on the same terms as men.

The leading efforts of Bryn Mawr's founders were complemented by the humanistic and classical spirit of the school's first headmistress, Edith Hamilton, world renowned author of "The Greek Way," whose quarter century at the school confirmed these traditions there. As one whose immigrant parents taught me the importance of these traditions, I share Miss Hamilton's philosophy which is still reflected today at Bryn Mawr. Through its programs, it fosters the development of the intellect, appreciates the diversity in individuals, and stresses the importance of physical and moral well-being. Miss Hamilton's vision of civilization as "a matter of delight in the things of the mind" and her belief that "genuine education is possible only when people realize that it has to do with persons and not movements" are truly being realized today at this school.

Under the leadership of Headmistress Barbara Landis Chase and her outstanding faculty, the Bryn Mawr School can boast a first-rate educational curriculum in addition to an exceptionally broad program of extracurricular activities. Bryn Mawr can be very proud of its alumnae, who have distinguished themselves in the field of arts, education, science, sports, and politics.

This distinguished school has taken a leadership role not just locally, but nationally in the educational community. As a logical extension of Bryn Mawr's encouragement of career-oriented young women, it provides an accredited nursery program, which has been so successful that the school will be developing and administering one like it on the campus of Goucher College. Bryn Mawr's foreign language program, which begins in kindergarten, was cited by President Carter's Commission on Foreign Language and International Study. A computer education program, which also begins in kindergarten, has served as a model for many other schools. Two related efforts—the "math mentor" program and "summer tech"—have received similar recognition for their innovativeness in encouraging girls in math and computer fields.

Bryn Mawr's reputation not only stands on its high academic standards and its leadership role in education for women, but also on its economic, racial and religious diversity, and its commitment to community spirit and service. The school reaches out to all income levels in Baltimore through a growing financial aid program and exposes students to a variety of religious beliefs and customs. Using Baltimore as its learning laboratory, the upper school requires students to participate in the city program, which introduces them to urban problems and emphasizes the importance of community service and involvement.

It has always been my firm conviction that there is no greater endeavor than the training and education of our Nation's young people. Offering the opportunity for a complete education and developing the potential for success in this increasingly complex and technical world, are among the most important challenges facing our society today. Through its principles and programs, Bryn Mawr has been and continues to be successful in preparing its students to accept the full responsibility of self-reliant adults who will be called upon to lend a hand in keeping our society on an even keel. Bryn Mawr provides an excellent environment that helps girls develop into the kinds of patient, hard-working, and committed individuals so necessary to keep the democratic process alive, but most of all a willingness to get involved in the problems of their day and to participate in their solution.

Most recently, the Bryn Mawr School was named one of 60 "Exemplary Private Schools" by the Council for the Advancement of Private Education and the U.S. Department of Education, on the basis of intellectual growth and on efforts to achieve a multiracial, multicultural community and to instill an ideal of service.

I am pleased to call the Senate's attention to this celebration and ask my colleagues to join in saluting the success of the Bryn Mawr School, which, for 100 years, has exemplified the best of education and has succeeded in educating thoughtful, responsible, and productive individuals who continue to form an enlightened and intelligent citizenry.

I ask that an editorial from the Baltimore Sun be reprinted in the RECORD at this point.

The editorial follows:

[From the Baltimore Sun, May 21, 1984]

BRYN MAWR

Bryn Mawr in North Baltimore has offered the highest-quality college-preparatory education to girls since 1885, when that was a very adventurous concept, initiated in part to feed highest-quality graduates to

the new Bryn Mawr College in Pennsylvania. The notion that girls should be educated in the same way and to the highest standards as boys was radical and by no means accepted at the time.

The determination on the part of a group of Baltimore feminists including M. Carey Thomas and Mary Garrett to found the school, and the long headmistress-ship of the great classics scholar, Edith Hamilton, are now firmly established as a significant chapter in the history of Baltimore—and American—education. The school has never stopped innovating, never stopped excelling.

In advance of its 100th anniversary, next year, Bryn Mawr has launched a $3 million Centennial Campaign for faculty support, scholarships and a new upper school building. The campaign deserves the fullest support of Bryn Mawr's many alumnae and parents—and of friends of excellence in education.●

CONGRESSIONAL OVERSIGHT, JOINT COMMITTEE AND LEAKS

● Mr. GOLDWATER. Mr. President, recent press articles have headlined statements by Members of Congress on the issue of congressional oversight of the intelligence community, the feasibility of a Joint Committee on Intelligence, and whether or not Congress can keep a secret. The bottom line for most of these articles is that the Congress should form a Joint Committee on Intelligence to oversee the intelligence community because this would improve security.

Let me say at the outset, I disagree with the allegations that we cannot keep a secret and I disagree with the conclusion that a joint committee would improve security.

SENATE OVERSIGHT RECORD

The Senate Select Committee on Intelligence has done a very good job of overseeing the intelligence community, and we have an excellent record on security over the years. Although some people refer to leaks from the Oversight Committees, they do not provide one single documented example. Although they express concern for security, they do not mention the fact that our committee has the most secure staff space and hearing room in all of Congress. Although they refer to larger staffs, they do not mention the fact that Vice Chairman MOYNIHAN and I have reduced our committee staff from 50 to 42. Although they complain about the costs of oversight, they do not mention the fact that we have cut our committee budget by over $100,000 the first 3 years Vice Chairman MOYNIHAN and I have been in charge.

Although they imply we are not doing much, they fail to mention the fact that our committee increased the total number of meetings and hearings 34 percent; increased the bills and resolutions originated by the committee by 100 percent; and increased our publications 50 percent between the 96th and 97th Congresses. This record of high production by less staff at lower cost has continued into the 98th Congress, as well.

JOINT COMMITTEE SECURITY

One reason for forming a Joint Committee on Intelligence, according to some observers, would be to improve security. The example of the Joint Atomic Energy Committee [JAEC] is often used as an example of how Congress can oversee sensitive activities without any leaks. However, history does not show that the JAEC had a better record for security than our own committee.

On November 1, 1949, Senator Edwin C. Johnson stated in a television panel discussion that:

First, the United States has developed a bomb with six times the effectiveness of the Nagasaki bomb;

Second, the United States has made "considerable progress" on a super bomb with 1,000 times the Nagasaki bomb's effectiveness;

Third, the United States has also made considerable progress on a method of detonating enemy atomic bombs before they reach their targets; and

Fourth, the recently disclosed Russian atomic explosion was of a plutonium bomb.

On November 21, 1949, the Washington Post published an article stating that:

As far as can be determined, these are the first such revelations by anyone officially informed or connected with the U.S. Atomic Energy Program.

In later publications, Johnson's outburst came to be known as the big leak (Norman Moss, "Men Who Play God: The Story of the Hydrogen Bomb," 1968). On November 28, 1949, President Truman called in Attorney General J. Howard McGrath and Chairman McMahon of the JAEC, and ordered them to curb congressional leaks of atomic energy secrets. If necessary, they were to prosecute violators.

Mr. President, it is clear from this historical record that the biggest leak in congressional history probably came from the JAEC, and I do not understand why anyone feels that the information of a Joint Committee on Intelligence would necessarily provide better security.

LEAKS ON CENTRAL AMERICA

We all know that some members of the intelligence family are not happy with the problems we have encountered in our oversight activities this year. These problems began in March of this year when the administration bypassed our committee to obtain $21 million in additional money for the covert paramilitary action program in Central America. Although our committee responded quickly to that crisis, and subsequently reported out an authorization for the $21 million requested, this situation was soon followed by disclosures regarding the mining of Nicaraguan ports.

These events probably resulted in a good deal of bitterness between members of the intelligence community and Members of the Congress. They also resulted in a good deal of public discussion regarding what has become an overt covert paramilitary action program. However, this sort of problem cannot be solved by doing away with the Intelligence Oversight Committees, or by forming a joint committee, or by accusing our members and staff of leaks.

I believe members of our committee and of Congress were right to be upset with these events. I also believe that public confidence in congressional oversight of the intelligence community was reassured by the strong stand we took. None of us, especially myself, would have wanted to happen what did happen this spring. But I think most Americans would agree that the Intelligence Committees acted properly, courageously, and in the best interest of the Nation in reaffirming the legal obligation of the intelligence community to keep us fully and currently informed of all intelligence activities.

WHERE'S THE BEEF?

The bottom line is that some people in the intelligence community do not like congressional oversight. That's the beef. But, the fact that they do not like it does not mean that it is not good for them or good for the Nation. If leaks are a problem, let's identify them, investigate them, and punish those responsible. Let's institute a program of using the polygraph in Congress and elsewhere when a major leak takes place. Let's consider other types of security measures, as appropriate.

But, let's not second guess the Founding Fathers who, after all, established a Congress with the power of the purse, simply because some people in the executive branch do not like to hear from, listen to, or in any way be held accountable by the elected representatives of the people of the United States.●

THE 20TH ANNIVERSARY OF SCORE (SERVICE CORPS OF RETIRED EXECUTIVES)

● Mr. WILSON. Mr. President, 1984 marks the 20th anniversay of the Service Corps of Retired Executives (SCORE), a volunteer organization of retired businessmen and women who freely give of their time and experience to counsel beginning and enterprising businesses. This year more than 12,000 SCORE volunteers operating in more than 400 chapters located in every State plus the District of Columbia, Puerto Rico, Guam, and the Virgin Islands celebrate this 20th anniversary as volunteer small business

counselors by reporting that more than 1,200,000 small business clients have received free management counseling since its inception in 1964.

SCORE first began in Boston early in the 1960's when a few dedicated retirees decided to offer the benefit of their experience to aid struggling young businesses. The idea soon spread to other areas, and the Small Business Adminstration in 1964 took steps to utilize SCORE as a small business management assistance resource.

In 1969 ACE [Active Corps of Executives] was established by SBA to supplement SCORE counseling services by utilizing the talents of volunteers not yet retired but still actively employed. In 1982 ACE was merged with SCORE into a single organization. Today, ACE members account for about one-fourth of the membership of SCORE.

SCORE members are dedicated to their program of offering free counseling to small business persons. SCORE members often donate 20 or more hours of their time each week guiding a small-business man or woman through the intricacies of basic accounting principles, or teaching basic management fundamentals, personnel policies and how to make major business judgments.

SCORE has its greatest effect on clients in one-on-one counseling, which is ordinarily the most costly form of management assistance. It is not unusual for a SCORE counselor to spend 40 hours a week on a specific case, guiding the small business around pitfalls such as inventory obsolescence, topheavy personnel costs, failure to take into account tax consequences and the selection of an unprofitable location for the business.

SCORE counselors also conduct prebusiness workshops and seminars which help small business men and women to understand the problems of ownership and management. These workshops provide a wealth of experience in sales, advertising, financial control and purchasing to teach the beginning or struggling businessperson the basic principles of management.

The Small Business Administration, which sponsors the SCORE program, affirms the country's debt to these men and women who selflessly contribute of their wisdom, experience and time to this very important activity.

It is most appropriate, Mr. President, as the volunteers of SCORE mark their 20th anniversary that we commend them for their remarkable dedication and service to the Nation's small businesses.●

INDIAN HEALTH CARE AMENDMENTS OF 1984

Mr. STEVENS. Mr. President, if the Senator is ready to proceed, I ask that the Chair lay before the Senate Calendar No. 907, which is S. 2166.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "Indian Health Care Amendments of 1984".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act.

TITLE I—INDIAN HEALTH MANPOWER

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 101. Subsection (c) of section 102 (25 U.S.C. 1612 (c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $550,000 for fiscal year 1985,

"(2) $600,000 for fiscal year 1986,

"(3) $650,000 for fiscal year 1987, and

"(4) $700,000 for fiscal year 1988.".

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 102. Subsection (d) of section 103 (25 U.S.C. 1613 (d)) is amended to read as follows:

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $4,000,000 for fiscal year 1985,

"(2) $4,700,000 for fiscal year 1986,

"(3) $5,400,000 for fiscal year 1987, and

"(4) $6,100,000 for fiscal year 1988.".

INDIAN HEALTH SCHOLARSHIP PROGRAM

SEC. 103. (a) The first sentence of section 338G(a) of the Public Health Service Act (42 U.S.C. 254r(a)) is amended—

(1) by striking out "section 765(a)" and inserting in lieu thereof "section 338F(a)";

(2) by striking out "and" after "1983,"; and

(3) by inserting "$6,100,000 for the fiscal year ending September 30, 1985, $7,000,000 for the fiscal year ending September 30, 1986, $8,100,000 for the fiscal year ending September 30, 1987, and $9,234,000 for the fiscal year ending September 30, 1988," after "1984,".

(b) Subsection (b) of section 338G of the Public Health Service Act (42 U.S.C. 254r(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall not deny scholarship assistance to any eligible applicant under this section solely upon the basis of the applicant's scholastic achievement if such applicant has been admitted to an accredited educational institution to pursue a course of study described in subsection (a).".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 104. Subsection (d) of section 105 (25 U.S.C. 1614(d)) is amended to read as follows:

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $300,000 for fiscal year 1985,

"(2) $350,000 for fiscal year 1986,

"(3) $400,000 for fiscal year 1987, and

"(4) $450,000 for fiscal year 1988.".

CONTINUING EDUCATION ALLOWANCES

SEC. 105. Subsection (b) of section 106 (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $500,000 for fiscal year 1985,

"(2) $526,300 for fiscal year 1986,

"(3) $553,800 for fiscal year 1987, and

"(4) $582,500 for fiscal year 1988.".

TITLE II—HEALTH SERVICES

IMPROVEMENT OF INDIAN HEALTH STATUS

SEC. 201. Section 201 (25 U.S.C. 1621) is amended to read as follows:

"IMPROVEMENT OF INDIAN HEALTH STATUS

"SEC. 201. (a) The Secretary is authorized to expend funds which are appropriated pursuant to subsection (j)(1), through the Service, for the purposes of—

"(1) raising the health status of Indians to be highest possible level,

"(2) eliminating backlogs in the provision of health care services to Indians,

"(3) meeting the health needs of Indians in an efficient and equitable manner, and

"(4) augmenting the ability of the Service to provide the following health service responsibilities:

"(A) clinical care (direct and indirect);

"(B) preventive health;

"(C) dental care (direct and indirect);

"(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

"(E) emergency medical services;

"(F) treatment and control of, and rehabilitative care related to, alcoholism among Indians;

"(G) accident prevention programs;

"(H) community health representative programs; and

"(I) maintenance and repair.

"(b)(1) Any funds appropriated pursuant to subsection (j) shall not be used to offset or limit any appropriations made to the Service under the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Synder Act, or any other provision of law.

"(2) Funds which are appropriated pursuant to subsection (j)(1) may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated pursuant to subsection (j)(1) to raise all Indian tribes to health resources deficiency level II.

"(3)(A) Funds appropriated pursuant to subsection (j)(1) shall be allocated on a service unit basis.

"(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service and the affected Indian tribes.

"(c)(1) For purposes of this section, the health resources deficiency levels are as follows:

"(A) level I—0 to 20 percent deficiency;

"(B) level II—21 to 40 percent deficiency;

"(C) level III—41 to 60 percent deficiency;

"(D) level IV—61 to 80 percent deficiency; and

"(E) level V—81 to 100 percent deficiency.

"(2) Under regulations, the Secretary shall establish, procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.

"(d) The Secretary, acting through the Service, shall expend funds for research in each of the areas of health service responsibility described in subsection (a)(4).

"(e) By no later than October 1, 1984, the Secretary shall develop and begin implementation of a plan to reduce the incidence of infant mortality and morbidity among Indian tribes by October 1, 1987, to a rate no greater than the average rate of infant mortality and morbidity among all citizens of the United States. Such plan shall include an assessment of the impact of environmental and sanitation conditions on Indian infant mortality and morbidity rates and the need to improve such conditions.

"(f) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated pursuant to subsection (j) on an equal basis with programs that are administered directly by the Indian Health Service.

"(g) Within 60 days after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress the current health services priority system report of the Service for each Indian tribe, including newly recognized or acknowledged tribes. Such report shall set our—

"(1) the methodology for determining tribal health resources deficiencies;

"(2) the level of health resources deficiency for each tribe;

"(3) the amount of funds necessary to raise all tribes below health resources deficiency level II to health resources deficiency level II;

"(4) the amount of funds necessary to raise all tribes below health resources deficiency level I to health resources deficiency level I; and

"(5) the amount of funds necessary to raise all tribes to a zero level of deficiency.

"(h)(1) The Secretary, acting through the Service and in conjunction with each Indian tribe, shall annually update the tribal specific health plans which were developed as part of the plan required under sectioin 703. The updating of such plans shall be carried out in accordance with the methodology submitted to the Congress under subsection (g)(1), as modified through consultation with the Indian tribe to which such plan relates.

"(2) The Secretary shall submit to Congress an annual report on the health services priority system to the Service by no later than 30 days after the date the President submits to the Congress the budget of the Federal Government for any fiscal year beginning after September 30, 1985. Such report shall be based on the updated tribal specific health plans described in paragraph (1).

"(i) The eligibility of any Indian for medical or health assistance that is provided to indigents by a State or local government (or any agency or instrumentality thereof) shall not be taken into account in determining the eligibility of such Indian for medical or health services provided by, or on behalf of, the Service if—

"(1) the medical or health assistance provided by the State or local government if funded by the revenues from any tax imposed on real property, and

"(2) such Indian resides on a reservation or restricted Indian land which is not subject to taxation.

"(j)(1) There are authorized to be appropriated for the purpose of carrying out the provisions of this section (other than subsections (d) and (e))—

"(A) $28,000,000 for fiscal year 1985,

"(B) $29,000,000 for fiscal year 1986,

"(C) $28,000,000 for fiscal year 1987, and

"(D) such sums as may be necessary for fiscal year 1988.

"(2) There are authorized to be appropriated for the purpose of carrying out the provisions of subsection (d) for each of the fiscal years 1985, 1986, 1987, and 1988, an amount equal to 1 percent of the amount authorized to be appropriated under paragraph (1) for such fiscal year.

"(3) There are authorized to be appropriated for purposes of carrying out the provisions of subsection (e) for each of the fiscal years 1985, 1986, 1987, and 1988, an amount equal to 3 percent of the amount authorized to be appropriated under paragraph (1) for such fiscal year.".

(j) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a spearate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to carry out each of subsections (a)(1), (a)(2), (a)(3), (a)(4)(A), (a)(4)(B), (a)(4)(C), (a)(4)(D), (a)(4)(E), (a)(4)(F), (a)(4)(G), (a)(4)(H), (a)(4)(I), (b), (c), (d), (e), (f), (g), and (h).

TITLE III—HEALTH FACILITIES

CONSULTATION; CLOSURE OF FACILITIES

SEC. 301. Section 301 (25 U.S.C. 1631) is amended to read as follows:

"CONSULTATION; CLOSURE OF FACILITIES

"SEC. 301. (a) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of Indian health facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any health facility on which such expenditure is to be made, and

"(2) be assured that, wherever practicable, such health facility shall meet the standards of the Joint Commission on Accreditation of Hospitals by not later than 1 year after the date on which the construction or renovation of such health facility is completed.

"(b) Notwithstanding any other provision of law, the Secretary may close a Service hospital or other outpatient health care facility, or any portion of such a hospital or facility, only if the Secretary has submitted to the Congress at least 1 year prior to the date such hospital or facility (or portion thereof) is closed an evaluation of the impact of such closure which specifies, in addition to other considerations—

"(1) the accessibility of alternative health care resources for the population served by such hospital or facility;

"(2) the cost effectiveness of such closure;

"(3) the quality of health care to be provided to the population served by such hospital or facility after such closure;

"(4) the availability of contract health care funds to maintain current levels of service; and

"(5) the views of the Indian tribes served by such hospital or facility concerning such closure.

"(c)(1) By no later than 60 days after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress a report which sets forth—

"(A) the current health facility priority system of the Service,

"(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),

"(C) the justification for such order of priority,

"(D) the projected cost of such projects, and

"(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

"(2) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into under the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the development of the health facility priority system.".

SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 302. Section 302 (25 U.S.C. 1632) is amended to read as follows:

"SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

"SEC. 302. (a)(1) Congress hereby finds and declares that—

"(A) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is basically and primarily a health consideration and function;

"(B) Indian people suffer an inordinately high incidence of diseases, injuries, and illnesses directly attributable to the absence or inadequacy of such facilities;

"(C) the long-term cost to the United States of treating and curing such diseases, injuries, and illnesses is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

"(D) many Indian homes and communities still lack safe water supply facilities and sanitary sewage and solid waste disposal facilities; and

"(E) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply facilities and sanitary sewage waste disposal facilities as soon as possible.

"(2) In furtherance of the findings and declaration made in paragraph (1), Congress affirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in the Act of August 5, 1954 (68 Stat. 674).

"(b) The Secretary, acting through the Service, shall develop and begin implemen-

tation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

"(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

"(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

"(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities in situations in which the community, tribe, or family is not financially or technically capable of performing the required operation and maintenance or emergency repairs.

"(2) Paragraph (1) shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operation and maintenance of sanitation facilities.

"(3) The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary under paragraph (1) and the Secretary may not require an Indian tribe or community to accept a transfer of sanitation facilities if the Secretary has determined that such Indian tribe or community does not have, or may not be reasonably expected to achieve, such capability.

"(d)(1) By not later than the date which is 6 months after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress a report which sets forth—

"(A) the current Indian sanitation facility priority system of the Service;

"(B) the methodology for determining sanitation deficiencies;

"(C) the level of sanitation deficiency for each Indian tribe or community;

"(D) the amount of funds necessary to raise all Indian tribes and communities to a level II deficiency;

"(E) the amount of funds necessary to raise all Indian tribes and communities to a level I deficiency; and

"(F) the amount of funds necessary to raise all Indian tribes and communities to a zero level of deficiency.

"(2) For purposes of this subsection, the sanitation deficiency levels are as follows:

"(A) Level I is a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws and regulations, and

"(ii) in which the deficiencies consist of routine replacement, repair, or maintenance needs,

"(B) Level II is a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws and regulations, and

"(ii) in which the deficiencies related to capital improvements which are necessary in order to meet the needs of the communities.

"(C) Level III is a sanitation system which—

"(i) has an inadequate or partial water supply and sewage disposal facility that does not comply with applicable water supply and polution control laws and regulation, or

"(ii) has no solid waste disposal facility.

"(D) Level IV is a sanitation system which lacks either a safe water supply system or a sewage disposal system.

"(E) Level V is the absence of a safe water supply and sewage disposal system.

"(e) Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated pursuant to subsection (f) on an equal basis with programs that are administered directly by the Indian Health Service.

"(f) There are authorized to be appropriated for purposes of carrying out the provisions of subsection (c), $5,850,000 of each of the fiscal years 1985, 1986, 1987, and 1988.".

GRANTS OF UNOBLIGATED FUNDS

SEC. 303. Title III is amended by striking out section 305 and inserting in lieu thereof the following new sections:

"GRANTS OF UNOBLIGATED FUNDS

"SEC. 305. (a) If any funds appropriated pursuant to the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, for the purposes of planning, designing, constructing, or renovating any Indian health facility are unobligated 90 days after the close of the fiscal year for which such funds were appropriated, the Indian tribe for whose benefit such funds were appropriated shall be entitled to a grant of such funds for such purpose pursuant to section 104(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450h (b)).

"(b) Any planning, designing, constructing, or renovating of an Indian health facility which is financed by any grant made pursuant to subsection (a) shall be conducted in accordance with all rules and regulations prescribed by the Secretary relating to contracting and procurement.

"(c) If the planning, design, construction, or renovation of any facility is financed by a grant made pursuant to subsection (a), title to such facility shall vest in the United States.

"(d) This section shall not impair the right of any Indian tribe to contract for funds pursuant to section 103 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(g)).

"EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION

"SEC. 306. (a) Notwithstanding any other provision of law, and Indian tribe is authorized to expend—

"(1) any funds of such tribe which are not held in trust by the Secretary of the Interior,

"(2) upon approval of the Secretary of the Interior, any funds held in trust by the Secretary of the Interior for the benefit of such tribe, and

"(3) any funds appropriated under Federal law which are not appropriated to the Secretary for expenditure through the Service,

for the purpose of making any major renovation or modernization of any Service facility or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination and Education Assistance Act (including and expenditure for the planning or designing of such renovation or modernization) if the requirements of subsection (b) are met.

"(b) The requirements of this subsection are met with respect to any renovation or modernization if the renovation or modernization—

"(1) does not require or obligate the Secretary to provide any additional employees or equipment,

"(2) is approved by the appropriate area director of the Service, and

"(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.".

TITLE IV—ACCESS TO HEALTH SERVICES

GRANTS AND CONTRACTS WITH TRIBAL ORGANIZATIONS

SEC. 401. Section 404(c) (25 U.S.C. 1622(c)) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $500,000 for the fiscal year ending September 30, 1988".

MEDICARE PROVISIONS

SEC. 402. (a) Section 1880 of the Social Security Act is amended—

(1) in subsection (a), by striking out "A hospital or skilled nursing facility" and inserting in lieu thereof "A hospital, skilled nursing facility, health center, health station, or home health agency";

(2) in subsection (a), by striking out "hospitals or skilled nursing facilities (as the case may be)" and inserting in lieu thereof "facilities of that type";

(3) in subsection (b), by striking out "a hospital or skilled nursing facility" and inserting in lieu thereof "a hospital, skilled nursing facility, health center, health station, or home health agency";

(4) in subsection (b), by striking out "hospitals or skilled nursing facilities (as the case may be)" and inserting in lieu thereof "facilities of that type";

(5) in subsection (c), by striking out "any hospital or skilled nursing facility" and inserting in lieu thereof "any hospital, skilled nursing facility, health center, health station, or home health agency";

(6) in subsection (c), by striking out "hospitals and skilled nursing facilities" each place it appears and inserting in lieu thereof in each instance "facilities"; and

(7) in subsection (d), by striking out "hospitals and skilled nursing facilities" and "hospitals and facilities", and inserting in lieu thereof in each instance "facilities".

(b) Section 1880 (c) of the Social Security Act is further amended—

(1) by inserting after the first sentence the following: "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of this section, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of this title."; and

(2) by striking out "The preceding sentence" and inserting in lieu thereof "This subsection".

MEDICAID PROVISIONS

SEC. 403. (a) Section 1911 of the Social Security Act is amended by striking out "or

skilled nursing facility" each place it appears and inserting in lieu thereof in each instance "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan".

(b) Section 402 (c) of the Indian Health Care Improvement Act is amended—

(1) by striking out "or skilled nursing facility" in the first sentence and inserting in lieu thereof "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan";

(2) by inserting after the first sentence the following: "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of this section, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of this title."; and

(3) by striking out "The preceding sentence" in the last sentence and inserting in lieu thereof "This subsection".

TITLE V—URBAN INDIAN HEALTH SERVICES

REVISION OF PROGRAM

SEC. 501. Title V (25 U.S.C. 1651, et seq.) is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"PURPOSE

"SEC. 501. The purpose of this title is to encourage the establishment of programs in urban centers to make health services more accessible to urban Indians.

"CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

"SEC. 502. The Secretary, through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in this title. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with any urban Indian organization pursuant to this title.

"CONTRACTS FOR THE PROVISION OF HEALTH CARE OR REFERRAL SERVICES

"SEC. 503. (a) The Secretary, through the Service, shall enter into contracts with urban Indian organizations for the provision of health care or referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract shall include requirements that the urban Indian organization successfully undertake to—

"(1) determine the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) determine the current health status of urban Indians residing in such urban center;

"(3) determine the current health care needs of urban Indians residing in such urban center;

"(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

"(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

"(6) assist such health services resources in providing services to urban Indians;

"(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

"(8) provide basic health education to urban Indians;

"(9) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (6) through (8) of this subsection;

"(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

"(b) The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts under this section. Such criteria shall, among other factors, include—

"(1) the extent of unmet health care needs of urban Indians in the urban center involved;

"(2) the size of the urban Indian population in the urban center involved;

"(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

"(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate—

"(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or

"(B) any project funded under this title;

"(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary under this section;

"(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center; and

"(8) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS

"SEC. 504. (a) The Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.

"(b) Any contract entered into by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved;

"(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.

"(c) The Secretary may not renew any contract entered into under this section.

"EVALUATIONS; CONTRACT RENEWALS

"SEC. 505. (a) The Secretary, through the Service, shall develop procedures to evaluate compliance with, and performance of, contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatifactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.

"(d) In determining whether to renew a contract with an urban Indian organization under section 503, or whether to enter into a contract with an urban Indian organization under section 503 which has completed performance of a contract under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract under section 503, shall consider the results of the on-site evaluations conducted under subsection (b).

"OTHER CONTRACT REQUIREMENTS

"SEC. 506. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935, as amended.

"(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

"(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the re-

quest or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title, except that whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

"(d) In connection with any contract entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

"(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

"REPORTS AND RECORDS

"SEC. 507. (a) For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a quarterly report including—

"(1) in the case of a contract under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

"(2) information on activities conducted by the organization pursuant to the contract;

"(3) an accounting of the amounts and purposes for which Federal funds were expended; and

"(4) such other information as the Secretary may request.

"(b) The reports and records of the urban Indian organization with respect to a contract under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(c) The Secretary shall allow as a cost of any contract entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

"REPORTS REQUIRED

"SEC. 508. (a) By no later than the date which is 1 year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary, through the Service, shall submit a report to Congress which assesses the health status and health care needs of urban Indians. The report shall—

"(1) specify the health care needs of urban Indians and, with respect to urban centers for which urban Indian organizations have entered into contracts under section 503, whether additional health care personnel are needed to meet such needs;

"(2) make recommendations for additional programs, technical assistance, funding, and additional health care personnel to meet the health care needs of all urban Indians; and

"(3) contain recommendations for legislation and administrative actions to achieve the national goal of providing the best possible health status for urban Indians.

"(b) By no later than April 1, 1988, the Secretary, through the Service and with the assistance of the urban Indian organizations that have entered into contracts under this title, shall review the program established under this title and submit to the Congress an assessment thereof and recommendations for any further legislative efforts the Secretary deems necessary to meet the purpose of this title.

"LIMITATION ON CONTRACT AUTHORITY

"SEC. 509. The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

"AUTHORIZATIONS

"SEC. 510. There are authorized to be appropriated for contracts under this title—

"(1) $15,000,000 for fiscal year 1985,

"(2) $16,500,000 for fiscal year 1986,

"(3) $17,657,000 for fiscal year 1987, and

"(4) $18,888,000 for fiscal year 1988.".

TITLE VI—MISCELLANEOUS

NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

SEC. 601. Subsection (f) of section 707 (25 U.S.C. 1677 (f)) is amended to read as follows: "(f) There are authorized to be appropriated $750,000 for the purpose of conducting the study described in subsection (a). Such funds shall remain available for expenditure until the date which is 18 months after the date such funds are appropriated.".

ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA; FORMERLY RECOGNIZED TRIBES IN CALIFORNIA

SEC. 602. (a)(1) Subsection (a) of section 708 (25 U.S.C. 1678 (a)) is amended—

(A) by striking out "1984" and inserting in lieu thereof "1988", and

(B) by striking out "Indians in such State" and inserting in lieu thereof "members of federally recognized Indian tribes of Arizona".

(2) Subsection (c) of section 708 (25 U.S.C. 1678(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $7,700,000 for fiscal year 1985,

"(2) $8,242,000 for fiscal year 1986,

"(3) $8,819,800 for fiscal year 1987, and

"(4) $9,434,600 for fiscal year 1988.".

(b) Section 709 (25 U.S.C. 1679) is amended to read as follows:

"ELIGIBILITY OF CERTAIN FORMERLY RECOGNIZED CALIFORNIA INDIAN TRIBES

"SEC. 709. The following California Indians shall be eligible for services from the Service:

"(1) members of federally recognized Indian tribes;

"(2) Indians of California as defined in the first section of the Act of May 18, 1928 (45 Stat. 602);

"(3) Indians who hold trust interests in public domain land, national forest lands, or Indian reservation allotments in California; and

"(4) Indians in California who are listed in the plans for distribution of the assets of California rancherias and reservations under Public Law 85-671.".

PERSONNEL CEILINGS DEMONSTRATION PROJECT

SEC. 603. Section 710 (25 U.S.C. 1680) is hereby repealed.

REDUCTION AND CONTROL OF HEPATITIS-B IN ALASKA

SEC. 604. Title VII (25 U.S.C. 1671, et seq.) is amended by adding at the end thereof the following new sections:

"REDUCTION AND CONTROL OF HEPATITIS-B IN ALASKA: CLINICAL CARE PRIORITIES

"SEC. 710. (a)(1) By no later than the date which is 1 year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary, through the Service and in conjunction with the State of Alaska and the Center for Disease Control, shall complete the implementation of a program to provide for—

"(A) screening and reporting of cases of,

"(B) vaccinations for the prevention of, and

"(C) control of the incidence of,

hepatitis-B in Alaska.

"(2) By no later than December 30, 1986, the Secretary shall submit to the Congress a report concerning the activities carried out under the program described in paragraph (1). The report shall include—

"(A) a description of any activities which, on the day the report is submitted, need to be carried out to control the incidence of hepatitis-B in Alaska, and

"(B) a schedule for the completion of such activities.

"(b)(1) The Secretary shall include in the budget submitted under section 1105(a) of title 31, United States Code, for each of the fiscal years succeeding the fiscal year in which the Indian Health Care Amendment of 1984 are enacted, a request for budget authority for, and estimates of outlays for, a program to control the incidence of hepatitis-B in Alaska.

"(2) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(A) $3,200,000 for fiscal year 1985,

"(B) $3,200,000 for fiscal year 1986, and

"(C) such sums as may be necessary for each of the fiscal years 1987 and 1988.

"LIMITATION ON IMPLEMENTATION OF CLINICAL CARE PRIORITIES

"SEC. 711. (a) The Congress finds and declares that—

"(1) because the health care needs of Indian people vary in different geographic areas of the country;

"(2) decisions affecting the kinds of health care that can be provided in view of available resources are best made at the local level;

"(3) the quality of health care provided at the local level depends upon the degree to which there is sufficient flexibility in the allocation of resources at the local level to respond to local health needs; and

"(4) the objective of raising the health status of Indian and Alaska Native people to the highest possible level is best served when clinical care priorities are established at the local level.

"(b) Notwithstanding any other provision of law, the Secretary shall not implement on a national basis—

"(1) any reduction in,

"(2) any restriction on, or

"(3) any modification in,

any type of clinical health care services provided by the Service on the date of enactment of the Indian Health Care Amendments of 1984 (including any clinical health care service provided by the Service directly or by grant, contract, or any other type of arrangement) before the date which is 90 days after the date on which the Secretary submits a plan for the establishment of national clinical care priorities to the Congress.

"(c)(1) The Secretary shall conduct a study which analyzes the effect that implementation of the clinical care priorities described in paragraph (3) on a national level would have on the provision of clinical health care services if such clinical care priorities were in effect during fiscal year 1985. Such study

shall be based on data extracted from the Indian Health Service patient care information system in the Service areas where that system is currently operative.

"(2) By no later than December 31, 1985, the Secretary shall submit to the Congress a final report on the study conducted under paragraph (1). Such report shall include—

"(A) the total number of individuals who would have been denied clinical health care services if the clinical care priorities described in paragraph (3) had been in effect during fiscal year 1985;

"(B) a division of the total number of individuals described in subparagraph (A) among each category of clinical health care services specified in such clinical care priorities; and

"(C) a division of the total number of individuals described in subparagraph (A) among each type of clinical health care service included in each category referred to in subparagraph (B).

"(3) The clinical care priorities referred to in paragraphs (1) and (2) are the priorities determined under the order of priority for the provision of clinical health care services that was recommended in the report issued in January 1983 by the Task Force on Contract Health Services which was established by the Director of the Indian Health Service.

"(d) For purposes of this section, the term 'clinical health care service' means any health care service provided by the Service to Indians directly or by grant, contract, or any other type of arrangement on the day before the date of enactment of the Indian Health Care Amendments of 1984.".

ORGANIZATIONAL IMPROVEMENTS

SEC. 605. (a) The Act is amended by adding at the end thereof the following new title:

"TITLE VIII—ORGANIZATIONAL IMPROVEMENTS

"INDIAN HEALTH SERVICE

"SEC. 801. (a) There is established in the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary of Health and Human Services for Health, and shall not report to, or be under the supervision of, any other officer or employee of the Department of Health and Human Services.

"(b) The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

"(c) The Secretary shall carry out through the Director of the Indian Health Service—

"(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1984, carried out by or under the direction of the individual serving as Director of the Service on such day; and

"(2) all functions of the Secretary or the Department of Health and Human Services relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and the provision and utilization of, health services for Indians.

"(d) Notwithstanding any other provision of law, the Secretary may not reorganize, alter, or discontinue the Indian Health Service or allocate or reallocate any function which this section specifies shall be performed by the Director of the Indian Health Service or by the Secretary of Health and Human Services through the Director of the Indian Health Service.

"(e)(1) The Director of the Indian Health Service shall have the authority—

"(A) to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriated for the Service.

"(2) The authority of the Director of the Indian Health Service to enter into contracts under this subsection shall be to such extent or in such amounts as are provided in appropriation Acts.

"NATIONAL INDIAN HEALTH ADVISORY BOARD

"SEC. 802. (a) There is established within the Service a National Indian Health Advisory Board (hereinafter in this section referred to as the 'Board') which shall be composed of—

"(1) one Indian or Alaska Native from each of the regional service areas of the Service, and

"(2) two Indians or Alaska Natives who provide health care services under distinct urban Indian health care programs.

"(b)(1)(A) Each member of the Board described in subsection (a)(1) shall be elected to the Board by vote of the members of the Area Health Board for the regional service area of the Service that such member represents.

"(B) If a regional service area does not have an Area Health Board, the member of the Board described in subsection (a)(1) who represents such service area shall be elected to the Board by vote of the Indian tribes and Alaska Native village or regional or village corporation (as defined in, or established under, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)) located within such service area. In any election conducted under the preceding sentence, each Indian tribe and Alaska Native village or regional or village corporation located in such service area shall have 1 vote.

"(2) Each member of the Board described in subsection (a)(2) shall be elected to the Board by vote of the membership of the American Indian Health Care Association or any organization which succeeds such Association.

"(3) The only individuals who may be elected to serve as members of the Board are individuals who—

"(A) are members of the governing body of—

"(i) any Indian tribe which is recognized by the Secretary of the Interior as eligible for services provided to Indians because of their status as Indians, or

"(ii) any Alaska Native village or regional or village corporation (as defined in, or established under, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), and

"(B) by reason of training or experience, are knowledgeable in health education, nursing, data systems, public information, or community program development.

"(4) The term of office for each member of the Board shall be 3 years, except that of the members first elected to the Board—

"(A) four shall serve a term of office of 1 year,

"(B) five shall serve a term of office of 2 years, and

"(C) five shall serve a term of office of 3 years, as designated by the Secretary prior to the election of such members. A member of the Board may continue to serve as a member of the Board after the term of office of such member has expired until a successor to such member takes office.

"(5)(A) A vacancy on the Board shall not affect the activities of the Board.

"(B) If a vacancy on the Board occurs, an election shall be held within 90 days of such occurrence to fill such vacancy. Any individual who is elected to fill such vacancy shall serve the remainder of the unexpired term.

"(6) The Board shall elect from among its members a chairman and such other officers as the Board considers to be necessary.

"(7) The Board shall meet at the call of the chairman of the Board or at the request of the Director of the Indian Health Service, but not less often than 4 times a year.

"(8) The Board shall adopt such bylaws as the Board determines to be necessary to enable the Board to carry out its functions.

"(c) The Board shall—

"(1) advise the Director of the Indian Health Service and the Secretary with respect to—

"(A) the administration (including the development of regulations and of administrative practices and policies) of any medical or health program in which Indians participate, and

"(B) the adequate funding of such programs;

"(2) evaluate all medical or health programs and projects carried out under any program of the Department of Health and Human Services in which Indians can participate or from which they can benefit, and disseminate the results of such evaluations;

"(3) provide technical assistance to local medical or health agencies and to Indian medical or health agencies, institutions, and organizations to assist them in improving the health of Indians;

"(4) assist the Secretary in developing criteria and regulations for the administration and evaluation of contracts made under title V of the Indian Health Care Amendments of 1984;

"(5) conduct studies and acquire information on the health status of American Indians and Alaska Natives and disseminate such information and the results of such studies;

"(6) assist the Secretary and the Director of the Indian Health Service in promoting the development of American Indian and Alaska Native health manpower;

"(7) assist the Secretary and the Director of the Indian Health Service in improving the health status of American Indians and Alaska Natives and in promoting the self-determination of American Indians and Alaska Natives; and

"(8) inform local and area health boards, Indian tribes, and Alaska Native villages or regional or village corporations (as defined in, or established under, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)) of proposed health legislation or regulations and the impact such legislation or regulations may be expected to have on the health status or health care of American Indians or Alaska Natives.

"(d) After consultation with the Board and consideration of the recommendations of the Board, the officers of the Board—

"(1) shall appoint an executive director and at least one other individual as a member of the professional staff of the Board, and

"(2) shall—

"(A) appoint such other employees, and

"(B) through contract or other arrangements—

"(i) acquire such administrative support services and facilities,

"(ii) acquire such information, and

(iii) acquire the services of such consultants,

as the Board determines to be necessary to enable the Board to carry out its functions.

"(e)(1) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board conpensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime.

"(2) Except as provided in paragraph (3), any officer or employee of the United States who is a member of the Board shall serve as a member of the Board without compensation.

"(3) All members of the Board, while serving away from their homes or regular places of business as members of the Board, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(f) The Board shall submit to the Congress by no later than June 30 of each year an annual report on the activities of the Board during the preceding year. Such annual report shall include—

"(1) any recommendations the Board may deem necessary for the improvement of medical and health programs in which Indians participate, or from which they can benefit, and

"(2) a statement of the recommendations of such Board to the Secretary with respect to the funding of any such programs.

"(g)(1) The Board is authorized to enter into contracts with any public or private nonprofit agency, institution, or organization in order to carry out the duties of the Board described in paragraphs (2), (3), (4), and (5) of subsection (c).

"(2) The authority of the Board to enter into any contract under this section shall be limited to such extent, and to such amounts, as may be provided for in appropriation Acts.

"(h) There are authorized to be appropriated for each fiscal year beginning after September 30, 1984, and ending before October 1, 1988, such sums as may be necessary to carry out the provisions of this section.

"INDIAN HEALTH POLICY ADVISORY PANEL

"SEC. 803. (a) There is established within the Service an Indian Health Policy Advisory Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of—

"(1) three Indians or Alaska Natives from distinct regional service areas of the Service,

"(2) one Indian or Alaska Native who provides health care services under an urban Indian health care program,

"(3) three individuals who—

"(A) are scientists, physicians, or other health professionals, and

"(B) represent the specialties and disciplines relevant to the services provided by the Service,

"(4) the Assistant Secretary for Health of the Department of Health and Human Services,

"(5) the Director of the National Institutes for Health,

"(6) the Director of the Center for Disease Control,

"(7) the Administrator of the Alcohol, Drug Abuse and Mental Health Administration,

"(8) the Director of the Indian Health Service and all former Directors of the Indian Health Service, and

"(9) such other officers and employees of the United States whose advice is determined by the Secretary to be necessary in order to carry out the duties of the Panel.

Any individual described in paragraph (4), (5), (6), (7), (8), or (9) shall serve as an ex officio member of the Panel.

"(b)(1) Each member of the Panel described in subsection (a)(1) shall be elected to the Panel by the members of the National Indian Health Advisory Board.

"(2) The member of the Panel described in subsection (a)(2) shall be elected to the Panel by vote of the membership of the American Indian Health Care Association or any organization which succeeds such Association.

"(3) The members of the Panel described in subsection (a)(3) shall be appointed by the Secretary from a list of nominees provided to the Secretary by the Director of the Indian Health Service.

"(4) The term of office for each member of the Panel described in paragraph (1), (2), or (3) of subsection (a) shall be 3 years, except that of the first of such members elected or appointed to the Panel—

"(A) two shall serve a term of office of 1 year,

"(B) two shall serve a term of office of 2 years, and

"(C) three shall serve a term of office of 3 years, as designated by the Secretary prior to the election or appointment of such members.

"(5) A member of the Panel may continue to serve as a member of the Panel after the term of office of such member has expired until a successor to such member takes office.

"(6)(A) A vacancy on the Panel shall not affect the activities of the Panel.

"(B) If a vacancy on the Panel occurs with respect to any member of the Panel described in paragraph (1), (2), or (3) of subsection (a), an election shall be held, or appointment made (as the case may be), to fill such vacancy within 90 days of such occurrence. Any individual who is elected or appointed to fill such vacancy shall serve the remainder of the unexpired term.

"(C) If a vacancy occurs with respect to any member of the Panel described in subsection (a)(1), the individual elected to fill such vacancy shall not be from the same regional service area of the Service which was represented by the individual who is being replaced on the Panel.

"(7) The Director of the Indian Health Service shall be the chairman of the Panel.

"(8) The Panel shall meet at the call of the chairman of the Panel or upon request of the Secretary, but not less often than 2 times a year.

"(9) The Panel shall adopt such bylaws as the Panel determines to be necessary to enable the Panel to carry out its functions.

"(c) The Panel shall—

"(1) advise the Director of the Indian Health Service on matters of long-range Indian health policy,

"(2) under direction of the chairman of the Panel, develop a plan to implement Indian health policy and to provide for the most effective use and organization of the resources available to the Indian Health Service,

"(3) after consultation with and consideration of the recommendations of the Secretary, make recommendations to Congress and the President on matters of long-range Indian health policy, and

"(4) maintain liaison with the National Indian Health Advisory Board, other advisory bodies, the heads of other appropriate Federal agencies, and with key non-Federal entities involved in activities affecting the Indian Health Service.

"(d) After consultation with the Panel and consideration of the recommendations of the Panel, the chairman of the Panel—

"(1) shall appoint an executive director and at least one other individual as a member of the professional staff of the Panel, and

"(2) shall—

"(A) appoint such other employees, and

"(B) through contract or other arrangements—

"(i) acquire such administrative support services and facilities,

"(ii) acquire such information, and

"(iii) acquire the services of such consultants,

as the Panel determines to be necessary to enable the Panel to carry out its functions.

"(e)(1) Members of the Panel who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Panel compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime.

"(2) Except as provided in paragraph (3), any officer or employee of the United States who is a member of the Panel shall serve as a member of the Panel without compensation.

"(3) All members of the Panel, while serving away from their homes or regular places of business as members of the Panel, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(f) The authority of the Panel to enter into any contract under this section shall be limited to such extent, and to such amounts, as may be provided for in appropriation Acts.

"(g) The Panel shall submit to the Secretary and to the Congress an annual report which—

"(1) describes the Advisory Panel's activities in the fiscal year for which the report is made;

"(2) makes recommendations to Congress and the President for the establishment of Indian health policy; and

"(3) describes a plan to implement Indian health policy, or contains the Advisory Panel's recommendations, if any, for changes in such a plan.

"(h) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"MANAGEMENT INFORMATION SYSTEM

"SEC. 804. (a)(1) The Secretary shall establish an automated management information system for the Service.

"(2) The information system established under paragraph (1) shall include—

"(A) a cost accounting system,

"(B) a patient care information system for each area served by the Service, and

"(C) a privacy component that protects the privacy of patient information held by the Service.

"(b) By no later than September 30, 1985, the Secretary shall submit a report to Congress setting forth—

"(1) the activities which have been undertaken to establish an automated management information system,

"(2) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and

"(3) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal years.

"(c) There are authorized to be appropriated—

"(1) $4,000,000 for fiscal year 1985, and

"(2) such sums as may be necessary to carry out the provisions of this section for each of the fiscal years 1986, 1987, and 1988.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Director, Indian Health Service, Department of Health and Human Services.".

NEGOTIATION FOR CONTRACTS

SEC. 606. Subsection (b) of the first section of the Act of August 5, 1954 (68 Stat. 674; 42 U.S.C. 2001 (b)) is amended—

(1) by striking out "In carrying out" and inserting in lieu thereof "(1) In carrying out", and

(2) by adding at the end thereof the following new paragraphs:

"(2) The Secretary may waive any statutory or administrative requirement for competitive procurement of health services if, in the judgment of the responsible Chief Medical Officer, such competitive procurement would compromise the accessibility, quality, and continuity of health services or would not result in appreciable competition or savings.

"(3) The Secretary shall reject any bid submitted pursuant to any statutory or administrative requirement for competitive procurement of health services upon certification by the responsible Chief Medical Officer that acceptance of such bid would compromise the accessibility, quality, and continuity of health services.".

TECHNICAL AMENDMENT

SEC. 607. Section 4 is amended by striking out subsections (i), (j), and (k).

STUDY OF HEALTH CARE NEEDS OF NATIVE HAWAIIANS AND OTHER NATIVE PACIFIC ISLANDERS

SEC. 608. (a)(1) The Secretary of Health and Human Services shall conduct a study of the physical and mental health care needs of Native Hawaiians and other Native American Pacific Islanders.

(2) In conducting the study required under paragraph (1), the Secretary of Health and Human Services shall consult with the Commissioner of the Administration for Native Americans, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Indian Health Service, leaders in the field of health care, and representatives of Native Hawaiians and other Native American Pacific Islanders.

(b) By no later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report on the study conducted under subsection (a). Such report shall include—

(1) an assessment of the access of, and barriers to, Native Hawaiians and other Native American Pacific Islanders in receiving physical and mental health care services,

(2) an assessment of the physical and mental health care needs of Native Hawaiians and other Native American Pacific Islanders, and

(3) specific recommendations for the development of a national strategy to address such needs.

AMENDMENT NO. 4101

(Purpose: Elimination of grants of unobligated funds for Indian health facilities and for other purposes)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from North Dakota [Mr. ANDREWS], the chairman of the committee. It is an amendment to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], on behalf of Mr. ANDREWS, proposes an amendment numbered 4101.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered,

The amendment is as follows:

On page 46, strike out lines 10 through 20 and insert in lieu thereof the following:

"(1) In determining the eligibility of any Indian for medical or health services provided by, or on behalf of, the Service, the eligibility of such Indian for any medical or health assistance that is provided to indigents by a State or local government (or any agency or instrumentality thereof) shall not be taken into account if—

"(1) the medical or health assistance provided by the State or local government is funded by the revenues from any tax imposed on real property, and

"(2) such Indian resides on a reservation or restricted Indian land which is not subject to taxation.

On page 47, line 13, strike out the end quotation marks and end period.

On page 47, line 14, strike out "(j)" and insert in lieu thereof " '(j)".

On page 47, line 21, strike out the period and insert in lieu thereof ".'.".

On page 49, between lines 11 and 12, insert the following:

"(c) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1986, 1987, and 1988, planning information documents for the construction of five Indian health facilities which—

"(1) comply with applicable construction standards,

"(2) have been approved by the Secretary.

On page 49, line 12, strike out "(c)" and insert in lieu thereof "(d)".

On page 55, line 11, strike out "sections" and insert in lieu thereof "section".

On page 55, beginning with line 12, strike out all through page 56, line 10.

On page 56, line 13, strike out "Sec. 306" and insert in lieu thereof "Sec. 305".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4101) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4102

(Purpose: To establish a contract health service delivery area for the delivery of services from the Indian Health Service to members of the Trenton Williston Band of the Turtle Mountain Band of Chippewa Indians)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senator ANDREWS and Senator BURDICK again to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], on behalf of Mr. ANDREWS and Mr. BURDICK, proposes an amendment numbered 4102.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Act is amended by adding the following new section:

"SEC. 712. The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana. The Secretary is directed to conduct a population survey of Indians residing in the Trenton Service Area for the purpose of determining the basis for the distribution of equity health care funds and the provision of contract health care. Should the results of the population survey indicate that additional eligible members of the Turtle Mountain Band of Chippewa Indians reside outside the boundaries of the named North Dakota and Montana counties, the contract health service delivery area shall be defined to include those additional counties of North Dakota or Montana in which such eligible tribal members reside."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4102) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4103

(Purpose: To clarify the terms of leases for the use facility space whether a program is operated by the Indian Health Service or by an Indian tribe)

Mr. STEVENS. Mr. President, there is another amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], on behalf of Mr. ANDREWS, proposes an amendment numbered 4103.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 704, and insert in lieu thereof the following:

"SEC. 704(a) Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years. Property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

"(b) Notwithstanding any other provision of law, the Secretary is authorized in carrying out the purposes of this Act, to enter into leases, contracts, and other legal agreements with Indian tribes and tribal organizations for the purpose of compensating such tribes or organizations for facility space costs, including but not limited to depreciation based on the useful life of the building, interest paid or accrued, operation and maintenance, and other allowable costs associated with the administration and delivery of health services by the Indian Health Service or tribally-operated programs."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4103) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4104

(Purpose: To provide a demonstration program for direct billing of medicare and medicaid payments)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senator ANDREWS, Senator MURKOWSKI, and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself, Mr. ANDREWS, and Mr. MURKOWSKI, proposes an amendment numbered 4104.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, after line 22, add the following:

DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYMENTS

SEC. 404. (a) The Secretary of Health and Human Services shall establish a demonstration program under which Indian Tribes and Alaska Native health organizations, which are contracting the entire operation of an entire facility of the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act, shall directly bill for, and receive payment for, health care services provided by such facility for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor, The Federal percentage under the medicaid program shall continue to be 100 percent for purposes of the demonstration program.

(b)(1) Each facility participating in the demonstration program described in subsection (a) shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880 (c) of the Social Security Act or section 402 (c) of the Indian Health Care Improvement Act, but all funds so reimbursed shall first be used by the facility for the purpose of making any improvements in the facility that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used in accordance with the regulations of the Indian Health Service applicable to funds provided by the Indian Health Service under any contract entered into under the Indian Self-Determination Act.

(2) The amounts paid to the facilities participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Indian Health Service.

(3) The Secretary shall monitor the performance of facilities participating in the demonstration program described in subsection (a), and shall require such facilities to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

(4) Notwithstanding section 1880 (c) of the Social Security Act and section 402 (c) of the Indian Health Care Improvement Act, no payment may be made out of the special fund described in section 1880 (c) of the Social Security Act or section 402 (c) of the Indian Health Care Improvement Act for the benefit of any facility which is participating in the demonstration program described in subsection (a).

(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a facility must submit an application to the Secretary which provides assurances that—

(A) the Indian Tribe or Alaska Native health organization contracts the entire operation of the Indian Health Service facility;

(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

(C) the facility meets any applicable requirements which apply to programs operated directly by the Indian Health Service; and

(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1986.

(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1985, select four facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1986, and end on September 30, 1988.

(d)(1) Upon the enactment of this Act, the Secretary, acting through the Indian Health Service, shall commence an examination of—

(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a); and

(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Indian Health Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1), and shall promulgate any regulations necessary to carry out such demonstration program.

(3) Prior to October 1, 1985, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report and shall provide funding for the development of any such accounting system by any facility which has been selected to participate in such demonstration program.

(e) The Secretary shall submit an interim report to the Congress at the end of fiscal year 1987, and a final report at the end of fiscal year 1988, on the activities carried out under the demonstration program described in subsection (a), and an evaluation of whether such activities have fulfilled the objectives of such program. In the final report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian Tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Indian Health Service.

(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.

Mr. STEVENS. Mr. President, on behalf of myself and Senator MURKOWSKI, I wish to State that the purpose of our amendment is to establish a demonstration project permitting Indian tribes and tribal organizations which operate Indian Health Service facilities to directly bill for and retain 100 percent of the medicare and medicaid reimbursements they collect for services provided at their facility.

In testimony before the Select Committee on Indian Affairs and in comments we have received from Alaska

Native organizations, including the Alaska Federation of Natives and the Alaska Native Health Board, there is overwhelming concurrence that contract facilities should be allowed to retain all of the funds they collect from medicare and medicaid, as well as third party providers. In addition, these contractors are united in the opinion that, given the opportunity to control their own cost accounting systems and accounts receivable, they could increase these collections. We developed this amendment in response to these comments and to test this theory of increased collections.

Alaska native health organizations have made great strides in taking over the delivery of health care to IHS beneficiaries in our State through the authority of the Indian Self-Determination Act, Public Law 93-638. We anticipate that this assumption of responsibility by Alaska Natives, and Indian organizations in the lower 48, will continue, as was envisioned by the authors of the Indian Self-Determination Act. Under current law, however, these tribal contractors do not have complete control over the financial management of the facilities they operate. The philosophy of self-determination is limited by the medicare and medicaid collections procedures of the Indian Health Service, which do not provide for the retention of medicare and medicaid reimbursements at the facility where the services were provided. Our amendment will give IHS facilities contractors the opportunity to exercise total control of their financial management by enabling them to directly bill for and retain all medicare and medicaid reimbursements. We believe this is a step forward in the implementation of the Indian Self-Determination Act and furthers the goals of the Indian Health Care Improvement Act.

This amendment will also provide contract facilities with a greater incentive to make medicare and medicaid collections than they have had in the past. The requirements of the amendment mandate that these funds must be used for the improvement of health care by directly supporting the maintenance and operation of the health care facility. Finally, because this is a demonstration project of limited scope, both the Indian Health Service and Congress will have ample opportunity to monitor and evaluate the progress of the demonstration program, and to determine whether all Indian and Alaska Native organizations which contract with the Indian Health Service for the delivery of health care should be given the option of retaining 100 percent of their medicare and medicaid collections.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4104) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4105

(Purpose: To eliminate the provisions which upgraded the status of the Indian Health Service within the Department of Health and Human Services)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senator ANDREWS and Senator HATCH to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], on behalf of Mr. ANDREWS and Mr. HATCH, proposes an amendment numbered 4105.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amenmdent is as follows:

On page 77, beginning with line 6, strike out all through page 79, line 2.

On page 79, line 4, strike out "SEC. 802." and insert in lieu thereof "SEC. 801.".

On page 85, line 21, strike out "SEC. 803." and insert in lieu thereof "SEC. 802.".

On page 91, line 13, strike out "SEC. 804." and insert in lieu thereof "SEC. 803.".

On page 92, strike out lines 12 through 15.

Mr. HATCH. Mr. President, I thank the Senator from North Dakota for his cooperation in working with the Labor and Human Resources Committee for a resolution to the issues regarding elevation of the Indian Health Service to an agency level.

As you may know, my concern about this legislation was that the creation of a new Indian health agency, as had been proposed by section 605(a) of S. 2166, would seriously affect the Public Health Service [PHS], of which the Indian Health Service is an integral part. Because of my responsibility as chairman of the Labor and Human Resources Committee and that committee's jurisidiction over the PHS, I have reservations about any provision that would require major changes in the PHS without benefit of full review by that committee.

Though the Select Indian Affairs Committee has held numerous hearings around the country where the elevation issue was discussed, the subsequent effect of such a policy on the PHS as a whole, or on the Health Resources and Services Administration of which it is a part, was not.

It was for this purpose that I objected so strongly to the inclusion of such a provision in S. 2166.

I am, nonetheless, a strong supporter of Indian health programs; and, despite the objections I have raised, I support the remaining provisions in S. 2166.

It is for this reason that I am pleased to join with Senator ANDREWS in a colloquy expressing the desire of our two committees, the Labor and Human Resources and the Select Committee on Indian Affairs, to further study the issues surrounding the elevation proposal.

Furthermore, I am not unsympathetic to the concerns raised by proponents of the elevation proposal: that Indian Health Service programs could be administered in a more efficient and effective manner. In particular, there have been problems in assuring that service dollars reach the delivery units and patients that need them.

In response to this concern, it is my understanding that the Congressional Office of Technology Assessment will be undertaking a review of Indian Health Service and its programs to determine precisely what problems exist and how they may be most appropriately resolved. I applaud this step.

Also, as Senator ANDREWS has stated, I have written to Dr. Edward Brandt, Assistant Secretary for Health, to request that he look into three specific areas where there are identifiable problems: These are advocacy, budget, and contracting. He and I share a goal of making the PHS more responsible to the health services delivery needs of Native Americans.

I will ask unanimous consent that copies of two letters, one from myself to Dr. Brandt and Dr. Brandt's response, be printed at the conclusion of my remarks.

Again, I thank Senator ANDREWS for his willingness to involve the Labor and Human Resources Committee in future discussions which will address the health needs of Native Americans and how the Public Health Service can be made to be more responsive to those needs. I believe this step will provide important input into the need for elevation of the Indian Health Service and the effects such an elevation would have on the PHS and its systems.

Mr. President, I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, July 31, 1984.

Dr. EDWARD M. BRANDT,
Assistant Secretary of Health, Department of Health and Human Services, Independence Avenue, SW., Washington, DC.

DEAR DR. BRANDT: As you may know, I share the Administration's opposition to Section 801 of S. 2166, the "Indian Health Care Amendments of 1984", as outlined in your letter of June 15, 1984.

Most specifically, I have raised with Senator Andrews, Chairman of the Senate Select Indian Affairs Committee, my concern that the creation of a new Indian Health Agency, as proposed by Section 801, would seriously affect the Public Health Service (PHS). Because of the responsibility of my Labor and Human Resources Committee for the PHS, I would have reservations about any provision that would require major changes in the PHS without benefit of full review by my committee.

However, I am a very strong supporter of Indian health programs and despite the objections I have raised to Section 801, I support most of the provisions contained in S. 2166. Further, I am not unsympathetic to the concerns raised by proponents of Section 801 that Indian Health Service programs could be administered in a more efficient and effective manner. In particular there appear to be problems in assuring that service dollars reach the delivery units and patients that need them. In response to this, it is my understanding that the Office of Technology Assessment will be undertaking a study to review the Indian Health Service and its programs to determine what some of these problems are and how they may be solved. I applaud this step.

In the interim, my staff and I have reviewed some of the testimony regarding the Indian Health Service and have spoken with many tribal health authorities. From these conversations, I have concluded that several areas may be appropriate for action now to improve the functions of the IHS. They are:

1. Contracting.—Currently all service contracts between tribal health associations or groups are made through the Contract Offices of the Health Resources and Services Administration. However, quite properly, contract and service requests are made to IHS and not HRSA. The result is unnecessary administrative delays and consequently service disruption. Accordingly, I would ask you to consider whether IHS could become the responsible entity through which contracts with or by Indian health boards, associations or individual clinics are made.

2. Budget Process.—Currently, yearly budget requests for the Indian Health programs are initiated by IHS, then reviewed by the Health Resources Administration, the Assistant Secretary of Health, the Secretary of DHHS and then OMB. Because IHS works directly with the tribal health units in development of this budget, it has been argued that IHS should be the entity following these figures as they work their way through the Administration's budget process. To avoid duplication in reviews and preserve direct input from the process by which these budgets are prepared, could you consider having the IHS submit budget proposals directly to OASH?

3. Advocacy.—To assure implementation of the above recommendations as well as improve communications, it might be useful to have a special assistant knowledgeable of Indian health within the Office of the Assistant Secretary of Health. One possibility would be for the Director of the IHS to be appointed as a special assistant for Indian Health to OASH. This would assure that an advocate for these programs and the suggested improvements, was present in the Assistant Secretary's office.

In addition to these recommended structural changes, we are aware that there are many programmatic changes that could be made to improve the delivery of health services to the Native American citizens of our country. Certainly many improvements have already been implemented and I know many more are planned. The recommendations I have outlined are some possible steps that could complement this process.

Let me restate that, although I remain opposed to Section 801 of S. 2166, I support the improved provision of health services to Native Americans.

Sincerely,

ORRIN G. HATCH,
Chairman.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, PUBLIC HEALTH SERVICE, OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH,
Washington, DC, August 7, 1984.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your recent letter regarding section 801 of S. 2166, the "Indian Health Care Amendments of 1984."

I have reviewed your comments very carefully, and have discussed them with senior Public Health Service officials who are familiar with the Indian Health programs and their operation. In general, I believe that the suggestions that you have made are both workable and sound. The concept of establishing a position of Special Advisor on Indian Health in my office is one that I believe might properly allow some additional emphasis on the many complex issues facing the Indian Health Service. I do believe that, in the interest of continuity and program integrity, it would be important that the Director of the Indian Health Service assume this "special advisor" responsibility. Having established such a position, I believe that it will be a relatively straight forward matter to have the Director provide me with his views as to the needs of the Indian Health Service for resources during the budget review cycle that we undergo with all Agency submissions.

I am also willing to ask my staff to work with the appropriate Contracts and Procurement Staff within the Department to assure that maximum flexibility is provided IHS procurement activities, consistent with our needs to assure that such procurement is carried out as specified by the law. As you are undoubtedly aware, there have been a few unfortunate experiences recently in the IHS where staff have been brought to prosecution or faced administrative sanction because of irregularities in the procurement process. I am concerned that we continue to emphasize our legal responsibilities for stewardship for Federal funds throughout any emphasis on increased programmatic flexibility.

I would be happy to meet with you at a time of your convenience to further discuss these matters. I believe that action upon them could be taken in the near future if such appears to be a useful step in achieving our mutual goals of protecting and improving the health of our Indian citizens.

Thank you again for a very thoughtful and helpful letter.

Yours sincerely,

EDWARD N. BRANDT, Jr., M.D.,
Assistant Secretary for Health.

Mr. ANDREWS. Mr. President, I have agreed to accept an amendment proposed by my colleague, Mr. HATCH, the distinguished chairman of the Labor and Human Resources Committee, to strike section 801 of S. 2166, a provision that proposes to redesignate the Indian Health Service from its existing status as a bureau of the Public Health Service to an agency of the Public Health Service. I accept my colleague's amendment with great reluctance, because I believe that the current provision is consistent with sound Republican principles and constitutes a good proposal, aimed at removing an unnecessary layer of bureaucracy which our experience and the record show is presently thwarting the effective administration of Indian Health Service programs. The proposed elevation of the Indian Health Service is directed at increasing the accountability of the Indian Health Service to the Indian people and to the Congress.

Most significantly, it is critically important that this administration's declared policy and the declared policy of the past four administrations, the policy of Indian self-determination, be the guiding philosophy that governs the operation and administration of Indian Health Service programs. The elevation of the Indian Health Service is designed to create better access to the levels of the Department at which health policy is formulated and decisions are made, so that the policy of Indian self-determination might serve as the fundamental basis upon which decisions affecting the Indian Health Service and the Indian people are made.

Over the past year and a half, the Select Committee on Indian Affairs has held eight hearings on S. 2166 around the country, and at each of those hearings, the elevation of the Indian Health Service was addressed. Hundreds of health care professionals, physicians, and tribal leaders were virtually unanimous in their view that the elevation of the Indian Health Service would address many of the concerns that have been raised. Most of these are people that work with the Indian Health Service system and have reason to know how best to go about resolving the problems that confront the Indian Health Service. I believe that we have a mandate as well as a responsibility to make constructive changes in the Department which will better enable it to carry out the President's policy of Indian self-determination and to fulfill the Federal Government's trust responsibility of providing quality health care to our first Americans.

Mr. HATCH has proposed two administrative mechanisms and a commitment for legislative action in the next Congress as alternatives to elevating the Indian Health Service which I have agreed to accept so that S. 2166 may be acted upon by the Senate. Mr. HATCH proposes the creation of a Special Assistant to the Assistant Secretary for Health to service as a liaison between the Director of the Indian

Health Service and the Assistant Secretary. In addition, Mr. HATCH has proposed a budget mechanism that would allow the budget of the Indian Health Service to be submitted directly to the Assistant Secretary for Health. My esteemed colleague has assured me that he will be working with the Department to assure that his recommendations are implemented. Mr. HATCH has also agreed to join me in introducing legislation in the next Congress to establish the Indian Health Service as an agency of the Public Health Service and to hold joint hearings on such legislation. In the interest of Senate passage of this very important health care authorization prior to the act's expiration on September 30 of this year, I have agreed to accept the amendment proposed by Senator HATCH.

Mr. HATCH. Mr. President, I commend the chairman of the Select Committee on Indian Affairs for his outstanding and untiring work in developing a bill that contains many constructive and innovative proposals for the reauthorization of the Indian Health Care Improvement Act. With well over 10,000 Indian citizens in my home State of Utah that are eligible for the health care that is provided by the Indian Health Service, I recognize the importance of the act's extension and support the effort of the Select Committee on Indian Affairs to assure that the outstanding unmet health care needs of native Americans are adequately addressed.

As Senator ANDREWS has stated, I intend to work with the Assistant Secretary for Health to assure that administrative actions are taken that will enhance the budgetary and advocacy functions of the Indian Health Service within the Department of Health and Human Services. I have also requested that as head of the Public Health Service, the Assistant Secretary for Health attempt to resolve current problems of contracting with the Indian Health Service. I believe that these measures, properly implemented, will provide a sound basis upon which to examine the need to elevate the Indian Health Service in the next Congress. Toward that end, I have agreed to join Senator ANDREWS in introducing legislation establishing the Indian Health Service as an agency of the Public Health Service early in the next Congress. I envision that the Labor and Human Resources Committee and the Select Committee on Indian Affairs would work closely together, both in joint hearings and in the evaluation of the record from such hearings, to determine whether the problems confronting the Indian Health Service can best be resolved by the elevation of the Indian Health Service within the Public Health Service.

I am in full agreement with my colleague, Mr. ANDREWS, that this important Indian health care reauthorization legislation warrants prompt Senate passage prior to the existing act's expiration, and it is for that reason that I have agreed to remove my hold on S. 2166.

Mr. ANDREWS. I thank the Senator from Utah for his kind words and for the great concern he has manifested for the health care needs of native Americans. We share a common perspective in terms of the need to assure that the health status of Indian people is raised to the highest possible level. It is time that the Senate act to extend authority for health care for the native people of this country, so that the goal of the Indian Health Care Improvement Act can be realized and so that our first Americans may one day enjoy the same benefits of good health that so many of us take for granted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4105) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the committee substitute was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ANDREWS. Mr. President, as chairman of the Select Committee on Indian Affairs, I rise today to request that the Senate vote to pass S. 2166, a bill to reauthorize the Indian Health Care Improvement Act of 1976 through fiscal year 1988.

In 1976, alarming statistics concerning the very poor health status of American Indian and Alaska Native people prompted Congress to enact the Indian Health Care Improvement Act. Findings of Congress indicated that as compared to all Americans in 1971, Indians suffered a tuberculosis death rate over 4½ times greater, an influenza and pneumonia death rate over 1½ times greater, and an infant death rate that was approximately 20 percent higher than the rest of the U.S. population.

Today, data submitted to the Indian Affairs Committee by the Indian Health Service indicates that in 1984, the death rate from tuberculosis among Indians is six times greater than the general population, the infant mortality rate is 11 percent higher among Indians and Alaska Natives, and the incidence of chronic liver disease, diabetes, pneumonia, influenza, and hypertension among Indians also greatly exceeds national averages for all other races in the United States. Recent epidemics of bubonic plague among Indians in the Southwest and of hepatitis-B among Alaska Natives are further evidence that diseases long ago eradicated from incidence in the non-Indian population continue to afflict Native Americans.

Although dramatic gains in improving the health of Indians and Alaska Natives have been realized since 1976, it is not surprising that the health status of native people continues to lag substantially behind that of the general American population when per capita expenditures for health care are examined. In 1977, the per capita health care expenditure for the U.S. population at large was $630. By 1984, that per capita health care expenditure has risen to approximately $1,400. In contrast, the per capita expenditure for Indian health care has been reduced from $570 per patient in 1977 to $390 in 1984.

The Indian Health Care Improvement Act was intended to close the gap in health status between Native Americans and other Americans, by raising the health status of Indian and Alaska Native people to the highest possible level. The most recent evidence of progress in achieving health status parity makes it painfully clear that the goal of the act remains unfulfilled in 1984.

S. 2166 proposes to extend the major programs authorized by the Indian Health Care Improvement Act through fiscal year 1988, recognizing and reaffirming the Federal responsibility for the provision of health care services to Native Americans in exchange for lands ceded to the United States by Indian tribes pursuant to treaties, Executive orders, and various acts of Congress. The Federal Government's responsibility for Indian health care is administered by the Indian Health Service, a bureau of the Public Health Service within the Department of Health and Human Services. To achieve the objectives of improving the management and accountability of the Indian Health Service and to foster increased tribal involvement in Indian health issues, S. 2166 proposes organizational changes for the Indian Health Service which include the elevation of the Indian Health Service to the level of an agency within the Public Health Service. The proposed organizational changes are designed to encourage the formulation of a nation-

al Indian health policy that will guide future decisionmakers and lend consistency to Federal initiatives in Indian health care.

I am today offering an amendment in the nature of a substitute to S. 2166 that has been unanimously approved by the members of the Select Committee on Indian Affairs and conforming technical amendments. In addition, on behalf of Senator BURDICK and myself, I am offering an amendment to assure that contract health care services will be provided to eligible tribal members of the Turtle Mountain Band of Chippewa Indians residing in the Trenton service area. Although recognized as eligible for Federal services under the terms of a 1904 treaty, approximately 1,600 tribal members were allotted lands from the public domain in northwestern North Dakota and northeastern Montana when the reservation established for the Turtle Mountain Band was reduced by the Federal Government and could no longer accommodate the entire tribal population.

Because these particular tribal members do not reside within the boundaries of the original reservation, they have not received certain Federal services to which they are entitled. This amendment authorizes the Indian Health Service to provide contract health care services for these otherwise eligible members of the Turtle Mountain Band of Chippewa Indians. I am also pleased to offer an amendment on behalf of Senators STEVENS and MURKOWSKI creating a demonstration program that would authorize Indian and Alaska Native self-determination contractors to assume fiscal responsibility for collections from Medicare and Medicaid Programs, as well as third-party sources.

Finally, I offer an amendment to clarify the responsibility for payment of costs associated with Indian Health Service leases for facility space and the terms upon which such costs are to be negotiated. I urge my colleagues to approve these amendments, and to extend urgently needed health care programs for Native Americans by voting to reauthorize the Indian Health Care Improvement Act through fiscal year 1988.

Mr. MURKOWSKI. Mr. President, I strongly support the legislation we are now considering, S. 2166, the reauthorization of the Indian Health Care Improvement Act. The bill that has been reported out of the Select Committee on Indian Affairs is a reasonable and responsive measure.

The Indian Health Care Improvement Act was enacted because Congress recognized that it was imperative that the health status of American Indians and Alaska Natives be improved. It was Congress' intent that, through this legislation, the health services available to American Indians would ultimately be brought up to a level equal to the services available to the general U.S. population. Despite progress toward reaching that goal, additional steps are necessary to improve the health status of Native Americans.

In Alaska, for example, geographic isolation has caused severe health problems in the Native community. While the national suicide rate is about 12 per 100,000, the rate in some areas of rural Alaska runs as high as 150 per 100,000. The incidence of alcoholism also far exceeds national averages. S. 2166 provides both the financial and human resources necessary to continue mental health services and alcoholism prevention programs.

The Indian Health Care Improvement Act also authorizes funds for the Hepatitis B Screening Program in Alaska. It has been my continuing concern that the existing Screening and Control Program in Alaska may not have adequately responded to the problem. My objective has been to have a program in place that completely eradicates this serious health problem in the quickest and most comprehensive manner possible. Such a program has been recommended and S. 2166 authorizes the funds necessary to complete it.

The Community Health Respresentative Program is a vital component in rural health care delivery in Alaska. Providing outreach and education, these health representatives are integrally involved in the delivery of health services. The Indian Health Care Improvement Act, recognizing the importance of community health representatives, authorizes the continuation of this program.

American Indians and Alaska Natives must be provided the best level and type of health services available. S. 2166 successfully addresses the needs of all Native Americans, and I urge its passage.

Mr. GORTON. Mr. President, I wish to express my support of S. 2166, a bill to reauthorize the Indian Health Care Improvement Act of 1976 through fiscal year 1988. I would like to compliment both the chairman and ranking minority member of the Select Committee on Indian Affairs for their efforts in getting this extensive piece of legislation before us today. S. 2166 reaffirms the Federal Government's historical and unique legal relationship with American Indians with respect to health services.

A major goal we are attempting to achieve with this bill, is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services. Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

I would like to specifically comment on title V of this bill, the Urban Health Program. This program has been a great success, it has encouraged the establishment of programs in urban centers to make health services more accessible to urban Indians. The 37 health projects funded through the Urban Program provide a wide range of services, from outreach and referral to direct health care, depending on the needs of the community. These programs, 27 of which provide some form of direct health care, are integral parts of community health networks and do not duplicate existing services. Washington State has two very effective programs that have demonstrated their effectiveness time and time again.

S. 2166 authorizes Indian health care services at reasonable levels. The bill as amended is in line with the realistic costs of delivering the needed health care services to Indian populations.

In conclusion, I would like to add that Indian people's growth of confidence in Federal Indian health services is revealed by their increasing use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confident. Both such progress and such confidence are dependent on improved Federal Indian health services. I strongly urge final passage of this important legislation.

Mr. STEVENS. Mr. President, I am proud to rise in support of S. 2166, the Indian Health Care Amendments of 1984. When we first passed the Indian Health Care Improvement Act back in 1976, it was an important step forward in the effort to address the discrepancy between the health status of native Americans and that of the majority of our Nation's population. High infant mortality rates, continued deaths from preventable diseases, and lower life expectancy rates were glaring examples of the health hazards faced by most native Americans. Although the discrepancy has not yet been eradicated, the Indian Health Care Improvement Act has moved us closer to that goal, and the amendments under consideration today will further enhance our ability to improve the health care available to native Americans.

I commend the chairman of the Select Committee on Indian Affairs, MARK ANDREWS, for the time and effort he and his staff have put into the many hearings held across the country—including my State of Alaska—and into the drafting of these amendments. My colleague from Alaska, FRANK MURKOWSKI, has been an important asset to the select committee in his fine representation of

the special health care problems faced by Alaska Natives—problems compounded by the remoteness of so many Native communities and the high cost of maintaining an adequate health care delivery system in a State as large and as varied as ours. In particular, the inclusion in S. 2166 of authorization for funding to continue the battle against hepatitis-B, which has struck in almost epidemic proportions in parts of our State, is the direct result of the attention FRANK focused on the problem during the hearing process in Alaska. This galvanized those involved in the joint State/Federal effort to control hepatitis-B into developing a plan for the systematic eradication of the disease in the Alaska Native population over the next few years—a plan that is the basis for section 704 of title VII in the bill before us today.

I've heard from many Alaska Natives about their interest in seeing this critical legislation pass this Congress—the Alaska Native Health Board, the Alaska Federation of Natives, and most of the regional health corporations have called, telephoned, or written me to express their support for this bill and the need for its passage. I am glad to have this opportunity to act on their request and I urge my colleagues to do likewise. As has been made so clear in the Washington Post series this week on conditions at the Rosebud Sioux Indian Reservation in South Dakota, a large gap between the quality of life enjoyed by most native Americans and that of many other Americans still exists. Reauthorization of these health care programs is vital if we are to continue our efforts to lessen the odds that weigh against the possibility of a long and healthy life for most native Americans.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read a third time, and passed as amended.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISASTER RELIEF ACT AMENDMENT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 873, S. 2517.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2517) to amend the Disaster Relief Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4106

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senator HUMPHREY and Senator BURDICK.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Senators HUMPHREY and BURDICK, proposes an amendment numbered 4106.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 16, strike out "2.5" and insert in lieu thereof "10".

On page 31, beginning with line 17, strike out through line 15 on page 32 and insert the following:

SEC. 24. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect ninety days after the date of enactment of this Act or on the date on which the President, after consultation with State and local governments, publishes final rules and regulations relating to the definition of costs for which State and local governments may be reimbursed under the Disaster Relief Act of 1974 (as amended by this Act), whichever is later.

(b)(1) This Act and the amendments made by this Act shall not affect the administration of any assistance provided under the authority of the Disaster Relief Act of 1974, for any major disaster or emergency declared by the President prior to the effective date of this Act.

(2) Except with regard to section 409(a) of the Disaster Relief Act of 1974, as redesignated by sections 11(c) and 12 of this Act, (relating to disaster unemployment assistance)—

(A) rules and regulations issued under statutory provisions which are repealed, modified, or amended by this Act shall continue in effect as though issued under the authority of this Act until they are expressly abrogated, modified, or amended by the President; and

(B) provision of disaster assistance authorized by statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder, or proceedings involving violations of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are in process prior to the effective date of this Act, may be continued to conclusion as though the applicable statutory provisions had not been repealed, modified, or amended.

(3) Violations of statutory provisions or rules and regulations issued under the authority of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are committed prior to the effective date of this Act may be proceeded against under the law in effect at the time of the specific violation.

On page 2, line 5, strike out ", as amended (42 U.S.C. 5122(1))," and insert "(42 U.S.C. 5122(1))".

On page 2, lines 16 and 17, strike out ", as amended (Public Law 93-288)," and insert "(Public Law 93-288)".

On page 5, line 19, strike out ", as amended (42 U.S.C. 5122(2))," and insert "(42 U.S.C. 5122(2))".

On page 6, lines 7 and 8, strike out ", as amended (42 U.S.C. 5131-5132)," and insert "(42 U.S.C. 5131-5132)".

On page 6, lines 17 and 18, strike out ", as amended (42 U.S.C. 5141-5158)," and insert "(42 U.S.C. 5141-5158)".

On page 6, lines 22 and 25, strike out "302" and insert "301, as redesignated by paragraph (1) of this section,".

On page 7, line 4, strike out "311(a)" as insert "308(a) as redesignated by paragraph (1) of this section,".

On page 7, strike out lines 6 and 7 and insert in lieu thereof "Sec. 8. Section 302(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5143(a)), as redesignated by section 7(1) of this Act, is amended by adding".

On page 7, strike out lines 11 and 12 and insert in lieu thereof "Sec. 9. Section 311 of the Disaster Relief Act of 1974 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, is amended by redesignating".

On page 8, strike out lines 13 and 14 and insert in lieu thereof "Sec. 10. Section 312 of the Disaster Relief Act of 1974 (42 U.S.C. 5155), as redesignated by section 7(1) of this Act, is amended to read as".

On page 10, line 10, strike out ", as amended (42 U.S.C. 5141-5158)," and insert "(42 U.S.C. 5141-5158)".

On page 14, strike out lines 4 through 8 and insert in lieu thereof the following: "(b) Title III of the Disaster Relief Act of 1974 is amended by deleting subsections (a) and (c) of section 314 (42 U.S.C. 5157), as redesignating by section 7(1) of this Act, and by renumbering '(b)' from the remaining subsection of section 314 as subsection '(f)' of section 318 as added by section 11(a) of this Act.".

On page 14, lines 9 and 10, strike out ", as amended,".

On page 14, after line 11 add a new subsection as follows: "(d) Section 315 of the Disaster Relief Act of 1974 (42 U.S.C. 5158), as redesignated by section 7(1) of this Act, is further redesignated as section 314.".

On page 14, lines 12 and 13, strike out ", as amended (42 U.S.C. 5171-5189), " and insert "(42 U.S.C. 5171-5189)".

On page 19, strike out lines 16 and 17 and insert in lieu thereof "Sec. 13.(a) Section 405 of the Disaster Relief Act of 1974 (42 U.S.C. 5172), as redesignated by section 12 of this Act, is amended to read as".

On page 20, line 17, strike out "limited to".

On page 21, lines 17 and 18, strike out "based on".

On page 22, line 2, after "government" insert "and".

On page 22, line 5, strike out "based on" and insert in lieu thereof "that shall be".

On page 22, strike out lines 19 through 22 and insert in lieu thereof the following: "(b) The Disaster Relief Act of 1974 is amended by deleting section 421 (42 U.S.C. 5189), as redesignated by sections 11(c) and 12 of this Act, and by striking 'or 419' each place that this phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act.".

On page 22, strike out lines 23 and 24 and insert in lieu thereof "(c) Section 406 of the Disaster Relief Act of 1974 (42 U.S.C. 5173), as redesignated by section 12 of this Act, is amended by adding at the end".

On page 23, line 5, strike out "not exceed" and insert in lieu thereof "be".

On page 23, line 7, strike out "or" and insert in lieu thereof "of".

On page 23, strike out lines 8 and 9 and insert in lieu thereof "Sec. 14. Section 407(a) of the Disaster Relief Act of 1974, as redesignated by section 12 of this Act, is amended to read as follows: ".

On page 24, lines 24 and 25, strike out "limited to".

On page 25, strike out lines 3 through 5 and insert in lieu thereof "Sec. 15. Section 408 of the Disaster Relief Act of 1974 (42 U.S.C. 5176), as redesignated by sections 11(c) and 12 of this Act, is amended by adding '(a)' after '408' and by adding a new subsection '(b)' as ".

On page 25, strike out lines 19 and 20 and insert in lieu thereof "Sec. 16. Section 409(a) of this Disaster Relief Act of 1974 (42 U.S.C. 5177), as redesignated by sections 11(c) and 12 of this Act, is amended to read as ".

On page 27, strike out lines 8 and 9 and insert in lieu thereof "Sec. 17.(a) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding a".

On page 27, line 12, strike out "408(b)" and insert "410(b)".

On page 27, strike out lines 15 and 16 and insert in lieu thereof "(b) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is further amended by adding the following sen-".

On page 28, strike out lines 3 and 4 and insert in lieu thereof "SEC. 18. Section 410(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding".

On page 28, strike out lines 12 and 13 and insert in lieu thereof "SEC. 19. Section 415 of the Disaster Relief Act of 1974 (42 U.S.C. 5183), as redesignated by sections 11(c) and 12 of this Act, is amended by striking".

On page 28, strike out lines 15 and 16 and insert in lieu thereof "SEC. 20. Section 420(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5188), as redesignated by sections 11(c) and 12 of this Act, is deleted.".

On page 28, line 18, strike out ", as amended (42 U.S.C. 5202)," and insert in lieu thereof "(42 U.S.C. 5202)".

On page 29, strike out lines 1 and 2 and insert in lieu thereof "SEC. 22. Disaster Relief Act of 1974 (42 U.S.C. 5121-5202) is amended by—".

On page 29, strike out line 13 and insert in lieu thereof "308(b) (42 U.S.C. 5151), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 16 and insert in lieu thereof "tion 307 (42 U.S.C. 5150), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 17 and insert in lieu thereof "(6) striking in section 310(b) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, ev-".

On page 29, strike out line 22 and insert in lieu thereof "the phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 24 and insert in lieu thereof "pears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, and inserting in".

On page 30, strike out line 2 and insert in lieu thereof "word 'disaster' in section 313 (42 U.S.C. 5156), as redesignated by section 7(1) of this Act;".

On page 30, strike out line 8 and insert in lieu thereof "407(b) (42 U.S.C. 5174), as redesignated by section 12 of this Act;".

On page 30, strike out lines 9 and 10 and insert in lieu thereof "(12) striking '311' in section 407(d)(2) (42 U.S.C. 5174), as redesignated by section 12 of this Act, and inserting in lieu thereof '308';".

On page 30, strike out lines 11 and 12 and insert in lieu thereof "(13) striking 'an emergency or' in section 417 (42 U.S.C. 5185), as redesignated by sections 11(c) and 12 of this Act, and inserting in lieu thereof 'a';".

On page 30, strike out line 20 and insert in lieu thereof "appears in section 309(a), as redesignated by section 7(1) of this Act, and inserting in lieu thereof".

On page 30, strike out lines 22 and 23 and insert in lieu thereof "(17) striking 'rent' in section 310(a)(2) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and inserting in lieu thereof 'income';".

On page 31, strike out lines 1 and 2 and insert in lieu thereof "(18) striking paragraph (1) of section 310(a) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and renumbering subsequent paragraphs".

Mr. HUMPHREY. Mr. President, the Disaster Relief Act Amendments of 1984, S. 2517, provides the first comprehensive amendments to the Disaster Relief Act. Under authority of this act, Presidents have declared more than 350 major disasters and emergencies. The act is central to relief efforts of all levels of government to save lives; protect public health, safety, and property; and to assist in longrun recovery efforts following disasters.

I am glad that the senior Senator from North Dakota, QUENTIN BURDICK, is a cosponsor of this legislation. It was under his leadership as chairman of the Subcommittee on Disaster Relief that the Disaster Relief Act was written in 1973 and 1974.

I am also very glad that many of the organizations having direct responsibility for the delivery of disaster relief have endorsed major provisions of this bill. I ask unanimous consent that at the end of my remarks, there be printed in the RECORD the text of the resolution adopted last month by the National Association of Counties and the text of the resolution adopted in June by the U.S. Conference of Mayors. Both of these resolutions call for the Congress to enact disaster relief legislation along many of the lines contained in S. 2517.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, I am informed that the bill has support from the National Governors Association, the National Emergency Management Association, the Association of State Flood Plain Managers, and the American Red Cross.

Mr. President, a cardinal principle of the Disaster Relief Act of 1974 is that Federal assistance be supplemental to the resources of State and local governments. To assure the supplemental nature of Federal assistance as mandated by the act, FEMA adopted strict rules and regulations to delineate which costs are eligible for Federal reimbursement. Furthermore, over the years these cost-eligibility criteria have been amended and expanded to the point where they are now a maze of rules and regulations, and they are not consistently enforced from region to region throughtout the country. The current rules add uncertainty and administrative burdens to local governments. In my judgment, the cost-sharing provisions of this legislation is a more consistent and predictable way to assure the supplemental nature of Federal assistance than the current stringent rules and regulations that are unduly complex and illogical.

Two years ago, the Senate Committee on Environment and Public Works encouraged FEMA, in consultation with State and local officials, to thoroughly review the rules and regulations and render them more rational. FEMA has done so, and proposed rulemaking was published in the Federal Register on February 3 of this year.

If this bill were enacted by the Congress—providing a State and local cost share for debris removal and replacement of public facilities—then the stringent cost-eligibility rules and regulations would not be required to meet the mandate of the 1974 act. The supplemental nature of the Federal program would be assured and the non-Federal responsibility would be spelled out without the uncertainty and ambiguity of the rules and regulations.

I hope that this legislation will pass both the Senate and the House this year because at the present time State and local jurisdictions are bearing the double burden of the cost-sharing requirement which has been administratively imposed and the stringent rules which limit the amount of their costs that are eligible for Federal reimbursement.

The amendment to S. 2517 I offer today would change the effective date of the legislation in order to assure that the legislation not take effect until such time as new rules and regulations are finalized.

Mr. President, I believe an important feature of the cost-sharing provisions of S. 2517 would permit cancellation of loans or advances following unusually large disasters or following multiple disasters in the same jurisdiction if, after 3 fiscal years, an applicant demonstrates continuing inability to repay all or part of the commitment.

Among other major provisions, S. 2517 would expand the so-called small project block grant program to permit a block grant to local governments for each project that does not exceed an estimated cost of say $25,000. Presently, FEMA may award a block grant when all the projects in a disaster do not exceed $25,000. This change would greatly reduce administrative costs, redtape, and delays that accompany categorical assistance only after proof, vouchers, audits, and similar redtape.

FEMA estimates that approximately 90 percent of all projects processed would be included in this block grant provision if it were enacted by the Congress.

Equally important, the Senate bill would establish a new program of hazard mitigation. Following a disaster, FEMA, in cooperation with local jurisdictions, would be allowed to undertake mitigation projects to minimize the potential for recurrence of damages in the future. The Federal Government could share the cost of such mitigation projects with State and local jurisdictions on a 50-50 cost-sharing basis. The bill places a ceiling on the Federal cost of this new program by authorizing FEMA to expend up to 2.5 percent of the Federal cost of public assistance for mitigation. The amendment Senator BURDICK and I have offered to the bill would increase the authorization level from 2.5 percent to 10 percent of the Public Assistance Program. The need for a mitigation program is substantial, and the potential long-term savings to Federal, State, and local governments in reduced future damages would be far greater than the program's cost.

On another matter, the Senate bill would give greater flexibility to local jurisdictions to choose the type of facilities that would be replaced following a disaster. Under current law, if a local government elects to replace a destroyed public facility by constructing a new one which serves a different purpose, it is penalized on all other disaster-related projects in its jurisdiction. This requirement would be eliminated by the Senate bill. It is important to allow governmental jurisdictions to build to meet their current and projected needs rather than encouraging local governments to replace outdated facilities. Scarce capital expenditures should be directed into their highest and best use in a dynamic society.

S. 2517 would also allow the Federal Government to double its matching grant to States for disaster planning and preparedness. It would also permit FEMA to bear a greater burden of the cost of administering the Individual and Family Grant Program.

Mr. President, there are other important provisions in S. 2517, and I will not delay the Senate with additional specifics at this time. I would refer my colleagues to the committee report 98-448 for a detailed elaboration of each section of the legislation as well as for a background and general statement.

EXHIBIT 1

RESOLUTION BY THE NATIONAL ASSOCIATION OF COUNTIES ON THE DISASTER RELIEF ACT OF 1974

(1) Whereas, Federal laws relating to the provision of disaster relief have been a hodgepodge of conflicting rules and regulations with cost eligibility criteria that are sometimes contradictory, complex and hard to discern; and

(2) Whereas, current rules add uncertainty, administrative burdens and higher costs to State and local governments in providing disaster assistance; and

(3) Whereas, Federal law should be clear and consistent so that State and local government can be reasonably certain as to what their equitable share of disaster assistance is going to be; and

(4) Whereas, it would be unfair and inequitable to impose cost sharing by regulation without carefully considering the range of disaster related expenses incurred by State and local authorities through the legislative process; and

(5) Whereas, local governments sometimes sustain such deep and severe costs as a result of a major disaster that cost sharing would be devastating to a local budget, and under such circumstances Federal law should permit the cancellation of repayment of any Federal loans or advances; and

(6) Whereas, State and local governments should have greater flexibility to choose the type of facilities that would be replaced following a disaster so they are not required to replace outdated facilities; and

(7) Whereas, the Federal Government should provide adequate support for permanent restorative public assistance for hazard mitigation of at least 50 percent and up to 90 percent of costs, depending on the extent of need and local ability to pay; and

(8) Whereas, the Federal Government should encourage and assist local and State governments in developing better plans and a higher level of emergency preparedness by increasing grants and technical support to State and local governments,

(9) Whereas, the National Association of Counties commends the Subcommittee on Regional and Community Development and the Federal Emergency Management Agency for the work they have done in helping counties and local government with disasters and for the Agency's initiatives to amend the Disaster Relief Act of 1974, the Code of Federal Regulations, and its guidance to accomplish these objectives; and

(10) Now Therefore be it resolved, That the National Associations of Counties urges Congress to enact emergency relief legislation along many of the lines contained in S. 2517. Such legislation to be consistent with the needs and resources of State and local governments, which shall provide up to 100 percent Federal share; unless commensurate with the effective date of any cost sharing legislation enacted by the Congress, the Federal Emergency Management Agency—in consultation with State and local governments—shall implement liberalized eligibility criteria. NACo urges, consistent with the Disaster Relief Act of 1974 and S. 2517, that States assume substantial share in the local disaster costs.

RESOLUTION BY THE U.S. CONFERENCE OF MAYORS—FEDERAL DISASTER RELIEF

(1) Whereas, Federal laws relating to the provision of disaster relief have been a hodge podge of conflicting rules and regulations with cost eligibility criteria that are sometimes contradictory, complex and hard to discern; and

(2) Whereas, current rules add uncertainty, administrative burdens and higher costs to State and local governments in providing disaster assistance; and

(3) Whereas, Federal law should be clear and consistent so that State and local government can be reasonably certain as to what their equitable share of disaster assistance is going to be; and

(4) Whereas, it would be unfair and inequitable to impose cost sharing by regulation without carefully considering the range of disaster related expenses incurred by State and local authorities through the legislative process; and

(5) Whereas, local governments sometimes sustain such deep and severe costs as a result of a major disaster that cost sharing would be devastating to a local budget, and under such circumstances Federal law should permit the cancellation of repayment of any Federal loans or advances; and

(6) Whereas, State and local governments should have greater flexibility to choose the type of facilities that would be replaced following a disaster so they are not required to replace outdated facilities; and

(7) Whereas, the Federal Government should provide adequate support for permanent restorative public assistance for hazard mitigation of at least 50 percent and up to 90 percent of costs, depending on the extent of need and local ability to pay; and

(8) Whereas, the Federal Government should encourage and assist local and State governments in developing better plans and a higher level of emergency preparedness by increasing grants and technical support to State and local governments,

(9) Now, therefore, be it resolved, That the U.S. Conference of Mayors commends the Federal Emergency Management Agency for the outstanding work it has done in helping cities deal with disasters and for the Agency's initiatives to amend the Disaster Relief Act of 1974, the Code of Federal Regulations, and its guidance to accomplish these objectives; and

(10) Be it further resolved, That the U.S. Conference of Mayors urges Congress to enact emergency relief legislation along the lines contained in S. 2517. Such legislation to be consistent with the needs and resources of State and local governments, which will provide at least a 90-percent Federal share and will prove equitable and responsive to the seriousness of the losses incurred by our citizens and institutions as a result of major disasters.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4106) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Relief Act Amendments of 1984".

SEC. 2. The short title of the Disaster Relief Act of 1974 (Public Law 93-288) is hereby amended by deleting the words "Disaster Relief Act of 1974" and inserting in lieu thereof "Major Disaster Relief and Emergency Assistance Act".

SEC. 3. Section 102(1) of the Disaster Relief Act of 1974 (42 U.S.C. 5122(1)) is amended to read as follows:

"(1) 'Emergency' means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.".

SEC. 4. Title VIII of the Public Works and Economic Development Act of 1965, as amended (Public Law 89-136; 42 U.S.C. 3231-3236) is hereby repealed, and title V of the Disaster Relief Act of 1974 (Public Law 93-288) is hereby amended to read as follows:

"TITLE V—FEDERAL EMERGENCY ASSISTANCE PROGRAMS

"PROCEDURES

"SEC. 501. (a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. As a part of this request, and as a prerequisit to emergency assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. Based upon such Governor's request, the President may declare that an emergency exists.

"(b) The President may exercise any authority vested in him by section 502 and section 503 of this Act with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. The President may determine that such an emergency exists only after consultation with the Governor of the effected State, if practicable. The President's determination, however, may be made without regard to the provisions of section 501(a) of this Act.

"FEDERAL ASSISTANCE

"SEC. 502. In any emergency, the President may—

"(a) direct any Federal agency with or without reimbursement to utilize its authorities and the resources granted to it under other Acts, including but not limited to personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local emergency assistance efforts to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe;

"(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing emergency assistance, and coordinate emergency assistance with State and local officials; and

"(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks of hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

"EMERGENCY ASSISTANCE

"SEC. 503. (a) In an emergency, when the Federal assistance provided pursuant to section 502 of this title is inadequate, the President may provide assistance to save lives and protect property, public health and safety, or to lessen or avert the threat of a catastrophe. When debris removal assistance is appropriate under this section, it shall be provided in accordance with the terms and conditions of section 406 of this Act.

"(b) In any emergency and except as provided by subsection (c) of this section, the costs of providing emergency assistance under this section shall not exceed $5,000,000 of funds appropriated to carry out this Act.

"(c) The limitation of subsection (b) of this section may be exceeded when the President determines that continuned emergency assistance is immediately required; that there is a continuing and immediate risk to lives, property, public health or safety; and that necessary assistance will not otherwise be provided on a timely basis. In the event that the limitation of subsection (b) is exceeded, the President shall report to Congress on the nature and extent of the emergency assistance requirements and propose additinal legislation if necessary.".

SEC. 5. Section 102(2) of the Disaster Relief Act of 1974 (42 U.S.C. 5122(2)) is amended to read as follows—

"(2) 'Major disaster' means any natural catastrophe, including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or any fire, flood, or explosion, regardless of cause, in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.".

SEC. 6. Title II of the Disaster Relief Act of 1974 (42 U.S.C. 5131-5132) is amended by—

(1) striking the words "(including the Defense Civil Preparedness Agency)" in section 201(a);

(2) adding the words "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards," between the words "plans" and "except" in section 201(d); and

(3) striking "$25,000" in section 201(d) and inserting in lieu thereof "$50,000".

SEC. 7. Title III of the Disaster Relief Act of 1974 (42 U.S.C. 5141-5158) is amended by—

(1) deleting sections 301, 305, and 306 and renumbering subsequent sections appropriately;

(2) deleting the caption "FEDERAL ASSISTANCE" of section 301, as redesignated by paragraph (1) of this section, and inserting in lieu thereof "RULES AND REGULATIONS";

(3) deleting the first and second sentences of subsection (a) of section 301 as redesignated by paragraph (1) of this section, and amending the final sentence thereof by adding ", with or without reimbursement," immediately before "through"; and

(4) deleting ", or economic status" in the second sentence of section 308(a) as redesignated by paragraph (1) of this section, and adding "or" before "age,".

SEC. 8. Section 302(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5143(a)), as redesignated by section 7(1) of this Act, is amended by adding at the end thereof the following: "The Federal coordinating officer shall represent the President in coordinating the emergency or the major disaster response and recovery effort."

SEC. 9. Section 311 of the Disaster Relief Act of 1974 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, is amended by redesignating subsections (a), (b), and (c) as (b), (c), and (d), respectively, and by adding at the beginning thereof a new subsection as follows:

"(a) As a condition of assistance, any public facility and private nonprofit facility which is:

"(1) located in a special flood hazard area as identified by the Director pursuant to the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.);

"(2) damaged or destroyed by flooding; and

"(3) otherwise eligible for assistance under section 405 of this Act, must be covered, on the date of the flood damage, by reasonable and adequate flood insurance. Assistance under section 405 for any such facility so covered shall be reduced by the maximum amount of benefits which could have been received had reasonable and adequate flood insurance been in force: *Provided, however,* That this reduction of assistance shall not apply to uninsured facilities where such communities have been identified for less than one year as having special flood hazard areas. The limitations of assistance required by this subsection shall not apply until final regulations are promulgated by the President. Such regulations shall define reasonable and adequate flood insurance.".

SEC. 10. Section 312 of the Disaster Relief Act of 1974 (42 U.S.C. 5155), as redesignated by section 7(1) of this Act, is amended to read as follows:

"DUPLICATION OF BENEFITS

"SEC. 312. (a) Agencies or other organizations providing Federal assistance for needs or losses resulting from a major disaster or emergency shall assure that no person, business concern, or other entity receives any such Federal assistance if said person, business concern, or entity receives or is entitled to receive benefits for the same purposes from insurance or any other Federal or non-Federal source: *Provided,* That nothing in this section shall prohibit the provision of Federal assistance to a person, business concern, or other entity who is or may be entitled to receive benefits for the same purposes from insurance or any other Federal or non-Federal source when any such applicant for Federal assistance has not received such other benefits by the time of application for Federal assistance, so long as the applicant for Federal assistance agrees as a condition of receipt of Federal assistance to repay duplicative assistance from insurance or any other Federal or non-Federal source to the agency or other organizations providing the Federal assistance. The President shall establish such procedures as are deemed necessary to insure uniformity in preventing such duplication of benefits. Receipt of partial benefits for a loss or need resulting from a major disaster or emergency does not preclude provision of additional Federal assistance for any part of such loss or need for which benefits have not been provided.

"(b) A person, business concern, or other entity receiving Federal assistance for needs

or losses resulting from a major disaster or emergency shall be liable to the United States to the extent that such Federal assistance has duplicated benefits available to the person, business concern, or other entity for the same purpose from insurance or any other Federal or non-Federal sources. The agency or other organization which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with the Claims Collection Act of 1966, as amended, when in the best interest of the Government. The repayment shall not exceed the amount of Federal assistance received.

"(c) Federal disaster assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations to individuals and families shall not be considered as income or a resource when determining eligibility or benefit levels for federally funded income assistance or resource tested benefit programs.".

SEC. 11. (a) Title III of the Disaster Relief Act of 1974 (42 U.S.C. 5141-5158) is amended by adding at the end thereof four new sections as follows:

"PROTECTION OF ENVIRONMENT

"SEC. 315. No action taken or assistance provided pursuant to section 402, 403, 406, 502, or 503 of this Act, or any assistance provided pursuant to section 405 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provisions of law.

"RECOVERY OF FUNDS

"SEC. 316. The Attorney General of the United States is authorized to institute actions in the United States District Court for the district in which an emergency or major disaster occurred, or in such district as otherwise provided by law, against any party whose acts or omissions may in any way have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to this Act. Upon the showing that an emergency or major disaster or the associated damage or hardship was caused in whole or in part by an act or omission of such party, then such party shall be liable to the United States for the full amount of Federal expenditures made to alleviate the suffering or damage attributable to such act or omission. The authority of this section shall also apply to the recovery of Federal funds expended under the authority of section 419 of this Act for fire suppression.

"AUDITS AND INVESTIGATIONS

"SEC. 317. (a) The President, when deemed necessary to assure compliance with any provision of this Act or related regulations, shall conduct audits and investigations and in connection therewith may enter such places and inspect such records and accounts and question such persons as deemed necessary to determine the facts relative thereto.

"(b) The President, when deemed necessary to assure compliance with any provision of this Act or related regulations, may require audits by State and local governments in connection with assistance provided under the Act.

"(c) The President and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of investigation, audit, and examination, to any books, documents, papers, and records of any person or entity relating to any activity or program undertaken or funded pursuant to this Act.

"CRIMINAL AND CIVIL PENALTIES

"SEC. 318. (a) Any person, organization, or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any application or other document in connection with a request for assistance under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such request for assistance is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

"(b) Any person, organization, or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any bill, invoice, claim, or other document requesting reimbursement for work or services performed in connection with assistance provided under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such request for reimbursement is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

"(c) Any person, organization, or other entity who knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the misapplied amount of the loan or cash benefit.

"(d) Whenever it appears that any person, organization, or other entity has violated or is about to violate any provision of this Act, including rules and regulations issued and civil penalties imposed, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in the district court of the United States having jurisdiction where the violation occurred or, at the option of the parties, in the United States District Court for the District of Columbia.

"(e) The President, or the duly authorized representative of the President, shall expeditiously refer to the Attorney General of the United States for appropriate action such evidence developed in the performance of functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.".

(b) Title III of the Disaster Relief Act of 1974 is amended by deleting subsections (a) and (c) of section 314 (42 U.S.C. 5157), as redesignated by section 7(1) of this Act, and by renumbering "(b)" from the remaining subsection of section 314 as subsection "(f)" of section 318 as added by section 11(a) of this Act.

(c) Title IV of the Disaster Relief Act of 1974 is amended by deleting section 495 (42 U.S.C. 5175) and by renumbering subsequent sections appropriately.

(d) Section 315 of the Disaster Relief Act of 1974 (42 U.S.C. 5158), as redesignated by section 7(1) of this Act, is further redesignated as secton 314.

SEC. 12. Title IV of the Disaster Relief Act of 1974 (42 U.S.C. 5171-5189) is amended by adding three new sections as follows and by renumbering subsequent sections appropriately:

"PROCEDURES

"SEC. 401. (a) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster, including, but not limited to, the cost-sharing provisions pursuant to sections 405, 406, 407, and 410 of this Act. Based upon such Governor's request, the President may declare that a major disaster exists.

"(b) In any case where an eligible applicant (or the State) is unable to assume its financial responsibility under the cost-sharing provisions of sections 405, 406, and 407 of this Act, the President is authorized to lend or advance to the State such 25 per centum share. For the purposes of section 405, such loan or advance shall be authorized only after the occurrence of concurrent, multiple major disasters in a given jurisdiction, or the extraordinary costs of a particular major disaster, and when the damages caused by such major disasters are so overwhelming and severe that it is not possible for the applicant or the State to assume their financial responsibility under this Act immediately. Except as provided by subsection (c) of this section, any such loan or advance is to be repaid to the United States; there shall be no deferral of the repayment of loans or advances authorized by this subsection or of accrued interest. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

"(c) The President may cancel all or any part of such loan or advance made regarding section 405 or section 406 for concurrent, multiple major disasters or a single catastrophic major disaster if a determination is made that following the three full fiscal years after the loan or advance is made, the applicant demonstrates substantial and continuing inability to repay all or part of the loan or advance.

"(d) The President shall issue regulations describing the terms and conditions under which any loans or advances authorized by this section may be made or canceled.

"FEDERAL ASSISTANCE

"SEC. 402. In any major disaster, the President may—

"(a) direct any Federal agency with or without reimbursement to utilize its authorities and the resources granted to it under other Acts including, but not limited to, personnel, equipment, supplies, facilities, and managerial, technical, and advisory services in support of State and local assistance efforts;

"(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing disaster assistance, and coordinate disaster assistance with State and local officials; and

"(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks and hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

"COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

"SEC. 403. (a) In any major disaster, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

"(1) utilizing or lending, with or without compensation therefore, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

"(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, other services to disaster victims, or emergency assistance;

"(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

"(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including, but not limited to: Search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph. Such contributions for emergency work under this section and section 402 of this Act shall not exceed 100 per centum of the net eligible cost, or for small projects 100 per centum of the Federal estimate of the net eligible cost, of such emergency work or services performed by State and local governments: *Provided*, That where debris removal assistance is appropriate under this section or section 402 of this Act it shall be provided in accordance with the terms and conditions of section 406 of this Act."

SEC. 13. (a) Section 405 of the Disaster Relief Act of 1974 (42 U.S.C. 5172), as redesignated by section 12 of this Act, is amended to read as follows:

"(a) The President is authorized to make contributions to State or local governments, to help repair, restore, reconstruct, or replace public facilities belonging to such State or local government which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contribution shall be limited to 75 per centum of the net eligible cost, or for small projects 75 per centum of the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing any such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster and in conformity with current applicable codes, specifications, and standards. For the purposes of this section, 'public facility' includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

"(b) The President is authorized to make contributions to help repair, restore, reconstruct, or replace eligible private nonprofit facilities which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be 75 per centum of the net eligible cost, or for small projects 75 per centum of the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing any such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster and in conformity with current applicable codes, specifications, and standards. For the purposes of this section, 'eligible private nonprofit facility' means private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged and disabled, and such private nonprofit facilities on Indian reservations, which were damaged or destroyed by a major disaster.

"(c) No authority under this section shall be exercised unless the affected State, local government, or eligible private nonprofit organization first agrees that such facility shall be repaired, restored, reconstructed, or replaced in compliance with flood plain management and hazard mitigation criteria required by the President, with the provisions of the Coastal Barrier Resources Act and other applicable Federal statutes, and in conformity with other applicable codes, specifications, and standards, except as otherwise provided in section 315 of this Act.

"(d) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the contribution shall be 75 per centum of the net eligible costs of restoring such facilities substantially to their predisaster condition: *Provided*, That the term 'net eligible costs' shall not include cost which, under a contract, are the responsibility of a contractor.

"(e) In those cases, except for small projects, where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government and which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (a) of this section, a contribution that shall be 50 per centum of the Federal estimate of the net eligible cost of repairing, restoring, reconstructing, or replacing such damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.".

(b) The Disaster Relief Act of 1974 is amended by deleting section 421 (42 U.S.C. 5189), as redesignated by sections 11(c) and 12 of this Act, and by striking "or 419" each place that this phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act.

(c) Section 406 of the Disaster Relief Act of 1974 (42 U.S.C. 5173), as redesignated by section 12 of this Act, is amended by adding at the end thereof the following:

"(c) Notwithstanding any other provision of law, whether carried out directly through Federal departments, agencies, or instrumentalities or through grants to State or local governments, Federal assistance provided under authority of this section shall be 75 per centum of the net eligible costs, or for small projects 75 per centum of the Federal estimate of the net eligible costs, of debris removal.".

SEC. 14. Section 407(a) of the Disaster Relief Act of 1974, as redesignated by section 12 of this Act, is amended to read as follows:

"(a) The President is authorized to provide, either by purchase or lease, temporary housing including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. Whenever he determines it to be in the public interest, the President is authorized to provide temporary housing assistance by using Federal departments, agencies, or instrumentalities. In addition, the President is authorized to provide temporary housing assistance by contribuing not to exceed 100 per centum (or 75 per centum for group site development pursuant to paragraph (2) of this subsection) of the cost of temporary housing assistance to a State or local government which provides such assistance to those who require it as a result of a major disaster. Federal financial and operational responsibilities for temporary housing assistance shall not exceed eighteen months from the date of the major disaster declaration by the President, unless he determines that due to extraordinary circumstances it would be in the public interest to extend the eighteen month period.

"(1) Temporary housing assistance pursuant to this subsection shall be provided only when adequate alternative housing is unavailable, unless there is compelling need to do so because of extreme hardship. The assistance to be provided shall be determined

by the President taking into account the fair market value of the accommodations being supplied and the post-disaster financial ability of the occupant.

"(2) Any mobile home or other readily fabricated dwelling supplied pursuant to this subsection shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster. When the President determines such action to be in the public interest, he may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites. However, in the event the President authorizes the development of a group site, that is, a site for two or more households, the Federal share shall be 75 per centum of the development costs, and the remainder shall be met by funds provided by the State or local government.".

SEC. 15. Section 408 of the Disaster Relief Act of 1974 (42 U.S.C. 5176), as redesignated by sections 11(c) and 12 of this Act, is amended by adding "(a)" after "408." and by adding a new subsection "(b)" as follows:

"(b) The President is authorized to contribute up to 50 per centum of the cost of implementing hazard mitigation projects which he has determined would be cost effective and would substantially reduce the risk of future damage, hardship, loss, or suffering in the area affected by a major disaster. Such projects shall be identified following the evaluation of natural hazards provided for in subsection (a) of this section and shall be subject to approval by the President. The total of the contributions made under this subsection shall not exceed 10 per centum of the Federal estimate of grants made under the authority of section 405 of this Act for each major disaster.".

SEC. 16. Section 409(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5177), as redesignated by sections 11(c) and 12 of this Act, is amended to read as follows: "The President is authorized to provide such disaster unemployment assistance as he deems appropriate to individuals who are unemployed as a result of a major disaster. Disaster unemployment assistance authorized by this section shall be available to an eligible individual for a period not to exceed fifty-two weeks after the week in which an eligible individual became unemployed as a result of a major disaster, and such period shall be regarded as the disaster assistance period for that individual for the purposes of this section. Disaster unemployment assistance shall not be payable with respect to any week for which an individual is entitled to unemployment compensation (as defined in section 85(c) of the Internal Revenue Code of 1954, as amended) or waiting week credit. The maximum amount of disaster unemployment assistance payable to any individual with respect to a major disaster shall not exceed twenty-six times the maximum weekly amount for which the individual establishes eligibility minus the amount of any unemployment compensation paid to the individual during the fifty-two week benefit period established pursuant to this section. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section for a week of unemployment shall be reduced by any amount of private income protection insurance compensation available to such individual for such week of unemployment. The payment of unemployment compensation to an individual with respect to any week subsequent to the exhaustion of eligibility of such individual for disaster unemployment assistance and within the fifty-two week benefit period established pursuant to this section shall not be regarded as duplication of benefits under section 312 of this Act. The President is directed to provide disaster unemployment assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.".

SEC. 17. (a) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding a period after the word "share" in the second sentence of that subsection and by deleting the following phrase from the second sentence of section 410(b); "and any such advance is to be repaid to the United States when such State is able to do so.".

(b) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is further amended by adding the following sentence between the second and third sentences of this subsection: "Such advances shall bear interest from the date of the advance at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance. Repayment of such advances and of interest which accrues on the advances may be deferred for no longer than two years from the date of the major disaster declaration.".

SEC. 18. Section 410(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding at the end thereof the following new sentence: "Whenever a State demonstrates efficiency by promptly completing all grants to eligible individuals and families within the period prescribed by the President, the State may be reimbursed for 50 per centum of those administrative expenses which exceed 3 per centum of the Federal grant made under subsection (a) of this section.".

SEC. 19. Section 415 of the Disaster Relief Act of 1974 (42 U.S.C. 5183), as redesignated by sections 11(c) and 12 of this Act, is amended by striking (through the National Institute of Mental Health).

SEC. 20. Section 420(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5188), as redesignated by sections 11(c) and 12 of this Act, is deleted.

SEC. 21. Section 606 of the Disaster Relief Act of 1974 (42 U.S.C. 5202) is amended to read as follows: "There are authorized to be appropriated to the President to carry out this Act $100,000,000 for fiscal year 1985, $325,000,000 for fiscal year 1986, and $325,000,000 for fiscal year 1987, and to the Federal Emergency Management Agency for administrative expenses, $6,487,000 for fiscal year 1985, $8,237,000 for fiscal year 1986, and $9,137,000 for fiscal year 1987.".

SEC. 22. The Disaster Relief Act of 1974 (42 U.S.C. 5121-5202) is amended by—

(1) striking paragraph (7) of section 101(b) (42 U.S.C. 5121), striking "; and" from paragraph (6) and adding in lieu thereof a period, and adding "and" at the end of paragraph (5);

(2) striking "the Canal Zone," in paragraphs (3) and (4) of section 102 (42 U.S.C. 5122);

(3) striking "DISASTER" in the caption of title III (42 U.S.C. 5141-5158) and inserting in lieu thereof "MAJOR DISASTER RELIEF AND EMERGENCY";

(4) striking "section 402 or 404 of" in section 308(b) (42 U.S.C. 5151), as redesignated by section 7(1) of this Act;

(5) adding "emergency or" before the word "major" each of two places that word appears in section 307 (42 U.S.C. 5150), as redesignated by section 7(1) of this Act;

(6) striking in section 310(b) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, everything after the word "areas" and inserting in lieu thereof a period;

(7) striking "or section 803 of the Public Works and Economic Development Act of 1965," each place the phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act;

(8) striking "402" each place that number appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, and inserting in lieu thereof "405";

(9) adding "emergency and major" before the word "disaster" in section 313 (42 U.S.C. 5156), as redesignated by section 7(1) of this Act;

(10) adding the word "MAJOR" between the words "FEDERAL" and "DISASTER" in the caption to title IV (42 U.S.C. 5171-5189);

(11) striking "in emergencies or in major disasters" in the third sentence of paragraph (2) of section 407(d) (42 U.S.C. 5174), as redesignated by section 12 of this Act;

(12) striking "311" in section 407(d)(2) (42 U.S.C. 5174), as redesignated by section 12 of this Act, and inserting in lieu thereof "308";

(13) striking "an emergency or" in section 417 (42 U.S.C. 5185), as redesignated by sections 11(c) and 12 of this Act, and inserting in lieu thereof "a";

(14) striking "408" in section 605 (42 U.S.C. 5121) and inserting in lieu thereof "410";

(15) striking "301" in subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512; 86 Stat. 919) and inserting in lieu thereof "401";

(16) striking "President" each place that word appears in section 309(a), as redesignated by section 7(1) of this Act, and inserting in lieu thereof "Federal coordinating officer";

(17) striking "rent" in section 310(a)(2) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and inserting in lieu thereof "income"; and

(18) striking paragraph (1) of section 310(a) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and renumbering subsequent paragraphs appropriately.

SEC. 23. (a) Section 6(a)(6)(E) of the Coastal Barrier Resource Act, 16 U.S.C. 3505(a)(6)(E), is amended by striking out "pursuant to sections 305 and 306 of the Disaster Relief Act of 1974" and inserting in lieu thereof "pursuant to sections 402, 403, 502, and 503 of the Major Disaster Relief and Emergency Assistance Act".

(b) Whenever any reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1974 repealed by this Act or renumbered by this Act, such reference shall be deemed to be a reference to the appropriate provisions of the Major Disaster Relief and Emergency Assistance Act.

SEC. 24. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect ninety days after the date of enactment of this Act or on the date on which the President, after consultation with State and local governments, publishes final rules and regulations relating to the definition of costs for which State local governments may be reimbursed under the Disaster Relief Act of 1974 (as amended by this Act), whichever is later.

(b)(1) This Act and the amendments made by this Act shall not affect the administration of any assistance provided under the authority of the Disaster Relief Act of 1974, for any major disaster or emergency declared by the President prior to the effective date of this Act.

(2) Except with regard to section 409(a) of the Disaster Relief Act of 1974, as redesignated by sections 11(c) and 12 of this Act, (relating to disaster unemployment assistance)—

(A) rules and regulations issued under statutory provisions which are repealed, modified, or amended under this Act shall continue in effect as though issued under the authority of this Act until they are expressly abrogated, modified, or amended by the President; and

(B) provision of disaster assistance authorized by statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder, or proceedings involving violations of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are in process prior to the effective date of this Act, may be continued to conclusion as though the applicable statutory provisions had not been repealed, modified, or amended.

(3) Violations of statutory provisions or rules and regulations issued under the authority of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are committed prior to the effective date of this Act may be proceeded against under the law in effect at the time of the specific violation.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR H.R. 6031 TO BE HELD AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 6031, the Money Laundering Penalties Act of 1984, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 1362 TO BE HELD AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 1362, a bill for the relief of Joseph Karel Hasek, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL FOOD, DRUG, AND COSMETIC ACT AMENDMENTS

Mr. STEVENS. Mr. President, I send to the desk a concurrent resolution on behalf of Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 141) to correct technical errors in the enrollment of S. 1538.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. Mr. President, when S. 1538 came over from the House, it contained an error in an addition made in the House to modify the so-called patent certification provision. The House inserted the phrase "if the court decides that such patent is not invalid or not infringed." The intent of the language is to clarify that the ANDA in a patent challenge situation, where the judge has issued a preliminary injunction, is to be made effective when the court issues a decision that a patent is invalid or not infringed. The presence of the double negative "not infringed" in the House language is an error, and this concurrent resolution simply enables that error to be corrected. Without having to refer the entire bill, S. 1538, back to the House for another vote and more needless delay.

The concurrent resolution was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1538) to amend the Federal Food, Drug, and Cosmetic Act as added by to revise the procedures for new drug applications, to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes, the Secretary of the Senate shall make the following changes. In sections 505(j)(4)(B)(iii)(III) and 505(c)(3)(C)(iii) of the Federal Food, Drug, and Cosmetic Act as added by sections 101 and 103(b) of the bill, respectively, strike out "not invalid" and insert in lieu thereof "invalid".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TOY SAFETY ACT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2650.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2650) to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles create a substantial risk of injury to children.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Toy Safety Act of 1984".

SEC. 2. (a) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (b) the following:

"(c)(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that notification is required to protect adequately the public from such toy or article, the Commission may order the manufacturer or any distributor or dealer of such toy or article to take any one or more of the following actions:

"(A) To give public notice that such defective toy or article contains a defect which creates a substantial risk of injury to children.

"(B) To mail such notice to each person who is a manufacturer, distributor, or dealer of such toy or article.

"(C) To mail such notice to every person to whom the person giving notice knows such toy or article was delivered or sold.

An order under this paragraph shall specify the form and content of any notice required to be given under the order.

"(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may

order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

"(A) If repairs to or changes in the toy or article can be made so that it will not contain a defect which creates a substantial risk of injury to children, to make such repairs or changes.

"(B) To replace such toy or article with a like or equivalent toy or article which does not contain a defect which creates a substantial risk of injury to children.

"(C) To refund the purchase price of such toy or article (less a reasonable allowance for use, if such toy or article has been in the possession of the consumer for 1 year or more (i) at the time of public notice under paragraph (1)(A), or (ii) at the time the consumer receives actual notice that the toy or article contains a defect which creates a substantial risk of injury to children, whichever first occurs).

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.".

(b) Section 15(d)(1) of the Federal Hazardous Substances Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (b)" and inserting in lieu thereof "subsection (b) or (c)".

(c) Section 15(d)(2) of such Act, as so redesignated by subsection (a) of this section, is amended—

(1) by striking "an article" and inserting in lieu thereof "a toy, article"; and

(2) by inserting "toy," immediately before "article" the second and third time it appears.

(d) Section 15 (d)(2) and (e) of such Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

Amend the title so as to read: "A bill to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children.".

Mr. STEVENS. Mr. President, I ask for the adoption of the amendment in the nature of a substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

Mr. KASTEN. Mr. President, I am pleased that today the Senate is considering S. 2650, the Toy Safety Act, which I introduced on May 9, 1984. The bill will expedite the recall of unsafe toys and other articles intended for use by children.

Cosponsors in the Senate include: Senators GORTON, PROXMIRE, DURENBERGER, TSONGAS, HUDDLESTON, JEPSEN, RIEGLE, BURDICK, PACKWOOD, TRIBLE, HEINZ, and DIXON. This legislation has the support of the administration, the Consumer Product Safety Commission, the American Academy of Pediatrics, the Consumer Federation of America, Consumers Union, and many manufacturers and retailers.

On June 13, 1984, the Commerce Committee reported the bill to the full Senate by a unanimous vote.

Under current law, the Consumer Product Safety Commission [CPSC] may order the recall of toys and other children's articles only after engaging in long and cumbersome procedures that can take years to complete. Because of a legislative quirk, it is often easier for the CPSC to recall products intended for adult use that present substantial risks of injury than it is for the agency to recall hazardous toys and children's articles.

There is absolutely no reason that it should take longer to recall toys and children's articles than it does to recall other consumer products. In fact, these are the products that probably should be removed from the marketplace first. Since children are particularly vulnerable and are often unable to protect themselves, toys and children's articles that present a substantial risk of injury should be removed from the market as quickly as possible.

S. 2650, the Toy Safety Act, will amend the Federal Hazardous Substances Act [FHSA] to allow the CPSC to order the immediate recall of toys and children's articles that contain a defect which creates a substantial risk of injury.

The CPSC will no longer be required to issue a final rule banning a hazardous toy or article before it may begin a recall proceeding. Nor will the CPSC be required to complete a rulemaking to transfer its regulatory functions from one act to another. These procedures are lengthy, unduly cumbersome, and serve only to unnecessarily delay the removal of unsafe toys and other children's articles from the market. With this act, the consumer's interest will be better served and the child's environment better protected.

Under current law, the procedures that apply to the recall of most consumer products are relatively simple. Under authority in the Consumer Product Safety Act—section 15—the CPSC may, after opportunity for a hearing, require the recall of consumer products that: First, fail to comply with a consumer product safety rule; or second, contain a defect which creates substantial risk of injury to the public.

These procedures do not now apply to toys and other articles intended for use by children, which—by historical accident—are subject to regulation only under the FHSA. Under the FHSA, the CPSC may not even begin a recall proceeding until it has finalized a rule banning the toy or article. In other words, the CPSC must go through the entire rulemaking process and issue a final rule—a process which often takes 2 or 3 years—before it may even initiate a recall proceeding. During the time it takes to complete these proceedings, the hazardous toy or children's article can remain on the market.

Under present law, the only other way that the CPSC can recall an unsafe toy or children's article is by undergoing another cumbersome procedure through which the agency transfers its regulatory function from the FHSA to the Consumer Product Safety Act [CPSA]. In order to do this, the CPSC must issue a final rule, following notice and public comment, finding that it is in the public interest to regulate the risk of injury—that is, the hazardous toy or article—under the CPSA rather than the FHSA. The CPSA must issue this transfer rule before it may even begin a recall proceeding under the CPSA. The transfer rulemaking proceeding may take from 4 to 14 months to complete. During this period of time, a hazardous toy or children's article can remain on the market. The CPSC does not have to go through this rulemaking process before seeking a recall of most products intended for adult use.

S. 2650 will allow the CPSC to use the same procedures to recall hazardous toys and children's articles that it now uses to recall other consumer products.

I urge my colleagues to support this important piece of legislation.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children."

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, the convening time for tomorrow obviously has an effect on the time set for the cloture vote. We had hoped we had a time cleared to have an afternoon vote on cloture. It is my understanding that there is a problem that the Sena-

tor from West Virginia has discussed with me. I would like to see if we can get an agreement that the time we reconvene will not trigger the time on the cloture vote until at least we have finished the time for the two leaders under the standing order, the four special orders that we have scheduled, and the routine morning business, which is to extend until the time of 11 a.m. That would mean that, in any event, the time under rule XXII would not start until 11 a.m.

It is still my hope that we shall be able to clear that 4:45 p.m. vote. I say to my good friend that the majority leader left having been advised that it had been cleared. Now the real problem is whether he, himself, is going to be back in time to vote on his cloture motion.

I find myself in the position that assistant leaders often find themselves in, unfortunately.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. STEVENS. Yes, I yield, Mr. President.

Mr. BYRD. Mr. President, I understand the difficulty the distinguished Senator finds himself in with respect to the vote on the cloture motion for tomorrow. I knew there was a desire to work something out, and the distinguished majority leader indicated to me his hope that we could all agree to a 5 o'clock vote. I wanted to accommodate that desire, but there has been no indication from me to anybody on either side that we have been able to agree to a time certain for the cloture vote tomorrow.

I am sorry if the distinguished assistant Republican leader was under that impression, but I am sure that the distinguished majority leader was not informed by me or had any indication from me that we are ready to agree to a time certain, because I have just not been able to work out such a time certain. There are objections on this side.

I do not think there would be any objection if the distinguished Senator from Alaska wishes to proceed along the lines that he has just contemplated.

I say for the RECORD so that my colleagues on this side of the aisle will understand, that while there are some objections to agreeing to a vote at 5 o'clock tomorrow or thereabouts, the distinguished majority leader or the distinguished assistant Republican leader can force a cloture vote at, say, 5 or 5:30 or 4:30, or whatever other time the majority wishes to set, simply by moving to recess over until, say, 4 o'clock circa. The distinguished assistant Republican leader knows that.

I am saying it for the RECORD so that my colleagues on this side will understand that if the majority leader of the Senate wishes to schedule a cloture vote at a certain time, or thereabouts, the majority leader can, without unanimous consent being given, so arrange for the convening of the Senate under the rules that the cloture vote would occur in the neighborhood of 5 o'clock tomorrow. The majority party has that in its power.

For that reason, I say that if the distinguished assistant Republican leader wishes to have the time start running under the cloture rule on the cloture motion at a time that will begin once the standing orders have been completed and morning business is completed, I have no problem with that.

Mr. STEVENS. Mr. President, I do understand what my good friend says. What he says is entirely correct in regard to the rules of the Senate. I am certain the Senator knows the procedures extremely well and what he says is true. But that would sacrifice the time in which the Senate would be able to accomplish a great deal on this bill tomorrow, and the distinguished Senator from West Virginia has been in the position I have been in.

ORDERS FOR THURSDAY

Mr. STEVENS. Mr. President, I make the following unanimous-consent request. It is a long request.

I ask unanimous consent that the Senate, once it stands in recess today, convene at the hour of 9:45 a.m. tomorrow; that after the two leaders are recognized under the standing order, there be special orders for not less than 15 minutes each for Senator MURKOWSKI, Senator PROXMIRE, Senator HART, and Senator EAGLETON; that following that time, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes each; and that the time under rule XXII commence pursuant to rule XXII at 11 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. I thank the Chair. I thank the distinguished Senator from West Virginia.

Mr. President, that would mean that, following that period, there will be the mandatory 1-hour period commencing at 11 a.m. I shall pursue this matter further with the Senator from West Virginia and other Members of the Senate in that period to see if we can work out a time so that we might postpone that cloture vote to accommodate the majority leader so he might return.

I would like to ask my good friend if he would be agreeable that we turn to some routine matters.

Mr. BYRD. Yes. If the distinguished assistant leader will yield, may I say for the record that the distinguished assistant Republican leader did all he can do under the circumstances. I would like to have accommodated him; I would like to have accommodated the majority leader, because I must say the distinguished majority leader and the distinguished assistant Republican leader certainly go a long way as often as they can and whenever they can to accommodate the wishes of the Senators on this side of the aisle. But under the circumstances, I have to represent those who on my side of the aisle have interposed objections to setting a specific time for voting on cloture at around 5 o'clock tomorrow. I know that my good friends, Mr. BAKER and Mr. STEVENS, understand my situation. But the Senator has done all he can do. He can do no more. I have done all I can do.

Mr. STEVENS. Mr. President, may I inquire is there anything further to come before the Senate?

Mr. BYRD. Mr. President, I encourage the distinguished acting Republican leader to try again in the morning to work out an approach whereby the distinguished majority leader can be accommodated with respect to a vote at somewhere around 5 p.m.

There are a number of ways in which that possibly can be done. Of course, there are ways in which the majority can force it to be done. But I believe that we could at least take a look at what is on our platter and see if there is anything else that we could sandwich in between 11 a.m. and 5 p.m.

I certainly want to do everything I can to accommodate the assistant Republican leader and the Republican leader.

I can understand why the distinguished majority leader would want to be here to vote on cloture, and I can also understand why he cannot be here at that point. If I were in his shoes I would not be here either.

Let us think about it overnight and see if we can reach some accommodation which will assist the Senator from Alaska and the Senator from Tennessee in arriving at a vote on cloture at around the time they hope for and at the same time will protect those who may wish not to give an agreement to vote at that particular time.

Mr. STEVENS. I thank the Senator.

Mr. President, the distinguished Senator once again is correct. There are mechanisms by which that vote could be postponed tomorrow. I am reluctant to pursue those at this time because of the commitment that we made to the managers of the bill that we would proceed with the Exon amendment if at all possible once we go on that bill in the morning.

But I will follow the distinguished Democratic leader's suggestion and pursue this in the morning with him, and I am hopeful that we will be able to accommodate our good friend, the majority leader, and those whom the distinguished Democratic leader is representing so well and ably.

I understand his position, too, and we will pursue it in the morning.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to and, at 7:26 p.m., the Senate recessed until tomorrow, Thursday, September 13, 1984, at 9:45 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 12, 1984:

THE JUDICIARY

Ilana Diamond Rovner, of Illinois, to be U.S. district judge for the northern district of Illinois.

NOMINATIONS

Executive nominations received by the Senate September 12, 1984:

UNITED NATIONS SESSION REPRESENTATIVES

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the 39th Session of the General Assembly of the United Nations:

Representatives:

Jeane J. Kirkpatrick, of Maryland.

Jose S. Sorzano, of Virginia.

Charles McC. Mathias, Jr., U.S. Senator from the State of Maryland.

John H. Glenn, Jr., U.S. Senator from the State of Ohio.

Robert D. Ray, of Iowa.

Alternate representatives:

Richard Schifter, of Maryland.

Alan Lee Keyes, of California.

Harvey J. Feldman, of Florida.

Preston H. Long, of New York.

Guadalupe Quintanilla, of Texas.

HOUSE OF REPRESENTATIVES—*Wednesday, September 12, 1984*

The House met at 11 a.m., and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 11, 1984.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, September 12, 1984.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D. offered the following prayer:

Our thanks be to You, O God, in the gifts of Your spirit which is with us every day. Though we seek to face the concerns of our day and solve the problems before us, we admit that we sometimes fail and do not meet the standards that we seek, and we can lose heart. In the midst of an uncertain path we are grateful for Your spirit which guides us, which gives us strength and wisdom, which provides assurance and forgiveness. For these and all Your beautiful gifts, we offer this our prayer of praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

POLLS SHOW WOMEN OVERWHELMINGLY SUPPORT ARMS CONTROL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today we are witnessing a special event: Women coming together to discuss what predominantly has been a man's subject—arms control and national security.

National polls show that women overwhelmingly support efforts at arms control; in fact this difference has been the heart of the gender gap. Women are trying to help humanity prepare for our final exam on whether we can qualify to continue aboard the planet. Women agreed with Henry Kissinger when he said, "With the overwhelming arsenal of the nuclear age, the pursuit of marginal advantage is both pointless and potentially suicidal."

The women attending this conference have made outstanding contributions to the fields of business, politics, the arts, religion, education, athletics, civil rights, and social sciences. They are here to take an active role in the arms control debate. Conference participants are not just here to talk—they are here to act, because they know that's the only way we'll pass the exam for the planet's future, since there is no emergency exit from the planet.

The focus of the conference is a call to action—to define and propose steps that governments can take to prevent nuclear war. The recommendations of the conference will be conveyed to women in communities throughout the country, so they will join in the action and insist people they vote for will act also.

MONDALE'S DEFICIT PLAN WILL GIVE AVERAGE AMERICAN A WALLOPING DEFICIT IN POCKETBOOK

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, the economic recovery that the current administration has worked so hard to achieve will be on the brink of collapse if Walter Mondale is allowed to implement his so-called deficit plan, which raises taxes on the middle class. The average American citizen will have a walloping deficit in their pocketbook—that Mr. Speaker, is not fair.

Millions of Americans recently put back to work could be back in the unemployment line, and end up increasing, not lowering, the Federal budget deficit—that, Mr. Speaker, is not fair.

Mondale's promise to raise taxes $85 billion per year amounts to almost $1,000 per household—most of which will fall on the middle-income worker whose family income is $25,000. Hidden promises and cooked numbers that appear to have come straight from Mondale's family recipe book mean a tax increase that could actually be twice as much. That Mr. Speaker, is not fair.

What the whole scheme boils down to is an $85 billion tax increase added to his campaign special interest group spending promises, subtracted from some questionable savings, which come out to equal a tax increase of more that $200 billion—that Mr. Speaker is not fair and the American people will not stand for it.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON THURSDAY, SEPTEMBER 13, 1984, DURING 5-MINUTE RULE

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations be permitted to sit on Thursday, September 13, 1984, should the House be reading for amendment under the 5-minute rule at the time.

The minority is aware of this request, and we have been advised that they have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

RESIGNATION AS CONFEREE AND APPOINTMENT OF CONFEREE ON S. 529, IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 11, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As I am unable to support the House version of the Simpson-Mazzoli bill, I do hereby resign my appointment as conferee to the Committee of Conference on the bill, S. 529, the Immigration Reform and Control Act.

Sincerely,

GEO. W. CROCKETT, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER pro tempore. Without objection, the gentleman from Ohio [Mr. SEIBERLING] is appointed to replace the gentleman from Michigan [Mr. CROCKETT] as a member of the committee of conference on the

Senate bill, S. 529, the Immigration Reform and Control Act.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

ISSUES SLIP OFF PRESIDENT REAGAN LIKE OIL OFF A DUCK'S BACK

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, no wonder issues slip off President Reagan like oil off a duck's back. We expect from the President of the United States the truth, the whole truth, and nothing but the truth, and we assume that he will tell us this; so if a President takes advantage of this, the awe in which we hold this office, to tell us something less than the truth, we are going to be truly deceived.

President Reagan says that his budget deficits do not occur.

This is a chart of the deficits from Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan's first 4 years. Reagan's deficits, passed by Congress, but pushed through by President Reagan, actually cut by Congress, are greater than all the deficits from George Washington through Jimmy Carter.

MIRRORS AND THE DEFICIT

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, for the last 4 years a lot of people in this town have been talking about mirrors. They have said that the President could not reduce inflation and interest rates at the same time under his economic policy without using mirrors.

Well, he stuck to those economic policies. He has not used mirrors and we have seen both inflation and interest rates go down.

But now I think we are beginning to see some mirrors. The Mondale deficit reduction package assumes $85 billion in new taxes; and at the same time it projects greater economic growth than the Congressional Budget Office. In fact, he says that we will get $17 billion in additional new revenue resulting from that economic growth.

□ 1110

If there is one thing we have learned in this country in the last 50 years it is that new taxes inhibit economic growth rather than promote it.

On the Government spending side Mr. Mondale says he will increase certain spending programs by about $30 billion, cutting others by $54 billion. Yet if you look at the promises of his proposals and the platform, you will find that they are really talking about spending increases of $69 to $176 billion.

The real question we need to ask in 1984 is: Mirror, mirror on the wall, who is most honest of them all?

FIRST NATIONAL WOMEN'S CONFERENCE TO PREVENT NUCLEAR WAR

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, in one very important way this administration has failed the younger generation. I say that because the majority of our young people feel they will perish in a nuclear war and no rhetoric is going to change that. Our kids are just too smart.

But what will change it is real, substantive progress on arms control and continued pressure from the grassroots. Today in Washington those grassroots are growing. Under the superb leadership of actress Joanne Woodward the first National Women's Conference to Prevent Nuclear War is taking place. The message of this conference will give hope to our young people that their fears are recognized and that many of us are dedicated to a future without fear.

Our President, the first since Herbert Hoover never to meet with the Soviet leadership, has announced that he will meet with the Soviet Foreign Minister. This is good.

Our President is known as the great communicator, but unfortunately he treats arms control like the Olympics. He talks about it every 4 years.

Let us hope that this fine conference will spur him on to real progress on arms control for the good of every American.

THE "TRUST ME" FUND

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, Walter Mondale says we'll have a pay-as-you-go plan for getting rid of the deficit. He calls it a "trust fund" concept, not unlike Social Security, to gather funds to pay off our debt.

A brief look at the history of the trust fund in American Government tells the real story, however. Social Security has been a pay-as-you-go system since the early 1950's, and for that reason it got into huge financial problems in the 1970's. There was that temptation to take the money and run * * * and Walter Mondale is just handing the big spenders another golden opportunity with this tax hike.

Walter Mondale's record is one of pandering to special interests. If he were to keep his word to his supporters, he would institute new spending programs totaling anywhere up to $176 billion. When he spoke yesterday of cutting the deficit, Mr. Mondale wisely "forgot" about these promises, but he's sure to "remember" them next year if he's elected in November.

It's not a trust fund Walter Mondale wants to cut the deficit—it's a trust-me fund. And that's one thing the American people have had their fill of in recent years. Sorry, Walter—you and Jimmy poisoned the well on trust-me politics during your term in office.

NUCLEAR HOLOCAUST

(Mr. MITCHELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL. My colleagues, when I was a boy in school, we celebrated Armistice Day, and for that occasion, I had to learn a poem that many of you know.

In Flanders' fields the poppies blow
Between the crosses, row on row,
That mark our place, and in the sky,
The larks, still bravely singing, fly
Scarce heard among the guns below.
We are the dead.
Short days ago we lived and saw the sunset's glow,
But now we lie in Flanders' field.

There can be no limited nuclear war. There can only be an all-out nuclear war.

In the event of an all-out nuclear war, there will be no Flanders' field. None will survive to make the crosses to mark the dead. None will survive to dig the graves for the dead.

The lark will not sing in the sky because in nuclear war the whole ecological structure of nature will have been knocked out of balance.

The possibility of a nuclear war represents man's genius at its perverted worst, and yet we find at the present time a President who continues to insist on the development of nuclear weapons, who, up to this point, has refused to even discuss nuclear disarmament, who somehow or another seems to feel that this perverted genius of man in the form of a nuclear bomb or bombs provides the resolution of all of the problems of the world.

It is not a resolution of problems. It is the destruction of the world as we know it. So I commend the ladies, the women of the Nation, who are here today to speak about the unspeakable: the threat of a nuclear holocaust. I am here today to commend them for speaking out against the nuclear arms race, preventing a nuclear Flanders' field.

WALTER MONDALE'S DEFICIT REDUCTION PLAN

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, by now, most Americans are expected to understand Walter Mondale's deficit reduction plan.

Its main components, after all, seem clear enough—a little new spending, a lot of new taxes, and a promise to make somebody else "wealthier than thou" pay the price.

But how many have actually read the plan? Those who have may seem more than a little puzzled by language like this, and I quote from Mr. Mondale's plan to cap the third year of the Reagan tax cuts:

> For married couples with incomes over $60,000 and single persons with incomes over $45,000, the amount of tax reduction attributable to the third phase of the Reagan tax cuts would be limited to the amount of tax reduction received by taxpayers at those income levels.

Now, if you can understand that, which incidentally took Mondale's advisers 53 days to cook up, you're way ahead of me. One thing is clear, however. If Mondale's tax plan is implemented, middle America is going to get killed.

FAIR TRADE IN STEEL ACT

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, nearly 3 months ago, the ITC determined that domestic production of eight categories of steel products had been damaged by foreign imports. The President is expected to rule on the ITC's recommended solution by September 24.

While I am very pleased that the ITC has recognized the threat unfair foreign imports pose to our domestic steel industry, I am concerned that the ITC's proposed solution does not adequately address the problem. I therefore call on the President to not only abide by the ITC's determination but also to adopt the more effective provisions of the Fair Trade in Steel Act, of which I am an original cosponsor.

The ITC package, had it been in effect in 1983, would have only marginally reduced the foreign share of our domestic steel market. The Fair Trade in Steel Act, on the other hand, would have had a substantial effect, reducing the foreign share from 18.8 percent to about 3.14 percent.

Mr. Speaker, as I told the President in a letter last month, no one disputes the need for fundamental changes in our steel industry, but these changes cannot be accomplished overnight. Only the Fair Trade in Steel Act can provide the temporary relief our steel industry needs to regain its traditional competitive edge, and I urge the President to endorse it.

BACK TO NO-GROWTH

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, Walter Mondale, in that great liberal tradition, proposes to sustain economic growth while sucking some $85 billion more out of the economy for Government spending.

This born-again budget-balancer and deficit-defiler talks growth, but his record says something else. Like vampires, he and his Great Society brethren have been sucking the life-blood from the American economy. The result, by the late 1970's, was inflation, record-high interest rates, and no growth.

What new is there in Mondale's economic program? It might as well have come from George McGovern, except that it includes the deviousness of this year's Democratic ticket, which has made a profession of sounding like the President while destroying his programs. Let's give McGovern credit—he admitted his liberalism; Walter Mondale is trying desperately to hide his unpopular philosophy from the American people.

But the voters see the writing on the wall. They know the Carter legacy of no growth and stagnation—they had to endure it for 4 years, and they don't want it again. And they know that a tax increase will inevitably mean more Government spending, something Mondale even admits in his economic plan.

For these reasons, American voters will not put America on the Fritz. They will reelect the President in November.

PERSONAL EXPLANATION

Ms. MIKULSKI. Mr. Speaker, on September 6, 1984, I inadvertently cast two incorrect votes during consideration of the Drug Price Competition and Patent Term Restoration Act of 1984.

I would like to have the record reflect my true views on this important legislation.

First, I am recorded as voting "present" on rollcall 378, the Frenzel amendment to the Derrick amendment. The Frenzel amendment changed the date of the bill as it applies to the regulation on catalog houses from 90 days after passage to 180 days. I am opposed to Mr. Frenzel's amendment and my vote should have been "no."

In addition, I was not recorded as voting on rollcall 379, final passage on the Drug Competition and Patent Term Restoration Act. I am a strong supporter of this legislation and my recorded vote should have been "yea".

□ 1120

WOMEN'S NATIONAL CONFERENCE ON PREVENTING NUCLEAR WAR

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, I join with my colleagues today in strong support of women's active involvement in the arms control debate. Today, the first Women's National Conference on Preventing Nuclear War is meeting here in Washington.

The women are gathering here today to say that the arms race is a family issue. It concerns moms and dads, brothers and sisters, aunts and uncles, and grandparents. They are calling for a halt to the arms race. Our families want to make sure that there will be a 21st century. They want a future that they can count on.

Families know that the issue of world peace is too important to leave only to the generals. The Women's National Conference on Preventing Nuclear War is the first conference for women leaders and prominent women from around the country that is specifically concerned with defining actions to prevent a nuclear war.

We must ask ourselves, do we want to invest our future in Star Wars, where the continued development of space weapons inevitably will lead to our self-destruction; or Star Trek, where our goal is the exploration of space and understanding the world around us?

Do we want to invest our money in treatment centers for nuclear war radiation victims, or would we rather invest in cleaning up hazardous waste? Our choice is clear.

Mr. Speaker, I strongly support the conference being held by these women. I know that the good men of this world join us to stop the war, ban the bomb and have a new future.

FORTY-EIGHT HOURS—OR ELSE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker in those great old Warner Bros. gangster movies of happy memory, there was always a familiar scene at the end of the movie.

The cops would have the place surrounded and the police chief would shout through a megaphone: "All

right Rocky. You have 5 minutes to come out with your hands up."

Mr. Speaker, in that great tradition, I say to the Democratic members: You have 48 hours to come out with your hands up.

That's right—either you bring the Mondale tax increases to the floor for a vote or else surrender the right to criticize the President on that issue.

A few days ago, the Speaker said something about our bringing up something within 48 hours.

Mr. Speaker we have the majority surrounded on the tax increase plan of Mr. Mondale. We know you're in there.

You have 48 hours to come out peacefully or else the voters are going to come in and get you.

DEMOCRATIC PARTY POLITICAL STRATEGY: CREATE A FEW WEALTHY PEOPLE AND MANY POOR PEOPLE

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, I have sometimes suspected that the national leadership of the Democratic Party is so convinced that the wealthy vote for Republicans, and the poor vote for Democrats, that it has become a conscious part of the Democratic Party's political strategy to create as few wealthy people and as many poor as possible.

That being the case, I would suggest that Mr. Mondale has come very near achieving a plan to create a massive new pool of potential Democratic voters. If people are getting too far ahead, beginning to put money in savings, or buy new cars and new homes and new appliances and take on the trappings of a comfortable society, Mr. Mondale will simply take away some of that money in direct taxation, sneak away a bit more by changing indexing to move them into higher tax brackets, and continue high levels of Federal spending so the rest can be stolen away through inflation.

If Mr. Mondale has a chance to put his great economic plan into action, Mr. Speaker, there will indeed be a great new body of people in poverty to vote Democratic. I suspect, however, that there will be enough people who like getting ahead, who do not want to be taxed into poverty, that Mr. Mondale will never get a chance to put this newest of his tired, old ideas into practice.

BANK DEREGULATION

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. I thank the Speaker.

Mr. Speaker, as the Banking Committee approaches hearings on the Government's massive support of Continental Illinois Bank, I am reminded of an issue even more important than the bailout of a single big bank. That is the issue of bank deregulation, an issue that affects every bank in your districts.

Last week a representative of the FDIC testified that he supported total deregulation of the banking industry. I ask him and you: How can we completely deregulate an industry in which component parts are not allowed to fail? Essential to a deregulated environment is the ability to succeed or fail based upon free market forces. Remove the option of failure and you remove the incentive strength of deregulation. Banks are different, banks are not 7-11's. Continental Illinois and the devastating effect of its rumored failure on interest rates and on safety and soundness proves that. Continental Illinois puts the lie to the myth of banking deregulation.

If some banks cannot fail, all banks must be regulated, fairly and with commonsense; but regulated.

That is the real world.

MR. MONDALE'S CELEBRATED TAX HIKE

(Mr. FRANKLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKLIN. Mr. Speaker, Mr. Mondale's celebrated tax hike depends for its support upon the mistaken but congenial assumption that the State can make "the rich" share the wealth. It is a dream that has served radical ideologies throughout this century—and it is a destructive dream.

It is the same dream that has justified the Marxist dedication to violence. It is the same dream that fuels the bloody campaigns of terrorists throughout the world. It is the same dream that lulls the unthinking masses in the socialist world and robs them of ambition, of opportunity and of self-respect.

When Walter Mondale suggests that profit-generating institutions are in some way morally reprehensible, he feeds the resentment of people who have not yet experienced economic opportunities of their own. When Walter Mondale suggests that profit-generating institutions have some duty to "take care" of the American people, he assumes that the American people have neither the ability nor the desire to take care of themselves.

Walter Mondale clearly sees the American people as victims. It is a Socialist scenario in which pity plays a greater part than pride.

NATIONAL WOMEN'S CONFERENCE TO PREVENT NUCLEAR WAR

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, let us tell the truth. Under Ronald Reagan the rich have become richer; every report says that, every objective report; and the poor are poorer. Erosion of the middle class has been devastating.

Two universal issues that women most relate to are peace and economic justice. Every poll taken since the 1950's indicates that women reject GEORGE BUSH'S notion that somehow we could win a limited nuclear war. Women know that nobody wins when there is a nuclear war and that is why I want to commend the distinguished participants in the National Women's Conference To Prevent Nuclear War who are meeting today in Washington led by Joanne Woodward, one of the finest actresses in this country. The discussion of the efforts of the National Women's Conference To Prevent Nuclear War is: How can we get people to talk about what is the No. 1 issue facing not only our country but the global community?

□ 1130

Their call to action includes the message of negotiation, not confrontation, and rhetoric that stirs confrontation.

We, as policy makers, need to listen to more than half the population of this country. Nothing less than preservation of the planet is at stake.

A MONDALE PRESIDENCY SPELLS END OF THE AMERICAN DREAM

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, Mr. Mondale's new economic program isn't new at all, but it does portend disaster for the American workers who are hoping to build a better way of life for their families.

The Reagan economic recovery is going full speed ahead, promising sustained economic growth for the future. But Mr. Mondale's obsession with a massive tax increase is flirting with disaster.

The American people are already taxed too high. They want the budget deficit reduced, but they want us to do our part by cutting more waste and fat from the budget. Mr. Mondale, ever a friend of big spending, would much prefer to stick it to the taxpayers.

He learned well about tax increases when he served under Jimmy Carter, who proposed some 19 new tax increases, 9 of which were passed by the

Democratic controlled Congress. All of those tax increases didn't help reduce the Carter-Mondale budget deficit.

What the Mondale policies will bring is more government, less money in our pocket, a no-growth economy, and last, but not least, inflation.

A Mondale Presidency spells the end of the American dream.

FIRST WOMEN'S NATIONAL CONFERENCE ON PREVENTING NUCLEAR WAR

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, it is with great pride that I join my colleagues in honoring the first Women's National Conference on Preventing Nuclear War. The formation of this organization is crucial as women across the Nation gain momentum in the fight to avert a nuclear holocaust.

It is no secret that throughout history, women have valued peace more highly than men. Indeed, recent polls reveal that women still overwhelmingly support arms control measures to prevent nuclear war.

And the numbers show that more women than men support a bilateral freeze.

Now women are taking on the challenge of the eighties to change our tendency to glorify war.

That is why Joanne Woodward created the Women's Conference on Preventing Nuclear War. I am here this morning to let all the men in the administration know that the challenge is accepted; that women will inform, unify, and mobilize to change our deadly, aggressive, first-strike military strategy. The women of the United States will make the attainment of peace a national priority.

MR. MONDALE'S TAX INCREASES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I worry about my Democrat colleagues—I'm afraid if they continue to support Mondale's promised and tax proposals, they'll be looking for a new job next January.

Mondale has promised to increase taxes by at least $85 billion and if he keeps his promises that will be more like $176 to $311 billion. That means a tax increase for each American family of between $1,890 and $3,350 per year.

The people of my State of Indiana would have to pay between $3.87 and $6.84 billion in new taxes. To my Democrat friends I say look at what Walter Mondale's promises and tax proposals would do to your State and your constituents. My Democrat friends, don't lose your job by tying your star to Walter Mondale.

LEGISLATION TO RATIFY REORGANIZATION PLANS

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to ratify as a matter of law reorganization plans which have previously taken effect in accordance with the provisions of chapter 9 of title 5, United States Code, the Reorganization Act of 1949, or any predecessor Federal statutes. From time to time since 1932, Congress has delegated to the President the authority to reorganize legislatively established functions and agencies of the Federal Government, under carefully restricted conditions. Reorganization authority was last granted to the President in the Reorganization Act of 1977, codified as chapter 9 of title 5. That authority expired on April 7, 1981.

Under the 1977 Reorganization Act, as well as earlier reorganization legislation, either House of Congress could prevent implementation of a reorganization plan by a vote of disapproval. For many years I have contended that this legislative veto procedure stood the Constitution on its head and that it was unconstitutional, unwise, and unnecessary. The Supreme Court's Chadha decision, which declared the legislative veto to be unconstitutional, bore out my concerns. In anticipation of such a decision, I sponsored, and this House has passed, H.R. 1314, which will reenact the President's reorganization authority without the objectionable legislative veto provision.

H.R. 1314 will cure the problem created by a legislative veto procedure in reorganization authority in the future. However, a greater problem has arisen in regard to reorganization plans which have been put into effect under previous reorganization acts. Last month, the U.S. Court of Appeals for the Second Circuit held in a case involving the Equal Employment Opportunity Commission that the EEOC had no authority to undertake enforcement actions under the Age Discrimination in Employment Act, because authority for ADEA, along with other discrimination statutes, had been transferred to EEOC under reorganization authority which included an unconstitutional legislative veto procedure. The Court stayed the judgment in its action until December 31, 1984, expressly to afford Congress an opportunity to take appropriate measures to correct the problem.

Mr. Speaker, regardless of whether the Supreme Court ultimately agrees that the presence of a legislative veto procedure in the past reorganization authority was sufficient to invalidate all reorganization plans and all authority transferred pursuant to those plans, the second circuit case makes it imperative that we act expeditiously to clarify the situation. The bill I am introducing today, along with Congressman FRANK HORTON, expressly ratifying and affirming as a matter of law all reorganization plans, will accomplish such a purpose. I regard this legislation as a technical, nonsubstantive matter which will preserve the status quo. I hope the Congress will act on it swiftly, so as to avoid disruption of authorities which have been previously transferred pursuant to congressional intent.

AMERICAN DEFENSE EDUCATION ACT

(Mr. CHANDLER asked and was given permission to address the House for 1 minute.)

Mr. CHANDLER. Mr. Speaker, the House will soon consider one of the most important measures of this session—the American Defense Education Act. It is a measure that deserves our strong support.

Last year, the crisis confronting our Nation's public school systems was well-chronicled by seminal studies such as "A Nation At Risk" by the National Commission on Excellence in Education. The commission's conclusion that we have, as a Nation, been "committing an act of unthinking, unilateral educational disarmament" spurred States and localities to beef up their educational requirements and undertake other educational reforms.

But local school systems, in many cases facing severe fiscal restraints, cannot and should not face alone the burden of reinstituting educational excellence in our public schools. In the American Defense Education Act, we, in the Congress, have an opportunity to provide a comprehensive reaffirmation of Federal support for meeting this most important goal. The ADEA recognizes a national problem, proposes a national financial commitment to help overcome it, yet relies on a local commitment to local problems to resolve it. I might add—I am particularly gratified that the committee during consideration of this bill accepted an amendment I proposed targeting additional funds for poorer school districts. This will help ensure that all students will benefit in a fair and equitable way from this most important initiative.

As a member of the Education and Labor Committee, as a former State legislator long involved in educational issues at the State level, and most importantly as a parent concerned about my children's future, I strongly urge my fellow Members of the House to

vote for this important bill. It is legislation whose time has come.

IN SUPPORT OF WOMEN'S NATIONAL CONFERENCE ON PREVENTING NUCLEAR WAR

(Mr. LEHMAN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of Florida. Mr. Speaker, I would like to express my support for the First Women's National Conference on Preventing Nuclear War which is being held today here in Washington, DC. The women who are attending this conference represent many different fields, but are united in their desire to prevent a nuclear war.

The level of funding for nuclear weapons has gone far beyond reason and need. A nuclear exchange, no matter who fires first, will mean the total destruction not only of the warring nations, but of all mankind. It could even mean the end of all higher life forms on this planet. We can no longer wait to save ourselves from this annihilation. I am therefore very encouraged that this group of outstanding and talented women is meeting, on behalf of many women throughout our Nation, and becoming involved in the arms control debate.

I know that this Women's National Conference on Preventing Nuclear War will be the first of many successful conferences. It will give our Nation an opportunity to experience some new leadership and ideas. This conference can serve as a new starting point to encourage women and men throughout the United States to work together to resolve this most critical issue of our time.

THE FAIR TRADE IN STEEL ACT SHOULD BE BROUGHT TO THE FLOOR

(Mr. WILLIAMS of Ohio asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS of Ohio. Mr. Speaker, America's steel industry, America's steelworkers, their families, and the communities in which they live can wait no longer. It is time for H.R. 5081, the Fair Trade in Steel Act, to be brought to the floor for a vote.

A record number of steelworkers remain out of work. Their families are suffering. The record level of steel imports must be reduced.

The International Trade Commission has recommended remedies in an unfair steel trade case. But that alone will not be enough. We need comprehensive coverage for all sectors of the steel industry as Congress can provide for in the Fair Trade in Steel Act.

Two hundred and twenty-one Members of Congress, of which I am one, now cosponsor this critical piece of legislation; 221 Members—a majority of us—have spoken.

It now is time for the House leadership to heed that call, bring this vital legislation to the floor, and help get the mills producing steel again—instead of echoes.

LIBERACE—MR. SHOWMANSHIP FOR 40 YEARS

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, outlined in neon lights the marquee radiates his name down the Las Vegas Strip—"Liberace, Mr. Showmanship." Indeed, a description well earned during his 40 years in show business.

Walter Valentino Liberace first played the piano at age 4 and at 7 earned a scholarship that lasted 17 years to the Wisconsin College of Music. His classical-music career took a detour during the Depression when—to help with family finances—he played Milwaukee roadhouses and radio shows.

Later, his career expanded into television and in 1952 Liberace starred in his first variety program which made him a matinee idol in 20 countries.

He has appeared on stage before standing-room-only audiences from London to Australia to Las Vegas and has set records wherever he goes.

He considers Las Vegas "home" and shares the pleasures of his own priceless antiques, automobiles, pianos, costumes, and other collectibles at the popular Liberace Museum.

For these reasons and more, Las Vegas says congratulations, Liberace, for four decades of unique entertainment.

□ 1140

WALTER MONDALE'S DEFICIT REDUCTION PLAN

(Mr. HARTNETT asked and was given permission to address the House for 1 minute.)

Mr. HARTNETT. Mr. Speaker, most of us in this Chamber are familiar with contracts. Many of us have legal backgrounds. Those who are not attorneys have dealt with attorneys, and whether it's to purchase a car or buy a house, we've signed contracts.

This Monday Walter Mondale put forward a deficit reduction plan for the voters that is a contract between him and the American people.

Before you sign a contract with anybody, you always look for the escape clause.

An escape clause is a very simple device. It is a loophole that permits the other party to a contract to wriggle out if the going gets tough.

Walter Mondale's plan has an escape clause in it. It's the part that says "you pay as you go" for any new spending.

Walter Mondale omitted his campaign promises from his deficit reduction plan because he knows paying for them will bust the budget and raise our taxes even higher than he has promised.

So the "pay as you go" clause lets him introduce even more spending after he is elected, and we will pay as Walter Mondale goes along through his 4 years of office.

The voters also have an escape clause—it's called voting for Ronald Reagan in November.

THE BUDGET DEFICIT

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, in 1968 then candidate Richard Nixon said he had a plan to end the war in Vietnam, but he did not want to disclose it because he said he did not want to give away his bargaining position.

What happened? Well, the war in Vietnam continued for 4 more years. Thousands of Americans and tens of thousands of Asians died needlessly.

President Reagan says that he has a plan to end the budget deficit, but he is not going to tell us what it is. And I guess there is a good reason why he is not going to tell us what it is because we have 3 years of history to go on. He will want to cut Social Security; he will want to cut medicare; he will want to do all of the things he has done in the past. So one cannot blame him for not wanting to come forward.

Let us remember what candidate Richard Nixon said on October 9, 1968:

> To those who call for peace, let me make one thing perfectly clear: Those who have had a chance for 4 years and could not produce peace should not be given another chance.

To which I would say to candidate Reagan: To those who have called for budget balancing for 4 years, let me make one thing perfectly clear: Those who have had a chance for 4 years and could not produce a balanced budget should not be given another chance.

MILITARY SPARE PARTS

(Mr. KASICH asked and was given permission to address the House for 1 minute.)

Mr. KASICH. Mr. Speaker, I read on almost a regular basis continuing revelations about the problem of rising spare parts costs in the military, and in light of the fact that the conference committee on the Defense authorization may reconvene, I respectfully

urge the conferees to adopt the House provisions as they apply to spare parts.

We hear so much talk about lack of competition in DOD spare parts buying, but there is a provision in the House authorization bill that will change this. The House version says companies can keep exclusive or monopoly rights over selling items to the Government, for no more than 7 years, not indefinitely as is now the case.

I sincerely hope that the Senate conferees will not get a little weak in the knees because of pressure from primary defense contractors who want to maintain monopoly rights forever. I urge the conference committee to hang tough. It is time to make a real difference and to enact strong, strict provisions in the way in which we contract for spare parts. Retain the Kasich amendment, the 7-year limit, the 7-year cutoff, on monopoly rights. It is a fair provision. It is a flexible position. But I will tell you this: It will result in the savings of millions upon millions of dollars to the American taxpayer.

HOME LOAN ASSISTANCE PROGRAM

(Mr. McKERNAN asked and was given permission to address the House for 1 minute.)

Mr. McKERNAN. Mr. Speaker, I applaud the House passage of S. 2819 yesterday, which makes technical corrections to the Housing and Urban-Rural Recovery Act of 1983. In particular, I support a provision in the bill addressing a home loan assistance program run by the Farmers Home Administration which has served as the single greatest source of funds available for home loans for the people of Maine.

The language in the 1983 act was intended to ensure that a significant amount of the funds available under the FmHA program were targeted to very low-income applicants. Unfortunately, the way in which the provision was worded resulted in the loans of most low-income applicants being held up until a sufficient number of applicants who qualified as "very low income" could be found who could afford to purchase a home with the FmHA's assistance. It was a classic catch-22 situation, under the 1983 law.

Under the provision agreed to by the House, any funds appropriated for the Farmers Home Administration's home loan program will be immediately divided into two separate "pots"—one to be used for "very low-income" applicants, and the other to be used for "low-income" applicants. This change in the law will result in freeing up the loan program's funds, so that once again, those families and individuals in the State of Maine—as well as across the rest of the country—will be able to make their dreams of owning a home a reality. I am hopeful that the measure we passed yesterday will quickly become law.

MR. PRESIDENT, WHAT ARE YOU GOING TO DO?

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS of Montana. Mr. Speaker——

Mr. President, what are you going to do? What are your economic policy suggestions for balancing the budget and reducing this outrageous deficit?

The last time you ran for office you told the American people you were going to balance the budget by getting rid of fraud, waste, and abuse. That turned out to be the greatest nonplan in the history of American political campaigning. Once you were elected, you foisted trickle-down economics on the American people. You had tax cuts for the rich and war on the poor. The results: 400,000 bankruptcies; the worst joblessness since the Hoover depression, 3 million children thrown off of school lunch; 3 years of desperate recession, the worst in a half a century; a shrinking middle class.

Mr. President, the purposes of campaigning in this country is to give the American people reasonable, prudent suggestions as to what we candidates intend to do if we are elected. The purpose of campaigns is not to spend $50 million on 30-second ads and avoid the questions.

Mr. President, What are you going to do?

□ 1150

WILL WE GET TOUGH OR NOT?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, later today we will be voting on a bill that will tell us where people stand on the crime issue. Are we willing to get tough or not? The extradition bill before us today actually weakens present anticrime laws. It makes it easier for criminals to delay extradition proceedings against them.

Let me explain. Let us say that an international drug dealer is wanted by a foreign country for his crimes. Under the bill before us today, we are going to be fairer to that drug dealer in letting him use appeals that he does not now have in order to escape extradition. We all know what goes on during some appeals periods; the criminals continue their nasty business.

In this case, a drug dealer could continue to bring in his poison for distribution to our Nation's children. The Department of Justice is worried about this very thing. In a letter from the Assistant Attorney General, they recently stated in short:

> The growing problem of international terrorism and the necessity of international cooperation in drug control efforts are too important to permit the weakening of extradition laws proposed in H.R. 3347.

Is what we are being asked to do today what the American people who list crime and drugs among their top concerns and priorities want us to be doing? No. They want us to get tougher, not more lenient.

Today's vote on H.R. 3347 is for leniency. It should be defeated overwhelmingly. The American people will be watching.

OREGON'S WOOD PRODUCTS INDUSTRY GEARS FOR NEW RECESSION

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, in the State of Oregon, during the last recession, over 80,000 jobs were lost. Today, at a time when we are being told there is a great, growing national economic recovery, Oregon has restored only 40,000 of those jobs.

I noticed in the Oregonian, the State's leading newspaper, just this last weekend, that now the wood products industry, the mainstay of Oregon's industry, our industrial base, is gearing up for yet another recession come the early spring of next year. There is a very simple reason for that. That is that the prime interest rate has gone up four times since January of this year. It is being driven by deficits that the administration has not brought under control.

Oregonians look at this picture with great fear. They worry about their economic livelihood. They do not want to see the President or the leaders in Congress blaming each other. They do not want to hear about people talking about solutions being putting words in the Constitution in terms of a balanced budget; they want to see the President of the United States submit a budget that is more in balance than it is today. Their economic future depends upon it.

"NO" VOTE NEEDED ON H.R. 3347

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, as the gentleman from Pennsylvania mentioned just a moment ago, today we will be asked to vote on H.R. 3347 as a result of discussion that took place on the Suspension Calendar the day before yesterday. This bill arises out of an initial request by the Justice De-

partment and the State Department to attempt to strengthen our extradition laws.

Unfortunately, we have moved in the opposite direction as a result of the work product that came out from the Judiciary Committee. Now the Department of Justice urges that Members vote against this bill. The State Department urges that Members vote against this bill, and, of course, the question is why? The answer is the legislation would make it more difficult to extradite foreign fugitives than is possible under current law.

The bill denies recognition of foreign arrest warrants and invites retaliation from our treaty partners. If we will not recognize their warrants, why should they have any reason to recognize ours?

Based on a 16-to-15 Judiciary Committee vote, the bill departs from one of the oldest extradition principles in our law. For the first time, judicial inquiry into the motives of a requesting nation would be authorized.

So it would be not just our Department of State inquiring into that, but individual judges. This is the appeal process that the gentleman from Pennsylvania mentioned a few minutes ago. This is an appeal that is not now given to these people, but would be given to them under this law.

I would hope that Members would understand that. Even though this is called a bill on crime, they should understand that this makes it worse rather than better with respect to our fight against crime.

I would urge a no vote today on H.R. 3347.

THE CARDS ARE FACEUP AND THEY ARE JOKERS

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, first of all I would like to commend the process that we have been using today of alternating back and forth from one side of the aisle to the other in the 1-minute speeches. I think it has worked well, and I think it gives an opportunity for better debate.

But I think it is high time that we go ahead and put our House all the way back in order by letting the broadcasters do the broadcasting of our proceedings and confining legislators to legislating. So today I am introducing a House broadcast rule that would put the broadcast system's personnel and daily camera coverage under the supervision of professional broadcasters: The Executive Committee of the Radio and Television Correspondents' Galleries of the Congress.

We do not want any taint of partisanship. From some of the actions we have seen this year, I think it is time that we take this action to get it completely away from partisanship. Let us see that the House broadcast system is run properly.

Now, having said that, I do want to comment just briefly on this discussion on the budget we have been hearing today. If the gentleman from Arkansas really is that concerned about the deficit, I would urge him to join us this week as we act on appropriations bills and as we act on the American Defense Education Act to hold down spending by the House of Representatives. That is the problem with the deficit; that is the problem with the budget.

Surprise, surprise, Walter Mondale wants to raise more massive taxes. Who is really surprised about that? That is all he knows to do with the deficit. Raise taxes, again. Yes, he has put all his cards face up on the table, and they are jokers.

CALENDAR WEDNESDAY

The SPEAKER pro tempore (Mr. DOWNEY). This is Calendar Wednesday. The Clerk will call the committees.

The Clerk proceeded to call the committees.

PARLIAMENTARY INQUIRIES

Mr. WALKER (when the Committee on the Judiciary was called). Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, is it at this point in the legislative process, given the call of Calendar Wednesday, that the bill that has been reported out of the House Judiciary Committee dealing with the insanity defense plea could be brought to the floor by the chairman?

□ 1200

The SPEAKER pro tempore. The Chair will remind the gentleman from Pennsylvania that only the chairman of the committee can bring up a reported bill.

Mr. WALKER. A further parliamentary inquiry. That was my question. So the Chair is answering that indeed, the chairman of the committee at this point in the proceedings could bring that anticrime measure before the House right now; is that correct?

The SPEAKER pro tempore. If it has been reported and has been on the Calendar for the required time.

Mr. WALKER. I thank the Chair.

The SPEAKER pro tempore. The Clerk will continue the call of the committees.

The Clerk concluded the call of the committees.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. KLECZKA. Mr. Speaker, I ask unanimous consent that on Thursday, September 13, 1984, the Subcommittee on Government Activities and Transportation of the Committee on Government Operations be permitted to sit during the proceedings of the House under the 5-minute rule.

This request has been cleared with the minority side of the subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 5798, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATION ACT, 1985

Mr. ROYBAL. Mr. Speaker, I call up the conference report on the bill, H.R. 5798 making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1985, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 6, 1984, at page 24466.)

The SPEAKER pro tempore. The gentleman from California [Mr. ROYBAL] will be recognized for 30 minutes and the gentleman from Ohio [Mr. MILLER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees have reached agreement on the Treasury, Postal Service, and general government bill for 1985. This conference report provides $12.8 billion in recommended appropriations for 1985, an increase of $417 million over the budget and $870 million over the House-passed bill.

It should be noted that even though the bill is $870 million above the House-passed bill, $736 million of this difference is due to the restoration of funding for the U.S. Customs Service and for the Bureau of the Mint. These two appropriations were eliminated from the House-reported bill because authorizing legislation had not been enacted. The conference report before you today is very close to the House-

passed bill and I believe that the funding for the various activities provided for in this bill is at a level that the House can fully support.

There are, however, several legislative provisions in the bill which the conferees reluctantly agreed to bring back in disagreement. These items were brought back in disagreement after long and exhaustive deliberations with the Senate. It is my understanding that several committee chairmen are opposed to some of these amendments and will urge their defeat on the floor today. I hope that all Members will listen carefully to what they have to say.

Now, let me highlight a few of the significant items in the conference report.

In the U.S. Customs Service, the conferees have recommended funds to retain 923 personnel recommended in the budget to be RIF'd—fired—and added an additional 100 positions. The budget proposed a reduction in personnel of 923 below present onboard strength, including many customs inspectors. The committee feels that in view of the severe drug problem in this country, it just is not prudent to reduce the very agency that mans our borders and ports of entry.

The committee believes that the high level of drug abuse and related crime in this country requires a strong law enforcement effort to stem in the tide of illicit drugs coming into the United States. The proposed reduction would have also slowed down the processing of visitors to this country and of our own citizens returning from abroad. Further, this reduction would have also slowed down the processing of commercial goods being imported to the United States. More importantly, this reduction would have had a severe adverse impact on the Government's ability to interdict the flow of illegal drugs and other contraband into the country, as well as on its ability to prevent the illegal exportation of high-technology items to unfriendly countries. We have, therefore, not accepted the reduction in personnel and have added 100 more positions.

In the Postal Service, the conferees have recommended $1,040,509,000, the amount necessary to keep the preferred mail rates at step 14 on the phasing schedule through all of fiscal year 1985. This is an increase of $349 million over the budget. The committee also directed the Postal Service to continue 6-day mail delivery including rural mail delivery.

In the National Archives and Records Service, the committee added $9.2 million over the budget—$4 million for grants for historical publications and records, and $5.2 million of additional onsite archival space and access facilities and auditorium and meeting space at the John F. Kennedy Library.

The committee recommends continuation of the language contained in the continuing resolution for 1984 which delayed implementation of certain personnel reforms proposed by OPM until July 1, 1985.

Mr. Chairman, I think this is a good conference report and represents a good compromise with the Senate. I urge your favorable consideration.

Mr. MILLER of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring before the House the conference report on the Treasury, Postal Service, and general government appropriations bill. This is a relatively rare occurrence in recent years. We have not had a separate Treasury appropriations bill since 1979. In the last 4 years, the agencies funded under this bill have received their funding through a continuing resolution. I, along with the chairman and the other members of the subcommittee, hope that this year we will finally succeed in enacting a separate appropriations measure.

This conference report provides a total of $12,766,276,000 in appropriations. This is $478.1 million above the budget authority for fiscal year 1984, and $869.7 million above the House-passed bill. It should be pointed out, however, that comparison with the House-passed funding level is misleading. During House consideration of H.R. 5798, both the Customs Service and the Mint were deleted on points of order for lack of authorization. The committee had provided a total of $730,163,000 for these two agencies. Obviously, it was not the intent of the House to eliminate all funding for these two essential Government agencies. It was clear that the other body would provide appropriations for Customs and the Mint, and that the funds would be restored in conference. Therefore the House-passed figure was artificially low by some $730 million.

In fact, the Senate provided $5.5 million more for the Customs Service than we had provided in our bill as it was reported from committee in the House. In conference, we receded to the Senate on the amount for Customs and the Mint. Therefore restoration of funding for these two agencies accounts for $735,648,000 of the increase in the conference report total compared to the House-passed level. After adjusting for the restoration of Customs and the Mint, the total in the conference report is $139.5 million above the House-passed bill.

It is my understanding that the $12,766,276,000 total funding level in this conference report is acceptable to the administration. There are important Government functions funded in this bill, including significant law enforcement functions in the Customs Service, the Secret Service, and the Bureau of Alcohol, Tobacco, and Firearms.

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Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I am just trying to understand, looking through the conference report. Where does this bill stand with regard to the House-passed budget?

Mr. MILLER of Ohio. To the House-passed budget?

Mr. WALKER. Budget bill. Are we above or are we below?

Mr. MILLER of Ohio. We are $478.1 million above the budget authority for 1984, and $869.7 million above the House-passed bill.

Mr. WALKER. If the gentleman will yield further, in other words, with this conference report we are, in fact, going above the budget that this House passed earlier this year. Is that correct?

Mr. MILLER of Ohio. No, no; that is not correct as far as the budget is concerned. We are higher than the House-passed bill because the Bureau of the Mint and Customs were both moved out of the bill on a point of order and, therefore, that was restored by the Senate and agreed to by the House conferees. So, therefore, we are up some $730 million.

Mr. WALKER. If the gentleman will yield further, I understand that what we have done is that we have come back with a conference report that permits the unauthorized spending that the House knocked out on a point of order, given the Senate action. That I understand.

What I am trying to do is figure out where we are relative to the budget that we passed earlier in the year; whether or not we have in this bill in the appropriations process exceeded or have we come in with less than what we said we were going to spend in the budget.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding.

Mr. Speaker, the figures are as follows: The House-passed tentative allocation is $12,850,000,000. This conference report is $12,766,276,000 which is about $84 million below that figure.

I will insert a detailed comparative statement at this point in the RECORD:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year—		House	Senate	Conference	Conference compared with			
	1984 enacted	1985 estimates				Enacted	Estimates	House	Senate
TITLE I—DEPARTMENT OF THE TREASURY									
Office of the Secretary	67,152,000	84,242,000	56,474,000	77,242,000	56,474,000	−10,678,000	−27,768,000		−20,768,000
International affairs			22,768,000		22,768,000	+22,768,000	+22,768,000		+22,768,000
Federal Law Enforcement Training Center	14,664,000	16,964,000	16,964,000	18,314,000	18,314,000	+3,650,000	+1,350,000	+1,350,000	
Bureau of Government Financial Operations: Salaries and expenses	239,995,000	239,908,000	226,608,000	235,994,000	235,994,000	−4,001,000	−3,914,000	+9,386,000	
Postal savings system liquidation	1,000,000					−1,000,000			
Bureau of Alcohol, Tobacco, and Firearms	159,553,000	161,771,000	169,271,000	167,271,000	169,271,000	+9,718,000	+7,500,000		+2,000,000
United States Customs Service:									
Salaries and expenses	596,481,000	585,335,000		643,465,000	643,465,000	+46,984,000	+58,130,000	+643,465,000	
(By transfer)	(3,000,000)					(−3,000,000)			
Operations and maintenance, air interdiction program	56,000,000	32,070,000		44,425,000	44,425,000	−11,575,000	+12,355,000	+44,425,000	
Bureau of the Mint:									
Salaries and expenses	49,000,000	47,758,000		47,758,000	47,758,000	−1,242,000		+47,758,000	
Expansions and improvements	3,070,000					−3,070,000			
Total, Bureau of the Mint	52,070,000	47,758,000		47,758,000	47,758,000	−4,312,000		+47,758,000	
Bureau of the Public Debt	196,427,000	197,955,000	197,955,000	197,955,000	197,955,000	+1,528,000			
Internal Revenue Service:									
Salaries and expenses	101,494,000	104,687,000	104,687,000	102,000,000	104,687,000	+3,193,000			+2,687,000
Processing tax returns	942,150,000	992,457,000	992,457,000	972,457,000	982,457,000	+40,307,000	−10,000,000	−10,000,000	+10,000,000
Examinations and appeals	1,258,310,000	1,357,073,000	1,357,073,000	1,350,000,000	1,353,535,000	+95,225,000	−3,538,000	−3,538,000	+3,535,000
Investigations, collections and taxpayer service	1,023,676,000	1,062,642,000	1,081,142,000	1,060,000,000	1,070,521,000	+46,845,000	+7,879,000	−10,621,000	+10,521,000
Total, Internal Revenue Service	3,325,630,000	3,516,859,000	3,535,359,000	3,484,457,000	3,511,200,000	+185,570,000	−5,659,000	−24,159,000	+26,743,000
Payment where energy credit exceeds liability for tax	200,000	100,000	100,000	100,000	100,000	−100,000			
United States Secret Service	296,152,000	275,731,000	278,331,000	286,500,000	286,500,000	−9,652,000	+10,769,000	+8,169,000	
Total, title I, new budget (obligational) authority, Department of the Treasury	5,005,324,000	5,158,693,000	4,503,830,000	5,203,481,000	5,234,224,000	+228,900,000	+75,531,000	+730,394,000	+30,743,000
TITLE II—UNITED STATES POSTAL SERVICE									
Payment to the Postal Service Fund	879,000,000	691,556,000	1,040,509,000	1,040,509,000	1,040,509,000	+161,509,000	+348,953,000		
TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT									
Compensation of the President	250,000	250,000	250,000	250,000	250,000				
Office of Administration	14,295,000	16,172,000	14,645,000	16,172,000	16,172,000	+1,877,000		+1,527,000	
The White House Office	23,186,000	24,985,000	23,731,000	24,985,000	24,985,000	+1,799,000		+1,254,000	
Executive Residence at the White House	4,632,000	4,601,000	4,601,000	4,601,000	4,601,000	−31,000			
Official Residence of the Vice President	262,000	219,000	219,000	219,000	219,000	−43,000			
Special Assistance to the President	1,593,000	1,663,000	1,663,000	1,663,000	1,663,000	+70,000			
Council of Economic Advisers	2,464,000	2,560,000	2,560,000	2,560,000	2,560,000	+96,000			
Office of Policy Development	2,861,000	3,020,000	3,020,000	3,020,000	3,020,000	+159,000			
National Security Council	4,497,000	4,605,000	4,605,000	4,605,000	4,605,000	+108,000			
Office of Management and Budget:									
Salaries and expenses	32,006,000	40,005,000	37,889,000	39,000,000	38,500,000	+6,494,000	−1,505,000	+611,000	−500,000
Office of Information and Regulatory Affairs	5,397,000					−5,397,000			
Office of Federal Procurement Policy	2,556,000	1,615,000	1,615,000	1,615,000	1,615,000	−941,000			
Property Review Board	415,000					−415,000			
Unanticipated Needs	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Total, title III, new budget (obligational) authority, Executive Office of the President	95,414,000	100,695,000	95,798,000	99,690,000	99,190,000	+3,776,000	−1,505,000	+3,392,000	−500,000
TITLE IV—INDEPENDENT AGENCIES									
Administrative Conference of the United States	1,123,000	1,468,000	1,468,000	1,468,000	1,468,000	+345,000			
Advisory Commission on Intergovernmental Relations	2,016,000	2,131,000	2,131,000	2,131,000	2,131,000	+115,000			
Advisory Committee on Federal Pay	215,000	220,000	220,000	220,000	220,000	+5,000			
Commission on Executive, Legislative and Judicial salaries		160,000	160,000	160,000	160,000	+160,000			
Committee for Purchase from the Blind and Other Severely Handicapped	687,000	710,000	710,000	710,000	710,000	+23,000			
Federal Election Commission	10,744,000	10,230,000	12,834,000	12,900,000	12,900,000	+2,156,000	+2,670,000	+66,000	
General Services Administration:									
Federal Buildings Fund:									
Appropriation	2,650,000					−2,650,000			
Limitation on availability of revenue:									
1. Construction and acquisition of facilities	(146,260,000)	(89,877,000)	(106,814,000	(100,299,000)	(120,299,000)	(−25,961,000)	(+30,422,000)	(+13,485,000	(+20,000,000)
2. Repairs and alterations	(87,517,000)	(223,749,000)	(228,432,000)	(216,018,000)	(217,090,000)	(+129,573,000)	(−6,659,000)	(−11,342,000)	+1,072,000)
3. Purchase contract payments	(145,500,000)	(178,911,000)	(178,911,000)	(178,911,000)	(178,911,000)	(+33,411,000)			
4. Rental of space	(880,500,000)	(865,000,000)	(865,000,000)	(865,000,000)	(865,000,000)	(−15,550,000)			
5. Real property operations	(656,500,000)	(694,998,000)	685,848,000)	(694,998,000)	694,998,000)	(+38,498,000)		(+9,150,000)	
6. Program direction	(100,000,000)	(117,040,000)	(117,040,000)	(117,040,000)	(117,040,000)	(+117,040,000)			
7. Design and construction services		(58,227,000)	(58,883,000)	(55,536,000)	(58,883,000)	(+58,883,000)	(+656,000)		(+3,347,000)
Unavailable balance within ceiling			(9,300,000)					(−9,300,000)	
Total, Federal Buildings Fund:									
New budget (obligational) authority	2,650,000					−2,650,000			
(Limitations)	(2,016,277,000)	(2,227,802,000	(2,250,228,000)	(2,227,802,000)	(2,252,221,000)	(+235,944,000)	(+24,419,000)	(+1,993,000)	(+24,419,000)
Operating expenses, personal property	153,939,000	167,244,000	156,944,000	164,000,000	161,000,000	+7,061,000	−6,244,000	+4,056,000	−3,000,000
National Archives and Records Service:									
Operating Expenses	90,805,000	92,325,000	98,925,000	96,325,000	98,925,000	+8,120,000	+6,600,000		+2,600,000
Federal Property Resources Activities:									
Operating expenses	37,339,000	40,257,000	40,257,000	38,000,000	39,128,000	+1,789,000	−1,129,000	−1,129,000	+1,128,000
(Limitation on availability of revenue)	(120,000,000)	(120,000,000)	(120,000,000)	(250,000,000)	(185,000,000)	(+65,000,000)	(+65,000,000)	(+65,000,000)	(−65,000,000)
Total, Federal Property Resources Activities	37,339,000	40,257,000	40,257,000	38,000,000	39,128,000	+1,789,000	−1,129,000	−1,129,000	+1,128,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year—		House	Senate	Conference	Conference compared with			
	1984 enacted	1985 estimates				Enacted	Estimates	House	Senate
General Activities:									
General Management and Administration Salaries and Expenses	123,635,000	140,987,000	123,635,000	137,000,000	137,000,000	+13,365,000	−3,987,000	+13,365,000	
Office of Information Resources Management Operating Expenses	47,434,000	33,393,000	33,393,000	33,393,000	33,393,000	−14,041,000			
Office of the Inspector General	19,513,000	21,473,000	21,473,000	21,473,000	21,473,000	+1,960,000			
Allowances and Office Staff for Former Presidents	1,171,000	1,170,000	1,022,900	1,170,000	1,170,000	−1,000		+147,100	
Expenses, presidential transition		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Total, General Activities	191,753,000	200,023,000	182,523,900	196,036,000	196,036,000	+4,283,000	−3,987,000	+13,512,000	
Total, General Services Administation	476,486,000	499,849,000	478,649,900	494,361,000	495,089,000	+18,603,000	−4,760,000	+16,439,100	+728,000
FEDERAL PERSONNEL ACTIVITIES									
Office of Personnel Management:									
Salaries and expenses:									
Appropriation	107,046,000	110,953,000	106,653,000	110,000,000	106,653,000	−393,000	−4,300,000		−3,347,000
(By transfer)	(898,000)					(−898,000)			
Limitation	(48,572,000)	(50,678,000)	(50,678,000)	(50,678,000)	(50,678,000)	(+2,115,000)			
Government payment for annuitants, employees health benefits	1,506,339,000	1,341,553,000	1,341,553,000	1,341,553,000	1,341,553,000	−164,786,000			
Payment to civil service retirement and disability fund	4,146,571,000	4,366,868,000	4,366,868,000	4,366,868,000	4,366,868,000	+220,297,000			
Total, Office of Personnel Management	5,759,956,000	5,819,374,000	5,815,074,000	5,818,421,000	5,815,074,000	+55,118,000	−4,300,000		−3,347,000
Merit Systems Protection Board:									
Salaries and expenses	19,895,000	20,477,000	20,477,000	20,477,000	20,477,000	+582,000			
Limitation	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)	(1,200,000)				
Office of special counsel	4,444,000	4,583,000	4,583,000	4,583,000	4,583,000	+139,000			
Total, Merit Systems Protection Board	24,339,000	25,060,000	25,060,000	25,060,000	25,060,000	+721,000			
Federal Labor Relations Authority	16,863,000	17,197,000	17,197,000	17,197,000	17,197,000	+334,000			
Total, Federal personnel activities	5,801,158,000	5,861,631,000	5,857,331,000	5,860,678,000	5,857,331,000	+56,173,000	−4,300,000		−3,347,000
United States Tax Court: Salaries and Expenses	15,965,000	22,344,000	22,344,000	22,344,000	22,344,000	+6,379,000			
Total, title IV, new budget (obligational) authority, independent agencies	6,308,394,000	6,398,743,000	6,375,847,900	6,394,972,000	6,392,353,000	+83,959,000	−6,390,000	+16,505,100	−2,619,000
General provision Sec. 620			−119,397,199					+119,397,199	
Grand total:									
New budget (obligational) authority	12,288,132,000	12,349,678,000	11,896,587,701	12,738,652,000	12,766,276,000	+478,144,000	+416,589,000	+869,688,299	+27,624,000
(Limitations)	(2,186,049,000)	(2,399,689,000)	(2,422,115,000)	(2,529,689,000)	(2,489,108,000)	(+303,059,000)	(+89,419,000)	(+66,993,000)	(−40,581,000)

Mr. WALKER. I thank the gentleman. That clarifies the matter, and I thank the chairman.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report for the fiscal year 1985 Treasury-Postal Service appropriations bill.

Let me take this opportunity to commend the chairman of the subcommittee, Mr. ROYBAL, and the ranking minority member, Mr. MILLER, for their leadership during our day and a half meeting with the other conferees. Throughout the conference, Chairman ROYBAL fought hard for the House position and against the legislative abuses of the other body. I applaud this effort.

Mr. Speaker, this conference report is reasonable and well balanced. The funding level is acceptable, and the legislative provisions have been kept at a minimum. I hope my colleagues will support this conference agreement.

Even though the House passed bill was $870 million under the Senate bill, the difference in the overall spending level was not a major issue during the conference. When H.R. 5798 was considered by the House, funding for the U.S. Customs Service, the Air Interdiction Program, and the Bureau of the Mint was stricken from the bill by a point of order. Because both agencies were not authorized, the aggregate new budget authority in the bill was reduced by $730 million. The Senate restored funding for these programs at a slightly higher level than the House committee recommendation.

The House also adopted an amendment to cut all programs across the board by 1 percent. The conference report deletes this provision.

As a result of these reductions, the total funding in the House passed bill was significantly lower than the Senate version and the conference agreement.

The House committee recommendation for the Treasury-Postal Service appropriations bill is only $15.5 million more than the conference report. That difference is not much when you consider that the conferees recommended $12,766,276,000 in new budget authority for fiscal year 1985. In all, this level represents a 3.4-percent increase over the President's budget.

Just before the conference committee meeting last month, the "young slasher" informed me that the funding level in the House and Senate bills was acceptable. Although the administration had problems with "excessive" spending in certain programs, Mr. Stockman wrote that "both the House and Senate versions of the bill are generally consistent with the deficit downpayment plan's cap on discretionary appropriations." That's as close as we will get to getting a green light on a bill.

Despite agreement on overall funding levels, this conference agreement does address and resolve several fundamental differences between the House and Senate bills.

First, in title I of the bill, the House receded to the Senate funding level provided for the U.S. Customs Service, $643,465,000. This amount effectively restored the admininstration's proposed personnel reduction and added another 100 positions. The Senate report instructed the Customs Service to assign these agents and support personnel to the New York City area. However, the conference report clearly states that "since it is not the policy of the conferees to direct departments as to where personnel should be placed, the conferees direct that the additional 100 customs personnel be assigned to the highest priority drug interdiction task force requirements." At the same time, the conferees did recognize the New York City area as one of these high-priority areas.

For the Air Interdiction Program, the conference agreement provides $44,425,000, the amount in the Senate-passed bill. This level is a substantial

increase over the amount requested by the administration, $32 million.

The conferees also agreed to accept a House provision prohibiting the Customs Service from closing or consolidating certain offices and functions. Language was also added to the conference report concerning the implementation of interim regulations relating to textiles and textile products.

Under title II, the U.S. Postal Service, the conferees agreed to accept two Senate amendments. First, the conferees agreed to a provision which prohibits the Postal Service from charging any State or local child support enforcement agency a fee for information requested or provided concerning an address of a postal customer. Although the Postal Reorganization Act mandates that charges be assessed for all services provided, certain exceptions have been made, namely, law enforcement agencies. This amendment is designed to correct an inequity in the postal regulations and assist these programs that operate with scarce resources.

Second, the conferees accepted an amendment prohibiting the consolidation or closing of small rural post offices in fiscal year 1985.

Title IV of the bill includes several independent agencies and Government commissions. During the conference, the pressing issues in this area centered around the funding of two Federal buildings. First, the conferees agreed to accept the House petition on the construction of the Federal building in Long Beach, CA. Despite the opposition of the Member representing this area, $20 million was included in this year's limitations. Second, the conferees agreed to delete the House provision prohibiting construction on a Federal building in Charleston, SC. However, report language was included to clarify the committee's intent.

The National Archives is also funded under the title of the bill. During the House subcommittee consideration of H.R. 5798, I offered, along with my colleague from Massachusetts [Mr. BOLAND], an amendment earmarking $5.2 million for the John F. Kennedy Library in Boston, MA. The funds would be used to increase storage space for records and museum objects, to increase classroom and seminar space for educational purposes and to improve maritime access to the library facility. The plan would add about 25,000 square feet to the facility.

As the author of this provision and as a conferee, it's my understanding that these funds should be used to address three pressing needs. First, the on-site space for records and Presidential papers is virtually exhausted. The library now stores millions of documents and visual aids at two off-site facilities in the Boston area. Besides the inconvenience, some records and museum objects are, in the words of library officials, "in immediate jeopardy of deteriorating". Second, since there has been such a big surge in demand for the facility by student groups, these funds will be used for the construction of additional meeting rooms and an auditorium. And third, since the access to Columbia Point is severely limited, these funds will be used to construct a maritime access facility.

As the author of this amendment, it's my understanding, and I believe the understanding of the conferees, that these funds should be used for these stated purposes only, not for other improvements to this Federal facility. Any other repair or alteration such as the repair of the seawall should be funded through existing resources of the National Archives. For Member's reference, the House committee report and bill include these details.

Under the general provisions title of the bill, the Hoyer restriction on the implementation of RIF and pay-for-performance regulations of the Office of Personnel Management was again a hotly debated and contested provision. The House section prohibited OPM from enforcing or even changing the regulations issued concerning a new pay-for-performance system and reductions in force. Since he was inaugurated, the President has tried to implement a performance pay system for our Federal civil service. Most Americans agree that Federal employees should not receive automatic within-grade increases without any reference to performance.

Similarly, "on-the-job" performance should be a factor in the decision to reduce an employee force. The President has tried to bring prudent business practices to the management of our Federal civil service.

For this provision, the conferees agreed to a compromised position between the entrenched sides. Under this agreement, the prohibition on the regulations will remain in effect until July 1, 1985. This time period should give both sides ample time to work out their differences. I'm sure that you will agree that this provision does not belong on this appropriations bill.

Since the conference report is available to all Members, I will not highlight all the issues in contention during this conference. I would, however, urge my colleagues to support this conference agreement. The funding levels are reasonable and generally supported by the administration.

Mr. ROYBAL. Mr. Speaker, I have no further requests for time.

Mr. MILLER of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the conference agreement. The conference report before us today is an important conference agreement covering a very wide range of programs and offices. Let me highlight just a few for our colleagues.

This conference report funds nuts and bolts offices of the Federal Government, ranging from the General Services Administration to the Office of Personnel Management to the Bureau of the Mint. It funds programs essential to law enforcement in our country. For example, the conference agreement includes $687 million for the U.S. Customs Service, including a specially earmarked $44 million for the air interdiction program. This funding also adds 1,000 inspectors above the request, which is also 100 above last year's level, to help regulate the flow of drugs coming into this country. Considering the low price of drugs on the street in this country, these inspectors are desperately needed.

The bill also includes full funding for the U.S. Postal Service, which will keep postage rates for nonprofit mailers and rural newspapers at current rates. In view of the difficulties which many of our charitable organizations are already having raising needed funds, this provision will have important implications for the charitable organizations ranging from veterans' groups to church groups to boy scouts to educational institutions.

Like others of my colleagues, I wish that the overall funding level could have been lower and, believe me, we made every effort to whittle pennies, nickels, and dollars from this budget. But in the end, I think we have a reasonably good compromise, one which the administration tells me they can live with and which I believe our colleagues can live with.

So I urge, Mr. Speaker, the adoption of the conference report.

Mr. PARRIS. Mr. Speaker, I rise in support of the Senate language in this conference report that addresses a very serious crime issue facing the Nation and would at the same time, save the taxpayers hundreds of millions of dollars.

The Senate has added to this conference report a bill called the Comprehensive Crime Control Act of 1984. This provision will deny criminals many of the proceeds of their crimes and will make it easier for the Federal Government to sell or use seized property. It also streamlines procedures for seizing property and allows the U.S. Customs Service and the drug enforcement administration to transfer forfeited property to State and local law-enforcement agencies that assisted them.

We have a real scandal taking place with conveyances the Federal Government has seized across the Nation. There are literally thousands of boats, planes, and automobiles being stored

and maintained at Government expense for periods exceeding 2 years because customs and other agencies are not permitted to dispose of these items.

During recent years, law enforcement agencies such as Customs, Coast Guard, and the Drug Enforcement Administration have been hitting smugglers hard and where it hurts—the pocketbook. "Operation Florida" is the most famous, but is only one small part of the increasing law enforcement initiative of Customs and the rest of the law enforcement community. Due to the ever increasing activities of the smuggling community and the law enforcement response, seizures of drug-related assets and conveyances have drastically increased in the past 3 years. During fiscal year 1982, Customs officials seized almost 6,000 vehicles, 206 aircraft, and $32.7 million in currency and monetary instruments. Customs and Coast Guard officers seized 500 vessels during the same period of time. Forfeitures of these drug assets under Customs and related laws are civil in nature and are "in-rem" proceedings against the property itself rather than against the actual smugglers. In many respects, the civil forfeitures are more effective than criminal forfeitures because of the simplicity of the forfeiture proceeding and the proof required to obtain actual forfeiture. In addition, the ability to immediately seize articles used in illegal acts can put an immediate strain on the smuggling operation. However, under the current state of the law, these assets are, in many cases, "strangling" the very agencies which seize them.

When an agency seizes a conveyance, proceedings must be instituted to perfect title in the Federal Government. At the conclusion of these proceedings, the items may be retained for official use by the seizing agency or transferred to another Federal agency, or they may be sold at public sale (with the proceeds used to pay for the expenses of seizure and the excess transferred to the Treasury). Under the current law, only articles valued at $10,000 or less may be forfeited through a relatively brief and inexpensive administrative (nonjudicial) forfeiture proceeding, unless a claimant chooses to contest the forfeiture by posting a $250 bond in order to bring the matter into the court system. Items valued in excess of $10,000 must go through a rather formal, expensive, and time-consuming judicial forfeiture proceeding, whether or not there is a claim to the property. Since criminal cases have preference on the court dockets, and these proceedings are civil in nature, they have a low priority. An irony of the procedure is that uncontested cases involving assets valued over $10,000 (such as "mother-ships") must be judicially forfeited and may in fact have the lowest priority of all as no claimant, other than the Federal Government, is moving the court to speed up the process. During the forfeiture proceedings, the seizing agency must store, maintain, and provide custody of the property. When a forfeiture decree is finally entered, the property has frequently deteriorated in condition and depreciated tremendously in value while the storage costs have accumulated, in some cases exceeding the value of the article. The tragedy, of course, is that the taxpayers are the big losers in the process. Instead of recouping costs and being able to use the vessel or aircraft (or alternatively depositing substantial sale proceeds in the Federal Treasury), the seizing agencies must use appropriated funds to offset the increased expenses due to time delays. Also, law enforcement personnel are forced to become part-time property managers. They have been burdened with management of this property, but they lack the expertise and resources to properly manage it.

In recent weeks, I have had several meetings with representatives of the U.S. Customs Service to understand for myself the extent of the problems addressed by this bill. While the bill equally concerns the Department of Justice agencies as well as the Customs Service, the results of my meetings were astounding. In the Miami Customs Region alone, there are currently 738 vessels under seizure and awaiting forfeiture. These vessels had an appraised value at the time of seizure of over $27 million and cost the Customs Service almost $3.8 million per year to maintain custody. This cost amounts to over $5,000 per year per vessel for storage and related costs. In addition, due to the increasing backlog in Federal courts as a result of Operation Florida, the civil forfeitures may take over 18 months to complete, whether or not there is a claimant for the vessel. In addition to the vessels, the Miami Customs Region currently has 112 aircraft and 250 vehicles under seizure. The situation is abominable. The vessels and aircraft have, in many cases, depreciated or been vandalized to such an extent that, if sold, they will bring a small portion of their value at the time of seizure. If a seizing agency wishes to retain the item for official use, it will be unable to do so because of its deteriorated condition. In addition, innocent third parties (such as lien holders) to whom the conveyances may be returned upon forfeiture of the principal's interest in the property, may also suffer because the proceeds may be insufficient to cover their interests.

This conference report would remedy this situation in several different ways. Most importantly, it would raise the value of property subject to administrative forfeiture to $100,000 and would eliminate any monetary limit for conveyances used to import, export, or otherwise transport controlled substances. The rights of any party wishing to contest a forfeiture of property are protected by virtue of their right to post a bond (set by the bill at $2,500, or 10 percent of the value of the property but not less than $250) in order to require the Government to proceed judicially. While I believe that the $2,500 bond may still be too low to discourage the filing of frivolous suits, these provisions will assure administrative, in lieu of the costly drawn out judicial, forfeiture in a majority of the cases due to the fact that so many are uncontested. The second major portion of the bill would establish "forfeiture funds" for both the Department of Justice and the Customs Service. The funds will be buoyed by the proceeds of sale (after deducting expenses) of property seized by the respective agencies and ultimately forfeited to the United States. The funds would be available for the payment of all proper expenses of the seizure, including storage, maintenance, security and disposition; certain liens against the property; awards of compensation to informers; and for equipping forfeited conveyances to be used by the Customs Service or by the Justice agencies for law enforcement functions as appropriate.

The problems and the costs are tremendous. The answer is simple. We must untie the hands of our law enforcement community which has been suffering by its own efficiency. Up until today the more the agency seizes, the better it does its job, the longer it takes to forfeit that property because of backlogs in the court. The longer it takes, the more expensive it is, and the more expensive it is, the greater is the need to use the agencies' appropriations to care for property. These appropriations must be released for the purpose for which they were intended, the actual law enforcement functions of these agencies. The funds established by this bill will permit flexibility in developing streamlined seizure and forfeiture procedures which, when coupled with increased availability of administrative forfeitures, should result in enormous monetary savings or revenues to the Federal Government. The General Services Administration, as the centralized property manager for the Government, is currently developing with some measure of success, agreements with the law enforcement agencies to take over the storage, maintenance, security, and disposition of much of this property on a reimbursable basis. These agreements will allow the law enforcement agencies to concentrate on their primary missions. Since GSA has the expertise in property management, that

agency could best perform the management and disposition of this property, and therefore, I plan to strengthen GSA's role in this area by introducing appropriate legislation in the near future.

My legislation will enable the Federal Government to inventory the boats, planes, and cars that have been seized nationwide and will also enable the Federal Government to advertise and market these conveyances in a more responsible manner.

● Mr. ANDERSON. Mr. Speaker, I rise in strong support of the conference report for H.R. 5798, the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1985.

At the outset, I would like to congratulate my good friend from southern California, the chairman of the subcommittee, ED ROYBAL, and the ranking minority member of the subcommittee, CLARENCE MILLER, on crafting another fine bill. Commendations are also, of course, in order for Chairman JAMIE WHITTEN and the ranking minority member of the full committee, SIL CONTE.

Of particular interest to me is language in title IV of the report relating to the construction of a new, 187,000 occupiable square foot office building in Long Beach, CA. Specifically, $20 million is provided to begin construction next year on this badly needed facility.

So that my colleagues may have a better idea why this facility is needed, some background on the project might be useful.

The construction of a new Federal building in Long Beach is one which I have envisioned since local civic leaders initiated a downtown redevelopment plan in 1975.

It wasn't until about 3 years ago, however, that I formally charted a plan of action to get this project off the ground. At that time, the Committee on Public Works and Transportation was considering numerous Federal office space lease extensions, or prospectuses, at various cities across the country. One of these cities happened to be Long Beach.

Upon careful review of the material which was submitted to the committee for approval, I was shocked to find out that the Federal Government wanted to spend nearly $70 million over the next 30 years to simply rent office space in Long Beach. At my request, the committee postponed further action on this matter pending a more thorough examination of the past, present, and projected space needs of the Federal Government in Long Beach.

In July 1982, the Subcommittee on Public Buildings and Grounds held a field hearing in Long Beach to study the space needs of the Federal Government in this area and to hear from local community leaders on whether or not it would be more cost efficient to build a new Federal facility rather than continue leasing space.

Not only did Long Beach leaders testify in support of moving forward with construction but, also, officials from the General Services Administration [GSA], who are, of course, in charge of all real estate transactions for the Federal Government.

Later that same month, the House, at my urging, authorized the construction of a new 105,000 occupiable square foot, $21.7 million, Federal building in Long Beach. As compared to rent extensions previously under consideration, we could save the Treasury roughly $50 million over the next 30 years by constructing a new facility rather than continuing leasing space. And, there is little doubt that this building would be in use well past this 30-year period.

The saga of the Long Beach Federal building does not end here, however. GSA came back to me in 1983 and said that they had reexamined the projected growth in the Long Beach area and, in order to accommodate this growth, we needed to nearly double the size of the Long Beach building. Today, this facility is authorized to contain 187,000 occupiable square feet and is slated to cost $41.1 million. I was told recently that because more Federal agencies want to be relocated to this larger facility, the net savings to the Federal Government over the next 30 years will be roughly $73 million—as compared to the earlier figure of $50 million when the Long Beach building was first authorized.

To date, the President has signed into law, legislation which appropriated $6.2 million for site acquisition and design of the Long Beach building. The site selected and approved is within the new World Trade Center complex. With regard to design, GSA has already announced that this facility will be the first Federal building in the Nation to incorporate, at one location, many high-tech features. Some of these features include passive solar systems, high-strength concrete, state-of-the-art communications, and parabolic lighting. Also, the Long Beach building, will be, in a sense, a living structure whose walls will be able to expand and contract to better accommodate future tenants and their special needs in the years ahead.

In a nutshell, a new Federal office building in Long Beach will not only save the Treasury quite a bit of revenue but, also, better serve those who must conduct business with the Federal Government. Currently, Federal offices are scattered at various locations across Long Beach and the surrounding area. With the House's approval today, we can consolidate these functions which will save us literally millions of hard-earned taxpayer dollars and better serve the residents of Long Beach and the immediate vicinity.

I urge all of my colleagues to support this legislation.●

Mr. ROYBAL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 110, present, not voting 46, as follows:

[Roll No. 382]

YEAS—276

Addabbo	Derrick	Howard
Albosta	DeWine	Hoyer
Alexander	Dicks	Hunter
Anderson	Dingell	Hutto
Andrews (NC)	Dixon	Hyde
Andrews (TX)	Donnelly	Ireland
Annunzio	Dowdy	Jenkins
Applegate	Downey	Johnson
Aspin	Duncan	Jones (NC)
Barnard	Dwyer	Jones (TN)
Barnes	Dymally	Kaptur
Bateman	Early	Kastenmeier
Bates	Eckart	Kazen
Bedell	Edgar	Kennelly
Beilenson	Edwards (AL)	Kildee
Bennett	Edwards (CA)	Kleczka
Berman	Emerson	Kolter
Bevill	Erlenborn	Kostmayer
Biaggi	Evans (IL)	LaFalce
Boehlert	Fascell	Lantos
Boland	Fazio	Leach
Boner	Fiedler	Lehman (CA)
Bonker	Fish	Lehman (FL)
Borski	Flippo	Lent
Bosco	Florio	Levin
Boucher	Foglietta	Levine
Boxer	Foley	Lewis (CA)
Breaux	Ford (MI)	Lewis (FL)
Britt	Ford (TN)	Livingston
Brooks	Fowler	Lloyd
Broomfield	Frank	Long (LA)
Brown (CA)	Frost	Long (MD)
Bryant	Fuqua	Lowry (WA)
Burton (CA)	Garcia	Lujan
Byron	Gaydos	Luken
Campbell	Gejdenson	MacKay
Carr	Gephardt	Madigan
Chandler	Gilman	Martinez
Chappell	Gonzalez	Matsui
Clarke	Goodling	Mavroules
Clay	Gore	Mazzoli
Clinger	Gray	McCain
Coelho	Green	McCloskey
Coleman (MO)	Gunderson	McDade
Coleman (TX)	Hall (IN)	McGrath
Collins	Hall (OH)	McHugh
Conte	Hall, Ralph	McKernan
Conyers	Hamilton	McKinney
Cooper	Hammerschmidt	McNulty
Corcoran	Harkin	Mica
Coughlin	Harrison	Mikulski
Courter	Hatcher	Miller (CA)
Coyne	Hawkins	Miller (OH)
Crockett	Hayes	Mineta
Darden	Hefner	Minish
Daschle	Hertel	Mitchell
Daub	Hightower	Moakley
Davis	Hillis	Molinari
de la Garza	Holt	Mollohan
Dellums	Horton	Moody

Moore	Rose	Swift
Morrison (CT)	Rostenkowski	Synar
Mrazek	Roth	Tallon
Murtha	Rowland	Tauzin
Myers	Roybal	Taylor
Natcher	Rudd	Thomas (GA)
Neal	Sabo	Torricelli
Nichols	Savage	Udall
Nowak	Sawyer	Valentine
O'Brien	Scheuer	Vandergriff
Oakar	Schneider	Vento
Obey	Schumer	Volkmer
Ortiz	Shaw	Walgren
Ottinger	Sikorski	Watkins
Panetta	Sisisky	Waxman
Parris	Skelton	Wheat
Pease	Smith (FL)	Whitehurst
Penny	Smith (IA)	Whitley
Petri	Smith (NE)	Whitten
Pickle	Smith (NJ)	Williams (OH)
Price	Smith, Robert	Wise
Quillen	Snowe	Wolf
Rahall	Snyder	Wolpe
Rangel	Solarz	Wortley
Ratchford	Spence	Wright
Regula	Spratt	Wyden
Reid	St Germain	Wylie
Ridge	Staggers	Yates
Robinson	Stark	Yatron
Rodino	Stokes	Young (AK)
Roe	Stratton	Young (FL)
Rogers	Sundquist	Young (MO)

NAYS—110

Archer	Hansen (UT)	Pashayan
AuCoin	Hartnett	Patman
Badham	Hiler	Paul
Bartlett	Hopkins	Porter
Bereuter	Hubbard	Pursell
Bilirakis	Huckaby	Ray
Bliley	Hughes	Ritter
Brown (CO)	Jacobs	Roberts
Broyhill	Jones (OK)	Roemer
Burton (IN)	Kasich	Roukema
Carper	Kindness	Russo
Chappie	Kramer	Schaefer
Coats	Lagomarsino	Schroeder
Craig	Leath	Schulze
Crane, Daniel	Levitas	Seiberling
Crane, Philip	Loeffler	Sensenbrenner
Daniel	Lott	Sharp
Dannemeyer	Lowery (CA)	Shelby
Dickinson	Lundine	Shumway
Dorgan	Lungren	Shuster
Dreier	Mack	Siljander
Durbin	Marlenee	Skeen
Edwards (OK)	Marriott	Slattery
English	McCandless	Smith, Denny
Erdreich	McCollum	Solomon
Evans (IA)	McCurdy	Stangeland
Feighan	McEwen	Stenholm
Fields	Michel	Tauke
Franklin	Montgomery	Thomas (CA)
Frenzel	Moorhead	Vander Jagt
Gekas	Morrison (WA)	Vucanovich
Glickman	Murphy	Walker
Gradison	Nelson	Williams (MT)
Gregg	Nielson	Winn
Hall, Sam	Olin	Wirth
Hance	Oxley	Zschau
Hansen (ID)	Packard	

NOT VOTING—46

Ackerman	Heftel	Richardson
Akaka	Jeffords	Rinaldo
Anthony	Kemp	Shannon
Bethune	Kogovsek	Simon
Boggs	Latta	Studds
Bonior	Leland	Stump
Carney	Lipinski	Torres
Cheney	Markey	Towns
Conable	Martin (IL)	Traxler
D'Amours	Martin (NC)	Weaver
Dyson	Martin (NY)	Weber
Ferraro	Oberstar	Weiss
Gibbons	Owens	Whittaker
Gingrich	Patterson	Wilson
Gramm	Pepper	
Guarini	Pritchard	

□ 1230

Mr. THOMAS of California and Mr. SAM B. HALL, JR., changed their votes from "yea" to "nay."

Messrs. CAMPBELL, MOAKLEY, and TAYLOR changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to consider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 6: Page 3, line 4, after "Center," insert "as a bureau of the Department of the Treasury,".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 7: Page 3, line 12, after "3109" insert ": *Provided*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attent State and local course development meetings at the Center".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 7, and concur therein.

The motion was agreed to.

The SPEAKER Pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 11: Page 4, line 1, after "Director;" insert "not to exceed $5,000 for official reception and representation expenses;".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 11, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 13: Page 4, after line 18, insert:

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of two hundred motor vehicles for replacement only, including one hundred and ninety for police-type use; hire of passenger vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by the Act of August 13, 1954 (22 U.S.C. 401); $643,465,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations and not to exceed $1,000,000, to remain available until expended, for research: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1985.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 13, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 14: Page 4, after line 18, insert:

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (purchase of three and transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $44,425,000.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 14, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 15: Page 4, after line 18, insert:

BUREAU OF THE MINT

SALARIES AND EXPENSES

For necessary expenses of the Bureau of the Mint; $47,758,000.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein.

The motion was agreed to.

□ 1240

The SPEAKER pro tempore (Mr. HARRISON). The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 20: Page 6, line 19, after "offices" insert ": *Provided further*, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,000,000. The Internal Revenue Service shall absorb within existing funds the $700,000 requested for administrative costs now being charged to the program in order that the full $2,000,000 can be devoted to program requirements".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 23: Page 9, after line 17, insert:

SEC. 104. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 104. Not to exceed 1 per centum of any appropriations in this Act for the Department of Treasury may be transferred between such appropriations. However, no such appropriations shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 24: Page 9, after line 17, insert:

SEC. 105. None of the funds appropriated by this Act or any other Act shall be used to impose or assess any tax due under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I move that the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against the Senate amendment No. 24.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against Senate amendment numbered 24 on the grounds it is a tax measure on an appropriations bill in violation of paragraph (b), clause 5 of House rule 21.

Mr. Speaker, Senate amendment numbered 24 reinstates a provision prohibiting the use of funds to impose or assess the manufacturer's excise tax on sporting goods and firearms where less than 50 items are manufactured or produced annually. Present law imposes a manufacturer's excise tax of generally 10 percent on the sale of sporting goods, pistols and revolvers, and 11 percent on the sale of other firearms (Code sections 4161 and 4181). Senate amendment 24 overrides these provisions by preventing the Treasury Department from collecting those excise taxes in all cases where less than 50 items are manufactured or produced annually.

Paragraph (b), clause 5 of House rule 21 makes bills and resolutions containing tax and tariff measures which are reported by any committee not having jurisdiction to report tax or tariff measures and amendments to such bills or resolutions in the House or proposed by the Senate subject to a point or order at any time during House consideration of the legislation.

Just as tax measures include all provisions having the substantive effect of amending the Internal Revenue Code to impose a tax, the term also encompasses provisions having the substantive effect of amending the Internal Revenue Code to repeal a tax. Since Senate amendment numbered 24 prevents the Treasury Department from imposing or assessing the manufacturer's excise tax on sporting goods and firearms in certain cases, it in effect repeals the excise tax for a limited class of taxpayers. Thus, this provision is clearly a substantive amendment of the tax laws and a tax measure within the scope of rule 21.

I urge the Chair to sustain this point of order.

The SPEAKER pro tempore. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Speaker, I agree with the gentleman, and I concede the point of order.

The SPEAKER pro tempore. The point of order against the motion is conceded and sustained.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House insist on its disagreement to the amendment of the Senate numbered 24.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 25: Page 9, after line 17, insert:

SEC. 106. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, and the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 25, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 26: Page 9, after line 17, insert:

SEC. 107. (a) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Osbervatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona: *Provided*, That such article satisfies each of the following conditions:

(1) Such article qualifies as "instruments and apparatus" under headnote 6(a) of schedule 8, part 4, TSUS, 19 U.S.C. section 1202 (1970); 80 Stat. 897.

(2) No instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States. For purposes of this condition, scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona and/or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to

determine whether subsection (a)(1) is satisfied and the International Trade Administration to determine whether subsection (a)(2) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona and the Max Planck Institute shall deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations within ninety days of the date that they have received a sufficient submission with respect to an article or articles.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and sebsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsections (a) is used for any purpose other than the joint project within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of schedule 8, part 4, TSUS, 19 U.S.C. section 1202 (1970); 80 Stat. 897.

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is fifteen days after the date of enactment of this Act and before November 1, 1993.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I move that the House recede from its disagreement to the amendment of the Senate numbered 26, and concur therein.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against Senate amendment No. 26.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Speaker, I made a point of order against Senate amendment numbered 26, reported by the conference committee on H.R. 5798 in technical disagreement, on the grounds that it violates paragraph (b), clause 5, rule 21 of the Rules of the House of Representatives.

Mr. Speaker, the Senate provision amends the Tariff Schedules of the United States to provide for duty-free importation of a telescope for the University of Arizona.

Paragraph (b), clause 5 of rule 21 makes bills and resolutions containing tax and tariff measures which are reported by any committee not having jurisdiction to report tax or tariff measures, and amendments to such bills or resolutions in the House or proposed by the Senate, subject to a point of order at any time during House consideration of the legislation.

Mr. Speaker, the Senate amendment is clearly a tariff measure since it changes present statutory treatment of an imported article from dutiable to duty-free status, thereby prohibiting executive branch officials from collecting the Customs revenue on this particular article as required under existing tariff law.

Therefore, I urge the Chair to sustain this point of order against Senate amendment numbered 26. I would add, Mr. Speaker, that the Committee on Ways and Means has reported an identical provision in H.R. 6064 for early consideration by the House.

The SPEAKER pro tempore. Does the gentleman from California [Mr. ROYBAL] desire to be heard on the point of order?

Mr. ROYBAL. Yes, Mr. Speaker. I concede the point of order.

The SPEAKER pro tempore. The point of order against the motion is conceded and sustained.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House insist on its disagreement to the amendment to the Senate numbered 26.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 27: Page 10, line 8, after "level" insert ": *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 27.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Ohio [Mr. MILLER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I make this motion to point up some of the difficulties we have had through the years with the various opinions of many of my colleagues on the legislative committees and our Committee on Appropriations. Periodically we have carried legislation on appropriation bills but most of the time it has been at the suggestion of the legislative committees or at least without opposition.

In the conference agreement before us, our colleagues on the Senate side had included in their bill legislative provisions, encroaching on the jurisdiction of the Committee on Ways and Means, of the Judiciary Committee, of the Post Office and Civil Service Committee and that of the Government Operations Committee.

The Senate conferees insisted on these legislative provisions which are not within the rules of the House.

I took exception to these provisions and personally oppose receding and concurring with such provisions. They are amendments numbered 24, 26, 27, 66, and 92.

On yesterday, I met with Chairman ROYBAL, and it was agreed that motions to insist on the House positions would be offered. I wrote the chairmen of the legislative committees of this agreement, and assured them such motions to insist would be offered.

Today, points of order were made against amendments 24 and 26 which were conceded, and I understand a similar situation will occur on amendment No. 92. With regard to the pending amendment I had agreed to make the motion to insist in that it is within the jurisdiction of the legislative committee and not the Appropriations Committee.

In making the motion, I am carrying out a commitment and do not pass judgment on the merits of the provision.

So on that basis I offer this motion.

I reserve the balance of my time.

Mr. MILLER of Ohio. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts [Mr. CONTE].

□ 1250

Mr. CONTE. Mr. Speaker, as a member of the conference committee, I regretfully rise in opposition to my chairman's [Mr. WHITTEN] motion.

I served on the Subcommittee on Treasury and Postal Service for many, many years under the great leadership of Tom Steed. When Tom left, ED ROYBAL took over as chairman. ED has really done a fantastic job in leading this subcommittee, and he did a good job in bringing this conference report to the floor.

Compromise is what conferences are all about. There is a great deal of give and take on many issues, including legislative provisions. If all of us were to cast the first stone with regard to legislation on appropriation bills, I think that we would find there would be many broken windows in our homes, especially originating in our committee itself. This agreement was a good compromise and, hopefully, we can get this bill signed by the President.

Mr. Speaker, I rise in support of Senate amendment No. 27 which prohibits the Postal Service from using funds in this act to implement a regulation that charges State and local child support enforcement officials a fee for address information.

I would point out to my colleagues that just last month the bipartisan efforts of both bodies resulted in our unanimous passage of one of the most significant pieces of legislation in this Congress, the Child Support Enforcement Amendments of 1984 (Public Law 98-378).

This amendment furthers our strong commitment to the millions of American children who have been victimized by the irresponsibility of an absent parent. It merely extends to the State and local agencies that collect child support and enforce child support laws the same exemption from a fee that the Postal Service grants other law enforcement officials.

HHS Secretary Heckler has communicated to me her strong support of the amendment, because it enhances the ability of the States and localities to collect child support. I will include, for the RECORD, a copy of the Secretary's letter. I urge my colleagues to support the motion to recede and concur.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, August 8, 1984.

DEAR CONFEREE: I want to express the Administration's strong support for Senator Hawkins' amendment to H.R. 5798, the FY 1985 Treasury, Postal Service, and General Government Appropriations bill, that would prohibit the Postal Service from charging fees for address information in connection with State and local child support enforcement activities.

As you know, the Senate has just unanimously adopted the conference report on the "Child Support Enforcement Amendments of 1984", H.R. 4325, and the report will shortly be voted on, and without doubt approved, by the House. That bill, greatly strengthening the ability of States and localities to collect child support, is landmark legislation for which there is broad, bi-partisan support. The Hawkins amendment will enhance that effort and should therefore be adopted by the conference.

The Postal Service already exempts from fees under certain circumstances law enforcement officers, court officials, and public health officials based on the public benefit of their services. State and local child enforcement agencies save millions of the taxpayers dollars each year and yield important social benefits through establishment of paternity and strengthening of family responsibilities. Certainly the agencies involved with securing support for our children meet the criterion for exemption based on benefit to the public.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MARGARET M. HECKLER,
Secretary.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield to me?

Mr. CONTE. I yield to my friend, the gentleman from Louisiana [Mr. LIVINGSTON.]

Mr. LIVINGSTON. I thank the gentleman for yielding.

Mr. Speaker, if I may, I would like to address a question to the gentleman [Mr. CONTE]: As I understand it, this fee is already waived by the Postal Service for Federal, State, and local law enforcement officers, court officials, as well as for Federal, State, and local public health officials.

So all this amendment really does is extend the same waiver to child support enforcement officials who would be undertaking the duties set forth in the act which we passed in this House just a month ago.

Mr. CONTE. The gentleman [Mr. LIVINGSTON] is absolutely right. This amendment merely grants the same exemption that the Postal Service gives to other law enforcement agencies.

Mr. LIVINGSTON. I appreciate the gentleman clarifying that point for me.

Mr. CONTE. Let me say this: Looking at the bottom line of this problem. This program may help take aid to dependent mothers off the welfare roll and put the proper burden on the backs of fathers who have escaped the responsibility, taken off into another State. In the end, it may decrease the budget deficit that we have here and put some people back to work.

Mr. LIVINGSTON. And of course this is an issue that women have been complaining about for years and years.

Mr. CONTE. The gentleman is correct. However, I am really surprised that there are not more women Members here on the floor today supporting this amendment.

Mr. LIVINGSTON. I appreciate the gentleman's comments.

Mr. Speaker, I rise in support of the gentleman's [Mr. CONTE] position.

Mr. MILLER of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 1, nays 389, not voting 42, as follows:

[Roll No. 383]

YEAS—1

Cooper

NAYS—389

Ackerman	Edwards (CA)	Lagomarsino
Addabbo	Edwards (OK)	Lantos
Albosta	Emerson	Latta
Anderson	English	Leach
Andrews (NC)	Erdreich	Leath
Andrews (TX)	Erlenborn	Lehman (CA)
Annunzio	Evans (IA)	Lehman (FL)
Applegate	Evans (IL)	Lent
Archer	Fascell	Levin
Aspin	Fazio	Levine
AuCoin	Feighan	Levitas
Badham	Fiedler	Lewis (CA)
Barnard	Fields	Lewis (FL)
Barnes	Fish	Livingston
Bartlett	Flippo	Lloyd
Bateman	Florio	Loeffler
Bedell	Foglietta	Long (LA)
Beilenson	Foley	Long (MD)
Bennett	Ford (MI)	Lott
Bereuter	Ford (TN)	Lowery (CA)
Berman	Fowler	Lowry (WA)
Bethune	Frank	Lujan
Bevill	Franklin	Luken
Biaggi	Frenzel	Lundine
Bilirakis	Frost	Lungren
Bliley	Fuqua	Mack
Boehlert	Garcia	MacKay
Boland	Gaydos	Marlenee
Boner	Gejdenson	Marriott
Bonker	Gekas	Martin (IL)
Borski	Gephardt	Martinez
Bosco	Gibbons	Mavroules
Boucher	Gilman	Mazzoli
Boxer	Gingrich	McCain
Breaux	Glickman	McCandless
Britt	Gonzalez	McCloskey
Brooks	Goodling	McCollum
Broomfield	Gore	McCurdy
Brown (CA)	Gradison	McDade
Brown (CO)	Gray	McEwen
Broyhill	Green	McGrath
Bryant	Gregg	McHugh
Burton (CA)	Gunderson	McKernan
Burton (IN)	Hall (IN)	McNulty
Byron	Hall (OH)	Mica
Campbell	Hall, Ralph	Michel
Carper	Hall, Sam	Mikulski
Carr	Hamilton	Miller (CA)
Chandler	Hammerschmidt	Miller (OH)
Chappell	Hance	Minish
Chappie	Hansen (ID)	Mitchell
Clarke	Hansen (UT)	Moakley
Clay	Harkin	Molinari
Clinger	Harrison	Mollohan
Coats	Hartnett	Montgomery
Coelho	Hatcher	Moody
Coleman (MO)	Hawkins	Moore
Coleman (TX)	Hayes	Moorhead
Collins	Heftel	Morrison (CT)
Conte	Hertel	Morrison (WA)
Conyers	Hightower	Mrazek
Corcoran	Hiler	Murphy
Coughlin	Hillis	Murtha
Courter	Holt	Myers
Coyne	Hopkins	Natcher
Craig	Horton	Neal
Crane, Daniel	Howard	Nelson
Crane, Philip	Hoyer	Nichols
Crockett	Hubbard	Nielson
Daniel	Huckaby	Nowak
Dannemeyer	Hughes	O'Brien
Darden	Hunter	Oakar
Daschle	Hutto	Obey
Daub	Hyde	Olin
Davis	Ireland	Ortiz
de la Garza	Jacobs	Ottinger
Dellums	Jenkins	Owens
DeWine	Johnson	Oxley
Dicks	Jones (NC)	Packard
Dingell	Jones (OK)	Panetta
Dixon	Jones (TN)	Parris
Donnelly	Kaptur	Pashayan
Dorgan	Kasich	Patman
Dowdy	Kastenmeier	Patterson
Downey	Kazen	Paul
Dreier	Kennelly	Pease
Duncan	Kildee	Penny
Durbin	Kindness	Petri
Dwyer	Kleczka	Pickle
Dymally	Kogovsek	Porter
Early	Kolter	Price
Eckart	Kostmayer	Pritchard
Edgar	Kramer	Pursell
Edwards (AL)	LaFalce	Quillen

Rahall	Shumway	Torricelli
Rangel	Shuster	Traxler
Ratchford	Sikorski	Udall
Ray	Siljander	Valentine
Regula	Sisisky	Vander Jagt
Ridge	Skeen	Vandergriff
Rinaldo	Skelton	Vento
Ritter	Slattery	Volkmer
Roberts	Smith (IA)	Vucanovich
Robinson	Smith (NE)	Walgren
Rodino	Smith (NJ)	Walker
Roe	Smith, Denny	Watkins
Roemer	Smith, Robert	Weaver
Rogers	Snowe	Weber
Rose	Snyder	Wheat
Rostenkowski	Solarz	Whitehurst
Roth	Solomon	Whitley
Roukema	Spence	Whitten
Rowland	Spratt	Williams (MT)
Roybal	St Germain	Williams (OH)
Rudd	Staggers	Winn
Russo	Stangeland	Wirth
Sabo	Stark	Wise
Savage	Stenholm	Wolf
Sawyer	Stokes	Wolpe
Schaefer	Stratton	Wortley
Scheuer	Sundquist	Wright
Schneider	Swift	Wyden
Schroeder	Synar	Wylie
Schulze	Tallon	Yates
Schumer	Tauke	Yatron
Seiberling	Tauzin	Young (AK)
Sensenbrenner	Taylor	Young (FL)
Sharp	Thomas (CA)	Young (MO)
Shaw	Thomas (GA)	Zschau
Shelby	Torres	

NOT VOTING—42

Akaka	Gramm	Oberstar
Alexander	Guarini	Pepper
Anthony	Hefner	Reid
Bates	Jeffords	Richardson
Boggs	Kemp	Shannon
Bonior	Leland	Simon
Carney	Lipinski	Smith (FL)
Cheney	Madigan	Studds
Conable	Markey	Stump
D'Amours	Martin (NC)	Towns
Derrick	Martin (NY)	Waxman
Dickinson	Matsui	Weiss
Dyson	McKinney	Whittaker
Ferraro	Mineta	Wilson

□ 1310

Messrs. GONZALEZ, MURPHY, OWENS, and KOGOVSEK changed their votes from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONTE moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore (Mr. HARRISON). The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 28: Page 10, line 8, after "level" insert ": *Provided further, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1985".*

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 28, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 34: Page 17, line 7, strike out "$2,250,288,000" and insert "$2,227,802,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: $2,252,221,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 35: Page 17, line 7, strike out "$106,814,000" and insert "$100,299,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$120,229,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 37: Page 17, after line 14, insert:

District of Columbia:
Old Post Office, $1,750,000

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 37, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 46: Page 20, after line 7, insert:

Nevada:
Las Vegas, Federal Building, $941,000

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 46, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 49: Page 21, line 7, after "operations" insert ": *Provided further,* That none of the funds provided in this Act shall be used to move the existing Spartanburg, South Carolina Social Security Office into the Federal Building in Spartanburg, South Carolina".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 49, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 51: Page 22, line 16, after "collections:" insert *"Provided further,* That of the funds appropriated in Public Law 98-8, under the heading of "Maintaining and protecting Public Investment Federal Buildings", $3,000,000 is authorized and may be expended for phase II, additional construction at the James J. Rowley Secret Service Training Center in Beltsville, Maryland:".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 51, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 52: Page 22, line 21, strike out "$2,250,228,000" and insert "$2,227,802,000".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "$2,252,221,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 57: Page 25, strike out lines 1 to 11, inclusive, and insert:

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

LIMITATION ON AVAILABILITY OF FUNDS

During the fiscal year ending September 30, 1985, and more than $250,000,000 in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the

acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Material Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition: *Provided*, That none of the funds appropriated by this paragraph may be used to purchase any copper for the National Defense Stockpile that is not mined and smelted in the United States.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

LIMITATION ON AVAILABILITY OF FUNDS

During the fiscal year ending September 30, 1985, not more than $185,000,000 in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Material Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition: *Provided*, That none of the funds appropriated by this paragraph may be used to purchase any strategic and critical materials for the National Defense Stockpile that are not mined and refined in the United States; *Provided further*, That this paragraph shall only apply to those strategic and critical materials that are currently mined and refined in the United States or which can be produced domestically at the levels and quantities required by the Federal Emergency Management Agency.

Mr. ROYBAL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 66: Page 28, after line 20, insert:

SEC. 406. (a) A portion of the funds appropriated by this Act for the operation, maintenance, and protection of Presidential archival depositories shall be used by the Administrator of General Services to establish in the National Archives Trust Fund a separate endowment for the maintenance, operation, and protection of each Presidential archival depository, to which shall be credited any gifts or bequests received under section 2108(g) of title 44, United States Code, that are offered for such depository. Income to each such endowment shall be available to cover the cost of maintenance, operation, and protection of such depository, but not the cost of the performance of archival functions under such title.

(b) Funds appropriated by this Act may not be used by the administrator of General Services to accept or take title to any land, building, or equipment under section 2108(a) of title 44, United States Code, or to make any agreement to use any land, building, or equipment under such section, for the purpose of creating a Presidential archival depository, unless the administrator determines that there is available, by gift or bequest for deposit under subsection (a) in an endowment with respect to that depository, an amount to cover, or insure sufficient income to cover—

(A) the total cost of acquiring or constructing the buildings and of acquiring and installing the equipment for such depository;

(B)(i) if title to the land is to be vested in the United States, the cost of acquiring the land upon which such buildings are situated, or such other measure of the value of such land as is mutually agreed upon by the Administrator and the donor; or

(ii) if title to the land is not to be vested in the United States, the cost to the donor of any improvements (other than such buildings and equipment) to the land upon which such buildings are situated; and

(C) the costs of maintaining, operating, and protecting such depository in each fiscal year, but not of performing the archival functions under title 44, United States Code, for such depository in each fiscal year.

(c) The terms of this section shall not apply to the libraries built or to be built by the incumbent or past Presidents of the United States.

(d) A portion of the funds appropriated by this Act shall be used by the Administrator of General Services to conduct a study to plan for the establishment, in the General Services Administration, of a National Archival Center for Presidential Papers, in which may be deposited all Presidential records and historical materials of former Presidents who leave office after 1989. The Administrator of General Services shall transmit such study to the Congress within one year after the date of enactment of this Act.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 66.

The SPEAKER pro tempore. On this motion the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Ohio [Mr. MILLER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think I owe my colleagues an explanation of the recent vote. May I say I pointed out earlier that our colleagues on the Senate side often do not abide by the rules on legislation and germaneness, and too frequently they amend appropriation bills to include entire legislative bills that are lengthy and do not belong on appropriations measures.

In action on this bill, the conference agreed to an amendment (No. 92) which entails a legislative bill of 40 pages under the jurisdiction of the Ways and Means and Judiciary Committees. I took exception to that when I signed the conference report. I also excepted on three Senate amendments which deal with the tax code and thus may violate the Rules of the House. We also have the item we just voted on, and the one that we have here which concerns the gentleman from Texas [Mr. BROOKS] and the Committee on Government Operations, which he ably chairs.

In connection with these amendments, I met with the gentleman from California [Mr. ROYBAL]. As I said earlier I made exceptions on these legislative matters which were far-reaching and encroached upon the jurisdiction of legislative committees. In meeting with the gentleman from California [Mr. ROYBAL] we agreed motions would be made for the House to insist upon its position.

Two of the tax matters have been disposed of as they should have, and I expect amendment No. 92 will be handled in the same manner. It leaves us here, however, with a matter of some seriousness. May I say that I voted against my own motion which I agreed to make a while ago, because the opposition of the legislative committee was not as great as I had originally believed it was.

In this instance, we have a two-page amendment of a legislative nature addressing matters under the jurisdiction of the Committee on Government Operations.

I have a letter from the Government Operations Committee. There is no one in this Congress who has cooperated more with our Committee on Appropriations or with any other committee than Mr. BROOKS of Texas and his Committee on Government Operations.

□ 1320

I quote from the letter:

DEAR CHAIRMAN WHITTEN: In its consideration of H.R. 5798, the Treasury, Postal Service, Executive Office of the President, and Independent Agencies Appropriations bill for FY 1985, the Senate has inserted an amendment which would change the nature of, and method of, funding presidential libraries. The Committee on Government Operations, which has fully examined this area, produced an investigative report and reported a legislative proposal, H.R. 5584, which has passed the House.

Inasmuch as H.R. 5584 is pending before the Senate and the Senate amendment to H.R. 5798 constitutes legislation in an appropriation bill, we urge that the Committee on Appropriations not accept the Senate amendment and that the amendment not be included in the conference report.

Sincerely,

Jack Brooks, Chairman, Committee on Government Operations; Glenn English, Chairman, Government Informa-

tion, Justice, and Agriculture Subcommittee; Frank Horton, Ranking Minority Member, Committee on Government Operations; Thomas N. Kindness, Ranking Minority Member, Government Information, Justice, and Agriculture Subcommittee.

I assured my friend from Texas that I would oppose this in the conference, and, as I say, I was going from place to place, and I am afraid I did not do it very effectively.

So I am utterly sincerely here, and while earlier I had promised to make the motion, I did. I voted against the motion that I made on the other issue because it made sense. I do say as chairman of the Committee on Appropriations, from time to time we do include legislation in our bills. From time to time we do it at the instigation of the legislative committee. We probably have always had exceptions to the rule. But I say in this instance, certainly it is not in order for us to include a two-page amendment opposed by the legislative committee in whose jurisdiction it lies.

I am serious on this motion to insist on the House position, and I hope I may have the support of the Members.

Mr. Speaker, I yield 10 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of the motion of the gentleman from Mississippi to insist on the House position and in opposition to the Senate amendment dealing with funds for maintaining Presidential libraries. I want to thank the distinguished chairman of the Appropriations Committee, and ED ROYBAL, the subcommittee chairman, for their leadership and help. First, this Senate amendment clearly constitutes an attempt to legislate in an appropriations bill. This particular amendment shows the problems that can be encountered when the legislative committee structure is bypassed and substantive matters are inserted in appropriations legislation.

The subject matter of the Senate amendment, placing requirements on Presidential libraries to support the maintenance costs of such facilities, duplicates the intent of a bill which this House passed on June 25, 1984. That bill, H.R. 5584, was the product of a lengthy and indepth examination by the Government Operations Subcommittee on Government Information, Justice, and Agriculture on how to deal with the rising costs of operating Presidential libraries while preserving this important historical resource. Testimony was received from a number of expert witnesses and the committee carefully weighed the consequences and potential side effects of such legislation.

H.R. 5584 would require that all future Presidential libraries comply with minimum standards prescribed by the Archivist of the United States and that an endowment equal to at least 20 percent of their cost be established, to be used for maintenance of those facilities. I might point out that the endowment requirement of the House bill applies only to the libraries of Presidents taking office for the first time on or after May 9, 1984. The committee felt that it was unfair to change the rules regarding Presidential libraries in the middle of the game, and that it would be fair to impose this requirement only on future Presidents as they plan their libraries.

On the other hand, the Senate amendment, tacked onto an appropriations bill, would apply only to the coming fiscal year rather than providing a permanent legislative solution to the problem. I hope that the gentleman's motion will be accepted and that the Senate amendment will be removed, so that the other body can consider the more carefully thought out and effective solution to the problem of Presidential libraries costs embodied in H.R. 5584.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding.

Mr. Speaker, I would like to say that I fully support the position taken by the chairman of the full committee. This is a Senate amendment that is actually legislation on an appropriations bill. I concur with the remarks that the gentleman has made, and I hope that the House supports him on this issue.

Mr. MILLER of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the gentleman's motion.

● Mr. HORTON. Mr. Speaker, I rise in support of the motion to insist on the House position on Senate amendment No. 66 to H.R. 5798.

The simple fact that this is legislation on an appropriations bill would cause me to oppose this motion to agree to this amendment. It is the flaws in the substance of the provision, however, which prompt me to speak on the issue. This amendment attempts, unsuccessfully, to deal with a matter on which the House has already spoken in a comprehensive and effective way.

On June 25, 1984, the House passed the bill, H.R. 5584, by voice vote on the Suspension Calendar. That bill provides that——

First, all future Presidential libraries must comply with minimum standards prescribed by the Archivist of the United States;

Second, an endowment equal to at least 20 percent of the acquisition cost of the library must be donated for deposit in the National Archives Trust Fund for the libraries of those Presidents taking office after May 9, 1984;

Third, the income to each endowment shall be applied to the building operations costs of that particular Presidential library; and

Fourth, the administrator of General Services and the National Archives Trust Fund Board will have the authority to solicit, as well as accept and receive, gifts or bequests for the benefit of Presidential libraries.

That bill is comprehensive. It is carefully drafted. It will be effective in controlling the growth in some of the costs of the Presidential Library Program. The administration support enactment of that bill.

The amendment now before us, on the other hand, is written in a way which is not likely to have beneficial effect. It would mandate the establishment of endowments to cover the building operations costs of the libraries in a manner which our committee found to be totally impractical. It would also direct the writing of a study on how the Government could lose the benefits it now derives from the gifts of certain land and buildings by private citizens.

Mr. Speaker, the House has already acted constructively on this subject by passing H.R. 5584. I urge my colleagues to reaffirm their wise approach to the issue by voting "yes" on this motion.●

● Mr. KINDNESS. Mr. Speaker, I rise in support of the motion to insist on the House position on Senate amendment No. 66 to H.R. 5798.

It is bad enough that this is legislation on an appropriations bill. What's more, it represents an ineffective and not-well-thought-out attempt to reform the Presidential Library Program.

On June 25, this House passed legislation, H.R. 5584, to deal with the growth in the cost of the Presidential Library Program. That bill was based on a thorough review of the Presidential Library Program going back over several years, and it is carefully crafted to deal with the growth in costs of the program while recognizing the Government's obligation to care for and make available the papers of our Presidents.

I would like to emphasize that last factor—the Government's obligation to care for and make available the papers of our former Presidents. Despite all the rhetoric about Presidential libraries being pyramids and monuments to former Presidents, I fear that some Members, particularly in the other body, have forgotten that the Presidential Records Act of 1978 requires the Federal Government to take possession of, care for, and make available the papers of each President, beginning with our incumbent. This was a significant change in the law

since, prior to enactment of the Presidential Records Act, a President's papers were presumed to be his personal property. That is no longer the case.

Presidential libraries are built entirely with privately-donated funds. They provide an archivally sound place in which to store and make those papers available as is required by the law. Without them, the Government would be forced into capital investment in facilities in which to fulfill its responsibilities under the act. I trust that those who are so concerned over the growth in the cost of the current Presidential library system will take into consideration the countervailing costs to the taxpayers of complying with the Presidential Records Act without the donations of the private sector in the form of land and buildings.

So I urge a "yes" vote on this motion and hope that the other body will expend its energies on something more productive and helpful to the taxpayers—the enactment of H.R. 5584.●

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 70: Page 29, line 20, after *"Provided,"* insert "That pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000: *Provided further,".*

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate No. 70, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 72: Page 33, line 3, after "Administration;" insert "to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act;".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate No. 72, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 80: Page 38, after line 2, insert:

SEC. 513. Of the total amount of budget authority provided for fiscal year 1985 by this or any other Act that would otherwise be available for consulting services, management and professional services, and special studies and analyses, 10 per centum of the amount intended for such purposes in the President's budget for 1984, as amended, for any agency, department, or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: *Provided,* That this section shall not apply to any agency, department, or entity whose budget request for 1985 for the purposes stated above did not amount to $5,000,000.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate No. 80 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert "515".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 81: Page 38, after line 2, insert:

SEC. 514. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions, or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate No. 81 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "516".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 92: Page 49, after line 22, insert:

TITLE VII

SEC. 701. This title may be cited as the "Comprehensive Forfeiture Act of 1984".

SUBTITLE A

SEC. 711. Section 1963 of title 18 of the United States Code is amended to read as follows:

"§ 1963. Criminal penalties

"(a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than $25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States, irrespective of any provision of State law—

"(1) any interest the person has acquired or maintained in violation of section 1962;

"(2) any—

"(A) interest in;

"(B) security of;

"(C) claim against; or

"(D) property or contractual right of any kind affording a source of influence over;

any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and

"(3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this subsection.

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

"(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(d) If any of the property described in subsection (a)—

"(1) cannot be located;

"(2) has been transferred to, sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value by any act or omission of the defendant; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"(e)(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of section 1962 of this chapter and alleging that the

property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time, and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(f) Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to, or derived from, an enterprise or an interest in an enterprise which has been ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with or on behalf of the defendant be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with or on behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm or loss to him. Notwithstanding 31 U.S.C. 3302(b), the proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited shall be used to pay all proper expenses for the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs. The Attorney General shall deposit in the Treasury any amounts of such proceeds or moneys remaining after the payment of such expenses.

"(h) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

"(2) compromise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) The Attorney General may promulgate regulations with respect to—

"(1) making reasonable efforts to provide notice to persons who may have an interest in property ordered forfeited under this section;

"(2) granting petitions for remission or mitigation of forfeiture;

"(3) the restitution of property to victims of an offense petitioning for remission or mitigation of forfeiture under this chapter;

"(4) the disposition by the United States of forfeited property by public sale or other commercially feasible means;

"(5) the maintenance and safekeeping of any property forfeited under this section pending its disposition; and

"(6) the compromise of claims arising under this chapter.

Pending the promulgation of such regulations, all provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the Customs Service or any person with respect to the disposition of property under the customs law shall be performed under this chapter by the Attorney General.

"(j) Except as provided in subsection (m), no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(m)(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property for at least seven successive court days in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses

in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.".

SUBTITLE B

SEC. 721. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new sections 413 and 414:

"CRIMINAL FORFEITURES

"PROPERTY SUBJECT TO CRIMINAL FORFEITURE

"SEC. 413. (a) Any person convicted of a violation of this title or title III punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;

"(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

"(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 408 of this title (21 U.S.C. 848), the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this title or title III, that the person forfeit to the United States all property described in this subsection.

"MEANING OF TERM 'PROPERTY'

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

"THIRD PARTY TRANSFERS

"(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (o) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(d) If any of the property described in subsection (a)—

"(1) cannot be located;

"(2) has been transferred to, sold to, or deposited with a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value by any act or omission of the defendant; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"REBUTTABLE PRESUMPTION

"(e) There is a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the period of the violation of this title or title III or within a reasonable time after such period; and

"(2) there was no likely source for such property other than the violation of this title or title III.

"PROTECTIVE ORDERS

"(f)(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this title or title III for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when information or an indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"WARRANT OF SEIZURE

"(g) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (f) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"EXECUTION

"(h) Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"DISPOSITION OF PROPERTY

"(i) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with

him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"AUTHORITY OF THE ATTORNEY GENERAL

"(j) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) compromise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 511(e) of this title (21 U.S.C. 881(e)), of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"APPLICABILITY OF CIVIL FORFEITURE PROVISIONS

"(k) Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 511(d) of this title (21 U.S.C. 881(d)) shall apply to a criminal forfeiture under this section.

"BAR ON INTERVENTION

"(l) Except as provided in subsection (o), no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"JURISDICTION TO ENTER ORDERS

"(m) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"DEPOSITIONS

"(n) In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"THIRD PARTY INTERESTS

"(o)(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property for at least seven successive court days in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

"(p) The provisions of this section shall be liberally construed to effectuate its remedial purposes.

"INVESTMENT OF ILLICIT DRUG PROFITS

"SEC. 414. (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this title or title III punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any violation of this title or title III after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

"(b) Whoever violates this section shall be fined not more than $50,000 or imprisoned not more than ten years, or both.

"(c) As used in this section, the term 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

"(d) The provisions of this section shall be liberally construed to effectuate its remedial purposes.".

SEC. 722. Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824) is amended by adding at the end of subsection (f) the following sentence: "All right, title, and interest in such controlled substances shall vest in the United States upon a revocation order becoming final.".

SEC. 723. Section 408 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848) is amended—

(a) in subsection (a)—

(1) by striking out "(1)";

(2) by striking out "paragraph (2)" each time it appears, and inserting in lieu thereof "section 413 of this title"; and

(3) by striking out paragraph (2); and

(b) by striking out subsection (d).

SEC. 724. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(a) in subsection (a) by inserting at the end thereof the following new subsection:

"(7) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.";

(b) in subsection (b)—

(1) by inserting "civil or criminal" after "Any property subject to"; and

(2) by striking out in paragraph (4) "has been used or is intended to be used in violation of" and inserting in lieu thereof "is subject to civil or criminal forfeiture under";

(c) in subsection (c)—

(1) by inserting in the second sentence "any of" after "Whenever property is seized under"; and

(2) by inserting in paragraph (3) ", if practicable," after "remove it";

(d) in subsection (d), by inserting "any of" after "alleged to have been incurred, under";

(e) in subsection (e)—

(1) by inserting "civilly or criminally" in the first sentence after "Whenever property is"; and

(2) by striking out in paragraph (3) "and remove it for disposition" and inserting in lieu thereof "and dispose of it"; and

(f) by inserting at the end thereof the following new subsections:

"(h) All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(i) The filing of an indictment or information alleging a violation of this title or title III which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(j) In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

SEC. 725. Part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end thereof the following new section:

"CRIMINAL FORFEITURES

"SEC. 1017. Section 413 of title II, relating to criminal forfeitures, shall apply in every respect to a violation of this title punishable by imprisonment for more than one year.".

SEC. 726. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(a) by adding immediately after

"Sec. 412. Applicability of treaties and other international agreements."

the following new items:

"Sec. 413. Criminal forfeitures.

"Sec. 414. Investment of illicit drug profits.".

and

(b) by adding immediately after

"Sec. 1016. Authority of Secretary of the Treasury."

the following new item:

"Sec. 1017. Criminal forfeitures.".

SUBTITLE C

SEC. 731. (a) Section 511(e)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)(1)) is amended by adding after "retain the property for official use" the following: "or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 616 of the Tariff Act of 1930 (19 U.S.C. 1616)".

(b) Section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is amended by inserting before "The proceeds from any sale under paragraph (2)" the following: "The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure of forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to review.".

(c) Section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is further amended by striking out "the general fund of the United States Treasury" in the sentence beginning "The Attorney General shall" and inserting in lieu thereof "accordance with section 524(c) of title 28, United States Code".

SEC. 732. Section 524 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in Appropriations Acts for the following purposes of the Department of Justice:

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property; such payments may include payments for contract services and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions;

"(B) the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.), at the discretion of the Attorney General;

"(C) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made; and

"(D) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice.

"(2) Any award paid from the fund for information concerning a forfeiture, as provided in paragraph (1)(B), shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay an award of $10,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for such information shall not exceed the lesser of $150,000 or one-fourth of the amount realized by the United States from the property forfeited.

"(3) There shall be deposited in the fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice remaining after the payment of expenses for forfeiture and sale authorized by law.

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(5) The Attorney General shall transmit to the Congress, not later than four months after the end of each fiscal year a detailed report on the amounts deposited in the fund and a description of expenditures made under this subsection.

"(6) The provisions of this subsection relating to deposits in the fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

"(7) For fiscal years 1984, 1985, 1986, and 1987, there are authorized to be appropriated such sums as may be necessary for the purposes described in paragraph (1). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated shall be deposited in the General Fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and available for appropriation in the next fiscal year.

"(8) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) any criminal forfeiture proceeding;

"(B) any civil judicial forfeiture proceeding; or

"(C) any civil administrative forfeiture proceeding conducted by the Department of Justice;

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the Customs Service in which case the provisions of section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.".

SUBTITLE D

SEC. 741. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"§ 607. Seizure; value $100,000 or less, prohibited articles, transporting conveyances

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise consists of articles the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, or otherwise transport or store any controlled substances;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 742. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the second sentence by inserting after "penal sum of" the following: "$5,000 or 10 per centum of the value of the claimed property, whichever is lower, but not less than,".

SEC. 743. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out "after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States." and inserting in lieu thereof "after deducting expenses enumerated in section 613 of this Act into the Customs Forfeiture Fund.".

SEC. 744. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and substituting in lieu thereof the following: "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to the procedure set forth in section 607,".

SEC. 745. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by—

(1) inserting "aircraft," immediately after "vehicle," wherever it appears in the section;

(2) striking out "and the value of such vessel, vehicle, merchandise, or baggage as determined under section 606 does not exceed $10,000," in the first sentence and inserting in lieu thereof the following: "and the article is subject to the provisions of section 607 of this Act,"; and

(3) striking out "If such value of such vessel, vehicle, merchandise, or baggage exceeds $10,000," in the second sentence and inserting in lieu thereof the following: "If the article is not subject to the provisions of section 607 of this Act,".

SEC. 746. Section 613(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1613(a)(3)) is amended to read as follows:

"(3) The residue shall be deposited in the Customs Forfeiture Fund.".

SEC. 747. The Tariff Act of 1930 is amended by adding a new section immediately after section 613 (19 U.S.C. 1613) to read as follows:

"§ 613a. Customs Forfeiture Fund

"(a) There is hereby established in the Treasury of the United States a special fund for the United States Customs Service that shall be entitled the 'Customs Forfeiture Fund' (hereinafter referred to in this section as the 'fund'). This fund shall be available without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes of the United States Customs Service—

"(1) the payment of all proper expenses of the seizure or detention or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)) including but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court; and

"(2) the payment of awards of compensation to informers under section 619 of the Tariff Act of 1930, as amended.

"(b) There shall be deposited in the fund all proceeds from the sale or other disposition of property forfeited under, and any currency or monetary instruments seized and forfeited under, the laws enforced or administered by the United States Customs Service.

"(c) Amounts in the fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(d) The Commissioner of the Customs shall transmit to the Congress, not later than four months after the end of each fiscal year a detailed report on the amounts deposited in the fund and a description of expenditures made under this section.

"(e) The provisions of this section relating to deposits in the fund shall apply to all property in the custody of the United States Customs Service on or after the effective date of the Comprehensive Forfeiture Act of 1983.

"(f) For the purposes described in subsection (a), there are authorized to be appropriated from the fund for fiscal year 1984 not more than $10,000,000, for fiscal year 1985 not more than $15,000,000, for fiscal year 1986 not more than $20,000,000, and for fiscal year 1987 not more than $20,000,000. Amounts in the fund in excess of the amounts appropriated at the end of each fiscal year shall be deposited in the General Fund of the Treasury of the United States. At the end of the last fiscal year for which appropriations from the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the General Fund of the Treasury of the United States.".

SEC. 748. A new section 616 is added to the Tariff Act of 1930 (19 U.S.C. 1616) to read as follows:

"§ 616. Disposition of forfeited property

"(a) Notwithstanding any other provision of the law, the Commissioner is authorized to retain forfeited property, or to transfer such property on such terms and conditions as he may determine to—

"(1) any other Federal agency; or

"(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Secretary of the Treasury shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Secretary pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

"(b) The Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this Act in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law.

"(c) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

"(d) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.".

SEC. 749. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended by—

(a) striking out "$50,000" each time it appears and inserting in lieu thereof "$150,000"; and

(b) adding at the end thereof "In no event shall the Secretary delegate the authority to pay an award under this section in excess of $10,000 to an official below the level of the Commissioner of Customs.".

SEC. 750. The Tariff Act of 1930 is amended by adding a new section 589, to read as follows:

"§ 589. Arrest authority of customs officers

"Subject to the direction of the Secretary of the Treasury, an officer of the Customs Service as defined in section 401(i) of this Act, as amended, may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b) Section 7607 of the Internal Revenue Act of 1954 (26 U.S.C. 7607) is repealed.

SEC. 751. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1930 are amended by inserting the word "aircraft," immediately after the words "vehicle" or "vehicles," wherever they appear.

SEC. 752. Section 644 of the Tariff Act of 1930 (19 U.S.C. 1644) is amended to read as follows:

"§ 644. Application of the Federal Aviation Act and section 1518(d) of title 33

"(a) The authority vested by section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. 1509) in the Secretary of the Treasury, by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of customs, and of the laws and regulations relating to the entry and clearance of vessels, shall extend to the application in like manner of any of the provisions of this Act, or of the Anti-Smuggling Act of 1935, or of any regulations promulgated hereunder.

"(b) For purposes of section 1518(d) of title 33, the term 'customs laws administered by the Secretary of the Treasury' shall mean this chapter and any other provisions of law classified to this title.".

SEC. 753. The Tariff Act of 1930 is amended by adding a new section 600 to read as follows:

"§ 600. Application of the customs laws to other seizures by customs officers

"The procedures set forth in sections 602 through 619 of this Act (19 U.S.C. 1602 through 1619) shall apply to seizures of any property effected by customs officers under any law enforced or administered by the Customs Service unless such law specifies different procedures.".

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 92, and concur therein.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Speaker, I have a point of order against the amendment.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against Senate amendment numbered 92, reported by the conference committee on H.R. 5798 in technical disagreement, on the grounds that it violates paragraph (b), clause 5, rule 21 of the Rules of the House of Representatives.

Paragraph (b), clause 5 of rule 21 makes bills and resolutions containing tax and tariff measures which are reported by any committee not having jurisdiction to report tax or tariff measures, and amendments to such bills or resolutions in the House or proposed by the Senate, subject to a point of order at any time during House consideration of the legislation.

Mr. Speaker, the Senate provision includes extensive amendments to existing customs law under the Tariff Act of 1930 with respect to seizures and forfeitures of property by the U.S. Customs Service. The provision amends existing statutory enforcement authorities and other administrative duties and functions of Customs personnel. It also changes the methods for handling forfeitures, and establishes a Customs Forfeiture Fund in the U.S. Treasury to pay the expense associated with seizure and forfeiture proceedings. The amemdments will result in a significant increase in Customs revenues by increasing the proceeds realized from sales of forfeited property and by reducing storage and maintenance cost associated with such property.

Therefore, I urge the Chair to sustain this point of order against Senate amendment numbered 92.

I would also like to point out, Mr. Speaker, that the matter is superfluous since the House passed its version of this legislation, H.R. 4901 yesterday and it contains sustantial improvements over the Senate version.

Mr. ROYBAL. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore. The point of order against the motion is conceded and sustained.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I move that the House insist on its disagreement of the amendment of the Senate No. 92.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 89: Page 49, after line 22, insert.

SEC. 619. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

MOTION OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROYBAL moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amenment, as follows:

In lieu of section number proposed by said amendment insert the following: "620".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed, and that I may include certain statistical materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1437, CALIFORNIA WILDERNESS ACT OF 1983, AND SENATE AMENDMENT THERETO

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 573 and ask for its immediate consideration.

□ 1330

The Clerk read the resolution, as follows:

H. RES. 573

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House, without intervening motion, a motion to take from the Speaker's table the bill (H.R. 1437) entitled the "California Wilderness Act of 1983", with the Senate amendment thereto, and to agree to the Senate amendment, and the previous question shall be considered as ordered on said motion to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from Mississippi, Mr. LOTT, and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 573 makes it in order to consider in the House the bill (H.R. 1437) the California Wilderness Act, along with the Senate amendment to that bill. The rule makes it in order to consider in the House, without intervening motion, a motion to take the bill from the Speaker's table, with the Senate amendment thereto and agree to the Senate amendment.

Under the general rules of the House, when the floor manager makes that motion, he will be granted 1 hour of debate time. The normal custom in such situations is for the floor manager to yield 30 minutes of such time to a Member in opposition. At the end of the 1 hour, the previous question is considered as ordered and the vote will occur on the motion to agree to the Senate amendment.

Mr. Speaker, H.R. 1437 was passed by the House on April 12, 1983 by a record vote of 297 to 96. This rule simply allows the manager of that bill to facilitate final House and Senate action on the California wilderness legislation by allowing a motion to agree to the Senate amendment. If that motion is agreed to, no further action is necessary and the legislation is cleared for the President.

At the request of the chairman of the Interior and Insular Affairs Committee, the Rules Committee granted this rule to expedite the final disposition of this legislation.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina has described basically what is in House Resolution 573.

House Resolution 573 provides for the consideration of a motion, in the House, to pass the Senate amendment to the California wilderness bill.

The rule specifies that the motion shall be: To take the bill, H.R. 1437, from the Speaker's table, with the Senate amendment thereto, and to agree to the Senate amendment.

The rule further specifies that this motion shall be considered in the House, meaning that the motion itself is not amendable under the normal House rules.

Mr. Speaker, the Rules Committee reported this rule on August 10, the last day of our work session prior to the recent recess. At that time, consideration of the California wilderness bill was opposed by several Members from the California delegation, as well as some members of the Committee on Interior and Insular Affairs.

The House passed the original version of H.R. 1437 some 17 months ago, on April 12, 1983; only 2 days after the death of our former colleague, the late

Phillip Burton. Some may recall that passage of the House bill was more of a tribute to our late colleague than it was a sign of consensus within the California delegation.

The Senate amendment to the bill was adopted on August 9, and it designates as wilderness some 39 national forest areas totaling some 1.8 million acres. This is one of the largest and most controversial of the State wilderness bills.

Mr. Speaker, the administration was opposed to the House version of this bill, which was nearly double the administration's 1.2 million acre recommendation.

I want my colleagues to be aware that this is a closed process the Rules Committee is asking you to ratify in this resolution. The resolution from the Committee on Rules is not open to amendment, unless the gentleman from South Carolina yields for that purpose. And the motion made in order by this resolution will be considered in the House, meaning that it is not open to amendments unless the maker of the motion also decides to yield for that purpose.

I generally oppose the use of such a closed process, especially when it involves a highly controversial wilderness proposal.

I do have some requests for time, Mr. Speaker, and I would first yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of this rule for consideration of the California Wilderness Act.

Similar legislation has been overwhelmingly passed by this Chamber three different times. In addition, the compromise before us has already been passed by the Senate and although this bill is not completely satisfactory to every Member of this body, which is usually the case with compromises, I believe that every effort has been made by the House and Senate leaders involved in the compromise to resolve the resources conflicts.

In addition, all of the issues in the bill have been thoroughly discussed and debated by Congress and the public in congressional hearings. The democratic process has worked its will. I therefore see no reason to belabor the numerous issues surrounding California wilderness designation and risk losing this delicate compromise that has been so long in coming.

Rather, we should accept and vote for this rule and expedite passage of this legislation without amendment and without further delay.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding this time to me.

The House has already passed essentially the same bill in three successive Congresses. In the last go-around, which was last year, it was passed by a vote of 297 to 96. Furthermore, numerous amendments were offered during the course of the debate on the bill which was under an open rule.

Congressman SHUMWAY, Congressman CRAIG, Congressman WALKER, Congressman PASHAYAN offered one or more amendments. We had a record vote on most of them and the six major amendments were all fully debated in the House. Both sides had a complete opportunity to present all pertinent facts, figures, and supporting arguments.

There is not any question about the facts that this issue has been thoroughly and completely debated. Furthermore, the Senate amendments delete 500,000 acres from the bill as passed by the House, and many of the deletions accomplish some of the purposes of the amendments that were offered.

This bill has strong bipartisan support. It is supported by both Republican and Democratic Senators in the debate. It was worked out in consultation with all of the people concerned. To indicate now that somehow this rule prevents a full and fair debate obviously flies in the face of this record. I strongly support this bipartisan compromise settlement in the bill. It is also a bicameral settlement, because we worked closely with the Senators to put this issue to bed.

This bill releases 150 million board feet of timber that is tied up because of litigation and court judgments in California, so it also is a proindustry bill, not merely a proenvironmental bill. Furthermore, it releases several million acres of land that is tied up under court injunction until we get the issue resolved.

So, from all points of view, this issue deserves to be settled now, so that industry, local communities, and everyone else can make plans. This rule is a fair and expeditious way to handle it.

If we did not have the rule we would bring it up on a suspension, which would also mean no amendments. The only difference being that it would then require a two-thirds vote, but would have only 40 minutes of debate instead of 2 hours of debate under this procedure. And when you consider that an even bigger bill passed this House by a vote of approximately 3 to 1, you can see that a two-thirds vote is likely to be attainable.

So I maintain that this rule is reasonable, and I thank the gentleman from South Carolina for yielding me this time.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Speaker, it is regrettable that the House of Representatives poised to enact legislation that has developed and evolved over a 6-year period, is to be considered under a gag rule. I find this to be true not only for those of us who hold serious reservations regarding some of the boundary changes made by the other body but for those who have honestly supported and enthusiastically endorsed the precept of a California wilderness proposal far in excess of what either Presidents Jimmy Carter and Ronald Reagan have proposed, and more than the Governor of California, George Deukmejian, supports.

I should like to pose a question to the distinguished chairman of the Subcommittee on Public Lands and National Parks before further detailing some of my serious reservations regarding consideration of the Senate's amendments to H.R. 1437.

□ 1340

Is it the gentleman's opinion and intention that the House report on H.R. 1437, report No. 98-40, have equal footing in the legislative history of the California Wilderness Act of 1983?

Mr. SEIBERLING. Yes, of course; that report is pertinent, except to the extent that changes were made in the Senate which change the legislation that was dealt with in that report.

Mr. PASHAYAN. Mr. Speaker, I ask this question in all seriousness because many of the specific issues that are addressed throughout the report No. 98-40 are absent in the Senate report No. 98-582, yet it is H.R. 1437, as amended by the Senate and explained by report No. 98-582, that is under consideration at the present time.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I should be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, it is my intention, in the formal statement that I submit for the RECORD, to outline all of the changes that were made by the Senate bill in the House bill, so that there will not be any mistake as to what the Congress intended as a result of this compromise legislation.

Mr. PASHAYAN. I am sorry. What did the gentleman say would do this?

Mr. SEIBERLING. Once the rule is adopted, in the general debate I intend to lay in the RECORD five pages of lists of changes that were made by the Senate amendments to the House-passed bill, so that the RECORD will be completely clear as to what changes were made.

Mr. PASHAYAN. We shall look forward to the gentleman's explication of what this thing is all about.

Mr. SEIBERLING. It is my intention not to read all of the detailed changes, but merely to put them in the RECORD. However, if the gentleman wants to look at my prepared statement, I will be glad to let him look it over, and if he thinks there ought to be some further changes made in it, I will welcome the opportunity to do that.

Mr. PASHAYAN. I appreciate that. That is why I am hoping to have a more open rule, so that we could perhaps propose some changes. If the gentleman would agree to that, that is just exactly what I am trying to say. I think that is excellent.

Mr. SEIBERLING. If the gentleman would yield further, actually this is a more open procedure than if we brought it up in the normal way when we are handling a bill that a consensus has been worked out on, which would be the Suspension Calendar, in which case we would only have 20 minutes on each side. This way we have an hour's debate under the rule, and another hour's debate, if the House wants to, once the rule is adopted, so we have 2 hours under this procedure versus 40 minutes under the normal procedure. This is a much more open procedure, actually.

Mr. PASHAYAN. It is not open to amendments, if I understand the rule.

Mr. SEIBERLING. We do not usually do that when we have already worked it out with the other body. It is brought in under the Suspension Calendar.

Mr. PASHAYAN. I think that is what I mean when I say an open rule. The gentleman is making the offer on the one hand that we might be able to make some changes, and I appreciate the gentleman saying that, but how do we go about making the changes?

Mr. SEIBERLING. These will be changes in my description of what the Senate bill does. I do not propose changes in the substance of the act.

Mr. PASHAYAN. I was of the mind that the gentleman's description and the substance of the act were one.

Mr. SEIBERLING. They would outline the changes made by the Senate.

Mr. PASHAYAN. I hope I do not hear the gentleman saying that his description is different from the substance of the act. I am sure I do not hear the gentleman saying that.

Mr. SEIBERLING. If the gentleman will yield further, the gentleman asked me if there would be an explanation of the changes made by the Senate bill in the House bill, so that the committee report would not be misleading in any respect, and I said, yes, there will. I am offering him the opportunity if he so desires, to look over my statment as to what my explanations of those changes are, in case he disagrees with my characterization.

Mr. PASHAYAN. The gentleman was nice to say that if I had any changes to suggest that I should be free to suggest them. How are we to bring about those changes in the bill?

Mr. SEIBERLING. we are not going to change the bill. This is merely a description of what changes were made by the Senate in the House-passed bill.

Mr. PASHAYAN. I will not continue to argue the arcane difference between the description of a bill and the substance of a bill.

I rise in opposition to this rule because it does not allow us substantially to investigate certain questions that have arisen regarding legislative language not considered by a House subcommittee or committee.

In this regard I specifically call to attention section 201 that adds 83 miles of the Tuolumne River to the National Wild and Scenic River System, and that section of the bill which states:

Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 19, 1913, commonly referred to as the Raker Act (38 Stat. 242) and including any agreement or administrative ruling entered into or made effective before enactment of this paragraph.

Needless to say that any number of questions have been raised, and very few definitive answers provided. Why? Because this specific issue has not been reviewed in relation to adding the Tuolumne River to the Wild and Scenic River System.

Many of us from California have been contacted by the Tuolumne County Farm Bureau suggesting that this language is in the bill before us because the city and county of San Francisco are seeking to increase in size O'Shaughnessy Dam and further develop the hydroelectric potential of the Tuolumne River itself. For those perhaps not aware of O'Shaughnessy Dam and its Hetch Hetchy Reservoir and the legislative history simply called the Raker Act, Hetch Hetchy Reservoir occupies what John Muir called the Grand Canyon of Yosemite. It was his last battle with Congress, and one he lost. The Grand Canyon of Yosemite is inundated, the citizens of San Francisco pay about $30,000 annually to the National Park Service, and yet it is now suggested that the city and county of San Francisco want more, and it will be at the expense of both the National Park Service and those who have championed the cause of adding the Tuolumne River to the Wild and Scenic River System.

In my opinion, the language I cited is not needed to protect any right already enjoyed by the city and county of San Francisco at the Hetch Hetchy site. Yet under the rule we must accept that which has been introduced without question.

My constituents are asking questions I cannot answer. They want to know who will benefit from increased power generation. They want to know if further development will diminish the stream flows in the main Tuolumne River itself. They want to know if the white water rafting they have praised will be compromised.

Mr. Speaker, I know that the city and county of San Francisco and the National Park Service are engaged in stream flow studies on the Tuolumne. I know that the rates charged by the city and county of San Francisco are now set by the city and county of San Francisco, and that they are considering an 800-percent increase in the price of surplus power. What I do not know is why there is even consideration of further hydroelectric development at Hetch Hetchy and why the Federal Government will continue to enjoy $30,000 annually. Quite frankly, Mr. Speaker, there are a lot of questions as to why the city and county of San Francisco should be enjoying the degree of favoritism already in law.

Mr. Speaker, I ask that the House of Representatives reject the gag rule so that the handful of us who cannot support H.R. 1437 can offer modest amendments and, hopefully, present alternatives.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from California [Mrs. BURTON].

Mrs. BURTON of California. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased to speak today on behalf of H.R. 1437 which my husband, Phillip, felt was vital to the preservation of California's natural heritage. The House passed this measure just 2 days after his death last April, by a margin of 3 to 1. Now, for the first time, this bill has returned from the Senate, after unanimous approval in committee and on the floor, for consideration by this body. It is because of my belief in preserving the beauty and integrity of our land that I come before you, urging your support.

H.R. 1437 represents a reasonable accommodation of many divergent views. The wilderness acreage in this bill is 600,000 less than what Phillip originally proposed and 600,000 acres more than what the Forest Service recommended—exactly midpoint between the two proposals and still well under one-third of the total lands eligible for wilderness designation.

This bill includes protection of the Tuolumne River as a wild and scenic river in the national system and designation of Mono Basin as a scenic area, preserving one of the world's oldest lakes. I am particularly concerned

with maintaining the integrity of the family camps on the Tuolumne. It is important that any attempt to develop the tributaries be consistent with protecting the integrity of the family camps.

Senator CRANSTON and Senator WILSON included language in this legislation to ensure that development on four of the river's tributaries would not be precluded. They stated that this language was added to the bill only after careful study and consultation with water resource engineers revealed that development of these minor tributaries would not detract from the wild and scenic characteristics of the main stem of the Tuolumne.

In any consideration of potential water resource development on the named tributaries, every care should be taken to protect the three family camps, the Community of Hardin Flat and the river's other resource values. Further, any development on these tributaries should also be consistent with the licensing requirements of the Federal Energy Regulatory Commission, as recently interpreted by the Supreme Court in the Escondido case.

Another exceptional feature of this measure proposes a new wilderness area dedicated to the memory of Ansel Adams. Phillip would be pleased, as I am, to know that Ansel's significant contributions to our environment were appropriately recognized by these actions.

A broad cross-section of citizen groups, industry representatives, conservationists, and local officials worked with Phillip for nearly a decade to determine which land should be included in the national wilderness preservation system. The result is a compromise that would resolve the lingering RARE II—roadless area—lawsuit in our State and allow development and multiple use on almost 1 million acres now restricted by court order.

This legislation also has the endorsement of many California newspapers: Los Angeles Times, Modesto Bee, Monterey Peninsula Herald, New York Times, Oakland Tribune, Palo Alto Peninsula Times-Tribune, Sacramento Bee, San Diego Tribune, San Diego Union, San Francisco Chronicle, San Francisco Examiner, Times-Standard of Eureka, and the Tracy Press—all of which I would like to include in the RECORD.

[From the Los Angeles Times, June 29, 1984]

CELEBRATION IN THE WILDERNESS

California's Tuolumne River has good reason today to dance around the huge boulders between its oak-lined banks on the western slope of the High Sierra. One of the nation's most elegant stretches of wet wilderness may shortly be part of the national Wild and Scenic River System, free of the threat of a dam project that would have turned much of the Tuolumne into a mud puddle.

The cause for celebration is an agreement announced Thursday by California's Democratic senator, Alan Cranston, and its Republican senator, Pete Wilson, to write a reprieve for the river into a bill that also declares 1.8 million acres of California land as wilderness area.

Wilson months ago joined Cranston to urge sanctuary for the Tuolumne and the thousands of fishermen, campers, rafters and deer hunters who savor the awesome solitude of the river and its forested canyons each year. But there was a good chance that a stand-alone bill protecting the Tuolumne would be defeated, at least in the House. The Ponderose-Golden Rock project that would dam the Tuolumne is in the district of Rep. Tony Coelho (D-Merced), and he supports the plan. Coelho is chairman of the House Democratic Campaign Committee, which raises funds and parcels them out to members—a position that makes it easier to persuade other members to the chairman's point of view than most Washington jobs.

Thus the river's fate depended on Wilson's and Cranston's reaching agreement on the number of acres to be included in the popular wilderness bill before they could both get behind the Tuolumne amendment. That agreement came after months of negotiation, with Cranston starting at the 2.4 million acres of wilderness outlined in HR 1473, a bill sponsored by the late Phillip X. Burton, and Wilson starting closer to the 1.2 million supported by the Reagan Administration and California timber interests. The agreement—reached, as Cranston put it, "acre by acre, tree by tree"—split the difference.

There is both substance and symbolism to the laudable way in which Cranston and Wilson closed ranks on the Tuolumne issue. Most California rivers lose the kinds of arguments in which the Tuolumne is involved and fade into polluted trickles. Regional interest in new sources of cheap hydroelectric power or irrigation water usually smothers arguments that California's natural beauty belongs to all its citizens and that the state's breathtaking grandeur cannot last if its free rivers keep getting trapped in the name of economic development.

Fortunately, both Cranston and Wilson saw the Tuolumne as a good place to draw the line. Rising in Yosemite National Park, the river flows west, widening into the Hetch Hetchy reservoir that captures San Francisco's water supply, then plunges through its canyons into the Sacramento River delta. Three-fourths of its potential to generate power is already used. Despite its role as a producer of power and urban water, the Tuolumne is essentially unspoiled. The only argument in favor of spoiling it was to generate more cheap power for an area around Modesto and Turlock where electricity already sells at prices 40% below the national average.

Environmentalists found less to celebrate in the compromise on the wilderness areas. On the bright side, 500,000 acres of spectacular wilderness in the Trinity Alps south of the Oregon border is included. Another 110,000 acres would be designated as the Ansel Adams wilderness and close the last gaps in a 150-mile stretch of untouched forests and meadows between Yosemite and Sequoia National Forest.

Left open to development would be such areas as Fish Canyon in Angeles National Forest; the federal government already is planning to open the area to dirt-bikers. Other areas worth protecting also failed to make the cut.

On balance, though, the package is splendid. There are tricky legislative rapids still to negotiate before the river is free. But Cranston and Wilson have shown remarkable skill at navigating treacherous waters so far. They provide good cause to hope that the waters of the Tuolumne will in the end be safe to dance around their boulders to the delight of many generations of Californians.

FREEDOM FOR A WILDERNESS

Passage of the California wilderness legislation in the U.S. Senate is cause for jubilation on the part of all Californians. None of the several wilderness bills making their way through Congress this year equals in importance the California legislation, for none of the other states have resources the equal of those that would would be protected by this legislation.

The California bill represents an effective compromise worked out by the state's two U.S. senators, Democrat Alan Cranston and Republican Pete Wilson. As a compromise of 1.8 million acres, it does not fully satisfy those who had favored a more restrictive plan of 1.2 million acres or those who supported the legislation of the late Rep. Phil Burton, approved last year by the House, to provide 2.4 million acres. But there is no reasonable alternative. Those, notably special business and recreation interests, who maintain their opposition bely their concern for the wilderness by adopting a strategy that risks losing everything.

A particularly good reason to celebrate is the inclusion in this legislation of protection for 83 miles of the Tuolumne River. Three-fourths of the river's energy already has been captured by existing projects. Proposals for new power developments on the river would benefit only a limited area already served with low-cost power, in contrast with the demonstrated value of preservation of the river for recreation for all.

Among the provisions of the California bill is an unprecedented 150-mile wilderness corridor stretching from Yosemite National Park to the Minarets, and a memorial wilderness named for Ansel Adams, whose photographs brought the wilderness to millions.

Legislation to provide new wilderness areas in Florida, Utah, Arkansas and Arizona cleared the Senate with the California bill. Left for further work because of some conspicuous inadequacies are bills for Montana, Idaho and Wyoming.

[From the Modesto (CA) Bee, July 1, 1984]

AH, WILDERNESS!

Congratulations are in order all the way around. The question of which parcels, among California's 6.2 million acres of roadless federal land, should be preserved as wilderness and which should be opened up for logging, mining and other kinds of development, has been unresolved since Congress first posed it 20 years ago. It's been the subject of fierce political battles for the last five years. And now, thanks to the hard work and commitment of California's senators, Alan Cranston and Pete Wilson, it is settled.

Not everyone will be happy with the compromise Wilson and Cranston have reached. Several wilderness areas that local communities had fought hard to preserve—3,900 acres adjacent to Lassen Volcanic National Park, among them—will be opened for de-

velopment, while a number of areas the timber companies and off-road vehicle clubs would have liked to get at will be made permanently off-limits to such wilderness-destroying activities.

Most significant among the sacrifices it demands, the Cranston-Wilson compromise will prohibit further development of the Tuolemne River, and an end of the effort by the Modesto and Turlock Irrigation districts to explore development of a new source of hydropower. The districts were holding out for at least a grace period in which to study the environmental effects of power development on this admittedly sensitive and beautiful recreation area. We continue to believe that this would have been a reasonable provision which would not substantially affect the overall gains of this compromise bill.

But taken together, the losses to both sides in these controversies were well worth the prize—an agreement, after all these years, to permanently preserve 1.8 million acres of wilderness for the enjoyment and education of future generations, and to free for other uses 3.3 milion acres (including some 56.9 million board-feet of harvestable timber) that had been locked in an administrative limbo while the wilderness debate was raging. (The compromise leaves it to the U.S. Forest Service to study another 1 million acres and decide how best to categorize those parcels.)

In their negotiations, Wilson managed to retain for the development interests pretty much the same acreage level he had originally promised them—far more than the preservationists wanted to give up, although less than what the Reagan administration had proposed. For his part, Cranston managed to save crucial areas in the Tahoe National Forest and in the Trinity Alps that Wilson's first compromise proposal would have opened to timbering.

And with this sort of give and take over areas up and down the state, they reached their shared goal—to permanently preserve the most important of California's last remaining wilderness areas, while getting the federal government and all interested parties started on the task of figuring out how best to manage the use of the rest of this precious heritage.

The two senators have lined up support for their compromise from almost all the key players in the Senate and House, people who have been battling each other on wilderness issues for years, and it is expected that a California wilderness bill finally will be passed within the next month or two. A job well done.

[From the Monterey (CA) Peninsula Herald, Feb. 15, 1984]

WILSON AND TUOLUMNE

It must have been a genuine dilemma which confronted Sen. Pete Wilson, a Republican. He was in what must have seemed a no-win position regarding a federal plan to protect a vital stretch of the Tuolumne River in the Sierra Nevada.

On the one hand, development interests are eager to build additional hydroelectric plants along the Tuolumne in order to tap a cheap and enduring source of energy. On the other, environmentalists—folks who do not normally count on Wilson's position squaring with their own—were hopeful that our junior senator would join with Sen. Alan Cranston and support continuing federal protection for the river.

That Sen. Wilson chose the latter course undoubtedly has upset many of his supporters, but his decision is realistic and a recognition that the Tuolumne should not be further tamed.

The Tuolumne already is extensively developed with a series of hydroelectric projects. For more than 50 years the river and its tributaries in the Sierra Nevada have provided much of the electrical power and nearly all the water consumed in San Francisco and neighboring Bay area communities.

That's 2 percent of the state's electricity and water for 2 million persons.

Yet the river retains its wild and scenic character, especially along a 30-mile stretch in Tuolumne Canyon, downstream of Yosemite National Park. It is that stretch which will soon lose its federal protection unless Congress enacts an extension or desginates the river as a component of the National Wild and Scenic Rivers System, an idea now embraced by Sen. Wilson.

Failure to do so will mean that a plan by San Francisco and two irrigation districts for new dams and tunnels and hydroelectric plants will be considerably closer to reality. Such a scheme, as we have noted before, has the potential to turn one of the wildest rivers in California into a creek.

For California and the nation, there is an unquestioned need for new energy. But damming and probing and diverting the rushing waters of the Tuolumne River would generate only a modest amount of additional hydroelectric power while destroying one of the few remaining reaches of white water in the Central Sierra.

Sen. Wilson deserves to be commended for recognizing the threat. The Tuolumne is a natural treasure that deserves its freedom, and coming down on the side of its preservation should not be regarded as a no-win situation at all.

[From the New York Times, May 2, 1984]

AND CONGRESS TALKS AS THE ENVIRONMENT SUFFERS

(By Peter Steinhart)

PALO ALTO, CA.—What Congress does about California's Tuolumne River in the next few weeks may tell us about its resolve to honor a 16-year-old commitment.

In 1968, Congress passed the Wild and Scenic Rivers Act, declaring its intent to balance the policy of building dams with a policy of preserving free-flowing rivers. For awhile, Congress worked for that balance. It placed 7,000 miles of five dozen streams into the wild rivers system. Nearly half of them were added in the 1980 Alaskan Lands Act alone.

But Congress hasn't added a river since 1980. It debates fiercely how much wilderness to preserve, but it has forgotten the rivers. In 1981, the Park Service and Forest Service recommended 18 rivers for protection, and they are studying 40 more at Congress's behest. Congress hasn't voted on any of them. The Reagan Administration wants to weaken protections on five California rivers that compose 17 percent of the system. If those go, there would be only 2,000 miles of wild river left in the lower 48 states. There are interstate highways with more miles under pavement.

Meanwhile, we are continuing to dam, divert, dredge and encase in concrete even those few rivers that have been recommended for protection. Among them are Maine's Penobscot, Colorado's Dolores, Kentucky's Red, Michigan's Pere Marquette and the Illinois, in southwestern Oregon.

No river so clearly deserves protection as the Tuolumne. In 1979, the Park Service, Forest Service and Office of Management and Budget urged that 83 miles of the Tuolumne, 54 of them inside Yosemite National Park, be placed in the wild rivers system. Congress yawned. The three year ban on development that protects a river while Congress debates its protection expired. In 1983, the Federal Energy Regulatory Commission awarded by City of San Francisco and the Modesto and Turlock irrigation districts a permit to jointly develop three dams on the Tuolumne.

Since then, both the California's Senators and two-thirds of its Congressman have called for protection of the Tuolumne. Hearings will be held in the House of Representatives on May 3d on the matter. So strong is support for a wild Tuolumne that the leading opponent, Tony Coelho, a Democratic Representative from Modesto, offers a bill that first declares the river wild and then exempts it from the dam building prohibitions of the Wild Rivers Act. It allows Mr. Coelho to say he favors protection while he dams.

The Tuolumne is already highly developed. It has five dams and powerhouses, including the Hetch Hetchy system, built by San Francisco after a bitter environmental battle, and the huge Don Pedro Reservoir, operated by Modesto and Turlock. The Tuolumne provides 25 percent of California's electricity, and supplies drinking water to 8 percent of the state's population. And fully 90 percent of its development potential has been tapped. The California Department of Water Resources and the State Energy Commission have declared that further development would not be in California's best interests.

Located less than three hours' drive from San Francisco, the Tuolumne is an invaluable aesthetic and recreational resource in a rapidly urbanizing state. It has remarkable scenery, deep glades of oak and pine, roaring cataracts and long, green pools. It has abundant wildlife, including over 200 species of birds. It offers year-round camping. It is regarded as the Sierra Nevada mountains' best wild trout fishery, one of the few wild trout streams left. It is California's premier white water river, providing a rafting and kayaking experience comparable to the Colorado River. San Francisco, San Jose, Berkely and a religious charity operate low-cost family recreation camps on its banks.

The dams would reduce parts of the river to a trickle while flooding others. They would make the river a single-use resource, an energy mine. Placing public interest above the city's profit, the San Francisco Board of Supervisors unanimously asked Congress to declare the Tuolumne wild. That left Modesto and Turlock the sole proponents of the dams. The two irrigation districts want dams to escape having to buy more expensive power from other sources. But they boast of having some of the lowest electricity rates in California, rates only 40 percent of the state average. Studies show that they could meet 80 percent of future needs by conservation alone, and that alternative sources of power, such as geothermal, could be developed.

Congress should assume its 16-year-old responsibility. Our need for the flow and energy of rivers, for white water recreation, healthy trout streams and wildlife habitats increases while the rivers vanish. Congress should vote for wild rivers. And it ought to begin with the Tuolumne.

[From The Tribune, Jan. 31, 1984]

TUOLUMNE, NOW AND FOREVER

Nearly 10,000 feet up into the Sierra Nevada, near Tioga Pass, burbles a small, crystalline brook. Desending the mountain, passing through meadows and canyons, it picks up speed and volume until it becomes the Tuolumne River. One of America's great scenic wonders and most valuable economic assets, its future now hangs in the balance.

California Republican Sen. Pete Wilson is expected to announce Wednesday whether he supports inclusion of 83 miles of the river below the Hetch Hetchy reservior in the National Wild and Scenic Rivers system.

His support—on top of that already pledged by Sen. Alan Cranston and a flock of Bay Area members of Congress—will ensure protection of the Tuolumne's multiple uses and unequalled virtues.

His qpposition may leave the river's fate in the hands of the Federal Energy Regulatory Commission, a development-minded agency that last April authorized studies of several massive new hydroelectric projects that could destroy the spectacular river's last unspoiled stretches.

A joint study by the U.S. departments of Agriculture and Interior in 1979 lauded as "outstandingly remarkable" the Tuolumne's value for recreation, and as a habitat for the diverse wildlife that shelter in its basin during the cold winter months.

More than 130,000 people a year now take advantage of its unsurpassed trout fishing, white water rafting and camping and hiking opportunities. As growth and development increasingly hem in the flatlands, wild yet accessible kingdoms like the Tuolumne will become ever more valued sanctuaries of the human spirit.

The Tuolumne doubles as vastly more than a nature preserve, however, it is truly a working river. Dams, power generators, and other facilities harness its awesome potential. It currently supplies two percent of California's electricity, drinking water for three million people, and irrigation water for 300,000 acres of farmland.

Protection of the river under wild and scenic status wouldn't impinge on these uses. On the contrary, it would preserve the river for multiple uses—unlike the current proposals ventured by planners hired by the Modesto and Turlock Irrigation Districts.

Not content with reaping their already enormous economic benefits from the river—including irrigation, flood control, and electricity 40 percent cheaper than the national average—these districts want it all. At a cost of nearly a billion dollars, they propose two alternative schemes to dam and divert several forks of the river to generate hydropower to meet projected needs.

Those needs—based on questionable estimates of future demand that far exceed those of PG&E—could be met fully by alternative sources, including abundant geothermal power or improved conservation methods.

Such new hydroelectric facilities could destroy the Sierra's finest trout fisheries, three Bay Area family camps, whitewater commerical rafting, and the wintering grounds of Yosemite's deer herds.

The case is clear. Further study of the engineering details won't change the larger picture. Congress must act now to save one of California's—and the nation's—true wonders. Sen. Wilson should take the lead in preserving the Tuolumne for all to enjoy and for all future generations to cherish.

[From the Palo Alto, Peninsula Times-Tribune, Jan. 31, 1984]

LET THE RIVER BE

The latest proposal to dam the Tuolumne River has been presented as a compromise to satisfy rafting enthusiasts. But when the plan is likely to decimate the river's rafting quality, with a plumbing configuration that Rube Goldberg would admire, it's difficult to see why the plan's proponents bothered.

The Turlock and Modesto irrigation districts have offered the Ponderosa proposal as an alternative to the proposed Clavey-Ward's Ferry project, whose expected impact on the river prompted bills in Congress last year to place the threatened 83 miles of the river under the protection of the Wild and Scenic Rivers system. Some of those bills may be considered in the next few weeks.

The Clavey-Ward's Ferry project drew howls not only for its impact on a pristine canyon but because it would eliminate much of the white-water rafting for which the Tuolumne is renowned. The Ponderosa plan would, like the Clavey-Ward's Ferry project, divert the Tuolumne's water through a tunnel leading several miles downstream to a powerhouse. But to restore water to the main branch, the Ponderosa project would divert water from the Tuolumne's Middle Fork to the South Fork, dam the South Fork and then release enough water into the Tuolumne itself in the summer to provide for rafting.

Commercial rafting outfitters are furious with the plan because it would release the water for only three months of a nine-month rafting season, and at a rate of 800-900 cubic feet per second. Experienced rafters feel challenged only at a flow of 2,500 cubic feet or more, and levels below 1,000 cubic feet are considered alternately boring, because the flow is so slow, and dangerous, because the rafts hit rocks.

More importantly, the Ponderosa plan would alter, and at places disfigure, one of nature's most magnificent settings—to an even greater degree than the Calvey-Ward's Ferry project would.

The use of the Tuolumne already are balanced—five dams and powerhouses are on the river now. "Wild and Scenic" protection would not erase that development; it would simply preserve the status quo.

If 20 or 50 years from now, the state is truly in need of more of the Tuolumne's power, then more dams and generators can be built. But nothing can restore the beauty of the river and its canyon once the dams are there.

[From the Sacramento Bee, July 3, 1984]

AH, WILDERNESS

Congratulations are in order all the way around. The question of which parcels, among California's 6.2 million acres of roadless federal land, should be preserved as wilderness and which should be opened up for logging, mining and other kinds of development, has been unresolved since Congress first posed it 20 years ago. It's been the subject of fierce political battles for the last five years. And now, thanks to the hard work and commitment of California's senators, Alan Cranston and Pete Wilson, it is settled.

Not everyone will be happy with the compromise Wilson and Cranston have reached. Several wilderness areas that local communities had fought hard to preserve—3,900 acres adjacent to Lassen Volcanic National Park, among them—will be opened for development, while a number of areas the timber companies and off-road vehicle clubs would have liked to get at will be made permanently off-limits to such wilderness-destroying activities.

Perhaps most significant among the sacrifices it demands, the Cranston-Wilson compromise will prohibit further development of the Tuolumne River, an area near Yosemite in which local water districts had hoped to develop new hydropower sources. The districts were holding out for at least a grace period in which to study the environmental effects of power development on this admittedly sensitive and beautiful recreation area. And that would have been reasonable.

But taken together, the losses to both sides in these controversies were well worth the prize—an agreement, after all these years, to permanently preserve 1.8 million acres of wilderness for the enjoyment and education of future generations, and to free for other uses 3.3 million acres (including some 56.9 million board-feet of harvestable timber) that had been locked in an administrative limbo while the wilderness debate was raging. (The compromise leaves it to the U.S. Forest Service to study another 1 million acres and decide how best to categorize those parcels.)

In their negotiations, Wilson managed to retain for the development interests pretty much the same acreage level he had originally promised them—far more than the preservationists wanted to give up, although less than what the Reagan administration had proposed. For his part, Cranston managed to save crucial areas in the Tahoe National Forest and in the Trinity Alps that Wilson's first compromise proposal would have opened to timbering.

And with this sort of give-and-take over areas up and down the state, they reached their shared goal—to permanently preserve the most important of California's last remaining wilderness areas, while getting the federal government and all interested parties started on the task of figuring out how best to manage the use of the rest of this precious heritage.

The two senators have lined up support for their compromise from almost all the key players in the Senate and House, people who have been battling each other on wilderness issues for years, and it is expected that a California wilderness bill finally will be passed within the next month or two. A job well done.

PATH THROUGH THE WILDERNESS

After 20 years of studying and five years of political battling, the fate of 5.1 million acres of California wilderness will finally be settled today or tomorrow in the U.S. House of Representatives. The vote is expected to be lopsidedly in favor of the compromise that California's two Senators, Democrat Alan Cranston and Republican Pete Wilson, hammered out so laboriously and negotiated through the Senate earlier this summer. And that's how it ought to be: Out of the political complexities that have so long swamped this difficult issue, Cranston and Wilson have created a monument to the art of political compromise that all sides should have the sense to applaud.

Neither the preservationists nor the developers got everything they wanted from Cranston and Wilson. There are areas of pristine beauty that will be opened up for timbering and other irretrievably destructive uses. And there are wilderness areas

whose resources local communities very much wanted to develop that now will have to be left permanently roadless and untouchable.

But over all, what's been achieved is remarkably responsive to the priorities of both groups. Some 1.8 million acres of wilderness are going to be preserved, among them the most unique and sensitive areas and those most valuable to campers and students of wildlife. At the same time, 3.3 million acres will finally be opened—after years of litigation and moratoriums—for timbering and other forms of development, even for ski resorts, in areas where the exploitable resources and the local employment needs are most compelling.

Those who are still lobbying against this settlement of the longstanding feud have nothing more workable to offer; they would only further delay the industry and the development of wilderness management plans that the Cranston-Wilson plan will finally allow to begin. Fortunately, it appears that most of the members of the House know it, and the California wilderness bill will get the support it deserves.

[From the San Diego Union, Feb. 20, 1984]

ADMIRABLE BALANCE

We agree with Sen. Pete Wilson's bill preserving the last remaining wild stretch of the Tuolumne River.

Mr. Wilson's legislation designates an 83-mile segment of the Tuolumne, located 150 miles east of San Francisco, as part of the national Wild and Scenic Rivers System, as was recommended by the Forest Service in 1979. Only 2 percent of the miles of all rivers in the continental United States qualify for the system, making what remains untamed of the Tuolumne a valuable stretch of waterway.

The Tuolumne is enjoyed by thousands of fishermen, canoeists, campers, and wildlife watchers every year. It is one of the top four whitewater boating areas in the United States, on a par with the Grand Canyon run. Moreover, the Tuolumne is the locale for a successful wild trout fishery, and offers some of the finest stream fishing to be found anywhere.

The river is already harnessed for 89 percent of its water supply and 70 percent of its hydroelectric capacity. Further development would provide additional power to Stanislaus County. But Stanislaus County already has the lowest electrical costs in the state. And diverting any more water to sparsely populated Tuolumne County is unnecessary. San Francisco's Public Utilities Commission is expected to expand to cover Tuolumne County, cutting the county's water costs by 70 percent.

Sen. Wilson's redesignation of the Tuolumne River is included in a bill adding 1.7 million acres to the National Wilderness system—a compromise between the 1.2 million acres proposed by developers and the 2.3 million acres proposed by environmentalists. Actually, it is part of Sen. Wilson's carefully crafted environmental package. He has also introduced a bill authorizing completion of the long-delayed Auburn Dam on the American River north of Sacramento and thrown his support behind a bill declaring Mono Lake a national Scenic Area.

Sen. Wilson's environmental legislation is a compromise that strikes an admirable balance between competing interests. We endorse it and hope for early, smooth passage.

[From the San Diego Evening Tribune, Jan. 31, 1984]

TUOLUMNE RIVER MUST BE PROTECTED

The Tuolumne is a magnificent river. It roars and tumbles from the Yosemite highlands through a majestic canyon to the Central Valley.

It's true that the river has been harnessed by the Hetch Hetchy and the Don Pedro reservoirs. Nevertheless, between the two reservoirs it is still wild and rambunctious—a sight to behold. Thousands of river rafters, fishermen, hunters, gold seekers and campers visit the wild stretches each year and come away with memories that will last a lifetime.

In order to protect the river, Sen. Alan Cranston, D-Calif., has introduced legislation that will make the Tuolumne part of the federal Wild and Scenic River System. This would block further development until a time came when more electrical power was urgently needed.

Sen. Pete Wilson, R-Calif., also has entered a bill that would include the Tuolumne River Canyon in a study for possible wilderness designation.

The river needs this protection. The Modesto and Turlock irrigation districts, which have rights to the Tuolumne, want to expand hydroelectric production. They want to delay any wild river protection until an in-depth study of environmental, economic and other impacts can be completed.

The irrigation districts have suggested new ways to dam the river and gain 390 megawatts of electricity. This would cut the water flow, and the Tuolumne would lose its status as California's most challenging river for boaters and rafters, equal to the Grand Canyon and the Salmon River in Idaho.

Furthermore, the scenic canyon would be crisscrossed with utility lines and besmirched with power plants. Half the trout fishing areas along the Tuolumne and its tributaries, the Clavey River and Cherry Creek, would be destroyed.

We call on Wilson and Cranston to stand fast in protection of the Tuolumne. The river is part of our heritage, a environmental wonder that deserves a bipartisan effort.

[From the San Francisco Sunday Examiner & Chronicle, May 20, 1984]

GET ON WITH WILDERNESS PROTECTION

A compromise worked out between House and Senate leaders early this month opened the floodgates for a wave of badly needed legislation to add as much as 10 million new acres to the nation's stock of federally protected wilderness. The agreement concerned the fate of lands that had been studied for designation as wilderness but had not been declared so. Environmentalists argued that such unprotected lands in the future should be reviewed periodically for consideration as wilderness; developers, with the support of the White House, opposed such reviews.

That's a formula for a logjam, and that is exactly what developed, as wilderness bills affecting more than two dozen states languished. Congressional leaders finally forged a compromise that permits reconsideration of the controversial areas every 10 years, while allowing development. With the compromise came quick action: within a day the Senate Energy and Natural Resource Committee approved no fewer than six bills designating as wilderness 3.2 million acres of forest in five states. A spokesman for the Wilderness Society estimates that Congress may pass at least 20 wilderness bills this year.

That's well and good; we welcome the preservation of additional wilderness lands to fulfill both recreational and environmental needs. But whether or not California will be included depends on how negotiations go between Sens. Alan Cranston and Pete Wilson. Cranston is backing a measure that would set aside 1.9 million acres for federal protection; Wilson's proposal calls for 1.69 million acres.

We hope that this relatively small difference will not unduly delay the passage of a bill that California's entire legislative delegation can support. And we see no compelling reason to settle on a figure of less than 1.9 million acres, which was arrived at after substantial concessions to developers.

The land under consideration for wilderness protection—in California and elsewhere—has been under federal review since 1970, 14 years is long enough to sift through all the competing claims. Indications from Washington are that Cranston and Wilson may work out a compromise within three weeks. We hope they do so, for passage of the bill seems assured—as soon as there is a bill to pass.

[From the San Francisco Examiner, Aug. 12, 1984]

A RESCUE HALF ACHIEVED

Thursday was a landmark day in the fight to save a vast and precious sweep of nature in California. Thanks to a compromise between Sens. Pete Wilson and Alan Cranston, the California wilderness bill which has been awaited for almost two decades passed the Senate.

Now the House of Representatives must do its duty and approve this legislation which would protect 1.8 million acres of wild country and, among its many achievements, prevent the further damming of the Tuolumne River. That strand of liquid crystal, tumbling down out of the Sierra through many a primitive gorge, will become a nationally protected wild river when this measure finally passes both houses.

That fulfillment will, we think, occur. But opposition may arise in the House from development interests both public and private—people who want to build more dams for public power in the first category and companies that crave to cut more timber in the private designation. So nothing can be left to chance: Exceptional energy and leadership are required on the part of environment-minded House members if this measure is to receive the approval it deserves.

Rep. Sala Burton, D. San Francisco, displayed those qualities in requisite degree when she convinced House Speaker Tip O'Neill to allow an expedited vote on the bill, before the members left Friday for a three-weeks recess. Lamentably, the vote got delayed too long Friday afternoon by debate on other measures and had to be postponed until next month.

Sala Burton has a powerful interest because her husband, the late Rep. Phil Burton, was the champion of this legislation when it called for preserving 2.3 million acres of federal lands against development. The House bill in fact still bears his name. The memory of his vast contributions to protection of the outdoors should help to propel this final version to enactment.

It is trimmed down from his original design but still the largest wilderness designation in the state's history, and no one should be allowed to delay it, or trim it any further.

[From the Tracy Press, Feb. 19, 1984]

WILSON SUPPORTS TUOLUMNE PROTECTION

Support voiced last week by U.S. Senator Pete Wilson for the designation of a critical section of the Tuolumne River as wild and scenic is an important development in efforts to protect that unique portion of the Sierra rivers system.

In announcing his support for wild and scenic river status for the Tuolumne, Wilson also came out in favor of construction of the Auburn Dam on the American River and for a compromise proposal on the size of a California wilderness area. The positions taken by California's junior senator in there areas have met with mixed reactions from water, farm and environmentalist groups. From our standout, it appears Wilson has struck a good balance between development and protection of natural areas, and we applaud his decisions.

Wilson's position on the Tuolumne would preclude major hydro-electric power plants proposed by the Modesto and Turlock irrigation districts on an 38-mile section important for fishing, scenic and rafting considerations, but wouldn't prevent development of smaller hydro projects on tributary streams, which could be used by Tuolumne County agencies to generate power for that area of the Sierras. The need for power to serve the needs of the home county is more compelling than that for the Modesto and Turlock areas, which already enjoy much lower power rates than our part of the valley.

Now that Wilson has come out for wild and scenic status for the Tuolumne, efforts to push legislation through both houses of Congress are greatly enhanced. We are still waiting for Rep. Norm Shumway (R-Stockton) to indicate his position on the issue. He would do well to take a queue from Wilson and back protection for that irreplaceable stretch of Sierra waterway. SHM

[From the Eureka Times-Standard, Aug. 26, 1984]

OPINIONS: WILDERNESS BILL IS ACCEPTABLE

When Congress reconvenes early next month, the House of Representatives will be reviewing the California Wilderness bill—legislation of prime importance to area residents.

It appears that our representatives are finally on the verge of ending a stalement of 20 years over wilderness designation. Swift acceptance by the House of Sen. Pete Wilson's compromise bill on this controversial subject will assure this achievement.

It has been two decades since Congress authorized the U.S. Forest Service to survey areas for protection under the Wilderness Act. The service subsequently proposed 1.2 million acres of California federal land for this status, although action on this recommendation was delayed by court orders in 1972 and 1979. A stalement subsequently developed in Congress over how to proceed on the recommendations.

As a result, five million acres of California land have been left in limbo—much of it rich in natural resources and prime for development. This costly delay has stymied oil and gas exploration, new mining, hydroelectric work, ski resort construction, and numerous other projects. At the same time, conservationists have been left without any sense of which wilderness areas might be permanently protected.

A breakthrough came at last in June, when Sen. Wilson forged a compromise with Scn. Alan Cranston. The bill which emerged struck a balance between the 1.2 million acres targeted for protection under the original Forest Service proposal and the 2.4 million acres proposed under legislation carried by the late Rep. Phil Burton and approved by the House last year. Wilson's bill splits the difference and urges placement of 1.8 million acres in wilderness status.

Needless to say, not everyone has embraced the proposal. Industry representatives claim that too much land is being locked up.

The fact is that there is no way to satisfy all of the parties in a dispute as complex as this one. The secret is to get the opposing factions to talk with one another and to strike some middle ground. This process was begun by Rep. Doug Bosco last year and carried through the discussions which Wilson and Cranston conducted earlier this year.

Against this tug-of-war background, the bill, which has emerged is a fair one. It cleared the Senate earlier this month, and it now remains for the House to accept the Senate's version and move the bill to the president's desk. A signature there seems assured.

The one remaining question involves those areas set aside for further planning. These are federal lands for which no clear recommendation was made by the Forest Service and which can be reviewed for possible wilderness designation in the future. Approximately 1.9 million acres full under this heading.

That's a lot of acreage, more than should be considered for future wilderness expansion. But those are tomorrow's battles. Wilson has produced a bill which promises to move us ahead today, and to end the unnecessary delays over using much of this state's developable land.

Action by the House will end further court challenges to the Forest Services reviews and get many needed projects moving forward. It's time to get on with business.

This measure has passed the House three times, and the last time with only 96 opposing votes. I ask my colleagues to join me today in voting for the rule on H.R. 1437.

Thank you.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. I appreciate the gentleman yielding this time to me because this is a very vital bill and one that affects all of us in California and one that I am delighted to speak on.

Mr. Speaker, I must add my voice in opposition and support those who have spoken in opposition to this rule. We are talking here about a closed rule. Normally as we proceed in the House we adopt rules of this nature where we have legislation before us that is conceded to be noncontroversial or perhaps does not contain matters that have not been previously considered by the House.

Where a bill, however, comes before the body and contains controversy, as this one obviously does, and contains areas of legislation that have not previously been considered by the House, I believe it is totally inappropriate to stifle debate and close off the efforts that might be made on behalf of those who think the bill is ill-considered.

I believe, Mr. Speaker, that it would be fair to have the bill considered under the 5-minute rule and to be given the opportunity, as we have other controversial legislation, to offer amendments and to fully explore the ramifications of this legislation.

Those who are pushing the bill today say that we want to avoid that kind of scenario because the bill is delicate; it is the result of a very carefully crafted compromise. But, Mr. Speaker, the effect of this rule is to shut off consideration of concerns on behalf of those who perhaps, although they are a small minority in this body, nevertheless are directly affected and have, therefore, very strong feelings about the bill.

□ 1350

I believe that if indeed this bill can stand the test, it should be considered either on the Suspension Calendar if it is noncontroversial, or with an open rule so that it can be fully debated and amended. But the fact of the matter is that the proponents of this compromise fear either one of these approaches, and so they bring it on today under this very unusual procedure and ask us to adopt a bill that will circumvent the usual legislative process.

This bill contains scenic and wilderness designation for the Tuolumne River, and I do not think I have to remind the Members of the House that that is a very controversial subject, one that has never been debated on this floor and one that needs to be aired very fully.

The bill contains new wilderness areas that were not in the House-passed version, and one of those is in my district, the Bucks Lake Wilderness, which has engendered considerable controversy in northern California.

With reference to Bucks Lake, Mr. Speaker, I would just like to point out some areas that I think might well be appropriate to be considered for amendment to that provision. That particular wilderness area could be amended on the north boundary to incorporate a small area which has very good mineral potential. As I understand it, the compromise which was negotiated in the Senate was to avoid the lockup of minerals if conflicts could be easily avoided, and here I believe only a minor boundary adjustment would avoid that kind of conflict and allow that kind of development to occur. But again I am going to be precluded from doing that because of the prohibition against amendments.

Another area within the Bucks Lake area, the Spanish Peak area on the southeast edge, is a potential ski site, and indeed it is one of the best in Plumas County. According to local officials, local preservationists are agree-

able to a boundary change which would allow for the ski development, but again, Mr. Speaker, I am precluded from suggesting that because of the gag nature of this particular rule.

This bill is opposed by many. The gentlewoman from California [Mrs. BURTON] has supplied a list of many of those newspapers that support the bill, but I would just like to point out to the House that this bill is opposed by the California Cattlemen's Association, the State Chamber of Commerce, the Farm Bureau Federation, the California Licensed Foresters Association, the Mining Association, the Municipal Utilities Association, the State Grange, the Wildlife Federation, the National Outdoor Coalition, the Regional Coalition of Rural Counties, the Western Timber Association, and on and on. There is a long list of those that have good reasons for registering their opposition to this bill.

Mr. Speaker, I believe that the bill to be considered known as the California Wilderness bill is a bad bill in its present form. It indeed cries out for amendment and debate in the full legislative process in spite of its memorial characteristics. I think it is wrong to consider the bill under a closed rule, and I, therefore, urge my colleagues to vote against this resolution and allow the bill to come back under the normal procedures.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, this bill, although numbered 1437, should be called "The Great Land Grab," because that is just what it entails.

In 1964, policywise, the Congress said that we are going to adopt wilderness areas in America of 9.1 million acres. In 1972 we raised that total under RARE I to 12.3 million acres. In 1979, under RARE II, we raised it to 15 million acres, and we projected it to encompass possibly another 11 million acres. Today, in 1984, we have 80 million acres designated as wilderness in these United States. From the original plan, a little less than 10 million acres, we have now put into wilderness designation eight times that number, some 80 million acres. Where is it going to stop?

This bill happens to pertain to my home State of California, and I want to share with my colleagues a little bit about who owns what in that great State. We have a little over 100 million acres of land. The Federal Government has title to about 47.5 million acres today, almost half of the land. The National Park Service has 4.5 million acres, the Forest Service has 20.4 million, the Bureau of Land Management has 18 million, and a host of other Federal agencies numbering about 34 have small parcels here and there.

One would ask, is that not enough to discharge the Federal responsibility of providing conservation of our resources? No, not in the view of the proponents of this legislation. They want more. In this instance they want to add an additional 1.8 million acres to the "land grab" of the Federal Government.

What is the limit? I am told that there is language in this bill that will study another 10 million acres for inclusion in the category of wilderness. Where will it all stop?

There is a division in the House as to whether or not we should adopt 1.8 million acres. I respect that. Some of my colleagues from California think we should adopt no more than 1 million or 1.2 million acres, which I think is close to fair. But this bill is again brought to the House under a proceeding whereby we are permitted to stand in the well of the House and talk about the amendments we would like to adopt or propose, but then the majority which controls this House and the Rules Committee have fashioned a rule whereby not one amendment that we would seek to offer is in order. We are just stuck. The great land grab cannot be diminished in any way in the form of an amendment. I think that is regrettable. It is an abomination. It is a dilution of the democratic process when those of us who have responsible amendments would like to offer them but under the rules under which this bill is brought to the floor of the House we may not do so.

For these reasons, Mr. Speaker, I think this rule should be rejected.

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong opposition to the rule. In a year when fairness has become a popular theme, it is apparent that you do not practice what you preach.

The rule is effectively a closed rule. It calls for consideration of the Senate bill with no intervening motions; that is, no amendments are in order.

I do not believe this procedure is necessary. Why are you afraid of amendments which might improve the bill?

The California Wilderness bill is in its third Congress. I realize that some believe this is a reason to rush it through today but a little more time and open debate is not going to change the outcome significantly. An opportunity for amendments might, however, give Members whose districts are heavily impacted a final opportunity to be heard.

A minor boundary adjustment could, for example, lessen the resource impact on a particular community and perhaps make the difference of saving a mill or a number of jobs.

If you vote for a closed rule, you are foreclosing the opportunity for these people to have their final "day in court."

The so-called compromise also has new material in it which the House has never considered before. It is essentially an omnibus California bill. It contains a very controversial provision to designate a portion of the Tuolumne River as wild and scenic.

The Tuolumne River issue was the subject of 2 long days of hearings in the Public Lands Subcommittee but we never went to markup.

In other words, we never had an opportunity to amend the provision in committee and now we are prevented from doing so on the floor. We will not even have the opportunity for a separate up-or-down vote on the Tuolumne question.

We have accomplished a great deal in this Congress and have come a long way in resolving the RARE II debate. I do not believe we should, in our rush to finish, turn our backs on fairness and open debate. This procedure only serves to convince me that the bill is bad compromise.●

Mr. LOTT. Mr. Speaker, I have no further requests for time, and unless the gentleman from South Carolina has further requests, I will yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUMWAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 112, not voting 25, as follows:

[Roll No. 384]

YEAS—295

Ackerman	Boehlert	Coleman (TX)
Addabbo	Boland	Collins
Albosta	Boner	Conte
Anderson	Bonior	Conyers
Andrews (NC)	Bonker	Cooper
Andrews (TX)	Borski	Corcoran
Annunzio	Bosco	Coughlin
Anthony	Boucher	Coyne
Applegate	Boxer	Craig
Aspin	Breaux	Crockett
AuCoin	Britt	Daniel
Barnard	Brooks	Darden
Barnes	Brown (CA)	Daschle
Bateman	Bryant	de la Garza
Bates	Burton (CA)	Dellums
Bedell	Byron	Derrick
Beilenson	Carper	DeWine
Bennett	Carr	Dicks
Bereuter	Chappell	Dingell
Berman	Clarke	Dixon
Bethune	Clay	Donnelly
Bevill	Clinger	Dorgan
Biaggi	Coelho	Dowdy

Downey	LaFalce	Rinaldo
Durbin	Lagomarsino	Rodino
Dwyer	Lantos	Roe
Dymally	Leach	Roemer
Early	Lehman (CA)	Rose
Eckart	Lehman (FL)	Rostenkowski
Edgar	Leland	Roth
Edwards (AL)	Levin	Roukema
Edwards (CA)	Levine	Rowland
English	Levitas	Roybal
Erdreich	Lipinski	Russo
Evans (IA)	Lloyd	Sabo
Evans (IL)	Long (LA)	Sawyer
Fascell	Long (MD)	Scheuer
Fazio	Lowery (CA)	Schneider
Feighan	Lowry (WA)	Schroeder
Fiedler	Lujan	Schumer
Flippo	Luken	Seiberling
Florio	Lundine	Sensenbrenner
Foglietta	MacKay	Sharp
Foley	Martin (IL)	Shelby
Ford (MI)	Martinez	Sikorski
Ford (TN)	Matsui	Sisisky
Fowler	Mavroules	Skelton
Frank	Mazzoli	Slattery
Frost	McCain	Smith (FL)
Fuqua	McCloskey	Smith (IA)
Garcia	McCurdy	Smith (NE)
Gaydos	McDade	Smith (NJ)
Gejdenson	McHugh	Snowe
Gephardt	McKernan	Solarz
Gibbons	McKinney	Spence
Gilman	McNulty	Spratt
Glickman	Mica	St Germain
Gonzalez	Mikulski	Staggers
Gore	Miller (CA)	Stark
Gradison	Mineta	Stokes
Gray	Minish	Stratton
Green	Mitchell	Swift
Gregg	Moakley	Synar
Gunderson	Mollohan	Tallon
Hall (IN)	Montgomery	Tauzin
Hall (OH)	Moody	Thomas (GA)
Hamilton	Morrison (CT)	Torres
Hance	Mrazek	Torricelli
Harkin	Murphy	Traxler
Harrison	Murtha	Udall
Hatcher	Natcher	Valentine
Hawkins	Neal	Vandergriff
Hayes	Nelson	Vento
Hefner	Nichols	Volkmer
Heftel	Nowak	Walgren
Hertel	Oakar	Watkins
Hightower	Obey	Weaver
Holt	Olin	Weber
Howard	Ortiz	Weiss
Hoyer	Ottinger	Wheat
Hubbard	Owens	Whitehurst
Huckaby	Panetta	Whitley
Hughes	Parris	Whitten
Hutto	Patterson	Williams (MT)
Ireland	Pease	Williams (OH)
Jenkins	Penny	Wilson
Johnson	Pepper	Wirth
Jones (NC)	Petri	Wise
Jones (OK)	Pickle	Wolf
Jones (TN)	Price	Wolpe
Kaptur	Pursell	Wright
Kastenmeier	Quillen	Wyden
Kazen	Rahall	Yates
Kennelly	Rangel	Yatron
Kildee	Ratchford	Young (FL)
Kleczka	Ray	Young (MO)
Kogovsek	Reid	Zschau
Kolter	Richardson	
Kostmayer	Ridge	

NAYS—112

Archer	Crane, Philip	Hall, Ralph
Badham	Dannemeyer	Hall, Sam
Bartlett	Daub	Hammerschmidt
Bilirakis	Davis	Hansen (ID)
Bliley	Dickinson	Hansen (UT)
Broomfield	Dreier	Hartnett
Brown (CO)	Duncan	Hiler
Broyhill	Edwards (OK)	Hillis
Burton (IN)	Emerson	Hopkins
Campbell	Erlenborn	Horton
Chandler	Fields	Hunter
Chappie	Fish	Hyde
Coats	Franklin	Jacobs
Coleman (MO)	Frenzel	Kasich
Conable	Gekas	Kindness
Courter	Gingrich	Kramer
Crane, Daniel	Goodling	Latta
Leath	Myers	Skeen
Lent	Nielson	Smith, Denny
Lewis (CA)	O'Brien	Smith, Robert
Lewis (FL)	Oxley	Snyder
Livingston	Packard	Solomon
Loeffler	Pashayan	Stangeland
Lott	Patman	Stenholm
Lungren	Paul	Sundquist
Mack	Porter	Tauke
Marlenee	Regula	Taylor
Marriott	Ritter	Thomas (CA)
McCandless	Roberts	Vander Jagt
McCollum	Robinson	Vucanovich
McEwen	Rogers	Walker
McGrath	Rudd	Whittaker
Michel	Schaefer	Winn
Miller (OH)	Schulze	Wortley
Molinari	Shaw	Wylie
Moore	Shumway	Young (AK)
Moorhead	Shuster	
Morrison (WA)	Siljander	

NOT VOTING—25

Akaka	Guarini	Savage
Alexander	Jeffords	Shannon
Boggs	Kemp	Simon
Carney	Madigan	Studds
Cheney	Markey	Stump
D'Amours	Martin (NC)	Towns
Dyson	Martin (NY)	Waxman
Ferraro	Oberstar	
Gramm	Pritchard	

□ 1410

Mr. WISE and Mr. GUNDERSON changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

CALIFORNIA WILDERNESS ACT OF 1983

Mr. UDALL. Mr. Speaker, pursuant to House Resolution 573 just agreed to, I move to take from the Speaker's table the bill (H.R. 1437), entitled the "California Wilderness Act of 1983," with the Senate amendment to the text of the bill, and agree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That this title may be cited as the "California Wilderness Act of 1984".

TITLE I

DESIGNATION OF WILDERNESS

SEC. 101. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated July 1980 (except as otherwise dated) are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Lassen National Forest, California, which comprise approximately one thousand eight hundred acres, as generally depicted on a map entitled "Caribou Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Caribou Wilderness as designated by Public Law 88-577;

(2) certain lands in the Stanislaus and Toiyabe National Forests, California, which comprise approximately one hundred sixty thousand acres, as generally depicted on a map entitled "Carson-Iceberg Wilderness—Proposed", dated July 1984, and which shall be known as the Carson-Iceberg Wilderness: Provided, however, That the designation of the Carson-Iceberg Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities in the Wolf Creek Drainage on the Toiyabe National Forest in the same manner and degree in which such access was occurring as of the date of enactment of this title;

(3) certain lands in the Shasta Trinity National Forest, California, which comprise approximately seven thousand three hundred acres, as generally depicted on a map entitled "Castle Crags Wilderness—Proposed", and which shall be known as the Castle Crags Wilderness;

(4) certain lands in the Shasta Trinity National Forest, California, which comprise approximately eight thousand two hundred acres, as generally depicted on a map entitled "Chanchelulla Wilderness—Proposed", and which shall be known as the Chanchelulla Wilderness;

(5) certain lands in the Angeles National Forest, California, which comprise approximately four thousand four hundred acres, as generally depicted on a map entitled "Cucamonga Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Cucamonga Wilderness as designated by Public Law 88-577;

(6) certain lands in the Los Padres National Forest, which comprise approximately sixty-four thousand seven hundred acres, as generally depicted on a map entitled "Dick Smith Wilderness—Proposed", dated July 1984, and which shall be known as Dick Smith Wilderness: Provided, That the Act of March 21, 1968 (82 Stat. 51), which established the San Rafael Wilderness is hereby amended to transfer four hundred and thirty acres of the San Rafael Wilderness to the Dick Smith Wilderness and establish a line one hundred feet north of the centerline of the Buckhorn Fire Road as the southeasterly boundary of the San Rafael Wilderness, as depicted on a map entitled "Dick Smith Wilderness—Proposed", and wherever said Buckhorn Fire Road passes between the San Rafael and Dick Smith Wildernesses and elsewhere at the discretion of the Forest Service, it shall be closed to all motorized vehicles except those used by the Forest Service for administrative purposes;

(7) certain lands in the Sierra National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Dinkey Lakes Wilderness—Proposed", and which shall be known as the "Dinkey Lakes Wilderness: Provided, That within the Dinkey Lakes Wilderness the Secretary of Agriculture shall permit nonmotorized dispersed recreation to continue at a level not less than the level of use which occurred during calendar year 1979;

(8) certain lands in the Sequoia National Forest, California, which comprise approximately thirty-two thousand acres, as generally depicted on a map entitled "Domeland Wilderness Additions—Proposed", dated

March 1983, and which are hereby incorporated in, and which shall be deemed to be a part of the Domeland Wilderness as designated by Public Law 88-577;

(9) certain lands in the Stanislaus National Forest, California, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Emigrant Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Emigrant Wilderness as designated by Public Law 93-632;

(10) certain lands in the Tahoe National Forest, California, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Granite Chief Wilderness—Proposed", dated July 1984, and which shall be known as the Granite Chief Wilderness;

(11) certain lands in the Cleveland National Forest, California, which comprise approximately eight thousand acres, as generally depicted on a map entitled "Hauser Wilderness—Proposed"; and which shall be known as the Hauser Wilderness;

(12) certain lands in and adjacent to the Lassen National Forest, California, which comprise approximately forty-one thousand eight hundred forty acres as shown on a map entitled "Ishi Wilderness—Proposed", and which shall be known as the Ishi Wilderness;

(13) certain lands in the Sierra National Forest, California, which comprise approximately eighty-one thousand acres, as generally depicted on a map entitled "John Muir Wilderness Additions, Sierra National Forest—Proposed", dated February 1983, and which are hereby incorporated in, and which shall be deemed to be a part of the John Muir Wilderness as designated by Public Law 88-577: Provided, That the Secretary of Agriculture is authorized to modify the boundaries of the John Muir Wilderness Additions and the Dinkey Lakes Wilderness as designated by this Act in the event he determines that portions of the existing primitive road between the two wilderness areas should be relocated for environmental protection or other reasons. Any relocated wilderness boundary shall be placed no more than three hundred feet from the centerline of any new primitive roadway and shall become effective upon publication of a notice of such relocation in the Federal Register;

(14) certain lands in the Klamath National Forest, California, which comprise approximately twenty-eight thousand acres, as generally depicted on a map entitled "Marble Mountain Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and shall be deemed to be a part of the Marble Mountain Wilderness as designated by Public Law 88-577;

(15) certain lands in the Sierra and Inyo National Forests, California, which comprise approximately nine thousand acres, as generally depicted on a map entitled "Minarets Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Minarets Wilderness as designated by Public Law 88-577: Provided, That the existing Minarets Wilderness and additions thereto designated by this title henceforth shall be known as the Ansel Adams Wilderness;

(16) certain lands in the Eldorado, Stanislaus, and Toiyabe National Forests, California, which comprise approximately fifty-five thousand acres, as generally depicted on a map entitled "Mokelumne Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Mokelumne Wilderness as designated by Public Law 88-577;

(17) certain lands in the Sierra and Sequoia National Forests, California, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Monarch Wilderness—Proposed", dated July 1984, and which shall be known as the Monarch Wilderness;

(18) certain lands in the Shasta Trinity National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Mt. Shasta Wilderness—Proposed", dated July 1984, and which shall be known as Mt. Shasta Wilderness;

(19) certain lands in the Six Rivers National Forest, California, which comprise approximately eight thousand one hundred acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed", and which shall be known as the North Fork Wilderness;

(20) certain lands in the Cleveland National Forest, California, which comprise approximately thirteen thousand one hundred acres, as generally depicted on a map entitled "Pine Creek Wilderness—Proposed", and which shall be known as the Pine Creek Wilderness;

(21) certain lands in the Rogue River National Forest, California, and Oregon, which comprise approximately sixteen thousand five hundred acres, as generally depicted on a map entitled "Red Buttes Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Red Buttes Wilderness as designated by Public Law 98-328;

(22) certain lands in the Klamath National Forest, California, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Russian Wilderness—Proposed", and which shall be known as the Russian Wilderness;

(23) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Gorgonio Wilderness as designated by Public Law 88-577;

(24) certain lands in the San Bernardino National Forest, California, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "San Jacinto Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Jacinto Wilderness as designated by Public Law 88-577: Provided, however, That the Secretary of Agriculture may pursuant to an application filed within 10 years of the date of enactment of this title, grant a right-of-way for, and authorize construction of, a transmission line or lines within the area depicted as "potential powerline corridor" on the map entitled "San Jacinto Wilderness Additions—Proposed": Provided further, That if a power transmission line is constructed within such corridor, the corridor shall cease to be a part of the San Jacinto Wilderness and the Secretary of Agriculture shall publish notice thereof in the Federal Register;

(25) certain lands in the Sierra and Inyo National Forests and the Devils Postpile National Monument, California, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "San Joaquin Wilderness—Proposed", and which shall comprise a portion of the Ansel Adams Wilderness established pursuant to subparagraph (a)(15) of this section: Provided, however, That nothing in this title shall be construed to prejudice, alter, or affect in any way, any rights or claims of right to the diversion and use of waters from the North Fork of the San Joaquin River, or in any way to interfere with the construction, maintenance, repair, or operation of a hydroelectric project similar in scope to the Jackass-Chiquito hydroelectric power project (or the Granite Creek-Jackass alternative project) as initially proposed by the Upper San Joaquin River Water and Power Authority: Provided further, That the designation of the San Joaquin Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities nor operation and maintenance of the existing cabin located in the vicinity of the Heitz Meadow Guard Station within the Ansel Adams Wilderness, in the same manner and degree in which such access and operation and maintenance of such cabin were occurring as of the date of enactment of this title;

(26) certain lands in the Cleveland National Forest, California, which comprise approximately thirty-nine thousand five hundred and forty acres, as generally depicted on a map entitled "San Mateo Canyon Wilderness—Proposed", and which shall be known as the San Mateo Canyon Wilderness;

(27) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand acres, as generally depicted on a map entitled "San Rafael Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Rafael Wilderness as designated by Public Law 90-271;

(28) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty thousand one hundred and sixty acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", and which shall be known as the Santa Rosa Wilderness;

(29) certain lands in the Angeles and San Bernardino National Forests, California, which comprise approximately forty-three thousand six hundred acres, as generally depicted on a map entitled "Sheep Mountain Wilderness—Proposed", dated July 1984, and which shall be known as Sheep Mountain Wilderness;

(30) certain lands in the Six Rivers, Klamath, and Siskiyou National Forests, California, which comprise approximately one hundred fifty-three thousand acres, as generally depicted on a map entitled "Siskiyou Wilderness—Proposed", dated July 1984, and which shall be known as the Siskiyou Wilderness;

(31) certain lands in the Mendocino National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Snow Mountain Wilderness—Proposed", and which shall be known as Snow Mountain Wilderness;

(32) certain lands in the Sequoia and Inyo National Forests, California, which comprise approximately sixty-three thousand acres, as generally depicted on a map enti-

tled "South Sierra Wilderness—Proposed", dated July 1984, and which shall be known as the South Sierra Wilderness;

(33) certain lands in the Modoc National Forest, California, which comprise approximately one thousand nine hundred and forty acres, as generally depicted on a map entitled "South Warner Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the South Warner Wilderness as designated by Public Law 88-577;

(34) certain lands in and adjacent to the Klamath, Shasta Trinity and Six Rivers National Forests, California, which comprise approximately five hundred thousand acres, as generally depicted on a map entitled "Trinity Alps Wilderness—Proposed", dated July 1984, and which shall be known as the Trinity Alps Wilderness;

(35) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand seven hundred and fifty acres, as generally depicted on a map entitled "Ventana Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of the Ventana Wilderness as designated by Public Laws 91-58 and 95-237;

(36) certain lands in and adjacent to the Six Rivers and Mendocino National Forests, California, which comprise approximately forty-two thousand acres, as generally depicted on a map entitled "Yolla-Bolly Middle Eel Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Yolla-Bolly Middle Eel Wilderness as designated by Public Law 88-577.

(37) certain lands in the Plumas National Forest, California, which comprise approximately twenty-one thousand acres, as generally depicted on a map entitled "Bucks Lake Wilderness—Proposed", dated March 1983, and which shall be known as the Bucks Lake Wilderness;

(38) certain lands in and adjacent to the Los Padres National Forest, California, which comprise approximately twenty thousand acres, as generally depicted on a map entitled "Machesna Mountain Wilderness—Proposed", dated March 1983, and which shall be known as the Machesna Mountain Wilderness; and

(39) certain lands in the Sequoia National Forest, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Jennie Lakes Wilderness—Proposed", dated March 1983, and which shall be known as the Jennie Lakes Wilderness.

(b) The previous classifications of the High Sierra Primitive Area, Emigrant Basin Primitive Area, and the Salmon-Trinity Alps Primitive Area are hereby abolished.

DESIGNATION OF PLANNING AREAS

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this title:

(1) certain lands in the Stanislaus and Toiyabe National Forests, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Carson-Iceberg Planning Area", dated July 1984, and which shall be known as the Carson-Iceberg Planning Area;

(2) certain lands in the Toiyabe National Forest, California, which comprise approximately forty-nine thousand two hundred acres as generally depicted on a map entitled "Hoover Wilderness Additions Planning Area", dated July 1984, and which shall be known as the Hoover Wilderness Additions Planning Area; and

(3) certain lands in the San Bernardino National Forest, California, which comprise approximately seventeen thousand acres, as generally depicted on a map entitled "Pyramid Peak Planning Area", dated July 1984, and which shall be known as the Pyramid Peak Planning Area.

(b) Subject to valid existing rights, the planning areas designated by this section shall for a period of four years from the date of enactment of this title, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 103. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary concerned in accordance with the provisions of the Wilderness Act: Provided, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title.

(b) Within the National Forest wilderness areas designated by this title—

(1) as provided in subsection 4(d)(4)(2) of the Wilderness Act, the grazing of livestock, where established prior to the date of enactment of this title, shall be permitted to continue subject to such reasonable regulations, policies and practices as the Secretary deems necessary, as long as such regulations, policies and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this title;

(2) as provided in subsection 4(d)(1) of the Wilderness Act, the Secretary concerned may take such measures as are necessary in the control of fire, insects, and diseases, subject to such conditions as he deems desirable; and

(3) as provided in section 4(b) of the Wilderness Act, the Secretary concerned shall administer such areas so as to preserve their wilderness character and to devote them to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(c) Within sixty days of the date of enactment of this title, The Secretary of Agriculture shall enter into negotiations to acquire by exchange all or part of any privately owned lands within the national forest wilderness areas designated by this title. Such exchange shall to the maximum extent practicable be completed within three years after the date of enactment of this title. The Secretary is authorized to acquire such lands by means other than exchange, beginning three years after the date of enactment of this title. Acquisition shall be only with the concurrence of the owner. Values shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area.

FILING OF MAPS AND DESCRIPTIONS

"SEC. 104. As soon as practicable after enactment of this title, a map and a legal description on each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title: Provided, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADDITIONS TO NATIONAL PARK SYSTEM

SEC. 105. (a) The following lands are hereby added to the National Park System:

(1) certain lands in the Sequoia National Forest, California, which comprise approximately one thousand five hundred acres, as generally depicted on a map entitled "Jennie Lakes Additions, Kings Canyon National Park—Proposed", dated March 1983, and which are hereby incorporated in, and which shall be deemed to be a part of Kings Canyon National Park; and

(2) certain lands which comprise approximately one hundred eighty-five acres, as generally depicted on a map entitled "McCauley Ranch Addition, Yosemite National Park", dated December 1982 and numbered 80,021, and which are hereby incorporated in, and which shall be deemed to be a part of Yosemite National Park.

(b) Upon enactment of this title, the Secretary of Agriculture shall transfer the lands described in subsection (a) of this section, without consideration, to the administrative jurisdiction of the Secretary of the Interior for administration as part of the national park system. The boundaries of the national forests and national parks shall be adjusted accordingly. The areas added to the national park system by this section shall be administered in accordance with the provisions of law generally applicable to units of the national park system.

(c) The Secretary of the Interior shall study the lands added to the National Park System by subsection (a) of this section for possible designation as national park wilderness, and shall report to the Congress his recommendations as to the suitability or nonsuitability of the designation of such lands as wilderness by not later than three years after the effective date of this title.

(d) The Secretary of Agriculture is authorized and directed to transfer to the jurisdiction of the Secretary of the Interior for administration as a part of Yosemite National Park, two hundred and fifty-three acres of the Stanislaus National Forest at Crocker Ridge, identified as all that land lying easterly of a line beginning at the existing park boundary and running three hundred feet west of and parallel to the center line of the park road designated as State Highway 120, also known as the New Big Oak Flat Road, within section 34, township 1 south, range 19 east, and within sections 4, 9, and 10, township 2 south, range 19 east, Mount Diablo base and meridian. The boundary of Yosemite National Park and the Stanislaus National Forest shall be adjusted accordingly.

(e) The Secretary of the Interior is authorized and directed to transfer to the jurisdiction of the Secretary of Agriculture one hundred and sixty acres within the boundary of the Sierra National Forest identified as the northwest quarter of section 16, township 5 south, range 22 east, Mount Diablo base meridian, subject to the right of the Secretary of the Interior to the use of the water there-

on for park purposes, including the right of access to facilities necessary for the transportation of water to the park.

NATIONAL PARK WILDERNESS

SEC. 106. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.

(1) Yosemite National Park Wilderness, comprising approximately six hundred and seventy-seven thousand six hundred acres, and potential wilderness additions comprising approximately three thousand five hundred and fifty acres, as generally depicted on a map entitled "Wilderness Plan, Yosemite National Park, California", numbered 104-20, 003-E dated July 1980, and shall be known as the Yosemite Wilderness;

(2) Sequoia and Kings Canyon National Parks Wilderness, comprising approximately seven hundred and thirty-six thousand nine hundred and eighty acres; and potential wilderness additions comprising approximately one hundred acres, as generally depicted on a map entitled "Wilderness Plan—Sequoia-Kings Canyon National Parks—California", numbered 102-20, 003-E and dated July 1980, and shall be known as the Sequoia-Kings Canyon Wilderness.

MAP AND DESCRIPTION

SEC. 107. A map and description of the boundaries of the areas designated in section 106 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 106. As soon as practicable after this title takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and description shall have the same force and effect as if included in this title: Provided, That correction of clerical and typographical errors in such maps and descriptions may be made.

CESSATION OF CERTAIN USES

SEC. 108. Any lands (in section 106 of this title) which represent potential wilderness additions upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

ADMINISTRATION

SEC. 109. The areas designated by section 106 of this title as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SEC. 110. Notwithstanding any existing or future administrative designation or recommendation, mineral prospecting, exploration, development, or mining of cobalt and associated minerals undertaken under the United States mining laws within the North Fork Smith roadless area (RARE II, 5-707, Six Rivers National Forest, California) shall be subject to only such Federal laws and regulations as are generally applicable to national forest lands designated as nonwilderness.

WILDERNESS REVIEW CONCERNS

SEC. 111. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress had made its own review and examination of national forest roadless areas in California and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than California, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of California;

(2) upon enactment of this title, the injunction issued by the United States District Court for the Eastern District of California in State of California versus Bergland (483 F. Supp. 465 (1980)) shall no longer be in force;

(3) with respect to the National Forest System lands in the State of California which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), and those lands referred to in subsection (d), except those lands remaining in further planning as referred to in subsection (e), or designated as planning areas upon enactment of this title, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(4) areas in the State of California reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or planning areas by this title or remaining in further planning as referenced in subsection (e) upon enactment of this title shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans;

(5) in the event that revised land management plans in the State of California are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(6) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of California for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those national forest system roadless lands in the State of California: in the Plumas and Tahoe National Forests which were evaluated in the Mohawk Unit Plan; in the Six Rivers National Forest which were evaluated in the Blue Creek Unit Plan not designated as Wilderness by this title and the Fox Unit Plan; in the Klammath National Forest which were evaluated in the King Unit Plan; in the Angeles National Forest which were evaluated in the San Gabriel Unit Plan; in the Modoc and Shasta-Trinity and Klammath National Forests in the Medicine Lake Unit Plan; in the Cleveland National Forest which were evaluated in the Palomar Mountain Unit Plan and Trabuco Unit Plan; in the Los Padres National Forest which were evaluated in the Big Sur Unit Plan; in the Tahoe National Forest which were evaluated in the Truckee-Little Truckee Unit Plan; and those portions of the Carson-Iceberg roadless area not designated as wilderness or planning areas or remaining in further planning as referenced in subsection (e);

(2) national forest system roadless lands in the State of California which are less than five thousand acres in size; and

(3) national forest system roadless areas or portions thereof in the State of California as identified in Executive Document Numbered 1504 Ninety-sixth Congress (House Document Numbered 96-119) and identified by name and number at the end of this subparagraph, which are not designated as wilderness by this title:

National Forest	Area name	Area I.D.
Eldorado	Pyramid	05023
Eldorado	Rubicon	05026
Eldorado	Dardanelles	05982
Eldorado	Tragedy-Elephants Back	05984
Eldorado	Raymond Peak	05985
Klamath	Orleans Mountain	B5079
Klamath	Condrey Mountain	05704

Lake Tahoe Basin M.U.	Dardanelles	05982
Lassen	Lost Creek	05089
Lassen	Polk Springs	05097
Lassen	Chips Creek	05099
Los Padres	Machesna Mountain	05110
Los Padres	Miranda Pine	05114
Los Padres	Tepusquet Peak	05116
Los Padres	Spoor Canyon	05118
Los Padres	Fox Mountain	05120
Los Padres	Cuyama	05135
Mendocino	Wilderness Contiguous	05137
Mendocino	Elk Creek	05140
Mendocino	Big Butte-Shinbone	05145
Mendocino	Black Butte	05269
Plumas	Chips Creek	05099
Plumas	Middle Fork	05167
Plumas	Bald Rock	05169
Plumas	West Yuba	05172
Rogue River	Condrey Mountain	06704
Sequoia	Agnew	05199
Sequoia	Woodpecker	05206
Sequoia	Domeland addition	05207
Shasta-Trinity	Chanchelulla	05220
Shasta-Trinity	East Fork	05226
Shasta-Trinity	Murphy Glade	05298
Shasta-Trinity	Fisher Gulch	A5299
Sierra	Mount Raymond	05242
Sierra	Dinkey Lakes	05244
Sierra	Rancheria	C5198
Six Rivers	Orleans Mountain	B5079
Six Rivers	North Fork Smith	05707
Stanislaus	Tuolumne River	05258
Stanislaus	Raymond Peak	05985
Tahoe	West Yuba	05172
Tahoe	North Fork American	05262
Tahoe	East Yuba	05264
Toiyabe	Dardanelles	04982
Toiyabe	Tragedy-Elephants Back	04984
Toiyabe	Raymond Peak	04985
Tahoe	Granite Chief	05261
Angeles	Pleasant View	F5008
Shasta-Trinity	Castle Crags	B5219
Shasta-Trinity	Mt. Shasta	C5213
Lake Tahoe Basin M.U.	Pyramid	O5023
Lake Tahoe Basin M.U.	Freel	05271
Lassen	Wild Cattle Mountain	05093
Lassen	Butt Mountain	05100
Lassen	Trail Lake	B5095
Lassen	Heart Lake	05096
Lassen	Ishi	B5098
Los Padres	Antimony	05136
Los Padres	Bear Canyon	05104
Los Padres	Bear Mountain	05103
Los Padres	Big Rocks	05112
Los Padres	Black Butte	05102
Los Padres	Black Mountain	05108
Los Padres	Diablo	05127
Los Padres	Dry Lakes	05131
Los Padres	Horseshoe Springs	05115
Los Padres	La Brea	05117
Los Padres	La Panza	05109
Los Padres	Little Pine	05278
Los Padres	Los Machos Hills	05111
Los Padres	Machesna Mountain	05110
Los Padres	Matilija	05129
Los Padres	Quatal	05268
Los Padres	Sawmill-Badlands	05134
Los Padres	Sespe-Frazier	05002
Los Padres	Stanley Mountain	05113
San Bernardino	Sugarloaf	05186
San Bernardino	Raywood Flat	B5187
San Bernardino	Cucamonga B	B5174
San Bernardino	Cucamonga C	C5174
Sequoia	Dennison Peak	05202
Sequoia	Kings River	B5198
Sequoia	Oat Mountain	05197
Sequoia	Moses	05203
Sequoia	Scodies	05212
Sequoia	Cypress	A5213
Shasta-Trinity	Mt. Eddy	05229
Sierra	Kings River	B5198
Stanislaus	Carson-Iceberg (Pacific Valley portion)	B5986
Toiyabe	Sweetwater	04657
Toiyabe	Hoover Extension	E4662
Lassen	Mill Creek	O5284
Los Padres	Garcia Mountain	O5107

(e) Certain National Forest System roadless lands in the State of California as identified in Executive Document Numbered 1504 Ninety-Sixth Congress (House Document Numbered 96-119) and identified by name and number at the end of this subsection, shall remain as further planning areas for purposes of this title:

National Forest	Area name	Area I.D.
Angeles	Sespe-Frazier	05002
Angeles	Arroyo Seco	05012
Cleveland	Sill Hill	05304
Cleveland	Caliente	05017
Eldorado	Caples Creek	05027
Inyo	White Mountains	A5058
Inyo	White Mountains	B5058
Inyo	Coyote-Southeast	05033
Inyo	Table Mountain	05035
Inyo	Mazourka	A5064
Inyo	Wheeler Ridge	05040
Inyo	Horse Meadow	05049
Inyo	Tioga Lake	05050
Inyo	Hall Natural Area	05051
Inyo	Log Cabin Saddlebag	05052
Inyo	Benton Range	05056
Inyo	Blanco Mountain	05059
Inyo	Birch Creek	05060
Inyo	Black Canyon	05061
Inyo	Andrews Mountain	05063
Inyo	Paiute	B5064
Inyo	Laurel-McGee	05045
Inyo	Buttermilk	05038

SEVERABILITY

SEC. 112. If any provision of this title or the application thereof is held invalid, the remainder of the title and the application thereof shall not be affected thereby.

SEC. 113. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this title.

TITLE II

DESIGNATION WILD AND SCENIC RIVER

SEC. 201. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) as amended is further amended by inserting the following new paragraph:

"( ) TUOLUMNE, CALIFORNIA.—The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir consisting of approximately 83 miles as generally depicted on the proposed boundary map entitled 'Alternative A' contained in the Draft Tuolumne Wild and Scenic River Study and Environmental Impact Statement published by the United States Department of the Interior and Department of Agriculture in May 1979; to be administered by the Secretary of the Interior and the Secretary of Agriculture. After consultation with State and local governments and the interested public and within two years from the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section. Nothing in this Act shall preclude the licensing, development, operation, or maintenance of water resources facilities on those portions of the North Fork, Middle Fork, or South Fork of the Tuolumne or Clavey Rivers that are outside the boundary of the wild and scenic river area as designated in this section. Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 19, 1913, commonly referred to as the Raker Act (38 Stat. 242) and including any agreement or administrative ruling entered into or made effective before the enactment of this paragraph. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.".

TITLE III

ESTABLISHMENT OF NATIONAL FOREST SCENIC AREA

SEC. 301. The area in the Mono Basin within and adjacent to the Inyo National Forest in the State of California, as generally depicted on a map entitled "Mono Basin National Forest Scenic Area" dated June 1983, and numbered 1983-3, is hereby designated as the Mono Basin National Forest Scenic Area (hereafter in this title referred to as the "Scenic Area"). Such map shall be on file and available for public inspection in the office of the Forest Supervisor, Inyo National Forest and in the office of the Chief of the Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") may make minor revisions in the boundary of the Scenic Area after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such notice shall be published and submitted at least sixty days before the revision is made.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 302. (a) The exterior boundary of the Inyo National Forest is hereby extended to include the area within the boundary of the Scenic Area. Any lands and interests therein acquired pursuant to section 303 shall become part of the National Forest System.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Inyo National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1964.

ACQUISITION

SEC. 303. (a) The Secretary is authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange in accordance with this title or other provisions of law, or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein within the boundary of the Scenic Area which are owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only by donation or exchange; and

(2) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity

for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the Scenic Area or which is otherwise incompatible with the purposes of this title.

(b)(1) Not later than six months after the date of enactment of this title, the Secretary shall publish specific guidelines under which determinations shall be made under paragraph (2) of subsection (a). No use which existed prior to June 1, 1984, within the area included in the Scenic Area shall be treated under such guidelines as a detrimental or incompatible use within the meaning of such paragraph (2).

(2) For purposes of subsection (a)(2), any development or proposed development of private property within the boundary of the Scenic Area that is significantly different from, or a significant expansion of, development existing as of June 1, 1984, shall be considered by the Secretary as detrimental to the integrity of the Scenic Area. No reconstruction or expansion of a private or commercial building, including—

(A) reconstruction of an existing building,

(B) construction of attached structural additions, not to exceed 100 per centum of the square footage of the origin building, and

(C) construction of reasonable support development such as roads, parking, water and sewage systems shall be treated as detrimental to the integrity of the Scenic Area or as an incompatible development within the meaning of paragraph (2) of subsection (a).

(c) Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interest authorized by this title.

ADMINISTRATION

SEC. 304. (a)(1) Except as otherwise provided in this title, the Secretary, acting through the Chief of the Forest Service, shall administer the Scenic Area as a separate unit within the boundary of the Inyo National Forest in accordance with the laws, rules, and regulations applicable to the national forest system. All Bureau of Land Management administered lands that fall within the boundaries of the Scenic Area are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the national forest system.

(2) In addition, the following parcels administered by the Bureau of Land Management are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System:

township 1 south; range 26 east; Mount Diablo Meridian:

east half of southwest quarter and south half of southeast quarter of section 10; and

township 1 north; range 26 east; Mount Diablo Meridian:

southwest quarter of northeast quarter and west half or southeast quarter of section 9;

southwest quarter of southwest quarter of section 15;

southwest quarter of northwest quarter and northwest quarter of southwest quarter of section 25;

north half of southeast quarter of section 26,

west half of northwest quarter and northwest quarter of southwest quarter of section 27;

township 1 north; range 27 east; Mount Diablo Meridian:

east half of southeast quarter of section 34;

southwest quarter of northwest quarter of section 35; and

west half of section 30 as intersected by Scenic Area Boundary.

(b)(1) In a manner consistent with the protection of the water rights of the State of California or any political subdivision thereof (including the city of Los Angeles) or of any person to the extent that such water rights have been granted or modified under the laws of the State of California, the Secretary shall manage the Scenic Area to protect its geologic, ecologic, and cultural resources. The Secretary shall provide for recreational use of the Scenic Area and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this title, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. The Secretary shall permit the full use of the Scenic Area for scientific study and research in accordance with such rules and regulations as he may prescribe.

(2) Except as specifically provided in this subsection, no commercial timber harvesting shall be permitted in the Scenic Area, but the Secretary shall permit the utilization of wood material such as firewood, posts, poles, and Christmas trees by individuals for their domestic purposes under such regulations as he may prescribe to protect the natural and cultural resources of the Scenic Area. The Secretary may take action including the use of commercial timber harvest to the minimum extent necessary to control fires, insects and diseases that might—

(A) endanger irreplaceable features within the Scenic Area, or

(B) cause substantial damage to significant resources adjacent to the Scenic Area.

(c) The Secretary shall permit those persons holding currently valid grazing permits within the boundary of the Scenic Area to continue to exercise such permits consistent with other applicable law.

(d) The Secretary may enter into cooperative agreements with the State of California and any political subdivision thereof (including the city of Los Angeles) for purposes of protecting Scenic Area resources and administering areas owned by the State or by any such political subdivision which are within the Scenic Area.

(e) Within three years after the date of enactment of this title, the Secretary shall submit to the committees referred to in section 301, a detailed and comprehensive management plan for the Scenic Area which is consistent with the protection of water rights as provided in subsection (b)(1). The plan shall include but not be limited to—

(1) an inventory of natural (including geologic) and cultural resources;

(2) general development plans for public use facilities, including cost estimates; and

(3) measures for the preservation of the natural and cultural resources of the Scenic Area in accordance with subsections (a) and (b) of this section.

Such plan shall provide for hunting and fishing (including commercial brine shrimp operations authorized under State law) within the Scenic Area in accordance with applicable Federal and State law, except to the extent otherwise necessary for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment.

(f) The Secretary is authorized to construct a visitor center in the Scenic Area for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the natural and cultural resources of the Scenic Area.

(g)(1) Subject to valid existing rights, federally owned lands and interests therein within the Scenic Area are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from disposition under the public land laws.

(2) Subject to valid existing rights, all mining claims located within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area, and any patent which may be issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

(h) Nothing in this title shall be construed to reserve any water for purposes of the Scenic Area or to affirm, deny, or otherwise affect the present (or prospective) water rights of any person or of the State of California or of any political subdivision thereof (including the city of Los Angeles), nor shall any provision of this title be construed to cause, authorize, or allow any interference with or infringement of such water rights so long as, and to the extent that, those rights remain valid and enforceable under the laws of the State of California.

(i)(1) The Act entitled "An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California", approved June 23, 1936 (49 Stat. 1892), is hereby repealed.

(2) The Secretary and the Secretary of the Interior shall grant and convey rights-of-way easements, at no cost, to the city of Los Angeles for those rights-of-way on public lands and national forest lands in Mono County, California, as described and set forth in maps and accompanying descriptions which were—

(A) filed by the city of Los Angeles with the Secretary of the Interior on October 24, 1944, and

(B) accepted as proof of construction on behalf of the United States by the Commissioner of the General Land Office on January 4, 1945.

Such easement conveyances shall provide for the right of the city to continue its present operations and to maintain, reconstruct, and replace all existing water and power facilities located within the bounds of the area described in the maps and descriptions referred to in the preceding sentence. The United States shall reserve in the conveyance easements all rights to use and permit the use by others of the lands so conveyed to the extent that such use does not unreasonably interfere with the rights granted herein to the city of Los Angeles.

(3) The grant in paragraph (2) of this subsection shall become effective upon relinquishment in writing by the city of Los Angeles of its applications dated October 20, 1944, and January 17, 1945, to purchase

twenty-three thousand eight hundred and fifty acres of Federal land.

(4) The easements granted under paragraph (2) of this subsection shall provide that whenever the city of Los Angeles ceases to use the land or any part thereof subject to such easements for the purposes for which it is currently being used, as of the date of enactment of this title, all interests in such land or part thereof shall revert to the United States.

(j) Existing community recreational uses, as of the date of enactment of this title, shall be permitted at the levels and locations customarily exercised.

STUDIES

SEC. 305. The Secretary shall take such steps as may be necessary to, within one hundred and eighty days of the date of enactment of this title, enter into a contract with the National Academy of Sciences for the purpose of conducting a scientific study of the ecology of the Scenic Area. The study shall provide for consultation with knowledgeable local, State, Federal, and private persons and organizations and shall provide findings and recommendations to the Congress. Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Chief of the Forest Service not later than January 1, 1987. Progress reports regarding the study shall be transmitted to the above committees on January 1, 1985, and January 1 of each year thereafter.

ADVISORY BOARD

SEC. 306. (a) There is hereby established the Scenic Area Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

(1) the administration of the Scenic Area with respect to policies, programs, and activities in accordance with this title;

(2) the preparation and implementation of the comprehensive management plan; and

(3) the location of the visitor center authorized by section 304(f).

(b) The Board shall be composed of nine members, who shall be selected as follows:

(1) five members appointed by the Mono County Board of Supervisors;

(2) two members appointed by the Governor of California (one of whom shall be an employee of the California Division of Parks and Recreation);

(3) one member appointed by the mayor of the city of Los Angeles; and

(4) one member appointed by the Secretary (who shall be an employee of the Forest Service).

(c) Each member of the Board shall be appointed to serve for a term of three years except that the initial appointments shall be for terms as follows:

(1) of those members appointed by the Mono County Board of Supervisors one shall be appointed to serve for a term of one year, two shall be for a term of two years, and two shall be for a term of three years;

(2) of those members appointed by the Governor of California one shall be appointed to serve for a term of one year and one shall be appointed to serve for a term of three years; and

(3) the member appointed by the mayor of the city of Los Angeles shall be appointed to serve for a term of two years; and

(4) the member appointed by the Secretary shall be appointed to serve for a term of three years.

(d) The members of the Board shall be appointed within ninety days of the date of enactment of this title. The members of the Board shall, at their first meeting, elect a chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the administration of the scenic area.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their duties under this title.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) A majority of those members appointed shall constitute a quorum for the conduct of all business of the Board.

(i) The Board shall terminate ten years from the date of its first meeting.

TRADITIONAL NATIVE AMERICAN USES

SEC. 307. In recognition of the past use of the Scenic Area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to Scenic Area lands by Indian people for such traditional cultural and religious purposes, including the harvest of the brine fly larvae. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (92 Stat. 469). As a part of the plan prepared pursuant to section 304(c) of this title, the Secretary shall, in consultation with appropriate Indian tribes, define the past cultural and religious uses of the Scenic Area by Indians.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. In addition to other amounts available for such purposes, effective October 1, 1985, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

COMPLIANCE WITH BUDGET ACT

SEC. 309. Any new spending authority described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974 which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Amend the title so as to read: "An Act entitled the 'California Wilderness Act of 1984'.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 1 hour.

Mr. UDALL. Mr. Speaker, I yield 30 minutes to the gentleman from Alaska [Mr. YOUNG], for purposes of debate only, and reserve 30 minutes of my time. I wish to announce that all of the time I shall yield today is for the purpose of debate only.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and to extend their remarks on the bill presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, let me take 2 or 3 minutes to say that there are some good things about this country of ours. Two of them are the National Park System which was started back in 1872 with Yellowstone and from time to time we have added crown jewels like Yosemite and Grand Canyon and all of the rest of it.

The second thing that I think is very special about our country is its wilderness system. Both of these are uniquely American ideas, the idea that we would set aside a portion of our natural heritage for future generations.

Last week we celebrated the 20th anniversary of the signing by President Lyndon Johnson of the Wilderness Act of 1964. In that act we instructed the Forest Service to inventory the lands it controls in this country and to come up with recommendations by 1974 for wilderness or for other uses. We are now in the process 10 years later, of sorting out the recommendations of the Forest Service, and this action today is an important part of that process.

We put in 9 million acres in the original bill. Today we are asking for a big chunk of 1.8 million acres in California.

□ 1420

The scoreboard shows that we had New Mexico and Colorado action back as far as 1980, partial action. We have already completed our work in Arizona, Washington, Oregon, New Hampshire, Vermont, North Carolina, Wisconsin, and Missouri. There are pending before the House in addition to this bill today bills for Utah, Florida, Wyoming, and Arkansas. There are several bills passed by the House and now before the Senate for Mississippi, Virginia, Texas, Tennessee, Pennsylvania, and Georgia.

We are hoping maybe we can get additional action this year in the States of Idaho, Alabama, and Montana.

Let me point out that the total acreage in the wilderness system today is 83.5 million acres. This is approximately 4 percent of the total acreage in America. However, 56.6 million is in Alaska and 27 million in the lower 48. This is 1 percent, just over 1 percent of all the land in the lower 48 States will be in wilderness when we have completed our action today.

It will probably come out at 2 percent, maybe, the highest figure, when we have completed action on all of the States.

I do not think anyone can quarrel with the idea that we can set aside 2 percent of this great land of ours for wilderness, particularly when it acts as a water supply for us, it helps clean the air, and gives inspiration to countless millions of Americans.

I strongly commend the work that has been done by the California delegation in bringing this legislation to this point today. This is a compromise piece of legislation but it is a good compromise.

Mr. Speaker, it is supported by nearly all of the conservation groups; it is supported by the great majority of the California delegation and both of the Senators from that State. So, Mr. Speaker, I ask for favorable action on the motion before us. We will strike a good blow for conservation and for future generations.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the California wilderness bill.

We have completed action on seven statewide bills totaling over 3 million acres in Oregon, Washington, Arizona, New Hampshire, Vermont, North Carolina, and Wisconsin. Today, we are scheduled to consider and possibly send to the President bills for Florida and California which will bring the total to over 5 million acres.

In our rush to pass these bills, I hope the Members do not lose sight of two things. One, there is a well-organized effort underway to lock up massive amounts of public land which will cripple many of our natural resource dependent industries.

They are a small but vocal group which I do not believe represent the majority of Americans.

The State-by-State approach to handling wilderness bills is a "divide and conquer" tactic which tends to downplay the real impacts these bills will have.

You have heard it said before so I will not go on at length but let me remind you that this bill:

Locks up 1.8 million acres of national forest land;

Locks up 1.4 million acres of Park Service land;

Locks up 150 million board feet of valuable timber;

Closes miles of ORV trails;

Limits grazing in wilderness; and

Forecloses a number of hydroelectric and water development projects.

In general, we are proposing to let nature have its way with over 3 million acres of land in California. I believe we will regret this decision and that someday there will be a public outcry to save the wilderness from insects, decay, and fires.

The recent fires which burned out of control in Montana and the beetle infestations in Colorado will become commonplace if we adopt this "no management" approach.

Second, the Members should be reminded that time and time again we pass these bills over the objections of those Members who represent the areas. This is unfair and unjust.

I want the record to show that this will not end the wilderness debate in California. They will be back wanting more before the ink is dry on this proposal.

I urge my colleagues to oppose the bill and send us to conference where the affected Members can take part in crafting a true compromise.

Furthermore, Mr. Speaker, with regard to title II, I believe certain provisions should be clearly understood. As my colleagues are aware, H.R. 5083 was introduced on March 8, 1984, to amend the Wild and Scenic Rivers Act by designating a segment of the Tuolumne River in California as a component of the National Wild and Scenic Rivers Systems. On May 3 and 4, 1984, hearings were held on H.R. 5083 before the Public Lands and National Parks Subcommittee of the Interior and Insular Affairs Committee. On August 9, 1984, the Senate passed H.R. 1437. Title II of that bill contains a paragraph that relates to the Tuolumne River and the language of that paragraph was taken verbatim from H.R. 5083.

H.R. 5083 was intended to be a reasonable alternative to an all or nothing solution. The precise language of H.R. 5083 was developed with bipartisan support to provide a compromise that preserves the main stem of the Tuolumne River without precluding hydro development on four of its tributaries.

Title II protects existing rights and obligations in the river basin, such as those provided under the Raker Act and other agreements and administrative determinations. The main purpose of title II is to confer wild and scenic status on those 83 miles of the main stem of the Tuolumne river proposed for wild and scenic status in the alternative A depiction contained in the draft Tuolumne wild and scenic river study and environmental impact statement issued in May 1979. At the same time, the language recognizes that water resource facilities may be developed on the north fork, middle fork or south fork of the Tuolumne River and on the Clavey River consistent with the designation of the main stem as wild and scenic. The recognition of possible tributory development is intended to be a clear congressional determination for the purposes of section 6 of the Wild and Scenic Rivers Act that the licensing, development, operation or maintenance of hydroelectric and water supply projects on these four tributaries is not deemed to have an adverse effect on the wild and scenic values or free flowing character of the main stem of the Tuolumne River.

The acceptance of this balanced and flexible approach by the Senate is gratifying to those who have been trying to accommodate both environmental and economic development concerns in connection with the Tuolumne. A major goal is to eliminate disputes under the Wild and Scenic Rivers Act and the Federal Power Act through a congressional mandate allowing tributary development. Congress has determined in title II that projects on the four tributaries or development pursuant to the Raker Act are consistent with the wild and scenic designation of the 83 miles of the Tuolumne. A well-designed development could provide a reliable and economical source of water supply as well as a dependable and economic power supply. Of course, such development must be consistent with historic water rights and related uses, including the operations of the various Raker Act facilities already existing on the main stem and the regulation of flows caused by O'Shaughnessy Dam, Lake Lloyd, and Lake Eleanor.

Congress recognizes that development of the Tuolumne River tributaries could require a storage reservoir outside the wild and scenic corridor of the main stem to provide a firm supply of water and power. If so, this concept would have to be consistent with maintaining the integrity of the three existing family camps on the middle and south forks. However, if construction of a reservoir at the Hardin Flat site proves to be the most viable solution for the needed storage for development of the middle and south forks, relocation of the Berkeley Tuolumne Camp and the community of Hardin Flat might be necessary. Any relocation of Berkeley Camp or Hardin Flat residences would be by providing equal or better facilities at suitable locations, or other acceptable agreements.

Title II of H.R. 1437 mandates a careful weighing of the legitimate interests involved. On the one hand is the need to preserve the wild and scenic character of the 83 miles of the main stem of the Tuolumne River. On the other hand is Congress willingness to allow water resource facilities to be developed on its tributaries.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in support of this bill because it solves so many important resource issues in California at once. For many of us here who were original supporters of the 2.3 million acre wilderness bill sponsored by our late colleague Phil Burton, the 1.8 million acreage compromise reached by our distinguished colleagues in the other body, Senator CRANSTON and Senator WILSON, is a fair and exhaustively reasoned balance of the competing timber, recreation, and wilderness interests.

For many of us who supported early efforts over several sessions to protect Mono Lake, a unique natural phenomenom on the eastern slope of the Sierra, incorporation of Representative LEHMAN's Mono Lake bill into the wilderness package is a great and probably essential step. Though another of Mono's early supporters, our colleague NORMAN SHUMWAY, has some difficulties with other portions of this bill, he too should take some satisfaction in—and deserves credit for—the fruition of this particular effort.

And for those of us who have been supporters of wild and scenic status for the 83 miles of the Tuolomne River remaining undeveloped, passage of this bill with the Tuolomne in it is a spectacular conclusion to an issue which in my experience really began with the development of the Stanislaus River some years ago. Mr. LEHMAN, whose courage and fortitude saw this project through to conclusion as well as the Mono Lake bill, deserves thanks from all Americans for his leadership.

Last, powerful praise is in order for the performance of the new Member from San Francisco, Mrs. BURTON, who picked up the complex package assembled by her late husband and has delivered it to us here with all substance and values preserved. In one term she has helped guide an effort which many of us could reasonably consider the legislative accomplishment of a lifetime.

As with many issues of this sort, the California wilderness bill will appear to our descendents through many generations as an act so wise and beneficial as to seem easy and obvious. Though there are people today who feel their interests have been abridged by this bill. I do not think there will be many who feel that way in the decades to come. The effects of this action will be felt in many ways by many people the length and breadth of the country's largest and in my view most beautiful State. One small part of the whole I take great satisfaction in, namely the enlargement of the Snow Mountain Wilderness from 25,000 acres proposed by the Forest Service to 37,000 acres, to better preserve the unique flora, prime mountain lion habitat and primitive recreation values of this region, the closest of all wilderness areas to the San Francisco bay area. The final Snow Mountain plan represents a compromise developed by former Representatives Bizz Johnson and Don Clausen with myself, and then more recently with Representative GENE CHAPPIE. Snow Mountain is one of many areas in which consensus was achieved in this bill. Whatever separate problems individuals may have with aspects of it, the bulk of the bill is comprised of agreements which deserve and badly need ratification. I urge the strong support of all my colleagues.

Mr. UDALL. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio [Mr. SEIBERLING], chairman of the Subcommittee on Public Lands and National Parks that produced this legislation.

Mr. SEIBERLING. Mr. Speaker, I thank the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL].

Mr. Speaker, I rise in support of H.R. 1437 as amended by the Senate. This legislation resolves the RARE II issue in California. This is a bipartisan bill supported by both Senators from California. Though reduced somewhat in acreage, it is in essence the same bill that passed the House in three successive Congresses under the leadership of our late colleague, the Honorable Phillip Burton.

Mr. Speaker, as amended by the other body, title I of the bill would designate approximately 1,792,930 acres of national forest and BLM land as wilderness and mandate another 96,300 acres for wilderness study. In addition some 1,414,580 acres of land in Yosemite and Sequoia-Kings Canyon National Parks would be designated as wilderness.

On the other side of the equation, following the compromise release/sufficiency provisions which chairman UDALL and I negotiated with the other body last spring, some 2.8 million acres of national forest roadless lands inventoried in RARE II would be statutorily released from further wilderness review for the next 10 to 15 years and would thereby become available for timber harvest or other development determined appropriate through the national forest land management planning process. The release of this acreage is especially significant for the timber industry as it would remove the threat of wilderness related appeals and lawsuits that currently casts a cloud of uncertainty on land having an estimated annual potential timber yield in excess of 150 million board feet. The release language will also remove potential roadblocks to several water development, ski area, and mining projects.

Mr. Speaker, title II of H.R. 1437 includes language which would designate 83 miles of the main stem of the Tuolumne River a unit of the National Wild and Scenic Rivers System. This language, added to H.R. 1437 by the other body is similar to the language contained in H.R. 5083, introduced by our colleague from California, RICK LEHMAN.

Title III of the bill includes the language, with minor amendments, from H.R. 1341 to establish the Mono Basin National Forest Scenic Area—also introduced by RICK LEHMAN—which passed the House on July 18, 1983.

Mr. Speaker, both the designation of the Tuolumne River and the establishment of the National Scenic Area are desirable additions to H.R. 1437 and I commend Senator CRANSTON and Senator WILSON for their efforts to gain passage of these two outstanding pieces of legislation.

Quite frankly, Mr. Speaker, insofar as wilderness is concerned, I was hoping for a bill that would more closely parallel the 2.3 million acre wilderness proposal approved by the House in April 1983, and also passed by us twice prior to that in the 96th and 97th Congresses. I firmly believe that areas such as Boundary Peak, the Hoover additions, Excelsior, Granite Peak, Fish Canyon, Pyramid Peak, and Timbered Crater should have been included as wilderness in the final bill. Those areas have no significant resource conflicts and were recommended for wilderness in both RARE II and in the House bill. However, as they have little in the way of minerals, timber, or other development potential, it is likely that their current wild state will remain unchanged. I also note that several of those areas, plus additional House-passed proposals not contained in the final compromise, such as Caples Creek, Mill Creek, and the Carson-Iceberg additions, will be required to undergo further wilderness reviews in the next 2 to 3 years. Thus, the wilderness values of such areas will likely remain available for further congressional consideration.

The same probably cannot be said of House wilderness proposals for Dillon Creek, one half of Red Buttes, the east fork of Blue Creek, Pattison, and several smaller areas that have been deleted from wilderness or wilderness study by the other body for timber reasons, and may be opened to timber harvest in the near future. I am still of the opinion that most of these areas, and especially Dillon Creek—which I have personally visited—cannot be logged without having unacceptable adverse impacts on water quality and important fisheries values. Indeed, I believe that the ongoing national forest land management planning process, if properly implemented, will ultimately vindicate the House's conclusion that wilderness or roadless management constitutes the only logical use for those lands.

However, aside from such shortcomings, I must particularly commend the other body for sending us a final bill which, by and large, affords wilderness protection for most of the really key proposals, watersheds, and boundaries contained in the House bill. These include the Trinity Alps, the Yolla Bolly additions, Wooley Creek (Marble Mountain additions), Mount Shasta, Ishi, Snow Mountain, Bucks Lake, Granite Chief, the Mokelumne additions, San Joaquin, the John Muir additions, Dinkey Lakes, South Sierra, the Domelands additions, Santa Rosa, and San Mateo Canyon.

One of our foremost goals in drafting the House-passed bill was to maximize the protection of key watersheds containing anadromous fish runs and spawning areas. This was deemed essential because over the past several decades, dam construction, poor logging practices, and other development have curtailed California's once abundant salmon and steelhead runs to the point where the State of California has predicted almost a total loss of the resource by the turn of the century unless actions are taken to protect the remaining wild habitat. Of course, such a loss would have devastating impacts on California's commercial and sport fishing industry, which is estimated to contribute in excess of $60 million annually to the State's economy, and is a key employer in the north coast region. Thus, I am happy to report that, with the exceptions of Dillon Creek, the east fork of Blue Creek, and a portion of Mill Creek, the revised bill protects every key drainage proposed for wilderness in the House bill. The importance of several of these drainages is best illustrated by the following facts:

Yolla Bolly additions: Will protect the upper watershed of the middle fork of the Eel River, which is essential to support as much as 50 percent of California's remaining summer steelhead population;

Trinity Alps Wilderness: Will contain Manzanita Creek which produces more steelhead adults than the entire Lewistron Hatchery and has an excellent silver salmon run; the proposed wilderness also encompasses Little French Creek and the best summer steelhead and spring salmon habitat left in Trinity County;

Marble Mountain additions: Will protect the entire Wooley Creek watershed, the most important spring run summer steelhead run left in the entire Klamath River drainage. Wooley Creek also has important king salmon habitat;

Siskiyou Wilderness: Will contain the main fork of Blue Creek and Eightmile Creek watersheds, both of which have important steelhead and salmon values and contribute high quality water to other spawning streams;

Ishi Wilderness: Will protect key portions of Mill and Deer Creeks which have very significant runs of king salmon and produce as much as 70 percent of the Sacramento River drainage spring salmon runs in dry years.

Mr. Speaker, I am also gratified that the other body has seen fit to concur in our proposals for several other key areas that possess outstanding recreational and wildlife values. While I will not take the House's time to enumerate those areas, I believe it would be useful to provide a brief summary and a few comments on how the Senate compromise deals with the 58 specific wilderness proposals we passed. Therefore, the following list reviews each of the House proposals and also lists instances where the House committee report—House Report 98-40—should be specifically consulted with reference to certain agreements, boundary descriptions, or instructions to the Forest Service which are part and parcel of the consensus reached with the Senate on this bill, but which do not appear in the Senate committee report:

Boundary Peak: Area deleted, but to remain in further planning along with contiguous roadless lands in RARE II areas A&B 5058.

Caliente: Area deleted, but to remain in further planning.

Caples Creek: Area deleted, but to remain in further planning.

Caribou additions: House proposal accepted.

Carson-Iceberg: 160,000 of 190,000 acre House proposal accepted; remaining 30,000 acres to become congressionally designated planning area. See House committee report for discussion concerning North Fork Stanislaus River hydroelectric project, grazing and other matters not discussed in Senate report.

Castle Crags: House proposal accepted.

Chanchelulla: House proposal accepted.

Cinder Buttes: Area deleted.

Cucamonga additions: House proposal accepted except for minor boundary adjustment to exclude Lapis Lazuli mine.

Deep Wells: Area deleted.

Dick Smith: 2,300 acres deleted from House proposal. See House committee report for fire road and other matters not discussed in Senate report.

Dinkey Lakes: House proposal accepted. See House committee report for discussion of off-road vehicle trail.

Domeland additions: House proposal accepted. See House committee report for water project discussion.

Emigrant Wilderness additions: House proposal accepted.

Excelsior Wilderness: Area deleted.

Fish Canyon: Area deleted.

Granite Chief Wilderness: North end deleted—approximately 9,000 acres—to eliminate private land inholdings, otherwise House proposal accepted.

Granite Peak Wilderness Area deleted.

Hauser Wilderness: House proposal accepted. See House committee report for jeep trail discussion.

Hoover additions: Wilderness deleted, but redesignated congressional planning area.

Ishi Wilderness: House proposal accepted—includes 240 acres of BLM land.

John Muir additions-Inyo NF: Deleted.

John Muir additions-Sierra NF: House proposal accepted with minor boundary adjustment to accommodate Vermillion project. See House committee report for jeep trail, private access, and other discussion not mentioned in Senate report.

Lassen Volcanic additions: Deleted.

Marble Mountain additions: House proposal accepted minus 10,000 acres in Portuguese and Morehouse Creek drainages. See House committee report for discussion of boundaries not mentioned in Senate committee report.

Minarets additions: House proposal accepted; to be included in proposed Ansel Adams Wilderness.

Mokelumne additions: House proposal accepted minus 5,000 acre deletion to exclude jeep trails and other ORV routes. See House committee report for more specific boundary descriptions.

Monarch Wilderness: House proposal accepted minus 10,000 acres in Rough Spur Area. Rough Spur and remainder of Kings River roadless area—RARE II No. B5-198—will remain in further planning. See House committee report for further boundary discussion—Boyden Caves, and so forth.

Mount Shasta: House proposal accepted with 100 acre deletion for ski area potential.

North Fork: House proposal accepted.

Pattison Wilderness Area deleted.

Pine Creek Wilderness: House proposal accepted.

Pyramid Peak Wilderness: Wilderness deleted, but area designated as congressional planning area.

Red Buttes additions: House proposal reduced to 16,500 acres, including some lands in Oregon.

Russian Peak Wilderness: House proposal accepted.

San Gorgonio additions: House proposal accepted.

San Jacinto additions: House proposal accepted but transmission corridor exception extended for 10 years. See House committee report for further discussion.

San Joaquin Wilderness: House boundaries accepted and area incorporated into proposed Ansel Adams Wil-

derness. See House committee report for water project, grazing and other discussion not included in Senate report. Final agreement authorizes certain water projects, but prohibits Miller's Crossing Dam or other similar proposals on main San Joaquin River. Boundary drawn to permit raising Mammoth Pool by 25 feet.

San Mateo Canyon Wilderness: House proposal accepted. See House committee report for fire management discussion not contained in Senate report.

San Rafael additions: House proposed accepted.

Santa Rosa Wilderness: House proposal accepted. See House committee report for wildlife management discussion.

Scodies Wilderness: Area deleted, but will remain in further planning.

Sheep Mountain: House proposal reduced to exclude potential ski expansion area on northeast side of Mount San Antonio; see House committee report for other boundary and fire management discussion not mentioned in Senate report.

Silll Hill: Wilderness area deleted, but will remain in further planning.

Siskiyou Wilderness: House proposal reduced from 191,000 to 153,000 acres by dropping Dillon Creek and the east fork of Blue Creek; corridor left for G-O road project, but only if it is determined permissible under other laws. See House committee report for cobalt and other discussion.

Snow Mountain Wilderness: House proposal accepted.

South Sierra Wilderness: House proposal modified by additions in Albanita Meadows, and so forth and deletions on east side to exclude off-road vehicle trails and use areas. (Net reduction of approximately 14,000 acres).

South Warner additions: House proposal accepted.

Thousand Lakes additions: Deleted.

Timbered Crater: Area deleted, but bulk of area will remain in BLM wilderness study status pursuant to section 603 of the Federal Land Policy and Management Act.

Trinity Alps: House proposal modified with 13,000 acre deletion in Siskiyou County and 13,000 acre addition in Horse Linto Area. In my opinion, from a fisheries, wildlife, and recreation standpoint, the Trinity Alps are the crown jewel of the bill's wilderness proposals. The committee is especially grateful to the Trinity County RARE II Advisory Committee and the Trinity County Board of Supervisors for the countless hours they invested in examining the area and in suggesting appropriate wilderness boundaries. The proposed 500,000 acre Trinity Alps Wilderness, which will be the second largest national forest wilderness area in the State, is truly one of the most diverse and unique natural areas left in our Nation, and will insure that a significant chunk of pristine mountain country in northern California is left unimpared for future generations.

Ventana additions: House proposal accepted.

Yolla Bolly additions: House proposal accepted minus 4,000 acres in Mendocino/Tehama Counties. Wilderness will include certain BLM lands. See House committee report for additional duscussion of private inholdings.

Machesna Mountain Wilderness: House proposal accepted; includes some BLM lands.

Bucks Lake Wilderness: House proposal accepted.

Echo-Carson Wilderness: Area deleted.

Mill Creek Wilderness: Area deleted, but will remain in further planning.

Jennie Lakes Wilderness: House proposal accepted.

In addition to its wilderness proposals, the bill before us today contains provisions to facilitate a land exchange with inholders in the proposed wilderness areas, and to remove any wilderness related roadblocks to the North Fork Smith cobalt project. These provisions are similar to the House-passed provisions.

Mr. Speaker, this bill has been a very long time in the making, and is long overdue. It has been over 5 years since the Subcommittee on Public Lands and National Parks conducted a week long field inspection of the California wilderness proposals and our formal public hearings over three Congresses have heard testimony from more than 300 witnesses. Thus, while this bill is not everything that I, or the environmental groups, or certain industry groups might have hoped for, I believe it represents a reasonable compromise that protects the highest quality wild lands, and I urge its approval by the House.

Finally, as this bill will be the last opportunity to do so formally and on the record, I would like to recognize the diligent efforts of those who have worked closely with our committee over the years to develop a California wilderness bill and those who have worked so hard to achieve protection for Mono Lake and the Tuolumne River. In particular, I would like to commend the following conservationists from California who have worked with us and contributed so much to our deliberations on the bill or on individual areas: Russ Shay, California Sierra Club; Jim Eaton, California Wilderness Coalition; Tim McKay, Northcoast Environment Center; Greg Blomstrom, Siskiyou Mountain Resource Council; Dave Vandermark (Marble Mountain additions and Trinity Alps); Bob Morris, Trinity County; Dennis and Connie Corp, Trinity County; Ken Collins, Trinity County; Joseph and Susan Bower, Trinity County; Barbara Schneiders, Santa Rosa; David and Ellen Drell, Citizens Committee to Save Our Public Lands; Everett and Delphine Fountain, Humboldt County; Bob Tetrault, Marilee Jordan, and Jim Dupree, Mount Shasta; Chris Stromsness, Dunsmuir; Charlie Thom, Intertribal Council; Larry Moss, Trinidad; Luis Ireland, Davis; John Moore, San Francisco; Jim Bruner, South Lake Tahoe; George Whitmore and John Modin, San Joaquin Wilderness Association; Joe Fontaine, Sierra Club; Bob Barnes, Fresno; Sally Reid and Barbara Blake, Sierra Club; Ken Croker, San Diego; Eric Gerstung, Sacramento; Dick May, California Trout Inc.; Michael and Sally Yost, Quincy; Patti Hedge, the Wilderness Society; Steve Evans, Chico; Ed Grossweiler, Martha Davis, and David Gaines, the Mono Lake Committee; Andrea Lawrence, Mammoth Lakes; John Amodio, the Tuolumne River Preservation Trust; and Hope Babcock, Audubon Society.

I would also commend the following individuals and organizations representing a broad diversity of interests that worked with us to resolve many difficult issues: Mr. Huey Johnson, former secretary of natural resources for the State of California; Bob Roberts, Sierra Ski Areas Association; Mr. Egon Harrasser, Save Our Skiing; Dave and Gary McCoy, Mammoth Mountain Ski Area; Ed Dunklee, California 4-Wheel Drive Association; Steve DeMaria, formerly of Bendix Forest Products; Terry Bracy, Washington, DC, representative for Cal-Nickel; Terry Adlhock, Washington, DC, representative of the Southern California Edison Co.; Gary Magnuson, former Washington, DC, representative for the State of California; Jerry Bendix, Hi-Ridge Lumber Co.; Jim Niles, Southern Pacific Land Co.; Mr. Zane Smith, regional forester, Forest Service Region 5; John Boudreau, Upper San Joaquin River & Power Authority; and Arnold Cordova, Los Angeles Department of Water and Power. While the final bill may not be entirely to their liking, their cooperation and courtesy in working with the committee to address legitimate concerns has been greatly appreciated.

And finally, while I have already noted the splendid efforts of Senators CRANSTON and WILSON in engineering this compromise, I would like to pay special thanks to Kathy Files of Senator CRANSTON's staff and Jim Burroughs of Senator WILSON's staff for the absolutely outstanding work they did in working with us to achieve a final consensus.

Mr. Speaker, that concludes my remarks, and I once again urge my colleagues' approval of H.R. 1437, as amended.

□ 1430

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. ZSCHAU. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. ZSCHAU. I thank the gentleman for yielding.

Mr. Speaker, I would like to state my strong support for H.R. 1437 as amended by the other body.

Mr. DANNEMEYER. Mr. Speaker, we in California, I believe, are doing an excellent job of participating in the Federal program for the establishment of wilderness areas.

I want to remind my colleagues that in the lower 48 States in these United States we presently have some 23.5 million acres designated wilderness. In California, we have, as I say, I believe more than our share existing. We have 2.7 million acres. We have areas recommended for wilderness but not yet designated, another 4.5 million. And areas still under study for possible wilderness designation, 9.5 million acres.

One has to ask: Where does this stop? In asking that question, really, what does it mean to have a wilderness area? There may be some Members in the Chamber who do not know that.

In a wilderness area you can walk in it, as long as you get a permit from the appropriate administering Federal agency. You cannot pick up any rocks. You can fish there. You cannot build anything in the facility. It is just there.

If a fire happens to start in an area designated as wilderness, even if it happens to be adjacent to a developed area, you cannot go in and fight the fire because the proponents of it say it must be natural.

With respect to the matter of insects, you cannot spray for any insects in a wilderness area. As pointed out earlier, I believe, if you want an area that is in a rundown condition, establish a principle whereby you cannot spray in that particular region designated as a wilderness area.

As I previously indicated in California we have some 34 agencies of the Federal Government that own title to 47.5 million acres of our 100 million acres. I happen to believe that that is close to enough.

When we designate wilderness areas we transgress on the rights of people in the following industries. For instance, in fishing, the Del Norte Fishermen Marketing Association, which represents the salmon fishermen of Del Norte County, is opposed to the concept of wilderness in this bill because it adversely affects their salmon spawning streams, which are included in H.R. 1437.

The fishermen in that area of our State favor multiple-use land development, reasoning that this is the only way that their rebuilding program can continue.

With respect to timber and the jobs of people working in that industry in the State of California, proponents of this bill assert that it will create over 300 jobs. But these figures are based on the idea that jobs will be created by the release of 1 million acres encumbered by the decision of the Ninth Circuit Court of Appeals.

Yet, this bill would withdraw from availability timber that is tied directly to 1,300 jobs in logging and sawmilling. What do we say to those people who are losing their jobs as a result of yet more land grabbed by the Federal Government placed in the title of wilderness?

In the area of skiing, certain elements of the skiing industry in my State oppose the bill. The ski potential in California should be developed to the greatest extent possible. We have 23 million people in our State. Thousands of them, hundreds of thousands, engage in skiing and we have the need for additional skiing areas.

□ 1440

Wilderness designation would preclude or adversely affect potential skiing development, which is not in the best interest of those who want additional ski areas developed.

And then in the area of mineral dependence, most Members I think are probably aware in this country the United States of America is a dependent country for minerals. The Forest Service is updating their mineral information in national forest land. It is apparent that 410,480 acres that are included in this bill will preclude extraction of gold, silver, uraniums, chromite, manganese, copper, and tungsten. Twenty areas that are being frozen in wilderness have been identified as having mineral ratings of 70 to 90 on a score of 100. In other words, we are exacerbating the goal of this country, which should be independent not only for mineral resources but for oil and natural gas as well.

I ask for the defeat of the legislation.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the chairman for yielding time to me.

Mr. Speaker, as the sponsor of H.R. 2474, which called for the designation of the Tuolumne River as a wild and scenic river, I rise in support of the California wilderness bill, H.R. 1437. H.R. 2474 received the support of numerous environmental groups and the majority of the California delegation, and I am particular pleased that the California wilderness bill now designates the Tuolumne River as a wild and scenic river.

The Tuolumne River basin contains municipally owned family camps which provide thousands of urban dwellers with a vista of primal California wilderness.

It seems clear, as I read the legislative history established in the other body by the two distinguished gentleman from California that it is not the intent of the legislation—and I concur—that development be undertaken on the North Fork, the Middle Fork, and the South Fork which would have an adverse impact upon the family camps of Berkeley/Tuolumne, San Jose, Camp Tawonga, and the community of Hardin Flats. If for whatever reason development is proposed on these areas I am prepared to join my colleagues to take whatever action is necessary to preseve this precious resource of thousands of Californians.

As my colleagues may know, the California wilderness bill will classify 1.8 million acres of federally owned forest land as wilderness areas. This legislation represents a monumental effort on behalf of many environmentalists and is a bipartisan effort toward the preservation of a vital natural resource.

I would like to thank Mr. EDWARDS, Mr. LEHMAN, Mr. SEIBERLING, and their staffs for their dedication and work which made inclusion of the Tuolumne River in the California wilderness bill possible.

I would also like to thank the countless environmental groups which labored long, hard hours and supplied me with vital information.

I also want to pay tribute to the great work of my friend and fellow colleague, the late Phil Burton. It is through his untiring efforts which made the passage of this legislation possible. So much so, that the legislation could aptly be named "the Phil Burton bill."

Mr. Speaker, with those brief remarks in support of the bill, I would like to engage the distinguished gentleman from Ohio, the chairman of the subcommittee, in a colloquy with respect to aspects of the legislation which are very important to the people of my district, and I would direct my comments to the gentleman.

As I understand the bill it includes language to ensure that preservation of the main stem of the Tuolumne River would not preclude hydroelectric development on four of the tributaries outside the boundaries of the area designated. However, I understand from the legislative history that tributary development on the North Fork, Middle Fork, and South Fork of the Tuolumne River and on the Clavey River would be consistent with maintaining the integrity of and not adversely affecting the community of Hardin Flat nor the San Jose Family Camp, Berkeley Tuolumne Camp, nor

Camp Towanga as established as of the date of enactment of this bill.

I yield to the chairman for his understanding with respect to the issues I have just alluded to.

Mr. SEIBERLING. I thank the gentleman.

The bill does not extend the normal protections provided in the National Wild and Scenic Rivers Act regarding water resources development for these tributaries. However, during future consideration, if any, of a permit for water resources development by the Federal Energy Regulatory Commission and the Forest Service protection of the town of Hardin Flat and the family camps should be an important consideration, and that is certainly our intention.

Mr. DELLUMS. I thank the gentleman for that statement.

Mr. Speaker, again I rise in support of the legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. SHUMWAY], who is deeply affected by this legislation in his district.

Mr. SHUMWAY. Mr. Speaker, I rise in opposition to this wilderness proposal. While the legislation before us today is far more rational than the extravagant 2.4-million-acre bill passed by the House last year, it hardly reflects responsible forest management or a serious concern for balance. Moreover, a major component of the package is a highly controversial wild and scenic river designation which has not been considered on the floor. In its favor, the bill does release a considerable chunk of specific roadless areas for nonwilderness uses—although it simultaneously leaves an additional 1.7 million acres in further planning—or de facto wilderness. Moreover, many units in the bill, such as the proposed Emigrant Area and the Mono Lake National Forest Scenic Area are beautiful tracts that certainly deserve the protection afforded by very limited management. Nevertheless, the total amount of resources to be locked up and activities to be prohibited are plainly excessive. Excessive preservation is not conservation.

In the area that I represent, there is still genuine, widespread concern about the probable effects of the bill. These specific concerns have been discussed in previous debate and I see no need to reiterate them now. These objections are not founded upon any sort of built-in frontier-style capitalism or animosity toward the concept of natural wilderness. Indeed, most residents, including myself, recognize that moderately sized and strategically located wilderness areas benefit society by protecting pristine wildlife habitat and watershed. The major concern lies in the simple fact that the 1.8-million-acre proposal would strictly prohibit many legitimate forest activities on hundreds of thousands of highly productive acres. A wiser policy choice would be to leave our options open for posterity. A wiser policy choice would reflect the fact that excessive preservation is not conservation.

Even from a standpoint of environmental awareness, it just doesn't make sense to completely restrict logging, hardrock mining, range and stand improvement, watershed management, nonwilderness recreation, and other competing choices from such large tracts of our national forest—especially when such operations can be made compatible with esthetic and other intangible values. It is also important to remember that wilderness classification is not always the most appropriate mechanism for protection of resource values. Less restrictive designations do not imply uncontrolled development. My constituents place heavy emphasis on the ethic of multiple-use husbandry of public lands because it is the approach that provides the greatest good for the greatest number in the long run. These people revere their surroundings and understand that excessive preservation is not conservation.

Unfortunately, this so-called compromise will create uncertainty about the present and future quality of life in many rural communities. Once again, I believe that the House is faced with the choice of voting up or down on a wilderness bill that, while well-intended, reflects the trendy fantasy that public lands are sacred only to the degree they escape human needs. Once again, I believe that Congress has been relatively insensitive to the views and concerns of many who have large acreage or waterways at stake. Once again, I believe that Congress finds itself on the verge of awarding wilderness victory to the side with the greater passion and the inferior case.

Lands managed for many uses are the real national treasure because they can provide a multitude of amenities in perpetuity without impairing environmental considerations or future productivity. I realize that the great majority of Members are not directly affected by the California Wilderness question, and I realize further that this is an election year and we have here an environmental vote which perhaps will score points with that community. Still, I ask you, as my colleagues, to vote against this specific bill. It is not a memorial issue. It is not a cheap wilderness issue. We are not going through these motions just to placate our constituents back home or to serve the needs of special interests. This is an issue of fairness concerning real people with real needs. Please do not import forest mismanagement and unemployment into districts such as mine that can ill afford it. The underlying question is not whether wilderness in California is good or bad. It is good. The underlying question is how much wilderness is enough. This bill is far too excessive, and excessive preservation is not conservation.

Finally, Mr. Speaker, let me add that the request to defeat this proposal is not just coming from a few of us Californians who perhaps have narrow and what may be seen to be parochial interests. It is a request that has been echoed in our State by the State Chamber of Commerce, by the Farm Bureau, by the Wildlife Federation and many other responsible groups, and last but not least of all, by our Governor, George Deukmejian.

Mr. Speaker, I am including as part of my remarks a mailgram from Bob Maben, president, California Licensed Foresters Association; a letter from Gerald H. Upholt, director, legislative and governmental affairs, California Wildlife Federation; a letter from Scott Horngren, recording secretary, Public Land Users Alliance, on behalf of 19 other organizations; and a newspaper article from the Sacramento Union:

[Mailgram]

SACRAMENTO, CA, *July 31, 1984.*

Congressman NORMAN SHUMWAY,
House Office Building, Washington, DC.

California Licensed Foresters Association strongly opposes the Cranston-Wilson compromise on the California Wilderness bill which now adds 1,800,000 acres to existing wilderness.

CLFA represents some 350 foresters, who apply their skills in this state to land management and resource development. This association is actively engaged in working for appropriate regulations of timber harvest and land use.

CLFA opposed the Burton bill, which would have placed an astounding and unsupportable 2.3 million acres in a non-use wilderness classification. We have identified specific areas that are potentially highly protective and which currently provide part of the base for annual harvest volume. The Cranston bill would go even further. The original Wilson wilderness bill of 1.2 million acres reflects the study and recommendations made by the Forest Service under both the Carter and Reagan administrations. We could support legislation which would include a minimum number of productive timberland acres: lands which can also provide vast camping and other values for all of the people, rather than just the few who can backpack.

The Cranston-Wilson compromise ignores important resource facts as well as the pleas of those who really know and care. In the present compromise bill there are only a few areas which contain most of the productive timber lands. These could be recovered by a 100,000 acre deletion and would not decimate the wilderness. They are:

Siskiyou Mountains (north slope of the Trinity Alps), Yolla Bolly (western portion), Bucks Lake (Plumas County), Pincushion (portion of the proposed "San Joaquin" now Ansel Adams Wilderness), Rancheria (middle segment of high productive and over mature Timberlands), South Sierra (productive area surrounding Albanita meadow).

CLFA urges you, as chairman, to demand that all maps showing wilderness, "released further planning" and "areas not to be released" be provided the interested public and the passage of the bill to the Senate floor be delayed until these have been studied and the economic impacts on the industries, dependent communities and recreational opportunities have been fully accessed and the losses known.

Yours Truly,

BOB MABEN,
President,
California Licensed Foresters Association.

CALIFORNIA WILDLIFE FEDERATION,
Sacramento, CA, August 17, 1984.

Hon. PETE WILSON,
U.S. Senate, Hart Senate Building, Washington, DC.

DEAR SENATOR WILSON: This is to notify you of the opposition of the California Wildlife Federation to S-1515, legislation authored by you to add 1.8 million acres of land to the California wilderness.

It is our strong position that the 1.2 million RARE II acres originally advocated by yourself as the maximum acceptable addition to wilderness lands in California is sufficiently generous and adequate. To "compromise" on the higher amount of 1.8 million acres is not only inappropriate, but is excessively contradictory to the principle of multiple uses of our public lands.

This "compromise" will result in depriving the overwhelming majority of California citizens, and those visiting from other states, of an opportunity to see, use, and enjoy an additional 600,000 acres of their forest land heritage. Only those individuals fortunate enough to have the health, time, money and other resources necessary for cross country hiking, backpacking, or horseback riding will be able to use the wilderness, even though these lands belong to all U.S. citizens.

S-1515 should immediatley be amended to add only the 1.2 million acres you originally agreed upon to the California wilderness. This is the maximum amount that good conscience and sound thinking should allow.

If you have any questions regarding our position on this matter, please do not hesitate to contact me.

Sincerely,

GERALD H. UPHOLT,
Director, Legislative and Governmental Affairs.

PUBLIC LAND USERS ALLIANCE,
Sacramento, CA, August 30, 1984.

Hon. NORMAN SHUMWAY,
House of Representatives, Washington, DC.

DEAR MR. SHUMWAY: The undersigned organizations in cooperation with, or as members of, the Alliance are very much opposed to the Senate version of H.R. 1437, the California Wilderness Act. As amended, H.R. 1437 proposes an unprecedented lockup of public lands in our state.

Existing wilderness in California now includes 2.2 million acres in 23 National Forest wilderness areas, and 600,000 acres in five National Park wilderness areas. H.R. 1437 would more than double wilderness acreage in our state. It would add 3.2 million acres in National Forest and National Park lands to the National Wilderness System. Worse yet, nearly 1.9 million acres, specifically designated as "further planning," will remain as de facto wilderness.

We are particularly concerned with the legal effect on present and future uses that congressional designation would have on the 68 areas named for "further planning." These areas were not specifically identified in H.R. 1437 when approved in 1983 by the House. Most of these areas are in Southern California where recreational resources are already strained to capacity. Implementation of this bill is certain to antagonize many of your constituents who currently have vehicle access to these areas and are unaware of the boundaries or details of what is included in H.R. 1437.

We have learned from the U.S. Forest Service, after their review of detailed topographic maps which have not been released for public examination, that some modification of boundaries, such as those at Bucks Lake, could preserve essential wilderness characteristics while permitting continued intensive recreation use outside of the adjusted boundaries. In many instances existing road access could be continued. Congress has recognized pre-existing uses in other legislation.

As the sponsors of the Senate amendments have admitted, recreation for Southern California is the big loser if the bill passes in its present form. Over 1,000 miles of existing roads and vehicle trails will be closed. Gates and roadblocks will be installed on roads that are now used for access to camping, picnicking, hunting, rock collecting, etc. Particularly aggrieved will be those folks who by reason of age or health, including individuals in wheelchairs, will be precluded from entry to areas that are now open to wheeled vehicle use.

Provision of badly needed supplemental ski facilities for Southern Californians will be adversely impacted by the temporary nature of the "release language" in the bill. The bill does not adequately protect major potential ski developments such as Mt. Baldy and Jennie Lakes.

Language should be added to the bill that would direct the Forest Service to mitigate lost recreation uses by encouraging increased recreation activity on other lands, consistent with applicable laws.

It is particularly distressing to us that the Senate amendments will prohibit completion of the hydroelectric power studies on the Tuolumne River. Provisions of the new Title II in H.R. 1437 are not appropriate in a wilderness bill. Provisions of this title have never been approved or debated on the floor of the House. In fact no recommendation for stopping development on or adjacent to sections of the Tuolumne River below San Francisco's Hetch-Hetchy power project has been made by any committee of the House. This title should be removed.

H.R. 1437 in its present form is not in the interest of your constituents and we urge you to correct the deficiencies in the bill.

Sincerely,

Scott Horngren, Recording Secretary, on behalf of: Leland H. Ruth, President, Agricultural Council of California; Jerry Counts, Land Use Coordinator, American Motorcyclists Assn.—Dist. 7; Louis B. Allen, Asst. Executive Director, Association of California Water Agencies; Lawrence Calkins, President, California Association of Four-Wheel Drive Clubs, Inc.; William Staiger, Exec. Vice President, California Cattlemen's Assn.; John T. Hay President, California Chamber of Commerce; Henry J. Voss, President, California Farm Bureau Federation; Ray B. Hunter, Exec. Vice President, California Mining Assn.; Ernest Geddes, President, California Municipal Utilities Assn.; Donnetta Carnagey, Vice President, California Off Road Vehicle Assn.; David Austin, Master, California State Grange; Gerald Upholt, Director/Government Affairs, California Wildlife Federation; Alan Isley, President, Motorcycle Industry Council; Glenn Odell, President, National Offroad Bicycle Assn.; Marie Brashear, President, National Outdoor Coalition; Suzanne Kuehl, President, Regional Council of Rural Counties; Mark Anderson, Director, Specialty Vehicle Institute of America; Joe Tomascheski, President, Western Timber Assn.; Alfred Kramm, Director, World of Rockhounds Assn.

[From the Sacramento Union, July 13, 1984]

DUKE ATTACKS WILDERNESS PLAN—CRANSTON, WILSON 1.8 MILLION-ACRE COMPROMISE CALLED TOO MUCH

EUREKA.—Gov. George Deukmejian Thursday attacked the compromise plan by Sens. Alan Cranston and Pete Wilson to put another 1.8 million acres of state wilderness under federal protection.

Deukmejian said he would support including 1.2 million acres of California land in the federal wilderness act, but complained that 1.8 million acres took too much land out of timber production at a time of high unemployment in the area.

Deukmejian's comments came after a private meeting with two dozen leaders of the north coast timber industry in Ukiah on his first stop of a two-day swing through northwestern California.

"He was just there to listen. He didn't make any promises," said John Mayfield of Willits, a timber land owner and deputy director of conservation when Ronald Reagan was governor.

The governor then flew to Eureka for a speech to the Chamber of Commerce and meetings with Humboldt County GOP leaders.

The Republican governor was met at the Eureka Inn by 50 demonstrators, organized by the local chapter of the National Organization for Women, protesting his recent budget veto of $77 million for comparable worth pay.

The original wilderness bill, authored by the late Rep. Philip Burton, would have put 2.4 million acres under federal protection.

A substitute measure by Cranston called for 3.5 million acres, while Republican Wilson and the Reagan administration wanted 1.2 million acres in the bill. They compromised on 1.8 million acres.

"I do not think that there is any justification for adding to it," Deukmejian said. "Putting more acreage in will affect consumers by raising prices. It also affects workers, especially in north coast counties where there is high unemployment."

Deukmejian said that surveys had been done on only 1.2 million acres of the proposed wilderness land.

Mendocino County has an unemployment rate of 9.9 percent because of the lagging lumber industry and a decline in salmon fishing. The state unemployment rate last month was 7.5 percent, while the national level was 7.1 percent.

Deukmejian also heard gripes from the lumbermen about the state's environmental regulations for timber harvesting, and Southern Pacific Railroad's campaign to abandon service on the 180-mile line between Willits and Eureka.

Deukmejian said he would defer action on the proposed abandonment of the Willits-Eureka rail service unless the Interstate Commerce Commission approves Southern Pacific's request to close the line.

"If it gets to that point, we will certainly deal with it," Deukmejian said.

He said he would prefer to see the line under private operation rather than run by a proposed five-county authority made up of officials in the lines' service area.

□ 1450

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. I thank the chairman of the Interior Committee, Mr. UDALL, for yielding me this time, whose great leadership has made this bill possible, and the chairman of the subcommittee, Mr. SEIBERLING, whose countless hours in negotiations have also made this bill possible.

Mr. Speaker, the bill stirs memories of our great colleague, Phil Burton, whose boundless and endless energies went into devising the negotiations and the compromises that made this bill possible as well. Phil is ably replaced by his wonderful wife, SALA, whose great, great good works on this bill have also played a major role in bringing it to the floor today and assuring its passage.

I believe, as Phil Burton did, that once wilderness is gone, it cannot be replaced. While we have been ceded many millions of acres in the wilderness system in this United States, we must remember that there is probably more asphaltic surface in this country than there is wilderness, and that this is little enough to reserve for our own use and our children's use for scientific endeavor and for all the various needs of our fisheries, of animal life, of genetic storehouses that is essential if we are to continue to exist as a civilization as man overpopulates this Earth.

I find it absurd to say that it is too much when I know that in the Trinity Shasta National Forest it amounts to a few percent; 2, 3, or 4 percent of the annual allowable harvest. An amount that is insignificant, particularly considering the fact that most of the timber is being exported to other counties. For this reason, I believe this is a wonderful bill, and I know the House will endorse it.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this important compromise on the California Wilderness Act.

As we all know, Mr. Speaker and especially those of us who have been involved in this effort, this compromise is the product of many years of hard work and negotiation. I am pleased to see the deadlock on California wilderness finally broken.

This legislation is, I believe, balanced—a fair and equitable compromise that serves to protect and preserve lands worthy of wilderness designation. And, just as importantly, the bill releases many other areas from further study for appropriate resource management, including recreation and economic development. To further delay the enactment of this important legislation would be detrimental to everyone since over three-fourths of California's national forest roadless land would remain in a wilderness limbo, constraining development and recreational use of the land, as well as suspending protection of the State's remaining scenic and natural resources. In addition, restudying these issues would require more time and more money which we simply cannot afford, especially in view of our escalating Federal debt.

In my own district, this important bill would afford wilderness protection to one of the finest remaining roadless areas in the Los Padres National Forest—the proposed Dick Smith Wilderness Area. I have introducted separate legislation the last three Congresses to create the Dick Smith wilderness and I am very pleased to see the area included in this compromise legislation.

Named after the late naturalist, artist, craftsman, and journalist, Dick Smith, the 64,700 acres included in this area meet, without question, all the criteria for wilderness as outlined in the Wilderness Act of 1964. The numerous ecological, geological, and scenic resources in this area need, and certainly deserve, the protection that wilderness designation provides. It is also a fitting tribute, I believe, to name this area in honor of the outstanding conservation achievements of Dick Smith who gave so much of himself in preserving the wilderness qualities of this study area.

Likewise, I am very supportive of the language in this compromise which provides needed protection for the Tuolumne River by designating it as a component of the Wild and Scenic Rivers Systems. This beautiful California waterway depicts an outstanding balance between the numerous competing uses which confront many of our Nation's rivers. It is currently a working river with several dams and powerhouses supplying water and power to homes and farms in the San Francisco area. In addition, the undeveloped 83-mile stretch of the river has provided beauty and enjoyment for rafters, hunters, fishermen, and naturalists for hundreds of years. Being a cosponsor and strong supporter of the House legislation (H.R. 2474) to protect the Tuolumne, I am pleased that the crafters of this significant compromise recognized the need to preserve the remaining scenic, natural, and recreational values of the river since no proof has yet been presented to substantiate the claim that additional development is needed to meet the power and water requirements of this area. Moreover, I agree with the intent of the framers of the compromise that any tributary development on the north, middle, or south forks of the Tuolumne and Clavey Rivers should not adversely affect the family camps located on these tributaries. These camps, which provide important recreational opportunities for many urban families seeking the enjoyment and beauty of nature, should definitely be maintained. I have attached a letter on this issue from Senator PETE WILSON.

I would also like to indicate my support for the provisions in this compromise which seek to protect Mono Lake. As you know, Mr. Speaker, identical legislation to establish the Mono Lake Basin Scenic Area was passed by this body in July. As a cosponsor and supporter of the original legislation (H.R. 1341), I urge my colleagues to support this language to protect this unique California resource.

Finally, I believe the passage of this legislation would be a fine tribute to the late Phil Burton whose devoted leadership was so instrumental in moving this bill along for many years, resulting in this compromise before us today.

The California wilderness proposal currently enjoys strong bipartisan support by the California House delegation, both U.S. Senators from the State, and numerous conservation organizations. I therefore urge all of my colleagues to vote for this fair and equitable compromise to insure that all Americans and future generations may enjoy the beautiful and unique natural resources California has to offer.

At this point I include the following letter:

U.S. SENATE,
Washington, DC, August 28, 1984.

Hon. ROBERT J. LAGOMARSINO,
Member of Congress, House of Representatives, Washington, DC.

DEAR BOB: Thank you for your letter regarding the community of Harden Flat and the three family camps on the South Fork and Middle Fork of the Tuolumne River.

As you know by now, language protecting the family camps and harden Flat was not included in the Senate passed version of H.R. 1437, the California Wilderness Act of 1984. The Committee on Energy and Natural Resources was opposed to including any bill on report language on this subject at such a late date. Consequently, Senator Alan Cranston and myself chose to address this subject in a floor colloquy during the consideration of this bill. As the principal Senate authors of this bill, we agreed that it was not our intent that any future development of the middle Fork and South Fork would adversely impact the existing family camps and community of Harden Flat. If this statement of intent proves insufficient

on deterring any such proposed development, we are prepared to take such action as may be necessary to help preserve these communities for the use and enjoyment of generations to come.

With best regards,

Sincerely,

PETE WILSON.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the omnibus California conservation bill before us today. This historic compromise exemplifies the very best of the legislative process, and I am proud to stand with my House and Senate colleagues who have put aside regional and partisan differences to forge longlasting protection of, and national recognition for our magnificent California landscape. This bill does not contain everything that every interest wants. However, it does represent the best possible compromise between Republicans and Democrats, Congressmen and Senators, environmentalists and developments. It is truly a product that future generations will cherish.

H.R. 1437 protects three quite different, but equaly significant California natural resources. Title I of the bill sets aside 1.8 million acres of wilderness ranging from the Trinity Alps in northern California to the Ansel Adams Wilderness in central California to San Bernardino in southern California. It also releases in excess of 150 million board feet annually for timber harvesting. This bill is supported by the Sierra Sky Association, because it opens up more than a dozen new sites for that recreation. Title II of the bill adds 83 miles of the Tuolumne River to our National Wild and Scenic Rivers System. Finally, title III of this bill creates the Mono Basin National Forest Scenic Area.

Mr. Speaker, I have the tremendous pleasure and responsibility of representing two of the three areas in this legislation in their entirety—Mono Lake and that portion of the Tuolumne River to be designated as wild and scenic. With minor technical revisions, the bill before us today incorporates the language of H.R. 5083 and H.R. 1341 which I introduced into the House of Representatives earlier this Congress.

At this time, I would like to make a few clarifying points regarding some provisions of title I of H.R. 1437. Although Senate report language is less detailed than House Report No. 98-40, H.R. 1437 as amended by the Senate will have precisely the same effect on a small hydro project in Calaveras County, known as the Spicers Reservoir Enlargement, as described in the House report. That is, by drawing the wilderness boundary line to exclude portions of unit B5986 located in and around Gabbott Meadow and Highland Creek, it is the Congress' intention to terminate the further planning status of the excluded areas. These excluded lands will thus be available for nonwilderness multiple uses such as possible future construction of the Spicers Dam enlargement now under FERC Project No. 2409.

Another area in my district affected by title I of H.R. 1437 as amended by the Senate is a private inholding in the John Muir Wilderness additions referenced in House Report No. 98-40 on pages 21 and 22. Again, although the Senate report language is less specific, the House and Senate are in agreement with House report language assuring continued primitive road and telephone access to property owned by Mrs. Karl Smith, Fred Ross, and David and Miriam MacKenzie.

H.R. 5083, now title II of H.R. 1437, is designed to protect the main stem of the Tuolumne River from further hydroelectric development. At the same time, this language was specifically developed to acknowledge that the county of origin, Tuolumne, has never directly benefitted from the vast water resources within its boundaries. Therefore, it is my intention that small county hydro projects on the North Fork, Middle Fork, and South Fork of the Tuolumne River or on the Clavey River will not be precluded because of designation of the main stem of the river as wild and scenic, but will follow the usual Federal Energy Regulatory Commission procedures. Any proposed development on the Cherry Creek tributary of the Tuolumne River, however, will be governed by the 1968 National Wild and Scenic Rivers Act as amended.

H.R. 1341, now title III of H.R. 1437, received the unanimous approval of this House over a year ago. It will give national recognition to the jewel of the eastern Sierra Nevada Mountains, Mono Lake. At the turn of the century, John Muir described the Mono basin as a land of "Frost and Fire" and fought to add it to Yosemite National Park. We have not achieved John Muir's dream, but we have preserved a holy place for future generations of Americans.

Because of the late action on this legislation, it will be necessary for the U.S. Department of Agriculture to absorb necessary startup costs to implement critical features of title III of this legislation. In particular, the Chief of the U.S. Forest Service should develop a management plan and initiate the National Academy of Science study in the Mono basin at the earliest possible date from already authorized funds.

I want to clarify an additional point with respect to title III of this legislation. This language is intended to be entirely neutral on the pending controversy between the State of California and the Federal Government over certain areas of the bed of Mono Lake which have been or may be left uncovered as a result of diversions and declining lake levels. Determination of the ownership of the uncovered bed of Mono Lake is currently before the Federal courts, and title III of H.R. 1437 is not intended to have any effect whatsoever on these proceedings.

A final and key fact needs to be reiterated with regard to the impact of title III on water rights. As the House and Senate bills noted, legislation to create the Mono Basin National Forest Scenic Area shall have no effect upon California water rights law or on the water rights granted to the city of Los Angeles. Therefore, as the author or the House bill, I want to underline the significance of the words selected to describe the Congress's intent. H.R. 1341, House Report No. 98-291, and H.R. 1437 clearly state that it is the intent of the authors of this legislation that both management of the scenic area and the management plan for natural protection shall be consistent with the protection of water rights

* * *

Mr. Speaker, I would like to close my remarks by recognizing that without the efforts of the late Phil Burton, California wilderness legislation would not be a reality today. I am saddened that he is not physically with us today, but his spirit cannot be denied. I want to express my strong personal gratitude to my chairmen and colleagues JOHN SEIBERLING and MO UDALL, and to Congresswoman SALA BURTON, RON DELLUMS, DON EDWARDS, and BOB LAGOMARSINO; they deserve the great appreciation of all Californians for their leadership and hard work on this omnibus California conservation bill. We also owe our California Senators ALAN CRANSTON and PETE WILSON special thanks for months of good faith efforts to craft a balanced wilderness proposal for our State. H.R. 1437 is a solid, bipartisan piece of legislation, and I call upon this House to enact it into law.

□ 1500

Mr. SEIBERLING, I would like to ask you a question for the purposes of clarifying congressional intent with regard to the portion of section 301 of title II of H.R. 1437 that makes reference to the Raker Act.

It is the gentleman's understanding that this provision is only designed to make clear that the enactment of H.R. 1437 will not allow anything other than the operation, maintenance and repair of existing facilities that were authorized and constructed in accordance with the Raker Act?

Mr. SEIBERLING. If the gentleman would yield, yes; that is the intent of this provision.

Mr. LEHMAN of California. I thank the gentleman.

Furthermore, it is my view, that has been substantiated by a congressional research service legal opinion that with or without enactment of H.R. 1437, new congressional authorization would be required to increase the size of O'Shaugnessy Dam or related facilities.

Mr. Speaker, I am including the following information for the benefit of my colleagues:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, Dec. 19, 1983.

To: Honorable Richard Lehman.
From: American Law Division.

Subject: The Hetch Hetchy Water Project.

By the "Raker Act" of 1913,[1] Congress granted the City and County of San Francisco, subject to express conditions, certain lands and rights-of-way in Yosemite National Park and the Stanislaus National Forest. The legislation was intended to assist the City in constructing and maintaining a means of supplying water for the domestic purposes of the City of San Francisco and other public bodies and included an electric power facility. You have informed us that a study has recommended that the height of the O'Shaughnessy Dam that was built as part of the Hetch Hetchy Project and is located in Yosemite National Park, be increased in order to expand the reservoir capacity and supply additional water to San Francisco. You have asked us if the dam can be raised under the existing authority, or whether new authority is needed.

Section 9(k) of the 1913 Act states: "That when the said grantee begins the development of the Hetch Hetchy Reservoir site, it shall undertake and vigorously prosecute to completion a dam at least two hundred feet high, with a foundation capable to supporting said dam when built to its greatest economic and safe height."

This language might be interpreted as an indication that Congress contemplated that the dam might be raised in the future. Other parts of the act, however, emphasize that the project was to be completed promptly, and do not speak in terms of expansion. See, e.g., section 2, which speaks of the filing within three years of maps showing the extent of the facilities to be constructed, and section 5 which states that the "construction of the aforesaid works shall be prosecuted diligently, and no cessation of such construction shall continue for a period of three consecutive years," and authorizes a forfeiture of the rights of the grantee for failure to diligently construct. It appears from these portions of the statute that Congress intended the project to be a coherent whole that was to be *completed* within a few years after enactment.

The principal committee report confirms that the project was to be promptly constructed and that its features were not seen as openended or expandable. The House Report,[2] a copy of which is attached, explains the project at length. (The Senate Report [3] is only one page long and cross references the House Report). Reference is made to a report of the Corps of Engineers that indicate that the maximum height of the dam could be 325 feet.[4] The Committee analysis of the bill explains section 9(k) on the dam height: Paragraph (k), section 9, requires San Francisco to build a dam at least 200 feet high.

(This means that the city will expend from $500,000 to $1,000,000 in excess of initial expenditures necessary for its immediate need. The intent is to build the dam high enough to provide adequate storage to meet the conditions of the grant, and is primarily a benefit for the irrigationists.) [5]

Given the fact that the dam was to be built at nonfederal expense, the language of section 9(k) therefore appears merely to establish a minimum height to insure that the project was worthwhile, but also gives the nonfederal builders flexibility to decide how much storage was desired and how much money to spend. The balance of the language may merely have been meant to impose good workmanship requirements of the kind contained elsewhere in the bill.[6]

Section 1 of the Act indicates that the purpose of the grants is the development of a water supply and delivery system for "conveying water for domestic purposes and uses to the city and county of San Francisco and such other municipalities and water districts as, with the consent of the city and county of San Francisco, or in accordance with the laws of the State of California in force at the time application is made, may hereafter participate in the beneficial use of the rights and privileges granted by this Act." This language as to other cities is repeated in the section 8 definition of "grantee". Therefore, it could be argued that the dam could be raised in order to provide additional cities with water as they later participate in the benefits of the Act.

Again, however, the statute as a whole seems to contemplate the project as a completed whole and that these possible future needs of other towns in the San Francisco area would be reflected in the dam height and storage capacity San Francisco chose.

The scope and purposes of a project are of central importance in analyzing the extent to which a federal constructing agency such as the Army Corps of Engineers may exercise discretion to modify a project:

The 1951 Chief of Engineers' report made a comprehensive review of the scope of executive authority to modify projects previously approved by Congress, setting forth general principles as follows:

The Corps of Engineers recognize that this latitude for changes and modifications of authorized projects represents an important delegation of authority, and the Corps has attempted to exercise that authority carefully. In general, the Corps of Engineers considers that there are two types of modifications:

a. Modifications and changes of a project which are necessary for engineering or construction reasons to produce the degree and extent of flood protection or the extent of navigation improvement intended by Congress are within the latitude delegated to the Corps of Engineers. Examples of such changes are shift of a dam to a nearby better location; provision of a greater storage capacity required by more complete flood records; shifts in alinement of channels indicated by more detailed surveys; or changes from a concrete to an earth structure because of lack of proper concrete aggregate. These may be considered generally as engineering modifications.

b. Moderate extensions of project scope such as those required to provide flood protection to adjacent urban areas which have developed since the project was authorized, or to provide better channel alinement or larger navigation locks to meet the needs of developing commerce. It would obviously be uneconomical and contrary to the intent of Congress to construct obsolete projects, or to omit flood protection for a part of a city when it was the intent of Congress to authorize flood protection for that city. These may be considered generally as project modifications necessary to meet changed physical and economic conditions.

* * * * *

On the other hand, the Corps of Engineers has considered that it does not have latitude to make modifications which materially extend the scope and change the functions of the project authorized by Congress. It considers that it is necessary to bring a proposed modification of an authorized project to the attention of Congress if further study after authorization shows that:

a. The scope or functions of the project will be materially changed thereby.

b. The plan of improvement will be materially changed from that originally authorized by Congress.

c. There are special circumstances which were not known to the Corps of Engineers or recognized by Congress when the project was authorized.

No hard-and-fast rule can be cited as governing when a project modification should be presented to Congress for further consideration. Increased cost over the estimate presented to Congress as a basis for authorization is not necessarily a governing criterion, as the major factors giving rise to increased costs are separate and apart from the intent of Congress in authorizing an improvement, and as the Appropriations Committee of Congress are advised of cost changes year by year.[7]

Increasing the height of this dam might well be beyond the authorization in this instance even for federal construction as a modification that would materially change the scope of the project in response to circumstances that Congress clearly was aware of in the first authorization. Congress gave San Francisco the opportunity to determine in the project planning how much storage capacity to build. Also, in the years since the completion of the project, there has developed increased recognition of the conservation values of National Parks and of environmental concerns in general. This development lends credence to the argument that enlarging the dam and reservoir constitutes a significant modification of the project for which new authority is needed.

Furthermore, the dam actually was constructed by nonfederal entities. To increase the dam and hence its storage capacity would, of course, raise the level of the water in the reservoir, thereby submerging the surrounding lands. The documentation of the 1913 Act indicates that much of this land is federal and is within a national park. Section 9(t) of the Act required the grantee to convey to the United States title to any and all tracts of land then owned by the grantee within Yosemite and the part of the national forest adjacent thereto. Therefore the lands that would be submerged appear to be federal, and they could not be submerged and their value impaired or destroyed without the consent of Congress. Congress is granted the authority to dispose of federal property under Art. IV, Section 3 of the Constitution and this authority cannot be interfered with or embarassed in its exercise by state legislation.[8] If the 1913 Act cannot fairly be said to grant Congres-

Footnotes at end of letter.

sional consent and authority, new authorization must be obtained.

In summary, new authorization seems to be necessary to increase the height of this dam now because: 1) the 1913 Act appears to have intended the project to be constructed and completed shortly after authorization; 2) the 1913 Act appears to have included the general language as to the height of the dam to give the nonfederal builder the flexibility to choose the desired height within a certain range; and 3) federal lands, including park lands, would be flooded by the proposed increase.

We hope this information is useful to you.

PAMELA BALDWIN,
Legislative Attorney,
American Law Division.

DECEMBER 19, 1983.

FOOTNOTES

[1] Act of December 19, 1913, c. 4, 38 Stat. 242.
[2] H.R. Rep. 41, 63d. Cong., 1st Sess.
[3] S. Rep. 113, 63d. Cong., 1st Sess.
[4] H. Rep., supra., at 18.
[5] Ibid., at 14.
[6] See, e.g. section 4 requiring structures to be "sightly and of suitable exterior design and finish" and section 9 on proper sanitation regulations for reservoirs.
[7] *Environmental Defense Fund, Inc.* v. *Alexander,* 467 F. Supp. 885, 900-901 (N.D. Miss. 1979), citing a 1951 Report on the Federal Civil Works Program as Administered by the Corps of Engineers, Appendix C. 82d Cong., 2d Sess.
[8] *Gibson* v. *Chouteau,* 13 Wall. 92, 99, 80 U.S. 92 (1871).

The SPEAKER pro tempore. The Chair would observe at this point that the gentleman from Arizona [Mr. UDALL] has 9 minutes remaining and the gentleman from Alaska [Mr. YOUNG] has 12 minutes remaining.

Mr. YOUNG of Alaska. At this time, Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. I thank the gentleman for yielding to me at this time.

Mr. Speaker, I rise with some reluctance, but I do rise in opposition to the Senate amendments to H.R. 1437, and I do so knowing that had a more open rule been provided, we could have been closer to a consensus on this issue.

There remain some serious conflicts in use throughout the areas delineated in the legislation. We are stifling economic growth by mandating unemployment not only in central California but in northern California, where the economy has not yet recovered by additions to the Redwoods National Park.

In my 17th Congressional District, which encompasses both the Sierra and Sequoia National Forests and 21 percent of the lands impacted by H.R. 1437, only four lumber mills operate. The question the lumber operators pose to me is "Which of the three of us shall survive if this legislation shall be passed?" I cannot answer this and I cannot participate in legislation that so overtly forces that magnitude of economic discrimination.

As I have stated each of the three times the House Committee on Interior and Insular Affairs has reported this legislation, recreation as a general issue is going to be greatly restricted. Miles of roads and trails built and maintained by organized of road vehicle and bike clubs are purposely included in wilderness so that the people will be denied the use or further restricted in the use of public lands. Indeed, I envision locked gates, artificial barriers, and more mistrust of the Federal Government as the purity of the legislative effort today is translated into the reality of regulation tomorrow.

I have stated repeatedly that neither H.R. 1437 as passed by the House or amended by the Senate are compromises. The compromises that many of us prefer is between 900,000 to 1.4 million acres of more wilderness, 2.7 million acres in further planning, and 2.6 million acres designated as nonwilderness. Instead, we are today looking at 1.8 million acres as wilderness and 1.8 million acres of further planning—de facto wilderness—and 1.6 million acres released for all other uses.

In conclusion I should like the record to show that what is being done today in the peoples' name might well become the bellweather of an observation made to me by a constituent. It is his contention that wilderness designation has a detrimental environmental impact of the Federal estate because it forces all uses of the remaining public lands to become concentrated to an intensity destructive of the land itself.

When the remaining lands require protection for the excessive use by the public that demands more and more recreational opportunities, great restrictions will be placed so that to enjoy the multiple-use lands managed by the Forest Service, the National Park Service, and the Bureau of Land Management will require permission that will be difficult to obtain. I hope he is wrong, but I am aware of these conflicts already developing.

But for reconsideration of some 300,000 to 400,000 roadless acres of forest lands, I, too, could support much of what has been accomplished. But I have had to struggle against inflexibility and in doing so I hope that those so eager to day to set aside so much for so few will be willing to revisit that which we are about to commit in a few years.

I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in strong and enthusiastic support of H.R. 1437, the California Wilderness Act. We will consider few, if any bills this entire Congress which will have such a visible and lasting impact upon the people and the land of California.

It has taken a lot of work to bring us to this exciting day. Our late colleague Phillip Burton first introduced this legislation on February 15, 1983. Since that time H.R. 1437 has gone through an extraordinary process of review, debate, and consideration. Many fine legislators have worked to craft the sound legislation now before us.

Others today will speak about the significance of the creation of $1.8 million acres of wilderness; and the creation of the Mono Basin National Forest Scenic Area. I would like to take a moment and speak about another aspect of this bill, the protections that are afforded the Tuolumne River and the camps along that river.

The Tuolumne offers a unique combination of premium whitewater for sports enthusiasts, superb troutfishing, and breathtaking wilderness. This river gives protection to endangered plants and animals, as well as providing hydropower and irrigation water to the surrounding area.

Most of all, the Tuolumne offers a place of quiet refuge from the noise and clamor of our modern life. The river has a majesty and a beauty well worthy of the protection we are providing it today.

I am familiar with this river in large part because of my association with the San Jose Family Camp, one of several such facilities along the Tuolumne. As a member of the San Jose City Council in 1968, I helped negotiate the acquisition of the camp. A few years later, during my term as mayor, the camp was opened and has been serving our community ever since. Every year, over 7,000 people visit the camp, and for many this is their first and only experience in true wilderness.

And running right down the middle of the camp is the Middle Fork of the Tuolumne River. The river truly is the lifeblood of our camp.

The provisions of the bill before us protect the Tuolumne. For this reason alone, I would fight for its passage. I believe the Tuolumne provisions, which were added to this bill as part of a compromise worked out in the other body, are sound, reasonable and balanced.

Furthermore, it is my intention that nothing in the language before us shall be construed as allowing the construction or operation of any future water resources facility which would be incompatible with protecting the integrity of the San Jose Family Camp and the other such facilities along the river.

On behalf of the people of San Jose, who use our camp and the river as a place of family recreation, I ask adoption of this bill.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to express my strong support for the California

Wilderness Act. The passage of this bill today will be a fitting tribute to its author, a man who dedicated himself to preserving and protecting our natural resources, the late Phil Burton.

The bill is a carefully fashioned compromise measure. It protects this Nation's dwindling wilderness resources while allowing reasonable use of those areas which are not environmentally sensitive. It is the product of many years of study, debate, and negotiation.

I am gratified that this legislation adds the Tuolumne River to the National Wild and Scenic Rivers System. California's Tuolumne River is a treasure of the wilderness, one of the State's most magnificent scenic areas. In addition, H.R. 1437 creates a Mono Basin National Forest Scenic Area. This will protect the outstanding natural values of the Mono Basin, preserving vital and sensitive wildlife habitats.

California and the Nation needs this legislation. By passing this bill now we will be protecting 1.8 million acres. We will be resolving the California lawsuit on RARE II. We will be doing what Phil Burton would want us to do—setting aside these areas so future generations can enjoy some of the most beautiful wilderness in the country. I urge my colleagues to vote in favor of H.R. 1437 to affirm and continue our role as the careful steward of our land.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. FIEDLER].

Ms. FIEDLER. Mr. Speaker, I rise in strong support of H.R. 1437, the California Wilderness bill. Although the scope of the bill has been reduced in acreage that the House has wanted to see, it does represent a reasonable compromise. And, when this legislation is passed and signed into law it will provide vital protection for wilderness lands in California.

While others will speak today on various portions fo the bill, I would like to concentrate my remarks on the Senate's wise inclusion of the Tuolumne River in this legislation. I am a cosponsor of legislation that would do exactly what is being done here—including 83 miles of the Tuolumne River in the Wild and Scenic River System.

The Tuolumne is a perfect example of the balanced use of our natural resources. Rising out of the Yosemite National Park, the Tuolumne provides a paradise for more than 137,000 campers, back packers and cross-country skiers annually. The 83 miles to be left free of development have some of the best white water rafting areas in the country. More than 400 species of birds and animals live along the river and the river itself is abundant with game fish. It is truly and environmentalist's and sportsmen's paradise.

At the same time, this river currently provides 2 percent of all the electricity generated in California, provides drinking water for 3 million people and irrigates 200,000 acres of prime farmland.

Once again, Mr. Speaker, I must compliment the Senate for including the Tuolumne in H.R. 1437 and I urge passage of the California Wilderness bill by the House.

□ 1510

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I voted against H.R. 1437 when it came before the House last year. I did so because I believed we could craft a better California Wilderness bill that more closely reflected the economic needs and concerns of my district, which accounts for nearly one-third of the acreage in the bill now before us. It was not an easy task, but I believe we have been successful in that effort, and I rise today in strong support of this legislation.

I represent one of the areas that has been at the heart of the California Wilderness controversy. The counties in and around the Trinity Alps, the Siskiyous, and the Yolla Bolly are heavily dependent on the timber, fishing, and tourism industries. The rugged mountains supply timber to feed our sawmills. The clean waters of their rivers and streams produce the salmon and steelhead that support our fisheries. Thousands of visitors come every year to camp and fish and hike and enjoy the scenery.

Because natural resources play such a major role in our economy, the issue of preservation versus development is much more than an abstraction on the north coast. It has been a dominant source of political conflict for nearly 20 years, and the wilderness controversy only deepened the divisions in the communities I represent.

I believe the time has now come for us to put these divisions behind us, to provide permanent protection for the finest of our wilderness areas and proceed with the development and wise management of the lands available for resource production. Further delay will only prolong the uncertainty over national forest timber supplies, the future of our valuable wilderness lands, and the long-term stability of the local economy.

This legislation will preserve for present and future generations nearly 1.8 million acres of national forest lands with unique wilderness value. More than 1.3 million acres of productive timberland that would otherwise remain tied up in studies and lawsuits will be released immediately for multiple use management and development. Planning for the remaining lands where the Forest Service deferred any final recommendation will be able to proceed in an orderly manner. Perhaps equally important in terms of the certainty it provides, the release language makes it clear that Congress intends this legislation to put the issue to rest, and lands not designated wilderness now will not be reconsidered for at least 10 years.

This landmark legislation is the product of years of hard work and difficult negotiations among the California delegation, particularly on the part of our late colleague Phil Burton, Chairman SEIBERLING and Chairman UDALL, and our distinguished California colleagues in the other body, who deserve special credit for their persistence in pursuing the agreement that had so long eluded us. I believe this bill provides a balanced resolution of this longstanding controversy, and I urge my colleagues to support its adoption.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to put things in perspective, if I may, we hear a lot about the California wilderness bill. In my opening statement I mentioned that I do not believe anybody in this body is against wilderness, but for some reason we hear that lands have been released. By whom? By this bill. But they were actually put into a holding position by an act of Congress and an act of the court because of the congressional action.

We did not gain any new lands. I think the reason I object to almost all wilderness bills that come to this floor is because those Congressmen in those districts are not truly represented in this bill. The people who they represent are being deprived of livelihoods, and worst of all, the resources that this Nation must have are not identified.

Every conflicting hearing we have had on all State wilderness bills has been those interest groups that call themselves environmentalists, and I call them self-preservationists, knowing full well that there is the oil and the gas and the coal and the minerals and the timber and the hydropower that made this Nation great.

God created the wilderness and there are other areas of wilderness out there that will never have any interference from man because there is no conflict, and those are the areas that should be designated by this Congress as wilderness areas if we want to just go out and create vast areas of wilderness.

We hear this is for the future generations. I can suggest to my colleagues that the future generations are being deprived, through actions such as this, of those things that we

need to maintain our economic and security positions in the world.

I was sitting listening to the debate, and everyone has his opinionated position on this bill, but what would have happened if Christopher Columbus had arrived on the east coast, and the Sierra Club, and the Friends of the Earth, and all the other organizations were around? We would have had a fine wilderness, but we would have had no Statue of Liberty, no opportunity, no vast shores and land to give to those poor and unfortunate people.

The fact is, if we had this type of action in the Congress, if there was a Congress at that time, and even in 1776 and 1778 and even 1800 we had this type of action, would we be able to, as we just announced yesterday, take in the prisoners in Vietnam or other areas of the world and give them an opportunity, such as from Ireland and Italy and France and Germany and Russia and England? Would we have the opportunity to, yes, give a position for those who come from the Hispanic speaking nations? I say no.

I am suggesting respectfully that in actions we take on this floor with every wilderness bill, we are not considering the future generations. We are not giving the hopes and dreams to them that the people who came to these shores had—an opportunity for land, an opportunity for advancement, an opportunity for freedom—because when we take Government land, it is already owned by the people, and then reclassify it by an act of Congress into a restrictive classification, we deprive the people from the utilization of those lands and the benefit they can achieve from those lands.

So we say this in great shining armor, that this is a great act for the future generations. I say that is not true. If we were honest with ourselves, we would say we must study the wilderness; we must know what lies under the ground and what is above the ground; and what are the needs for the future generations?

I know on that side of the aisle, and some of those special interest groups, will tell you "When we need them, we will go get them." Who is the "we"? I will tell you who the "we" is; it is the U.S. Government. That may sound good, Mr. Speaker, to many people, but I will tell you that if you believe in the environment, the U.S. Government is the most dangerous of all the people who violate the environment. It is the private sector that does the best job, and it can be regulated by this Congress, which we have done.

So I know that the gentlemen from California, Mr. SHUMWAY, Mr. DANNEMEYER, Mr. CHAPPIE, and Mr. PASHAYAN, who have spoken against this bill because it affects their districts will not be listened to, but these types of legislation that create wilderness without due study, without due deliberation on the other effects upon future generations, are incorrect.

For the record, each time one of these bills come to the floor, I am going to speak for the future generations. Not the present generation of this Congress, but the future generations that will not have the hopes and the dreams of those people across the Atlantic and, yes, the Pacific, who come to our great shores to improve their lives, because we are taking their dreams away from them under the guise of the environment. The environment is man, and man's lack of ability to legislate and to manage that land is wrong.

Mr. Speaker, I urge my colleagues to oppose this bill, knowing full well that the votes are not there, but go down in history as standing for the future, not the selfish present but for the future, and let us be managers of the land. Let us not make the mistakes, but let us manage the lands as we should and give the opportunity to the future generations.

□ 1520

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in strong support of H.R. 1437, the California Wilderness Act of 1984. This measure represents the unfinished dream of our late friend and colleague, Phillip Burton, and is living testament to the work and dedication of a man whose lifetime goal was protecting our Nation's natural resources.

H.R. 1437 adds 1.8 million acres of national forest land in California to the National Wilderness Preservation System. This figure was arrived at after a year of complex and arduous negotiations between our two California Senators and Members of the House, and represents a compromise that truly balances the needs of competing forest users. The Minarets and San Joaquin Wilderness Areas designated by H.R. 1437 would be named after one of the greatest conservationists of this century, photographer Ansel Adams. Ansel was a good friend and resident of my congressional district until his untimely death in April of this year, and I am grateful that we are paying this tribute to him today.

I am also very pleased to note that H.R. 1437 will add a small parcel of forest area in my district to the Ventana Wilderness, helping to complete watershed protection for the scenic Tassajara Creek. This small 2,750-acre parcel contains a plethora of wildlife and is adjacent to the historic Tassajara Hot Springs.

The release language contained in H.R. 1437 helps to resolve the lingering dispute over RARE II study in California and will allow for the development and multiple use of almost 1 million acres of forest area now restricted by court order. This compromise language provides for the protection of our most precious wilderness gems while at the same time permitting important timber, water, ski, mining, powerline, and other development projects to proceed.

Title II of H.R. 1437 adds an 83-mile stretch of the Tuolumne River to the Nation's Wild and Scenic Rivers System. This strand of liquid crystal is one of the most beautiful and productive white water rivers in the Nation, and I am very pleased to support its protection for future generations.

Mr. Speaker, H.R. 1437 is a tribute to the dedication and farsighted vision of our departed colleague, Phil Burton. I am saddened that he is not with us today to enjoy the fruits of his hard work and legislative skill. Yet I am heartened by the opportunity to approve legislation which helps fulfill one of Phil's basic ideals, the proper stewardship of California's great natural treasures.

I urge my colleagues to support this legislation.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PATTERSON].

Mr. PATTERSON. Mr. Speaker, it is with great pleasure that I rise in support of H.R. 1437, the California wilderness bill. For more than 4 years, the fate of millions of roadless acres in California has been unknown. Although the House of Representatives passed California wilderness bills in the 96th and 97th Congresses, the measures died in the Senate. It is no secret that members of the House and Senate committees with jurisdiction over wilderness legislation disagreed over the amount of acreage to be included and the language governing the management and future review of lands studies for potential wilderness designation by the Forest Service. But today, instead of focusing on the conflicts, I want to stress the tremendous forces of cooperation that have inspired this compromise bill.

This great compromise designates 1.8 million acres of national forest and BLM land in the State of California as wilderness, an amount almost exactly in between the original bill and the Forest Service recommendation. In addition, it mandates another 96,000 acres for wilderness study and designates some 1.4 million acres of land in Yosemite and Sequoia—Kings Canyon National Parks.

The bill also adds 83 miles of the main stem of Tuolumne River to the Wild and Scenic Rivers System and creates a Mono Basin National Forest Scenic Area.

Most of the proposed wilderness areas are in northern California, since that is where the great majority of scenic, undeveloped areas are in the

State. However, the bill also includes areas in southern California. Although southern Californians, like myself, travel to recreation areas throughout the State, these pockets of wilderness in our own backyard are especially important.

Mountains and still-wild areas surround the Los Angeles Basin and San Diego forming a "rim of wilderness" in southern California. Most of these pristine areas are not huge—the total acreage is only 302,800 acres—but their proximity to southern California's primary population centers give them importance beyond their size. For urban dwellers in my district, the knowledge that San Mateo Canyon Wilderness is within an hour's drive offers peace of mind in the bustle of daily living.

I mention San Mateo Canyon because it is the only area which lies in Orange County, directly adjacent to my district. It is indeed a miracle that this 40,000 acre parcel has remained relatively untouched amidst the explosive growth of Orange County. It is steep canyon country, dropping 3,000 feet from the mountains to the coastal plain. The canyon is largely chapparal but is dotted with natural pastures. San Mateo Creek swells up during warm winters, and its waterfalls and swimming holes attract hikers from throughout southern California. We are truly fortunate that we still have the opportunity to protect this beautiful area so near our urban center.

As a member of the Public Lands and National Parks Subcommittee of the House Interior Committee, I have been involved in decisions regarding some of the finer points of this legislation. In testimony I gave before the Senate Subcommittee on Public Lands and Reserved Water, I indicated the importance of provisions in this bill regarding the control of fires. This legislation restates provisions in the 1964 Wilderness Act directing the Forest Service to use whatever measures necessary to control and prevent dangerous wildfires. This aspect is so important to areas in southern California, like San Mateo Canyon, that are part of ecosystems in which fire plays a major role.

As a final note, I wish to acknowledge the tremendous contribution that the sponsor of the California Wilderness Act, the late Honorable Phillip Burton, made to this bill. The bill we pass today stands as a tribute to his vision and diligent work. Chairman SEIBERLING and Senator ALAN CRANSTON must also be congratulated on their stewardship of this important legislation.

Mr. UDALL. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I am pleased to add my voice in support of the California wilderness bill. This legislation will add magnificent acres of national forest lands to the Nation's wilderness system to be protected forever.

In addition, H.R. 1437 designates the Tuolumne as a Wild and Scenic River. The Tuolumne, which originates in Yosemite National Park, is one of the Nation's three top-rated whitewater rivers. I have been on the Tuolumne with my family and several of my colleagues, and it is indeed wild and magnificent. My fear, as I rafted down that river, was that my grandchildren would never have that opportunity. Now my fears will be unfounded as we pass this great legislation.

The Tuolumne is the best wild trout stream in the Sierra Nevada, and it is the home of three large family camps, including Camp Tawonga, which is enjoyed by many of my constituents. I am pleased that this legislation also protects these family camps located on the tributaries of the Tuolumne and insures that any development activity not adversely affect the camps.

I am proud to join with my colleague from San Francisco, the gentlewoman from California, Mrs. SALA BURTON, who has worked so tirelessly for this bill. She is doing it because she cares about the environment, and she is doing it as a legacy to her great husband, Phillip. I am also proud to stand with our two Senators from both political parties in support of this legislation, H.R. 1437, a bill that protects our vital natural resources for generations to come.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] has 2 minutes remaining.

Mr. UDALL. Mr. Speaker, I yield my remaining time to the gentlewoman from California [Mrs. BURTON].

Mrs. BURTON of California. Mr. Speaker, this final, balanced product bears the imprint of many contributors and supporters. Senators CRANSTON and WILSON were truly outstanding in their attempts to achieve a settlement of this longstanding dispute and I applaud their negotiating skills and tireless efforts in reaching this goal.

Chairman UDALL, of the full Interior Committee, and Chairman SEIBERLING, of the Subcommittee on Public Lands and National Parks, were superb in the attention, energy, and leadership they devoted to this cause.

I would also like to commend the California members who were active, in not only supporting this initiative, but in shaping its contents. Of special note, Mr. LEHMAN, Mr. BOSCO, Mr. EDWARDS, and even Mr. COELHO who had reservations on certain parts of this bill and yet worked with us and just voted for the rule. I am most appreciative.

The bipartisan endorsement provided by five of our Republican colleagues created a base of consensus from which we enlarged our support and I appreciate their involvement very much. My expressions of gratitude would be incomplete without praising the House and Senate committee staffs, environmental organizations, community groups, and other leaders who offered their considerable talents to this endeavor.

Mr. Speaker, I particularly want to thank the environmental groups in the State of California and across the Nation—they did yeoman's work on this legislation. Some of them are witnesses here today and, I am sure, are enjoying this moment.

This is a very special day for me and a great day for California. Our actions today will affect many generations to follow and I am proud to be a part of this effort to insure that our children and their children will have a portion of their natural heritage left unspoiled.

I ask my colleagues to join me now in voting for final passage of H.R. 1437. Thank you.

The SPEAKER pro tempore. The time of the gentlewoman from California [Mrs. BURTON] has expired.

● Mr. ZSCHAU. Mr. Speaker, I consider it an honor to rise in support of this historic legislation. Californians have awaited this day for some 20 years. Now, thanks to a bipartisan effort in the other body, California will finally have a comprehensive wilderness plan.

I am particularly pleased that H.R. 1437, as amended by the other body, adds the Tuolumne River to the National Wild and Scenic Rivers System. The uniquely outstanding characteristics of the Tuolumne are well known. John Muir heralded the qualities of the Tuolumne back at the turn of the century, and his effort to stop the flooding of the Hetch Hetchy Valley in Yosemite National Park gave rise to the Sierra Club. Since that time, five dams and five powerhouses have been built on the Tuolumne, making it one of the most productive energy and water sources for residents and agriculture in California. In balance with the residential, irrigation, flood control, and power uses, the Tuolumne has come to accommodate recreation, diverse wildlife, and natural values as well.

The Tuolumne now is one of the most noted and popular recreational rivers in the United States. While the river has served the growth of California both in the San Joaquin Valley and the San Francisco Bay Area, it also is important to the thousands of people each year who travel down its exhilarating white water rapids and camp and fish along its quiet gentle tributaries.

The joint wild and scenic study completed by the U.S. Departments of Agriculture and Interior in 1979 recognized as outstandingly remarkable the

Tuolumne's values as a recreational masterpiece, a sheltered habitat for diverse wildlife, and a superior trout fishery, and by its positive recommendation for wild and scenic designation focused national attention on the 83 miles of the Tuolumne River between Hetch Hetchy and Don Pedro Reservoirs.

I believe that the Tuolumne River in its present balance of uses is an excellent example of what the Wild and Scenic Rivers Act was meant to do: To preserve for future generations the most outstandingly remarkable portions of our Nation's rivers in their natural values in balance with their productive values. That's why it is so appropriate for this legislation to include the designation of the Tuolumne River as wild and scenic.

Although we must preserve the unique qualities of the Tuolumne River for future generations, we must also be open to the possibility of future energy development which might be compatible with the characteristics that qualify the Tuolumne for wild and scenic designation. Specifically, the feasibility studies begun by the Modesto and Turlock Irrigation Districts pursuant to issuance of a preliminary permit by the Federal Energy Regulatory Commission in April 1983, have proved to be useful in several ways.

These studies, designed to determine the technical and economic feasibility of a project and its consistency with all local, State, and Federal environmental, energy, and economic tests, will provide the most extensive cataloging to date of the Tuolumne River's particular characteristics. This data will be an asset to the management of the watershed for future use of any kind. Importantly, the continuation of the unprecedented, detailed studies can lead to options and alternatives for energy development which we could not have conceived ahead of time.

For example, engineering and water flow studies by the irrigation districts led to the proposal of the Ponderosa project, which presents a better alternative than the old Clavey-Wards Ferry project. While I do not support the Ponderosa alternative as presently constituted, its development is a step in the right direction and shows that the studies may eventually lead to a development plan consistent with a wild and scenic Tuolumne.

Congress will never know unless the current studies are completed. I believe the studies should continue. According to the Chairman of the Federal Energy Regulatory Commission, Raymond J. O'Connor, in a February 17, 1984, letter to our colleague, the gentleman from New York [Mr. OTTINGER], completion of the studies is already permissible under current regulations, even after a decision to designate the Tuolumne as a wild and scenic river. The letter reads: "The Commission may issue a preliminary permit * * * for a proposed hydroelectric project on a river designated as a component of the National Wild and Scenic Rivers System." Chairman O'Connor goes on to explain that such a preliminary permit, like that issued last year to the irrigation districts and San Francisco, maintains priority of the application for a development license while the permittee completes the necessary studies.

I cannot emphasize enough that only Congress, representing all the people of California and the Nation, should make the ultimate decision about whether further energy development is compatible with the protected river in all its uses. Moreover, after completion of the studies, the burden of proof should be on the sponsors of the studies—the Modesto and Turlock irrigation districts—to convince Congress that the results warrant issuance of a license for development of their final proposal.

I would also like to emphasize that the intent of the act has always been that any tributary development on the North, Middle or South Forks of the Tuolumne River and the Clavey River would be consistent with maintaining the integrity of the three family camps on the forks: the San Jose Family Camp, the Berkeley Tuolumne Camp, and Camp Towanga. It has always been assumed and expected that the construction, operation, and maintenance of any tributary projects shall not have an adverse effect on these camps, nor on the community of Hardin Flats, as established as of the date of enactment of this bill.

Mr. Speaker, the California Wilderness Act is a victory for all the people of California. I strongly support this bipartisan effort, and urge my colleagues to vote for the passage of H.R. 1437 as amended by the other body.●

● Mr. BROWN of California. Mr. Speaker, today we will vote on H.R. 1437, the compromise California Wilderness Act of 1984. I rise in hearty support of this important legislation. As you know, legislation to set aside additional wilderness areas in California has been considered in Congress for several years. Members of the committees, as well as the two Senators from California who drafted the compromise legislation, have spent an extensive amount of time and effort to come to an agreement on this legislation.

H.R. 1437 designates as wilderness 1.8 million acres of national forests in California, including the establishment of an 83-mile stretch of the Tuolumne River as part of the National Wild and Scenic Rivers System. Also of great importance is the establishment of a 66,000-acre Mono Lake Basin scenic area. This bill, which has been logjammed in Congress for years, will be the largest wilderness protection measure since the 1980 Alaska Land Act.

I am a strong supporter of the wilderness system. While we open up several portions of Federal lands for logging, grazing, and recreational use, including hunting and off-road vehicles, it is important to set aside a portion of our more vulnerable wilderness to ensure it remains intact and undamaged. The inclusion of the designated areas into the wilderness system will preserve these beautiful resources for our children and for future generations. Californians, as well as visitors from around the country, will be able to enjoy these unique and scenic areas unchanged by man.

The California Wilderness Act was originally authored by the late Phil Burton. He was an avid supporter of this legislation and spent many hours working to have it passed into law. Last year, the House passed legislation which would have set aside an even larger portion of Federal lands in California. Final passage of H.R. 1437 this year would serve as a tribute and memorial to our colleague from San Francisco.

Mr. Speaker, while I supported a larger acreage set-aside, I recognize the importance of this compromise package, and fully support its passage. I urge my colleagues on both sides of the aisle to do the same.●

● Mr. LOWERY of California. Mr. Speaker, I rise in support of H.R. 1437, the California Wilderness Act and I urge my colleagues in the House to vote in favor of this much needed and long-overdue legislation.

It has been over a year since the House passed H.R. 1437. After long delays in the Senate, the bill is now before us for final approval. Mr. Speaker, the House of Representatives cannot afford to reject H.R. 1437 at this time. This compromise measure is a well-balanced product of considerable examination and debate that represents a consensus of views among the various parties concerned. H.R. 1437 not only deals with California Wilderness lands, but embraces two other very important issues for our State.

First, and perhaps most important, H.R. 1437 adds 1.8 million acres of national forest lands in California to the national wilderness system. This acreage is exactly midpoint between what was proposed in the original bill and what the Forest Service recommended for inclusion—less than one-third of total eligible lands. As a native San Diegan, I am especially appreciative of the fact that included in H.R. 1437 are about 13,000 acres in the Caliente, Pine Creek, and Silk Hill sections of my own San Diego County.

H.R. 1437 also resolves the lingering RARE II lawsuit in our State and allows development and multiple use on almost 1 million acres now restricted by court order.

Second, H.R. 1437 designates the Tuolumne as a wild and scenic river, as recommended by the Park Service and Forest Service in their 1979 study and environmental impact statement. As a cosponsor of House legislation to designate the Tuolumne as a wild and scenic river, I believe that this section of the bill is both a reasonable addition to the earlier House-passed version of the wilderness bill and also that it should be supported without amendment.

Third, H.R. 1437 creates a Mono Basin National Forest Scenic Area to protect the outstanding natural values of the Mono Basin, and authorizes a 3-year scientific study of the ecology of the area.

Mr. Speaker, as a native Californian, I grew up learning to appreciate the natural beauty of our great State. H.R. 1437 is necessary to ensure that my children can grow up with the same access to some of the most beautiful and valuable wilderness in the United States as I had.

Mr. Speaker, we cannot allow our California natural heritage to be the victim of negligent stewardship. Therefore, I rise to urge my colleagues to join me in wholehearted support of the California Wilderness Act.●

● Mr. STARK. Mr. Speaker, I would like to strongly urge my colleagues to support the California Wilderness Act. This legislative compromise is a great victory for the many involved. Congratulations are especially due to Congresswoman BURTON, Congressman UDALL, Congressman SEIBERLING, the hard work of Senator CRANSTON, and to Senator WILSON.

First, the passage of this legislation would be a great tribute to one of our late colleagues, Congressman Phil Burton. The original California wilderness legislation that passed the House was crafted by Congressman Burton. He would probably be a little disappointed that the current bill is several hundred thousand acres less than in the original bill he worked on. Nevertheless, the 1.8 million acres for wilderness designation make it worthy of passage.

In a bill that protects great natural wonders, there are two particularly outstanding jewels included. One is the 83 miles of wilderness designation for the Tuolumne River. This incredible river roars out of Yosemite National Park providing some of the greatest white water rafting in the country. An enormous amount of hard work has gone into getting the Tuolumne included into the National Wild and Scenic River System. The Tuolumne River justly deserves the protection of the wild and scenic designation.

The second jewel included in the bill, Mr. Speaker, is the establishment of Mono Basin National Forest Scenic Area which has as its center piece Mono Lake. This unique lake has been inspiring explorers, poets, photographers, and just plain folks since the first written record of Mono Lake. Though this bill does not protect the water level of Mono Lake, it is a beginning of the official Federal recognition of the absolutely stunning beauty and diversity of this area.

But the other wilderness areas to be protected are themselves noteworthy. One only has to look at the Senate report describing the various wilderness areas. Spectacular is a word that is justly used over and over. The Russian Peak Wilderness is described as including perhaps "one of the richest and most diverse forests in the world."

The wilderness that you are being asked to vote for today has inspired some of the greatest conservationists in our history. This is the land of Ansel Adams and John Muir. The bill provides additions to the existing John Muir Wilderness and the creation of the Ansel Adams Wilderness.

We need to pass the legislation today. Let it be a tribute to the conservation efforts of Phil Burton. Let us provide a place for golden eagles, mountain cougars, and steelhead salmon to survive and even thrive. Let us protect verdant forests, lush valleys, and towering sculptures in stone. Let us keep some of the beauty of California's natural past and pass it on to future generations to wonder at and enjoy.●

● Mr. EDWARDS of California. Mr. Speaker, I rise in support of H.R. 1437, the California wilderness bill. By reaching a compromise on H.R. 1437, and guiding it through the other body, Senator CRANSTON and Senator WILSON have achieved a victory that many had thought impossible. Their skill and diligence during these past months has resulted in a well-deserved and grand tribute to the bill's original author, our dearly missed colleague, Phil Burton. Phil, although a man who was more at home in the city, was also endowed with a special understanding of the joys and beauty of undisturbed wilderness.

H.R. 1437, as amended by the Senate, is a finely crafted bill that preserves California's true gems. The measure sets aside for future generations 1.8 million acres of wilderness, including the magnificent Trinity Alps and San Joaquin area, which will be fittingly named the Ansel Adams Wilderness. It also designates Mono Lake as the Mono Basin National Forest Scenic Area, and declares the main stem of the glorious Tuolumne as a component of the Wild and Scenic Rivers System.

Although the bill does not afford wild and scenic status to the tributaries of the Tuolumne, I feel strongly that the community of Hardin Flat, the San Jose Family Camp, the Berkeley Tuolumne Camp, and Camp Tawonga—all located on the Tuolumne's tributaries—should be preserved. The impact on these areas should be a major consideration in reviewing any proposal to develop hydroelectric facilities on the tributaries. If development would destroy these special recreational communities, it should be rejected.

When the Senate passed this wilderness bill, California Senators ALAN CRANSTON and PETE WILSON expressed their intent that development would be allowed on the tributaries, so long as it would not adversely affect the family camps or the community of Hardin Flat. I would like to highlight that their understanding and intent is shared by me and other cosponsors of the House Tuolumne bill, H.R. 2474. I know that I speak for many of my colleagues in saying that we will continue to closely watch the situation on the tributaries to ensure that the community of Hardin Flat and the three exceptional family camps are shielded from any water projects which may later be considered.

For years the House and Senate have been unable to reach an agreement on a California wilderness bill. This year, finally, we have the opportunity to set aside from development, acres of pristine and beautiful land. Nature has bestowed many gifts upon California. With the passage of H.R. 1437, we can pass the gifts of mountains, rivers, and lakes on to our children and our children's children so that they can continue to relish the beauty of unspoiled wilderness.

I wish that Phil was here with us today. The California wilderness bill was one of his greatest priorities. I know he would have been proud to see H.R. 1437 finally acted upon by both the House and Senate. Phil fought hard and long for this legislation. Those of us who knew and loved him now carry his determination. I urge my colleagues to vote in favor of H.R. 1437.●

● Mr. LEVINE of California. Mr. Speaker, I rise in support of H.R. 1437, the California wilderness bill. This bill was authored by a dear friend, our former colleague, Congressman Phil Burton. Phil dedicated his life to the protection of our precious natural resources. I can think of no better salute to Phil than passing this monumental legislation, which was so dear to his heart. The bill preserves some of California's most beautiful scenic areas.

Designating California wilderness areas has been a very controversial endeavor. I commend California's Senators ALAN CRANSTON and PETE WILSON for their diligent efforts to find a balanced solution. The compromise

agreed upon by Senators ALAN CRANSTON and PETE WILSON represents a tremendous breakthrough in what has been a 6-year deadlock. This bipartisan agreement is a reasonable approach to protecting millions of acres of California wilderness, while encouraging economic development and recreational activities. The bill designates 1.8 million acres of new national forest wilderness, a wild and scenic Tuolumne River, and a Mono Basin National Scenic Area.

H.R. 1437 includes the text of a bill I have cosponsored, H.R. 2474, legislation which would designate 83 miles of the Tuolumne, from its source in Yosemite National Park to the Don Pedro Reservoir, as a part of the Wild and Scenic Rivers System. This would protect the river from further development and allow the area to be managed in accordance with its present use as a natural and recreational resource.

In the past, attempts to protect Mono Lake have been met with a great deal of controversy. It has been an emotional issue, which has pitted northern Californians against southern Californians. A number of civic leaders in the Los Angeles area have, in the past, opposed legislation to protect Mono Lake out of concern that its passage could result in a serious shortage of water for Los Angeles and other areas in southern California.

Through the efforts of our colleague, Congressman RICHARD LEHMAN, a compromise was reached in the form of H.R. 3356, which enjoys the support of the city of Los Angeles. I believe it is sound legislation, and I sponsored the bill. This bill passed the House by unanimous consent.

H.R. 3356 has been incorporated in H.R. 1437. The bill creates a Mono Basin National Scenic Area to protect this precious area. It also authorizes a 3-year scientific study of the area. Language has been added to underline the fact that this bill and the management plan to implement it will be consistent with Los Angeles' water rights under the laws of California. With the repeal of the 1936 act, which gave Los Angeles the option of buying land in the Mono Basin, permanent easements would be granted for existing water and power facilities in the area.

Mr. Speaker, the Tuolumne River flows from the top of Mount Lyell Glacier in Yosemite National Park and down the Western Sierra Nevada to the San Joaquin River. The National Wild and Scenic Rivers Act of 1968 specifically states that it is the U.S. policy to preserve selected stream segments and entire rivers in their free-flowing condition for the benefit of present and future generations.

After 4 years of study, in 1979 the National Park Service and the U.S. Forest Service found that the free-flowing sections of the Tuolumne possessed the "outstandingly remarkable" natural and cultural qualities necessary for inclusion in the National Wild and Scenic System. It is time for the Congress to declare the Tuolumne a wild and scenic river so that its remaining beauty can be preserved. The California wilderness bill being debated by the Congress today designates 83 miles of the Tuolumne from its source in Yosemite National Park to the Don Pedro Reservoir as a part of the Wild and Scenic Rivers System. I strongly support this legislation as written and urge my colleagues to join me in voting in favor of it.

More than 130,000 people a year take advantage of trout fishing and white water rafting on the Tuolumne. Thousands of hunters, gold seekers, and campers visit the wild stretches each year. Proposals to dam the river would cut the river flow, and the scenic canyon through which it runs would become a maze of utility lines and powerplants. Half of the trout fishing areas along the Tuolumne and its tributaries would be destroyed, the white water boating industry would suffer tremendously, and the deer herds wintering in Yosemite would be in peril.

The Tuolumne currently supplies 2 percent of California's electricity, drinking water for 3 million people, and irrigation water for 300,000 acres of farmland. Protection of the river won't interfere with these uses. It will, in fact, preserve the river for additional uses.

Current prodevelopment proposals to dam and divert several forks of the river to generate hydropower at a cost of close to $1 billion threaten the delicate balance that now exists between environmental, recreational, and economic uses of the Tuolumne. Ninety percent of its irrigation potential and 70 percent of its hydroelectric potential have already been tapped, while navigable white water, wildlife, and wilderness remain.

Let's not destroy that balance. Let's join together today to give the Tuolumne River wild and scenic status by passing the California wilderness bill intact. Let's preserve this natural resource for future generations.

I urge my colleagues to join in an effort to protect California's great natural resources and vote in favor of H.R. 1437.●

● Mr. MATSUI. Mr. Speaker, I rise today to offer my strong support for H.R. 1437, the California wilderness bill. I would like to express my gratitude to the many Members who have worked long and hard to make this bill a reality.

H.R. 1437 is the culmination of many years of effort: 20 years of study, 4 years of efforts to pass legislation through the Congress, and more than a year of careful negotiations to bring about the compromise we have before us today.

This legislation is of tremendous importance for guaranteeing adequate protection of California's fragile wilderness areas. With this bill, we will ensure that our State's glorious resources will be preserved for hikers, campers, natural scientists, and others who enjoy California's magnificent wilderness. In addition, the bill is sensitive to the State's employment and development needs as well as the potential for multiple use of a variety of areas.

With H.R. 1437, 1.8 million acres of national forest land in California will be added to the national wilderness system and receive much-needed protection. The amount of acreage is halfway between what was originally proposed in the bill and what the Forest Service recommended for inclusion. Moreover, the bill provides particular protection to certain important and sensitive areas. The Tuolumne River would be designated a wild and scenic river as recommended in 1979 by the Park and Forest Service study and environmental impact statement. It would also create the Mono Basin National Forest Scenic Area and authorize a 3-year scientific study of the Mono Basin Area. H.R. 1437 also resolves lingering RARE II lawsuit, and allows development and multiple use on almost 1 million acres.

H.R. 1437 is an excellent example of responsible legislation. It is a well-balanced, reasonable, and workable measure that represents a consensus of the various parties concerned. It is a tribute to the many people who have worked to bring about such a well-considered agreement.

As a final comment, I rise in support of this legislation in memory of the late Phil Burton. It was his vision that initiated this important measure and his efforts and leadership which laid the groundwork for this historic legislation.●

● Mr. LANTOS. Mr. Speaker, today the Congress will take a truly historic and most significant step by approving H.R. 1437, the California wilderness bill. By our action here today, we are preserving for our children's children a priceless natural heritage that can never be recreated—the addition of 1.8 million acres to the wilderness areas of the State of California. These unique pristine areas can now be saved to be enjoyed, not only by those of us today, but also by future generations.

It is important that we act now to preserve these wilderness areas, Mr. Speaker. Although California is blessed with many beautiful and significant natural areas deserving of protection, it is also the most populous State in our Nation. The potential wilderness areas in our State are thus subject to greater pressure and greater threat. For this reason, it is critically

important that we preserve this natural heritage.

Some of the most important pristine areas in our State will be protected by this legislation, including the Tuolumne River and the new Ansel Adams Wilderness of deep granite gorges and waterfalls near Yosemite.

Our action here today is a fitting and appropriate tribute to the untiring efforts of our late colleague Phil Burton to protect our priceless natural heritage. What he has done to preserve and protect the magnificence of our environment only future generations will understand.●

● Mr. PATTERSON. Mr. Speaker, it is with great pleasure that I rise in support of H.R. 1437, the California Wilderness bill. For more than 4 years, the fate of millions of roadless acres in California has been unknown. Although the House of Representatives passed California Wilderness bills in the 96th and 97th Congresses, the measures died in the Senate. It is no secret that members of the House and Senate committees with jurisdiction over wilderness legislation disagreed over the amount of acreage to be included and the language governing the management and future review of the lands studied for potential wilderness designation by the Forest Service. But today, instead of focusing on the conflicts, I want to stress the tremendous forces of cooperation that have combined to create this compromise bill.

This great compromise designates 1.8 million acres of National Forest and BLM land in the State of California as wilderness, an amount almost exactly in between the original bill and the Forest Service recommendation. Senator CRANSTON, Chairman SEIBERLING of the Public Lands and National Parks Subcommittee, and the late Honorable Phillip Burton—the sponsor of the California Wilderness bill—negotiated long and hard with environmentalists, timber and mining interests, and with Senator PETE WILSON to achieve this figure. Although it is true that I and many Members of the California delegation would have liked to see all of the 2.4-million acres originally included in H.R. 1437 included in the final version, 1.8 million isn't bad. Particularly when you consider that the areas that have been released can be managed as wilderness by the Forest Service even without official designation as such. Additionally, the bill mandates another 96,000 acres for wilderness study and designates some 1.4 million acres of land in Yosemite and Sequoia-Kings Canyon National Parks as wilderness.

The compromise also lifts the court injunction which currently prohibits development on some 600,000 acres of land not slated for wilderness designation in the bill. These acres will be insulated from further wilderness review for at least 10 years and will thereafter be available for multiple uses, including mineral development and timber harvesting. This acreage has been in limbo since the ninth Circuit Court of Appeals ruled in 1980 that the Forest Service failed to prepare an adequate environmental impact statement, thus calling in question all acreage reviewed by the Forest Service.

The bill also adds 83 miles of the main stem of the Tuolumne River to the Wild and Scenic Rivers System. I cosponsored a separate bill that allowed the Tuolumne to be designated as a wild and scenic river, and am pleased that this bill incorporates the "T" as well. Furthermore, I might point out that the spirit of compromise also permeates this provision of the bill. The provision permits the hydroelectric facilities that currently exist to continue operating and allows for some water resource development along the tributaries. However, this lush white water wonder will never have its magnificent fury impaired along its main stem.

The final provision in this bill creates a Mono Basin National Forest scenic area. On July 18, 1983, the House passed H.R. 1341 designating the Mono Basin as a National Forest scenic area, but no action had occurred on the Senate side. The area contains a segment of the eastern escarpment of the Sierra Nevada Mountains, Mono Lake, extensive deposits of tufa in unusual tower formations, several volcanic craters, and large concentrations of nesting and waterfowl. The city of Los Angeles and the Department of Water and Power have been assured a ready supply of water from other sources in northern California and from the Colorado River without impairing the unusual ecological and geological values of the Mono Basin.

Most of the proposed wilderness areas that I have discussed are in northern California, since that is where the great majority of scenic, undeveloped areas are in the State. However, the bill also includes areas in southern California. Although southern Californians like myself travel to recreation areas throughout the State, these pockets of wilderness in our own back yard are especially important.

Mountains and still wild areas surround the Los Angeles basin and San Diego forming a "rim of wilderness" in southern California. Most of these pristine areas are not huge—the total acreage is only 302,800 acres—but their proximity to southern California's primary population centers gives them importance beyond their size. For urban dwellers in my district, the knowledge that San Mateo Canyon Wilderness is within an hour's drive offers peace of mind in the bustle of daily living.

I mention San Mateo Canyon because it is the only area which lies in Orange County, directly adjacent to my district. I worked hard to keep this entire area in the compromise bill. It is indeed a miracle that this 40,000-acre parcel has remained relatively untouched amidst the explosive growth of Orange County. It is steep canyon country, dropping 3,000 feet from the mountains to the coastal plain. The canyon is largely chaparral but is dotted with natural pastures. San Mateo Creek swells up during warm winters, and its waterfalls and swimming holes attract hikers from throughout southern California. We are truly fortunate that we still have the opportunity to protect this beautiful area so near our urban center.

As a member of the Public Lands and National Parks Subcommittee of the House Interior Committee, I have been involved in decisions regarding some of the finer points of this legislation. In testimony I gave before the Senate Subcommittee on Public Lands and Reserved Water, I indicated the importance of provisions in this bill regarding the control of fires. This legislation restates provisions in the 1964 Wilderness Act directing the Forest Service to use whatever measures necessary to control and prevent dangerous wildfires. This aspect is so important to areas in southern California, like San Mateo Canyon, that are part of ecosystems in which fire plays a major role.

As a final note, I wish to acknowledge the tremendous contribution that the sponsor of the California Wilderness Act, the late Honorable Phillip Burton, made to this bill. The bill we pass today stands as a tribute to his vision and diligent work. Chairman SEIBERLING and Senator ALAN CRANSTON must also be congratulated on their stewardship of this important legislation. I urge my colleagues to vote in favor of the California Wilderness Act in an effort to ensure that future generations of Americans share the splendor of wilderness.●

Pursuant to the provisions of H.R. 573, the previous question is ordered.

The question is on the motion offered by the gentleman from Arizona [Mr. UDALL].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUMWAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 41, not voting 23, as follows:

[Roll No. 385]

YEAS—368

Ackerman	Edwards (OK)	Lehman (FL)
Addabbo	Emerson	Leland
Akaka	English	Lent
Albosta	Erdreich	Levin
Anderson	Erlenborn	Levine
Andrews (NC)	Evans (IA)	Levitas
Andrews (TX)	Evans (IL)	Lewis (FL)
Annunzio	Fascell	Lipinski
Anthony	Feighan	Lloyd
Applegate	Fiedler	Long (MD)
Aspin	Fish	Lowery (CA)
AuCoin	Flippo	Lowry (WA)
Barnard	Florio	Lujan
Barnes	Foglietta	Luken
Bateman	Foley	Lundine
Bates	Ford (MI)	Mack
Bedell	Ford (TN)	MacKay
Beilenson	Fowler	Madigan
Bennett	Frank	Markey
Bereuter	Franklin	Marriott
Berman	Frenzel	Martin (IL)
Bethune	Frost	Martinez
Bevill	Fuqua	Matsui
Biaggi	Garcia	Mavroules
Bilirakis	Gaydos	Mazzoli
Bliley	Gejdenson	McCain
Boehlert	Gephardt	McCloskey
Boland	Gibbons	McCollum
Boner	Gilman	McCurdy
Bonior	Gingrich	McDade
Bonker	Glickman	McEwen
Borski	Gonzalez	McGrath
Bosco	Goodling	McHugh
Boucher	Gore	McKernan
Boxer	Gradison	McKinney
Breaux	Gray	McNulty
Britt	Green	Mica
Brooks	Gregg	Michel
Broomfield	Gunderson	Mikulski
Brown (CA)	Hall (IN)	Miller (CA)
Brown (CO)	Hall (OH)	Miller (OH)
Broyhill	Hall, Ralph	Mineta
Bryant	Hall, Sam	Minish
Burton (CA)	Hamilton	Mitchell
Burton (IN)	Hance	Moakley
Byron	Hansen (UT)	Molinari
Campbell	Harkin	Mollohan
Carper	Harrison	Moody
Carr	Hatcher	Moore
Chandler	Hawkins	Morrison (CT)
Chappell	Hayes	Morrison (WA)
Clarke	Hefner	Mrazek
Clay	Heftel	Murphy
Clinger	Hertel	Murtha
Coats	Hightower	Myers
Coelho	Hiler	Natcher
Coleman (MO)	Hillis	Neal
Coleman (TX)	Holt	Nelson
Collins	Hopkins	Nichols
Conable	Horton	Nowak
Conte	Howard	O'Brien
Conyers	Hoyer	Oakar
Cooper	Hubbard	Obey
Corcoran	Huckaby	Olin
Coughlin	Hughes	Ortiz
Courter	Hunter	Ottinger
Coyne	Hutto	Owens
Craig	Hyde	Oxley
Crockett	Ireland	Panetta
Darden	Jacobs	Parris
Daschle	Jenkins	Patterson
Daub	Johnson	Pease
de la Garza	Jones (NC)	Penny
Dellums	Jones (OK)	Pepper
Derrick	Jones (TN)	Petri
DeWine	Kaptur	Pickle
Dickinson	Kasich	Porter
Dicks	Kastenmeier	Price
Dingell	Kazen	Pursell
Dixon	Kennelly	Quillen
Donnelly	Kildee	Rahall
Dorgan	Kindness	Rangel
Dowdy	Kleczka	Ratchford
Downey	Kogovsek	Ray
Duncan	Kolter	Regula
Durbin	Kostmayer	Reid
Dwyer	Kramer	Richardson
Dymally	LaFalce	Ridge
Early	Lagomarsino	Rinaldo
Eckart	Lantos	Ritter
Edgar	Latta	Roberts
Edwards (AL)	Leach	Rodino
Edwards (CA)	Lehman (CA)	Roe
Roemer	Smith (NE)	Volkmer
Rogers	Smith (NJ)	Walgren
Rose	Snowe	Walker
Rostenkowski	Snyder	Watkins
Roth	Solarz	Waxman
Roukema	Spence	Weaver
Rowland	Spratt	Weber
Roybal	St Germain	Weiss
Russo	Staggers	Wheat
Sabo	Stangeland	Whitehurst
Savage	Stark	Whitley
Sawyer	Stokes	Whittaker
Scheuer	Stratton	Whitten
Schneider	Sundquist	Williams (MT)
Schroeder	Swift	Williams (OH)
Schulze	Synar	Wilson
Schumer	Tallon	Winn
Seiberling	Tauke	Wirth
Sensenbrenner	Tauzin	Wise
Sharp	Taylor	Wolf
Shaw	Thomas (CA)	Wolpe
Shelby	Thomas (GA)	Wortley
Shuster	Torres	Wright
Sikorski	Torricelli	Wyden
Siljander	Traxler	Wylie
Sisisky	Udall	Yates
Skelton	Valentine	Yatron
Slattery	Vander Jagt	Young (FL)
Smith (FL)	Vandergriff	Zschau
Smith (IA)	Vento	

NAYS—41

Archer	Hartnett	Patman
Badham	Leath	Paul
Bartlett	Lewis (CA)	Robinson
Chappie	Livingston	Rudd
Crane, Daniel	Loeffler	Schaefer
Crane, Philip	Lott	Shumway
Daniel	Lungren	Skeen
Dannemeyer	Marlenee	Smith, Denny
Davis	McCandless	Smith, Robert
Dreier	Montgomery	Solomon
Fields	Moorhead	Stenholm
Gekas	Nielson	Vucanovich
Hammerschmidt	Packard	Young (AK)
Hansen (ID)	Pashayan	

NOT VOTING—23

Alexander	Gramm	Pritchard
Boggs	Guarini	Shannon
Carney	Jeffords	Simon
Cheney	Kemp	Studds
D'Amours	Long (LA)	Stump
Dyson	Martin (NC)	Towns
Fazio	Martin (NY)	Young (MO)
Ferraro	Oberstar	

□ 1540

Messrs. NICHOLS, EMERSON, SILJANDER, and BURTON of Indiana changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Senate amendment to the text of the bill is agreed to.

Without objection, a motion to reconsider is laid on the table, and without objection, the Senate amendment to the title is agreed to.

There was no objection.

DIRECTING THE CLERK OF THE HOUSE TO MAKE A CORRECTION IN ENROLLMENT OF H.R. 1437

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 356) to correct a technical error in the enrollment of the bill (H.R. 1437), entitled the "California Wilderness Act of 1984."

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 356

That in the enrollment of the bill (H.R. 1437) entitled "An Act entitled the 'California Wilderness Act of 1984'" the Clerk of the House of Representatives shall correct section 201 by inserting "52" in the parentheses immediately preceding "TUOLUMNE".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FLORIDA WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9) to designate components of the National Wilderness Preservation System in the State of Florida, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, after line 22, insert:

WILDERNESS STUDY AREAS

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendation to the Congress of the United States no later than three years from the date of enactment of this Act:

(1) certain lands in Apalachicola National Forest, Florida, which comprise approximately six thousand five hundred acres, as generally depicted on a map entitled "Clear Lake Wilderness Study Area", dated April, 1984, and shall be known as the Clear Lake Wilderness Study Area; and

(2) certain lands in the Osceola National Forest, Florida which comprise approximately four thouand four hundred acres, as generally depicted on a map entitled "Natural Area Wilderness Study Area", dated April, 1984, and shall be known as the Natural Area Wilderness Study Area.

(d) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

Page 3, line 24, strike out "2." and insert "3.".

Page 4, line 14, strike out "3." and insert "4.".

Page 4, line 23, strike out "4." and insert "5.".

Page 6, strike out all after line 13, over to and including line 12 on page 8, and insert:

SEC. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evalation program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in Florida and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Florida, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Florida;

(2) with respect to the National Forest System lands in the State of Florida which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands remaining in wilderness study upon enactment of this Act, that review and evaluation of reference shall be deemed for the purpose of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) areas in the State of Florida reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Florida are implemented pursuant to section 6 of the Forest and Rangelend Renewable Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless areas review and evaluation of National Forest System lands in the State of Florida for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Florida which are less than five thousand acres in size.

Page 8, line 14, strike out "6" and insert "7".

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object. I shall not object, but wish merely to point out that this bill is similar to H.R. 9 which passed the House on June 6, 1983, well over a year ago, by a voice vote.

It is my understanding that the bill is the same with the exception of two wilderness study areas being added to which there is no major opposition; and that the Senate inserted the new release language which has already passed both bodies a number of times.

The bill is not the same as the one which President Reagan vetoed last Congress. The troublesome provision has been deleted and I urge all Members to support the bill. Unfortunately, this spirit of bipartisanship is tarnished by only one thing, which I would like to bring to the chairman's attention.

During a recent ceremony marking the 20th anniversary of the enactment of the Wilderness Act, a representative of a major environmental group accused President Reagan of being the only President to have vetoed a wilderness bill.

I believe the record needs correction. The President did veto the old H.R. 9, but said in his veto message that he fully supported the wilderness designations in the bill. The reason he vetoed the bill was because it contained a formula which would ban phosphate leasing and would have vested property rights in certain mining companies holding lease applications forcing the Federal Government to pay them as much as $200 million.

Two days after the veto, Secretary Watt rejected the phosphate lease applications on the basis that available technology could not adequately reclaim the land and that the companies had not, therefore, established valuable deposits—a condition which must be met to obtain a lease. Secretary Watt and President Reagan took a strong proenvironmental stand. This year's bill has no compensation provisions in line with the Secretary and the President's recommendations. This year's bill is silent. The companies are free to pursue administrative and legal remedies which are the proper course of action in this situation.

In other words, the President vetoed the bill on the basis of a provision which our committee and the leadership in the Congress have now agreed is not necessary in the legislation.

I, therefore, find it extremely galling that the environmentalists criticize the President for a decision with which they now agree. He has been wrongly accused of opposing a wilderness bill when he, in fact, strongly supported the wilderness provisions.

The President has an excellent environmental record particularly with regard to wilderness. To date he has signed seven major wilderness bills and will undoubtedly sign several more in the near future.

If we are going to continue to pass wilderness bills under the bipartisan procedure being followed today—I would caution the chairman to make sure that the groups he is helping in this effort get their facts straight and stop making misleading and erroneous statements.

□ 1550

Mr. FUQUA. Mr. Speaker, will the gentleman from Alaska yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Florida, who has done an excellent job in conveying the knowledge necessary to pass this legislation.

Mr. FUQUA. I appreciate the gentleman yielding. I thank the gentleman from Alaska [Mr. YOUNG], and the gentleman from Ohio [Mr. SEIBERLING] for the work they have done.

Mr. Speaker, I rise today to express my wholehearted support for H.R. 9, the Florida Wilderness Act, legislation I have introduced to expand wilderness areas in the Apalachicola, Osceola, and Ocala National Forests and to prohibit phosphate mining in the Osceola National Forest.

This act is one I first introduced in 1974 and we have come a long way. H.R. 9 is cosponsored by the entire Florida House delegation and endorsed by Florida's Senators as well. It has the support of Florida's Governor and cabinet. The people of Florida want this act to become law and I am gratified that we shall accomplish that goal.

The Senate amendments are constructive and do not alter the basic intent of the bill. I can certainly accept and endorse them. Senator CHILES and Senator HAWKINS both labored long and hard for passage of H.R. 9 in the Senate and deserve praise for their efforts. This act would never have seen the light of day if it had not been for the diligence of Chairman MORRIS UDALL and Congressman JOHN SEIBERLING. To both of

these men I want to extend my appreciation and gratitude.

H.R. 9 is a victory for the people of Florida.

The staffs of both the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee deserve thanks for their efforts, as well as the staffs of Senator CHILES and Senator HAWKINS.

I am honored to have had the opportunity to work for passage of this act and want to send H.R. 9 on its way to the White House for President Reagan's signature.

Again I want to thank my friends in the committee for their work on this legislation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman from Alaska yield to me?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I rise in strong support of H.R. 9, as reported by the Senate. This is long overdue legislation which has passed the House in three successive Congresses, and which also cleared the Senate in the 97th Congress only to be vetoed by President Reagan over concerns pertaining to the compensation of certain applicants for phosphate leases. Since the veto in the last Congress, we have worked with the administration to address the phospate concerns, and the administration now supports the legislation.

Briefly, Mr. Speaker, H.R. 9 adds six new areas of National Forest land in Florida totaling 47,980 acres; to the national wilderness preservation system; 1,170 acres would also be added to the existing Bradwell Bay Wilderness. The boundaries of all the additions are those passed by the House. The Senate amendments further include two congressionally designated wilderness study areas in the bill, totaling 10,900 acres, and thereby statutorily confirm the Forest Service and House's plans for further wilderness study (actually "further planning" status) for the two areas. The two wilderness study areas will have their wilderness character protected until Congress determines otherwise. Finally, the Senate amendments incorporate the compromise so-called release/sufficiency language which Chairman UDALL and I worked out with Senator MCCLURE last May. This compromise language is slightly different in the House version of release for H.R. 9 because we had not yet reached agreement with the Senate on release language when H.R. 9 passed the House in June 1983.

Mr. Speaker, the bill before us today has been cosponsored by, and has the unanimous agreement of, both Florida Senators and all 19 Members of the Florida delegation in the House. As I have already mentioned, it has the support of the administration. So without further ado, I recommend that we send this meritorious legislation to the President for signature. I particularly wish to thank the Hon. DON FUQUA, for his strong support and assistance in working out this excellent legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3082, EMERGENCY WETLANDS RESOURCES ACT OF 1983

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1010) on the resolution (H. Res. 579) providing for the consideration of the bill (H.R. 3082) to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5609, AMERICAN DEFENSE EDUCATION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1009) on the resolution (H. Res. 578) providing for the consideration of the bill (H.R. 5609) to authorize a national program of improving the quality of education, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR MEMBERS TO HAVE UNTIL 9 P.M. TODAY TO FILE AMENDMENTS TO H.R. 5609, AMERICAN DEFENSE EDUCATION ACT

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that Members have until 9 o'clock tonight to submit amendments for printing in the CONGRESSIONAL RECORD to the bill, H.R. 5609, the American Defense Education Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. LOTT. Mr. Speaker, reserving the right to object, and I do not intend to object, but I think it is important that the Members understand what this unanimous-consent request is.

As I understand, the gentleman is asking unanimous consent for a 9 o'clock filing of amendments in the RECORD on the bill, the American Defense Education Act, as it is known. Is that correct, the gentleman is asking Members have until 9 o'clock to file amendments to this bill?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding.

Mr. Speaker, the gentleman [Mr. LOTT] is correct.

Mr. LOTT. Then the gentleman, therefore, is advising Members if they do not get amendments in the RECORD by 9 o'clock tonight on this American Defense Education Act that they would not be able to offer those amendments tomorrow during the debate and amending process on the bill unless it is an amendment to an amendment that has been filed in the RECORD, is that correct?

Mr. MOAKLEY. If the gentleman will yield further, the gentleman once again is correct.

Mr. LOTT. So the Members do not have the typical notice that they would have on filing amendments like this; the amendments are going to be limited, you are not going to have this opportunity tomorrow to offer an amendment that has not been printed in the RECORD.

I understand there was a notice last week by the chairman of the committee that they would seek this type of rule. Is that correct?

Mr. MOAKLEY. The gentleman once again is correct.

Mr. LOTT. Mr. Speaker, further reserving the right to object, I just want to say that I do think it is a mistake, institutionally, for us to be doing this. This is not a bill from the Committee on Ways and Means. The revenue code is not being opened up to amendments. This is a bill out of the Committee on Education and Labor. The members of that committee may be familiar with what is in this bill and they may have had an opportunity to prepare amendments or to have put those amendments in the RECORD but there are a lot of Members here in the House that have knowledge and inter-

est in education and labor and will be precluded now unless they put their amendments in the RECORD by 9 o'clock.

I think it is not a partisan thing, it is an institutional thing with me and I would hope that the Committee on Rules and the House will not make it a normal practice of requiring this on bills from committees that do not involve the Tax Code or something of that nature.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield again?

Mr. LOTT. I will yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, just to clarify what the gentleman [Mr. LOTT] is pointing out, the Committee on Rules granted a rule for the consideration of the American Defense Education Act which stipulates that all amendments to the bill must be printed in the CONGRESSIONAL RECORD by today, September 12, and it is also the committee's intention to give Members an opportunity to comply with this printing requirement.

So my unanimous-consent request will facilitate that intent.

I also would like to point out that the chairman of the Committee on Education and Labor, "GUS" HAWKINS of California, gave notice last week, September 5, Wednesday, that he was requesting a rule that would restrict amendments to this bill to those printed in the RECORD the day before the consideration.

In addition, Mr. Speaker, when the legislative program for the week was announced on Thursday, September 6, Members were put on notice that H.R. 5609, which is this bill, would be considered on the floor Thursday and Friday, September 13 and 14, subject to this type of rule being granted.

□ 1600

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Do I understand that we have a new type of closed rule here that we are now adopting that suggests that the only amendments that are going to be permitted, as we consider this $11 billion bill, will be those that were in the RECORD and if someone along the way becomes disturbed about what is taking place in debate, they are not going to be able to draft an amendment and offer it in the course of this deliberation?

Mr. LOTT. Unless amendments are filed in the RECORD, under the rule that has been filed, by 9 o'clock tonight, they will be prohibited from offering the amendment during debate and amendment process tomorrow.

Mr. WALKER. If the gentleman will yield further, when the chairman came before the committee to ask for this kind of rule, was any explanation given for this kind of procedure being adopted?

Mr. LOTT. He was questioned and he did give an explanation which I am not quite sure I understand.

I guess the gist of it was it is for the purpose of expediting the consideration of this legislation, that it would not be delayed because of a multiplication of amendments being filed in the RECORD. I assured the gentleman that there were no dilatory plans of that nature and I thought it was bad precedent to do this. But the Rules Committee did decide to close it except for amendments that are printed in the RECORD by 9 o'clock tonight.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding.

Actually, the gentleman realizes that it is not uncommon for this type of rule to be granted in the closing days of the session and especially in a complex bill and that the rule is completely open. The only thing we have done is we have tightened up the amendment process. In fact, giving additional time until 9 o'clock tonight for the Members to perfect their amendments.

Mr. LOTT. Further reserving the right to object, would a Member tomorrow, if he decided that the bill was just too much money and he wanted a 10-percent across-the-board reduction in spending—he would not have to know a lot about the substance, he would not have to know a lot about formulas—just an across-the-board 10-percent reduction in spending, if he came to that conclusion tomorrow, would that amendment be in order?

Mr. MOAKLEY. Well, I think if the Member had to wait until tomorrow to come to that conclusion he has not been doing his job as a Member of Congress.

Mr. LOTT. Mr. Speaker, I did want to make this reservation. The Members want to proceed and I understand that and I will not delay it any further. I wanted to make sure they understand they have until 9 o'clock tonight and urge the Rule Committee not to make a practice of doing this, which it has not, generally speaking.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts [Mr. MOAKLEY]?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, September 10, 1984, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 3347, by the yeas and nays; and H.R. 6071, by the yeas and nays.

The Chair will reduce to 5 minutes the time for taking the second electronic vote.

EXTRADITION ACT OF 1984

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3347, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules, and pass the bill, H.R. 3347, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 103, nays 307, not voting 22, as follows:

[Roll No. 386]

YEAS—103

Ackerman	Gonzalez	Obey
Addabbo	Gray	Ottinger
Akaka	Hall (OH)	Owens
Alexander	Hawkins	Pease
Barnes	Hayes	Pepper
Beilenson	Howard	Rangel
Berman	Hoyer	Richardson
Bonior	Hughes	Rodino
Borski	Kastenmeier	Roe
Boucher	Kildee	Roybal
Boxer	Kostmayer	Russo
Brooks	LaFalce	Sabo
Brown (CA)	Lantos	Savage
Burton (CA)	Lehman (CA)	Sawyer
Clay	Lehman (FL)	Scheuer
Collins	Leland	Schumer
Conyers	Levin	Seiberling
Cooper	Levine	Solarz
Coyne	Lowry (WA)	Stark
Crockett	Markey	Stokes
Dellums	Martinez	Swift
Dixon	Matsui	Synar
Donnelly	Mazzoli	Torres
Downey	McHugh	Torricelli
Dymally	Mikulski	Traxler
Edgar	Miller (CA)	Vento
Edwards (CA)	Mineta	Walgren
Evans (IL)	Mitchell	Waxman
Fascell	Moakley	Weiss
Foglietta	Moody	Wheat
Foley	Morrison (CT)	Wirth
Garcia	Murphy	Wolpe
Gejdenson	Natcher	Yates
Gilman	Nowak	
Glickman	Oakar	

NAYS—307

Albosta	Barnard	Billey
Anderson	Bartlett	Boehlert
Andrews (NC)	Bateman	Boland
Andrews (TX)	Bates	Boner
Annunzio	Bedell	Bonker
Anthony	Bennett	Bosco
Applegate	Bereuter	Breaux
Archer	Bethune	Britt
Aspin	Bevill	Broomfield
AuCoin	Biaggi	Brown (CO)
Badham	Bilirakis	Broyhill

Bryant
Burton (IN)
Byron
Campbell
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
Dorgan
Dowdy
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Ford (TN)
Fowler
Franklin
Frenzel
Frost
Fuqua
Gaydos
Gekas
Gephardt
Gibbons
Gingrich
Goodling
Gore
Gradison
Green
Gregg
Gunderson
Hall (IN)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kazen
Kemp
Kennelly
Kindness
Kleczka
Kogovsek
Kolter
Kramer
Lagomarsino
Latta
Leach
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (MD)
Lott
Lowery (CA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Mavroules
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McKernan
McKinney
McNulty
Mica
Michel
Miller (OH)
Minish
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Neal
Nelson
Nichols
Nielson
O'Brien
Olin
Ortiz
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Penny
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ratchford
Ray
Regula
Reid
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Rudd
Schaefer
Schneider
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stratton
Sundquist
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Udall
Valentine
Vander Jagt
Vandergriff
Volkmer
Vucanovich
Walker
Watkins
Weaver
Weber
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wise
Wolf
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zschau

NOT VOTING—22

Boggs
Carney
Cheney
Fazio
Ferraro
Ford (MI)
Frank
Gramm
Guarini
Jacobs
Jeffords
Long (LA)
Martin (NC)
Martin (NY)
Oberstar
Pritchard
Shannon
Simon
Studds
Stump
Towns
Young (MO)

□ 1610

Messrs. HARRISON, PANETTA, SMITH of Florida, HERTEL of Michigan, MAVROULES, LONG of Maryland, MINISH, BOSCO, and BEDELL changed their votes from "yea" to "nay."

Mr. GONZALEZ and Mr. WHEAT changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1620

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair again announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the second motion to suspend the rules on which the Chair has postponed further proceedings.

TRADEMARK COUNTERFEITING ACT OF 1984

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6071, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 6071, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 29, as follows:

[Roll No. 387]

YEAS—403

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (IN)
Byron
Campbell
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark

Stenholm	Vander Jagt	Wilson
Stokes	Vandergriff	Winn
Stratton	Vento	Wirth
Sundquist	Volkmer	Wise
Swift	Vucanovich	Wolf
Synar	Walgren	Wolpe
Tallon	Walker	Wortley
Tauke	Watkins	Wright
Tauzin	Waxman	Wyden
Taylor	Weaver	Wylie
Thomas (CA)	Weber	Yates
Thomas (GA)	Weiss	Yatron
Torres	Wheat	Young (AK)
Torricelli	Whitehurst	Young (FL)
Traxler	Whittaker	Zschau
Udall	Whitten	
Valentine	Williams (MT)	

NOT VOTING—29

Boggs	Guarini	Schneider
Breaux	Jacobs	Shannon
Burton (CA)	Jeffords	Simon
Carney	Long (LA)	Studds
Cheney	Martin (NC)	Stump
Crockett	Martin (NY)	Towns
Fazio	Miller (CA)	Whitley
Ferraro	Oberstar	Williams (OH)
Frank	Pritchard	Young (MO)
Gramm	Roe	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1630

VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1250) to improve access for handicapped and elderly individuals to registration and polling facilities for Federal elections, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 10, strike out "and polling facilities" and insert "facilities and polling places".

Page 2, line 4, strike out "facilities" and insert "places".

Page 2, line 7, strike out "facility" and insert "polling place".

Page 2, lines 11 and 12, strike out "polling facilities" and insert "polling places".

Page 2, lines 12 and 13, strike out "accessible facility" and insert "such accessible place is".

Page 2, strike out lines 16 to 21, inclusive, and insert:

(B) assures that any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request of such voter (pursuant to procedures established by the chief election officer of the State)—

(i) will be assigned to an accessible polling place, or

(ii) will be provided with an alternative means for casting a ballot on the day of the election.

Page 3, line 1, strike out "facilities" and insert "places".

Page 3, after line 7, insert:

(3) The provisions of this subsection shall only be effective for a period of 10 years beginning on the date of enactment of this Act.

Page 3, line 21, strike out "facility" and insert "place".

Amend the title so as to read: "An Act to improve access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.".

Mr. SWIFT (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Washington [Mr. SWIFT]?

Mr. THOMAS of California. Reserving the right to object, Mr. Speaker, I shall not object, and I yield to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. I thank the gentleman for yielding and if I could have the attention of the manager of the bill, the gentleman from Washington [Mr. SWIFT], during the discussion of this bill when it was on the House side, I had expressed some concerns about how this bill might conflict with some existing State efforts to try to deal with the problem of providing access to handicapped voters.

I wonder if the gentleman might outline what changes have been made in the legislation since it left this body which would deal with the question.

Mr. SWIFT. If the gentleman would yield, I would be happy to answer that.

Mr. Speaker, if I might just take a moment to explain, H.R. 1250 is a bill to improve access for handicapped and elderly individuals to registration and polling facilities in Federal elections.

As it was adopted by this House in June—by voice vote—the bill required, first, that polling places be made physically accessible, if possible. Second, if a survey of potential sites failed to reveal a site that could be made accessible, then any elderly or handicapped voter who requested it would be reassigned to an accessible site.

The bill further provided that:

A reasonable number of permanent registration sites should be accessible;

Instructions at registration and polling sites should be printed in large type to assist hearing and visually impaired individuals;

Registration and voting information should be available through telecommunications devices for the deaf;

Absentee ballots should be made available for handicapped voters without requirement for notarization or medical certification; and

Public notice of the availability of these aids should be provided.

The effective date of the bill was set for December 31, 1985.

During its consideration of this legislation, the Senate adopted several amendments that further improved what was already a good bill. Very briefly, the significant amendments would:

First, sunset the survey requirement in the bill after five elections; and

Second, clarify the section relating to handicapped and elderly voters who live in precincts with inaccessible polling sites.

That section, Mr. Speaker, now provides that State election officials should seek to accommodate such voters if they request reassignment to accessible polls.

But if reassignment is not practical, due to provisions of State law or serious administrative problems, a State may offer such voters any other means of voting that is feasible in that State—including so-called curbside voting—so long as each voter who requests it is provided with an opportunity to vote on election day.

As I indicated, Mr. Speaker, I believe these changes improve an already excellent piece of legislation.

A great many elderly, handicapped, and civil rights groups and individuals have been involved in developing this bill, as have numerous election officials from a wide variety of States.

The result is an effective but flexible bill that will substantially improve access by elderly and handicapped voters to registration and polling places in this country.

I know of no opposition to this bill, or to these amendments, and I urge their prompt adoption.

Mr. TAUKE. I thank the gentleman for his comments and I believe that this provision substantially improves the bill and I commend the gentleman from California [Mr. THOMAS] for his efforts in this legislation.

Mr. THOMAS of California. Mr. Speaker, continuing with my reservation, I do want to commend the chairman of the Task Force on Elections. I believe the Senate amendments do improve the bill but he is to be commended for bringing all of the groups together and putting together a working package which at one time did not appear to be one that would get through the legislative process successfully.

Mr. SWIFT. If the gentleman would yield?

Mr. THOMAS of California. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for his kind words and would indicate it would not have been possible without the enthusiastic support of the minority and I appreciate that.

● Ms. OAKAR. Mr. Speaker, last month, handicapped athletes from around the world gathered in Los Angeles to participate in the Olympic games for the disabled. For these athletes and all disabled persons in the world, these games symbolized the gains handicapped persons have made

in being recognized as full class citizens.

Disabled persons, as well as many elderly citizens in our Nation work, participate in sports, and exercise other rights given to citizens. One of the most important rights available to all U.S. citizens is the right to vote. Essentially, voting in local, State, and national elections is the single most important way every citizen can voice his or her choice in public policy matters. And, when a person's ability to vote is hindered, that person has no voice in policy, no vote.

Congressman AL SWIFT authored a bill to increase accessibility in voting to the handicapped and elderly. H.R. 1250 would improve access beginning in 1985. The bill requires that polling places for Federal elections are accessible to all persons. The bill also requires a reasonable number of accessible registration facilities within each jurisdiction. Finally, the bill would provide for registration and voting aids for the disabled and elderly.

The Committee on House Administration's task force on elections has reviewed this issue and the legislation for some time, and I believe has developed a bill which will serve both the voters who need special attention and those officials who must administer the needed changes.

No one can argue that greater participation in the Federal election process is important to the success of our Nation. H.R. 1250 will make it easier for 35 million citizens to exercise their right to vote. I encourage all my colleagues to join me in supporting this legislation.

Thank you, Mr. Speaker.●

Mr. THOMAS of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Washington [Mr. SWIFT]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING PRINTING AS A HOUSE DOCUMENT OF A COMMITTEE PRINT ENTITLED "QUACKERY, A $10 BILLION SCANDAL"

Mr. GAYDOS, from the Committee on House Administration, submitted a report (Rept. No. 98-1011) on the resolution (H. Res. 564) authorizing the printing as a House document of the committee print entitled "Quackery, A $10 Billion Scandal," which was referred to the House Calendar and ordered to be printed.

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 564) authorizing the printing as a House document of the committee print entitled "Quackery, A $10 Billion Scandal," and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mrs. VUCANOVICH. Reserving the right to object, Mr. Speaker, I do not plan to object, but I would like to ask the gentleman from Pennsylvania to explain that resolution.

Mr. GAYDOS. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentlewoman for yielding.

Mr. Speaker, House Resolution 564 authorizes the printing as a House document of the committee print entitled "Quackery: A $10 Billion Scandal." This report was prepared by the chairman of the Subcommittee on Health and Long-Term Care of the Select Committee on Aging after an intensive 4 years of study. The Committee on House Administration approved this resolution on September 12, 1984. The resolution provides that the usual number of 1,500 copies shall be printed pursuant to the requirements of the applicable statute, section 701 of title 44 of the United States Code and that 1,100 additional copies shall be printed for the use of the Subcommittee on Health and Long-Term Care. The estimated cost of the printing, provided by GPO, is as follows:

Usual number of 1,500 copies (statutory requirement)	$4,948.59
Additional 1,100 copies	1,177.66
Total cost	6,126.25

This report marks the final product of an intensive 4-year review of quackery and its impact on the elderly. While this Congress has already taken legislative action to curb frauds against the elderly, the need still exists to alert the American public, especially older Americans, to medical frauds that they are likely to encounter in their search for relief in today's marketplace. This report can fulfill this important service if it is made available to the aging network throughout the United States.

The additional copies authorized by this resolution will be distributed by the subcommittee primarily to the aging network. This aging network consists of some 700 area and State units dealing with services for older Americans. It is the best means for making the information contained in this report readily available to our senior citizens. The subcommittee's allotment of the initial printing of this report was exhausted within 1 month due to widespread demand.

Mrs. VUCANOVICH. I thank the gentleman.

Mr. Speaker, I would like to support this resolution.

I think that this document will alert our elderly throughout the United States to medical frauds they may encounter when trying to reduce their medical costs and I applaud the Select Committee on Aging for its work on this document. And I think the House should pass this resolution so the document can be made available to the American public.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the resolution as follows:

H. RES. 564

Resolved, That the committee print of the report of the chairman of the Subcommittee on Health and Long-term Care of the Select Committee on Aging entitled "Quackery, A $10 Billion Scandal", dated May 31, 1984, shall be printed as a House document.

SEC. 2. In addition to the usual number, there shall be printed 1,100 copies of such document for the use of the Subcommittee on Health and Long-term Care.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A TIME OF REMEMBRANCE

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration on the Senate joint resolution (S.J. Res. 336) to proclaim October 23, 1984, as "A Time of Remembrance" for all victims of terrorism throughout the world, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, and I will not object, I just want to go on record as saying I believe, as we all do, that this is a very worthwhile resolution.

Victims of terrorism are throughout the country; whatever part of the country they happen to live in they can be subject to this type of very heinous crime.

We think it is very important to bring everybody's attention to the plight of these victims.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

S.J. RES. 336

Whereas the problem of terrorism has become an international concern that knows no boundaries—religious, racial, political, or national;

Whereas thousands of men, women, and children have died at the hands of terrorists in nations around the world, and today terrorism continues to claim the lives of many peace-loving individuals;

Whereas October 23, 1983, is the date on which the largest number of Americans were killed in a single act of terrorism—the bombing of the United States compound in Beirut, Lebanon, in which two hundred and forty-one United States servicemen lost their lives;

Whereas many of these victims died defending ideals of peace and freedom; and

Whereas it is appropriate to honor all victims of terrorism, and in America to console the families of victims, and to cherish the freedom that their sacrifices make possible for all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23, 1984, be proclaimed as "A Time of Remembrance", to urge all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom, and to promote active participation by the American people through the wearing of a purple ribbon, a symbol of patriotism, dignity, loyalty, and martyrdom. The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interested organizations, groups, and individuals to fly United States flags at half staff throughout the world in the hope that the desire for peace and freedom take firm root in every person and every nation.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1640

NATIONAL SPINA BIFIDA MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 275) to designate the month of October 1984 as "National Spina Bifida Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, I simply reserve the right to object to indicate that the Republican Party stands very much behind this resolution. Indeed, we obviously have no objection whatsoever.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. MURPHY. Mr. Speaker, I rise today in support or Senate Joint Resolution 275, designating October 1984 as "National Spina Bifida Month". This important resolution will serve the purpose of increasing public awareness of spina bifida.

Spina bifida is a little known handicapping condition which results from the failure of the spine to close properly. Spina bifida is the most serious birth defect, as 30 years ago 90 percent of children born with spina bifida died of complications early in life. However, now with aggressive care and improved treatment at least 90 percent of children born with spina bifida survive.

Research indicates that approximately half of the American population is not familiar with the crippling defect of spina bifida. This is surprising when one considers that spina bifida occurs five times as often as multiple sclerosis and seven times as often as muscular dystrophy. It is the most common birth defect, occurring in 1 of every 1,000 births. Most of the March of Dimes and Easter Seal poster children have spina bifida.

Due to the nature of this birth defect it is critical to provide these children with the appropriate facilities and specialized medical professionals to meet their unique health needs. Currently, only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective treatment for children and adults with spina bifida.

I am strongly supporting Senate Joint Resolution 275, because by designating October as "Spina Bifida Month" it will help stimulate the interest and concern of the American people, which may lead to increased research and eventually to the discovery of a cure for spina bifida.●

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 275

Whereas spina bifida is a birth defect in the spinal column which occurs in one of every one thousand births in the United States;

Whereas spina bifida is the most common crippler of newborns, resulting when one or more bones in the back (vertebrae) fail to close completely during prenatal development;

Whereas while the cause of spina bifida is not known, it appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people have not heard of the defect;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifida; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1984 is designated "National Spina Bifida Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HOSPICE MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 334) to provide for the designation of the month of November 1984 as "National Hospice Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, I yield to my friend, the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, I am pleased that Senate Joint Resolution 334, a resolution to designate the month of November 1984 as "National Hospice Month," has been brought to the floor. I am es-

pecially pleased that over 250 of our colleagues have shown their support for this designation by cosponsoring a similar House resolution.

It is very appropriate that we designate the month of November 1984 to commemorate hospice, the innovative, compassionate approach to caring for the terminally ill. The year 1984 marks the 10th anniversary of hospice care in this country. The first U.S. hospice was established near New Haven, CT, in 1974. Now, there are over 1,200 programs around the country dedicated to promoting the hospice concept. The month of November has been selected because November 1, 1984, marks the first anniversary of the medicare hospice benefit. The implementation of hospice medicare benefits has made it possible for hospice care to become a viable alternative to traditional care for many elderly Americans.

Hospice care is more than a service delivery system; it is a philosophy that seeks to provide terminally ill patients and their families with dignity and a sense of fulfillment. Unlike traditional hospital care, with its commitment to treating and curing diseases, hospice care focuses on controlling pain and supporting the patient and family members when illness has gone beyond therapeutic control.

The hospice concept is centered on the belief that the dying are often better served in the familiar surroundings of their own homes, or, if medically necessary, in a comfortable inpatient facility which allows them to spend their final days as peacefully and free from pain as possible.

Hospice care provides a continuity of care through the integration of home and inpatient care. Through the use of home health aides, social workers, skilled nurses, clergy, and trained volunteers, family members are taught how to care for the terminally ill patient at home. Physicians, psychiatrists, psychologists, pharmacists, physical therapists, nutritionists, and others may also serve on the hospice team.

Hospice care has proven to be an excellent way for patients and their families to help cope with the immeasurable stress and emotion of terminal illness. While understanding and support for the hospice concept has grown dramatically in the last few years, there remains a need for public education. It is also important to recognize the significant contributions made by the thousands of professionals and trained volunteers involved in the provision of hospice services and in the advancement of the hospice movement.

Mr. Speaker, public education and recognition programs conducted during National Hospice Month will expand the public's understanding of and support for hospice care as well as recognize the efforts and dedication of those currently involved in the provision of this humanitarian service.

Mr. COURTER. Mr. Speaker, I thank the gentleman for his comments and his leadership as the chief House sponsor of the proposal making the month of November National Hospice Month.

I concur with what the gentleman said. During the past number of years in this country there has been an increased observation and increased recognition of the fact that people who are terminally ill deserve the right to live in comfortable surroundings and deserve special attention, deserve to be with family and not to be treated in some sort of callous fashion.

The hospice movement sweeping the country, and I might add particulary in the State of New Jersey, which is one of those leaders as well, is extremely important for those individuals who find themselves facing terminal illness.

I congratulate the sponsors. I congratulate my dear friend as well for bringing this to the attention of all Members.

● Ms. SNOWE. Mr. Speaker, I am very pleased to join my colleagues today in designating the month of November as "National Hospice Month." As an original cosponsor of this resolution, I have long indicated my strong support of the hospice movement. As the hospice movement becomes accepted by more people, I believe the day is coming when this special way of caring for the dying will truly become an intergrated part of our health care system.

The hospice movement has become popular in this country only in the last few years. In 1973 there was only 1 hospice operating in the United States; now, only 11 years later, there are approximately 1,200 hospices caring for over 40,000 patients. The growing acceptance of hospices is, in part, attributed to advances in medical science, especially the application of life-sustaining machinery. To the fear of death has now been added the fear of being kept alive by artificial means in a helpless, lonely, possibly comatose state and not being "allowed" to die.

Anyone who has lived through the experience of a loved one dying of a terminal illness, such as cancer, knows it is one of life's most traumatic encounters. It can involve months of agonizing pain for the patient and a sense of helplessness and frustration for the family. Adding to the predicament is the fact that most cancer patients die in hospitals. In recent years, a growing number of cancer patients and their families have found that when a cure is no longer feasible, the hospital may not be the right place to be. These institutions are equipped to cure the sick rather than treat those who have no hope of recovery.

Dying is probably the most lonely experience we human beings will encounter in our lifetime. While family and friends must part with their loved one, the dying person is leaving everybody behind. For too long, we as a society, have wanted to hide from the fact that death and dying are an important part of the life cycle and deserve our serious attention.

The hospice philosophy addresses these important problems. It faces death as a fact of life and focuses on making the patient as comfortable as possible during the remaining days and months of life. The stress is on the alleviation of pain rather than the continuation of curative therapy.

The in-hospice facility emphasizes a pleasant, restful, home-like atmosphere, where the patient is cared for by an interdisciplinary team of care givers. Most people, however, prefer to die in their own home surrounded by familiar faces, smells, sounds, and sights. For that reason, many hospices provide services through existing home-care units. The family is trained and supervised by the hospice team to care for their loved one. Regular visits by the professional and volunteer hospice staff help to support and structure the care of the patient. The holistic approach of the hospice philosophy often includes support of the bereaved family long after the death of the patient.

An important step in the progress of the hospice movement in this country has been the acceptance of third-party copayment of the cost of hospice care. However, the current medicare reimbursement rates provide little incentive for home-care agencies to participate in the program. These rates should be increased to better cover the cost of caring for the dying in the dignified manner of hospice care.

Today, however, is indeed a proud day, and it is only fitting that we use this opportunity to thank all the dedicated nurses, social workers, physicians, clergy, volunteers, and other persons working long, hard hours to make the hospice program what it is today.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 334

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in relative comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care of the patient and family by attending to their physi-

cal, emotional, and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and other community volunteers trained in the hospice concept of care;

Whereas hospice care is rapidly becoming a full partner in the Nation's health care system;

Whereas the recent enactment of the medicare hospice benefit makes it possible for many more elderly Americans to have the opportunity to elect to receive hospice care; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984, is designated as "National Hospice Month", and the President is authorized and requested to issue a proclamation calling upon all Government agencies, the medical community, appropriate private organizations, and the people of the United States to observe the month with appropriate forums, programs, and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOWN'S SYNDROME MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 254) to designate the month of October 1984 as "National Down's Syndrome Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, and indeed, as before, I will not object, but I would like to mention the fact that this, too, is a very worthwhile resolution bringing the attention of the citizens of the United States to the importance of recognizing the need for work, funding, and increased sensitivity to those victims of Down's Syndrome.

Mr. Speaker, I very much support the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 254

Whereas the past decade has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down's syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas, through the efforts of concerned physicians, teachers, and parent groups such as the National Down's Syndrome Congress, programs are being put in place to educate new parents of babies with Down's syndrome; to develop special education classes within mainstreamed programs in schools; the provision for vocational training in preparation for competitive employment in the work force and to prepare young adults with Down's syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down's syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas along with this improvement in educational opportunities for those with Down's syndrome is the advancement in medical science which is adding to a more brightened outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down's syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Down's Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 227) designating the week beginning November 11, 1984, as "National Women Veterans Recognition Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, and again, I will not object, the purpose of the resolution obviously is to give full recognition to the women who have provided a crucial part of the defense of this country in various roles and various modes over the years.

Very often some of our citizens, when they think of veterans, think only of male veterans, but there are a lot of female veterans and they play an integral part. They have before, as far as the national defense, and they do today, and they certainly deserve a special week recognizing their input and their contribution to the freedoms that this country has.

● Mr. EVANS of Illinois. Mr. Speaker, legislation to designate the week of November 11-17, 1984, as "National Women Veterans Recognition Week" has received tremendous bipartisan support in both Houses of Congress. Senate Joint Resolution 227 passed the Senate in April. As the sponsor of the House version, House Joint Resolution 499, I am pleased that more than 231 Members joined in sponsoring this measure, and I thank the chairwoman of the subcommittee for calling up this measure in such a timely manner.

This legislation is the priority legislation in the 98th Congress for women veterans organizations throughout the country. It marks the first time in 42 years that America's women veterans, who now number over 1 million, have been formally acknowledged for their military service to this country.

World War II saw the first large induction of women into the armed services. But few people recognized it as anything more than a temporary wartime necessity. These women, many of whom remained in the Armed Forces for 20-30 years, were pioneers in liberating women's role in the military. Today, women are entering the Armed Forces in record numbers.

A significant step forward for women veterans was made last year when an advisory committee on female veterans was established within the VA. In addition, we in Congress enacted a requirement which mandates that the VA report biannually to Congress on the effectiveness of VA programs in meeting these needs. While this progress is certainly heartening, I believe that much greater public recognition of the contributions of women veterans is needed.

I am very hopeful that "Women Veterans Recognition Week" will spur public interest and create greater awareness of the contributions of women veterans to this Nation's welfare and security. It is the very least we can do for these patriotic and dedicated veterans.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 227

Whereas there are more than one million one hundred thousand women veterans in this country, representing 4.1 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military services often involving hardship and danger have contributed greatly to our national security;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation have not been adequately recognized;

Whereas this lack of recognition has denied women veterans the public appreciation and praise they deserve;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 11, 1984, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contributions of women veterans, to express the Nation's appreciation for their service, and to inspire more responsive care and services for women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 11, 1984, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and government officials to observe that week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TOURISM WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 335) to designate the week beginning on May 19, 1985, as "National Tourism Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, under my reservation I would like to yield to my friend, the gentleman from Pennsylvania [Mr. RITTER.]

Mr. RITTER. I thank the gentleman for yielding.

Mr. Speaker, I would like to share with my colleagues the importance of this particular commemorative. There are commemorative weeks that come and go on the floor of this House. This particular commemorative week has probably received as much attention as any one I am familiar with.

I would like at the end of my statement to include from the U.S. Travel and Tourism Administration in the Commerce Department an incredible list of activities that went on nationwide under the auspices of the different States and cities and municipalities.

These activities, taking place across the country, highlight a great freedom we enjoy here: The freedom to travel. Not only do we have a magnificent land to explore and discover, but we also have a distinct and enduring feeling for our rich and varied heritage. It is our privilege to embrace to the fullest the opportunity to learn of these things firsthand. Truly, in the immortal words of Woody Guthrie, "This land was made for you and me."

The first celebration of National Tourism Week was a resounding success, in spite of the fact that the lead time was extremely limited. This time around we plan to have the kind of lead time before May 19 so that the tourism and travel industry in America has sufficient time to prepare.

A couple of notes: Last year, Americans and foreign nationals spent on travel and tourism in the United States of America $255 billion. This led directly to $41 billion in salaries and wages for American workers and 4½ million jobs. It is one of the fastest growing industries in the country, and one of those industries that, even during the recession, had signficant growth.

In my own district of the Lehigh Valley of Pennsylvania, we recently completed our Musikfest, and 185,000 people attended that Musikfest during the period of 1 week.

The American tourism industry and the U.S. Travel and Tourism Administration have done a remarkable job, along with their counterpart people in the local governments and State governments in making National Tourism Week 1984 a tremendous success.

Mr. Speaker, I would like to call attention to the excellent work done by the chairman of the Senate Travel and Tourism Caucus, JOHN WARNER, from Virginia, and also call attention to the excellent job done by our own chairman in the House, the gentleman from Tennessee, BILL BONER.

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Another stellar job has been done by the U.S. Travel and Tourism Administration's Director, Miss Donna Tuttle.

Altogether there has been a lot of teamwork in making this week a success and we look forward to an even greater success in the coming year.

I thank the gentleman for yielding.

Mr. COURTER. Mr. Speaker, I thank the gentleman for his comments.

In New Jersey, as in Pennsylvania, tourism is a very important industry. As a matter of fact, I am not sure, but I think it could be the biggest industry that we have in the entire State, tourism. It is very important to us. It is very important to many of our States, so recognizing and giving them a special week and giving them, as the gentleman from Pennsylvania says, some lead time so they can properly prepare for this type of event is extemely important.

I congratulate the gentleman from Pennsylvania [Mr. RITTER] for sponsoring this legislation in the House, getting all the signatures that were necessary. I congratulate him for his leadership in tourism, as well as his leadership in some of the other areas.

Mr. RITTER. Mr. Speaker, if the gentleman would yield back for just a moment, I would like to tell him and all the rest of the Members and the staff working here that "You've got a friend in Pennsylvania." That is our travel and tourism slogan.

"Despite our late start, I believe the signs are encouraging that as a government we are beginning to appreciate the national importance of travel and tourism, and beginning to act accordingly. One of the most significant reasons for this change in government attitude is the travel industry itself. So it is the men and women in the industry who should be recognized during National Tourism Week, and it is their effort which should be celebrated."—Statement by Sen. Daniel Inouye (D-Hawaii) Congressional Record, May 24, 1984.

This inspiring message from long-time supporter of the travel and tourism industry Senator Daniel Inouye (D-Hawaii) was only one of many inserted into the Congressional Record during National Tourism Week 1984, but it sums up the optimistic feeling of all the participants that this special event was a highly successful promotion which should become an annual opportunity to highlight the contributions of America's travel and tourism industry.

National Tourism Week got off to an attention-getting start with the "kick-off" in Washington, D.C. on May 22. Three U.S. Senators and seven Congressmen attended the joint U.S.T.T.A.-American Bus Association sponsored breakfast on Capitol Hill. The unveiling of the U.S. Postal Service aerogramme was an impressive ceremony and the presentation of a "Travel . . . The Perfect Freedom" T-shirt to Vice President Bush focused the attention of the White House on the week's events. With the Southeast Tourism Society in town, their "hoedown" on the Mall was the most sought after invitation in the Nation's Capital. Representatives of the handicapped aired their views on what can be done to help the disabled traveler and the nation's media developed a new awareness of the importance of

travel as a story to be covered on TV, radio, and in print.

Major media coverage included my appearance, along with the mascots from the World's Fair and Summer Olympics, on the May 31 edition of ABC's Good Morning America; interviews on the CBS radio national show Crosstalk; NBC Sunday Night News (for June or early July airing); the Satellite Business Network; San Francisco Business Journal; and major articles in the Chicago Tribune, USA Today, and the New York Times. In addition, the respected Congressional Quarterly issued a special report on travel and tourism and the Commerce Department's widely read magazine Business America highlighted U.S.T.T.A. as their cover story. Copies of the National Tourism week media coverage are attached to this report.

U.S.T.T.A. conducted a familiarization tour to Washington, D.C. for six leading journalists from the major international markets. The journalists received a VIP view of Washington through the assistance of the Washington, D.C. Convention and Visitors Bureau.

The Department of Commerce in Washington, D.C. flew a banner saluting National Tourism Week. The busy main lobby offered a special exhibit of new state travel posters with signs reminding people of the economic impact of tourism in America.

U.S.T.T.A.'s regional offices celebrated NTW overseas:

U.S.T.T.A. Mexico held a reception at the residence of Ambassador John Gavin with guests including top airline and agency representatives, A video tape of President Reagan's special message and another on the Louisiana World Exposition were highlights of the event.

U.S.T.T.A. Frankfurt held a reception May 22 for 50 travel industry officials from all parts of Germany.

U.S. Consul General, Winnepeg officially opened the U.S. pavilion at the 7th Annual National Conference and Trade Show of the Association of Canadian Travel Agents May 30 to commemorate National Tourism Week.

Ambassador Galbraith in France hosted a reception celebrating National Tourism Week and honoring the French travel industry and press on May 24. More than 100 travel industry leaders, French government representatives, travel editors, television and embassy officials attended.

U.S. Deputy Chief of Mission in Tokyo, William Clark, received 200 leading Japanese travel executives at his residence in observance of National Tourism Week.

I was especially pleased by the turnout of more than 100 Congressional aids for the National Tour Association-United Bus Owners sponsored breakfast, followed by a briefing on U.S.T.T.A. programs and policies. This agency clearly accomplished its goals of increasing awareness of the economic impact of tourism and encouraging cities, states, and industry to make National Tourism Week an effective vehicle to promote the contributions of travel and tourism to America. The following "wrap-up" report briefly summarizes the major activities carried-out nation-wide:

The city of Mobile, Alabama and the Mobile Area Chamber of Commerce and Convention and Visitors Council hosted a luncheon commemorating NTW, using U.S.T.T.A.'s slogan "Travel . . . The Perfect Freedom." Governor George C. Wallace proclaimed Tourism Appreciation Week in conjunction with National Tourism Week.

Alaska celebrated NTW by proclaiming "Tourism Month" and programs hosting international tour operators and press were planned for the entire month of May. An inspection tour for 20 Japanese travel writers was followed by a group of 12 top German editors and publishers. Anchorage held hospitality seminars for the 5500 residents who work directly with visitors.

Governor Bruce Babbitt of Arizona signed a state proclamation for National Tourism Week at a news conference for the travel and tourism industry.

A "River Fest" kicked-off Arkansas' tourism week with a wide range of arts, crafts, bands and children' displays. Governor Bill Clinton issued a state tourism proclamation.

Office of Tourism worked with the news media on public service announcements and editorials, and with the Chicago Cubs and White Sox to flash NTW announcements on their scoreboards. The 1984 Governor's Conference on tourism addressed the need for the Illinois legislature to increase the State's tourism advertising budget to compete with neighboring states and issued a state tourism proclamation.

The State tourism office in Indiana issued a series of press releases and utilized local attractions to bring attention to National Tourism Week.

Governor Terry Branstad of Iowa signed a state tourism proclamation as well as Kansas Governor John Carlin, both generating many news articles on the economic impact of tourism.

Kentucky Governor Martha Layne Collins hosted a National Tourism Week luncheon in the Executive Mansion for seventy members of the travel and tourism industry. A state tourism week proclamation was also issued.

"Louisiana Tourism Day" was celebrated at the Louisiana World Exposition with travel and tourism industry leaders from across the state invited to attend a special reception/aquacade show and a private viewing of the Louisiana exhibit at the fair. Governor Edwin Edwards proclaimed Louisiana Tourism Day in conjunction with NTW.

Governor Joseph Brennan held a reception at his Mansion May 29 for members of the Maine Vacational Commission to thank them for the contributions the travel industry makes to the economy. The highlight of the day was a signing ceremony proclaiming Maine Tourism Week. Information personnel across the state were divided into four groups and escorted on familiarization trips acquainting them with various regions of the state.

Governor Hughes of Maryland issued a state proclamation and city proclamations were issued by the Mayors of Ocean City, Baltimore and Annapolis.

Massachusetts Governor Michael Dukakis signed a proclamation declaring "Tourism Week" and hosted a special State House ceremony and reception on May 30.

Governor James Blanchard held Michigan's First Annual Governor's Conference on Tourism and issued a proclamation for state tourism week.

The Minneapolis Convention and Visitor Commission sponsored a second annual Super FAM and trade fair. NTW also marked the commencement of Minnesota's new horse and carriage livery service and the "Artsfest" sponsored by Walker Art Center. These events were promoted through news releases sent to national trade magazines. Minnesota Tourism Week was launched with a Twins baseball game.

The Missouri Highway Patrol and the Division of Tourism joined forces to sponsor "Operation: Thank you." During NTW, troopers served as goodwill ambassadors, greeting out-of-state motorists and presenting them a bag of Missouri souvenirs, brochures and travel discounts.

Governor Ted Schwinden issued a state tourism proclamation and Montana participated in the Tri-State Travel Forum.

A state proclamation was issued with the slogan "Nebraska Tourism Week . . . Celebrate Nebraska" and the week was kicked-off with a carnival to welcome visitors. Major rest areas offered refreshments and local entertainment. The Mayor of Omaha issued a city tourism proclamation with all posters and press releases featuring the slogan "Travel . . . The Perfect Freedom". The Mayor also hosted a luncheon in honor of the travel and tourism industry and special mention was made of the economic impact of the travel industry.

Governor Bryan of Nevada held proclamation signing ceremonies in Carson City and Las Vegas, presenting international tourism marketing awards to Frontier Travel & Tours of Carson City and Desert Inn Country Club and Spa of Las Vegas.

Albuquerque, New Mexico distributed "Host Survival Kits" containing maps and promotional discounts.

In the Big Apple, New York City, they honored their Courtesy Awards Winner in a special ceremony on May 23. Just in case people missed their public service messages on radio and TV, the New York convention and Visitors Bureau arranged for a NTW salute to be flashed on Diamondvisions giant new video screen at 47th Street and Boradway. NTW information centers received NTW commemorative buttons.

North Carolinia Governor Jim Hunt declared the week of May 27, North Carolina Tourism Week and an economic awareness campaign was initiated to educate the public on the importance of tourism. Several front page stories on tourism appeared in the business section of major newspapers.

A two-day Governor's Conference on Tourism kicked-off North Dakota Tourism Week and the highlight was the issuance of official tourism week proclamations by the state and 12 cities.

The tourism community of Greater Cincinnati celebrated NTW with its "Invite a Friend" event on Fountain Square, May 29. Fifty attractions, hotels and restaurants had booths on the Square promoting their properties and giving out post cards to Cincinnatians to invite a friend to vacation there. A bank of six telephones were set up for long distance calls to invite friends to Ohio.

"On to Oklahoma! America's Frontier Lake State" slogan was developed to promote Oklahoma's abundance of water and water based recreational opportunities available to visitors.

Oregon Governor Atiyeh used National Tourism Week to hold a news conference and announce winners of their statewide tourism photo and poster contest.

"Travel Month" was organized by Pennsylvania featuring hospitality seminars, a travel writers familiarization tour, a million dollar campaign with Coca-Cola utilizing the state slogan "You've Got a Friend in Pennsylvania", and a series of press releases generating tourism story ideas. Pennsylvania also promoted the slogan "Greet a Visitor, Make a Friend."

Blackstone Valley, Rhode Island joined with the U.S. Department on eInterior to

hold meetings on ways to upgrade the tourist areas, i.e., bicycle trails and parks.

South Carolina Governor Richard Riley issued a state proclamation while welcome visitors centers distributed 5,000 National Tourism Week buttons. The Peedee tourism area conducted two workshops on how to sell the tourism market.

South Dakota issued a state tourism proclamation and Kay Riordan Steuerwald, President of Mountain Company, printed 5,000 large NTW buttons for local distribution. South Dakota utilized NTW to promote their National High School Rodeo finals and launched a new set of tourism information boards throughout the state.

Governor Pedro P. Tenorio of Saipan declared the week of May 27 tourism week for the Commwealth of the Northern Marianas. It was highlighted with an art exhibition, skits by students, sports events and training programs covering the impact of tourism on the CNMI economy.

For the folks in Nashville, free lemonade was provided at rest stops and some advice for motorists highlighted Tennessee Tourism Week.

Texans emphasized their state motto "Friendship" during Texas Tourism Week. The Dallas Convention and Vistors Bureau hosted a seminar and luncheon for travel industry leaders celebrating Mayor Starke Taylor's proclamation of Dallas Tourism Week.

Salt Lake City, Utah Mayor Ted Wilson issued a city-wide proclamation for tourism week. Vermont Governor Richard A. Snelling proclaimed May 27 "Vermont Tourism Day" and encouraged commercial attractions to offer special discount prices or free gifts. The Vermont Society of Travel Agents, in conjunction with Vermont Transit, sponsored a promotional contest whose winners received a free bus tour package.

Governor Juan Luis of the Virgin Islands prepared a NTW proclamation. a water carnival with boat races and a boat parade featured the hundreds of charter boats located in the Virgin Islands; school children were involved in preparing arts and crafts suitable for "Made in the Virgin Islands" labels for sale to tourists; and the business community was involved in a public awareness campaign dealing with the impact of tourism on the lives of the Virgin Islanders.

Governor Robb of Virginia signed a Certificate of Recognition for Virginia Tourism Week, with leaders of the Virginia tourism industry on hand. Statewide television and radio public service announcements, press releases, and fact sheets highlighting tourism's economic contributions to Virginia were also made available. The Richmond convention and Visitors Bureau organized a "Riches of Richmond Treasure Hunt" special tour; Washington County Chamber of Commerce and the City of Alexandria issued local resolutions commemorating NTW; and tent card displays were printed and distributed to local and regional tourism centers, leaders, highway welcome centers and state chambers of commerce. Historic Lexington Visitor Center presented certificates to all visitors, making them honorary citizens for the city.

Governor John Spellman of Washington proclaimed "May Tourism Month" and the state busied itself with TIA's 1984 International Pow Wow.

West Virginia kicked off their NTW celebration with the Governor's Travel Fair, May 6-11.

Governor Earl proclaimed "Wisconsin Tourism Week" and the state advertised with a public service announcement narrated by Lt. Governor Flynn using the U.S.T.T.A. slogan "Travel . . . The Perfect Freedom." The Wisconsin Association of Convention and Visitors Bureaus released Escape to Wisconsin" music for radio and tv spots and the Turner Broadcasting Systems' "American Heritage Series" Wisconsin segment pretelecast screening and reception was held May 30.

Wyoming Gov. Ed Herschler signed a state tourism proclamation and the state participated in the Tri-State Travel Conference.

INDUSTRY CONTRIBUTIONS

The American Bus Association hosted their Las Vegas "Bus Bash" May 27 and at the same time kicked off their NTW Traveling Billboard Program. ABA also sponsored a Buscade on May 22 making its way from the Virginia suburbs to the U.S. Capitol.

The American Recreation Coalition hosted a conference in Jackson Hole, Wyoming May 2-3, highlighting the relationship between recreation and international marketing.

The American Society of Travel Agents co-sponsored a half-hour cable television program, along with other travel industry organizations. The program, The Travel Journal, was shown on the CBN Cable Network, May 28. ASTA distributed 48,000 of their NTW buttons.

In addition to publishing a new U.S. Travel Industry Fact Book to be distributed to the nation's media, the Travel Industry Association of America devoted the central panel of the Information Booth at its 16th Annual Discover America International Pow Wow to National Tourism Week.

The new J. W. Marriott hosted the U.S.T.T.A. visiting journalists during their stay in Washington, D.C.

A Pennsylvania bus company, Capitol International Tours, Inc. has adopted the U.S. Travel and Tourism Administration's NTW slogan "Travel . . . The Perfect Freedom" as the official name of their newsletter.

The National Campground Owner's Association, the Recreational Vehicle Industry Association and the Recreation Vehicle Dealers' Association sponsored a special campaign "Go Camping America." They sent their members a special press kit with facts on the benefits of camping, information sources, and a special logo.

National Tour Association President Hal Mischnick sent a mailing to all members including NTW logo sheets, radio public service announcements, economic impact data, a sample letter to the editor and other ideas for publicizing the week locally. 18,000 NTA National Tourism Week posters were sold.

The Commerce Department's National Oceanic and Atmospheric Administration's newsletter, Marine Recreational Fisheries Highlights, gave NTW front page coverage in its May 17 issue.

Westpark Hotels of Virginia hosted a National Tourism Week reception at their Tyson's Corner hotel for travel agents, tour operators, airline officials and government representatives.

The Southeast Tourism Society secured more than 250 billboards in four states for use in an awareness campaign to highlight the importance of travel to the economy.

Two hundred and fifty Hilton Hotels utilized red, white and blue seals featuring the promotional slogan "Tourism is Everbody's Business" along with a recap of the industry's benefits "Creates Jobs . . . Generates Tax Revenues . . . Benefits the Entire Community."

The Air Transport Association asked 23,000 travel agencies to tie in National Tourism Week in planning tour programs and other promotional activities for their clients. ATA contacted editors of airline in-flight magazines and house organs for possible feature stories, as well as senior airline marketing people, to request in-flight announcements by pilots and/or flight attendants promoting National Tourism Week.

The Hotel Washington in the Nation's capital displayed a NTW banner and arranged for a special National Tourism Week message on the closed-circuit television information station which serves guests in the downtown hotels.

The American Hotel & Motel Association prepared a tourism insert for the May 27 issue of Time magazine. In addition, Time transportation display posters were set up in major locations throughout the country. AH&MA created a series of radio, public service annoucements and one TV spot saluting tourism for national distribution. They also provided a runner in the Olympic Torch Relay, May 27 under the tourism banner.

DONNA TUTTLE,
Under Secretary for Travel and Tourism.

U.S.T.T.A. does not intend to infer that this listing is all inclusive. It is simply a compilation of information that has been collected and/or received by this agency.

Mr. COURTER. I appreciate that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 335

Whereas tourism is vital to the United States, contributing to economic prosperity, employment, and international balance of payments;

Whereas travelers from the United States and other countries spent $255,000,000,000 in the United States during 1982, directly producing four million five hundred thousand jobs, $41,000,000,000 in wages and salaries, and over $20,000,000,000 in Federal, State, and local tax revenues;

Whereas, if viewed as a single retail industry, the travel and tourism sector of the economy constituted the second largest retail industry in the United States in 1982, as measured by business receipts;

Whereas tourism contributes substantially to personal growth, education, and intercultural appreciation of geography, history, and people of the United States;

Whereas tourism enhances international understanding and good will; and

Whereas, as people throughout the world become more aware of the outstanding cultural and recreational resources available across the United States, travel and tourism will become an increasingly important aspect of the daily lives of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on May 19, 1985, hereby is designated as "National Tourism Week", and the President is authorized and requested to issue a proclamation calling upon the people

of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EMERGENCY MEDICINE WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous conset that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 545) designating the week of September 16 through 22, 1984 as "Emergency Medicine Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, this, too, is a very worthwhile resolution, bringing proper attention to Emergency Medicine Week, making that week of September 16 through 22, 1984, a week to remember.

Emergency medicine in this country has come a long way in the past number of years. It literally saves the lives of thousands and thousands of individuals, the medicine itself, the trained personnel who give aid and assistance during the emergencies that occur every day in our towns and in our villages and in our cities.

So it gives me great pleasure to say that we totally endorse this effort.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 545

Whereas emergency medical personnel throughout our Nation are specialists trained to handle life- or limb-threatening illnesses and injuries requiring immediate attention, and must be available 24 hours every day of the week to all patients who need medical aid;

Whereas the emergency medical services system in the United States provides emergency health care to millions of citizens annually;

Whereas vast improvements in emergency medicine have been made in the past fifteen years, and emergency department personnel have completed extensive training and continuing education to keep up with these improvements;

Whereas the efforts of these trained men and women have saved thousands of lives; and

Whereas the observance of "Emergency Medicine Week" will educate our citizens about emergency medicine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 16 through 22, 1984 is designated "Emergency Medicine Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PEARL HARBOR REMEMBRANCE DAY

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res 392) to designate December 7, 1984 as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, obviously Pearl Harbor Day is the type of day that does not need a resolution to be remembered, but nevertheless it is totally fitting and proper in order to give it a resolution as well. It is a day that will always go down in American history as a day of infamy, a day that can give us very important lessons as to how we should behave in the future with regard to defense preparedness.

It gives me great pleasure to endorse making this day Pearl Harbor Day.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 392

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas over two thousand four hundred citizens of the United States were killed in action and almost one thousand two hundred were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a day that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1984 in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1984, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on all the resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewomen from Indiana?

There was no objection.

GENERAL LEAVE

Mr. McCANDLESS. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days to revise and extend their remarks on the subject of amendment No. 66 considered this afternoon during the Treasury-Post Office appropriation bill and to include therein extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNUAL REPORT OF RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1983—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on Ways and Means.

(For message, see proceedings of the Senate of today, Wednesday September 12, 1984.)

H.R. 5656, DANGEROUS DRUG DIVERSION CONTROL ACT

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his

remarks and include extraneous matter.)

Mr. HUGHES. Mr. Speaker, I would like to bring to the attention of the House an article from the front page of yesterday's Wall Street Journal on the problem of physicians who sell dangerous prescription drugs. The Journal reports on the enforcement efforts of the California Board of Medical Quality Assurance to prevent physicians from being duped by drug-abusing patients. This technique, repeated throughout the country on a daily basis, contributes to the diversion of close to 1 million doses of dangerous prescription drugs to the black market. The abuse of this class of drugs—pain killers, stimulants, depressants, and tranquilizers—is responsible, as the article points out, for over 70 percent of the deaths due to drug abuse—more than heroin, cocaine, marijuana, and LSD combined.

I am pleased to say, that with the excellent cooperation of the gentleman from Michigan [Mr. DINGELL], the gentleman from North Carolina [Mr. BROYHILL], the gentleman from California [Mr. WAXMAN], and the gentleman from Illinois [Mr. MADIGAN], the committee on Energy and Commerce this week cleared for floor action, H.R. 5656, the Dangerous Drug Diversion Control Act. H.R. 5656, which was reported by the Judiciary Committee on May 15 of this year, addresses the types of problems identified in the Wall Street Journal story. For example, the bill would encourage State agencies, such as the California Medical Quality Assurance Board, to recommend to DEA that a doctor be denied the authority to write prescriptions for controlled substances while on probation for misconduct, without stripping the doctor of the ability to practice medicine and continue to serve society.

The bill would also authorize DEA to assist States in monitoring improper drug distribution practices of physicians, podiatrists, dentists, veterinarians, and pharmacists.

As the article notes, the medical profession, and particularly the American Medical Association, has done an excellent job in recent years educating their members and policing themselves about this problem.

I believe that the leadership will schedule H.R. 5656 for action soon.

Mr. Speaker, it is a good bill. My distinguished colleague from Michigan, Mr. HAROLD SAWYER, and I hope to have the bill on the floor sometime next week.

Mr. Speaker, I ask unanimous consent that the article appear in the RECORD following my remarks.

DOCTORS IN CALIFORNIA SELLING PRESCRIPTIONS HAVE REASON TO FEAR—AGENTS WHO POSE AS PATIENTS ALSO ARE POSING A THREAT TO THEIR VERY PRACTICES

(By Marilyn Chase)

RICHMOND, CA.—In his prime, Joseph Pontier was a prolific obstetrician: He delivered 5,000 babies. Today, the only "office hours" he keeps are at a Red Cross booth in El Cerrrito, where he gives free blood-pressure tests.

"I'm not going to practice medicine anymore," he says. "I'll do my charity work. I'm 74 years old, and I'm tired."

Dr. Pontier's is no ordinary retirement. He was caught selling amphetamine prescriptions to undercover agents.

Dr. Pontier's captors were no ordinary narcotics cops. They were agents of California's Board of Medical Quality Assurance, a licensing board that polices the state's 60,000 licensed physicians. This aggressive peer review agency stakes out waiting rooms instead of back alleys. Its aim is to put offending doctors out of business through administrative proceedings.

Depriving derelict doctors of their prescription pads and their licenses to practice isn't a national obsession yet. But some think it ought to be.

A DECIDED PREFERENCE

"It's a huge national problem," says Bonnie Wilford, the head of the American Medical Association's drug-abuse unit. Mrs. Wilford says prescription-drug abuse costs millions of dollars in fraudulent insurance-claims for misprescribed drugs each year. Meanwhile, the popularity of painkillers, stimulants and depressants for recreational use is growing. "Prescription drugs used to hit the street only when street drugs were scarce," Mrs. Wilford says. "Now there's an actual preference for the prescription product: It has a predictable potency, cheaper price and lighter penalties for use."

The National Institute on Drug Abuse says that 60% of hospital emergency-room admissions for drug overdose and 70% of drug-related deaths are due to prescription drugs—not street drugs. Mrs. Wilford says that "prescription drugs play a disproportionate role in overdose and death. We're looking at this as a public-health problem," she says, not just a matter of professional standards.

The American Medical Association has spent about $250,000 to develop a system of data analysis to help states focus their enforcement programs—usually spread out among police and professional agencies that don't necessarily talk to each other. The program, called "Prescription Abuse Data Synthesis," or PADS, has been used in Michigan, Nevada, Florida and Arkansas and is currently being studied by Oregon, Washington and Massachusetts.

Doctors who brazenly sell prescriptions are known as "scriptwriters." In the late 1970s, there were major "script mills" in operation from San Diego to San Jose. "Word would spread quickly where the candy store was," says Anthony Gualtieri, the chief medical consultant to the Board of Medical Quality Assurance. "It wasn't uncommon for these doctors to have lines of patients waiting for their prescriptions," Dr. Gualtieri says. In flagrant script deals, transactions are in cash and lack the formality of a physical examination of the patient.

DRUGS OF CHOICE

People who take prescription drugs to get high are creatures of fashion. One popular drug, Quaalude, finally was discontinued by its manufacturer, Lemmon Co. of Sellersville, Pa., after California banned the sale of the sedative. Users then hit upon a new favorite: Dilaudid, a potent prescription painkiller prized for its heroin-like rush. Soaring demand has pushed its street price to $60 per tablet.

"We felt these doctors were prostituting the profession, so we formed a strike force in 1978 to wipe them out," Dr. Gualtieri says. And while the scriptwriter isn't extinct yet, California's board boasts that it has put some operators out of business, including "diet" and "stress clinics" that were little more than drug pushers.

Vernon Leeper, the board's enforcement chief, points to a tally of scriptwriters on the door of his Sacramento office and says: "Since the strike force was formed in 1978, we've caught 300 physicians in our net."

Why doctors go astray isn't laid to a single cause. The BMQA characterizes overprescribers as either duped by manipulative patients, old and outdated in their pharmacology, or just plain greedy.

"A lot of doctors get into trouble because they can't say 'no,' " says a BMQA investigator. "We're going after the real money-monger."

The typical scriptwriter, Dr. Gualtieri says, isn't a young hustler with an M.D. degree, "They're mostly elderly physicians in the twilight of their career," he says. "They want to take things a little easier but maintain a certain patient load and economic standing."

Having maintained a respectable practice for four decades, Dr. Pontier says his Achilles' heel wasn't money, but manipulation.

"I was too easily influenced by my patients," he says. "Too accommodating. I never prescribed narcotics. Just Ritalin (a stimulant used to treat narcolepsy in adults and hyperactivity in children) and amphetamines. Course, a lot of women use amphetamines for diets. But being a accommodating doctor was what got my behind in trouble."

Dr. Pontier was caught on tape recordings being a pushover. Undercover agents, who were wired for sound, told him they wanted the drugs to take at parties, to sell on the street and to give to their "girls" who were described as "models." Dr. Pontier doesn't deny any of this, he says, "because it all happened."

But there is a note of regret in his voice. "I stil see old patients," he says, "socially, of course. I don't give them any medical advice. The medical board would raise hell with me if I did."

UP AGAINST BMQA

Still in practice but on five years' BMQA probation is Judson F. Eneas, a San Francisco kidney specialist and chief of nephrology at French Hospital whose medical career was nearly derailed by his collision with BMQA agents.

"I was naive," laments Mr. Eneas, 37. He says he filled agents' pain prescriptions for Empirin with codeine and for Valium against his better judgment—one of the prescriptions that got him in trouble was for an agent posing as a "cocktail waitress" with low-back pain who said her boyfriend was using her drugs. "I had a low threshold of suspicion," he says ruefully, explaining that he hadn't expected patients to lie to him.

In the aftermath of the BMQA ruling, which he plans to appeal, he says he sought a counselor's help for three months. He adds that his children suffered confusion and shame. His wife, who assists him in his

office, weeps into her hands and says: "It hurt."

He will fare better than most. Some doctors' licenses are revoked by the board for their offenses. Dr. Robert L. Anderson of Woodland, Calif., "issued false prescriptions for 2,400 Valium tablets in his father's name, kept 1,700 for himself, of which 1,400 were sold on the street," according to a BMQA report. Dr. Anderson's license was revoked last September. He couldn't be reached for comment.

SALES JOBS

In another pending case, a San Francisco psychiatrist prescribed 588,000 doses of controlled drugs between 1978 and 1981. He will face BMQA's licensing action after serving nine months in prison.

"Some doctors weather the discipline and disgrace to reenter the profession," says Mr. Leeper, BMQA's top cop. "Others just leave medicine. They're out there now, selling cars or real estate," he says.

Some doctors fight back, at great cost and with little success. "Defenses can run $50,000," says Dr. Brian S. Gould of the California Medical Association, the state AMA.

San Francisco defense attorney Patrick Hallinan condemns BMQA investigations as "outrageous entrapment," committed by "down and dirty narcs who want scalps." He also charges the board with selective prosecutions of black and Asian doctors.

RESPONDING TO COMPLAINTS

Dr. Gualtieri denies all that. "We're here to respond to complaints. We're not on a witch hunt," he says. Special investigator Ward Jayne notes that race isn't listed on prescription pads. "Entrapment is the classic defense, but it's never succeeded," he says.

Mr. Leeper says his agents scrupulously avoid entrapment, although he allows that "there is a lot of theater in undercover work." The board casts black and Hispanic agents for ghetto surveillance, and other agent personnel include middle-aged "school-teachers" and women posing as single mothers working their way through school. "Some of the stories break your heart," says Mr. Jayne. "But the bottom line is: Is the doctor practicing good medicine or giving drugs on demand?"

That line isn't always clear, says CMA's Dr. Gould. "If a doctor listens to a patient describe vague pain or nervousness, that may seem like a trivial medical indication," he grants. "But I invite any ivory-tower critic to come deal with human misery on the front line, the way a practicing physician does."

Still, he concedes that undercover agents play a part in keeping the profession honest. "Sometimes," he says, "it's the only way to find out what goes on behind closed doors."

TIME FOR PRESIDENT REAGAN TO GET SERIOUS ABOUT ARMS CONTROL

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, today the first Women's National Conference on Preventing Nuclear War is being held in Washington. It is a measure of the seriousness with which the people of the country view the issue of nuclear war. It also comes at a time when, after nearly 4 years, the Reagan administration is the first administration since World War II to achieve no arms control or any other international agreement with the Soviet Union.

The one concrete proposal on either side is the Soviet call for a moratorium on further testing of antisatellite weapons while negotiations to ban them go forward. Whether by inadvertence or design, the administration appears to have torpedoed this sensible proposal by insisting on including the entire subject of the strategic arms reduction talks on the agenda. As was to be expected, the Soviets, who have backed out of those talks, rejected this approach and construed it as a deliberate attempt by the Reagan administration to give the appearance of wanting negotiations while preventing them from happening. This is a particularly tragic development, not only because a ban on antisatellite weapons is in our interest as well as the Soviet's, but because a successful negotiation on that could pave the way to reviving broader negotiations on strategic weapons generally.

Mr. Speaker, perhaps the specter of defeat by the voters in the coming elections will focus the administration's atttention on serious arms control negotiations where the threat of nuclear annihilation has not. Let us hope that the Women's National Conference will contribute to shaping the public's focus on both issues.

In an article printed in the Akron Beacon Journal of August 1, 1984, New York Times writer Tom Wicker spelled out the administration's sorry record on arms control negotiations. The complete text of Mr. Wicker's article follows these remarks.

HOW REAGAN SHOWS LACK OF INTEREST IN ARMS CONTROL

(By Tom Wicker)

NEW YORK.—The on-again, off-again prospect of Soviet-American negotiations this fall—whether to ban space weapons, as Moscow says it wants, or to include nuclear arms control, as Washington insists—may give President Reagan a domestic political boost he needs but hardly deserves.

These exchanges no doubt signal to the casual voter a commendable willingness on Reagan's part to sit down with the Russians and talk about anything. And some in the State Department really may want to use Moscow's apparent desire for a ban on space weapons to get broader arms controls talks going again.

But the one concrete proposal on either side so far is the Soviet call for a moratorium on further testing of anti-satellite weapons, while negotiations to ban them go forward—and to that worthwhile proposition, Reagan shows no sign of agreeing.

Ostensibly, the reason—tamely parroted by much of a press that seems to have forgotten what Vietnam and Watergate taught about government creditbility—is that the Russians are "ahead of us" in anti-satellite weaponry. Therefore, official sources say, a moratorium would be to their advantage.

That's baloney, as anyone who queries independent scientific authorities about the Russians "operational" anti-satellite weapon (ASAT) can learn. It's known to be a primitive device with an unimpressive testing record that can attack satellites only in low earth orbit, from a total of eight launching pads.

The multiton ASAT is deployed atop a monster Soviet missile that cannot be concealed; nor could its launch; and the ASAT, once in orbit, could be readily tracked by U.S. radar and cameras. There's no way the proposed moratorium could be violated without U.S. detection.

Meanwhile, the administration is preparing to test this fall a far more sophisticated ASAT—an 18-foot rocket with a heat-seeking warhead, to be fired into orbit by an F-15 fighter. This weapon can take out Soviet satellites up to about 1,000 miles in the atmosphere.

That's why the administration doesn't want a moratorium; it would prevent the crucial tests of the American ASAT, tests that would vault the U.S. ahead.

But the history of the arms race leaves no doubt that the Russians would then drop the moratorium and their proposed anti-ASAT treaty and move to catch up. The arms race would go on at a new and more dangerous level.

Satellites, after all, are vital to the verification of treaties limiting arms deployments. If a nation's satellites are not secure, that nation cannot have enough confidence in its verification procedures to enter into such treaties. So Reagan's reluctance to negotiate a ban on ASATs, his refusal so far to accept a moratorium on testing them while negotiations proceed, only suggest again his lack of real interest in any form of arms control.

George McGovern, emerging from a meeting with Andrei Gromyko, quoted the veteran Soviet foreign minister's conclusion that the Reagan administration was "the first one he has had to deal with that delibrately offered proposals they knew were unacceptable to the other side. . . . The administration seems to be looking for proposals that would be rejected. They do not want agreements, but they want the appearance of negotiations."

It's unpleasant to concede that Gromyko, with so many sins of his own to answer for, has a point. But look at the administration's record:

Negotiations only for an ASAT ban refused.

Negotiations for a comprehensive test-ban treaty abandoned despite the U.S. commitment to such a treaty since the Eisenhower administration.

Ratification of a completed treaty banning smaller nuclear explosions refused, because the Russians rejected administration demand that the treaty be reopened.

The intermediate-range missile talks canceled by Moscow after the administration deployed cruise and Pershing 2 missiles in Europe, despite repeated Soviet warnings that this deployment would mean the end of the talks.

The strategic missile negotiations canceled by the Kremlin, partly because of the U.S. missile deployment in Europe, partly because of one-sided administration proposals that would have forced a complete reshaping of Soviet nuclear forces.

The successful antiballistic missile treaty, in force since 1972, to be put aside if necessary for the development of the enormously

costly but dubiously effective "Star Wars" defensive system.

THE RISK IS BEING MANIPULATED

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, in observing the President's statements over the last several days concerning budget taxes and deficit matters, one thing is clear: The President is again confused over economic issues. I hope that every American would take the advice of the gentleman from Indiana, Mr. BURTON, who just advised all citizens to discover the facts for themselves concerning this President's record on economics.

Leland DuVall, associate editor of the Arkansas Gazette, has written a series of eight articles entitled the "Unfilled Promises of Supply Side Economics," which are published in that newspaper. If these articles were read by all Americans we would learn the facts about Reaganomics: That instead of a balanced budget by 1983 as Ronald Reagan promised he gave the Nation a $195 billion deficit, and many other relevant facts that are important to the issues that are being debated today.

Mr. DuVall admonishes all of our citizens that in a democracy, everyone must know what is happening, when it is happening, or risk being manipulated.

Mr. Speaker, I insert the first of a series of eight articles in the RECORD entitled "Unfilled Promises of Supply Side Economics," the first article "Promises, Promises."

[From the Arkansas Gazette, Sept. 9, 1984]

UNFILLED PROMISES OF SUPPLY SIDE ECONOMICS—PROMISES, PROMISES

(By Leland DuVall)

A troubled Republican Senator, agonizing over Richard Nixon's role in Watergate, sought to bring the episode into focus. The question, he said, is: What did the President know and when did he know it?

A paraphrase of the question, in a broader and more significant sense, can be used to measure the effectiveness of citizens in a democratic system of government. In this application, the inquiry is: What do the people know and when do they know it?

Democracy is based on the premise that citizens must know what is happening while the events are in progress. If we permit our attention to be diverted by slick semantics and campaign rhetoric so that we concentrate on inconsequential matters, we risk allowing ourselves to be manipulated. Of course it could be argued, quite accurately, that we have only ourselves to blame when we confer the wrong mandate and invite policies that produce minor disasters. That is the price we pay for freedom.

The alternative is to examine the promises of the candidates and the performance of the winners to determine (1) whether the pledges were honored and (2) if the policies that were initiated delivered the expected results.

The beginning of a national campaign to elect a president and vice-president is the appropriate time to analyze the political handiwork of the incumbent and weigh the achievements against the glowing promises of what he called a "New Beginning."

Obviously, the task is not as simple as it might seem. If we counterweigh the accomplishments of the Reagan administration with the 1980 Republican platform and the promises of the candidate, there is a danger of distortion. Some events (good and bad) were predetermined by previous policies and more than a few developed quite unexpectedly. We must allow for the fact that an incumbent, by tradition, seeks full credit for those events that are deemed to be favorable and assigns blame to the opposition for failed policies. Somebody always has a thumb on the scales.

Even after we allow for distortions, similarities between the four-year-old promises and contemporary conditions are a little hard to find. However, consider these specific areas:

During the 1980 campaign, Ronald Reagan promised to deliver a balanced budget for fiscal 1983. The schedule was revised after the inauguration and 1984 was named as the year when revenue and spending would be equal, with maybe a little left over to be applied to the disgraceful national debt.

But in 1983, the deficit turned out to be $195.5 billion, and current estimates place the shortfall this year at about $177 billion. Moreover, the situation is expected to deteriorate for the remainder of the decade unless government takes drastic action.

Inflation, a vexing matter in 1980, was supposed to be controlled by the policies of the "New Beginning." Indeed, a glance at the performance of the Consumer Price Index reveals this area as the best performance of the administration, but the method used bears no resemblance to the promise that prices would be stabilized with abundant supplies and a balanced budget.

The recession that was underway during the 1980 compaign was blamed on Jimmy Carter and described as the "worst mess since the 1930 decade." Even though the colorful description could be attributed to political exaggeration, the recession that began in the summer of 1981 wiped out the memory of President Carter's "worst" months.

Unemployment, we were told in 1980, had been shamefully high during the previous administration. The application of supply-side economics would cure the problem and create jobs for everyone. But something must have gone wrong. Unemployment peaked near the end of 1982, two years into the current administration, at a postwar high of 10.8 per cent, and after almost two years of "strong and healthy recovery," we are barely back to the level of the "worst" unemployment experienced during the four years that preceded the "New Beginning."

Unemployment rate

	Percent
1979	5.8
1980	7.1
1981	7.6
1982	9.7
1983	9.6

When we import more than we export, the jobs of American workers are sacrificed. An anonymous economist even calculated the number of jobs "lost" at 30,000 for every $1 billion worth of goods imported. (The science is inexact and others arrived at different figures.) Since the United States had a merchandise trade deficit of $27.5 billion in 1979, the disciples of the "New Beginning" concluded that the United States was losing a vast number of jobs because the government was mismanaging the economics machine. The magic of supply-side economics would correct this, Mr. Reagan said.

In 1983, the third year of the "New Beginning," the merchandise trade deficit was about $69.5 billion. Regardless of how it is figured, this country was losing more than twice as many jobs to imports in 1983 as it was in 1979. But that is only the beginning; the merchandise trade deficit this year has been projected at $130 billion.

Merchandise trade deficit

	Billions
1979	27.5
1980	25.5
1981	28.0
1982	36.4
1983	69.5
1984	130.0

Interest rates were high during the 1980 campaign but economists and lenders (particularly lenders) had an explanation. Inflation was to blame, they said. The "real" interest rate (adjusted for the declining purchasing power of the dollar) was at about the tradition level of 3 per cent, and, therefor, lenders were only demanding the fees that had been paid all along but, being smart, they were covering the deterioration of the money.

Mr. Reagan understood the concept of "real" interest rates and proposed to correct the problem by initiating policies—namely, supply-side economics—that would cure inflation so that interest rates could decline.

The Consumer Price Index rose 3.8 per cent last year and is climbing at an annual rate of about 4 percent this year, meaning that "real" interest—the nominal rate minus inflation—is at a near-record level.

In fact, Mr. Reagan recently described interest rates as "outrageously high" in relation to the rate of inflation.

"I just believe," he told a news conference, "we're seeing an unwillingness out there, an inability to believe we have control of inflation."

The conclusion is a bit strange, in view of the fact that those who operate the financial markets are among Mr. Reagan's most dedicated supporters. Certainly, they are strong believers in the tax policies that formed the basis for his economic plan.

One recurring theme during the 1980 campaign was a complaint about the "weak" dollar. Political speakers were not anxious to discuss what constituted a "weak" or a "strong" currency or to analyze the results when relative values changed. The implication was that a dollar with purchasing power of fewer marks or yen than at some earlier time signified economic deterioration. The strength of the U.S. currency would be restored with the sound fiscal policies of a new administration.

This particular pledge has been redeemed; the exchange rate of the dollar has climbed dramatically among the trading nations. The dollar now "buys" about 2.9 marks or 245 yen, compared with about 2.3 marks or 185 yen when our currency was regarded as "weak." But for some reason, the results have not been as helpful as we might have expected.

The explanation may lie in the strategy—unplanned though it was—by which the currency ratios were tilted. We did it with debt,

rather than productivity, and the results show up most dramatically in floods of imports and the exploding trade deficit.

The totally unexpected result of "restoring the deserved strength of our weakened dollar" points up a major problem for the successful politician. The solution may result from an unanticipated source and the consequences may be totally undesirable—in this case, a $130 billion merchandise trade deficit.

In a democracy where we get—and, ultimately, pay for—the things we mandate with our votes, those among us who participate in the process are obligated to "know what is happening while it is happening." The responsibility is not to be taken lightly.

NEW HOUSE TV RULE NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. LOTT] is recognized for 5 minutes.

● Mr. LOTT. Mr. Speaker, today I have introduced a resolution that would amend House rules by striking the present House broadcasting rule, House rule I, clause 9, and add a new rule LI providing for the complete and unedited broadcast coverage of House proceedings.

I have introduced this new House broadcast rule because I think it is important to remove the taint of partisan manipulation, control or censorship of our televised proceedings. As my colleagues are well aware, the Speaker currently exercises exclusive authority and control over our broadcast system, and that authority came under heavy fire last May when the Speaker ordered the cameras to show the entire Chamber during special order speeches at the end of the day. Prior to that time, the cameras had only shown closeup shots of the persons speaking. The Speaker admitted that he had made this change in response to Republican special order speeches which were critical of certain Democrats.

Mr. Speaker, we have made it quite clear on our side that we would have no objection to showing periodic views of the entire Chamber, so long as it is done on a uniform basis throughout each day's proceedings, including during the debates on legislation. But the Speaker has not adopted such a uniform policy. He has thereby underscored his initial intent and principal motivation which is to embarrass Republican speakers who have been using the special order period at the end of each day to emphasize their agendas. This special order period is especially important to the minority party in the House since it otherwise has no opportunity to indicate or discuss the issues which it thinks the Congress should be dealing with. The majority party sets the legislative agenda for the House, which is its right.

THE NEW BROADCAST RULE

Mr. Speaker, the new rule which I am proposing would still retain the ultimate control of the House broadcast system under the Speaker, which is his prerogative as the presiding officer of the House with control over the Chamber. However, the rule would modify that authority in two important respects. First, the Speaker would be advised by a completely bipartisan Broadcast Advisory Board consisting of the majority and minority leaders and four other Members, two from each party. Such a Board was originally recommended by the ad hoc Subcommittee on Broadcasting of the Rules Committee in the 94th Congress and incorporated in House Resolution 875 reported from that subcommittee. Ironically, that proposal was signed off on by then majority leader, TIP O'NEILL, who was acting as Speaker Albert's agent in negotiations with the subcommittee. Unfortunately, the subcommittee's resolution was recommitted by the full Rules Committee for further refinement. The subcommittee subsequently reported House Resolution 1502 which retained the bipartisan Broadcast Advisory Board, but no further action was taken on the resolution in that Congress.

In the 95th Congress, another Rules Subcommittee worked on the House broadcasting issue, and ultimately recommended a House owned and operated system under the Speaker, with its actual operation to be delegated to a new or existing House committee. The proposal was endorsed by the Rules Committee and eventually was accepted by the Speaker. However, the Speaker appointed a Speaker's Advisory Committee on Broadcasting heavily weighted to the Democrats by a 3-to-1 ratio. But even that Advisory Committee was abandoned at the beginning of the 97th Congress, and now only one of its members remains as an adviser to the Speaker.

I think the time has come to resurrect the original proposal of a completely bipartisan broadcast advisory board to remove any hint of partisan control of the cameras.

The second important feature of my new rule is also a variation on a proposal of the bipartisan Rules Subcommittee in the 94th Congress. It had recommended that the broadcast system be operated by a network pool, rather than by the House. Since we already have a House-owned system in place, I am not recommending that we revert to that proposal, but instead have proposed that the hiring of the broadcast personnel, their supervision, and the formulation of coverage policies be vested in the Executive Committee of the Radio and Television Correspondents' Galleries—professional broadcasters. While the Speaker would still retain ultimate control over the system, he would be required to consult with his bipartisan advisory board before any major policy changes are made. Moreover, it would be expected that there would be no interference with the delegation made to the professional broadcasters for the daily operation of the system so long it is being conducted in conformance with the traditional standards of dignity, decorum, and propriety of conduct associated with proceedings in the House Chamber under our precedents.

Finally, my new rule would reemphasize that the broadcast coverage be complete, unedited, and continuous while the House is in session—gavel-to-gavel coverage which would include a view of the Chamber while Members are voting as well as the special order speeches at the end of the day. While our present rule also requires this, the Speaker has instituted a policy of blacking-out the voting in the Chamber, something which in my opinion, based on the history of the rule, is in violation of the present rule.

My rule would also retain the current prohibition on using the televised coverage in commercial advertisements or for partisan political campaign purposes.

Mr. Speaker, I think the proposal which I am offering today strikes a balance between the two alternatives which were heatedly debated in the 94th and 95th Congresses, a House broadcast system versus one operated by the networks. But, by placing the daily operation of the system in the hands of personnel who would be directly responsible to the elected committee of professional broadcasters in the Congress, subject to the check of the Speaker and the new bipartisan advisory board, I think we can take a giant step toward restoring confidence, quality, and credibility in our broadcast system.

At this point in the RECORD, Mr. Speaker, I include a section-by-section summary of my resolution. The summary follows:

SECTION-BY-SECTION SUMMARY OF LOTT HOUSE BROADCASTING RESOLUTION

TITLE

SEC. 1. The resolution may be cited as the "House Broadcasting Amendments of 1984."

FINDINGS, PURPOSE, AND INTENT

SEC. 2. The House finds that the success of a democratic government depends on an informed electorate, and that broadcasting House proceedings will contribute to that end. The purpose of the resolution is to provide a means, consistent with the standards of dignity, propriety and decorum of the House, to broadcast House proceedings for the enlightenment of the public on the issues and procedures of the House. The intent of the resolution is to broadcast House proceedings in such a way that will not distort House proceedings, cast dishonor on the House or its Members, or contribute to the public perception or real potential for congressional or partisan control, manipula-

tion or censorship of the broadcast coverage.

AMENDMENT OF HOUSE RULES

SEC. 3. House Rules would be amended by striking the present House broadcast rule in Rule I, clause 9, and adding a new Rule LI, "Television and Radio Coverage of House Proceedings."

The new rule would establish a House Broadcast System that would provide for complete coverage of all proceedings including voting and special orders.

Coverage could only be restricted by the adoption of a resolution of the House or the invoking of rule XXIX providing for secret sessions.

Responsibility for the implementation of the broadcast rule would be vested in the Speaker who would be assisted by a Broadcast Advisory Board consisting of the majority and minority leaders and two Members from each party.

The daily operation of the broadcast system would be vested in the Executive Committee of the Radio and Television Correspondents' Galleries, including the designation and supervision of system employees and formulation of coverage policies. Such delegation would be subject to the direction and control of the Speaker, in consultation with the Broadcast Advisory Board.

The provision for coverage, including the purchase of equipment and compensation of broadcast personnel, would be vested in the Clerk of the House, under the direction and subject to the approval of the Speaker.

All accredited broadcasting stations, networks, services and systems (including cable systems) accredited to the Radio and TV Galleries would have live access to the coverage, as would House Members and committees.

Coverage could not be broadcast with commercial sponsorship except as part of bona fide news and public affairs documentary programs, nor could it be used in any commerical advertisement.

Coverage could not be used in any partisan campaign material to promote or oppose the candidacy of any person for elective office.

The Clerk would be required to enter into arrangements with the Librarian of Congress for the recording of proceedings and their maintenance on a permanent basis for reference and viewing purposes, and reproduction could only be made for such purposes.●

HUMAN RIGHTS VIOLATIONS IN NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise today to join with my good friend and colleague, the Honorable MARIO BIAGGI, who is chairman of the Ad Hoc Congressional Committee for Irish Affairs, of which I am proud to be a member, to call the attention of my colleagues to the human rights violations taking place in Northern Ireland, and to urge an immediate end to the terrible violence in that country.

Today, hundreds of Irish Republican prisoners remain in jail behind a British wall of silence, daily abuse, denial of due process of law, and human rights violations. Peaceful protesters and innocent bystanders have been severely injured and murdered by plastic bullets, and emergency legislation enacted by the English Parliament has circumvented the protections inherent in the British legal system. The law has become a tool to suppress and oppress rather than a guarantor of the civil and political rights specified under the English common law system.

Although the New Ireland Forum has taken a bold initiative in proposing peaceful solutions to the very complex and tragic situation in Northern Ireland, the British Government has still not taken any position on this ground-breaking report, and this nonaction only aggravates an already explosive condition.

I was a cosponsor of House Concurrent Resolution 276, a resolution approved by the full House of Representatives expressing the sense of Congress that the participants of the New Ireland Forum are to be commended for their efforts to bring about genuine progress in the search for a just and peaceful solution to the problems of Northern Ireland. Since we in Congress recognize that only through peace and cooperation can the suffering in Ireland be halted, we must strongly condemn the violence perpetrated in the past by individuals and the Government there and we must call for an immediate end to human rights violations. The Irish people have suffered too much and too long already, and any continued violence makes it much more difficult to achieve an end to the hostility there.

Mr. Speaker, peace and justice are goals to which our great Nation must remain committed, in both word and deed, and human rights and peace in Ireland must become a vital part of U.S. foreign policy.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

● Mr. TORRES. Mr. Speaker, I was not present during House proceedings on Thursday, September 6. Had I been present on the House floor, I would have cast my votes in the following manner:

Roll No. 375. Shaw amendment to H.R. 3605 precluding FDA approval of generic substitutes until 18 months after the generic drug application in cases where patent litigation is underway; "no."

Roll No. 376. Quillen amendment to H.R. 3605 to remove over-the-counter drugs from coverage under the bill; "no."

Roll No. 378. Frenzel amendment to H.R. 3605 to change the effective date of catalog description provisions to items manufactured 180 days, rather than 90, after enactment; "no."

Roll No. 379. Final passage of H.R. 3605, Drug Price Competition and Patent Term Restoration Act; "yea."

Roll No. 381. Dannemeyer amendment to H.R. 5602 to reduce the authorization levels for programs in the bill; "no."●

MILITARY FAMILIES STRUGGLE FOR BASICS OF LIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, 2 weeks ago a 13-year-old son of an Army sergeant took his own life after telling his mother, "If you didn't have me to feed, things would be better." His was not an isolated case, as many military families, strapped financially by the lack of on-base housing or separated by oversea assignments, struggle to make ends meet.

The quality of life within the U.S. Armed Forces is an issue of growing concern for all Members of Congress. The effectiveness of our Nation's defenses is threatened by the continued erosion of morale within the military community.

I know I am not alone in expressing shock about recent reports that military families have been forced to rely on food stamps to put food on the table. Surely we as a nation, in asking for the supreme sacrifice of life in our defense, ought to better provide for military personnel and their families. This issue demands our immediate attention.

Mr. Speaker, I offer for the benefit of my colleagues the following article on the hardships of military life, as printed in Sunday's edition of the "New York Times."

MILITARY FAMILIES STRUGGLE FOR BASICS OF LIFE

(By Robert Lindsey)

FORT ORD, CA, September 8.—When Darlena Bradshaw learned that her husband, Gene, an army enlisted man, was being transferred from Germany to California not long ago, she entertained visions of palm trees and an easy life back in the states.

Instead, she and her husband and their three children are living in a tiny automobile trailer parked in a dusty, bleak campground in the heart of this Army base, along with dozens of other military families.

"They told me there's a waiting list for housing on base of seven months," she said, "and the only places you can rent off base that will take three kids is $1,000 a month. Who can afford that?"

On Aug. 27, Danny Holley, the 13-year-old-son of another soldier, whose family was financially distressed and had been troubled by bureaucratic snarls, hanged himself near Fort Ord after telling his mother, "If you didn't have me to feed, things would be better."

The teen-ager's suicide has focused new attention on economic hardships that are

bedeviling the families of many enlisted men and women, especially those based in regions of the nation where housing costs are unusually high, such as here on California's Monterey Peninsula.

"This is not an isolated case," said Representative Leon E. Panetta, the Democratic Congressmen who represents this area. As a result of the suicide, he is seeking to conduct a Congressional review of military compensation policies

"There are a lot of military families living on the brink of serious trouble, both from an emotional point of view and a financial point of view," Mr. PANETTA said in an interview. "We focus a lot of new weapons, but I think very little attention is spent on the human element."

Congress in recent years has approved a series of laws that have improved wages and benefits for military personnel.

With housing allowances, a sergeant such as Mrs. Bradshaw's husband is paid more than $18,000 a year before taxes. A colonel in the Army or Air Force earns almost $50,000 a year with housing and other allowances, and more if flight or hazardous duty pay is authorized.

In addition to their salaries, military personnel have access to free medical care and food commissaries and retail stores at military bases, where prices often are 20 percent or more less than in nearby communities.

After 20 years of service, military personnel can retire with half pay, which rises with the cost of living, and continued free medical care and access to cut-rate gasoline, groceries and other merchandise sold on military bases.

Despite the gains, military officials say that many married enlisted men and women, as well as some junior officers, have enormous difficulty living on their salaries, especially if Government housing is unavailable and they must rent apartments or houses in communities where costs are especially high. All officers and enlisted men who live on base are provided free housing.

Generally, they say, military families stationed in the South, in the Southwest and in the Middle West fare best. They often find their housing allowance exceeds the rent for attractive off-base housing.

Those who have the toughest time financially, the military officials say, are those assigned to California, the District of Columbia, Hawaii, Alaska and facilities near major urban areas such as New York, Boston, Philadelphia and Chicago.

Congress recognized that regional differences in housing costs sometimes occur and several years ago authorized higher allowances for higher-cost areas. But military officials contend that even the higher allowances are often inadequate.

COST OF FORT ORD AREA

Few bases, the officers say, have had much of a housing crunch as Fort Ord. Rents in the area reflect the base's site on the ocean at the edge of several popular resort and retirement communities.

For a modest two-bedroom house in the communities, including many that Lieut. Col. Fred Meurer, the base engineering and housing officer, say are "hovels," soldiers must pay $650 a month. Based on the size of their housing allowance, he said, only about 4 percent of the 21,000 or so personnel stationed here, those with a rank of lieutenant colonel or higher, can rent housing off the base.

"The other 96 percent can't afford to live here," he said. "It breaks your heart to go down to the commissary and see people there with food stamps." Although there are 4,771 family housing units available on the base, there is a waiting list of 2,500 soliders.

SOLDIERS HAVE SECOND JOBS

As a result of the housing market, Colonel Meurer said, many soldiers must take a second job in order to rent a home in the community; growing numbers of military families are sharing rented homes, one bedroom to a family; and, while the Army does not officially acknowledge it, many families are being forced to live in tents or small trailers on the grounds that were once reserved for weekend recreational campers.

The death last month of Danny Holley was hauntingly similar to a story in Thomas Hardy's 1895 novel, "Jude The Obscure." In the story, a boy about his same age overheard his parents talking about their serious financial problems and he told his mother: "If we children was gone, there'd be no trouble at all."

He was found later, along with the bodies of two siblings, hanging from a hook in a closet beside a note that said: "Done because we are too menny."

According to the police, the body of Danny Holley was found hanging by a rope from a hook screwed on the eaves of the house his parents had rented in the nearby community of Marina for $750 a month.

His father, Johnnie, a military policeman, had met his wife, Jennifer, a native of Northern Ireland, in Alabama, where she had worked as a governess.

According to Rodger Murphey, an Army spokesman, after Sergeant Holley completed a three-year tour of duty in West Germany this spring, he asked for and was granted a one-year tour in Korea, with the stipulation that he would be assigned to Fort Ord when it was over.

On June 4 he brought his family to settle here and a month later, after living briefly in transient guest quarters at the base, rented the home in Marina.

Before moving into the house, Sergeant Holley, whose pretax monthly income was $1,662, had to pay $1,700 to the landlord for the first and last month's rent and a $200 security deposit. In mid-July, Sergeant Holley left for Korea.

TWO MISTAKES HURT

The rental payment apparently exhausted the family's resources, which had been hurt by two things that occurred in the course of the transfer from Germany: For reasons still unknown, the Army mistakenly shipped the family's car to New Orleans instead of Fort Ord, making it difficult for Mrs. Holley to look for a job; and, because of a paperwork snafu, the American bank that had held its savings account in Germany did not transfer the money to this country as planned.

On July 11, Danny Holley, the oldest of family's four children, arrived at the offices of the Army Community Services, an Army relief agency, and said his family was in dire financial straits, with little food to eat. The evidence indicates that the Army moved quickly to help the family.

A social worker immediately arranged a $1,300 interest-free loan from a special fund designed to help newcomers pay initial rental payments. Later, the base chaplain's office helped provide groceries that it said would sustain the family at least 15 days.

Still, the family appeared short of money. After his father left, Danny Holley was often heard complaining that they had no money, and he was collecting discarded aluminum cans and taking them to a local supermarket, where he sold each for a penny. Shortly after telling his mother, "If you didn't have me to feed, things would go better," he committed suicide.

His father has since been transferred to Fort Ord and sympathetic well wishers have sent the family more than $3,000.

His mother told reporters that she was grateful for the help given her family prior to her son's death and the help that others had given since. She said she blamed no one. "We all," she told one reporter, "have to answer to the Lord, who said, 'Danny, come home,' and he went home."

"IT'S A TERRIBLE SHOCK"

For others at this base, the job of survival goes on. "It's a terrible shock to come here," said Specialist 5 Crystal Ringue, who said she cried when she saw how expensive it would be to find a home for herself and her two children after being transferred here. "I came from Fort Polk, La., and had a huge four bedroom home for $250. "You can't even get a dump here for that."

[From Newsweek, Sept. 10, 1984]

"ONE LESS MOUTH TO FEED"

It's a time-honored saying—and a sincere one: "The Army takes care of its own." But as Jennifer Holley, Army wife, cut the cold body of her 13-year old son from a backyard rope near Monterey, Calif., last week, the words rang a little hollow. Trying to manage two difficult long-distance moves at once, Sgt. Johnnie Holley encountered Army snafus and a rough patch financially. In his absence, Holley's son Danny, a sensitive boy, had repeatedly told his mother, "If there was one less mouth to feed, things would be better." Finally, he chose to take matters into his own hands.

It was a tragic, muddled and in many ways blameless story, but the hanging renewed debate over the military's policy of frequent changes of station. En route from West Germany to South Korea, Holley decided to settle his family at Fort Ord near scenic Monterey—an expensive choice. With Army housing scarce in such a desirable location, he was forced to find a house off base. The $750-a-month rent—standard for the area—was so steep that even a $1,300 interest-free loan from the Army left the Holleys strapped. On July 11, Danny and his eight-year-old brother, Johnnie, showed up at the Fort Ord Army Community Services Office and said simply. "We're out of food." Two days later, their father shipped out to Korea—and Danny began collecting aluminum cans to pick up spare change.

The Holley's problem, Army officials say, was less pay than logistics. Their car, shipped at Army expense from West Germany, somehow ended up in New Orleans. Their savings took time coming up from a Florida bank. And until they were assigned a caseworker, the Holleys did not request the various services that were available to help them. "If they were hungry, there's no limit to the amount of food they could receive," says Maj. Jeff Barber, a Fort Ord public affairs officer. Since the tragedy, hundreds in the community have donated food and money to the Holley family. "The belief that the Army takes care of its own has been somewhat trod on this week, but we still believe it," Major Barber says. Danny, his mother said, just didn't have the patience to wait.●

□ 1700

JUDICIAL SYSTEM IN NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 60 minutes.

Mr. FISH. Mr. Speaker, I am sure there will be colleagues who will be joining me in this special order, the subject of which is the judicial system in Northern Ireland. We speak on this issue more in sorrow than anger.

I start with the political situation in that country, which is one of violence. We deplore the violence. We deplored the violence years ago of the provisional IRA. We are also told by many authorities today that fundamental native Irish nationalism has been overtaken by terrorists who have strong links with international terrorism.

Obviously no civilized nation can countenance such behavior nor should they. But many of us also feel that the response to terrorism should be a law enforcement response. And many of us feel that in lieu of that the Crown in Northern Ireland has allowed a corruption of its own judicial system, turning that system to violence in response to violence, and that is the issue that we want to raise and address here in this special order this evening.

Many of us who are lawyers feel strongly about this issue because of the fact that Great Britain is, of course, the nation that gave us our language and common law; it gave us so many of the moral principles as well as the legal principles; a law that is adhered to by English-speaking nations around the world.

But what we have seen is a truncated use of the judicial system in response to the terrorism and the violence in Northern Ireland.

Seven years ago when I visited the north of Ireland we had the Diplock Courts. People were arrested and held incommunicado for up to 7 days, with a remarkable number of confessions coming through in those 7 days, and trials without jury being conducted on the basis of these confessions.

After Amnesty International complained and after the Crown's own investigative report brought out the issues of brutality that took place during the incarceration of the suspects, this matter was changed. You now have a new device that is a corruption of justice, and that we will be exploring tonight.

Northern Ireland has been governed by emergency legislation since its creation some 60 years ago.

Arbitrary detention has become the norm. Parliament in London has determined that only draconian measures can make an explosive situation manageable. Emergency legislation which has been passed contravenes the first, second, third, fifth, sixth, and fourteenth amendments to our Constitution. Convictions for offenses against the State have not been the result of due process of law as that term is understood in nations that respect the rule of law.

Parliaments emergency laws provide for very wide powers of arrest, detention, search and seizure. A soldier or policeman may arrest without warrant anyone suspected of being a terrorist without reasonable suspicion. Suspects can be held incognito for 7 days.

Under the emergency act the right to a trial by jury has been abolished and cases are heard by a single judge, a person charged with an offense has no right to bail. In some cases such as weapons possession, the onus of proof is on the accused and requires the accused to give evidence and be cross examined.

Normally, where the accused has made a statement of admission while in police custody, the prosecution must show that a confession was voluntarily given and that the accused was not in any way mistreated, threatened or given any inducement in order to make a statement. Under the emergency legislation, a confession will be admitted unless the accused can prove that he was tortured, he must give evidence and 'rough handling' such as being slapped on the face is permissable in order to extract a confession.

Parliament also has established a number of offenses which are not offenses under the common law. These relate for the most part to censorship and freedom of association and expression.

In general the act has been bad enough but in practice many specific abuses abound, especially with regard to the police and their attempts to obtain confessions from those who are in their custody and suspected of terrorist activities.

Sometimes the prosecution doesn't even rely on a confession. Since 1980, the Crown prosecution has relied steadily on evidence of so-called supergrasses or alleged accomplices to secure convictions. Many convictions are obtained with uncorroborated evidence. The supergrass is given total immunity from prosecution, a new life and lifetime financial support. Several have admitted perjury in open court.

There are also mass trials of up to 75 defendants at a time in which one or more supergrasses figure prominently. In the north of Ireland there are many who are serving long sentences under harsh conditions because of uncorroborated evidence at massive trials.

The uses and abuses of the emergency legislation that exists in Northern Ireland has alienated large sections of the community from the institutions of government and the protection of the law itself. The law has become an instrument of oppression rather than a guarantor of civil and political liberty.

We deplore all violence in Northern Ireland, we deplore the violence of the provisional IRA, the violence of the terrorists, the violence of the Royal Ulster Constabulary brought to public attention only a few weeks ago when they broke into a political rally and fired plastic bullets, killing one of the spectators. We deplore the violence of the British Army and probably most of all we deplore the violence of the judicial system, because we feel the closeness to that system as a country that has inherited so much of it.

Since my journey to Ireland in 1978, I have been kept closely appraised of the conditions prevailing in the northern six counties, things have changed but only for the worse. Today the heritage of law, a precious gift of England to so many judicial systems throughout the world has apparently been cast aside by Great Britain in her response to the violence and destruction that prevails. Today also, the principals of justice and peace for all that have been the foundation of the traditional struggle of the Irish have been abandoned by those who care more for murder and mayhem of international terrorism.

I still think as many of us proposed a few years ago that there is a role for the United States, a role of honest broker. There is hardly a home in the Republic of Ireland or in the north of Ireland that does not claim some affinity with the United States. I know of no other nation in the world that can play the role of honest broker to bring all of the parties together looking for justice and peace as an end result.

We have proposed in the past that this meeting be held in the United States, a neutral territory, so to speak, so we offer to all of the elements in the north and in the south, those responsible political groups that do seek an end to the violence and do seek peace and justice in that land. I think in the meantime that the United States should make it absolutely clear that we are not going to tolerate the economic conditions that have given birth to so much of the problem.

It is no accident, Mr. Speaker, that in those pockets of the north where a majority of the population are Roman Catholic that for years the unemployment rate has stayed around 25 percent. Investments, public investments, private investments from the United States are needed to create jobs.

But I think it is incumbent on us to make sure that when these investments, public or private, are made in the north of Ireland, that they do not lead to further discrimination in employment. To do so is actually a violation of the laws on the books in that country.

But we know these laws are not adhered to and we should not be a party to it. But, on the contrary, we should be a responsible party to see that just the opposite happens and that American investment does result in jobs in that country, in a nondiscriminatory fashion.

So, Mr. Speaker, I think there are steps that we can take. Nobody applauds the situation in that country, the violence on all sides. Everybody deplores it.

So, Mr. Speaker, I raise this issue tonight. My colleagues will be joining me in statements to this effect. We will be elaborating on the nature in more detail and will lay out this extraordinary story of what has happened to the greatest judicial system the world has ever known.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and I commend the gentleman from New York [Mr. FISH] for helping us provide this opportunity to address this vital issue. I want to take this opportunity to address my concerns about the worsening situation in Northern Ireland, particularly as it affects the Catholic minority population in that region.

The undeclared war in Northern Ireland, no longer a war of Protestant against Catholic, but now a social and an economic war, has made life in Northern Ireland a living hell for the minority population which is constantly reminded of the fact that there are insufficient laws to protect them, no job opportunities, and no hope for the future. The Catholic population in Northern Ireland is suffering under the grueling conditions which can only lead to hopelessness and despair, and which, by any standard, are wartime conditions which cannot and must not be tolerated.

As a member of the Ad Hoc Committee on Northern Ireland, a bipartisan group within the House of Representatives which has just celebrated its 7th year of activity, I am appalled by the lack of understanding that our Congress has for the issue of human rights in Northern Ireland. It is distressing that our Nation has not rallied to the side of the suffering minority population in Northern Ireland. The chairman of our Ad Hoc Irish Affairs Committee, the gentleman from New York [Mr. BIAGGI], and my good friend and colleague from New York, Mr. FISH, have joined with me tonight to offer our views on an issue which is dear to our hearts, and which has become the source of violence, bloodshed and tragedy.

First, let me focus attention on the continuing silence that has surrounded the tragic event that took place in Northern Ireland on August 12, just a few short weeks ago. At a peaceful rally where a few hundred Irish had gathered to hear American speakers addressing some of the pressing human rights issues of the day, British Royal Ulster Constabulary [RUC] forces charged the crowd, killing one individual and injuring several Irish and Americans. The unprovoked attack, which rivals the insanity of the Bloody Sunday attack in 1972, has gone unprotested by our American State Department. No formal protest has been lodged against the British Government dispite the fact that several Americans were injured in that attack. The double standard that the State Department uses in relation to the situation in Northern Ireland is again visible here—we would not let such an attack go unnoticed if it took place at the hands of the Soviet Union, or another nation. Yet, our State Department, refuses to confront the British Government about their unnecessary and inhumane treatment of Americans and peaceful Irish citizens.

The other aspect of this tragedy which greatly concerns me is the imprudent use of plastic bullets by the British Forces, the use of which killed one young man at the rally on the afternoon of August 12. The plastic bullet, as it is euphemistically called, is a very hard large projectile which is fired at speeds exceeding 150 miles an hour. The plastic bullet is supposed to be used for the purpose of crowd control only, and according to the British, is fired at the lower extremities in an effort to disperse a large crowd.

However, as has been the case in many other instances, the RUC used the plastic bullet as a lethal weapon on August 12, instantly killing Sean Downes. The horrifying pictures of Mr. Downes, his heart ringed by the impact of the plastic bullet, remain in our minds long after the event has passed. Why did the British use the plastic bullet to kill—in cold blood—an innocent Catholic? Why does the RUC continue to use the plastic bullet even though its lethal nature has been documented time and time again? Why do the British refuse to outlaw the use of this weapon when they know the tragic results?

The issue of the plastic bullet is only one issue in a long and large picture of human rights abuses in Northern Ireland. The plastic bullet has become the symbol of these abuses, and the bullet has become the focal point for many. However, the pattern of human rights violations encompasses so much more in Northern Ireland, as thousands of Catholics are denied the basic and individual rights that Americans have come to take for granted.

Under the Prevention of Terrorism Act, and the Emergency Powers Act the British Government has succeeded in abridging the rights of the Catholics by suspending jury trials, the suspension of rights of prisoners and the imposition of harsh interrogation and incarceration techniques. Individuals can be convicted merely on the oral testimony of other witnesses, including a statement by a British RUC officer. The British have always prided themselves on their humane and progressive system of justice; and yet, in the instance of Northern Ireland, the British have been content to regress into a primitive and grossly unfair system which has had tragic results.

One of the most difficult questions that an American Member of Congress must confront in relation to the situation in Northern Ireland is "what can the United States do? Does the United States play a positive role in the resolution of these continuing problems?"

The answer is "yes." As the "honest broker" in any negotiations the United States can and should bring a workable dialog about between Great Britain and the Catholic population in the North. The United States should continue to press the British Government about their continuing abuse of human rights, and we have a moral obligation to do so immediately.

In our own Congress we should and must do the following

Pass legislation outlawing the use of the plastic bullet. House Concurrent Resolution 21 was introduced by Congressman BIAGGI during the early part of this Congress, and there are urgent reasons why this bill must be passed, before any more people are killed in Northern Ireland.

Our House Foreign Affairs should hold hearings on the subject of human rights violations in Northern Ireland as soon as possible. We are proud that our Congress has taken a courageous role in defending so many other groups denied basic human rights—why is Northern Ireland exempt from the consideration of the Foreign Affairs Committee?

We must make certain that our American firms establishing themselves in Northern Ireland are employing a number of Catholics and are not contributing to the discrimination which has come to be a way of life in Northern Ireland.

We must continue to speak out, as we are doing now, to alert other Members of Congress to the situation in the North.

I thank my colleagues who have taken the time to speak out tonight on this tragic issue, and I hope that together our Nation will work with Great Britain to put an end to the continuing loss of life, the loss of hope and the loss of spirit that has been such a tragedy for the Catholic population in Northern Ireland.

Mr. STRATTON. Mr. Speaker, I rise to join in expressing my concern and outrage at the continuance of the violence in Northern Ireland.

The most recent incident has been the death of Sean Downes who had been in attendance at an IRA rally in

Belfast, and was killed by a plastic bullet when police charged the rally crowd in an effort to arrest Martin Galvin who had been barred from Northern Ireland by the British authorities.

Mr. Speaker, I am well aware that violence has consistently marked the area of Northern Ireland as a result of the assaults of the Irish Republican Army's provisional wing against the efforts of the British authorities who have tried to protect the innocent citizens of Northern Ireland.

Obviously, as we have learned over these years, violence only provokes other violence, and in spite of the years that this violence has occurred, we have still failed to come close to a solution to this almost insoluble problem. And I do not have an answer to offer.

But this tragic occurrence, Mr. Speaker, offers us another opportunity to see if the skills of negotiation and political ingenuity could somehow bring these two sides together and make it possible for peace to be reestablished. Obviously the major responsibility is with the British Government which has authority over the Ulster area. It is clear that any sudden evacuation of British Forces might conceivably also be followed by other violence.

But surely the British authorities might try some such slow withdrawal, and to do it in consultation with the Republic of Ireland, which also has consistently deplored the violence in Northern Ireland.

And once again I would urge President Reagan to appoint some special envoy to work with the Government of the United Kingdom and the Republic of Ireland in their efforts to seek a formula for ending the violence.

In all likelihood this would take time and patience. But Americans, who are tied by blood and by interest to the people of Ireland, can not continue to sit idly by without making some concrete effort to try to restore peace to this troubled province.

I hope the death of Sean Dowals may finally light the spark which will get this reconciliation process at last set underway.

● Mr. ROE. Mr. Speaker, it was just 1 month ago today that a group of about 130 Americans became firsthand witnesses to the terrible violence which, unfortunately, has become all too commonplace in Northern Ireland. It was on this day, August 12, 1984, that a number of these Americans—innocent bystanders and observers—were injured and one young Irishman, Sean Downes, was killed when British security forces charged a peaceful rally in Belfast. I am quite certain the horror of this event will forever be etched in the consciousness of those who were involved, whether they were physically injured or not.

Mr. Speaker, this incident represented the depths of the tragic situation now existing in Northern Ireland. For those Americans who were present in Belfast 1 month ago, the events provided a stark demonstration of the tense and volatile atmosphere in which the people of Northern Ireland must live. Not only must they contend with the outbursts of violence, but, on a day-to-day basis, they must confront the underlying, continual sense of terror generated by the armed camp atmosphere in which they must live, terror that either they or their loved ones could become caught up in a moment of violence at almost any instant.

On a deeper level, this situation is tragic because, in order to bring peace to Northern Ireland, the law must be respected, and yet how can the law be respected when it has been used as a tool of oppression rather than a tool to insure civil and political liberties? This should be a point of great importance to those in this Chamber and to the American people since our system of law is so closely related to the principles of English common law. Without our system of laws and their enforcement, we simply could not exist as a nation.

And yet, in Northern Ireland, there is continued suppression of individual, legal, human, and civil rights because the powers of English common law have been abrogated through the enactment of emergency legislation by the English Parliament. In many instances the vital concept of due process has all been eliminated as 30,000 British troops stationed in Northern Ireland operate on a system of day-by-day fiat. It is the abuses of this emergency legislation which have alienated the people from the Government and the law which are supposed to protect them in the first place. It is a situation which can only spur further violence, rather than quelling it. The internment of hundreds of Irish citizens during the 1970's and the treatment of political prisoners are but a few examples of the many instances in which civil rights have been short circuited.

The events which led up to the violence of 1 month ago are a perfect example. Mr. Martin Galvin, an American, was arbitrarily denied a visa to lead the group of Americans on a tour of the conditions in Northern Ireland. I believe this was a further example of the British Government seeking to suppress an open and free dialog on the issue of Northern Ireland among concerned individuals and organizations from the United States. Had this vias been granted and this free dialog permitted, this terrible violence and death of one young man would have been avoided.

Mr. Speaker, we all want to see peace in Northern Ireland. But there cannot be peace without respect for the law. And there can be no respect for the law until the people believe it is there to protect them and not oppress them.●

● Mr. McGRATH. Mr. Speaker, a recent news item reported the naming of a replacement for James Prior, Margaret Thatcher's minister for Northern Ireland. I would hope Douglas Hurd, Mrs. Thatcher's new representative is more flexible and openminded. For if Mr. Hurd exhibits the same sort of judgment displayed by Mr. Prior, I fear we will witness the continuation of Northern Ireland's divided and bloody legacy.

On August 12, at a Belfast rally organized by the Catholic minority we again saw how the military power of a supposedly democratic government was directed at a relatively small group of unarmed civilians. In our Nation we have seen much larger demonstrations on political and social issues with no military presence at all.

In opposition to the longstanding tradition of free speech in England and the United States, the British again attempted to silence discussion of the issues. They refused to allow Martin Galvin, an American visitor and human rights activist to enter Northern Ireland. When Galvin suddenly appeared on a platform at the rally, British soldiers began firing plastic bullets into a crowd of some 3,000 while bowling over others with vehicles and clubs. The life of one young man was snuffed out as a result of this violence. Scores of others required hospitalization. The brutal and irrational actions of the British security forces demonstrated anew the deep rooted hatred that exists between the Catholic minority and the Protestant majority in Northern Ireland.

For the sake of all the innocent lives which have been lost and the futures of all those on both sides of this emotionally charged issue, I wish Mr. Hurd sincere good luck in working toward a peaceful resolution to the conflict in Ireland's six northern counties. I hope he will learn from the unfortunate errors of his predecessor, and take immediate action to prevent confrontations between unarmed civilians and the British military. The best solution would be an end to the brutal military rule that has been imposed by the British.●

● Mr. LENT. Mr. Speaker, I rise to commend my three distinguished colleagues from New York, Mr. FISH, Mr. BIAGGI, and Mr. GILMAN, for calling this special order on conditions in Northern Ireland. While we were in our home districts last month, the world witnessed another tragic event in Belfast. On August 12, during a peaceful rally attended by some 130 visiting Americans, British troops and members of the Royal Ulster Constabulary attacked the crowd. A young

man was killed by a plastic bullet and numerous people, including some Americans, were injured. The armed forces were not provoked. The crowd had gathered to peacefully hear the views of invited speakers exercising their right of free speech.

We all witnessed this sad event on television. It is the latest example of the harsh nature of British rule in Northern Ireland. It is an example of the complete breakdown of the legal structure in that beleaguered part of Ireland.

I have been concerned about this breakdown for some time. A number of my Long Island constituents had told about the abuses of civil rights in Northern Ireland. So earlier this year, I asked a member of my staff, Mr. Eugene Turner, to visit Northern Ireland and report back to me on conditions there. I shared a copy of Mr. Turner's report with my colleagues in the CONGRESSIONAL RECORD for February 29, 1984. You can refer to that for the full account, but today I would like to briefly summarize Mr. Turner's findings.

He concluded that the British authorities have completely abandoned their centuries-old tradition of justice—a tradition I might add, that gave birth to our legal system in America. It is a system based on democratic principles, on the principle of innocent until proven guilty. Sadly, Mr. Speaker, this has been replaced by an assumption of guilt stemming from mere suspicion.

For example, internment is widely used by the authorities. Suspects are arrested, usually in the middle of the night, and detained and interrogated for days on end without having formal charges brought against them. Often, they are briefly released and then picked up and detained again for an additional period of several days. Suspects are also charged and held for long periods of time on the basis of flimsy evidence that would never stand up in court. Bail is not a right as it is in the United States. It is a privilege extended to very few.

In addition, the authorities make unscrupulous use of informers or supergrasses as they are known in Britain. Supergrass testimony is frequently uncorroborated and given as the result of an inducement, be it immunity from prosecution, lighter sentences and even payments. In one obvious miscarrige of justice, three defendants were held for 2½ years on the basis of testimony by five successive informers. Each either recanted or had his statement destroyed under cross-examination by defense attorneys. Once the judge dismissed the case. But each time the defendants were charged again and their incarceration continued, on the basis of supergrass testimony.

Finally, Mr. Speaker, and worst of all, these trials are conducted without juries.

Mr. Speaker, when Mr. Turner gave me his report I called on our Secretary of State to intervene in the name of justice and civil rights. I also called on Prime Minister Thatcher to restore the age-old principles of British justice to Northern Ireland. As I join with my colleagues here today, I renew that call and plead for an end to the injustice and tragedy that marks day-to-day life for the people in Northern Ireland.●

● Mr. MRAZEK. Mr. Speaker, recent events in Northern Ireland have only highlighted a point that many of us in Congress have been making for sometime: The problems in Northern Ireland cannot be wished away, and we in the United States share a responsibility for helping to resolve them.

Mr. Speaker, I suppose that I could use the time requested today to discuss the British suppression of basic legal rights in Northern Ireland—a suppression that undermines every basic tenet of our mutual Anglo-Saxon legal heritage.

I do not intend to do this.

I could use this time to discuss the use of rubber and plastic bullets in Northern Ireland—a practice that has led to deaths and countless serious injuries.

I do not intend to do this.

I choose to speak today about the refusal of our Government to play any role in bringing peace and reconciliation to both halves of the partitioned Ireland.

We in the United States saw film on our evening news recently of the brutal use of force by police in Northern Ireland. What we have not heard or seen is the outcry in the British press and by British Members of Parliament calling for the British Government to cease stonewalling and take action to bring about a settlement of the complaints of the parties in Northern Ireland.

The divisions in Northern Ireland have led to the denial of human rights, the destruction of Northern Ireland's economy, and a generation raised knowing only despair, hatred, and violence.

While this has occurred, the Reagan administration has chosen to intercede in Lebanon, Nicaragua, El Salvador, and Grenada. We have spent millions of dollars, and lost countless lives. Yet, our Government has refused to play even a constructive intermediary role in Northern Ireland. We are told that we cannot get involved because the issues are too complex and irreconcilable.

More complex than in Lebanon or El Salvador? I do not hold these ventures up as a policy we should follow in Northern Ireland, but merely as examples of the willingness of our Government to act to stem the denial of human rights. Perhaps, the current administration will only recognize a problem exists if evidence of communist troops is found in Belfast.

Let me make it clear that I am not advocating American troops be sent to Northern Ireland. However, we have a unique opportunity to help make the peaceful process of reconciliation work.

My constituents and tens of thousands of others, as represented by the Members on the floor today, are demanding action. They are tired of having their concerns relegated to the backbin of America's foreign policy.

I believe that the time is here that our Government recognize that a problem exists and take action before more lives are lost.●

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan 104-member Ad Hoc Congressional Committee for Irish Affairs, I am pleased to join with the most distinguished gentleman from New York [Mr. FISH] in this special order to discuss the judicial system—or perhaps more appropriately—the lack thereof in Northern Ireland. I also commend the leadership of the Irish National Caucus—Father Sean McManus and Rita Mullen for their assistance in the preparation of this special order.

It is appropriate that my colleague Mr. FISH request this special order for his credentials in terms of advocacy for cause of peace and justice in Northern Ireland are most impressive—but also because he serves with great distinction as the ranking minority member on the House Judiciary Committee.

I contend as I have for the 15 years that I have been involved in the issue of Northern Ireland that the term justice under the present British system of direct rule is a gross misnomer. In fact the absence of real justice for all in Northern Ireland provides a basic catalyst for the prolongation of the tragedy which befalls this nation.

Whether it be the existence of the diplock courts—or the general Special Powers Act or the use of the supergrass informant process—what you find in Northern Ireland are a series of travesties of justice. Where else beyond nations which formally declare martial law do you have arrest and detention without charge for 7 days—but in Northern Ireland? Where else beyond a nation that has formally declared martial law—do you have conviction rates in courts in excess of 90 percent—but in Northern Ireland. Where else but in nations that formally declare martial law is the testimony of known terrorist informants used in an uncorroborated fashion in trials but in Northern Ireland.

The list goes on and on. We have very recent proof of another form of

abuse in Northern Ireland—this time it took place in the streets of Belfast just this past August 12. Here a large group of British security forces charged a largely peaceful crowd who were assembled to hear a speech by Martin Galvin of Irish Northern Aid. Galvin who had been banned from Northern Ireland by the British—was able to enter the nation illegally—wisely announced his plans to appear at this rally and then was planning on getting arrested without offering resistance. He did just that but instead of being allowed to get arrested—the security forces mostly the RUC charged the crowd, fired more than 30 rounds of plastic bullets into it and when it was all over one 22-year-old bricklayer lay dead and scores of people injured including some Americans.

This is not the first death caused by plastic bullets—it is in fact the ninth since 1981—with more than half being children under the age of 15. Yet do we see prosecutions of those police officials responsible? No we don't.

We are here in a sense to indict the system of justice as it exists in Northern Ireland. It is symptomatic of an overall policy which is morally bankrupt. We must use this occasion and future occasions to focus attention on the problem and work for its eradication.

The British deserve to be held accountable for their violations of human and civil rights against people in Northern Ireland and there must be more than a few Members of Congress concerned if the United States is to do anything to help promote a political solution in Northern Ireland, one that promotes peace, justice, and freedom for all.●

GENERAL LEAVE

Mr. FISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL INTERESTS VERSUS THE PUBLIC INTEREST IN LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I thought this evening I would discuss a little bit a problem that I find being talked about quite often when I go to my town meetings, when I speak before groups in my district who have a concern about the way the country is being governed. It is the problem of special interests and their impact on legislation versus the public interest and the impact that the public has on the general run of the legislation around here.

It is a very key question, it seems to me, a key question in modern times, because it is really the question of who speaks for America and Americans. Let us define the terms here, at least from my point of view, and try to see how we divide this so that I can make it a little clearer what I am discussing later on.

It seems to me that when we act in the public interest legislatively that we act for the general welfare of everyone. That would be the definition here, that it is legislation we are passing that is in the general welfare of all Americans when we are acting in the public interest.

When you are dealing with a special interest it is when we act to give an advantage to or address a particular concern of a very narrow portion of the Nation at large.

Granted, that is a tough determination at times. What appears to be a public interest issue can in fact have special interest ramifications down the pike.

For example, we can pass environmental laws in this body which are very, very much in the public interest, but indeed you raise the costs of the products produced in this country relative to the costs of imported products being brought in where they do not have to meet stringent environmental standards.

□ 1710

So therefore what we end up doing is giving an advantage to a narrow special interest; namely, the importers; namely, those factories overseas that are producing products here and therefore you advantage a narrow segment of our country that happens to rely on those imports. In other words we have acted in the public interest but there is a special interest ramification.

You can also have the corollary truth, you can have some special interest concerns that have public interest ramifications. For example you might enact laws, financially related laws in this body where it allows one income group within the country to save and invest more, but where those savings and investments in fact provide additional job opportunities for people because it results in more businesses being formed which expand the scope of the jobs available to all Americans.

Therefore, what you have done is you have acted in a special interest, you have in fact provided help to a fairly narrow group but it has broadly based public interest ramifications as well.

The problem in all of this arises by the way we now see special interest concerns being addressed by this body.

Too often what we are doing in Congress these days is addressing only special interest concerns, that the kinds of legislative packages put together basically involve almost a signoff procedure by all the special interests concerned before we even take the legislation up.

It is by no coincidence that on major bills that come up before this body we have people standing in the halls outside the doors here when we walk in who are giving thumbs-up or thumbs-down signals with regard to the bills.

Now those are not representatives of the public at large; those are representatives of special interest groups who are ensconced in this town and who are watching this legislation very carefully for their own particular interests.

Now the question is whether or not Congress has not become a captive of exactly that kind of philosophy rather then adhering to those things which are generally accepted as being public interest issues, whether or not there is a tendency to regard constituencies in this country, from which we all serve, as a group of special interest concerns where you can appeal to narrowly rather than regarding the good of the district as a whole or the good of this country as a whole.

I become increasingly concerned about that and it is a concern that arises then in the campaign years when we get down to financing election campaigns because it seems to me that you have a philosophy that has built up there too, that in terms of financing political campaigns there are people now who say, "We will give you money providing you give us a guarantee you will vote a certain way on an issue when it arises," a narrow interest of special concern.

That to me creates a problem because then you have candidates coming to office, people elected to serve in this body who in fact have a whole agenda of items that are narrow special interests without regarding the public interest as a whole.

Is that to say that all of the PAC contributions and all of this are wrong? No.

I happen to think that PAC's are one of those things which can contribute to the political process. They allow more people to become involved; the contributions that go into PAC's can be voluntary; they can provide an opportunity for people to participate in the process that might not otherwise do it.

That can be a good.

However it seems to me that what PAC's should be doing is evaluating people on their general philosophy that they have either brought to this

body and voted in this body or which they say they will bring to the body; not a collection of narrow concerns, not a one-issue or a two-issue kind of thing, but a general philosophy.

So that the PAC's ought to be evaluating candidates not based upon some individual bill or some individual narrow concern that they have but rather what is the general philosophy that that person has brought to the Congress? Or what does he or she promise to bring to this body?

Now if we would do that, if we would do that and PAC money was not tied to a particular special interest, then it seems to me it can be valuable.

But it is a concern of mine when you see that that is not happening very often; in some cases it is, but it is not happening across the board.

Therefore we see people bound by the very special interests who have helped finance their presence here or their reelection here.

When we get, then, to questions where we have to arrive at the compromises necessary to speak to the public interest, those compromises become very difficult.

The fact is that the special interests are then gathered at the doors of the committees, they are in the room in the conference committees and they make some of the decisions. Special interests literally sit in the rooms, at times, giving thumbs-up or thumbs-down signals about amendments that are offered in the course of deliberations.

They consult with people whom they consider friendly and make a decision as to whether or not compromise is possible.

In my mind that is what we are elected to do. In my mind as legislators we are elected to exercise our judgment in those kinds of cases.

I happen to be one who subscribes to the agent theory of representation, who believes that one of the things I am really sent here to do the bulk of the time is to represent what the majority concerns in my district are.

But that does not mean, that does not mean that we ought to be only representing those things in a narrow sense; it means that we use our own abilities to arrive at compromises, to use our judgment within the context of those issues.

And I think that we are losing some of that when special interest power makes its presence felt in all too many of our deliberations.

We also see it as we begin to define, then, national policies as they relate to the Presidential campaign. You have Presidential candidates who are out on the trail who feel obliged, then, to key into the special interest concerns that are represented by what goes on in the Congress. That also bothers me.

Just yesterday for example when the evaluation began of the Mondale tax plan we found in the course of that tax plan that when he talks about cutting spending, it was obvious that there were certain special interests that had already made their presence felt. For example, instead of cutting spending in order to reduce the deficit, there were areas where he actually raised spending, calling for whole new programs and so on. Referring back to promises he had made in the primary campaign, the education bill that we will have on the floor here tomorrow is an example of one narrow special interest that wants that bill brought to the floor. Everybody knows it has no chance of passage whatsoever, it is not going to get out of the Senate. It is being brought here as an advantage to that one special interest. The Presidential candidate yesterday stood up and told us that that is a place where he is willing to spend extra billions of dollars, despite the fact that he is trying to reduce the deficit. That is an appeal to one narrow special interest. It is bothersome.

It is also obvious in that plan that some things that could be done without wreaking hardship on the American people were not included in the plan. For example, when the Grace Commission made their report, one of the things that they said could save $2 billion a year is if Government would simply, in its construction projects, get away from the Davis-Bacon provisions. In other words, those that allow superhigh wage rates for people who work in Federal construction.

That is a way to save $2 billion. You still build exactly the same project, you still have exactly the same outcome in terms of the taxpayer, but you simply do it at less cost.

Why can we not go for that? Well, because big labor goes crazy whenever you begin mentioning doing something about Davis-Bacon.

I know, I have brought bills to the floor and had them defeated on the floor. They are not defeated on the merits of the case. The merits of the case are well established by the General Accounting Office, now by the Grace Commission and by virtually everybody else who has looked at it.

It is only one special interest making its presence felt on this floor that saves Davis-Bacon and thereby costs the taxpayers an additional $2 billion a year.

□ 1720

That is wrong. What we should not be doing around here. It is the problem, it seems to me, that our constituents want to address.

I think that people are getting upset about it. I find that many of the constituents who I talk to identify the idea that there are special interest powers that are undercutting the public interest and they are making the process of something less than it should be.

How do we go about correcting it? How do we go about changing the system?

Well, to some extent it is going to involve some courage on the part of Members of Congress. We are going to have to begin to say no to special interest along the way and we are going to have to begin to say to people who send us questionnaires before they say that they will send us money:

> No, I am not going to fill out your questionnaire even if that means that you don't send me the money, if what you are asking me to do is to bind myself in a way that might jeopardize my ability to act in the best interests of the country later on.

I think we are going to have to be able to say no to them face to face from time to time. In the interview say:

> I want you to endorse me based upon the general philosophy that I bring to Government, but I don't expect you to be asking me to bind myself in particular kinds of ways.

It takes that.

It also, it seems to me, takes some kind of idea of what the limits of spending are in these areas. I happen to disagree with the public financing way of getting to this problem. I think public financing would end up being a bureaucratic disaster and would, in fact, make many campaigns more expensive, not less expensive.

In my congressional district we spend relatively little money compared to districts around the country for congressional races. Both parties together, in this particular campaign, probably will spend less than $50,000 in running for Congress in my district.

You go to public financing under some of the recent bills that have been up here, you would end up spending $240,000, not of money that you go out and raise yourself, but of largely taxpayer money in that district.

Why is that? Well, obviously the minority party, whoever that may be, the people who have the most trouble raising the money, are going to take the full $120,000 they are guaranteed in public funds. That will force the incumbent to take the same kind of money. It will all get spent. You will raise the cost of a campaign there, not lower it. I think that is a problem. Plus the fact that just Presidential public financing has become a bureaucratic maze. Add 435 House seats and 33 or 34 Senate seats up at any given year to the public financing maze and you will have an absolute nightmare of regulation.

I do not think that that will serve the political system very well. But I do believe that we have got to try to find constitutional ways of keeping down the amounts of money that any one

candidate can accept from any one source. We have some caps on that at the present time. Some of those might preferably be lowered. I find again in a fairly low-cost race that I can put a cap of $500 on the amount that I will take from any PAC or any individual and put on a campaign. I will give you the fact that in my district it is a somewhat different situation than you have in many urban districts and in many mass media markets.

But, once again, it is a question of the style of campaigning that you do, too. It seems to me that if we had more people-to-people kinds of campaigns rather than media oriented campaigns, you could bring down the cost.

Somehow we have got to address those amounts of money so that no one can feel as though when they walk in with their checkbook to a political campaign that they are somehow buying influence. I think that the situation is such today that there are people who, perhaps wrongly in terms of that candidate, but nevertheless, do feel as though they are buying access. I think that ends up being a problem. I think that that ends up being improper.

So, I would hope that one of the things that we could end up saying is that we want a broad base of contributions into the political system. We want them to come from individuals, we want them to come from PAC's, but we want them limited in such a way that people do not think that there is an ability to buy off Congress in the name of special interest power.

I think that if Congress were to become more attuned to the public interest that we would certainly find at that point that the public would become more willing to accept the decisions that we make. I think that the great tragedy in all of this is the fact that Congress as an institution keeps going down, down, down, in terms of public opinion polls because people think that we are the captives of narrow groups. They have reason to believe that given the performance. But if they really believe that we were here serving in the public interest that they would have a better opinion of the decisions we make, even when those decisions are tough decisions. Even when what we have done is ask them to make sacrifices, they would at least know that it was done with the general scope of the Nation in mind and not with some particular group in mind. That would be a major change. It seems to me a change that would benefit us all.

So, as we look at the key question about who speaks for America and who speaks for Americans, I am afraid that very often we find that in today's legislative dealings that special interests are the ones who are doing the speaking.

I think it is high time that Americans begin to speak for themselves, not through their special interests, but through their Representatives. We need more individual contact with people with their Representatives, not acting through a special interest, but more direct contact so that indeed we arrive at the day when special interest power is something which is on the decline not on the increase.

I happen to believe that one of the ways that you can get there, too, is by opening the processes of this body.

One of the reasons why we have had a growth in special interest power is the way we proceed around here. In recent years you have had a proliferation of committees in the House of Representatives and particularly a proliferation of subcommittees in the House of Representatives. That gives very small numbers of people who can be dealth with on particular issues.

What we have then is the special interests who tie themselves directly to the committees and to the subcommittees and thereby get a lot of their work done essentially behind closed doors with small groups of people, which then we bring to the floor and we have a pattern developing around the floor that says, well, whatever the committee brings out here you ought to accept.

□ 1730

We found, for instance, in the bill that we are going to be taking up tomorrow, this National Defense Education Act, which, as I say, is a narrow, special-interest concern, that you are going to have that out here under a new type of closed rule where, if a Member has an amendment that he comes up with tomorrow, they are not going to be able to offer that amendment tomorrow if they do not have it printed by 9 o'clock tonight in the RECORD. So that what we are doing is saying, well, the committee has already done all of the deliberations here. If somebody comes to the floor and does not like what they are hearing, they are not going to be able to amend the bill.

That, you see, puts more power in the hands of the committee, that puts more power in the hands of the subcommittee, that ultimately gives more power to special interests.

I would prefer to see us move toward that which the Forefathers originally conceived the House as being, being a broadly based body, being one where the basic decisions of Government are made here on the floor where, when we make decisions, they are decisions made by all 435 rather than by small groups.

The committees and subcommittees of the Congress should serve the ends of the body as a whole. They should not be the driving force of the body as a whole. Special interests work best in small, narrow settings. They do not work well when you can bring everyone together and where you can have a coming together of ideas by all 435.

Therefore, the more we open up the process, the more we bring it out into the sunshine. With the advent of television and a number of other things you can have a sunshine process. We have put more people into the gallery of the House of Representatives than ever before. There is a chance for much of America to see what goes on here through television.

All right. Once you have done that, that helps break the back of special interests because they then have to have an appeal which makes sense to the country. You can no longer then make the decision in a small-group setting. So that the more we open up the process, the more we have rules that do not tie down bills but keep them open, the more special interests will find that their power has been broken.

One of the main places where special-interest power interacts, for instance, is on tax bills, is interesting for the public to see, when we have tax bills, all of the special interests that camp over around the Ways and Means Committee for days at a time while the Ways and Means Committee deliberates on those issues. And people win and lose, depending on whether or not their section goes into the bill or comes out of the bill as the Ways and Means Committee proceeds. Under the system that we have here, that is how they have to operate.

One reason why that becomes so important is because when that bill comes to the House floor, it comes here under a closed rule. Tax bills do not come here under open rules where all Members can have a chance to interact. People will say, well, you cannot possibly bring a tax bill out here under an open rule, it would be a madhouse, with everybody with their own provisions.

Well, I think that can almost become a self-policing system, though, if the public is observing. The public is not going to permit the kinds of madhouse that some people predict, in my opinion.

So, therefore, I think that the situation is such that we have assured on that basic question that one small group of people will have inordinate power, and special interests have reacted to that, special interests have shown that they are able to impact on the process that way.

We need more openness, we need more directness, we need the American people to be able to understand just exactly which way their Representative votes.

That is the other important point in all of this. If you bring issues to the floor and if you force Members of Congress to actually vote on those

issues, rather than hiding behind what the committee has done or what decision has been made not to even bring the bill to the floor, but actually get the things out here on the floor where people can vote, people then can make a more intelligent decision about their Members of Congress. Many people will walk into the polls this November and will not be able to even guess what the Representative did on issues of concern to them because their is no voting record to tell them. This is again because of the process that we use around here. It would be far better for the people to have the opportunities and know precisely how their Representatives worked on their behalf or did not work on their behalf and make their judgment based on that, rather than be told by some special-interest newsletter how that Representative voted on a couple of key issues. That, to me, really destroys the process, too, when groups go out, pick one or two issues, three or four issues, and so on, and say this person is for us or against us based upon this narrow number of votes. Let the public see all of the votes; let the public know precisely how the Representatives voted and then make their determinations, once again, based on general philosophy.

We really need to get back to the public interacting with this body, with a public-interest concern by this body rather than a special-interest concern. Special interests have become far too powerful for the national good, and it is high time that we take it upon ourselves to change the system.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members at the request of Mr. MCCANDLESS) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 60 minutes, today.

Mr. SILJANDER, for 60 minutes, today.

Mr. SILJANDER, for 60 minutes, on September 13.

Mr. SILJANDER, for 60 minutes, on September 14.

Mr. ROTH, for 30 minutes, today.

Mr. NIELSON of Utah, for 30 minutes, on September 19.

Mr. GINGRICH, for 60 minutes, today.

(The following Members (at the request of Mrs. HALL of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mr. WILLIAMS of Montana, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ROE, for 60 minutes, today.

Mr. GONZALES, for 60 minutes, today.

Mr. LEVIN of Michigan, for 5 minutes, on September 13.

Mr. MCCURDY, for 60 minutes, on September 18.

Mr. MCCURDY, for 60 minutes, on September 19.

Mr. MOODY, for 30 minutes, on September 18.

Mr. MOODY, for 30 minutes, on September 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PARRIS, immediately prior to vote on H.R. 5798.

Mr. CONTE, immediately following MILLER of Ohio prior to vote on H.R. 5798.

Mr. GILMAN, on the special order of Mr. FISH.

Mr. STRATTON, following the remarks of Mr. GILMAN on the special order of Mr. FISH.

(The following Members (at the request of Mr. MCCANDLESS) and to include extraneous matter:)

Mr. RUDD in three instances.

Mr. DAVIS.

Mr. BROOMFIELD.

Mr. CONTE.

Mr. LAGOMARSINO in four instances.

Mr. YOUNG of Florida in three instances.

Mr. LEWIS of Florida.

Mr. DREIER of California.

Mr. SMITH of New Jersey.

Mr. LUNGREN.

Mr. SAWYER.

Mr. SNOWE.

(The following Members (at the request of Mrs. HALL of Indiana) and to include extraneous matter:)

Mr. LEVINE of California.

Mrs. BURTON of California.

Mr. EDGAR.

Mr. RICHARDSON.

Mr. MACKAY.

Mr. ROWLAND.

Mr. LUKEN in two instances.

Mr. LEVIN of Michigan.

Mr. COYNE.

Mr. KOLTER.

Mr. ERDREICH.

Mr. FEIGHAN.

Mr. HAMILTON.

Mr. STARK.

Mr. HARRISON.

Mr. SKELTON.

Mr. BORSKI.

Mr. KLECZKA.

Mr. JACOBS.

Mr. DOWNEY of New York.

Mr. EVANS of Illinois.

ADJOURNMENT

Mr. STRATTON. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, September 13, 1984, at 11 o'clock a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and an amended report of a delegation traveling under an authorization from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the second quarter of calendar year 1984 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Tom Bevill	6/2	6/6	France		492.00		2,849.33				3,341.33
Hon. Mickey Edwards	3/30	4/1	El Salvador		150.00						150.00
	4/1	4/2	Honduras		96.00						96.00
	4/2	4/3	United States		75.00		[3] 1,050.00				1,125.00
Hon. Mickey Edwards	5/31	6/3	Hong Kong		294.00						294.00
	6/3	6/5	Japan		242.00						242.00
Hon. Clarence Long	3/30	4/1	El Salvador		150.00						150.00
	4/1	4/2	Honduras		96.00						96.00
	4/2	4/3	United States		75.00		[3] 1,050.00				1,125.00
Hon. John Myers	6/2	6/6	France		492.00		2,849.33				3,341.33
Hon. Hal Rogers	6/2	6/6	France		492.00		$2,849.33				3,341.33
Hon. Louis Stokes	4/23	4/27	Netherlands		460.00		3,404.76				3,864.76
Jim R. Fairchild	3/30	4/1	El Salvador		150.00						150.00
	4/1	4/2	Honduras		96.00						96.00
	4/2	4/3	United States		75.00		[3] 1,050.00				1,125.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1984—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Edwin F. Powers	3/30	4/1	El Salvador		150.00						150.00
	4/1	4/2	Honduras		96.00						96.00
	4/2	4/3	United States		75.00		[3] 1,050.00				1,125.00
Edwin F. Powers	5/27	5/29	Costa Rica		150.00		1,023.40				1,173.40
Committee total					3,906.00		17,176.15				21,082.15
Surveys and Investigations staff:											
George C. Baird	4/12	4/18	Japan		563.75						563.75
	4/18	4/20	Philippines		150.00		2,137.23		45.32		2,332.55
Jimmie E. Buckles	4/11	4/15	Korea		436.50						436.50
	4/15	4/17	Philippines		131.25						131.25
	4/17	4/20	Japan		371.50		2,045.51		57.40		2,474.41
Philip B. Culkin	4/11	4/18	Korea		654.75		2,194.70		30.98		2,880.43
Mark S. Love	4/11	4/18	Korea		654.75		2,194.70		49.26		2,898.71
Arthur E. Sullivan, Jr	4/12	4/18	Japan		563.75						563.75
	4/18	4/20	Philippines		150.00		2,137.23		35.40		2,322.63
Carlton A. Weiss	4/11	4/15	Korea		436.50						436.50
	4/15	4/17	Philippines		131.25						131.25
	4/17	4/20	Japan		371.50		2,045.51		44.70		2,461.71
Staff total					4,615.50		12,754.88		263.06		17,633.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation provided by military aircraft. Cost shown is comparable first-class commercial rate.

JAMIE WHITTEN, Chairman, Aug. 23, 1984.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 2 AND JUNE 29, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rep. Ike Andrews	6/2	6/6	France	4,182	492.00		2,849.93		([3])	4,182	3,341.93
Rep. John N. Erlenborn	6/24	6/27	Switzerland		328.00		[4] 884.00				1,212.00
							[5] 124.00				124.00
Ms. Edith C. Baum	6/20	6/29	Switzerland		820.00		[4] 1,592.00				2,412.00
Committee total					1,640.00		5,449.93				7,089.93

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] State Department charges are not available at this time. An addendum report will be filed.
[4] Airfare.
[5] Car rental.

CARL D. PERKINS, Chairman, July 26, 1984.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Leach, David	6/17	6/21	Japan		605.00		2,027.00				2,632.00
Nulty, Timothy	4/17	4/12	England		459.00		2,083.00		396.45		2,938.45
Barrett, Michael	4/25	4/29	Greece		300.00		4,301.00				4,601.00
Stockton, Peter	4/25	4/29	Greece		300.00		4,301.00				4,601.00
Committee total					1,664.00		12,712.00		396.45		14,772.45

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN DINGELL, Chairman, July 31, 1984.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Doug Barnard, Jr.	5/25	5/29	Curacao, Netherlands Antilles	939.75	[3] 525.00					939.75	525.00
Hon. William Clinger, Jr.	5/25	5/29	Curacao, Netherlands Antilles	939.75	[3] 525.00					939.75	525.00
Hon. John Conyers, Jr.	5/25	5/29	Curacao, Netherlands Antilles	939.75	[3] 525.00					939.75	525.00
Peter S. Barash	5/25	5/29	Curacao, Netherlands Antilles	939.75	[3] 525.00		[4] 21,203.00				21,728.00
Theodore J. Jacobs	5/25	5/29	Curacao, Netherlands Antilles	939.75	[3] 525.00					939.75	525.00
Committee total					[3] 2,625.00		21,203.00				23,828.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] 1 day's per diem return to Treasury.
[4] Transportation provided by U.S. military aircraft. Total for entire delegation.

JACK BROOKS, Chairman, July 31, 1984.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bowen, Brooks	5/18	5/26	England	567.13	792.00		$2,143.00				$3,009.35
						53.25	[3] 74.35				
Cassani, Rudolph V.	5/16	5/25	England	713.77	990.00		632.00				1,709.65
						63.20	[3] 87.65				
Dentler, John	6/23	7/8	Italy	2,372,220	1,380.00		2,419.00				3,799.00
Welch, Edmund B.	4/26	5/2	England								([4])
Westcott, Jacquelyn	6/16	6/23	Argentina	40,620	600.00		2,501.00				3,181.00
						5,416	[3] 80.00				
Committee total					3,762.00		7,937.00				11,699.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Local transportation.
[4] All expenses paid by Ditchley Foundation. Invited as guest speaker.

WALTER B. JONES, Chairman, July 31, 1984.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE SOVIET UNION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 22, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Pat Schroeder [3]											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] During April, I traveled to West Germany and the Soviet Union along with the Honorable Mary Rose Oakar and Ms. Mildred Vinicor. It has come to my attention that the report on this trip was filed in error. The trip was authorized by the Committee on Armed Services, of which I am a member, not by the Speaker. Travel for the Honorable Mary Rose Oakar and Ms. Mildred Vinicor was authorized by the Committee on Post Office and Civil Service.

PAT SCHROEDER, Aug. 2, 1984.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4010. A communication from the President of the United States, transmitting proposed amendments to the request for appropriations for fiscal year 1985, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-259); to the Committee on Appropriations and ordered to be printed.

4011. A communication from the President of the United States, transmitting his views on the DOD report on the tactical nuclear posture of the North Atlantic Treaty Organization (NATO), pursuant to Public Law 98-94, section 1105(b) (H. Doc. No. 98-260); to the Committee on Armed Services and ordered to be printed.

4012. A communication from the President of the United States, transmitting his views and recommendations on improving NATO conventional defense capabilities, pursuant to Public Law 98-94, section 1104(b) (H. Doc. No. 98-261); to the Committee on Armed Services and ordered to be printed.

4013. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export and production of significant combat equipment in the Republic of Korea (Transmittal No. MC-33-84), pursuant to AECA, section 36(c) and 36(d); to the Committee on Foreign Affairs.

4014. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed transfer of major defense equipment potentially valued at $14,000,000 or more (Transmittal No. MC-32-84), pursuant to 22 U.S.C. 2753(d)(3) (AECA section 3(d)(3), 94 Stat. 3131; 95 Stat. 1519); to the Committee on Foreign Affairs.

4015. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for J. Stapleton Roy, Ambassador-designate to the Republic of Singapore, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4016. A letter from the Assistant Secretary of the Interior for Water and Science, transmitting a report/final environmental statement on the Anderson Ranch powerplant third unit, Boise project, Idaho, pursuant to Public Law 91-190, section 102(2)(C); to the Committee on Interior and Insular Affairs.

4017. A letter from the Assistant Secretary of the Interior for Water and Science, transmitting the report/final environmental statement on the Minidoka powerplant rehabilitation and enlargement, Minidoka project, Idaho-Wyoming, pursuant to Public Law 91-190, section 102(2)(C); to the Committee on Interior and Insular Affairs.

4018. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the patent laws implementing the Patent Cooperation Treaty; to the Committee on the Judiciary.

4019. A letter from the Chairman of the Board, U.S. Synthetic Fuels Corporation; transmitting the quarterly financial report for the quarter ended June 30, 1984, pursuant to Public Law 96-294, section 177(c); jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

4020. A letter from the Executive Director, Pension Benefit Guaranty Corporation; transmitting the final bound version of the ninth annual report of the Pension Benefit Guaranty Corporation, pursuant to Public Law 93-406, section 4008; jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. House Resolution 578. Resolution providing for the consideration of H.R. 5609, a bill to authorize a national program of improving the quality of education. (Rept. No. 98-1009). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 579. Resolution providing for the consideration of H.R. 3082 a bill to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes. (Rep. No. 98-1010). Referred to the House Calendar.

Mr. GAYDOS: Committee on House Administration. House Resolution 564. Resolution authorizing the printing as a House document of the committee print entitled "Quackery, A $10 Billion Scandal". (Rept. No. 98-1011). Referred to the House Calendar.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 5402. A bill

to designate the U.S. Federal Building in Utica, NY, as the "Alexander Pirnie Federal Building"; with amendments (Rept. No. 98-1012). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY:

H.R. 6223. A bill to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc.; to the Committee on the District of Columbia.

By Mr. DELLUMS (for himself, Mr. FAUNTROY, and Mr. MCKINNEY):

H.R. 6224. A bill to provide for the assumption of selected functions, programs, and resources of St. Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. BROOKS (for himself and Mr. HORTON):

H.R. 6225. A bill to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law; to the Committee on Government Operations.

By Mr. DAVIS (for himself, Mr. HERTEL of Michigan, Mr. YOUNG of Alaska, and Mr. BIAGGI):

H.R. 6226. A bill to clarify logbook requirements in title 46, United States Code; to the Committee on Merchant Marine and Fisheries.

By Mr. ERDREICH:

H.R. 6227. A bill to expand the rights of civil servants who report waste, fraud, and mismanagement; to the Committee on Post Office and Civil Service.

By Mr. FRANK:

H.R. 6228. A bill to amend title 35 of the United States Code to provide a patent extension for certain drug products; to the Committee on the Judiciary.

By Mr. LEVITAS (for himself and Mr. MOLINARI):

H.R. 6229. A bill to amend the Federal Aviation Act of 1958 to authorize the Administrator of the Federal Aviation Administration to prescribe schedules for operations of air carriers and foreign air carriers at an airport whenever necessary to ensure that the capacity of the airport to handle such operations is not exceeded; to the Committee on Public Works and Transportation.

By Mr. OXLEY (for himself, Mr. NIELSON of Utah, Mr. DEWINE, Mr. GUNDERSON, Mr. MONTGOMERY, Mr. KINDNESS, Mr. MCGRATH, Mr. GOODLING, Mr. MOORE, Mr. DAUB, Mr. MCKERNAN, Mr. TAUZIN, Mr. SLATTERY, Mr. BROYHILL, Mr. LENT, Mr. RITTER, Mr. BLILEY, Mr. COATS, Mr. MOORHEAD, and Mr. CORCORAN):

H.R. 6230. A bill to amend the Communications Act of 1934 to extend certain authorizations contained in such act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 6231. A bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the treatment of certain air travel benefits provided to employees of airlines; to the Committee on Ways and Means.

By Mr. WILLIAMS of Ohio:

H.R. 6232. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished a mentally retarded individual living in another person's household shall not constitute income to such individual (and shall not cause his or her benefits to be reduced) under the SSI Program; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 6233. A bill to amend the Age Discrimination in Employment Act of 1967 to prohibit discrimination on the basis of age, against individuals who are 70 years of age or older; to the Committee on Education and Labor.

By Mr. UDALL:

H. Con. Res. 356. Concurrent resolution to correct a technical error in the enrollment of the bill H.R. 1437; considered and agreed to.

By Mr. LOTT (for himself and Mr. MICHEL):

H. Res. 580. Resolution to amend House rules to provide for the complete and unedited audio and visual broadcast coverage of House floor proceedings; to the Committee on Rules.

By Mr. HEFTEL of Hawaii:

H. Res. 581. Resolution to request that the President establish a bipartisan commission on the budget deficit; to the Committee on Government Operations.

MEMORIALS

Under clause 4 of rule XXII,

472. The SPEAKER presented a memorial of the Legislature of the State of California, relative to supplemental security income benefits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LUJAN:

H.R. 6234. A bill to authorize the Secretary of the Interior to sell certain property located in Lake Sumner State Park, in the State of New Mexico; to the Committee on Interior and Insular Affairs.

By Mr. MCGRATH:

H.R. 6235. A bill for the relief of Richard DeVito; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 960: Mr. ACKERMAN, Mr. AKAKA, Mr. BOLAND, Mr. BRITT, Mr. CHAPPELL, Mr. DANNEMEYER, Mr. DORGAN, Mr. EVANS of Illinois, Mr. FISH, Mr. GEKAS, Mr. GREGG, Mr. HEFNER, Mrs. JOHNSON, Mr. JONES of North Carolina, Mr. LEVINE of California, Mr. MCGRATH, Mr. MARTIN of North Carolina, Mr. MATSUI, Mr. NELSON of Florida, Mr. O'BRIEN, Mr. PANETTA, Mr. ROWLAND, Mr. ST GERMAIN, Mrs. SCHROEDER, Mr. STRATTON, Mr. STUDDS, Mr. TAUZIN, Mr. TORRICELLI, Mr. WEAVER, and Mr. PETRI.

H.R. 1315: Mr. ANDREWS of North Carolina, Mr. BORSKI, Mrs. BURTON of California, Mr. CHAPPIE, Mr. CORCORAN, Mr. DAUB, Mr. DYMALLY, Mr. FORD of Michigan, Mr. HAWKINS, Mr. LEVINE of California, Mr. LEVITAS, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MINETA, Mr. NOWAK, and Mr. HANCE.

H.R. 1415: Mr. DENNY SMITH, Mr. ROTH, and Mr. REID.

H.R. 1676: Mr. COLEMAN of Missouri and Mr. LEHMAN of Florida.

H.R. 1797: Mr. ANDERSON.

H.R. 2385: Mr. SILJANDER, Mr. MCHUGH, Mr. RUDD, Mr. ANDREWS of Texas, Mr. LAFALCE, Mr. DAVIS, and Mr. DARDEN.

H.R. 2491: Mr. CLAY, Mr. MACKAY, Mr. KOSTMAYER, and Mr. GREEN.

H.R. 4447: Mr. BRYANT, Mr. HUGHES, Mrs. COLLINS, and Mr. CHAPPIE.

H.R. 4494: Mr. HILER, Mr. HORTON, Mr. MARTINEZ, and Mr. MCCANDLESS.

H.R. 5227: Mrs. BURTON of California.

H.R. 5305: Mr. HILLIS.

H.R. 5341: Mr. SOLARZ, Mr. FORD of Michigan, and Mr. LOWRY of Washington.

H.R. 5377: Mr. DORGAN, Mr. BONER of Tennessee, Mr. LEATH of Texas, Mr. WEBER, Mr. HUCKABY, and Mr. HYDE.

H.R. 5534: Mrs. BOXER, Mr. DYMALLY, Mr. CLAY, Mr. FAZIO, and Mr. CONYERS.

H.R. 5959: Mr. BOEHLERT and Mrs. MARTIN of Illinois.

H.R. 5977: Mr. ACKERMAN and Mr. ECKART.

H.R. 5999: Mr. SAVAGE.

H.R. 6019: Mr. CHENEY, Mr. EMERSON, and Mr. MCKERNAN.

H.R. 6021: Mr. APPLEGATE, Mr. BATEMAN, Mr. THOMAS of Georgia, Mr. FRANKLIN, Mr. SPRATT, Mr. ROTH, Mr. PASHAYAN, Mr. BROOMFIELD, Mr. GIBBONS, Mr. MADIGAN, Mr. LEATH of Texas, Mr. DURBIN, Mr. GINGRICH, Mr. MILLER of Ohio, and Mr. TORRICELLI.

H.R. 6066: Mr. DINGELL.

H.R. 6093: Mr. ANNUNZIO, Mr. BATES, Mr. BENNETT, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CHANDLER, Mr. CONYERS, Mr. CORCORAN, Mr. CRAIG, Mr. PHILIP M. CRANE, Mr. DANNEMEYER, Mr. DAVIS, Mr. DOWNEY of New York, Mr. DUNCAN, Mr. DURBIN, Mr. EMERSON, Mr. EVANS of Illinois, Mr. FIELDS, Mr. FISH, Mr. GILMAN, Mr. HAMILTON, Mrs. HOLT, Mr. HOPKINS, Mr. HUBBARD, Mr. HUNTER, Mr. HYDE, Mr. LAGOMARSINO, Mr. LENT, Mr. MADIGAN, Mrs. MARTIN of Illinois, Mr. MCCAIN, Mr. MONTGOMERY, Mr. MRAZEK, Mr. MYERS, Mr. NICHOLS, Mr. OXLEY, Mr. PAUL, Mr. PORTER, Mr. RAY, Mr. ROTH, Mr. RUSSO, Mr. SAVAGE, and Mr. SHAW.

H.R. 6112: Mrs. MARTIN of Illinois, Mr. EVANS of Illinois, Mrs. COLLINS, Mr. MADIGAN, and Mr. RUSSO.

H.R. 6117: Mr. ACKERMAN, Mr. BARNES, Mr. BONKER, Mrs. COLLINS, Mr. DASCHLE, Mr. DYMALLY, Mr. FLORIO, Mr. GARCIA, Mr. GOODLING, Mr. HAYES, Mr. KOLTER, Mr. MADIGAN, Mr. MARKEY, Mr. MORRISON of Washington, Mr. PENNY, Mr. SABO, Mr. SIKORSKI, Mr. SIMON, Mrs. SMITH of Nebraska, Ms. SNOWE, Mr. VANDER JAGT, and Mr. YATRON.

H.R. 6172: Mr. GRAY, Mrs. LLOYD, Mr. PASHAYAN, Mr. GIBBONS, Mr. FASCELL, Mr. GLICKMAN, Mr. WRIGHT, and Mr. SAWYER.

H.J. Res. 392: Mr. COATS, Mr. PASHAYAN, Mr. DUNCAN, and Mrs. BYRON.

H.J. Res. 435: Mr. BIAGGI.

H.J. Res. 482: Mr. BENNETT, Mrs. BOGGS, Mr. MICA, Mr. WALKER, and Mr. SHAW.

H.J. Res. 499: Mr. SMITH of New Jersey, Mr. AUCOIN, Mr. CARR, Mr. ANDERSON, Mrs. LLOYD, Mr. LEVITAS, Mr. RODINO, Mr. DORGAN, and Mr. YOUNG of Missouri.

H.J. Res. 545: Mr. MCCOLLUM, Mr. CHENEY, Mr. TALLON, Mr. ST GERMAIN, Mr. IRELAND, Mr. JACOBS, Mr. ROBERT F. SMITH, Mrs. SCHNEIDER, and Mr. LOTT.

H.J. Res. 550: Mr. COUGHLIN, Mrs. COLLINS, Mr. SIMON, Mr. DANIEL B. CRANE, Mr. SUNDQUIST, Mr. HEFNER, Mr. LIPINSKI, Mr.

LONG of Maryland, Mr. YATRON, Mr. LUNGREN, Mr. EVANS of Illinois, Mr. REID, Mr. DURBIN, Mr. FROST, Mr. PRICE, Mr. CORCORAN, Mr. HATCHER, Mr. WYLIE, Mr. HYDE, Mr. MCCOLLUM, Ms. OAKAR, Mr. RODINO, Mr. BARNARD, Mr. ANNUNZIO, Mr. SISISKY, Mr. PURSELL, Ms. KAPTUR, Mr. SAWYER, Mr. FAUNTROY, Mr. SKELTON, Mr. MCCURDY, Mr. BOSCO, Mr. BONER of Tennessee, Mr. ROBERTS, Mr. HARTNETT, Mr. KEMP, Mr. DONNELLY, Mr. ANDREWS of North Carolina, Mr. MURTHA, and Mr. BRYANT.

H.J. Res. 580: Mr. FRANK, Mr. BONIOR of Michigan, Mr. CONYERS, Mr. GRAY, and Mr. DE LA GARZA.

H.J. Res. 595: Mr. PHILIP M. CRANE, Mr. DAUB, Mr. DE LA GARZA, and Mr. SAVAGE.

H.J. Res. 609: Mr. BATES and Mr. HUTTO.

H.J. Res. 621: Mr. SNYDER.

H.J. Res. 629: Mr. ALBOSTA, Mr. ANDREWS of North Carolina, Mr. ANTHONY, Mr. BEREUTER, Mr. BARNARD, Mr. BROYHILL, Mr. BRYANT, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CLINGER, Mr. COOPER, Mr. CRAIG, Mr. DE LA GARZA, Mr. DICKINSON, Mr. DWYER of New Jersey, Mr. ECKART, Mr. EDWARDS of Alabama, Mr. ENGLISH, Mr. EVANS of Illinois, Mr. FASCELL, Ms. FERRARO, Mr. FIELDS, Mr. FOWLER, Mr. FRANKLIN, Mr. GEJDENSON, Mr. GINGRICH, Mr. GRADISON, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HANCE, Mr. HEFNER, Mr. HUBBARD, Mr. JENKINS, Mrs. JOHNSON, Mr. JONES of North Carolina, Mr. KASICH, Mr. KOSTMAYER, Mr. KRAMER, Mr. LEVITAS, Mr. MACK, Mr. MACKAY, Mr. MADIGAN, Mr. MARTIN of North Carolina, Mr. MCCAIN, Mr. MCCURDY, Mr. MCEWEN, Mr. NEAL, Mr. NICHOLS, Mr. ORTIZ, Mr. OXLEY, Mr. PASHAYAN, Mr. PATMAN, Mr. RAY, Mr. ROWLAND, Mr. SABO, Mr. SCHULZE, Mr. SHUMWAY, Mr. SISISKY, Mr. ROBERT F. SMITH, Mr. DENNY SMITH, Mr. SOLARZ, Mr. VENTO, Mr. WAXMAN, Mr. WEISS, Mr. WHITLEY, Mr. YOUNG of Alaska, and Mr. CHAPPELL.

H.J. Res. 630: Mr. MATSUI, Mr. DUNCAN, Mr. CARPER, Mr. CHAPPIE, Mrs. BURTON of California, Mr. FAUNTROY, Mr. BRITT, Mr. DASCHLE, and Mr. BROWN of Colorado.

H.J. Res. 631: Mr. HEFNER, Mr. ROSE, Mr. JONES of North Carolina, Mr. NEAL, Mr. HAYES, Mr. BEILENSON, Mr. LAFALCE, Mr. DAUB, Mr. LOWRY of Washington, and Mr. DE LA GARZA.

H. Con. Res. 21: Mr. HORTON, Mr. BATES, and Mr. ROE.

H. Con. Res. 268: Mr. CHANDLER.

H. Con. Res. 277: Mr. MOORHEAD.

H. Con. Res. 336: Mr. DIXON.

H. Con. Res. 347: Ms. MIKULSKI and Mr. ECKART.

H. Con. Res. 355: Mr. VANDERGRIFF, Mr. SWIFT, Mrs. JOHNSON, Mr. AKAKA, Mr. JACOBS, Mr. CHAPPIE, Mr. WHITEHURST, Mr. NEAL, Mr. CLINGER, and Mr. SIKORSKI.

H. Res. 430: Mr. ALBOSTA, Mr. BEREUTER, Mr. DE LUGO, Mr. FORD of Michigan, Mr. GRADISON, Mr. HERTEL of Michigan, Mr. PETRI, Mr. ROYBAL, Mr. WAXMAN, Mr. GILMAN, Mr. PANETTA, and Mr. DORGAN.

H. Res. 451: Mr. BERMAN, Mrs. BOXER, Mr. DARDEN, Mr. DAUB, Mr. GARCIA, Mr. KAZEN, Mr. ROSE, Mr. SUNIA, Mr. WEISS, Mr. YOUNG of Missouri, Mr. DE LA GARZA, and Mr. MARTINEZ.

H. Res. 537: Mr. MCCLOSKEY, Mr. SCHULZE, Mr. ROSE, Mr. LANTOS, Mr. JENKINS, Mr. BARNARD, Mr. RICHARDSON, Mr. FLIPPO, Mr. ZSCHAU, Mr. TORRICELLI, Mr. EMERSON, Mr. HAYES, Mr. DYMALLY, Mr. DEWINE, Mr. WILSON, Mr. BATEMAN, Mr. WINN, Mr. NICHOLS, Mr. LEVINE of California, Mr. YOUNG of Alaska, Mr. DWYER of New Jersey, Mr. NELSON of Florida, Mr. NEAL, Mr. PURSELL, Mr. YATRON, Mr. BROWN of California, Mr. JEFFORDS, Mr. STENHOLM, Mr. MATSUI, Mr. YOUNG of Missouri, Mr. LAGOMARSINO, Mr. CLARKE, Mr. SCHEUER, Mr. WALKER, Mr. ANDREWS of North Carolina, Mr. MICA, Mr. KRAMER, Mr. LUJAN, and Mr. SMITH of Florida.

PETITIONS, ETC.

Under clause 1 of rule XXII,

411. The SPEAKER presented a petition of the Virginia Association of Chiefs of Police, relative to a "good faith exception" to the exclusionary rule; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5609

By Mr. HAWKINS:

—Page 7, line 25, strike out "1985" and insert in lieu thereof "1986".

Page 15, line 3, strike out "1985" and insert in lieu thereof "1986".

Page 15, line 23, strike out "1984" and insert in lieu thereof "1985".

—Page 15, strike out line 7 and insert in lieu thereof "Education for Economic Security".

—Page 3, line 10, insert "and" after the semicolon, on line 13, strike out the semicolon and insert in lieu thereof a period, and strike out lines 14 through 19.

By Mr. MACKAY:

—Page 5, line 5, insert after "public" the following: "and the State educational agency".

Page 9, line 15, strike out "and", on line 22, strike out the period and insert in lieu thereof "; and", and after such line insert the following:

(8) the local educational agency in the development and implementation of its program will comply with all applicable State education laws and regulations.

Page 18, after line 20, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(2) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

—Page 5, line 5, insert after "public" the following: "and the State educational agency".

Page 9, line 15, strike out "and", on line 22, strike out the period and insert in lieu thereof "; and", and after such line insert the following:

(8) the local educational agency in the development and implementation of its program will comply with all applicable State education laws and regulations.

Page 10, line 4, insert after "Secretary" "shall take into consideration any written comments submitted by the State educational agency" and

Page 18, after line 20, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(2) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

By Mr. OBEY:

—Page 18, after line 8, insert the following new subsection:

(f) No funds are authorized to be appropriated under this Act for any fiscal year in excess of the amount of revenues (1) that will be collected during such fiscal year as a consequence of the enactment after January 1, 1985, of a measure increasing revenues, and (2) that are specifically designated in such measure as being for the purpose of carrying out this Act.

By Mr. PANETTA:

—Page 13, line 17, strike out "science and mathematics" and insert in lieu thereof "science, mathematics, and foreign language".

Page 14, lines 9 and 10, strike out "science and mathematics" and insert in lieu thereof "science, mathematics, and foreign language".

Page 14, line 17, strike out "mathematics and science" and insert in lieu thereof "mathematics, science, and foreign language".

By Mr. VOLKMER:

—On page 3, line 18, following "languages," insert "technology,",

On page 13 line 17 strike "science and mathematics" and insert in lieu thereof the following: "science, mathematics and technology",

On page 14 lines 9 and 10 strike "science and mathematics" and insert in lieu thereof the following: "science, mathematics and technology", and

On page 14 line 17 strike "mathematics and science" and insert in lieu thereof the following: "mathematics, science and technology".

By Mr. WALKER:

—Page 9, line 15, strike "and".

Page 9, line 22, strike the period, and insert a semicolon, "and", and the following new paragraph:

"(8) the local education agency does not have a policy of denying or effectively preventing participation in prayer in public schools by individuals on a voluntary basis, except that such agencies may limit spoken prayer during instructional periods or at any other time when vocal speech is limited, Provided, That neither the United States nor any state or local educational agency shall require any person to participate in prayer or influence the form or content of any prayer in such public schools.".

—Page 10, 21, insert the following new sentence immediately following the period: "Such expenditures may include reimbursement to parents for tuition payments made for their children enrolled in private schools; Provided, That such reimbursement may amount to no more than 50 per centum of such tuition, and in no case more than $100; Provided further, That no such reimbursement may be made to parents with an adjusted gross income above $50,000 per year; and, Provided further, That no such reimbursement may be made for tuition paid to schools other than non-profit, tax exempt private schools (under section 501(c)(3) of the Internal Revenue Code) which do not discriminate on the basis of race, color, national origin or handicap."

—Title II Section 201(b) add a new subsection (4)

(4) projects that insure the basic competency of all teachers by providing that all entering and graduating students participating in a program of teacher training shall perform at a level of at least the 50th percentile on a nationally recognized test of basic teaching skills.

EXTENSIONS OF REMARKS

OPERATION RESCUE

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Wednesday, September 12, 1984

● Mr. MATHIAS. Mr. President, the Congress has delegated authority for operation of the government of the District of Columbia under the House Rule Act, but each Member of Congress still is responsible under the Constitution for the welfare of the Capital.

Each of us should, therefore, be grateful to the volunteers of Operation Rescue for contributing to the improvement of the quality of education in the public schools of the city. Tutors who assist the students in coping with their studies are making a valuable contribution. The benefits to the pupils are understandable. Since Mrs. Mathias participates in Operation Rescue, I can add that it also seems to be a fulfilling experience for the volunteers.

The Washington Post commented today on the value of Operation Rescue, which I submit for the RECORD:

HERE'S SATISFYING WORK FOR YOU

You won't find this job in the agency listings, and you won't make a cent if you take it. But you are free to split the difference—the big difference you will make for some little children of Washington's public schools who need a little time from you. Your job? Be a tutor. And don't worry about having any particular degree; if you have the time, the heart and the encouragement for these kids, that will more than suffice. This is a volunteer effort that has delivered every year since it began in 1981; your association with it can begin right away.

It is called "Operation Rescue," and there's nothing complicated about the concept. You work side by side with elementary school teachers, students and parents for about two hours a day twice a week for 12 weeks. People who have done this so far have ranged in age from 18 to 72, some with other jobs, some not; some District residents, some not; and many from the military and government. More than 50 schools from all around the city are involved, looking to volunteers for basic reading and math assistance of the personal kind that cannot happen in the classrooms.

There is initial training for every volunteer, and special material to help every helper, and there are plenty of children to go around. More than a few volunteers who keep coming back have heartwarming stories to share about their past charges—and lasting friendships to back them up.

Registration is easy. Operation Rescue is operated by the Washington Urban League in cooperation with the D.C. public schools. Chairing the effort this year is Ann Mathias, who joins all the other volunteers in asking you to call 724-4482 for further information, or to sign up by sending your name, address and telephone numbers to 415 12th Street NW, Room 1001, 20004.

The children you help may not have mastered the skills required at certain levels, but that doesn't make them "failures." On the contrary, with your time and theirs together, they may have that extra chance to be big successes.●

TIME FOR A CHANGE IN U.S. FOREIGN POLICY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. ELDON. Mr. Speaker, our friend and former colleague, Hon. Howard Pollock, who represented the great State of Alaska between 1966 and 1970, contacted me recently to share a report on his recent visit to Namibia and Angola.

Congressman Pollock thoughtfully set forth his observations about the political situations in those areas for the benefit of the administration and the Members of this House.

He correctly concludes that the responsibility of the United States is to support the anti-Communist leadership in those countries to assure progress toward full protection of human rights and security for those countries, ourselves and our allies against further encroachment of Communist tyranny.

I insert Congressman Pollock's report in the RECORD at his point for the benefit of our colleagues:

REPORT ON ANGOLA AND NAMIBIA (SOUTH WEST AFRICA) TIME FOR A CHANGE IN U.S. FOREIGN POLICY?

(By Howard W. Pollock)

By virtue of recent political developments in Southern Africa, it is my firm conviction that the current US foreign policies for the trust territory of Namibia (South Africa) and for war-torn Communist Angola have been overtaken by events and should be substantially modified at the earliest possible time. We must not make the same tragic mistake in those countries that was made in Zimbabwe, which now deteriorates under Marxist yoke. We are on the wrong side of the power curve of recent events in the region, and much too accommodating to the Marxist antifreedom forces in both countries. All too often we and other benevolent foreign powers are much too interested in the process leading up to independence, with far too little thought or concern about the future of the new nation being created or the political persuasion of the government which controls its future destiny.

While my comments herein may seem presumptive, I speak with some limited experience and credentials in foreign affairs, having (a) served for some 12 years on the US delegation to the UN Law of the Sea Conference and its earlier Preparatory Commission; (b) served as one of the International observers of the first elections in Zimbabwe Rhodesia (where Bishop Abel Muzorewa was overwhelmingly elected by the people to head a new, free, non-Communist nation which, unfortunately, as a result of the efforts of former President Jimmy Carter and British Foreign Minister Lord Carrington, was replaced by the Marxist regime of Robert Mugabe); (c) served in the US House of Representatives for a number of years, with substantial exposure to both domestic and foreign problems; and (d) visited six countries on six extensive journeys to Southern Africa in the past five years—Angola, Botswana, Namibia (SWA), South Africa, Zambia and Zimbabwe.

At the invitation of the Government of Namibia (SWA), I went to that country to interview a number of leaders of various political parties seeking to form an independent new nation of Namibia (SWA), and had an opportunity to enter war-torn Marxist Angola on two occasions, once for a site inspection and briefing at the field headquarters of the Joint Monitoring Commission (JMC) in the bushveldt beyond Ongiva, where the withdrawing South African Defense Forces Command daily meets with the Cuban-bolstered Marxist government armed forces (Forcas Armadas de Libertacao de Angola, or Armed Forces for the Liberation of Angola) known as FOPLA; and a second time into Angola to visit the field headquarters of UNITA (Uniao Nacional para Independencia Total de Angola, or National Union for the Total Independence of Angola) at Jamba, where I was privileged to meet with Dr. Jonas Savimbi, the dynamic and charismatic President of the Angolan anti-Communist guerrilla freedom fighters who seek a free and independent "government of national unity", friendly to the West.

A copy of my relevant letter to President Reagan dated the 4th of July is enclosed, along with a copy of my Programme or African agenda (Attachment B), together with my Angola Namibia Journal, Exhibit 1; the Multi-Party Conference Windhoek Declaration of Basic Principles, Exhibit 2; the MPC Bill of Fundamental Rights and Objectives, Exhibit 3; the official statement issued by the MPC on Wednesday, 9 May 1984, Exhibit 4; and my Time for a Bold Initiative, Exhibit 5.

The following pertinent and verifiable facts, opinions and comments are respectfully submitted in support of the proposition that although we as a nation are committed to national independence and self-determination for all peoples, the United States foreign policy for Southern Africa, particularly for Namibia (SWA) and for Angola, has been overtaken by recent events and should be comprehensively reviewed with a view of assisting those in both countries who seek self-determination and formation of new, independent, non-Communist governments.

1. Although 11 years ago, on 12 December 1973, the UN General Assembly adopted Resolution 3111, which recognized the Marxist-dominated South West Africa People's Organization (SWAPO) as "the authentic representative of the Namibian people", and reiterated such recognition by Resolution 3295 on 13 December 1974, in fact SWAPO is *not* the sole and exclusive representative of the people of Namibia (SWA). Quite to the contrary, on an historic occasion in November 1983, some eight months ago, a number of the major political parties came together to determine their own future independence on the basis of freedom, justice, the opportunity for involvement of all political parties, and with emphasis on human dignity. The multi-Party Conference (MPC) was born of this historic gathering out of the frustration of the people that other nations, organizations and outside interests were busily engaged in deciding their future destiny and making a mockery of the fundamental principle of self-determination. These internal political party leaders were united in their common objectives for independence, for national reconciliation, for involvement of all the people to the extent possible, and for creating unity in the recognized diversity of ideology, culture, language, and religion. The Conference made remarkable progress and reached agreement on two monumental documents of historic significance: THE WINDHOEK DECLARATION OF BASIC PRINCIPLES, issued on 24 February 1984, and the BILL OF FUNDAMENTAL RIGHTS AND OBJECTIVES, made public on 19 April 1984 (Exhibits 2 and 3).

2. A brief look back in history shows that in April 1978 the five Western members of the UN Security Council, referred to since as the "Western Contact Group" (Canada, the Federal Republic of West Germany, France, the United Kingdom of Great Britain & Northern Ireland, and the United States of America), in search for a solution to the Namibian problem, submitted a proposal for the peaceful settlement of the situation in that country. Among other things, the proposal included provisions for the holding of territory-wide elections under the supervision and control of the United Nations. The plan was accepted by the Government of South Africa on 25 April 1978 and by SWAPO on 12 July 1978.

United Nations Security Council Resolution 435 (dated 29 August 1978), reaffirmed the legal responsibility of the United Nations over Namibia (SWA), reiterated its objective of withdrawal of South Africa's "illegal administration of Namibia", and called for the transfer of power to the people of Namibia (SWA) (presumably meaning SWAPO, which the UN had previously designated as the "authentic representative of the Namibian people") with the assistance of the United Nations in accordance with Resolution 385 (1976). Security Council Resolution 435 also established the United Nations Transition Assistance Group (UNTAG) (for a period of up to 12 months) to assist the Special Representative of the UN Secretary-General to carry out the mandate to ensure the early independence of Namibia (SWA) through "free and fair elections under the supervision and control of the United Nations".

In a report dated 29 September 1978, following approval of Resolution 435 by the UN Security Council, the UN Secretary-General made a number of recommendations for the implementation of the proposal. In a further report dated 26 February 1979, the Secretary-General outlined his views on resolution of the outstanding issues. However, early in March, the South African government raised objections to various aspects of the Secretary-General's report, thus delaying the onset of the implementation process. South Africa objected particularly to the Secretary-General's recommendation which appeared to create or designate SWAPO bases in Namibia (SWA), and to the absence of a specific provision for the UN Transition Assistance Group (UNTAG) to monitor SWAPO bases in neighboring African states (presumably meaning Angola and Zambia).

UN Secretary Council Resolution 435 welcomed SWAPO's preparedness to cooperate in implementation of the Secretary-General's report and to observe a cease-fire (which has never occurred). Resolution 435 also declared that "any and all unilateral measures taken by the 'illegal administration' in Namibia in relation to the electoral process, including unilateral registration of voters or transfer of power in contravention of Security Council resolutions, are null and void".

3. By reason of the above, the United Nations is obviously a would-be referee with tarnished credentials and a pro-SWAPO prejudice. As Ambassador Jeane K. Kirkpatrick stated, "Since 1973, when the UN General Assembly passed a resolution designating SWAPO the sole, authentic representative of the Namibian people, the United Nations has tried to serve both as a partisan for one side and as an impartial mediator. SWAPO has enjoyed permanent observer status in the United Nations, and the UN has dispensed millions of dollars in financial support for SWAPO (25% of which has been furnished by the American taxpayers) under one or another of its programs. Its Council on Namibia travels all over the world 'raising consciousness' on the issue." The obvious point is that it is impossible for the United Nations to conduct a free and fair election for the national independence and self-determination for the people of Namibia (SWA).

As Ambassador Kirkpatrick further pointed out, one wonders, "Why the United Nations is so preoccupied with the situation in Namibia. Why is the United Nations not dealing, for example, with the Libyan invasion of Chad, which deeply disturbs and threatens neighboring countries, or with the Soviet-dominated Communist government of Poland enslaving the people of that nation? Why is the United Nations not dealing with the more than one million destitute African refugees? Why is it not dealing with the destruction of Lebanon? Why does it focus so much attention so intensively on a territory with fewer inhabitants than there are refugees in all of Africa today? Apparently, the United Nations is an institution that specializes in certain kinds of issues, among which 'decolonization' is central. In fact, it specializes in certain kinds of decolonization. It seems that the issue must not be seriously linked to any major concern of any major power. It is probably relatively safer for the United Nations to focus on the 'continuing illegal occupation' of Namibia (by South Africa) than on the continuing Soviet illegal occupation of Afghanistan." What masters of deceit!

4. The government of South Africa, like that of the United States, is most anxious for the creation of an independent, non-Marxist government in Namibia (SWA). As a matter of fact, it is my belief that South Africa would be delighted to have a free and fair election conducted under the auspices of the Western Contact Group or any other entity than the prejudiced United Nations.

It should be obvious that the United States could and should openly support recommendations of the South African government without in any way endorsing the racist policies of that government, particularly when it is in our own political, strategic, economic and security interests to do so. Yet, all too readily, for the wrong reasons, the United States has denegrated anything which South Africa espouses, often against its own self-interests. Rest assured, the interests of the United States are far closer to the objectives of the Government of South Africa than they are to the Government of the Soviet Union. The paradox is that we and the majority of the nations represented in the UN have adopted the Soviet policy of continuous castigation of South Africa.

The greatest stroke of genius in our time, in my view, has been the convincing manner in which the masterful conduct of Soviet misinformation has turned the world against South Africa. The Soviet Union is far more guilty of "apartheid" against the Jews, Israel, religion, and dissidents than has ever been the case for South Africa. In fact, South Africa has made conscious attempts to reconcile its difficult racial problems, and is making progress, although all too slowly for us and the rest of the world. Here in the United States, we took some 200 years to resolve our racial problems, and now we demand South Africa to do so immediately.

The point is that we should give credence and wholehearted support to the efforts of the people of Namibia (SWA) to achieve self-determination and independence, and should encourage participation by all the parties in the country, of whatever political persuasion, so that a multi-party government of reconciliation will ensue instead of a single-party Marxist government, which concept and result the United Nations seems to endorse.

5. In consideration of all of the above, and in our eagerness to separate ourselves from South Africa in world scrutiny, the United States has, since 1970, maintained a consistent policy against American investment in Namibia (SWA). This makes no sense politically, economically, socially, or strategically. The US has been too paranoid about world opinion. We have continued to work against our own best economic and security interests by not establishing a positive, meaningful US presence in Namibia (SWA).

The current US investment policy concerning Namibia (SWA) has three basic elements, all improper and most unfortunate in the present circumstances. The three elements are that: (1) the United States officially discourages any American business investment; (2) the United States will not assist in the protection of investments based on rights acquired through the South African government since adoption of UN General Assembly Resolution 2145 on 27 October 1966; and (3) the United States will not make available any government financial facilities to support trade and investment in Namibia (SWA).

The current US anti-investment policy for Namibia is ridiculous! One way or another, soon Namibia (SWA) will be a free and independent nation, hopefully a pro-West federal republic formed by a multi-party system. It seems abundantly clear that what we do today to help the economy of Namibia (SWA) is in no manner a policy of assistance to South Africa. The efforts of both the public and private sectors of the US econo-

my should assist the freedom-loving people of Namibia. We should begin doing so at the earliest possible time. In fact, the United States should establish and maintain an official presence in Windhoek, the capital of Namibia. If we are contemplating the construction and establishment of an American Embassy in Communist Luanda, Angola, which I understand to be the case (and which I deplore), it would seem to make uncommon good sense for us to establish an American Consular Office in Windhoek as well.

6. With further reference to Angola, our US efforts to stabilize the present situation in that country works to support the Marxists in power and militates to the disadvantage of the freedom fighters, the anti-Communist guerilla forces of UNITA. To my knowledge, this is the only area in the world where we refuse to support freedom fighters who seek self-determination and independence from an oppressive Communist government.

With our limited assistance, UNITA could win that protracted war very soon, and could establish a "government of national unity", which Dr. Savimbi and UNITA seek.

At the present time, UNITA has totally liberated the Eastern one-third of Angola and has established a government in the area with full administrative services, schools, hospitals, etc. In addition, the UNITA forces all but control the central one-third of the country and have virtually free run of the area. UNITA has established 22 military regimes in the liberated and guerilla areas of the country. The morale and determination of Dr. Savimbi's guerilla forces are amazingly high, and they enjoy the strong support of the local people. UNITA has effective control of two-thirds of Angola and support of three-quarters of the population of the country.

In response to a direct inquiry as to how the US could be of assistance to his cause for freedom, Dr. Savimbi said UNITA needed only missiles, effective ones, to knock down the Cuban- and Portuguese-piloted aircraft that harass their forces; and that only the Angolan Air Force is keeping UNITA from capturing Luanda, the capital of the country. Dr. Savimbi said that it would have enormous psychological impact upon the enemy to realize that their planes were vulnerable and could no longer hit and run unscathed. Dr. Savimbi was not asking for American troops, nor aircraft, nor ships, nor other implements of war, but only anti-aircraft missiles. Perhaps he had in mind the shoulder-fired Stinger anti-aircraft missiles, although he did not mention them. In any event, for the relatively small cost, and the great benefit to the Angolan freedom fighters, the U.S. should seriously consider furnishing UNITA with an appropriate anti-aircraft missile system.

7. With further reference to Angola and our need to support the anti-Communist freedom fighters, it is distressing indeed that Congress has seen fit to enact and continue the so-called "Clark Amendment", particularly §2293, concerning restrictions on the U.S. President in furnishing military or para-military assistance to operations in Angola, even when it is determined that such assistance should be furnished in the national security interests of the United States. Under the circumstances, I urge, in the strongest possible terms, an immediate effort to gain the approval of a joint resolution of Congress to furnish the anti-aircraft missile defense system sought by Dr. Savimbi and UNITA.

8. Although we in the United States and others in the world treat the situation in and the future of Angola and Namibia (SWA) as separate problems, it should be emphasized that Angola and Namibia (SWA) are inextricably related and are, in fact, but a single strategic objective of the Soviet Union, as it most certainly should be of the United States. The Cuban troops in Angola must be removed, otherwise, neither Angola nor Namibia (SWA) can be independent. The presence of 35,000 Cubans, 1,500 Soviets, 2,500 East Germans, and 3,500 Portuguese assisting the 60,000 to 80,000 FOPLA armed forces of the MPLA (Popular Movement for the Liberation of Angola, or Uniao Nacional para Independencia Total de Angola), obviously would influence the outcome of the elections in Namibia (SWA) to the south and affect the political future of the new nation.

9. The opportunity for democracy, for free elections, for true self-determination and independence inseparably ties the situations together in Angola and Namibia (SWA). Our full public support of UNITA in Angola and the MPC process in Namibia (SWA) is a winning and unbeatable combination, and our efforts in achieving the goal of true independence for both countries would be a forward step and quite effective in stopping the persistent encroachment of Communism across the face of Southern Africa.

10. It would make uncommon good sense at this juncture in history for the President of the United States to appoint a personal emissary to augment the plan for national independence and self-determination in both countries by coordinating the efforts of Dr. Jonas Savimbi in Angola and the leaders of the MPC in Namibia (SWA). Both apparently seek multi-party non-Communist governments. Also, perhaps Dr. Savimbi could be persuaded to meet with officials of the Gulf Oil Company and other relevant multi-national corporations to give appropriate assurances concerning business relationships in the future, providing these corporations cease contributing to the treasury of the Communist government in the interim. The personal emissary of the President should make a continuing analysis of the political situations in both countries, and report back to the President from time to time.

11. It is my impression that the African Heads of State are very interested in promoting a resolution of conflicts in Southern Africa and have recognized the importance of furthering the cause of national reconciliation in both Namibia (SWA) and Angola. It is also my feeling that Africa is beginning to lose patience with SWAPO's Comrade Sam Nujoma, because, as the Soviet pawn, he is the lone remaining stumbling block to full internal reconciliation of the political situation in Namibia (SWA).

Today we stand at the decisive crossroads into the future for Angola and Namibia (SWA). If we give proper support and assistance to those who seek national independence, freedom and self-determination, our efforts will bring about the achievement of democratic, stable and properous nations friendly to the West. This is in our own economic and national security interests.●

PERSONAL EXPLANATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LEWIS of Florida. Mr. Speaker, I was unable to be in Washington, DC, on September 6 due to official business. During this time I was unable to vote on rollcall Nos. 374 through 381. Had I been present, I would have voted as follows:

Rollcall No. 375, amendment to preclude FDS approval of generic substitutes until 18 months, instead of 30 months, after the generic drug application in cases where patent litigation is underway, "yea."

Rollcall No. 376, amendment to remove over-the-counter drugs from coverage under the bill, "no."

Rollcall No. 378, amendment to change the effective date of catalog description provisions to items manufactured 180 days, rather than 90, after enactment, "no."

Rollcall No. 379, final passage of H.R. 3605, "yea."

Rollcall No. 381, amendment in the nature of a substitute to reduce authorization levels for programs in the bill, "yea."

Rollcall Nos. 374, 377, and 380 were quorum calls.●

PRINCIPLES OF MEXICAN FOREIGN POLICY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. RICHARDSON. Mr. Speaker, on August 7, Mr. Bernard Sepulveda, the Secretary of Foreign Affairs of Mexico, delivered a very thoughful address to his countrymen in the State of Campeche on the Guatemalan border. In addition to a clear Statement of the basis of Mexican foreign policy, this speech demonstrates that any solution to the problem of immigration will have to involve Mexico.

I commend Mr. Sepulveda and offer his address for my colleagues.

ADDRESS DELIVERED BY BERNARDO SEPULVEDA AMOR, MINISTER OF FOREIGN AFFAIRS, REPRESENTING PRESIDENT MIGUEL DE LA MADRID AT THE FIFTH GOVERNMENT REPORT OF THE CONSTITUTIONAL GOVERNOR OF THE STATE OF CAMPECHE, MR. EUGENIO ECHEVERRIA CASTELLOT

Honorable Congress of the State; Eugenio Echeverria Castellot, Constitutional Governor of the State of Campeche; Magistrates of the Supreme Court of Justice; Muncipal Presidents; Ladies and gentlemen: It is my honor today to represent the Constitutional President of the United Mexican States, on the occassion of this Fifth Government Report presented by Mr. Eugenio Echeverria Castellot. I welcome this opportunity to

acquaint myself with and appreciate the work done during the past year by the State Administration and the people of Campeche.

Governor Echeverria Castellot; the Honorable State Congress will make a detailed analysis of the Report that you have submitted to the repesentatives of the people. Nevertheless, I am particularly pleased to see you in Campeche are making active efforts to carry out the essential postulates of President De la Madrid's Administration.

The efforts of the Government of Campeche to expand and to improve the quality of the educational system, to broaden health services and to promote housing construction are highlighted in your Report. The new drinking water, electricity and road networks that have been promoted by the State Administration contribute to the improvement of living standards in Campeche. The special support given to fishing, livestock and agriculture production by this Government is also evident.

In addition to those material efforts, the measures adopted to strengthen the municipality and ensure genuine democracy founded on the active participation of political parties also deserve recognition. We must also emphasize the work undertaken by the State Government to maintain an adequate balance between production factors and to encourage popular consultation as an indispensable means of plumbing the aspirations and interests of the different sectors and social groups of Campeche.

The continuing efforts to modernize the State Public Administration and to further descentralization and planning are evident. The people of Campeche are making progress towards a more egalitarian society and their Government is striving to achieve greater development and to improve their living conditions and well-being. In this way, Mr. Governor, Campeche is helping to strengthen the national project of the Mexican Revolution that President Miguel de la Madrid has set forth for this period in the country's history.

Our President took office in a time of economic crisis that demanded an enormous amount of talent, leadership and political acumen in the effort to solve it and protect our most valued institutions. The Federal Government launched a series of measures designed to counteract the most servere aspects of the crisis, to establish solid bases for the stable growth of the country and to strengthen the democratic ideals of liberty and justice upheld by our revolutionary process.

The Government of Campeche has solidly backed that effort. It could not be otherwise. Its people have traditionally shown a high degree of civic responsibility and a strong cultural character. This unmistakeable quality makes a decisive contribution to national unity and is an outstanding element in the historical and cultural identity of the country.

Campeche reaffirms and fosters the principles of revolutionary nationalism, integral democracy, egalitarian society, moral and civil renovation, and descentralization and planning for the development of the country. The activities of the people and the government of the State are guided by the objectives set forth in the National Development Plan. They also provide firm support for Mexico's foreign policy, which forms a substantial part of the national plan being carried out by Miguel de la Madrid. Campeche's situation as a border State has given it a closer acquaintance than others with different international realities, especially in these times of grave difficulties in Central America.

The international policy of the President of Mexico is founded on the most profound traditions of our country; it has solid roots in history and is a genuine expression of the struggles of the Mexican people to assert their sovereignty and preserve their independence. Thus, the raison d'etre and ultimate aim of President de la Madrid's foreign policy lies in the defense and furtherance of the nation's interests.

In this time of change and crisis, which is also one of necessary reaffirmation, Mexico cannot allow any questioning of its faithfulness to its revolutionary project. Our loyalty to the principles and values that the people themselves have defined in their constitution of a free and sovereign nation remains whole and intact. Expanding the frontiers of our international political space is, by imperative need, a true exercise of the independent calling of the Mexican State. The prime mission of our foreign policy is to give reason and content to the sovereign capacity of the nation to rule its affairs, accepting no subjugation, imposition or conditioning. Therefore, the Government of the Republic, as the faithful spokesman of the Mexican people, will firmly, devotedly sustain, with responsibility and patriotism, the impeccable and worthy international conduct that has gained for Mexico the respect and prestige it enjoys in the world community.

Mexico's foreign policy is never subject to the whims of circumstance, nor conditioned by the hazards of fortune. On the contrary, it is founded on permanent principles and ideals of universal value and pursues clearly defined objectives.

At the same time, as part of its day-to-day safeguarding of our national interests, our foreign policy is responsive to the demands of reality, to ongoing social processes, and to the concrete manifestations of the political forces that shape today's society.

Fidelity to our permanent principles of international conduct demands that these be specifically, realistically and effectively applied. In the final analysis, President De la Madrid's foreign policy seeks at all times to determine the most suitable strategies for ensuring that our national interests prevail and that our capacity for free determination is fully preserved.

In a world that is characterized by increasing interdependence, Mexico seeks to maintain peace and foster cooperation among all States. Thus it assumes the unavoidable responsibilities imposed today by the evolution of the international system.

This is especially relevant as regards Mexico's relations with neighboring countries. We maintain mature, cordial and respectful relations with the United States. There is constant communication between various levels of the two governments, and an ongoing and fruitful dialogue between the highest authorities of both countries. Responsible, friendly relations do not necessarily imply agreement in the interpretation of international events, or identical views as to the solution of each of the matters that form part of the complex relationship between the two countries. For reasons of history, idiosyncrasy and forms and levels of development, our interests and viewpoints often differ. The important thing, as President De la Madrid declared during his recent visit to Washington, is to show our ability to examine our differences calmly and in good faith, encouraging areas of agreement and resolving the important questions of our relations with justice and efficiency.

On the basis on those postulates, we endeavor to broaden cooperation between both nations in such areas as trade, border development and finances. We assert our conviction that prosperity should not be exclusive to one nation alone, but shared by both.

We are concerned about the situation of our migrant workers in the United States in the event of the passage of the Simpson-Mazzoli Bill. We have instructed Mexican Consulates in the United States to assist in the effective protection of the human and labor rights of our workers. The Government of the Republic has also taken the necessary measures to offer the best possible conditions for the return of some of our countrymen, if the need arises.

Our Government is coordinating its action so as to ensure the security of repatriates at possible Mexican entry points, to protect their personal and family interests and to provide facilities for their transfer to their places of origin. At the same time, the Federal Government will promote special investment programs in the communities that cease to receive income from migrant workers. We will prove our ability to benefit from the potential wealth that is represented by this work force made up by our fellow countrymen.

The best protection of our national interests lies in the defense of our independence and in the affirmation of our dignity and values. Consequently, the reasoning of those who propose, for the sake of a supposed short-term benefit to the country, a retreat from the principles of Mexico's foreign policy is absolutely unacceptable. This has never been a possibility. On the contrary, the history of Mexico and of the entire continent shows that abandoning national dignity and a country's vocations for independence leads to intolerable subordination, to the loss of national identity and, in the end, to an irreversible political cost.

As President De la Madrid recently pointed out, peace in Central America is of vital interest to Mexico. Harmony between the countries in the area is desirable not only for the benefit of our sister countries in the Isthmus, but for the security of our own. Armed confrontations and intervention aimed at domination have invariably involved disruption that affects neighboring countries, in every part of the world and at all times. The impact of war can never be confined to a border or to a precise geographical area.

In rigorous adherance to our international tradition, the foreign policy of President De la Madrid is fighting to bring about the full enforcement in Central America of the principles of non-intervention, the free selfdetermination of peoples and the legal equality of States. Respect for the sovereignty of nations and their territorial integrity implies, by definition, proscription of the use of force and of any measures aimed at establishing a pattern of subordination in the area.

The developing world is currently suffering a profound crisis, and its resultant rapid changes in the economic, social and political structures of the countries involved. Central America could not remain forever on the fringe of social change that seeks better living conditions, more authentic democracy and greater liberty and justice. Severe political restrictions and various forms of economic and social subjection have been im-

posed on the area in the past. Central America is therefore now being particularly hard hit by the difficulties of that process. Such are the roots of the convulsion in the area, which must remain separate from the tensions between East and West. Any effective policy of pacification and development in Central America must necessarily be based on a full understanding of the legitimate aspirations of the peoples of the region.

In keeping with its responsibilities, the Government of Mexico encouraged the creation of the Contadora Group as a means of achieving the political weight needed to avoid a generalized conflict between the countries neighboring on our southern border and to establish an appropriate framework for their economic, social and political development along the lines selected in a sovereign and autonomous manner by each of the countries in the area.

Mexico's efforts in the Contadora Group, which have now been going on for more than eighteen months, have been aimed at devising a negotiated political solution to the conflicts within the guidelines of international law. The responsibility of creating political and economic institutions in the area belongs exclusively and unrenounceably to the peoples of Central America themselves. Nonetheless, the entire community of nations, and particularly those with greater resources, should contribute effectively towards ensuring the viability of the project established by each Central American nation for achieving democracy and economic development with social justice and independence.

The Contadora Group has invariably sought agreement between the parties concerned. We are confident that the use of weapons and outside political and economic pressure to bend the will of nations can be banished forever through dialogue and negotiation. Solutions to conflicts cannot be founded on the elimination of opponents. By definition, diplomatic and political action implies the conciliation of interests, acceptance of the fact that an opponent can be partly in the right, and, in short, a capacity for understanding and for allowing reason to prevail.

Those are the principles that govern Mexico's participation in the area, undertaken at the request of the Central American governments themselves.

Through ignorance or bad faith, there has been a spread of baseless tales and distortions of fact that are aimed at bringing about a change in our foreign policy. We deny them, because they seek deceitfully to weaken Mexico's international action and, in the process, its independence and capacity for self-determination. History is fully documented. The facts are open to view. Memory cannot forget fundamental events in Mexican diplomacy.

Mexico's foreign policy has had undeniable success in avoiding a conflagration of vast proportions in the area. The Contadora Act for Peace and Cooperation in Central America contains general and specific commitments undertaken to guarantee the security of all the countries in the area, the development of their democratic institutions and their economic and social progress. Decreasing tensions and initiating dialogue and negotiation where none existed before are unquestionable achievements of the efforts of the Contadora Group.

These efforts have received recognition and support from the entire international community. The United Nations and the Organization of American States have expressed their unanimous support for the Group's efforts. The political value of diplomacy and negotiation has thus been emphasized. Compromise is today an undeferable necessity for the survival of the community of nations, since the use of force only leads to escalating violence. In this sense, the conduct of the Contadora Group has been exemplary.

Unfortunately, there are still confrontations and struggles in the region between countries and between national factions. We have not yet managed to banish interference from countries alien to the zone; nevertheless, we will persist in our effort to enable Central American peoples to achieve higher levels of political and social development, in conditions of peace and full respect for their right to self-determination.

In the same spirit, we will continue to honor our commitment to supply oil to the countries of Central America and the Caribbean. The San Jose Agreement, which unconditionally favors the nations in the area, has been renewed. Thus Mexico is carrying out its obligations strictly in a concrete show of international solidarity.

The Central American conflict has given rise to a major flow of migration towards our country. Mexico unwaveringly maintains its policy of political asylum. We have provided protection and aid to the Guatemalan refugees in the State of Chiapas. Owing to their unprecedented numbers and the location of the settlements, the Mexican Government has undertaken an exceptional effort. This humanitarian task has merited the recognition of the United Nations High Commissioner for Refugees.

The relocation of the refugee camps in the State of Campeche has a fundamental purpose: to guarantee full protection to the refugees. Experience has shown, in different parts of the world, that to achieve that aim it is necessary to transfer settlements away from the borders of the refugees' country of origin. This resettlement has the irrestricted support of the United Nations High Commissionarer for Refugees and is being carried out in consultation with the parties involved.

The decision to relocate the camps also permits more efficient provision of the food and health services required by the refugees. They are being given the opportunity to become part of the production process and to achieve minimum levels of well-being, with full respect for human rights and for their ethnic and cultural identity.

Respect for the wishes of the individual refugees is an unwavering norm of our conduct. Just recently, on opening the International Conference on Population, President De la Madrid defined Mexico's position, stating: "the geographical mobility of the population is an opportunity to renew our fundamental pledges: respect for the fundamental freedoms and rights of man. Whether they are nationals in our territory, or on foreign soil; or whether they are strangers in our own country, the human dignity of migrants is irrevocable".

The measure in question was taken, in short, for the benefit of the refugees themselves, and honors both the tradition of asylum upheld by our country and, in this case, the State of Campeche, thanks to the generous reception that its people and its government have given to our Guatemalan brothers who have been obliged to leave their country. It is my pleasant duty to express the gratitude of the Government of the Republic to the people of Campeche, who have once again demonstrated their nobility, hospitality and humanitarian vocation.

Mr. Governor, a Government report is, by definition, a republican and democratic act. Through it, citizens are acquainted with the tasks of the Administration and public power acquires legitimacy. It is a unique function that establishes a privileged means of communication between governors and those they govern, thereby strengthening political institutions and broadening social consensus.

In your report to representatives of the people you have described the collaboration that exists between the Federal Government and the Government of the State of Campeche. Increased resources to further State progress are allocated through the Overall Agreement, which links federal state and municipal activities in a joint effort, within a framework of absolute respect for federalism.

The nation proudly recognizes the values of Campeche, which has so many and varied natural and human resources, is destinguished by the impetus that stems from the youth of its inhabitants, and has achieved such a rapid growth rate in recent years. It also recognizes the state's outstanding contribution to the national economy. One need only remember that Campeche last year accounted for 70% of the country's petroleum production. Federal investment in this state is but a weak counterpart of the wealth produced by Campeche for the benefit of Mexicans as a whole.

The state of Campeche forms part of our southern border: A window on the exterior and a point where concerns and hopes converge. We must insist that the border is not a dividing line that isolates and separates the country from international circumstances, but rather a place where different values and ways of life come together, providing opportunities for dialogue and exchange, a meeting place, and, in short, a favorable environment for establishing contacts and mutual relations.

The border states therefore bear an exceptional responsibility. They must be a stronghold of our independence, an example of solidarity and unequivocal spokesmen for the ideals of democracy and justice that shape our country's identity. They bear unique responsibilities, but they also enjoy the privilege of communication with other peoples and cultures, which is so relevant a factor for the enrichment and strengthening of national life.

Campeche has always accepted the commitment that stems from its location in the Republic. Profoundaly nationalist, the patrotism of its citizens nurtures Mexico's historical project. This revolutionary nationalism involves, in both its constitutional definition and in everyday life, an understanding of the country's problems, the protection of its resources and the affirmation of the political and economic independence of the nation. It also implies a commitment to peace and solidarity with the development of other countries, recognition of the interest of others, and unequivocal rejection of all hostility or exclusivism.

Therefore, Mr. Governor and Friends of Campeche, I am doubly honored by the distinction conferred on me by the President of the Republic in appointing me to represent him here today in this hospitable land of shelter and protection, which contributes so outstandingly to the political, economic, and cultural development of the nation, and in which the revolutionary principles of the

Mexican people are expressed with unstinting vigor.●

DISTORTIONS BY THE NICARAGUAN GOVERNMENT

ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. RUDD. Mr. Speaker, I recently received several news releases from the Nicaraguan Embassy lauding the Sandinista regime for its efforts to build a free society, while condemning the United States for a lack or concern for human lives in Nicaragua.

It's no surprise the Sandinistas want us to ignore the truth and succumb to these outright distortions. Let's look at the record:

More than a quarter of a million Nicaraguans fled their homeland as they saw it being transformed into a Marxist dictatorship.

Doctors have reported evidence of Sandinista torture.

Pastors have had to have their sermons approved by commandants before delivering them. Churches have been burned.

One-fourth of the Nicaraguan coast's 165,000 Indians are in relocation and refugee camps. One half of the Miskito and Sumo Indian villages have been destroyed.

The only remaining non-Government newspaper, La Prensa, is censured daily.

Internal political opposition is not tolerated. Make no mistake, the upcoming elections will be under firm Sandinista control.

Nicaragua is the only Central American country where the trend is not toward democracy but toward Communist totalitarianism.

The evidence is overwhelming. It's no wonder the Sandinistas must report to total fabrications in their news releases in the hope of building sympathy for their brutal cause.●

UNITED STATES-SOVIET RELATIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LAGOMARSINO. Mr. Speaker, it is slowly becoming understood that arms control is in and of itself, not a solution to the problem of United States-Soviet relations. Thinkers and strategists from both political parties and every political viewpoint are realizing that the profound differences—moral, ideological and political—between our society and the Soviets' cannot be eliminated or reconciled by negotiating arms control treaties or agreements.

Dr. Zbigniew Brzezinski, President Carter's National Security Adviser, has recently written a cogent, accurate assessment of what we can and cannot expect from traditional arms control. He rightly notes that the Soviets have placed themselves in a "no win" situation regarding their arms control negotiating position demanding the dismantling of U.S.-made Pershing 2 ballistic missiles and ground-launched cruise missiles [GLCM's]. Such a position is tantamount, Dr Brzezinski argues, to "an act of unprecedented diplomatic stupidity."

Dr. Brzezinski further argues, and remember he is a Democrat, that strategic defenses, similar to those advocated by President Reagan, adds to deterrence in that "it can increasingly complicate the planning and execution" of a Soviet nuclear strike "by creating again greater uncertainty as to the consequences of a first strike."

Deterring nuclear war is not a partisan issue. Republican and Democratic administrations have espoused plans that seek to further deterrence by complicating the task of Soviet war planners by increasing the odds that a Soviet first strike would be ineffectual and disastrous. President Reagan has offered a much-needed strategic modernization program to counter the dangerous trends in U.S. nuclear force structure and readiness. It is important to note that these plans have widespread support, even among high-ranking Carter administration officials such as Dr. Brzezinski.

Dr. Brzezinski's assessment follows:

[From the Wall Street Journal, July 10, 1984]

FROM ARMS CONTROL TO CONTROLLED SECURITY

(By Zbigniew Brzezinski)

The prospects for a comprehensive and complex U.S.-Soviet arms control agreement, building on the foundations laid by SALT I and SALT II, are increasingly slim. Indeed, it is quite possible that arms control as we have known it has come to the end of the road. Once the great hope of those who believed that the U.S.-Soviet rivalry could be limited by joint agreement—with some even seeing in arms control the catalyst for a genuinely friendly American-Soviet relationship—comprehensive arms control (on the model of the SALT agreements) is likely to be the victim of the bloody-mindedness of the present Soviet leadership and of the dynamics of the technological revolution.

The present Soviet leadership recently has done something quite remarkable in the history of the U.S.-Soviet competition. It has publicly postulated that there will be no arms-control talks unless the U.S. is prepared to accept a public humiliation and a political defeat: the dismantling of the relatively few Pershing 2s and cruise missiles so far deployed in Western Europe as a response to the hundreds of SS-20s deployed by the Soviet Union over the past several years. In effect, the Soviet Union has made arms control a hostage to the attainment of a truly major geopolitical objective: the severance of the U.S.-European security connecton.

A NO-WIN SITUATION

The Soviet demand is thus unacceptable. Even the accommodationists who today dominate the discourse over foreign affairs within a segment of the American body politic reject the Soviet demand, and the Reagan administration enjoys widespread backing here and in Europe in refusing to bow to it. The Soviets have thus backed themselves into a no-win situation, an act of unprecedented diplomatic stupidity.

In order to extricate themselves, they have lately proposed separate negotiations in Vienna on an anti-satellite weapons agreement. President Reagan was wise in responding affirmatively to the proposal for negotiations, but he is equally wise in anticipating no real progress in them.

But in the meantime the hostage is dying. The primary victim of this situation is arms control—not in its unrealistic utopian version but as a modest and practical way of somewhat controlling the spirals of defense spending and weapons accumulation on both sides. The Soviet refusal to negotiate simply means precious time is being lost, and as a result it will be even more difficult in the future to reach a truly ambitious and comprehensive agreement, a better version of SALT II.

This is because the political paralysis in the negotiations is being outpaced by the dynamics of the weapons revolution. The simple fact is that both the U.S. and the Soviet Union are rapidly moving—while arms-control negotiations remain stalemated—to acquire increasingly sophisticated weapons systems, making existing ICBMs anachronistic. As pointed out in a recent study in the Naval War College Review by James Westwood: "The 1980s is a time of rapid transition and readjustments to technological changes in missilery. On the horizon are stealth-type bombers launching stealth cruise missiles (ALCM) and precision-guided munitions (PGMs), further obviating the role of ICBMs. Scientific and technological achievements in guidance, navigation, aerodynamics, electronic circuitry and componentry and in warhead yields-per-warhead-weight appear to be leading rapidly to a downturn, perhaps to an eventual demise of the once-ascendant and now dominant ICBMs of the period 1960 to 1985. This trend holds both in the United States and in the U.S.S.R."

Highly mobile and extraordinarily precise delivery systems are coming into being and are beginning to be deployed. By way of example, the CEP (circular error probabilities) of a Soviet SS-19 has been approximately 1,200 feet; that of a Minuteman III, 700 feet; of an MX, 450 feet; and of a Pershing 2, with terminal guidance, about 100 feet. The latest Soviet missiles also involve similarly impressive operational improvements.

It will be increasingly difficult to impose effective and verifiable limits on these weapons. The verification problem is becoming increasingly acute, given the mobility of the new systems and the opportunities for rapid reloading and covert deployment. The question of how to control qualitative improvements plagued SALT II negotiators and, at best, only a partially satisfactory response was developed. Their difficulties pale in comparison to the complexities posed by the new systems. Adequate verification of both qualitative and quantitative limits would require access to storage facilities and even perhaps to production centers. As a

consequence, it is realistic to conclude that for both political and technological reasons, the chances of a truly comprehensive agreement, which can be reliably verified, are rapidly fading.

In that context, we are likely to see renewed attraction to war planners of a first-strike scenario. Since the mid-1950s, acquisition by the Soviets of a respectable nuclear capability meant that a first strike—inherently messy and unpredictable in its consequences—was until recently not an attractive option for either side. A messy attack with large and relatively inaccurate warheads (the only kind possible) would still precipitate an almost equally messy counterattack. But with the deployment of extraordinarily accurate systems, a first strike designed to paralyze the opponent's capacity to respond through the pre-emptive destruction of most of its forces and through the decapitation of its command structure can again become a viable planning option. From an offensive point of view, a sudden attack by highly precise and very numerous nuclear weapons is more profitable than an exchange resulting from a political crisis prompting both sides to gear their forces to maximum alert.

In the years ahead, one can envisage several ways in which nuclear weapons might be used in anger and by deliberation. Four basic variants summarize the range of possibilities: (1) a massive surprise attack; (2) through crisis escalation; (3) by contagion from non-superpower conflicts; (4) by terrorist attack. Of those, in the years ahead probably the fourth is the most likely since it involves a relatively simply operation, and it can be undertaken by a limited group of individuals with little concern for society and motivated by their own peculiar brand of rationality.

But while the employment of a nuclear device in a terrorist attack may be the most likely, for the U.S. a surprise attack poses the greatest danger. It could in one stroke create cricumstances beyond our capacity to foresee either its social or historical consequences. Of course such a sudden-attack scenario remains unlikely, but one can disregard it entirely only at the greatest peril. Given the relative openness of American society, the precise location of key U.S. assets can be much more easily ascertained and effectively targeted than those of the Soviets. That makes the U.S. more vulnerable to such a strike, and it would be escapist to assume that Soviet planners would choose to ignore such an option altogether.

Moreover, a bolt out of the blue could create such initial disbelief among the U.S. decisionmakers that they would be unable to make a prompt response. Even without a special Soviet effort to disrupt or destroy U.S. decisionmakers, a sudden massive attack would put the American leaders under extraordinary psychological pressure, capable of inducing erratic behavior and hesitation. One can hardly imagine how utterly dumbfounding would be the situation in which the president would find himself awakened in the middle of some night, confronted with the following life-and-death decision tree (as based on public sources):

TIME (MINUTES)

0 Massive attack launched.

1 SLBMs detected.

2 ICBMs detected.

4–6 Confirmation of attack; uncertainty over scale; U.S. decision process begins.

6–10 First SLBMs detonate in High Altitude EMP attack; SAC launched preemptively; confirmative of scale of attack; final U.S. decision process.

10–12 U.S. decision needed: Ride-out or respond; first SLBMs detonate over U.S. SLBM bases and National Command Authority.

12–14 Final window for initiating response; launch under attack.

16–20 Delta SLBMs launched from home ports hit SAC.

20–30 ICBM attack initiates possible X-ray pin-down and begins impact on targets.

How in these circumstances would the president perform? How effective would be the chain of command? How rational would be the choices made in response to initially unbelievable information? Could incoming information regarding the nature of the attack be rationally related to the needed response? We are dealing here with truly sensitive and disturbing operational as well as psychological questions.

The advent of increasingly numerous and accurate systems is making it possible for planners of a strategic attack to envisage a first strike that leaves the opponent strategically crippled, capable of only a spasmodic, disorganized and strategically aimless response—or none at all. This still does not make a first strike attractive from a moral of even political point of view, given the stakes, but the point is that gradually the military attractiveness of this option is again increasing.

Accordingly, with the stalemate in arms control, the enhanced capacity of strategic offense must be offset—and it is likely to be offset by greater reliance on the part of both sides on defensive strategic systems. The Times of London put it correctly when it stated editorially on June 13: "The Soviet Union is now naturally worried about the consequences of a burst in American spending on missile defense. It casts doubt on Soviet plans for offensive systems since the possibility of any missile defense—even an incomplete one—would radically alter the cost calculation of offensive systems. In the long run a defensive program would enhance arms control by reducing the potential gains from building offensive weapons. . . . It is ironic and paradoxical that the age of deterrence has so confused the strategic mentality of many commentators that their reaction to a purely defensive system is to suggest that it increases danger."

The fact is that strategic defense has become feasible not in the sense that it can safeguard society but because *it can increasingly complicate the planning and execution of an effective first strike.* In other words, strategic defense can somewhat negate the offensive advantages of increasingly sophisticated strike systems, restoring the element of deterrence simply by creating again greater uncertainty as to the consequences of a first strike.

RESPECTIVE VULNERABILITY

For the U.S., it is an especially attractive option for it permits us to exploit the advantages of high technology, an area of U.S. superiority. This provides us with genuine potential for offsetting the military advantages gained in recent years by the Soviet Union, and would put pressure on the Soviet Union to return to serious arms-control negotiations.

But even with such negotiations, the development of some defensive strategic capability will remain desirable. It is often said that an imbalance might arise when one side sees the other side acquiring a relatively invulnerable shield while itself remaining vulnerable. Pre-emption might therefore become tempting. In fact, that is not likely to happen. The acquisition of a defensive strategic capability is not like purchasing an umbrella, which one can unfold against the rain upon leaving the store. It is bound to be a protracted trial-and-error piecemeal process, with both sides experimenting, deploying partially, and adjusting their capabilities, with neither one at any point in the next 15 to 20 years feeling it is truly invulnerable to the other side, even though over time the respective vulnerability of each side to a first strike by the other will gradually be declining.

Through such a process, a measure of reciprocal stability will be acquired and security of both sides will gradually be enhanced, though the process will not yield the kind of restraint in defense expenditures that many have associated with the hoped-for arms control. But the time has come to lay to rest the expectation that arms control is the secret key to a more amicable American-Soviet relationship or even to the enhancement of mutual security. The maintenance of such security will remain an ambiguous and protracted process requiring unilateral actions by both sides, and increasingly so in the area of strategic defense.

(Mr. Brzezinski served as assistant to the president for National Security Affairs from 1977–1981.)●

IT'S TIME FOR A NATIONAL LOTTERY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LUKEN. Mr. Speaker, today I am introducing legislation to study the feasibility of establishing a national lottery to help reduce the staggering Federal deficit.

The Presidential candidates are debating what kinds of revenue are needed, but no one denies that the United States has a problem with the Federal Government spending $4 for every $3 it takes in. Additional revenues are surely needed.

At the present time, 18 States are enjoying lotteries with increasing zest, and neighboring countries such as Canada and Mexico also benefit from lottery proceeds.

In Chicago last week, a 28-year-old printer became the largest single winner in North American history, claiming a $40 million prize from the Illinois State Lottery.

On August 4, eight persons from Ohio shared winnings of $24.6 million—the second biggest lottery prize in American history.

The largest previous single winner was a New Yorker, who won $20 million in the New York State Lottery in July.

If the United States were to adopt a national lottery, as much as $50 billion of the Federal deficit could be reduced over a 5-year period. And, a national lottery would be unlikely to impair the

profitability of State lotteries, since the existence of a national lottery would expand interest on the part of the public in lotteries generally.

The introduced legislation follows:

H.R. .—TO ESTABLISH A COMMISSION TO STUDY THE ESTABLISHMENT OF A NATIONAL LOTTERY

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the National Lottery Commission Act.

ESTABLISHMENT

SEC. 2. There shall be established within 6 months of the effective date of this Act, a commission to be known as the National Lottery Commission (hereinafter in this Act referred to as the "Commission").

DUTIES OF COMMISSION

SEC. 3. The Commission shall—

(1) conduct a comprehensive study of lotteries in the United States and other countries, including an analysis of the regulations governing such lotteries; and

(2) study and make recommendations on the feasibility of establishing a National Lottery.

MEMBERSHIP

SEC. 4. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members to be appointed by the President as follows:

(1) Two members shall be members of the House of Representatives appointed with the advice and consent of the Speaker of the House of Representatives.

(2) Two members shall be members of the Senate appointed with the advice and consent of the President pro tempore of the Senate.

(3)(A) Five members shall be persons who are qualified to serve on the Commission by virtue of their education, training, or experience who are not Members of Congress or officers or employees of the executive branch of Government.

(B) Of the persons appointed under subparagraph (A), one shall be an economist and one shall be experienced in the administration of a State lottery.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code.

(b) POLITICAL AFFILIATION.—Not more than 5 members of the Commission appointed under subsection (a) shall be of the same political party.

(c) TERMS.—(1) Members of the Commission shall be appointed for the life of the Commission.

(d) BASIC PAY.—

(1) Except as provided in paragraph (2), members of the Commission shall be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a perdiem in lieu of subsistence, in the same manner as persons employed intermittently in the Goverment service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(f) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(g) CHAIRMAN.—The Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(h) MEETINGS.—The Commission shall meet every three months or at the call of the Chairman or a majority of its members.

DIRECTOR AND STAFF OF COMMISSION

SEC. 5. (a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(b) STAFF.—Subject to such rules as may be prescribed by the Commission, and, without regard to section 5311(b) of title 5, United States Code, the Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—

(1) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

POWERS OF COMMISSION

SEC. 6. (a) Hearings and Sessions.—The Commission may for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—Subject to subchapter II of chapter 5 of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under ths same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Sevices shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) SUBPENA POWER.—

(1) The Commission may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a district court of the United States under the Federal Rules of Civil Procedure.

(4) All process of any court to which application may be made under this subsection may be served in the judicial district in which the person required to be served resides or may be found.

(5) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture by reason of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

REPORT

SEC. 7. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than 18 months after the effective date of this Act. The final report shall contain a detailed statement of the finding and conclusions of the Commission, together with its recommendations for such legislation or administrative action as it considers appropriate.

TERMINATION

SEC. 8. The Commission shall cease to exist 30 days after submitting its final report pursuant to section 7.

EFFECTIVE DATE

SEC. 9. This Act shall take effect October 1, 1985.●

31-059 O-87-19 (Pt. 18)

TRANSITION RELIEF FOR CERTAIN FRINGE BENEFITS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. STARK. Mr. Speaker, I am today introducing, along with Representatives MATSUI, NELSON, RANGEL, ARCHER, SWIFT, and MARTIN of North Carolina, legislation to provide relief to a group of employees who would lose their nontaxable airline passes as a result of provisions of the Deficit Reduction Act of 1984.

My Subcommittee on Select Revenue Measures of the Committee on Ways and Means spent over 1 year attempting to provide workable rules for the taxation of nonstatutory fringe benefits. It was our desire to end the series of congressionally imposed moratoriums in the area of fringe benefits and to establish clear and workable rules for which benefits were to be taxed and which were to be exempted. I think we accomplished this goal and the legislation was incorporated as part of the Deficit Reduction Act.

Unfortunately, the act had a somewhat unanticipated adverse effect on certain Pan Am World Services employees. The provisions of the act exclude from tax the value of certain no-additional-cost services which are provided to employees who work in the same line of business of the employer. The effect of this rule was to allow long-established fringe benefits, such as free airline passes to airline employees, to continue to remain exempt from tax. The line of business limitation was incorporated to prevent a conglomerate which had numerous lines of business from flowing back and forth a series of nontaxable benefits between its various subsidiaries. For example, an airline company might well own a hotel, a car rental agency, restaurants, and so forth, and provide an employee with free or discounted services in all these areas. Therefore, we felt that the line of business limitation was and is good tax policy. The legislation incorporated a limited exception to the line of business to the extent the benefit was available on a nondiscriminatory basis on January 1, 1984, and did not exceed 1 percent of aggregate payroll. Because of the uncertainty over valuation of free airline passes, it is questionable, and in fact, unlikely, that the Pan Am World Services employees could benefit from this limited line of business exemption. The legislation provides a narrow expansion of the line of business exemption to grandfather in Pan Am World Services employees prior to the date of introduction.

The legislation is unlikely to have any revenue impact since it is likely that failure to provide an exemption will merely result in the company canceling the benefit.

Pan Am World Services employees have long enjoyed access to free airline passes and many have made career decisions on the basis of access to this benefit. It seems to me unfair to now deny these benefits to current employees. This is not a major issue in the overall scheme of things, but it is a question of basic fairness to this group of employees, and I hope we can obtain speedy enactment of the legislation.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting after subsection (f) the following new subsection:

"(g) DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING AIRLINE.—If, as of September 12, 1984—

"(1) an individual was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of one member of an affiliated group (as defined in section 1504 of such Code) and was eligible for no-additional-cost services in the form of air transportation provided by another member of such affiliated group,

"(2) at least 50 percent of the individuals performing services for the first such corporation were or had been employees of or had previously performed services for the second such corporation, and

"(3) the primary business of the affiliated group was air transportation of passengers, then, for purposes of applying paragraphs (1) and (2) of section 132(a) of the Internal Revenue Code of 1954, with respect to no-additional-cost services and qualified employee discounts provided for such individual by such other member, the employer of such individual shall be treated as engaged in the same line of business as such other member. For purposes of the preceding sentence and section 132 of the Internal Revenue Code of 1954, and individual who is performing services for the first such corporation who is an employee of the second such corporation shall be treated as also an employee of the first such corporation."●

LLOYD'S INSURANCE REFORMS AFFECT US ALL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. FLORIO. Mr. Speaker, Lloyd's of London may seem to many of us to be a faraway, picturesque institution of occasional interest when the news focuses on the insurance aspects of oil tankers in the Persian Gulf or satellites gone astray in outer space. But as the author of the following article in Best's Review points out: "Lloyd's is the largest and most important reinsurance market and insurance affects all of us as businessmen/women and as individual human beings."

Richard E. Stewart, the former superintendent of insurance in New York and a well-known consultant on insurance matters, in his article entitled "The Meaning of the Troubles at Lloyd's," explains what Lloyd's is, how it operates and how important it is to all business worldwide. Furthermore, he explains the meaning of recent scandals which have shaken Lloyd's centuries-old reputation for integrity and reliability.

Noteworthy among the London developments is the break in traditional secrecy which enveloped business conducted at Lloyd's for more than three centuries. As Stewart points out, Lloyd's started out as a club and operated that way, even in the years following World War II when Lloyd's experienced phenomenal growth as the center of world insurance. Stewart observes that a club rarely gets in trouble for secrecy; a public institution usually does, and he reports that Lloyd's has learned the hard way that it will have to become a more structured institution with more explicit rules, more disclosure, and more independent regulation.

An American insurance brokerage organization, Alexander & Alexander, which purchased a large Lloyd's broker and underwriting manager in 1982 played a large role in recent developments. Not only did Alexander & Alexander uncover fraud perpetrated prior to its Lloyd's acquisition, but they promptly reported their findings to British and U.S. authorities and to the public.

The full story of A&A's part in digging out the truth, often at considerable expense and sometimes at risk, is still obscured by confidentiality imposed by negotiations and litigation. But it is obvious that A&A helped peel back the shroud of secrecy and forced those responsible to face up to the need for reforms, particularly, as Stewart points out, for disclosure of transactions susceptible to conflict of interest.

Insurance plays an important part in all our lives, and it is important that the insurance system operate honestly and efficiently. Public confidence in the worldwide system of insurance and reinsurance upon which all of us depend is of utmost importance to us all.

Mr. Speaker, I insert the Stewart article in the RECORD at this point:

THE MEANING OF THE TROUBLES AT LLOYD'S

(By Richard E. Stewart)

Lloyd's of London is the world's largest and, to outsiders, most mysterious insurance market. In a business generally regarded as dull, Lloyd's has enjoyed a reputation for

glamour (Betty Grable's legs) and daring (moon shots).

But in the last few years Lloyd's has had, though hardly enjoyed, a different kind of publicity—exposures of funds diverted, profits and losses hidden, disgrace of grand figures and public recrimination.

In most of us is a secret inclination to delight in the discomfort of the rich, powerful and glamorous. It has been a terrific story.

Insurance is at the center of commerce and economic development. Reinsurance is the way huge exposures to property or liability loss are spread across the financial resources of the world. It does not so much involve personal insurance, where individual losses are small and can be borne by a single company. It involves the multibillion-dollar energy complexes, the billions to correct environmental damage and dangerous workplaces, the yet uncounted cost of paying victims of wonder drugs gone wrong. We may call that big business insurance, but it affects all of us as businessmen/women and as individual human beings.

Insurance deals with the bad side of good things. Many of the good things of modern life require huge investments, and when they go wrong they cause huge damage. Without insurance they would not get done. Without reinsurance they would not get insured.

Lloyd's is the world's largest and most important reinsurance market. Alternatives exist and are growing, but Lloyd's is still so big and so central that what happens there is of concern not only to insurance everywhere but to economic development and commerce everywhere as well.

The public troubles of Lloyd's began when Alexander & Alexander, a large and publicly held American broker, bought a large Lloyd's broker and underwriting manager. The new American parent conducted routine audits of the Lloyd's broker after the acquisition. These revealed the diversion of funds and hiding of profits and losses which then were reported to British and American authorities and to the public.

The great embarrassment began. It is not over but undoubtedly will forever alter one of the world's most important financial institutions. Not that Lloyd's would not have changed anyway, but the disclosures have compressed into half a decade changes which might have taken half a century. The new direction already is clear and worth understanding.

Lloyd's began as a coffeehouse. Its quaint origin is good to keep in mind. Lloyd's is a place, not an insurance company. At Lloyd's in one vast "underwriting room," brokers carry insurance proposals ("slips") around the floor to hundreds of cubicles ("boxes"). In each box sits an underwriter and his assistants.

On any risk of consequence or difficulty, especially when seeking the first ("lead") underwriter's participation, an experienced broker will deal face to face with an underwriter recognized as an expert in that kind of risk. If the lead underwriter accepts a portion, other underwriters will be inclined to follow.

In this respect, Lloyd's is the opposite of the typical insurance company or industrial corporation. In the room at Lloyd's, the top people deal directly with each other. Senior brokers and senior underwriter's make deals person to person, one at a time. Fact-to-face dealing by people of intelligence, experience and long acquaintance is a highly efficient way of conveying information.

The underwriter at Lloyd's accepts risks on behalf of syndicates of individuals ("names"). The underwriter is usually a name in the syndicates for which he underwrites, but most of the resources behind him come from others. Virtually none of the outside names watch the underwriter's work regularly. They rely on his judgment, probity and professional expertise.

For centuries, Lloyd's has been a marketplace with three participants—brokers, underwriters and names. The big transactions have been personal, and the people doing them have been very senior people deeply schooled in the traditions of the Lloyd's room.

Until quite recently, the same individual could hold all three roles and also could own part of a company which shared in the risks. Traditionally the relationship between participants was an open and informed one of trust and self-restraint. Rules were few. Crucial matters were governed by shared understanding. The people who mattered knew each other and knew how things ought to be done.

This sounds like a definition of a club. It is. Clubs are also small. Lloyd's was small. Three centuries old in 1948, Lloyd's still had only 2422 names. Participation was a privilege not widely shared and certainly not promoted. For example, only male British subjects were eligible to be names. Lloyd's was a place, on the club model, where a small number of small businesses did very profitable business with each other. Nifty, but it couldn't last.

The economic recovery that followed World War II generated huge demands for insurance since the need for insurance closely follows economic activity, growth and the accumulation of wealth. To continue to fulfill its role as the center of world reinsurance, Lloyd's had to grow too. Premiums rose from $190 million in 1946 to $820 million in 1966 and to $5.5 billion in 1980. The number of names grew too. Eligibility was opened up in the late 1960s and early 1970s, first to foreigners, then to women. The "member's agent" took a prominent role, recruiting those who, shortly before, had pleaded to join. By 1966 there were 6062 names, and by 1982 the number has risen to 21,601.

Still the informality of the club persisted. It was assumed that everybody would understand how things were done, that everybody would make money but not overreach, that the potential for conflict of interest was obvious but limited and would not be exploited.

GROWING PAINS

Anyone who has managed a business with an informal, collegial style through a period of rapid growth in volume and participation does not need to be told what was around the corner. Looking back, there were premonitory signs. In the 1970s, Lloyd's was a victim of some tattered insurance scams, generally involving skimming the premium through repeated reinsurance transactions, leaving the last underwriter (in the best known case, a Lloyd's syndicate named Sasse) holding the bag of a lot of risk for a little premium.

Some of the masterminds behind the scams were Americans whose insurance licenses had been revoked long before in the more structured and governmentally regulated U.S. market. In retrospect, the message was that Lloyd's could be penetrated by unscrupulous people.

In the late 1970s, several Lloyd's syndicates collectively lost hundreds of millions of dollars by guaranteeing the residual value of mainframe computers when they came off lease. It was a silly bet against IBM's ability to obsolete its own product line. More significantly, it was a bet against one of Lloyd's few formal and long established rules—no financial guarantees. Again in retrospect, the message was that Lloyd's was not enforcing its own rules on the conduct of its own members even in the hallowed room itself.

From those two public episodes, plus others which were "contained," the Lloyd's establishment drew the accurate conclusion that the club style and mingled roles of the old, small Lloyd's might no longer suffice. In 1980, a respected special commission issued the Fisher Report, which reached two principal conclusions.

The first conclusion was that Lloyd's needed to act more like a financial institution and less like a place which once served coffee. It led to the creation of the Council of Lloyd's, most of whose members actively or passively participate in the Lloyd's market. It was a move toward formal self-regulation. The second conclusion was that Lloyd's most obvious potential conflict, the common control of broking and underwriting, had to be solved structurally by separating the two kinds of firms. Based on the report, Parliament enacted the Lloyd's Act of 1982, putting into effect those two recommendations.

SIGNIFICANT MOVES

The Fisher reforms, together with the quality of the people chosen to implement them, are important changes in the governance of Lloyd's and, hence, significant moves in the general world of insurance. But we should keep in mind that the Fisher Report and the events leading to it occurred before the disclosures from the Alexander & Alexander acquisition and audit.

The pre-Fisher disclosures were of abuse of common control of brokers and underwriters—an abuse of underwriters both at Lloyd's and, through reinsurance, elsewhere. The later, or post-Fisher, disclosures were of underwriter's siphoning profitable premiums out of their syndicates and into reinsurers they themselves owned—an abuse of trust and of outside investors.

It is widely expected that a forth-coming report by Lloyd's and a report to be completed this summer by the UK government Board of Trade will expose other practitioners of the lurid abuses. The Inland Revenue also is studying the tax-avoidance features of the schemes.

The lessons are clear and quite general: growth puts more stress on an organization than its insiders feel or respond to; handling other people's money imposes severer duties than handling one's own. Place temptation before a small group raised to resist it and they probably will, or at the very least they will expel from their club those who do not. Keep adding to the temptation and inviting people in and eventually some will embrace the temptation. A club rarely gets in trouble for secrecy; a public institution usually does. It pays to know which you are. These are not rules unique to Lloyd's. They are common principles of management, morals, politics, regulation and law enforcement.

Such common principles underlie what Lloyd's now is starting to do. Lloyd's has learned the hard way that it will have to become a more structured institution with more explicit rules, more disclosure and more independent regulation. It is implementing the lessons of the first, or broker-underwriter conflict, episode by moving away from clubbiness and toward formal

and explicit self-regulation. What response will follow the second, or self-dealing, episode is still to be seen.

Once the officials of the UK government and of Lloyd's take the measure of the second problem, they may decide that self-regulation can handle it. Or they may decide that a further step is necessary, some measure of direct government regulation. The American experience is that direct economic regulation is no panacea. But the experience is also that self-regulation can dwindle into a transitional stage between independence and direct government involvement.

FUTURE CHOICES

Just as Lloyd's immediate problems are not painless, its long-term choices are not easy. The direction of future change is clear—more rules protecting policyholders and names, rules enforcing fiduciary and disclosure principles, and rules guaranteeing the integrity of the insurance transaction. That much is inevitable. Rules, rules, rules. Does that mean it's all over for Lloyd's? Not at all. The necessary good can be done without sacrificing that which made Lloyd's great, though the dangerous pendulum effect of Lloyd's having stayed a club too long should not be underestimated.

Strong institutions profit from their mistakes. Lloyd's was strong long before it was an institution, back when it served coffee and left the business to the customers. Now it is going through a classic middle-size crisis, remarkable mainly because it was so long in coming.

The delay is proving expensive. But if the responsible officials respond with an eye to the long-term interests of the institution and its customers, the outcome should be a more efficient and dependable marketplace.

Lloyd's old clubbiness may have permitted its greatness, but it did not cause that greatness. What made Lloyd's great was inventiveness, the spirit of risk taking, the efficiency of risk spreading from a single place and the efficiency of professionals doing difficult transactions face to face. All those good things can still be done with a rulebook in the pocket expressing what was, in a simpler time, a code of honor carried only in the heart.●

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LELAND. Mr. Speaker, I would like to call attention to a very important part of our foreign aid program, support for the International Fund for Agricultural Development [IFAD]. This Fund is designed to focus on food production and on meeting the needs of small farmers and the rural poor in developing countries. IFAD has recognized that there is a strong link between poverty and hunger. IFAD activities, therefore, are directed toward raising the productivity of poor people.

I am submitting for the RECORD an article from the February 19, 1984, Washington Post on an IFAD credit program in Bangladesh, one of the poorest nations in the world. The article reports that the project provided credit to more than 58,000 peasants who were termed "nonviable landless poor." Within the first 3 years of operation, the borrowers have proven themselves to be highly industrious and successful. Their record of repayments has been almost 99 percent on loans totaling $800,000. Most importantly, this program puts productive assets into the hands of very poor people, who can build on them to become economically self-sufficient.

U.S. funding for IFAD of the 1981-83 authorization of $180 million has not been completed. To date, Congress has only appropriated $90 million to IFAD. The United States, Syria, and Libya are the only countries that have not fulfilled their obligation to IFAD. The administration has only requested $50 million for fiscal year 1985 to IFAD.

Mr. Speaker, I urge Members to assist poor people to help themselves by fulfilling the U.S. obligation of $90 million to IFAD this year.

BANGLADESH LANDLESS PROVE CREDITWORTHY

(By William Claiborne)

DHAKA, BANGLADESH.—An important economic class of landless entrepreneurs is being created in the most impoverished rural areas of Bangladesh as a result of a professor's bafflement eight years ago, over why a village woman he met worked all day weaving straw stools for the equivalent of two cents.

Prof. Mohammed Yunus and a group of social scientists have transformed that puzzlement into a burgeoning Rural Bank Project that has put loans into the hands of more than 58,000 peasants who had been given the social stamp of "nonviable landless poor."

With a repayment record that economists say puts hard-nosed loan officers of commercial banks to shame, the borrowers have defaulted on only slightly more than 1 percent of the $800,000 loaned in the past three years. Many have achieved self-sufficiency.

While the project is still in the experimental stage, its backers hope to expand to 500,000 loan recipients in the next five years, and ultimately to 2 million recipients serviced by 2,000 branch banks throughout Bangladesh.

"We will determine whether this is a freak institution having beginner's luck, as some people say, or whether we can make a profound change in the economic structure of the landless people," said Yunus, 43, a Vanderbilt University-trained economist who left a professorship at Chittagong University in southern Bangladesh to start the project.

The effort has expanded into an independent wing of Bangladesh's nationalized banks and is assisted by loans from the International Agricultural Development Fund that combines OPEC and industrial nations' aid.

While the project has minimal impact on the 90 percent of Bangladesh's 100 million population that lives in rural areas. Yunus said, it has the potential for altering the basic precepts of aid to rural poor by giving landless people—half the population—not only credit for small enterprises but tangible assets that instill dignity and a work ethic.

In 1976, Yunus said, he visited landless poor near Chittagong and noticed one woman weaving straw at a daily rate of 2 cents. Field workers in the most depressed areas normally can earn 45 cents a day, and Yunus remembers thinking, "Why on earth would this woman work for" 2 cents?

The answer, which he found common there and in other villages, was that the woman had borrowed money from a local lender to feed her family and was paying exorbitant interest, which often runs as high as 10 percent per week, compounded. The lender was buying her straw stools, deducting repayments and giving her whatever he wanted to give, depending on his mood, Yunus said.

After first making some loans to similar landless poor people and discovering an earnestness in repaying, Yunus approached a bank and found that it was willing to make loans even to such improbable clients as long as a cosigner guaranteed payment. That discovery, he said, evolved into a pilot project that has grown into the Grameen (Rural) Bank.

"All the landless needs is a little money to create a job, and believe me, in these cases it is very little money," said Yunus, noting that most loans are only $30 to $50. Now groups of five peasants form a borrowing group and approach a branch office or traveling representative of the Grameen Bank.

The bank gives a loan at the standard 16 percent annual interest rate to two of the group, while the remaining three are told that if the original two borrowers default on payment, the entire group will be classified as a credit risk and no more loans will be made. The group members awaiting loans, Yunus said, exert constant pressure to prevent default.

The money may be used for any income-generating venture, such as purchasing a bullock cart or cow, buying equipment for weaving or bicycle repair, or fabric for making saris.

If a landless entrepreneur takes a loan of $80 to open a betel-nut shop, Yunus said, he normally can expect to earn a weekly profit of $8, out of which he pays back $1.60 weekly over 50 weeks until the principal is paid off. Then the bank begins collecting the 16 percent interest, which is standard in Bangladesh.

Members of the borrowing groups are also required to put 4 cents a week into a savings account to encourage thriftiness and self-pride.

Yunus said that small ventures have led to larger ones, with five or more groups from one village joining with groups from another village to take larger loans and open pump-operated wells or acquire land for joint farming efforts.

"The important thing is not only the $800,000 we have loaned so far, which has been paid back, but the $800,000 in assets that have come into the hands of the landless. Those assets will not go away, and they can build on them to become more self-sufficient," said Yunus, the project director.

Also growing out of the program are social changes in the villages, with many normally house-bound rural women participating. The loans have been nearly equally divided between men and women.

Some rural bank participants have even begun urging changes in the dowry system because of the fears of borrowing group members that heavy dowry payments could lead to loan default and loss of a group's credit.●

REMEMBER THE ARMENIAN GENOCIDE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. FEIGHAN. Mr. Speaker, George Bernard Shaw once wrote:

The worst sin toward our fellow creatures is not to hate them, but to be indifferent to them. That is the essence of inhumanity.

For far too long, this Nation has treated the Armenian people with that brutal detachment. By refusing to officially condemn and commemorate Turkey's systematic murder of the Armenian people in the early part of this century, we demonstrated a tremendous disregard for history and a tragic disrespect for human dignity.

The House took an important step in redressing that wrong last Monday when we passed House Joint Resolution 247, which designates a "National Day of Remembrance of Man's Inhumanity to Man." This resolution reaffirms our traditional commitment to defending the rights of all people everywhere. And it calls on all Americans to reflect on the senselessness of the Armenian genocide and remember the helpless victims.

I applaud passage of House Joint Resolution 247 and urge swift Senate approval.●

LEADERSHIP ST. PETE SALUTED

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. YOUNG of Florida. Mr. Speaker, as a cosponsor of House Joint Resolution 574, I commend the more than 175 community leadership programs in the country and, in particular, the program sponsored by the St. Petersburg Chamber of Commerce.

Leadership St. Pete was one of the first community leadership programs when it was organized in 1970. During the last 15 years, this program has grown in size and stature, and it has earned the respect of the entire community for the caliber of its programs and its graduates.

The Leadership St. Pete program attempts to identify young professionals and challenges those selected to look deeply at the decisionmaking processes of the city, State, and our Nation. The seminars provide class members an opportunity to meet with community leaders as well as State and Federal officials, and these discussions provide opportunities for the members not only to understand problems better, but also work on the development of their leadership skills and to establish vital networks which help them better serve our community.

I am proud of Leadership St. Pete, its graduates, and its alumni association which maintains the link between each year's class. It has hosted a national convention of the National Association of Community Organizations, and its alumni are sought for their assistance and advise, their expertise and leadership. Leadership St. Pete has produced hundreds of talented, well-trained leaders, but more importantly, it represents a spirit in the community which continues to bring pride in St. Petersburg and Pinellas County, and during National Community Leadership Week, I am honored to salute Leadership St. Pete.●

A TRIBUTE TO JERRY BOETTCHER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LANTOS. Mr. Speaker, it gives me great pleasure today to announce the name of the Congressional Public Service Award winner for Foster City. Mr. Jerry Boettcher has been an active and contributing member of the community for over 15 years and is an outstanding recipient of this award as we celebrate the Year of the Volunteer.

Mr. Boettcher holds a B.S. degree in finance, as well as a master of business administration. He has worked with United Air Lines for 15 years, and was named "San Francisco Junior Achievement Adviser of the Year," as well as "Business Manager of the Year" in the Food Services Division.

Mr. Boettcher is widely respected and admired for his record of service to the local community. His interest in education has led him to be elected to the San Mateo City School District Board of Trustees, and he is currently acting as the vice president of that board. He has also served the district as a member of the Financial Advisory Committee.

Throughout his life, Jerry Boettcher has been actively involved with young people, never hesitating to share his skills with them. He is affiliated with the Peninsula YMCA and has served as chairman of the board. He is also a member of the board of the San Francisco Metropolitan YMCA.

In the sports arena too, Jerry has given of his time and energies both generously and enthusiastically. He is a member and past president of the Foster City Lions Club, and the vice chairman of the Foster City Parks and Recreation Committee. The little league is fortunate enough to have him as their coach.

It has been said by his colleagues that Jerry Boettcher is always ready to help his community in any way possible. I would like to join with all those here today in congratulating Jerry on his award—the Foster City Congressional Public Service Advisory Committee has selected an outstanding individual.●

LOGBOOK REQUIREMENTS ON THE GREAT LAKES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. DAVIS. Mr. Speaker, I am introducing a bill today that will clarify the logbook requirements for vessels on the Great Lakes that sail to Canadian ports.

Under prior law—former 46 U.S.C. 544—these vessels on a voyage to Canada were not required to maintain logbooks. However, in the codification of the shipping laws in title 46 of the United States Code this provision was inadvertently omitted. Thus, under section 11301(a) vessels of the United States sailing between a port in the United States and a port in a foreign country are required to have an official logbook with specific types of entries that must be made. The reason for a logbook is to ensure that seamen on board vessels that go to foreign ports are afforded the appropriate protection and relief under U.S. law. However, in the prior law the policy was that these protections were not necessary for voyages to Canada because of the close proximity of these ports. Other similar provisions regarding the seamen's welfare laws also contain an exemption for voyages to Canada and other nearby ports for this reason.

The bill I am introducing today would simply restore this provision so that vessels sailing to Canada would not merely have to begin to set up the paperwork to comply with logbook requirements because of an oversight in the codification of title 46, United States Code. Thus, from a historical and legal perspective, this provision in no way diminishes the protection afforded our American seamen and serves to eliminate this ambiguity in our shipping laws.●

THE QUALITY WORK FORCE AT GENERAL MOTORS' DELCO ELECTRONICS MILWAUKEE PLANT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. KLECZKA. Mr. Speaker, I would like to bring to my colleagues

attention the recent achievement of the General Motors Delco Electronics plant in Oak Creek, WI, just outside Milwaukee. The facility and its work force of 2,200 received the Quality Excellence Award from the Department of Defense. It is only the second time that such an award has been given to a defense contractor. The plant primarily produces high-tech avionic equipment for the Defense Department along with computerized automotive components.

I want to congratulate and commend Delco-Milwaukee for their success and commitment to excellence. Today, we are constantly reminded of the problems surrounding the defense procurement system. Reports of deliberate cost overruns and shoddy workmanship are almost commonplace. The achievement of Delco-Milwaukee is indeed refreshing and welcome news and should serve as an inspiration for the entire Nation.

Without a doubt, quality products can only be produced by a quality work force; a conscientious work force that strives to be the best through cooperation and commitment. Management must create an atmosphere that encourages workers to use their imagination and permits them to play a role in guiding the future of the business. But above all, a quality product is achieved when the worker takes pride in his work. This is the type of employee that works at Delco-Milwaukee. But these model employees were not created overnight. They are the product of a closely knit community composed of individuals who strongly believe in the values of family, cooperation, hardwork, responsibility, and integrity.

The entire work force at Delco-Milwaukee has been greatly honored. But they view their achievement as a logical outcome of their work. For them, quality is a rule, not an exception.

I commend to my colleagues the following article on Delco-Milwaukee which appeared in the July issue of GM Today, a General Motors employee publication.

IN TOUGH AVIONICS BUSINESS DELCO-MILWAUKEE GUIDES WAY THROUGH THE SKIES

In a small-town plant on the outskirts of tradition-steeped Milwaukee, Wis., an unassuming cadre of people works with ordinary beach sand that's been turned into brilliant computer circuits and crude wire that's been hand strung to resemble a Steinway. Their high-tech products can guide men to the moon or make an automobile "think" at the rate of 33,000 calculations per second.

It's a study in contrasts, to be sure. But it's precisely what makes the magic happen at GM's Delco Electronics plant in Oak Creek.

The facility, whose 2,200-member workforce is also split between avionics and automotive operations, recently received the Quality Excellence Award from the Department of Defense—only the second defense contractor ever to be so honored. A flag, recognizing this contribution to the nation's defense interests, will be flown for a year at the plant entrance. Yet, its presence there took decades of investment in research, development, and ingenuity.

Back in 1948, at the request of the U.S. government, 48 GM managers and craftsmen moved to Milwaukee to develop and build complex electro-mechanical systems for the U.S. Air Force. They developed computing gunsights, a bombing navigation system, and other avionics products. The operation grew, under the guidance of AC Spark Plug and AC Electronics, into an avionics business that now accounts for nearly 50 percent of the plant's sales dollars. And, it gained international recognition.

The operation developed and manufactured complete guidance and navigation systems for the Air Force and NASA. It supplied many of the applications in the Navy's Polaris submarine and fleet ballistic missiles, and its Mace missile was the first air-breathing missile to fly successfully under inertial guidance control. This background eventually won AC the contract to design and build a system to guide the Air Force Thor Missile to 1,500-mile targets without ground control and to develop and build the guidance system for the Titan II Intercontinental Ballistic Missile.

Technological superiority also enabled the division to become the prime contractor for the guidance and navigation systems for the command and lunar modules used on all of the Apollo missions. These systems guided America's astronauts from earth orbit to precision lunar landings and back to pinpoint splashdowns in the earth's oceans.

Armed with these successes, AC Electronics merged in 1970 with another industry leader, Delco Radio of Kokomo, Ind., to form the Delco Electronics Division. Computer wizardry then became the name of the game in both the avionics and automotive world. (See Delco's automotive story, page 5)

It's a world, however, that differs vastly from most assembly plants. There are no production quotas; one inertial navigation system can take three months to build, and learning how to build it can take weeks. There are very few robots. Highly sensitive avionics equipment still demands highly skilled hands, eagle eyes, and monastic patience to hand-string hair-like wire through powerful microscopes to form computer circuit boards.

The delicate equipment also demands cleanliness. Since one speck of facial powder or a moustache hair could jam or blow an entire system, employees scrub and dress in surgical fashion before entering a "clean room" where every minute component is sterilized prior to assembly and shipment.

"It's not an environment for everyone," said Plant Manager Bill Carr. "Precision work such as this requires a certain culture, a certain work ethic, and that's what we have here. Where formal housekeeping, safety, and quality programs are instituted elsewhere, they are given here."

Carr related a scene from the plant's annual perfect attendance dinner, an event attended by nearly one-fifth of the workforce. "I asked some of the honorees—some with 18 years of perfect attendance—how they achieved such fine records. An employe, speaking for the group, responded, 'Isn't that the way it should be?' It immediately struck me just how rare such a workforce is today."

The prevailing job attitude grabs a large share of the credit for the leadership role Delco-Milwaukee plays in the avionics industry, said Carr. "This is a highly-competitive business. But our employes know the product, and they know what's needed to win a contract. They know how to take cost out without sacrificing quality."

Major avionics products include the Carousel IV Inertial Navigation System for commercial airlines which was selected 15 years ago as the original equipment automatic navigator on Boeing's 747 "super jets." It is also used on military aircraft. A Delco-designed Delta Inertial Guidance System has been used to launch both military and commercial satellites. The record to date: 51 perfect launches. And the Performance Management System, which controls the flight path of airplanes for maximum fuel economy, is currently offered by Boeing and McDonnell-Douglas on all new 747, DC-10, and DC-9 airliners.

"There is no room for mistakes in the avionics business," Carr noted. "Right now, any of our navigation systems could take you almost a thousand trips around the world at near orbital speed before the system would show signs of wear."

Signs of this product pride and confidence are evident throughout the plant. A bumper sticker near one work station proclaims, "I fly what I build." Apollo photographs, autographed by the astronauts who flew the missions, hang center stage in a supervisor's office. A gyroscope serves as a paperweight.

When the plant received word of the Department of Defense Award, employes selected hourly representative Lou Stanley, a 30-year avionics veteran, to prepare and deliver the acceptance speech. Stanley, they said, mirrored the image of the community and the plant.

Speaking before Delco-Milwaukee employes and representatives of the Department of Defense, Stanley revealed the plant's secret to success. "A quality attitude of this type doesn't just happen. It began in the homes, on the farms, in the churches, and in the schools that produced the workforce we have. Quality and excellence in our products begins with honesty and integrity in each day's work. It is a matter of discipline, training, and desire that is nurtured in an environment so designed to create the determination and the knowledge to excel in everything we do. It is a way of life. And it doesn't get any better than this."●

CONRAIL EARNINGS SET RECORD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. FLORIO. Mr. Speaker, the Department of Transportation is currently pursuing efforts to return Conrail to the private sector. It is important that any buyer pay a fair price to the Government for the Government's interest in Conrail, especially in light of the Government's large investment in Conrail.

Conrail recently reported record earnings for the second quarter of 1984. These earnings make Conrail even more valuable. Any offer to buy Conrail should certainly reflect this increased value.

What follows is a Philadelphia Inquirer report on Conrail's earnings, along with an editorial on the sale of Conrail:

CONRAIL ESTIMATES PROFITS 84 PERCENT AHEAD OF LAST YEAR

(By Tom Belden)

Conrail yesterday estimated that its second-quarter net income would be a record $179 million—84 percent more than the $97.3 million it earned in the same period last year.

The rail line estimated second-quarter revenues of about $885 million or 12 percent more than $778.3 million in revenues a year ago.

The preliminary results, which officials said were released earlier than normal because of interest generated by the impending sale of Conrail, bring the railroad's estimated profit for the first six months to $270 million on revenues of about $1.74 billion. In the first half of 1983, Conrail earned $109 million on $1.7 billion in revenue.

Conrail chairman L. Stanley Crane said that the strong financial performance of the Philadelphia-based company "shows every sign of continuing. A forecast of net income for the full year 1984 of $450 million to $500 million is reasonable—barring unforeseen economic disruptions." Conrail earned $313 million last year.

Crane attributed the sharp rise in net income to stringent cost controls and traffic increases that brought in extra revenue without increasing operating expenses.

"Because of the interest of the government, our employees, shippers and those interested in acquiring Conrail . . . the management thought it appropriate to release relevant information as early as possible," said Conrail spokesman Saul Resnick.

Conrail officials refused to speculate on any impact the increase in earnings might have on the sale of the railroad. The U.S. Department of Transportation is studying bids submitted by 14 companies and investment groups who wish to acquire Conrail.

The bids for the 14,200-mile rail system range from $1 to $7.6 billion. Rail industry analysts and government officials following the process have given six bids—all of them clustered in the $1 to $1.2 billion range and all from companies and groups with the known financial resources to afford an acquisition—the best chance of being accepted.

Rail industry analysts and officials expressed varied opinions on the effect of the earnings report on the sale.

"The value of Conrail keeps changing," said one industry executive, who asked not to be identified. "The figures used [by the bidders] to make assumptions about its value now are outdated. Every month that goes by, it's worth more and more."

Analyst Henry H. Livingston of Kidder, Peabody & Co. Inc. in New York, said, however, that "I don't think these offers are cheap by any means" and that it is important to look at Conrail's long-term earnings potential. Because it is the dominant railroad in the Northeast and Midwest, its future earnings are directly related to the economy and particularly to the health of the auto industries, he said.

Conrail, formed by Congress in 1976 out of the bankrupt hulks of six other railroads, consumed $7.6 billion in taxpayers' money for rehabilitation and property taken from the predecessor companies before it started making money in 1981.

Because of wage concessions made by employees in 1981 to help Conrail survive and because it is government-owned, the railroad saves about $120 million a year in labor costs and state and local taxes.

In a related development, Rep. Tom Foglietta (D., Pa.) said yesteday that the House subcommittee on transportation had promised him that it would hold a hearing in Philadelphia this fall on the impact of the sale of Conrail here.

DON'T GIVE AWAY CONRAIL AT A FIRE-SALE PRICE

When the Penn Central Railroad went bankrupt in 1971 but continued to operate under court supervision, it took Congress five years to create Conrail from its wreckage and that of other bankrupt railroads. It then took five years for Conrail to become marginally profitable. Now that it is generating substantial profits ($313 million in 1983 and a prospective higher return this year), it would make no sense for the Federal government to act hastily in selling.

Yet the U.S. Department of Transportation seems to be doing precisely that, despite public assurances to the contrary. Soon after the Alleghany Corp. submitted a bid of $1 billion in cash for Conrail on April 9 the offer was described as "within the range of fair compensation" for the government by Goldman, Sachs & Co., an investment firm hired by the department to evaluate bids. The Transportation Department further implied satisfaction with the offer by setting June 18 as the closing date for bids.

Fourteen bids were submitted by the deadline—none much higher than $1 billion, not surprising after the department's signal that that range would be acceptable. The department, by setting an early bid deadline and telegraphing in advance an acceptable price, hurt the chances of getting a substantially higher offer. The bids appear low. Conrail has more than $5 billion in assets and is expected to have close to $800 million in cash by the end of this year.

Alleghany, a New York holding company, was a principal owner of the New York Central Railroad, which entered into the disastrous merger with the Pennsylvania Railroad to form the Penn Central in 1966. That ill-fated combination would come full circle if Alleghany acquired Conrail.

U.S. Rep. James J. Florio (D., N.J.) has cautioned against hasty sale of Conrail to any bidder and has raised many questions about the Alleghany offer. He is chairman of the House Subcommittee on Commerce, Transportation and Tourism, which will conduct hearings before a Conrail sale can be consummated. Congressional approval will be required, particularly to resolve questions about Conrail's debt carried over from the years it received federal operating subsidies.

A report by the subcommittee staff on June 27 analyzed Alleghany's $1 billion bid in the context of possible tax writeoffs and other potential benefits. It concluded that the sale "could easily cost the government substantially more than it woud gain. In other words, the government would be paying Alleghany to take Conrail."

The staff explained how Alleghany coud profit by holding Conrail's assets for one year and then reselling them. A crucial question is whether Alleghany would seek to maintain and improve railroad service or merely use Conrail's assets for short-term profit.

No bid for Conrail, including Alleghany's should be ruled out arbitrarily—but the Reagan administration and Congress are obligated to assure the best possible railroad service for the Northeast and Midwest states served by Conrail and the best possible financial settlement for the American taxpayers. The buyer must be committed to high standards of competence and excellence in running a railroad. There must be no fire sale.●

THE PLIGHT OF MART NIKLUS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LAGOMARSINO. Mr. Speaker, I wish to bring to the attention of my colleagues the plight of Mart Niklus, a courageous and determined Estonian human rights activist and Helsinki monitor. September 22 marks Mr. Niklus' 50th birthday. Unfortunately, Mr. Niklus is going to be forced to celebrate his birthday in the inhuman, degrading environment of the Soviets' infamous Chistopol prison.

It is no longer news that the Soviets continue to violate standards and norms of decency and human rights. The agreements they have signed to curtail their abuses in this regard, including the 1948 Universal Declaration of Human Rights and the Final Act of the Helsinki Agreement, have been disregarded. The spirit and letter of these agreements have been trampled by the Soviets.

Yet, unlike the aforementioned agreements, the spirit of Mart Niklus lives on, despite his deteriorating health conditions. Mr. Speaker, I ask you, what type of government locks up its own people, administers dangerous and pain-inducing drugs to them, sentences them to years and years of imprisonment for so-called anti-State activities, and refuses to respond to international cries for justice? The Soviets continue to violate the fundamental human rights not only of Mr. Niklus, Mr. Sakharov, and others, but many of its citizens—except, of course, of those "fortunate" few Communist Party members.

Mr. Niklus is a graduate of University of Tartu, is formerly a teacher of biology and chemistry, former member of the Society of Natural Scientists of the Estonian Academy of Science, and has been an outspoken defender of human rights both inside the occupied Estonian territory and within the Soviet Union itself, for a number of years. It is fitting that we honor his birthday today, and let us continue to call upon the Soviet Union to live up to its legal commitments regarding the fundamental human rights of citizens under its control.●

CONGRESS MUST ACT QUICKLY ON LEGISLATION TO ENSURE JANUARY SOCIAL SECURITY COLA'S

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. YOUNG of Florida. Mr. Speaker, yesterday I testified before the Ways and Means Committee to urge its members to act quickly and approve legislation I cosponsored to ensure that our Nation's Social Security recipients receive their January cost-of-living increase as scheduled.

As the representative of more than 230,000 Social Security recipients in Pinellas County, FL, I am especially aware of how much they depend on their annual cost-of-living adjustment. It is my hope that the committee and this body will act expeditiously so older Americans throughout our Nation will receive their benefit increase on time.

My testimony before the committee follows my remarks:

TESTIMONY OF CONGRESSMAN BILL YOUNG

Mr. Chairman, I want to thank you for the opportunity to present testimony today before your Committee on the important issue of providing cost-of-living increases to our nation's 37 million social security recipients and the 3.9 million people who receive supplemental security income. You and the members of your Committee are to be commended for your responsible and prompt actions during this Congress to ensure the future financial integrity of the social security system while at the same time guaranteeing that current beneficiaries of the program are not unfairly penalized by the loss of the benefits they have earned through their contributions to the system during their working years.

As the representative of 230,000 social security recipients in Pinellas County, Florida, who receive more than $1.1 billion annually in benefits, I am well aware of the special needs of retired workers living on fixed incomes. Of major importance is their annual cost-of-living increase. These annual increases are the only means that many older Americans have to keep pace with rising housing, food, and medical costs.

Prior to 1975, social security recipients were left to the whims of Congress for their cost-of-living increases. In those years, when it was advantageous for the Congress, large cost-of-living increases would be approved. Other years, there would be no increases.

One of the first bills I introduced in January 1972 as a newly elected member of Congress, would have established automatic annual cost-of-living increases for social security recipients based on the consumer price index. This legislation, which was approved by the Congress in June 1972 as an amendment to another bill and was signed into law the following month, provided for automatic cost-of-living increases every year in which the consumer price index rose more than 3 percent.

The 3 percent level was established because the Social Security Administration determined the administrative costs of calculating and paying out a benefit increase of less than 3 percent would have been prohibitively expensive. Since 1972, the consumer price index has never fallen below 3 percent, so this provision has not been put into effect. It appears, however, that as a result of our current economic policies, which have been highly successful in reducing inflation, the consumer price index will fall below 3 percent this year, raising concern that social security recipients would receive no benefit increase January 1.

Social security recipients should not be penalized for our success in reducing inflation. Even though the cost of living, as measured by the consumer price index, is under control, older Americans still incur higher costs, especially in housing and medical care.

The purpose of your hearing today is to consider legislation I have cosponsored to ensure that social security recipients receive a cost-of-living increase this year and in future years regardless of whether the consumer price index falls below 3 percent. As a member of the House Appropriations Subcommittee which oversees the funding for the Social Security Administration, I am well aware that the special provision included in the 1972 legislation is now out-dated. Our subcommittee, during the last few years, has appropriated large sums of money to the Social Security Administration to upgrade its antiquated computer system. One important result, in addition to improved overall service to all social security recipients, is that it is no longer economically or administratively infeasible to administer cost-of-living increases of less than 3 percent.

Therefore, Mr. Chairman, it is my hope that your Committee and the House will act expeditiously to assure our nation's social security recipients that they will receive their annual cost-of-living increase as scheduled on January 1. For the average couple who receives $700 a month in social security benefits, the projected increase will be $21 per month or $252 per year. This may not seem like a large sum of money to our colleagues in Washington who deal in millions and billions of dollars, but having met and worked with thousands of Pinellas County social security recipients over the years, I can assure you that any cost-of-living increase, no matter how small, is a welcome relief to these people because it often means the difference between being able to purchase or having to do without the daily necessities of life.

Thank you Mr. Chairman.●

THE 100TH ANNIVERSARY OF THE WAYLAND GLOBE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. SAWYER. Mr. Speaker, it is with great pride and respect that today I ask the Congress of these United States to recognize a newspaper in my Fifth Congressional District in Michigan. The Wayland Globe is celebrating its 100th anniversary on September 25, 1984.

The first issue of the Wayland Globe was printed on September 25, 1884, by George A. Mosher and has been in continuous publication ever since, making it the oldest business of any kind in the city of Wayland.

In 1909, George A. Mosher passed away and left the business in the hands of his son, Rollo G. Mosher. He remained publisher for 45 years until he sold the newspaper to the present owners, Mr. and Mrs. Irvin P. Helmey, in December 1953.

In the Wayland Globe's early days, the newspaper was entirely handset, letter by letter. Rollo G. Mosher installed the first automatic typesetting equipment that produced the newspaper in 1968 when the production method was changed to the offset procedure. The Wayland Globe was the first offset newspaper in the county.

The Wayland Globe has been at its present location on East Superior Street since 1957. In addition to the automatic machines which set cold type, the Wayland Globe has a commercial printing plant housed in the same building which is capable of performing both offset and letterpress printing. There is also a complete bindery.

For the residents in and around the area of Wayland, the Wayland Globe has served as the key source of information for 100 years. All of those individuals who have worked hard to make this newspaper a resounding success should be commended for their loyalty and dedication. For without their efforts, the Wayland Globe would not be what it is today.●

WILLIAM WILSON BAXTER—RECIPIENT OF THE CONGRESSIONAL PUBLIC SERVICE AWARD FOR MILLBRAE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LANTOS. Mr. Speaker, the Congressional Public Service Award Advisory Committee for Millbrae has chosen an outstanding individual to receive the 1984 award, and I am delighted to share with my colleagues his name and some of his accomplishments.

William Wilson Baxter's lifetime of dedication and service should move all of us to greater effort in volunteer public service. From his earliest years in high school he has been active in all aspects of his community—be it on the sports field or in student government. He interrupted his education to serve his country. In 1941 he enlisted in the U.S. Army. For 5 years he served as a member of the 22d Bomber Division of the 5th Army in the Southwest Pacific, primarily in New Guinea, as part of the American effort in the Second World War.

In 1948 Mr. Baxter graduated from the University of Texas with a bache-

lor's degree in foreign affairs. When he moved to Southern California, he took on the responsibilities of coaching little league baseball. He was also deeply involved in the activities of the local Methodist Church of which he was a member.

The city of Millbrae was fortunate to gain Mr. Baxter and his family as residents in the 1960's, and they have enriched the community since then. Mr. Baxter has worked at every Millbrae Art and Mime Festival since the inception of this annual event. He turns to any task requiring attention, be it the organization of the tickets, or supervising the garbage detail.

In 1970 the Millbrae Historical Society was born, and one of its leading members since its foundation was Bill Baxter. Committed to the preservation of significant local historic buildings in Millbrae, the organization has fought some notable battles, including that for "Sixteen Mile House"—a prominent area landmark located midway between San Francisco and San Jose.

Mr. Baxter has also given attention to the environment. He served as chairman of "Save the Open Space," which strives to protect some of the beautiful open spaces of San Mateo County.

Since 1967 Mr. Baxter has worked as State consultant for the California Teachers' Association. He and his wife Fran are respected and contributing members of the community. Their two sons also live in the area: Paul makes his home in Pacifica while Gary is in Los Altos. An important recent addition to their family has been their granddaughter, Jennifer Nicole Baxter.

Mr. Speaker, I am pleased to represent people such as Bill Baxter and his family. I congratulate the Millbrae Congressional Public Service Advisory Committee on their outstanding choice. Bill epitomizes the values of all that we respect and admire—hard work, commitment to civic improvement, and above all keeping alive the tradition of public service.●

IN HONOR OF SANDRA MOSS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Sandra Moss, an outstanding member of the Los Angeles community and a friend of mine for whom I have a great deal of personal respect. Sandra will be honored on September 19, 1984, for her efforts on behalf of the Rape Treatment Center at Santa Monica Hospital Medical Center, one of the most unique and needed resources of our community. In conjunction with this event, I too, would like to honor Sandra by sharing her work with my colleagues.

Sandra is a founding member of the advisory board of the Rape Treatment Center, and has helped to build the center into a nationally recognized model for the treatment of rape victims.

Sandra had demonstrated outstanding leadership in building a large, strong, and committed base of community support for the Rape Treatment Center's critically important work, and has effectively worked to increase public awareness of the needs of sexual assault.

Sandra has provided extraordinary assistance in mobilizing the vast resources needed for the center to provide expert medical, legal, and counseling services to help thousands of victims recover from the trauma of rape. She has helped to supprt the development of training programs and materials that are used nationally to educate medical, mental health, and law enforcement personnel who work with rape victims. Her dedication and enthusiastic support are responsible for enabling the Rape Treatment Center to create a new model treatment program for child victims of sexual abuse and their families.

In addition to the energy and talent Sandra has devoted to the Rape Treatment Center, she has improved the lives of thousands of children with developmental disabilities through her leadership as chair, president, and active member of SHARE. She has contributed significantly to the cultural life of the city as a founder member of the Music Center, as a member of the Amazing Blue Ribbon, and as a supporter of organizations that develop the talents and interests of young people such as the Young Musicians Foundation and the Children's Museum. Furthermore, Sandra has helped to solve the problems associated with substance abuse through her service as a commissioner of the State Department of Alcohol and Drug programs.

It is pleasure to be able to highlight Sandra's accomplishments with my colleagues, and I ask that they join me in commending her for her outstanding service to the community.●

AGE DISCRIMINATION CAN NO LONGER BE TOLERATED

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. YOUNG of Florida. Mr. Speaker, as a supporter of legislation to designate last week as "Youth of America Week," I am enthusiastic about America's young people and their impact on our society. However, I was also reminded during last week that we have another important group of Americans who are sometimes forgotten: the over-70 group.

These older Americans are also a very important part of today's society and should not be swept aside. They have helped to shape and mold our country in a very real way and they can be proud of their efforts, their dignity, their experience, and their patience. Unfortunately, instead of encouraging that dignity and experience, the current Age Discrimination in Employment Act [ADEA] only protects workers between the ages of 40 and 70 from age discrimination in hiring, promotions, terminations, and the terms and conditions of employment.

Legislation I am introducing today would finally eliminate mandatory retirement and other forms of age discrimination by removing the upper age limit of 70 from the ADEA. By eliminating mandatory retirement, we would be utilizing the expertise and knowledge of many older workers as productive members of society. We would no longer be saying to these people that, solely based on their age, they are no longer able to carry out their job responsibilities.

Last week, while we properly celebrated America's youth, we must not forget yesterday's youth. Discrimination, based on an individual's age, can never be condoned. America's youth would be the first to agree and I urge wholehearted support for this legislation.●

TRIBUTE TO KATHERINE ANN MITCHELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. SKELTON. Mr. Speaker, I am pleased to bring to the attention of this body the fact that a young lady from my hometown in Lexington was recently chosen the 1984 Missouri State Fair queen. Katherine Ann Mitchell was chosen over 52 other contestants from throughout the State. Kathy, as her many friends call her, was sponsored by the Miss Lafayette County Pageant which she had won in 1982.

Kathy Mitchell is a truly outstanding young lady. She is a senior at the University of Missouri, Columbia, where she majors in public relations. As a result of being chosen Miss Lafayette County in 1982, Kathy participated in the Miss Missouri pageant in 1983 where she was among the five finalists. She is the daughter of Mr. and Mrs. William Buchanan and the granddaughter of Mrs. Ray Beretta.

All of us from Lexington are quite pleased and proud of this recent recognition of Kathy, and I join her many friends in sending her sincere congratulations.●

PLIGHT OF SOVIET JEWRY

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. EVANS. Mr. Speaker, if present trends continue, this year fewer than 1,000 Soviet Jewish citizens will be allowed to leave the Soviet Union. This is despite estimates that some Jews have received the required invitation from a close relative in another country. Those whose parents, children, or siblings do not live in another country are not even allowed to apply for permission to emigrate.

The plight of the Jewish citizens of the Soviet Union is not new. Yet we cannot allow ourselves to remain complacent on such a crucial human rights issue. Familiarity must not breed inaction, or worse, apathy.

The persecution of the Soviet Jewry is a violation of human rights and a deviation from any standard of equality and justice. And the situation is becoming even more grave. Only 1,315 Jews were granted permission to leave the Soviet Union in 1983, compared to 51,320 in 1979. This represents a decrease of 97 percent.

In addition to continued religious oppression, those Jews who remain in the Soviet Union must face consequences of having expressed a desire to leave the country. Many lose their jobs as a result of applying for exit visas; some face continuous harassment over the course of the months or years that the application procedure may take. The loss of jobs and continued inability to find work is often used as a pretext for arrest on charges of "parasitism." Moreover, the newly established Soviet anti-Zionist Committee has launched a vigorous attack on Soviet Jewish citizens, condemning Zionist activities in an effort to "protect" the Jews that might be persuaded to try to emigrate.

Some Soviet Government agencies claim that the reason for the decline in emigration is that most of the Jews who want to leave the country have left. We know that this is not the case. There are many more who wish to emigrate, and there are several reasons why Jews might wish to leave the Soviet Union. The first is religious freedom. Jews are not allowed to practice their religion freely in the U.S.S.R. Jewish religious texts and ritual objects are not produced in the Soviet Union, and are often confiscated from visitors attempting to bring them into the country.

Another reason is cultural: Parents wishing to give their children a sense of Jewish heritage are in many ways prevented from doing so in the Soviet Union. Teaching Hebrew, the language of Jewish prayer, if forbidden, except to non-Jewish foreign service candidates and customs officials. Jewish self-study groups are often banned or forcibly disbanded.

In short, Mr. Speaker, any conceivable ways for Jewish citizens to practice their religion or to pass it on to their children are illegal. They have little hope of being able to leave the country, although they are treated as unwanted elements. The only hope for many of these people lies here, in this country, with our citizens.

As our relations with the Soviet Union have deteriorated since 1979, so has the number of Jews allowed to emigrate declined. So, in addition to pressuring Soviet officials in various ways and at all possible opportunities, we must also help by doing all we can to improve U.S.-U.S.S.R. relations. It is our obligation, not only to Soviet Jews, but to ourselves and to the world.●

THE DEFICIT: QUESTIONS AND ANSWERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my "Washington Report" for Wednesday, September 12, 1984, into the CONGRESSIONAL RECORD:

THE DEFICIT: QUESTIONS AND ANSWERS

If you enter into a discussion of economic problems today, whether inflation, the global debt, economic growth, the trade balance, high interest rates, the overvalued dollar, or unemployment, I would wager that before the discussion gets very far you will be talking about the budget deficit of the United States Government. The deficit is part of many of our economic problems, so much so that one gets the impression that the deficit must be reduced if the world's economy is ever going to work well. A better understanding of the deficit is important for all of us to have.

Question. What is the size of the deficit?

Answer. In 1984, the deficit will be about $195 billion. Under assumptions of moderate economic growth consistent with average performance of the economy in the post-war years, the deficit is projected to rise steadily to at least $263 billion per year by the end of the decade.

Question. What is driving the deficit upward?

Answer. Among the factors driving the deficit upward are the performance of the economy, large tax cuts, high interest costs, and rapid growth in military spending. The deep recession in 1981 and 1982 lowered revenues and increased expenditures. Tax cuts have reduced revenues $323 billion between 1982 to 1985. Interest payments have jumped $30 billion. Military spending will increase 100 percent from 1980 to 1985. Rising interest costs and military spending have been offset only partially by a $192-billion reduction in domestic spending between 1982 and 1985. The major increases in domestic spending in recent years have occurred in social security and medicare, programs which have been supported in full by increases in the payroll tax. Social security and medicare have not contributed significantly to the present deficit.

Question. What is wrong here?

Answer. The essence of the problem is that we want more government than we are willing to pay for, and the problem is getting worse, not better. Revenues fell from 20.1% of the gross national product (GNP) to 18.7% of GNP over the past four years. Spending, however, rose to a peacetime record of 24.7% of GNP in 1983. The demand for government services keeps growing, but the wherewithal to pay for those services does not.

Question. Can we grow out of the deficit?

Answer. Some people believe that we can, but I think it unlikely. In any case, it would be unwise to assume that economic growth alone will do the job. If we remove the fluctuations in revenues and spending associated with changes in economic activity (the cyclical component of the budget) and isolate that which remains in an economy at full employment (the structural component of the budget), we see that there is little evidence that the structural deficit can be eliminated. In other words, the deficit is due to an inherent imbalance between revenues and spending that persists even in an economy operating at full employment. The tax policies of recent years have promised, but have not produced, significant increases in labor supply, work effort, savings, investment, or productivity, yet these things are needed before there can be strong growth in the economy.

Question. What is the effect of the deficit?

Answer. At the moment, it is providing the economy with a very strong stimulus that grows stronger as time passes. When combined with a monetary policy that accommodates rising demands for credit, such a stimulus creates prosperity at first, but leads eventually to inflation or recession. In the short term, the deficit results in a clash between private borrowing and public borrowing and thereby drives interest rates up. It is already damaging the export sector by causing the dollar to stay too high. In the long term, the deficit will shrink savings and thereby diminish the amount of money available for productive capital investment. Finally, large borrowings by the federal government are pushing America, with the richest economy in the world, into the position of a debtor. Future generations of Americans could be saddled with a burden of debt that would crunch their prospects for a better life. Debt payments would consume the budget to such an extent that future taxes, at least as high as today's, would yield next to nothing in the way of services. If the deficit continued to grow, the risk would grow that we would try to save ourselves by printing money to pay off the debt, an action that would produce runaway inflation. Such inflation would undermine confidence in the federal government and would weaken the political institutions of the country.

Question. Can we make direct cuts in the deficit?

Answer. Although a few people argue that the deficit should not be reduced except by

economic growth, I believe that the current mix of fiscal and monetary policies is a serious mistake. High deficits and high interest rates retard growth, lessen the ability of American industry to compete in the world, and increase the risk of inflation or recession. Our aim should be to lower deficits and interest rates through spending cuts and tax increases approaching, if not yielding, a balanced budget by the end of this decade. We should make direct cuts of $50 billion from the deficit in 1985, and commit ourselves to much larger cuts in later years.

Question. How can we make these direct cuts?

Answer. Making the major change that I favor in the mix of fiscal and monetary policies will require a political compromise between the President and Congress. A politically acceptable program to reduce the deficit must include cuts in both domestic and defense spending and increases in revenues. The compromise should come soon. The longer we delay in cutting the deficit, the higher interest rates will go and the greater the burden of debt will become, necessitating even deeper spending cuts and sharper tax increases in the future. Achieving the compromise should be the highest priority of the federal government today. We must get the deficit under control if we are to avoid widespread economic and social distress, with serious ripple effects throughout the world.●

TESTIMONIAL FOR THOMAS O. FELLIN

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. HARRISON. Mr. Speaker, Hazleton Lodge No. 200 of the Benevolent and Protective Order of Elks, will honor Thomas O. Fellin, immediate past district deputy grand exalted ruler of the northeast district of Pennsylvania, on Saturday, September 15, at the Elks home.

Brother Fellin was elected exalted ruler of Hazleton Lodge for the year 1969–70. He was honorerd by being named "Elk of the Year" for the year 1971–72. He was elected to the office of district State vice president of the Pennsylvania Elks State Association for the year 1981–82. He was commissioned district deputy grand exalted ruler for the year 1983–84 by the then Grand Exalted Ruler Kenneth V. Cantoli. He has chaired the Cerebral Palsy Committee for the past 12 years and is currently serving as vice chairman of the drug awareness program for the State. He is also now serving as trustee of the local lodge.

Brother Fellin is a graduate of St. Gabriel's High School year of 1952. He served in the U.S. Marine Corps. He is currently employed as a supervisor for the Pennsylvania Power & Light Co. He is married to the former Dolores Capparell. They have two children; Thomas O. Fellin II, attending Luzerne Community College and Valerie J. Fellin, who is attending Daemen College in Buffalo, NY.●

ANNIVERSARY OF SOVIET INVASION OF CZECHOSLOVAKIA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LAGOMARSINO. Mr. Speaker, August 21 marked the 16th anniversary of the brutal Soviet invasion of Czechoslovakia. On that day in 1968, that will live in infamy for millions of native Czechs now living in the United States and elsewhere around the globe, the Soviets resorted to a massive and brutal invasion to repress and quell a rebellion; in actuality, the people of Czechoslovakia took to the streets in support of democracy and freedom. This display of courage and determination was met by a rapid influx of Soviet Red Army and Warsaw Pact troops, planes, and tanks--typical of the Brezhnev doctrine. While the Soviets officially promised to remove their troops and tanks and agents of repression within 1 year, once normalization occurred, one can still see Red Army troops stationed on Czech soil. A temporary act of brotherhood? I think not.

Today, the freedoms which Czechs yearn for have been effectively squelched. Religious and political persecution and repression are the norm. What can only be considered a spontaneous outburst of nationalistic pride and quest for freedom, the events of August 21, 1968, remind us that fear, pain, and injustice are still present in this world. I ask my colleagues to join me in mourning August 21.●

A WOMAN'S PERSPECTIVE

HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mrs. HALL of Indiana. Mr. Speaker, in this election year, we've been asked on many occasions, "Are you better off today than you were 4 years ago?" As equally important is the question, "Do you feel safer today than you did 4 years ago?" Recent polls have responded in a resounding "no." The American public is justifiably concerned. After centuries of male dominated and perpetuated defense policy, the time has come for the formation of global military policy to benefit from another point of view.

Eleanor Roosevelt once remarked, "It's up to the women." Today, American women are responding to Ms. Roosevelt's challenge.

The first National Women's Conference on Preventing Nuclear War is being conducted today, and women are expressing their views. The conference is being planned, organized, and attended by women. Those in attendance will bring diverse views and expertise from a multitude of backgrounds, but their collective perspective on the concerns surrounding nuclear war and the nuclear arms race will add the needed dimension which to date has been excluded from the decisionmaking arena—namely, the women's perspective.

What some of us have known for some time, and what recent statistics have confirmed is that women feel differently than men about war. In the words of Dr. Dorothy Austin, a Harvard psychologist, "No longer is woman's moral reasoning viewed as simply a different style; it has become a political necessity for the preservation of the world."

An old Chinese proverb: "If you are planning for a year, sow rice. If you are planning for a decade, plant trees. If you are planning for a lifetime, educate a person."

We are planning for lifetimes to come, and we have a moral obligation to strike a balance between human need and national defense. The compelling responsibility to the generations to come is to educate the populace.

I commend the women who have planned and are participating in this innovative conference, especially Joanne Woodward for her leadership. And, I urge my colleagues to heed the warning and listen to the women.●

TRIBUTE TO RABBI ISSAC L. SWIFT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. TORRICELLI. Mr. Speaker, I rise today to pay tribute to the inspirational life and work of Rabbi Issac L. Swift of Ahavath Torah of Englewood, NJ. This Sunday, September 16, Rabbi Swift will retire from his years of dedicated service to the congregation of Ahavath Torah. Those whom he has served for many years will gather on that day to honor his years of selfless service, his dedication to noble causes, and his unequaled devotion to duty.

It can truly be said of Rabbi Swift that through his inspiration of others and through the sum of his works, there is "nothing he touched that he did not adorn."

Throughout his career, Rabbi Swift has brought inspiration and joy to his congregation. His years of service, however, have not only enriched the lives of his congregation, but those of the entire community.

It has been written that "Everyone of us is given the gift of life, and what a strange gift it is. If it is preserved jealously and selfishly it impoverishes and saddens. But if it is spent for others, it enriches and beautifies." That is what Rabbi Swift means to those who love and honor him.

I hope that on September 16 my colleagues will join with me in paying tribute to the works and life of this great and splendid man.●

MSGR. GENO C. BARONI

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 6, 1984

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to Msgr. Geno C. Baroni, who died late last month. Geno Baroni personified the commitment of his church to civil rights and social progress. He was an inspiration to me and many others involved in public life and in community work, and he will be greatly missed by a country that sometimes seems to be growing short of his kind of vision and direction.

Geno Baroni was a national leader who did as much as any single person to try to bring together blacks and whites to work for common economic and social goals. His emphasis on revitalizing the neighborhoods of our Nation's cities was his way of uniting people in support of improved conditions for the Nation's poor and working-class citizens—both black and white.

Born in 1930, Geno Baroni first came to Washington as an assistant pastor in 1960. Later he became executive director of the Archdiocese of Washington's Office of Urban Affairs, and he soon rose to become director of the U.S. Catholic Conference. He used his position in the church to call for a social ministry and to work for better housing, jobs, and other social improvements for the urban poor and working class. He founded the church's campaign for human development, a multimillion-dollar fund devoted to social and economic justice.

He also founded the National Center for Urban Ethnic Affairs and drew attention to the plight of working-class white ethnic neighborhoods suffering from the decline of the Nation's cities in the 1960's and 1970's. In 1977, President Carter named him to be Assistant Secretary of Housing and Urban Development for Neighborhoods, Voluntary Associations, and Consumer Protection. In that position, he established a nationwide program to promote the development of low-income neighborhoods through self-help programs devised by local organizations.

Mr. Speaker, I know all of our colleagues join me in paying tribute to Geno Baroni. His impact on us as individuals and on the Nation as a whole cannot be overestimated. We send our sympathy and best wishes to his mother and the rest of his family as they grieve a loss they share with all of us:

GENO CHARLES BARONI

There were more than a few racially tense moments in the Washington of the 1960s, and when friction became particularly severe and potentially explosive, the word would go out quietly from President Johnson, Walter Washington, the chief of police or whoever else needed information, advice and help to round up cool heads for heated neighborhoods: Check with Geno, the priest of the streets. Usually, a ride up and down the rough-and-tough blocks of 14th Street NW would turn up a gathering somewhere in which you would spot the short, round figure of a white man of the cloth, touching bases as well as hearts among a group of black people. Monsignor Geno Baroni, who died of cancer Monday at the age of 53, was that special man.

Later he became a monsignor and an assistant secretary of housing and urban development. But the pastorage of Father Baroni then and always extended well beyond the black, brown and white membership of his parish at Sts. Paul and Augustine Church at 15th and V Streets NW. So did his closest interreligious friendships, which included a Protestant minister and a local Jewish leader who teamed up with him to keep a low profile and a close touch on the pulse of downtown.

Monsignor Baroni was much more than a troubleshooter, though. His canny sensitivity to the concerns of people of all colors and ethnic groups made him the builder of effective coalitions working to improve housing, health care, education and police relations. And though he took this work seriously, that was not how he took himself. There was humor, often at his expense, and there were comments that endeared him to ethnic groups and racial minorities who could relate to the conditions he cited. John Kromkowski, president of the National Center for Urban Ethnic Affairs, which Monsignor Baroni founded, recalled that when the Kerner Commission "divided America into black and white, rich and poor, Baroni testified that a public policy based on such assumptions would make 'our cities black, brown and broke.' . . . His support for working-class communities as well as the poor who lived next door separated him from the limousine liberals and elitist radical chic."

All of us who had the good fortune to know Geno Baroni will miss his special insight, his concern for the neglected and the powerless and his unswerving faith in the ability of people to get along with each other. Thanks to his presence on the streets and in the centers of authority, Washington is clearly a better place.●

TRIBUTE TO LOUIS CATALANO

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. KOLTER. Mr. Speaker, I rise today in tribute to Louis Catalano of New Castle, PA.

Mr. Catalano has been an employee of the State Farm Insurance Co., for the last 28 years and will be retiring on October 3, 1984. For over a decade Louis has provided fine service to his clients and the company office located in New Brighton, PA, where he is a claims representative.

Louis is a graduate of Youngstown State University and Duquesne University. He is also quite active in St. Vitus Church of New Castle. In his spare time, Mr. Catalano has become a skillful woodworker. He specializes in making cabinets.

Once again, I urge my colleagues to join in saluting Louis Catalano.●

WOMEN AND NUCLEAR WAR

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. DOWNEY of New York. Mr. Speaker, today women across this Nation mobilized to take direct action to avert a nuclear war. Their efforts and involvement are good news for America and the world.

Women, as the great anthropologist Margaret Mead noted, carry, bear and nurture the children, and thus have the most direct and substantial link to the future generation. It is through this insight into the seamless fabric of human society and history that women can understand, perhaps more intuitively than men, the threat that nuclear war poses to all life.

Thus, their work to reduce the danger of nuclear war and weapons can only help. I applaud their effort and look forward to working with them on this issue of crucial importance to women and men everywhere on earth.●

WOMEN'S NATIONAL CONFERENCE ON PREVENTING NUCLEAR WAR

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. MOODY. Mr. Speaker, I would like to draw my colleague's attention to this historic day. We are witnessing the emergence of another group of Americans who feel that they can no longer allow the Reagan administration's unchecked buildup of nuclear weapons.

The first Women's National Conference on Preventing Nuclear War is a group of concerned American women which seeks to draw further attention to the issue of nuclear warfare. The issue is not only important in itself; there are underlying matters of grave

concern. The nightmare of a nuclear holocaust will affect not just men, not just women, but each and every American. We must work together ending any threat, whether by warfare or accident, of a nuclear disaster. I applaud the women who have gathered here for this important conference. It is only through such dialog among ourselves and our adversaries that we will achieve a lasting peace.

The basic message contained in last year's report from the Coalition on Women and the Budget, "Inequality of Sacrifice: The Impact of the Reagan Budget on Women," is still crystal clear. The Reagan administration has funded an unprecedented peacetime military buildup at the expense of programs that are the building blocks of our Nation's social infrastructure. When those most seriously affected by these cuts cry out for equality, they are told that human services funding is already high enough. Women are willing to sacrifice for our country, but the burden of that sacrifice must be equally shared.

Analysis and rhetoric, policy and politics—all become moot in the face of a nuclear war. The participants in this conference understand this threat. I can only hope that their efforts help to expand this understanding to all of our citizens.●

TRIBUTE TO FIESE & FIRSTENBERGER CO.

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. PASHAYAN. Mr. Speaker, it was 50 years ago in the fall of 1934, that two friends J.T. Fiese and W.G. Firstenberger, started a small machinery manufacturing and welding firm in the heart of California's San Joaquin Valley.

The Fiese & Firstenberger Co. continued to grow in the 1930's and 1940's, designing and making pumps mostly for farm irrigation. The company's reputation spread, and Fiese & Firstenberger soon began selling and shipping pumping equipment to Texas and to other parts of the Southwest.

After the end of World War II, the demand for pumps surged. The company met the demand with the construction of a large new modern plant, complete with engineering, design, and patternmaking facilities, on Railroad Avenue in Fresno. The next step included the expansion of the company's products. This was helped along dramatically with the purchase of the complete hydraulic division of the A.O. Smith Corp., which got the company quickly into industrial and commercial applications, including municipal water systems and aircraft jet fueling installations.

It was around this time that Lowell Firstenberger, who had assumed his father's position with the business after World War II, bought Lloyd Fiese's portion of the business, and the tongue-twisting Fiese & Firstenberger name was retired in favor of "FloWay Pumps."

In 1975, in order to expand FloWay's capital base and to allow an even broader geographic and expansion, the company merged with Peabody International Corp., to become Peabody Floway.

Today, Peabody Floway is one of the Nation's largest producers of vertical turbine pumps for agriculture, major oil corporations and refiners, brewing companies, utilities, railroads, municipal, State, and Federal Government agencies, and the Armed Forces. The main plant now occupies 77,000 square feet on 20 acres, with other assembly, servicing, and marketing operations located in Houston, Phoenix, and Los Angeles.

The company has also become a major exporter of pump equipment throughout the world, including the Soviet Union, the Middle East, Europe, Africa, and South America.

In 50 years, Peabody Floway has come a long way from a small welding shop in Fresno, CA, to becoming a major manufacturing concern. I join with others in central California in saluting this progressive firm and its officers and employees as they begin their second half century of service.●

TRIBUTE TO JOSYF CARDINAL SLIPYJ

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. SMITH of New Jersey. Mr. Speaker, I would like to draw the attention of my colleagues to the recent death of His Beatitude Josyf Cardinal Slipyj, patriarch of the Ukrainian Catholic Church in Rome; he was 92 years old. To the Ukrainian people in the United States and to God-loving individuals all over the globe, he was the embodiment of sanctity and courage.

Cardinal Josyf Slipyj became head of the Ukrainian Church in Ukraine, when in 1945, a reign of terror was thrown upon the Ukrainian people by the Soviet Government. The patriarch was imprisoned by the Communist regime and spent 18 years in various slave labor camps in Siberia. He was the only Ukrainian hierarch to survive Stalin's purges; all others died in prisons and exile.

Although the years of torture and suffering weakened his body, his unyielding perseverence honed his indomitable spirit. He refused to accede to repeated Communists demands, to join the Russian Orthodox Church, and remained steadfast in his loyalty to the church and his people. Cardinal Slipyj was finally released on February 10, 1963, by then Soviet Premier Nikita Khruschev, upon intervention by Pope John XIII and President John F. Kennedy.

Following his release and arrival in Rome, he was recognized by Pope Paul VI as the major archbishop—head of the church—and expected to live out the remainder of his life in rest and seclusion.

But the prelate was too dynamic a personality to rest on his laurels. He united the Ukrainian Catholic Church in the free world, imbuing it his brand of courage and idealism. He instilled in the hearts of both young and old the hope for a better tomorrow for people who suffer trials and persecution. His accomplishments were not fleeting words on paper but lasting monuments to the vitality of the Ukrainian Church, the church that the Soviet Government claims does not exist.

In these essentially unheroic times, the late patriarch of the Ukrainians was a living martyr. By remaining loyal and steadfast to his faith and to his ideals, he became the conscience of the modern church. He has touched intimately the lives of all the people who knew him. The memory of him and his deeds remain eloquent testimony to the ability of the human spirit to survive and to prevail.●

TRIBUTE TO STATE SENATOR RUBEN AYALA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. BROWN of California. Mr. Speaker, these are difficult times of budget deficits and changing roles between State and Federal Governments. Therefore, it is a pleasure to work with State legislators the caliber of State Senator Ruben Ayala from the 34th District in California.

Born and raised in Chino, CA, Ayala began his long road of community service with his election to the Chino board in 1955, holding that post until 1962, when he was elected city councilman, and in 1964 becoming mayor of Chino. He later served as San Bernardino County supervisor before winning his campaign for the California State Senate in 1973.

Senator Ayala has a long record of public service in many areas. He is to be commended for his support of education. Senator Ayala has declared that:

Every child in California must have the opportunity to develop his or her personal potential. In my opinion, education in Cali-

fornia is one of the top priorities the legislature is facing.

One of Senator Ayala's most successful legislative efforts was the creation of the California Conservation Corps; through his efforts, the CCC has continued to be funded every year since its inception. The program has proven to be a role model for other States for putting young adults to work protecting the California ecosystem by fighting fires, clearing streams, and building roads and dams while building commitment and team work among the participants.

Ruben, who has been tagged a conservative Democrat, says:

I don't think I'm a liberal or conservative. Labels are for cans on the shelf. I don't think I can be either at all times. Just ask me what is the issue, and I'll tell you my position.

Ayala's hometown is Chino, where he has shared his private and political life with his wife, Irene, and their three sons. The senator says his "28 years of elected office have been most rewarding, and all things being equal, it is my hope to continue serving the citizens of my district and California where I was born and reared."

Senator Ayala is a fine example of a dedicated State legislator, and I hope he will continue to represent the 34th District. I look forward to working with him in the spirit of cooperation that has been a part of our working relationship for many years, and a cooperation which becomes more important in these changing times.●

BIRMINGHAM CELEBRATES GREEK HERITAGE

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. ERDREICH. Mr. Speaker, on Tuesday, September 18, 1984, the Birmingham Historical Society will celebrate "Greek Heritage Night," highlighting the many contributions that Americans of Greek descent have made to the economic and cultural vitality of the city of Birmingham.

The influence of Greece and its descendants has been a part of the ethnic mosaic that makes up Birmingham since George Cassimus, Birmingham's first Greek immigrant, left his native land and settled in Birmingham in 1884.

Those who came seeking a better life brought with them the courage and curiosity of Odysseus, the love of learning associated with Plato, and the entrepreneurial skills that have made them such an important part of Birmingham's economic base.

As the program for "Greek Heritage Night" notes:

Our Greek community, like the proud but dispersed Greek colonies of the ancient world, is united by the inheritance of a culture, a religion, and a language which they have directly and indirectly shared with us all. America has offered its immigrant Greeks a modern version of the good life and an opportunity to participate in what might approach, with individual effort and involvement, the "perfect state" envisioned by their distant forefathers.

Our Greek community came to America with visions not unlike those of their forefathers, of the good life and a perfect state and many of their dreams have been realized in our land of opportunity.

As the Birmingham community recognizes the rich Greek heritage that has made our total community even richer, I would like to congratulate the Birmingham Historical Society and all the participants in "Birmingham Heritage Night." Also, I would like to commend "Birmingfind", which highlights the growth of the Greek community in their excellent booklet, "The New Patrida: The Story of Birmingham's Greeks." This event gives proper recognition to one of our many ethnic traditions that has made Birmingham the great city that it is.●

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. ROWLAND. Mr. Speaker, the term "refusenik" has been added to the international vocabulary in recent years—a word that describes Soviet Jews who have been continuously denied permission to emigrate.

It is my privilege to participate in the 1984 Congressional Call to Conscience Vigil in an effort to maintain constant attention on the plight and mistreatment of Soviet Jews. Whether an individual or family wishes to emigrate to be reunified with other family members or to be able to practice their religion free of persecution, the vast majority of Soviet Jews face repeated denials because of fabricated charges. Many times after the denial of the right to emigrate, the family must live in fear of further harassment by the KGB, the sudden loss of employment, or face arrest or imprisonment because of this lack of employment.

One such refusenik family is the Gilman family of Zhlobin, Byelorussia. Boris Gilman and his wife Evgenya have sought exist visas for themselves and their two sons, Leonid and Alexander, since April 1981. They were refused immediately on the pretext that Evgenya's mother was remaining in the Soviet Union. This was despite the fact that both of Boris' parents and Evgenya's father presently live in Israel. In an all too familiar story, both Boris and his wife were fired from their jobs. They now must live in constant fear of further harassment because of their desire to emigrate.

Every Member of the House of Representatives has become familiar with the plight of Soviet Jews. By its signature of the Helsinki Final Acts, the Soviet Union has declared it would allow free emigration. Since the Soviet invasion of Afghanistan, the emigration of Soviet Jews has been reduced to a mere trickle. While a very few have been allowed to emigrate to countries where they can freely observe thier religious faith, pursue their livelihoods, or simply be with their loved ones; it is for the thousands left behind that I urge my colleagues to continue to show their support.●

IN HONOR OF LT. COMDR. LEWIS C. DUNN'S ACHIEVEMENTS

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. MACKAY. Mr. Speaker, today, Lt. Comdr. Lewis C. Dunn, U.S. Coast Guard, of Ocala, FL, will receive the Distinguished Flying Cross from the Department of Transportation. This cross is the highest peacetime award given for heroism and is awarded very infrequently.

The presentation of the Distinguished Flying Cross to Commander Dunn is for extraordinary skill and valor in piloting a helicopter in the search and rescue of 19 seamen from a merchant vessel on November 19, 1983. Under great personal risk, Commander Dunn negotiated gale force winds and heavy rains to fly to the entrance of Yaquina Bay, OR, where the *Blue Magpie* was aground. Maintaining a steady position over the vessel allowed the crewman to hoist 10 men aboard the helicopter by means of a rescue basket. These men were taken to safety on shore. Whereupon, Commander Dunn returned to the vessel, which had in the meantime burst into flames. Once again, he combatted the elements and positioned the helicopter so that the remaining nine men were hoisted to safety.

The skill and talent which permitted Commander Dunn to carry out such a difficult mission is only superceded by his exceptional bravery in the face of danger. His teamwork with his fellow crew member also contributed to the efficient rescue of the men aboard the *Blue Magpie.* He relentlessly pursued the performance of his duties regardless of life threatening conditions. Because of this successful effort, 19 men are alive today. Certainly, Commander Dunn has exhibited all the attributes of a true American hero.

Commander Dunn has lived up to the finest traditions of the U.S. Coast

Guard. He, indeed, is a credit to his family, the Coast Guard, and the United States. I join the Department of Transportation today in honoring the meritorious acts of heroism by Commander Dunn.●

IN SUPPORT OF NUTRITION MONITORING ACT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Ms. SNOWE. Mr. Speaker, I would like to take this opportunity to speak in support of the National Nutrition Monitoring and Related Research Act of 1984. H.R. 4684 would establish for the first time a Federal capability to monitor the nutritional status of the American people by authorizing a 10-year coordinated program headed by a directorate. The secretaries of Defense, Agriculture, and Health and Human Services would serve as joint chairpersons of the program.

The January 1984 report by the President's Task Force on Food Assistance pointed to the need for better data on America's food intake. The task force reported they could not gauge the extent of hunger and, therefore, recommended that more timely data be gathered. H.R. 4684 would fulfill that recommendation by coordinating nutritional research and information.

In addition to coordinating existing research, this legislation would authorize funds for the purpose of gaining new knowledge of national nutritional problems such as overnutrition and undernutrition, and the relationship between diet and health problems. The bill would also provide grants for the study of special nutritional problems among subgroups within particular States.

Mr. Speaker, I see a great need for gaining further information on the nutritional needs and habits of the American people and for disseminating this type of information. For example, medical science has only recently determined that large amounts of calcium are necessary for the human body throughout life. Previously, it was believed that once teeth and bone structure had been developed in the young adult, "drinking your milk" was no longer essential. The American Bone and Mineral Society now reports that we reach our peak bone mass around age 35, and in order to prevent bone loss after that age, it is vitally important to consume plenty of milk products. In later adulthood, men lose calcium from their bones at a slow, gradual rate, whereas for women this rate is greatly accelerated after menopause. Every fourth woman over 50 will develop osteoporosis—thinning of the bones—unless she changes her diet to include more calcium and becomes aware of other preventive measures.

In terms of nutrition problems among subgroups at risk, I am particularly concerned with low-income individuals and, especially, our elderly citizens. Many frail elderly living alone do not eat a proper diet. They may have lost much of their former appetite due to an illness; they may not be able to get to the store regularly and have to depend on others to get their groceries; or, they may not have the energy and desire to cook for themselves. Consequently, they may not get a balanced diet. Malnutrition can quickly lead to mental confusion in the elderly person and can be misread as "senility."

Policymakers, program developers, and service providers need the type of information which the National Nutrition Monitoring and Related Research Act promises to facilitate so that we may develop better ways to deal with these issues. Many of America's health problems would be resolved if the public would pay more attention to their nutritional status. The passage of H.R. 4684 will facilitate this educational process and I am pleased to give this measure my full support.●

OPPOSITION TO ADMINISTRATION'S FAILURE TO IMPLEMENT ITC REMEDIES FOR COPPER INDUSTRY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. RUDD. Mr. Speaker, despite a unanimous decision by the International Trade Commission that the Nation's copper industry is the victim of unfair foreign imports, the White House announced last week that it will not implement the ITC's recommended remedies for relief to this ailing industry.

This was extremely disappointing news to me but, I can assure you, it was far more devastating news for the thousands of unemployed copper miners in my State and across the Nation.

I strongly believe that right decision was not made, that relief to the domestic copper industry is vitally needed, and that Congress can turn this decision around.

The Trade Act of 1974 allows the Congress to implement the ITC's decision if the President chooses not to act and yesterday my colleague from Michigan, BOB DAVIS, introduced legislation to accomplish this goal.

As an original cosponsor of this legislation, I urge my colleagues to join me in helping America's copper workers get back on the job, support their families, and enjoy the economic recovery most of our Nation is currently experiencing.●

THE SALE OF CONRAIL

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. EDGAR. Mr. Speaker, in the spirit of adding to the ongoing dialog on the sale of Conrail I wish to draw the attention of my colleagues to, first, a recent editorial in the Philadelphia Inquirer and, second, the actions announced yesterday by the Department of Transportation which will have the effect of improving the conditions of sale of the railroad.

The editorial advocates a moratorium on the sale of the railroad until next year and brings out a number of cogent reasons for such an action—an assessment of the fair market value of Conrail is in question, the needs of shippers in the region have to be reviewed carefully before a buyer is decided upon, and the intentions as well as capabilities of the prospective buyers have to be scrutinized diligently. These concerns were some of the same concerns expressed by me and 17 other Members when we first proposed such a moratorium late last July.

As the Washington Post account of the DOT actions indicates, Secretary Dole, by her decision yesterday to refer the three offers for the railroad to the Departments of Justice and Treasury for review, will lengthen the selection process, so that a final decision will not come most likely until at least the end of the year. Further, it appears that the price offered for the railroad has been significantly improved by the bidders and all have agreed to a number of 5-year protections for Conrail users and employees.

Mr. Speaker, I am heartened by the Secretary's actions. As we have said all along, the goal of the Government should be a good sale of Conrail, not a quick one.

[From the Philadelphia Inquirer, Sept. 6, 1984]

OBSOLETE BIDS FOR CONRAIL

With the Congress having reconvened for a post-Labor Day session that is expected to last only about a month, it has become increasingly apparent that there will not be time this year for proper consideration of any proposal for the sale of Conrail. There ought to be agreement among the Reagan administration and congressional leaders of both parties that the proposed sale should be put off until 1985 when there will be adequate time for public hearings and enactment of required legislation.

That does not mean, though, that the remaining months of this year have to be wasted. Secretary Elizabeth H. Dole and

others in the U.S. Department of Transportation involved in the evaluation of offers for Conrail should make good use of available time to review the bidding in consultation with Conrail management.

DOT made a mistake in setting a June 19 deadline for submission of offers. There is growing evidence that all of them are substantially below fair market value and have been made obsolete by subsequent financial data from Conrail. DOT should exercise its options to negotiate offers upward, requesting resubmission or reopening of the bidding.

The highest offers are in the $1.2 billion range. They hardly can be considered adequate in light of latest estimates that Conrail will make a profit of close to $500 million in 1984 and have about $800 million in cash by the end of the year.

One of the offers of approximately $1.2 billion, from Alleghany Corp., was analyzed by the staff of the House Subcommittee on Commerce, Transportation and Tourism, whose chairman is Rep. James J. Florio (D., N.J.). The staff concluded, after examining Conrail's assets and profits and taking into account ancillary considerations such as tax implications, investment tax credits and depreciation, that the U.S. government, instead of selling the railroad, would actually "be paying Alleghany to take Conrail."

DOT also should make use of the months ahead to consult at length with L. Stanley Crane, Conrail's chairman and chief executive officer, and others in Conrail management who, with cooperation from labor, have had spectacular success in making the railroad profitable while simultaneously improving service. Views of Conrail executives should be helpful to DOT in evaluating the validity of offers and the credentials of bidders.

The needs of shippers also must be considered. Companies that rely on Conrail for freight service must have assurance that a new owner would meet obligations responsibly for continuation and improvement of service. States, cities and ports served by Conrail must have similar assurance.

American taxpayers have invested $6.7 billion in Conrail for equipment, capital improvements and—in the early, money-losing years—operating subsidies. There must be no giveaway now. Prospective buyers must be required to demonstrate persuasively a resolve and capability to meet Conrail's responsibilities to its customers and to the public.

The economy of the Northeast and Midwest—and, because of the interlocking nature of rail transportation and interstate commerce, the rest of the nation—will be affected for good or ill by the kind of freight service offered through what is now the Conrail system. A new owner must know, first and foremost, how to run a railroad.

[From the Washington Post, Sept. 12, 1984]

CONRAIL BIDDERS NARROWED TO 3—NORFOLK SOUTHERN, ALLEGHANY, MARRIOTT GROUP IN CONTENTION

(By Douglas B. Feaver)

Transportation Secretary Elizabeth Hanford Dole said yesterday that she has narrowed the list of possible buyers for Consolidate Rail Corp. (Conrail) to three: the Norfolk Southern Corp., the Alleghany Corp. and a venture headed by J. Willard (Bill) Marriott Jr.

Dole said she is referring the Norfolk Southern offer to the Justice Department "to review the competitive impact" of selling Conrail to another railroad that competes with it in some markets west of Pittsburgh. Further, she said, she will submit all three offers to the Treasury Department "to review tax or financial questions raised by any of the three."

Dole's announcement came after weeks of negotiations with six finalists from among 14 bidders for Conrail, the Northeast freight railroad that is 85 percent owned by the federal government. The three still in the running are no surprise and have been the ones spoken of most favorably by those representing Conrail's employes, whose own bid has fallen by the wayside.

Representatives of the employe groups could not be reached for comment. They own 15 percent of Conrail and have helped make it a financial success through wage deferrals and other givebacks. Labor's agreement is regarded as essential to the conclusion of any sale.

The reviews Dole is requesting by two other Cabinet-level agencies represent an additional step, which will lengthen the selection process. It now seems likely that Dole will not reach a final decision until after Congress has adjourned, probably on Oct. 5, and perhaps not until after the election. Some action by Congress will be required before the sale can be completed.

"There is no artificial deadline," Dole said, a reference to the fact that Rep. James J. Florio (D-N.J.), chairman of the House subcommittee that will have to review the sale, and others have claimed she was determined to conclude a deal before the election.

Theodore E. Somerville, vice president and general counsel of Alleghany, said that Dole's action yesterday "is a definitive response to those saying the process is hasty. It has been painstaking and cautious to the point of being downright glacial."

When Alleghany made its first offer in April, it said it needed a decision by Oct. 1 because its legal status will change to that of an investment company if cash it is holding from an earlier sale of Investor Diversified Services is not reinvested. That is a status Alleghany seeks to avoid.

Somerville said he is still concerned about that. He said Allenghany does not think it can seek an extension of its legal deadline from the Securities and Exchange Commission "until we have some solid facts to take with us. We were hoping to have one solid fact, designation as the winning bidder."

Spokesmen for Marriott and Norfolk Southern had no comment.

Dole said that all three had "significantly improved" their offers. A knowledgeable source said the improvements included an increase in price—all three are now offering about $1.2 billion in cash, up from about $1 billion—and have agreed to a number of five-year protections for Conrail users and employes.

Protections include ceilings on the dividends Conrail could pay its stockholders, minimum levels of annual reinvestment in physical plant, retention of the basic Conrail route system rather than a piecemeal sale or abandonment, and a pledge that the buyer would retain voting control of Conrail.

One of DOT's fears has been that it would be unable to keep track of Conrail's ownership if too much stock went public.●

ROUKEMA LAUDS RABBI SWIFT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mrs. ROUKEMA. Mr. Speaker, I pay tribute today to a man of considerable stature in northern New Jersey. On Sunday, September 16, 1984, Rabbi Issac L. Swift of Ahavath Torah of Englewood, NJ, will retire following years of untiring and loyal service to his congregation.

On Sunday, the people of northern New Jersey will pay tribute to the devoted life and works of Rabbi Swift. We will remember his unselfish spirit and the enrichment he has provided to the people he served.

Henry David Thoreau wrote in the 19th century: "I know of no more encouraging fact than the unquestionable ability of man to elevate his life by a conscious endeavor." Rabbi Swift, through his conscious endeavor, has certainly elevated his life and the lives of those people he has touched.

I ask that my colleagues join, in spirit, the congregation of Ahavath Torah, the residents of Bergen County and the entire State of New Jersey in honoring the noble service of this dedicated man, Rabbi Issac L. Swift.●

A TRIBUTE TO JOSEPH F. RIPPE

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. LUKEN. Mr. Speaker, I rise today to pay tribute to Joseph F. Rippe, president and chief executive officer of the Provident Bank and Provident Bancorp, Inc., who, in recognition of outstanding community involvement and commitment to the cause of American-Israel friendship, will receive the Tree of Life Award on Sunday, September 16.

Joseph F. Rippe has had an impressive career in the private sector as well as in public service. He served as president of the Provident Bank from February 1972 through 1982. In May 1980, he was elected chairman of the board of the Provident Bancorp, Inc. Mr. Rippe formerly served as president of the Southern Ohio Bank from 1964 to 1972.

In 1951, Mr. Rippe became president of Modern Real Estate Sales Co. and has been active in the real estate business for more than 30 years. He was a realtor, developer, and builder of various subdivisions and apartments throughout Hamilton and Warren Counties.

Mr. Rippe formerly served 6 years as a member of the Ohio Bank board and

served as a director on the board of the Cincinnati branch of Federal Reserve Bank, January 1974 through December 1976. He is a board member of various manufacturing companies in the Cincinnati area.

A graduate of Norwood High School, he served in the U.S. Navy during the years of 1944–46 in the South Pacific and Japan, and attended the University of Cincinnati.

While very successful in his career, Mr. Rippe's character is perhaps best reflected in his selfless dedication to civic activities. These activities include serving as a board member and president of Hamilton County S.P.C.A. and as an honorary alumnus of Xavier University. He is a past honoree of both the City of Hope and the National Jewish Hospital at Denver. During the 1960's–70's he served as chairman of MAAA at Xavier University. Mr. Rippe has been active in numerous Moeller High School fund-raising drives and involved in various other charities throughout Cincinnati.

In addition to presenting the award, the Jewish National Fund will establish the Joseph F. Rippe Forest at Kabri between Nahariya and Ma'alot in Israel's Galilee.

It is fitting that the Jewish National Fund, which has planted over 160,000,000 trees in Israel, built mammoth systems of roads and highways, greened the Negev Desert into an agricultural miracle, and converted the barren hillsides of the Galilee into orchards and farms and prepared sites for settlements and industry, has established a Tree of Life Award.

I take great pride enumerating the many accomplishments of Joseph F. Rippe, and I join his wife Elaine, his sons Joseph, Mark, and Bruce in honoring him for his commitment to the cause of American-Israel friendship.●

THE 50TH ANNIVERSARY OF THE MODERN CLUB

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. KOLTER. Mr. Speaker, on Saturday, September 15, 1984, the Modern Club of Aliquippa, a woman's civic group at one time affiliated with the Pennsylvania State Federation of Negro Women's Clubs, Inc. and the National Association of Colored Women's Clubs, will be celebrating its 50th anniversary.

This anniversary means more than a celebration of 50 years for these fine women, for it is through their efforts over the years that many aspiring students have been able to pursue their academic goals and in turn provide acquired knowledge and experience for the benefit of the whole community.

The Modern Club of Aliquippa was organized September 19, 1934, to provide scholarship aid to the most outstanding black high school senior each year as a result of the Great Depression. Despite the fact that dues were a mere 10 cents a month for the 12 charter members, by July of 1936 the Modern Club of Aliquippa awarded $50. A substantial sum during the depths of the Great Depression.

Through the years thousands of dollars have been given for scholarships, increasing steadily as the finances of the club increased. While there are no immediate and tangible rewards for their self-sacrifice and determination, they can achieve great satisfaction through the knowledge that their commitment to their fellow man will have helped to make our world a much better place in which to live.

Their charity and hard work is boundless and they have demonstrated themselves to be leaders in their churches, schools, and community. The members who are comprised mostly of homemakers have proven their potential to improve our society and strike a spark in the minds of others who will enrich the lives of all around them and cultivate the entire community.

In recognition of the dedication and perseverance which the members have maintained for 50 years, upholding their motto of "Lifting as we climb," I would like to openly commend their venerable actions, Mr. Speaker, and ask that each Member of Congress acknowledge the potential of every person to improve society, regardless of what obstacles are put before them.

I would like to thank all of these honorable women for their caring nature, commitment, and dedication to those in need. I extend my heartfelt congratulations to all of them on this, their 50th anniversary.

Thank you.●

NUCLEAR ARMS RACE

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mrs. BURTON of California. Mr. Speaker, I would like to bring to the attention of my colleagues a recent statement on the nuclear arms race made by the Most Reverend John R. Quinn, Archbishop of San Francisco. In a speech at St. Mary's Hospital in San Francisco, Archbishop Quinn made compelling arguments for citizens to take constructive political and social action opposing the massive, lethal buildup of nuclear weapons by the United States and the Soviet Union. I would like to insert in the RECORD an article which appeared in the San Francisco Chronicle on Archbishop Quinn's speech.

S.F. ARCHBISHOP CALLS ARMS RACE "INSATIABLE"

San Francisco Archbishop John F. Quinn said in a speech to a group of hospital workers yesterday that the arms race is "insatiable, implacable and escalating to a fever pitch."

He warned that a war could easily break out just because of a computer system breakdown, leading to a "nuclear winter" that might extinguish all life on Earth.

The 55-year-old Roman Catholic prelate, widely believed to be in line for a cardinal's red hat, was introduced as a "peaceful warrior for the Prince of Peace" at a lunchtime talk to the staff at St. Mary's Hospital and Medical Center on Stanyan Street.

The archbishop said that although the superpowers each have thousands of H-bombs in their arsenals, they continue developing weapons of more sophisticated technology and destructiveness.

"It's an insatiable, uncontrollable hunger," he said. "It's like money—nobody ever has enough. I'm reminded of the slogan on the old Cracker Jack box, 'The more you eat, the more you want.'"

The archbishop, known for his opposition to American intervention in Central America, said the arms race has produced "mounting anger in the Third World."

"It's caused degradation, poverty and injustice that only foment the causes of war," he said.

Many scientists now fear that a "nuclear winter" would result from an exchange of warheads, he said.

"It would be like creating a shield against the sun's radiation. This would lower the climate, making it impossible for plants to grow or animals to survive. That's a new consideration that must be introduced. Prevention is our only recourse."

The archbishop was applauded when he called on his listeners to dedicate themselves to a "psychology of peace."

"If we believe war is inevitable, that will be a self-fulfilling prophecy. But if we believe peace is possible, then we can reverse the psychology of war. And that, too, will be a self-fulfilling prophecy."●

ENCOURAGING RESULTS OF THE JOB TRAINING PARTNERSHIP ACT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. CONTE. Mr. Speaker, I would like to share with my colleagues a recent letter I received from one of three employment and training consortia in my congressional district, the Franklin/Hampshire Employment and Training Consortium. In that letter, the executive director, Arthur A. Schwenger, provides a very encouraging report on the results of the first 9 months of operation under the Job Training Partnership Act. I know that I and a great many of my colleagues are anxious to know how well the new JTPA is doing, and particularly whether the focus of the program on cooperation among local employers,

elected officials, and job training providers is working.

From the report provided by Mr. Schwenger, the preliminary results look very encouraging, and I am heartened by the success that the Franklin/Hampshire Employment and Training Consortium is having.

I would like to congratulate Mr. Schwenger and all who have participated in and benefited from the program. Knowing the people of the First Congressional District, I am sure that the JTPA in the Franklin/Hampshire area will continue to be a model program.

FRANKLIN/HAMPSHIRE EMPLOYMENT AND TRAINING CONSORTIUM,
Greenfield, MA, August 24, 1984.

Congressman SILVIO O. CONTE,
Congress of the United States, House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN CONTE: It was a real pleasure to join you, Mayor David B. Musante, Jr., and your most competent and responsive aide Jeff Ciuffreda at the presentation of the housing grant and in the conversation afterward of August 15. As I mentioned to you, the implementation of JTPA and the activity of the Franklin/Hampshire Private Industry Council during the first year of the program is a decided success. The partnership between the active PIC and the local elected officials (the Mayor of Northampton and the Greenfield Selectmen) has worked smoothly, cooperatively and in a most productive manner.

As I promised, I am enclosing a summary of our preliminary report for the nine-month transition year which began October 1, 1983 and ended June 30, 1984. When the final report is prepared this fall, I will forward a copy to you.

We are proud of these results. As you will note, the actual performance is well above expectations set through performance standards. Enrollments, particularly in youth categories, were behind because of a late start-up last fall, but all programs are fully enrolled and initial start-up problems are resolved. One indicator we are particularly happy about is the $5.03/hr. placement wage for Adult Welfare Recipients—virtually the same as all adults.

I am also enclosing a copy of the first follow-up report of our Service Delivery Area. I thought you might be interested in viewing the indicators and methods that will be used as JTPA matures. This report only studies eighteen people so its significance is minimal, but it is promising that two-thirds of those measured still were working after 13 weeks and 83.3 percent of those placed through the OJT (On-the-Job Training) program were still working.

I believe that JTPA in the Franklin/Hampshire area will continue to be a model program. The spirit of cooperation that was so necessary and apparent in the passage of this bi-partisan legislation on Capitol Hill has also been characteristic of the many organizations and the many representatives of the Private Sector who have been involved locally. I want to thank you for your past and continuing support for our rural employment and training programs. Your efforts have had a significant impact on the quality and commonsense administration of JTPA in the Franklin/Hampshire area.

Sincerely,

ARTHUR A. SCHWENGER,
Executive Director.

To: Franklin/Hampshire Private Industry Council.
From: James Parcells, senior planner.
Date: July 25, 1984.
RE: JTPA title IIA Performance—Final Performance for the Transition Year (October 1, 1983–June 30, 1984).

The following is a summary of the initial Title IIA performance for the nine-month Transition Year. The fiscal accounts have not as yet been closed out, so final expenditure data is not available.

A new column has been added to this month's report—Performance Standard. The Performance Standard is the performance that we are expected to achieve based on the U.S. Department of Labor's regression analysis.

Overall, our performance has been very good. We have exceeded our Performance Standards for Adult Entered Employment Rate, Adult Welfare Entered Employment Rate, Adult Average Placement Wage, Youth Entered Employment Rate, and Youth Positive Termination Rate. We also exceeded our Planned Performance for Adult Average Placement Wage and Youth Entered Employment Rate. It is also noteworthy that the Average Placement Wage for Adult Welfare Recipients was over $5.00/hr.

Performance indicators	Percent of—				
	Performance standard	Planned performance	Actual performance	Plan	Standard
Adult entered employment rate	68.7	76.6	73.5	96.0	107.0
Adult welfare entered employment rate	57.7	65.0	63.6	97.8	110.2
Adult average placement wage	$4.49/hr	$4.40/hr	$5.04/hr	114.5	112.2
Adult welfare average placement wage			$5.03/hr		
Youth entered employment rate	36.6	46.8	59.6	127.4	162.8
Youth positive termination rate	59.7	78.5	66.7	85.0	111.7
Adult—total participants served		191	174	91.1	
Youth—total participants served		250	122	48.8	

NATURAL GAS BILL'S SECTION 601 PROPOSES ANTICONSUMER ENERGY POLICY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. RAHALL. Mr. Speaker, while I generally support the goals of H.R. 4277, the Natural Gas Market Policy Act of 1984, I am greatly disturbed with the anticonsumer section 601 of the bill which would repeal title II of the Powerplant and Industrial Fuel Use Act of 1978.

This title of the Fuel Use Act prohibits the construction of new natural gas electric utility boilers.

It is my belief that we must give priority to residential and industrial uses of natural gas as opposed to allowing this valuable energy resource to be used by new electric utilities as a boiler fuel for the purpose of generating electricity. This belief is reinforced by the fact that every estimate of future domestic natural gas production does not indicate there will be a dramatic increase in our natural gas resource base.

In light of the great uncertainties surrounding future natural gas availability, prudence dictates that title II of the Fuel Use Act be retained. Indeed, the proposed elimination of title II raises the specter of the Nation revisiting the natural gas shortages experienced during the winter of 1976–77 when factories and schools closed. Ironically, this was the very situation which led to enactment of the NGPA and the Fuel Use Act in the first place.

As such, if section 601 of H.R. 4277 is passed by the Congress, residential and industrial users of natural gas may find that at some point in the future their gas supplies have been curtailed because of new electric utility demand for those very same supplies.

Another reason why I oppose the repeal of title II of the Fuels Use Act is that due to Federal wellhead price controls on natural gas—continued for the most part by H.R. 4277—natural gas if allowed to be used in new electric utility boilers would have an unfair advantage over other fuels such as coal.

In such an environment, the Federal Government would be promoting utility use of natural gas through these price controls. This is certainly an unfair energy policy and there can be no doubt that it would reduce future coal demand.

The sponsors of H.R. 4277 should be placed on notice that if section 601 is retained, it will have a far-reaching adverse impact on employment in the Nation's coalfields.

For these reasons, if H.R. 4277 is brought to the House floor, I will offer

an amendment to strike section 601(a)(2) of the bill. I would urge my colleagues who are concerned with the consumer and employment impacts of this provision to support my effort.●

AN APPRECIATION OF PHILIP MAZZEI—AN UNSUNG AMERICAN PATRIOT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. BIAGGI. Mr. Speaker, American history especially around the time of the American revolution is filled with heroes and patriots. Some of these are well known and have been treated kindly by history. Others have languished in greater depths of obscurity—but their contributions to the establishment of the American Nation are just as important. One such individual is Philip Mazzei—who played a quiet but powerful role in the shaping of the early American Nation and especially its system of government.

I wish to insert into the RECORD an excellent essay about Philip Mazzei written by Sister Margherita Marchione a noted professor of history at Farleigh Dickinson University in New Jersey. Sister Marchione is the author of a number of books and articles about Philip Mazzei including some that feature his writings on issues such as the Constitution. Sister Marchione is an historian with impressive credentials. Her work on Mazzei has and will continue to do a great deal to get him the recognition he so richly deserves.

Sister Marchione's essay follows:

This year we celebrate the 200th Anniversary of the founding of the Constitutional Society by Philip Mazzei, an Italian and a great American patriot, who wrote in 1776: "We think that if we could have but one and the same Constitution for all the united Colonies, our union would be infinitely stronger."

Philip Mazzei used the World as his classroom and helped educate people everywhere to democratic ideals. He did this by word-of-mouth and by his writings on the political, financial, and social conditions in the Colonies. One appreciates Mazzei's faith in free speech and the power of exposure, and recognizes his ideas on freedom, sex, property. And as he was conscious of man's injustice to woman, so too was he conscious of the injustice of man to man: slavery.

Not only men and agricultural products accompanied Mazzei to Virginia, but products of the mind and the lessons he, like Machiavelli, had learned from the study of Roman history. He also brought the ideas he had gathered from his reading of the Encyclopedists and Cesare Beccaria, and from his association with the best minds in Italy, France, and England.

Mazzei was a prolific writer and a proponent of religious and political freedom. Born December 25, 1730, in Tuscany, he lived in 20 cities in Italy, Turkey, Austria, England, United States, France, Holland, Russia and Poland during the 86 years of his life. In London he met Franklin and other members of the American colony, and learned that Virginia was climatically not unlike Tuscany. His imagination caught fire and as early as 1771 he drew up a plan for the organization of an agricultural company. He disposed of his London assets, went to Tuscany to procure men, plants, seeds, cuttings, implements, and knowledge necessary for the success of his new venture, and set sail on September 2, 1773, arriving in Virginia several months later.

Mazzei took his farming venture seriously, and organized a company to finance the implementation of the plan he had drawn up in London. Shares were sold and 31 colonial leaders, among whom were Lord Dunmmore, Washington, and Jefferson, invested in the enterprise. This was perhaps the first "Wine Company."

Mazzei's involvement in political affairs was constant. Indeed, his greatest contribution to the cause of the American Revolution was as propagandist. Not sharing the reluctance of the colonists to sever all ties with Great Britain, it was easier for him to advocate a complete break. He defended the American cause to European readers and fought against the misunderstandings and deliberate misrepresentations disseminated by European newspapers.

A concrete example of his desire to participate in the drafting of a constitution for the state of Virginia is the document "Instructions of the Freeholders of Albemarle County to their Delegates in Convention." In these "Instructions" Mazzei wrote: "The glory of having been the founders will afford such a gratification to our hearts as to over balance all the inconveniences and labours." It is the "missing link" which places Mazzei with our Founding Fathers.

There is no doubt that this document-draft of "Instructions" was written by Mazzei. Its importance was recognized in 1952 when Julian Boyd stated in an editorial note (The Papers of Thomas Jefferson, Vol. 6) that Jefferson's "own draft-constitution of 1783 was influenced by these views of the Albemarle inhabitants." Boyd printed the clerk's copy found among Jefferson's papers. He was not aware that the document was Mazzei's.

When the Colony of Virginia was in need of money and army supplies, Governor Patrick Henry commissioned Mazzei to seek help in Europe, and authorized him to borrow 900,000 pounds at a maximum of five percent interest. On June 20, 1779, off the eastern coast, the ship was captured by an English privateer, and Mazzei was forced to throw his credentials overboard and remain in New York and Long Island for three months. While held prisoner on Long Island, he observed the preparations being made by the British, and so devised a plan of his own to bottle up the enemy by having superiority on water. He not only wrote this to Jefferson, but he also discussed it in Paris and sent a sketch to General Rochambeau. His plan was not carried out in New York because the British in the meantime had moved south. Was Mazzei's plan of attack put into operation at Yorktown instead?

Mazzei returned to Virginia in 1783, and began plans for the organization of The Constitutional Society which was as new as his 1776 revolutionary concept of "one and the same Constitution for all the united Colonies." Two years later he joined Jefferson who had become Minister to France.

In 1788, Mazzei published his 4-volume "Recherches historiques et politiques sur les États Unis de Amèrique septentrionale." The work went through two French editions and a German adaptation. It is a reminder of the links between American and French political thought in the year immediately preceding the French Revolution. Mazzei's principal involvement with the Revolution was as an observer and a reporter. His participation in French affairs was related to his involvement with Polish affairs. He lived in Paris and functioned as an employee—first as agent and then as chargé d'affaires—of King Stanislaus. He succeeded in reestablishing diplomatic relations between France and Poland. Soon after reading Mazzei's "Recherches," the King invited him to Warsaw. Mazzei arrived there early in 1792, to be both friend and advisor. He wisely urged Stanislaus not to issue paper money, and wrote "Reflections on the Nature of Money and Exchange."

In 1802, at age 72, Mazzei traveled to Russia to claim Polish pension. When he returned to Pisa, he resumed the cultivation of his own little garden, happy to be just plain Pippo l'ortolano as his friends called him (Phil the gardener). He continued to offer his services to his adopted country. His final gesture of friendship to the United States was the hiring of two sculptors in 1802 for work in the national capital, Washington, D.C. From Pisa, at age 75, Mazzei set out for Rome, and hired Giovanni Andrei and Giuseppe Franzoni to bring their Italian artistic talents to the United States.

Mazzei's last years were spent gardening and writing his memoirs. His death on March 19, 1816, did not go unnoticed. Newspapers in New York, Pennsylvania, and Virginia printed lengthy and accurate obituaries. A proposal publish Mazzei's memoirs was also printed.

Philip Mazzei was remembered even though he had not returned to America in over 30 years. Jefferson commented in a letter to the American Consul in Leghorn: "He was of solid worth: honest, able, zealous in sound principles, moral and political, constant in friendship and punctual in all his undertakings. He was greatly esteemed in this country. . . ."

Philip Mazzei was more than a transmitter of ideas, prolific writer, and cultivator of important political friendships. He was an active participant in world events. His "Memorie" give us an eyewitness account of the three great national upheavals of the late eighteenth century—the American and French revolutions, and the events which led to the second partition of Poland.●

SOUTH AFRICA: THE OTHER EVIL EMPIRE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. COYNE. Mr. Speaker, a recent column by Mr. Carl Rowan reminds us that our Government is less than even handed in its criticism of repressive governments.

While this administration's criticism of the repression of human rights in the Soviet Union is both fast and fulsome, silence on South Africa seems to be the order of the day.

In recent weeks, more than 30 people have been killed, and scores more injured, in riots within black areas of Africa. Surely we need a reappraisal of our policy toward a nation which relies on force to maintain the reprehensible system of apartheid.

This House will have a chance to go on record on this matter next Tuesday when we consider House Concurrent Resolution 42, a measure which expresses the sense of the Congress that no new honorary South African consulates be opened. In addition, the measure asks the State Department to rescind permission for such a consulate in Pittsburgh, a city which I represent. I can assure my colleagues that the city of Pittsburgh, as evidenced by a City Council resolution which asked the State Department that the consulate be closed, has no desire to expand relations with the repressive government of South Africa.

At this point, I would like to include in the RECORD the column by Mr. Rowan.

THERE'S ANOTHER "EVIL EMPIRE"

(By Carl T. Rowan)

As reports roll in of new waves of violence in South Africa, several thoughts tugged at my mind.

First, sporadic bloody uprisings are inevitable in a country where 4.5 million white people deny citizenship and even rudimentary political rights to 20 million black people. The carnage has not been greater because the Afrikaner regime in Pretoria runs a police state that is every bit as efficient and ruthless as that of the Soviet Union.

How I yearn to hear President Reagan just once refer to South Africa as "an evil empire," or indicate that he knows that it bans, exiles, locks up without process of law and even kills its citizens in order to preserve a horrible system of racial separation and economic slavery.

It is a condemning commentary on the mind sets of those who now rule America, and many of those who write for America, that while they can identify emotionally with such names as Andrei Sakharov, Yelena Bonner, Anatoly Scharansky and Yury Orlov, the names of Steve Biko, Albert Luthuli, Nelson Mandela and Robert Sobukwe mean almost nothing to them. Americans speculate endlessly about what the Soviets are doing to Sakharov and his wife in Gorky, but act as though they never heard of Robben Island, or cared about what the South Africans are doing to Mandela there.

U.S. officials speak with veneration of Alexander Solzhenitsyn, the Soviet exile who denounces his brutal homeland. But when have you heard an American official even mention Donald Woods, the fifth-generation white South African who escaped his homeland and wrote so movingly from London: "If I could speak to every person on this globe, I would speak of my friend Steve Biko, who died naked on the floor of a prison cell after suffering torture and torment at the hands of men who represent an especially horrible form of evil—the evil of racism, which inflicts hatred and rejection upon its victims for being born with dark skin."

Every year that Americans cry out in behalf of a Sakharov and fall mute over the murder of a Biko, or some unnamed anguished black in Sharpeville, American credibility as an advocate of freedom in diminished.

Second, angry, ill-educated Africans will continue to let rage hurl them into the paths of policemen's bullets because for so many of them every moment of life is at the borders of death.

The South African newspaper, the Rand Daily Mail, recently reported these infant mortality rates (deaths per year of infants under the age of one per 1,000 live births): white South Africans, 12; urban nonwhites, 69; rural blacks, 282.

The publication World Development Forum indicates that this infant mortality rate is all the more astounding when one notes that the highest rate in the Third World is 210, in Burkina Faso, formerly Upper Volta.

Third, the potential for violence has been multiplied by the new "constitutional" ploy in which the ruling white minority is trying to woo Asians and Coloreds (people of mixed race) to their side so as to isolate the black majority. This ploy involves giving Asians and Coloreds limited political influence through a three-tiered parliament. But in the current rioting, blacks are killing blacks who they think are cooperating with the white oppressors, and those Asians and Coloreds who are going along with the separate-parliaments gambit have become targets of intense hatred among all nonwhite groups.

Chief Gatsha Buthelezi, leader of the country's 5.5 million Zulus, hs said: "We feel betrayed because so many of our Colored and Indian brothers have rushed forward with their tongues hanging out to endorse the white rejection of us."

In fact, less than a third of Indians and Coloreds had bought the bait, but that is enough to guarantee future bitterness and bloodshed.

Fourth, most Americans do not understand the intensity with which the Reagan administration and the United States are hated by Africans who see that U.S. leaders now condone racial oppression by silence, finance apartheid indirectly, provide by subterfuge the helicopters and weapons to keep racists in power, and are playing footsie with South African militarists who have tried to bomb weak neighboring countries into submission.

It is all but incredible that more countries in Africa have not gone the way of Libya and Ethiopia, or openly embraced communism. Soviet boorishness and blunders, and a determination of African intellectuals not to accept Soviet tyranny as a replacement for Western colonialism, have protected U.S. interests in that continent. However furious Africans may be over the repreated outraged of South Africa, few countries are now in a position to take a policy of total hostility toward the United States when what they have to fall back upon is Moscow.

I feel sure, though, that our children, or perhaps our grandchildren, will one day pay a heavy price for today's conscienceless, even shamefull, policies toward the apartheid in Pretoria.

But how naive can I be? Why would I expect an administration that has been cruelly unfair to nonwhite American citizens to suddenly show a compassionate concern for 20 million faceless blacks at the southern tip of Africa?●

QADHAFI AND "TERROR INCORPORATED" ARE STILL IN BUSINESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. BROOMFIELD. Mr. Speaker, the sordid terrorist activists of Col. Mu'ammar Qadhafi continue unabated. The latest incident involves a possible attack on Mecca, Saudi Arabia. The following article describing the latest Qadhafi plot paints a clear picture of what this mad man will do in order to attain his distorted political objectives.

When more evidence is released, I am confident that the facts will reveal that the aborted Mecca incident was carefully planned and directed by Qadhafi. The colonel was advised by the Saudis and others that they were aware of his plot to have armed Libyan religious pilgrims take over the Holy Mosque in Mecca. This caused him to go public and tell Libyans in Arabia to cancel the plan and cooperate with the Saudis. Most Muslim pilgrims on their way to the holiest site in the Middle East arrive with suitcases and a few belongings, not automatic weapons hidden aboard aircraft and ships. To the average Muslim, an attack upon the sacred sites in Mecca is unthinkable.

Such scheming is nothing new to the man whom Claire Sterling described as the "Daddy Warbucks" of world terrorism. Let me mention just a few of his international operations. His military intervention in Chad is well known along with his disastrous involvement in Uganda a few years earlier where he tried to assist his old friend and fellow dictator, Idi Amin. He launched a short but disastrous war with Egypt in the 1970's, and burned down the American Embassy in Tripoli in 1979. When opposition to his regime increased, he assassinated scores of young Libyan students and others in Europe and "disappeared" a leading Iranian religious leader who was passing through Libya. To show his displeasure with the moderate policies of Habib Bourguiba in Tunisia, the colonel arranged for an attack on Gafsa, a southern Tunisian town. After the Gulf of Sidra incident, Qadhafi may have planned to assassinate President Reagan in order to get revenge for the downing of two Libyan aircraft, one of which fired on the U.S. planes. Who can forget the tragic killing in London of a British policewoman by a so-called diplomat firing from the Libyan Embassy? He also boasts of his support of the Sandinistas in Nicaragua and sends equipment and advisers to that country.

There is also strong evidence that Qadhafi masterminded the mining of the Red Sea and the Suez using a Libyan ship named the Ghat. Considering this long list of Qadhafi activities, the recent plot involving Libyan pilgrims in Mecca comes as no surprise. His malevolence seems to know no limits.

Qadhafi is undoubtedly the leader of the foreign terrorist network. He and his assassins have the wide array of tools needed for terror and subversion. Unfortunately, some of Qadhafi's terrorist expertise and equipment came from U.S. citizens. Today, there is still no U.S. Federal law which prohibits Americans from aiding terrorists overseas, or even committing terrorist acts. Fortunately, part of the President's antiterrorism proposals contains suggested legislation which would require a U.S. Government license in order to provide certain services to countries around the world. This is a legislative approach which is long overdue. It deserves our support.

With these thoughts in mind, I strongly recommend excerpts from the Washington Post article to my colleagues. The latest Qadhafi scheme is just a reminder that the Sultan of Terrorism never sleeps. Terrorism will continue and our Government must have the tools to counter it.

The article follows:

[From the Washington Post, Sept. 2, 1984]

MECCA PLOT DESCRIBED BY QADDAFI—LIBYANS URGED TO DROP PLAN FOR SEIZING OF MOSQUE

(By David B. Ottaway)

TRIPOLI, LIBYA, Sept. 1.—Libyan leader Muammar Qaddafi disclosed today what he said was a plan by Libyans now in Mecca on the annual pilgrimage to take over the Great Mosque, Islam's most holy site, and called on them to cancel the plan and cooperate closely with Saudi authorities.

In a speech marking the 15th anniversary of his coming to power, Col. Qaddafi said he had learned of the plot this morning from Saudi Arabia's King Fahd, King Hassan II of Morocco and Syrian authorities, who apparently appealed to him to abort it.

The leader urged them, however, not to carry out their project "so that we Arabs perform the mission of meeting in the sacred house of God with the rest of non-Arab Islamic nations in respect and faithfulness."

Qaddafi's remarks came at the start of a two-hour parade of some of Libya's arms newly acquired from the Soviet Union.

Qaddafi reiterated denunciations of the United States, calling it "the leader of international terrorism." He described Washington as the center of "the new Nazism" and "new fascism" and pledged to aid Nicaragua in its struggle with the United States by working to form "as wide a front as possible" with such other anti-American countries as Iran, Afghanistan and Cuba.

We have fought along with Nicaragua some miles away from America. Libyan fighters, arms and backing to the Nicaraguan people have reached them because they fight with us, they fight America on its own ground." Qaddafi said. Nicaraguan Interior Minister Tomas Borge, who reportedly came here seeking Libyan assistance, was attending the ceremonies and joined in a loud burst of applause.

Libya in the past has been known to give financial assistance to the Sandinista government in Nicaragua, including a $100 million loan in 1981. In April 1983, two Libyan aircraft en route to Nicaragua were found to be carrying arms after making an emergency landing in Brazil.

Although there have been no reports of direct Libyan troop involvement, the United States has made a number of allegations concerning Libyan military assistance to the Sandinistas. According to recent U.S. government releases, the Sandinistas have received four Italian-made support aircraft believed to have come from Libya, as well as helicopters and "about 20 Libya pilots and mechanics."

Qaddafi's speech included a call to other Arab leaders "to liberate our nation from the Atlantic to the [Persian] Gulf," to destroy Israel and "to liberate every inch of Palestine, even if we wage the liberation struggle in a pool of blood and cross over bridges made of bodies."

Qaddafi's appeal to the Libyans among the millions of Moslems traveling to Mecca on this year's *hajj*, or pilgrimage, came at the start of his hour-long speech before the parade.

The 42-year-old Libyan leader said he had been told that "the revolutionary forces and popular masses" of the People's Congress among the Libyan pilgrims had drawn up a plan "to take to the streets of Mecca and control the holy mosque of Mecca."

He asked them to act "responsibly and in close cooperation with the Saudi authorities" to avoid any incidents. "We make this call for cooperation with the Saudi authorities because we are in a stage whereby we would like to unite the Arab nation to confront the hostile challenge and the impending danger facing the Arab nation," he said.

Disclosure of the Mecca takeover plot, reminiscent of the seizure of the Great Mosque by Islamic extremists in November 1979, came less than two weeks after Saudi authorities found arms aboard two Libyan planes arriving in Jeddah with pilgrims. The Saudis refused to allow them to disembark.

Although the incident, which occurred Aug. 18, was reported early last week by NBC, the Saudis have not commented on it publicly.

Sources here said not only two Libyan planes were turned back, but also two Libyan ships carrying pilgrims. Their captains had refused to allow them to be searched for arms, the sources said.

The two incidents reportedly took place about the same time and caused Maj. Abdel Salem Jalloud, the No. 2 man in the Libyan leadership, to fly to the Saudi kingdom to placate King Fahd. Jalloud apparently persuaded the Saudis not to publicize the incidents, although Saudi diplomats have informed others stationed here and in other Arab capitals about what happened.

The two incidents raise the question of whether the attempt to infiltrate arms was connected to the plan, disclosed by Qaddafi today, of Libyan pilgrims to seize control of the Great Mosque. Also left unclear is whether the Libyan pilgrims were acting on their own initiative or with the involvement of the Libyan government.

The two-week siege of the Great Mosque in 1979 was by fundamentalist Moslem radicals said to be seeking to proclaim their leader a prophet. Saudi officials estimated that 60 soldiers, 75 members of the sect and 26 pilgrim bystanders or hostages were killed when troops drove out the assailants.

Libya's system of "People's Congresses," which calls for Libyans to form their own self-governing assemblies wherever they are in the world, allows for a great deal of local initiative. But the Saudis and other Arabs are unlikely to believe that such a plan could be attempted without the approval of the government here.

Yet an involvement of the government would seem to be out of keeping with Qaddafi's present efforts to improve his relations with Arab moderates, notably King Fahd and King Hassan of Morocco, to the point of planning a union with the Moroccan kingdom.

Reports circulating here today said there was little likelihood that Hassan would come here this weekend, as had been rumored, to join Qaddafi in celebrations marking both the Libyan-Moroccan union and his 15th year in power.

Today, Qaddafi praised Hassan and defended the union between Libya's often chaotic system of "direct democracy" and the conservative kingdom of Morocco.

Qaddafi made only a brief mention of the Polisario liberation movement fighting Morocco in the Western Sahara. He has supported it for years but is now abandoning it in favor of alliance with Hassan.

The colonel told Polisario to redirect its efforts, together with the other North African armies, "to march toward Palestine and Jerusalem."

Qaddafi made no comment on the U.S. decision yesterday to restrict Libyan diplomats at the United Nations to the city limits of New York, the most restrictive measures placed on any diplomats there.

[The British Foreign Office announced accreditation of the first Libyan diplomat since the siege of the Libyan embassy in April, The Associated Press reported from London. On Friday, Libya had released two Britons detained since the siege triggered by the shooting of a policewoman from the embassy.]

Qaddafi boasted repeatedly about his intention to use his arsenal of Soviet-supplied arms for more than parades, saying it would be put to the service of "changing the map" of the Arab world and "inciting and mobilizing the Arab masses so as to ridicule and remove these artificial borders" among Arab nations.

The well-organized parade beside the port included scores of tanks, Frog and Scud ground-to-ground missiles and SA9 surface-to-air missiles. MiG23s and MiG25s flew overhead and several frigates and a submarine maneuvered within the basin.

Special correspondent James Rupert added from Tunis:

As Morocco and Libya instituted their union, there were new signs of concern among their neighbors, France and the United States.

French Foreign Minister Claude Cheysson, ending a visit to Algeria and Tunisia, said the union had raised discord in the region: "This is not a favorable factor for rapproachement in the Maghreb [northwest Africa], and we regret this."

As Cheysson returned to France he made clear that one major goal of his talks has been to measure the reaction to the Moroccan-Libyan union.

Diplomatic sources here said Cheysson had heard a particularly sharp reaction from Algerian officials who interpreted the union as a maneuver aimed at Algeria.

Western observers said American worries over the union were underlined by the visit to the region of President Reagan's troubleshooting special Ambassador Gen. Vernon Walters. He spent the day with Tunisian President Habib Bourguiba then said only that they had discussed bilateral and regional issues. The U.S. Embassy confirmed that he had come to Tunis from Morocco, where he met with Hassan.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 13, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 14

9:30 a.m.
Finance
International Trade Subcommittee
Taxation and Debt Management Subcommittee
To hold joint hearings on S. 2429, to increase the duty on certain shelled filberts; to be followed by hearings by the Subcommittee on Taxation and Debt Management on S. 2933, to provide that the restrictions imposed by the Deficit Reduction Act of 1984 with respect to property leased by a tax-exempt entity would generally not apply to certain correctional facilities leased by State and local governments.
SD-215

10:00 a.m.
Environment and Public Works
Business meeting, to mark up S. 2892, to amend and authorize funds for the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).
SD-406

Conferees
On S. 529, to revise and reform the Immigration and Nationality Act.
EF-100, Capitol

2:00 p.m.
Foreign Relations
To hold hearings on the nomination of Melvyn Levitsky, of Maryland, to be Ambassador to the People's Republic of Bulgaria.
S-116, Capitol

SEPTEMBER 17

9:30 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To resume oversight hearings to examine the impact of the Federal income tax system on productivity and economic growth.
SD-215

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on certain activities in behalf of the Bicentennial of the U.S. Constitution.
SD-226

Conferees
On S. 529, to revise and reform the Immigration and Nationality Act.
EF-100, Capitol

2:00 p.m.
Finance
Health Subcommittee
To hold oversight hearings on the implementation of the medicare hospice benefit of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).
SD-215

SEPTEMBER 18

9:00 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the implementation of the Motor Carrier Act of 1980 (Public Law 96-296).
SR-253

9:30 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2032, H.R. 5426, and S. 2916, bills to designate certain lands in Colorado as wilderness.
SD-366

Finance
International Trade Subcommittee
To hold hearings on the state of the U.S. textile industry under the trade agreement program.
SD-215

Judiciary
Juvenile Justice Subcommittee
To resume hearings on S. 521 and S. 1924, bills to establish a criminal background check of individuals whose employment may bring them into contact with institutionalized children.
SD-106

Labor and Human Resources
To hold oversight hearings on the implementation of the Orphan Drug Act (Public Law 97-414), focusing on section 7 relating to radiation-cancer liability.
SD-430

Labor and Human Resources
Labor Subcommittee
To resume oversight hearings on the implementation of the Taft-Hartley Act and the Railway Labor Act.
SR-485

10:00 a.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
S-407, Capitol

11:00 a.m.
Judiciary
To hold hearings on pending nominations.
SD-226

Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SR-325

2:00 p.m.
*Judiciary
To hold hearings on S. 2417, to ensure a greater measure of competition in the railroad freight industry's hauling of certain products.
SD-226

3:00 p.m.
Temporary Select Committee to Study the Committee System
Business meeting, to consider recommedation to reform the Senate committee system.
S-224, Capitol

SEPTEMBER 19

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the activities of the National Highway Transportation Safety Administration.
SR-253

10:00 a.m.
Finance
To hold hearings on certain Superfund issues.
SD-215

Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings to review Federal agency policy on controls and responsibilities.
SD-628

Labor and Human Resources
Business meeting, to consider the nomination of Rosemary M. Collyer, of Colorado, to be General Counsel of the National Labor Relations Board; S. 2568, Civil Rights Act of 1984; S. 44, to provide for a uniform product liability law; S. 2878, Pharmaceutical Export Amendments of 1984; and other pending calendar business.
SD-430

11:00 a.m.
Judiciary
To hold hearings on pending nominations.
SD-226

2:00 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2667, to establish a program for the conservation and management of coastal migratory fish and impose a moratorium on fishing for Atlantic striped bass, and to review other fish and wildlife matters.
SD-406

3:30 p.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

SEPTEMBER 20

9:00 a.m.
Office of Technology Assesment
To hold a general board meeting.
S-205, Capitol

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1981, authorizing additional funds for the development of small reclamation projects.
SD-366

Finance
To resume hearings on flat rate and other major tax reform proposals.
SD-215

Joint Economic
Trade, Productivity, and Economic Growth Subcommittee
To resume hearings on how to save the international trading system, focusing on agricultural trade.
SD-342

SEPTEMBER 21

9:30 a.m.
Special on Aging
To hold hearings to examine the cost of caring for the chronically ill.
SD-628

10:00 a.m.
Finance
Health Subcommittee
To hold hearings to review the current method of financing medical education costs under the medicare program.
SD-215

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on issues relating to Antarctica, focusing on the proposed Convention on the Conservation of Antarctica Living Marine Resources, U.S. and international research activities therein, and on the proposed Antarctica Minerals Treaty.
SR-253

2:00 p.m.
Judiciary
To hold hearings on S. 2835, to allow certain sellers of agricultural products to bring antitrust actions.
SD-226

SEPTEMBER 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Household Goods Transportation Act (Public Law 96-454), and the Bus Regulatory Reform Act (Public Law 97-261).
SR-253

Judiciary
Juvenile Justice Subcommittee
To resume hearings to review the effects of pornography on women and children.
SD-226

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings to examine the use of recreational drugs in professional and amateur sports.
SD-430

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings on the release into the environment of genetically engineered organisms.
SD-406

SEPTEMBER 26

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 337, to make permanent the deduction for charitable contributions by nonitemizers, and S. 2017, to revise certain IRS regulations relating to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances.
SD-215

10:00 a.m.
Governmental Affairs
To resume hearings to review the relationship between Congress and the Executive in the formulation and implementation of foreign policy.
SD-342

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

SEPTEMBER 27

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To continue hearings on the release into the environment of genetically engineered organisms.
SD-406

Labor and Human Resources
Aging Subcommittee
To hold hearings on longevity and the lifestyle of older individuals.
SD-430

SEPTEMBER 28

9:30 a.m.
Finance
Health Subcommittee
To resume hearings to examine how to ensure quality health care for low-income persons.
SD-215

OCTOBER 1

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to investigate certain activities of the video gambling industry, focusing on the alleged involvement of organized crime and the potential for public corruption.
SD-342

OCTOBER 2

10:00 a.m.
Governmental Affairs
To resume hearings on S. 1746, to allow the Federal Government to freely procure certain goods and services from the private sector.
SD-342

CANCELLATIONS

SEPTEMBER 14

10:00 a.m.
Joint Economic
To resume hearings to evaluate the role of innovation in America and to review the application of new ideas to basic industries.
2203 Rayburn Building

HOUSE OF REPRESENTATIVES—*Thursday, September 13, 1984*

The House met at 11 o'clock a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, O God, for the bounty of Your creation and the gifts of Your grace. Yet, we remember, too, those whose joy has turned to mourning and whose bounty has turned to disappointment. We recall in our prayer those who suffer from sickness or the ravages of destruction, those who face anxiety and worry about the future, or those who cannot provide for those they love. May Your abiding providence surround them and us with Your love and encourage us all with Your peace that passes all our human understanding, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FIELDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 30, answered "present" 4, not voting 36, as follows:

[Roll No. 388]

YEAS—362

Ackerman	Bedell	Breaux
Addabbo	Bellenson	Britt
Akaka	Bennett	Brooks
Albosta	Berman	Brown (CA)
Alexander	Bethune	Brown (CO)
Anderson	Bevill	Broyhill
Andrews (NC)	Biaggi	Bryant
Andrews (TX)	Bilirakis	Burton (CA)
Annunzio	Bliley	Burton (IN)
Anthony	Boehlert	Byron
Archer	Boland	Campbell
AuCoin	Boner	Carney
Badham	Bonior	Carper
Barnard	Bonker	Carr
Barnes	Borski	Chandler
Bartlett	Bosco	Chappell
Bateman	Boucher	Clarke
Bates	Boxer	Clinger
Coats	Hawkins	Mikulski
Coelho	Hayes	Miller (CA)
Coleman (MO)	Hefner	Mineta
Collins	Hertel	Minish
Conable	Hightower	Moakley
Conte	Hillis	Molinari
Conyers	Holt	Montgomery
Cooper	Hopkins	Moody
Corcoran	Horton	Moore
Courter	Howard	Moorhead
Coyne	Hoyer	Morrison (CT)
Craig	Hubbard	Morrison (WA)
Crane, Daniel	Huckaby	Murphy
Crane, Philip	Hughes	Murtha
Crockett	Hunter	Myers
D'Amours	Hutto	Natcher
Daniel	Hyde	Neal
Dannemeyer	Ireland	Nelson
Darden	Jenkins	Nichols
Daschle	Johnson	Nielson
Daub	Jones (NC)	Nowak
Derrick	Jones (OK)	Oakar
DeWine	Kaptur	Oberstar
Dicks	Kasich	Obey
Dingell	Kastenmeier	Olin
Dixon	Kazen	Ortiz
Donnelly	Kemp	Owens
Dorgan	Kennelly	Oxley
Dowdy	Kildee	Packard
Downey	Kleczka	Panetta
Dreier	Kogovsek	Pashayan
Duncan	Kolter	Patman
Dwyer	Kostmayer	Patterson
Dyson	Kramer	Paul
Early	LaFalce	Pease
Eckart	Lagomarsino	Petri
Edgar	Lantos	Pickle
Edwards (AL)	Latta	Porter
Edwards (OK)	Leach	Price
English	Leath	Pursell
Erdreich	Lehman (CA)	Quillen
Erlenborn	Lehman (FL)	Rahall
Evans (IL)	Leland	Rangel
Fascell	Lent	Ratchford
Fazio	Levin	Ray
Feighan	Levine	Regula
Fiedler	Levitas	Reid
Fish	Lewis (CA)	Richardson
Flippo	Lewis (FL)	Ridge
Foglietta	Lipinski	Rinaldo
Foley	Livingston	Ritter
Ford (TN)	Lloyd	Robinson
Fowler	Loeffler	Rodino
Frank	Long (LA)	Roe
Franklin	Lott	Rogers
Frenzel	Lowery (CA)	Rose
Frost	Lowry (WA)	Rostenkowski
Fuqua	Lujan	Roth
Garcia	Luken	Roukema
Gaydos	Lungren	Rowland
Gekas	Mack	Roybal
Gephardt	MacKay	Rudd
Gibbons	Madigan	Russo
Gilman	Marlenee	Savage
Gingrich	Marriott	Sawyer
Glickman	Martin (IL)	Scheuer
Gonzalez	Martin (NY)	Schneider
Gore	Martinez	Schulze
Gradison	Matsui	Schumer
Gray	Mavroules	Seiberling
Green	Mazzoli	Sensenbrenner
Gregg	McCain	Sharp
Guarini	McCandless	Shaw
Gunderson	McCloskey	Shelby
Hall (IN)	McCollum	Shumway
Hall (OH)	McCurdy	Siljander
Hall, Ralph	McDade	Sisisky
Hall, Sam	McEwen	Skeen
Hamilton	McGrath	Skelton
Hammerschmidt	McHugh	Slattery
Hance	McKernan	Smith (FL)
Hansen (ID)	McKinney	Smith (IA)
Hansen (UT)	McNulty	Smith (NE)
Hartnett	Mica	Smith (NJ)
Hatcher	Michel	Snowe
Snyder	Thomas (GA)	Whittaker
Solarz	Torres	Whitten
Spence	Torricelli	Wilson
Spratt	Traxler	Winn
Staggers	Udall	Wirth
Stark	Valentine	Wise
Stenholm	Vandergriff	Wolf
Stokes	Vento	Wolpe
Stratton	Volkmer	Wortley
Studds	Vucanovich	Wright
Sundquist	Walgren	Wyden
Swift	Watkins	Wylie
Synar	Waxman	Yates
Tallon	Weaver	Yatron
Tauke	Weiss	Young (FL)
Tauzin	Wheat	Young (MO)
Taylor	Whitehurst	Zschau
Thomas (CA)	Whitley	

NAYS—30

Bereuter	Gejdenson	Sabo
Broomfield	Goodling	Schaefer
Chappie	Harkin	Schroeder
Clay	Jacobs	Sikorski
Coughlin	Kindness	Smith, Denny
Dickinson	Miller (OH)	Solomon
Durbin	Mitchell	Vander Jagt
Emerson	Penny	Walker
Evans (IA)	Roberts	Weber
Fields	Roemer	Young (AK)

ANSWERED "PRESENT"—4

Davis	Edwards (CA)
Dymally	St Germain

NOT VOTING—36

Applegate	Heftel	Parris
Aspin	Hiler	Pepper
Boggs	Jeffords	Pritchard
Cheney	Jones (TN)	Shannon
Coleman (TX)	Long (MD)	Shuster
de la Garza	Lundine	Simon
Dellums	Markey	Smith, Robert
Ferraro	Martin (NC)	Stangeland
Florio	Mollohan	Stump
Ford (MI)	Mrazek	Towns
Gramm	O'Brien	Williams (MT)
Harrison	Ottinger	Williams (OH)

□ 1120

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the bill (S. 1538) "An act to amend the patent laws of the United States."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 141. Concurrent resolution to correct technical errors in the enrollment of the bill S. 1538.

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER pro tempore (Mr. MONTGOMERY) laid before the House

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the following resignation as a member of the Committee on Government Operations:

HOUSE OF REPRESENTATIVES,
September 12, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign my membership on the House Committee on Government Operations effective immediately.

Sincerely,

BUDDY MACKAY.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

ELECTION OF MEMBERS TO COMMITTEE ON FOREIGN AFFAIRS AND COMMITTEE ON GOVERNMENT OPERATIONS

Mr. LONG of Louisiana. Mr. Speaker, I offer a privileged resolution (H. Res. 582) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 582

Be it resolved, the following Members are hereby elected to the designated committees:

Buddy MacKay of Florida, to the Committee on Foreign Affairs.

George (Buddy) Darden of Georgia, to the Committee on Government Operations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICAN DEFENSE EDUCATION ACT SHOULD BE VOTED DOWN

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I would hope that when the House has before it today H.R. 5609 and the rule making that bill in order relating to education expenditures out of the Committee on Education and Labor, I would hope that Members of the House would vote against the rule and vote against the bill.

In my opinion that bill has no place in this House at this time. There are a lot of people who have voted over the last 4 or 5 years against virtually every item that would assist education and now seek to, in fact, cover that record by in effect voting for a bill which they know is going to go nowhere.

The bill coming out of the Committee on Education and Labor today, if it is brought up, will go nowhere.

If it passes the House it will not become law.

All it will do is give politicians an opportunity to pose for holy pictures on the issue of education, without really doing anything real in any way whatsoever to assist education.

I really do not believe that bill ought to be on the floor and for a variety of reasons, including the one I have just recited, I would urge Members to vote against the rule and against the bill when it comes up today.

I would also point out, Mr. Speaker, that at a time when both parties are claiming to be fiscally responsible, that bill has an incredible price tag and it is not being paid for, and until it is we should vote against it.

□ 1130

BANK DEREGULATION

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, bank deregulation continues to be the subject of sharp public debate in our country.

Big banks lead the fight for deregulation saying that banks are like any other industry and will be helped by marketplace competition.

That is a mighty strong argument and you and I might be persuaded to follow the big banks except for two facts. No. 1, those favoring regulation say that banks are different and that for 50 years we have regulated their geographical spread and their commercial activities, no insurance, no securities, no real estate, in order to promote safety and soundness and to prevent the abuse of power that comes from the control of money. History shows that bank regulation has been successful in America.

The second argument against the big banks is that they are not really going into the marketplace under deregulation. The bailout of Continental Illinois proves what the big banks know and do not want you to know. They are too big to fail. We will not let them.

In fact, deregulation means more profit, more power, more control, with no loss of safety to the big banks. No wonder they favor deregulation. No wonder we should oppose it.

MR. MONDALE'S POSITION ON PORNOGRAPHY

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, this week the other body is holding hearings on the subject of pornography, particularly focusing on its impact on women and children.

As the country considers this serious issue, we should be aware that the Democratic Presidential candidate, Walter Mondale, expressed himself on the issue of pornography when he voted against Senate Resolution 477 on October 13, 1970. That vote, in effect, made Mr. Mondale one of only five Members of the U.S. Senate supporting repeal of all pornography laws, Federal laws, State laws, and local ordinances.

So when we hear the horror stories from the hearings in the other body and from elsewhere in this country, the stories of child abuse and the exploitation of women, let us remember that Mr. Mondale expressed himself on the issue of pornography, he said that the problem was not pornography. The problem was the laws against pornography. So much for his concern for women and children.

ADMINISTRATION IGNORES CONCLUSION OF ITC AND RULES AGAINST COPPER QUOTAS, TARIFFS

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, last week the administration ignored the unanimous conclusion of its International Trade Commission and ruled against imposing any quotas or any tariffs in the copper industry. That decision was made at a time when over half of the American copper miners are out of work, when all major copper companies are suffering enormous financial losses and when governments like Chile are responding to their fiscal foolishness by importing American jobs to South America.

This same administration has imposed textile quotas on 110 occasions already in 1984 and justified it by saying, "the quota program is not about preventing imports but moderating them."

Mr. President, how do you justify your position on textiles and your disdain for the plight of the copper industry? For that matter, how do you justify so-called voluntary quotas on Japanese automobiles? Slogans about free trade and protectionism don't bridge this inconsistency. The political cynicism generated by this kind of selective discrimination gnaws at this Nation's sense of justice and demands an explanation.

TIMBER BAILOUT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the Congress may soon consider a billion-dollar bailout bill for a few western timber companies. In the face of mammoth deficits, speculators in the industry have begged the Congress to break $3 billion in Federal timber contracts.

I can only say this about these "Village Budget Busters":

Under the federal money tree,
the timber company stands;
A business married to Adam Smith
With large and outstretched hands.
And the lobbyists of this industry
Are determined to rape the lands.
Their suits are dark, and striped in pin,
Their faces are sun tan.
Their pockets overflow with federal dough,
They take what'er they can,
And look the Congress in the face,
To complain we're out of hand.
Week in, week out, from morn til night,
You can hear their bellows blow.
You can hear them sing their sad, sad song
And listen to the tale of woe.
Like a millionaire on the welfare role
When the deficit's ready to blow!

AMERICAN DEFENSE EDUCATION ACT

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, critics of higher education have complained about the deterioration of quality in such areas as mathematics, the sciences, foreign languages, communication skills, and technology.

That is why I have cosponsored the American Defense Education Act. To authorize a national program of incentives; to assist all local educational agencies; to improve instruction in these key areas, as well as in guidance counseling.

This legislation would target funds—as much as $7.6 million to Nevada in the first year—for the improvement of instruction in these fields while giving considerable discretion to local school personnel in determining how the funds would be expended.

The bill also provides for public participation in the development of the program for the use of these moneys.

I strongly believe that if we can create a stronger foundation in these learning areas we can prepare our students for professional advancement while assuring our country of healthier, long-term development.

BAILOUT OF REA

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, a few weeks ago we had a bill here on the floor brought to us by the Agriculture Committee to bail out the REA $7.9 billion. In the course of that debate it was developed extensively, in fact, that all of the weight of authority here in this town was opposed to the bill that was being pushed by the Agriculture Committee and the NRECA, the lobby group that was so powerful in getting the bill through the House. It passed by a 2-to-1 margin.

But I would encourage the Members to take a look at the article that was in the last issue of the Reader's Digest, called "Power Play on the Potomac," wherein the arguments were restated. I would encourage the Members to reconsider the substitute that I offered here on the floor that day and the substitute that is being offered by the junior Senator from Wyoming on the Senate side.

□ 1140

I think that ultimately this bill is going to have to be pared down. It is too big. They are over-reaching. And I would encourage Members, before you get too far out on this, to take a look at this other option, because I think the right of the matter will lie closer to the substitute that I offered here in the House than the bill that the Agriculture Committee brought us.

A BALANCED BUDGET

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, 4 years ago President Reagan went around the country telling people he had to be elected in order to save the country from rising deficits. Now that he has been elected and his programs have been implemented we find ourselves awash in the largest deficit this country has ever had. What happened? This President who said he was going to reduce the deficit, cut taxes and raised spending on his favorite projects. Many Members of Congress thought it at least a curious proposition that revenue could be reduced and spending increased and a balanced budget achieved at the same time. Now we know beyond the shadow of a doubt that this proposal is the voodoo economics GEORGE BUSH said it was back in 1979.

Walter Mondale, on the other hand, has shown both courage and honesty in presenting a budget proposal that offers a realistic hope of actually balancing the budget. In their less partisan moments, I think Republicans as well as Democrats would acknowledge that Walter Mondale's plan has a great likelihood of working if it is implemented. Walter Mondale is a man who has worked for years as a Member of the Congress to craft responsible yet fair revenue raising and revenue allocation policies. He knows what he is doing. And we know he knows what he is doing.

I think it is time to call on the American people to demand of President Reagan that he quit giving them smiles and vague promises. It is unfair of the President to sidestep the right of the American people to know what he has in store for them if he is elected to a second term. Walter Mondale has been honest and open. Shouldn't we expect the same of our President?

THE LATE HON. JERRY VOORHIS

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I take this time, with some sadness, to report the passing of a distinguished former colleague, former Congressman Jerry Voorhis of California. He died on Tuesday, at the age of 83.

Jerry served in the House from 1936 until 1946, so there are relatively few present Members who will remember him. However, those of us in California cannot forget him because he is a memorable part of California's political history.

In addition to that, Jerry remained an active and concerned citizen up to the very day of his death, and many of us Members from California have received voluminous letters from him expressing his views on the topics of current political interest. I still have one of those letters unanswered on my desk.

He was also one of my dearest friends, a great Christian, a great statesman, a man who contributed in many ways to the welfare of this country. For example, for 20 years he served as the national executive secretary of the Cooperative League of the United States and directed many programs of lasting importance both to this country and to many of the countries of the Third World. Those of us involved in consumer and producer cooperatives looked to Jerry as the greatest cooperative leader of our time.

I hope that the California delegation may reserve some time later on in the session for others to comment on Jerry's passing, but for me it was a deep personal tragedy. I extend my deepest condolences to his wife, Louise, and to the other members of his family.

HYDRILLA IS THREAT TO POTOMAC RIVER

(Mr. DYSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYSON. Mr. Speaker, as many of our colleagues are aware, the Potomac River faces a threat to its continued growth because of an infestation of a weed called the hydrilla.

The plant was introduced into the river by the National Park Service to help replace the loss of submerged aquatic vegetation in the Potomac. While the hydrillas has brought back some of this vegetation to the Potomac, it has also been found to choke off nearly all other forms of plant life in the Potomac. In addition, it has grown so thickly in some areas that it

has made sport fishing and recreational boating virtually impossible in some parts of the Potomac.

Earlier this year, the House passed an amendment to the water projects bill which I strongly supported, urging the Corps of Engineers to enlist the expertise of all relevant Federal agencies in cleaning up the hydrilla.

Unfortunately, the corps announced on Tuesday that it wanted to use the controversial herbicide diquat to rid the Potomac of the hydrilla. This chemical has been proven to interrupt the important process of photosynthesis in plants. As a result, I believe the corps should reconsider this decision and look for more responsible means of protecting the Potomac from being consumed by the hydrilla. One does not solve one environmental problem by creating another.

OCTOBER IS NATIONAL SPINA BIFIDA MONTH

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am very pleased that the House yesterday cleared my resolution (H.J. Res. 595) designating October, 1984, as National Spina Bifida Month.

Spina bifida results from the failure of the spine to close during prenatal development though it is a common birth defect—occurring in one of every 1,000 births—spina bifida remains a little known and little understood handicapping condition.

I thank my colleagues for their enthusiastic support for this important resolution. I would be seriously remiss if I did not recognize the dedication and hard work of Mrs. Suzy Sabadie, of the Spina Bifida Association of America, and her two young sons, Mark and Erik, who "wore the treads off their tennis shoes" going door to door in the House office buildings encouraging Members to cosponsor House Joint Resolution 595.

I hope President Reagan quickly signs the resolution into law so that planning can get underway immediately for the October ceremonies and activities designed to build public awareness of spina bifida and to stimulate the interest needed to increase research and treatment for this handicapping condition.

WHERE ARE THE VETOES?

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, I would like to bring to my colleagues' attention a timely piece in yesterday's Wall Street Journal written by David R. Burton, a tax analyst for the U.S. Chamber of Commerce. It asks a very interesting question: "If Congress is spendthrift, where are Reagan's vetoes?"

Mr. Burton notes that while President Reagan entered office promising to keep Federal spending under control, he has signed virtually every spending bill that Congress has presented to him. He has used his veto power less frequently than any modern President except Lyndon Johnson. Furthermore, as Governor of California, where he had the advantage of a line-item veto, his record was equally lackluster.

As Mr. Burton rightly says:

> The Reagan administration cannot have it both ways. Either Congress is spending responsibly, at a level with which the administration is comfortable, or it is not. If the administration believes that Congress is spending prudently, then the administration should publicly acknowledge that it has few differences with Congress.

As President, Ronald Reagan has yet to submit a balanced budget. While he is busy campaigning for even more authority over Federal spending, perhaps he should pause to consider using the power he already has.

PORNOGRAPHY AND THE DEMOCRATIC TICKET

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the gentleman from Minnesota earlier today made clear what the Democratic Presidential candidate's past stance has been on the issue of pornography. Mr. Mondale voted in a way that endorsed repeal of all pornography laws.

What is the present position of the Democratic ticket? Well, they say they oppose pornography. But their deeds raise some questions. You have that Mondale vote while he was a Member of the other body. You also have the situation where the company in which the Democratic Vice Presidential candidate is a principal managing officer has a warehouse where a major pornography outfit has its distribution center. Has that firm now, knowing of that situation, thrown the pornography outfit out? Well, they said they will do it at some point in the future, but no action is being taken now.

Actions that demonstrate real concern about pornography? I think not. And I doubt the American people will be impressed.

EDUCATION AND ITS IMPACT ON DEFENSE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, speaking on the Armed Services Committee, we spend so much time talking about what the Russians are doing. However, in other areas we do not look at what they are doing because we seem to only focus on the kind of military hardware they have assembled.

One of the things the Russians did this year has great bearing on what we are going to be debating here this afternoon, education. How many people in this country knew that the Soviet Union had a strong debate on education and its impact on defense and raised every teacher's salary in the Soviet Union 35 percent? What was the cost? We are going to hear a lot about the cost of our education bill today and whether or not we should spend that much. The cost of the Soviet Union of raising every teacher's salary was $14.2 billion this year. They felt education was so important to their system that the $14.2 billion must be spent.

They did other things. They extended the time students were in school and lowered the age of children starting school; they put more focus on vocational education; they did a myriad of things that I cannot describe in a minute. But I emphasize, looked at, and understood what an important asset public education was to their defense and country, we ought to be looking at education and considering it an important asset to our defense.

I hope Members keep that in mind when we debate this bill this afternoon.

□ 1150

A GREAT DISSERVICE TO AMERICAN FAMILIES

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, pornography has taken on new visibility in recent hearings in the Congress, and I think that the gentleman from Pennsylvania who spoke about Mr. Mondale's record was referring to 1970 and to the Presidential Commission on Pornography that recommended the repeal, as I understand, of all pornography laws; Federal, State and local.

On October 13, 1970, the Senate passed Senate Resolution 477 rejecting the Commission's recommendations. That vote was 60 to 5. Mr. Mondale was one of the five who voted against rejecting the Commission's recommendations. In voting to strip our communities of their protection against pornography, Walter Mondale rendered a great disservice to America's families.

THE PRESIDENT'S SECRET TAXES

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS of Montana. Mr. Speaker and my colleagues, everyone in both this Congress and at the White House understand that taxes are going to be increased by the next President and the next Congress. For the first time in my memory, a Presidential candidate Walter Mondale, has been specific about his proposed economic policy. He has done it during the campaign, before he is elected. That is when people deserve to know what candidates propose to do if elected.

President Reagan, on the other hand, says maybe, just maybe, he will not increase taxes, maybe. He was firmer than that on September 28, 1982. He said the only way they can get a tax cut by me is if there is a palace coup and I am overthrown. Within weeks he was supporting and later signed the largest income tax increase in the history of the United States.

He has signed three other tax increases since then. He does it in a closet, with a flashlight in his ranch estate down in California because he does not want the American people to know that he is increasing their taxes.

The American people's taxes are going to go up next year; the question is: Who will pay them? Is it going to be the rich and the corporations that get away now without fairly paying taxes? Walter Mondale said he will tax them. Or is it going to be the middle-income people whose taxes Ronald Reagan has raised four times since he has been President, in secret?

LET US STOP TALKING AND START ACTING

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, as election time draws near we all have a tendency to view our Nation's problems in a partisan manner. Deficits, though, are everyone's problem.

Borrowing, to finance a growing Federal deficit, is consuming the lion's share of available capital. Businesses and industry cannot expand and create new jobs because the capital is not there. Young couples and families cannot afford to buy homes and cars because they cannot afford to finance them.

Meanwhile, we look for a scapegoat on which to blame the deficit. The President blames Congress. Yet, he has not proposed a budget in which expenditures even come close to matching revenues. And, Congress blames the President. But we, too, have failed to effectively deal with the problem.

Perhaps we do not understand the magnitude of the problem. We are now facing the prospect of yearly deficits exceeding $250 billion by the year 1989. Our national debt has already accumulated to more than $1.5 trillion. Interest payments alone absorb more than 13 percent of the budget. That is nearly $300 million per day in interest payments.

Now is the time to stop talking and start acting. There is enough blame for everyone: Democrats, Republicans, the President and Congress. So let us stop playing our fiddles while Rome burns and work toward a solution to this very serious problem.

STEALING FROM THE FUTURE

(Mr. MORRISON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON of Connecticut. Mr. Speaker, we hear many views expressed about our huge, runaway Federal deficits, but I think the most important view is to understand that we are stealing from the future. All of us in this Chamber and in this country are indebted to those who came before us, for their sacrifices investing in the future.

Yet, today, we are turning that on its head. Today's generation is spending $200 billion a year more than it is willing to collect from the people, saying that the next generation will not have expanded opportunity, but instead will be burdened with paying back what we are unwilling to pay today. I think that is the definition of a decadent society when it turns against its own future, its own children and grandchildren.

Spending restraint and tax reform are the only answers. Not unspecified words about waste and unspecified cuts that do not come to grips with where the problem is. The proposal that Mr. Mondale has put forward is debatable. There are many specifics with which I do not agree, but I commend him for being specific and starting the debate on the facts rather than on rhetoric.

A SENSIBLE APPROACH TO A SERIOUS PROBLEM

(Mr. BOUCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOUCHER. Mr. Speaker, the time has arrived for the House to put aside partisan rhetoric and make the tough choices required to stem the tide of budget red ink.

That's why I am pleased to be a cosponsor of the balanced budget legislation introduced by the chairman of the House Budget Committee, the distinguished gentleman from Oklahoma [Mr. JONES].

The Jones bill imposes two requirements which will promote fiscal accountability. First, it requires that the President submit a balanced budget to the Congress for the next fiscal year.

Second, it requires that the Budget Committees of the Congress report balanced budget resolutions. That's the kind of action we need to impose budgetary discipline now.

Mr. Speaker, the Jones bill is a sensible approach to a serious problem, and I commend its constructive provisions to my colleagues.

WHERE IS THE BUDGET?

(Ms. KAPTUR ask and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the question for today is budget, budget, where is the budget? The time has come for the President to present his secret plan to bring the deficit under control. Ronald Reagan's borrow, borrow and spend policies have set the stage for our economy to get high blood pressure in the months ahead. President Reagan continues to dodge the issue. He talks about balancing the budget, but the fact is, he has given no indication that he has any intention of altering his policies which have given us the biggest Federal deficits in history.

His deficits exceed the total of all deficits of all Presidents from George Washington through Jimmy Carter. Meanwhile, his own Treasury Department is concocting the most preposterous "transfusion" scheme to sell the ill-reputed "Bearer Bonds" to raise money by selling them to foreign buyers, since the Treasury Department cannot sell any more bonds here at home to finance the debt.

Our country will become more dependent on foreign money transfusions—bearer bond money—that will be laundered and whose owners we will not even know. Mr. Speaker, the question last spring was, "Where's the beef?"; the question this fall is "Where's the budget?" Why is this administration making us more dependent of foreign money to finance our deficit rather than presenting us a balanced budget before this fall's election?

□ 1200

PROHIBITING MEMBERS OF NATIONAL GUARD AND RESERVES FROM PARTICIPATING IN UNAUTHORIZED ACTIVITY

(Mr. MONTGOMERY asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, today I am introducing legislation that would prohibit members of the National Guard or Reserves from participation in unauthorized military or paramilitary activity outside the United States.

The National Guard and Reserves are trained and ready to mobilized on short notice. It is obvious this mobilization capability would be hampered if these men were involved in military action in another country.

Another concern I have, Mr. Speaker, is that we have trained these guardsmen and reservists to provide the manpower resources needed to help maintain a strong national defense. If these men go off on their own and get wounded, or killed, they are putting the readiness capability of their units at risk.

We have trained, paid and put our guardsmen and reservists "on call" to help defend this country. They cannot do that job if they are fighting their own war in another country.

BISHOP'S ATTACK ON GERRY FERRARO

(Ms. OAKAR asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, as a Catholic and prolife Member of Congress, I am dismayed at a certain bishop's personal attack on GERRY FERRARO. In March 1984, I was proud when the bishops document entitled, "Political Responsibility, Choices for the Eighties" listed and discussed a number of issues that should be of ultimate concern to Catholics and the political process, and let me name some of these issues.

Arms control and disarmament, civil rights, the economy, education, food, health, housing, abortion, human rights, and regional conflicts in the world.

GERRY FERRARO is right on all but one of those issues, according to the bishop's document. Ronald Reagan is wrong on all the issues, but one. Why aren't the bishops putting the President and Vice President through the same kind of scrutiny on all the issues that certain bishops have put Representative FERRARO through?

COMMENDATION OF FEMA FOR DISASTER ASSISTANCE

(Mr. WHITLEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WHITLEY. Mr. Speaker, as we gather here this morning, Hurricane Diana has come ashore on the coast of North Carolina. It is causing devastating damage in the district represented by my good friend and colleague, Mr. ROSE as well as my own district.

Back in the spring the same general area was struck by tornados and at the time the response that we received from sources all over the country was very gratifying, including the assistance that we received from the Federal Emergency Management Administration, FEMA.

We do not have a bill on the floor today and we may not have one on the floor within the next few days or before we adjourn this year to carry on the work of the Federal Emergency Management Administration, but I want to take advantage of this opportunity when a disaster is ongoing and fresh on our minds to commend them for the outstanding job that they do and the very real assistance that they render in communities throughout the Nation in time of need. In time of emergencies and time of disaster, they move very quickly on the scene.

They process applications for assistance in a very expeditious manner. They did a terrific job for us when we had tornado damage. I am sure that we can anticipate similar help from them now as the same areas are devastated by the winds of Hurricane Diana.

Mr. SAM B. HALL, JR. Will the gentleman yield if he has any time?

Mr. WHITLEY. Of course, I yield to my friend, the gentleman from Texas.

Mr. SAM B. HALL, JR. I would like to join in with the gentleman from North Carolina and thank him for yielding to me.

Mr. Speaker, I have had an experience in Paris, TX, when they had a tornado. They do an excellent job and I concur with what the gentleman had to say.

Mr. WHITLEY. I thank the gentleman.

NEXT PRESIDENT CALLED UPON TO SUBMIT BALANCED BUDGET

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Oklahoma. I want to thank the gentleman [Mr. BOUCHER] for his support of the Jones balanced budget bill and I want to inform the House that we will have an opportunity this month to vote on it.

I have been asked the question of why are we requiring the President to submit a balanced budget next January in addition to the Congress' voting on it. The question says what does the President have to do with the budget? The fact is that for the past 60-plus years since the 1921 Budget and Accounting Act, the budget process begins with the President and until the President sends a budget, the process does not begin.

The problem is that no President since Lyndon Johnson's last year in office has submitted and passed a balanced budget. We are calling on the next President, whomever that may be, and the next Congress beginning in January to submit a balanced budget, and to consider a balanced budget or at least to inform the American people when the balanced budget can be achieved and how it can be achieved.

No more rhetoric; down to substance, down to details and I urge the House to support this bill when it comes before the House.

THE GROWING USE OF IMPORTED STEEL FOR AMERICAN DEFENSE

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I would like to call attention to the growing use of imported steel in the defense of America.

A recent study done by the Congressional Research Service for the executive committee of the congressional steel caucus shows that the amount of imported steel used by the defense department has increased.

The study shows that during the next 5 years the import share of Pentagon requirements will rise from 14.4 to 16.6 percent in 1989.

The study was based on a model developed by the Defense Department.

The findings represent a "dangerous situation."

We must not let American defense become growingly dependent on foreign suppliers.

This is one more indication that protectionist measures are needed for the American steel industry.

Administration officials testifying before Congress earlier this year claimed defense purchases represent a small percentage of steelmaking capacity.

This capacity is not small when we consider the number of jobs recently affected by the current recession in the steel industry and related businesses in this Nation.

According to the report, total steel requirements for national defense are expected to rise from over 11 million tons this year, to well over 16 million tons in 1989. But the import share of that total would increase from over 1½ million tons in 1984 to well over 2½ million tons in 1989.

To make matters worse, there are additional studies that show that the taxpayers of many Pennsylvania districts, where steel is made, are not receiving their fair share of allocated contracts and employment from the Pentagon.

The issue, Mr. Speaker, is that the people of America are ready, willing and able to work, and are only waiting for a chance.

ADMINISTRATION ATTEMPTS TO BALANCE BUDGET BY ISSUING BEARER BONDS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, Members of the House, I find with interest the most recent plan by the President of the United States and this administration to finance their historically high deficits and that is that they are going to go about the European community and encourage tax evasion. They are going to issue bearer bonds that have no name on them that if you found them in the street, you could go in and cash them, and they are going to supposedly sell them at a lower interest rate because obviously you can evade taxes by buying them, and they hope to be able to keep down the cost of interest on this exorbitant deficit that this administration has run up over the past 4 years.

I find it rather interesting when the President says he will not raise taxes but at the same time he has his Treasury Secretary and others going around the world hawking plans to evade the very taxes that American citizens own. They have suggested that they will only sell these bearer bonds to foreign banks, but as we all know the banks will then create their own instruments, turn around and sell bearer bonds to American citizens that seek to evade taxes.

It is incredible that this administration, to think that that is the way that we are going to balance the budget rather than making the difficult choices that this administration and the Republican Senate refuse to make in coming to the conference committee on the budget.

And I would hope that this House would have an opportunity to take a stand against the legalized tax evasion by the Reagan administration.

□ 1210

CONFERENCE REPORT ON S. 2463, AUTHORIZING APPROPRIATIONS OF FUNDS FOR CERTAIN FISHERIES PROGRAMS

Mr. JONES of North Carolina. Mr. Speaker, I call up the conference report on the Senate bill (S. 2463) to authorize appropriations of funds for certain fisheries programs, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 10, 1984, at page 24634.)

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to make a few brief remarks to support and explain the conference report on S. 2463.

S. 2463 contains two titles. The first establishes a program to share Federal Outer Continental Shelf leasing receipts with coastal States. The second reauthorizes certain programs of the Department of Commerce regarding fisheries management and ocean mining, and also makes some clarifying amendments to the Fisheries Conservation and Management Act of 1976. Since only the first title provides for a new program, I will limit my remarks to its provisions.

Title I establishes a program of Federal, OCS revenue sharing. I first introduced legislation to establish such a program over 3 years ago. It has been considered and passed by the House on three occasions, and the record is full of supporting statements. The Conference committee reached an acceptable agreement and all conferees signed the report. I would like to explain the major provisions of this conference agreement. It is very similar to H.R. 5 which passed the House by a margin of 301 to 93.

Coastal States and territories will receive annual block grants for ocean and coastal management. The grants are distributed under a formula which considers both energy and coastal-related factors.

One-third of each block grant must be passed through to local governments to be used in their management activities.

The block grants will be funded from yearly appropriations and amounts available are based on the level of Federal OCS leasing revenues. As amounts received by the Federal Government increase, amounts for State block grants will also grow.

As in the House-passed bill, the program is capped at $300 million in 1985. In subsequent years, funding may increase no more than 5 percent per year.

The program is administered by the Commerce Department.

Mr. Speaker, the administration opposes this program largely on budgetary grounds. It was 3 years ago when this administration claimed that its OCS program would generate $15.8 billion in Federal revenue in 1985. However, the latest estimate for 1985 is only $7.4 billion. Clearly, State and local opposition is affecting the leasing program.

This bill will not cure all of the problems of the leasing program, but it is a good first step. If we show concern for the needs of our State and local governments, they, in turn, will cooperate with national goals. That is what this program is all about. We are asking for a small investment, but one that will yield manifold returns in the form of increased leasing revenues, energy security, and environmental protection.

Mr. Speaker, this bill has been thoroughly considered, and has a coalition of supporters ranging from the largest of States to the smallest of communities; and encompassing both oil and gas corporations and environmental groups. To my knowledge, the only opposition is coming from the administration, mostly from one particular individual, our mutual friend, David Stockman. Some people learn slowly, and others just never learn, regardless of the merits of the case. This measure should be passed without delay.

Mr. Speaker, that concludes my statement, and I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. MCKERNAN].

Mr. MCKERNAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I just want to rise in support of this legislation. It is important not only to States' rights but environmental protection legislation. This legislation, which authorizes some very important fisheries programs, also contains provisions allocating a modest portion of future Federal revenues generated by offshore oil and gas activity to coastal States.

As a coastal State representative, I believe that this measure addresses the inequities in the way we handle revenues generated by energy activity on Federal lands. Currently, the Federal Government turns over 50 percent of revenues to individual States, when the Federal lands in question are within their borders. Those revenues, along with other Federal payments made to these States, comprise almost a billion dollars a year. Coastal States, on the other hand, receive no revenues from Federal activities off their coasts.

Under provisions in S. 2463, coastal States would get a portion of Federal Outer Continental Shelf leasing fees and production royalties. Currently, these fees are funneled into the general fund of the U.S. Treasury and represent the second largest source of Government revenue after income taxes. S. 2463 would create a fund

composed of just 4 percent of all OCS revenues, averaged over the preceding 3 years, allocating these funds by means of block grants to individual coastal States. This is a relatively small percentage, when one considers that the revenues generated by OCS leasing fees and royalties equaled $11.8 billion in fiscal year 1983 alone.

Mr. Speaker, the goal of this measure is to provide funding for management of our renewable ocean and coastal resources, out of the revenues from the development of nonrenewable ocean resources. These funds will go a long way toward offsetting the environmental and socioeconomic impacts of offshore energy activity. This legislation is well directed; it makes little sense to expect our coastal States to absorb the potential negative impacts of OCS oil and gas activity when we are cutting back Federal assistance to help protect coastal areas. Therefore, I urge my colleagues to support this measure to establish equity in the distribution of Federal revenues.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference report on S. 2463, which establishes the ocean and coastal resources management and development fund from which block grants will be made to coastal States and territories, and which authorizes appropriations for several National Marine Fisheries Service programs and deep seabed mining.

The conference report before us is the result of OCS revenue sharing legislation, developed and introduced by our chairman during the 1st session of the 97th Congress. I will neither attempt to detail the many hearings and negotiating sessions conducted by our committee, nor discuss the many revisions this legislation has gone through over the 3-year period in order to reach the consensus before us today. However, I do want to point out some of the more important aspects of this bill to my colleagues.

First, this bill would establish a fund into which deposits equal to 4 percent of average OCS oil and gas receipts would be made, and from which States would receive block grants for the purpose of managing their ocean and coastal resources. As we all know, Outer Continental Shelf oil and gas development has not always been a popular issue in coastal States because of their limited ability to plan for and accommodate offshore leasing, even though such leasing will result in this Nation's energy independence.

Mr. Speaker, may I say for those of us who hear about the dependency on foreign countries for our oil supply, this bill will solve that dependence and make us indendent of the foreign oil which we import today.

Although the OCS now provides about 9 percent of the Nation's oil supply, it is estimated that up to 60 percent of this Nation's remaining unproduced oil is located on the OCS. Yet only 2 percent of the Federal lands offshore are under lease and we are depending on foreign sources for over 30 percent of our crude oil—a not-too-stable supply, I might add, if my colleagues will look at what has happened in the straits overseas. Although we have barely tapped our OCS oil and gas resources, we cannot expect to carry out any positive energy plan offshore without the cooperation of coastal States and communities. They are expected to bear the burden of the social, environmental, and economic impacts which may result from such offshore development. Without the financial resources to carry out coastal planning and to address impacts associated with OCS activities, they often feel they are left with one alternative—to oppose all offshore development so these problems will never arise.

This bill will once again give coastal States the incentive to support OCS development and promote our energy independence by providing them with block grants for the express purpose of enhancing and managing their coastal resources and alleviating any adverse impacts that result from energy-related activities.

An even more important aspect of this bill is that each State receiving a block grant must provide one-third of such allocation to its local governments to carry out their responsibilities under the act. It is usually the local communities which bear the greatest burden from offshore and onshore energy activities, not the States, and I believe it is essential that local communities have the funds they need.

Mr. Speaker, I think the enactment of this legislation will result in the Federal-State partnerships, the Good Neighbor policy promoted by this administration, necessary to carry out our energy independence goals while protecting State and local interests, and may I suggest, Mr. Speaker, that the chairman of the committee, the gentleman from North Carolina, made a proper statement. There are those who are opposed to this legislation in the administration. The administration and I respectfully disagree. We have been impeded, but not only during this administration, by actions of coastal States because they have nothing to gain by Federal offshore development when there is no sharing of the revenues. If we want to be independent, if we want the oil for the American people to develop our economy, if we want to be able to direct our own destiny, then this bill must be passed. It already passed this House once by a vote of 301 to 93, I believe, and the last time it passed, it passed by a voice vote.

I urge my colleagues to support this conference report that was signed unanimously by the Senators and by the House Members of the conference.

Mr. Speaker, I reserve the balance of my time.

□ 1220

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. D'AMOURS].

Mr. D'AMOURS. Mr. Speaker, I thank the committee chairman for yielding me this time.

Mr. Speaker, I rise today in strong support of the conference report on S. 2463, legislation which would forge a new Federal-State partnership in ocean and coastal resource management and offshore oil and gas development.

I would like to say just for the record, reflecting no inordinate pride of subcommittee chairmanship and with all due deference to the gentleman from Louisiana [Mr. BREAUX], chairman of the Subcommittee on Fisheries and Wildlife, an admittedly ubiquitous member of the committee, that this bill did emerge from the Subcommittee on Oceanography, for which my good friend, the gentleman from Alaska [Mr. YOUNG], is making proper penance for having misspoke at this time.

Mr. Speaker, Chairman JONES has already detailed the provisions of the conference report for the House. Let me just say that this legislation is similar in its specific provisions and identical in its thrust to H.R. 5, which was overwhelmingly approved by the House on September 14, 1983, by a vote of 301–98. One reason it passed the House so convincingly was that Members agreed that the bill was fiscally responsible.

Opponents have argued that OCS revenue sharing will bust the budget. This is most assuredly not the case. In fact, it is the absence of legislation of this nature which is significantly adding to our already oversized Federal budget deficit.

A study prepared by the Department of the Interior 2 years ago for the Cabinet Council on Natural Resources' working group on revenue sharing estimated that State and local opposition to OCS leasing costs the Federal Treasury $1 billion a year. That's $1 billion a year, and the report goes on to say that this is a conservative estimate. The final and concluding paragraph of this Reagan administration study finds that:

The only apparent solution to reducing the costs of opposition to the OCS Program is to provide States and localities with an incentive to support leasing which is perceived by the States and localities as sufficient to counterbalance their perception of the po-

tential harm and risk to which they are subject. OCS revenue sharing is the best incentive available to achieve that counterbalance.

OCS revenue sharing is not going to mitigate all opposition or reduce all costs to the U.S. Treasury. But it will for the first time give States a direct, visable, monetary interest in the growth and health of the OCS Leasing Program and it will insure that the States have the manpower necessary to be full partners in the process. Without it, distrust between the States and the Federal Government will continue to grow and everyone will lose.

This conference report is unique in that it is supported by both Democrats and Republicans, the environmental community, the oil and gas industry, and State and local governments. It is a fair conference report that deserves the House's support.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Speaker, I thank the chairman of the committee.

Mr. Speaker, I would only take this time to say that once again we are bringing a piece of legislation to the floor which I think is eminently fair to all of the coastal States. I, for one, am a little puzzled at those Members who would choose to vote against this legislation for the reason that perhaps they feel that some of the coastal States are somehow getting an unfair deal because the Federal Government is sharing revenues from what are Federal areas off the coastal States.

I would only remind those Members of the House and perhaps of the other body who take that position that that is very much far from being the truth. There is not an interior State located anywhere in the United States that has a Federal territory within that State's borders that does not receive a portion of the revenues that are being derived by the Federal Government from operations within their State boundaries. When there is a Federal reservation or a Federal refuge that has oil and gas production or mineral production on Federal property located in the middle of it, in the middle of the State of Kentucky or the middle of the State of Kansas, that State receives approximately 50 percent of the revenues that are derived from the production on Federal lands within that State's boundaries.

Why is it not fair to reserve a very small 4 percent of the revenues that are being derived by the Federal Government off the 30 coastal States' lands surrounding the United States? The Federal Government is deriving approximately $11 billion or $12 billion in Federal revenues annually from offshore areas surrounding the State borders. The States are presently receiving none of that in the proportion of a fair share.

This bill brought to the floor by the committee chairman, the gentleman from North Carolina [Mr. JONES], and the ranking minority member of our committee, the gentleman from Alaska [Mr. YOUNG], is very, very fair in the sense that it shares a very small portion with the coastal States.

I think that if we ask privately many of the members of the administration who signed a letter that is being circulated today how they feel, they would have to answer to us in all fairness that they lobbied very hard in fact for the equity of the bill and were very supportive. They lost basically because of the efforts of one person in the administration who, I think in this case, is being extremely nearsighted.

There is no question that I think States would be much more willing to cooperate with the Federal Government if they knew that they had a monetary interest in the revenues that are being brought into the Federal Treasury off their coast. There is no question that States have suffered economic loss directly attributable to offshore production. This is only a very small way of attempting to compensate those States for the risks they have been willing to take since 1954.

Mr. Speaker, I urge favorable adoption of the legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise to express my strongest opposition to the conference report on S. 2463, the Ocean and Coastal Resources Management and Development Block Grant Act.

In September of last year, we debated the predecessor of this legislation, H.R. 5, which first established this new, permanent $300 million a year Federal OCS revenue sharing fund.

At that time, I spoke out against and offered several amendments to that legislation because I felt it was ill-conceived, poorly timed, and highly discriminatory to dozens of coastal communities throughout this Nation.

I had hoped that as H.R. 5 moved through the legislative process, some, if not all, of its inequitable provisions would be eliminated.

Regrettably, I find that this legislation has returned to us today as fatally flawed as it left as H.R. 5.

Mr. Speaker, before discussing my specific objections to this legislation, I believe it must be emphasized and underscored that by approving this conference report we will be creating a new, permanent Federal program.

At a time, when we continue to experience record deficits, I find it unconscionable that we would even consider adding yet another $300 million per year to the national debt. Just how are we going to pay for this program.

I would say to my colleagues, many of whom come to this floor to repeatedly urge this body to do something positive to reduce these high deficits, that here and now is an opportunity to start that process. And, the beauty is that you can vote no on this conference report without denying a single dime to a needy man, woman, or child in this Nation.

If, however, you can somehow rationalize that there is no problem in again voting for more excessive Federal spending, then I would urge you to at least examine how these OCS funds are allocated under this legislation.

While the proponents have argued that there is a need to compensate local coastal communities affected by Federal offshore oil and gas activities, this bill fails to accomplish that purpose.

In fact, as currently written, this conference report denies compensation to dozens of affected communities by establishing a funding formula which completely ignores the amount of actual OCS leasing, exploration, development and production that occurs off of a State's seaward boundaries. It instead places its primary emphasis for distribution of funds on such totally irrelevant factors as population, length of a coastline and the number of energy facilities located in the coastal zone area.

As a result, States that have no Federal OCS Program receive in many instances more money than States that will have a great deal of activity.

In fact, several Great Lakes States will receive considerably more money under this legislation, even though they have no Federal OCS Program, than some 15 coastal States that will have significant OCS activity.

While I have no quarrel with any Great Lake State, it is wrong and inappropriate to provide Federal OCS revenue sharing funds to any State whose territorial waters are not part of the Federal OCS Program, which are not even adjacent to an ocean and which has never contributed even 1 dime in OCS revenues.

At the same time, however, States like my own, which have experienced tremendous Federal OCS activity off its shores is heavily and unfairly penalized for not having a federally approved coastal zone management plan.

While Texas may not have such a plan, it is wrong and, frankly, insulting to assume that we have no environmental or natural resource protection laws. In fact, our State laws are far superior to the protection provided under a coastal zone management plan.

To highlight just a few, our State environmental and natural resource protection laws include: the Open Beach Act, the Dune Protection Act, the Coastal Public Lands Management

Act, the Texas Coastal Waterway Act, the Texas Disaster Act, the Coastal Wetlands Acquisition Act, the Dredge Materials Act and the Coastal Coordination Act.

Mr. Speaker, despite these strong and effective environmental protection laws, this conference report chooses to ignore their existence. Under this legislation, Texas is treated as if it has no shoreline and no coastal population.

We have, in fact, 3,359 miles of shoreline and a coastal population of 3,870,000 taxpayers.

Mr. Speaker, these taxpayers do exist and just like their coastal counterparts in New York, Massachusetts, and Louisiana, they deserve their full and fair compensation if we are going to have any Federal OCS revenue sharing program.

While I believe this highly inequitable formula alone merits rejection of this conference report, unfortunately, the bad news doesn't end here.

Based on my calculations, taxpayers in Texas and many other States suffer a double blow of not only not receiving fair compensation but, in fact, losing a substantial sum of money under this program.

For example, in fiscal year 1983, Texas paid 7.33 percent of the total Federal tax burden. Based on this ratio, Texas citizens and businesses would be forced to pay the Federal Government $21,900,000 for the right to receive $12 million in OCS revenue-sharing funds.

While I have not calculated the losses other States would experience, it is obvious that taxpayers in both interior and many coastal States will lose millions under this program.

In my State, this transfer of money will exacerbate the already unacceptable imbalance which finds Texas receiving the least amount of Federal grant money per tax dollar paid in the entire United States.

Mr. Speaker, I am committed to reversing this inequity, not enlarging it.

I would say to my colleagues that there are three major reasons for voting no on this conference report. They are: First, it creates a new permanent Federal program; second, it provides huge sums of money to States totally unaffected by Federal OCS activity; and third, it discriminates against certain States which have played a major role in the OCS Program.

If you agree with even one of these reasons, you should vote no on this conference report to S. 2463.

□ 1230

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I rise in strong support of this legislation and I want to compliment my chairman, the gentleman from North Carolina, for the magnificent job he has done in bringing this very necessary piece of legislation before the House.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. LOEFFLER].

Mr. LOEFFLER. Mr. Speaker, I thank the distinguished ranking member for yielding.

Mr. Speaker, I rise in strong opposition to the conference report now pending before this body. First of all, if we look at the OCS revenue sharing numbers in the aggregate sense, what this legislation does is to add yet another $2 billion to our deficit over the next 5 years or $3 billion to our deficit over the next 10 years. It creates yet another entitlement program. We are all well aware of the ongoing inertia of the entitlement programs, an issue that we will have to address certainly during the course of the next year.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. LOEFFLER. Not at this time. I will yield when I am completed, if the chairman will allow me to complete my own remarks.

Looking at this new entitlement program and disguishing it with the words or the euphemism "revenue sharing," we must recognize that the Federal Government does not have revenue to share. We all hear now in the clamor of the political debate this year that we have a deficit in Washington, so I believe first and foremost in a generic sense it is wrong for us to create yet another entitlement program, and one that is unfair to so many States.

Under this legislation, a State can oppose OCS leasing, oppose exploration offshore, oppose development offshore, but still receive substantial grants as a State's receipts are unrelated to the level of actual OCS leasing and production nearby.

Furthermore, some noncoastal States with no OCS activity, as my good friend and colleague, the gentleman from Texas [Mr. FIELDS], has pointed out, receive funds, while other interior States would not.

Specifically, although labeled as a measure to compensate coastal States for adverse onshore impacts of OCS activity, this legislation allocates large sums to States which have no offshore drilling or production and are likely not to ever have any; three being Michigan, $11,400,000; Pennsylvania, $4,900,000, and Hawaii, $4,900,000.

At the same time there are some 15 States that will receive no revenue sharing funds whatsoever based upon this new entitlement program. Those States are Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Kentucky, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wyoming.

Finally, Mr. Speaker, in looking at my own State and being a Member of Congress from a State that is involved very, very actively with respect to offshore activity, it is not difficult to understand why States such as Alaska and Louisiana so strongly favor this legislation in spite of the unfair allocation that we have laid forward. Alaska would pay in less than $1 million in taxes in exchange for a projected $36 million annually and Louisiana would receive $45 million compared to its some $5-plus-million-annual tax burden to support this funding.

Of all the 50 States, Texas ranks No. 1 in the least amount of money to be received per tax dollar paid by the taxpayer.

Therefore, I urge Members of this body to vote for the motion to recommit that will be offered by the gentleman from Kentucky [Mr. SNYDER].

Again, we do not need to add yet another $2 million to our deficit over 5 years, $3 billion to our deficit over the next 10 years to create yet another new inertia entitlement program, the OSC revenue-sharing bill before us.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. LOEFFLER. I would be happy to yield to the distinguished gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for yielding.

I am sure the gentleman in no way would want to make any misstatement into the record and perhaps he has been misinformed. I believe three or four times the gentleman referred to the bill as an entitlement program. It very definitely is not. It is subject to the appropriation process each year. The sums appropriated might be much less than the cap. It might be slightly more in the second year, but I want to assure the gentleman that in no way can this be considered an entitlement program. I hope that satisfies the gentleman.

Mr. LOEFFLER. The distinguished chairman would agree with me, however, that a formula has been set forth and once the money is made available, that funding will go forward as is set forth in this legislation; is that correct?

Mr. JONES of North Carolina. Subject to the Appropriations Committee, yes, sir.

Mr. LOEFFLER. Again, Mr. Speaker, I urge the Members of this body to vote for the motion to recommit and to reject this very expensive conference report.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in strong support of the conference report on S. 2463, the off-shore oil revenue sharing bill. I support this legislation because it is equitable; because it will insure the survival of Federal support for State coastal zone management programs; and because it will help State governments respond in a variety of constructive ways to ever-increasing economic and environmental demands on their coastal resources. This bill is fair, because it will do for coastal States what has long been done for interior States, the very States just recited in that list by the gentleman from Texas, which is to provide a portion of the revenues derived from Federal mineral leasing in or adjacent to their boundaries to the State governments affected by that leasing.

The survival of coastal zone management programs is important because those programs were established to perform a difficult but vital task, and they have done so with growing success in recent years. As chairman of the House Subcommittee on Oceanography during the 96th Congress, I conducted a series of hearings throughout this country on the Coastal Management Program. I began as a skeptic, but the message our subcommittee received from fishermen, coastal property owners, local government officials, businessmen, and State officials was unanimous: This program works; it is vital to sound and balanced planning in the coastal zone; keep it alive.

The demands we as a Nation place on the coastal areas of this country are increasing every day. Transportation, recreation, the commercial recovery of resources both living and nonliving, the disposal of a variety of wastes, the continuing need to accommodate a greater and greater proportion of our population seeking to live near the ocean; these demands are creating ever-increasing economic and environmental pressure on the coasts. This is not solely a State problem—it is a national problem. The legislation we are considering today recognizes the scope of that problem, and responds to it in a manner that recognizes, as well, the partnership that should exist between the State and Federal Governments in dealing with coastal issues. This bill is the very essence of federalism; a concept that for at least a couple of days back in 1982 was warmly embraced, through public speeches and press releases by this President, and the officials of his administration.

In closing, I want to congratulate our distinguished chairman, the gentleman from North Carolina [Mr. JONES], and the equally distinguished chairman of the Oceanography Subcommittee Mr. D'AMOURS, for their leadership in bringing this bill to this point. I congratulate as well the ranking minority member of the full committee, Mr. PRITCHARD, and of the subcommittee, Mr. CARNEY, for their vital support. I think a special word of praise should also go to Tom Kitsos, of the Merchant Marine and Fisheries Committee staff, who believed in this bill long before anyone with a firm grip on logic or reality could be persuaded to do so.

□ 1240

Let me say in response to the gentleman from Texas, as the gentleman from North Carolina has stated, this is not by any stretch of the imagination an entitlement program. Not only is it subject to appropriations annually, but it tries to keep alive a variety of programs that have been authorized for a great many years, and which this administration has been attempting to eliminate, such as the Coastal Zone Management Act, the Coastal Energy Impact Program, and many fisheries programs, among others.

These are not new programs. They have been on the books for a great many years and they work and they ought to be supported, above all else, by those who believe in a proper balance of responsibility between the State and Federal Governments.

I hope this conference report will be adopted today by an overwhelming margin and that our friends in the other body will cooperate by putting this legislation where it belongs: on the desk in the Oval Office, where I trust our Nation's leading proponent of the New Federalism will sign it enthusiastically into law.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I congratulate the committee and the members of the staff who brought forth this legislation.

Mr. Speaker, I rise today to support the conference report on S. 2463, which would establish an ocean and coastal resources management and development fund for the purpose of awarding block grants to States. I am a cosponsor of the House bill.

The fund would be composed of an amount equal to 4 percent of the average revenues from Outer Continental Shelf oil and gas revenues over 3 years, subject to a $300 million maximum. The fund would be used to provide block grants to States for the maintenance of several programs earmarked by the Reagan administration for elimination of funding. These programs include the Coastal Zone Management Program, the Coastal Energy Impact Program, and the Ocean Fisheries and Living Marine Resource Programs. The elimination of these programs will seriously jeopardize the ability of coastal States to prepare for the effects which will be produced by the increased Outer Continental Shelf [OCS] development activity proposed by the administration.

Under current law, coastal States receive no direct share of OCS revenue and are not authorized to generate funds from Federal leases on the OCS. This legislation would permit the coastal States who dangerously face the impact of OCS development activity to continue the programs they need in order to prepare themselves for this development.

I have received expressions of support for this bill from the Southern Governors Association, the Florida Governor, the Florida Audubon Society, the Sierra Club, and the Northeast Florida Regional Planning Council. I urge my fellow Members to approve this well-reasoned compromise.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in strong support of the conference report for the OCS revenue sharing legislation we are now considering.

There are two major reasons why we should endorse this compromise and why the President should sign it into law. The first relates to the critical need for the development of offshore oil and gas resources. The other is the bill's recognition that coastal resources and habitat are invaluable assets.

It should come as no surprise that this country has embarked on an ambitious rush to stimulate the production of our nonrenewable OCS energy resources, in may cases without adequate consideration of the impact of this development might have on the coastal zone activities of coastal States and on the sound management of renewable ocean resources. This policy has met with considerable opposition. As a result, several States have been forced into court to seek some respect for their position on OCS development. Their argument is simple—OCS energy development has its costs.

This legislation, with its revenue-sharing mechanism, is an essential first step in Federal recognition that States have a legitimate concern about what transpires off their coasts. Coupled with a mechanism which assures good-faith negotiation between States and the Federal Government on OCS development activities, this legislation should ensure minimal disruption in this country's search for greater energy independence.

As a member of the Merchant Marine and Fisheries Committee, I am proud that this key legislation has approached to the brink of enactment. I urge my colleagues to help push it over that brink by supporting this conference report.

Mr. YOUNG of Alaska. Mr. Speaker, may I inquire, how much time do I have left?

The SPEAKER pro tempore (Mr. KAZEN). The gentleman from Alaska [Mr. YOUNG] has 15 minutes remaining and the gentleman from North Carolina [Mr. JONES] has 12 minutes remaining.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have listened to the debate and opposition to this bill with great interest. For the record, my colleagues, I would like to remind those that are participating in this bill, because the States were read out that did not participate, but the States that do have a role to play in this legislation are Alabama, Alaska, American Samoa, California, Connecticut, Delaware, Florida, Georgia, Guam, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New Hampshire, New York, North Carolina, the Northern Mariannas, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, Virginia, the Virgin Islands, Washington, and Wisconsin. Those States all will participate.

In my opening statement, Mr. Speaker, I made the statement that this bill is necessary if we are to promote and develop their offshore oil that belongs to America. Sixty percent of the reserves that we believe exist today that are accessible to the American people are offshore, yet we are only developing approximately 2 percent because the States have really nothing to gain. Yes; those coastal States, you may think we are selfish, and to some degree we are, but the impact of developing that oil is directly related to the States. And those States that have opposed that development, California has filed lawsuit after lawsuit after lawsuit, and yes, most all of the other States, including my State of Alaska, has filed lawsuits against that development because it is not fair to put our fisheries in jeopardy, possibly, without some understanding of the effect upon that local community.

One of my good friends spoke against this bill and said it is going to create a $10-billion deficit to the General Treasury because we are appropriating approximately $300 billion a year for this legislation. But let me remind my colleague, and the audience listening to the debate, let me remind my colleagues that we have shipped overseas to the sheiks $1 trillion since 1973, $1 trillion that does not go to the States of America, does not go to the people of America. It goes overseas.

This so-called debt that was referred to of $3 billion does not go anywhere; it stays within the shores of America. But more than that, it gives us the ability to be independent so that we can decide the future of America and the free world without being dependent upon those countries that would dictate to us on how we shall run our lives and the standard of living which we must face.

Earlier in the day I heard much in 1-minute speeches about the great debt and blaming the President for the debt, and the tax bills that the President was supposed to have signed and not signed, and the Congress has to act responsibly, and the Congress can act responsibly today by passing this legislation and making us independent, because the States are going to share. The money is going to stay with us. The $1 trillion to build the big Taj-Mahals, and the Lincolns that go one way and the Cadillacs that go the other way that I read about in the newspapers and magazines will not exist because the money stays with us.

I do believe the administration has been badly misled in this legislation. There are members of the Cabinet who do support this legislation but they were overridden by a good friend of mine and, yes, he is, because he believes he wants to get his hands on that small amount of money so it can be redispersed by the Congress. What he does not know is that if you want to make money you have to spend money, and this is a way we are not spending it, because it is staying within our own borders and not going overseas.

How can we balance our budget? This year alone it is $68 billion that we are going to spend buying oil, $68 billion. In 1974 it was $100 billion going overseas, $100 billion to go into someone else's pockets, to run our automobiles, to keep our economic strength going. Yet they complain about $300 million to go to the States to develop oil that belongs to us.

□ 1250

The administration is wrong and those that oppose this bill are wrong. If you want America to be independent and strong, then you will support the idea of sharing of revenue, of getting it on the road and protecting our fisheries and making this part of the partnership of America, not some foreign country, but of America.

Mr. FIELDS. Mr. Speaker, will the gentleman yield to me?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas.

Mr. FIELDS. I thank the gentleman for yielding.

Mr. Speaker, I appreciate this opportunity, that the gentleman is yielding for a short moment. I asked the gentleman to yield not to be argumentative, because I have great respect for the gentleman from Alaska; he is one of my heroes in the U.S. Congress. But in what he has been saying I agree in part and disagree in part.

I want to add one moment of clarification as to my viewpoint. I agree with the gentleman that I would like to see more OCS development of our domestic coast. I would like to see us end our dependence on foreign sources of oil. The problem that many of us have is we see no incentive for those States who have opposed OCS development to come in and all of a sudden become friends of offshore oil and gas activity, with this OCS revenue sharing going to States regardless of whether they oppose or they support development of our coastline.

Some of us are very concerned that many States are sharing in this particular fund and have no impact whatsoever because there is no Outer Continental Shelf development off particular States' coastlines.

Mr. YOUNG of Alaska. I only suggest those States which have been mentioned that have no OCS development, that is partially true, but the States included in this list do have federally owned lands 3 miles beyond the borders of large lakes, primarily Michigan, and so forth, and that is why they are included.

Mr. FIELDS. Mr. Speaker, some of us would really like to see the formula, the money, the funds tied to offshore oil development and let that be an incentive for their being more OCS development off certain coastlines.

Mr. YOUNG of Alaska. I appreciate that. I again, my friends, I suggested that this legislation is mandatory. It passed this House twice overwhelmingly one time by a record vote and overwhelmingly by a voice vote. It has passed the Senate. It has gone to conference without one dissenting vote against it, because we believe that this legislation is necessary for America to be independent.

We believe it is the appropriate way to make us partners and it keeps us from shipping that $1 trillion overseas.

You talk about a debt, I heard all of those 1-hour/1-minutes; and, by the way, Mr. Speaker, we had 1-minutes today for the TV cameras that lasted 1 hour and every one of those speeches was based upon the great debt created by this administration, which is nonsense. It was created by this Congress. This Congress can relieve that today by making us independent so we do not have to ship the money overseas and we will balance this budget we talk about so much.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I would like to compliment the chairman, the honorable Mr. JONES of North Carolina, for the work he has put in on this, the many hours of work, and the compromise.

I speak as someone who was in local government for 6 years in a coastal

county where we experienced the frustration of a Federal Government that says it wants to stay off our backs but continues to come into our coastal areas to drill off of our coast. This administration, under Mr. James Watt, decided that the values of our coast did not include the value of our fishing industry, the value of our tourist industry, but only included, a small amount of oil that they might extract which really, in the case of this particular county, Marin County, CA, would bring enough electricity to keep one city going for 1 day. To sacrifice that kind of environment for 1 day's worth of electricity is something that my constituents and I certainly do not think is worth it.

The beauty of this revenue-sharing bill, and you have people on both sides supporting it, is that it will give these counties the resources with which to have true coastal zone management, so we can work along with the Federal Government as a true partner, express to them the needs that we have for our fisheries, for our tourist industry, and for the beauty of our coasts for future generations.

So I am very supportive of this bill. I think many of us see different things in it. That makes it a good bill.

Again I want to commend the chairman and the members of the committee.

Mr. JONES of North Carolina. Mr. Speaker, let me ask, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] has 10 minutes remaining.

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report on S. 2463 and urge my colleagues to adopt this important legislation which provides for the establishment of an Outer Continental Shelf Revenue Sharing Program.

As a member of the Merchant Marine and Fisheries Committee which reported out this legislation, and as the representative from New Jersey's largest coastal district, I am well aware of the important role the OCS leasing and development plays in America's energy future.

Outer Continental Shelf oil and gas development, however, is not risk free, and development activities place subtle pressures on coastal areas.

Within the past decade, we have witnessed for the first time the development of a number of State and Federal programs which address the need for comprehensive planning for our Nation's coasts. Much of the impetus for State coastal planning activities was directly attributable to the Coastal Zone Management Act which Congress enacted 10 years ago.

During the past several years, we have witnessed an attempt on the part of the administration to eliminate Federal assistance for State coastal planning activities while at the same time undertaking actions directed toward accelerating OCS leasing and development activities. Although there is little doubt that a workable OCS leasing program is in the public's best interest, we too often lose sight of the need to properly manage and protect our renewable resources—such as recreational and commercial fisheries—while we extract nonrenewable oil and gas from underneath our oceans.

This legislation addresses the critical need to provide coastal States with the financial resources which they need to property plan for OCS leasing activities and to manage their coastal and ocean resources. Without such assistance for such coastal activities, many of the States would be unable to make the adjustments necessary for accelerated Outer Continental Shelf oil and gas development. States caught in such a situation might find their only recourse—to protect their offshore resources—would be litigation to block sales and development activities by the oil and gas industry.

State planning needs to be made an integral part of the OCS process. Coastal States which will have to live with the impacts resulting from accelerated oil and gas development off their shores should also receive the resources necessary to adequately cope with OCS development.

The pace of OCS leasing and development is rapidly increasing. The Secretary of the Interior has proposed to offer for lease close to 1 billion acres—nearly the entire Outer Continental Shelf—within the next 5 years. Revenues from increased leasing activities are expected to be more than $5 billion according to administration estimates. Clearly, a small portion of that revenue should be set aside for coastal States to use in planning for OCS activities, managing and enhancing their fisheries and living resources, and mitigating possible harmful impacts.

I believe that enactment of this legislation is critical to ensure the orderly development of our OCS resources. I urge you to support this measure.

Mr. Speaker, I want to commend the chairman of the full committee, the distinguished gentleman from North Carolina [Mr. JONES] and the ranking Republican member, the gentleman from Alaska [Mr. YOUNG] for their leadership.

I think we have come out of conference with a good, balanced conference report and I commend my colleagues.

The SPEAKER pro tempore. The Chair will inform the gentleman from North Carolina [Mr. JONES] that he has 7 minutes remaining and the gentleman from Alaska [Mr. YOUNG] that he has 7 minutes remaining.

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in strong support of this legislation because I think it is consonant with a principle of good stewardship of our resources.

I think if we are going to develop our natural resources in this country we have a responsibility to the people of this Nation to be good stewards, which means that we developed what needs to be develop and we protect what needs to be protected.

□ 1300

There is not much mystery that I have serious questions regarding the administration policy with regard to coastline areas that need to be protected and I have made that clear from time to time.

But I also have said that there are areas that need to be developed. We have that responsibility as well. And if we are going to develop that kind of resource, then we need to provide protections for the communities and the States that are impacted.

That is what this legislation is all about. It is trying to protect the partnership that should exist in the development of resources. These resources do not belong to the Federal Government. They do not belong to the States or the local communities. They belong to the people of this country.

But if you do not bring the people of this country together through local governments, State government, and Federal Government in the development of these resources, we will always have problems in terms of what we do in this area.

This bill tries to say that those communities that do participate in this national effort are going to be helped in dealing with the impact that this will have: the resource impact, the marine life impact, the coastal impact, the economic impact that this kind of development has on the community. And it is there. It needs to be recognized.

I do not think that States are asking too much here incidentally. The State of California, for example, provides in Federal revenues from the development of oil, gas on our Outer Continental Shelf some $2.38 billion to the Federal Government. What does it get back under this legislation? About $23 million. That is about 1 percent.

If you look at the Mineral Leasing Act, States under that get about 50 percent.

So we are not asking too much here in terms of trying to give the States and the communities that are impacted the ability to provide protections in the development of those resources.

This bill makes good sense and it ought to be enacted overwhelmingly because it makes good sense from a resource point of view, but, more importantly, it makes good sense from a stewardship point of view.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, as a cosponsor of H.R. 5 establishing an OCS revenue sharing program, I rise in strong support of the conference report on S. 2463 which authorizes this important new program. This legislation, known as the Ocean and Coastal Resources Management and Development Block Grant Act, is designed to assist States and local governments to deal with the environmental impact of offshore drilling activities. Further, it should help promote balanced leasing and development of the Outer Continental Shelf by enhancing the States' interest in the Federal OCS Program. It also provides a long-term predictable source of funds for States to mitigate coastal impacts caused by OCS or other energy-related development and to maintain effective and efficient programs for management of the coastal zone.

The legislation sets up a special fund in the U.S. Treasury to be fed by 10 percent of the growth in future revenues from Federal offshore oil and gas activities. Coastal States will be eligible for a share of the fund in accordance with a formula which includes actual and planned OCS leasing, coastal-related energy facilities including coal, and for States with approved coastal zone management [CZM] plans, shoreline mileage and coastal county population will also be considered.

Under this formula, New York State is estimated to receive 4.5 percent of future OCS revenues. If the program is fully funded, New York will receive $13.5 million to use in a wide range of coastal management activities.

As a strong supporter of efforts to manage the coastal zone, I am pleased to note that over $10.6 million of New York's share is the direct result of our having a federally approved CZM plan.

To meet the special needs of local governments, no less than one-third of each State's annual block grant must be passed through to local governmental units. In allocating block grant funds for local government activities, States must take into account the priorities, needs, and responsibilities of local communities in responding to the effects of coastal energy activities.

Enactment of this legislation is vitally important for Long Islanders. Long Island is lined with miles of beaches, fragile wetlands, inlets, and estuaries. Proper management of these precious resources is vital both to our economy and to maintain our unique environment. Further, with continued support for New York's CZM plan, Long Islanders will be assured a participatory role in Federal OCS decisionmaking.

An overwhelming bipartisan show of support for this compromise can help put this important new program into place at the earliest possible date. I urge my colleagues to support the conference report on S. 2463.

Mr. YOUNG of Alaska. Mr. Speaker, we are closing out the debate on this very important conference report. I urge my colleagues to support the conference and vote against the motion to recommit that will be made by the gentleman from Kentucky.

I would like to clarify for the record, though, a previous speaker. The gentlewoman from California referred to the policy of this administration and Secretary Jim Watt.

The first lawsuit that was filed by California and the first hearings held by the committee on which I serve, the chairman, Mr. John Murphy. This lawsuit was filed against Cecil Andrus, the Secretary of Interior, under President Carter.

I would suggest that every administration that I have served under now for the last 12 years has opposed this type of legislation. Every administration believes this is unfair.

But we are still only developing 2 percent of the potential 60 percent.

So I would suggest respectfully this legislation is badly needed and that we do go forth with our duty today.

● Mr. CARNEY. Mr. Speaker, I, too, wish to express my support of the conference report on S. 2463, a bill to provide block grants to coastal States and territories for the purpose of supporting their ocean and coastal resource management programs.

I support the continuing development of our Federal offshore oil and gas resources, but also agree with my committee colleagues on the necessity of providing some financial resources to alleviate whatever impacts might be associated with such activities along our Nation's coasts. If we want to maintain the integrity of land-use planning and coastal zone management programs—programs which benefit all Americans who enjoy, directly or indirectly, the many resources found along our coastlines—we have the responsibility of ensuring their continuation through the enactment of this legislation.

A renewed interest in a cooperative effort between the Federal and State governments in careful management and development of both onshore and offshore resources will benefit all our constituents, not just coastal residents. The formula for the distribution of this modest block grant fund ensures there will continue to be an incentive for coastal States to carry out their approved coastal zone management programs. In addition, those States which do not have approved CZM programs but which, nevertheless, must deal with the adverse impacts associated with energy activities will be guaranteed a fair share of block grants.

Mr. Speaker, I think this legislation will serve to promote the development of a stable energy source—our Outer Continental Shelf—as well as to protect our valuable coastal resources for all Americans, and ask my colleagues to vote for the conference report on S. 2463.●

● Mr. LIPINSKI. Mr. Speaker, I rise in support of the conference report on S. 2463, ocean and coastal resources management and development block grants. This legislation embodies much of the language of H.R. 5, passed by the House earlier this year of which I am a cosponsor.

Enactment of S. 2463 is potentially beneficial to the State of Illinois and the city of Chicago. This legislation will establish an ocean and coastal resources management and development fund with moneys derived from Outer Continental Shelf [OCS] oil and gas lease sales. To be eligible to receive funds under this program, all coastal States, including Great Lakes States, must have either ongoing OCS leasing activity, coastal-related energy facilities, or an approved coastal zone management program.

In Illinois, there are 60 miles of Lake Michigan shoreline in great need of shoreline improvements. Currently, the State of Illinois does not have a federally approved Coastal Zone Management Program; however, there are efforts going on now in the Illinois State Legislature to remedy this problem. It is my hope that the next session of the legislature will take up this issue and support seeking Federal CZM designation, without which our share of the funds from this legislation will be drastically reduced.

The city of Chicago is gearing up to hold the 1992 World's Fair on the shores of Lake Michigan. S. 2463 can provide the city with funding for the World's Fair. The block grant funds can also be used for port development, industrial and commerical redevelopment, water quality improvement, and recreational facilities.

While the provisions in H.R. 5 were more to my line of thinking, the language of this conference report represents a good compromise between the two bodies. The chairman of the Merchant Marine and Fisheries Committee, Representative WALTER JONES, as well as Representative BREAUX and Representative D'AMOURS should be commended for all their hard work on this measure. I urge my colleagues to support this conference report.●

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. SNYDER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SNYDER moves to recommit the conference report on the Senate bill, S. 2463, to the committee of conference.

The SPEAKER pro tempore. Without objection the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 122, nays 282, not voting 28, as follows:

[Roll No. 389]

YEAS—122

Andrews (TX)	Hall, Sam	Paul
Archer	Hammerschmidt	Petri
Bartlett	Hance	Pickle
Bedell	Hansen (ID)	Porter
Bereuter	Hansen (UT)	Quillen
Bliley	Harkin	Regula
Brooks	Hartnett	Richardson
Broomfield	Hefner	Ridge
Brown (CO)	Hillis	Ritter
Broyhill	Hopkins	Roberts
Burton (IN)	Hyde	Robinson
Chappie	Jeffords	Rogers
Clinger	Kasich	Rudd
Coats	Kazen	Schaefer
Coleman (MO)	Kindness	Schulze
Conable	Kramer	Sharp
Coughlin	Latta	Shumway
Craig	Leach	Shuster
Crane, Daniel	Leath	Skeen
Crane, Philip	Lloyd	Slattery
Daub	Loeffler	Smith (IA)
DeWine	Lujan	Smith (NE)
Dickinson	Madigan	Smith, Denny
Dorgan	Marlenee	Snyder
Duncan	Marriott	Stenholm
Edwards (OK)	Martin (IL)	Sundquist
Emerson	McCain	Tauke
English	McCandless	Taylor
Erlenborn	McDade	Vandergriff
Evans (IA)	McEwen	Volkmer
Fields	Michel	Vucanovich
Fish	Miller (OH)	Walker
Frenzel	Mollohan	Watkins
Frost	Murphy	Weber
Gekas	Myers	Wilson
Gingrich	Nielson	Wolf
Glickman	O'Brien	Wright
Goodling	Oxley	Wylie
Gradison	Packard	Yates
Gunderson	Parris	Young (MO)
Hall, Ralph	Patman	

NAYS—282

Ackerman	Gore	Nichols
Addabbo	Gray	Nowak
Akaka	Green	Oakar
Albosta	Gregg	Oberstar
Alexander	Guarini	Obey
Anderson	Hall (IN)	Olin
Andrews (NC)	Hall (OH)	Ortiz
Annunzio	Hamilton	Ottinger
Anthony	Hawkins	Owens
Applegate	Hayes	Panetta
Aspin	Heftel	Pashayan
AuCoin	Hertel	Patterson
Badham	Hightower	Pease
Barnes	Holt	Penny
Bateman	Horton	Pepper
Bates	Howard	Price
Beilenson	Hoyer	Pursell
Bennett	Hubbard	Rahall
Berman	Huckaby	Rangel
Bevill	Hughes	Ratchford
Biaggi	Hunter	Ray
Bilirakis	Hutto	Reid
Boehlert	Ireland	Rinaldo
Boland	Jacobs	Rodino
Boner	Jenkins	Roe
Bonior	Johnson	Roemer
Bonker	Jones (NC)	Rostenkowski
Borski	Jones (OK)	Roth
Bosco	Kaptur	Roukema
Boucher	Kastenmeier	Rowland
Boxer	Kemp	Roybal
Breaux	Kennelly	Russo
Britt	Kildee	Sabo
Brown (CA)	Kleczka	Savage
Bryant	Kogovsek	Sawyer
Burton (CA)	Kolter	Scheuer
Byron	Kostmayer	Schneider
Campbell	LaFalce	Schroeder
Carney	Lagomarsino	Schumer
Carper	Lantos	Seiberling
Carr	Lehman (CA)	Sensenbrenner
Chappell	Lehman (FL)	Shaw
Clarke	Leland	Shelby
Clay	Lent	Sikorski
Coelho	Levin	Siljander
Collins	Levine	Sisisky
Conte	Levitas	Skelton
Conyers	Lewis (CA)	Smith (FL)
Cooper	Lewis (FL)	Smith (NJ)
Courter	Lipinski	Snowe
Coyne	Livingston	Solarz
Crockett	Long (LA)	Solomon
D'Amours	Long (MD)	Spence
Daniel	Lott	Spratt
Dannemeyer	Lowery (CA)	St Germain
Daschle	Lowry (WA)	Staggers
Davis	Luken	Stark
de la Garza	Lundine	Stokes
Dellums	Lungren	Stratton
Derrick	Mack	Studds
Dicks	MacKay	Swift
Dingell	Markey	Synar
Dixon	Martin (NY)	Tallon
Donnelly	Martinez	Tauzin
Dowdy	Matsui	Thomas (CA)
Downey	Mavroules	Thomas (GA)
Dreier	Mazzoli	Torres
Durbin	McCloskey	Torricelli
Dwyer	McCollum	Towns
Dyson	McCurdy	Traxler
Early	McGrath	Udall
Eckart	McHugh	Valentine
Edgar	McKernan	Vander Jagt
Edwards (AL)	McKinney	Vento
Edwards (CA)	McNulty	Walgren
Erdreich	Mica	Waxman
Evans (IL)	Mikulski	Weaver
Fascell	Miller (CA)	Weiss
Fazio	Mineta	Wheat
Feighan	Minish	Whitehurst
Fiedler	Mitchell	Whitley
Flippo	Moakley	Whittaker
Foglietta	Molinari	Whitten
Foley	Montgomery	Williams (MT)
Ford (TN)	Moody	Winn
Fowler	Moore	Wirth
Franklin	Moorhead	Wise
Fuqua	Morrison (CT)	Wolpe
Garcia	Morrison (WA)	Wortley
Gejdenson	Mrazek	Wyden
Gephardt	Murtha	Yatron
Gibbons	Natcher	Young (AK)
Gilman	Neal	Young (FL)
Gonzalez	Nelson	Zschau

NOT VOTING—28

Barnard	Florio	Pritchard
Bethune	Ford (MI)	Rose
Boggs	Frank	Shannon
Chandler	Gaydos	Simon
Cheney	Gramm	Smith, Robert
Coleman (TX)	Harrison	Stangeland
Corcoran	Hatcher	Stump
Darden	Hiler	Williams (OH)
Dymally	Jones (TN)	
Ferraro	Martin (NC)	

□ 1320

Messrs. LONG of Maryland, DREIER of California, LEWIS of Florida, and LEWIS of California changed their votes from "yea" to "nay."

Messrs. VOLKMER, PICKLE, LONG of Maryland, YOUNG of Missouri, KASICH, SAM B. HALL, JR., MARLENEE, WRIGHT, ANDREWS of Texas, RICHARDSON, PATMAN, WATKINS, FROST, and SMITH of Iowa changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BREAUX. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 312, nays 94, not voting 26, as follows:

[Roll No. 390]

YEAS—312

Ackerman	Chappell	Feighan
Akaka	Chappie	Fiedler
Albosta	Clarke	Fish
Alexander	Clay	Flippo
Anderson	Clinger	Foglietta
Andrews (NC)	Coelho	Foley
Andrews (TX)	Coleman (MO)	Ford (TN)
Annunzio	Collins	Fowler
Anthony	Conte	Frank
Applegate	Conyers	Franklin
Aspin	Cooper	Frost
AuCoin	Courter	Fuqua
Barnes	Coyne	Garcia
Bateman	Crockett	Gejdenson
Bates	D'Amours	Gephardt
Bennett	Daniel	Gibbons
Berman	Darden	Gilman
Bevill	Daschle	Gingrich
Biaggi	Davis	Goodling
Bilirakis	de la Garza	Gore
Bliley	Dellums	Gray
Boehlert	Derrick	Green
Boland	Dickinson	Gregg
Boner	Dicks	Guarini
Bonior	Dixon	Hall (IN)
Bonker	Donnelly	Hall (OH)
Borski	Dowdy	Hall, Sam
Bosco	Downey	Hamilton
Boucher	Duncan	Hatcher
Boxer	Durbin	Hawkins
Breaux	Dwyer	Hayes
Britt	Dymally	Hefner
Brooks	Dyson	Heftel
Broomfield	Early	Hertel
Brown (CA)	Eckart	Hillis
Bryant	Edgar	Holt
Burton (CA)	Edwards (AL)	Howard
Byron	Edwards (CA)	Hoyer
Campbell	Erdreich	Hubbard
Carney	Evans (IL)	Huckaby
Carper	Fascell	Hughes
Carr	Fazio	Hunter

Hutto	Mineta	Schroeder
Ireland	Minish	Schumer
Jenkins	Mitchell	Seiberling
Johnson	Moakley	Sensenbrenner
Jones (NC)	Molinari	Shaw
Kaptur	Mollohan	Shelby
Kasich	Montgomery	Shuster
Kastenmeier	Moody	Sikorski
Kemp	Moore	Siljander
Kennelly	Moorhead	Sisisky
Kildee	Morrison (CT)	Skelton
Kleczka	Morrison (WA)	Smith (FL)
Kogovsek	Mrazek	Smith (IA)
Kolter	Murphy	Smith (NJ)
Kostmayer	Murtha	Snowe
LaFalce	Myers	Solarz
Lagomarsino	Natcher	Solomon
Lantos	Neal	Spence
Latta	Nelson	Spratt
Leath	Nichols	St Germain
Lehman (CA)	Nowak	Staggers
Lehman (FL)	Oakar	Stark
Leland	Oberstar	Stokes
Lent	Obey	Stratton
Levin	Olin	Studds
Levine	Ortiz	Sundquist
Levitas	Ottinger	Swift
Lewis (CA)	Owens	Synar
Lewis (FL)	Packard	Tallon
Lipinski	Panetta	Tauzin
Livingston	Parris	Thomas (CA)
Lloyd	Pashayan	Thomas (GA)
Long (LA)	Patterson	Torres
Long (MD)	Pease	Torricelli
Lott	Penny	Towns
Lowery (CA)	Pepper	Traxler
Lowry (WA)	Pickle	Udall
Luken	Price	Valentine
Lundine	Pursell	Vander Jagt
Lungren	Rahall	Vento
Mack	Rangel	Walgren
MacKay	Ratchford	Waxman
Madigan	Ray	Weaver
Markey	Reid	Weiss
Martin (NY)	Richardson	Wheat
Martinez	Ridge	Whitehurst
Matsui	Rinaldo	Whitley
Mavroules	Robinson	Whitten
Mazzoli	Rodino	Williams (MT)
McCandless	Roe	Wilson
McCloskey	Roemer	Wirth
McCollum	Rostenkowski	Wise
McDade	Roth	Wolf
McEwen	Roukema	Wolpe
McGrath	Rowland	Wortley
McHugh	Roybal	Wright
McKernan	Russo	Wyden
McKinney	Sabo	Yatron
McNulty	Savage	Young (AK)
Mica	Sawyer	Young (FL)
Mikulski	Scheuer	Young (MO)
Miller (CA)	Schneider	Zschau

NAYS—94

Archer	Gunderson	Petri
Badham	Hall, Ralph	Porter
Bartlett	Hammerschmidt	Quillen
Bedell	Hance	Regula
Beilenson	Hansen (ID)	Ritter
Bereuter	Hansen (UT)	Roberts
Brown (CO)	Harkin	Rogers
Broyhill	Hartnett	Rudd
Burton (IN)	Hightower	Schaefer
Coats	Hopkins	Schulze
Conable	Hyde	Sharp
Coughlin	Jacobs	Shumway
Craig	Jeffords	Skeen
Crane, Daniel	Jones (OK)	Slattery
Crane, Philip	Kazen	Smith (NE)
Dannemeyer	Kindness	Smith, Denny
Daub	Kramer	Snyder
DeWine	Leach	Stenholm
Dingell	Loeffler	Tauke
Dorgan	Lujan	Taylor
Dreier	Marlenee	Vandergriff
Edwards (OK)	Marriott	Volkmer
Emerson	Martin (IL)	Vucanovich
English	McCain	Walker
Erlenborn	McCurdy	Watkins
Evans (IA)	Michel	Weber
Fields	Miller (OH)	Whittaker
Frenzel	Nielson	Winn
Gekas	O'Brien	Wylie
Glickman	Oxley	Yates
Gonzalez	Patman	
Gradison	Paul	

NOT VOTING—26

Addabbo	Florio	Pritchard
Barnard	Ford (MI)	Rose
Bethune	Gaydos	Shannon
Boggs	Gramm	Simon
Chandler	Harrison	Smith, Robert
Cheney	Hiler	Stangeland
Coleman (TX)	Horton	Stump
Corcoran	Jones (TN)	Williams (OH)
Ferraro	Martin (NC)	

□ 1340

Mr. HIGHTOWER and Mr. DORGAN changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 2463 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5609, AMERICAN DEFENSE EDUCATION ACT

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 578 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 578

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5609) to authorize a national program of improving the quality of education, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read. No amendment to said substitute shall be in order except germane amendments printed in the Congressional Record by September 12, 1984. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 578 provides for the consideration of H.R. 5609, the American Defense Education Act. The resolution provides 2 hours of general debate, to be equally divided and controlled between the chairman and the ranking minority member of the Committee on Education and Labor and the ranking majority member of that same committee.

The resolution makes in order a Committee on Education and Labor amendment in the nature of a substitute printed in the bill and considered as original text for the purpose of amendment. The committee substitute shall be considered by titles rather than by sections, and each title shall be considered as read.

House Resolution 578 further provides for the consideration of any germane amendments printed in the CONGRESSIONAL RECORD by September 12, 1984. Yesterday, unanimous consent was granted in the full House to have those amendments printed in the RECORD by, I believe, 9 p.m.

The resolution does not waive any rules of the House, but does include one motion to recommit with or without instructions.

□ 1350

Mr. Speaker, of late, much attention has been focused on the educational system in this country. Secretary Bell recently issued a report of the National Commission on Excellence in Education, the Carnegie Foundation for the Advancement of Teaching sponsored a report on American high schools, and the National Science Foundation issued a special report on improving instructions in math and science, to name just a few of the projects recently undertaken to assess our educational system. A recommendation common to these studies was that due to the ever-changing demographics, technology, and diversity of American culture, local school districts should play a major role in designing and implementing improvements in educational programs.

The bill that we will consider, H.R. 5609, would provide funds based on a formula which would guarantee fund-

ing to all local school districts and provide extra payments to poor children. Local districts would perform local needs assessment and design programs to improve those areas found weak, as well carry out the program.

The bill also provides grants to higher education institutions to encourage coordination between local school districts and the institutions to improve science and math education in the district.

The bill also requires the Secretary of Education and the Secretary of Defense to prepare an analysis of the education needs of the Department of Defense to assist in manpower development.

Mr. Speaker, it is no secret to the American people that our educational system is facing a crisis. We know the horror stories. Both Republicans and Democrats have heard them in their districts. Let me just cite one example to the Members.

This past Tuesday, I was persuing the Metro section of the Washington Post when I spotted a headline stating that 54 percent of ninth graders in nearby Prince Georges County had failed a writing test required of them by the State for graduation from high school. While this figure may be appalling, a further statement in the article shocked me even more. Thirty percent of ninth graders at Walt Whitman High School in Montgomery County also failed the same test.

I would like to remind my colleagues that Walt Whitman High School has been consistently rated as one of the top high schools in the Nation. When one of the top 10 high schools in the Nation has this type of a problem, can any of us believe that our own schools are immune?

During the hearing before the Committee on Rules on H.R. 5609, my dear friend, the gentleman from Michigan [Mr. KILDEE], made an eloquent statement on behalf of this bill. He pointed out that the investment that this country made after the Second World War in the GI education bill has not only reaped benefits for that generation of people, soldiers who went into the private sector after their service in the war, but is now reaping a second generation of educational benefits and investment to the country inasmuch as their children are following their example.

H.R. 5609 is a good investment. It allows local school districts to improve academic achievement by addressing their own particular needs, and House Resolution 578 is a fair rule under which to debate the bill. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is one provision in this rule which should not be there. It establishes a practice which, if followed on this type bill in the future, could prove harmful to Members on both sides of the aisle.

The problem sentence reads as follows:

No amendment to said substitute shall be in order except germane amendments printed in the CONGRESSIONAL RECORD by September 12, 1984.

This sentence requires that any amendment to this bill had to be submitted for printing in the RECORD by yesterday. And to make it worse, this rule was not even considered and reported by the Rules Committee until yesterday.

Mr. Speaker, it would not be objectionable if we were to adopt a rule today which set a cutoff date on amendments some time in the future. But we are being asked to adopt a rule today which sets yesterday as a cutoff date for amendments.

Mr. Speaker, I am aware that an announcement was made on the floor late yesterday that such a rule had been reported. I am aware that unanimous consent was obtained for all Members to have until 9 p.m. last night to file amendments. And I am further aware that the gentleman from California [Mr. HAWKINS] inserted into the CONGRESSIONAL RECORD of September 5, a notice of his intention to seek a rule requiring amendments to be printed 1 day in advance. However, in that notice, he did not mention that by the day the rule was adopted, it would already be too late to insert an amendment in the CONGRESSIONAL RECORD.

But even with the attempts to give some notice in this case, we still have a precedent which will come back to haunt us in the future. Who knows whether any advance warning will be given in future instances if this practice should become common.

And even in this case, there are probably Members who are just now becoming aware of this restriction on amendments, and it is now too late for them to prepare an amendment.

Democrats can be hurt by this procedure as easily as Republicans. I have no self-interest in this because I do not plan to offer an amendment to the bill. But we are going to deprive ourselves of the opportunity to consider some worthwhile amendments with this type procedure. Sometimes debate on a bill may produce new ideas, but under this rule, the House will be cut off from considering these new ideas because they were not submitted for printing in the CONGRESSIONAL RECORD yesterday.

Mr. Speaker, most of us agree that there are certain bills where a limitation on amendments makes some sense. For example, bills changing the Internal Revenue Code are usually brought to the floor under a closed or modified rule procedure.

But this is not a tax bill. This bill is no more complicated than legislation we routinely consider. And yet this rule will prohibit any new amendments from being considered.

Mr. Speaker, if we cut off amendments on this bill today, there is no reason not to cut off amendments on every other major piece of legislation. And that is not the way a democracy should function.

Mr. Speaker, I have one request for time, and I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to reemphasize the point that the gentleman makes. We seem to come up with all kinds of inventive ways in this body to close down debate on legislation. The latest new invention is to declare this kind of procedure an open rule when Members had to have their amendments printed in the RECORD by last evening.

What that means, then, is that if some Member in the course of listening to the debate here today comes up with questions about this bill, that Member will not be able to draft an amendment and have it considered by the body. That is hardly an open rule. That is a new form of closed rule that I think sets a very bad precedent and that I would hope we are not going to proceed on in the future.

The other thing that makes this condition a rather arbitrary one is the fact that it has political ramifications. I am one who has published a couple of amendments in the RECORD as of last night, amendments that I intend to offer. What I now find is that the reason that people wanted that done was so that all the outside pressure groups could get their people lined up and make certain they knew exactly what was coming up and have the pressure put on Members to vote one way or another on these amendments.

In other words, this procedure enhances the ability of special interests to impact on this body, and I happen to think that that may have been part of the purpose of declaring this in the first place, to make certain that everybody knew in advance what might be considered so that special interest power could manifest itself more readily in the course of deliberations on this bill.

Mr. Speaker, I think that is also a bad procedure. I think it is the kind of thing we do not want to have happen again, and I hope this is the last time we ever see a rule of this type.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me, if I might, try to clarify this situation that has been raised by my two colleagues on the other side of the aisle. Let us be clear

that this bill, H.R. 5609, was reported out of the Committee on Education on May 10, 1984—not June, not July, not August, but May 10, 1984—and a report was filed on the bill on May 15, 1984.

□ 1400

The vote out of committee was 27 to 5. There was little opposition and they have had 5 months to contemplate amendments.

Now, Congressman HAWKINS sent a letter to the Rules Committee requesting a hearing on September 5, Wednesday.

We heard on September 12 that people had 7 days to put together amendments and Congressman HAWKINS printed the request he was going to make and the request that we are operating under this afternoon, he had that request printed in the CONGRESSIONAL RECORD on September 5.

In addition, to accommodate Members yesterday, Congressman MOAKLEY asked unanimous consent that Members have until 9 o'clock to have amendments printed in the RECORD so they could be considered today.

Now, we are approaching, as everyone knows, the end of this Congress. There is much work to be done. There are many important bills we have to consider in the Rules Committee and it is not unusual at all for the Rules Committee to develop techniques, strategies and procedures, to have this body in an orderly and expeditious way consider the legislation which is pending before the finish of this Congress.

As a matter of fact, this particular rule is more liberal than most rules we have passed at the end of the Congress. Of the last 10 resolutions granted in the Rules Committee in the last Congress since 1979, 6 were either modified or modified closed or modified open rules that restricted amendments only to certain designated ones from committees that had to be printed in the RECORD.

So to suggest that we are developing a new procedure, that it is a gag on democracy, that it is more restrictive then we have operated under previously, is erroneous. It is wrong.

We have tried to be fair. People have had an appropriate amount of time to consider amendments which they want the House to consider.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. SPEAKER, I rise in support of the rule and in support of this act. For some time we know that the national debate on education reform has primarily focused on excellence in education, but excellence in the area of education and equity of access to education go hand in hand, and excellence without equity is an unworthly goal.

The measure we have before us is an absolutely essential piece of legislation if we want to respond to the results of surveys that pronounce that our Nation is at risk because of the deteriorating quality of our educational system.

We cannot minimize or ignore the importance of education in the survival or advancement of a free society.

Mr. Speaker, If we have enough money for all these cost overruns in the defense budget, and I was telling my colleagues the cost overrun on a helicopter project is twice as much as this bill that would serve thousands and thousands of students across the country. Among the programs that have been under abuse and attack by the administration are chapter I, the Women's Equity Education Act, title IX, bilingual education, vocational education and others. These programs all have a track record of success, but the Reagan administration has seen fit to attack them through elimination of funding, cuts in resources, or by weakening title IX which is so important to women in this country.

Mr. Speaker, as a former teacher, one who taught for 10 years at the college level and high school level, I would say all teachers want to do is get back in the classroom. They do not want to go into outer space. They think the needs of education are on Earth.

We feel strongly that education of children is one of the most fundamental legacies that we can give to our country and to the world, and for this reason I support wholeheartedly the American Defense Education Act. I support the rule that is eminently fair.

I hope we can get on with the business of showing Americans that once again American education is a national priority.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding.

I rise in strong support of this rule for the consideration of H.R. 5609, the American Defense Education Act.

I have told this body many times in the past that I believe that education is a local function, that it is a State responsibility, but it is also a very important Federal concern.

I think we have an obligation to make sure that the tripod of function, responsibility and concern is strongly maintained. This bill addresses itself to that problem and gives a great deal of local autonomy and discretion to the local school districts and to the States in so doing.

We are now on the cutting edge of technology in this world and we have to compete in that. We have certain national purposes with which the Federal Government must be concerned in our education.

In my own city of Flint, MI, for example, we have this situation where we are producing more automobiles with fewer people. General Motors has hired almost no new people since 1978 in Flint, MI. Many people are laid off and the skills they have are not really that useful to the corporation. General Motors itself is working with our local boards of education to retrain these people along these very lines, math being one of the great components of that retraining. To compete in this very technological and competitive world, we have to retrain our people. We as a nation, we as a part of the Federal lawmaking body, must make sure we have that legitimate concern in doing that. I urge that we make this investment in education. We spend billions of dollars in this body for purposes very questionable. This is an unquestioned need.

Mr. BONIOR of Michigan. Mr. Speaker, I yield as much time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this legislation to which this rule refers has much to merit it to the consideration of the Members of this House. The legislation is clearly in keeping with the desires of the American people. In poll after poll for the past 2 years the American people have said again and again that there is one element of Government expenditure which they wish to increase—education.

The American people have said in poll after poll for the past 2 years that there is one expenditure of public funds for which they are willing to increase our own tax load—education.

Education has for the first time in my lifetime received the full continued focus of the American public. That same public has throughout the 200-plus year history of the United States shown a traditional concern for and understanding of the value of education in our society; however, as I have said, not before in my lifetime has there been such a demand by the public that Congress, the State legislators, and school board members act to improve the education of our American children and adults.

The bill that we are soon to consider will take another step toward doing that.

Let me speak more specifically about the rule and particularly the unfortunate and I think inappropriate carping of the minority about how this rule is a new invention, how the elements of

this rule have never been done before in this body. That is not true. That is not so.

This rule is not a slam dunk. This rule is the type that this body has adopted in the past whenever we come to the waning days of the congressional session. We want to have an open rule, but we want to modify it in a way that we do not have delaying after delaying after delaying amendments attached to a bill.

□ 1410

This bill allows amendments. Both the majority and the minority have a number of amendments to offer to it.

This is a good rule. I am hopeful that a majority of Members on both the minority and majority side will support this rule with considerable vigor and then will pass this legislation which I really believe is supported by a significant majority of the American people.

I thank the manager of the rule for allotting me this time.

Mr. BONIOR of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I rise in strong support of this rule and in support of this bill.

Mr. Speaker, it has been the fashion throughout our society for the last couple of years to give a great deal of lipservice and talk to the need to upgrade the quality of education in this country. No one has spoken of that more frequently than the President of the United States, who has firmly planted in the minds of the American people the idea that we really are not doing the kind of a job that we need to do to be competitive and strong in this world, and that indeed it is not because it is impossible; it is because we somehow have not had the will in the past to do it.

Many Members of both the President's party and my party, myself included, have been all across this country agreeing with the fundamental premise that the education of today, although superior to the past, is not adequate for the future and that we have not been keeping up with the increased demands for more and more effort to be competitive in this world.

Everybody talks about what we really need is quality and excellence. We do not need more quantity, we need quality and excellence. And everybody talks as if somehow you could get that by cheerleading and slogans.

If you want quality you pay for quality. If you want good carpeting on this floor you have to pay the price of good carpeting. If you want cheap burlap on the floor you can get that, too. It would look pretty silly to try to save money that way. But that is what we do to the school systems all across this country, because the traditional tax structure of the State and local level that has historically been the underpinning of the maintenance of our school system at the elementary and secondary level is no longer relevant to today's economy and economic realities and does not keep up with the ravages inflation is imposing and causing to the operation and maintenance of local school districts.

There is scarcely a school district in the country, and certainly none in my State, that has any kind of a surplus or any money to waste. Indeed, they have been struggling along, scraping the bottom of the barrel and stretching their dollars for so long that it is correct to say that the inevitable weakening of the fabric of the quality of education in my State has been very, very deeply injured.

This bill is not a solution to that problem but it is an effort to begin solving that problem. Everyone knows that you are not going to get the best of our young people to enter the teaching profession in this country so long as it is the lowest paid college trained profession in our society. The young people are just not going to choose the least rewarding career.

You might say well, we will still have plenty of highly committed people who will teach because teaching is so important to them, without regard to the manner in which they and their family will thereafter have to live. That is true. We will always have some people who are willing to do that, as we will have some people preaching the Gospel who are willing to do that, and some who will practice medicine in the jungle like Dr. Schweitzer, because they are willing to do that. But you cannot run the world on an expectation that there will be enough people like that.

We need to give the local school districts and the citizens of the local school districts some signal that Washington can do more than cluck and talk about the problem and about the need to improve the quality of education, and the need for them to do more than they have been doing to see to it that as the real stewards of the education of the children of this country, that is, the people at the local and the State level, they utilize every resource at their disposal efficiently.

Those of us who have sponsored this legislation really believe that the rather modest amount that is entailed here, in comparison to the annual costs of operating and maintaining the American public school system across this country is really a very small down payment to make if it is sufficient, however, to convince the American people that we are getting an example here by allocating resources.

There are those who would say with the big budget deficit that we have how can we possibly be thinking of spending more money for education. I submit that when you are in trouble you invest in that ammunition or in those tools that will get you out of trouble. If we are in trouble with the deficit, that foretells for us troubles of other kinds and we are not going to solve those problems by walking away from the education of the present and the future of this country.

I do not regard our passage of this legislation as a suggestion that we are going to add to the deficit in any way at all. I am suggesting that we are coming forward and saying that we consider that out of whatever money is available from whatever source, whether taxes are raised or not, whether cuts are made in nonessential spending or not, that we think that restoring the health and vigor of the American public school system is important enough to reallocate the resources of this country and invest it in that source.

Nobody here questions investing in water management projects that suggest the saving of land and of a population someplace down the road, and nobody worries about investments in the form of tax cuts for people who are doing things to clean up the air. Everybody agrees that it is wise, even though costly, to make those investments because the ultimate payoff is well worth the investment.

Surely there is no one left in this country, certainly no one in this Congress, who fails to see that there is no place that we can invest money more wisely on behalf of the American taxpayers that we represent here than in the education of their children and children who will be looked to to keep this country strong and make it the kind of country for the future that we want it to be.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I rise in support of the American Defense Education Act as another step in our country's efforts to strengthen the quality of public school instructions in essential areas such as mathematics, the sciences, communications, foreign languages, and technology. Studies have shown that Americans are concerned about the level of education today's young people are receiving in certain specialized areas. Many Americans would agree that developing a solid educational base for our children is an important factor in maintaining our national defense and industrial strength in the world. The education of our young people must keep pace with the daily changes in American technology if this country wishes to remain a strong nation with a powerful military force. Our children deserve the best education we can provide and our country deserves a stable future with bright and capable young

people to lead us. This Congress has already shown its support for improved education by passing the comprehensive math and science bill earlier this session. We must now take a second step to further improve American education by passing H.R. 5609, which already enjoys wide bipartisan support in this Congress. I urge my colleagues in the House to join me in supporting this legislation as a worthwhile investment in the future of this Nation and its young people.

□ 1420

Mr. LATTA. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, I just want to take this time to reemphasize the fact that anybody searching the records of this Congress will find out that this is a new procedure that we are doing as far as the adoption of this rule is concerned.

I think in the research that we have only about one other case can be brought to the attention of the House where you have adopted the rule and you have closed off the insertion of amendments for which that rule was adopted the day before the rule was adopted.

Mr. BONIOR of Michigan. Mr. Speaker, I yield such time as he may consume to the majority leader, the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I think this is one of the most important initiatives that could come before this Congress. All of us were shocked at the report of the Presidential Commission telling us of the rising tide of mediocrity which faces the American public school system. To allow that to continue would be to permit a retrogression in American history.

If this country of ours has stood for nothing else it has come to stand over the years for the promise that the humblest American child born of the most modest circumstances might have as his or her birthright the right to get as fine a public education as those in the very highest ranks of society might obtain anywhere else on Earth.

It is because of this that we have seen a continual increase in America's capability to govern itself; we have seen a continual increase in the affluence of this land; we have seen a continual increase in our ability to compete internationally.

Mr. Speaker, I am convinced that we cannot continue to be first in defense, nor can we ever expect to resume the place of first among the nations in competition for commercial markets if ever we settle for second best in education.

One of the tragic follies of the last 2 or 3 years has been the deemphasis of this most vital engine of the American society. We have seen recommendations from this administration to reduce our commitment to public education over a variety of ways. Recommendations have been made to cut out the school lunch programs, to reduce the vocational education program, to reduce adult education, to reduce our commitment to education for the handicapped. Recommendations have been made to do away with Pell grants, to do away with work-study programs and to make harder to get and harder to repay the loans which permit young Americans of modest economic circumstances to get a college education.

Because of all these things, because of our emphasis upon the trappings of education rather than the heart of education, we have seen a decline in America's ability to compete internationally. Because we have failed to emphasize languages, we have seen other nations take our markets.

There are in the United States today some 10,000 Japanese business representatives of Japanese firms; all of them speak English.

There are in Japan probably some 500 representatives of the U.S. business firms seeking to sell American-made goods in that market; few if any of them speak Japanese.

It is because of our failure to emphasize these things that we have fallen behind.

Last year I think we graduated only some 54,000 young Americans from American colleges and universities in the mathematical and engineering disciplines. Japan, with only one-half of our population, was graduating 77,000. Russia was graduating some 300,000 young Russians whom they called engineers.

Now we know that their title of engineer is not the equivalent of that to which one gains right by completing a course of studies in the United States. But it is interesting to note that the Soviet Union graduated some 300,000 young people with some technological proficiency and calls them engineers.

Therefore, it seems incumbent upon us to renew our commitment to American education.

I believe that any amount of money wisely spent on the basics of American education must be the very best investment that the American Nation can make in its future.

For all those reasons, I honestly hope that we will have a big aye vote on this rule and on this bill.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. BONIOR of Michigan. Mr. Speaker, may I inquire how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] has 2 minutes remaining.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Let me just sum up by suggesting to my colleagues what we have here is an eminently fair rule, and a fair bill also.

The rule is not usual, as I pointed out. It is a rule which allows in the closing days of this Congress to consider fairly and expeditiously a very important piece of legislation.

Let me underline the remarks of my dear friend and colleague from Texas, the majority leader [Mr. WRIGHT] in suggesting the dire need to put funds at the local level into the foreign language problems.

Many of you here heard the majority leader talk about the nonproficiency of Americans overseas and the effect that that has on our competitive edge in industry.

Our dear colleague, Congressman SIMON from Illinois, has written eloquently on this subject. I recommend to this body the book, "The Tongue-Tied American," which he has written and which has been published.

Mr. Speaker, at this point I would ask my colleagues for a yes vote on the rule and hopefully we can move on with the important business of passing this legislation.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 311, nays 89, not voting 32, as follows:

[Roll No. 391]

YEAS—311

Ackerman	Bosco	Darden
Addabbo	Boucher	Daschle
Albosta	Boxer	Davis
Alexander	Breaux	de la Garza
Anderson	Britt	Dellums
Andrews (NC)	Brooks	Derrick
Andrews (TX)	Brown (CA)	Dickinson
Annunzio	Brown (CO)	Dicks
Anthony	Bryant	Dingell
Applegate	Burton (CA)	Dixon
Aspin	Byron	Donnelly
Barnard	Carper	Dorgan
Barnes	Carr	Dowdy
Bateman	Chappell	Downey
Bedell	Clarke	Duncan
Beilenson	Clay	Durbin
Bennett	Coats	Dwyer
Bereuter	Coelho	Dymally
Berman	Collins	Dyson
Bevill	Conte	Early
Biaggi	Conyers	Eckart
Bilirakis	Cooper	Edgar
Boehlert	Coughlin	Edwards (CA)
Boland	Courter	English
Boner	Coyne	Erdreich
Bonior	Crockett	Evans (IA)
Bonker	D'Amours	Evans (IL)
Borski	Daniel	Fascell

Fazio	Levin	Roemer
Feighan	Levine	Rogers
Fish	Levitas	Rose
Flippo	Lipinski	Rostenkowski
Foglietta	Lloyd	Roth
Foley	Long (LA)	Rowland
Ford (MI)	Long (MD)	Roybal
Ford (TN)	Lowry (WA)	Russo
Fowler	Lujan	Sabo
Frank	Luken	Savage
Frenzel	Lundine	Sawyer
Frost	MacKay	Schaefer
Fuqua	Markey	Schneider
Garcia	Martin (IL)	Schroeder
Gejdenson	Martin (NY)	Schumer
Gephardt	Martinez	Seiberling
Gibbons	Matsui	Sharp
Gilman	Mavroules	Shelby
Glickman	Mazzoli	Sikorski
Gonzalez	McCloskey	Sisisky
Gore	McCurdy	Skelton
Gray	McDade	Slattery
Green	McHugh	Smith (FL)
Gregg	McKinney	Smith (IA)
Guarini	McNulty	Smith (NE)
Gunderson	Mica	Smith (NJ)
Hall (IN)	Mikulski	Snyder
Hall, Ralph	Miller (CA)	Solarz
Hall, Sam	Mineta	Solomon
Hamilton	Minish	Spratt
Hammerschmidt	Mitchell	St Germain
Hance	Moakley	Staggers
Harkin	Montgomery	Stark
Hartnett	Moody	Stenholm
Hatcher	Moore	Stokes
Hawkins	Morrison (CT)	Stratton
Hayes	Morrison (WA)	Studds
Hefner	Mrazek	Swift
Heftel	Murphy	Synar
Hertel	Murtha	Tallon
Hightower	Natcher	Tauke
Hillis	Neal	Tauzin
Holt	Nelson	Thomas (GA)
Hopkins	Nichols	Torres
Horton	Nielson	Torricelli
Howard	Nowak	Towns
Hoyer	O'Brien	Traxler
Hubbard	Oakar	Udall
Huckaby	Oberstar	Valentine
Hughes	Olin	Vander Jagt
Hutto	Ortiz	Vandergriff
Ireland	Ottinger	Vento
Jacobs	Owens	Volkmer
Jeffords	Panetta	Walgren
Jenkins	Parris	Watkins
Johnson	Patman	Weaver
Jones (NC)	Patterson	Weber
Jones (OK)	Pease	Weiss
Kaptur	Penny	Wheat
Kastenmeier	Pepper	Whitehurst
Kazen	Petri	Whitley
Kemp	Pickle	Whitten
Kennelly	Price	Williams (MT)
Kildee	Pursell	Wilson
Kleczka	Quillen	Wirth
Kogovsek	Rahall	Wise
Kolter	Rangel	Wolf
Kostmayer	Ratchford	Wolpe
Kramer	Ray	Wright
LaFalce	Reid	Wyden
Lantos	Richardson	Wylie
Leach	Rinaldo	Yates
Leath	Ritter	Yatron
Lehman (CA)	Robinson	Young (AK)
Lehman (FL)	Rodino	Young (MO)
Leland	Roe	

NAYS—89

Akaka	Crane, Philip	Hunter
Archer	Dannemeyer	Hyde
AuCoin	Daub	Kasich
Badham	DeWine	Kindness
Bartlett	Dreier	Lagomarsino
Bliley	Edwards (OK)	Latta
Broomfield	Emerson	Lent
Broyhill	Erlenborn	Lewis (CA)
Burton (IN)	Fiedler	Lewis (FL)
Campbell	Fields	Livingston
Carney	Franklin	Loeffler
Chappie	Gekas	Lott
Clinger	Gingrich	Lowery (CA)
Coleman (MO)	Goodling	Lungren
Conable	Gradison	Mack
Craig	Hansen (ID)	Madigan
Crane, Daniel	Hansen (UT)	Marlenee
Marriott	Packard	Skeen
McCain	Pashayan	Snowe
McCandless	Paul	Spence
McCollum	Porter	Sundquist
McEwen	Regula	Thomas (CA)
McGrath	Roberts	Vucanovich
McKernan	Roukema	Walker
Miller (OH)	Rudd	Whittaker
Molinari	Sensenbrenner	Winn
Moorhead	Shaw	Wortley
Myers	Shumway	Young (FL)
Obey	Shuster	Zschau
Oxley	Siljander	

NOT VOTING—32

Bates	Gramm	Schulze
Bethune	Hall (OH)	Shannon
Boggs	Harrison	Simon
Chandler	Hiler	Smith, Denny
Cheney	Jones (TN)	Smith, Robert
Coleman (TX)	Martin (NC)	Stangeland
Corcoran	Michel	Stump
Edwards (AL)	Mollohan	Taylor
Ferraro	Pritchard	Waxman
Florio	Ridge	Williams (OH)
Gaydos	Scheuer	

□ 1440

Mrs. MARTIN of Illinois changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5609, the American Defense Education Act.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON S. 38, LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1983

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor have until midnight Friday, September 14, 1984, to file the conference report on the Senate bill (S. 38) entitled the "Longshoremen's and Harbor Workers' Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMERICAN DEFENSE EDUCATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 578 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5609.

□ 1449

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5609) to authorize a national program of improving the quality of education, with Mr. FOWLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 1 hour and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Today the Members have an opportunity to cast an affirmative vote for a piece of legislation that offers action and assistance—not just recommendations and rhetoric—to improve the quality of education in this country. This bill, H.R. 5609, the American Defense Education Act, provides Federal funds to local school districts to upgrade their instructional programs in a number of areas that are critical to our Nation's security and economic competitiveness.

This legislative initiative has bipartisan support and 234 cosponsors for good reason: It is a sound response to the Nation's demand for quality education. All of the major reports calling for educational reform have centered on the need for improvements at the elementary and secondary school district and school building level. Most have advocated a comprehensive reform of education, affecting all students and several curricular areas. Many have reaffirmed a Federal role in education.

We are misguided if we believe that this country can mount a wide-scale effort to enhance educational quality without a Federal role and without new Federal money. For example, it has been estimated that to carry out the recommendations of just one of these reports—that of the National Commission on Excellence in Education—would cost $14.1 billion, and if one includes the lengthening of the school day and textbook recommendations, this would cost $23.1 billion. States and localities have already begun to strengthen their standards and undertake other reforms. Now it is time for the Federal Government to do its part.

Unfortunately, the Federal Government is recently becoming a worse partner in the educational enterprise instead of a better one. In school year 1979-80 the Federal Government was

providing 9.2 percent of the expenditures for elementary and secondary edcuation; in 1983-84 the Federal share was 6.4 percent. And, according to the Congressional Research Service, those Federal education dollars are buying 20 percent less in 1984 than in 1980.

The American Defense Education Act offers the vehicle to promote excellence in education without a cumbersome Federal presence. H.R. 5609 would begin to restore an adequate Federal share for education, while at the same time implementing the improvements that the American public, employers, officers in the Armed Forces, and the President are requesting.

Let me briefly discuss what I believe are the bill's several advantages.

First, H.R. 5609 is comprehensive. The needs for improvements in American education encompass all students and many subject areas. For example, the National Assessment for Educational Progress shows us that the achievement levels of the top 25 percent of the students in the country are declining proportionately more than those of other students. But, as we know, the disadvantaged students continue to lag far behind their more advantaged peers. We cannot address these declines merely by expanding existing categorical programs, which are targeted on special groups of students. We cannot attack the situation through a hit-or-miss approach. Consequently, H.R. 5609 establishes a program of grants to school districts to meet the needs of all students in a broad range of critical subjects—mathematics, science, foreign languages, communications, technology, and guidance and counseling.

Second, H.R. 5609 is fair. Every school district in the country which chooses to participate will receive a grant, and school districts will receive extra funding for low-income children. Local educational agencies which make substantial progress in achieving their local goals will receive an additional grant in future years.

Third, H.R. 5609 is simple in structure and flexible in procedures. Local school districts will assess where their most serious educational problems lie and will use their grants to carry out locally developed plans to address these problems. We have tried very hard to develop a program that will emphasize local decisionmaking and minimize Federal regulation. This will enable the Federal program to fit together with State and local educational excellence projects.

Fourth, H.R. 5609 is forward-looking. In order to avoid future shortages of mathematics and science teachers as we are now experiencing, the legislation authorizes grants to institutions of higher education to foster coordination between these institutions and the school districts in improving the training of teachers. And to help our Nation understand exactly what our future educational and defense needs will be, the bill requires the Secretary of Education to survey the academic achievement of 18-year-olds and requires the Secretary of Defense to project manpower needs of the Armed Forces.

For all the purposes of the legislation, H.R. 5609 authorizes such sums as may be necessary for fiscal years 1985, 1986, and 1987. To make absolutely clear that this program will not overlap with the Education for Economic Security Act, the mathematics and science education bill signed by the President last month, I will be offering an amendment to delay implementation 1 year, and set these authorizations for fiscal years 1986, 1987, and 1988.

I would like to discuss the funding issue because I know it has been an area of concern. First, I want to point out that the reason the Committee on Education and Labor adopted the authorization of such sums was to allow Congress the flexibility to set a level each year in the appropriations process that is reasonable, given current enonomic and educational priorities. But let us assume the bill is fully funded under the formula and the maximum of nearly $3 billion per year is provided, as the Congressional Budget Office has estimated. Even then, we would still be providing just a third of the estimated cost of implementing the National Excellence Commission report. Even then, we would be barely restoring the Federal share of elementary and secondary education to where we were in 1979.

After 4 years of tight educational budgets, and after 2 years of talk about how to better American education, I believe the majority of the Members in this Chamber want this opportunity to take some positive action for education. I believe that the American public supports us in this endeavor, because it is so important to our national strength. For example, we are spending considerably less for education than other industrialized countries. While 6.9 percent of our gross national product goes toward education, in the Soviet Union it is 7 percent, for Sweden, 9.5 percent, for Canada, 7.7 percent, Netherlands, 8.4 percent, and Israel, 8.5 percent. And why can we not afford a few more percentage points for education, even as we double our expenditures for defense in a few years' time, when an educated soldier is the most vital link in our national defense?

While it is correct that expenditures for education from all levels of government have increased in recent years, teacher salaries have not gone up accordingly. Between 1972 and 1982, teacher salaries in real dollars, adjusted for inflation, actually declined 12.2 percent. The reason school budgets are rising has more to do with rapidly escalating noninstructional costs, such as for utilities and health benefits for employees.

The American Defense Education Act offers us a clear choice: Do we take Federal action to help our schools boost their quality, or do we dump the whole problem in the laps of the local school districts and the States? I believe H.R. 5609 offers a reasonable, effective approach to our educational problems and urge the Members to support this legislation.

Well, recently, I had a weekend just to spend on what I would call leisure-time activities, and I looked into the record of those who are the main leaders of the balance-the-budget group, as opposed to some of those who are liberal.

Yes, you, Mr. DANNEMEYER. I looked at your record and I will give you your record, too.

I refuse to sit silently by and be charged with being a big spender when some of the very ones who are charging me and others have been spending much more than we are.

For instance, on June 30 of this year, the House passed by a vote of 347 to 52 a bill to appropriate $8.3 billion for military construction projects for the Department of Defense for this fiscal year.

Well, let us look at one of the examples of fiscal conservatism, my very dear friend, Mr. DANNEMEYER voted "yes" for the expenditure of $8.3 billion. He did not say, let us freeze things. He did not bring up his balance-the-budget ideas.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I will at the end of my remarks.

I would like to give the rest of the record so maybe the gentleman can answer all of it together.

Mr. DANNEMEYER. All right.

Mr. HAWKINS. No; he was silent on that occasion but just recently when the little wee tiny social welfare bill came up, then he brought his brilliant idea in.

Now you may accuse me of talking about only a blip. Well, let us go into the fiscal year 1984. I will not go into specific bills. Let us take all the appropriation bills that we voted on in that year and let us compare two individuals.

The leader of the balance-the-budget deficit reduction group, if I may be so great as to call my friend that, and I know that he does not take the insult personally. As a matter of fact, I think he has earned a great reputation for it.

Mr. DANNEMEYER voted for $247 billion of expenditures.

Mr. ERLENBORN. Mr. Chairman, would the gentleman yield?

Mr. HAWKINS. If it is relevant, I will yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding to me.

Mr. Speaker, I do not want to make a point of order against my good friend's current observations, but just to remind the gentleman that there is a House rule that prohibits one from naming another Member in debate.

Mr. HAWKINS. Well, does Mr. DANNEMEYER object?

I will cease at this point and yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding, Mr. Speaker. I welcome the opportunity of responding to the gentleman's observation because I think it really gets to a philosophical difference in the House that the American people are entitled to know about.

I welcome the opportunity and I am not offended by the gentleman using my name.

Mr. HAWKINS. I knew the distinguished gentleman would feel that way and that is the reason I selected you rather than someone who might be more sensitive.

I voted with you a lot of these times so I am not accusing you. I possibly have voted for almost as many defense measures as you have, but of course I am not the one talking about a balanced budget as such.

Now, Mr. Speaker, at the same time that my dear friend voted for $247 billion, Mr. DELLUMS voted for only $116 billion, and I do not think Mr. DELLUMS is going to object to my using his name, because he has been accused openly of being a big spender, so this is almost a 2-to-1 expenditure.

The point is that the gentleman is not lacking in integrity. He is not lacking in intellect. He is not lacking in principle. I am not trying to suggest that. I am just simply trying to remind ourselves that some of us vote for some things and others vote for other things, and we should look at the expenditure in terms of its merit—and not in terms of whether or not someone else is wrong, and I do not think we should go around the country accusing people of being big spenders because they differ on some of these appropriations.

If I had Mr. DANNEMEYER's district, I probably would be saying the same things and doing the same things he is doing. But I would be unelected in the district which I represent.

□ 1510

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the ranking minority member of the Committee on Education and Labor, the gentleman from Illinois, [Mr. ERLENBORN].

Mr. ERLENBORN. I thank the gentleman for yielding this time to me.

Mr. Chairman, before talking about the bill itself, let me respond to a couple of comments made by my good friend, the gentleman from California [Mr. HAWKINS], first of all about the gag rule under which we are operating.

I call it a gag rule because the resolution for adopting the rule was voted on just about a half-hour or so ago. That resolution provides that no amendments can be considered under this bill unless those amendments were put in yesterday's RECORD. I call that a gag rule.

I heard the gentleman say, and this was said in the Committee on Rules yesterday, that this is important because it is toward the end of the session and there is not a great deal of time. Very frankly, I think that is a poor excuse for shortcutting the legislative process and not allowing Members to have a full voice in the legislative process. But if it were a valid argument, it ought to be something in the permanent rules applicable to all bills that are considered toward the end of a session. That is not being done.

In my opinion, the only reason that I can think of why they would want to have this sort of a rule, that amendments be put in the RECORD the day before, is that the National Education Association apparently does not have sufficient confidence in the Democratic members of our committee that they could respond to amendments that were offered during debate, so they wanted to have them revealed ahead of time so that overnight the National Education Association lobbyists could write the response that will be read on the floor today, or whenever the amendments are offered.

The other argument that my good friend used was that the return to the Government if this legislation is passed will far exceed its costs. Mr. Chairman, I have been a Member of this body for almost 20 years, and every time, almost without exception, that someone came with a new spending proposal, they made the argument that the return to the Government will be more than its cost.

I cannot understand how we are over a trillion dollars, almost $1½ trillion, in debt and running a deficit of about $200 billion if all of those returns for those new programs are coming in. Something has gone wrong with our math, I am afraid.

Mr. Chairman, I question the wisdom of bringing H.R. 5609 to the floor. The bill duplicates several other measures, such as the recently enacted Education for Economic Security Act—Public Law 98-377, the so-called math-science bill—which authorizes new programs to improve the quality of instruction and levels of student achievement in elementary and secondary mathematics and science, and adds $425 million in new spending authority. In addition, the education block grant has been slated for a $200 million increase in the House Labor/HHS/Education appropriations bill.

Furthermore, H.R. 2708, passed by the House in February, authorizes an additional new spending program of $50 million for foreign language programs. Finally, we should not forget that the House recently adopted H.R. 11, which reauthorized nine Federal education programs. The House has requested a conference on this legislation.

Mr. Chairman, I think it would be useful to take a minute to compare the new math-science law with the American Defense Education Act [ADEA].

In title I of the math-science law, a major effort is directed at the creation of math and science teacher upgrading and improvement programs through the use of summer institutes, graduate fellowships, and undergraduate scholarships. In title II of the ADEA, the focus is on similar activities with priority given to summer institutes for improvement of math and science education.

Title II of the math and science law and title I of the ADEA also have an almost identical thrust: The creation of local programs involving inservice training for teachers with the goal of improving the quality of instruction.

Both the new law and the bill before us encourage community involvement in the educational improvement effort.

A major difference, of course, is that the newly enacted math and science law is authorized at approximately $1 billion over 2 years while the ADEA would authorize nearly $9 billion over 3 years.

In the context of the deficits we are facing and new programs and spending increases already set, it is wrong to move ahead with this bill. It is past time to set priorities and report coherent packages of legislation to the House instead of acting in scatter-gun fashion.

I understand that the chairman plans to offer an amendment to move the authorization for ADEA to fiscal year 1986, therefore pretending to avoid duplication.

Such an amendment begs the question. A good public policy process demands that we know the facts before we legislate. By changing the fiscal year and still moving ahead with this legislation, we would be throwing money blindly. The math/science law will not even be implemented until after the first of the year. We would not have any idea how those programs are working—what problems persist, what areas have been improved, what

educational needs might continue to exist.

It is irresponsible, in my view, to conclude that the ADEA is a necessary followup to the 2-year "emergency" math and science programs before the facts are in. Importantly, the General Education Provisions Act permits an automatic extension of these programs for fiscal year 1986. Certainly there is ample time to develop a followup package if the facts prove such action is warranted.

Lest we forget the facts, I would like to point out that whatever problems exist in education, they can't be blamed on inadequate funds. The Department of Education has noted that, despite declining enrollments and lowered inflation, spending on education in the United States has climbed 46 percent, to some $240 billion, in the past 5 years.

I am afraid, Mr. Chairman, that we are engaged in a game here today. H.R. 5609 is being brought before the House not because it has a realistic chance of being enacted into law, but because the NEA and some of the bill's proponents feel that it makes good politics in this election year.

Members from both sides of the aisle have been wringing their hands about budget deficits, yet, with this action here today, if we adopt the bill, the American people are being given a good lesson in how we speak from both sides of our mouths when it comes to special interest groups.

The ink isn't even dry on the so-called Mondale tax and spending plan designed to lower the budget deficit and already one of Mr. Mondale's key special interest groups is pushing a new $9 billion spending program. I would hate to speculate on the magnitude of the tax burden that would be placed upon the hard-working men and women of this Nation if these special interests ever gained control of our political system. With all of their good intentions, they would devastate the economic recovery and hand future generations a legacy worse, if that is possible, than the Carter-Mondale shambles thrust upon President Reagan when he assumed office in January 1981.

We cannot afford to pass a $9 billion bill that duplicates existing programs. I urge my colleagues to vote against the dictates of a special interest group and for the interests of all the citizens of this Nation.

Mr. RUDD. Mr. Chairman, I must rise in opposition to H.R. 5609, the American Defense Education Act.

This is just another classic example of throwing money at a problem hoping that more money alone will solve it.

The Washington-based Heritage Foundation pointed out in a recent report that total spending on public elementary and secondary education for fiscal year 1984 is an estimated $125 billion, nearly 4 percent of the Nation's gross national product.

It further noted that expenditures per pupil have risen dramatically in real terms from an average of $848 in 1950 to $2,228 in 1980—measured in 1980 dollars. Nevertheless, this dramatic increase in funding has coincided with a frightening decline in standards. In 1963, average SAT scores were at their zenith at 502 for math and 478 for verbal. By 1983, however, they had plummeted to 468 for math and 425 for verbal—this despite the massive rise in real dollars spent per student.

This decline in standards has also coincided with greater centralization and involvement by the Federal Government. In 1950, 57 percent of education funding was provided locally; States contributed 40 percent; and the Federal Government, 3 percent. By the 1980 academic year, the Federal proportion had tripled to 9 percent.

H.R. 5609 will increase Federal spending by nearly $9 billion. It will duplicate funding authorized by the Emergency Math and Science Act, which has already been passed and signed into law during the 98th Congress, as well as funding authorized in the Foreign Language for National Security Act which this House passed in February.

Beside the huge increase in funding called for in H.R. 5609, I am concerned that targeting so many funds to math, science, and foreign languages in particular will lead to neglect in other vital areas.

For all these reasons, I must urge opposition to the bill.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. I thank the gentleman for yielding this time to me.

Mr. Chairman, we are all concerned with the strength of our country and the fact that our country remains No. 1 in the world of nations. But we cannot be No. 1 unless we pay attention and provide to our public education system all of the resources that our country can reasonably afford.

When we look at any measure here in Congress, whether it be this one or any other, I guess we divide it into the merits—is it meritorious?—and the costs—can we afford the merits of the proposal? Let me first address myself to the merits.

We are told in the times of transition now from industrial America to one of high-technology America that we must adjust, that we must roll with the punch. We cannot expect the workers in our next generation to accept this challenge of equipment changes, technology techniques that were beyond the comprehension of many of us as we attended our public schools. We face a future where the languages of the world must truly be the languages of the world.

When we talk in Pennsylvania about competing in the world of the steel markets, we are not prepared, and do my colleagues know why we are not prepared? When the Japanese and the Koreans and the Taiwanese and the Germans come to this country to sell us their products, they speak our language. When American salesmen go to Korea and Japan and Germany and Belgium, they need interpreters.

What this bill will do is provide our young people with the techniques, the technology, the ability that they need to compete in the world of today, as well as a world of tomorrow that certainly will be as different from that world as it was in the 1940's when many of us went to school.

We talk about aiding our local school districts and our community colleges and our universities with this measure. They need the aid; they need the support. And then we talk about the needs of our military. I am amazed at the opposition from the other side who will stand here and espouse the need, the absolute need, for $300 billion a year for our weaponry for the defense of our Nation, and not be willing to provide $2 billion a year to educate the young people of this Nation who will be a part of that war machine to be able to handle the technology that they are putting forth.

□ 1520

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. MURPHY] has expired.

Mr. HAWKINS. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, the total cost that we are putting into public education today is only $5.7 billion, down $2 billion from its highest level in 1980. What we are asking in this measure is that in its very highest year in the 5-year package $2.86 billion be added for a total package of $8.5 billion over a 5-year period, a drop in the bucket when it comes to the amount of money that the opponents of this measure are willing to spend for national defense.

We are talking about the very basic strength of our country when we talk about our educational needs, and a total of $7 to $8 billion a year is certainly not too much for us to expect to allocate, and if we have to take it away from somewhere else, I pray that we have the wisdom to do it.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DANNEMEYER], who did not expect to speak but now wishes to speak because he feels aggrieved.

The CHAIRMAN. The gentleman from California [Mr. DANNEMEYER] is recognized under those circumstances.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I rise in opposition to H.R. 881, the American Defense Education Act.

The goal of this bill of revitalizing the Nation's educational system is a laudable one. One cannot disagree with the need for such a revitalization in light of the alarming reports in recent years. However, we must also carefully consider those methods we choose to achieve this revitalization and, for two important reasons, I cannot support the bill.

In the first place, the programs authorized by this bill are duplicative of programs already authorized under existing law. The President has recently signed into law the Emergency Math and Science Education Act, which will provide needed funds for the same kinds of programs and activities contemplated in H.R. 881. However, unlike H.R. 881, the new math/science law recognizes our limited Federal resources and focuses upon math and science education, where the greatest need has been demonstrated. In addition, the new law only provides assistance to those school districts with the worthiest projects, instead of spreading the funds around to everyone.

Indeed, Federal assistance to every school district already is provided under chapter 2 of the Education Consolidation and Improvement Act—better known as the education block grant. While the funding for this program is nowhere near the amounts authorized under H.R. 881, the House has recently voted a $200 million increase in funds for the block grant in fiscal year 1985, an action which I strongly supported.

This brings me to my second objection to this bill: The exorbitant and totally unrealistic funding levels. At a time when both sides of the aisle are struggling to find ways to reduce the monstrous deficit, where would we ever find room for the $8.5 billion authorized under this bill without having to reduce funding for other essential education programs?

Many will choose to ignore these costs by claiming that the "such sums" authorized by the bill allows the Congress to set a lower funding level. However, this ignores the fact that the bill distributes the funds by formula to virtually every school district and, therefore, multibillion-dollar funding would probably be necessary to prevent the bill from creating false hopes among the recipients.

Finally, this increased Federal expenditure will interpose the Federal role in local public education more extensively and comprehensively than I believe to be precedent. In the first instance, most States are more fiscally capable of expanding their educational committment. They are not running the deficits the Federal Goverment is incurring. Let the States make the greater financial commitment not only because their budgets are in balance—indeed, some are in surplus and States are granting tax refunds to their citizens—but also to maintain the historic responsibility of the State and local governments for the public education of their people.

I urge my colleagues to reject this bill.

Mr. DANNEMEYER. Mr. Chairman, I had not anticipated speaking on this bill, but while on the floor discussing another matter with a colleague, my good friend from Los Angeles County, the gentleman from California [Mr. HAWKINS], happened to mention my name and used me as an illustration as to the inconsistency whereby this Member from California will vote for defense measures and then come in the well of the House and be opposed to something that nobody really in their right minds, from his viewpoint, can be opposed to, that is, education for kids in this country. He asks, how do you rationalize that approach?

I would like to take these few moments to give that rationalization. The Constitution of the United States places responsibilities at different levels in government. When you read the Constitution, you find the principal responsibility of the Federal Government is to provide for the common defense. That is the main reason the U.S. Government is in business, to provide for the common defense. There are other things that go after that, I do not deny that, but the principal reason is to provide for the common defense.

That is why this Member from California over the last 3 years, during this era of runaway Federal spending, has voted as he has. I might add to my colleagues that I have voted against almost every appropriation bill in the last 3 years except for defense, and the rationale is simple. I have not figured out any other way to stop this runaway spending whereby we who are living visit the responsibility on future generations to pay for what we are consuming today except to say that "I vote no."

It is not that I am against those programs; it is just that we are spending too much on them. And as far as keeping defense and social programs in balance, when you look at the annual budget record prepared by the CBO, when you look at the indexes, you will find a 20-year comparison. When you examine spending for defense 20 years ago or 22 years ago, 1962, for example, and compare spending for defense in 1984 and then compare spending for social programs in those same 2 years over that 22-year span, and then you adjust, as our document does, spending in 1972 constant dollars so you can compare apples to apples over two generations, you will find that defense spending since 1962 has gone up 21 percent. Social program spending, which includes education, has gone up 350 percent.

I will repeat that. Social program spending has gone up 350 percent, and defense spending is up 21 percent.

I say to my friends that we are in the mess we are in not because we are spending too much on defense but because we are spending too much on social programs for the people of this country. That is the reason we are in this problem.

I would like to remind my colleague that among those organizations that rate us for how much we spend for the people of our country is one called the National Taxpayers Union, and since my colleague, the gentleman from California [Mr. HAWKINS], has mentioned me, I will return the favor of mentioning his record and assessment of the National Taxpayers Union. Bear in mind that they evaluated all votes relating to spending for any purpose in 1983, some 503 of them, defense included. Nothing is excluded. And my colleague from Los Angeles, the gentleman from California, came up with 14. Anybody 20 or lower was a big spender. Now, mine was 86. You can make of that what you will.

The people of my district can criticize me perhaps for not spending enough, and the people of the district represented by the gentleman from California [Mr. HAWKINS] can criticize him for spending too much. That is what politics is all about, accountability. People have a right to know how we vote, because, more important than what we say, is how we vote.

Mr. Chairman, I think this bill should be sent back to committee. It is too much money, and we cannot afford it.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the committee chairman for yielding me this time.

In my remarks on the rule I mentioned to this body that I believe education is a local function and a State responsibility, but it is also a very, very important Federal concern. It is a Federal concern because we live in a society where we have a great deal of mobility.

I recall a couple of years ago I was in the airport in St. Louis, MO, and I ran into a former student of mine whom I had taught in high school. He had done his undergraduate work in the Eastern part of the country and had come back to the Midwest to do his

graduate work and was then on this way to California to take a very high-paying job in the computer industry. That individual, that former student of mine, brought home to me the mobility of our society and how the Federal Government has to recognize that mobility in exercising our Federal concern.

But we also have some very important national purposes in education, and we have to recognize that we live in a very competitive world right now. My city of Flint, MI, really right now is gripped in that competition. I have a situation now where General Motors has hired virtually no new people since 1978. We have people laid off who do not have the skills that General Motors needs right now in the new method of producing cars. That corporation is working with our local school districts, trying to retrain those people so they can have the skills which General Motors needs. One of the components of that education is mathematics, and this bill address itself to that.

As to language, we have read Paul Simon's book, or if we have not, we should—"The Tongue-Tied American." I have coming to my city delegations from Japan. They all speak English. We send our people to Japan, and virtually none of them speaks Japanese. This bill again addresses itself to that problem of languages.

We as a Federal legislative body must exercise that Federal concern, and this gives us the opportunity to do that. I cannot think of a bill better designed to give local control and local decisionmaking, with some Federal dollars, to help this country compete in this world which is on the cutting edge of a technological change.

My colleague, the gentleman from Illinois, the ranking Republican member of the committee, asked this question: Where is the return on all these programs?

Well, we do know that the GI bill of rights, where the Federal Government recognized its role in exercising its Federal concern, returned, and returned, and returned dollars to the Treasury because those people educated by the GI bill of rights were better taxpayers and their children are now going to college because of that.

This is an investment. You and I know where we spend money around here. We do not question it or look at it with such close scrutiny. They come across the river, across the Potomac River, and we do not carefully scrutinize that budget of the Pentagon, but when it comes to spending money for our children, all of a sudden we have to put it under that microscope. I do not mind using the microscope. I have used it, and I find that this bill makes good fiscal sense.

Mr. Chairman, I wish we would put the Pentagon's budget under that same microscope.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

□ 1530

Mr. GUNDERSON. Mr. Chairman, I think we are all aware that for the last couple years in this country that the top priority has been discussing education, the quality and excellence of education in our country and exactly how we might move to make our school systems better. Certainly I think that is a proper debate. I have been a part of it. I think most Members here have. I think most people in the American public have been involved in that.

Education is important to our country. Our forefathers said it was important to have an educated citizenry to make a democracy work. Clearly, if we want to improve the quality of our lives, as the gentleman from Michigan was just referring to, we have got to have education and, clearly, if we are going to talk about national security, we have to have an educated personnel to be part of an adequate and necessary national security.

Yet I think that this debate over the quality of excellence in education in this country has often been misdirected, because the extremes have focused on one of the two alternatives, neither of which I think is right and neither of which I think is represented in the bill before us today.

Some people have said the Federal role is really no role at all in education. It ought to be totally a local effort, and I reject that.

Other people have said the only answer is to throw more money at it, and I reject that, too.

I happen to believe as a convert that the bill that is in front of us today is a bill which rejects both those mentalities as well. When this bill first came before our committee, I opposed it and I told the groups who supported it that I opposed it, but I think there are some reasons to look at not the bill that was originally introduced, but to look at what is in front of us today as we debate this issue and decide where we are going to go from here.

In the past, the Federal role in education has always been access and equity, access to the handicapped, access to the disadvantaged, access to the low income.

There has been equity, title IX, special education, those kinds of programs to provide equal treatment and civil rights for all people in our country.

We have moved beyond that in this country. In the last couple years I think we have also been trying to deal with an issue which is really called providing a short-term temporary assistance to deal with new approaches and new national needs. One would certainly be the whole issue of high technology, as we are discussing in vocational education. The second would be the whole issue of the nontraditional student as we deal with higher education and student financial aid.

I think bills such as this, a temporary response, a temporary Federal program to an immediate issue, that of improving the quality of education in our country is also a justified Federal role.

I think it would be terrible if we in the Congress of the United States spent all our time talking about the need to improve the quality of excellence in education in this country and then did nothing about it and said there ought to be no Federal participation in that role.

We have two committees in this Congress then that can deal with that issue. One is the authorizing committee, the Education and Labor Committee, which tells us how we respond, and the Appropriations Committee that tells us how much we spend.

Well, the bill before us today is from the authorizing committee, the Education and Labor Committee. It is to tell us in exactly what form we ought to respond to the crisis in education, which everyone has decided exists in this country. It represents in my view a proper Federal response to the issue of excellence in education.

How does it do that? It says that we are not going to mandate anything from the Federal Government. We are not going to set up a whole bunch of formulae and run those across the gamut. What we are going to do is allow each and every school district in this country to determine what their problems are and to determine how they want to respond to those problems and then when they put that plan together, to send it to the Federal Government and if that is approved, if that grant application is approved, the money then goes back and they then have total discretion to spend that money in any way, shape, or form they want. If they want to spend it on equipment, they can do that. If they want to spend it on curricula, they can do that. Frankly, if they want to spend it on merit pay, they can do that, but it is a decision they make at the local level.

When this bill was originally introduced, it was a bad bill. It was $10 billion to $16 billion, a grab bag of a little bit of something for everybody, totally misdirected, in my opinion. It was costly. It was misdirected, and worst of all, I think it sent the absolute wrong impression to every teacher and every educator in this country, thinking they were going to get something in their school district that they really were not going to get.

We changed that bill. The bill that is in front of us today is a bill which authorizes such sums——

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. GOODLING. Mr. Chairman, I yield 1 additional minute to the gentleman. He has not convinced me yet.

Mr. GUNDERSON. Mr. Chairman, I may need an hour, but we will see what it takes.

The bill in front of us now is such sums, so it simply means as much money as the Appropriations Committee determines and this Congress votes to put into the program of improving excellence in education in this country shall be appropriated. It protects the traditional role of the Federal Government in access and equity on chapter I and chapter II, our handicapped, our bilingual, and all those programs we say that no money can be spent for this unless we maintain our funding level in each one of those areas.

The Congressional Budget Office projects that we are going to spend $2½ billion if we fully implement this program. Mr. Chairman, we are already spending over $7½ billion in fiscal year 1985 for elementary and secondary education, and I support most of that; but I am suggesting, and particularly to my Republican friends, probably it would be better that we do this kind of a program, more of a block grant, than some of those categorical programs we presently have listed.

Mr. Chairman, I ask my colleagues to seriously consider this bill. It is the proper Federal approach.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS of Montana. Mr. Chairman, this bill has much to commend it to the Members of this House and the other body as well.

I think that we all recognize that this bill is not going to become law this year, and given the limited time, perhaps this bill by the time we get to amendments and all is not even going to have time to pass this body this year, but it does demonstrate to the American people that the House of Representatives having moved this bill through lengthy discussion, subcommittee and full committee consideration and hearings, is intent on following the will of the American people to make significant prudent and responsible improvements in education and do it as quickly as possible.

This is not the first year that the American people have understood the importance of education, nor is the the first decade or the first century in which people living in a democracy have fully understood the necessity of a well-trained citizenry to the success of democracy.

Twenty centuries ago, Aristotle said, "The neglect of education ruins the constitution of the country."

Two centuries ago, Thomas Jefferson echoed that principle when he said, "The most important bill is that for the diffusion of knowledge among the people."

Thus, the understanding of the importance of excellence in education was present at the birth of democracy and present again 18 centuries later at the birth of this democratic Republic.

Today the American people have not changed. They still understand that if they are to rule themselves and if they are to do it better than any king or any prince that ever ruled, they must first be educated and if they are to be the world's leading nation, then they must be educated better than any other people in the world.

Let me be partisan for a moment, because I think this issue demands and requires it. You all remember Walter Mitty. Walter Mitty wanted to be a bullfighter. He dreamt about being a bullfighter. The problem was, Walter was not a bullfighter.

Walter Mitty wanted to be an airline pilot. He wanted to be a stunt pilot.

The CHAIRMAN. The gentleman's time, the Chair must say reluctantly, has expired. The Chair would like to hear the finish of the story.

Mr. WILLIAMS of Montana. Well, in that instance, Mr. Chairman, I would ask the gentleman from California for 1 additional minute.

Mr. HAWKINS. Mr. Chairman, I yield 1 additional minute to the gentleman to complete his interesting story.

The CHAIRMAN. The gentleman from Montana is recognized for 1 additional minute, with his knowledge of James Thurber, to finish the story.

Mr. HAWKINS. What did Mr. Mitty want to do?

Mr. WILLIAMS of Montana. Mr. Chairman, I appreciate the gentleman yielding, and I will try to complete my story in the prescribed time.

The difficulty, of course, was that Walter Mitty was not those things. He could only want to be them.

Well, unfortunately, the votes from the Republican side of this Chamber and the insistences from the White House show that although the Republicans want to be good for education, they are not. They just are not.

Now, that is easy to say, but can we demonstrate it? Yes.

□ 1540

The President does not ask for cuts in education anymore, because the people of this country will not allow it. But when he first came to this town he asked for a 31-percent real cut in education dollars that go to American schools, and in the next year, not satisfied with that, he asked for a 38-percent real cut, and this side voted for it, in the money that goes to keep our democracy free and strong and our people well educated.

Yet today the President still insists that by 1985 there be a 38-percent cut in the real dollars. One and one-half million students the Republicans want chased off the Guaranteed Student Loan Program. They want 400,000 moderate-income college-bound students stricken from the Pell grants. They want 150,000 needy students stricken from college work study. They have taken 3,300,000 American children off of school lunch.

Now we are trying to right that. The Democrats in this House and our candidate for the Presidency are trying to right that and this bill is trying to right it. We are trying to make education what the American people want in this country.

When this bill finally passes next year, as I hope it does, and I hope that the President, whoever he is, will sign it; it will be another step in the long historic American tradition of assuring that this Nation has quality, first-class excellence in education.

I thank the chairman for his generosity of time.

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. I rise in support of the bill and reject the preceding speaker's politicization of the subject.

I think all of us in this House are concerned with the quality of our public school system and are seeking in good faith to meet the challenge that we know must be met, that there be excellence of quality, excellence of opportunity, and motivation to take advantage of those opportunities that we as a Nation make available.

Here on the floor of the House we constantly wrestle with what is the unique role of the Federal Government in addressing the challenge that the schools, the teachers, the children throughout America face. We are part of a federalist system and our goal on this House floor must be to define thoughtfully, carefully, and responsibly the Federal role in the partnership that alone has the power to create equal opportunity for quality education in America.

Governance is the issue, and the Federal role in that governance is the issue. So we have in the past specified that local school districts, that teachers and children should deal with the issues of special education, the uneven abilities of children, with the bilingual problems and so on. We have defined those responsibilities, we have mandated them, and we have shared, agreed to share in their funding for two reasons: Because addressing special needs requires the development of special materials, and because funding special programs falls unevenly on the school districts of America.

As a State Senator in Connecticut and a member of the Education Com-

mittee I well remember testimony from one small town that talked about the settlement of a single family in that small town with three very special children who raised by 800 percent the special education budget of that town. The education of those special children is not the responsibility of that one small town of 1,000 property owners alone; it is the responsibility of this Nation and of the State of Connecticut. So there is in place a partnership to fund those programs.

Likewise, in meeting the challenge of excellence that we face as a Nation we must be prepared to participate in that partnership that must address development of new materials, the dissemination of solutions, and to acknowledge that that burden will fall unevenly throughout America.

Recently I visited the Chicago public schools where we have developed an absolutely remarkable all-day kindergarten which devotes the morning to language, the afternoon to math, and is making spectacular change possible for children in south Chicago. The mere challenge of retraining the kindergarten teachers in 400 public schools, possibly as many as 900 kindergarteners, is in and of itself an economic challenge that I think we at the Federal level, since it is short term, have a right and a responsibility to participate in solving.

So I see the challenge of excellence as imposing on us at the Federal level an obligation for participation. I believe this bill, because it leaves up to local communities the identification of problems, and the proposal of solutions, is a step in the right direction.

Mr. CONTE. Will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I compliment the gentlewoman from Connecticut for her fine remarks on the floor of the House.

Mr. Chairman, I rise in support of H.R. 5609, the American Defense Education Act, introduced by our late and dear friend, Carl Perkins. This bill is a fitting tribute to his memory.

Mr. Chairman, we hear much talk of "excellence in education." I believe that if our Nation is to survive, and remain strong, our people must be educated and prepared to face the challenges of the 21st century. Several recent reports have stressed the serious problems facing education in this country; I think it's safe to say that we were all concerned over the "Nation at Risk" report released last year.

As the ranking Republican on the Appropriations Committee, and the Subcommittee on Labor, Health and Human Services, and Education, I have attempted to provide strong and reasonable support for education programs because I know the importance of education. An educated population insures better jobs for our people and ultimately, more revenue for the Government—in terms of higher taxes being paid—and less expenditures—in terms of reduced unemployment compensation.

This legislation authorizes new grant programs available to every school district in the country. First, funds are authorized for grants for school districts to conduct a needs assessment and to design and implement a program to improve the quality of instruction in math, science, communications, foreign languages, and technology. The districts would be required to establish their own goals based on this assessment; those meeting their goals could receive an incentive payment for the second and third year. Second, grants would be provided to postsecondary institutions to encourage coordination between themselves and local school districts to improve science and math education.

One of the more questionable amendments which will be offered today includes an amendment providing a pay-as-you-go proposal. This amendment, if ultimately enacted, would be the first pay-as-you-go proposal passed by the Congress, but it would only affect this one authorization. Although I agree that there may be some merit to this proposal, I think that it would be more successfully implemented on a governmentwide basis. Further, it is a proposal that needs to be studied further by the House—including the Appropriations and Budget Committees.

Mr. Chairman, I began my remarks in tribute to Carl Perkins, the former chairman of the Education and Labor Committee. As a tribute to his memory, I will support this bill.

Mrs. JOHNSON. I thank the gentleman.

Just to conclude my comments on this bill, I do think that this is precisely the kind of challenge that the Federal Government has a responsibility to participate in responding to. Let us look for a moment at a very important challenge that local school districts, that individual school boards are going to have to respond to that we will not be able to participate in, and that is salaries, the need to increase teacher salaries throughout America.

I hope most of you heard the remarks of our colleague from Colorado about the increase in the salaries of teachers in the Soviet Union. I would like to say that people in my district responded to a questionnaire that I circulated in this way: 78 percent of them believe that the quality of the people you attract into the profession is going to be heavily influenced by the salary you pay, and 60 percent believe we must increase salaries.

Those costs are going to be borne by the local taxpayers based on the property tax capability of the town, in cooperation with the State. We must be prepared, willing, and able to participate in the challenge of funding responses to excellence. For that reason, I strongly support the American Defense Education Act and I urge my colleagues to do likewise.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Chairman, I am pleased to rise in support of H.R. 5609, the American Defense Education Act. As a cosponsor of H.R. 5609 and a member of the Education and Labor Committee, I believe that this legislation, supported by more than 200 Members, represents a comprehensive and fair approach to restoring excellence in our Nation's educational system.

More than 1½ years ago, the President's Commission on Excellence in Education released its report detailing the state of American education in the mid-1980's. To educators who work in our schools every day—and in fact to many leaders of business and industry who employ the students graduated from our high schools and colleges—the Commission's findings came as a long-awaited national awakening to the urgent needs of our public schools.

Consider the statistics:

Some 23 million Americans are functionally illiterate.

Average achievement test scores today are lower than they were in 1957, the year the Soviets launched sputnik and America launched its furious race to "catch up with the Russians" in science, technology, and space exploration.

Only one-third of 17-year-old students are capable of solving a mathematics problem requiring several steps. Moreover, one-half of all high school students in the United States take no math or science beyond the 10th grade. In contrast, Soviet students must complete 2 years of calculus, 5 years of physics, 4 years of chemistry, 4 years of biology, and 5 years of algebra by the time they complete high school.

The need for improvement in our educational system is clear. H.R. 5609 gives us an opportunity to meet this challenge and to put into action all the talk about improving education.

Everyone agrees that immediate and decisive action must be taken to solve the problems facing our educational system. However, not everyone agrees on the best solution. I believe that the 16,000 local school districts around the country are in the best position to determine what their problems are and how they can develop workable solutions.

H.R. 5609 offers to local school districts both Federal support and the flexibility to address the educational problems faced by communities. This

bill provides grants to local school districts to improve the quality of instruction in math, science, communications, technology, foreign language, and guidance and counseling. H.R. 5609 also brings together teachers, parents, school boards, administrators, business and industry as well as the community in developing and evaluating projects. The act encourages a community effort with Federal support.

I am particularly pleased that H.R. 5609 targets additional assistance to those school districts serving a large number of disadvantaged children. It is important that we provide equal educational opportunity for all students, and this provision ensures that the special needs of disadvantaged students in southwest Virginia and throughout the country will be met.

Quality education is the key to our continued economic growth. If this Nation is to compete economically, it must have citizens who are educated to meet the challenges of an increasingly technically oriented society. Our students need stronger basic analytical skills, math and science skills, skills in foreign languages, and computer literacy. A well-educated citizenry and skilled labor force are essential to the defense and prosperity of our country.

With the assistance of H.R. 5609, local school districts in my district in southwest Virginia, for example, would be able to meet the educational needs of their communities. Specifically, they would be in a better position to provide to local businesses and industries skilled workers while reducing unemployment. Across the Nation, schools would be able to provide the necessary training to answer the national call for a strong defense through the maintenance and operation of sophisticated, technologically advanced equipment.

Beginning with the National Defense Education Act in 1958, Federal support for public education has acted as a catalyst to spur new initiatives in education, to broaden opportunities for students and to strengthen training programs for teachers. Far beyond the symbolic significance of Federal education programs, Federal support has made possible many of the great strides forward in American public education.

Today we face similar challenges and equally urgent needs. H.R. 5609 offers us a way to rise to the challenges and to meet those needs.

The American Defense Education Act represents a sound investment in education and in our Nation's future. Our Nation has prospered through the strength of its educational excellence, and education will determine the quality of our future. H.R. 5609 presents an opportunity to reaffirm our national commitment to quality education—a commitment to our children, to the caring teachers and administrators who make the system work, and to our Nation which was founded on the strength of its educational excellence.

I urge my colleagues to support the American Defense Education Act to move America forward in the pursuit of educational excellence.

□ 1550

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. McKINNEY].

Mr. CLINGER. Mr. Chairman, will the gentleman from Connecticut yield to me?

Mr. McKINNEY. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to this bill.

Mr. Chairman, while I recognize the value of the Federal Government's role in improving the quality of education, I cannot, in good conscience, support the American Defense Education Act.

As I reviewed the provisions of this bill, it appeared to me that its authors are trying to reconstruct a house without a blueprint. H.R. 5609 pointedly avoids the larger questions about the goals and standards of our educational system, which it purports to address. The formulation of a coherent and effective national education policy is difficult because of the diversity and complexity of the Nation's educational system and the American tradition that gives the local community the right to decide who is taught what by whom. However, it is a disservice to our children and to this country's future to present this hastily conceived legislation as a solution to the immediate deficiencies in the classroom and to the larger problem of educational quality.

The careful and responsible approaches of the Math-Science Education Act, the Foreign Language for National Security Act, and the Talented Teachers Act should be the models for congressional action on this issue of grave national importance—not the haphazard approach of H.R. 5609.

Mr. McKINNEY. Mr. Chairman, I think we could call the position the House finds itself in right now the enigma of America. But before I get into this enigma I want to contgratulate my good friend from California [Mr. HAWKINS], and I want to honor the departed chairman of this committee, a really wonderful person from a part of this country where most of our roots probably started, for bringing the American Defense Education Act to the House Floor.

But let us now get to the enigma. Today I believe somewhere in this great big building we have the Defense Authorization Committee in conference.

Now what are they conferring about, ladies and gentlemen? They are conferring about $299 billion that the Senate would like to authorize for defense and $292 billion that the House would like to authorize for defense.

And we are standing here today saying that building up the youth of America so that they can compete, for $8 or $9 billion over 3 years is too much money. Who are we kidding?

We constantly go through the argument that we want to be the leader of the free world, that we are it and yet we watch our basic industries fall apart: steel, shipbuilding, airframes, autos, and so forth.

Then people come to me and say that they want to spend an obscene amount of money on defense. The Defense Department could pay for this bill with its cost overruns, its lousy contractual procedures, and its sheer stupidity.

They could pay $1.4 billion the day after tomorrow by closing bases that they do not need, that we know they do not need except that a few of our friends in the other body decide that they would like to keep open.

Who are we kidding? Read the report on education in this country.

Do you know that our science majors now, as we move into the technological breakthrough in this world of electronics, spend less time taking science courses than European students do just in general education?

Do you realize that we are not building a nation that can be a world leader because we are not building any youth that can speak a foreign language? We cannot be a world leader because we are not building a youth that can cope with electronics.

In the year 2050, I would suggest to you that social determination and discrimination is not going to be whether you are black, white, pink, Protestant, Catholic, Jew; it is going to be: Can you deal with the electronics and the speed of this world?

If you are in doubt, when you go home or when you are on that airplane, read Toffler, read "Future Shock." We are in it.

We are making progress faster in electronics and the business of technology than we ever deemed possible.

We thought that we made progress in the hurry in the air because the Wright brothers' aircraft only flew from the nose of the 747 to the middle of the wing; and now we fly at mach 2 in commercial aircraft—well, almost mach 2. Electronics is going to make that process look slow.

I would commend the chairman because he has an amendment that will come up on this bill which would put off the funding until 1986, because we in this House did pass a comparable math and science act which we now

call the Educational Economic Security Act, as passed out of the Senate.

I think it is wise not to have a double overlay.

But the only reason I stand up here today, ladies and gentlemen, is to simply say this: Some will say that I am a big spender, but I do not think so; some will say I am liberal, that I am not so sure; frankly, the positions I have taken I am proud of.

But honestly, look at the enigma: How can we turn around and say we are a world leader and not educate our youth and not build our basic industries? How can we turn around and say we are going to spend $290 billion on defense—which, by the way, I will drop dead before I will ever vote for—and say that we are strong when we are not training the brains that we have in such ample supply?

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. McKINNEY] has expired.

Mr. GOODLING. Mr. Chairman, I yield an additional 30 seconds to the gentleman from Connecticut.

Mr. McKINNEY. I would just simply say look at the dollar value, look at basic facts; you cannot call yourself something without being prepared for it. This body and the other body across the hall are going to have to face up to the fact of what world leadership means in education, in social welfare, in defense preparedness, and in our industrial base.

Mr. Chairman, I yield back the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. VALENTINE].

□ 1600

Mr. VALENTINE. Mr. Chairman, I rise in support of the American Defense Education Act.

This legislation is a reaction to a disturbing national crisis. Our country faces a revolution in technology and communications. This revolution offers our citizens greater opportunities than the world has ever known. At the same time, our country faces educational weaknesses we cannot ignore. These weaknesses may rob our citizens of the abilities they need to make full use of these new opportunities.

Our Nation's schools are currently involved in a steady retreat from the subjects and skills the future requires. If this movement continues, our children will never acquire the knowledge of science and mathematics vital to an adequate understanding of the forces of change. They will lack the necessary skills in modern foreign languages that will soon become so vital for sharing and understanding the advances made in other nations of our fast and ever-changing world.

The American Defense Education Act will promote a solution to this national crisis. It will stimulate a concerted national program of financial assistance and curriculum enhancement aimed at the current and future needs of our Nation.

This legislation will also enable the Congress to provide for the common defense of our Nation. No modern nation can depend for defense on the strength of its weapons alone. Our national defense rests as well on the knowledge and wisdom of our people. It demands an informed interchange between our people and our Government for the selection of policies that keep our Nation strong. The legislation we consider today will help keep America a strong nation which is not only well armed but also well informed.

Mr. Chairman, I commend the members of the Education and Labor Committee for their perseverance and tenacious efforts in bringing this matter to the House floor. I urge my colleagues to support this bill for the sake of our children, our future, and our national defense.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, at the outset I would like to indicate that I consider myself a friend of education. I spent 25 years as a professor at Brigham Young University. My wife has been a teacher. My son works at the Department of Education. I was endorsed by and received contributions from the Utah Education Association. I was associate commissioner of higher education in the State of Utah. My fields were math and statistics. So everything in that background would say I should go for this measure, hook, line, and sinker.

I have told individuals in the education fraternity that I feel they are asking for something too big at the wrong time.

It is true we have a crisis in education. I subscribe to the comments that were made a year ago May in the Gardner Report "A Nation at Risk." I subscribe to that and applaud the Nation's response to that report.

I believe, however, H.R. 5609 incorporates many activities which have already been authorized primarily in H.R. 1310, Public Law 98-377, the math/science bill, which also included foreign languages. Also the Foreign Language for National Security Act, H.R. 2708, which has already passed the House and is pending in the other body, and other pieces of legislation pending in both Houses at this time.

The bill takes a scatter gun approach to program authorizations which is highly duplicative and prevents a clear and coherent approach to education program authorizations.

Given the magnitude of program authorizations in this legislation, serious questions must be raised concerning the extremely brief consideration of the bill by the Education and Labor Committee. Only two hearings were held. One in October 1983 and the other late this summer just before Congress recessed. The Education and Labor Committee clearly did not adequately consider this legislation.

This is a budget-busting bill. Even though it says such sums as necessary, it, nevertheless, was estimated to cost $8 to $10 billion over a 3-year period.

I think it flies in the face of both parties' stated desire that we get a handle on spending and reduce the deficit. This is not the time to start new programs, especially large open-ended programs that will cause budget problems in the future.

H.R. 5609, according to CBO estimates, will require outlays in 1986 of $2.4 billion; $2.9 billion in fiscal year 1987; $2.8 billion in fiscal year 1988; and lesser amounts in fiscal years 1985 and 1989.

The NEA was the architect and prime mover of this legislation and pushed for and received quick action by the Committee on Education and Labor. In fact, we were told no amendments, please. In fact, it was more than please; no amendments, period.

The bill is clearly designed to force Members of both parties to support huge, unwarranted funding of duplicative educational programs at a time when the budget deficit is very high.

While I support the general idea of improving in the math and science areas and technology areas and in the counseling areas, I think that the funds we now have should be redirected in those areas, and the objectives of H.R. 5609 should be part of an overall picture. I also think the States should be more involved in this. Accordingly, I object to having the funds go directly to the local districts without coordination with the existing State agencies in the States.

So, for a variety of reasons, I have to oppose the bill as it now stands. I would like to suggest there are many worthwhile amendments which could be considered. If the Goodling amendment, for example, were passed, I would vote for the bill and be happy to do so.

I told my educational friends that if the funds were brought down to reasonable levels and if we use this bill as a guideline for future action then I could support the bill and I hope others can do the same.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, America's expanded role in a global economy will require that young Americans be capable of scouting the entire world for economic opportunities. Much like the early explorers and mercantilists who faced unknown land and oceans, sultans, sheiks, popes, emperors, kings,

potentates friendly and unfriendly—and whose success in vastly expanding the wealth of their native lands was the direct result of their adaptability in dealing with strange cultures, so also will the future of America depend on our young people being able to negotiate for and bring home the raw materials, labor and markets of the world.

When I was in high school, Mr. Chairman, the learning of foreign languages was done out of interest. Now it must be done of necessity. Science and math had a seemingly narrow role in everyday life. Now the computer and its partner the satellite will facilitate trade every day around the world. Marco Polo's journey to China took 25 years—expanding the wealth of Europe for centuries. Now our computers and satellites will put together markets, materials, and labor in 25 seconds, in fast-frame competition with others around the world.

Our stock in trade for the future, our hope of capturing our fair share of the world's wealth, will be the minds of our young. Thus, no investment that we could make is more important than an investment in improving those minds. The $8.5 billion this legislation will invest in the ability of our young to harvest the opportunities of the world will be repaid to Americans for years to come. Every modern study of educational needs from the President's Commission on Excellence in Education to the Rand Corp.'s recent report says we need to make this investment. To do otherwise would be to deprive our country of its stock in trade for the future, to relegate our young to the backwaters of competition, and to assign ourselves a smaller role in the opportunities of the world than we deserve.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT] the greatest host that Dallas has.

□ 1610

Mr. BARLETT. Mr. Chairman, I rise in strong opposition to this bill. I followed this bill and worked on this piece of legislation that was written by a Washington lobbyist all the way through subcommittee and through full committee, through hearings in the markup. It seems to me, as I watched the bill during this past year, that the legislation was never serious. It is probably not serious today. At least the lobbyists in Washington who have advocated it have told Members of Congress that they are not serious about actually passing this as legislation. In fact, I understand we may not even get the chance to vote on the bill either today or at some time during this session.

It seems to me that this is an extraordinarily sad day for education in America, because what this day represents is a return back to the politics, back to politicizing education, back to the days of making promises that we cannot keep, a step backwards, a step back to the days of Congress putting its head in the sand and ignoring those bona fide and genuine reforms that are being made in education in this country and in fact that the Federal Government ought to be in the leadership of and not behind.

This bill would bring this country less education, more politics, more Federal money, less local money, and less local support for education in America.

Indeed, the country, not the Congress but the country, has made much progress in the last 2 years because for the first time the country as a whole and oftentimes in Congress—and we have done some good things here—we have focused on reform and not on how much money we can spend. Surely, there is no clamor for more Federal programs among parents, among students, among teachers in this country. Surely, there is no sense that the problems with education today are problems of a scarcity of Federal programs. Indeed, some would say that the problems are the result of those Federal programs. But the focus of education reform in this country in the last 2 years has been a focus on reforms, on better education, on higher quality on teaching students. There has been a focus on the reform of standards, of requiring of school boards deciding they are going to require 9th grade work to be done before the student can enter the 10th grade, of accountability, that is, accountability of students, of teachers, of parents, of school boards, of principals and of Members of Congress, of discipline in the classroom, to provide that ability for students to learn in an orderly environment.

The greatest reform of all perhaps has been parental involvement. Public Law 96-88 which created the Department of Education, that this Congress passed in 1979, spoke some words that I think we forget on this floor too often, and that is that parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role.

The other reform is performance based pay, because what the country is doing in school districts all over this country—they are doing something that this Congress will not even talk about—is to find methods for performance based, to pay better teachers more money to be able to keep the higher quality teachers in the classroom teaching and not drive them into administration or into other fields.

That last reform amendment I will offer if this bill ever comes to the floor under the 5-minute rule. The amendment that I will offer is one of the reform amendments that will be offered. I will offer a permissive amendment that will give Congress the first opportunity on record to be able to vote to permit school districts to use these funds or other funds for performance based pay.

Mr. Chairman, I would submit that the results of the conversations about reform, the results of the President's leadership and some in Congress, the results have been astounding so far without this bill. In fact, this bill would negate some of those results.

In the States, 48 States are considering new high school graduation requirements. Thirty-five have already approved changes.

Twenty-one report initiatives to improve textbooks and instructional materials.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

Mr. GOODLING. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas.

Mr. BARTLETT. Eight have approved lengthening the school day, 7 lengthening the school year and 18 have mandates affecting the amount of time, of time on task for instruction.

Twenty-four are examining master teacher or career ladder programs and six have begun statewide or pilot programs.

Thirteen are considering changes in academic requirements for extracurricular, and five have already adopted more rigorous standards.

Mr. Chairman, this Congress is behind. The school districts are already ahead of us, and the parents are clamoring for these reforms. The only result of this bill will be in fewer reforms and less money and more inflation, but in less money in nominal dollars because the result of the public support for these reforms across this country has resulted in more dollars being expended by local school districts, a 7-percent increase, not 7 percent of the $15 billion of Federal money, but a 7-percent increase last year of the amount of money totally spent for education in this country, which is $230 billion, and that is twice the size of this bill. This bill, if it does nothing else, will have the negative effect of discouraging those school districts from offering more support.

So it is a sad day for education. It is a cruel hoax. This legislation promises more education. It delivers less, because it does not deliver reform. It promises more money, but it delivers less money into the classroom. It removes the incentive for local governments to provide more support. It promises more support, but it removes that local support of parents and teachers in the community. It destroys

the sense of the local community support and says, "Don't worry, the Federal Government will take care of you."

This legislation only keeps one promise, and that is the promise of higher deficits, higher inflation, and more Federal involvement in the classrooms and less education and lower quality of education.

I urge my colleagues to vote a resounding no on this legislation if it ever comes up for a vote on the floor.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise today to express my strong support for the American Defense Education Act.

This bill represents a thorough approach to problems that have been observed in precollege science and mathematics education. H.R. 5609 will help revitalize our public school system by assisting schools to improve the quality of instruction in the fields of mathematics, science, communications, foreign languages, and technology. The bill also recognizes the often ignored, but nonetheless important, subjects of foreign languages, communication skills, and career counseling by providing a firm financial commitment to colleges and universities for teacher training programs. More importantly, the legislation provides for necessary participation by the local community and rewards those communities which develop creative and effective solutions.

I take issue with the previous speaker, my colleague from the State of Utah, who stated that this legislation is not timely.

I believe that the proposal of the American Defense Education Act to improve the science and mathematics skills and literacy of our Nation's youth is most appropriate at this time. I urge my colleagues to vote in favor of H.R. 5609 to affirm our commitment to a strong public educational system for this Nation.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong and enthusiastic support of H.R. 5609, the American Defense Education Act.

There are always a great number of problems, all in urgent need of a solution, that compete for our attention as the legislative year draws to a close. Many of them concern crises that must—and will—be dealt with. But we cannot be satisfied by dealing only with the crises of today. It is not enough. True leadership requires that we work hard to prevent the crises of tomorrow as well. And that, I am pleased to note, is exactly what we will do in approving this legislation.

There's no question that our schools are in crisis. The spate of reports last year on our educational system documented that crisis in stark, revealing detail, and made it clear that the crumbling of our society's educational foundation would in time weaken all that has been built on it. The first report, "A Nation at Risk," told of the "rising tide of mediocrity that threatens our very future as a people and a nation."

Test scores are slipping—and student achievement is even lower than the test scores. Fewer students are taking fewer courses and spending fewer hours studying basic subjects like math and science. The respect that society accords teachers and the salaries it pays them are both insufficient.

Mr. Chairman, the American Defense Education Act is the most comprehensive and thorough remedy for the ills of our educational system. And it is targeted at math and science education—the areas where educational excellence is particularly critical to a healthy domestic economy and to international competition and cooperation.

Under this bill, local school districts would submit plans to the Secretary of Education for the improvement of math and science education. The plans would be grounded in a thorough assessment of local instruction and student achievement in math, science, communications, foreign languages, and technology, and the plans would aim at measurable goals designed to prepare students for jobs, further training, and higher education. School districts with approved plans would be given Federal grants to carry them out. Additional grants would be available for especially successful programs.

Just as commendable as what this bill does is the way it does it. It sets up a voluntary program that gives local school districts the latitude to tailor a program to their own needs. Progress under the program would be evaluated by a broad cross-section of the community: administrators, teachers, parents, business, and industry. Federal funds would be geared toward local solutions under local guidance.

In addition to this immediate and direct aid to our schools, this bill will also work toward getting answers to the fundamental, long-term questions: What is the best way to teach subjects like math and science? And what is the best way to train the teachers? Grant programs for teacher training are essential to long-term excellence in the classroom.

I'd also like to point out that this bill takes us beyond the classroom, and into the workplace. The transition from an industrial economy to one based on information and high technology is already underway, and we must adapt to it. The improved performance that this bill will bring about in math, science, and technology will be indispensable to high employment and general economic health in tomorrow's economy. In fact, studies show that every dollar spent on education returns $6 to the gross national product.

And the economic benefits of this legislation are by no means limited to the domestic economy: Prosperity and technological competence at home will bring better competition against foreign products.

Furthermore, through its support of subjects like foreign languages, this bill will help foster a better understanding of other nations and will enhance international cooperation. There's hardly a more worthwhile goal in these days of unremitting East-West tension.

However, as its title shows, the American Defense Education Act acknowledges that diplomacy and international cooperation must be accompanied by a strong and effective national defense. We must realize that the challenge posed by the technological revolution in our economy extends to the military. This bill does—by directing the Secretary of Defense to work with the Department of Education to project the educational and personnel development needs of the Armed Forces.

Mr. Chairman, we as a nation simply cannot afford to neglect our educational system—and the society we have built on it—any longer. We need the American Defense Education Act, and we need it now.

□ 1620

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise, as a cosponsor and supporter of this legislation to urge my colleagues to join in voting for H.R. 5609, the American Defense Education Act.

This bill will revitalize American education and provide the necessary resources in order to respond to the growing national demand for quality in education. Since the release, last year, of the Department of Education's report, "A Nation at Risk"—and the host of similar reports which followed—we have been seeing a grassroots effort to upgrade American standards in education. We have recognized that we need well-trained teachers. We have recognized that we need adequately supplied classrooms with instructional materials that respond to our changing society. We have also reaffirmed the importance of basic skills in education—and have placed a renewed emphasis upon math and science by passage earlier this year of landmark legislation to assist

us in the development of programs in math and science.

We have also recognized—that this reform effort will not be cheap. We have acknowledged that in order to get quality—we need to spend a quantity of dollars—including Federal dollars.

Building upon the Education for Economic Security Act which addresses the math and science issue—this bill authorizes a program of incentives to assist local school districts to improve the quality of instruction in fields such as math, science, communications, technology, foreign languages, and guidance and counseling. There is flexibility in that this bill does not set local standards—it allows each local school district to set its own educational priorities. It is inclusive in that it requires participation by local school boards, administrators, teachers, and parents—as well as business and industry. It places special emphasis for funds upon school districts with increased numbers of disadvantaged students, such as my own city of New York. Finally, it provides for grants to institutions of higher learning to facilitate improvement of teacher training programs.

Funding under H.R. 5609 is allocated according to the number of pupils within a State—2.25 percent payment rate for chapter I eligible children—and a 2-percent rate for nonchapter I children. This bill also allows for incentives to LEA's which meet or exceed program goals by providing increased funding in subsequent years. Finally, it should also be noted that this bill provides for adequate funding protection for other education programs, such as chapters I and II of ESEA, bilingual education, vocational education, handicapped and migrant education—by not providing for appropriations for this act unless all these other Federal programs remain funded at preceding year funding levels.

Mr. Chairman, as New York's senior member of the House Education and Labor Committee which considered this legislation, I believe that those of us who are serious about educational reform—and serious about doing something for teachers in this country—will support this legislative initiative. It is a straightforward response to a complex problem that will require a coordinated effort at the Federal, State, and local levels of government. I urge my colleagues to support this legislation.

Mr. GOODLING. Mr. Chairman, I yield 1½ minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 5609, the American Defense Education Act. The title of the bill reflects its many benefits. It addresses areas of concern to us all—quality of education, our defense, and maintaining our competitive edge in a growing technological and international society.

The State of Alaska spends more per pupil on education than any other State in the Nation. I recently sent a questionnaire on the quality of education to my district to which the overwhelming majority of respondents expressed concern about the decline in our education system. Even in a State that spends as much on education as Alaska, it is clear by the results of my own questionnaire and numerous reports reflecting the "rising tide of mediocrity" in education that local school districts faced with the increasing costs of providing a quality education, are in need of assistance.

The strength of this legislation is that it maintains local school district control over education. Under the bill, each school district will determine its specific instructional needs and will design and implement a program to improve the quality of education in the areas of math, science, communications, foreign languages, and technology. I believe that schools are most effective when they have the support and involvement of the community, and this bill ensures that school personnel, parents, businesses, and industry will all be involved.

In Alaska, I see urgent need for the programs that can be established under this bill. For example, we have one of the highest unemployment rates in the country. However, often, contractors working in the villages and cities of Alaska find the local residents do not possess needed skills and find they must hire people from out of State. This bill would aid local education agencies in establishing programs to provide students the education they need to find work or to pursue higher education after graduation.

Assisting our local school districts in providing a quality education will strengthen our Nation. We have heard about the decline in our education system. We have heard how our country is losing its competitive edge in the world because our students do not receive the level of education that students of other countries do. We have heard from the Department of Defense that personnel do not possess adequate skills. Today, we have before us an opportunity to strengthen our local school districts, our defense, and our entire economy, and I urge my colleagues to take it.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of the American Defense Education Act, a bill that is vital not only to our educational system, but to our economy as well.

By now we are all familiar with the findings of the National Commission on Excellence in Education. For the first time in our Nation's history the educational skills of the current generation will not surpass, will not even come close to those of its parents. Coupled with the findings of other studies which indicate that education is central to economic prosperity, this report is quite alarming. The response of individual States to these findings has been impressive, but clearly no State has the resources to fully meet the demands being placed on our school systems by our technologically advancing society.

I am proud of the efforts in my State of West Virginia to develop a master plan for public education and to address the specific needs of our State's education system head on. For example, the State board of education is implementing a set of learning outcomes which will ensure that certain key subjects are being adequately taught to all students.

Our State has completed its first year of accrediting our county school districts, and beginning in 1985, students in approved college teacher preparation programs will be required to pass a preprofessional skills test, a content area test, and a professional education performance assessment.

In the November elections, West Virginians will vote on a plan to raise increased revenues for education, and the legislature is taking steps to bring about salary equity for teachers in all school districts, regardless of size.

These are just a few examples of ways that my State is responding to our educational needs. We still have a long way to go, however, as our teachers need to be trained to deal with emerging technologies, there are huge shortages of teachers in certain subjects, and there is a great need for new textbooks and other reference materials. The State cannot do it all alone, and the American Defense Education Act would provide the necessary funds to ensure that State plans can be carried out to their full potential so that every child is reached. It would also provide extra funding for areas with large numbers of low-income students—these areas have been neglected for far too long.

Some people argue strongly against Federal involvement in education, and I agree that the individual States are best able to assess the needs of their students. But that is what makes this bill so unique. It does not attempt to dictate to local school districts where changes need to be made. Instead, it allows each district to study its own needs and implement a plan for change, then the bill provides vital funding for carrying out such plans. I cannot think of a better way to address our current educational crisis.

My State and others have been hard hit by the recession. If West Virginia is to continue to help meet our Nation's energy needs, and if our country is to prosper economically, we must recognize that our future is in education. There is a great deal of evidence that past gains in U.S. productivity are due largely to educational gains. A vote for this bill today is not a vote for just another education bill. It is a vote for increased economic productivity and prosperity, and it is an investment in our future.

□ 1630

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I suppose I should set the record straight on a couple of things first. First, how we got this out of committee.

I think it is only fair to say that since we are a 2-to-1-plus-1 minority, the only attempt we have to slow things down is to not give a quorum and that particular day we made sure that we did not give them a quorum and when we thought they were finished, one of my colleagues walked out to pick up his books and the chairman said now we have a quorum and we had a quorum, and that is how this bill came out of committee.

Second, I think in fairness to the Senate, I should respond to something that one of the gentlemen on my side of the aisle said, he was blaming waste for not closing defense installations on the Senate.

I will guarantee you, you would not find any congresspersons in the House of Representatives who will stand still anytime they try to close one, and I have been guilty of that, also. I think we should be fair to our colleagues over on the Senate side.

Then I think I should also caution those who were looking our way all the time in relationship to what happened in 1981. I believe that, and that I am not patting myself too much on the back when I say that I had a lot to do with not having some things go into a block grant.

A lot to do with not reducing expenditures as they were proposed in the area of education.

In fact, all of the time we have increased those expenditures I think with 1 year where we stayed pretty much the same.

But let me talk a little bit about what is happening today. To me this is probably one of the most depressing experiences that I have had in the Congress of the United States. I say that primarily because I do not think there is anyone that has spent any more time trying to help children, any more time trying to provide leadership in the area of education as I have during the 23 years I was in education and since I have come to the Congress of the United States.

And so my fear is, and the reason I am depressed is that I am afraid we are playing politics today and I am afraid we are playing politics and using children, and that is depressing to me.

First of all, when the outside sponsors of the bill spoke with me about this bill coming to the floor, my first question was, is the Senate going to act on this legislation this year and they said, no, the best we can hope for is that they might have a few hearings at which point I said, then should not we be doing something to help children this year before an election rather than doing something that would appear to the public as being strictly political.

The response was that they thought, first of all, that if we move in the House perhaps things would go more quickly next year at which point I said, you know the political reality, as I see it, if the incumbent is reelected, I do not believe there will be a new $9 billion program over a 3-year period initiated next year and if the challenger is successful he has already indicated that it will be pay-as-you-go.

Now, I do not fault any of my colleagues for whatever philosophical bent they may have because I believe they are sincere. Whether it is big spenders as I heard someone mention. Whether it is liberal or whatever it may be, I believe they are sincere.

I lose a little respect, though, when I hear the number of 1 minute speeches that are given every day including some of them that were given today that really made me bite my tongue about what we should do about deficits and who is responsible for deficits, et cetera. I think we should be consistent.

I also ask as we are moving the bill through committee, why now? Why did this bill not come at the beginning of this session when everybody had education foremost in their mind; when we would have had a beautiful mechanism around which we could have built a comprehensive program to respond to the problems that have been brought forth through A Nation at Risk and many of the other studies, some of which were much better.

We would have had a golden opportunity instead of the piecemeal effort that has gone forth, we would have had a golden opportunity to bring a comprehensive bill to the floor of the House.

The response was that, well, we did not want to interfere with reauthorization of the vocational education bill.

I will guarantee you as long as Chairman Perkins was in this House of Representatives, no one, no one was ever going to interfere with the reauthorization of the vocational education bill and therefore I could not accept that response from the same people who gave me the other response.

This bill should have come at the beginning of the session. So, as I said, we could have built a comprehensive program. Now we have passed a math and science bill, $1 billion over 2 years which, incidentally, has a waiver provision for foreign language.

We passed and it has been signed, an excellence in education bill, $50 million over a 3-year period.

Over on our side we increased chapter II by $200 million. We passed a foreign language bill on our side, $50 million for a year. We reauthorized H.R. 11, $7 billion over a 5-year period. We had a golden opportunity, as I said, to build a comprehensive program to attack the problems that are facing us in public education.

Now, let me talk just briefly about what I believe is the Federal role in public education.

I feel very strongly that we do have a role. We have a major role and that major role is to have equal access for all children for a good education, no matter who they are or where they live. That is why, as a matter of fact, I have been a strong supporter of Head Start, a program that is working and working well. It got off to a bad start, but is now working well.

That is why I have been a strong supporter of title I and then chapter I. And, as a matter of fact, as the amendment that I will offer will indicate, as I told the group who visited me in my office, this would have been a golden opportunity before an election to do something about the hundreds of thousands of dropouts that we have in this country and will continue to have unless we find a solution to that problem.

And that would not be an easy solution. The bill that we are considering today will not be a short-term answer by a long shot to that solution. The short-term answer, it seems to me, to do something about the dropout problem is to extend that very successful program that we have in chapter 1 so that it can include secondary youngsters. It can include secondary youngsters now but to financially support that program. It has been in operation 20 years and the best statistics that I can find would indicate that we are now probably serving somewhere around 48 to 50 percent of all of the eligible youngsters. Twenty years to get to that point.

Now, you see, that brings me to one of the real problems with the piece of legislation that we have before us today and that is the funding formula, if it is not fully funded.

Let us say that it takes 20 years to fully fund this piece of legislation then all you are doing is dribbling a

few dollars here and a few dollars there, targeting to nothing, helping no one really because of the lack of dollars.

Let us say we get a couple of hundred million next year to spread all over the United States under this formula. What do you do? I do not know of anything that you can do that will tackle the biggest problem facing education today, facing this country.

Can you imagine the billions of dollars it is going to cost taxpayers over 30, 40, 50 years because of the dropouts, untrained, not prepared but much worse than that, what a terrible problem we are going to have dealing with an issue of a generation that are not prepared to carry on some of the important things that we are going to have to carry on, the jobs that will have to be filled. We will have missed an entire generation because we have not tackled seriously the dropout problem in this United States.

I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding, and I commend the gentleman for his amendment and for his leadership on this legislation, and particularly his amendment to increase the use of chapter I which has been so terribly beneficial to children around the country.

I have a procedural question of the gentleman, if the gentleman knows the answers. There are many Members of this body who would like to know as to whether it is intended this bill will come up for a vote at all and if so, when. Would it be coming up tonight or tomorrow, or next week, perhaps? Does the gentleman know when this bill is scheduled for the 5-minute rule amendments and then the vote?

□ 1640

Mr. GOODLING. I can only repeat rumors that I have heard circulating this afternoon, and I would prefer not to repeat those rumors. I can only say, as I said in the initial part of my remarks, that as I understood from the group who visited me, there was no chance that it would come up in the Senate and, therefore, would not become legislation, would not even get to the President's desk.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield further, then the gentleman is saying that it is largely a politically inspired kind of bill and may not even come to a vote in this House.

Mr. GOODLING. I hope it is not true that it is a politically inspired bill because, as I said, we are using children if that is what it is. But if it is not going to become a reality, then we really should be tackling a problem, as I mentioned my amendment would attack, and that is the problem of dropouts because in my amendment I merely say, so that we can put some pressure on getting the kind of money that we should have in chapter I, that we would not fund new programs until at least we get to the point where we are serving 75 percent of those in need, the disadvantaged youngsters. We probably then could do something worthwhile, changing the philosophy, of course, not copying what we do on the elementary level in chapter I, but tackling the problem of the dropouts.

Mr. BARTLETT. I thank the gentleman.

Mr. GOODLING. Mr. Chairman, let me continue by saying that, as I was mentioning, if we do not get proper funding for the bill, then it seems to me we really have done a disservice to the youngsters of this Nation.

As I indicated, if it took us 20 years to get to 50 percent of those who would be eligible under title I, chapter I, how in the world are we going to get anywhere near $9 billion over a 3-year period for this piece of legislation.

It was mentioned that if we want quality, we have to pay for it. There is a lot of truth in that statement, but I think the history here in the House should indicate that during the last 40 or 45 years we have spent a lot of money on an awful lot of programs and still did not get quality. As was mentioned earlier, we have increased in the last 5 years, the best statistics that I could gather, spending on public education by 46 percent. We have increased it by $240 billion. So we cannot necessarily say that we are going to get quality simply because we threw money at a problem.

I think on the Federal level we must do some of the targeting. The dropout area is one of those areas we must target.

When we talk about getting something for our dollar, I heard recently where a State passed legislation and apparently had the courage to raise the taxes to bring about a $2,000 across-the-board increase to all teachers in that State. I do not, for the life of me, see how that has anything to do with bringing about quality education; $2,000 across the board. If one is average, one gets $2,000. If one is above average, one gets $2,000. If one is superior, one gets $2,000. If one is just good enough that no one can do much about that person being there, that person gets $2,000.

Let me tell my colleagues: If we want to improve education by raising teachers' salaries, then the first courageous step would be, let us increase teachers' starting salaries by $5,000. Then we might attract the brightest and best that I hear so much talk about in this House and in committee. But just across the board raising $2,000 does not assure us anything, in my estimation; $2,000 is not going to keep the best science teacher that we have if industry really wants that science teacher. But the problem is with attracting the brightest and best, and that will take courage and that will take money, and that will have to be done if, in fact, we are serious about excellence in education.

So let me just close by saying, again, that this is a depressing experience for me because there is no one more concerned with education in this country than I am. There is no one who is more concerned about making sure that our youngsters are properly prepared so that all of them can be productive citizens in this country. But the greatest fear that I have, and I hope it is unfounded, is that, as a matter of fact, we have chosen this opportunity to play politics using children, rather than really trying to do something that could immediately have some effect on the pressing problems that we, on the Federal level, should have a lot of concern about and certainly have a big role in, and that is making sure that every youngster—every youngster—in this country has an equal opportunity for the very best possible education, no matter who he or she may be, and no matter where he or she may live.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] consumed 15½ minutes.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. COELHO].

Mr. COELHO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I find it intriguing that we have a discussion going on as to whether or not this particular piece of legislation is politically inspired. The discussion took place in a rather abstract form in that if the bill were to pass this body that there was no intent of moving it through the other body.

I think it is educational to know that the other body is controlled by the other party and that if we want to talk about politics that maybe if the other party were as interested in education as our party is, it might not be politically inspired. They could move the legislation if they wanted. I do not see any leadership coming from the White House, either, on an education program for children or for teachers. There was some discussion in the well about the fact that there could be revisions, and we are for this and we are for that. I see no leadership being provided to give that type of educational program.

So when we talk about politically inspired and politically motivated, I think it is important to call it like it really is and let us find out where the politics is really coming from.

We talk about tokenism. We have ideas and proposals to send a teacher out into space, and we have all those

types of PR gimmicks, but when we actually talk about educating our young people, when we actually talk about doing something about our dropouts, that is not done. We do not do that. It is not addressed.

So I think the American people will understand where the politics is coming from, and I think the American people will also understand where the true interests of our children are and who is really interested in educational programs.

When we hear this discussion about expenditure of dollars on education, let us really look where the Federal dollars are. They are way down, way down; they are not up.

I come before you today to talk about one of the most important pieces of education legislation in many years—the American Defense Education Act [ADEA]. The ADEA, introduced by our late friend and colleague, Carl Perkins, gives those of us in Congress a chance to put our money where our mouths are in the pursuit of excellence and equity of access to education for all American students. It also gives us the opportunity to give Carl Perkins a living monument to his historic education work.

We're living through a period with a President who pays lipservice to education with empty rhetoric and a space launchpad for a teacher. This, when the debate over reform of our Nation's education institutions has been the focus of the Nation. This President will allocate millions for a teacher's seat in the space shuttle at the same time that he's been proposing the axing of billions in education funding for our greatest treasure—our children. I think that the American people see through this sham—and I certainly hope my colleagues here on Capitol Hill do as well.

Under the Reagan administration, Federal funding to education has fallen to its lowest level in the past two decades. Passage of the ADEA will help turn that trend around, and show our schools and our teachers that we care about what happens to the children and to them as professionals entrusted with one of the most important jobs in the world—the teaching of our young.

The ADEA is a voluntary program—school districts enroll only if they want to—and communities decide how funds will be used. It's democratic in its approach and implementation. It's Federal assistance without meddling. What better tool for our pursuit of excellence and equity in our Nation's schools?

The ADEA also ensures other principles by guarding the funding base for other vital Federal education programs such as chapter 1, handicapped education, the Women's Equity Act, and others, and it has strong language prohibiting any school district enrolled in the program from practicing discrimination in any form.

Passage of the ADEA will send a sure signal to the American people that this Congress will in fact back its pledge to provide our schools with the shot in the arm they need to aggressively pursue excellence in education for everyone.

Let's help replenish the well of educational opportunity that the Reagan administration is trying to dry up by voting for the ADEA. I urge my colleagues in the House to vote "yes" on the ADEA without amendments. We owe it to our children, to our teachers, and to the future of our Nation.

Mr. GOODLING. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am not the head of any committee to elect Members to the Congress of the United States. I am only here trying to do what I think is in the best interests of all Americans, particularly interested in children and their welfare. I only want to make it a better place in which to live.

So that is my concern; that we do not get involved in politics only. But let me also mention that it is the Congress of the United States that determines how much money is authorized, how much money is appropriated, and how much money is spent.

□ 1650

So in 1981 it was the Congress of the United States that made those decisions, as it will be today the Congress of the United States that will make the same decisions.

I would ask the gentleman, if he is still here, are we going to vote on this piece of legislation?

I would also ask him whether he would support my amendment so that we can do some of the things that we need to do to help children.

Mr. Chairman, I reserve the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BRITT].

Mr. BRITT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to echo the sentiments of many of my colleagues on the floor regarding the importance of a firm commitment on our part to public education to ensure our future. Special emphasis is appropriate in those areas such as math, science, and language skills that impact so heavily upon technology, defense and international trade.

Last year, this country incurred a merchandise trade deficit of $70 billion, and that trade deficit will increase to over $100 billion this year. In the past, the struggle for economic and political power was waged on the battlefields of Europe. Today, they are being waged in the international marketplace, and we are losing those battles. Likewise, in an often hostile world, our national security can be maintained only by constant vigilance and planning for the future.

To assure a safe and prosperous future for America, we must continue to expand our technological base, and we must commit ourselves to providing our children with the skills and training necessary to accomplish this.

Our national security—in terms of both economics, defense and international trade—can be assured only by providing the workers of the future with a sound educational background today.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. HARRISON].

Mr. HARRISON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the debate today is largely symbolic. I think all of us know it. I think that the most striking thing about this debate is that Members who have risen very sincerely and very eloquently to say that this may be a good bill, but we just cannot afford it, are the same Members who rise to vote for more and more billions of dollars for bombs and missiles.

It seems to me that maybe this debate is symbolic, that maybe it is about what we in this country should spend our money on and give our priorities to and that it is time that we as a society started investing in the future, in the minds of our children, started spending money on brains rather than bombs, because God knows we have enough of them.

So I submit, Mr. Chairman, that this bill should be passed, not only because it will do a lot of good, but because it will make a firm statement that a Nation that can presume to spend $25 billion on an MX missile that nobody needs can probably afford to spend a few billion dollars on the future of the human race. That I respectfully submit is what this bill is all about.

I, too, like many of my colleagues, believe that America's system of education is at a crossroad, and that the direction soon to be taken will determine how well this country will be able to meet the challenges of an increasingly technological world.

The recessions of the last two decades have taught some cruel lessons to the Nation. No longer is a strong back or a strong will sufficient to insure a person the means to earn a decent living. No longer can the prosperity of America be measured simply by counting the number of billowing smokestacks against the horizon. No longer can the children of the steelworker, the railroader, the tradesman, expect to take their place alongside their fathers in a job likely to be there when they choose to retire some 40 years hence. Job security, job opportunity, and job availability have all been casualties of the technological explosion.

We, as a Nation, must recognize that without an educational system which stresses and encourages adaptability, we will continue to lose ground to other nations who have charted new courses for their people and who are more able to compete in the world market. Manpower without mindpower threatens to reduce our Nation's economy to that which it was in pre-Revolutionary times—that of an exporter of agriculture and an importer of manufacturing and technology. Passage of the ADEA will ensure, that above all else, our Nation will not witness the disappearance of over 200 years of economic progress in less than two decades.

This legislation is premised on the assumption that our best response to the technological challenges of the future must be national in scope, offering ample incentive and resources, yet with sufficient local control to permit the best, most efficient utilization of community resources and priorities. The totality of our response, as set forth in the act, must, to be effective, start in our elementary schools and continue through our higher levels of learning. In addition, we must continually strive to provide an environment in which educational innovation can flourish.

ADEA addresses several critical problems involving our national educational policies. By acknowledging an immediate need for increased emphasis on mathematics and science, we can better demonstrate our preparedness to meet the short-term challenges of a changing world market. By acknowledging that our economy is in transition, we demonstrate our resolve to see that the resulting workpace transition need not, inevitably, result in increased or rampant underemployment, thus better addressing our long-term requirements. Finally, we will be recognizing the relationship between our future educational needs and our future military needs. Thus, we will insure that neither our economy nor our military will want for lack of skilled, well trained people to operate ever more sophisticated equipment.

Such a comprehensive approach to our educational needs has not been undertaken since 1958. Twenty-seven years ago, a gauntlet was thrown in the form of a small satellite rocketed into space by a foreign power, today it comes in the shape of a microprocessor which is sure to affect every aspect of modern living. At stake is whether or not America will become a slave to foreign technologies or continued master of our own destinies.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise in strong support of H.R. 5609, the American Defense Education Act. I am a cosponsor of the original version of this legislation which will renew a Federal commitment to quality education.

According to the President's National Commission on Excellence in Education, our "once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world." This, due to a rise of mediocrity in our Nation's schools. There is almost unanimous agreement among everyone concerned that we are facing a serious crisis in education.

Nevertheless, under the Reagan administration, real Federal spending for education has been reduced by roughly $6 billion. The Federal Government's share of public elementary and secondary school financing has been cut from 9.2 percent in 1979–80 to 6.4 percent in 1983–84; 500,000 fewer children are now served by the compensatory programs for disadvantaged children under chapter I of the Education Consolidation and Improvement Act. Almost 125,000 fewer students receive Pell grant assistance.

There are those who argue that educating our children is a task that belongs to the States and not the Federal Government. I wholeheartedly agree. But the Federal Government should provide the States with the tools necessary to provide our children with a quality education. That is exactly what the American Defense Education Act does. States and local communities develop educational plans based on their own special needs. The Federal Government provides funding according to a formula based primarily on the number of school-aged children in the State. Under this formula, my home State of Wisconsin would receive roughly $44 million.

When our educational system falters, our Nation as a whole suffers. A poorly trained work force will surely result in decreasing productivity and a decline in U.S. competitiveness abroad.

Providing our children with a quality education will cost money. But Federal support for education is money well spent—every dollar our Nation spends on education returns $6 to the gross national product. Every $4 the country spends to get students to complete high school returns $7 to Federal, State, and local governments.

Mr. Chairman, how can we justify spending billions of dollars on costly and needless weapons like the MX missile while refusing to provide the resources necessary to assure the proper education of our children. Doesn't a strong national defense depend upon an educated and well-trained citizenry as well as the size of our military arsenal? If our spending priorities continue as they have over the past 3½ years, someday we may possess advanced weapons systems which no one can operate and no one can repair.

● Mr. ECKART. Mr. Chairman, I would like to take this opportunity to say a few words in support of H.R. 5609, the American Defense Education Act. Ever since the report from Secretary Bell's National Commission on Excellence in Education was made public, education has been basking in the limelight of national concern. The Commission concluded that we are a nation at risk—a nation whose very foundations are being eroded by a rising tide of mediocrity.

This renewed attention to our Nation's school system has also fostered renewed attention on the role of the Federal Government in educating America's youth. I presented this question to concerned citizens in my district at a series of community forums this past spring. What I learned was that educators, parents, and students support a Federal role in education and want us to make the necessary commitment required to refashion America's school system to reflect an increasingly technological society.

The ADEA aims at improving local education programs in math, science, communications, foreign languages, counseling, and computer technology. The most attractive feature of this legislation is that it is designed to be carried out entirely on the local level, which I strongly support. While responsibility for education has traditionally been carried out at the local level, most States and local school districts do not have sufficient funds to carry out the recommendations set forth in the National Commission's report. The ADEA authorizes a national program of incentives to assist all local school districts in providing quality education to students.

In this election year, we hear a lot of rhetoric naming education as a national priority. But quality education is not produced solely through the White House passing out plaques and flags to selected school districts in recognition of excellence—it is achieved by a meaningful partnership between local, State and Federal activities ensuring equal access and equal opportunities for all students. We can't guarantee success, nor shall we try, but we must guarantee an equal opportunity for all to succeed or fail on their own. A wholesome education gives each American that opportunity and that is what this bill is all about.

As we consider this bill today in the House, I would like to remind my colleagues of Thomas Jefferson's prediction on the consequences of neglecting education:

If the children are untaught, their ignorance and vices will, in future life cost us much dearer in their consequences, than it would have done, in their correction, by a good education.●

● Mr. CONYERS. Mr. Chairman, I rise in support of H.R. 5609, the American Defense Education Act. This bill represents a positive first step in addressing a serious national problem acknowledged by all: The declining state of education in America, particularly in the areas of math and science. This disturbing trend is attributable, in part, to a neglect of the qualifications of the Nation's educators. The National Science Teachers Association estimates, for instance, that 60,000, or 28 percent, of the Nation's 200,000 math and science teachers lack the needed qualifications for the competent instruction of our Nation's students.

While the current administration sounds alarm at the current state of American education, it has ironically reduced Federal spending on education from $7.7 billion in fiscal year 1981 to $5.7 billion this current fiscal year. The administration's policies of block grants have been particularly devastating to the urban poor and minority communities where, according to all statistics, the need is greatest. In Detroit, for instance, where study after study has demonstrated the direct link between public educational deficiencies and the lack of Federal commitment, funding was reduced under the block grant by nearly 50 percent, from $7.3 to $3.8 million. In the administration's policies of reverse logic, it has failed to see that education cuts are cuts that never heal.

Most recently, the President's National Commission on Excellence in Education has estimated that $14.2 billion in additional public education expenditures are needed to reverse the steady decline in education which the Nation has witnessed over the past two decades. By appropriating $2 billion, the American Defense Education Act would initiate the first step down a road on which we have been all too reluctant to pioneer.

Apart from training educators and upgrading materials in the areas of math and science, foreign language instruction, communications skills and technology, the scope of H.R. 881 reaches beyond even the new math-science assistance law by providing communication and linguistic skills to facilitate mutual exchange of information and knowledge with people from different countries and cultures. In a world increasingly dominated by international trade, advances in science are irrelevant without the proper conduits of information and communication.

The funding for this legislation is not an end in and of itself. Rather it is merely a means to ensure that local educational needs are not ignored due to the inadequacy of local resources. Therefore, it is vital to the success of this program that local schools and communities are enabled to set their own goals. This bill, if enacted, will give not only the responsibility but the financial ability for the participation by school boards, administrators, teachers, parents, bargaining agents, and business groups in the formulation and evolution of local education initiatives.

This act is supported by a wide range of public interest groups, including the National Education Association, the National Parents and Teachers Association, the Council for Language and Other International Studies, the American Federation of Governmental Employees, the American Association for Counseling and Development, the Council of Great City Schools, and the American Association of School Administrators. This act has the bipartisan sponsorship of 235 House Members and 31 Senate Members. It is essential that we respond to the problems of education in the United States with active, not merely rhetorical, measures.●

● Mr. SIMON. Mr. Chairman, I rise today in support of H.R. 5609, the American Defense Education Act. My other distinguished colleagues have spoken convincingly about the need for this legislation and have explained clearly its purpose and goals. I want to add my voice to the discussion today in order to blunt the criticism by the bill's opponents, and to allay the fears of my colleagues who believe in the goals of the bill, but face election in a few weeks.

Opponents of H.R. 5609 have claimed that this bill duplicates other education programs already in place or nearing congressional passage. They charge that the mathematics and science bill recently signed into law by the President already does what H.R. 5609 proposes to do. The committee amendment, which I support, will allow the math-science programs to get up and going before the math-science provisions of H.R. 5609 are implemented. Opponents charge, also, that ADEA duplicates programs contained in my bill, H.R. 2708, the Foreign Languages for Economic Security Act. While the goals of the two bills—to build and enhance foreign language knowledge in this country—are identical, the implementation of the programs and the emphases are different.

H.R. 5609 supports foreign language instruction at all education levels—elementary, secondary, community college and baccalaureate. The emphasis of H.R. 2708, however, is primarily on grants to higher education institutions. Of the $50 million authorization in H.R. 2708, $40 million goes to higher education. The emphasis in H.R. 5609 is on elementary and secondary schools—where a great need exists, but is not met adequately in the modest authorization level in H.R. 2708.

Mr. Chairman, you have heard me on numerous occasions warn my colleagues about the disastrous consequences of this Nation's insulation from the rest of the world because of our inability to speak and understand other languages. While I am encouraged by recent reports that foreign language study is growing somewhat, the growth is not anywhere close to the levels that should be obtained. Furthermore, there is now a critical shortage of foreign language teachers in elementary and secondary schools. Training foreign language teachers takes time and is expensive. As anyone knows who has studied a language, it is not something a person can learn in a quick course, or be able to teach with minimal training.

I support, too, Mr. PANETTA's amendment to add foreign language instruction to the program of summer institutions and inservice training provided in H.R. 5609. Foreign language teachers, more than most, need constant refreshing of skills, and introduction to new teaching techniques. This amendment would allow foreign language teachers to participate in these programs, and would offer other teachers, who have an interest and background in language to be trained to become language teachers.

The job of training students and teachers in language is enormous—and critical. H.R. 5609, along with H.R. 2708, only begins the process.

Second, Mr. Chairman, I want to allay the fears of those of my colleagues who view the cost of this bill with alarm, and fear that a vote on this bill might cost them the election. I think that the Gallup poll of the public's attitudes toward the public schools is heartening, as the poll showed that across the board, support is growing for public schools. This year, 42 percent of those interviewed gave an "A" or "B" rating to the public schools in their communities, up sharply from 31 percent in 1983. I believe that the widespread debate across the country on the quality of public education has had an effect on this dramatic rise in support. Citizens have taken a closer look at the schools and found them to be better than they previously believed.

Moreover, the percentage of public school parents who favor tax increases for the support of public schools has risen from 48 percent in 1983 to 54 percent today, while the percentage of these opposed to tax increases for schools has dropped from 45 to 38 percent.

Most telling for my colleagues this election year is the response to the question: "Would you be more likely or less likely to vote for a candidate who says he would increase Federal spending for education?"

Two-thirds of Americans—66 percent—would be more likely to vote for candidate supporting increased spending. Only a third as many—22 per-

cent—say that they would be less likely to vote for this candidate.

Mr. Chairman, H.R. 5609 adds much needed support to education programs at the local level. It does not duplicate, but only supplements other Federal efforts. It allows decisionmakers at the local level to determine the priorities for support, and puts Federal money where it is most needed, and insures that these funds go to only those districts that have developed plans for administering the Federal moneys.

I urge my colleagues' support for this important legislation.●

● Mr. RATCHFORD. Mr. Chairman, education is a critical investment in this Nation's future. Perhaps the most important legacy we can leave to our children is the ability to think clearly and creatively. Given this invaluable tool, these children will return the investment many times over when they enter the workforce and society as contributors. We have a responsibility to give each citizen the opportunity to fulfill his or her potential. Further, our national economy desperately needs trained and qualified workers to maintain its health and international competitiveness.

A lot has been written and said recently about the status of education in America. No one disagrees that the quality of our schools has deteriorated in past decades. Most would concur that these institutions must begin now to rebuild, reshape, and revitalize the Nation's system piece by piece.

However, one problem remains: Who will pay? Many schools simply do not have the funds to analyze their problems, much less design and implement change.

The American Defense Education Act is a vital step in the right direction. This bill would assist local school districts in improving the quality of teaching in elementary and secondary schools in the critical fields of math, science, communications, foreign languages, and technology, among others. I think the key to the bill is that it is not a mere Federal hand-out, but rather an incentive program. It encourages locally conceived, developed, and implemented plans to reach its broad goals. The Defense Education Act would provide the States and localities necessary Federal aid without stifling local initiative or flexibility.

If, as a Nation, we are going to demand from our schools a certain standard, as well we should, then we must provide those schools with the support to live up to that standard. We have identified a need and I believe we have the will to correct it. The American Defense Education Act will supply the means to reestablish American schools as a national priority.●

● Mr. FAUNTROY. Mr. Chairman, I rise in support of the American Defense Education Act (H.R. 5609). This legislation is one of the steps necessary for improving the educational system of the Nation. The need for improvement has been well documented by recent reports on educational quality. H.R. 5609 authorizes such sums as necessary in fiscal year 1985 through fiscal year 1987 to establish a new Federal grant program to assist local school districts in improving the quality of instruction in elementary and secondary schools in the fields of mathematics, the sciences, communication skills, foreign languages and technology, and guidance and counseling. The legislation also provides grants to institutions of higher education to improve teacher education in science and mathematics.

I believe, Mr. Chairman, that the Congress must be honest with the American people. The Nation has been served up a number of reports which pointed out changes in our educational system. These reports have come from such reputable sources as the Department of Education's National Commission on Excellence in Education, the Carnegie Foundation for the Advancement of Teaching, the Twentieth Century Fund and the National Science Foundation.

The reports proposed such reforms as strengthening standards for academic materials, raising expectations of students, devoting more time to learning, improving preparation programs, upgrading the skills of classroom teachers, promoting greater involvement of citizens, and providing necessary resources to fund the educational enterprise. In addition, various activities have been identified that can be implemented at the local level that will make a difference in education. The common theme is that changes must take place at the local level. To accomplish this, each school district must conduct its own needs assessment and identify the set of goals and priorities that will lead to improvement, as well as have available the fiscal resources to pay the costs of improvement.

Under the outstanding leadership of Superintendent Floretta McKenzie and the board of education, the District of Columbia public schools have conducted an assessment of needs and embarked upon a successful program for improvement. But legislation such as H.R. 5609 would enable the DC school system to make even greater studies toward excellent education.

Mr. Chairman, I strongly urge my colleagues to support the American Defense Education Act.●

● Mr. FORD of Michigan. Mr. Chairman, I rise today in support of the American Defense Education Act [ADEA], H.R. 5609. This bill makes a real contribution to solving the problems which face education in America today and which have been highlighted by the recent barrage of reports analyzing the state of education in our Nation.

Under the bill, payments to local school districts would be based upon the average per-pupil expenditure in the State, but would guarantee that no district would receive less than a percentage of the average national per-pupil expenditure. ADEA provides for local initiative and control in using funds to improve curricula in mathematics, science, computer technology, foreign languages, and communications. It also provides for improved teacher training, particularly in new technologies. ADEA does not force new programs on schools or teachers. What it does do is support programs developed by local school districts, colleges, and universities.

A recent Gallup Poll taken in response to the myriad reports released over the last year asked what factor those polled thought was most important in "determining America's strength in the future?" The majority—84 percent—responded that developing "the best educational system in the world" was the single most important factor. This response was given a much higher priority than either developing an "efficient industrial production system" or developing "the strongest military force." It is clear that the American people have come to be as concerned about the future of education in this country as educators and policymakers.

While there has been ample, and perhaps even excessive, commentary on the problems in education and the degree of seriousness with which those problems have been viewed, there have been few positive plans from the Federal Government in response to them. ADEA provides a positive response.

Much of the interest in reforming the Nation's schools can be traced to broad changes taking place in the culture because the Nation is experiencing a technological revolution as significant to its future as was the industrial revolution which began more than two centures ago. The workplace has become a laboratory for innovation and change for a variety of jobs from the fast food cashier to the production line worker. America's economy is moving rapidly from a goods-producing base to a service-and-information base. Developments in technology and communication are having dramatic effects on all facets of American life. Demographic shifts are taking place throughout the Nation. The population is aging, and the nature of the work force is changing with people working longer and with increased opportunities for women and minorities.

These conditions have contributed to the development of a public interest about the need for a national effort to

raise the quality of America's elementary and secondary education. Specific concerns related to elementary and secondary schools include the necessity of improving the quality of instruction in critical areas, shortages of students, changes in the work force, and the importance of America maintaining a competitive position in international trade. Of particular concern is the importance of efforts to improve the quality of elementary and secondary school instruction in mathematics, science, communications, foreign languages, and technology, and, where necessary, to improve guidance and counseling so that students make better informed choices.

At the same time, many States and local school districts simply do not have sufficient resources to implement the recommendations from the education reform reports. In addition, most agree that these conditions cannot be improved without a national commitment to address the range of problems confronting education, but there is general agreement that no single national solution will resolve the problems. Rather, they can only be resolved when there is a commitment to address and resolve them where they exist—at the local level.

ADEA addresses these concerns by providing Federal grants to local school districts, based upon a formula which guarantees funding to all local school disticts and provides extra payments for poor children. The funds will be used by the district to carry out locally developed plans to improve instruction, based upon an assessment of local needs. School districts that can show substantial progress in meeting their ADEA goals are eligible for additional incentive payments in the later 2 years of the program.

I encourage my colleagues to join me in supporting this legislation which provides for the first comprehensive legislative response to the problems facing American education today.●

● Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 5609, the American Defense Education Act. This legislation is a comprehensive answer to the pitfalls facing public education, about which we have heard so much. This is not a bill to merely squander more Federal dollars on social programs; it is a meaningful investment in our Nation's future.

I believe this bill clearly addresses some of the major problems facing public education. It will assist local school districts in improving the quality of instruction in the field of mathematics, science, communication skills, foreign languages, and technology, and in improving guidance and counseling. These are all areas which reports, such as the President's "A Nation at Risk," have shown to be seriously deficient.

Several provisions of this bill will ensure a tight rein over the disbursement of funds so that the best possible results are achieved. For example, a school district must apply to the Department of Education, and show that the funding will be used to conduct a study of the educational needs of the district, then design and carry out a specific plan to achieve results. Also, in order to maintain funding levels, proof must be presented annually to show results.

An important aspect of this bill is that individual school districts are responsible for assessing their own educational needs, for setting up programs to meet those needs, and for evaluating the results. This bill maintains strict Government guidelines, yet allows local districts to determine the best way of implementing programs.

The funding level is not extravagant when we consider the severe crisis in education. Once the program is in full swing, the cost will come to only $100 per student per year—a small price to pay when America's future is in the balance.

The American Defense Education Act also guards against having funds seep into other already established programs. It specifies that no appropriation will be awarded under this bill if funding levels of certain programs, such as the Vocational Education Act or handicapped education, dip below current levels.

I know that this bill was dear to the late Mr. Perkins of Kentucky, whose loss we all deeply regret. I had the pleasure of working with Mr. Perkins on the Committee on Education and Labor in the early sixties. Together, we implemented some of the most far-reaching education initiatives, which today still play a major role in providing education to the widest range of Americans. These initiatives, however, have been allowed to become frayed and tattered over the years. The American Defense Education Act can breathe new life into our educational system.

Mr. Chairman, in the late 1950's, after the Soviets launched Sputnik, this Nation embarked on one of its most ambitious educational programs in history. We succeeded in educating an entire generation of engineers, scientists, and other technicians. For decades, America was renowned for its exciting new innovations and technologies. But now we are again "a Nation at risk"—at risk of losing our economic edge. Unless we again commit ourselves and our resources to educating a new generation of Americans, we will be forfeiting their future and our Nation's future. I urge my colleagues to join me today in suport of the American Defense Education Act.●

● Mr. ALEXANDER. Mr. Chairman, I rise in support of the American Defense Education Act.

In the modern age, it is essential that our children be well educated, well trained, and well prepared for the difficult and competitive world they will enter.

Our businesses face a major challenge from foreign competition.

Our workers must master the new technologies that are changing the face of the world economy.

Our Armed Forces must create and use the modern weaponry that protects our security.

Our future depends—to a large extent—on the education and skills of our youth.

The American Defense Education Act will strengthen our schools, protect our security, and improve our economy.

It will provide some $50 per pupil.

It will leave the decisionmaking where it belongs: in local schools, serving local communities, meeting local needs.

It will encourage community cooperation. Under this bill, participating schools could bring together teachers, students, parents, and administrators behind an important and common purpose.

It will strengthen our capabilities in math, the sciences, communications, and new technologies, and thereby help us meet the economic challenge from Japan and the security challenge from the Soviet Union.

We, in Arkansas, understand the importance of education, and we have begun a major effort to strengthen our local schools. The American Defense Education Act will help the schools of our State, and schools around the Nation, in an effort to improve the future of our children. No investment is more important, and I urge my colleagues to join me in supporting this important legislation.●

● Mr. MURTHA. Mr. Chairman, I was very pleased to cosponsor the original version of the American Defense Education Act, and to submit these remarks today in support of House passage of this legislation.

This legislation strikes the proper balance among our goals of keeping education decisionmaking at the local level, providing Federal funds for key education programs, and concentrating national attention on the goal all Americans share of excellence in education.

About 8 percent of the total funding for education in our country comes from the Federal Government. With the current budget restraints, the Federal Government role will properly stay in the background to local and State input. But with programs such as this, we can direct key funds to improve the quality of instruction in fields such as mathematics, science, communications, technology, foreign languages, guidance, and counseling.

In her testimony before Congress, I believe that Mary Hatwood Futrell, president of the National Education Association, outlined the key challenges to a quality education which this bill helps reach: For the Federal Government to provide strong, effective national leadership in stressing educational advances; to promote excellence throughout the public schools; to provide all students with access to a first-rate education; to eliminate teacher shortages; to prepare for an upcoming increase in public school students; and to prepare our young people for the changing work force. This bill meets that test perfectly.

Because of the special focus I have placed on unemployment and the problems associated with job development, I would like to note that education has been a key to improving the employability of our work force. Counting persons 25 years of age and over, those having a high school diploma jumped from 54.6 percent in 1970 to 65.2 percent in 1980, with the projected increase to 1990 being 73.6 percent. In addition, surveys taken in 1974 and 1975 show that 87 percent of American 17-year-olds were literate.

We should not overlook for a minute what a tremendous accomplishment those numbers show for our public education system. We are truly the world leader in education.

But neither can we afford to forget that much of our edge against the rest of the world economically comes from our high level of education, our research, our technological development. We will lose that edge unless we continue to improve the system, continue to encourage our very best people to join the education system, and continue to attack the remaining portions of the population where education and literacy remain too low. Frank Press, the president of the National Academy of Sciences, wrote in 1982 that "the costs of not preparing our children for this world (of technology) will be deep and enduring, for our democratic process, for our economy, and for our security."

That is the future of America that we enhance with passage of this bill today. The American Defense Education Act represents a positive step forward for America's future. I urge a "yes" vote for this bill.●

● Mr. STARK. Mr. Chairman, the American Defense Education Act is legislation that I strongly support. The time has come for action on education. The studies have been done and have shown the need.

The approach of the American Defense Education Act is to carefully examine what is happening in each school district. The approach is to get at the causes of the problems in our educational system and fix them.

Money will be provided to look at ways local school districts can improve the education being provided. Goals are created and programs designed to implement them.

The legislation then authorizes funds to help the school districts make the programs reality. All school districts can avail themselves of the opportunity to participate.

The ADEA emphasizes those areas of education that will help America grow and prosper. This includes math and sciences, foreign languages, communications skills, and technology. These are the areas that need the most attention. Under the ADEA, schools will be assisted in providing improved education in those areas. The local level provides the plan while the national level assists with implementation.

Another important aspect of the ADEA is the establishment of a program of grants to help teachers. Colleges and universities are provided financial incentives to work with local school districts to provide continuing education for teachers. This is especially important in the fast-paced fields of the sciences and technology.

When President Reagan said that something needed to be done to improve the defense of this country, he advocated a 12 percent increase in the defense budget after inflation. When President Reagan said that something needed to be done about education in this country, he advocated shooting a teacher into space. The American Defense Education Act can help do something about education and help provide us with the good, educated citizens necessary for a strong society.

I think that the House of Representatives should show that it is serious and sincere about making an effort to improve education in this country. I think that we need to pass this bill and send it to the Senate.●

● Mr. YOUNG of Missouri. Mr. Chairman, I rise in support of the American Defense Education Act.

At a time when we are facing the most profound technological changes ever, we, as a Nation, cannot afford to cut corners where education is concerned. Every aspect of our lives is becoming increasingly dependent upon the technological advances of the day; and we must prepare our children to meet these challenges. Only a well-educated populace will be able to lead America into the next century.

In the past 4 years, the Federal funding of American education has been cut at record levels. The American Defense Education Act recognizes that we have a nationwide problem and will reaffirm our commitment to excellence in education. In my home district, the St. Louis area has been hit extremely hard by the cuts in education: The city of St. Louis alone has had its Federal funding cut by approximately $12 million, which has placed a tremendous burden on the school district.

Mr. Chairman, what we must realize is that money spent on improving the quality of our educational system is money invested in the future of America. We cannot overemphasize the importance of education in our society and I urge my colleagues to support this vital and long-overdue piece of legislation.●

● Mr. EDGAR. Mr. Chairman, I rise in support of the American Defense Education Act, H.R. 5609. I firmly believe that the future of our Nation is dependent on the investment we make in the education of young Americans. The needs of our society are changing rapidly; we should not remain passive, but instead must work quickly to meet these needs and to try to foresee what demands the future will bring. The ADEA works toward this end.

The ADEA builds on the Mathematics and Science Education Act signed into law this summer. That legislation sought to improve the quality of instruction of math and science by attracting new teachers into the field and by providing for the upgrading of current instructors' skills. The bill we have before us will not aim at teacher skills per se but rather at the programs used by instructors to teach math, science, foreign languages, and technology. The ADEA will authorize incentive payments to school districts which deploy or employ innovative teaching techniques, programs, or classroom methods. To fund these changes participating school districts will be eligible to receive 2 percent of the average-per-pupil expenditure in that State, but not less than the average-per-pupil expenditure in the United States.

Passage of this bill is essential if we are to upgrade our educational system to support the requirements of a changing economy. Now more than ever before, we need to ensure that our Nation's students will graduate with the tools necessary for them to make a strong contribution to today's highly technical economy. If we do not start making these adjustments now, our Nation's economy will begin to stagnate. This is certainly not the legacy we want to leave for our children and grandchildren.

A strong educational system is crucial not only to a robust economy but also to our Nation's defense. The skills required by the military have become highly specialized; for example, 7 out of 10 Army jobs now demand technical training. The ADEA would go a long way toward providing the basic tools needed by our military personnel. Thus with all these factors in mind, I strongly encourage my colleagues to approve this far-reaching legislation.●

● Mr. ASPIN. Mr. Chairman, today in America, we have the largest defense budget in our history. We have the most sophisticated weapons the world has known. And the ranks of those enlisted in the Armed Forces is growing.

But are our defense priorities what they should be? Are we spending our defense money efficiently? Are those weapons the right choices? And are our soldiers adequately prepared to fight a conventional war—and more importantly, to keep the peace?

Increasingly, we must have the appropriate answers to these questions, and I believe the American Defense Education Act [ADEA] can help us find them. The ADEA is one of the most innovative education bills to come before the Congress in years. It's comprehensive in its approach, providing adequate Federal resources for our schools to tackle tough problems, but it's those local schools and communities that will decide how they spend those resources.

ADEA is geared toward resolving education problems in some of our toughest areas—math and science training. Specifically, the bill targets improvements in math, science, foreign languages, high technology, and guidance and counseling. All of these areas are key to our Nation's defense interests.

Without adequately trained students in math and science, who will make the necessary ongoing improvements and repairs in our defense technology? Today, the average American student gets woefully inadequate background in math and science.

For example, a 1980 survey done by the Center for Education Statistics showed that only about one-third of a representative sampling of U.S. high-school students had taken 3 years of math or more. The same survey revealed that only about 41 percent of academic students in the United States took 3 years of science or more; with general students, that percentage fell to 13, while only 9 percent of vocational students took that many years of science.

A 1982 study by the Electronic Industries Association showed the starkness of our math and science shortcomings by stating that in 1980, only one-fourth of all high school students had completed enough math and science in 10th to 12th grade to be eligible for entry to an engineering program.

These trends may be changing as the spotlight for needed change focuses on them. But it will take resources—the kind of ADEA will provide to make the changes lasting and meaningful.

In other countries—Japan, West Germany, and the Soviet Union, most notably, resources are not spared when it comes to the scientific and technical training of these nations' youth. For example, in the Soviet Union, 98 percent of all children now complete 10 years of math, 5 years of physics, 4 years of chemistry, 5½ years of biology, and 5 years of geography, as well as years of training in other technical subject areas. Yet, in the United States, we don't have enough math and science teachers to fill these vital teaching spots. Several years ago, there were only 10,000 certified physics teachers for our Nation's 16,000 school districts.

ADEA can help schools encourage their best and brightest students to enter, and stick with, a teaching career, in particular, in the fields of math and science. It can also help encourage women and minority students to enter the fields of engineering and other technical areas.

ADEA funds can help our local school districts purchase badly needed computers and computer software to bolster the technical training of our youth.

By better preparing all our Nation's youth, the ADEA is committed to helping not only those who are going on to teaching or other professional careers, but also for those students—many of whom enter our armed services—who will provide the backbone of our work force. It is vital for our international status economically, politically, and militarily that our students reach an adequate level of academic skills. This ensures also that today's students who become tomorrow's armed services recruits will be prepared to understand their mission as soldiers and as peacekeepers.

A citizenry that is educated and employed is one of the best safeguards for a truly secure nation—one secure from outside threat and internal decline. The ADEA can help maintain our Nation's security interests by investing in our most important resource: our youth.

Join me today in supporting passage of the American Defense Education Act for a stronger, safer America.●

● Mrs. BOXER. Mr. Chairman, I wish to give my strong support for H.R. 5609, the American Defense Education Act.

This legislation is the first comprehensive education program that Congress has proposed since the Johnson administration to provide Federal grants to local school districts. There is no question that our schools need this assistance in order to fully implement the reforms necessary to insure quality education.

This legislation will provide Federal grants for programs that have been locally developed. Thus, this legislation encourages and requires the participation of teachers, parents, business, and industry in the education of our children. We cannot expect to improve educational quality without this kind of local involvement.

H.R. 5609 reaffirms our national commitment of quality education for all and gives local school districts the responsibility for determining their special educational needs and developing their own programs to respond to those needs.

I want to point out to my colleagues that one Trident nuclear submarine will entirely fund this important bill. Let us do it for our children.●

● Mr. SISISKY. Mr. Chairman, I rise in full support of the American Defense Education Act [ADEA] (H.R. 5609). The legislation is well crafted and specifically designed to move this country toward our new educational goals. America has responded positively to the many reports and studies recently released which call for renewed commitment to educational excellence. ADEA would give this response substantive support.

I am particularly enthusiastic about the work of the Education and Labor Committee during its markup of ADEA last spring. At that time, Members made certain improvements in the bill designed to—

Provide additional resources to school districts for serving the needs of disadvantaged children;

Protect funding for existing education programs such as chapter 1, chapter 2, vocational education, bilingual education, and education for the handicapped;

Change the authorization ceiling to such sums as may be appropriated; and

Enhance the safeguards against discrimination in education programs.

Since the administration has placed these programs in block grants, there are few safeguards to ensure they are being adequately funded or that the target population is being served. Passage of ADEA will address these deficiencies.

Mr. Chairman, we have a new challenge before us. It has been nearly a quarter of a century since there has been so much concern about the quality of public education. At that time this body enacted the National Defense Education Act [NDEA] which propelled the country toward excellence in the sciences and mathematics. Today, we find the same fervor for educational excellence. We cannot allow this opportunity to pass without taking decisive action. I call upon my colleagues to join me in voting for favorable passage of the American Defense Education Act.●

● Mr. FEIGHAN. Mr. Chairman, I rise in support of the American Defense Education Act, and urge my colleagues to join in passing this landmark legislation.

Last September, I held a hearing in my district to discuss this legislation. I have never heard greater unanimity than I heard from those witnesses.

Parents, teachers, school administrators—all spoke with one voice. And they all called on the Congress to pass the American Defense Education Act.

They recognized, long before the National Commission on Excellence in Education issued its report, that the failure to properly educate our children jeopardized both our national security and our economic security. In a world that is increasingly interdependent, we must provide our children with the skills they will need to live productive lives. They must understand the ways that the science, mathematics, and new technologies are reshaping our world. And they must have the communications skills vital to understanding and to being understood.

We will probably hear a great deal of rhetoric today suggesting that this legislation comes with too high a price tag. I suggest that reluctance to spend our resources on education is a false—and dangerous—economy. A.W. Clausen, the president of the World Bank, has said it very clearly:

> It's no exaggeration to say that the future of the American economy, indeed of our social order, hinges on developing a labor pool to meet tomorrow's technological needs so our society can be guided to new heights. The United States can't neglect its resources of "brain power" any more than it can neglect energy or capital or other factors of production. Employment, productivity, freedom and ultimately perhaps even our humanity hang in the balance.

Mr. Chairman, we cannot afford not to pass the American Defense Education Act. But I firmly believe we must be clear about our spending priorities, and make the tough choices required to cut the deficit.

The estimates all agree that this legislation will result in a Federal investment of between $6 and $7 billion over the next 4 years. If we simply divert the money currently earmarked in the budget for the MX missile for next year alone, we can make the investment in our children and our future.

I urge all of my colleagues to support H.R. 5609.●

● Mr. GRAY. Mr. Chairman, today the House has the opportunity to demonstrate its commitment to public education in this country by passing the American Defense Education Act.

This legislation, H.R. 5609, is similar to the landmark National Defense Education Act of 1958, which extended science, mathematics, and foreign language programs in our public schools to help meet the challenge of advancing technology.

Like the National Defense Education Act, the American Defense Education Act has as its goal improving the quality of instruction in mathematics, science, communication skills, foreign languages, technological advances, and guidance and counseling in our public schools.

Like the National Defense Education Act, the American Defense Education Act is designed to meet the challenges facing us in an increasingly competitive and complicated global environment.

At a time when the challenges facing our Nation's economic technological, and defense needs are greater than at almost any other period in our history, the Federal commitment to excellence in education must be strengthened and reinforced.

The American Defense Education Act provides the means by which the Federal Government can provide incentives to local school districts, colleges, and universities to improve the quality of instruction and research.

As has been the case throughout our Nation's history, it is the local school districts which hold primary responsibility for the day-to-day teaching of our Nation's young. It is at the local level that educational policies and course requirements are established and carried out. It is there that the improvements in quality must come.

Yet, local school districts are increasingly unable to meet the challenges in education without Federal assistance, and that Federal assistance has been severely curtailed by the current administration.

H.R. 5609 addresses many of the Nation's critical education concerns by establishing a program for voluntary participation by local school districts for evaluating the critical educational needs in their area. The school district officials will conduct this assessment in conjunction with the local school board, school administrators, teachers, parents, appropriate bargaining agencies, business and industry, and the local community.

The legislation provides that, once the community's needs are assessed, the Federal Government, through the Office of the Secretary of Education, shall provide incentive payments—based on an allocation formula—to assist the school districts to improve the quality of education.

Mr. Chairman, as a cosponsor of this legislation, and a strong supporter of education generally, I believe that the American Defense Education Act will provide invaluable assistance to our Nation's school districts in addressing the problems of public education. In particular, the bill addresses the growing shortage of mathematics and science teachers, the declining achievement levels of students, and the need for computer assisted learning.

I believe that a strong system of public education must remain a high priority of the American people and of the Congress. Throughout our history, education has enabled us to chart progress and meet challenges in industrial development, agricultural productivity, space exploration, medical advances and national security. Even more importantly, education has been the key to the American dream.

I urge my colleagues to reaffirm our commitment to that dream and pass this valuable legislation.●

● Mr. RICHARDSON. Mr. Chairman, over the past year a series of major studies on the state of our educational system confirmed what many Americans already knew: American education faces serious problems. Many States and localities have begun to take action to improve their educational system and I am proud of the steps New Mexico has taken in this regard.

But to solve these problems, national leadership and resources are necessary to improve our schools and colleges. We have not received this leadership from the Reagan administration. In fact, the administration has reduced the Federal Government's share of the financing of education and I believe students have been hurt. Mr. Reagan's proposals make it clear that education is not a priority for his administration—I disagree.

This administration believes that the responsibility for education lies with State and local governments—I agree that education is primarily the responsibility of the local community—I do not want to see Uncle Sam in the classroom either. However, I also believe that we as leaders are obligated to provide educational consistency to guarantee equal opportunity to children in low-income areas and insure that they do not receive a second-rate education.

My State wants and needs this legislation. Recently Governor Anaya of New Mexico wrote urging my support for the American Defense Education Act. He outlined the benefits to our State and local governments if this bill is passed. In my home State of New Mexico, ADEA would help our schools by providing $13.8 million or $50 additional for every child attending public school. It would also provide maximum local control over the expenditure of these funds, decide how best to meet these needs, and evaluate the successs of their programs. ADEA will help us move toward equal educational opportunity.

I agree with Governor Anaya when he said:

> I want all of our children to have the same opportunities I have had. I want our educational system to be the finest in the world. To accomplish this, it is imperative that Congress take the first major step by passing the ADEA.

America's schools are among our greatest assets. Helped by American families, they guide the growth of over 44 million youngsters, who are themselves our greatest resources for building our future. Under State and local supervision—but with the purposeful stimulus and support from the Federal Government, some 16,000 public school districts across the country

have propelled succeeding generations to consistently higher levels of activity, achievement, and excellence. Our strength, adaptability, and drive are rooted and nourished in our classrooms.

We have been spending years compiling report upon report, meanwhile we are watching the quality of education slip away from us—it is time we take action and toward transforming our educational system into the best in the world. I urge my colleagues to support the American Defense Education Act.●

● Mr. LUKEN. Mr. Chairman, I rise in support of H.R. 5609, the American Defense Education Act.

This legislation tackles a grave national problem with long-range effects that could undermine our national defense, weaken our industrial base, and reduce our competitiveness in the world market.

That problem is the quality of education in our Nation's schools; especially the poor state of math and science education.

The bill we are considering today builds on and expands the math and science bill recently signed into law. H.R. 5609 seeks to revitalize the quality of instruction and enhance student achievement in our Nation's schools. The American Defense Education Act will benefit each of our schools districts in two ways. First, the infusion of national resources would enable our schools to energize those ideas that would build educational excellence—ideas that simply cannot be put into practice without Federal aid. Second, this legislation mandates the involvement of the local community in the development and carrying out of its programs. The future economic vitality of our Nation depends on the quality of education today.

President Kennedy, after the Nation was shocked out of its doldrums by the Soviet's successful launching of sputnik, initiated a program to revitalize science and math programs in our schools. The success of this effort is well known. I hope that we are once again equal to the challenge.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5609, the American Defense Education Act, which would provide Federal assistance to local educational agencies and institutions of higher education to assist in improving the quality of education in our Nation's schools.

In recent months we have heard time and again of a dangerous trend in our schools toward mediocrity. From Secretary Bell's report "A Nation at Risk," to the special study commissioned by the National Science Foundation, to reports by the 20th Century Fund, the Carnegie Foundation for the Advancement of Teaching, and the Merit Pay Task Force of the Education and Labor Committee, all have warned that reforms are needed. These reforms include strengthening standards for academic materials, raising expectations of students, devoting more time to learning, improving preparation programs, upgrading the skills of classroom teachers and promoting greater involvement of citizens, and all agree that these reforms must begin at the local level.

While many will agree on the need for change and improvement in our schools, few recognize the financial burden such changes would impose on the local school districts. As with everything else, good intentions alone are not sufficient to produce concrete results—an influx of financial resources is crucial if these recommendations are to be implemented. Many localities are simply unable to raise the additional funds needed to pay for innovative programs, and are restricted from shifting current resources from competing interests such as staff salaries.

H.R. 5609 authorizes a national program of incentives to assist all local school districts in their efforts to improve the quality of instruction in our schools in the fields of mathematics, sciences, communication skills, foreign languages, and technology. Also, where necessary, funds would be provided to improve guidance and counseling. In order to ensure that our mathematics and science teachers are qualified in their field, H.R. 5609 would also provide grants to colleges and universities to improve grants to colleges and universities to improve teacher education.

Mr. Chairman, this program would provide needed financial flexibility to schools, allowing them to apply the excellent recommendations we have heard on improving the quality of education. H.R. 5609 makes no determinations as to which improvements are best for which schools—those decisions rest solely with the school district. This bill would require that each locality conduct a needs assessment of their schools so as to determine how to best utilize these new resources for the benefit of their students.

Funding levels for the major current elementary and secondary education programs have been protected. H.R. 5609 includes a provision that no funds may be appropriated for the ADEA if the funds appropriated for education of the disadvantaged and the education block grant (chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981), bilingual education (title VII of the Elementary and Secondary Education Act), the Vocational Education Act, Education of the Handicapped Act, and the Emergency Immigrant Education Act do not equal or exceed the amount appropriated for the preceding fiscal year. No current education program would suffer at the hand of H.R. 5609.

Mr. Chairman, H.R. 5609 is a solid approach to sharing the burden of responsibility for quality schools with local educational agencies. I urge my colleagues to join in approving this mechanism for allowing much needed upgrading in our schools, and as a consequence, for improving the quality of education for our graduates.●

● Mr. SKELTON. Mr. Chairman, dozens of education studies have been released in the last few years telling us that our Nation's education system is in trouble. They talked about the crisis in our schools and the failure of our education system to meet the current needs of our society. These reports got our attention and the first steps have been taken to address the very real problems which our schools are facing.

In only a few weeks, it will be 27 years since the Soviets launched sputnik and sent the United States into a technological modernization catchup program directed toward our schools. Last year, the National Commission on Excellence in Education found that the average achievement of high school students is even lower than it was in the 1950's. A Congressional Research Service study which I requested several years ago indicated that problems existed in our math, science, and technical education classrooms.

I believe that we have taken our access to free public education for granted. Unless we as a nation are committed to quality education and are willing to pay the price for qualified teachers, updated facilities, and current equipment, we will continue to find ourselves behind our international neighbors—a position we can ill afford.

As a cosponsor of the original American Defense Education Act, I urge my colleagues to support this legislation and work toward, real excellence in our educational system.●

Mr. HAWKINS. Mr. Chairman, may I inquire of the gentleman on the other side, the gentleman from Pennsylvania [Mr. GOODLING], whether or not he has any additional Members who are seeking recognition?

Mr. GOODLING. I have no additional Members. I have just been reserving my little bit of time left, realizing that the gentleman from California will wrap it up, but if anybody slips in between, I wanted to have that opportunity.

Mr. HAWKINS. Mr. Chairman, the gentleman desires to make a motion, but I wanted to inquire whether the gentleman from Pennsylvania has any additional Members.

Mr. GOODLING. I have no additional Members, Mr. Chairman.

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. KILDEE] having assumed the chair, Mr. FOWLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5609) to authorize a national program of improving the quality of education, had come to no resolution thereon.

REPORT ON H.R. 6237, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS BILL, 1985

Mr. LONG of Maryland, from the Committee on Appropriations, submitted a privileged report (Rept. No. 98-1021) on the bill (H.R. 6237) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1985, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. LIVINGSTON reserved all points of order on the bill.

THE UNFILLED PROMISES OF SUPPLY SIDE ECONOMICS II

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, in 1981 David Stockman, Director of the Office of Management and Budget said, following the President's triumphant victory in Congress in passing his tax and budget programs, that the President, "got about 95 percent of what he asked for."

Today I am including in the RECORD the second of a series of articles entitled "The Unfilled Promises of Supply Side Economics" which reveal that Ronald Reagan has doubled America's national debt since he came into office. And if he had received everything he had asked for in spending cuts, the deficit today would be $20.5 billion greater.

It is only through the restraint of Congress that the national deficit is not $20.5 billion greater than it already is.

I offer this factual presentation for your consideration.

[From the Arkansas Gazette, Sept. 10, 1984]

HOW BIG IS THE DEBT?

(By Leland DuVall)

At the tag end of President Jimmy Carter's administration, Congress passed a routine measure that raised the nation's debt ceiling from $925 billion to $935.1 billion. The additional borrowing authority was supposed to enable the government to continue paying its bills through the early months of the new administration.

A few weeks later, after the changing of the guard, President Reagan addressed Congress and warned that the misguided policies of the past had forced the country to the brink of bankruptcy. The growing deficit, he said, was the manifestation of government profligacy and dissipation.

Apparently forgetting for the moment that he was the President, and not a candidate for the job, Mr. Reagan reverted to campaign rhetoric and sought to dramatize the magnitude of the national debt. The trillion dollars the United States owes, he said, would equal "a stack of $1,000 bills 67 miles high."

The idea, of course, was that with that visual image fixed in their minds, even the lawmakers who had been trained in the fiscal school of "tax and tax, spend and spend" would be able to comprehend the problem and grasp the solution. The first step would be to balance the budget. Immediately thereafter, the government could begin paying off the massive debt—in effect, whittling down that precarious stack of $1,000 bills.

The schedule for attacking the problem had been worked out in detail. He could not do a great deal about the deficit for that year, which turned out to be somewhat less than $60 billion, but he was prepared to slice away half the shortfall in fiscal 1982. The deficit for 1983 would be about $15 billion, and spending and revenue would be brought into balance in fiscal 1984, with maybe a billion or so left over.

That 1981 budget message may have been the last clear statement Mr. Reagan has given the country on fiscal matters. Subsequent pronouncements have been tentative and confusing. His budget message early in 1982 contained the admission that he, or those who made the calculations for him, had been a bit off the mark. Fiscal 1984, the year that was to have produced the first balanced budget since the administration of President Lyndon Johnson, probably would show a deficit on the order of $82.9 billion. Things would begin to improve in 1985 and the deficit would be only $71.9 billion.

But the projections delivered in February 1982, understated reality, and, three months later, a revision was in order. The 1984 deficit, Mr. Reagan said, might be as much as $93.8 billion. Then in a little more than a year, he had to alter his calculations again by almost $94 billion and was still off the mark by almost $100 billion. The actual figure will not be known until late in October, but the deficit in the first nine months of the fiscal year exceeded $152 billion.

The country knows about 1983, the year in which the debt was to have grown somewhat less than $20 billion. It produced a shorfall of $195.5 billion, or $1.5 billion more than the total of the four deficits posted during the Carter administration.

At this point, some comparisons might be helpful. The largest deficit on record, in war or peace, prior to Ronald Reagan's incumbency, was $66.4 billion in 1976 when Gerald Ford was president. The largest posted during the Kennedy-Johnson terms was $25.2 billion in 1968.

National debt

1969	$367 billion
1977	$709 billion
1980	$1 trillion
1984 (midyear)	$1.55 trillion

In the winter of 1982, when Mr. Reagan released major revisions in his budget projections, some explanation for the massive errors seemed in order. "The recession that is now under way," he said, had reduced revenues and increased costs, throwing his calculations off the target.

In other words, the recession was not supposed to have happened and was not factored into the formula when the Reagan administration made its calculations. The recession was a big surprise. (A rule of logic holds that if the premise contains an error the conclusion will be faulty.)

One of the first orders of business for the new administration had been to make certain there would be no recession. After having campaigned on the theme that the economy was "in the worst mess since the Great Depression," Mr. Reagan set out to eliminate the cause of the slackness. The remedy lay in the Economic Recovery Tax Act of 1981.

So in theory, there should have been no recession to unbalance the budget, but there it was and because of it, revenues did not grow at the expected rate.

Early in his term, Mr. Reagan was able to escape full responsibility for his fiscal disaster by blaming his predecessor. He had inherited the problems created by the Big Spenders and the debt came with the territory. The excuse became a bit lame as the term lengthened.

Shortly before Martin Feldstein, who served for a time as chairman of the President's Council of Economic Advisers, returned to Harvard, he expressed concern for the size of the deficit. He predicted dire consequences from excessive borrowing and sought to identify the factors that contributed to the debt explosion.

The three major culprits, he said, were (1) the rapid expansion of military spending, (2) the Economic Recovery Tax Act of 1981, and (3) the expanding cost of carrying the national debt. The new tax law and the expansion of defense spending were the key elements of Mr. Reagan's program for what he called his "New Beginning." The increased cost of carrying the debt was largely a natural side effect of the implementation of his new policy.

Dr. Feldstein's analysis may have hastened his departure from Washington, since it did not follow the official line for explaining what can only be called a fiscal disaster.

Three-and-one-half years into Mr. Reagan's term, the country has accumulated enough figures to provide an indication of "what is happening while it is happening." Here is a summary.

Mr. Reagan was rounding off numbers when he complained to Congress at the start of his term about the "trillion-dollar debt"; the nation's debt ceiling was $935.1 billion. But on August 1 of this year the debt soared to $1.554 trillion for an increase of about $600 billion in a period three months short of four years.

For purposes of perspective, the federal debt reached $632 billion in 1976. Thus it can be seen that, during his brief incumbency, Mr. Reagan has presided over a debt increase that almost matches the total debt of the Republic accumulated from the beginning in 1776 through 1976. This is another way of saying 200 years of debt was matched in three-and-one-half years.

Net interest on the national debt in 1969 was $15.8 billion. In 1983, it was $89.8 billion. For the current fiscal year, the Economic Report of the President, transmitted to Congress in February, showed that $108.2 billion had been budgeted for interest. It will not be enough. The cost of carrying the debt for the first nine months of the fiscal year (October through June) was $117 billion and the bond and bill holders still had to be paid for three months.

Finally, perhaps we should take another look at Mr. Reagan's "stack of $1,000 bills." It has grown 60 per cent in three-and-one-half years. If we accept the President's calculations, that adds some 40 miles to the height.

Despite the fiscal disaster, Mr. Reagan remains remarkably tranquil and unalterably opposed, to further efforts to increase revenues. In this election year, however, he is anxious for the voters to understand the root cause. So he carefully explains that his string of record deficits did not result from a calculated decision to "tax and tax, spend and spend," after the fashion of some politicians. They can be traced, he tells us, to the actions of his predecessors—particularly the Democrats from the New Deal forward. And those deficits, smaller though they might have been, were the result of misguided economic policies, not the unerring ones followed by the Reagan administration.

Logic of that quality is a little hard to answer.

THERE'S NOTHING WRONG WITH PATRIOTISM

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARLENEE. Mr. Speaker, there has been a proud rekindling of patriotic spirit and renewed faith in America during the past couple years, and Montanans are honored to carry the torch.

The Great Falls Tribune, a major daily newpaper in Montana, proclaimed in an editorial that, "We Can Live With a Patriotic Surge." The editorial writer, Bob Gilluly, pointed out that instead of burning flags, we're waving them. To help Great Falls celebrate its centennial celebration on July 4, I was part of a flag raising ceremony in which a giant flag was hoisted by a military color guard and saluted by a Montana Senator, Congressman, Lieutenant Governor, top Air Force officials, top civic officials, and about 5,000 respectful, proud Montanans.

Compare the Great Falls Tribune, Mr. Speaker, to the soothsayers of doom, the journal of negativism, the peddler of condemnation, misfortune, and misery, the Washington Post. Post writer Jonathan Yardly's column lashed out at American patriotism at olympics, calling it boastful, showy, national arrogance and greedy.

Mr. Speaker, there's nothing wrong with displaying patriotism. Those who want to tear America down, insult her, take backhanded swipes at her, have the right to do so under this great system. But I want my colleagues in Congress to know, and I want the Washington Post and Mr. Yardly to know, that the vast majority of proud people in Montana will have no part of it.

As my button says—I don't believe the Post. I believe in America.

For the edification and enjoyment of my colleagues it is my pleasure to reprint the September 6, 1984 editorial of the Great Falls Tribune titled: "We Can Live With a Patriotic Surge."

[From the Great Falls Tribune, Sept. 6, 1984]

WE CAN LIVE WITH A PATRIOTIC SURGE

(By Bob Gilluly)

What about the resurgence of patriotism in the United States? Is it for real—or just cosmetic? Is it good or bad? Is it the exclusive province of Ronald Reagan and the Republican Party?

That Americans are more patriotic than a decade ago is undisputed. Sales of American flags have increased 20 percent in the past year; U.S. Army enlistments are at an all-time high, as are applications to the various military academies; several polls have indicated that the majority of Americans have come full circle in the past generation.

Instead of burning flags, we're waving them.

The flag-waving got its start during the nation's Bicentennial celebration in 1976 and continued even during the 14-month Iranian hostage crisis that ended in early 1981. Many thought it reached a peak when the United States hockey team defeated the Soviet Union and won the Olympic gold medal in 1980.

That, however, was only a prelude to the 1984 Olympic Games in Los Angeles, a patriotic display to end all nationalistic celebrations.

Many Americans reveled in the glut of gold medals awarded U.S. athletes at Los Angeles. Others, such as columnist Jonathan Yardly of the Washington Post, condemned the "boastful, showy, self-aggrandizing national arrogance that reflected nothing so much as the greed that seems for the moment to be our predominant national characteristic."

Huh? Does he mean there's something wrong with waving the flag?

Yardly and some other liberals suspect patriotism. They're convinced it translates into extreme nationalism—or even (perish the thought) rampant militarism.

Conservatives always seem to put labels on liberals who question patriotism. More often than not, that label has suggested un-Americanism.

We feel both factions are wrong.

This nation's surge of patriotism is a natural reaction from the divisive years of Vietnam and Watergate. It's genuine. It's embraced by blue-collar Democrats as well as love-thy-country-without-question Republicans. It's anything but a partisan politican issue.

There are plenty of things to argue about in the next two months—federal deficits, the arms race, the overall economy, the Third World, jobs for a new generation of U.S. workers, soaring medical expenses, housing and the cost of living. We can easily live with patriotism while other debates rage.

WHY THE SECRECY ABOUT TIGHTENING THE BANK SECRECY ACT?

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, on Monday, September 10, with fewer than 10 Members of the House of Representatives on the floor, a bill was passed by voice vote increasing the Treasury Department's power to monitor how citizens use their own money by authorizing unconstitutional warrantless searches. If this bill passes the Senate also, the Bank Secrecy Act of 1970, which outlaws financial privacy in the United States, will be significantly tightened by eliminating one of our constitutional rights.

This swift enactment of the new powers was handled in almost total secrecy. On Friday, September 7, the list of bills to be considered this week was released by the majority leader's office; most Members had returned to their districts to campaign. Most Members are still not even aware of the action the House took on Monday.

This bill is substantially the same piece of legislation that was overwhelmingly defeated 4 years ago. The fact that a majority of Members voted it down in 1980 is probably the reason it has been stealthily managed this week, cleverly whisked by when the leadership knew most Members would be out of town. Was it proper to use the Suspension Calendar procedure, supposed to be reserved for noncontroversial measures, not measures defeated by a two-thirds vote in the 96th Congress, to foist this bill on the public?

I believe this bill is a serious mistake and infringes on our constitutional liberty.

The section of the bill that has drawn the most heated opposition is the section that says, "A customs officer may stop and search, without a search warrant a * * * person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported." The courts have upheld the right of customs officers to search people who might be smuggling or illegally importing things, but now we seem to have expanded their powers to warrantless searches of people who may be innocently exercising their constitutional right to travel abroad.

Moreover, this bill is not restricted to enforcing the law against criminals with suitcases full of cash, as the term "money laundering" suggests. This bill will affect anyone who carries any valuable coin or paper out of the country. Fifteen U.S. gold coins, for example, would fall under the provisions of this bill. Nothing is exempt, since anything traded on foreign markets—art objects, rare stamps, pedigreed dogs or horses—as well as stocks, bonds, and promissory notes will serve as good substitutes for cash.

The person who may be victimized under this legislation is not guilty of any violation—the reporting requirement applies to someone who has clear

legal title to his monetary instruments.

This proposal to strengthen the Bank Secrecy Act greatly alarms me. In the modern world, virtually every part of daily life occurs with the intermediation of money. As long as the philosophy of socialism remains dominant in the Congress—the common belief that government doesn't have to respect anyone's individual rights so long as we simply claim we are regulating the economy—you can trust the Bank Secrecy Act will be abused by some future administration. This bill merely authorizes the Secretary of the Treasury to set up a domestic spying and informant system to prepare for some future wave of economic repression.

If this bill passes the Senate, Congress will be building an invisible Berlin Wall around America. For the past 6 years, Congress has been pushed by the administration to increase the powers of law enforcement over the movements of money in our society. The wall in Berlin, of course, only makes it possible for East German border guards to enforce their emigration laws more easily. How can any law-abiding citizen object?

To me, this is a question of civil liberties. What are the arguments in favor of this legislation? The real question we must ask is, "Why should the administration have this power in the first place?" Drug smugglers are supposed to be the target of this bill.

Its supporters argued the only new thing this bill, H.R. 6031, does is close a loophole in the Bank Secrecy Act, by making it possible to enforce the requirement to disclose financial transactions when people try to leave the United States—to prevent money laundering by organized crime.

This bill empowers the Secretary of the Treasury to make American citizens fill out financial declarations in advance of any foreign travel. Will the Customs Service begin to require everyone to undergo an exit interview in the future, to make sure all required reports have been filed? What assurance do we have that the Secretary will not issue regulations to require a 48-hour advance filing of these reports? None.

All of the Members of Congress who spoke in favor of the bill cited drug trafficking as the target. They celebrated this new tool in the war against crime. The only reservations voiced against the bill was that it did not also permit wiretapping in cases of money laundering. The Senate bill (S. 1762) title IX, contains that power. There may now be a conference committee between the House and Senate to consider adding that wiretapping power—or the Senate could ratify H.R. 6031 with the same haste, and without advance notice, as the bill was rushed through the House of Representatives.

The arguments against drug smugglers are thrown about as if this legislation were strictly directed against organized criminal gangs who are poisoning American children. But this bill is not a drug-enforcement bill—it is a broad grant of power to the Secretary of the Treasury to require advance submission of financial disclosure reports and pay rewards to private citizens to spy on business associates or neighbors who may be trying to leave this country for whatever reasons they may have without reporting it.

The United States does not impose any other restrictions on the freedom of citizens to travel; a passport is not even required. The Supreme Court has ruled, *Kent* v. *Dulles*, 357 U.S. 116 (1958), that we have a fifth amendment right to travel. We don't have to tell the Government when we depart—until now.

The particular thing that makes this bill so dangerous is its complete lack of focus on any particular crime. Drug trafficking is just a plausible excuse. The general declaration of purpose in the Bank Secrecy Act says nothing about drugs. It gives as the reason to require banks and individuals to file reports—for all expenditures of $100 or more and cash transactions of $10,000 or more—merely the high degree of usefulness of such financial reports in criminal, tax, or regulatory investigations. The Government wants to know about your use of money for every conceivable regulatory use.

It may not be too late to stop this unconstitutional bill in the Senate—but the sneaky tactics of surprise in the House of Representatives worked like a charm.

TIME FOR PRESIDENT REAGAN TO TELL HOW HE WILL BALANCE THE BUDGET

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, for 4 years, we have listened to President Reagan promise a balanced budget, while all the time he has been going in just the opposite direction and piling up the greatest deficits in our Nation's history.

The President has had four opportunities to submit balanced budgets to the Congress, yet each year's budget has produced a larger deficit than the year before.

On this record, what are the American people supposed to think of the President's continued pleas for a constitutional amendment to require enactment of balanced budgets—not now, of course, but some day in the future after he is no longer President?

I am reluctant to think that President Reagan is stringing us along. Yet he must know that the deficit problem has to be faced next year, not at some remote future time. He must know that means cutting spending and raising taxes. Surely the voters have a right to be informed, before the election, whose programs President Reagan proposes to cut and whose taxes he proposes to raise.

Mr. Mondale has told us how he plans to tackle the deficit problem. It is time Mr. Reagan leveled with the American people as to how he plans to do it.

In the words of conservative columnist James J. Kilpatrick, "Something has to be done about our deficits, but an unenforceable, unintelligible amendment to the Constitution will get us nowhere at all."

The full text of Mr. Kilpatrick's column as printed in the Akron Beacon Journal for August 22, 1984, follows these remarks.

An Amendment Isn't the Way to Balance Budget

(By James J. Kilpatrick)

Washington.—Comma or no comma, on the matter of an increase in taxes the Republican Party platform is positively ambiguous or ambiguously positive, take your choice. One is reminded of the little old Episcopal lady who loved her toddy; she made a firm pledge that during Lent she would not have a drink unless she really needed one.

But on one issue in public finance the platform is indeed unequivocal: The Republican Party wants a constitutional amendment to compel the adoption of balanced budgets.

On this proposition, if I may state the matter mildly, the Republican Party has lost its collective mind.

It is a curious thing about Republicans—about some Republicans, anyhow. They like to think of themselves as "conservatives," but they are obsessed with tinkering with the Constitution. They are forever nattering on about an amendment to prohibit abortion, or an amendment to prohibit racial balance busing, or an amendment to guarantee the right of the people voluntarily to join in prayer in public buildings.

The President's favorite amendment is the balanced budget amendment. It is a turkey if there ever was one.

Oh, the basic idea is generally sound. In principle, the government in peacetime should match outgo to income. "Pay as we go!" cried John Randolph of Roanoke a long time ago. It sounds great. But in actual practice the basic idea gets caught in the refusal of Congress to separate an operating budget from a capital budget.

Yes, operating expenses, such as the pay of meat inspectors and the purchase of paperclips, ideally should be met from current income. But capital expenses, such as the construction of a federal building or an aircraft carrier, properly may be funded by borrowing. The President's pet amendment takes no account of these considerations.

Over the past 15 or 20 years, since talk of a balanced budget amendment became fashionable, at least 15 or 20 drafts of such a resolution have been offered on Capitol

Hill. They might pass muster in the Land of Oz.

In the most familiar versions, an amendment would command that "Congress shall adopt" a budget for each fiscal year in which total outlays are no greater than total receipts. No mechanism is provided for enforcing this command.

Some drafts continue by saying that total receipts "shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year." But in most versions such arcane phrases as "national income" are nowhere defined.

The Republicans' 1981 resolution included a sentence of such massive obscurity that no sponsor attempted to explain it: "The Congress may not require that the states engage in additional activities without compensation equal to the additional costs."

What could be meant by "activities"? By "additional"?

Put to one side the flaws in draftsmanship, critical as they are. Let us ask ourselves, realistically, what the President would do if his pet amendment were fully operative today. For the 1985 fiscal year, we are looking at prospective revenues of about $750 billion and prospective outlays of about $930 billion, for a deficit of $180 billion.

To close that gap, as a balanced budget amendment would demand, would require a stunning increase in taxes, which the President will not accept; a drastic reduction in defense spending, which the President also rejects; or a virtual wipeout of all nondefense programs, which the Congress never on earth would agree to. It is only by a combination of new taxes and Spartan restraints on spending that income and outgo can be brought within speaking distance of each other.

Speaker Thomas P. O'Neill recently promised that if Reagan would send him a balanced budget he would move it to the floor for a roll-call vote in 48 hours. Any such budget would go down to defeat by roughly 435–0.

Something has to be done about our deficits, but an unenforceable, unintelligible amendment to the Constitution will get us nowhere at all.

REIT TAX PROVISIONS REVISION ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. CONABLE] is recognized for 5 minutes.

● Mr. CONABLE. Mr. Speaker, I am today introducing H.R. 6236, REIT Tax Provisions Revision Act of 1984, a bill to amend portions of the Internal Revenue Code dealing with real estate investment trusts or REIT's. The legislation has become necessary largely because REIT's have found themselves increasingly at a competitive disadvantage in today's real estate marketplace. In recent years, the compelling need for flexibility and creativity in the marketplace has proven to be at odds with the various constraints imposed on REIT's by Federal tax laws. During the same period, REIT investors have been effectively denied many of the benefits of the substantial changes made in the Internal Revenue Code provisions affecting real estate. The REIT plays an important role in the real estate industry, and these increasing barriers to fulfillment of that role mandate a thorough review of the entire REIT tax regime. The proposed legislation is introduced to serve that purpose and to assure the viability of the REIT as a valuable real estate investment medium.

The history of the present REIT industry begins in 1960 with the enactment of Federal tax legislation providing for a real estate investment vehicle to be accorded conduit tax treatment similar to that available to mutual funds. The purpose of the legislation was to provide an opportunity for small investors to obtain the advantages of real estate investment normally available only to those with much greater resources.

Under the REIT conduit concept, virtually all the income of the REIT must be derived from the real estate oriented investments and must be passed through to shareholders as dividends. The REIT is allowed a deduction for the dividends paid with the result that the REIT income avoids double taxation. This pass-through of untaxed earnings—but not losses—is conditioned on compliance with a variety of organizational and operational constraints imposed on each REIT. These constraints are designed in large part to prevent REIT's from engaging in speculative dealing in real estate or from otherwise deriving the benefits of active business operations, particularly those that are essentially unrelated to real estate. The product of this special tax regime is a mechanism for small investors to combine their resources for investment in a diversified pool of real estate assets under professional management, while enjoying the benefits of liquidity represented by transferable securities having the attributes of corporate stock.

History has shown that the REIT concept is viable, providing an important alternative in the spectrum of real estate investment. Although the industry experienced a well-documented period of financial constriction during the real estate recession of the early 1970's, there are now some 120 REIT's in existence with diverse portfolios of real estate equities and mortgages whose current value is generally well in excess of their aggregate book value of $8.3 billion. The industry balance sheet is most notable for its low leverage, evidenced by an aggregate debt to equity ratio of just 1-to-1. During 1983, 85 dividend-paying REIT's distributed over $400 million to shareholders, providing an average yield of some 9 percent. Total public and private offerings by REIT's or entities intending to qualify as REIT's raised $750 million in new capital.

Notwithstanding its obvious vitality, the REIT industry is facing important challenges, many of which derive from the dramatic changes in the form and taxation of real estate activities in general. Congress has previously responded to changing economic conditions and the state of the industry by amending numerous aspects of the REIT provisions of the code in early 1975, in 1976 as part of the Tax Reform Act of 1976, and in 1978 as part of the Revenue Act of 1978. There is at present an urgent need for other comprehensive revisions in order to update the REIT tax rules and reconcile them with real estate taxation generally so that REIT's and their shareholders will be able to compete more effectively and to continue their important function of enhancing the flow of capital to economically viable, income-oriented real estate projects.

THE NEED FOR FLEXIBILITY IN REAL ESTATE OPERATIONS

It is well known that inflationary pressures and irregular but generally high rates of interest have become powerful influences on the nature and level of activity in the real estate industry. Another major force at work is the expansion of the tax advantages of real estate investment provided by the Economic Recovery Tax Act of 1981.

The products of these and other factors are numerous. Among other things, we have seen increasingly intense demand for quality real estate assets among foreign and domestic investors, with acquisition costs thus being driven to extraordinary heights. At the same time, the costs of funds to finance acquisitions have climbed, and the real estate industry has become vitally concerned with the problems of accumulating capital at reasonable expense. We have also seen real estate owners and lenders explore every means of determining rents and interest to assure that their income streams and invested capital are adequately protected in this environment. In short, success in the real estate industry has become inextricably linked to the degree of flexibility with which a party may act in all forms of real estate transactions.

These conditions obviously confict with the technical Code restraints imposed on REIT's that limit operational flexibility and the capacities to grow through retention of earnings or to realize fully the value of their assets. Under these circumstances, REIT's cannot operate effectively and are increasingly confronted by serious takeover attempts or the unavoidable prospect of liquidation. Matters have been exacerbated by changes in the Code made in 1981 and 1982 that, while not necessarily aimed at the REIT industry, have directly and indirectly reduced the capacity of many REIT's to raise capital internally and externally.

For these reasons alone, the time has come for a comprehensive reexamination of the REIT tax regime.

COMPETITION WITH OTHER REAL ESTATE INVESTMENT VEHICLES

The developments noted above have been accompanied by a marked increase in investor interest in the partnership vehicle. Virtually unknown in the early 1970's, publicly offered, large syndicated limited partnerships in real estate raised more than two billion dollars in both 1981 and 1982 and well over four billion in 1983. For real estate investment organizations such as REIT's, the competition for investment capital has been drastically altered by the explosion of partnership syndications. Despite some of their investment advantages, REIT's must contend with such factors as the generous treatment of depreciable property held in partnership form, treatment greatly enhanced by the Accelerated Cost Recovery System provisions of the Economic Recovery Tax Act. The principal competitive advantage afforded REITs, the liquidity enjoyed by shareholders for their investments in REIT stocks, may even be subject to erosion through increasing experimentation with mechanisms designed to create meaningful secondary markets for investments in real estate and other limited partnerships. Given these considerations, the effects of bracket creep and the increased sophistication of investors pursuing tax shelter, and the intense momentum behind the marketing of real estate syndications, there is little doubt that the REIT vehicle will face increasing difficulty in attracting its traditional investors.

THE TAX BENEFITS INHERENT IN REIT ASSETS ARE DENIED TO REIT INVESTORS

Fundamental to the foregoing points is the fact that real estate values necessarily reflect the tax advantages afforded real estate investment under present law. While these advantages have become increasingly significant, the inability of the REIT investor to derive any such benefits has severely restricted the capacity of the REIT to gain favor in the marketplace.

Of course, the REIT was never intended to be and should not become a vehicle for passthrough of investment tax credits, deductions, or other tax attributes that may shelter investor income. It is appropriate, however, to question whether the REIT investor ought not to be entitled to enjoy in some form the benefits of tax deferral inherent in the accelerated cost recovery system [ACRS]. As explained below, present law makes distributions of REIT cash flow attributable to ACRS cost recovery fully taxable as ordinary income dividends. Factors such as this and other deficiencies in the REIT conduit tax regime contribute significantly to the problems of REIT management in attracting investment capital and in dealing with pressures to liquidate or restructure operations in other ways.

The basic reasons that precipitated passage of the REIT enabling legislation in 1960 remain valid today. The REIT is an important vehicle to finance and operate real estate projects that are economically feasible, not tax driven and yielding a steady stream of income. The accumulation and application of REIT capital is efficient, as may not be the case with many real estate syndications. Management of REIT's must be responsive to REIT shareholders, given the Federal and State securities laws applicable to REIT's, and the vital capacity of the REIT investor to liquidate his interest at any time is assured with the great majority of REIT shares traded on major stock exchanges or over the counter.

With these considerations in mind, the basic tax provisions affecting REIT's ought to be modernized. Upon study and consultation with REIT industry representatives, I urge this body to give its serious attention to the bill introduced today. A description of key provisions is set forth below:

SUMMARY OF KEY PROVISIONS OF H.R. 6236

1. Revision of the way that REITs compute "earning and profits." When Congress created the Accelerated Cost Recovery System ("ACRS") in 1981, it provided that the earnings and profits—E&P—of a corporation—including a REIT—must be computed as though real estate assets were depreciable over 35 years rather than over the 15-year cost recovery period applicable in determining taxable income. With enactment of the Deficit Reduction Act of 1984, the new 18-year cost recovery period for most real property is accompanied by a 40-year earnings and profits rule. These special E&P rules prevent corporations from making distributions of cash flow attributable to accelerated cost recovery that would constitute tax-deferred return of capital rather than ordinary income dividends in the hands of shareholders.

Although prevention of the sharing of tax benefits with shareholders may be valid in the typical corporate context, the earnings and profits rule is inconsistent with REIT conduit tax treatment and discriminates against the small investor for whom the REIT vehicle was created to provide the advantages of direct investment in real estate. Under the bill, the REIT tax provisions would be amended so that a REIT may compute depreciation for earnings and profits purposes using essentially the same useful life prescribed in computing taxable income. Thus, REIT investors would enjoy the benefits of tax deferral inherent in ACRS that are otherwise available to individuals who invest in real estate directly or in partnership.

2. Repeal of the section 291 20-percent cutback of corporate tax preferences as it applies to REIT's. The Tax Equity and Fiscal Responsibility Act of 1982, as recently amended, cuts back on corporate tax preferences including capital gains realized on disposition of section 1250 real property. Codified in section 291 of the code, the provision partially accounts for the REIT conduit concept by causing a REIT to recharacterize capital gains as ordinary income only to the extent the REIT fails to distribute the gains to shareholders. The result remains that REIT's have reduced capacity to raise capital by the sale of appreciated assets, and any cutback actually results in an increased tax burden imposed directly on the shareholders because of the requirement that virtually all ordinary income be distributed to shareholders. To remedy this situation, the bill would exclude REIT's altogether from the coverage of section 291.

3. Revisions of the safe haven exceptions to the 100-percent prohibited transactions tax of section 857 and related provisions. The present 100-percent tax on income realized through transactions that are otherwise prohibited greatly inhibits REIT trustees in the prudent management of REIT's portfolios of real estate investments. Most importantly, REIT's must have enhanced ability to realize the value of appreciated assets and to raise capital to meet obligations to pay off maturing debt obligations. Experience has shown that the partial relief represented by the safe haven rules of section 851(b)(6)(C) still leave REIT trustees confronting serious dilemmas in certain cases. The rules should be amended to provide increased allowances for the number of annual sales of and permissible improvements to qualifying properties, and to allow REIT shareholders to realize a greater portion of the value inherent in long-held rental property suitable for conversion to condominiums or cooperative units. The bill makes these changes.

4. The present artificial independent contractor requirements imposed upon REIT's, which substantially affect the way in which and the cost at which REIT's may conduct their businesses, should be repealed. Under the bill section 856(d) is amended to remove the provision that permits REIT's to derive qualifying rental income only if all services customarily provided to tenants are made available through an independent management company. Similarly, the foreclosure property rules are amended to eliminate the section 856(e)(4)(C) independent contractor requirement as a condition to eligibility of REIT property for foreclosure property status. It is axiomatic in the real estate industry at large that hands-on, effective management is fundamental to the successful performance of a real estate investment, and management by contractor often results in costly and unsatisfactory performance that is not in the best interests of the REIT or its shareholders. Put simply, a REIT, like any real estate investor, must have the opportunity to manage directly its investments.

5. As commercial leasing and lending practices now dictate that rents or interest often be computed on the basis of the net income of the tenant or borrower, REIT's are under increasing pressure to conform or cease to compete for rewarding transactions. At least to the extent such transactions involve a prime lessee or a mortgagor that performs a role essentially equivalent to that which a REIT would perform if operating the property directly, relief should be granted from the net income limitations of section 856(d)(2)(A) and 856(f).

Under the bill, section 856(d)(2) of the code is amended to treat as qualifying REIT income those rents received by a REIT that are based on the net income of the lessee when that lessee is an intermediary tenant that in turn leases all or substantially all of its tenancy to sublessees who pay rents not

based on their net income. Similarly, section 856(f) is amended to permit a REIT to receive as qualifying interest those payments computed with respect to the net income of the borrower when that borrower leases all or substantially all of its interest in the property and the borrower's rents are not based on the net income of space tenants. The existing prohibitions against such rents and interest based on net income are unduly broad and place REIT's at a severe competitive disadvantage in the real estate marketplace.

6. Limitations on payment of capital gain dividends by REIT's which have net operating loss carryovers from earlier years. Section 857(b)(3)(C) of the code is amended to make clear that, for purposes of computing the net capital gain of a REIT for a given taxable year, real estate investment trust taxable income will not include net operating losses (NOLs) from prior taxable years.

As presently interpreted by the IRS, the law may cause a REIT shareholder to be taxed at ordinary rates on dividends paid out of REIT capital gains notwithstanding the fact that the pass-through of capital gains is a fundamental ingredient of the REIT concept. In effect, a REIT that has suffered large losses and later realizes capital gains will be unable to share these gains with its investors, so that both the REIT and its shareholders find their economic misfortunes in earlier years, exacerbated by unfavorable treatment of dividends in later years.

7. Special notice requirements in order for REIT dividends to be treated as capital gain dividends. Section 857(b)(3)(C) of the code is amended to eliminate the present requirement that a capital gain dividend be designated as such in a written notice from the REIT to its shareholders within 30 days after the close of the REIT taxable year. A notice to the IRS should be substituted.

8. Exclusion of net losses from prohibited transactions in the computation of REIT taxable income. At the present time real estate investment trust taxable income computed under section 857(b)(2) is not reduced by the amount of any net loss as incurred in any prohibited transaction in which a REIT is found to have engaged during the taxable year. This result flows from the present language of subparagraph (F) of section 857(b)(2), which causes an amount equal to any such net loss to be added under section 857(b) in computing the distribution requirement for a trust in a given year. The net effect of the existing formula is to cause a REIT to pay dividends or income taxes out of accumulated capital. Under the bill, the REIT provisions are amended to prevent such a result.

9. Imposition of three percent excise tax on certain income not distributed during the taxable year. Section 4981, imposing a three percent tax on certain undistributed REIT taxable income, is amended because the provision severely disrupts the flow of REIT dividends. Section 4981 causes many REIT's to make cumbersome, expensive supplemental dividends distributions during the fourth quarters of their fiscal years, while other REIT's, particularly those experiencing substantial growth, may find themselves unable to avoid the excise tax notwithstanding reasonable efforts to comply.

10. Imposition of the severe section 6697 penalty when the tax liability of a REIT for a prior taxable year is redetermined and adjusted under the section 860 deficiency dividend procedures. if a REIT elects under section 860 to distribute a deficiency dividend to its shareholders pursuant to an IRS or judicial determination of the necessity for adjustment of REIT taxable income for a prior taxable year, section 6697 imposes a substantial penalty on the REIT. This nondeductible penalty is assessed without regard to fault, is computed with respect to the interest payable on the amount of the deficiency, and may be up to a maximum of 50 percent of the amount of the deficiency dividend. Given the recent high interest rates and provisions for daily compounding, the penalty and interest charges payable to the Treasury may nearly equal the deficiency dividend payable to shareholders. If the underlying deficiency is large, the REIT may be financially devastated. This effect may render virtually meaningless the relief intended by the deficiency dividend procedures as a mechanism to prevent inadvertent disqualification from REIT tax status. To mitigate the potentially harsh result, the bill amends the section 6697 penalty so it is subject to a cap that takes into account not only the amount of the deficiency but also the net worth of the REIT and its income stream in years prior to the year in which the deficiency dividend is paid. Furthermore, section 6697 is amended to provide that the penalty shall be assessed only with respect to the portion of the deficiency attributable to a position taken by the REIT for which there is or was no reasonable cause.

11. Modification of the personal holding company rules applicable to REIT's to account for the unreasonable threat of disqualification of REIT's whose investors may also engage in other real estate ventures organized as partnerships. Under present law, a business trust or corporation may not qualify as a REIT if it is a personal holding company—PHC—that is, if five or fewer individuals actually or constructively own more than 50 percent of the value of the stock of the entity at any time during the last half of the entity's taxable year. Although this rule helps ensure that REIT shares are widely held and freely transferable, it creates undue risk of disqualification in two sets of circumstances. To remove the unnecessary risk, the bill makes the five or fewer test inapplicable during the organizations phase of a new REIT. Second, the bill modifies the constructive ownership standards of the PHC rules, as applied to REIT's, so that a REIT shareholder is not treated as indirect or constructive owner of REIT shares held by partners in a partnership in which the first shareholder also owns an interest.

12. Authorizations for a REIT to place assets in subsidiaries provided those subsidiaries and the parent REIT are treated as one entity for REIT tax qualification purposes. A REIT is effectively prohibited from owning and conducting operations through a subsidiary. Thus, all investments must be held in the REIT itself, perhaps to the disadvantage of the REIT and its investors for reasons that are unrelated to federal tax laws. The bill amends the REIT tax provisions to allow a REIT to own subsidiaries, provided that the qualified status of the parent REIT is determined by taking into account the assets, all items of income, gain, loss and expense, and all other tax attributes of those subsidiaries. Thus, REIT's and their shareholders might obtain the benefits of corporate subsidiaries while remaining fully subject to the organizational and operatonal constraints of the REIT regime.

13. Technical amendments to certain provisions of the Deficit Reduction Act of 1984 to remove unusual burdens borne by REITs because of their unique tax regime. The Deficit Reduction Act of 1984 ("1984 Act") amended the Internal Revenue Code to alter the tax consequences of installment sales of property subject to depreciation recapture and transactions involving loans or leases that allow deferred payment of interest or rents. In each case, the new rules may cause a taxpayer to recognize and pay tax on income when no corresponding amount of cash has been received. Because a REIT must distribute at least 95 percent of its taxable income as dividends to shareholders, these provisions impose extraordinary burdens on REITs. To insure that the tax consequences for REITs are made more comparable to those of other real estate owners or lenders, the bill provides that noncash amounts included in REIT taxable income by operation of the 1984 provisions are disregarded for purposes of the 95-percent distribution requirement.

14. Amendment of the REIT Distribution Requirement to Exclude Income Recognized by a REIT upon a Determination that an Exchange of Certain Real Property Failed to Meet the Requirements of Section 1031. The elective deficiency dividend procedures of section 860 were adopted to provide much needed relief from the threat of inadvertent disqualification of a REIT. As discussed elsewhere, the REIT industry believes that the interest and penalties imposed by section 860 and related provisions may virtually neutralize the benefits of a deficiency dividend. Furthermore the deficiency dividend provisions fail to provide meaningful relief if audit or other preceedings culminate in a determination that a like-kind exchange of REIT property should be denied tax-deferred treatment under section 1031. While further study may reveal other contexts in which inadvertent tax deficiencies may be so great as to render the section 860 election meaningless, the bill contains an amendment to remove the threat of disqualification from REIT status if a REIT must recognize income because of an adverse determination on the status of a purported section 1031 exchange.●

PUBLIC BROADCASTING AMENDMENTS ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

● Mr. DINGELL. Mr. Speaker, I would like to bring to the attention of the House the urgent need to override the President's veto of the Public Broadcasting Amendments Act of 1984, which would provide funding for the Corporation for Public Broadcasting for fiscal years 1987, 1988, and 1989. The President has made a partisan toy of an important cultural and educational asset to this country.

The purpose of advance funding for the Corporation is to insulate public broadcasting from political manipulation by those who disagree with its programming choices. Unfortunately for the viewing audience, the President's proposed funding levels, a paltry one-third of the levels overwhelmingly approved by the Congress,

will severely cripple the work of the Corporation.

Since the vetoed bill was a Senate bill, introduced by the distinguished senior Senator from Arizona, Mr. GOLDWATER, the House cannot respond to this callous attack by the President until the Senate carries out its responsibility and overrides the veto. In a letter to the Senate majority leader Mr. BAKER I have respectfully urged this course of action by our colleagues in the other body. I include the letter in the RECORD at this point:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 6, 1984.

Hon. HOWARD H. BAKER, Jr.,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR BAKER: On August 29, 1984, the President vetoed S. 2436, the Public Broadcasting Amendments Act of 1984. This legislation authorizes funding for the Corporation for Public Broadcasting for fiscal years 1987, 1988, and 1989 in accordance with the principle of "forward funding," which is intended to insulate public broadcasting from political manipulation by those who disagree with its programming choices.

S. 2436, sponsored by Senator Goldwater, enjoys broad bipartisan support in the Congress. It was unanimously approved by the Senate on two occasions and was agreed to in the House by a vote of 302 to 91. By 1989, the bill would authorize funding for public broadcasting in real dollar terms at its 1983 level. It is a fiscally responsible measure that seeks to ensure a viable, long-term, high-quality programming alternative to commercial television.

The Administration, which has shown unceasing and unprecedented hostility toward public broadcasting, has proposed funding of only $100 million, $85 million, and $70 million for public broadcasting for fiscal years 1987, 1988, and 1989 respectively. These levels would provide just 38%, 31%, and 25% of the purchasing power of the 1983 authorization. Moreover, the Administration has openly proposed to abolish the public telecommunication facilities program by requesting no money for it at all. Such proposals, if adopted, would ensure the demise of public broadcasting as we know it.

As you know, under the Constitution the Senate must first override a Presidential veto of a Senate bill before the House may take similar action. The House leadership has assured me that a veto override vote will be scheduled in the House as soon as the Senate completes action.

Therefore, I respectfuly urge you to schedule a vote in the Senate to override the President's veto of the Goldwater bill at the earliest possible date.

I look forward to your early response.

Sincerely,

JOHN D. DINGELL,
Chairman.●

1 YEAR AFTER KAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, it has been just over 1 year since the Soviet Union shot down Korean Air Lines flight 007, killing 269 people. Among them was our colleague, Representative Larry McDonald.

I want to share with this Chamber the following editorial which appeared in the Gwinnett, GA, Daily News and the Marietta, GA, Daily Journal. The Journal is the hometown newspaper of the late Larry McDonald. The article makes a very good point about the tragedy and reminds us not to forget what happened over the Sea of Japan on September 1, 1983.

The article follows:

A YEAR AFTER KAL

It has been a year since Korean Air Lines flight 007 was shot down by a Soviet missile killing all the 269 people on board the airplane.

It has been a year since Georgians awoke to the news that one of their congressmen, Larry McDonald, was among those killed in the missile attack—a year since the bitter irony that McDonald, the arch-conservative who had devoted so much effort to fighting communism, had been killed by the very Soviets he feared.

It has been a year since those nervous hours when thinking people worldwide wondered about the possibility of retaliation which might lead to a face-to-face confrontation between the two superpowers.

During that year, little has happened to shed new light on the circumstances which led to tragic death above Soviet airspace on Sept. 1, 1983.

American officials continue to insist that the downing of the jet was totally unjustified; Soviet spokesmen maintain their argument that the flight was part of an American spy mission, and that American officials knew KAL 007 was well into Soviet airspace.

After a year, public opinion of the incident is influenced more by faith in one country or the other than the verifiable fact. In our estimation there can be no doubt that the Soviets overreacted to the presence of the wayward flight and brought about needless death as a result.

One point not open to argument is the fact that the destruction of the jet and the deaths of those on board was an international tragedy—overshadowed only by the ease with which we have allowed the incident to slip into the deep recesses of our minds where it can easily be forgotten.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

● Mr. KLECZKA. Mr. Speaker, last week I was unable to be present for votes on rollcall No. 378; rollcall No. 379; and rollcall No. 380. Had I been present I would have voted "no" on rollcall No. 378; "yes" on rollcall No. 379; and "no" on rollcall No. 380.●

A TRIBUTE TO RAY HUNT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MOLINARI] is recognized for 60 minutes.

Mr. MOLINARI. I rise today to pay tribute to Leamon R. Hunt, the late director general of the Multinational Force and Observers, who was murdered by leftist terrorists in Rome in February.

Ray Hunt was one of those men whom President Reagan has so rightfully remined us we should not forget—an American hero. He died, ironically, because he was serving the cause of peace, gunned down by the fighting Communist Force, an offshoot of the Red Brigades. His crime apparently was his successful stewardship of the Multinational Force and Observers [MFO].

As director general, Ray Hunt saw the MFO help to successfully implement the Camp David Accords. Those agreements led to the end of three decades of war and tension between Egypt and Israel. With the help of 11 nations, the MFO facilitated the Israeli withdrawal from the Sinai and maintains a 2,600-man contingent patroling the Egyptian-Israeli border in order to avoid future strife.

In the bleak arena of the Middle East, with all its turmoil, death, and destruction, the world has had little reason for joy or hope. The peace treaty between Israel and Egypt is one major exception to that somber rule. Two great protagonists of Middle East strife are now at peace. The MFO played a great role in facilitating that peace. It's leader, Ray Hunt, played a great role in facilitating that peace.

For the cause of peace, Ray Hunt paid the ultimate sacrifice—he gave his life. This Nation and the world have much to thank him for.

As Secretary of State Shultz said, "Ray Hunt answered his final call to duty, at the request of the governments of Israel and Egypt after retiring from a long and productive career with the Department of State. His career took him to many countries and involved many duties, but none of the tasks he took on was more important to the cause of peace than his final one. His sacrifice must inspire us to rededicate ourselves to the cause of peace and the defiance of forces of terror."

Mr. Speaker, let us remember those words and conduct ourselves accordingly. But let us remember also the words of Assistant Secretary of State Richard Murphy who delivered an eloquent eulogy at Ray's funeral, for Murphy drew a picture of Ray Hunt the man, as well as Ray Hunt the public servant, that we should not forget.

I would like to share Mr. Murphy's remarks with my colleagues in the House at this time.

The remarks follow:

EULOGY FOR LEAMON R. HUNT BY ASSISTANT SECRETARY OF STATE RICHARD W. MURPHY, FEBRUARY 21, 1984

Mrs. Hunt, members of the Hunt Family. Secretary and Mrs. Shultz, members of the diplomatic corps, friends and colleagues.

We are here this morning to honor the life and to mourn the death of a fine man, Leamon Ray Hunt.

There are a few people in every calling who stand out among others and set standards which others strive to follow. Ray Hunt was such a man in our profession. Those of us who knew him during his long and rich career. First as a member of our Foreign Service, and then as an international civil servant as Director General of the Multinational Force and Observers, saw Ray as a shining example of the very best. A man of great ability and personal strength. He throve on difficult challenges. He set the highest example for the rest of us to follow as a manager, problem solver, diplomat, leader, and fellow human being.

More than anything else, Ray Hunt was a good person—gracious, kind, and considerate of others—a man we enjoyed being with. He touched the lives of many, and none will forget his impact on them. Although he spent his distinguished career in the world of international affairs. He treasured his Oklahoma heritage and the strength he drew from it. He was proud of his roots and he never forgot them.

During Ray's long and extraordinarily successful career in the Foreign Service, he served in four continents and was a mainstay in the management of the State Department. I first met him in Beirut in 1967 where he was serving as Administrative Counselor of our Embassy. We both returned to Washington the following year and served together as deputies to the Executive Director in the Bureau of Middle East and South Asian Affairs. As a young officer in from the field, much in need of guidance in the ways of Washington, I worked closely with Ray, and I came to appreciate his special qualities as a teacher, manager, and friend. All of us marveled at his grasp of issues, his ability to handle scores of problems simultaneously, and, above all, his clear-minded common sense in unraveling problems and solving crises, of which there were many. He was tough and uncompromising in insisting on doing things right. And those who were privileged to work with him learned their lessons well. He felt a deep sense of duty to train others. And nothing pleased him more than the knowledge that he had taught others to carry on after him. He met the highest test of leadership by bringing out the best in others.

Ray Hunt was also a diplomat of great skill. When he was Charge' d'Affaires in Beirut and I was in Damascus in the mid-1970's, we relied on his shrewd judgment and his ability to manage U.S. diplomacy in that already troubled and complex country. As always, he was in charge: strong, steady and wise, with a broader vision and perspective that made others turn to him for advice and leadership.

It was these qualities of leadership, his skills at management and his experience in diplomacy that led his former colleagues to approach Ray and then, on behalf of our Government, to prevail upon him to come out of retirement in 1981. He accepted appointment as the first Director General of the Multinational Force and Observers. This unique international organization was spawned by one of the epochal events of the postwar history of the Middle East, the peace treaty between Israel and Egypt in 1979. The MFO was essential to implement the treaty, a treaty which brought peace to those former enemies after a generation of confrontation and three bitter wars. The treaty was a tribute to the wisdom and vision of both Egypt and Israel and stands today as proof that seemingly irreconcilable conflicts in that region can give way to peace among neighbors, when there is courage and commitment to seek it.

It was fitting that in 1981 Egypt and Israel would find in Ray Hunt the right man to become the first Director General of the Multinational Force and Observers. The task of this fledging international organization was to help implement and ensure continuity in the great step for peace which Israel and Egypt took together. Under Ray's strong and creative leadership. The MFO took shape and prospered. It grew into a model of efficiency and cooperation among Egypt, Israel, and the 11 nations who have generously contributed personnel. I last saw him in Rome in November when we discussed the MFO. I sensed his enthusiasm about his work and was again struck by his down-to-earth, problem-solving approach. In a region marked by confrontation Ray sought and secured accommodation.

Ray Hunt lost his life at the hands of terrorist assassins, as have too many others who have toiled for peace in the Middle East. His death last week is a sad reminder of the long road ahead before a general peace and a broad reconciliation can prevail in that region. Ray's sacrifice in the cause of peace is one more reason to renew our faith and determination that this can and must be done. His murder was as senseless as his life was meaningful.

A friend and colleague who knew Ray Hunt well has summed up his long and successful life and the example he set for others very well. He said, "Those of us who are fortunate to serve in some larger cause work to help build monuments we can leave behind. Ray Hunt, the man, was a monument himself."

Mrs. Hunt, Bryan, other members of the Hunt family, we share the pain of your loss. We knew him as a fine public servant and as a warm and generous friend. We remember him also as a man dedicated to and sustained by his wife and family, whose support was essential to all that he did. We are grateful for his service to the United States and to the broader world community as well as for the example of excellence he gave to us. And we pay him tribute for his work for a better world. As we join you with our love and prayers of mourning, we join you also in your pride in him as he goes to a hero's burial.

□ 1700

Mr. Speaker, at this time I would like to yield to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Leamon Ray Hunt grew up in Oklahoma as a boy in my district. He lived his life as a peacemaker and he gave his life while serving his country to the hands of leftist terrorists in Rome.

His roots were deep in Oklahoma. They formed the fabric of his morality, they formed the fabric of the values that he held so dear.

He was a great servant of his country and is a great servant of his creator, and I am honored to say these remarks in behalf of a man who truly gave his life for his fellow human beings.

Mr. MOLINARI. I thank the gentleman from Oklahoma and at this time I would like to yield to the gentleman from North Carolina [Mr. HEFNER] in whose district Mr. Hunt decided to retire.

Mr. HEFNER. Mr. Speaker, Leamon Ray Hunt, a retired U.S. diplomat, had a home in my congressional district. His wife, Joyce, still lives there and my office has been in contact with this fine lady.

When Leamon Hunt was brutally murdered by terrorists on February 15, 1984, his death symbolized something very important. It reminded America that we cannot and must not tolerate world terrorism. Terrorists are nothing more than cowards. They do their dirty work, usually for their own political causes, and run and hide. They are like thieves in the night.

When Leamon Hunt was shot outside of his home in Rome, Italy, he was the civilian head of the 2,600-man contingent patrolling the Sinai under the terms of the 1978 Camp David agreements. As is so often the case, terrorists murder those who represent peaceful efforts, as did Hunt. This is another reason why world terrorism must be weakened. Any obstruction to international peace must be destroyed.

Today we mourn the death of Leamon Ray Hunt and we grieve with his family, but we also must allow the memory of Leamon Ray Hunt to remind us that the United States of America will not tolerate terrorism in this country or anywhere where it strikes at the heart of world peace.

□ 1710

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for his contributions.

Mr. Speaker, I have no further requests for time.

Mr. Speaker, I yield back the balance of my time.

H.R. 5432, THE FLAT TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SILJANDER] is recognized for 60 minutes.

Mr. SILJANDER. I thank the Speaker.

Mr. Speaker, this has been a series of special orders dealing with what I consider to be one of the most controversial but intensifying issues out in the public today. That issue deals with reforming of the present complicated, confusing, what I term elitist Tax Code and tax system.

Americans generally are demanding that there should be a change in the present system.

Americans have written letters by the thousands to House and Senate members over the years requesting that this system, which tends to favor in many of their minds the wealthy and tends to be skewed against those

in the middle-income category, certainly be changed and altered.

We have talked about the middle-income and wealthy and the poor themselves, many of whom are trying to fight from paycheck to paycheck, from meal to meal, attempting to send their children to schools, pay utility bills; they are asking for reform of the system as well.

It is not just an elitist system, nor is it a system that adversely affects middle-income category; as I said it also very, very negatively affects poor Americans from coast to coast.

Mr. Speaker, I have introduced House Resolution 5432, we call it the countdown to fair and simple taxation.

I would like to explain very briefly exactly what it does.

If you are a working American paying somewhere between zero and 50 percent taxation, that is all going to change. Under our bill if you are a working American and are confused with the 10,000 pages of rules and regulations overseeing the Tax Code, that too will change.

If you are an American in the very upper income brackets and can afford Harvard tax lawyers and the like to find loopholes in those 10,000 pages to avoid paying most taxes, that is going to change.

If you are a middle-income American and find your withholding statement showing 20 to 36 percent withholding, that too under the Siljander fair and simple flat tax system will also change.

Our bill would take your gross income, allow you to deduct $2,000 per person in your family which will be indexed to inflation, which means essentially a family of five, husband and wife plus three children or three dependents would have $10,000 immediately taken off their taxable income. What this implies is that it is more fair to the poor than the present system. One, if they can contribute to charitable organizations may also deduct charitable deductions; all interest, automobiles, mortgage on the home, and the like, would be deductible; IRA and Keogh retirement savings plans for futures, the futures of all Americans, would be deductible as well. And lastly all taxes, specifically property taxes and the like would be deductible.

In sum we have four deductions and to repeat them: Interest, taxes, charity, retirement savings accounts, four deductions, and one exemption, $2,000 per person. Then that tax rate after those deductions and the one exemption would be taxed at a flat and fair and simple 10-percent rate.

Incredible as it seems this is what Americans are demanding across the country, a simple, fair rate, a 10-percent flat tax rate that can work.

The other aspect of this bill which is unique to any other bill that has been introduced in the House or the Senate is what we call the amnesty provision.

The IRS estimates that nearly $100 billion is lost per year to the Federal Government because of the legal underground economy.

The legal underground is those who have refused to post all their earnings and taxes or post any earnings whatsoever and as a result avoid any tax on income.

The legal underground does not refer to drugs, it is not referring to prostitution rings. That obviously would be income that could never be taxed and would never be taxed because they certainly would not, obviously, report it.

The legal underground is those that have, because of the unfair complications, confusion of the system, been forced underground because facing 30-, 40-, 50-percent tax rates, they have decided that honesty versus a 40-percent tax rate outweighs the honesty and as a result they go underground.

Our bill would help encourage those in the legal underground elements of our economy to surface, to become legal taxpaying citizens without threat of jail sentence or fines or penalties, but strictly paying back taxes, those Americans wishing to become honest may surface and will do so.

Now you wonder why would anyone do that. Well, Massachusetts tried it, a State, without changing the rate, without changing the system; they simply offered amnesty; no jail terms, no fines or penalties. Simply surface, pay the back taxes and then become honest taxpaying citizens from that time on.

They estimated revenues of between $5.5 million to $6 million. Not bad for a State, is it? Well, 4 months into the system over $65 million have come into the Massachusetts State coffers already, almost 10 times what they estimated.

The point here is clear, even without the incentive of changing a tax system, the people of this country still want to become honest citizens, but many are too much ingrained in year after year of not reporting their income.

So we hope in our unique system of a 10-percent flat-rate income tax that by offering the incentive of that 10-percent rate and simplifying the code immensely, reducing the bureaucracy and harassment of the present tax system that many of those legal underground economy that we are losing as a Federal Government over $100 billion a year, will surface. We estimate around $34 billion will come in as a result of our bill, per year, each and every year thereafter, based upon the Massachusetts model.

So there are three essential questions that come up as a result of presenting the 10-percent fair and simple tax: What of the poor? I have touched on that earlier. The Siljander House bill, the modified 10-percent flat tax is more fair to the poor than the present system.

The second question: Will the amnesty work? Will it really work in the Federal level and how can you guarantee that the amnesty provision in your bill would be helpful and fruitful? Well, our bill also has the unique provision called the safety net. The safety net feature guarantees that if the amnesty does not work we can back off of this bill without any problem whatsoever. If the bill was signed today, Members of Congress, 3 years later the 10-percent would take effect. However, the amnesty takes effect immediately.

So for each and every year of those 3 years $34 to $60 billion per year new revenues incorporated from the amnesty provisions would be placed in a trust fund, an amnesty trust fund that would accumulate interest and those 3 years of revenues, until the 10-percent would finally take place.

So if we are right on the Massachusetts model as an accurate model to apply to the Federal level, the first year will tell the tale, as will the second and third years.

Let us assume the amnesty provision is a miserable failure in all 3 years. Well the system, the main portion of the bill that changes and simplifies the tax code and implements the 10-percent flat tax will not take effect, as I said, until the third year, allowing Congress plenty of time, ample opportunity to reassess the tax code at that time.

Now I would like to yield to the gentleman from Utah for the third question which I think is a very, very important question which the gentleman has inquired of me earlier.

□ 1720

Mr. NIELSON of Utah. I thank the gentleman for yielding.

I was concerned about the gentleman's statement that it would require a 10-percent rate after a $2,000 deduction for the individual, after charitable contributions, after interest and after taxes.

How much would that raise the 10 percent after those deductions? How would that compare with the present revenue we are receiving from the income tax?

Mr. SILJANDER. Needless to say, that question is the most often asked. When anyone brings up 10 percent with limited deductions immediately there is a furor it could not possibly bring in at least the same amount of revenues as the present system. I can understand that concern.

I am advocating as is A.B. Laffer, with the famous Laffer curve that analyzed the 1981 tax cut, the Heritage Foundation's economist Stewart Bulter, the Republican Study Commit-

tee. Dr. Paul Craig Roberts has written the book called "The Supply Side Revolution," and worked in this Congress in the Treasury Department for several years. Al' of them feel that the way our bill is developed, with the 3-year phase in and with the $34 billion a year to $60 billion coming in with the amnesty trust fund, accumulating with interest over that 3-year period, that there will be sufficient revenues to cover equally the present system.

So, in essence, we have economists assessing our bill suggesting the format that we have developed this bill in would produce sufficient revenue.

Now, here is another interesting angle to it. Let us assume that our analysis is all wrong. Let us assume that the doomsayers are correct, it will not produce enough revenues. So that the worst economic scenario, 3 years after the amnesty has been in full swing, the 10 percent takes effect, at the worst possible scenario of lost revenue there would be sufficient money in that trust fund, $100 to $140 billion in that trust fund, to offset lost revenue the first year.

We estimate—and for the third time with the worst scenario—that we would have at least 2 years of a 10-percent fair and simple, across-the-board tax rate, 2 years to implement fully the 10 percent and have adequate revenue in the trust fund to offset those lost revenues, giving the Congress sufficient time to either increase the rate or change the system to a more logical system.

However, I do not believe the doomsayers for one moment. I believe the economists that have been right in the past that have an accurate track record of accountability and reliability. They suggest that our 10-percent flat tax would be an incentive to people to save, to invest, and to spend. See, it is the old theory. Tax people between, the middle-income American, 20- and 36-percent withholding. That reduces their amount of spendable income, but gives the Government more money to spend on their behalf. That is the old thinking of the past. That is the liberal welfare state philosophy of the old age.

The new age thinking, let us give people, the middle-income brackets, that work hard for a living, that work until May 1 just to pay their Federal taxes, State and local taxes, let us give them a tax break.

So, needless to say, most Americans, as I said, pay between 20- and 36-percent withholding. If that were changed to 10-percent withholding, as our bill would change it, they would have substantial increases in take-home pay. Americans would spend, save, or invest.

So, I asked a group of blue collar workers in my district: "What would you do with your extra take-home pay with our 10-percent flat tax?"

Their answer was: "Well, I would probably paint my home." Well, someone must produce the paint, the cannister it is in, the label and deliver the paint. That stimulates jobs. If millions of Americans are buying paint or expanding their homes or buying that automobile and we are estimating now that several hundred thousand more American families, because of their increased take-home pay, would be able to afford their dream home that they so much desire all of their lives because we are giving them more money to pay a higher mortgage payment with the high interest rate.

So if we take the stimulatory effect of the economy, cutting the bureaucracy in half, essentially; broadening the base to make sure all Americans pay a little bit of the tax, so even if you are a very, very wealthy multimillionaire, you still must pay at least 10 percent. That, with the amnesty provision cushion, gives us the same revenues as the present system.

Mr. NIELSON of Utah. If the gentleman will yield further, I have one other concern about the flat tax. I have always advocated either flat or a slightly sloping tax, but I have always advocated that we have very few deductions for the very reason I think everyone needs to participate in Government, everyone needs to know what it costs to run the Government, and dispell the idea that somehow Federal funds are free.

I have toyed with the idea of perhaps having everyone pay some tax and therefore having as few deductions as possible.

How do you get the majority of people to be involved in this tax-paying system if you have this level of deductions?

Are you not going to excuse an awful lot of people from paying taxes entirely under your system?

Mr. SILJANDER. We would excuse the very poor. I feel that that is justified. To excuse a family of five for the first $10,000 of income, I think, is an honorable thing for any of us to do.

Will we excuse upper incomes of paying taxes as many of them are excused now because of loopholes? The answer is "No."

Will the middle-income Americans still pay taxes? The answer is "Yes."

But the tax rate that they will be paying will be 10 rather than 20 or 36 percent.

I have included four deductions indeed for home mortgages and other interest rates, for property taxes, for charity, and for retirement savings accounts. Four simple deductions, all of which are focused toward the middle-income American, the working man and woman, who are trying to make ends meet.

The biggest bulk of the middle-income American's income goes certainly toward paying for their home, for contributing to their charity or charities, or church, mosque, or synagogue, saving for their future or retirement. Certainly much of the money would also go into property taxes and other types of taxes. So these four deductions are not centered around the wealthy who avoid taxes, nor is it designed to allow middle-income Americans to avoid all taxes. What it does, it focuses mainly on those middle-income Americans, allow them to pay a little bit less taxes, allowing pragmatic politically astute, in my opinion, approaches to make sure that the opposition to the bill would be limited, as well as all Americans in the under $40,000 bracket would be rescued from the present, in my opinion, overwhelming tax burden that they are forced to pay.

Mr. NIELSON of Utah. If the gentleman would yield further, I like the deductions the gentleman has. If you are going to have deductions, I think the ones the gentleman picked are good and I am cosponsoring the gentleman's bill, which indicates my interest in the flat tax.

But, let me ask this question: What if other Representatives have additional deductions they would like to have? Capital gains, for example? Or inventory allowances, things of that nature which are very desirable in other aspects of society? Where do we stop on the list of deductions that we have?

Mr. SILJANDER. That is precisely the point. Many have inquired what if the rate jumps to 11? What if Congress decides to change the rate from 10 to 11 or 12? Nothing can stop the Congress from doing that. We cannot legislate today and say Congress cannot change its rate tomorrow. Obviously it is something that Congress is not able legally to do.

What will stop Congress? The only way that this modified 10-percent flat tax will ever pass will be with a national major movement, with frustrated taxpayers, as they did with the withholding of dividends and interest fiasco, writing millions of letters to House and Senate Members demanding a change in the Tax Code, demanding support for 5432, the simple and fair modified 10-percent flat tax.

□ 1730

If millions of Americans do that, then Congress will be forced to act. And I rather doubt that Congress would want to slip in extra deductions and slip in higher rates after Congress was forced to make such a radical change, a revolutionary new change, in the Tax Code.

Mr. NIELSON of Utah. So what you are saying is, then, that this would last

for a while, at least get a good start, get people used to this idea.

I commend the gentleman for his initiative, and I intend to support it, although I still have a concern that maybe we are deducting too many things. And whether the 10 percent will actually cover it or not, those are my concerns. I sincerely hope your figures are correct. If I can be convinced of that, I will certainly enthusiastically endorse it.

Mr. SILJANDER. I thank the gentleman for his comments and also, certainly, for his cosponsorship of H.R. 5432.

One last comment before I close out my special order deals with essentially the same issue, dealing with lost revenues.

All right. I mentioned that we have the safety net for the lost revenues, but with the amnesty trust fund of 3 years. We have offered every possible back-bending opportunity to make sure that this bill complies with the arguments, valid arguments, of some of its opponents. If the opponents are correct and the 10-percent flat rate does not stimulate the economy, as I believe it will, as many other economists believe it will, then the Congress has ample opportunity to change the system before it would cut into any important social, military or any other programs that respected Members feel are important programs.

And I want to use one example of why I believe a 10-percent flat rate can in fact be a stimulatory incentive into our economy, which will put more people back to work, which will produce more revenues, because needless to say, with more people working, less people are drawing food stamps and welfare from the system and thereby more contributing by becoming taxpaying citizens and working people.

This example stems from the 1981 debate on capital gains taxes. The same people who are criticizing the 10-percent flat tax, saying we will never produce enough revenue, are the same people who said that if we reduce the capital gains taxes from 50 to 20 percent, Congress would lose revenues and the rich would end up paying less capital gains taxes. Now, analyzing it in what we call a static way or simply saying, yes, if your taxes were 50 percent, they are now 20 percent, needless to say, mathematically—and one does not have to go through calculus to figure this out—it should produce less revenues.

But what they are forgetting in our bill and what they did not see in the capital gains argument is that if you reduce taxes, it can stimulate the economy, it can create an incentive for people to invest more of their time, more of their talent and more of their treasure, money, into the economy, which could produce more jobs, which could end up producing more revenues, not lost revenues.

Let us look and see what happened. In 1981, those of us on what we call the Von Mises, who was a former economist, side of the argument said that by reducing the capital gains taxes from 50 to 20 percent we would gain more revenues. We were laughed at. "How preposterous. You would not gain more revenues," said the other side, the liberal welfare-state side, the Keynesians. They said, "you will lose revenues, 50 to 20 is a drop."

We argued there would be an incentive that would change the net revenue gain. Well, do you know what the results were? Interestingly enough, when Congress finally buckled in and voted for reduction of capital gains taxes from 50 to 20, venture capital tripled, unprecedented in post-World War II. Capital gains taxes to the Federal Government doubled, nearly doubled, even though we lowered the rate. And per person, the wealthy paid more capital gains taxes per person when the rate dropped than when the rate was higher.

Why? Because more wealthy Americans had an incentive to invest more of their time, treasure, and talent, as I said before, into the system, which produced more jobs, which produced a tripling of venture capital, which opened more small businesses, which encouraged the entrepreneuer, which encouraged more investment and spending, which created more jobs, which created more revenues to the Federal coffers.

So let us not be fooled by these analyses of those who are against simplifying and making fairer the tax system. Let us not be fooled by it. A 10 percent can and in fact will work. And we have given a clear opportunity to prove it without hurting the Government if those doomsayers are right in this case and in other cases they have been clearly incorrect.

So I thank the House for its time that I could give all of the membership an update on the 10-percent flat rate income tax, and I encourage all of them to consider cosponsoring H.R. 5432, a countdown to a fair and simple tax system.

THE BUDGET DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. LEVIN] is recognized for 5 minutes.

Mr. LEVIN of Michigan. Mr. Speaker, Mr. Mondale has submitted now his deficit reduction plan, and the question is: Where is the President's?

The President's response has been, in essence, threefold. First of all, he has been keeping as low a profile as possible on the budget deficit issue. He has been avoiding a formal press conference, and he has been seeking as few debates with Mr. Mondale as possible, and none, obviously, would be his preference.

At a kind of a miniconference that the President held a few days ago, on September 11, he was asked, and I quote:

"Are we going to have a full-scale half-hour news conference, sir, before the election?"

And the President answered:

"I don't know, but I have been talking about that myself."

And then he was asked:

"When is the first debate, Mr. President?"

And his answer was: "What?"

And the question was:

"When is the first debate?"

And the President's answer was:

"I can't take any more questions."

So the first response to the President on this critical domestic issue has been to avoid confrontation, to avoid questioning of the press, to avoid debates.

What has been his second approach to this?

Well, he said a few days ago that if Congress had "granted what he had asked for" it would have been, he claims, a $50 billion less deficit.

Well, I could not find the President's justification for that. He has a rather bad track record, as we know, for accuracy on details. And since there is not a press conference, a formal press conference, these days, and no debates, we have to try to dig out the facts ourselves. And it seems to me that the President is, at best, inaccurate, at least as I can dig out the facts. He does not seem to be including in his claim the $67 billion higher budget there would have been if the Congress had not reduced his request in military expenditures.

Also, second, if you look at the assumptions used in the recently published Reagan record by the Urban Institute, my figures indicate that the proposed budget cuts would have resulted in a savings, at best—and these are just the cuts, not taking into account added expenditures—of roughly $24 billion, unless one includes $15 billion in Social Security and medicare cuts for senior citizens, which the President himself, after his proposing them, agreed should not be undertaken.

So, in a word, it is hard to figure out the basis for the President's claim. It seems, at best, inaccurate and, at worst, very, very misleading.

Well, what is the third response of the President? And again I think we need to go to this minipress conference which was held where the President was asked:

"Sir, if I may, growth alone won't do it because you yourself have said previously that spending cuts are the way you want to achieve your goal. Isn't it

fair to spell out to the American people precisely what cuts you have in mind?"

And the President answered:

"Yes, but what I am saying, they are there. Take a look at the budgets I have already submitted and look at the cuts I have asked for and have not been given."

Well, what are these cuts? Let me just refer to some of those, if I might, that the President proposed and the Congress rejected. Does the President really now want to say that he wanted these enacted?

For example:

Abolition of the minimum Social Security benefit for people already on the rolls. Mr. President, did you really want Congress to abolish the minimum Social Security benefit?

Reduce Social Security benefits for early retirees. Mr. President, are you really saying that is what you now favor?

Increase medicare premiums for the elderly. Mr. President, are you now pushing for that?

Increase rents for poorest tenants of public housing. Mr. President, is that what you are claiming you now want?

□ 1740

Elimination of prescription nutrition supplements for 750,000 pregnant women, infants, and children. Mr. President, is that what you are saying you now favor?

Mr. President, it is time for you to propose a plan.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STANGELAND (at the request of Mr. MICHEL), for today and the balance of the week, on account of a death in the family.

Mr. CHENEY (at the request of Mr. MICHEL), for today and until further notice, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARTLETT) to revise and extend their remarks and include extraneous material:)

Mr. LOEFFLER, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, today.

Mr. CONABLE, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, on September 14.

(The following Members (at the request of Mr. KLECZKA) to revise and extend their remarks and include extraneous material:)

Mr. DINGELL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. BROWN of California, for 60 minutes, on September 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. GRADISON.

Mr. GILMAN in three instances.

Mr. MCKERNAN.

Mr. BILIRAKIS.

Mr. CONTE.

Mr. CAMPBELL.

Mr. HYDE.

Mr. IRELAND.

Mr. CHAPPIE.

Mr. BROYHILL.

Mr. PHILIP M. CRANE in two instances.

(The following Members (at the request of Mr. KLECZKA) and to include extraneous matter:)

Mr. BORSKI.

Mr. GARCIA in three instances.

Ms. OAKAR.

Mr. MAZZOLI.

Mr. ACKERMAN.

Mr. ASPIN.

Mrs. COLLINS.

Mr. ERDREICH.

Mr. DE LUGO.

Mr. OBERSTAR.

Mr. HOYER.

Mr. SCHUMER.

Mr. LUKEN.

Mr. EVANS of Illinois.

Mr. STUDDS.

Mr. FLORIO.

Mr. SKELTON.

Mr. DWYER of New Jersey.

Mr. LEVIN of Michigan.

Mr. ECKART.

Mr. STARK in three instances.

Mrs. SCHROEDER.

Mr. KILDEE.

Mr. MITCHELL in three instances.

Mr. FASCELL in three instances.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolution of the Senate of the following titles:

S. 806. An act to provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore;

S. 1546. An act to amend the Deepwater Port Act of 1974, and for other purposes; and

S.J. Res. 25. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site."

ADJOURNMENT

Mr. LEVIN of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, September 14, 1984, at 10 a.m.

EXECUTIVE COMMUNCIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4021. A letter from the Secertary of Energy, transmitting notification of fiscal year 1980 Anti-Deficiency Act violation by the Office of the Secretary, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4022. A letter from the Secretary of the Navy, transmitting a report on the payment of special pay for aviation career officers since September 24, 1983, pursuant to 37 U.S.C. 301b nt (Public Law 98-94, section 904(b)(2)); to the Committee on Armed Services.

4023. A letter from the Secretary of the Treasury, transmitting the 1984 second quarter report on the Olympic Commemorative Coin Program, pursuant to Public Law 97-220, section 11; to the Committee on Banking, Finance and Urban Affairs.

4024. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification that the President has authorized the furnishing of up to $5 million in assistance from the emergency refugee and migration assistance fund for unexpected urgent refugee and migration needs of the International Committee of the Red Cross and the U.N. High Commissioner for Refuges in Africa (Presidential Determination No. 84-13), pursuant to Public Law 87-510, section 2(c)(3) (89 Stat. 771); to the Committee on Foreign Affairs.

4025. A letter from the Administrator, Agency for International Development, transmitting information on the activities funded under the South Africa Human Rights Fund and the guidelines AID designed for the program, purusant to FAA, section 116(e)(2)(D) (97 Stat. 1052); to the Committee on Foreign Affairs.

4026. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting a copy of a proposed new record system submitted by the Defense Mapping Agency, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4027. A letter from the National Commander, American Ex-Prisoners of War, transmitting a copy of the 1984 audit report as of June 30, 1984, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

4028. A letter from the Secretary of Transportation, transmitting a report of contracts negotiated under 10 U.S.C. 2304(a)(11) during the period April 1, 1983, through September 30, 1983; to the Committee on Merchant Marine and Fisheries.

4029. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report on the scientific basis for the conclusions reached by the corps as a result of their study of the possible use of the Potomac River estuary as a possible supplemental water supply source for the Washington metropolitan area, pursuant to Public Law. 93-251, section. 85(b)(3); to the Committee on Public Works and Transportation.

4030. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to amend sections 15, 19 and 20 of the act of March 3, 1899 (33 U.S.C. 409, 414 and 415) to authorize recovery by the United States of costs incurred in removal of wrecks from navigable waters; to the Committee on Public Works and Transportation.

4031. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting the results of the survey of the shoreline of Lake Michigan in the State of Indiana between the communities of Michigan City and Hammond, in the interest of beach erosion control and related purposes; to the Committee on Public Works and Transportation.

4032. A letter from the Executive Secretary, Office of the Secretary of Defense, Department of Defense, transmitting a report on DOD procurement from small and other business firms for October 1983 through May 1984, pursuant to SBA, section 10(d); to the Committee on Small Business.

4033. A letter from the Executive Secretary, Office of the Secretary of Defense, Department of Defense, transmitting a report on DOD procurement from small and other business firms for October 1983 through June 1984, pursuant to SBA, section 10(d); to the Committee on Small Business.

4034. A letter from the Secretaries of the Treasury and of Health and Human Services, transmitting a report on the "float period" for checks issued under title II of the Social Security Act, pursuant to 42 U.S.C. 401 nt (Public Law 98-21, section 153 (d)(1) and (d)(2); to the Committee on Ways and Means.

4035. A letter from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting a report on the Food for Peace Program activities for fiscal year 1982, pursuant to the act of July 10, 1954, chapter 469, section 408(a) (80 Stat. 1537; 89 Stat. 854; 95 Stat. 1282; Executive Order 11963); jointly, to the Committees on Agriculture and Foreign Affairs.

4036. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on the allocation of $140 million appropriated by the Omnibus Supplemental Appropriations Act, 1984, Public Law 98-396, for the Military Assistance Program, pursuant to FAA, section 653(a) (86 Stat. 28); jointly, to the Committees on Appropriations and Foreign Affairs.

4037. A letter from the Comptroller General of the United States, transmitting a report entitled, "Incomplete Participant Data Affect Reliability of Values Placed by Actuaries on Multiemployer Pension Plans" (GAO/HRD-84-38, September 6, 1984), pursuant to 29 U.S.C. 1001 nt.; jointly, to the Committees on Government Operations, Education and Labor, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. Supplemental report on H.R. 3082 (Rept. No. 98-440, Pt. V). Ordered to be printed.

Mr. ANNUNZIO: Committee on House Administration. House Joint Resolution 552. Joint resolution to provide for the reappointment of A. Leon Higginbotham, Junior as a citizen regent of the Board of Regents of the Smithsonian Institution; with amendments (Rept. No. 98-1013). Referred to the House Calendar.

Mr. ANNUNZIO: Committee on House Administration. House Joint Resolution 551. Joint resolution to provide for the reappointment of Anne Legendre Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; with amendments (Rept. No. 98-1014). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6064. A bill to change the tariff treatment with respect to certain articles, and for other purposes; with amendments (Rept. No. 98-1015). Referred to the Committee on the Whole House on the State of the Union.

Mr. ANNUNZIO: Committee on House Administration. H.R. 5611. A bill to authorize the Eleventh Airborne Division Association to establish a memorial in the District of Columbia; with amendments (Rept. No. 98-1016). Referred to the Committee on the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 6012. A bill to amend title 18, United States Code, with respect to sentencing, and for other purposes; with an amendment (Rept. No. 98-1017). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2790. A bill to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes; with an amendment (Rept. No. 98-1018). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2155. A bill to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, and for other purposes (Rept. No. 98-1019, Pt. I). Ordered to be printed.

Mr. LONG of Maryland: Committee on Appropriations. H.R. 6237. A bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-1021). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 6223. A bill to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc. (Rept. No. 98-1022). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 6224. A bill to provide for the assumption of selected functions, programs, and resources of St. Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes; with amendments (Rept. No. 98-1024). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on the District of Columbia. H.R. 4994. A bill to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Inc. (Rept. No. 98-1023). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2823. A bill to amend title I of the Reclamation Project Authorization Act of 1972 in order to provide for the establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge, and for other purposes; with amendments; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than September 21, 1984, for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X (Rept. No. 98-1020, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of the rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONABLE (for himself and Mr. VANDER JAGT):

H.R. 6236. A bill to amend the Internal Revenue Code of 1954 to make certain changes relating to real estate investment trusts; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 6237. A bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1985, and for other purposes.

By Mrs. BOXER (for herself, Mr. FAZIO, and Mr. HUTTO):

H.R. 6238. A bill to prohibit the Secretary of the department in which the Coast Guard is operating from contracting out firefighting and security functions at Coast Guard facilities; to the Committee on Merchant Marine and Fisheries.

By Mr. DURBIN:

H.R. 6239. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending; to the Committee on Government Operations.

By Mr. LOWRY of Washington:

H.R. 6240. A bill to require depository institutions to accurately disclose to consumers all terms and conditions which apply to any account on which interest is paid; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LUKEN:

H.R. 6241. A bill to establish a Commission To Study the Establishment of a National Lottery; to the Committee on Ways and Means.

By Mr. McKERNAN:

H.R. 6242. A bill to amend the Merchant Marine Act, 1936, to establish a new ship construction and reconstruction program to ensure adequate national defence capabilities and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. MONTGOMERY:

H.R. 6243. A bill to amend title 10, United States Code, to prohibit members of the Reserves and National Guard from participating in military or paramilitary activity except as directed or authorized by the United States; to the Committee on Armed Services.

By Mr. OTTINGER (for himself, Mr. DOWNEY of New York, Mr. HEFTEL of Hawaii, and Mr. SHANNON):

H.R. 6244. A bill to extend the tax credit for residential energy conservation expenditures, to reduce the maximum dollar amount of such expenditures and increase the percentage of such expenditures which may be taken into account in determining the amount of such credit, to eliminate the tax credit for taxpayers with adjusted gross incomes in excess of $40,000, and for other purposes; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 6245. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the deductions allowed for personal exemptions; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself, Mrs. BOXER, and Mr. HANCE):

H.R. 6246. A bill to amend section 1408 of title 10 United States Code, to eliminate certain reductions from the amount of retired or retainer pay which a spouse or former spouse of a member of the uniformed services is entitled to receive as a result of any court order; to the Committee on Armed Services.

By Mr. STARK:

H.R. 6247. A bill to disclaim any right, title, or interest of the United States in certain lands located in the State of California upon the conveyance by the Southern Pacific Transportation Co., of such lands to the East Bay Regional Park District, a special district of the State of California; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN (for himself, Mr. HUGHES, Mr. SAWYER, Mr. SMITH of Florida, Mr. FEIGHAN, Mr. MORRISON of Connecticut, and Mr. SENSENBRENNER):

H.R. 6248. A bill to amend title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to provide enhanced penalties for certain persons possessing firearms after three previous convictions for burglaries or robberies, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

H.J. Res. 646. Joint resolution to designate the week of September 8, 1985, as "National Independent Retail Grocer Week"; to the Committee on Post Office and Civil Service.

By Mr. WEISS (for himself, Mr. ALEXANDER, Mr. GEJDENSON, Mr. MILLER of California, and Mr. ACKERMAN):

H. Con. Res. 357. Concurrent resolution calling for the restoration of democracy in Chile; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. LONG of Louisiana:

H. Res. 582. Resolution electing Representative MacKay of Florida to the Committee on Foreign Affairs, and Representative Darden of Georgia to the Committee on Government Operations; Considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

473. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the U.S. Maritime Fleet; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 6249. A bill for the relief of Anne Brusselmans; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 6250. A bill for the relief of Willie G. Simpson; to the Committee on the Judiciary.

By Mr. THOMAS of Georgia:

H.R. 6251. A bill for the relief of Kenneth J. Bonkowski; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 73: Mr. TORRICELLI.

H.R. 1617: Mr. MICA, Mr. TRAXLER, Mr. COYNE, Mr. DICKINSON, and Mr. RIDGE.

H.R. 3821: Mr. BORSKI, Mr. SHANNON, Mr. TRAXLER, Mr. HERTEL of Michigan, Mr. AKAKA, and Mr. MORRISON of Connecticut.

H.R. 4402: Mr. MICA.

H.R. 4428: Mr. AKAKA, Mr. MACKAY, Mr. PATTERSON, and Mr. SCHEUER.

H.R. 4659: Mr. SUNIA.

H.R. 5028: Mr. BATES.

H.R. 5141: Mr. BORSKI and Mr. MCKINNEY.

H.R. 5159: Mr. COURTER and Mr. MOODY.

H.R. 5272: Mr. FISH and Mr. YOUNG of Florida.

H.R. 5305: Mr. HANCE.

H.R. 5370: Mr. MARTINEZ and Mr. WILLIAMS of Montana.

H.R. 5440: Mr. YOUNG of Alaska.

H.R. 5641: Mrs. JOHNSON and Mr. MCCOLLUM.

H.R. 5704: Ms. OAKAR.

H.R. 5732: Mr. MURPHY, Mr. AKAKA, Mrs. HOLT, and Mr. KOGOVSEK.

H.R. 5802: Mr. CROCKETT, Mr. NEAL, and Mr. HAMILTON.

H.R. 5955: Mrs. LLOYD, Mr. OTTINGER, Mr. MCCOLLUM, and Mr. DWYER of New Jersey.

H.R. 6021: Mr. SIKORSKI, Mr. GREGG, Mr. HIGHTOWER, Mr. RIDGE, Mr. GEJDENSON, Mrs. HALL of Indiana, Mr. WYLIE, Mr. GORE, Mr. TAYLOR, Mr. WHITTAKER, Mr. RICHARDSON, Mr. COLEMAN of Missouri, and Mr. PACKARD.

H.R. 6035: Mr. DELLUMS.

H.R. 6043: Mr. AKAKA, Mr. ANNUNZIO, Mr. ASPIN, Mr. BEVILL, Mr. BONIOR of Michigan, Mr. DELLUMS, Mr. DOWDY of Mississippi, Mr. DWYER of New Jersey, Mr. EDWARDS of California, Mr. FORD of Michigan, Mr. KOLTER, Mr. KOGOVSEK, Mr. KOSTMAYER, Mr. LEHMAN of Florida, Mr. MITCHELL, Mr. ROE, Mr. SAVAGE, Mr. SWIFT, and Mr. VENTO.

H.R. 6072: Mr. EVANS of Illinois, Mr. SAVAGE, Mr. GARCIA, Mr. HAYES, Mr. TOWNS, Mr. FRENZEL, Mr. MINETA, and Mr. WILLIAMS of Montana.

H.R. 6080: Mr. MITCHELL.

H.R. 6145: Mr. PORTER.

H.R. 6162: Mr. CLAY, Mr. RANGEL, and Mr. DE LUGO.

H.R. 6175: Mr. KILDEE.

H.R. 6179: Mr. STENHOLM, Mr. NICHOLS, Mr. CRAIG, Mr. SPRATT, and Mrs. HOLT.

H.R. 6210: Mr. STOKES.

H.R. 6231: Mr. GORE, Mr. MCNULTY, Mr. BARNARD, and Mr. THOMAS of California.

H.J. Res. 243: Mr. ANDREWS of North Carolina, Mr. SCHAEFER, and Mr. WATKINS.

H.J. Res. 496: Mr. MARRIOTT and Mr. CORCORAN.

H.J. Res. 508: Mr. BATES.

H.J. Res. 589: Mr. ACKERMAN, Mr. RITTER, Ms. OAKAR, Mr. ROWLAND, Mr. KRAMER, Mr. LAGOMARSINO, Mr. GUARINI, Mr. LEVITAS, Mr. GINGRICH, Mr. WIRTH, and Mr. STUMP.

H.J. Res. 613: Mr. HUCKABY, Mr. BRITT, Mr. SCHEUER, Mr. ADDABBO, Mr. WORTLEY, and Mr. SPRATT.

H.J. Res. 638: Mr. BARNARD, Mr. ROWLAND, Mr. DEWINE, Mr. CARR, Mr. REID, Mr. BERMAN, Mr. DAUB, Mr. ROBERTS, Mr. FOGLIETTA, Mr. TAUKE, Mr. BEDELL, Mr. LEACH of Iowa, Mr. AKAKA, Mr. FAZIO, Mr. COELHO, Mr. WILLIAMS of Ohio, Mr. OLIN, Mr. HAWKINS, Mr. EMERSON, Mr. DYMALLY, Mr. DE LUGO, Mr. JENKINS, Mr. RODINO, Mr. LEVIN of Michigan, Mrs. HOLT, Mr. ANNUNZIO, Mr. DE LA GARZA, Mr. BURTON of Indiana, Mr. LAFALCE, Mr. BLILEY, Mr. LONG of Maryland, Mr. HARKIN, Mr. MARTINEZ, Mr. ST GERMAIN, Mr. YOUNG of Alaska, Mr. COLEMAN of Missouri, Mr. HANSEN of Idaho, Mr. SMITH of Iowa, Mr. WYDEN, and Mr. WORTLEY.

H. Con. Res. 320: Mr. SCHEUER and Mr. LEHMAN of Florida.

H. Con. Res. 322: Mr. DORGAN and Mr. GIBBONS.

H. Res. 518: Mr. KASICH, Mr. CARNEY, Mr. DANIEL B. CRANE, and Mr. SUNDQUIST.

SENATE—*Thursday, September 13, 1984*

(Legislative day of Wednesday, September 5, 1984)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

There is no power but of God; the powers that be are ordained of God.—Romans 13:1.

God of truth, justice and love, with heavy hearts we watch the way religion is being treated as an issue in the political campaign. We recall that some of the bitterest wars and most flagrant obscenities in history have involved religion.

Gracious God, we pray that the restraint of our Founding Fathers, most of whom took God seriously, may be true today. We appreciate their religious conviction as expressed in the first amendment and their concern that Government not be involved in religion.

Father of us all, may we heed the counsel of Jesus in His sensitivity to the reality of the secular and the sacred, when He said, "Render unto Caesar the things which are Caesar's and unto God the things that are God's." (Matthew 22:21). May this distinction be honored in present circumstances.

Grant, dear God, to us who profess faith in You, that our practice will conform to our profession, as we remember the Bible's admonition, "If one say, 'I love God' and hates his brother, he is a liar: for he that loves not his brother whom he has seen, how can he love God whom he has not seen?" (I John 4:20). Grant us grace to practice love, the supreme evidence of authentic faith. In His name, who is love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

(Mr. CHAFEE assumed the chair.)

ALASKA'S DAIRY INDUSTRY

Mr. STEVENS. Mr. President, a recent issue of the Wall Street Journal carried an article on Alaska's dairy industry. It spoke to the trials and tribulations of literally cutting new farms out of the wilderness.

Over the past 20 years or so Alaska's instate production of milk has gradually gone down. In 1960 we produced 20.4 million pounds of milk. By 1970 that had dropped to 18.6 million pounds and hit a low of 13.4 million pounds in 1983. As a State we have been attempting to reverse that decline. Several years ago, during the administration of former Gov. Jay Hammond, a decision was made to open up a large tract of State land to dairy farmers across Knik Arm from Anchorage at an area called Point Mackenzie.

The development of that project has not been easy. Initially there were problems with the way the land was auctioned off. One of the unusual features of the land disposal program has been the condition attached to the deed which requires that the land be used for agricultural purposes. The farmers are also required to clear a minimum amount of land and begin production within a set period. This was done to keep people from buying the land solely for speculation.

There have been other problems as well. The farms are not connected to a power grid so they have to produce their own electricity. Also there are wild animals wandering through the fields and not infrequently a bear comes calling.

I think, Mr. President, that you can see Alaskans take farming seriously. We want to be more self-sufficient and not as dependent on the import of all of our food as we have been in the past. The efforts of Mrs. Lee, one of the farmers on Point Mackenzie profiled in the Journal article, and others, speak to the pioneer spirit which lead to the movement west across this country and which you will still find in Alaska.

I ask unanimous consent that the article on dairy farming in Alaska from the Wall Street Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 15, 1984]

CAN A DAIRY FARMER IN ALASKA SURVIVE THE ICE-CREAM GAGS?—OTHER HARDSHIPS FOR MRS. LEE INCLUDE LACK OF ELECTRICITY AND NO LACK OF PREDATORS

(By Ken Wells)

POINT MACKENZIE, ALASKA.—Karen Lee has plenty of land, but she needed cows to make it a farm. Out here, cows have been about as plentiful as moose in Florida. So she had to fly in part of her herd from Washington state, 2,800 miles away.

"That's all part of farming up here," says Mrs. Lee, whose 1,129-acre dairy farm lies like Alaska itself, a little off the beaten path.

As a dairy farmer, the 38-year-old Mrs. Lee is a rare breed in this cold, remote state where most people come to live in or off the wilderness, or to pump out the oil.

She has chopped out her dairy from rolling spruce and birch woodlands acquired cheaply from the state in a recent lottery aimed at spurring Alaska's paltry dairy production.

The parcel is part of a 15,000-acre tract on the northwestern rim of Cook Inlet that the state hopes will one day support 19 dairy farms. But the land, though only 10 miles from Anchorage by boat, lies 100 miles from the city by road. And the lack of ordinary improvements like telephones, power and water lines makes it about as remote as a 19th century homestead.

SIZABLE INVESTMENT

But Mrs. Lee, a second-generation Alaskan farmer whose investment is already about $2 million, much of it borrowed, seems on her way to large-scale milk production, with 250 cows. Her farm is just south of Wasilla, where her husband, John, has a construction business, and not far from Palmer, where her parents were pioneer Alaskan dairy farmers.

While Mrs. Lee has a running start toward a successful operation, some others trying to start dairy farms here may never milk their first cow. Buffeted by state deadlines for clearing their property, ceilings on state-subsidized loans, rising costs of private capital and the difficulties of frontier farming, some have already given up. Others are teetering on the edge.

For those like Mrs. Lee who make it to production, the hard work is just beginning. They face tiringly dark, frigid winters, short, unpredictable summers, costly feed supplies, predators and difficulties in marketing their milk products.

Not to mention all those jokes about raising "snowcows" that are more likely to produce ice cream than milk in Alaska's frigid climate.

"It does make you wonder why anybody would want to do this up here," Mrs. Lee says with a laugh. "But then you could say that about farming anywhere in the country."

Jerry Purser, a state agricultural agent who has been helping to advise the Point MacKenzie dairy aspirants, says, "The real difference in dairy farming—any kind of farming in Alaska—is that there just isn't room for error." Because of the state's unforgiving climate and the high costs, he adds "you've got to do everything right the first time or you're in trouble."

That may explain why Alaska farming, though practiced on a small scale ever since the state was bought from Russia in 1867, has remained small potatoes in the state's economy. The state supports a mere 400 farms, and fewer than 100 of them are large, full-time operations.

Last year, Alaska farm income reached a record $19 million, up sharply from previous years but peanuts compared with the state's

multibillion dollar oil industry and a tourist trade valued at several hundred million dollars annually.

By comparison, Texas has more than 200,000 farms and annual farm income of more than $10 billion. There are single counties in Iowa and Illinois that boast more farms, and farm income, than all of Alaska.

But in a state weary of importing just about everything it eats, officials believe farming has a modest future. So since 1978, Alaska has been selling state land in auctions or lotteries such as the one in which Mrs. Lee got her property in hopes of cultivating a viable agricultural industry.

Of the estimated 200,000 acres now officially classified as Alaska farmland, about 80% has been transferred by the state into private hands since the program began, says Bill Heim, the state's agricultural director.

The Point MacKenzie lottery two years ago was typical of how the program works. Thirty-one parcels averaging 450 acres were sold for $100 an acre to those whose names were drawn randomly. Coupled with that, the state also offered buyers up to $1 million in low-interest loans to help develop the property.

CONDITIONS ATTACHED

Farm experience wasn't required to participate in the lottery. But to discourage speculation, the land comes with the stipulation that it can't ever be used or sold for purposes other than farming. Buyers also are required to clear at least 40% of their acreage and begin production within three years of acquisition, or face forfeiture.

Mr. Heim believes that Alaska should be able to increase its farm acreage 10% to 20% a year over the next five to 10 years, although there probably aren't more than 2.5 million farmable acres in the entire state.

"But there's no question that there's a long-term outlook for farming up here. Considering that we import 95% of what we use, there's obviously a ready-made market for fresh agricultural products," Mr. Heim says.

Mrs. Lee and others are gambling that milk isn't an exception. Currently, there aren't more than a dozen dairies in the state, and they produce just a fraction of its milk consumption.

Though it cost more for Alaska farmers to produce a gallon of milk than it does for farmers in the lower 48 states, the transportation costs added to imported milk make Alaskan dairy products competitive, Mr. Heim says.

The fact that locally produced milk is fresher when it reaches the market should also help give farmers like Mrs. Lee a competitive advantage, he says.

PROBLEMS OF FEED CROPS

Theoretical advantages, however, haven't been much comfort to Mrs. Lee. After putting up barns and toughing out a couple of Alaska's frigid eight-month winters, she has watched drought and wind ravage her feed crops the past two springs. As a result, she was forced to buy feed for her cattle. Profitability of the Point MacKenzie farms is ultimately expected to depend on their producing at least part of their feed.

"This year, the crop so far is looking good," says Mrs. Lee. "We're just hoping it stays that way."

But even good crops won't ensure success. Lacking electricity, Mrs. Lee and others are operating milking machines with generators that can consume $150 in fuel daily. A state-subsidized power line to the area was recently approved, but it may still be a year away from construction.

"Without power out there, it'll be a disaster," Mr. Purser says. "Fuel costs up here are horrendous. Over the long run, you just can't operate that way and expect to make it."

Mrs. Lee also has learned that self-reliance on an Alaskan dairy farm isn't optional. In Wisconsin, if your milking machine goes down, you call the local supplier down the road. At Point MacKenzie, the nearest supplier is about 40 miles away over roads rough and rutted in the summer and heaped with snow much of the winter. Because there are so few farms, the few suppliers keep low inventories, making the parts expensive and hard to get.

"So out here if you have a problem, you just learn to fix it yourself," Mrs. Lee says. In hiring a herdsman, for example, she picked a man who can double as a diesel mechanic.

Mrs. Lee faces other problems, including uncertainty about whether the region's sole milk processor and distributor, Matanuska Maid Dairy Inc., will be around by the time her dairy is in full operation. The processor recently filed for reorganization under bankruptcy laws and will fold without a long-term rescue plan, state officials say.

OTHER ANNOYANCES

There are countless other annoyances in farming these remote lands: the hunters who run four-wheel-drive trucks through recently planted hay fields, thinking the land is still public, and the bears that lurk near some of Point MacKenzie's pastures.

Bears, however, are the least of the problems for some other new farmers here. Harry Wassink, a former government physicist, entered the Point MacKenzie lottery with no farming experience, attracted by the lure of owning his own land.

But Mr. Wassink has yet to bring in his first cow. Clearing the land has gone slower than expected, red tape for qualifying for state assistance has grown cumbersome, debts have piled up and a deadline for the partial clearing of his land isn't far away.

A missed deadline would probably mean forfeiture of his property and the loss of about $150,000 of his own capital.

But Mr. Wassink perseveres. Most days, he commutes by boat from his home in Anchorage to his 474-acre plot. There, he mounts a home-rigged bulldozer and mows down trees, pushing them into a pile where they can be burned. In his mind's eye, at least, he sees a farm springing from the wilderness.

"I'm clearing my land and keeping the debt service as low as I can," he says. "I think there's a chance of success or I wouldn't keep doing this."

SENATE SCHEDULE

Mr. STEVENS. Mr. President, the situation today is that we have an agreement that following the special orders and the time set for routine morning business, which will end at 11 a.m., the rule XXII time will start. That will mean that the vote on cloture, unless there is an agreement to change it, will take place sometime after 12 o'clock. Members should be aware that that is the case.

I will confer with the distinguished Democratic leader to see if it is possible to move that time to the period of 4:45 to 5 o'clock to accommodate the majority leader who will not be back until that time.

I did confer with the majority leader last night. He indicated if it was not possible, although he would like to be here, that he understood the situation and that we should proceed according to the rules and get this cloture vote completed.

It is the hope of the majority leader that cloture will be voted, that we will be able to complete the work on this bill and complete it today if that is at all possible.

I would remind the Senate that we have the problems of TV in the Senate, the trade bill, the highway bill, the water resources bill, the clean water bill, and the product liability bill. We also have the military construction, Labor, Health and Human Services, and the Interior appropriation bills that are ready to go.

We are hopeful that the results of the negotiations with the House will lead to the adoption of the budget resolution so that the point of order that has been raised against those bills will no longer be proper. We expect that a week from tomorrow the House will be considering the continuing resolution. That, I personally hope, will be preceded by the defense authorization bill. But in any event, in that continuing resolution must be foreign operations, Defense, Transportation, and, if they are not acted on prior to that time, military construction, Labor, Health, and Human Services, and Interior appropriations. We must also complete work on the debt ceiling bill, and there is an agreement with the other body that we will adjourn sine die on October 4. So it is going to be a very tough proposition for the Congress to complete the work on this agreed agenda within this period of time. I think Members should be on notice there will be a session tomorrow, and we will be in session late this evening.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

PENTAGON COST PROBLEMS ARE STILL OUT OF CONTROL

Mr. BYRD. Mr. President, the administration has recently indicated that it has taken aggressive action to eliminate the problem of overcosting of spare parts and component that have been revealed over the last 2 years. The administration would like us to believe that oversight and reform of its system for purchasing

tools, spare parts, equipment components and so on have reduced the problem to manageable proportions.

However, a report in the New York Times of yesterday, September 12, 1984, demonstrates that such claims are highly exaggerated and that the Pentagon is still apparently unable to protect the taxpayer's dollar in its everyday buying practices. According to the New York Times reporter Charles Mohr, there is responsible documentation of the Air Force paying some $170.98 for a flashlight this year, although comparable flashlights are available on the open market for $24.99. An aluminum ladder, as another example, used on C-5 Air Force transport planes, is being purchased for $74,165. Similar outrageous examples are cited by Mr. Mohr for components of military jet engines and cockpit items.

It is instructive, Mr. President, that these revelations come not from the Weinberger Pentagon team, but from anonymous tips from Air Force employees and from the investigations by nonprofit private groups.

This report is yet the latest in the endless stream of pricing scandals which the Nation has been treated to during the tenure of the present administration. It is my hope that the appropriate committees in the Senate will review this latest group of revelations and conduct a thorough evaluation of the causes of such inexcusable purchases.

Mr. President, this administration is squandering the basic consensus of the American people that higher defense budgets will, as repeatedly contended by the administration, bring about a stronger defense. There must be some demonstrated case made soon that the Weinberger Pentagon is serious about reform of contracting and purchasing practices. It is a matter of continuous and mounting frustration for those of us who support a strong defense to find, over and over again, that the taxpayer's money is literally being thrown away to pay outrageous amounts for commonplace items.

The New York Times story is entitled "Soaring Costs Found in Military Craft Components." I ask unanimous consent that the New York Times article be reprinted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOARING COSTS FOUND IN MILITARY CRAFT COMPONENTS

(By Charles Mohr)

WASHINGTON, September 11.—Newly obtained documents indicate that the prices of some components of large Air Force transport planes are about four to five times what they were four years ago and that the Government this year is paying $170.98 for a flashlight, $13,905 for a crew chief's chair and $74,165 for an aluminum ladder.

Once again such disclosures, made by Air Force employees, seem to contradict repeated assurances by Secretary of Defense Caspar W. Weinberger that it is the Pentagon itself that uncovers such prices and that it is dealing effectively with the problem of excessive prices for military parts.

The documents were made available by the nonprofit Project on Military Procurement, which serves as a pipeline from anonymous Government "whistleblowers" to journalists. The group supplied copies of price lists and photographs of the items.

MORE DISCLOSURES PROMISED

Representative Barbara Boxer, Democrat of California, said she would continue to press for legislation requiring more competition in military spare parts and would have additional disclosures next week. One of her staff members said he had accompanied Dina Rasor, director of the procurement project, to an Air Force base, where he had seen the items in question and the price lists and could confirm the prices. He and Miss Rasor would not identify the base.

The availability of both paper and microfilm lists seem to leave little doubt about allegations of price anomalies for parts and components for the C-5 and C-141 transport planes, the largest and second largest aircraft in the United States inventory.

A folding ladder to permit the crew of the Lockheed C-5 to ascend or descend from the cabin is priced at more than $74,000. Although this item contains hydraulic components to unfold the ladder, Miss Rasor reported Air Force employees had said it was greatly overpriced. Having climbed it herself, she called it "unsturdy."

A seat of vinyl foam padding and metal for the aircraft crew chief was shown in current microfilm price lists as costing $13,905.

A small rechargeable flashlight for emergency use is listed in the Air Force price lists at $170.98. Miss Rasor said she had been told that 28 such flashlights were carried on each C-5 transport. This would amount to a total bill of $4,787.44 for flashlights for each aircraft, Miss Rasor said Montgomery Ward department store sold a similar flashlight for $24.99 "with a guarantee."

PRICING OF PLANE COMPONENTS

But larger problems may be involved. A. Ernest Fitzgerald, a well-known Air Force whistleblower, has repeatedly asserted that the same pricing policies are applied to total weapon systems as to spare parts. Vendors charge their "actual costs" plus "a reasonable profit." Thus the C-5 transport may be priced much like its spare parts.

Miss Rasor's disclosures today seemed to confirm this suggestion. She said the ring cowl surrounding the C-5 engine was listed in 1980 at a price of $94,730 each but that the microfilm price list for March 1984 was $367,676 each. This is a price increase of about 288 percent, or nearly four times the price four years ago.

The engines of C-5's have metal doors on each side that permit air flow and maintenance. According to the documents, the price for such doors was $166,097 in March, up about 377 percent from $34,837 in 1980.

The documents also described a simple plastic "pilot control wheel" that fits over but does not include the control stick that flies the C-5 aircraft. It is priced in 1984 at $2,733.70 and is apparently not much different than an automobile steering wheel.

In July 1983, Secretary Weinberger announced a 10-point program to improve buying practices by such steps as rewarding employees who "vigorously pursue cost savings," disciplining negligent employees and encouraging greater competition in purchasing. His announcement followed a report earlier that month by the inspector general of the Defense Department that about 30 percent of military spare parts had increased in price 500 percent or more in the period from the fiscal year 1980 to 1982. An example was the pricing of a 67-cent bolt at $17.69.

The special counsel of the Merit Systems Protection Board and other critics of the Weinberger program say employees who pursue cost savings have been persecuted by the Defense Department, rather than being rewarded.

Mr. Fizgerald's contention that pricing results from established policies was echoed last year by L.O. Kitchen, president of Lockheed. "The contractor is not trying to gouge the customer—he is following long-established and approved accounting policies and pricing formulas," Mr. Kitchen said. "Existing cost and pricing practices, even though proper, inevitably result in prices charged which appear disproportionately high when compared to the intrinsic value of the particular part."

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLOTURE VOTE

Mr. STEVENS. Mr. President, just so there is no misunderstanding at all, it is now the intention of the leadership to go ahead with the cloture vote as soon as the time under rule XXII has expired. That vote should occur sometime in my judgment between 12:15 and 12:30 p.m. We want Senators to be on notice that that cloture vote on the banking bill will occur right after noon. My personal judgment is that the Senate is better off to face this cloture vote earlier in the day so that we can determine whether or not we will be able to complete this bill today. That will be our intention to try to complete the bill today if it is at all possible. On behalf of the leader, I have been requested to urge that the Senate do terminate as soon as possible the debate on this bill so that we can get on to other equally pressing matters that are before the Senate, and must be completed before October 5.

Mr. BYRD. Mr. President, will the distinguished assistant Republican leader yield?

Mr. STEVENS. Yes; I am happy to do so.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his statement which alerts all Senators on both sides of the aisle to the fact that

the cloture vote will be occurring earlier today than might have been anticipated.

The distinguished assistant leader is, I believe, indicating that the special orders that have been granted for the recognition of Senators will proceed as ordered, and that morning business as ordered will proceed at the close of which, am I correct, the 1 hour under Senate rule XXII would begin running?

Mr. STEVENS. Yes; the distinguished Democratic leader is correct in his statement.

My understanding of the situation is that we do have four special orders. When they are completed, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., and at 11 a.m. we will resume the consideration of the banking bill and the 1 hour required by rule XXII will commence at that time. Then there will be a quorum, and we will proceed with the cloture vote following that. So I am hopeful that we will be able to get on to the very serious matters that are contained in some of the amendments that are pending before the Senate on this bill and dispose of them today.

Mr. BYRD. Mr. President, if I have any time remaining under the standing order I yield it back.

Mr. STEVENS. I yield back my time also.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

MASS MURDER IN PERU

Mr. PROXMIRE. Mr. President, the Washington Post on August 31, 1984, reported one tragic consequence of the 4-year guerrilla war between the Peruvian Government and Maoist rebels. It recounted the gruesome slaughter that took place near Huanta, an Andean town southeast of Lima.

The Post stated that, "Fifty bodies, naked, hands bound behind their backs, hooded and disfigured beyond recognition," were removed from a fresh grave in late August. The military claimed that the killings were done by guerrillas, but the article noted that Government forces may have been involved.

Although these killings were probably motivated by efforts to eliminate a political group, they remind us of the horrifying acts committed in attempts to eliminate racial, ethnic, religious, and national groups.

The way in which those murdered were treated in the hands of their slayers, whoever they were, reminds us of the way those guilty of genocide have treated their fellow man. Those who have committed genocide, the attempt to destroy an ethnic, religious, national, or racial group, have always been unfeeling toward their victims. Indeed, they must be in order to carry out their plans.

After World War II, the nations of the world took a step to see that such unfeeling individuals would be condemned and punished. The United Nations in 1948 unanimously adopted the Genocide Convention. This treaty makes genocide an international crime and sets forth rules to try individuals accused of such an act.

By ratifying the Genocide Convention, over 90 nations have reasserted their intention to deal firmly with those who are guilty of such horrifying acts as those against the Jews under Hitler and the Cambodians under Pol Pot. We have not. These nations have decided to enact laws to try a person for crimes of genocide. We have not.

The horror of this mass killing in Peru should renew our determination to prevent all human rights abuses in the future. We can enhance our stand against such abuses by declaring that acts of genocide are not only a loss to a specific country, but a loss to all of mankind. Ratification of the Genocide Convention would make this declaration.

On September 5, the Reagan administration announced its support of the Genocide Convention. This has given us our best chance for ratification. We must not pass up this opportunity. The time has come to ratify the treaty.

DOES THE REAGAN ADMINISTRATION WANT ARMS CONTROL?

Mr. PROXMIRE. Mr. President, what is the key to survival in a world of nuclear weapons? What can we do to give our children and grandchildren a fighting chance to avoid a nuclear war? First, we can and must do everything within our power to bring an understanding of the threat a nuclear war represents to life on Earth. Nearly 30 years ago, Gen. Omar Bradley observed that it was not the public fear of nuclear war that surprised him—but precisely the opposite, the colossal indifference to it.

Why is the public attitude so important? Because, in this democracy, nothing, but nothing, has more sheer power than public opinion. What the American people want from the top Federal officials if they want it badly enough, and they persist long enough, they get.

Judging by the thousands of people I listen to in my State of Wisconsin, the No. 1 priority of our Federal Government by far should be to prevent a nuclear war. Most Wisconsin citizens do not trust the Soviet Government. They believe the Soviets will cheat on a nuclear agreement if they can get away with it. Wisconsin citizens also believe that we should negotiate with the U.S.S.R. from a position of nuclear strength.

So my constituents have a healthy and wise skepticism about the intentions of the Government of the Soviet Union. And yet as long ago as September 14, 1982—nearly 2 years ago—they voted by a smashing 3 to 1 margin to support a statewide referendum calling for immediate negotiation between America and the Soviet Union of a mutual and verifiable freeze on the testing, manufacture, or deployment of nuclear weapons.

Mr. President, virtually every statewide referendum held elsewhere in the country and every professional public opinion poll has continued to confirm the overwhelming popular strength of this American sentiment for the President of the United States negotiating an end to the arms race with the Soviet Union. As time has passed, public opinion support for these negotiations has not weakened. It has strengthened. Well, this is a democracy. How about it? What has the Federal Government, and specifically the President, done to respond to the public will? He has done precisely what any smart, well-advised President will do when he flatly disagrees with a position the public supports, but he opposes. Keep in mind that no American President has ever had as constant and unremitting a record of opposition to arms control as President Ronald Reagan, and yet since 1982, he has given glowing and constant lip service to arms control. Indeed, the President now says arms control is the objective of his administration. He claims credit for not just words but deeds. For example, after all, did not he initiate the START talks arms control proposal to limit the number of nuclear missile launchers on both sides? The President says he is willing to negotiate. For those negotiations, however, he assigned as hardline an American team of anti-Soviet hawks as ever represented this country, including Paul Nitze. But that was not all. When Nitze did discuss a tentative agreement with the Soviets in his famous walk-in-the-

woods, the President promptly yanked the rug out from under Nitze, telling Nitze and the U.S.S.R. to forget it. Were Nitze and the Soviets getting too close to an actual arms control agreement?

Of course, it is true that the Soviets—not the American negotiators—walked away from the START talks as well as the Intermediate Nuclear Force [INF] talks designed to reach some kind of balance and limitation on nuclear weapons deployed in Europe. It is also true that arms control negotiations with the U.S.S.R. will always be painful and difficult. And yes, indeed, any agreement will require detailed and specific verification procedures and constant, unremitting monitoring. But why not try for a comprehensive mutual and verifiable nuclear freeze—that would end the arms race overall?

Does the Reagan administration believe we will win the nuclear arms race? Do they think that such a victory could bring us anything except the greater certainty of nuclear war? The sure way to make no progress in arms control is the piece-by-piece Reagan approach, proving that it is not hard for either side to take positions that will doom arms control talks to failure and knowing further that every failure helps to discredit arms control.

For the definitive, classic example of the technique, take the administration's position in the Strategic Defense Initiative or Star Wars. The administration is calling on the Congress to spend $25 billion in the next 5 years just to research—just to research, not to produce or procure or deploy nuclear weapons, but just to research these particular weapons for antiballistic missile problems and possibilities.

This would lead to a manufacture and deployment that probably would cost $1 trillion or more. But now—get this—it will not work unless the Soviets agree to an arms control treaty that will limit offensive missiles on both sides and permit the defensive missiles we and the Soviets would deploy to knock out the limited number of offensive missiles the Soviet and the United States would be permitted under the arms control treaty.

Beautiful! The administration sells this trillion-dollar expenditure for carrying the nuclear war into space as a defensive system aiming to save lives and based on arms control. When the Soviets reject this kind of arms control—as they obviously will—the President comes down as a first and last arms control advocate. He claims he is only carrying the nuclear arms race into space because the other side walks away again from arms control.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

SOUTHEASTERN ALASKA'S PULP MILLS

Mr. MURKOWSKI. Mr. President, over the past several days, I have expressed my earnest wish for the passage of a clean water bill during this session of Congress. Furthermore, I have noted Alaska's desire to propose an amendment to the clean water bill for the purpose of resolving a problem facing two pulp mills in the southeast portion of my State. To that end, I have urged my colleagues to become apprised of the history and technical aspects of the problem in order that the basis for and objective of our proposal be understood.

The proposal has three components: First, an EPA study of 4 months duration to evaluate the very real environmental problems facing the Alaska mills; second, a resolution of that problem by the EPA Administrator based on the findings of the study; and, finally, a durational resolution which does not and will not adversely impact the environment.

The Alaska pulp mills are the only mills producing viscose pulp in the United States by permit. All mills located in other areas of the United States produce another grade of pulp called acetate. This distinction is important from the aspect of objective fairness. The Alaska mills are not in competition with any other U.S. producer of viscose pulp unless those producers are operating without a permit to do so. Rather, the only market competitors of any note are located in British Columbia and South Africa.

Thus, the dissolving sulfite pulp subcategory of which the Alaska mills are a part is divided into two parts: The Alaska mills which make viscose pulp and, the lower-48 mills which make acetate pulp. At this time, none of the pulpmills in the sulfite pulp subcategory are operating on permits based upon the guidelines passed for that subcategory. Rather, each is operating on effluent discharge levels determined by EPA's best engineering judgment.

Because acetate is a more highly refined product, best engineering judgment is predicated on a notion that there will be a greater effluent discharge than if the mill produced viscose pulp. Nonetheless, EPA has promulgated guidelines which place a greater burden on the viscose mills in terms of dollars spent and technology in place than those imposed on the acetate-producing mills. Accordingly, were the Alaska mills forced to achieve the 10-percent increased reduction of nontoxic, outfall required by the lopsided EPA guidelines, they would be the only portion of the subcategory to do so.

Mr. President, our proposal will simply require the EPA to look at this issue in all its complexity, focusing on cost and a total environmental approach. Essentially, it would require the Alaska viscose mills to spend as much as the viscose model mill for its subcategory. If the mill has already spent this much, alternate effluent limitations would be set by the Administrator of the EPA.

The proposal does no violence to the technology based requirements of the act. The Alaska mills installed secondary treatment technology as required under the act. The issue is at what level of effluent discharge the equipment will be operated.

For reasons already noted, our proposal does not require the mills to do less than the other mills in their subcategory. The other mills in the subcategory—the acetate mills—are, as I said, operating on a best-engineering-judgment permit just as the Alaska mills are. Finally, our proposal is endorsed by the Alaska State Department of Environmental Conservation because any additional water effluent reduction will have an adverse impact on the State's air program. The Department assures me that water quality standards are presently being met by the mills and that an additional effluent reduction will be environmentally insignificant. Accordingly, I believe that our proposal to require the EPA Administrator to review the air and solid waste pollution impacts of this additional water effluent reduction will achieve a positive environmental impact.

In closing, Mr. President, I again reaffirm my commitment to a clean water bill this session and my willingness to work diligently toward that goal.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S UNDERSTANDING OF U.S. SECURITY CHALLENGES

Mr. HART. Mr. President, this week in his news conference at the White House, President Reagan made a statement concerning our nuclear forces which was truly incredible and which has gone, unfortunately, virtually unnoticed. Since many of his "mistakes,

misstatements, and misquotes" often do tend to get ignored, perhaps this should not be surprising. But in this case, I believe this Senate and the American people should pay close attention to what the President's statement implied about his understanding of the security challenges we face from current developments in nuclear weapons.

Mr. Reagan was asked whether he put a higher priority on resuming talks on strategic ballistic missiles or on starting negotiations on space weapons. The President responded: "All of these tie together. You really can't talk about militarization of outer space without recognizing that all strategic ballistic missiles come by way of outer space."

Mr. President, what does the President mean by this statement? Can he really be confusing the fundamentally distinct technical, military, and political problems we face in assuring the survivability and stability of our existing strategic deterrent with those threats which would be posed by an uncontrolled proliferation of weapons of mass destruction in space?

Perhaps not. A President who could earlier say that Trident missiles, once launched, are recallable and who stated that we have no deterrent to Soviet missiles in Europe could easily fail to understand these other strategic challenges and get them confused, as he apparently did.

Of course, we all know as a technical proposition that our strategic missiles briefly leave the atmosphere during their trajectory—but that is not what the President's seemingly naive remark really meant. What Mr. Reagan implied is that there is no real military or political difference between the nuclear forces we now have on land, submarines and bombers and the fundamentally altered strategic environment which would arise from the diffusion of weapons to attack targets in space or for deployment in space. Surely President Reagan listens to some of his advisers, they understand that the uncontrolled diffusion of space weapons will make our current difficulties in assuring the survivability of our strategic deterrent seem practically trivial.

Perhaps even more important, Mr. Reagan's statement betrays a fundamental naivete about how to conduct credible arms control talks. Having failed to achieve any progress in the reduction of existing strategic and intermediate-range nuclear forces, Mr. Reagan now implies we can burden these flagging efforts with the militarization of space as just another agenda item. All responsible experts know this will prove a technical and political impossibility. Will Mr. Reagan use this as another excuse to once again delay progress in negotiations?

Mr. President, we face challenges to our security which are unparalleled in history. We face not only the urgency of reducing and stabilizing our and the Soviet's burgeoning strategic arsenals but the added urgency of forestalling new weapons developments which threaten to imperil the very foundations of our defense and perhaps even our survival. We cannot, as responsible leaders and citizens, sit idly while this administration moves to transform the strategic environment with exotic, untested and inherently destabilizing technologies, accelerating the arms race into a new arena.

It is fundamentally disturbing that the President seems to have so little grasp of these strategic realities or the dangers they pose. Mr. Reagan must explain.

RECOGNITION OF SENATOR EAGLETON

The PRESIDING OFFICER. Under the previous order the Senator from Missouri, Mr. EAGLETON, is recognized.

YOU AIN'T SEEN NOTHING YET!

Mr. EAGLETON. Mr. President, this week, in one of his increasingly rare contacts with the press, President Reagan was asked to spell out precisely what spending cuts he has in mind to reduce his administration's monstrous deficits.

The President responded by blaming Congress for failing to give him all of the budget cuts he had requested since 1981. Quoting the President: "* * * had we been granted what I asked in those budgets, the deficit would be $40 to $50 billion less." Pressed to be more specific, the President directed the reporter to "Take a look at the budgets I've already submitted and look at the cuts that I've asked for and was not given."

The reporter sought clarification: "So, if we take your last budget, sir, and look at them, look at the specifics, we'll have your next plan?"

The President answered, "You will have a continuation of what we have been on."

There it is. I don't know how it could be any clearer. If you want to know what alternative President Reagan has to the Mondale deficit reduction plan, just look at his words. Whether he intended to or not, the President has spilled his cards on the table, face up, for all to see.

The only thing missing from the President's description of his policy is precisely what budget cuts he sought and was denied by Congress.

I will be happy to fill in those blanks for him so that the American people will have a fair basis on which to judge this critical issue.

I ask unanimous consent that at this point in my remarks there be printed a table from an Urban Institute study, entitled "The Reagan Record."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED OUTLAY CHANGES IN FISCAL YEAR 1985 RESULTING FROM REAGAN ADMINISTRATION PROPOSALS AND CONGRESSIONAL ACTIONS THROUGH FISCAL YEAR 1984 [1]

Program	Projected outlays under pre-Reagan policy baseline (billions)	Percentage of baseline	
		Proposed changes [1]	Enacted changes
Retirement and disability:			
Social Security	$200.6	−10.4	−4.6
Veterans' compensatoin	10.7	−8.4	−.9
Veterans' pensions	3.8	−2.6	−2.6
Supplemental security income (SSI)	8.1	−2.5	+8.6
Other income security:			
Unemployment insurance	29.8	−19.1	−17.4
Aid to families with dependent children (AFDC)	9.8	−28.6	−14.3
Food stamps	14.5	−51.7	−13.8
Child nutrition	5.0	−46.0	−28.0
Women, infants, and children (WIC)	1.1	−63.6	+9.1
Housing assistance [2]	12.3	−19.5	−11.4
Low-income energy assistance	2.4	−37.5	−8.3
Health:			
Medicare	80.4	−11.2	−6.8
Medicaid	24.9	−15.7	−2.8
Other health services	1.8	−44.4	−33.3
Education and social services:			
Compensatory education	4.1	−61.0	−19.5
Head Start	1.0	([3])	([3])
Vocational education	.8	−37.5	−12.5
Guaranteed student loans	4.1	−22.0	−39.0
Other student financial assistance	4.5	−68.9	−15.6
Veterans' readjustment benefits	1.1	−9.1	−9.1
Social services block grant	3.4	−41.2	−23.5
Community services block grant	.7	−100.0	−37.1
Employment and training:			
General employment and training	5.7	−43.9	−38.6
Public service employment	4.8	−100.0	−100.0
Job Corps	.7	−42.9	−7.7
Work Incentive Program	.5	−100.0	−35.1
Total	436.6	−17.2	−8.8
Addendum:			
Payments to individuals social insurance and other [4]	326.7	−11.5	−6.5
Low-income assistance [4]	86.4	−27.7	−8.2
Other grants [4]	23.5	−58.7	−42.1

[1] For discretionary programs the proposed reductions are estimated by comparing the lowest outlays proposed by the administration for fiscal year 1985 from its fiscal year 1982, fiscal year 1983, and fiscal year 1984 budgets to the estimated outlays for fiscal year 1985 under pre-Reagan policies. For entitlement programs the savings that would be attributable to enactment of all the various specific (actually or conceptually) nonoverlapping program changes proposed by the administration in its fiscal year 1982, fiscal year 1983, and fiscal year 1984 budgets (and, in the case of Social Security, the proposal forwarded to Congress subsequent to the fiscal year 1982 budget) are separately estimated and summed.

[2] The administration proposed a virtual halt to the expensive rehabilitation and new construction housing assistance programs, in favor of greater reliance on rent subsidies. However, because the budget authority granted in the former programs is converted into outlays over a lengthy time period, actual outlay reductions relative to prior policies in the short run are quite modest.

[3] Total reductions amount to less than $50 million.

[4] See fig. 6.2 for definitions. Note, however, that the "other grants" category in this table does not include the few small discretionary programs listed in footnote a of fig. 6.2

Sources: Congressional Budget Office, "Major Legislative Changes in Human Resources Programs Since January 1981" (staff memorandum), August 1983; Office of Management and Budget, "Fiscal Year 1982 Budget Revisions" (Washington, DC: Government Printing Office, March 1981), "Budget of the United States Government, Fiscal Year 1983" (Washington, DC: Government Printing Office, 1982), and Budget of the United States Government, Fiscal Year 1984 (Washington, DC: Government Printing Office, 1983); The White House, "America's New Beginning: A Program for Economic Recovery" (Washington, DC: Feb. 18, 1981); and authors' calculations.

Mr. EAGLETON. Mr. President, the table confirms the accuracy of President Reagan's assertion that Congress did not give him all the budget cuts he sought. In fact, it granted only about one half of his requests. But, let's look at the Reagan requests that Congress turned down.

The administration sought to abolish the minimum Social Security benefit for people already retired. Congress said no.

The administration wanted to reduce Social Security benefits for early retirees, increase medical premiums for the elderly and rents for those in public housing. Congress refused to go along.

The administration sought to eliminate prescription nutrition supplements for 750,000 pregnant women, infants, and children and to scrap Federal loan guarantees and financial aid for many needy college students. Congress refused to go along.

In 1982, President Reagan proposed cutting in half compensatory education programs for low-income children. Congress said no. And it said no to the idea of serving ketchup as a vegetable in school lunches and of eliminating school lunch subsidies for children from middle-income families.

President Reagan proposed reducing Social Security outlays by 10 percent. Congress would agree to only a 5-percent cut.

President Reagan wanted to reduce food programs for the hungry by 52 percent. Again, Congress would agree to only a 14-percent reduction.

Mr. President, I don't have to go any further. The facts are clear and a matter of public record. There is no longer a mystery about the Reagan deficit-reduction plan. In his own words, it will be "a continuation of what we've been on" beginning, it is clear, with a renewal of the kind of budget proposals I have just described. The American people will have to judge whether that is the kind of Nation they want for themselves and their children.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I now ask for a period for the transaction of routine morning business.

The PRESIDING OFFICER. There will now be a period for routine morning business.

COLOMBIA CONTINUES IN ITS WAR AGAINST DRUGS

Mrs. HAWKINS. Mr. President, we must continue to provide support for the Colombians in their fight against drug traffickers.

The "state of seige" Colombian President Betancur declared in the wake of the assassination of Justice Minister Rodrigo Lara Bonilla is taking effect. In the article reprinted below, actions recently taken by Colombian officials to free themselves from the yoke of the drug czars are described.

Just last week, Colombian police arrested two narcotics kingpins and destroyed another jungle-based cocaine factory, capable of processing 13,000 pounds of the drug per month.

We, as Americans, we being presented with a perfect opportunity to, as the column below states, "to do well by doing good." We can help combat our own drug abuse problem by redoubling our diplomatic and financial efforts vis-a-vis Colombia. The United States should be immediate and forceful in providing Colombia not only with funds, but with logistical and intelligence assistance as well.

In this very real war that the brave citizens and Government of Colombia is waging, we must help them do the best and most effective job they can do in eradicating drug abuse.

I respectfully ask unanimous consent that the article entitled "Colombian Crackdown," dated May 22, 1984, of the Miami Herald, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COLOMBIAN CRACKDOWN

Even before Colombia's Justice Minister Rodrigo Lara Bonilla was assassinated two weeks ago, the government there had rededicated itself against the reign of terror by drug czars. In March, the government seized a record 13.8 tons of cocaine. Last week, Colombian police arrested two narcotics kingpins and destroyed another jungle-based cocaine factory, this one capable of processing 13,000 pounds per month.

Those actions are proof positive of Colombia's seriousness against drug traffickers. They present the United States with a sterling opportunity to redouble its support of Colombia's anti-drug effort. Here where the United States can do well by doing good. It can alleviate its own drug problems by helping to stanch Colombia's. For in Colombia, drugs have become a hydra-headed monster of terror, corruption, and voracious consumption.

Colombia's resolve actually began months ago with the realization that drugs had become such a destructive force as to threaten Colombian society itself. Powerful drug gangs used and exploited existing guerrila groups to spread violence and destruction. Corruption cast a pall over government.

On the streets, a popular method of using cocaine was to mix it raw with marijuana or tobacco for greater potency. Cocaine use reached epidemic proportions in Colombia.

Meanwhile, Colombia continued to export an estimated 80 percent of the marijuana used in the United States. It remains the primary location for refining most of the cocaine that enters this country.

The United States can help Colombia in its confrontation with drug traffickers by redoubling its diplomatic and financial efforts. The best help, though, would be U.S. assistance in logistics, cooperation, and intelligence that would enable the Colombians to do a better job themselves.

With that kind of assistance, the United States then could look for improved cooperation with its efforts to interdict the drug flow and to extradite drug lords known to be in Colombia. Several of these drug kingpins already have been indicted by U.S. courts. Though reluctant in the past to locate and extradite these traffickers, Colombia now seems willing to do so.

Both the United States and Colombia can be proud of the spirit of cooperation that now links their respective anti-drug campaigns. Only by such joint efforts will there be any realistic chance of materially stemming the drug trade.

SENIOR HEALTH ACTION DAY

Mr. RIEGLE. Mr. President, I want to bring to my colleagues' attention a very special event taking place throughout the country today, September 13, 1984. Senior citizen groups in communities across the country have joined together to designate today "Senior Health Action Day." The purpose of this action is to help dramatize the critical importance of health care policy in our Nation and to help focus attention on this issue during this campaign season.

This activity, which is being organized nationally by the National Council of Senior Citizens, is an indication of the deep concern many of our senior citizens have about the further erosion of the health services available to them. In recent decades we have witnessed a significant decline in the mortality rates for individuals 65 and over. At least part of this decline in mortality rates must be associated with the increased availability and access to health care provided to our Nation's seniors through the medicare and medicaid programs. Yet today millions of our Nation's seniors are unsure whether those services will still be available tomorrow. They are concerned that in the name of deficit reduction, or saving medicare, that the vital life saving and life lengthening health services of medicare will be increasingly chipped away.

Mr. President, do our seniors have a legitimate concern about the future of federally funded health programs and medicare in particular? Today, it's impossible to know with any certainty exactly what the administration would do to medicare, but if we look at their record for the past 4 years, we can predict further reductions. In every year since this administration had taken office there has been a major legislation adopted which cut the medicare program. The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), the Social Security Amendments of 1983 (Public Law 98-21), and the Deficit Reduction Act of 1984 (Public Law 98-369), all cut medicare spending by about $45 billion through 1989. And while many of these cuts affected providers, particularly hospitals, almost half of the impact of these reductions directly affect beneficiaries through increased out-of-pocket costs or limiting eligibility.

Mr. President, seniors are gathering today to urge Congress and the candidates for President to adopt a national

strategy to cope with the growing cost crisis in our Nation's health care system. The current philosophy of raising the cost of care in an effort to discourage utilization, is at the best callous, but more probably inhumane. Our senior citizens are not to blame for the runaway cost of health care and their access to quality health care does not have to be limited in an effort to solve the health care crisis. Instead of the piecemeal slashing of benefits which we have seen over the past 4 years, we need a comprehensive approach that confronts the system-wide failures that have resulted in spiraling health care costs, challenging our society's ability to afford the cost of health care.

Mr. President, the activities of "Senior Health Action Day" will consist of visits to the Presidential candidates' headquarters and a variety of organized events ranging from large rallies, featuring prominent speakers, to small group meetings with local medical services to discuss medicare assignment. Another key activity of "Senior Health Action Day" is a major voter registration effort using health care issues to encourage citizens to register for the November election. The voter registration will continue and intensify until November 6 when the theme "get-out-the-vote" will take its place.

I congratulate the senior citizens throughout the Nation who are utilizing our democratic freedoms and letting their voices be heard. It's a message which should not be ignored.

TED SORENSEN ON CHURCH AND STATE: "THE J.F.K.-REAGAN RELIGION IRONY"

Mr. KENNEDY. Mr. President, America needs leaders of conviction and faith. But in their wisdom the framers of the Constitution and Bill of Rights built a wall between church and state. This constitutional separation is not a barrier to principles of justice, fairness, and morality. Rather, it protects one of America's most cherished freedoms—freedom of religion. Indeed it promotes the vitality of all religion in this uniquely diverse country. The separation of church and state also recognizes that grace is attained by an individual's voluntary exercise of conscience, rather than simply compliance with the coercive rule of secular law.

Sadly, there are times where the rumblings of religious intolerance shake the foundations of our religious freedom. In this election year, we hear unwelcome echoes of the past in the voices of extremists who would make particular religious beliefs a test for public office. As the 1984 campaign continues, it is important to remember the proper relationship between church and state, between religious values and national decisions. We must understand that our political process involves disagreements among people of good will, not combat between the forces of light and the forces of darkness. The choice we face is between Democrats and Republicans, not between good and evil.

It is ironic that those who sought to deny my brother the Presidency in 1960 because of his religion now assert a moral right to the Presidency because of theirs. John Kennedy, throughout his campaign and later as President, calmed the forces of religious fear and division. He taught Americans to focus political debate on public policy, he described so eloquently in his famous address to the Greater Houston Ministerial Association, 24 years ago this week:

> I believe in an America that is officially neither Catholic, Protestant, nor Jewish . . . where no religious body seeks to impose its will upon the general populace . . . and where religious liberty is so indivisible that an act against one church is treated as an act against all.

President Kennedy's lesson of 1960 on tolerance in public life is worth heeding in 1984. And few are better skilled by insight and experience to reteach that lesson now than Theodore C. Sorensen, who served with great distinction as Special Counsel to President Kennedy in the Senate and in the White House. I ask unanimous consent that an eloquent article on this issue by Mr. Sorensen, which appeared earlier this week in the New York Times, may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 11, 1984]

THE J.F.K.-REAGAN RELIGION IRONY

(By Theodore C. Sorensen)

It all sounds distractingly familiar. A spokesman for the religious right declaring that his followers will "determine who gets elected" President. The revelation at the Republican National Convention that God is spelled G.O.P. A letter from a Republican Senator to fundamentalist ministers that focused on only one issue—not peace, mercy or justice, but whether a candidate is so beholden to one religious group that he would use his influence as President to exalt that group and its public policy positions above all others. It sounds like 1960 all over again.

In 1960, these religious right leaders were vociferously opposing the election of John F. Kennedy, accusing him, as a Roman Catholic, of inherently lacking the independence necessary to separate his official policies from his church's precepts. In 1984, they are vociferously supporting the re-election of Ronald Reagan because he has for four years consistently used the Oval Office to advance their religious and governmental views.

Twenty-four years ago tomorrow, in an address to the Protestant clergy of Houston, Mr. Kennedy replied to his accusers. He proclaimed his profound opposition to any attempt to distort the Presidency "by making it an instrument of any one religious group." He declared his strong support for an America "where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials," an America where the President's religious views are his own private concerns, neither a test for holding public office nor imposed by his office upon the public.

How ironic that the same pious preachers who extracted these pledges from John F. Kennedy now embrace Ronald Reagan for violating every one of them. How ironic that a President who campaigned on the need to limit the role of the Government has entangled it as never before in matters once reserved for the individual conscience and family.

Mr. Kennedy, in his Houston address and later in the White House, also responded to more specific questions on church-state relations—whether he would send an ambassador to the Vatican, support financial aid for parochial schools, expand censorship, repudiate the Supreme Court decision on school prayer, reduce foreign aid because of the recipient's population-control practices, or "subvert the First Amendment's guarantees of religious freedom." He rejected all of these positions. Mr. Reagan has adopted every one of them.

President Reagan correctly asserts that religious and moral values are relevant to any consideration of public issues. It is, moreover, his right to seek votes from any religious group, and the right of any clergyman, the Rev. Jerry Falwell as much as the Rev. Jesse Jackson, to participate in political and public policy debates. But when the President and his supporters use religion as a sword to undercut his political opponents and a shield for his policy views, when he damns those who disagree as "intolerant" or against religion, when he uses the White House to impose a particular religious group's values on national affairs, he is eroding the basic principles that this nation formally adopted in 1791 and effectively strengthened in 1960.

After the divisive and destructive religious rancor of the 1960 campaign (including repeated resolutions from the religious right simultaneously opposing the election of a Catholic and deploring religion as a campaign issue), most of us devoutly hoped that Mr. Kennedy's Houston speech, election and conduct of the Presidency had settled "the religious issue," that no President and no religious majority—even a self-anointed Moral Majority—would thereafter dare to challenge or attempt to coerce anyone else's religious or political standing in his pluralistic society. Mr. Reagan, in dashing those hopes, has opened a Pandora's Box, releasing into the atmosphere dark elements of bigotry, disunity, incivility, hatred—that is, everything but hope.

What can we do about it? When J.F.K. was asked at a White House news conference in 1963 about the potentially adverse affects of the Supreme Court's decision barring state-organized prayers in public schools, he replied: "We have a very easy remedy . . . pray a good deal more at home."

In 1983, to restore the crumbling wall between church and state that has enabled each to thrive in its own sphere, that simple remedy is still available, and is made more effective if exercised along with another basic remedy: the right to vote.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 2851) to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Exon Amendment No. 3767, to make commercial banks eligible for capital assistance, and to extend such assistance to troubled agricultural lenders.

Mr. STEVENS. Mr. President, a parliamentary inquiry. Is the amendment of the Senator from Nebraska pending?

The PRESIDING OFFICER (Mr. HECHT). That is correct.

Mr. STEVENS. Is my understanding correct that at the hour of 12 noon we will proceed as required by rule XXII?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Senators are again placed on notice that there should be a vote on cloture petition sometime between 12:15 and 12:30, assuming we can get that quorum. I hope the Senators will cooperate, and answer the quorum call that commences at 12 o'clock.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I understand there is an amendment pending by the Senator from Nebraska, Mr. EXON.

The PRESIDING OFFICER. That is correct.

Mr. TOWER. Mr. President, following the disposition on the amendment of the Senator from Nebraska, Mr. EXON, it is my understanding that no other amendments will be in order until the hour of 12 o'clock.

The PRESIDING OFFICER. That is correct.

Mr. TOWER. Mr. President, pending the arrival of Mr. EXON, I might serve notice that I intend to call up my amendment which would have the effect of protecting the shareholders' rights in savings and loan associations as a result of a ruling by the Federal Home Loan Bank Board regarding acquisition of more than 10 percent of the stock in S&L's, and regarding a 3-year period after the conversion from mutual to stock company where the value of the shareholders' holdings has gone down precipitately. In my view, it is unfair—possibly even unlawful—for the Federal Home Loan Bank Board to issue a regulation that is retroactive, and which has been damaging to a number of small investors.

So I intend to offer that amendment, to make brief remarks, and submit it to the judgment of the Senate.

Mr. President, I am prepared to proceed with the consideration of my amendment. The Senator from Nebraska is not on the floor. I do not know what he has in mind.

Mr. GARN. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. GARN. Certainly, we cannot displace the amendment of the Senator from Nebraska. I would have to object in his behalf because we did ask the Senator to lay down the amendment last evening, before we adjourned, so that we would have something to start working on today. He was courteous to do that. So I would certainly have to protect him.

Mr. TOWER. I fully understand that. I would expect the distinguished chairman of the committee to do that. I will certainly not propound to set aside without his presence. But I am hopeful that we can get the Senator here, and let the Senator dispose of his amendment because mine is, I think, of some consequence. A number of Senators have expressed an interest in it to me. I would not like to see 12 o'clock with the prospect of us having to vote on my amendment with absolutely no debate.

So I wonder if the leadership could urge Senator EXON to come over, and deal with his amendment.

Mr. GARN. It is my understanding that he is being called to do that.

While we are waiting, Mr. President, I might take this opportunity—in case we get foreclosed when 12 o'clock comes and the quorum call starts—just to briefly outline where we are.

A week ago yesterday—on Wednesday—Senator PROXMIRE, the distinguished ranking minority member of the Banking Committee, and former chairman of the committee for 6 years, and I laid down S. 2851. This was after 2 years of work together on the bill—extensive hearings, witnesses, and a very extensive markup where all of our colleagues on the committee had the opportunity to offer their amendments. Some of them were successful and some of them were not. But the bill was a product of committee effort over a long period of time. We laid down the bill on Wednesday expecting, given that it had been so well and thoroughly considered, that we would be able to proceed recognizing that there were differences of opinion on some provisions. We are certainly willing to give every Senator an opportunity to be heard on the floor, as they were in the committee, and an opportunity to offer any and all amendments they wish to, and have them voted on by the Senate.

I do not think anybody could say we have not been fair and open. We anticipated that, although there were controversial issues, we would be able to proceed. We were not allowed to. Wednesday, Thursday, and Friday last week were wasted as far as any progress at all on just the motion to take it up. We were being told that we did not even have the right to debate the bill. On Monday, we had a cloture vote of 89 to 3. Obviously the Senate felt that we should at least have the opportunity to have this bill considered. By an even larger margin on Tuesday of this week, the Senate voted to place the bill before the Senate. Yesterday, we were allowed a gentleman's agreement to proceed. We did make a good deal of progress. We adopted the committee amendments. We adopted many other amendments that we were able to compromise with various Senators. We did have a roll-call vote on one particular amendment by the Senator from Wisconsin, and his amendment was successful. So we now are to a point where I believe it is time we address the controversial issues in this bill. Certainly after 6 days on the bill, we ought to be allowed to bring up those amendments and vote on them. Once again, those are the regional banking issue, how we solve the South Dakota loophole, and the issue of securities authority for banks in the form of municipal revenue bonds and in the form of mortage-backed securities. Certainly such authority would be closely related to banking, and certainly not in any way risky ventures for depository institution holding companies to be involved in, particularly when they would be exercised in a separate subsidiary and not in the depository institutions themselves.

Mr. CHAFEE. Mr. President, may I ask the distinguished chairman to yield for a question?

Mr. GARN. I am happy to yield for a question.

Mr. CHAFEE. I support the bill. I am for it, I will speak for it, and I will do anything I can to be of assistance. I have had an amendment. I have been patiently, impatiently, or persistently anxious to present it, and it is a brief amendment. I am not asking for a long time, but at my back I always hear the chariot drawing near, and particularly as we heard today the acting majority leader saying that there will be a vote on cloture at 12, or whatever it is shortly thereafter. My question of the distinguished managers is this: I would like to go ahead. Is there anything that prevents me from going ahead?

Mr. GARN. I say to the Senator, there is. Last evening before we adjourned, Senator EXON laid down an amendment. That amendment is pend-

ing. Without his permission—they are trying to get him to the floor—we could not displace that. I would not agree to a unanimous-consent agreement without him being here because he laid it down at the request of the leadership to have something pending when we came in today.

Senator TOWER appeared on the floor before I arrived and announced that he was in the same situation as the Senator from Rhode Island, and after the Exon amendment he would like to get his amendment down. We attempted to have the cloture vote at 4:45 this afternoon to give all Senators with nongermane amendments the opportunity to offer them. That was objected to. Under the rules, we have to go to the cloture vote. In this Senator's opinion, there has been no delay on my part or on the part of the Senator from Wisconsin.

We are in that parliamentary situation.

While we were waiting for the Senator from Nebraska to arrive and see if he would be willing to displace his amendment, I was taking time that would otherwise be wasted to discuss the general situation.

Mr. CHAFEE. Senator EXON has now appeared, for which we are grateful.

Mr. GARN. Will the Senator allow me to make one concluding statement? I was almost through. Then we will turn to the immediate problem.

I have outlined the situation on the bill. I hope my colleagues at this point understand that in a little over an hour we will have a vote on cloture. I think anyone in fairness after 6 days would think we should be allowed to proceed with controversial amendments and bring this bill to a close one way or another, letting the Senate work its will on the substantive issues. I hope my colleagues will vote for cloture and then we can get on to this bill.

Mr. TOWER. Will the Senator yield for a question?

Mr. GARN. I yield.

Mr. TOWER. I certainly agree with the Senator from Utah that he has been very patient. I think it is time that we proceed to expeditiously consider this bill and all amendments thereto. I support cloture.

My rush to bring up my amendment is, quite frankly, because I am not certain, after cloture, it would be germane. I would be willing to withhold it until after cloture if I could get a unanimous consent agreement that my amendment would be in order after cloture is invoked, if it is invoked. I wonder if there would be objection if I propounded that consent agreement.

Mr. GARN. The Senator from Nebraska is now here to speak for himself.

Mr. TOWER. Mr. President, I hope the Senator will not yield the floor yet.

Mr. GARN. I did not yield the floor.

Mr. TOWER. If I could propound a consent agreement and get it accepted that my amendment would be in order after cloture is invoked, it would sort of clear the traffic jam that we seem to be getting in now.

Mr. GARN. Let me just say that I would expect there would be many requests of that kind. I have just been informed by the staff that with the modification of the Senator's amendment, I might possibly be able to accept it.

Mr. TOWER. I thank the Senator.

Mr. CHAFEE. I wonder if I could ask the manager of the bill a similar question, which has nothing to do with the Senator from Nebraska proceeding.

I have a similar request. I am caught in this logjam, too. My amendment is not long. I would accept 15 minutes equally divided. I just want a shot at it.

Would the managers of the bill be able to agree that if we are caught up by time that my amendment could presented regardless of possible germaneness problems?

Mr. GARN. Let me ask the Senator from Nebraska a question, if I could.

Mr. President, is the amendment of the Senator from Nebraska germane? I put that question to the Parliamentarian.

The PRESIDING OFFICER. It is not.

Mr. GARN. I would further ask the Senator from Nebraska then, about last evening. It was my understanding we were close to an agreement on his amendment, but I have not had the opportunity to talk to him this morning to see if that were true. If that were the case, we could agree to proceed on both the Tower and Chafee amendments, and Senator CHAFEE would be cleared to proceed without asking unanimous consent to make the amendment germane.

Mr. EXON. Will the Senator yield?

Mr. GARN. I yield.

Mr. EXON. I thank the Senator for yielding.

I think possibly we are in a position to maybe come to a quick agreement on this. The reason I laid down the amendment last night was to protect myself from, basically, what is occurring here right now. I want to give every consideration possible to my friend from Texas and others who may want to offer some amendments.

I think possibly, in a very few moments, we might be able to come to an agreement. I think we have reached a compromise which I do not believe has been cleared with the two managers of the bill yet, but it is basically along the lines we were talking about last night. We put in a lot of time last night and this morning trying to work this out.

Mr. GARN. Will the Senator yield for a question?

Mr. EXON. Yes.

Mr. GARN. The Senator from Rhode Island is willing to accept a time agreement of 10 minutes equally divided, I now understand. Would it be possible for us to temporarily displace the amendment of the Senator from Nebraska and have the vote? The Senator from Nebraska would still have time to have this amendment come up before noon.

Mr. EXON. What is the time schedule before cloture?

Mr. GARN. The clock starts to run before noon. We have 44 minutes.

Mr. EXON. I would agree to set my amendment aside and to provide for 10 minutes equally divided, and following that, action would occur on the Exon amendment.

Mr. GARN. Mr. President, I ask unanimous consent to temporarily set aside the Exon amendment with the understanding that there be 10 minutes equally divided on the Chafee amendment, and that we immediately return, at the conclusion of the vote on the Chafee amendment, to the Exon amendment.

Mr. TOWER. Reserving the right to object, I can see myself getting shut out here before 12 o'clock because of 10 minutes on Chafee, then with a RECORD vote requested, which will take 20 minutes, and then going back to the Exon amendment. That would take us until 12 o'clock.

I would like to ask unanimous consent that my amendment be in order following the vote on cloture under rule XXII, if cloture is invoked, that it be in order for me to call up my amendment at any time.

Mr. GARN. Reserving the right to object, I will need a moment for consultation.

CALL OF THE ROLL

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard.

The legislative clerk resumed the call of the roll.

Mr. EAGLETON. Mr. President, I have a unanimous-consent request. I ask unanimous consent that the call for the quorum be rescinded.

Mr. CHAFEE. Mr. President, I object, pending an explanation of what we are doing.

Mr. EAGLETON. I am going to give a nongermane speech.

The PRESIDING OFFICER. An explanation is not in order. Is there objection?

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the call of the roll, and the following Senators answered to their names:

[Quorum No. 11 Leg.]

Byrd	Eagleton	Proxmire
Chafee	Exon	Stevens
Cohen	Garn	Tower
D'Amato	Hawkins	
DeConcini	Hecht	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. STEVENS. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee [Mr. BAKER], the Senator from Oregon [Mr. HATFIELD], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. MELCHER] is necessarily absent.

The PRESIDING OFFICER (Mr. DENTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—92

Abdnor	Durenberger	Lautenberg
Andrews	Eagleton	Laxalt
Armstrong	East	Leahy
Baucus	Evans	Levin
Bentsen	Exon	Long
Biden	Ford	Lugar
Bingaman	Garn	Mathias
Boren	Glenn	Matsunaga
Boschwitz	Gorton	Mattingly
Bradley	Grassley	McClure
Bumpers	Hart	Metzenbaum
Burdick	Hatch	Mitchell
Byrd	Hawkins	Moynihan
Chafee	Hecht	Murkowski
Chiles	Heflin	Nickles
Cochran	Heinz	Nunn
Cohen	Helms	Packwood
Cranston	Hollings	Pell
D'Amato	Huddleston	Percy
Danforth	Humphrey	Pressler
DeConcini	Inouye	Pryor
Denton	Jepsen	Randolph
Dixon	Johnston	Riegle
Dodd	Kassebaum	Roth
Dole	Kasten	Rudman
Domenici	Kennedy	Sarbanes
Sasser	Stevens	Tsongas
Simpson	Symms	Wallop
Specter	Thurmond	Wilson
Stafford	Tower	Zorinsky
Stennis	Trible	

NAYS—4

Goldwater	Quayle
Proxmire	Weicker

NOT VOTING—4

Baker	Melcher
Hatfield	Warner

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

There is pending a consent agreement to set aside the Exon amendment to allow 10 minutes of debate on the Chafee amendment, and to make the Tower amendment in order after the vote on the cloture. Is there objection?

Mr. D'AMATO. Objection.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

Senators Howard Baker, Mack Mattingly, John H. Chafee, Dan Quayle, Robert Stafford, Slade Gorton, William Proxmire, Chic Hecht, Don Nickles, Lowell Weicker, Mark Andrews, Arlen Specter, Jake Garn, Warren Rudman, Bob Dole, William Cohen, and Barry Goldwater.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments that were filed at the desk at 11:44 a.m. and 11:46 a.m. be qualified as having been timely filed. That does not affect their germaneness or anything else other than timely filed under rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CALL OF THE ROLL WAIVED

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call required under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee [Mr. BAKER] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 92, nays 6, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—92

Andrews	Glenn	Murkowski
Armstrong	Goldwater	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Pell
Bingaman	Hatch	Percy
Boren	Hawkins	Proxmire
Boschwitz	Hecht	Pryor
Bradley	Heflin	Quayle
Bumpers	Helms	Randolph
Burdick	Hollings	Riegle
Byrd	Huddleston	Roth
Chafee	Humphrey	Rudman
Chiles	Inouye	Sarbanes
Cochran	Jepsen	Sasser
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
Danforth	Kasten	Stafford
DeConcini	Kennedy	Stennis
Denton	Lautenberg	Stevens
Dixon	Laxalt	Symms
Dodd	Leahy	Thurmond
Dole	Levin	Tower
Domenici	Long	Trible
Durenberger	Lugar	Tsongas
Eagleton	Matsunaga	Wallop
East	Mattingly	Warner
Evans	McClure	Weicker
Exon	Melcher	Wilson
Ford	Metzenbaum	Zorinsky
Garn	Mitchell	

NAYS—6

Abdnor	Heinz	Moynihan
D'Amato	Mathias	Pressler

NOT VOTING—2

Baker	Hatfield

The PRESIDING OFFICER (Mr. HUMPHREY). On this vote, the yeas are 92, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

AMENDMENT NO. 3767

The PRESIDING OFFICER. The Chair finds that the pending amendment, the Exon amendment, will add new subject matters to the bill and is, therefore, nongermane and falls for that reason.

Mr. GARN. Mr. President, the Chair is correct in that ruling. I would like to explain to my colleagues, however, that we would have handled this amendment prior to cloture. It was pending. The Senator from Nebraska, the Senator from Wisconsin, and I had worked out a compromise agreement on his amendment where the managers of the bill were willing to accept it without even a rollcall vote. We got into a parliamentary situation where there was an objection to taking off the quorum call. Therefore, I believe it is only fair, under those circumstances, for me to ask unanimous consent that the Exon amendment be considered germane and that we be able to act on it at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 3767

(Purpose: To make commercial banks eligible for capital assistance, and to extend such assistance to troubled agricultural lenders)

Mr. EXON. Mr. President, I call up the amendment that is at the desk and I ask unanimous consent that, in addition to the cosponsors now of record, that the additional names of Senator HEFLIN, Senator ZORINSKY, and Senator BENTSEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. BAUCUS, Mr. MELCHER, Mr. ANDREWS, Mr. BOREN, Mr. HEFLIN, Mr. ZORINSKY, and Mr. BENTSEN proposes an amendment numbered 3767.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 52, between lines 4 and 5, insert the following: Section 13(i)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(A)) is amended to read as follows:

"(A) has net worth equal to less than 3 per centum of its assets, or, in the case of a commercial bank, has a ratio of primary capital to adjusted total assets (as such ratio is primary capital to adjusted total assets (as such ratio is measured pursuant to regulations adopted by the principal Federal supervisor of such bank) equal of less than 5.5 per centum: *Provided, however,* That in the instance of a commercial bank which meets one of the criteria for a qualified institution based upon its investments in agricultural loans as defined in section 13(i)(2)(F) of this Act, the Corporation shall be required to consider the purchase of net worth certificates as an alternative to merger, purchase and assumption, liquidation, or any other enforcement action where such bank is required to maintain a minimum ratio of primary capital to adjusted total assets greater than 5.5 per centum by a State or Federal banking agency.".

(c) Section 13(i)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(E)) is amended to read as follows:

"(E) will have a net worth as a percentage of assets or ratio of primary capital to assets of not less than one-half of one per centum after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth or ratio of primary capital to adjusted total assets pursuant to this paragraph; and".

(d) Section 13(i)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(F)) is amended to read as follows:

"(F) has investments in residential mortgages or securities backed by such mortgages, or in agricultural loans, respectively, aggregating at least 20 per centum of its loans. For purposes of the preceding sentence, agricultural loans includes all loans secured by agricultural land, crops, or production, processing, or marketing assets, and also includes all secured and unsecured loans, credit sales, forebearances, advances, renewals, or other extensions of credit made to any person or organization engaged in an agricultural enterprise and for an agricultural purpose.".

(e) Section 13(i)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(5)) is amended to read as follows:

"(5) The Corporation may initially purchase net worth certificates as follows:

"(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, or a ratio of primary capital to assets greater than 4.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or by speculation in futures or forward contracts), as determined by the Corporation.

"(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, or a ratio of primary capital to assets greater than 3.5 per centum and less than or equal to 4.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, or a ratio of primary capital to assets greater than zero and less than or equal to 3.5 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.".

(f) Section 13(i)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(10)) is amended to read as follows:

"(10) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this subsection shall be deemed to be net worth or primary capital for statutory and regulatory purposes.".

Mr. EXON. Mr. President, my modifying amendment and that offered by my cosponsors contains a most significant part of the amendment No. 3767.

The amendment will make it possible for lenders who have at least 20 percent of their portfolio in agriculture loans to qualify for the capital assistance program. It is not my intent to bail out banks that have been poorly managed. This amendment will not do that. However, it will give some distressed agriculture lenders an opportunity to keep their doors open and to work to get their financial condition in order.

Mr. President, a number of agriculture lenders face the difficult choice of foreclosing on farmers or risking their own liquidation or forced merger by bank regulators. If the regulators can guarantee all of the deposits of the Continental Illinois, they should be willing to go the extra mile with the small rural banks to give them some time to reorganize and raise some capital. With the continued high real interest rates, the high value of the dollar, and the depressed market for farmland, this amendment will give the FDIC another tool to work with these agriculture banks.

Simply, Mr. President, this amendment allows those under a certain formula and in difficulty with agriculture credit exactly the same consideration that was given to banks and savings and loan institutions by the previous bill with regard to real estate credit.

I move the adoption of the amendment.

Mr. MELCHER. Mr. President, years ago I served as a director of our bank in Forsyth, MT. That was an important experience for me. I learned first hand of the special problems and concerns of banks in small communities in rural areas. They are the hub of the local economy and the last hope that many farmers and ranchers have to keep their heads above water during hard times. I learned that the last thing we wanted to do is move in and foreclose on farmers and ranchers who are having a bad year. Yet, these banks face the same pressures from their depositors and from State and Federal regulators that all financial institutions do to stay financially solvent.

Fortunately, however, we never had to face problems the size of those hit-

ting agricultural banks today. The agricultural production sectors of our economy are facing a severe financial situation caused mainly by very high real interest rates and the overvalued U.S. dollar that is cutting the competitiveness of U.S. agricultural exports. These factors are putting a severe strain on agricultural lenders who are trying to exercise forbearance in their treatment of farmers' loans.

The Exon-Melcher amendment is aimed at providing some help by expanding the existing Net Worth Assistance Program established in the Garn-St Germain banking bill of 1982 to provide help for agricultural banks.

In 1982, we enacted the Net Worth Assistance Program to provide temporary assistance to housing lenders who were suffering from a poor housing market as the result of record-high interest rates. I supported this move because I considered it an appropriate response for Congress to take in the face of these high interest rates and our continuing commitment to decent housing for all Americans. In the bill now before us, this program is being extended through 1988.

I now believe that it is equally appropriate to extend this program of assistance to qualified agricultural banks. Responding to a situation similar to that in housing finance which led to passage of the original Net Worth Certificate Program, this amendment will provide a means, through the FDIC, to buy time for the handling of farm credit cases by agricultural lending institutions who are otherwise faced with the difficult choice of foreclosing on farmers or risking their own liquidation or merger by the FDIC. The need to buy time for the orderly handling of these problems is especially apparent in this situation due to the very weak markets for farmland and other collateralized farm assets, which otherwise may be pressed into the market by liquidation or foreclosure procedures.

Mr. President, Senator GARN has explained how this bill takes needed action in connection with banks, savings and loans, credit unions, and the insurance industry. He has called it a comprehensive bill. There is a need to provide some temporary assistance to the Nation's agricultural banks and we should act as part of this bill.

Our amendment doesn't create any new programs or force the FDIC to take on new responsibilities. It merely provides the FDIC with another tool to help alleviate the stress on agricultural banks as a result of the current poor economic situation many farmers find themselves in.

The actual number of commercial banks which would qualify for a capital infusion if this amendment is adopted is small. Nonetheless, as a matter of equity and in recognition of the fact that a significant number of banks which are heavily committed to agricultural lending are facing an acute financial dilemma due largely to the persistence of high interest rates and the overvalued U.S. dollar, this amendment should be adopted.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, as I indicated, we are willing to accept the amendment on this side and the minority manager is willing to accept it.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska [Mr. EXON].

The amendment (No. 3767) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I thank the two managers of the bill for their consideration and cooperation. I appreciate the fact that they have moved very quickly to correct a wrong through the parliamentary situation that we found ourselves in this morning. I thank my colleagues.

Mr. GARN. I thank the Senator from Nebraska.

Mr. President, at this point, I would simply indicate that the bill is open to amendment. I hope my colleagues will now appear on the floor, and be willing to offer such amendments as they may have, and be willing to debate them.

Specifically, I hope that those which are most controversial could be acted upon. Now that we have had this overwhelming cloture vote, we are on the substance of the bill, and we are ready to receive amendments, I certainly hope staffs who are listening in their offices would encourage their Senators who have amendments to please come over and offer them.

Mr. PROXMIRE. Mr. President, I hope shortly that we can have a third reading of the bill.

Mr. GARN. If Senators do not come over to offer their amendments, we will have third reading of the bill. We will see the doors just slamming open. But we will wait a little while before we threaten third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ACTION ON AMENDMENT NO. 3767

Mr. GARN. Mr. President, we just enacted the Exon amendment. But we enacted the first Exon amendment. Apparently, the Chair laid the wrong one before us. I ask unanimous consent that the action to pass the Exon amendment be vitiated, and that we be allowed to consider the correct Exon amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 4141

Mr. EXON. Mr. President, I send a corrected amendment—an agreed-to amendment—to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an amendment numbered 4141, to amendment numbered 3767. Strike the entire amendment, and insert the following:

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the entire amendment and insert the following:

Section 13(i)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(F)) is amended to read as follows:

"(F) Has investments in residential mortgages or securities backed by such mortgages, or in agricultural loans, respectively, aggregating at least 20 per centum of its loans. For purposes of the preceding sentence, agricultural loans includes all secured and unsecured loans, credit sales, forbearances, advances, renewals, or other extensions of credit made to any person or organization engaged in the production of agricultural products or made to form cooperatives and for an agricultural purposes as defined by the F.D.I.C."

Mr. EXON. Mr. President, due to the parliamentary situation, the Senator from Nebraska evidently did not properly inform the desk—or the desk did not understand what we were voting on. The amendment before us now is the one that had been agreed to by all parties. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to amendment No. 4141.

The amendment (No. 4141) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the adoption of the amendment (No. 3767), as amended by the second-degree amendment (No. 4141), of the Senator from Nebraska [Mr. EXON].

The amendment (No. 3767) as amended by amendment No. 4141 was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3755

Mr. TOWER. Mr. President, I call up my amendment No. 3755 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. TOWER] proposes an amendment numbered 3755.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place the following new section:

SEC. : Notwithstanding any other provision of law, it shall be unlawful for the Federal Home Loan Bank Board to propose, promulgate, or adopt regulations, or changes in existing regulations, relating to the conversion of savings and loan associations from mutual to stock form, unless such regulations or changes in regulations become effective after February 29, 1984. The provisions of this section shall apply to any regulation published on or after August 1, 1984.

Mr. TOWER. Mr. President, this amendment addresses a fundamental free-market business ethic. That is the protection of shareholders' rights. It also addresses an issue which on any piece of legislation or any regulation gives me concern, and that is the issue of making an action retroactive.

During the past few months the Federal Home Loan Bank Board has proposed regulations in the name of safety and soundness of the thrift institutions of this country and the protection of the FSLIC insurance fund. I applaud the Chairman of the Federal Home Loan Bank Board for his concern, a legitimate concern I might add, for the safety and soundness of the thrift industry and the insurance fund. Both need restructuring, both need congressional review and support, and both need good, strong management.

Mr. President, during the last few months the Bank Board has taken several positions by regulation with which I disagree. I disagreed with the Bank Board's original proposed rule on brokered deposits because of its impact on well-managed thrifts and banks. I am pleased to see that this bill, S. 2581, addresses that in a very logical way and I was pleased to work with my colleagues on this compromise language.

I have communicated with Chairman GRAY and Senator GARN my opposition to the proposed rule on limiting direct investment for State-chartered thrifts to 10 percent of assets, and it is my hope that the Board, before it makes that rule final, will consider seriously the comments received by well-managed State-chartered thrifts throughout this country.

Now, Mr. President, my amendment concerns yet another Federal Home Loan Bank Board regulation. This one is regarding the conversion of mutual thrifts to public stock corporations.

In February the Bank Board proposed a rule which would extend this 1-year period to 3 years. Mr. President, I do not argue with the merits of this decision of the Bank Board. It is possible to make the case that the safety and soundness of the thrift industry might better be served by a 3-year cooling off period as opposed to a 1-year cooling off period. Perhaps this might be a positive thing for the industry.

However, when the Bank Board solicited comments on changing the 1-year rule to a 3-year rule, the rule by its own proposed terms would have applied only to associations which had not gone public by February 29, 1984. In other words, it would be a prospective set of investment rules.

The PRESIDING OFFICER. Will the Senator withhold? Inasmuch as cloture has been invoked, amendments which are nongermane are out of order.

Mr. TOWER. Mr. President, I ask unanimous consent that my amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, I regretfully object, not on my own behalf, but we have Senators on our side who have indicated their objection. Therefore, on their behalf, I object.

Mr. TOWER. Mr. President, I withdraw my amendment but will continue to discuss it.

I understand there are objections because there are special interest pressure groups who have brought a great deal of pressure to bear.

The PRESIDING OFFICER. If the Senator will withhold, the amendment falls on the face of its being nongermane.

Mr. TOWER. Mr. President, the fact is that management has an organized voice in this country; shareholders do not. Sometimes I am afraid my colleagues react as the voice of minority, because it is organized and well-disciplined, has influence, without considering the interests and the welfare of a broad mass of people who are not organized and who are directly impacted by what we do. I am going to continue my discussion of this amendment and hope that perhaps the objection to my bringing it up will be removed.

I made every effort to bring it up. It was filed in a timely way. But, in effect, something of a filibuster occurred before the deadline for the vote on cloture and I was unable to bring it up.

I hope that, eventually, those colleagues who object will remove that objection so that we can make a decision here whether or not the U.S. Senate represents only management in this country, or whether or not it sometimes considers the interest of shareholders and small investors.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. TOWER. I am delighted to yield.

Mr. CHAFEE. Mr. President, I am very sympathetic to the course he is pursuing, particularly the point he is making about the shareholders, somebody else having a voice in the affairs of corporations besides management. I had a particular question I was going to address to the chairman, the floor manager of this legislation. At an appropriate time, I would like to bring it up without interrupting the Senator from Texas. At the proper time, I would like to express some thoughts, but I do not want to interrupt the flow of his discussion.

Mr. TOWER. Mr. President, I thank the Senator from Rhode Island. Of course, I shall be delighted to attempt to respond to any question or invite any comment he may have.

Mr. CHAFEE. My question is directed to the floor manager, along the lines of the comments of the Senator from Texas. If it is acceptable to him, I shall make some comments along those lines now.

Mr. TOWER. If my distinguished colleague from Rhode Island would withhold and let me complete my statement, I shall be delighted to listen to his comments then.

Mr. CHAFEE. That is fine, Mr. President.

Mr. TOWER. Mr. President, this would be a prospective set of investment rules as originally couched. However, on August 2, 1984, when the Bank Board adopted the rule in final form, it made the rule retroactive to include associations which had completed their conversions on or after May 1, 1983, thereby changing investment rules for approximately 90 converted savings and loans—after the fact and at the painful financial expense of the shareholders.

Although comments are being solicited now on this retroactivity, the

rules were made final immediately—I repeat final—for a 6-month period, in effect making this rule retroactive without soliciting any public comment.

Mr. President, if I may suggest it, this action appears to violate the Administrative Procedure Act and clearly has endangered thousands of shareholders' good-faith investments. I do not believe that making it retroactive and changing the rules in the middle of the game is proper public policy. I submit that with this rule being made retroactive, these shareholders have not received what they bargained for. The value of their stock ownership has been significantly diminished, and there is a serious question of fairness to the savings and loan shareholders of this country, who are caught in the window of retroactivity between March 1, 1983, and February 29, 1984.

Fundamentally, Mr. President, the management of a few mutual savings and loan associations that have converted to publicly held companies in 1983 have convinced the Federal Home Loan Bank Board to give them retroactive arbitrary protection by changing the rules in the middle of the game. This ruling for a select handful of mutual managements is at the financial expense of the shareholders and, Mr. President, I think that my colleagues in the Senate know the importance of shareholder rights, and that retroactivity is not the way to conduct public policy. This handful of management groups is extremely influential in the U.S. Savings and Loan League. That is the reason that organization opposes this amendment. However, many of the savings and loans stocks involved in this retroactive ruling have lost between 20 and 35 percent of their market value, and you can go to the financial pages of the newspaper published after this ruling was made public to see the impact on mutual savings and loans companies throughout this Nation. The managements of these companies are not concerned with market value; they are concerned only with preserving their own management positions.

I appreciate, Mr. President, the attention of the distinguished chairman of the Committee, Mr. GARN, to this amendment and his allowing it to be considered today. I believe it is a good amendment. It stands for fairness. It stands for shareholders rights in this country, sometimes that has received bipartisan support from this body on many, many occasions. And it speaks to the issue that retroactivity, in general, is not good public policy, and certainly not in this case, where it damages the value of investments of so many shareholders across the country. I thank the distinguished chairman again, and I strongly ask my colleagues in the Senate to give this amendment their favorable support now.

Mr. President, I recognize now that I am either going to have to overturn the ruling of the Chair or get a consent agreement that this amendment be in order. I hope that I can get such consent agreement. I hope that Senators will not try to delay or indeed prevent the consideration of this very important matter that means so much to so many shareholders—many of them small investors—because a very powerful pressure group has raised an objection.

Mr. PROXMIRE. Will the Senator from Texas yield, Mr. President?

Mr. TOWER. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as the Senator knows, I have stated I would have to object to his unanimous-consent request to make the amendment germane. I did so on behalf of Senators on this side. I apologize that the Senators are not here. They would like to be here, but they are detained. I think they will be here fairly shortly. I hope so. I expect so. I shall do my very best to see that they come to the floor as soon as possible, but I do apologize to the Senator for the delay. At the very least, he certainly has every right to have an opportunity to sit down and discuss this with the Senators who object, and we shall see that that is done as soon as possible.

Mr. TOWER. I thank the Senator. I hope that those who object to this amendment would not do so through a surrogate, but would come here and explain why they object to it. It is my understanding—I shall not name the Senators. I think I know who they are, but it would not be fair for me to name them, not being certain. I hope those Senators will present themselves here and defend their position and objective when the interests of far more people are involved here in the consideration of this amendment than those people on whose behalf they object.

I think on a matter like this, when you lodge an objection, you should come to the Senate floor and lodge that objection yourself and not do it through a surrogate. It is standard operating procedure around here to object through a surrogate, through the leadership and the managers of the bill. I understand that. But I hope that in a timely fashion, those who have asked that the matter be objected to will present themselves to the floor for discussion.

Mr. PROXMIRE. If the Senator will yield, I know as a fact that the Senator who told me of his objection could not be here and has been detained and does have every intention of coming to the floor. He is not trying to hide behind a surrogate or anything of the kind. He is anxious to get to the floor and to discuss this with the distinguished Senator from Texas, and I am sure he will in short order.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE addressed the Chair.

Mr. TOWER. I withhold that.

Mr. CHAFEE. Mr. President, if the Senator from Texas is completed, I would like the floor now, unless he wishes to continue.

Mr. TOWER. Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, in the name of deregulation, the Securities and Exchange Commission last December liberalized its regulations concerning executive compensation disclosure. What they did was to deny shareholders and the investment community valuable information. Now, those disclosure rules had been in effect since 1978, and they were eased under the rationale of reducing costs and compliance burdens.

Mr. President, I support the administration's general goal of removing excessive regulation. Three cheers; we are all for that—do not have too much of the heavy hand of Government requiring a zillion reports. But those SEC disclosure requirements were hardly burdensome. At a time when more specific and meaningful management compensation information should be publicly available, the SEC moved in exactly the wrong direction.

For example, the regulations that the SEC promulgated exempt as much as 10 percent of noncash remuneration of an executive or $25,000, whichever is less, from disclosure. This means that executive employees can enjoy certain perquisites and they do not have to tell the stockholders at all. Country club dues, a corporate hideaway, a company car, or some little fringe benefit can be passed on and the people who own the corporation, the shareholders, the people who invested their money will never know about it.

Now, anyone who understands the workings of regulations knows what happens when the Government establishes a threshold for the enforcement of any rule—all the action tends to take place right outside the door. By exempting these fringe benefits, the SEC has created in effect a "free fire zone." Anything up to 10 percent or the $25,000 is unreported, unregulated, and perhaps untaxed. Furthermore, the current rules allow a company to assign a value to such noncash compensation based upon the burden it places on the company rather than the benefit that it gives the individual. Let me tell you what I am talking about.

If, for example, an executive takes his entire family off to the company retreat, the lodge by the lakeside, and the whole family goes along, even though the value of this vacation could be worth thousands of dollars to the employee, that does not count.

What counts is what it costs the company for them to go there, which is no more for the individual than if he brought his whole family. That is the only amount that is reported, what it costs the company for the individual to go for the week's retreat at the company's vacation lodge.

In addition, by deleting the disclosure requirements relating to unexercised stock options or stock appreciation rights, the revised regulations deny the public yet another block of useful information about the true value of executive compensation.

It seems to me, Mr. President, it is one thing to simplify longstanding rules and regulations; it is quite another thing to reduce the substantial disclosure which is the purpose of our securities laws to provide.

Now, how is management making out? No one needs to get out the crying towel for American management. According to a CRS study on top corporate executive compensation and economic performance, which was conducted this last July, corporate executive compensation has been increasing at a higher rate either than inflation or the rate of pay hikes received by the vast majority of American workers. In 1983, top corporate executive average compensation climbed by 13 percent. Some top corporate executives even received increases that were well over 100 percent.

In the upper reaches of corporate America, the market frequently does not seem to work. Rarely are these huge increases in pay and perquisites directly related to the economic performance of the company that the stockholders own. Even under the most comprehensive of disclosure rules, we do not learn on what basis executives are awarded such large compensation.

Now, we all know how they get their pay. The president of the company goes out and selects the directors. The directors are the ones who vote on the pay for the top executive. It is a lovely merry-go-round in which everybody is considered except the stockholders. In most large corporations, the board has given up its prerogative of determining the pay of top management. They have turned it over in many instances to outside consulting firms, which set the parameters of corporate salaries. These yardsticks are not based on performance. Oh, no. It is based on the size of the company and what the executive down the street is receiving under similar circumstances. So everything is considered except performance. The board of directors just routinely accepts these recommendations.

Now, if a company is not in trouble, top management automatically gets, say, a 10-percent pay increase annually. If one man did particularly well, he gets 15 percent. Hardly a year goes by without very substantial increases for top management. Hefty stock options are handed out almost automatically.

When a company does not do well, how often do you hear that the top executive takes a cut? Rarely. Perhaps in a disastrous year he will not get his bonus, but his salary stays the same or maybe improves. Listen to this statistic. In a survey of 100 corporations in 1982, 55 had declining profits, but the chief executives of nearly half of those 55 companies received increases. In other words, do not look at the performance, just give the executive an increase anyway.

Now, it seems to me in this kind of climate where compensation is clearly not tied to achievements or what those executives actually did to entitle them to this compensation, certainly the stockholders are entitled to know what happens as regards not only the salaries and the bonuses but the perquisites as well, and nothing should be concealed.

Disclosure of compensation discourages dubious expenditures. It holds down costs and increases profits. It provides investors with valuable information about a company's management. What better argument could there be for continuing the fullest disclosure.

Now, surely the costs of reporting this compensation and the perquisites are insubstantial. Disregarding the deterrent effects of disclosure, the SEC action last year ignored the principle that stockholders should be given as much information as possible.

Now, Mr. President, I offered a resolution yesterday that I am pleased the managers accepted. But this resolution is not binding, as we know. Therefore, I hope the distinguished managers of this legislation, both the chairman of the Banking Committee and the ranking member, would use their influence to get the Securities and Exchange Commission to go back to the old rules of disclosure and not allow these exemptions that are now in the regulations. I see no reason in the world why 10 percent or $25,000 of one's noncash remuneration should be exempt from reporting.

So that is my plea of the distinguished gentlemen who are managing this bill. If they could take into consideration the information I have come forth with today, I would appreciate it greatly.

Mr. GARN. Mr. President, I might be much more interested in doing that if the Senator from Rhode Island would come back to the Banking Committee. I tried hard to get him to come back. He was a distinguished member last year, and I hoped he would select the Banking Committee again. Then he could work from the inside.

I again invite the Senator from Rhode Island to come back to the committee.

Mr. CHAFEE. I appreciate that kind invitation.

As the distinguished chairman knows, I left the Banking Committee very reluctantly. Under our system in the Senate with respect to service on committees, as the chairman well knows, one is entitled to remain on two committees, and the third committee must be thrown into the pot for the freshman Senators to pick up. My position was claimed by a freshman Senator, and thus I lost out.

Later, as the chairman pointed out, I did have an opportunity, as we had changes here, to return to the committee, but it did not seem quite the right thing at that time.

Nonetheless, my heart lies with the Banking Committee, and were I there, I would use whatever influence I had, speaking as a member of that committee, which carries a lot of influence with the SEC, as we know, to get them to go back to the old rules.

If the ranking minority member of that committee, who I greatly admire, could also use his influence with the SEC, that would be helpful as well.

Mr. PROXMIRE. Mr. President, I say to the Senator from Rhode Island that I think he has an excellent point. I am not sure that this is the way to do it. But there is no question in my mind that the shareholders should be represented by the board of directors, and they are not.

There is no question that the board of directors have not represented the shareholders the way they should. They have become a tool of management too often—in the majority of cases—and the shareholders have suffered for that reason.

The Senator from Rhode Island is trying to get a the problem through his amendment. I am not sure his proposal is the way to do it. But I agree with his objective and think we should find some way of establishing that responsibility and power in the hands of the shareholders, who put up the money, take the risks, suffer the losses, and often do not share in the benefits. The benefits go to management and the board of directors, who have become the tool of management, instead of responding to the shareholders.

Mr. CHAFEE. I thank both Senators.

I say to the chairman and the ranking minority member that I was pleased that in the legislation before the Senate they already have provisions dealing with "green mail"—that is, management protecting themselves by buying off threatening stockholders.

Furthermore, the committee has provisions in the bill dealing with the "golden parachute," which of course is outrageous and which we dealt with in the tax bill.

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So we are taking steps toward making management more responsible and for making the directors realize that they have duties. They are not just there as tools of management, to sit at the board meetings and sweep up not only the honoraria they normally receive but also their fees as directors for attending the meetings. It is my hope that directors in the United States will become more responsible, and certainly that is what we are striving for.

Mr. President, I have nothing further to say on this matter, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask for the yeas and nays on final passage of S. 2851.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, this is a good bill, and it is my hope that the U.S. Senate will pass it. I commend the managers of the bill for the good job they have done in constructing it.

It is my understanding that there will be some move to delete certain provisions. My understanding is that the manager of the bill will move at some point to delete the so-called Dodd amendment. Is my understanding correct?

Mr. GARN. Mr. President, if the Senator will yield, that is technically correct.

I should like to explain what the situation is. There are some who feel that striking the Dodd amendment does not correct the South Dakota loophole. That is not the situation. In the original committee print, we did close the South Dakota loophole by totally prohibiting any legislatures from authorizing State-chartered banks to export services across their State lines. I felt that the powers of State-chartered banks within these home States was a matter of States' rights and that the rights of State legislatures ought to be protected.

The Dodd amendment took it a step further and said that certain powers for a State-chartered bank even within its home State, if it were owned by a bank holding company, would be precluded. I feel that goes too far.

The ownership of the bank should not be the issue. The position of the insurance people is that State-chartered banks should not be allowed to sell insurance even within these home States, but the insurance people should be willing to say that to the State legislatures—Utah or Rhode Island—"We don't want you to allow any State-chartered banks to do that." The insurance people are not willing to accept that. In the Dodd amendment, they ask to partially cut off State legislatures.

Moreover, there has been a misunderstanding. Most of the insurance people think the Dodd amendment is a prohibition for State legislatures to authorize any State-chartered banks to sell insurance. That is not true. The Dodd amendment would apply only to those State-chartered banks that are owned by holding companies.

Even with the Dodd amendment, you have a situation where a legislature has the power to allow all independent State-chartered banks to sell insurance. I feel that the Dodd amendment is an intrusion on States' rights. My amendment would allow any State-chartered institution to sell insurance but only if a State legislature decided it could, regardless of whether the institution was owned by a bank holding company or not.

Mr. CHAFEE. I agree with the chairman of the Banking Committee. My question is that at some time he will present an amendment, will he not, to correct that?

Mr. GARN. That is correct.

Mr. CHAFEE. I agree with that.

Mr. President, I think that the managers and the Banking Committee as a whole, particularly those who have worked hard on this bill, have done a good job, and I hope the bill is passed. I shall vote for it. I shall also support some of the moves that have been outlined on the floor. So I look forward to getting on with this.

Is it the chairman's view that perhaps we will be able to vote on this today? Is that his hope?

Mr. GARN. I would certainly hope so. We have had about an hour, and we have had some good discussion on some other amendments.

I would hope those Senators who have a major controversial amendment would be willing to come over soon and offer them. That is the key to finishing the bill, to see the will of the Senate on those amendments and proceed to final passage.

I hope we will be able to finish this evening.

Mr. CHAFEE. Fine.

Again, I commend the chairman for the good job he has done on this piece of legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I am greatly concerned with corporate management in America. It is my contention that members of boards of directors do not represent the shareholders as they should but, instead, represent management. In other words, boards of directors are essentially supine—which I think you will find defined by Webster as extremely laid back, not very responsive to the needs of the stockholders but, instead, responsive to the wishes of management.

There have been many articles written on this subject—hopefully, there will be even more in the future. It is my understanding that there is an excellent article on the whole subject of directors by Mr. Geneen, the former chairman and chief executive officer of ITT. Mr. Geneen goes quite a way in this article—I believe it is in the latest issue of Fortune magazine—in which he says there should be no members of management—not the president, not the chief executive officer—on the board of directors; the directors should be an entity composed solely of outsiders. I look forward to reading that article.

Mr. President, I have submitted legislation, an amendment to this bill, which provides that every member of the board of directors of a corporation must own 1,000 shares of that corporation while serving on the board before he or she can collect any director's fees. Immediately, the question comes up, "What about the poor public interest person who cannot afford 1,000 shares?" My amendment does not say you have to have 1,000 shares when you go on the board; it only says that until a director acquires 1,000 shares, all the director's fees that that person would have been receiving must go toward the purchase of stock in the corporation for the benefit of that person until he or she reaches a holding of 1,000 shares.

Mr. President, you might say that is quite difficult. In the case of IBM, which is probably trading at something around $120 now, that totals around $120,000. I do not know what the directors of IBM get, but I would suspect that with their retainer, their fees for attendance at meetings, plus their fees for attendance at committee meetings, it comes to about $40,000 a year. So, in the course of 3 years, the person would have acquired the 1,000 shares.

Why am I doing this, Mr. President? Why do I propose this? I propose it, Mr. President, in order to give those directors a sense of responsibility toward the stockholders. If they own 1,000 shares, perhaps they will consider the stockholders instead of being so constantly responsive to management. You and I have all seen proxy statements of corporation X, Y, or Z, where the holdings of some of the directors are very small indeed. I just think boards of directors should represent shareholders—not management, shareholders. That is why I have proposed this amendment.

Mr. President, it is clear that the amendment is nongermane to the banking bill. We have already had an opinion to that effect. Therefore, I am prohibited from bringing it up. I sought a waiver, but for good reason, that was objected to. But I notice that a member of the Banking Committee, who is chairman of the relevant subcommittee dealing with this matter, the distinguished junior Senator from New York, is here. I ask whether, at the earliest appropriate time, he would be good enough to take this legislation up in his subcommittee and consider it.

There may be flaws in it. What is magic about 1,000? Most shares are traded in the area of $30 or $40, so 1,000 shares would be $40,000—which perhaps, is too steep. But some other figure might be appropriate. All I want out of this is for directors to have a sense of responsibility toward the people they are meant to represent.

I note that the distinguished chairman of that subcommittee is on the floor. If he has any comments on my request, I would appreciate hearing them.

Mr. D'AMATO. Mr. President, first let me indicate to my distinguished colleague from Rhode Island, Senator CHAFEE, that I understand his concerns in raising this amendment. I think it would be most appropriate for us to schedule hearings on the subject. I will ask the Banking Committee chairman to do that. I have already spoken to him with respect to the availability of hearings as quickly as possible and as expeditiously as possible on a number of other securities matters. I believe the request of my colleague is reasonable and we should undertake hearings before this year is out.

Second, I thank my colleague for recognizing that his amendment as written may not be perfect. That the 1,000-share limit may not be appropriate, there are other avenues to explore with respect to what the Senator is trying to accomplish.

I am sympathetic with his overall objective, but I do believe that we should give the securities and exchange committee, other relevant agencies, the general public, and corporate America the opportunity to be heard on this issue.

I hope that we will be able to set up these hearings with due dispatch so that we might have the kind of study appropriate before we vote on this matter.

Mr. CHAFEE. Mr. President, I express my appreciation to the distinguished chairman of the subcommittee dealing with this matter, and I look forward to the results. As I say, I am not wedded to the particular amount of 1,000 shares. His hearings could well produce some constructive alternatives as he suggests.

I also hope—perhaps not necessarily immediately but next year when we return—that the distinguished chairman of the subcommittee would look into the whole subject of corporate directors and their responsibilities.

I have been told that Mr. Geneen would impose some rather onerous burdens on directors, even opening them to personal liability if certain events occur in the corporation.

As you know, Mr. President, there is always a thin borderline in these matters; namely, that if the risks are too great, a potential director will not accept a board position. I do not think anybody has ever become rich by being a director, although nowadays you can get fairly rich. Indeed, I know some people who are directors of five or six major corporations, and it is a nice livelihood. But it is also true that if the risks are too great, then desirable individuals who are of responsible character, with broad-gauge backgrounds, will refuse to take on these additional duties.

I thank the distinguished chairman of the subcommittee and look forward to the results of the hearings that he intends to conduct.

AMENDMENT NO. 3769

Mr. GORTON. Mr. President, I call up amendment No. 3769.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 3769.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 29, line 3, replace the word "that" with "on whether".

(2) On page 49, line 11, replace the word "that" with "on whether".

The PRESIDING OFFICER. The Chair advise the Senator that the amendment would seek to amend the bill in more than one place and, therefore, is not in order.

Mr. GORTON. Mr. President, I ask unanimous consent it be considered in order in spite of that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GORTON. Mr. President, the purpose of this amendment is to clarify the language of S. 2851 with respect to judicial review of Federal Reserve Board orders on bank holding company applications for new activities.

As the bill is drafted, a Board order that an activity is permissible is subject to judicial review upon the appeal of a third party opposing the ruling. However, a Board order that an activity is not permissible cannot be challenged in court by the bank holding company. This amendment restores symmetry by making clear that Board orders concerning permissibility are subject to judicial review, regardless of the nature of the order. Such symmetry of judicial review is only fair.

The amendment corrects an inadvertence in the original text and is, I believe, acceptable to both sides.

Mr. GARN. Mr. President, I have reviewed this amendment of the distinguished Senator from Washington, and I am willing to accept it.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3769) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I advise Senators that we could pass this bill very shortly if they would come and offer their amendments. I have been advised by the Senator from Wisconsin that there are no amendments to be offered on the Democratic side. Therefore, we are awaiting my colleagues. If we do not get some action before too long, I will simply go to third reading and if they cannot get to the floor rapidly enough, they will not have an opportunity to offer their amendments. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, yesterday the distinguished Senator from Kansas had an amendment that was acceptable to the Senator from Wis-

consin and to me. We did adopt the amendment. It was noncontroversial. We have found that there were some errors in the writing of that amendment, technical changes to be made in it.

The Senator from Kansas has informed me that she feels that it is easier to submit a new amendment, striking what was done yesterday, rather than trying to correct it in a piecemeal fashion. So I ask unanimous consent that the Senator's amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 4242

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 4242.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, line 2, strike all after ". . . accounts issued by an insured institution.", and insert the following:

"The term 'deposit broker' shall not include a person in an agency relationship with an insured institution where, as of September 12, 1984, that institution utilized such persons to serve exclusively that insured institution for the purpose of soliciting deposit funds and providing loan applications/services for the residents of the state in which the institution is located and where such persons are regulated and examined by the Corporation. The Corporation may issue rules and regulations as necessary to implement this subsection."

Mrs. KASSEBAUM. Mr. President, as the distinguished chairman, the Senator from Utah, has pointed out, it did seem best just to send to the desk an entirely new amendment, rather than making various technical changes. It is agreeable to both sides, I understand, and there is no need to go into that further, other than the fact that there was some concern about the language being interpreted in a broader aspect. It clearly defines and corrects the definition so that there will be no misunderstanding about the term "deposit broker."

Mr. GARN. Mr. President, it is definitely an improvement over yesterday's language. I have not changed my mind since yesterday as to its acceptability. I am willing to accept the amendment.

Mr. PROXMIRE. It is my understanding that this is strictly a technical amendment, that the substance of the amendment is the same as the intention yesterday, and I am happy to support the amendment.

Mrs. KASSEBAUM. Mr. President, I am amazed how many people pay attention to what we do on the Senate floor, because immediately calls started coming in, wanting to know what deposit brokers were and how it is defined. Our actions were quick to follow.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4242) was agreed to.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, it is entirely possible that the Senate will be in late tonight. It also appears to be necessary to be in tomorrow.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

Mr. BAKER. Mr. President, if I could inquire of the managers about what we are prepared to do, we have 100 hours postcloture. There are amendments at the desk which have qualified under the rule, and I am anxious to get started.

Mr. GARN. Mr. President, I am sorry. I must admit that I did not hear a word the majority leader said. But, if he would repeat it, I would be happy to respond.

Mr. BAKER. I can repeat it, but I am sure not with the same indignation. [Laughter.] I was inquiring of the managers, and any sponsor of any amendments, what we can expect to do yet for the balance of this day.

Mr. GARN. Mr. President, we are at the point where we are at the heart of this bill; that is, the securities power. Senator HEINZ is here, and prepared to offer the amendments. I have been eagerly awaiting his arrival. The Senator is now here. We are ready to commence debate on that section.

After those amendments are disposed with, we would proceed to two amendments. The Dodd amendment, I do not think, will take very long. I have consulted with Senator DODD, and he is willing to talk for a very brief period of time. The second vote would require no debate in between.

So at this point, I would expect a rather late night. But it is really totally dependent upon the debate that is just commencing.

But at this point I would have to say I would expect we would be in until 10 or 11 p.m. But I do believe we can finish this evening.

Mr. BAKER. Mr. President, I guess the only thing I can add to this is that we have been on the bill now more or less for 10 days; almost 10 days. It is time to finish. I am prepared to ask the Senate to remain in today beyond the usual time for recess or adjournment, and we now have an order for tomorrow. It is the desire of the leadership that we try to finish this bill this week, and we will stay tonight, if we have to, and be in tomorrow, if necessary, to get that done. I urge Senators to consider that there is a great list of things that have to be done in the time remaining before our target date of October 4 for sine die adjournment.

So I urge Senators who have amendments to offer their amendments so that we may get on with the matter at hand.

Mr. GARN. Mr. President, I think the majority leader. I am prepared to yield the floor in just a moment so the Senator from Pennsylvania can offer his amendment.

I will say to the Senate that I have offered the Senator from Pennsylvania time agreements on these amendments to try to shorten the period. The Senator from Pennsylvania has not at this point been willing to do that. The Senator has indicated that he may at a later time—and that is certainly within the Senator's prerogative. Sometimes time agreements make things last longer than if you do not have them. But at least I want the Senate to know we have had some discussions.

Mr. President, I yield the floor.

AMENDMENT NO. 4077

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I will direct my colleagues attention to the printed amendment No. 4077 which we filed on yesterday. The amendment strikes the securities powers from the bill before us, S. 2851. I ask that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be reprinted in the RECORD, as follows:

AMENDMENT No. 4077

Strike Sec. 101 (beginning on page 3, line 4, and ending on page 4, line 15) in its entirety. Strike Sec. 103 (beginning on page 5, line 12 and ending on page 6, line 2) in its entirety.

Strike that part of Sec. 104(a) beginning on page 7, line 13, and ending on page 7, line 25, and reletter the subsequent subsections accordingly.

Strike that part of Sec. 104(a) beginning on page 8, line 22, and ending on line 23, and renumber the subsequent subparagraphs (2) and (3) to (1) and (2).

Strike that part of Sec. 104(e) beginning on page 22, line 3 and ending on page 26, line 11.

Strike that part of Sec. 107(a) beginning on page 36, line 13 through line 10, ending on page 37, reletter paragraph "(L)" to "(K)" where it appears on page 37, line 11.

Strike that part of Sec. 107(b) beginning on p. 40 line 10 all after "and", and ending on line 25.

Mr. HEINZ. Mr. President, I intend to offer this amendment in a few minutes. But I want to talk about it first so that I do not lose my right to the floor. This is the amendment which would, as I mentioned, strike the securities powers from S. 2851.

Mr. GARN. Mr. President, will the Senator yield for a question without losing his right to the floor?

We want to make certain we are on the same amendment that the aide showed us before. If we could have a copy, we could be certain. We discussed it earlier.

Mr. HEINZ. While the staff is consulting——

Mr. GARN. I want to make certain we are talking about the same amendment.

Mr. HEINZ. I will describe the amendment so there will not be any misunderstanding about it, Mr. President.

Mr. President, on a number of occasions I have outlined my objections to much of the securities powers in this bill.

I would be incomplete in my remarks, if I did not note at the outset that there is much in S. 2851 that is desirable. It is legislation which, on the whole, accomplishes much in bringing order to a very fast-paced industry where there is a dramatic evolution taking place, which evolution has resulted in relatively unchecked expansion by banks and nonbanks into each other's traditionally segregated turf.

And there are provisions in this legislation which close the nonbank banks and South Dakota loopholes and which sanction regional bank compacts which will help reestablish the traditional separation of banking and commerce and provide for greater, not lesser, competition between banks and their competitors, and I believe increase the efficiency of our capital markets.

But I do have very strong reservations, indeed objections, to the provisions of this bill which would grant new and very much unprecedented securities and investment banking powers to depository institutions. So the amendment that I will offer in a few minutes, and which has been circulated, is amendment No. 4077, which would simply do this: It would strike the authority for depository institutions to underwrite and sell commercial paper, mortgage-backed securities, and municipal-revenue bonds. I would like to note that this amendment would not in any way interfere with the ability of depository institutions to offer the discount brokerage services that they are now permitted to provide customers.

Mr. President, I know we have been on this bill for 10 days. But I also know that the elements of banking regulation of financial institutions, of turf fights, is also an arcane science, extraordinarily controversial and very little understood by the general public.

I even sometimes wonder, after 6 years of having dealt with this in the Banking Committee, whether, by virtue of having week upon week, month after month of hearings, even how well at times the most attentive of us truly understand the implications of all we do in this area.

There have been more than one of my colleagues on the Banking Committee who are very smart and attentive individuals who have come to me and have said: "I am still not sure whether what we have done in that bill with regard to those securities powers is the right thing."

I think we have all been looking for some simple, easy to understand way to come to a logical conclusion other than history, which was written 50 years ago, for us to make good decisions on this.

Another of my colleagues came to me today and said:

John, I am kind of for deregulation, in principle. That is the way I vote. I want to get as much deregulation as possible. But I still do not know quite what to do here.

I said:

Well, there are two ways of viewing this issue. One is as a turf fight, a turf fight between the securities industry on the one hand and the banking industry on the other, and if you view it that way, and a lot of people do, it does not really give you any clear answer. You kind of end up listening to two groups of constituents and they are divided. You make your decision and you make some people mad and you make some people happy, and you go to bed later at night wondering whether you did the right thing.

I think there is another way of looking at this, and it is if you wanted to have real freedom in the marketplace, free from Government regulation, the first thing you would do is that you would insure that to begin with both the banks and the securities people were starting out with the same level playing field in terms of who is behind them. Right now, the securities industry is free from Government support. We do not subsidize them; we do not bail them out. We do not offer them low-interest loans. The same cannot be said of the banking industry.

I do not quarrel with our decision to have granted financial institutions that take deposits FDIC or FSLIC insurance. I think that is a good thing for us to have done.

I do not quarrel with having the Federal Reserve window available for banks, large and small, to go and borrow at what is, in fact, a concessional, low interest rate.

Our banking industry, after all, is the custodian of the Nation's payment system. We depend on their accepting a check and clearing a check quickly and dependably. So we have a special public interest in banks being able to discharge a function that, frankly, in most other countries is discharged by the Government-owned national bank—the Bank of England, the Bank of France, the Bank of Germany, the Bank of Japan. They are the Federal Reserve System of this country plus a lot of banks.

We have a Federal Reserve System but we do not have a Federal Reserve bank. We have a system of banks that are federated into our centrally managed, centrally supported, federally chartered, federally insured—and, by the way, federally, when they get in trouble, bailed out—banking system.

That is probably more flexible and better than what the other countries have, so I do not say it to be critical. But I think we need to understand right up front that our depository institutions are not the free, fair market players we usually have in mind when we talk about people going out and competing. We are supporters. We, the Government, put money into and behind banks.

So if you really wanted to be a deregulator, what you would have to do is get rid of FDIC insurance, close the window at the Fed, stop bailing out the Continental Illinois' of the world, and then it would be perfectly logical to talk in terms of banks dealing in securities, and securities people taking deposits. We would not have any interest in that. We would have washed our hands of the whole thing and that would be the American enterprise system at its greatest.

But, my friends, that is not the situation that we have.

So I do not think it is an overstatement to say that when you say should banks be allowed to deal in securities, that what you are saying is, "We are going to have federally subsidized, federally supported, but privately run business organizations competing with other business firms that are not fed-

erally supported, that are not federally run, that are not federally bailed out, that do not have bailout insurance."

A lot of people sometimes wonder what that Federal deposit insurance is all about. I guess there are some instances every once in a while where a bank fails and the Federal Deposit Insurance Corporation actually pays out up to $100,000 per depositor. But, you know, that is not actually what happens most of the time when there is a troubled bank and that troubled bank is allowed to fail with depositors paid off up to $100,000.

What happens most of the time is that the FDIC arranges a merger with a healthy bank and pays the difference between the bank's liabilities which are greater than its assets to the acquiring bank.

That is what we have done in case after case, both for savings and loans and banks, during the last 4 or 5 years, when we have had literally hundreds of banks and savings and loans become insolvent.

There is a good reason for doing it that way, Mr. President, lest anybody think our regulators are irresponsible. It costs less money than paying off the depositors and it causes less panic. It is cheaper to pay an institution to take over a troubled bank for the difference between assets and liabilities than it is to pay out $100,000 right then and there while all the financial operations of the bank are frozen as the bank is foreclosed and liquidated, which can take 5, 10, 15—in the case of S&L's with 30-year mortgages, a longer time than that.

So what FDIC insurance is—think about this—is merger insurance for failed institutions. That is what it is. If you have a big enough institution, you can get a $200 million or $300 million or $400 million payment from the Federal Government—not to you, but to some other institution—to merge you so that you do not fail. Boy, that is a great deal. Whether you like it or not, it is the Federal banking policy, but whatever else it is, it certainly is not the American enterprise system and the freedom to fail that we all know about. That is why letting banks into other lines of business that are neither directly related nor properly incidental to banking is the very opposite of creating a level playing field. And it is why I seek to strike these three securities powers from this legislation.

I think it might be desirable, Mr. President, to talk about each of these three powers for a few minutes. But before I do that, I think it needs to be properly understood that there is some history to the Glass-Steagall Act which has prohibited, for very good reason, banks and savings and loans from underwriting or dealing in securities, from treading on genuine investment banking turf for the last 50 years.

So people will say, Well, Senator, there have been some exceptions made to that rule. Banks were granted certain rights and privileges." Then they will point to municipal bonds guaranteed by the full faith and credit of municipalities. It is true that there has been, going back a long way, an exception for banks to deal in State and municipal bonds that are backed by the full faith and credit of the State or local government—general obligation bonds they are called, because they are a general obligation of the full faith and credit of the issuing entity, which is the governmental entity, which pledges its full faith and credit. The justification for that kind of exception has been—whether it is a good or a bad justification, it has been that because there is a full faith and credit guarantee, there is an elimination of virtually all risk to the banks, the depository institutions that make these transactions, and, therefore, because there is virtually no risk—although we all know there can be some from time to time—there is a freedom from any jeopardization of the safety and soundness of banks, and there are not present any discernible, or to a significant degree, incentives for self-dealing or conflict of interest or tie-ins.

Mr. President, as my colleagues are undoubtedly aware, neither commercial paper nor mortgage-backed securities nor municipal revenues bonds are backed by any general Government obligation to pay, making them inherently riskier and subject to all the other potential threats to efficient capital market movements—namely, the kinds of tie-ins, the kinds of conflict of interest that did exist in the 1920's and 1930's and caused this Congress to write and implement the Glass-Steagall Act.

I hope people realize that since commercial paper and mortgage-backed securities are issued entirely by the private sector, S. 2851, as it is before us at this moment, establishes an incredible precedent; namely in permitting banks to underwrite and, therefore, to speculate in what is nothing less than general commerce.

When a business firm issues a security such as commercial paper—and it is a security. Do not believe me, believe the Supreme Court. What it is doing is taking a position in an unsecured obligation that is only secured by the good will and ability to pay, if there is any, of the issuing company. If that company fails to make good, if a bank ends up with a handful of deadbeat commercial paper and the company goes into bankruptcy, what happens is that the bank ends up, more often than not, if it is allowed, with an equity interest, which they are not supposed to have in general commerce. That is what we are really talking about, absolutely destroying the line between banking and general commerce. We are destroying it in favor of people who are Government-supported.

I hope my colleagues, therefore, understand that this legislation as reported genuinely constitutes a major dangerous and unwarrented erosion of the Glass-Steagell Act, which has served us so well for 50 years. I would only add that perhaps it is for this reason that virtually all the consumer and business witnesses, the people who, we are told, are supposed to benefit from this legislation, opposed—I repeat, the consumers, representatives, and business people who have testified, almost to a man or woman, before our committee, opposed granting these additional securities and investment banking powers to banks and savings and loans.

Let me take a minute or two to discuss each of these terms. I mentioned commercial paper. In granting commercial paper authority to depository institutions, we go back 50 years to some of the same concerns that moved Congress to enact the Glass-Steagall Act in 1933. It is worth remembering that in the thirties, Congress found inherent conflict of interest when a provider of credit who underwrote or dealt in securities of its borrower, that that conflict of interest was nearly inevitable.

For example, in the 1930's Congress found that a bank's salesman's interest in a securities offering might impair its ability to function as an impartial source of credit. In the commercial paper market where distribution of an issue depends heavily on the creditworthiness of the private issuer, a bank presumably can enhance the marketability of an issue by extending backup credit to its customer issuer. Similarly, as a commercial bank would find itself in direct competition with other commercial paper dealers, the bank may feel pressure to purchase unsold notes for its own investment portfilio in order to demonstrate the reliability of its distribution system even if the commercial paper does not meet the bank's normal standards.

Now, that is called "asking for trouble." It is called "greater risk."

I have to tell you, Mr. President, that even if our banks were not relative to where everybody I think agrees they ought to be in terms of being shaky or risky, it is still betting with the taxpapers' money to get banks into riskier lines of business. It is betting with the taxpayers' money because if they make a mistake, as they did with real estate investments in a large number of instances in the 1970's, it is the Federal Government that has to come along and pony up.

Frankly, with a budget deficit of $180 to $190 billion, I do not want to see some $4.5 billion loan or bailout, or

whatever it is you want to call it, to a half a dozen or a dozen more Continental Illinois banks. When we loan failed banks money, there is going to be that much less money to lend to everybody else.

Mr. D'AMATO. Will the Senator yield for a question on that point?

Mr. HEINZ. Is the Senator willing to take it out of his own time, if it is going to be lengthy?

Mr. D'AMATO. Certainly, on the Senator's time or my time.

Mr. HEINZ. All right, I will yield on the time of the Senator, if he does not mind.

Mr. D'AMATO. Even though S. 2851 would establish a separate securities affiliate from the bank holding company, is there anything in this legislation that the Senator is aware of that would prevent a failing securities affiliate from being propped up with bank funds?

Mr. HEINZ. The answer to the question of my colleague is no, I know of no prohibition in this legislation that would prevent a holding company or its securities affiliate from being propped up were that securities affiliate, or for that matter any other affiliate, to fail.

Mr. D'AMATO. What about the use of bank capital for traditionally nonbank activities? My point is that banks are currently undercapitalized. Is it the proper time for these institutions to use precious capital for other activities? This is of great concern to this Senator.

Mr. HEINZ. As I understand my friend's point—and I think I fully agree with it—he is posing several questions. He is asking, is it true that many of our depository institutions do not have, as measured by our regulators, a sufficient capital account and are they not awfully close to the line of being adequate and inadequate and do they not have too much of their capital committed, in some cases many times over, to, if not defaulted, at least questionable loans. The answer to his first question is, in this Senator's judgment, yes. Too many of our banks are sailing very close to the wind right now.

If he is asking, second, as I believe he is, where, if a securities affiliate is going to be established or if it is going to get in trouble, they are going to get the money to prop it up, the answer is that they are going to have to get it from the same source as the bank would have to get it; namely, the bank holding company.

And so the Senator is asking the source of that capital, not just to watch out for the bank, which ought to be its first and foremost concern and our first and foremost concern, but the Senator is asking to underpin the subsidiary as well, and that is called being stretched or pulled in two directions. If the Senator will permit me, I should like to quote two authorities on this issue, both of whom have some knowledge and experience, I think the Senator would agree, in banking. Two of our world's most reknown bankers, Water Wriston, the chairman of Citicorp, and Paul Volcker, the Chairman of the Federal Reserve, have spoken on this issue.

Mr. Wriston stated, with respect to how much difference does a separate subsidiary make, in 1981:

> If your name is on the door, all of your capital funds are going to be behind it in the real world. Lawyers can say you have separation but the marketplace is persuasive and it would not see it that way.

If the Senator will permit me one more quote——

Mr. D'AMATO. Before my good colleague from Pennsylvania continues, let me then pursue another issue. What Mr. Wriston is saying is that, irrespective of the fact that there is a separate subsidiary, there is going to be that necessity for the holding company to come to the rescue of the failing affiliate. Another issue is that of perception. Regardless of whether the bank is sound, the failing securities affiliate will hurt the bank. The public will perceive the bank as weak because of a weak affiliate. This may lead to a run on the bank. Then the FDIC may have to rescue the whole bank.

Mr. HEINZ. Mr. President, it concerns this Senator very much. Unfortunately, one does not have to look too far for real life examples. Unfortunately, in the Senator's home State of New York, I think it was the Chase Manhattan Bank that had a securities affiliate—Drysdale—and there was a $200 to $300 million problem, as I recollect, where the parent bank, although this was a subsidiary, had to scurry around with great urgency for quite a while to come up with several hundred million dollars to make good on everything so that there would not be any tarnishing of the bank's reputation. So we do not have to go too far in the real world to find an example that supports the view of the Senator.

Mr. D'AMATO. If I might, Mr. President, with the indulgence of my colleague from Pennsylvania make a few more points.

I am very much concerned about the failure of a securities subsidiary of a bank holding company. I am talking about a situation analogous to the failure of Continental Illinois. The fact is in the Continental bailout the FDIC went too far by rescuing the holding company and its bondholders. The FDIC should not have done this. If a failing securities affiliate hurts a bank, the FDIC will have to rescue the whole bank. I feel we should be going slowly concerning more securities powers at banks. We should review Glass-Steagall in its entirety. Also we should review the impact of more securities powers on the FDIC.

We are likely to see some very dangerous situations, where FDIC money is used for unintended purposes. The Senate must review this issue to a much greater extent.

I thank my colleague for giving me an opportunity to raise those points.

Mr. HEINZ. Mr. President, I commend my colleague from New York for having illuminated the critical point with just three incisive questions. I would now like to return to my discussion of the three additional powers that this bill grants to depository institutions.

Let me provide more specific facts on municipal revenue bonds.

S. 2851 would allow depository institution securities affiliates to underwrite all municipal securities except certain industrial development bonds. When the Glass-Steagall Act was enacted in 1933, the underwriting activity of commercial banks was limited to Government securities and general obligation bonds backed by the full faith and credit; that is, the taxing power, of the municipal entity.

In the ensuing years, the act was amended at various points to allow banks to underwrite other debt securities issued and guaranteed by the Federal Government such as the obligations of the Asian Development Bank and the Tennessee Valley Authority. In 1968 the act was further amended for the purpose of allowing banks to underwrite bonds sold to finance public purpose, not-for-profit housing and dormitory facilities fully guaranteed by colleges and universities. Expended interpretations of this amendment by the Comptroller of the Currency have also allowed banks to finance hospitals that have teaching affiliations with universities. In sum, banks presently underwrite 40 percent of all municipal revenue bonds.

The primary argument put forward by proponents of bank entry into the municipal bond market is that increased competition will result in great savings to municipal issuers. However, attempts to prove this point have failed. A series of hearings held by the House Banking Committee in 1979 refuted this claim and in fact demonstrated that the revenue bond market already has more than ample competition to serve the financing needs of municipalities. This point was recently made again by SEC Commissioner Marinaccio. Additionally, in a study undertaken by two experts in this field, Professors Mussa and Kaufman, it was concluded that "there is no evidence that extension of bank eligiblity to underwrite all revenue bonds results in any significant savings for bond issuers."

As recently demonstrated by the default of the bonds sold by the Washington Public Power Supply System, there is a greater risk factor in under-

writing revenue bonds, which are not backed by the full faith and credit of the municipality, than is associated with general obligations issues. This increased risk could potentially endanger the safety and soundness of the bank underwriter if the issue were not successful. With bank failures at their highest rate since the Depression, this is not a risk that our Nation's banking system can afford.

Given the lack of evidence of any benefit from bank underwriting of municipal revenue bonds, and the increased risk associated with them, it would be unwise for Congress to authorize this activity for depository institutions.

S. 2851 would permit a securities affiliate of a bank or S&L to underwrite and deal in mortgage-backed securities [MBS]. These instruments represent interests in pools of mortgages which have been turned into securities and sold to investors. In this respect, MBS are quite similar to mutual funds.

The Federal corporations that guarantee mortgages—Fannie Mae, Freddie Mac, and Ginnie Mae—presently issue mortgage backed securities for those loans that they guarantee; that is, low- and moderate-income mortgages. By purchasing these mortgages and then selling them to investors, these Federal agencies have created a secondary market in these mortgages, thus alleviating banks and S&L's from the burden of carrying these loans for long periods of time. Banks presently underwrite and deal in these federally guaranteed mortgage-backed securities. However, S. 2851 would allow banks to shift their focus from MBS' backed by low- and moderate-income mortgages which are federally underwritten in the secondary market to those backed by larger mortgages belonging to upper income individuals where there is no Federal guarantee.

As a matter of Federal housing policy, I believe it is appropriate for banks to continue to assist low and moderate homeowners through underwriting and dealing in those MBS with Federal agency credit support. But it is neither good housing nor sound banking policy for depository institutions to be diverted into the secondary market serving upscale customers. All available evidence indicates that securities firms are fully able to service this upscale market, and no facts can be found in the committee's encyclopedic hearing record to the contrary.

Mr. D'AMATO. I thank the Senator.

In addition, Mr. President, the bill before us would grant securities affiliates of bank holding companies the power to underwrite commercial paper, mortgage backed securities, and certain municipal revenue bonds. These changes would represent a radical departure from current policy that separates commercial banking from investment banking. The Banking Act of 1933 mandated this separation of powers through four sets of provisions commonly referred to as the Glass-Steagall Act.

The Glass-Steagall Act was passed in response to legitimate congressional concern over self-dealing by commercial banks. After the bubble burst in 1929, over 9,000 banks failed. As a result, depositors lost all their savings and businesses could not receive needed credit. Out of this tragedy grew a policy that has stood the test of time—over 50 years—and resulted in the strongest financial system in the world. As chairman of the Securities Subcommittee, I am very apprehensive to change the thrust of Glass-Steagall, especially without thorough congressional review of the separation of commerical and investment banking.

In a recent U.S. Supreme Court decision, the Court pointed out that Congress, in passing the Glass-Steagall Act, excluded commercial banks from the underwriting of securities because this activity is "fundamentally incompatible with (a bank's role) as a disinterested lender." That is, the Court felt a bank could not make dispassionate decisions regarding an extension of credit if the institution also owned and had to sell a client's securities. In other words, the incentives of investment banking are fundamentally contradictory to traditional commerical lending practices.

These concerns are still very relevant over 50 years after enactment of the Glass-Steagall Act. The legislation before the Senate would turn the clock back to pre-1933. It would allow commercial banks to engage in the underwriting of certain securities. The risks that commercial banks with securities affiliates would dedicate bank assets to a securities affiliate are very real.

Even though S. 2851 would establish a securities affiliate of a bank as a separate subsidiary of a bank holding company, nothing would stop a bank holding company from propping-up a failing securities affiliate with bank funds. This would have severe consequences for Federal regulators, depositors, and the integrity of the institution.

Furthermore, it is impossible to fully isolate a securities affiliate from its parent banking institution. If a securities affiliate is failing, the market is going to perceive the entire institution—including the bank—as inherently weak. The bank holding company could not just allow its securities affiliate to fail. This is because the market would treat the institution as weak, leading to higher costs associated with deposits and, thus, reduced profitability, or even a run on the bank. This notion was reaffirmed in a study by Samuel Chase & Co. for the Economic Advisory Committee of the American Bankers Association in 1983.

An example of this is found in the recent Continental Illinois debacle. The commercial banking arm of Continental Illinois was and is in deep trouble because of poor lending practices. The FDIC rushed in to protect all depositors. But the FDIC did not just bail out the commercial banking subsidiary of Continental. The FDIC also, in effect, bailed out the holding company.

If a major bank had a securities affiliate that was in trouble, the entire institution would flounder. The weakness in the securities affiliate could not be fully insulated. Federal regulators would be forced to rescue the entire institution and protect depositors. Continental Illinois dramatizes this; we should learn from past experience.

My point is that there is no legal or practical way to insulate a federally insured depository institution from the failure of a related securities affiliate.

The U.S. Supreme Court described congressional intent best in its landmark decision, Investment Company Institute against Camp (1971). The Court said:

> The hazards that Congress had in mind were not limited to the obvious danger that a bank might invest its own assets in frozen or otherwise imprudent stock or securities investments. For example, pressures are created because the bank and the (securities) affiliate are closely associated * * * there might exist a natural temptation to shore up the affiliate through unsound loans or other aid. Moreover, the pressure to sell a particular investment and to make its credit facilities more freely available to these companies in whose stock or securities the (securities) affiliate has invested or become otherwise involved. Congress feared that banks might even go so far as to make unsound loans to such companies.

The Supreme Court in this opinion pinpointed congressional intent in passing the Glass-Steagall Act. The concerns that existed in 1933, still existed in 1971, and still exist today. Yet, the bill before the Senate today would ignore these important concerns and allow bank holding companies some securities powers.

However, S. 2851 is not the culmination of an exhaustive review of the Glass-Steagall Act. As chairman of the Securities Subcommittee, I would prefer to hold hearings to determine whether Glass-Steagall is an anachronism. Should the separation of commercial and investment banking continue? S. 2851 does not answer this question. Rather the legislation takes a piecemeal approach. It gives securities affiliates of bank holding companies some new underwriting authority, but does not completely resolve the issue in any logical or coherent way.

I feel strongly that this is the wrong approach from a policymaking viewpoint. S. 2851 takes half a step, not a full step. Congress should either reaf-

firm existing policy as mandated in Glass-Steagall or completely chart a new course. But the piecemeal process established in S. 2851 is dangerous and ignores the legislative process. More study is necessary before the Glass-Steagall Act is dramatically altered.

Passage of this legislation would be very dangerous because the banking system today is struggling. It is no secret that the eighth largest bank in the Nation, Continental Illinois, would be insolvent today except for a Federal bailout. Would new securities powers for banks add more risk to the banking system? I think so, but, in any event, we should study the issue more before taking this bold step. We owe this both to taxpayers and to depositors.

I yield back the remainder of my time.

Mr. HEINZ. Mr. President, one of the witnesses before our committee was the Chairman of the Federal Reserve Board, Paul Volcker, whose testimony is fully in support of what the Senator from New York just said. In his testimony on this bill, Chairman Volcker said:

> A bank or depository institution cannot be wholly separate from the fortunes of its affiliates and from the success or failure of their business objectives.

When you have such an eminent banker as Walter Wriston and such a knowledgeable public servant and regulator of the banks as Paul Volcker agreeing that there cannot be a separation between the fortunes of a bank and its nonbanking subsidiary, I suggest that you have a critical problem. You have a serious problem.

Even if it were theoretically possible to have a separate subsidy that truly protected the bank holding company and the bank—which of course cannot be done—I would also have to point out for the record that the separate subsidiary title in this bill simply does not do the job, even if you thought the job could be done.

The DISA structured in this legislation in no way puts the competitors, the would-be competitors, the securities people, and the banks on an equal regulatory footing. I think there are a number of reasons for that which really come in two parts.

The first is that, as we know, and as I have discussed before, the conflicts of interest can arise when a bank is acting on the one hand as a creditor of a private business and on another hand as the underwriter of that same business. That clear potential for conflicts somehow is not sufficient to eliminate it under this bill, under the specific provisions of this bill. I will tell you why, and I suggest that everyone look at it very carefully.

This bill permits transactions between a bank acting as a fiduciary and its DISA, its securities affiliate, if "permitted under the investment creating the fiduciary relationship."

Second, the bill permits a larger percentage of the directors of the DISA to be inside; that is to say, management directors—so it does not have the kind of outside supervision that one would hope.

The bill also permits outside directors to approve the purchase of securities of which the affiliate is a principal underwriter.

I should note that I have filed several amendments to eliminate those potential conflicts.

There is one other kind of problem that goes beyond whether you can ever have a true financial separation. I think we have authoritative witnesses who say that you cannot.

I believe it goes beyond the question of whether the bill does the job it says it wants to do, just in terms of eliminating conflicts of interest and tie-ins that could occur legally.

There is one other area, I submit, that even the most carefully crafted separate subsidiary legislation can never effectively prevent, and it is the so-called tie-ins, financial services, which can result from the usual bargaining power that the lender has over a borrower. I am not talking about coercion. I am talking about the concern that has been expressed about the overt activity of a bank which requires a borrower to purchase its other services as a condition of a loan.

I believe that can be, and probably is, eliminated in many instances, if not all, by S. 2851. However, the situation which does concern me is what goes on in the mind of a borrower who might not qualify for a loan and has to come to a bank that has all these securities and other affiliates and says, perhaps hoping to get a loan, "I want to do my security business with you. I want to do my insurance business with you. I want to do my XYZ business with you." That becomes an irresistible proposition to the banker.

So I suggest that this concept is not only financially flawed and legislatively and legally flawed; I suggest that it is flawed because it leaves the very real possibility that an individual borrower—or, for that matter, a municipal entity whose credit rating might be questionable—would select the lender to underwrite its revenue bonds, in the belief that this is going to improve its chances of getting the loan.

Frankly, the separate subsidiary, as structured in S. 2851, cannot separate the linkage between the lending and the underwriting in the mind of the borrower, even if every bank and every S&L acted at all times with totally inner and outer propriety.

Mr. President, I know that many of my other colleagues would like to speak on this measure, so I reserve the remainder of my time. I hope all those Senators who may be listening, or their staffs will direct themselves to my "Dear Colleague" letter which I sent to their offices today, dated today, which discusses in some detail each of the securities and powers. I also note that a copy is, or should be, on each Senator's desk.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I have waited to speak on the bill until this point because like the Senator from Pennsylvania I have very considerable concern about this area of the bill, and so I want to speak to it in some careful detail, and will here shortly.

I want to say in reference to the letter that the Senator from Pennsylvania refers to that he has circulated to colleagues that it is a particularly well-prepared letter, to my view, very thorough, and I think it does merit careful reading by all colleagues before making a decision as to how to vote on these issues in this area of the bill.

After some 34 days of hearings in the Senate Banking Committee, a printed hearing record of some 8,060 pages, and testimony received from 248 witnesses representing regulatory agencies, consumer and labor groups, trade associations, and many other interested persons, I welcome the opportunity for my colleagues to join those of us on the Senate Banking Committee in fully considering the Financial Services Competitive Equity Act, S. 2851.

This bill contains many diverse issues, including the definition of the term bank—by itself very important at this point—the regulation of savings and loan holding companies, payment of interest on reserves—which we have in part dealt with—usury preemption, interstate regional banking agreements, check holding policies of depository institutions, and certain securities powers. So this is a very wide-ranging measure.

My own position has consistently been that these issues need to be addressed, particularly with respect to closing some of the more gaping loopholes in our current banking laws. Of particular importance has been the closing, in my view, of the so-called nonbank bank loophole that permits nonbanking firms to buy banks or that allows banks to establish offices across State lines.

This issue, of course, is addressed in the legislation that is now before us for consideration, and there are many other equally important issues which are included in the Financial Services Competitive Equity Act.

So it is my intention to see us complete action and to produce a bill that

expresses the will of the Senate after every Senator has been fully and fairly heard on the issues, because I think a banking bill is needed and particularly one that deals with the loophole problems. At this point in the discussion, I want to address myself to my own particular concerns on the issues of these securities powers that have been referred to both by the Senator from Pennsylvania and the Senator from New York, but which in a sense are the substance of the amendments before us at the desk.

During the debate on The Financial Services Competitive Equity Act (S. 2851) we will be considering bank involvement in a number of securities areas. These include underwriting and dealing in revenue bonds, mortgage-backed securities and commercial paper. In addition, an amendment will be offered, I understand, to allow banks to sponsor and sell mutual funds.

In my opinion, the fundamental issue involved in considering each of these cases is whether the principle embodied in the Glass-Steagall and Bank Holding Company Acts, that commercial banking should be separated from investment banking and other lines of commerce, is as applicable and important today as when these laws were enacted.

After a very long period of time and study and thought, I am not convinced that these laws and the principles that underlie the laws are outdated and therefore should be discarded.

In fact, my view is quite strongly on the other side. I want to explain why.

Let me begin by reviewing a small part of the history of the Glass-Steagall Act and our banking laws, for we should not forget that these laws were based upon a mass of evidence, given publicly and under oath before the Banking and Currency Committee of the United States Senate in 1933-34. And that really is the critical reference point from which we must begin the examination of this question today.

One witness at the time in that period of the 1930's was the then-president and chairman of the board of the Chase National Bank, a man named Winthrop Aldrich.

Speaking of the events leading up to the passage of New Deal financial institutions legislation and supporting the argument for separating commercial from investment banking, Mr. Aldrich—who not only was a preeminent banker of his time, but also was a lawyer and subsequently Ambassador to Great Britain—said in a statement submitted to the Banking and Currency Committee in November 1933 these remarks. He said in 1933:

(My) experience as a bank official, coupled with the testimony which was presented to your committee in February of this year had convinced me that many of the abuses in the banking situation had arisen from failure to discern that commercial banking and investment banking are two fields of activity essentially different in nature. I came to believe that while it was essential that there should be coordination between these two types of banking, such coordination could best be protected from abuse and thus enhanced in usefulness through absolute separation of interest between the two fields. . . .

Later he went on to say:

The system itself which permitted overlapping of function and interlocking of interest between these two types of banking has been responsible for much that the public now condemns.

And that ends his quotation at this point, and he was, of course, talking about the events of the late 1920's and early 1930's and the abuses that took place resulting from the combination of investment and commercial banking.

Mr. Aldrich emphasized:

The commercial bank's credit function is very definitely governed by its responsibility to meet its deposit liabilities on demand. It must not seek excessive profits by taking undue credit risks and it cannot wisely tie up its funds in long-term credits, however safe they may be.

On the other hand, he pointed out, when long-term credit is required, the services of the investment banker are needed to "take speculative risks of a sort unsuitable to the commercial bank in providing capital funds for new and promising enterprises." With every new issue, the investment banker "takes the risk that the public may not readily absorb the new securities which he brings out and that his own capital may be tied up for a long time."

The Glass-Steagall Act was praised by Mr. Aldrich not only for preventing the banks from undertaking risks that they could not and should not assume but also for eliminating the possibilities of abuse inherent in a union of the underwriting and commercial banking functions. The commercial banks, he maintained, "should not be in a position to exert any pressure whatever arising out of a dual financial interest." He specifically recognized that it was inconsistent with the bank's duties as lender, as trustee, as depository, and as adviser to its customers for it also to engage in the securities business. By way of illustration, he said:

It is perfectly proper, for example, that commercial banks should lend to investment bankers, on short term, funds necessary to carry a new issue of securities while it is in the process of being marketed. Such a loan, always secured by collateral and carefully scrutinized by the commercial bank, performs an essential service. The commercial bank or banks making such a loan, however, should be absolutely free from interest in the issue, and immunized from possible influence arising from interlocking interests with the investment bankers participating in it.

Mr. Aldrich concluded:

In considering legislation aimed at prohibiting practices contrary to the public interest, it is impossible to draw a distinction between the careful and conscientious banker who would never consciously permit his influence to be misused or his allegiance to be divided, and the banker, who, through recklessness or even because of his private interest, might exercise his influence improperly, if opportunity is permitted to exist.

Later, he said:

The wisdom of effecting a clear differentiation of function and separation in interest between commercial banking and investment banking was recognized in the Glass-Steagall bill. * * * The history of that act and its general provisions indicate a clear intent on the part of Congress to effect, once and for all, a complete separation between commercial banks and investment bankers.

The Glass-Steagall Act, passed in 1933, removed all but limited securities activities from the reach of the commercial banks, in explicit recognition that such concentration of economic power in banks had precipitated and exacerbated the crash and subsequent depression.

Mr. President, I quote those remarks from the legislative history of another period for the simple reason that I am not convinced beyond a reasonable doubt that they are not still relevant today.

The following concerns have been raised time and again regarding bank involvement in the securities industry and I think that each Senator, in considering whether or not banks, at this time, should be allowed additional securities powers should satisfy himself or herself, that these concerns have been adequately addressed in the legislation now before us:

First, the potential for conflicts of interest.

Second, the potential for illegal tie-in arrangements.

Third, the potential for marketing and advertising advantages.

Fourth, the potential for undue concentration of economic power.

Fifth, the transfer of funds and the potential effect on local and regional economic development.

Sixth, the potential effects on the safety and soundness of depositors' funds and on the banking system.

Seventh, the potential effects on the availability of new investment and risk capital.

Eighth, the potential unfair competitive advantages commercial banks would have acting as stock brokers because of their Government insurance tax status and access to Federal Reserve loans.

The supporters of the securities provisions of the Financial Services Competitive Equity Act would, for the most part, have us believe that the problems of potential conflicts of interest, tie-in arrangements and marketing and advertising advantages, are

adequately addressed by the concept embodied in this legislation of a separate securities affiliate under the umbrella of the bank generally. The presumed advantages of a separate securities affiliate are twofold: to protect the safety and soundness of the bank and the banking system and to provide an environment in which bank securities affiliates and other securities firms can compete on fair and equal terms.

During hearings in the Senate Banking Committee, considerable skepticism was expressed as to whether either objective could be fulfilled. The first objective assumes that a bank could allow a securities affiliate to fail without attempting its rescue, or that such a failure could occur without substantial consequential harm to the affiliated bank.

Mr. Walter Wriston, chairman of Citicorp, commenting on the concept of a separate securities affiliate in testimony before our committee, on October 29, 1981, seemed to share the considerable skepticism that a bank holding company could ever, in fact, be fully separated from its affiliate. He stated:

A holding company is probably the clumsiest, most expensive way that exists to operate any business. We have only gone to a holding company in order to comply with the law, and gain some flexibility by so doing. But it is a very poor way to operate. For example, it is inconceivable that any major bank would walk away from any subsidiary of its holding company.

And I want to emphasize this continuation of his remarks to us. He said:

If your name is on the door, all of your capital funds are going to be behind it in the real world. Lawyers can say you have separation, but the marketplace is persuasive, and it would not see it that way.

So I don't see any benefit in getting a separate subsidiary for new businesses • • • I don't see any benefit from it myself.

I would go just the other way. If the National Bank Act was amended to say that everything a bank holding company can do, the national bank can do, I'd be extremely happy. *It would simplify administration and would make it perfectly clear to the customer that our $7 billion capital is behind everything that we do.*

I think that is very powerful testimony.

Chairman Volcker, in testimony before this committee earlier this year in Salt Lake City, stressed once again that banks still play a unique and critical role in the financial system and the economy and the alertness all should have for their continuing stability and impartiality. He stated on behalf of the Federal Reserve Board:

We also believe that these concerns must, to a degree, encompass business organizations of which banks are a part—that is, bank holding companies—for the basic reason that a bank or depository institution cannot be wholly separated from the fortunes of its affiliates and from the success or the failure of their business objectives.

In his study of the events which led to the enactment of the Glass-Steagall Act, Prof. Nelson Peach concluded that it did not seem possible to prevent by legislation the serious abuses which grew out of the mixing of commercial and investment banking. Professor Peach's major concern was the temptation that banks would have to aid their unsound affiliates even if doing so threatened the bank's own solvency. Commenting on the situation that prevailed prior to the Glass-Steagall Act, he wrote:

Since, when the securities were sold, the public had been persuaded that the bank and affiliate were parts of the same organization, the bank could not escape responsibility for the activities of its affiliate when the securities began to decline in value after the stock market crisis of 1929. It became necessary for banks to assist their affiliates because they were aware that any diminution in the goodwill of their affiliates would bring with it a corresponding diminution in their own. This is the chief difficulty in the affiliate system. • • •

That quote from him can be found in Security Affiliates of National Banks on page 142.

In light of these remarks, I believe that Senators in reviewing the securities powers involved in the legislation we are debating today, should consider first whether there is a continuing need for separating commercial from investment banking and second, if there is, whether a securities affiliate, as proposed in the Financial Services Competitive Equity Act, adequately insures against potential abuse.

Mr. President, during the course of debate on S. 2851, we will be voting on at least three amendments, presumably—depending upon how this is treated from a parliamentary and procedural point of view—relating to new depository institution investments and powers. These include authority to allow banks to underwrite, distribute, and sell mutual funds; to deal in and underwrite mortage-backed securities; and to deal in and underwrite revenue bonds, except industrial development bonds.

Let me detail some of the specific arguments which have been brought to my attention regarding each of these three activities.

MUTUAL FUNDS

In the U.S. Supreme Court decision, *Investment Company Institute* v. *Camp, Comptroller of the Currency* 401 U.S. 617 (1971), the Court listed a number of historical concerns and some of the reasons behind prohibiting bank involvement in mutual funds through an affiliate.

In this decision, the Supreme Court identified at least 11 specific dangers. I will quote from the opinion of the Supreme Court.

The bank and the "securities" affiliate are closely associated in the public mind, and should the affiliate fare badly, public confidence in the bank might be impaired;

Since public confidence is essential to the solvency of a bank, there might exist a natural temptation to shore up the affiliate through unsound loans or other aid;

The bank would make its credit facilities more freely available to those companies in whose stock or securities the affiliate has invested;

Banks might even go so far as to make unsound loans to such companies;

Bank depositors might suffer losses on investments that they had purchased in reliance on the relationship between the bank and its (securities) affiliate. This loss of customer goodwill might "become an important handicap to a bank during a major period of security market deflation;

Banks • • • might be tempted to make loans to customers with the expectation that the loan would facilitate the purchase of stocks and securities, that the bank itself was selling through its affiliate;

Security affiliates might be driven to unload excessive holdings through the trust department of the sponsor bank;

The bank would have a salesman's stake in the performance of the fund, for if the fund were less successful than the competition, the bank would lose business and the resulting fees;

The bank might exploit its confidential relationship with its commercial industrial creditors for the benefit of the fund;

The bank might undertake, directly or indirectly, to make its credit facilities available to the funds or to render other aid to the fund inconsistent with the best interests of the bank's depositors;

The bank might divert talent and resources from its commerical banking operation to the promotion of the fund.

Again, I want to say these are statements of concern, direct quotations from the Supreme Court of the United States having dealt directly with these issues. Because the views of the Supreme Court, I think, are helpful in considering bank involvement in the mutual fund area, let me quote more fully from Justice Potter Stewart's majority opinion in the case. And Justice Stewart said as follows:

A bank that operated an investment fund would necessarily put its reputation and facilities squarely behind that fund and the investment opportunity that the fund offered. The investments of the fund might be conservative or speculative, but in any event the success or failure of the fund would be a matter of public record. Imprudent or unsuccessful management of the bank's investment fund could bring about a perhaps unjustified loss of public confidence in the bank itself. If imprudent management should place the fund in distress, a bank might find itself under pressure to rescue the fund through measures inconsistent with sound banking.

The promotional and other pressures incidental to the operation of an investment fund, in other words, involve the same kinds of potential abuses that Congress intended to guard against when it legislated against bank security affiliates. It is not the slightest reflection on the integrity of the mutual fund industry to say that the traditions of that industry are not necessarily the conservative traditions of commercial banking. The needs and interests of a mutual fund enterprise more nearly approximate those of securities underwriting, the activity in which bank security affiliates were primari-

ly engaged. When a bank puts itself in competition with mutual funds, the bank must make an accommodation to the kind of ground rules that Congress firmly concluded could not be prudently mixed with the business of commercial banking.

And there are other potential hazards of the kind Congress sought to eliminate with the passage of the Glass-Steagall Act. The bank's stake in the investment fund might distort its credit decisions or lead to unsound loans to the companies in which the fund had invested. The bank might exploit its confidential relationship with its commercial and industrial creditors for the benefit of the fund. The bank might undertake, directly or indirectly, to make its credit facilities available to the fund or to render other aid to the fund inconsistent with the best interests of the bank's depositors. The bank might make loans to facilitate the purchase of interests in the fund. The bank might divert talent and resources from its commerical banking operation to the promotion of the fund. Moreover, because the bank would have a stake in a customer's making a particular investment decision—the decision to invest in the bank's investment fund—the customer might doubt the motivation behind the bank's recommendation that he make such an investment. If the fund investment should turn out badly there would be a danger that the bank would lose the good will of those customers who had invested in the fund. It might be unlikely that disenchantment would go so far as to threaten the solvency of the bank. But because banks are dependent on the confidence of their customers, the risk would not be unreal.

These are all hazards that are not present when a bank undertakes to purchase stock for the account of its individual customers or to commingle assets which it has received for a true fiduciary purpose rather than for investment. These activities, unlike the operation of an investment fund, do not give rise to a promotional or salesman's stake in a particular investment; they do not involve an enterprise in direct competition with aggressively promoted funds offered by other investment companies; they do not entail a threat to public confidence in the bank itself; and they do not impair the bank's ability to give disinterested service as a fiduciary or managing agent. In short, there is a plain difference between the sale of fiduciary services and the sale of investments.

Again, that is very powerful testimony here that we can refer to coming from perhaps the most disinterested of parties; namely, the Supreme Court Justice writing and speaking for the majority of the Supreme Court, presumably unaffected by any of the interest group pressures that in the normal course of a legislative arena in a political setting would bear in on us but which are insulated and kept away from the Supreme Court. This represents the very considered judgment of that body on these very issues. That is very important testimony, indeed, in my view on this issue because, if we undertake at this late hour in the session to change the Glass-Steagall law in some fundamental way and on the basis of very limited debate, very scant participation in terms of direct involvement of Senators in the debate or in attendance in the Chamber for the debate, we will have taken an enormously important step I think at a time of great turmoil in the financial services world in this country and abroad, and I think we will have acted in a manner that I think is unwise and unsound.

I say that as one who has a very deep and abiding concern for the safety, security, and the specialness of the banks in our system. In fact, the greatest concern I have with this legislation is that we plug the loopholes that are allowing the creation of nonbank banks and the allowing of nonbanking institutions into the banking business. I think that has to be stopped. I think it has to be stopped for a number of reasons.

So I want a strong private banking system. I want banks to be able to function in a safe and secure way, to be able to be profitable, to be able to help finance the credit needs of this country, and I am prepared, as I have done in the past, to take any and all reasonable steps that can help us accomplish that because the banking system is essential to the overall functioning of our financial and economic system and structure. There is no question about it.

So the points I make should not in any way be construed as a statement that would reflect anything less than a profound interest on my part in the healthy future for the U.S. banking system because I have that. As the chairman himself knows, when we were back at the time of the windup of the work on the Garn-St Germain bill, and when we had the difficulties in working out that legislation so that it would be acceptable to all areas of the financial institutions, and to meet some of the objections, that arose, particularly toward the end, from the banking community, there was no one who worked more aggressively than I, with the chairman and with others, to try to find a way to meet those concerns so that we could have legislation that could be broadly supported. And we were successful. Those were important successes and they are important successes today, in fact, in terms of the changes that were made at that time.

I am prepared to be supportive with respect to other important initiatives that may be needed that can help us ensure a strong future for our private banking system in this country, because it is special, it is unique, and it is different, as measured by our Federal Deposit Insurance, our Federal Reserve window, tax treatment and a variety of other things that attest to the specialness that it has.

But that is not a license to start moving banks into a whole new series of business activities anymore than we ought to be allowing a license or loopholes in the law for other financial entities to be coming into the banking business. I think we have gone too far in that direction already and it is time to draw this line. But if we cannot learn something from history, if our memories are so short, and if change for the sake of change is so popular that we cannot draw some wise reflection from the events of the 1930's, from the same issues having come before this same Senate in which we produced, as an institution years back, the Glass-Steagall legislation, and for very profound reasons which I have made reference to here and which are as timely today as they were then, if we are not capable today to stop and pause long enough to reflect on these very fundamental questions, then I suspect that we may very well find ourselves facing a cascade of events that in some respects are almost random in their nature, that carry us into new conditions, that may very well lead us right back to the very problems and difficulties that caused us as a Nation to have to pass these laws nearly 50 years ago.

(At this point Mr. SYMMS assumed the chair.)

Mr. RIEGLE. I do not want to see that happen. I think we have an obligation to be more prudent than that.

I would ask, why is that particularly important at this time? Well, first of all we have had a record number of bank failures in the last period of time, of which the Continental Illinois is only the most recent and the largest, but there have been a number of others. We have tremendous stress building up in the savings and loan industry today because of these extraordinarily high interest rates that have caused a major problem with the largest single savings and loan association in California, but increasingly, if one looks at the balance sheets of other savings and loans across the country, and credit unions, we find that the problems that were getting better for a period of time are now worsening again.

We find an enormous overhang of foreign debt. We are finding insufficient savings rates in our country. We find a trade deficit approaching $140 billion on an annual rate based on the most recent data. We find the highest real interest rates that we have seen on a sustained basis for any period, unless we go back literally to the days of the Civil War.

So there are all kinds of warning signs in every direction: massive Federal deficits; the Federal deficit doubling, literally, within a 5-year period of time; we are trying to operate beyond our means financially and economically and the stresses and strains are showing everywhere, and very particularly in terms of the structure of our financial institutions and very particularly within the banking system itself.

When we have hundreds of banks, as we do today, on the problem list, hundreds, several hundreds, and the highest number of bank failures that we have seen in the last period of several months since the Great Depression, it ought to tell us something. What it ought to tell us is that we had better proceed very carefully, very prudently, very cautiously.

That is the instinct that I have, having spent as much time, I think, with these issues as any of my colleagues on the Banking Committee and having made an effort to try to relate today's circumstances to what we have seen coming out of the past.

To conclude my thought on the mutual fund area, Mr. President, the plain difference between the sale of fiduciary services and the sale of investments, plus the potential hazards and risks inherent in the mutual fund and securities businesses, are among the reasons why I believe that each Senator should weigh very, very carefully his or her vote in this area when the time comes later during the debate on this legislation.

I will just add one other point before moving to mortgage-backed securities. That which is confidence is a very fragile thing. There is, of course, in today's society and electronic age, a very rapid transfer of information. The stock market today jumped up 27 or so points. A short time ago it was down substantially. It may be up or may be down again tomorrow based on a feeling that maybe this is going to happen or maybe that is going to happen, maybe there will or will not be a strike between General Motors and the autoworkers tomorrow, maybe interest rates will be coming down or going up, things of this sort. But confidence and psychology are compelling realities that are woven all through our financial and economic system and circumstances at the present time. There is a lot of concern. I think we have a special obligation to act in a way that helps preserve the maximum degree of public confidence in financial institutions, I think especially so at this time in light of all the other risks that we see.

I do not think this is the time, in terms of the national and international psychology, when we want to start sailing off in uncharted waters without very compelling showings of fact that indicate to us beyond any reasonable doubt that we are at a point where those kinds of actions are justified. I do not want to subject our system of confidence—confidence in the banks, confidence in the safety and soundness of our system of deposit guarantees, belief in the soundness of the U.S. system in terms of a repository of foreign deposits which increasingly we are dependent upon—I do not want any of those things put into a condition of new risk and new jeopardy, not at this time. I think it is unsound and I think it is irresponsible.

I can see why an individual, a private entity, perhaps the leader of a given institution, or someone who is in a given financial sector of the financial institution world, might say that on the margin in their case, "But it makes sense for me, it makes sense for my institution. I want to try to move into this new area of business" or "I want to respond to the fact that somebody else in another area of business has been encroaching on my business."

I can understand those impulses. That is part of our system and it is fine.

But it is not our task here to take and respond just to some sum total of those impulses that grow out of those private desires, as legitimate as they are. Our responsibility is different than that. That is why we are here trying to exercise a public trust, a public responsibility, a public interest to try to assure that we have a system in which we do not necessarily find that we can give each and every individual participant the license to do everything that they might like to do at a given point in time because there are other considerations of a larger size and a larger dimension that, in a sense, have to govern collectively all of our actions and all of our activities. I think what, in the end, we must do is be very prudent guardians of that kind of overriding responsibility on issues that are this fundamental, at a time of enormous and extraordinary risk. We have not tried to absorb $200 billion deficits year after year at a time when we have an insufficient savings rate in our own Nation.

Many economists, including many who would have affiliations on the other side of the aisle, think that we are living in a fool's paradise at the present time in terms of our ability to continue to add on these annual successions of $200 billion deficits and the carrying costs that go with them without, in the end, bringing our whole financial system to a point of stress that is greater than its capacity to handle it. I have had heads of major international companies, names very well known to everyone within the sound of my voice, who have told me if we continue on this course another year or year and a half, we are going to have another major collapse—a major international collapse. I hope not.

I hope they are wrong. God forbid it should happen. And we should try to do everything we prudently can to try to prevent those things from happening. But those are the kinds of things we have, those are the conditions we live in today. And we should try to find ways, to the degree to which they add to that kind of uncertainty or stress or the degree to which they are perhaps more limited and more prudent than that, that give us time to adjust to circumstances in a way that will do what is needed to provide, yes, some kind of equity in this field; yes, some kind of more level playing field—as difficult if not impossible as that may be to try to achieve.

That is our charge and that is our responsibility and it is difficult to do in a matter as complex as this one, when time is as short as it is and we are up against an onrushing adjournment date and it is very difficult for these matters to get the measure of analysis that they need.

In the end, if we fail in our judgment and we make imprudent decisions and we subject our overall system to greater risk, a risk that it cannot absorb or handle properly, I would just say that there will be no winners in the end. There will be no financial sector that comes out ahead in that kind of circumstance—not the banks, not the securities companies, not anybody else that is a major party of interest to this legislation and to these issues.

Because if we go too far and if we act in a way that creates an enlarging jeopardy to the system as a whole, in the end, everyone suffers. That is why there is a compelling, in a sense an overriding, interest that binds us all together to look beyond the incremental gains that might be there for one individual sector.

That is not the issue here. Out in the marketplace, yes, that is the issue. Here, it is not the issue. The issue here is to try to make sure that we have established a structure in which the overall sense of equity and prudence and responsibility are safeguarded as well and as wisely as we can manage to do it.

Let me move now quickly to mortage-backed securities. When the time comes to consider mortage-backed securities, I would like to direct the attention of my colleagues to the testimony of Securities and Exchange Commission Chairman John Shad, who testified before the Senate Banking Committee on the afternoon of March 21 of this year. As every Senator knows, Chairman Shad, for whom I have a great deal of respect, has been a leader in championing the cause of deregulating our financial services sector insofar as such deregulation increases competition and is practical and responsible and fits within the parameters of continuing to ensure investor protection and the safety and soundness of our depository and financial services institutions.

Chairman Shad's testimony is particularly revealing because in it, the Securities and Exchange Commission takes the position that mortgage-backed securities are much riskier than State or Federal obligations and should not be underwritten or offered by depository institutions or their se-

curities affiliates. In testimony before the Senate Banking Committee on S. 2181 and S. 2134, legislation which contained mortgage-backed security provisions similar to those that are included now in S. 2851, the bill that is before us, Chairman Shad, speaking for the SEC, said the following—and I want to quote him directly:

The Commission supports the general principle of facilitating mortgage financing by encouraging the marketing of mortgage-backed securities. However, the Commission cannot support the provisions on this subject in S. 2181 and S. 2134. These bills would permit the activity in broad terms under circumstances that would make mortgage-backed securities essentially indistinguishable from other securities, except for the use of the proceeds.

These provisions, if adopted, would further erode the Glass-Steagall Act by authorizing depository institutions' securities affiliates to underwrite and deal in another category of securities that are far from risk-free. The apparent theory is that privately-issued mortgage-backed securities are essentially similar to government securities in which banks now deal. But government guaranteed securities are relatively risk-free, whereas, mortgage-backed securities, issued by private parties, involve much greater risks. Even though mortgage-backed securities are backed by interests in real estate, their soundness depends on the responsibility of the private issuer to thoroughly assess the mortgages, and their security and collateralization provisions. Therefore, mortgage-backed securities that are not guaranteed in whole or in part by a government agency raise the same concerns that led to the enactment of Glass-Steagall—banks and bank affiliates underwriting of privately-issued, potentially-risky securities, creating potential conflicts of interest, and jeopardizing the safety and soundness of the banks. In short, if commercial and investment banking are to remain separate activities, there is no principled reason to permit depository institutions to underwrite mortgaged-backed securities.

Clearly, the opinion of the Chairman of the Securities and Exchange Commission should be given great weight during our deliberations on this subject.

REVENUE BONDS

Finally, Mr. President, with respect to revenue bonds, a great deal has been made of the argument that if banks could underwrite revenue bonds, municipalities would save money. I know that every Senator—aside from deciding the general question of whether commercial and investment banking should continue to be separated—is concerned about saving money for municipalities in his or her State. Certainly, that is my feeling. So I posed the question to Richard H. Jenrette, chairman of the Securities Industry Association. His response was as follows:

The assertion that municipal bond issuers would save money if the Glass-Steagall Act were amended to permit commerical banks to underwrite presently ineligible revenue bonds has been analyzed in numerous congressional hearings since 1963 and consistently refuted. The most exhaustive analysis of the claimed savings occurred during lengthy hearings before the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance in 1979. Those hearings focused on a statistical study conducted by Professor Phillip Cagan (and sponsored by the Dealer Bank Association) which estimated that the present value of interest savings for ineligible revenue bonds issued in 1977 would have been $412 million, and the responses thereto, prepared at the request of the SIA, and presented by Professor Michael Mussa, University of Chicago, and Professor George G. Kaufman, Loyola University of Chicago.

The main conclusions of the studies of Mussa and Kaufman are that:

Bank eligibility has had no statistically significant effect on the interest costs of negotiated revenue issues;

Bank eligibility has had no direct statistically significant effect on the interest costs of competitively sold revenue issues;

There is no reliable or convincing statistical evidence that bank eligibility has increased the number of bids on revenue bonds sold competitively; and

There is no statistical evidence that interest yields on eligible bonds have behaved differently than yields on ineligible bonds as the bonds move from the primary market to the secondary market.

In sum, no convincing statistical evidence was found to support the claim that permitting commercial banks to underwrite municipal revenue bonds would result in any cost savings to issuers. It is clear from the Mussa and Kaufman studies that comparable bank eligible and bank ineligible bonds sell at statistically indistinguishable interest rates. These two studies have been made available to all, including government agencies, and, to the best of my knowledge, no one has found any errors in either the statistical analysis or in the conclusions.

Since the publication of the critiques by Mussa and Kaufman of the Cagan study, the Dealer Bank Association has abandoned its reliance thereon in favor of a new study of interest savings written by Professor William Silber. The Silber study, however, does not present any new factual evidence of statistical results; it simply reviews the results of other studies written prior to October 1979. The Silber study was also convincingly refuted by Mussa during hearings before your Committee in October 1981.

In concluding . . . I call attention to the existence of more than 800 firms underwriting and dealing in municipal securities, a fact which should establish per se that issuers enjoy the full benefit of competition in both the primary and secondary markets. Moreover, there is complete freedom of entry into the business by new firms subject only to the restriction that underwriting certain kinds of revenue bonds cannot be combined with commercial banking in the same enterprise.

This was Mr. Jenrette's response. Another witness made the point that "each additional securities power banks are given weakens the Nation's network of independent securities firms on which business as well as municipalities depend for the effective and efficient distribution of their securities."

This starts to, I hope, lay out with some fullness the issues and the stakes that are involved in these issues. Now, when these matters were considered by the Senate Banking Committee at our markup of this legislation on June 27 of this year, I voted against giving banks additional securities powers at this time for these reasons. And should time permit I could elaborate further on them. The position that I supported at that time lost by a vote of 6 to 12 on municipal revenue bonds, by a vote of 8 to 10 on mortgage-backed securities, and was successful by a vote of 11 to 7 on mutual funds. And now each of these issues will be reconsidered apparently by the full Senate. But I hasten to draw attention to the closeness of the vote on these issues in the Senate Banking Committee. One can see that there is a very divided opinion on both the wisdom of moving banks into the securities business and, if that is to be done, the degree to which it is to be done and the kinds of securities activities that would be involved. So this is a matter that is very much a debatable proposition.

There was great debate on it in the committee as the divided votes show. It is something that I hope my colleagues will weigh with some care and particular consideration. I know when complex matters of this kind come before us, as happens each day on a variety of subjects, we hear from interest groups on one side or another of an issue who come forward with an urgent presentation, as properly they should, but I would hope that on matters that go as deep as these and that relate as fundamentally to the soundness and safety of our financial future, we weigh the case very carefully before we make our decision, not just today, not just in this instance, because these issues are going to come back around again and again in one form or another. We are moving into a new era of circumstance where the requirements of our judgment I think carry a greater and greater weight of responsibility in what it is we decide to do. I have tried to present the case as I see it as one member of the Banking Committee and one Member of the Senate. I fully respect the right of anyone else to examine these issues and reach either the same conclusion or a different conclusion. But I hasten to say again that this is a set of issues, and this is a time in which these issues are being dealt with, that require an effort at analysis and consideration that goes beyond the ordinary so that we can make a measured judgment and one that will in fact wisely stand the test of time.

Mr. President, the Senate will presumably finish acting on this bill and all of its component parts, of which I have only addressed one portion, and in due course we will find ourselves in a conference with the House in an effort to try to work out an agreement in terms of a bill that would meet the approval of the two bodies and go on

to the President for signature. I do not know whether that will be the final outcome in terms of the very short period of time, roughly 12 or so legislative days, left in this session of Congress. As I say, whether we act or do not, it seems to me we will be facing these issues in the same form or different form when the new session starts in 1985, and I am sure beyond.

If it is the decision of the Senate and the Congress in conjunction with the executive branch to move ahead with a major restructuring of functions that under the law can be engaged in by different parties, if there is an insistence on moving ahead and commingling these functions which were divided with such great care back 50 years ago by Glass-Steagall and by other legislative acts, if we are going to go down that road, then we may very well find ourselves facing a new circumstance 6 months from now, 9 months from now, a year from now.

If we are going to accept the proposition that we are going to be opening the door to new lines of business for one financial sector, we have to be prepared to open the door the other way for other sectors to come into that business. It will not be sufficient to close the nonbank bank loophole for now, which I feel we should do, and at the same time move the banks into a whole new line of financial activities. But if that is to be the judgment that is made, then I think we have to recognize that in due course there are going to be a whole number of folks in other lines of business today who are going to want to come into the banking business on the basis of the same rationale that is being advanced today in behalf of the banks.

So this will be a circular set of activities, it seems to me, in the end. I think those who may argue for the first step today will not be on very strong ground when they come back 6 or 9 months from now and say, "Now, wait a minute, I do not want the rest of this transaction, I want into that guy's business but I do not want him into my business," because it is not going to work that way. That is another consideration that we ought to be factoring in at the present time. I think we ought to close the nonbank bank loophole. I do not think it is helping the country.

By the same token, if in doing that and in a sense protecting the banks from intrusions and encroachment on their traditional lines of business, we can manage to establish that barrier, which I think is needed and is proper to do, and if at the same time we respond by allowing banks to move into somebody else's business, it will be only a matter of time before we will be back here with a full head of steam, with nonbank people saying, "We are not in the banking business today, and we want to come in through the front door, not the back door, in terms of a level playing field and an equivalent access to the banking lines of business."

I am not anxious to see that, and I would rather factor it into our judgment now than close our eyes to it. If we are going to take the first steps and go down the line, we have to have some measure of equity later. So those who envision an altered banking system will have to think about it.

The PRESIDING OFFICER. The 1 hour of the Senator from Michigan under cloture has expired.

Mr. RIEGLE. Mr. President, I ask unanimous consent to continue for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank my colleagues.

So it seems to me that what we face here is a situation where the consequences of our actions today will lead us inescapably to new consequences down the road. That is why I think we are better off sticking with Glass-Steagall for the reasons I have put forward. I would be pleased to discuss this further with any colleague who would like to get into the discussion at greater depth.

I yield the floor.

Mr. SARBANES. Mr. President, first, I commend my distinguished colleague from Michigan, with whom I serve on the Banking, Housing, and Uran Affairs Committee, for a very informed, perceptive, and comprehensive statement with respect to the legislation before us.

I think it is important for our colleagues not only those who are present, but also those who may be listening—to understand that a very, very critical decision is before the Senate. It is one of those decisions which will be tested in the light of experience.

In other words, judgments are about to be made here with respect to fundamental concepts in the banking and financial field which have prevailed in this country now for half a century, concepts under which we have prospered as a nation; and over this period of time we have developed financial institutions that, in many respects, are the envy of the rest of the world.

Mark my word: What is at stake here is not simply the question of the allocation of powers among financial institutions and the roles to be played by different institutions in the financial field. What is also at stake is what protections are going to be available to the ordinary depositor, the ordinary investor, and more broadly speaking, how our economy is going to work in a very basic way. This decision posed by the amendment which the distinguished Senator from Pennsylvania has indicated he intends to offer goes to the very question of how our economy is going to work and function.

Mr. President, 51 years ago we enacted legislation to establish a clear demarcation between commercial and investment banking. That legislation, one of the great achievements in the early years of the Roosevelt administration, was in response to a catastrophic experience through which the Nation had passed in the previous years. That legislation was a touchstone of the effort to ensure, on the one hand, the safety and soundness of the Nation's banks and, on the other hand, the health and vigor of our capital markets.

The distinguished Senator from Pennsylvania has put in the RECORD an extended history of the Glass-Steagall Act, but I simply want to underscore certain aspects of that history.

I am not making the argument here today that because something was right 50 years ago, it is necessarily right today. But I submit that the burden of proof for changing a system which has worked effectively is on those who wish to make the changes. This demarcation was put into place for very good reasons, and a careful analysis leads me to conclude that many of those reasons are still as valid and as compelling today as they were then.

In any event, I suggest to my colleagues that before choosing to depart from this system, they should think very carefully about where we are going: That question has not been answered. It is not answered in this legislation. And this legislation is only the first step; it is but the beginning. It is imperative that we think ahead as to where we are going, and what the problems may be, before we begin a process of unraveling distinctions which I think, by and large, have served the Nation well.

It is not necessary to review completely the Nation's earlier experience, but we all know that we had the collapse of major banks, in large part, because their involvement in the business of investment banking undermined their financial position. Parent banks which saw their own reputation on the line, their own credit running the risk of being irreparably damaged, went to the aid of their affiliates. Did anyone expect anything else? No one even today contends to the contrary.

Walter Wriston, who, of course, advocates banks' having securities powers, has already been quoted. At least Mr. Wriston is prepared to recognize an inevitable close relationship. As he said in the quotation that has been much cited already in this debate:

> If your name is on the door, all of your capital funds are going to be behind it in the real world. Lawyers can say you have separation, but the marketplace is persuasive, and it would not see it that way.

Does anyone contend to the contrary, as a practical matter?

At the time the Congress acted on Glass-Steagall, Carter Glass, the very distinguished Senator From Virginia, exclaimed in the course of hearings on the bill.

The public cannot conceive of the harm done by those affiliates.

He was referring to the involvement of the banks in the securities business through their affiliates.

Winthrop Aldrich appeared before the Senate committee to testify, and I want to quote part of what he said then:

My experience as a bank official, coupled with the testimony which was presented to your committee in February of this year, has convinced me that many of the abuses in the banking situation had arisen from failure to discern that commerical banking and investment banking are two fields of activity essentially different in nature.

I came to believe that while it was essential that there should be coordination between these two types of banking, such coordination could best be protected from abuse and thus enhanced in usefulness through absolute separation of interests between the two fields. The system itself which permitted overlapping of function and interlocking of interests between these two types of banking has been responsible for much that the public now condemns.

He emphasized:

The commercial bank's credit function is very definitely governed by its responsibilities to meet its deposit liabilities on demand. It must not seek excessive profits by taking undue credit risks and it cannot wisely tie up its funds in long-term credits however safe they may be.

On the other hand, he pointed out:

When long-term credit is required, the services of the investment banker are needed to take speculative risks of a sort unsuitable to the commercial bank in providing capital funds for new and promising enterprises.

He went on to praise the Glass-Steagall Act, and this is I think a very important point, not only for preventing the banks from undertaking risks that they could not and should not assume but also for eliminating the possibilities of abuse inherent in a union of the underwriting and commercial banking function.

The commercial banks, he said, should not be in a position to exert any pressure whatever arising out of a dual financial interest. He specifically recognized that it was inconsistent with the bank's duties as lender, as trustee, as depository and as adviser to its customers for it also to engage in the securities business.

I think it is reasonable to submit to the Members of the Senate the proposition that the experience of half a century has justified Winthrop Aldridge's advice and demonstrated the wisdom of drawing a clearly demarcated line between the two activities of commercial and investment banking.

Banks and markets alike have not only survived but prospered, and have contributed to and participated in the Nation's extraordinary economic development and prosperity over the course of the last 50 years.

It is clear from the history of the enactment of the Glass-Steagall Act that that decision 51 years ago was prudent at that time. The question then is whether it is prudent today to reverse those decisions. I want to emphasize what I said earlier, that on that question the burden of proving the case rests not with those of us who are supporting this amendment but with those who have had included in the bill—by very narrow votes, as my colleague from Michigan has pointed out—fundamental alterations in the existing arrangements for our financial institutions, alterations which I submit are but the beginning of long process of erasing the line between banking and securties functions.

The Secretary of the Treasury has come before us and indicated very clearly that the path down which he wants to take the Nation is one complete elimination of this separation. Members should think very carefully about that objective as they consider the issue currently before us.

Mr. President, within the vast network of our Nation's intricate financial structure banking institutions have a unique status, delineated more than a century ago by the National Banking Act and continually refined since then. Commercial banks have both unique prerogatives and unique responsibilities. Just as Glass-Steagall was established to preclude banks from engaging in securities activities, the Federal Deposit Insurance Corporation was established to provide support for banks in the form of substantial deposit insurance. In addition, banks have access to Federal Reserve credit, support of the U.S. Treasury, and in the final analysis support from the American taxpayers.

The Continental Illinois case, if nothing else, made that very clear. Obviously, we have a system in which the large banks cannot be allowed to fail, and there are a range of valid arguments that can be made for that proposition.

But the securities provisions in the committee bill would heighten risks, in terms of bank entry into fields heretofore precluded to them.

The safety and soundness of our banks, a most important concern, is a matter of interest not only to the individual depositors who entrust their money to the banks but also of concern to the operation of the Nation's economy, indeed of concern to the operation of the world economy.

There is an argument abroard that all financial institutions, whatever the nature of their activities in the past, should be placed on the so-called level playing field, to compete among themselves, and the provisions that we are addressing now in S. 2851 constitute a significant step in that direction.

I suggest that Members should stop and consider very carefully the meaning of terms such as "deregulation" and "level playing field." Their implications in the context of the issue before us Members have to look to the end of the path, not simply the beginning of the path, and they have to consider the nature of the structure of our financial institutions as they envision them.

One of the reasons I felt strongly that we should not have acted in committee with respect to this grant of power is that the necessary broadscale, long-term examination has not taken place in a forum in which it would receive the kind of comprehensive and careful attention which it deserves. We need to know where we are going in terms of the structure of our financial institutions before we start out on a path that may carry us willynilly in a certain direction that may well be one that we find, when we get there, we did not want to follow.

Having reached that point, we may then turn and look at the implications of our situation and say that this is not the way we want the Nation's financial institutions structured, that the path we have taken has unacceptable implications for the concentration of economic power, for the availability of credit, for important questions of conflict of interest that were never fully considered.

It is my own view that those questions need to be carefully examined at the beginning and not at the end of our process of revision, for at the end it will be too late to remedy or rectify the situation.

(Mr. DANFORTH assumed the chair.)

Mr. SARBANES. The argument is made by some supporting bank entry into securities activities that the special status of our banks, in terms of their credit role in our society and in terms of the network of safety and soundness protections which we have placed beneath and around them, is not a factor in this debate because the legislation would require bank holding companies to establish separate securities affiliates, thereby, in theory, insulating the bank's traditional depository functions from their more speculative securities activities.

There is nothing in our Nation's experience to reassure us that such a theoretical separation would long remain a separation in fact. I spoke earlier from our experience in the 1920's and I remind you of Walter Wriston's words: "If your name is on the door, all of your capital funds are going to be behind it in the real world."

The depository institution securities affiliate DISA authorized by this bill would be permitted to have the same officers and directors and employees as its depository affiliates. The common practice of the 1920's, when, for example, many banks used separate affiliates, and the experience of the last decade with real estate investment trusts operating through legally separate holding companies, can only lead to the conclusion that one way or another banks will fall back on their own resources to shore up foundering affiliates.

Members should consider carefully whether it is wise to create a situation that would permit precisely these strains to develop again. This is especially true in the current period of tension and stress as the Nation's banks continue to adjust to the greater latitude accorded to them just 2 years ago, and as they also seek to come to terms with the implications of their overseas lending practices.

My distinguished colleague from Michigan pointed out that the number of banks on the troubled list is at an unprecedented level in the postwar period. Yet we are being asked to open the door here to movement down a path which heightens risk.

Mr. President, it is important to recognize that the structure that prevails in the financial field in terms of our institutions can have a significant impact on the operation of the economy. There are a range of concerns here that Members need to address carefully. One is the conflict-of-interest question. Glass-Steagall sought to eliminate that by separating commercial banks and investment banking to insure that the trust departments of the banks were not used to support securities activities of the affiliates. It sought also to establish fairness and equity in competition so investors would not be subject to the overwhelming pressure that comes from facing the very institutions who alone determine the fair dispensation of credit.

Now, those are legitimate concerns today just as they were 50 years ago. I submit to you they will probably always be legitimate concerns.

In addition, there was the question of the safety for the depositor. To assure that, certain important insurance arrangements were put into place to protect the depositor and to enhance the safety of the banks. Those arrangements, that insurance provided the banks with a certain very important advantage. In the instance of Continental Illinois, that advantage has been carried well beyond the deposit insurance, and the FDIC has in fact come into insure the deposits in excess of the amounts technically covered by the insurance. Why? Because it was suggested that as a Nation we simply could not afford, in terms of a shock to the system, to provide anything less than that complete coverage.

Now beyond the safety and soundness arguments are the further, broader questions, of how our economy is going to function. We have had, I think, a very effective financial structure in this country. Concentration in financial institutions in the United States is markedly different from that prevailing in many other highly industrial countries, in which literally a handful of financial institutions completely dominate the financial field; West Germany, England each have only a handful of financial institutions. Decisions then become concentrated, centralized. But our experience has been very different. Decentralization has served an important function in helping to expand the economy of this country, and ours is particularly important in a Nation like ours, continental in scope and with an extraordinarily and varied economy.

With the system we have had in place for 50 years, we have made enormous economic strides. People have profited by it, and profited in a sensible and reasonable way. We have protected the ordinary depositor. We have identified and isolated out the risks. We have avoided a concentration of power. We have precluded the sorts of tie-ins that occur when a lender is engaged in other fields of activity as well where tie-ins are concerned. There is a notion that, well, by mobilizing certain explicit activity we eliminate the problem. That is all fine and good, but the awareness and sensitivity remain to the fact that a certain activity is shifted to those in the position of making very fundamental decisions about the availability of credit.

The changes proposed in this legislation are the significant beginnings, in my judgment, of a major alteration in the arrangements with respect to our financial institutions in this country. It is a step that is being taken, I am convinced, without careful thought having been given to where it will lead us. I submit that we must first determine where we want to go, and then work back from that conclusion. In other words, we need to make a determination of what goals and objectives we seek to accomplish and what financial arrangements will help to bring them about.

This bill seeks to check some of the activity that is currently taking place without any conscious decision on the part of public policymakers, and is in part made necessary by the fact that, in my judgment, we have certain regulators now who have completely misinterpreted their responsibilities. The effort to address the nonbank-bank loophole and South Dakota loopholes are examples of that.

I agree with my colleague from Michigan, that just as the issue immediately before us addresses the question of banks moving into a field from which they have heretofore been precluded—and precluded for very valid reasons—other aspects of this bill, which I support, of some banks to circumvent statutory prohibitions on interstate banking, and of some nonbank financial institutions to move into the banking field although they do not come to it with the same notion of responsibilities, the same developed sense of being a trustee for the public's money.

I want to say again that we need to halt these efforts to infringe upon the heretofore legitimate field of activity of particular institutions; before we start to making fundamental changes, we need to ask ourselves very carefully where we want to end up. I am willing to engage in that kind of an examination. I think it is important that it take place. It is urgent that the kinds of concerns and considerations that I have been talking about—and which my distinguished colleague from Michigan enumerated, I thought very thoroughly and very carefully—need to be addressed.

For all these reasons I commend the distinguished Senator from Pennsylvania for his initiative on this issue. I want to stress again to my colleagues that this matter was decided in the committee by the very narrowest of margins. A fundamental shift in the arrangements amongst our financial institutions is taking place without our giving careful attention to where it is going to lead, and I think such attention is absolutely necessary before we take any step of this magnitude. We have been too well served for over a half of a century by the existing arrangements to discard them lightly. I hope that my colleagues will support the amendment to be offered by the distinguished Senator from Pennsylvania.

Mr. President, I yield to the Senator from Michigan to be counted against my time.

Mr. RIEGLE. I thank the Senator for yielding.

First, I want to thank the Senator for his gracious remarks toward me earlier in his comments but I want to say that I think the Senator from Maryland has put this issue as well as I have ever head anybody put it in terms of the dimensions of what is before us here, and what the implications are for the future.

I hope that whenever the vote comes my colleagues, who perhaps have not had the chance to hear the presentation of the Senator from Maryland, will have a chance to perhaps read the RECORD or to speak with him to hear the points that he has made because I think he has made as fine a statement on these questions and issues as I have

heard. I thank him and commend him for it.

Mr. SARBANES. I thank the Senator for his generous comments.

I simply want to underscore again, Mr. President, this is a very important issue that is before the Senate. I am not sure all Members fully appreciate the potential impact of what we are being called upon to decide here. We have built in this country a very stable, reliable system to provide credit, one upon which people could depend. We have a network of insurance, regulation, and limitation on activities that is designed to contribute to safety and soundness. At the same time, we developed another area where the risk-taking is, and where the more risky propositions are addressed. There we have developed securities markets that are the envy of the world. So in effect we have covered both of these important concerns—the question of raising capital for new enterprises, of taking risks, of being entrepreneurs, and of succeeding or failing. It is an essential part of what the free enterprise system is all about. But at the same time, we have maintained another area of activity, more care, more prudence, fair allocation of credit, and a certain decentralization of economic decisionmaking in the country. And it has worked marvelously well for 50 years. The American economy did not get where it is today without the benefits of this existing arrangement with respect to our financial structure.

Those who now seek to change it have the burden to make it clear—and understood—exactly where they are taking us, and exactly what the implications of those changes are.

I do not think those questions have been fully and adequately answered.

It is for that reason I opposed in the committee the provisions that are in the bill that we are now addressing. It is for that reason I intend to support the amendment of my distinguished colleague from Pennsylvania.

Mr. President, I yield the floor, and reserve my time.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, may I inquire of the manager of the bill. I would like to speak very briefly on another matter while we are in quorum time on this legislation. Does the manager control the time at this point?

Mr. GARN. Mr. President, no. The manager does not control the time. Each of us is allowed 1 hour. I was simply informed that the leadership wished that no additional time be granted to Senators. I have no personal objection but was instructed as I came back to the floor not to grant unanimous-consent agreements to extend time.

Mr. SARBANES. Would the chairman yield?

Mr. GARN. The Senator from Michigan has the floor.

The PRESIDING OFFICER. The Senator from Michigan has consumed all of his time.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that I may be able to yield 5 minutes of what I time I have remaining to the Senator from Michigan.

Mr. GARN. The Chair can advise on that, but it is my understanding from the rules that only the leadership and the managers of the bill can yield time. In other words, Senator BYRD could yield time to the Senator from Michigan if he so desired. But I would ask the Chair if that is correct. I was told that yesterday.

The PRESIDING OFFICER. The two leaders and the managers of the bill may yield time. Other Senators may ask for unanimous consent that time be yielded.

Mr. GARN. If the Senator would yield, we could go to a quorum call. Senator PROXMIRE might be willing to grant some time. I would, except I have used none of mine, and I need it when we get to the point of debate. I have an amendment besides this one to offer. I certainly have no personal objection. But if we could put the quorum call back on, I could certainly check with Senator PROXMIRE, and see if he would be willing to grant that.

Mr. SARBANES. May I inquire of the Chair. As I understand the rules, the majority and minority leaders and the two managers of the bill can yield a certain amount of time as a right. Other Members could yield time which they still have by unanimous consent. This would still obviate, I take it, the situation that the Senator was concerned about in which a Member who had used all of his time was then seeking by unanimous consent to obtain additional time which is the situation of the Senator from Michigan.

I have not used all my time. My unanimous-consent request was not to get extra time. It was simply to allocate some of the time that is still remaining to me under the 1-hour allocation. Perhaps the Parliamentarian could inform me as to how much time I have remaining.

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Is there objection to the request?

Mr. GARN. Mr. President, just to clear this up, I was certainly informed that it was not possible for one Senator to yield to another. If it is possible, I certainly have no objection to the unanimous-consent request. Will the Chair inform me?

The PRESIDING OFFICER. Senators may so yield by unanimous consent.

Mr. GARN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank my colleague.

Mr. President, I want to propound a parliamentary inquiry as to whether or not, having used my hour under cloture, I would be allowed to speak on subsequent amendments. Do I understand that that will not be possible?

Mr. GARN. Mr. President, I assume, if there were no objection, according to the ruling of the Chair, that other Senators could yield time by unanimous consent for that purpose.

Mr. RIEGLE. Mr. President, I hope we can work out reasonable accommodations like that because I think the matters left to be debated are serious enough so that those of us who have a serious interest will want to be heard. I will want to be heard on the substance of the amendments. I will not seek more than a reasonable amount of time to do so.

Mr. President, on the time allocated to me by the Senator from Maryland, I want to comment on an amendment which I offered at the markup of the bill which is before us.

Mr. President, at the markup of the Financial Services Competitive Equity Act (S. 2851) I offered an amendment, which was unanimously adopted by the Banking Committee and included in the legislation before us, to prevent the practice of greenmail.

Section 1106(a) of S. 2851 is the greenmail provision and it prohibits the purchase of a company of its own shares at a price above the existing market price from any person who holds more than 3 percent of the shares and has held them for less than 2 years, unless the shareholders of the company approve.

I have received overwhelming support for my sponsorship of this amendment, and while I expect there to be no controversy whatsoever surrounding this provision during the debate on the banking bill today, I want to share with all my colleagues a letter from Mr. T. Boone Pickens, Jr., the president of Mesa Petroleum Co. on the subject.

Mr. Pickens is well known for his activity in corporate matters of this kind. He has written as follows:

MESA PETROLEUM CO.,
Amarillo, TX, September 12, 1984.
Hon. DONALD W. RIEGLE,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR RIEGLE: This letter is to follow up on our recent conversation concerning corporate "greenmail." I find greenmail abhorrent and inconsistent with the concept of a free and open market.

Our country has the most efficient and active capital markets in the world. These markets allow corporations and entrepreneurs ready access to capital at competitive prices, thus ensuring necessary funds for expansion, new plants and equipment and, most important, new jobs for our workforce and new products and services for the consumer. In my view, the lynchpin of our successful securities markets is public confidence. A shareholder must believe that he will get a fair shake—that he will be provided with accurate information and that once an investment is made, he will be treated equally will all other investors. If some investors are treated better than others, public confidence in the markets is eroded and there is the potential that investors will be less likely to enter the stock market in the future.

Greenmail is the antithesis of fairness. A target company should not be able to repurchase its stock at a premium from a dissident shareholder without offering the same price to all shareholders. I agree with the S.E.C. Advisory Committee on Tender Offers that the current law has created incentives for investors to accumulate blocks with the intention to sell them back to the issuer at a profit. A control premium should be shared by all stockholders and not used as a means to rid the corporation of a possible hostile bidder.

In connection with the proposed amendment, I suggest that greenmail be totally prohibited. There should be no distinction between large or small shareholders, or between shareholders who have owned their positions for different periods of time.

I commend your efforts to amend Section 14 of the Securities Exchange Act of 1934 to set parameters on this inequitable practice that threatens to distort the integrity of the securities markets. Your efforts are necessary to assure the public—and particularly shareholders—that the fairness of the system is being protected.

Sincerely,

T. BOONE PICKENS, Jr.

Mr. President, the letter of Mr. Pickens is dated September 12, 1984.

I yield the floor.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I rise in opposition to the Heinz amendment which deletes security powers from the bill.

I might say that I heard the speeches of the Senator from Pennsylvania, the Senator from Michigan, and the Senator from Maryland, and I was very impressed. I thought they delivered the speeches extremely well. I thought the content was excellent. They obviously have given a great deal of thought to this legislation, even though I disagree with them strongly. I might point out, for example, that every single one of these speakers cited Walter Wriston on their side, and it is interesting that Walter Wriston supports the position that the bill takes and would oppose the Heinz amendment. There is no question about that. That was not disclosed by those Senators.

They also said that Paul Volcker, at least I should say the Senator from Pennsylvania indicated that the Chairman of the Federal Reserve Board, Paul Volcker, supports at least part of the thought of the Heinz amendment. It is clear however, that he opposes the amendment and does so because he feels that these limited powers are perfectly proper for the banks to have.

In fact, there is no credible evidence that the basic objectives of the Bank Holding Company Act or the Glass-Steagall Act would be threatened if bank holding companies were authorized the new limited powers in this bill.

I would agree with the concerns raised by Senators RIEGLE, SARBANES, and HEINZ if the bill authorized banks to underwrite corporate securities. That is what the Glass-Steagall Act was all about. At that time there were no mortgage-backed securities and revenue bonds were very rare. They were not considered as significant underwriting items so they were not included as permitted activities under Glass-Steagall. It should be noted however, that when Congress passed the original Glass-Steagall Act in 1933 it specifically allowed banks to continue underwriting general obligation bonds of State and local government. Congress determined that the abuses involved in underwriting corporate securities did not extend to underwriting municipal bonds. As a result, banks have continued to underwrite general obligations bonds of State and local governments during the last 50 years and no one, none of the Senators who spoke on this end no one else, to my knowledge, has provided any documented instances of abuse.

Unfortunately, in providing an exception for general obligation bonds, Congress failed to distinguish between those bonds and municipal revenue bonds which, in 1933, were a seldom used means of municipal finance.

A general obligation bond is backed by the full faith and credit of the State; whereas, a revenue bond is backed by the revenues from a specific project such as bridge tolls or some other revenue which can be measured and determined: On the basis of all of our experience—we have had years and years of experience now with revenue bonds—there is no question that revenue bonds do not constitute a security risk which has anything like the risk associated with corporate securities. Indeed, I think you can make the case very easily that revenue bonds are safer, by and large, than general obligation bonds.

Today, revenue bonds account for more than half the volume of municipal financing, although banks by law are precluded from competing with them.

Furthermore, as the years go on every indication is that revenue bonds will constitute a much higher percentage than they do now. Revenue bonds are bonds that, by and large, now are handled, because the banks are excluded, by a relatively small number of security underwriters, and the concentration of issuance is very great. A very few underwriters have most of the revenue bond business. The banks would provide new healthy competition. This is in sharp contrast to general obligation bonds, where there is diversified underwriting, because banks can and do compete. That is one of the reasons, of course, the securities industry opposes this. Banks will be able to compete. The middleman's cut on general obligation bonds is far less than it is on revenue bonds. And that competition, of course, is in the interest of both the issuers and in the interest of investors.

Because investment banking firms have a monopoly on revenue bond underwriting, let me give the statistics on this now: The 10 leading underwriters of revenue bonds, all of which are investment banking firms, accounted for 49 percent, almost 50 percent of market in 1982. By way of contrast, the 10 leading underwriters of general obligation bonds, where commercial banks can compete, accounted for only 29 percent of the market. In other words, what this legal authority for the banks to compete in underwriting general obligation bonds has done is to provide this greater diversification.

Furthermore, the revenue bond market is becoming more concentrated over time, whereas just the opposite is true of the general obligation bonds market where the banks can compete. The revenue bond market is by far the most rapidly growing area and there is plenty of business in there for the securities firms and the banks. The banks can compete. It will be helpful to them. It will be helpful to the public and it will mean lower margins for those who are doing the underwriting and a better break for the securities issuers and the securities investors.

Since bank underwriting of revenue bonds will lower State and local borrowing costs, State and local organizations strongly support the committee's action. These include the Government

Finance Officers Association, the National League of Cities, the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, and the U.S. Conference of Mayors.

Mr. President, I want to reemphasize that because I think it is something that is overlooked and Members of Congress are properly concerned with who supports and who opposes measures and I think we should be aware of the fact that those who are involved in this area and will be affected by it have come down very firmly in favor of the bill's provisons and therefore, of course, against the Heinz amendment. And I want to repeat those supporting the bill include the Government Finance Officers Association, the National League of Cities, the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, and the U.S. Conference of Mayors.

The other new power authorized for bank holding companies is to underwrite and deal in mortgage-backed securities. It was only a short time ago that mortgage-backed securities became a reality—I think only a couple years ago. It was an excellent innovation because mortgages in the past had been individually underwritten. Because they are individually underwritten a great deal of risk is associated with mortagages. When you can blend a number of mortgages in the same instrument, that diversification, of course, eliminates much of the risk, in fact virtually all of the risk, if it is skillfully and properly done.

I submit there is no institution in America that is better qualified, better informed, more experienced in mortgages than the banks are. That is their business. Savings and loans and particularly the small banks issue mortgages and that is what most of their portfolio consists of. They understand the mortgage business backward and forward. So you are getting expert and highly competent professionals to do this underwriting job, and there is no question they can do it with a very, very high level of competence and I would submit it is a far higher degree of competence, experience, and understanding than investment banking houses can bring to this new area.

While banks can issue mortgage-backed securities and originate the mortgage loans, they are precluded by law from selling them to the ultimate investors. It seems to me it is a shame that this is the case, because there is no question that one of the great economic problems confronting our country today is high interest rates, particularly high mortgage rates. There is literally no area more sensitive to interest and high interest than homebuilding and trying to finance home sales. If the mortgage rate is down, then the prospects for homebuilding greatly improve.

It is such a close relationship that a few years ago, 1981-82, when mortgage rates went to 17 percent, the housing starts dropped from 2 million to less than 1 million. Every housing start is 2 man-years of work. So 2 million jobs were lost because of high interest rates.

This mortgage-backed securities operation will help housing enormously in the future, particularly if we can get the banks involved in underwriting and bringing their expertise into it. That is because when people invest in mortgages, in buying into this kind of pool, they can do so with less risk and the mortgage rate will be less. There is no reason why mortgage rates should be 17.5 percent.

I am convinced that if we had mortgage-backed securities 2 or 3 years ago as common as they are now, the mortgage rate could have been down to 13 or 14 percent instead of 17 percent. That would have made a difference of hundreds of thousands of housing starts we lost.

The ultimate beneficiary will be the American homebuyer whose borrowing cost will be reduced. That is why the provisions of this bill are supported by the National Association of Home Builders, by the National Association of Realtors, by the construction trade unions, by virtually every group that is concerned with this very important part of our economy.

As we know, the one big investment that the overwhelming majority of American families has, perhaps the most constructively conservative influence in our public life, is homeownership. It is something we should encourage every way we can. We are proud of the fact that nearly 70 percent of the American people own their own homes. But that is in jeopardy now, because people cannot afford to buy homes with these mortgage rates. The provisions of this bill will help in this respect significantly. That is why the National Association of Home Builders, the National Association of Realtors, and the other groups interested in homebuilding are strongly in favor of these provisions in the bill.

Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

BANKING ORGANIZATIONS SECURITIES ACTIVITIES

Mr. GARN. Mr. President, 51 years ago, Congress enacted the Glass-Steagall Act to separate commercial banking from many investment banking activities in the belief that the combination of these activities as then conducted contributed to the virtual collapse of the Nation's financial system in the early 1930's. In addition to the Glass-Steagall Act, Congress enacted laws in 1933 and 1934, such as the Securities Act, the Securities Exchange Act, the Home Owners Loan Act, and the Federal Deposit Insurance Act, which established much of the statutory framework under which the Nation's financial organizations have operated and been supervised. Since that time, the Nation has benefited from a basically safe, sound and diverse financial system.

The Glass-Steagall Act was aimed at abuses which had occurred during the 1920's and early 1930's from bank involvement in securities activities. Congress was concerned that banks would experience losses from investing funds in speculative securities and that conflicts of interest would arise if a bank had an investment interest or underwriting interest in securities. Specific concern was directed toward practices indicating that some banks had misused their trust departments to purchase excessive holdings of undesirable securities.

While Congress generally separated commercial banking from investment banking in 1933, it did authorize, and has expanded through the years, limited securities activities for banks. As noted by the Supreme Court in its recent decision in *Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, No. 82-1766, pp. 8-9 (June 28, 1984), the principal emphasis of congressional concern in 1933 was on bank underwriting and dealing in corporate activities. The exceptions which Congress has made to the general prohibition of the Glass-Steagall Act have been in the area of securities activities, such as underwriting and dealing in public securities—such as general obligation bonds and certain revenue bonds issued by State and local governments—and in securities brokerage services, which have been deemed to not present the same problems which the act was designed to prevent.

In light of the history of the Glass-Steagall Act and of the financial system today, section 104(a) of the bill authorizes depository institutions, through a separate subsidiary of a holding company, such a subsidiary termed a Depository Institutions Securities Affiliate [DISA], to engage in certain additional securities activities. These include underwriting and dealing in revenue bonds, mortgage-backed securities, and commercial paper. The committee believes that such activities, subject to the overall framework of the BHC Act, to specific regulation

by the Securities and Exchange Commission and carefully circumscribed by restrictions on dealings with affiliates, are consistent with the principles and purposes of the Glass-Steagall Act.

In addition to the new activities, a DISA may also engage in any securities and securities-related activities that a national bank is not prohibited from conducting. Thus, a DISA may underwrite and purchase or sell U.S. Government obligations; obligations that are issued by, or backed by the full faith and credit of, a State or political subdivision with general taxing powers; and other obligations specifically listed in section 24 (seventh). A DISA may also engage in the business of acting as agent for customers in the purchase or sale of securities—generally described as discount securities brokerage—and may deal in foreign exchange, certificates of deposit, and banker's acceptances, among other instruments.

REVENUE BONDS

While a DISA would be authorized to underwrite and deal in obligations issued by a State, any political subdivision thereof, or any agency or instrumentality of either, including revenue bonds not backed by the general taxing power, the bill would prohibit a DISA from underwriting industrial developments bonds, as that term is defined in Section 103(b)(2) of the Internal Revenue Code unless (i) the payment of principal and interest on the industrial development bond is backed by a pledge of the full faith and credit of a State, territory, possession of the United States, any political subdivision of the foregoing, or the District of Columbia, or (ii) the governmental issuer, or governmental unit on behalf of which the obligations were issued is considered to be the sole owner, for Federal income tax purposes, of the facility or property financed with the proceeds of the industrial development bonds.

Thus, the bill provides explicit authority for a DISA to underwrite or purchase and sell most revenue bonds and similar obligations issued by State and local government units, a category of obligations that includes many water and sewer system, mass transit, and public power bonds that are repaid principally from user fees. The exception to this authority is certain industrial development bonds used to finance a facility against which a private entity claims a depreciation deduction or tax credit.

The Glass-Steagall Act has been interpreted as prohibiting banks from underwriting or purchasing and selling governmental obligations that are not backed by the full faith and credit of an issuer with general taxing powers. In 1933, when revenue bonds represented an insignificant amount of all State and local obligations, this exclusion of the competitive impact that banks could offer was not significant. That situation has changed dramatically. In 1982, revenue bonds accounted for 73 percent of the municipal market. As a result, banks and their affiliates were excluded from competing in the market for approximately $35 billion in State and local issues in that year.

Not surprisingly, the marketplace for underwriting revenue bonds is more concentrated than is the market for underwriting general obligation bonds, in which banks can and have competed safely and fairly for more than 50 years. In the revenue bond market, the 10 leading underwriters (all nonbank broker-dealers) controlled almost one-half of the market in 1982, up from 43 percent in 1977. By contrast, in the general obligation bond market, the share of 10 leading underwriters (banks and nonbanks) fell from 32 to 29 percent during that same period.

The expanded authority contained in the bill will result in significant benefits to governmental issuers of these obligations and thus to their residents and taxpayers who must ultimately bear the cost of public borrowing. DISA's will bring increased competition to the underwriting aspects of this market and will enlarge and enhance the liquidity of the secondary market. The result of this competition will be lower underwriting spreads and hence higher proceeds for the issuer. Moreover, the enhanced liquidity and the expansion of the market through customers of the DISA will result in lower interest rates for governmental issuers. Both of these factors will reduce the cost of borrowing for State and local governmental units, to the ultimate benefit of its taxpayers, without any increased cost or loss of revenue to the Federal Government.

Among the supporters of the revenue bond provision are the National Governors Association, the National League of Cities, the Municipal Finance Officers Association, the Government Finance Officers Association, and the National Conference of State Legislatures. The National Governors Association, in a letter dated June 12, 1984, to Chairman GARN, signed by Govenors Lamar Alexander and Michael Dukakis, chairman and vice chairman, respectively, of the association's Committee on Economic Development and Technological Innovation, indicated that association's long support for "efforts to increase competition for underwriting revenue bonds in view of the potential of this initiative to reduce significantly the cost of revenue bond financing."

There is no undue risk to the safety and soundness of the affiliate depository institution in authorizing DISA's to underwrite and deal in these obligations. Since 1933, Congress has amended the Glass-Steagall Act at least 15 times to make certain otherwise ineligible public obligations bank-eligible. Thus, banks today underwrite obligations of the Asian Development Bank, the TVA, as well as revenue bond obligations issued by State and local governments for housing, university, or dormitory purposes. In addition, the Senate passed legislation in 1967 and 1974 which authorized banks to underwrite and deal in revenue bonds. Banks have underwritten and purchased or sold these obligations for many years without adversely impacting the bank's safety and soundness. In fact, because of the exceptions which Congress has enacted, in 1982, banks were eligible to underwrite about 40 percent of all municipal revenue bonds. Thus, the print merely expands on this experience by authorizing the DISA to underwrite or deal in these additional, similar obligations.

MORTGAGE-RELATED OBLIGATIONS

The bill authorizes DISA's to underwrite and deal in promissory notes secured by real estate mortgages, participations in such notes, and "mortgage-related payment bonds" secured by promissory notes secured by real estate or participation interests in such notes. Mortgage-related payment bonds are defined to mean obligations, with or without recourse, that provide for the payment of principal on the basis of payments or reasonable projections of payments on notes secured by real estate and that are rated in one of the four highest rating categories by a nationally recognized rating organization. This authorization will permit a DISA to underwrite or deal in what are commonly referred to as mortgage-related obligations.

Encouraging the provision of capital to finance the housing needs of this county has always been a matter of significant congressional concern and interests. Recent estimates by the Federal National Mortgage Association (FNMA) suggest that $1.6 trillion or more will be needed to finance home mortgages between now and 1990. Much of this amount (approximately one-half, according to FNMA) will be financed through the origination of mortgages and their resale into the secondary market. The purchase of a single mortgage by an investor may be unattractive, however, because of the risk of repayment prior to the stated maturity date. The pooling of many individual mortgages and the sale of participations in those pools enhances the attractiveness of such purchases to investors because the pool's diversification spreads the risk and provides greater actuarial consistency of payment and repayment.

Depository institutions, both thrift organizations and banks, and their holding company affiliates have long been active participants in providing for the country's housing needs. De-

pository institutions originate mortgage loans directly either for their own portfolio or for eventual resale to an institutional investor.

But depository institutions actively provide real estate financing in other ways as well. When it was enacted, the Glass-Steagall Act expressly reserved the power of national banks to sell obligations evidencing loans on real estate, 12 U.S.C. 378(a)(1). The Glass-Steagall Act also expressly permits banks to underwrite, deal in, or purchase for their own account obligations issued by FNMA, the Governmental National Mortgage Association, or the Federal Home Loan Mortgage Corporation—all Government-related agencies which issue securities based on pools of residential mortgages. In addition, as noted above, banks are specifically permitted to deal in and underwrite nongeneral obligations issued by a State or local governmental unit for housing purposes. The provision of the bill authorizing DISA's to underwrite or purchase and sell mortgage-backed securities merely clarifies that these affiliates of depository institutions can continue to occupy an integral role in this evolving method of real estate financing.

COMMERCIAL PAPER

The bill also expressly permits DISA's to underwrite, deal in, sell, and distribute—both as principal and as agent—commercial paper issued by any person. Issuing commercial paper has become a standard means by which corporations raise short-term and operating funds. These notes are purchased by corporations and institutional investors with excess funds on a short-term basis. In this manner, commercial paper serves as a substitute for short-term borrowings by the issuer and for deposits by the purchaser.

The authority contained in the bill will permit a DISA to purchase and sell commercial paper for its own account or arrange for the purchase of commercial paper by third parties. The evolution of our financial markets makes this explicit authority with respect to commercial paper useful if depository institutions are to maintain their role as intermediaries in providing for the short-term credit needs of American business.

The authorization contained in the bill for a DISA to underwrite commercial paper does not bear on the legality of a depository institution without a DISA engaging in commercial paper activities. Thus, it has no direct impact on the Supreme Court's recent decision in *Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, No. 82-1766, (June 28, 1984), which held that third-party commercial paper is a security, not a loan, for purposes of the Glass-Steagall Act and remanded to the lower courts the question as to whether the commercial paper agency activity of Bankers Trust constitutes "underwriting" within the meaning of section 16, or "the business of issuing, underwriting, selling or distributing" within the meaning of section 21, of the Glass-Steagall Act. However, if a depository institution holding company establishes a DISA and engages in, for example, the newly authorized revenue bond activities, it will have to transfer both its principal and as agent third-party commercial paper activities to the DISA.

ESTABLISHMENT OF DISA

The bill requires that the newly authorized securities activities be conducted directly by a depository institution holding company or in a depository institution securities affiliate [DISA]. A DISA is a nondepository affiliate of a commercial bank or a thrift institution that first, engages in any of the bill's newly authorized securities or securities-related activities; and second, is a broker-dealer within the meaning of the Securities Exchange Act or an investment adviser within the meaning of the Investment Advisors Act of 1940. This definition means that securities activities of bank affiliates—including those engaged in by Edge Act and Agreement corporations and their subsidiaries—outside the United States would not be subject to the requirements of the bill.

Acquiring or organizing a DISA would be subject to review under the BHC Act or the Savings and Loan Holding Company Act, as appropriate. A bank holding company would have to give the same prior notice to the Federal Reserve Board to engage in the activities of a DISA as would be required to engage in section 4(c)(8) activities under the bill. Savings and loan holding companies would be subject to a similar prior notice requirement with the FSLIC. Either regulator will consider the criteria set forth in amended section 4(c)(8) in determining whether to disapprove a notice submitted by a holding company. In addition, of course, a DISA would also have to meet the SEC's requirements for registering as a broker-dealer or an investment adviser if its activities so warranted.

The requirement that the newly authorized activities be conducted in a subsidiary separate from the depository institution has several implications. The DISA will not be exempt from the provisions of the Securities Exchange Act—as is a bank—and thus, will be subject to regulation by the SEC. Because the DISA will be a registered broker-dealer—or municipal securities dealer, the SEC would be the appropriate regulatory agency for enforcing a DISA's compliance with the statutes and regulations governing transactions in municipal securities.

The fact that the bill requires the establishment of a DISA to conduct securities activities, rather than permitting the institution itself, refutes, in the committee's view, the arguments that depository institutions have unfair competitive, regulatory or tax advantages, or potential conflicts of interest that securities firms do not have, in conducting securities activities. The DISA will be a separately-capitalized corporation, its securities activities will not be for the account of the depository institution, nor will they put the depository institution's assets at risk; the DISA will be subject to the same rules that securities firms are subject to; and the DISA, as a separate entity, will not be able to draw upon the depository institution for favorable funding or possible tax advantages. The requirement that the new securities activities be conducted in a DISA, therefore, assures fair and vigorous competition in the public interest.

Any DISA that provided all the services a DISA could provide under the bill would be subject to the jurisdiction of the MSRB and would also have to join the NASD and SIPC. DISA representatives would be eligible for one or more of the five seats reserved for bank representatives on the MSRB.

TRANSFER OF ACTIVITIES

Under section 104(e) of the bill, no depository institution holding company that establishes or acquires a DISA engaged in the newly authorized activities, could permit any depository institution it controls to conduct certain otherwise permissible, domestic securities activities. The activities in which the depository institution itself cannot engage could be transferred to, and conducted by, the DISA.

The activities that are subject to this transfer requirement are:

The activities specifically authorized by section 104(e) of the bill; dealing in or underwriting obligations of the United States; dealing in or underwriting general obligations of any State or political subdivision; dealing in or underwriting general obligations specifically listed in 12 U.S.C., section 24 (seventh); and purchasing and selling securities and stock as agent.

The bill would also permit the Federal Reserve Board to prescribe, by regulation or order, other securities or securities-related activities in which a depository institution may not engage if it is affiliated with a DISA exercising the new securities powers. Any such activities may also be transferred to the DISA and conducted by it.

The transfer requirement would apply only to those depository institution holding companies that establish or acquire a DISA engaged in the activities newly authorized by the bill. Holding companies that establish or acquire such a DISA would be given 1 year from the date on which the DISA first engages in the newly authorized

activities to accomplish the transfer of activities. A thrift institution with grandfathered activities would be required to move those activities if its holding company or DISA engages in the newly authorized activities.

A depository institution whose holding company does not establish or acquire a DISA can continue its existing permissible securities activities in the depository institution. The bill also specifically authorizes the transfer of permissible securities activities back to the depository institution if the DISA no longer engages in the newly authorized activities.

REPORTS AND EXAMINATIONS

The bill amends the BHC Act to minimize the regulatory overlap between the Federal Reserve Board and the Securities and Exchange Commission with regard to bank holding companies and their subsidiaries engaged in the securities business. Thus, the bill authorizes the Federal Reserve Board to require periodic reports to monitor whether bank holding companies and their affiliates are complying with applicable rules and regulations. But the bill also directs the Board to accept, unless it specifically determines that a lesser requirement is appropriate, the following:

For companies subject to the reporting requirements of section 17 of the Exchange Act—for example, registered broker-dealers, the same information and at the same time as that required by the SEC under that section;

For all other companies, the same information—on a quarterly basis—as would be required under section 13 of the Exchange Act for companies in similar lines of business if the company were subject to those reporting requirements.

The bill authorizes the Federal Reserve Board to require additional reports and information in particular circumstances only if necessary to fulfill the Board's responsibilities under the BHC Act.

RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES

Section 105 of the bill adds a new section 23B to the Federal Reserve Act in order to restrict transactions between an insured bank and its affiliates. These restrictions are in addition to the numerical and other limitations imposed on affiliate transactions under section 23A of the Federal Reserve Act. Since section 23B is aimed primarily at the new securities authorities, the Federal Reserve Board is expected to utilize its discretionary authority to exclude subsidiaries engaged in existing nonbank activities.

Under the new section 23B, a bank could engage in certain specified types of transactions with an affiliate only if the terms and conditions are substantially the same as those prevailing at the time for comparable transactions with unaffiliated companies. A bank and an affiliate would be prohibited from advertising or entering into any agreement suggesting that the bank is in any way responsible for its affiliate's obligations. Moreover, a bank and a securities affiliate would be prohibited from using the same name.

Specific restrictions and limitations are also imposed on a bank's purchase of securities from an affiliate for the bank's own account or the account of a customer. When a securities affiliate is a principal underwriter of securities, a bank affiliate may purchase such securities during the underwriting only if, prior to the initial public sale of the securities, a majority of the bank's outside directors approve such a purchase. In addition, a bank may not purchase as fiduciary any securities from any affiliate unless such purchases are permitted by the instrument establishing the fiduciary relationship, by court order or by law of the State under which the trust is administered.

It is clear from all of the efforts and discussion that has gone into insuring an appropriate structure for new powers that S. 2851 represents a modest attempt to modernize statutes affecting the financial system.

To summarize, Mr. President, I would only point out once again that the Bank Committee in this Congress has addressed the issues in S. 2851 by holding 34 days of hearings; receiving testimony from 248 witnesses, and compiling a printed hearing record that is more than 8,000 pages in length.

I would point out that the groups that oppose the Heinz amendment are: the U.S. League of Savings Institutions, the National Council of Savings Institutions, the American Bankers Association, the Independent Bankers Association of America, the Dealer Bank Association, the Mortgage Bankers Association, the National Association of Homebuilders, the National Association of Realtors, the Western Independent Bankers Association, the Association of Bank Holding Companies, the Treasury Department, the Administration, the Federal Reserve, and other affected agencies.

In addition, the following organizations very strongly support the issue of municipal revenue bonds: the National Governors Association, the Government Finance Officers Association, the National Association of State Legislatures, the National League of Cities, the U.S. Conference of Mayors, and the National Association of Countries.

In addition, Mr. President, the statement had been made often, not only this evening and earlier in the week but in the committee, that in light of the failure of Continental Illinois, we should not grant these new powers. I would only like to quote from Federal Reserve Chairman Volcker's response to a question which I asked him to respond to for the record after a banking committee hearing. According to Chairman Volcker:

> The problems of Continental Bank essentially reflect serious weaknesses in the domestic loan portfolio of a bank that had engaged in aggressive growth and lending practices for some time, including heavy involvement and participation in energy loans of the Penn Square bank that failed two years ago. These problems, and other credit losses, were reflected in earnings pressures and consequent loss of market confidence.

This is where I want to place the emphasis. Again, this is Chairman Volcker speaking:

> The problems of the Bank clearly did not arise from the nonbanking activities of the holding company and, in fact, the holding company was able to assist the banking enterprise as a whole in meeting its problems.
>
> We do not believe the problems of the Continental Illinois Bank argues against granting new powers to bank holding companies that can be exercised in a safe and sound manner while providing consumers with the benefits of competitive and convenient services. We would be concerned if the additional powers added substantial risk to the banking structure as a whole, and this has been a major concern of the Board during the long and careful review of the proposed legislation. The new powers that are provided—revenue bond underwriting, discount brokerage, underwriting and dealing in commercial paper and in residential mortgage-backed securities—are comfortably within the scope of risks that can be appropriately taken by bank holding companies. The legislation now before the Senate provides a framework which will help assure that these activities are conducted within the bounds of safe and sound financial practices. We put particular emphasis on the structure of the bill which emphasizes capital adequacy and provides the Board with sufficient authority to establish the terms, conditions and limitations on which these activities may be conducted.

Mr. President, I did want to say that the Federal Reserve Board, which regulates bank holding companies, in testimony before the committee completely disputes much of the argument we have had in favor of the amendment over the last few days.

Mr. President, I believe the issue has been discussed well enough and I will yield the floor at this time and reserve the remainder of my time.

Mr. WARNER. Mr. President, I rise to support the amendment of the distinguished Senator from Pennsylvania [Mr. HEINZ].

This amendment, if adopted, will preserve the fundamental principle of the historic Banking Act of 1933—more popularly known as the Glass-Steagall Act.

That principle was to keep commercial and investment banking separate, each to be pursued by enterprises solely independent of the other.

I fully appreciate the great efforts of the entire membership of the Banking Committee in developing the bill under consideration.

I compliment the committee's distinguished chairman on the leadership he has provided.

Most of the provisions of the bill I support.

In particular, those which close the nonbank bank loophole in the Banking Holding Company Act.

It is indeed time that the Congress give direction to the regulatory agencies as to which depository institutions are subject to that act.

I cannot, however, support those provisions of title I which give far-reaching securities powers to banking and thrift organizations.

Mr. President, I am indeed honored to be a successor to Carter Glass in representing my State in this body.

I doubt if anyone who has served here had greater experience and wisdom in developing banking legislation than Carter Glass.

Before he was elected to the Senate he served in the House of Representatives, ultimately becoming the chairman of the Committee on Banking and Currency.

He was a principal architect of the Federal Reserve Act and later was appointed Secretary of the Treasury by President Wilson.

He was subsequently appointed to fill a vacancy in the Senate caused by the death of Senator Thomas Martin in 1919, and he was elected and reelected to four successive terms, serving until his death in 1946.

Carter Glass witnessed firsthand during the 1920's the unrestrained pursuit of commercial and investment banking activities conducted by our large financial center banks and their securities affiliates.

Hearings held by the Senate Banking and Currency Committee from 1931 to 1934 reinforced this experience and shaped his response in the form of the Glass-Steagall Act.

Those hearings disclosed example after example of wreckless and dangerous banking practices engendered by the widespread activities of certain banks through their securities affiliates.

These practices—both the underwriting and the distribution of securities—directly imperiled the position and soundness of many of the banks concerned.

The Banking Committee's hearings left no doubt that the primary banking functions of serving as a depository, as a trustee, as an investor of deposited funds, and as a lender, all could be and often were abused by banks that engaged in underwriting and distributing securities.

When certain securities affiliates tottered on the brink of ruin as a result of the remorseless deflation which began in 1929, the parent banks, naturally fearing that the failure of the affiliate would irreparably damage the bank's own credit and standing, felt forced to go to their aid with financial assistance in the form of either loans to the affiliate or purchases from the affiliate's inventory of unsaleable or greatly depreciated securities.

The loans in many cases were excessive or secured by inadequate collateral.

They subsequently entailed hugh losses.

Instances also came to light during the hearings of trust accounts loaded with unsound securities, some of them partially in default.

Such securities had been purchased from the bank or trust company's affiliate, often at a handsome profit to the affiliate.

These transactions represented gross violations of the fiduciary relationship.

The collapse of number of major banks demonstrated how their involvement in the business of investment banking had played a significant part in undermining their financial position; individual bank losses in connection with such activities were measured in the tens of millions or more.

The magnitude of the individual and institutional disasters caused, at least in part, by the involvement of banks in the securities business made Senator Carter Glass exclaim, in the course of the hearings, "The public cannot conceive of the harm done by these affiliates."

The enactment of the Glass-Steagall Act, and the preservation of its guiding principles against attack, was the response of Congress to this sorry record.

The then-president and chairman of the board of the Chase National Bank, Winthrop W. Aldrich, a distinguished banker and lawyer and Ambassador to Great Britain, said in a statement submitted to the Senate Banking and Currency Committee in November 1933:

(My) experience as a bank official, coupled with the testimony which was presented to your committee in February of this year, had convinced me that many of the abuses in the banking situation had arisen from failure to discern that commercial banking and investment banking are two fields of activity essentially different in nature. I came to believe that, while it was essential that there should be coordination between these two types of banking, such coordination could best be protected from abuse and thus enhanced in usefulness through absolute separation of interest between the two fields . . . .

Mr. Aldrich concluded:

The wisdon of effecting a clear differentiation of function and separation in interest between commercial banking and investment banking was recognized in the Glass-Steagall Bill, passed last June and now known as the Banking Act of 1933. The history of that Act and its general provisions indicate a clear intent on the part of Congress to effect, once and for all. A complete separation between commercial banks and investment bankers.

The Glass-Steagall Act removed all but limited securities activities from the reach of the commercial banks.

It was passed in 1933 in explicit recognition that such concentration of economic power in banks had precipitated and exacerbated the crash and subsequent depression.

Accordingly, an independent, responsive, professional, nationwide broker/dealer community, severed from bank affiliation by the Glass-Steagall Act, emerged and grew, developing competitively under the rigorous demands of private citizens, government, and business.

The U.S. broker/dealer community, overseen by one of the Federal Government's most watchful and effective regulatory agencies, the Securities and Exchange Commission [SEC], services our Nation's securities needs in the most efficient capital market in the world.

One might ask why we should tinker with this highly complex essential system when, by all standards, it is currently functioning very well.

I know there are those who say that the events of the 1920's cannot be repeated today because our regulatory agencies are too vigilant, and besides, S. 2851 requires that if banks are to expand into the securities business they must do so through a separate affiliate.

But I would remind my colleagues that when banks were in the securities business in the 1920's they operated through affiliates.

The presumed advantages of a separate securities affiliate are twofold: To protect the safety and soundness of the bank and the banking systems, and to provide an environment in which bank securities affiliates and other securities firms can compete on fair and equal terms.

I am skeptical that either objective can be fulfilled under S. 2851.

The first objective assumes that a bank could allow a securities affiliate to fail without attempting its rescue, or that such a failure could occur without substantial consequential harm to the affiliated bank.

Mr. Walter Wriston, chairman of Citicorp, shares my skepticism.

Commenting on the concept of a separate securities affiliate in testimony before the Senate Banking Committee on October 29, 1981, he stated:

A holding company is probably the clumsiest, most expensive way that exists to operate any business. We have only gone to a holding company in order to comply with the law, and gain some flexibility by so doing. But it is a very poor way to operate. For example, it is inconceivable that any major bank would walk away from any subsidiary of its holding company. If your name is on the door, all of your capital funds are going to be behind it in the real world. Law-

yers can say you have separation, but the marketplace is persuasive, and it would not see it that way.

So I don't see any benefit in getting a separate subsidiary for new businesses . . . I don't see any benefit from it myself.

I would go just the other way. If the National Bank Act was amended to say that everything a bank holding company can do, the National Bank can do, I'd be extremely happy. It would simplify administration and would make it perfectly clear to the customer that our $7 billion capital is behind everything that we do.

Federal Reserve Chairman Paul Volcker, in testimony before the Banking Committee earlier this year in Salt Lake City, stressed once again that banks still play a unique and critical role in the financial system and the economy and the alertness all should have for their continuing stability and impartiality:

We also believe that these concerns must, to a degree, encompass business organizations of which banks are a part—that is, bank holding companies—for the basic reason that a bank or depository institution cannot be wholly separated from the fortunes of its affiliates and from the success or the failure of their business objectives.

In his study of the events which led to the enactment of the Glass-Steagall Act, Prof. Nelson Peach concluded that it did not seem possible to prevent by legislation the serious abuses which grew out of the mixing of the commercial and investment banking.

Peach's major concern was the temptation that banks would aid their unsound affiliates even if doing so threatened the Bank's own solvency.

Commenting on the situation that prevailed prior to the Glass-Steagall Act, he wrote:

Since, when the securities were sold, the public had been persuaded that the bank and affiliate were parts of the same organization, the bank could not escape responsibility for the activities of its affiliate when the securities began to decline in value after the stock market crisis of 1929. It became necessary for banks to assist their affiliates because they were aware that any diminution in the good will of their affiliates would bring with it a corresponding diminution in their own. This is the chief difficulty in the affiliate system . . . Peach, "Security Affiliates of National Banks," p. 142.

Mr. President, my intention is not to penalize our banking institutions or prevent them from competing on an even playing field.

My intention is to ensure that we continue to live by the lessons history has taught.

I urge support of the Heinz amendment.

Mr. HEINZ. Mr. President, although Senator GARN and I clearly do not agree on this issue, I concur with him that he and I have made our views well known. I think we can at least wrap up the debate on this issue. I think that the inclusion of these securities powers, as I said earlier today and as I said in committee on many occasions, not only makes bad legislation, but it opens the door to the possibility of serious, if not devastating instability in the American financial system which the taxpayers stand to pay for to the tune of billions upon billions of dollars.

Mr. President, I think we know about all the other bank failures—the Butcher Bank, the Penn Square Banks, the Drysdale Securities, all modern failures—often because banks have gotten into businesses about which they know very little. I suppose if there is one thing that worries me more than anything else about what we are doing, it is that we are inviting banks to avoid their own destiny, their own mandate under all the laws that we have written, both to guide them, to protect them, to charter them. That is how to be banks. The more that we ask them to go into other lines of business through legislation of this kind, the more we run the risk of weakening banks' ability to do a good job of taking deposits and paying savers what savers ought to be paid, and do a good job of making commercial loans and not making loans to countries that cannot pay them back, companies that cannot pay them back, and other lines of endeavor that are not sound.

AMENDMENT NO. 4077

(Purpose: To strike those provisions of the bill allowing bank and thrift organizations to establish depository institution securities affiliates with power to engage in various aspects of the securities not presently authorized)

Mr. HEINZ. Mr. President, I want to call up my amendment No. 4077 and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4077.

The PRESIDING OFFICER. Will the Senator from Pennsylvania withhold? The Chair states that the amendment changes the bill in more than one place. It will take unanimous consent to consider it.

Mr. HEINZ. Mr. President, it is my intention to withdraw the amendment in a moment, so I am going to ask unanimous consent that the amendment be considered as if it were in order, but I want it understood that I do intend to withdraw it.

Mr. GARN. Mr. President, reserving the right to object, and I shall not object, I told the Senator this evening, even before his offer to withdraw his amendment, I would not object. That would have forced the Senate into a position of voting separately on seven different parts of the amendment. I saw no reason to put the Senate through that procedure, so I was willing to allow the Senator to bring the amendment up and have a vote on just one. For this reason, I do not object.

The PRESIDING OFFICER. Without objection, the Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Senator from Utah.

The amendment is as follows:

Strike section 101 (beginning on page 3, line 4, and ending on page 4, line 15) in its entirety.

Strike section 103 (beginning on page 5, line 12 and ending on page 6, line 2) in its entirety.

Strike that part of section 104(a) beginning on page 7, line 13, and ending on page 7, line 25, and reletter the subsequent subsections accordingly.

Strike that part of section 104(a) beginning on page 8, line 22, and ending on line 23, and renumber the subsequent subparagraphs (2) and (3) to (1) and (2).

Strike that part of section 104(e) beginning on page 22, line 3 and ending on page 26, line 11.

Strike that part of section 107(a) beginning on page 36, line 13 through line 10, ending on page 37, reletter paragraph "(L)" to "(K)" where it appears on page 37, line 11.

Strike that part of section 107(b) beginning on p. 40, line 10 all after "and", and ending on line 25.

Mr. HEINZ. Mr. President, I said a moment ago that I do not intend to press this amendment to a vote. I shall state why: First, I am convinced that irrespective of what we do in this body, we are not going to have, by the time legislation comes back to us from conference, and I expect to be a conferee, the powers that are in this bill being granted to these financial institutions. I am not only convinced of that, and I not only want to assure my colleagues that as a conferee I shall certainly use all my influence to try to get these powers dropped, but I also want to observe that this is really one of the most perplexing and intricate issues that this body has had before it for quite some time.

Mr. President, we are in the seventh day of debating this banking bill. We had 4 or 5 days of debate on whether or not we are going to proceed to the bill. And it was necessary in order to proceed to the bill to invoke cloture. I, as the RECORD will show, voted to invoke cloture because I thought we ought to get on the bill, we ought to debate it.

We have been on the bill for about a day and a half, if that, in terms of debate. We have handled one or two amendments. I think it is fair to say that there are a lot of issues in this bill that are fairly obscure issues, not only to most of our constituents—who probably, if you went up to them on the street and asked them whether or not they liked Glass-Steagall, would say, "Who is he and where does he live?"

The fact of the matter is that this body mirrors—thank Heavens, for the most part—the interests, the concerns, and the priorities of our constituents. I think it is not unfair to say that, as

has been evidenced by the fact that very few of our colleagues have participated in this debate, most of our colleagues, when being confronted with a motion to proceed to invoke cloture after only a day and a half of debate, voted by a vote of 92 to 6 to invoke cloture without any threat of a filibuster. That tells me that there are issues here that probably people back home are not asking our colleagues to be deeply involved in. That suggests to me that we would not be doing the legislative process or our responsibilities as public servants any favor if we pressed this to a vote and asked our colleagues to put them to the test of a vote without their having taken full opportunity to really understand these issues.

I am not saying that our colleagues are uninformed, but I am saying that I do not think we can expect, under the circumstances that we are operating under, that there has been careful and sufficient study so that I would feel confident that a vote that was taken represented the final judgment of this body, informed as I think this body would like to be.

I do regret that more of our colleagues had not the opportunity that we have had for 1½ years in the Banking Committee to listen to, I suppose, hundreds of witnesses, literally week after week of hearings. I know, speaking for myself, there are times when I thought that the issues and, I thought, those hearings were among the most tedious responsibilities that I have ever had. I suspect that my reaction to these issues is, itself, not uncommon among my colleagues who are not a part and have not been a part of our committee legislative process.

I must say that, therefore, I have been forced to conclude from the comments of and the conversations with my colleagues that the issue of securities powers, despite its longevity in our committee, is just not understood the way I would like to see it understood before we vote.

So, Mr. President, I just do not want issues which are too important or too destabilizing to be voted upon by the full Senate. If the Senate were to vote down my amendment—and there certainly is a chance that they could—we would all be bound by that vote, but I, in my heart of hearts, would not feel comfortable that, although the Senate had expressed its will, it had expressed its full and complete understanding of the issues.

So we are going to have a lot of chance, Mr. President, to debate these issues among ourselves as we go to conference committee.

We will be in conference with the House. The House conferees have spent as much time, maybe more—I cannot say—as the Senate committee members and the Senate conferees. We will, I think, have a full, careful, and informed series of votes and discussions in that conference committee. I will, in that conference committee, make every effort to delete these additional securities powers that the bill, as reported from the committee, confers upon banks.

Mr. President, I have enjoyed the debate, such as there has been, with my colleagues, both on my side and on the other side of the aisle. Senator GARN and I debated this more in committee than we did on the floor, Senator PROXMIRE and I debated it more in committee than we have on the floor, and I guess that proves my point; that this is a committee issue so far. Maybe it is always going to be that way. Maybe people are going to continue to walk down the street and say, "Give my best to Mr. Glass and Mr. Steagall." But before we go to final passage on this bill tonight—I hope we do—I want to take about 3 or 4 minutes of the Senate's time, when we have them all here, to give my colleagues not any lecture, not any lengthy speeches but a couple of concerns remaining with me so that we may be best advised as to what is taking place.

Mr. President, I withdraw my amendment.

Mr. GARN. Mr. President, I assume the amendment is withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GARN. Mr. President, I thank my distinguished colleague from Pennsylvania. He has been, in the years that I have been chairman and before that when I was ranking minority member of the Banking Committee, one of the most diligent members. We do deal with very complex issues. What he says is true; they are not issues that are well known out on the street. They are not easily understood. Things we deal with are so complex that you have to be very careful about the ramifications of legislative changes. He is one member of the committee who certainly has discharged his responsibilities well and with great attention to detail. He knows the issues extremely well, as well if not better than any member of the committee. So I have high regard for him, in that he does do his homework. We simply in this case come to a different conclusion as a result of the hearings. Although we disagree, I respect his opinion. Senator HEINZ is the type of colleague that you like to deal with even when you do have disagreements.

My opinions are opposite on the nature of the conference. Conferences are sometimes difficult with the House. Senator HEINZ and I have had a particularly difficult one where we have been on the same side rather than different sides for more than 4 months on the Export Administration Act. I do not see any light at the end of the tunnel. We simply do not understand the House of Representatives on those issues. We are united and will continue to work to try to extend that act.

On the securities issues in S. 285, we do have sincere differences of opinion. I will be attempting to influence the House to accept the bill as is. I recognize that that will be impossible, that there will have to be some changes, but I will try to see that they are minimal. I thank the Senator from Pennsylvania for his usual courtesy and his value to me as a member of the Senate Banking Committee.

Mr. President, I yield the floor.

AMENDMENT NO. 3938

(Purpose: To modify the insurance activities prohibition)

Mr. GORTON. Mr. President, I call up amendment No. 3938.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 3938.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, lines 8 and 9, strike out "or any subsidiary or affiliate thereof" and insert in lieu thereof ", or for a bank holding company's State bank subsidiary which is chartered by a State other than the State where the holding company's banking subsidiaries' total deposits are largest,".

Mr. GORTON. Mr. President, in the last several weeks I have heard a great deal about the banks and insurance powers, about South Dakota and Citicorp, about States rights and the Federal Bank Holding Company Act. I should like to take a few minutes of the Senate's time to review the history of this issue, and to inquire into the nature of the policy decision which confronts us. I should like to move away from slogans and turn down the heat, if that is possible, on this debate, by placing some of the issues in context. My colleagues on the Banking Committee have listened to much of this before, but there may be some other Senators who have not heard quite all of the story surrounding this issue.

There is an anomaly in the Bank Holding Company Act. That much, I think, is indisputable. The question which faces the Senate today is, How best shall we deal with the anomaly, which has given rise to the so-called South Dakota loophole? In order to deal with the issue, it is important to have some background on the nature and history of the Bank Holding Company Act, and in particular, of that

portion of the act which has given rise to the South Dakota loophole. My purpose is not to engage in a lengthy legal critique, for I believe that it is our job to decide today what U.S. policy should be, not to interpret the intention of past Congresses. Nonetheless, some background on this issue is important.

The Bank Holding Company Act was first enacted in 1956, generally in response to fears that current law at that time was inadequate to deal with increased banking concentration and increased association of banking and other commercial activities. When first passed in 1956, the Bank Holding Company Act applied only to multibank holding companies—that is, holding companies that controlled at least 25 percent of the stock of two or more banks. Single bank holding companies, which are by far the dominant form of bank holding companies, continued to be unregulated by that act until 1970, when Congress enacted a set of substantive amendments to the Bank Holding Company Act.

Now, one provision of the act is especially important in this context—section 4. In general, section 4 of the Bank Holding Company Act limits the nonbanking activities in which a bank holding company may engage. The crucial exemption to this limitation is in subsection 4(c)(8), which gives the Federal Reserve authority to approve nonbanking activities for bank holding companies, if they are closely related to banking, and if they meet a public benefits test. In 1982, section 4(c)(8) was amended by the Garn-St Germain Act to make clear that the insurance activities were not to be considered "closely related to banking," with certain exceptions, having to do primarily with grandfathered institutions and insurance activities by small banks or banks in small towns.

Now, the nub of the legal question is, Do the restrictions of section 4 of the Bank Holding Company Act, and the exemptions to these restrictions included in 4(c)(8), apply to the bank subsidiaries of bank holding companies, or only to the bank holding company itself and its nonbank subsidiaries? I repeat my earlier assertion that it is our job to decide what policy should be now, not to interpret past law. But some historical perspective is nonetheless helpful at this point.

It is the essence of the Dodd language that it applies subsection 4(c)(8) to bank subsidiaries of bank holding companies. Now, an extreme interpretation is that section 4 already reaches the bank subsidiaries of bank holding companies, and that the Dodd language is simply a restatement of current law. If this were true, of course, then there would be no need for the Dodd amendment, since proponents of this point of view would already have the provision they wish. The fact that they are fighting so hard for this provision must suggest that they doubt the strength of their own argument, that they suspect, as I also suspect, that a court of law would not uphold their position. Largely, this is because, anomalous or not, there is not a great deal of ambiguity in the language of the statute. It reads, and I am quoting an edited version:

> No bank holding company shall acquire direct or indirect ownership or control . . . of any company which is not a bank or bank holding company or engage in any activities other than . . . managing or controlling banks . . . and . . . those permitted under (Subsection 4(c)(8)).

In other words, bank holding companies may control nonbanks which meet the section 4 limitations, or banks; but no limitation is placed on what a bank may do. Similarly, section 4(c)(8) now reads "it is not closely related to banking for a bank holding company to provide insurance * * *." The language which the Dodd amendment adds to this is "it is not closely related to banking for a bank holding company or any subsidiary or affiliate thereof to provide insurance * * *." Senator DODD's proposal does not, however, change the section 4(a) language which I earlier quoted, which refers to the general reach of section 4.

In two ways, then, Senator DODD has narrowed his amendment. In the first place, by amending only section 4(c)(8), and not the broader section 4(a), he is implicitly acknowledging that the Bank Holding Company Act does not generally reach the bank subsidiaries of bank holding companies, contrary to the more extreme interpretation of some. Similarly, by restricting his amendment to insurance activities, instead of applying it to all bank activities—as was proposed in S. 2072, an earlier version of this proposal—he also acknowledges this.

By proposing to deal only with insurance activities, and not with other activities, it must be that, under his language, insurance activities will somehow be treated differently from other activities. Or, in still other words, that we are not restating a general principle of current law, but establishing a new one.

Now, I congratulate him on these choices. I believe he was wise to narrow his proposal in this way. But it should be clear that by so doing he is implicitly acknowledging that we are making new law, not merely restating old law.

Now, this is fine. As I have said, this is what we are here to do—make law, not interpret it. But simply to reinforce in my colleagues' minds, lest there be any doubt, I want to take a bit of time to indicate that the case concerning current law is not quite as some have portrayed it.

The most powerful argument in support of this, of course, is simply the statutory language I mentioned above. But I would urge my colleagues also to consider some items from the legislative history of the Bank Holding Company Act. For example, during consideration of the amendments to the act of 1970, the original House bill added specific prohibitions on insurance and mutual fund activity. The report accompanying the bill stated:

> It should be emphasized that these two prohibitions apply only to the bank holding company and its nonbanking subsidiaries, and not to the bank subsidiaries of bank holding companies whose insurance agency and mutual fund operations are governed by other Federal and State laws. This is in keeping with the original concept of the 1956 act, which was to regulate bank holding companies and not their subsidiary banks.

Even the minority members of the House committee, in dissenting views, acknowledged this point. Wright Patman, among others, argued that the bill should have gone further.

The act, he noted:

> * * * prohibits bank holding companies or their nonbank subsidiaries from performing the function of a general insurance agent * * * but it does not prevent a bank subsidiary of a bank holding company or any other banking institution from carrying on such activities if permitted to do so by the bank supervisory agencies.

Well, Wright Patman is having another run at it today. Similarly, when the Senate considered the amendments, then-Federal Reserve Chairman Arthur Burns reaffirmed:

> The (Federal Reserve) Board would * * * be simply regulating the bank holding companies, not the banks themselves. The banks would continue to function under their present supervisory authority.

I could add other citations, but I think the point is clear. Those who argue that the Bank Holding Company Act already contains the restriction contained in the DOD language are, at the very least, engaging in some highly selective reading of the legislative history; and at the worst, misrepresenting the true position outright.

Now, I will admit they can make an argument here. I think it is not a very strong argument, but I have heard worse. And I do acknowledge that there is an anomaly, and unless we do something to address the anomaly, it is possible that it will be exploited now or in the future in some way detrimental to the safety and soundness of our banking system.

How was it, Mr. President, that we have lived with this anomaly for 28 years without its being so controversial as it is today? Why is it that this issue has been quiet all this time, and only now rises to its point of controversy?

The answer to that question lies in the action undertaken by the South Dakota Legislature in 1983. In an

effort to lure to that State financial operations and their attendant jobs, that State legislature passed a bill which not only affirmed essentially unlimited insurance powers to State-chartered banks in South Dakota, but also invited out-of-State bank holding company acquisitions. Thus, by acquiring a bank for whom the State legislature of South Dakota had authorized certain activities, Citicorp and other bank holding companies could undertake activities that would not have been permitted, had they been undertaken by a nonbank subsidiary of the holding company.

Furthermore, the language of the South Dakota statute authorized such activities either within or outside of South Dakota, but with a protectionist twist—it would be easier to export the insurance services than to conduct them within State, because the statute required that the in-State conduct by banks of these activities would require a demonstration that there would be no injury to the in-State insurance industry.

Citicorp, Bank of America, and First Interstate promptly announced intentions of acquiring South Dakota banks for the purpose of national insurance marketing. Note that it was not the South Dakota market they were interested in, but rather the exploitation of the national market through their base in South Dakota.

The South Dakota action raised hackles, not only among the insurance industry which felt threatened, but also among many others, to whom the protectionist twist was particularly offensive. No one wants South Dakota making banking law for the whole country. The question is, in order to avoid that, to what degree must the Federal Government make banking law for South Dakota?

It should be clear to all Members that it was this action—the authorizing by South Dakota of nationwide insurance powers together with a protectionist twist—that gave rise to the controversy. To make this point crystal clear, let me cite for my colleagues some interesting facts.

First: In researching this issue, I asked my staff to look into the permissible insurance activities of South Dakota State banks prior to the 1983 law. Staff first contacted a prominent local lobbyist on behalf of the insurance industry. And you now what? He did not known. Indeed, he was positively misinformed. Indeed, his response was, "To the best of our knowledge, no South Dakota bank has, to date, either directly or through a subsidiary engaged in the insurance business"—something that is dramatically incorrect.

Staff's next call was to a politically active insurance broker in South Dakota. What was the state of bank insurance powers in South Dakota prior to the 1983 law. He did not know either.

Well, let me tell you what it was. Even prior to 1983, the South Dakota State banks had essentially unlimited insurance brokerage powers within South Dakota, but this was apparently so uncontroversial that the principal agents supporting the Dodd language, which would preempt this power for many South Dakota banks, were totally unaware of it. Now I ask you, how seriously can you take their protestations that the Dodd language is necessary, if they were not even aware of the so-called threat prior to its abuse in South Dakota?

The second occurrence which is of interest in this connection concerns the history of regulations governing this section of the Bank Holding Company Act. To illustrate further that it is only the recent developments in South Dakota that even make this an issue, consider the following story. In 1970, the Federal Reserve Board promulgated regulations which stated that bank holding companies could undertake in separate subsidiaries activities which would otherwise be prohibited to them, but which were authorized for banks themselves in the various States. Did the insurance agents protest? No, they did not. In other words, 14 years ago, when the Federal Reserve Board explicitly acknowledged the anomaly of the Bank Holding Company Act coverage, its regulations created no controversy.

This year, however, in a redrafting of its regulations, the Federal Reserve Board restated its original position. Only now, 14 years later than the original action, did the regulation cause controversy. The regulation was challenged in court by the insurance interests, who argued that the Federal Reserve Board was exceeding its legal authority in promulgating such a regulation. The case was dismissed incidentally on technical, rather than substantive, grounds. The point, however, is the same: The underlying anomaly in the Bank Holding Company Act was not a problem until the South Dakota situation arose; the status of State authorizing powers did not trigger controversy, even in South Dakota, until after 1983.

This fact—that the controversy is of recent origin, despite the longstanding provisions of law—coupled with the fact that it is only insurance activities—and not the many other activities which many States authorized for their State-chartered banks, but which are prohibited national banks or bank holding companies—suggests that we need a narrow, rather than a sweeping, solution. In one way, the distinguished Senator from Connecticut has accommodated this necessity. By dropping the original reference in S. 2072 to all powers, and restricting the scope of his amendment to insurance, he has, I believe, narrowed his proposal significantly.

On another dimension, however, I believe that the proposal of the Senator from Connecticut is unwise in its reach, will seriously damage the commercial practice of many firms which are not now controversial, and is an unnecessary expansion of Federal regulatory activity.

My proposal is not to strike the so-called Dodd amendment. It is to modify it. Under my amendment, the Dodd language applies where there is an interstate acquisition involved. That is to say, Citicorp cannot enter South Dakota or any other State outside of its domicile in New York and engage in insurance activities even within those other States and even with the authority of the State legislature of those States.

State banks, however, which are owned by bank holding companies, may continue to engage in such activities when they are authorized by the legislature of the State in which those activities are to be followed, provided that both the bank and its owning bank holding company are in-State institutions and the activities are conducted in State or otherwise in accordance with the Bank Holding Company Act.

Now, Mr. President, I ask, why in the world should there be opposition to that proposition? Why in the world should not the legislature of South Dakota be able to permit a South Dakota bank owned by a South Dakota holding company to engage in insurance activities within South Dakota if the Legislature of South Dakota wishes to do so?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GORTON. The Senator will yield.

Mr. PROXMIRE. First, I congratulate the Senator on an extraordinarily fine speech. I had a chance to listen to most of it. Unfortunately, the Senator knows at an hour like this even an excellent speech such as the Senator from Washington is giving does not get the attention it should get.

Let me ask the Senator a question or two about it. This Senator strongly feels the banks should stay out of insurance. If I were a member of the State Legislature in Wisconsin I would vote against the law that is now the law in Wisconsin that permits banks to get into the insurance business. My question to the Senator from Washington is that I feel the State legislature should be sovereign as far as what goes on within their State is concerned. States should decide what their own holding companies, their own banks, and their own insurance companies do. We should not decide here in Washington and tell them what to do one way or the other.

Now I want to ask my good friend from Washington if his amendment would carry out that position. In other words, it would permit the State legislature to do what it wishes to do but it would make it very clear that, as far as the Federal Government is concerned, we are not giving any sanction to a holding company from outside of South Dakota going into South Dakota or going into Washington or going into Wisconsin?

Mr. GORTON. My answer to my distinguished friend and colleague from Wisconsin is an unqualified yes to that question. He has pointed out what seems to me to be the heart of the issue involved both in the Dodd amendment and in this modification of the Dodd amendment.

I tend to agree with the statement of the Senator from Wisconsin. Were I a member of the Washington State Legislature faced with the bill proposing this kind of insurance authority within the State of Washington, I rather suspect that I would oppose it exactly as the Senator from Wisconsin has said he would oppose it in his own State.

The point is, as the Senator from Wisconsin has so clearly stated, that he is not a member of the Legislature of the State of Wisconsin. I am not a member of the Legislature of the State of Washington. I feel that, whatever my views on these insurance powers may be, I have a duty to defer to the judgment of the Legislature of the State of Washington, even with respect to my own State, much less to the Legislature of the State of Wisconsin, with respect to business activities which go on in his State.

And as a consequence I have attempted to draft this amendment, and I believe I have been successful in drafting this amendment, only to permit that authority on the part of State legislatures when both the bank which is being authorized to engage in these activities and its holding company are domiciled within the State of Wisconsin, to take the Senator's example.

Mr. PROXMIRE. That is within the State?

Mr. GORTON. Yes, except as permitted by the Bank Holding Company Act. Other than this noncontested area, they will have the powers only within the State. It does close the South Dakota loophole in all of the areas in which that loophole has ever been controversial.

Mr. PROXMIRE. I thank my good friend.

Mr. GORTON. Simply to continue and to end my own presentation, Mr. President, this concept which I discussed in my speech and in my answer to the question from the Senator from Wisconsin is particularly important in a number of States in which there are very, very severe restrictions on branch banking because in those States sometimes the best or perhaps the only method of expanding geographically is through a holding company, and the Dodd language in its current form would dramatically limit the exercise of powers which have simply been noncontroversial in one State after another for an extended period of time in the past.

This amendment, then, clearly closes the South Dakota loophole, clearly and definitively. It meets the goal which the Senator from Connecticut stated in his "Dear Colleague" letter:

> . . . by utilizing permissive State banking statutes in a handful of key States, a large bank holding company, having acquired State-chartered banks in each of those States, would be able to sell insurance to almost half the United States population. Certainly that result would be directly in contrast to the major objectives and restrictions of the Bank Holding Company Act.

My amendment precludes this possibility in a fashion which solves the problem created by the South Dakota loophole, solves the problem of one State governing activities which will take place in another, but in leaving intact the dual banking system and the authority of each individual State legislature to determine for its people, for its constituents, what is best for them in this field.

Mr. DODD. Mr. President, first of all, I ask for the yeas and nays on the Gorton amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I compliment my colleague from the State of Washington for a very lucid presentation, both of background and history, and I think by and large a very fair presentation of the fact situation we are confronted with this evening.

At the very outset, it seems central to the argument of those who favor the Gorton amendment, the notion that somehow the so-called Dodd amendment, which was offered in the Banking Committee and adopted by the Banking Committee, would deprive States of their rights to be able to determine within their States whether or not banks could sell insurance. Nothing could be further from the case at all. There is nothing whatsoever in the present legislation as proposed before this body that would deprive the States of their rights to determine whether or not financial institutions within their borders can engage in that kind of activity. In fact, some have and I am sure others will. That is not the issue at all.

What we have to remind ourselves of here is that a bank holding company is, by definition, a creature of the Federal legislature. Now we may decide at some future date to debate the issue of whether or not bank holding companies ought to be able to engage directly in the insurance business and buy insurance companies. That seems to me a very ligitimate question and one we ought to address. But to suggest this evening through this particular process that this is the time to do it without examining it further I think is to not understand what has happened over the past, going back 30 years, really 1956 when the Bank Holding Company Act was first adopted. But, as my colleague from Washington has pointed out, it was not in 1956 that this issue was really addressed but later in subsequent dealings with that particular piece of legislation. So we cannot have it both ways.

I appreciate my colleagues saying this evening if they were in the State legislatures they would oppose granting to banks within their States the right to sell insurance. That is nice to hear. But this particular evening we are dealing with a Federal creature, that is the bank holding company, and whether or not as the law has evolved we should be allowing them to acquire banks in these States; and then, assuming the State legislatures would approve it, to have them engage in an activity which over the years the Federal legislature has suggested, not implicitly but rather directly, is a prohibited activity or activity that should be significantly restrained. So I think to try and focus on that particular aspect of this is what is important.

Mr. President, there are four or five points that I would try and make in my opposition to this particular amendment. First of all, as I pointed out already, we are dealing with a bank holding company and a bank holding company act with rules that apply for a federally created entity.

Second, we are addressing what are appropriate activities for these entities, particularly with respect to the question of safety and soundness which underlies the rationale for the prohibitions that have been contained in the laws over the years.

Third, if we adopt the Gorton amendment, will we be opening another loophole despite the fact that the major rationale for our coming together on this particular bill was to close a loophole? And I would suggest that we are.

Fourth, there is the matter or reciprocity. On the one hand, we are erecting walls to keep insurance companies and other nonbank banks, if you will, out of the banking business, and yet at the same time this amendment would permit banks to get involved in the insurance business, which is to run directly contrary to the stated purposes of our coming together to try and deal with this matter in the process that we are in.

Fifth, the provision that I introduced in our committee does not keep banks completely out of the insurance

business. It would continue to allow them to engage in activities that the Federal Reserve Board has determined over the years that are proper, activities that are the subject of most of the State laws on banking and insurance. And I will go into that in a couple minutes in more depth.

Sixth, if we authorize States to permit these Federal creatures to engage in the risky business of insurance and the result is an increase in bank failures. It is the Federal Government, I would remind my colleagues this evening, through the Federal deposit insurance that will pay the bill for those failures, if, as a result of acquiring additional activities, they should somehow fail.

At any rate, Mr. President, the major objectives of the Federal Bank Holding Company Act are to promote, as we all know here, safe banking, to prevent conflicts of interest, unfair competition and avoid undue concentration of economic power. That was the reason for the creation of that legislation.

To further these goals, the Congress included title VI of the Garn-St Germain Depository Institutions Act of 1982, which narrowly defines, as my colleague from Washington has pointed out, permissible insurance activities under the Bank Holding Company Act. Title VI authorizes insurance activities the same as an underwriting of credit-life and credit-property insurance, activities that are logically connected to loan transactions. In addition, title VI permits insurance activities in communities of 5,000 or fewer people where there may be a dearth of insurance agents and insurance agency activities and by a bank-holding company whose assets do not exceed $50 million, a size limitation that clearly avoids, I would add, the risk of undue concentration.

Last, in that particular bill we grandfathered and said that any bank that had been engaged in insurance activities prior to May 1, 1982, would be allowed to continue to do so.

As my colleague from Arkansas [Senator BUMPERS] pointed out, there is an Arkansas bank that was doing business in this particular regard since 1906.There is nothing that would prohibit that bank from continuing in those activities. We have protected them, as we have as well by the exceptions that I have just outlined, the $50 million amount, smaller communities, and the other provisions. So we have not entirely excluded banks from engaging in insurance activities. We have grandfathered those that have been doing it for years and we have also said smaller banks, smaller bank-holding companies, could be allowed to continue in these activities.

What title VI does not authorize—and that is what is central here—is the sale of underwriting or major insurance products such as life, property, or casualty, or broad-scale insurance agency activities.

Unfortunately, as we have heard this evening, before the ink was dry on the Garn-St Germain Act, the South Dakota Legislature, with strong encouragement from Citibank, enacted legislation that would permit out-of-State holding companies to purchase South Dakota's banks and use them to sell insurance nationwide. It was argued South Dakota could do this because the Bank Holding Company Act applies only to bank-holding companies and not their banking subsidiaries. Thus, of course, the creation of the so-called South Dakota loophole was born.

While the Federal Reserve Board did not approve the application of Citicorp, First Interstate, and Bank of America to acquire South Dakota banks, the Fed, in suspending consideration of the application, said the present law and the intent of Congress would forbid such activities. That really was not in question. The legislative history was rather clear in this regard. At any rate, the issue has not been finally resolved and hence we find ourselves here this evening.

While the Gorton amendment would certainly reduce, as he has accurately pointed out, the ability of large banks to engage in insurance activities nationwide, this amendment does not address the basic issues—safety, and soundness, and reciprocity. The Bank Holding Company Act makes a basic judgment that it is unsafe for banks to engage in insurance activities. I would gather from the comments of my colleagues here this evening, including the author of this amendment, that were he in the State legislature in his own State he would agree with that conclusion.

As I said, those banks or those insurance activities are excluded, except those specifically authorized by the act. And I have enumerated for my colleagues those exceptions.

Bank affiliates with holding companies—certainly bank-holding companies are created in many instances because of the tax advantages. I might point out this is part of the twist. The reason that people form bank-holding companies rather than dealing directly with State legislatures and try and have State-chartered banks sell insurance is because bank-holding companies, a creature of the Federal Legislature, enjoys certain advantages as a result of that particular status.

So I would suggest that this is an example where at least some would like to have the best of both worlds—to be a federally chartered institution and yet be allowed to engage in insurance activities by acquiring State-chartered banks. Moreover, I would add it makes no sense to deny holding companies the authority to engage in insurance activities through a nonbanking subsidiary but permit them to do so if they acquire a bank and the bank, in turn, acquires an insurance company.

If we think that banks ought to be able to sell insurance, let us say so. Let us change the law. Let us not go around through the back door as we are here. If it is sound public policy to allow this to happen, then let the Congress say so by enacting legislation that would amend the Bank Holding Company Act, not engage in the fictions as we are by creating the straw institutions to allow an institution to turn and violate what has been the policy of Federal Legislature for some time. As I mentioned earlier, reciprocity is also a major point. This bill, as we have heard already, is designed to get nonbanking industries out of the banking business. To that end, the bill would close the nonbank bank loophole. The effect would be to get insurers and security firms out of the banking industry. If we pass this amendment, we would be saying that insurers cannot get into the banking business. We are closing up that loophole. But bankers can get into the insurance industry. It seems to me to be heading in the opposite direction of where we ought to be going.

There is another important matter, Mr. President, to note here. My provision does not foreclose banks from engaging in any insurance activities. Not only would States, as I mentioned earlier, be able to authorize States to charter banks that are not affiliated with bank-holding companies to engage in any insurance powers it permits, but the Bank Holding Company Act itself authorizes six specific insurance activities that I have already pointed out. Those are very broad exceptions, ones that have been carefully considered over the years. Also it is worth looking a little closer at the $50 million exemption that I mentioned earlier because it tells us a lot about the companies that are opposed to the provision that was adopted by the Banking Committee. About 80 percent of all bank-holding banks have fewer than $50 million in assets. So the overwhelming majority of the bank-holding companies would not be affected by my amendment as adopted by the Banking Committee. Is is only the larger institutions that have assets in excess of $50 million. That means that they can engage, as I said, in insurance agency activities as they might wish. It also means that the support for this amendment is really as far as I can see coming from the very largest institutions.

At any rate, Mr. President, I will not take up the time of my colleagues that much. I think the issues are fairly well drawn here. As I pointed out at the outset, the bank-holding company is a Federal creature. We must understand

that it is our responsibility if we believe, as public policy has evolved, that we should not allow banks to engage themselves except where we allow them to do so in insurance activities, and that is a buck which we cannot pass no matter how much we may like to do so. That is our responsibility, the safe-test-and-soundness argument which has underlaid that policy over the years certainly opening a new loophole which is what we are doing here; the reciprocity issue that is closing down insurance companies from banking activities and yet allowing banks to even reach further into the insurance industry; and, certainly the exemptions that I have mentioned would allow banks to engage in insurance activities that many of them have been engaged in over the years. Certainly, as I pointed out—and I should emphasize—it is the Federal Government ultimately that would be responsible. And we have seen a lot of bank failures. If a bank fails because it tried to take advantage of these new powers, and is unable to meet its obligation, it is not the State that bears that financial burden. It is the Federal Depository Insurance Program that does, and we pay. So I think we ought to proceed with some caution and not extend the powers we have already granted beyond what we have without recognizing that this needs a lot more thought than just through an amendment process on the floor.

Mr. President, I urge the rejection of this amendment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I rise to speak in opposition to the Gorton amendment.

I authored the legislation which, with minor changes, in 1982 became title VI of the Garn/St Germain Act. I can therefore speak on what the legislation was intended to do and how it was intended to operate within the overall context of the Bank Holding Company Act. This much I say unequivocally: At no time during the drafting, explanation, or discussion of my legislation was there any suggestion that the language now contained in title VI was intended not to apply to the subsidiaries of bank-holding companies. It was and is intended to apply to bank-holding companies and their subsidiaries.

On close examination, that only makes sense. The Bank Holding Company Act is a Federal law which establishes national policy for bank-holding companies, including explicit limits on the activities in which they may engage. The reasons for establishing such limits at the Federal level are long standing, are well understood, and an integral part of our banking system: First and foremost, to assure the safety and soundness of banks and the public's deposits. Second, to moderate the competitive advantages banks enjoy because of their special status—the power of credit, the ability to accept deposits, use those funds to make commercial loans, a variety of tax and interest rate advantages, and Federal insurance deposits.

That is why the Bank Holding Company Act has consistently been interpreted to establish the outer boundaries within which bank-holding companies and their subsidiaries may operate. It is clear from the language of the act itself that the authority delegated to the States under section 7 is designed to prohibit or further restrict bank-holding company operations within a State's borders. It is not intended to permit the act's summary repeal by the actions of a single State.

Specifically in connection with the insurance limits contemplated under title VI, the language of the law, agency interpretations, legislative history, and common sense make clear the title's intended application. As far back as 1979, for example, in a letter from Federal Reserve Board Chairman Paul Volcker to Representative FERNAND ST GERMAIN, Mr. Volcker noted "the amount and kinds of insurance that a bank holding company may offer may be further restricted but not expanded by State law." More recently, in connection with Board's suspension of applications by several bank holding companies to acquire State banks in South Dakota authorized under South Dakota law to sell and underwrite insurance, the Board stated it "could not approve the proposed bank acquisitions in view of present law and expressions of congressional intent."

Likewise with the committee report's legislative history for both the 1982 Garn/St Germain Act and the Dodd amendment adopted in the Senate Banking Committee this summer, the application of title VI insurance restrictions to the entire bank holding company system—not just to the parent holding company—is made explicit. The conference report to Garn/St Germain said that title VI "generally prohibits bank holding companies and their subsidiaries from providing insurance." The House Banking Committee report to H.R. 5916, which contains language identical to the Dodd amendment, notes that the language is intended to "clarify and emphasize congressional intent that title VI extends to bank holding companies and their subsidiaries, including bank subsidiaries, be they federally or State chartered." Finally in the Senate Banking Committee's report on the Dodd amendment, the amendment's purpose is to "specifically emphasize that all subsidiaries and affiliates of a bank holding company, including State bank subsidiaries and their affiliates, are subject to the insurance activities prohibitions and restrictions of title VI of the Garn/St Germain Act."

The important point to emphasize in light of this review of legislative history and agency interpretation is that title VI has always applied to the subsidiaries and affiliates of bank holding companies. It was never intended to mean anything else. The Dodd amendment breaks no new legislative ground, overturns no previously recognized States rights or dual banking principles, represents no new legislative agenda.

The Dodd language does not affect in any respect the insurance activities which may be authorized by applicable State laws for State chartered banks not affiliated with holding companies. Only State banks which choose either to organize themselves into bank holding companies, or be acquired by a holding company, are and have since 1982 been subject to the bank holding company act restrictions contained in title VI. It should be noted that such decisions are often made to take advantage of tax and branching opportunities not available outside the holding company structure—advantages sought and gained in the context of Federal law.

Similarly, all of title VI's exemptions would apply to State chartered bank subsidiaries or affiliates otherwise subject to title VI restrictions. Thus, all State banks which are part of a holding company with total system assets of $50 million or less have a limited exemption from title VI's general prohibition. Also, State banks which are part of a holding company whose principal place of business is in a town of 5,000 population or less may conduct certain insurance activities. Finally, bank holding companies and their subsidiaries have grandfathered insurance authority for activities engaged in prior to May 2, 1982, title VI's grandfather date, May 2, 1982.

The Dodd language is a necessary response to a deliberate strategy by some bank holding companies to circumvent restrictions on their activities which Congress enacted in 1982. Title VI of the Garn/St Germain act restricted the insurance authority of bank holding companies and their subsidiaries for valid, carefully debated public policy reasons. Congress must clarify that bank holding companies cannot get around these limits simply by acquiring State chartered bank subsidiaries in States where insurance authority for unaffiliated State banks may be more liberal than Federal law permits for bank holding companies and their subsidiaries. Bank holding companies are subject to Federal law and the limits Congress establishes. I urge my colleagues to vote no on the Gorton amendment.

Mr. GARN. Mr. President, the issue of State bank powers came to the force last year when South Dakota enacted a law generally permitting State banks there to engage in insurance underwriting and selling activities. The law imposed no restrictions on such activities conducted outside the State and it authorized the conduct of such activities inside South Dakota unless the activities resulted in a "substantial detriment" to insurance companies or agents located in that State. This situation, providing different treatment based on whether the activity is conducted in State or out-of-State, has been the object of much criticism. The original version of S. 2181 would have prohibited such dual treatment.

In the committee print, the focus of this limitation was revised and broadened. As retained in the bill as reported, the interstate activities of State banks would be limited to those activities permissible for a bank holding company under section 4(c)(8) of the Bank Holding Company Act. This is consistent with the BHC Act, which, under section 4(c)(8), affects the nonbanking activities of bank holding companies, and, under section 7, reserves to a State "such powers and jurisdiction which it now has or may hereafter have with respect to banks." When a State bank operates within its own State, Congress should be very reluctant to impose restrictions on activities which a State legislature has sanctioned. Interstate activities of State banks are matters over which Congress has a legitimate interest and may impose standards, just as was done in the committee print.

The amendment to impose the title VI restrictions, as contained in section 4(c)(8), on all subsidiaries and affiliates of a bank holding company goes for beyond what the BHC Act was designed to cover. The imposition of these standards and limitations on State chartered banks raises several issues, including the rights of States to charter and supervise institutions within their jurisdiction and the statutory framework affecting the insurance business.

Under the dual banking system, the State and Federal Government both charter and supervise banks. This has been a source of strength and diversity for our financial system. To subject State banks to the nonbanking activities restrictions of the insurance provisions of section 4(c)(8) removes some of the chartering authority from States. The message is clear—Congress knows best what State banks should do in their home States, regardless of what State legislatures say or do.

Governors Lamar Alexander and Michael S. Dukakis, chairman and vice chairman of the National Governors' Association's Committee on Economic Development and Technological Innovation, stated the following in a recent letter to me regarding the markup of S. 2181:

The Nation's Governor oppose any amendments which would place preemptive restrictions on financial institution activities legally authorized by state governments for the benefit of their respective citizens. The continued ability of each state to grant new or innovative powers to state-chartered institutions within their borders is necessary for continued economic well-being of the states and the nation as a whole. States have been laboratories of experimentation in the financial services area. They have been able to shape the powers of the institutions to meet local and economic needs and conditions.

In recent testimony before the House Banking Committee on legislative provisions on State bank powers generally comparable to those included in the committee's bill, Walter S. Madsen, superintendent of banks for the State of Arizona and president-elect of the Conference of State Bank Supervisors, described the following as some of the benefits that would be adversely affected by this statutory change:

States operate as laboratories for change. Many states have long permitted activities which are not in all respects identical to those of either national banks or non-bank subsidiaries permitted under the Bank Holding Company Act. The ability of states to charter banking corporations carries with it the duty to determine an appropriate scope of activities. Such responsibility has resulted in important public benefits, has led to banks meeting local or specialized needs and has often resulted in subsequent action by Congress authorizing similar functions; e.g., bank branching in the 1920's and 1930's and NOW accounts in the 1970's. Indeed, one of the benefits of the dual system is that it motivates experimentation and innovation without putting the entire banking system at risk.

State powers lead to local service and flexibility. Because current Congressional activity was occasioned by a state's insurance statute, it is appropriate to begin with an examination of insurance activities of state-chartered banks under state law. Local conditions have led many states to authorize state-chartered banks to meet local insurance needs. State law, regulations and interpretations promulgated thereunder, court decisions and long-standing tradition permit insurance brokerage—for at least credit-related insurance—in 29 states. Ten (and perhaps as many as seventeen) of these states allow some amount of general insurance brokerage as well. . . . Legislation prohibiting such activities within the authorizing states would be anticompetitive and an inappropriate remedy for the ills alleged.

State authority over the powers of state-chartered institutions has added a healthy degree of flexibility to our banking system. It is difficult to believe that the significant loss of flexibility and service to communities could be justified in prohibiting activities which engender no safety and soundness risk.

The preemption of state authority in this area is not in the public interest; would cast too large a net, given the current controversy; would remove from the public services that which had been offered without controversy until now; and would create unequal and unfair regulation based on organizational structure.

The insurance business has historically been regulated on the State level. The McCarran-Ferguson Act sets the Federal standard that it is the States, not the Federal Government, which regulate this business. It is more than ironic that Congress, at the urging of various insurance groups, is now proposing to preclude State legislative actions or the potential for such actions affecting the insurance activities of State banks. Perhaps Congress should consider changes to McCarran-Ferguson, if it is going to preclude actions by States to authorize in-State insurance activities of State chartered institutions.

The application of title VI to State-chartered bank subsidiaries of bank holding companies undermines the principle of States rights, and in so doing, weakens the ability of the States to serve as laboratories for change.

Mr. President, to summarize, I happen to feel very strongly about this issue, especially because of the fact that before I came into politics I made my living in the insurance business. I belonged to most of the organizations who favor the Dodd amendment. I happen to be opposed to banks selling insurance. So that is not the issue.

Mr. President, we closed the South Dakota loophole in the committee. The Dodd amendment does go beyond that and tightens it further, but it does intrude upon States' rights.

I have talked about it many times, so I will not say any more about it than I firmly believe it is a direct intrusion on States' rights, and I feel more strongly about that than I do about banks not selling insurance.

State legislatures should have the right to decide what their State-chartered banks do within their own States, and insurance agents ought to have the courage to go to each of those State legislatures—if I were still an insurance agent in Utah—and say, "I oppose that. I do not want you to do that."

What we are really dealing with here is that a commission in New York recommended to Governor Cuomo that they grant insurance services. We have a battle here that, "Instead of fighting the New York Legislature, why not get Congress to do it in all 50 States before us?"

Mr. President, let me quote from the National Governors' Association so that it is not JAKE GARN saying it is a States' rights issue.

The nation's Governor oppose any amendments which would place preemptive restrictions on financial institution activities legally authorized by state governments for the benefit of their respective citizens. The continued ability of each state to grant new or innovative powers to state-chartered in-

stitutions within their borders is necessary for continued economic well-being of the states and the nation as a whole.

The Conference of State Bank Supervisors, and I quote from a letter, said:

The single truly negative aspect of this legislation—

Referring to S. 2851:

is the Dodd amendment. That provision added in committee violates State authority over State-chartered institutions by extending to them the restriction on insurance activities of the nonbanking subsidiaries of bank holding companies. We have written you previously concerning this affront to State authority under the dual banking system.

I do not know what more testimony we need. My good friend from Connecticut said it is not an intrusion on State's rights, but the Governors say it is and the regulatory agencies say it is. That is the issue.

I am opposed, like CHRIS DODD is, to banks writing insurance. But I am also in favor of States making that determination for State-chartered institutions.

What the Gorton amendment does is simply say that within State boundaries a State legislature will be able to grant that authority if they so desire.

They would not be able to grant an out-of-State bank holding company the authority to come into that State.

So we are narrowing it with the Gorton amendment to close the South Dakota loophole but only for exporting of insurance services across State lines and to keep out of States the big bank holding companies that operate out of States.

Mr. President, it is a States' rights issue and I am hopeful my colleagues will support Senator GORTON's amendment.

Mr. ABDNOR. Mr. President, due to the complexity and importance of the financial services industry, the legislation being considered is necessarily complicated as well, I commend the chairman of the Banking Committee for his ability to deal with this issue amidst considerable controversy. I understand that the committee has amassed some 8,000 pages of proceedings and opinions on this legislation. While the committee has had months to evaluate the issues at hand, the rest of the Senate has not been afforded the same luxury of time. With all due respect and my very high personal regard for the Senator from Utah, I wish to express my reservations about the way this bill was so quickly marked up and marched onto the floor of the Senate.

The longstanding rivalry among financial institutions makes for politically rough water. The three major players in this arena—the banking, securities, and insurance industries—historically have been strictly separated, but the lines of separation now are being blurred considerably. Because of this rivalry, to satisfy the interests of one group means almost automatically the other two will be displeased. Making matters even more complicated, the real estate industry also is gearing up for expanding financial offerings, so this rivalry may become four-way, making the political considerations all the more difficult.

Changes in Federal law seem to cause a tide of favoritism to shift from industry to industry in the financial sector. In the 1960's and early 1970's, the laws were favorable for banks. With the support of the industry, banks were placed under protective regulation which set limits on interest rates and strictly disallowed competition from outside the commercial banking arena. During this time the banking industry prospered, and traditional banking services provided customers what they desired.

This rosy picture soon would change for the worse, however, due to two factors: No. 1, inflation disrupted orderly credit markets; and No. 2, an increasingly active and complex economy required the creation of new financial instruments, technology and services to accommodate the rapidly growing demand for financial management.

In my opinion, the financial services sector was in need of restructuring to meet the needs of consumers in the early 1970's, perhaps not to the degree of knocking down all the regulatory barriers, but to some degree nonetheless. During this time, the baby boom was entering adulthood, and millions of new families needed financial and retirement planning for the future. Life insurance policies and savings accounts paying 4 percent interest just were not enough. Then inflation came along and was the catalyst for action and change in the industry. Savers and investors saw the purchasing power of their savings evaporate and they wanted somewhere to turn because banks, by the very regulation they supported, were disallowed to reward them with higher interest rates or to offer other investment instruments.

In a free economy like ours, you could guess that the marketplace would invent a way to provide the public what it wanted. As a result, money market mutual funds were created as an alternative. Because money market funds were not, and still are not, federally insured, they escaped regulation limiting interest rates. The first funds were started by securities firms and investment banks such as Merrill Lynch. And they were very successful. From virtually nothing in the early 1970's, their assets skyrocketed to over $200 billion by 1981. A considerable amount of these funds came from personal savings accounts from banks and S&Ls.

Inflation turned well-intentioned regulation into a nightmare for banks. Nonregulated financial firms stepped in to provide savers a way to protect their nesteggs. Other financial service firms began appearing on the scene as the marketplace saw opportunities to offer services that regulated banks were prohibited from offering. Expansion into these new fields was the birth of nonbank banks. Now Sears and J.C. Penney department stores are offering their customers a variety of financial services from stock brokerage to money market checking accounts. Now Prudential Insurance is wed to Bache Securities. Now American Express credit cards are linked to the Shearson Investment Bank. All these firms with billions of dollars of assets present formidable competition to individual banks and bank holding companies.

The banking industry has been changed by forces outside traditional banking. Healthy, fair competition among rival banks is one thing, but the regulatory climate of the financial services industry has created competition to which traditional banks cannot respond. How can this inequity be remedied? Should we, as responsible legislators, allow traditional banks to catch up with nonbank banks by permitting them to engage in a wide array of new financial services, regardless of risk factor, regardless of the impact on the soundness of our economy's system of money transactions? Or, do we place a harness around the new ventures whose innovations and advances in the delivery of financial services have given customers alternatives to status-quo banking? I do not think either of these in the extreme is very desirable.

Fortunately banks benefited from the 1982 banking legislation which deregulated interest rates among other things. And let us not forget that South Dakota played a major role in accomplishing that job. The South Dakota Banking Commission was one of the first State authorities to challenge Federal law disallowing super NOW accounts. Although the Federal Reserve Bank and the Comptroller of the Currency stepped in immediately, the ice was broken. Then a few weeks after that action, South Dakota Attorney General Mark Meierhenry filed suit against the Depository Institutions Deregulation Committee [DIDC]. In the face of South Dakota's maverick-like challenges, the Congress and DIDC modified banking regulation in a manner that mirrored South Dakota's intentions.

And that is not all of what South Dakota has done in the area of progressive banking innovation. In the late 1970's, South Dakota lawmakers were aware that inflation slowly and surely was pushing lenders and money

managers into a bleak corner. They were cognizant of the economic reality that if lenders could not charge interest rates which reflected the cost of loanable funds, then there would not be any money to loan out. Inflation—the specter which is the root of the finance industry's woes today—caused interest rates and the cost of loanable funds to exceed the usury limits established by State legislatures across the United States.

Recognizing that the availability of credit ultimately was more important than protecting borrowers from high interest rates, the South Dakota Legislature became one of the first States to do away with interest rate ceilings on consumer loans. Outmoded usury rules designed to protect against abusive finance charges were unworkable and damaging during times of hyperinflation. Was the public at large disadvantaged by this action? I submit that it was not. Slightly higher finance charges did not greatly discourage them from using their credit cards and other lines of credit. As a matter of fact, I would suggest that consumers used them more carefully. Instead, South Dakota attracted $4 billion of capital which was put to good use. Not only that, it created over 2,000 new jobs for South Dakota's highly productive and eager work force.

But now, South Dakota's contributions and improvements to the banking environment are going unnoticed. We have another issue involving our dual banking system. You all are very familiar with it; in Washington we call it the "South Dakota loophole." In South Dakota, we call it a way to enable banks to offer the public greater services. The legislation before us would strip State banking regulators of a considerable amount of their autonomy in an effort to disallow the innovative, progressive decision of the South Dakota Legislature to allow a State-chartered bank to engage in insurance underwriting. So it appears that our progressive banking tradition probably is going to go unrewarded. But I will still try my best to fight for South Dakota rights and all State rights.

A considerable amount of misunderstanding surrounds the South Dakota loophole. The exaggerations and rumors about the law enacted in South Dakota have made it a convenient scapegoat for interests which do not want more competition in the insurance industry. Ironically, many insurance companies have entered the banking industry by circumventing Federal regulation, but they object entering their insurance domain.

Opponents of the South Dakota loophole declare that State-chartered banks cannot offer insurance in South Dakota and can only export it to the other 49 States. That is not correct. Insurance services can be offered in South Dakota, and can be suspended only if it proves to be injurious to agents or other underwriters in the State.

I am curious that my colleagues from other States are opposed to allowing more competition in the insurance industry. My impression is that the current Congress is procompetition. It is as if they think the South Dakota product will be shoddy or inferior; or to the contrary, they fear that it will be better than the insurance currently offered in their respective States. I remind my colleagues and I think we were talking about that a minute ago, that any South Dakota-based insurance company is required by law to obtain permission from State insurance regulators in each and every State they intend to offer their insurance.

I would like to raise a question directed to the insurance industry, especially since many of its leading firms are in, or are scrambling to enter, the banking field. What is the harm with more competition in insurance? Does it not help to assure your longstanding customers that they are getting the best product and service that their money can buy?

South Dakota has much to gain and regrettably much to lose if it is not permitted to capitalize on its initiative to allow State-chartered banks to diversify in response to the changing financial services industry. South Dakota's economy is the most agriculture-reliant of all States. Given the current condition of the farm sector, it shows that South Dakota is not enjoying all the benefits of the current U.S. economic recovery. By allowing our State banks to expand their opportunities, a minimum of 2,000 desperately needed jobs would be created. That number probably would grow as more interest develops. The shroud of regulatory threats and prohibitions has discouraged some banks from exploring new opportunities in South Dakota.

I wish to share with my colleagues my observations from a politician's perspective. We all are aware of the keen rivalry among insurance, securities and banking groups. And usually, as I mentioned before, if one group is pleased, the others are not. That is the ultimate political dilemma: No matter what I do, I lose two to one.

In this setting I must weigh the pros and cons of banking legislation. I would like to share also the criteria which will help me to decide how to vote on future financial services legislation.

First, how are consumers affected? What services are they interested in? What kind of conveniences and offerings are appropriate? Are their investments and savings secure? How much risk should they undertake? How much protection should consumers be afforded and how much should the government provide? How does interest rate volatility affect their financial future, and how would new laws affect interest rates?

Second, how is the financial sector affected by changes in the laws, changes in its industries, or by the economy? The insurance industry is the mechanism that our economy uses to spread out risk and uncertainty factors in our economy, and to provide investment funds and benefits to individuals. The securities industry provides the huge investment and equity base on which American industry is founded. And the banking industry stands out in many ways. Banks are the lifeblood and pulse of the economy. They are charged with the responsibility of keeping our money transactions system running smoothly. That is tens of trillions of dollars exchanging hands and balance ledgers yearly. Banks also are the mechanism through which the Federal Reserve conducts its monetary policy. I cannot overstate the importance of this function; no other industry has such a crucial link to a Government agency or to such a powerful economic tool.

Because of banks' prominence and importance, the Federal Government offers deposit insurance to protect both depositors and institutions. Attached to this exclusive and advantageous insurance program, of course, are regulatory strings governing the activities of banks. And ironically, those strings are putting traditional banks at a competitive disadvantage with their nonbank rivals.

Third, if consumers desire expanded services from banks and banks are willing to provide them, my third and final consideration is this: Are Federal regulatory agencies prepared and properly equipped to oversee these new activities? Before the banking industry enters the securities business, from which they have been prohibited for about 50 years, the Congress must ensure that regulatory oversight is adequate. Banking agencies and the Securities and Exchange Commission would have to have a clear understanding of who is monitoring banks offering securities services.

Just as important, broad changes in financial services and technology over the past decade have obliged Federal agencies to evaluate the current regulatory structure. The administration in the past year recommended that the oversight of three banking regulations—the Federal Reserve Bank, the Comptroller of the Currency and the Federal Deposit Insurance Corporation [FDIC]—be combined into one Federal Banking Agency. We must be assured that this new structure, or the old one if it is kept, is adequate to oversee the banking industry.

The separate subsidiary concept, which requires strict divisions in the

operations of various services, is imperative. The monitoring and accountability of each service is vital to regulatory oversight. To the extent that bank deposits are federally insured, the Congress must be assured that banking operations will not subsidize or support other optional services.

It would be irresponsible for Congress to expand banking powers literally overnight, especially in light of the Continental Illinois collapse and the still uncertain effects of deregulation in 1982. If we were assured that oversight of the banking industry was satisfactory, I would prefer a gradual phase in of the following financial services:

First, underwriting and selling State and local revenue bonds. This is a natural extension of bank's current ability to hold these bonds.

Second, underwriting and dealing in industrial development bonds. These bonds are common and involve about the same risk factor as general obligation bonds.

Third, underwriting and dealing in mortgage-backed securities. These instruments provide banks the much-desired liquidity required by the current banking environment. It also makes fixed-rate mortgages, which are still very popular to home buyers, attractive to investors.

If these three went smoothly, then I would suggest that banks could engage in the following:

Fourth, selling and underwriting securities of investment companies. This would create more competition in the securities industry, which could be beneficial to both consumers and the industry itself, provided banks did not gain a big concentration of market power because of their reputation for being sound and risk free. Securities are hardly risk free, and investors must realize that.

Fifth, underwriting and selling commercial paper. Although these instruments are similar to other ways banks obtain operating capital, allowing banks to use them opens up new doors for possible conflicts of interest between lenders and borrowers. This needs further evaluation before the Congress proceeds.

In conclusion, many of my congressional colleagues and I are aware that the laws governing financial services are not completely neutral among rival industries, fair to all the institutions in each industry, and progressive in the sense of allowing the market to provide what consumers want. Achieving a satisfactory compromise will be a difficult struggle. Every banking provision I have ever voted on has been that way. The next round will be the same way. You have heard the three criteria on which I judge the merits of financial sector legislation, and I pledge that all points of view will be heard openly and fairly, just as all of my constituents have a voice that is heard. I am always willing to listen and will always seek to compromise in good faith.

The PRESIDING OFFICER. Is there further debate?

Mr. HEINZ. Mr. President, I oppose the Gorton amendment to modify the Dodd-Heinz amendment.

The Dodd-Heinz amendment, which was adopted by the Banking Committee after months of testimony and debate of this issue, accomplishes a much needed clarification of Federal law in the area of State regulation of bank holding companies.

The so-called South Dakota loophole in Federal banking law, which the Dodd-Heinz language closes, exists because of an ambiguity or inconsistency stemming from this country's dual banking system. This system permits each State to regulate State-chartered banks, while Federal law regulates nationally chartered banks and bank holding companies. The South Dakota law that sparked this debate has two parts. First, the State permitted an out-of-State bank holding company to enter its State and acquire a State-chartered bank. Second, the State permitted State-chartered banks to sell insurance—an activity prohibited for bank holding company subsidiaries under the Bank Holding Company Act.

What makes South Dakota's action even more unpalatable is that just 2 short years ago, Congress passed the Garn-St Germain Act, which specifically limits the insurance activities of banks, and does not include general insurance brokerage—the power that was conferred upon bank holding companies by South Dakota.

I find the so called "South Dakota" loophole particularly egregious for two reasons. First, bank holding companies are creatures of Federal law—they were created by Congress, and their activities continue to be prescribed by the Bank Holding Company Act. Such entities are permitted to enter only those lines of business which are expressly permitted by that statute. Nowhere in the legislative history of the Bank Holding Company Act is it stated that the 50 States could depart from this carefully constructed regulatory system and permit subsidiaries of bank holding companies to engage in nonbanking activities.

Second, because bank holding companies are Federal entities, Congress, not the individual States, is the final arbiter of policy regarding their activities. It is not in the interest of a safe and sound banking system to have a patchwork quilt of laws which permit different holding companies to engage in different activities, based solely on where the bank is located.

Accordingly, in November 1983, I introduced S. 2072, legislation which ratifies the spirit of the Bank Holding Company Act by clarifying that subsidiaries of bank holding companies can only engage in those activities permitted by that statute.

After months of negotiations between representatives of the different financial services providers and those who favor broader State power in this area, the so-called Dodd-Heinz amendment was arrived at. This amendment, which was adopted by the Banking Committee, limits the insurance activities of bank holding company subsidiaries to those permitted by the Bank Holding Company Act.

Mr. President, I believe this language is fully justifiable and a thoroughly necessary reaffirmation of congressional intent as originally contemplated by the Bank Holding Company Act in having Congress, not the States, establish the permissible activities for Federal bank holding companies. In my judgment, the Dodd-Heinz amendment preserves, and probably strengthens, the dual banking system by clarifying the respective regulatory responsibilities of the State and Federal Governments.

I must stress that the Dodd-Heinz amendment limits only the activities of bank holding companies and their subsidiaries. Therefore, a State-chartered bank that is not in the holding company form would be free to exercise any power granted by its home State. And, of course, bank holding companies would be free to give up their holding company structures to take advantage of any expanded State authority.

For these reasons, I urge my colleagues to vote against the Gorton amendment.

Mr. President, as I say, I oppose the Gorton amendment and I hope to take only about 2 more minutes of the Senate's time to explain why. I have heard at least twice on the part of two speakers the argument that the amendment in this committee bill, the amendment put into the legislation by Senator GARN and myself, is somehow contrary to States rights. Mr. President, I am as sympathetic to the notion of States rights as any Member of this body. But to tell the truth, when a bank holding company becomes the choice of a group of people in the State, a State-chartered bank, and they decide they want to become, in addition to being a State-chartered bank a federally regulated bank holding company, they have yielded up by that choice their entitlement to States rights. They do not have to become a creature of the Federal Government, bank holding companies regulated by the Federal Reserve, given a long list of rights and privileges by the Federal Reserve. You can, if you are a bank holding company in any State in the Nation, form an Edge Act corporation.

What does an Edge Act corporation do? They can and they do go all over the United States taking corporate deposits, making corporate loans. That is not intrastate banking, folks; that is interstate banking of a special kind.

And who does it? Federally regulated bank holding companies—the main difference between what we have in our bill and what Senator GORTON seeks to address.

As far as this Senator is concerned, a State-chartered bank ought to be free to do whatever their legislature wants them to do, but they should not be free to have two bites at the apple—one as the State-chartered bank and say, "You know, we are just a humble little State-chartered bank, we want to be left alone, let our State run our State;" and then say, "Oh, by the way, we want to be a bank holding company and go interstate and do all these other things."

So, in this instance what looks to be States rights is simply something called wanting to have your cake and eat it too, wanting to go both ways, wanting to be AC and DC.

That is going to lead to a short circuit.

And I will tell you why, Mr. President. The one reason that we ought to be concerned about what is going on here, I think, is what happens to the liabilities that one of these little bank holding companies might just approve by virtue of having made a mistake in insurance in the State in which their bank subsidiary has been going into the insurance company and say, "We are going to get into underwriting insurance in Connecticut," and they join the list of troubled, failing, dying insurance companies in that or some other State in which they are operating. And make no mistake about it, Mr. President, as my friend from Kansas knows, we spent a lot of time with life insurance companies this last year in the Finance Committee, half of them saying they were going to die, as I recollect. They made a convincing enough case that we decided to give them a transfusion.

But what happens, my friends, if the mistake is made? The Federal Government is going to have to go in there and prop that bank holding company up. Why, indeed, was the Secretary of the Treasury so negative about our having to go in and rescue the Continental Illinois Bank, which was not an insurance company, through the holding company—through the holding company? Because the way things get arranged these days, it is the holding company that is the financial center, not the bank subsidiary, because of all the kind of things that banks, through their holding companies, can do and do do internationally.

So, if there is just one point, Mr. President, that I would like to make, it is that we hear a lot of talk about the dual banking system as if they are separate. I say to my friends, it would be nice if they were. Life would be so much simpler if we could keep them separate where bank holding companies are. But nothing we can say or do on this floor can remove the fact that a bank holding company is a federally regulated entity.

That is the way we made it. And we can pretend that it is a States rights issue, but that kind of pretense, I think, is headed for trouble down the road.

If any State-chartered bank does not like what we are doing because they have a bank holding company, let them go back to being a State-chartered bank and not try to have it both ways.

Mr. President, there is just one other point I wish to share with my colleagues. In the Garn-St Germain Act of 1982, we made a very clear decision that national banks—which benefits a bank operating just in one State, almost invariably could not sell any insurance.

If we meant that decision—and I think we meant it for good reason, that we did not want banks getting into lines of business not properly incident to banking—what we are doing, if we accept the Gorton amendment, is by the affirmative nature of that decision rolling back from where the committee is toward more bank involvement in insurance. We are slowly but surely reversing the decision we made 2 years ago. If that is the decision of this body, so be it. But Senators ought to know that if you start unraveling that thread and banks get into insurance all across the board, 2 years from now they are going to be back saying, "Look, this is really inequitable to those poor little national banks that are in New Hampshire or Iowa or South Dakota or wherever they are. Boy, those poor little banks, just because they are supervised by the Comptroller of the Currency, it is really unfair that they should not be allowed to sell insurance. You should treat them like those federally regulated bank holding companies, that is really inequity; you treat two federally regulated institutions differently." That is what you are going to hear.

If you want to allow banks to go into insurance in spite of all the admonitions we have talked about over the last several days, how banks have a lot of advantages the rest of us do not like, what I call merger insurance or getting married insurance of take-me-to-the-dance insurance and I will buy the tickets—I being the Federal Government—the Federal Deposit Insurance, low-interest loans that our farmers cannot get but the banks can through the Federal Reserve window, if you want to use all those goodies time and time over to finance or help or prop up banks to get back into insurance, that is our decision. I can tell you how this Senator will vote on it. I will vote against it. I will speak against it. I will fight it because I think it is going the wrong way, and I think the chairman of our committee would probably fight it.

Mr. PRESSLER. Will my friend yield? I am speaking in support of the Senator's position.

Mr. HEINZ. With that kind of inquiry, how can I fail but yield, as we say, for a question.

Mr. PRESSLER. Mr. President, today the Senate is considering legislation which will have a very dramatic impact on interest rates. I join this debate with a great deal of mixed feelings.

There is no question in my mind that the Congress has fallen behind the marketplace in this area. The financial services industry is changing at a rapid pace and our Federal regulator are often forced to deal with issues which Congress has not sufficiently addressed.

For that reason, I am pleased that the Senate is debating S. 2851. I know that a great deal of hard work has gone into this legislation on the part of the distinguished Senator from Utah [Senator GARN], and his colleagues on the Senate Banking Committee.

I am particularly pleased that the bill will effectively close the nonbank loophole. This is an area of great concern to the banks and savings and loan associations of my home State of South Dakota. As we all know, the Comptroller of the Currency has plenty of applications backed up from nonbanks and can go forward to approve them without congressional action.

So for that reason alone, I am glad to see this bill on the Senate floor. There are many other noncontroversial issues in the bill of interest to credit unions, banks, and savings and loans.

I must confess to some misgivings about one area which I have not heard addressed on the Senate floor during the debate on this bill. That issue is the effect of deregulation on consumers—particularly on high interest rates.

For the farmers, small business owners and consumers of South Dakota, high interest rates continue to be the No. 1 economic problem. In a hearing I held on high interest rates in the Senate Small Business Committee last year, I heard again and again that part of the blame for higher real interest rates is due to deregulation of our financial institutions.

Now, I am well aware that many Americans have benefited from the new products and higher yields available as a result of deregulation. I am pleased that many consumers, particu-

larly the elderly who depend on their investments, have increased their earnings.

However, there is little doubt that these increases also have a high cost. The Senate, in my opinion, has not addressed this question. What effect will further deregulation have on interest rates? It is a question which must be answered before I can support new services like insurance sales by bank holding company subsidiaries. The Federal Government has a direct and overwhelming responsibility to control the interest rate problem. We cannot evade that responsibility. And I cannot support amendments which threaten to increase interest rates for farmers, ranchers, small businesses, and ordinary credit consumers.

I would like to ask some questions of the Senator from Pennsylvania.

We are often told many reasons why interest rates are still high. In fact, I raised the question of why interest rates were so high with the President of the United States 2 days ago. Part of the answer seems to be "because of all the other problems of banks."

Would it not be true that if there were losses in the insurance business or banks, those losses could be added on to interest rates?

Mr. President, I am speaking as an opponent of the Gorton amendment. Inflation rates are 3 or 4 percent. Interest rates should not be more than 5 or 6 percent with that inflation rate. But they are much higher, and I do not believe it is solely because of the deficit although the deficit is partially to blame. It is also because banks are losing money on other things and must charge their customers higher interest rates as a result. The farmers and small business owners in my State are paying high interest rates because of losses on other activities the banks are carrying out. If they were still bankers in the traditional sense without so many new programs, our farmers would not be paying such high interest rates. They could end up paying for higher interest rates because of this amendment. That is why I am an opponent of the Gorton amendment. Is that not true?

Mr. HEINZ. I think the logic of my friend from South Dakota is good logic. I believe he is correct. I believe it is true that when banks make mistakes and lose money in one area, they try to make it up in another. That means they have to charge more for what they are doing, which includes charging more for the money they lend. I think his analysis is as accurate as any of us can be about somebody else's behavior.

Mr. PRESSLER. In the last 2 years there have been many hearings with testimony given that banks make up for their losses and increased cost of so-called bank deregulations with higher interests rates.

A lot of people like high interest rates in this country, people who have money that they are collecting, who have money in the bank; big corporations like high interest rates but some elderly like high interests rates as well. But my farmers and small businessmen do not like high interest rates. This amendment could mean higher interest rates. Farmers, small businessmen, and young people who are trying to buy a car or who are trying to buy a home might have to pay more in interest rates. I do not care how you cut it, high interest rates come from this very fact. I think that is a point that should be made very strongly.

Mr. HEINZ. I think the Senator makes the point clearly, accurately, and fairly. I thank him.

Mr. President, I reserve the remainder of my time.

Mr. SASSER. Mr. President, as a member of the Banking Committee, I voted to include the language proposed by my colleague from Connecticut, Senator DODD, and I must oppose efforts to remove or alter that section of S. 2851. I want to commend Senator DODD for clarifying the intent of title 6 of the Garn-St Germain Act, title 6, and I quote from the conference report accompanying the Garn-St Germain bill, "prohibits bank holding companies and their subsidiaries from providing insurance, including property and casualty insurance products, as a principal, agent, or broker." It reads further, "Thus, the amendment establishes that the sale of insurance does not, except for activities subject to the exceptions, meet the 'closely-related' test of section 4(c)(8) of the Bank Holding Company Act."

That seems very clear to me, Mr. President. The intent, and I would say the explicitly stated intent, of the Congress was that neither bank holding companies nor their subsidiaries are permitted to provide insurance. The limited exceptions included in the bill are equally understandable.

The bill was signed into law and is now Public Law 97-320. It is the law of the land. The regulators have upheld title 6. The courts have upheld title 6. I will speak to those issues more in a moment. But if this prohibition against bank holding companies offering insurance is law, supported by both the executive and judicial branches of Government, as well as the legislative branch, why does it need clarifying?

Mr. President, that's a very frustrating question to have to ask. It is easy, however, to answer.

The issue addressed by the Dodd amendment in S. 2851 is the so-called South Dakota loophole. I say so-called because it is a loophole in the eye of the beholder. The letter and the spirit of title 6 are clear to me, but they are apparently unclear to others. We are discussing this matter in terms of South Dakota because it was the first, most egregious example of what can be comtemplated in the minds of those who would like to accumulate as much power as possible over the most industries, in the most States, in this country. The South Dakota Legislature was persuaded to believe they could provide jobs for the people of their State by becoming home base for a national insurance conglomerate, owned by Citicorp. The attractiveness of this idea was enhanced by the fact that the insurance products would not be offered in South Dakota. The insurance industry of that State would not be faced with competition subsidized by a $150 billion banking corporation in New York.

So the State law was enacted in 1983, the year after Garn-St Germain was enacted at the Federal level. Citicorp applied to the Federal Reserve Board, pursuant to the Bank Holding Company Act, to own a bank which would sell insurance.

In January of this year, the Fed denied the application. I believe this was a sound decision, based on legislative history and judicial precedent. In 1980, the Supreme Court construed section 7 of the Bank Holding Company Act—which reserves to the States the power to enact regulations applicable to bank holding companies—to mean that the States may not enact legislation "inconsistent with" the Bank Holding Company Act and, therefore, "nullify its effect." (*Lewis v. BT Investment Managers, Inc.*, 447 U.S. 27, 48-49 (1980).) The Fed acted in consonance with the statute and with the decision of the Supreme Court. It was clear that approval of such a plan would have nullified the effect of the Bank Holding Company Act.

Nonetheless, there seems to be doubt out there about what the Congress, the Supreme Court and the regulators have said. It is our legislative responsibility to remove any remaining doubt. The Dodd amendment achieves that purpose.

Mr. President, there are some very important fundamental principles involved in this debate. It is much more than the simple competitive turf battle it may appear to be on the surface. One of these principles is the encouragement of fair competition. The other is the belief in the dual banking system in the United States.

First, on fair competition. The purpose and the legislative history of title VI of the Garn-St Germain Act indicate a basic commitment to the fact that consumer protection is at the heart of the issue. Say a man walks into his neighborhood bank and he wants a loan. He is not 100 percent sure he is going to get it. He wants very much to create a favorable im-

pression with the loan officer. Before getting the forms to fill out, the officer hands him a set of folders describing all the services he can get from the bank, including insurance on the item he wants to buy with that loan. It may be illegal for the loan officer to require that the bank's insurance policy be bought as a condition of receiving the loan, but there is an understandable desire on the applicant's part to impress the bank with his desire to do business with them. He fills out the loan application along with the insurance application. There is an active disincentive for him to shop for the best deal he can get on the insurance.

Now that affects the consumer, and it affects competition. It is a reality of the marketplace. There has been a lot of discussion on this bill about dealing with the realities of the financial marketplace and this is one of them. I do not want to see any policy endorsed by the Federal Government which is going to provide disincentives for active, fair competition in the financial marketplace. The Dodd amendment keeps the banking and insurance functions in their proper place, at least for those institutions governed by the Bank Holding Company Act. If the States in their wisdom decide they want to allow banks to engage in insurance activities within their own borders, that is their prerogative. Many States have made that decision. But Federal Law, Federal regulation, and Federal legal precedent prohibit such activities for federally regulated institutions. Time will tell whether these State-sponsored experiments in commingling the two industries are advisable. A good deal of national banking policy has been spawned in such State-backed experimentation. But it takes time, States pass laws based on their own experience, their own industrial profiles. They should not be granted authority to make policy for the entire country.

This last point, the importance of the dual banking system, is equally fundamental to the debate on the Dodd amendment. I am an enthusiastic supporter of the dual banking system and will remain so. Opponents of the Dodd amendment have pointed to the importance of the dual banking system as a reason for striking or altering the Dodd language. I believe they are missing the point. Nothing in the Dodd language prohibits States from exercising their full and free authority to regulate free-standing State-chartered banks within their own borders. This is where the experimentation is supposed to take place, where innovations begin, where new approaches to the production and delivery of financial services can be tried. I am for that. I will support the kind of State autonomy that lets States decide what is best for their own people, their businesses, their farms, their industries, their consumers. That is the whole point of having a dual banking system: to preserve a localized, individualized, tailor-made banking system for each State, in addition to the national institutions which can serve business and consumer needs in ways that are generalized nationwide.

At such time, however, as one of these institutions decides to enjoy the benefits of the Bank Holding Company Act, usually with the express purpose of bypassing State controls in a number of areas, that institution, as a bank holding company, logically comes under the purview of the Bank Holding Company Act, a Federal statute. The Bank Holding Company Act does indeed reserve to the States, as I mentioned earlier, the power to enact regulations applicable to bank holding companies. But I will refer again to the Supreme Court's decision: Section 7 may not be construed to mean that States can allow bank holding companies to exceed the authorities granted under the Federal bank holding company and nullify the effect of the Federal statute.

State-chartered banks have a choice, which they are free to make: They may enjoy the benefits and restrictions of State legislation, or they may enjoy the benefits and restrictions of the Bank Holding Company Act. It makes no sense to establish a policy allowing them to pick and choose those sections of law by which they will abide, trying to draw the benefits of each, while free from the restrictions of either. It is precisely that kind of confusion and disarray that can ultimately destroy the dual banking system—not the kind of clearcut delineation proposed by the Dodd amendment.

That is why the so-called compromise being talked about is no compromise: Allowing a special category of State-chartered bank holding companies to operate in this no-man's-land between Federal and State regulation, as proposed in the "intrastate" plan would lock into place just the sort of chaos we are trying to avoid. It would not only leave the door open to abuse by out-of-State purchasers, it would openly invite it, would ratify and endorse this kind of abuse.

Mr. President, it is common sense and good public policy to leave the Dodd amendment intact. We can erase, by this legislation, any remaining doubt or confusion about what Federal policy is, with respect to this issue. We can help to preclude an endless stream of protracted legal battles and regulatory snarls. We can make ourselves clear and concise. I urge my colleagues to support the Dodd language as it appears in S. 2851.

Mr. WILSON. Mr. President, I ask unanimous consent to have printed in the RECORD a letter received from banking and insurance officials of the State of California relating to this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

It is likely that you will soon debate and vote on important financial institutions legislation that will have significant impact on financial services firms you represent in California.

S. 2851 by Senator Garn currently contains an onerous provision preempting our state's right to determine the structure of financial services for state chartered institutions in California.

As regulators of California's financial services sector, we wish to express our concerns with such a provision in any financial institutions legislation, and ask that you support an amendment that will likely be proposed by Senator Garn to remove such a provision from S. 2851.

The onerous provision has been labeled the "Dodd amendment" and prohibits a state from granting certain powers to its state banks who happen to be owned by a holding company. Although the preemption is specific in this case, the precedent set by such action, regardless of the particular issue, has a chilling impact on our dual banking system and the notion of states rights in the entire financial services arena.

We hope you will oppose such onerous attempts to preempt state rights in general, and that you will support an amendment to delete the Dodd provision from S. 2851.

Louis Carter, Superintendent of Banks; Bruce Bunner, Insurance Commissioner; Lawrence Taggart, Savings and Loan Commissioner; Franklin Tom, Commissioner of Corporations; James Edmonds, Real Estate Commissioner.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia [Mr. RANDOLPH] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—38

Abdnor	Biden	Bradley
Armstrong	Boren	Chafee
Baker	Boschwitz	Denton

Durenberger	Jepsen	Roth
East	Kasten	Rudman
Evans	Laxalt	Simpson
Garn	Mathias	Stennis
Goldwater	Mattingly	Symms
Gorton	Murkowski	Thurmond
Hatch	Nickles	Tower
Hecht	Nunn	Wallop
Helms	Packwood	Wilson
Humphrey	Proxmire	

NAYS—56

Andrews	Glenn	Melcher
Baucus	Grassley	Metzenbaum
Bentsen	Hart	Mitchell
Bingaman	Hawkins	Moynihan
Bumpers	Heflin	Pell
Burdick	Heinz	Pressler
Byrd	Hollings	Pryor
Cochran	Huddleston	Quayle
Cohen	Inouye	Riegle
Cranston	Johnston	Sarbanes
D'Amato	Kassebaum	Sasser
Danforth	Kennedy	Specter
DeConcini	Lautenberg	Stafford
Dixon	Leahy	Stevens
Dodd	Levin	Trible
Dole	Long	Warner
Domenici	Lugar	Weicker
Eagleton	Matsunaga	Zorinsky
Exon	McClure	

ANSWERED "PRESENT"—1

Ford

NOT VOTING—5

Chiles	Percy	Tsongas
Hatfield	Randolph	

So Mr. GORTON's amendment (No. 3938) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

FHLBB STOCK CONVERSION RULES

Mr. BENTSEN. Mr. President, I am pleased to join with my distinguished colleague, the senior Senator from Texas [Mr. TOWER], in proposing an amendment to correct a substantial inequity with some savings and loan shareholders at the Federal Home Loan Bank Board.

Although this amendment is technically not germane under the rules of cloture, it is a needed amendment.

I object most strongly to Government actions which abrogate private contracts, and that is what the Federal Home Loan Bank Board has done with their August 2, 1984, final rule regarding conversion from mutual to stock ownership by savings and loans.

One part of that rule retroactively extends from 1 to 3 years the limitation on takeovers. I believe that this portion of the rule should be rescinded.

The sanctity of private contracts is a basic principal of our legal system. In this case, conversions from mutual to stock form which took place between February 29, 1983, and February 23, 1984, were done under rules which limited takeovers for 1 year. This 1-year limitation was clearly stated in the prospectus for each of these stock sales. The holders of the institutions made the decision to convert knowing that there would be a 1-year limit on takeovers, and investors bought stock on the strength of this assurance. The action of the Federal Home Loan Bank Board in retroactively changing this rule is unfair and has caused substantial losses to all stockholders in these institutions by causing immediate decreases in the price of their stock.

I am aware that there are arguments on both sides of the question of takeover restrictions. However, those arguments are superseded in this case by what I believe to be a basic and overriding principle of law. Severe financial harm has been done to the stockholders of those savings and loans which converted under the 1-year rule, and simple justice demands that this inequity be remedied as soon as possible.

Objecting to the consideration of this amendment as part of this bill obviously will not kill our proposal. There will be other vehicles to which this amendment could be offered, although this is clearly the most appropriate bill for the consideration of this issue.

Although we have made substantial efforts during a very long day, it is now apparent that the unanimous consent that it now required to get this amendment before the Senate will not be forthcoming. However, I think that there is substantial support in the Senate for this proposal, and I intend to work with my distinguished colleague from Texas [Mr. TOWER] to see that the Senate has an opportunity to express its sentiments in opposition to this Federal Home Loan Bank Board rule.

CLARIFICATION OF BANKING BILL: GLASS-STEAGALL SECTION

● Mr. TRIBLE. Mr. President, in taking action on the Senate banking bill, S. 2851—the Financial Services Competitive Equity Act, Glass-Steagall prohibitions are applied for the first time to thrift institution affiliations in section 112. I question the need for such an extension, particularly in light of the fact that this issue was not addressed during any of the hearings or in the testimony of witnesses who would be most affected by the provision.

Therefore, the grandfathering of existing institutions, whose affiliations but for section 112 were lawful, should be construed broadly.

In particular, section 112 adds a new subsection (o) to section 408 of the National Housing Act, making provisions of sections 20 and 32 of Glass-Steagall applicable to "insured institutions" as if they were member banks.

Paragraph (2) of the subsection, as amended by the managers' amendment, provides for grandfathering of affiliations or relationships or the establishment of such officer, director, or empolyee relationships in connection with any affiliation that commenced prior to June 27, 1984. It is my understanding that the grandfather provision is not intended to "freeze" any company that controlled both an insured institution and a securities underwriter on the grandfather date so that it could not expand those businesss through acquisition.

To the contrary, the intent of the language is that if a company controlled both an insured institution and a securities underwriter on the relevant date, then it may continue to maintain control over both types of institution and may expand either or both types, through acquisition of new companies, merger with new companies, or internal growth.

In other words, what is grandfathered for a company controlling both types of businesses is the basic affiliation between the two types brought about by its common control, and not just the affiliation between particular subsidiaries as they existed on the grandfather date.

The Senate, in taking action on S. 2851, has incorporated therein these assumptions.●

● Mr. GARN. Internal growth is not limited and, if an acquisition or merger is consistent with those activities grandfathered under the bill, expansion is allowed. For example, a grandfathered securities firm engaged in underwriting corporate and governmental securities would be able to acquire another firm engaged in those activities.

In addition, I should note that the managers' amendment takes into account the concerns you and other Members have expressed concerning the general application of Glass-Steagall to thrifts. As you know, under that amendment, the grandfather date is moved to June 27, 1984, the date of the markup, and affiliations between thrifts and securities firms engaged in certain activities, such as variable annuity sales, mutual fund sponsorship, and real estate security sales, would be exempt from the Glass-Steagall prohibitions.●

Mr. GARN. Mr. President, I wish to clarify the intent of certain provisions of S. 2851 in order to ensure that there be no misunderstanding about them.

Section 104(e) would permit a depository institutions securities affiliate to deal in and underwrite promissory notes secured by real estate mortgages and participation or other ownership interests in such notes, or mortgage related payment bonds secured by those notes or participation interests. In the context of this provision, the term mortgages is intended to include deeds of trust and other equivalent instruments which are used in place of

mortgages to secure real estate in some States.

With regard to what, if any, incidental assets related to mortgage loans may also be included in a mortgage pool backing up mortgage passthrough securities, it is intended that related instruments be included. For example, in many issues of such passthrough securities, the certificate holders acquire undivided interests in the corpus of a trust, which corpus may include not only mortgage loans, but also beneficial rights under any mortgage guaranty insurance policy or supporting standby letter of credit, real property acquired through foreclosure, and funds held pending distribution or other permitted use. Thus, it is intended to make clear that the authority to underwrite and deal in mortgage related obligations remains even though the trust corpus may include these other types of assets that are related to the pooled mortgage loans.

Mr. President, it has also come to my attention that there is some question in the minds of certain of my colleagues as to the impact of section 104(c) of S. 2851—the so-called grandfather provisions. Specifically, concern has been expressed as to the impact upon the availability of bank holding companies subject to these grandfather restrictions as potential merger or acquisition partners for failing thrifts.

As you know, section 104(c)(2) of the Financial Services Competitive Equity Act provides that a bank holding company subject to the bill's grandfather provisions violates the terms of those provisions if, among other things, it acquires control of an additional bank or insured institution. It is not the intent, however, to restrict the availability of bank holding companies as potential merger or acquisition partners for failing thrifts. In fact, we wish to make it clear that such bank holding companies may acquire troubled institutions pursuant to section 408(m) of the National Housing Act without fear of defeating their grandfather rights under section 104(c) of the Financial Services Competitive Equity Act.

Section 408(m) authorizes the FSLIC and other appropriate Federal agencies to approve the acquisition or merger of insured institutions eligible for FSLIC insurance where it is determined, among other things, that the acquisition or merger would lessen the risk to the FSLIC. It is important not to close off any form of relief which, in the discretion of the FSLIC, would be appropriate to lessen the risk of loss to the FSLIC's insurance fund.

Another issue which has been raised by some of my colleagues is the prohibition in section 105 of the bill against a bank and its securities affiliate using the same name. This is designed to prevent misleading confusion between the bank itself and the DISA. Of course, it would allow a DISA to identify itself as being affiliated with or as a subsidiary of its parent holding company. Indeed, under the bill the holding company itself could be the DISA. However, if the holding company had the same name as the subsidiary bank, then another name would have to be used for the DISA activities.●

Mrs. HAWKINS. Mr. President, I would like to express my enthusiasm for the intentions of this bill while cautioning my colleagues on granting expanded powers not previously permitted. While Federal bank regulators are threatening to dismantle the Glass-Steagall and Bank Holding Company Acts, when there is no question whatever what the congressional intent of the laws are, a little background information is again in order.

In 1982, Congress bailed out the thrift industry with new accommodative accounting rules, merger provisions, and "magic" net asset certificates.

Last year the big commercial banks were bailed out of their foreign loan mess—at least temporarily—by congressional aid to the International Monetary Fund. This year bank failures are expected to set new records for the period following the end of the Great Depression.

It is very likely that the situation of the banking industry is even worse than it appears. Every quarter, a new international debt crisis looms as the question of foreign-debt repayments arises yet again. At the same time, billions of dollars in letters of credit issued by banks are outstanding, but are not treated by Federal bank regulators as true liabilities requiring any reserves, even though in the real world, they are rock-solid guarantees.

In addition, a serious mismatch of interest rates is developing again for thrifts, similar to that of a few years ago. The American Banker reported on July 13, 1984, that the thrift industry is in desparate condition, that "washing out" the industry's questionable assets leaves savings and loans with "barely 0.5 percent of primary capital, or net worth." FSLIC has announced that its funds require replenishing. The addition of the adjustable rate mortgage, of course, brings possibly more problems; how many defaults will result as increasing rates ratchet monthly payments up?

The Supreme Court of the United States, just last June, in *Securities Industry Association et al.* v. *Board of Governors of the Federal Reserve System et al.* 82-1766, pointed out that one of the principal restraints that Congress intended to impose on banks with the Glass-Steagall Act was on the urge to be a promoter of securities; that "urge" was stated to be "fundamentally incompatible with its role as a disinterested lender." Quoting an earlier Supreme Court opinion, it said:

> In sum, Congress acted to keep commercial banks out of the investment banking business largely because it believed that the promotional incentives of investment banking and the investment banker's pecunicary stake in the success of particular investment opportunities was destructive of prudent and disinterested commercial banking and of public confidence in the commercial banking system: 401 U.S., at 634.

The Court went on to refer to a bank's "salesman's interest" as imparing its ability to "function as an impartial source of credit." Supra, at 17.

It pointed out the pressures on a bank trying to compete as a commercial paper dealer, the temptation, in order to enhance the marketability of an issue by extending backup credit to the issuer with relaxed credit standards. The Court also noted the congressional concern that banks might use the power of their relationships to the detriment of their duties as bankers.

> By giving banks a pecuniary incentive in the marketing of a particular security, commercial-bank dealing in commercial paper also seems to produce precisely the conflict of interest that Congress feared would impair a commerical bank's ability to act as a source of disinterested financial advice. (Supra, at 18.)
>
> The Court succinctly stated Congress' conclusion that "the mere existence of a securities operation, no matter how carefully and conservatively run, is inconsistent with the best interests of the bank as a whole." (Supra, at 19.)

The present state of the banking industry as well as the reasoning recently enunciated by the Supreme Court indicates that this is no time to consider adding one iota of risk to the banking system. Use of a securities affiliate will not insulate or protect depositors' funds from the speculative losses of the affiliate, as was indicated by no less than Federal Reserve Board Chairman Volcker in January 1984 testimony before the Senate Banking Committee.

Federal Reserve Board Governor Partee has expressed similar sentiments. These conflicts of interest problems, and the promoter/lender tensions, remain.

A long-time student of the issue of underwriting of securities by banks, Charles L. Marinaccio, the newest Member of the Securities and Exchange Commission within recent weeks stated that "there is no compelling public necessity" to amend the Glass-Steagall Act's separation between commercial and investment banking.

If banks are to be allowed to operate in traditional securities activities, he suggested, they should be stripped of the "special treatment" and privileges afforded large banks by Federal regulators, including full deposit insurance and unlimited access to Federal Re-

serve funds. He further stated that there is no "public need" for banks to underwrite revenue bonds, pointing out that the existing market is "already highly competitive." He urged Congress to go slow in changing the Glass-Steagall Act. And I ask that we heed his advice.

Continental Illinois has become, in the words of the Wall Street Journal: "The first major money-center bank in the U.S. to be nationalized." Under title I of S. 2851, Continental Illinois could become a major competitor in the securities business. How fair can competition be against a bank owned by an agency of the Federal Government? In a sense, though, the only thing special about Continental/FDIC is that the subsidy and support of banks by the Federal Government has become clearly evident to all; in fact, that subsidy and that support are and have been all along in place for all banks.

There are several simple points to be made:

First, banks have a special role to play in our economy. To play that role Congress affords banks favorable tax treatment, special benefits, and privileges, Federal deposit insurance, sometimes overly indulgent Federal regulators, ultimately backed by the American taxpayer, with great power to rescue banks from their mistakes, misjudgments, excesses, and speculations.

Congress excluded banks from most securities activities primarily for three reasons: risk; the inherent conflict between its special role as impartial provider of credit and its role as promoter of securities; and the unfair advantages of a federally subsidized, federally supported; and federally insured institution if allowed to compete outside its special role of banker. Congress recognized the pressure on a bank with a promoter's stake in the sale of a security to relax its credit standards, the temptation to promote securities to its depositors, the ease with which a bank can use its credit power to give it an unfair competitive advantage by explicit or implicit tying proposals.

The Nation needs to preserve the special role of banks and banks should keep their special privileges. Their role is vital to the economy. However, Banks should not be allowed to use their special, governmentally conferred privileges to compete against those who have not been granted those special privileges outside the realm of banking. Unfair advantage is precisely what is involved when holding companies are allowed into the securities business. While the affiliate structure neutralizes some of the advantages banks have—that is, ease of separate regulation by the SEC, possibly some tax advantages—the principal ones remain—bank credit power, access to lower costs funds, the exclusive right to take deposits, Federal deposit insurance, and Federal credit backup.

Second, while banks claim that great savings will result from their entry into revenue-bond underwriting, their major attempt to document this claim resulted in total failure. The series of hearings held by the House Banking Committee in 1979 completely refuted their claims and in fact showed that the revenue-bond market already has a more than ample critical competitive mass, the point recently made by SEC Commissioner Marinaccio, and that no public benefit would be served by amending the Glass-Steagall Act to permit bank underwriting. (See esp. pp. 513 et seq., "Bank Holding Company Legislation and Related Issues"—Serial No. 96-49, 1979.)

A fascinating sidelight of those hearings was recognition of the tremendous advantages banks now enjoy in their scope of tax-exempt financing. For example, their present tax advantages are so great that they could easily outbid securities dealers virtually every time. That they do not demonstrate that they do not always pass on their tax savings, but keep them in the bank. The spread of bank power with its inherent unfair advantage outside the field of banking would almost surely lead not to more competition, but less.

Third, where a bank can operate in two roles its credit power can come into play. The underwriting of enterprise securities such as revenue bonds, mortgage-backed securities, and corporate debt is particularly susceptible to the unfair advantages a bank can gain from its tying potential. This is more true than ever in the kinds of volatile capital markets we have today when resort to bank letters and lines of credit by issuers of tax exempt and other securities is common. Is it an inducement or temptation to a bank to extend a letter of credit to an issuer of revenue bonds if it can also be the underwriter of those bonds?

You can rest assured it certainly is. That is precisely the kind of incompatibility of roles cited by the Supreme Court in *Securities Industry Assn. et al.* v. *Board of Governors of the Federal Reserve System et al*, supra, at 19. As for the issuer, is it under pressure to use a bank, or does a bank have an unfair advantage, as revenue-bond underwriter if the bank can supply a letter of credit and a securities firm cannot? You can rest assured it certainly is, and the bank does have an unfair advantage. One of the most compelling pieces of evidence of this was presented to the Securities Subcommittee of the Senate Banking Committee on February 12, 1982.

In a study of underwriting by three major commercial banks of single-family mortgage-revenue bonds in 1981, it was found that the three banks were included in the revenue-bond underwriting management groups of 24 letter of credit put bond transactions; in all 24 issues the banks provided the vital letter of credit. In all 24 cases the same banks also were granted the highly desirable contracts to invest bond proceeds and related funds for the lives of the bonds. It appears as if none of the banks was a manager in a housing bond issue in 1981 where it did not supply a credit facility. Coincidences all? Some would say this is dramatic proof of the inherent unfair advantage of banks dealing in the securities business. S. 2851 does nothing to address this problem of unfair advantage.

Fourth, private mortgage-backed securities represent less than 2 percent of the present MBS market. The mortgage-backed securities issued by Federal agencies support the low- and moderate-income homeowner. Banks can underwrite and deal in these MBS'. The emerging, new, completely private MBS market is intended to serve the higher income homeowner who needs large mortgage loans and where Federal agency backup is not warranted.

As a matter of Federal housing policy, banks should continue to be limited to assisting the low and moderate homeowners through underwriting and dealing in those MBS' with Federal agency credit support and not be diverted to the upscale customers. Such MBS' also involve less risk because of that Federal agency support. SEC Chairman Shad takes a very dim view of banks dealing in these securities. Private MBS' are much like corporate debt and trade just like it. There is no Federal-credit support. It is credit and market risk, pure and simple. The need for supporting credit facilities and the potential for tying are greater. The securities industry can more than adequately serve this market.

There is no public policy reason for banks entering—with all of their advantages, with all of the potential for conflicts—into that private market.

Fifth, what the Supreme Court said so eloquently in June in *Securities Industry Assn. et al.* v. *Board of Governors of the Federal Reserve System et al.*, 82-1766, on commercial paper should be enough. The inherent conflict in the roles of objective lender and underwriter or agent of commercial paper sales compels the conclusion that the roles should be kept separate.

Sixth, the capital markets of this country are the best in the world. They are not dominated by a few universal banking organizations as is the case in other countries where the capital markets are sluggish and inefficient. The United States has succeeded in building diverse and dynamic capital markets which in very large part owe their success to the separation of banking and securities dealings

mandated by the Glass-Steagall Act. They should be preserved.

Seventh, the executive director of the Consumer Federation of America, Steve Brobeck, cautions against the erosion of safety and soundness brought on by go-go banking. He warns: "We take security and safety too much for granted." Consumers who have presented views on expansion of bank powers outside of banking are almost unanimous in their opposition. And, of course, deregulation for banks is a fiction in any event. Continental Illinois shows the Nation cannot let a major bank fail. Unquestionably, that support promotes confidence in a stable banking system. But, outside banking, what a comfort for creditors to know it can deal with a major bank without fear of loss no matter what the bank or its affiliates are doing.

The need at this time is not to have banks pushing farther and farther into commerce. What is needed is to have banks concentrating on doing a better job of banking and not enviously eyeing the greener grass next door. The Nation is unfortunately faced with Federal bank regulators unwilling to live with the spirit of laws passed by Congress as set forth in the Bank Holding Company Act and the Glass-Steagall Act, the intent of which laws is quite clear. Therefore, the need this year is to get rid of the loopholes and technical flaws in those statutes. That is all, Congress should direct Federal bank regulators to concentrate on their principal responsibility, maintaining a safe and sound system of banking.

There is no question that the system can stand the attention. The next order of business for Congress should not be expanded bank powers, but rather closing the loophole, as is done in title 1 of this bill. I therefore urge my colleagues to seriously consider these new powers in light of the nature of the banking system and the absolute necessity that we insure its soundness and safety.

MEANING OF TITLE X AND SECTION 1003 OF S. 2581

INTERSTATE BANK HOLDING ACQUISITIONS ALREADY APPROVED BY FEDERAL RESERVE BOARD

● Mr. TSONGAS. I understand that, under the various New England reciprocal regional banking statutes, the Federal Reserve Board already has approved three interstate transactions involving Connecticut and Massachusetts banking organizations as well as a fourth interstate transaction involving Massachusetts and Rhode Island banking organizations, and that these transactions are now being challenged in the Federal courts. Am I correct that title X of the bill is intended to encompass interstate transactions that already have been approved by the Board as well as interstate transactions that are pending before the Board at the time the bill is passed.

● Mr. GARN. The Senator is correct.

ANTILEAPFROG PROVISIONS

● Mr. TSONGAS. And I assume that, in authorizing geographically limited statutes in section 1003, we are not preventing States from including in their interstate acts provisions that prevent bank holding companies outside the region from circumventing the regional or other limitations established by a State's statute?

● Mr. GARN. The Senator is correct.

LIMITED PURPOSE BANK STATUTES

● Mr. TSONGAS. A number of States—including South Dakota, Delaware, Maryland, and Virginia—have passed statutes authorizing out-of-State acquisitions only of local banks that engage in a specifically defined range of activities, such as credit card operations or wholesale banking. Section 1003 does not appear to address these limited purpose bank statutes expressly, but I assume that the reference to other similar conditions in section 1003 is intended to encompass such statutes that limit acquisitions on the basis of the activities in which the bank to be acquired is authorized to engage.

● Mr. GARN. Title 10 is merely a clarification of the powers that the States have always retained under the Douglas amendment and therefore the Senator is correct as to the implications of title 10.

STATE PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS

● Mr. TSONGAS. I assume that, apart from the types of limitations expressly spelled out in title X and section 1003 in particular, we also are empowering the States to impose appropriate procedural and administrative requirements with regard to interstate acquisitions of their banks—for example, requirements concerning shareholder approval, board of directors approval, or State regulatory approval of proposed acquisitions.

● Mr. GARN. The Senator is correct.

SIGNIFICANCE FOR THE EXISTING DOUGLAS AMENDMENT

● Mr. TSONGAS. I understand that the U.S. Court of Appeals for the Second Circuit, relying on the terms of the present Douglas amendment in the Bank Holding Company Act, recently rejected challenges to the constitutionality of the regional reciprocal statutes enacted by Connecticut and Massachusetts. I assume that, in proposing to amend the Douglas amendment by section 1003 of the present bill, we do not intend to express or imply any disagreement with the second circuit's interpretation of the present Douglas amendment or otherwise to suggest an opinion limiting the scope of the authority conferred on the States in the original Douglas amendment nearly 30 years ago.

● Mr. GARN. I agree with the Senator's statement. He is correct.

MEANING OF TITLE X AND SECTION 1003 OF S. 2581 WITH RESPECT TO ISSUES OF PARTICULAR INTEREST TO SOUTHEASTERN STATES

OTHER SIMILAR CONDITIONS

● Mr. TSONGAS. Since I understand that section 1003 is supposed to encompass the reciprocal regional statutes that already have been passed by States such as Florida and North Carolina, I assume that section 1003's "other similar conditions" language encompasses, for example, the limitations imposed by those statutes on the acquisition of local banks that have been in existence for less than a specified period of time and on acquisitions by out-of-State bank holding companies that are foreign banks or are controlled by foreign banks.

● Mr. GARN. The Senator is correct. Title 10 clarifies that the States have broad powers under the Douglas amendment and McFadden Act to define the extent of interstate banking within their own borders.

DEFENSIVE RECIPROCITY PROVISIONS

● Mr. TSONGAS. I assume that section 1003's authorization of reciprocity provisions encompasses "defensive" reciprocity provisions of the sort found in some reciprocal regional statutes—in other words, provisions directing that an out-of-State bank holding company whose home State imposes discriminatory requirements which apply to interstate but not intrastate acquisitions of its banks is subject to the same requirements in acquiring the banks of the State authorizing interstate acquisitions.

● Mr. GARN. The Senator is correct.●

REGIONAL INTERSTATE BANKING

Mr. BENTSEN. Mr. President, I strongly support the provisions of this bill which specifically authorize regional interstate banking compacts.

I have always been a strong supporter of a diverse, noncentralized banking system. I am quite skeptical of the supposed benefits of great concentrations of economic power, and I know from my own business experience how much locally owned and controlled banks mean to a community's economy.

In past years I have opposed all forms of interstate branch banking. However, technology and the exploitation of loopholes have effectively rendered that question moot. The question today is not whether we will have interstate banking, but how it will be controlled.

In recent years there has been explosive growth in unregulated financial services companies. They now offer the functional equivalent of bank accounts nationwide. Banks and bank holding companies are also offering services such as commercial loans,

lease financing, and consumer loans nationwide through a variety of means. The trend here is obvious. The question is how best to deal with it.

Mr. President, in 20 years I don't want to see the people of this country limited to doing business with four or five large nationwide banks. I don't want to see two or three megabanks dominate the financial structure of this country. I want these banks competing for the business, not dividing the business. I want to keep as much diversity as possible in our banking system. The best way to do that is to sanction these regional interstate banking compacts.

This will allow the development of strong regional banks, attuned to the needs of that region and strong enough to survive the competition they will inevitably get from large international banks.

This approach will also preserve the concept of States rights which has guided banking legislation since the passage of the McFadden Act 50 years ago. The McFadden Act for banks, and the Douglas amendment for bank holding companies, basically gives each State the right to decide what kind of banking system it will have within its borders. Some States do not permit any branching, some permit branching only through a holding company, and some permit unlimited branching.

States are also permitted to set rules for other banks coming in from out of State, and some States have enacted laws providing for various forms of reciprocal branching agreements with banks in other States. Many of these laws are tied up in court due to the opposition of large money center banks. Even though lower courts have sanctioned these agreements, these decisions are being appealed all the way to the Supreme Court. This is a very expensive process for small banks to have to go through, and many banks undoubtedly will wait rather than risk an expensive lawsuit.

I believe that the States are the best judges of their own financial needs, and I believe that the States should continue to be allowed to decide what kind of banking system they should have. Under this provision States would be permitted to allow branch banking to and from all other States, no other States, or just some other States.

I do not agree with the argument that we should allow nationwide interstate branching. We should not force all 50 States to play by the rules laid down by the banks in the 1 State that has more banking resources than any other.

The regional interstate banking provision is a necessary provision, it was well thought out by the Banking Committee, and it should be enacted into law.

Mr. PROXMIRE. Mr. President, before we complete action on this important legislation, I would like to describe for the Senate the limited grandfather rights provided to owners of nonbank banks. Under section 104(c) of the bill, a firm that acquired a nonbank bank prior to July 1, 1983, is permitted to keep its bank provided it engages in no new financial activities other than those permitted bank holding companies generally. The purpose of these restrictions is to ensure that a grandfathered firm does not expand upon the competitive advantage it has over a regulated bank holding company. Since bank holding companies cannot engage in financial activities beyond those allowed under the Bank Holding Company Act, the committee decided to hold grandfathered firms to these same limitations. Thus, as indicated in the committee report, a grandfathered firm that was engaged in certain lines of insurance activity prior to July 1, 1983, would not be able to engage in new lines of insurance activity without losing its grandfather rights. These restrictions are fully consistent with the authority of the Federal Reserve Board to require a grandfathered firm to terminate any activities whenever necessary to prevent undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices. Thus, the limited grandfather rights provided in the bill must be read in the context of the broad authority given to the Board to prevent the purposes of the Bank Holding Company Act from being violated.

● Mr. HECHT. Referring to the manager's amendments which the Senate adopted on September 12, 1984, as noncontroversial, I understand that the provision dealing with the ability of savings and loans and other thrift institutions to have various connections with investment company organizations is not intended to grant any new powers to these institutions in the mutual fund area. I would be pleased to have Senator GARN confirm that belief.

● Mr. GARN. The Senator is correct in his understanding. As I stated, when these amendments were introduced, at 24960 of the September 12, 1984, RECORD, the provision is necessary to take into account activities and relationships which thrifts have historically had. It was not intended to permit any new powers in the mutual fund area.●

Mr. TOWER. Mr. President, I rise in support of my friends and colleagues, the Senators from Utah and Wisconsin. As the managers of this legislation, they should be commended for a fine job. Senator GARN and Senator PROXMIRE have been true leaders throughout the committee process which has resulted in this precisely balanced piece of legislation. The committee has deliberated long and hard over the last 2 years and has produced massive mountains of documentation. During that 2-year process, the need for this legislation became extremely clear. This legislation supported by the administration, and voted out of the committee by unanimous consent, contains badly needed changes to the regulatory structure of the financial services delivery system in this Nation. This legislation contains powers needed by our commercial banks and thrift institutions to maintain quality service to financial services consumers and to remain competitive in this broad financial service marketplace.

In this regard, Mr. President, many have asked, "Who benefits from this legislation?" Is this just more legislation to benefit big banking in the United States? Is this more legislation for the thrift industry? Mr. President, I beg to differ with those who would raise such arguments. The chief beneficiary of this legislation is the end user—the American consumer. The American consumer benefits from this legislation in two major ways. First and foremost, this legislation authorizes new products and services for commercial banks to allow more competition in the marketplace between the growing number of firms providing financial services. Firms such as Sears, General Electric Credit Corp., and Prudential traditionally have not been the providers of consumer financial services in this country. That was the domain of the banking and the thrift industry. But now, nonbank competitors are encroaching on that domain.

With the Monetary Control Act of 1980, we began working toward the goal of creating a level playing field for all financial service competitors, and of insuring that the safety and soundness of our depository institutions would be preserved. This legislation is another step toward those goals. In fact, this legislation likely will provide still more stability to our commercial banking system. Two of the major factors in the downfall of Continental Illinois Bank in Chicago were its overreliance on large certificates of deposit to fund its operation and its dependence on commercial lending as its only principal business line. The concentration of this business line in domestic oil and gas loans and some other problem areas led to a key element of risk—a volatile funding source and a concentration of assets—Mr. President, this is a classic business example of how to get in trouble. It does not make any difference whether you are in banking or the manufacturing of widgets, the combination of a limited, volatile funding source and a concentration of assets in one segment of the economy will lead to problems. Senator GARN's and Senator PROXMIRE's bill does not directly address

the issue of a broader geographic distribution of the collection of deposits because regulation of how and from where banks collect deposits is primarily a function of State legislatures; but this bill does address the issue of concentration of risk. This bill allows for the orderly, prudent, safe and sound expansion of commercial banking into two very closely related new products—municipal revenue bonds, and mortgage bank securities. In both of these products, Mr. President, the banks through their investment operations in the past, have achieved a great deal of experience. Municipal revenue bonds are an old issue before this body. We have approved this provision before and should again. Municipal revenue bonds do not in this day and age have a greater risk associated with them than the other municipal obligations in which banks are involved every day of the week. Banks in many, many communities across this country will bring greater expertise and a breadth of knowledge into the municipal finance market that is sorely needed not only in terms of underwriting capital, but also in distribution and syndication networks. In the area of mortgage-backed securities, banks have been a primary mortgage originator in this country, and since 1968 have had the authority to underwrite and deal in government-backed mortgage securities. In this era of disintermediation and growth, rapid growth, of the secondary market for mortgages, this is a natural extension of the banks' financial services capabilities in the mortgage field to benefit consumers. This market is a growing one, a market in which we need additional capital for our housing industry. Banks would play an excellent role in both liquidity needs and distribution needs for mortgage-backed securities throughout this country.

I support both of these provisions, Mr. President, and I think they are important to reducing concentration of risks for banks as they attempt to earn a profit in this extremely competitive financial services industry, which has changed so very, very much over the last few years.

Finally, Mr. President, I would like to address the old and tiresome rhetoric that is constantly being used against this legislation. The number of failures in the banking industry in the last 2 years has been well documented and many have said that it is the largest number of failures since the depression. Well, Mr. President, that is correct. We also have had a tremendous number of new banks start in this country, both State and federally chartered. A lot of new banking entrepreneurs are opening their doors and being very successful in serving the American consumer during this same period of time. When we begin to deregulate any business, whether airlines or trucking, we are faced with increased competition, and increased competiton in a free market society does yield winners and losers.

Mr. President, some would lead us to believe that banking is the only industry that has business failures. What about the insurance industry—it seems to be very prominent in this discussion. Do we want to remind it of Baldwin United and its great management success as an annuity provider? And then there is Wall Street. Wall Street seems to think that banks are incapable of managing their own affairs and thus should not be allowed into the competition for municipal revenue bonds or mortgage-backed securities; and yet, few industries have seen more failures than Wall Street, albeit they are not as visible to the public. The conglomeration of the firms in Wall Street since the 1920's has been amazing. Just look at some of the names. They do not add names like law firms, in distinction as new partners join—these firms have extended the length of their names as firms have run out of capital and been forced into other mergers. So, Mr. President, I do not think there is an argument to be used here, that because we have had a large number of bank failures during the recent economic downturn, it is appropriate to point the finger at the banking industry and say something is doomed to fail. That finger is usually pointed by the insurers who do not want more competition from the banks or by the Wall Street investment firms who do not want more competition from the Banks. It is just simply protectionism, Mr. President. Just protectionism, and if I were in their industries, I would make the argument. I do not disagree with their wanting to protect their kingdoms. These competitors are just trying to protect the long-regulated, segmented market that the Congress gave them years and years ago.

But those days are gone, Mr. President; the marketplace has eroded. It is no longer the same. We now have a wide, complex hodgepodge of firms delivering financial services to this country, and this Congress has the responsibility for determining what should be the structure of our financial marketplace. Do we want to leave the structure of the financial services marketplace solely to the regulators and the State legislators when, at a Federal level, the Congress is vested with that responsibility. And I submit to you, Mr. President, that this Congress has done very little except talk about what the structure of the financial marketplace should look like. It is time to stop talking and act expeditiously to pass this legislation.

● Mr. MATTINGLY. Although I do not propose this as an amendment, there is an aspect of this bill that Senator LAUTENBERG and I consider unfair and anticompetitive. I am referring to the July 1, 1983, cutoff date for grandfathering those non-bank holding company institutions that established limited purpose banks.

There are those financial institutions that legitimately made applications to form so-called non-bank banks prior to the announcement of the July 1, 1983 date, but were, through no fault of their own, delayed in receiving approval until after that arbitrary date.

Consideration should be given to those firms that had filed before the grandfather date, but were not granted their charters until afterward. However, I would propose that those charters not approved by December 31, 1983 be excluded. In this way the damage done to such firms as Merrill Lynch and Prudential would be rectified. Others, however, would not benefit.

I understand, Mr. Chairman, that this issue will be addressed in the House. If so, may I ask what your position will be should there be a conference with the House?●

● Mr. GARN. I fully understand your position and am sympathetic to considerations of unfairness which can arise with the grandfathering clause. It is my preference and intention to give full consideration to this question in any conference so that unfairness and anticompetitive features will be removed.●

CONSUMER LEASE AND LEASE PURCHASE-AGREEMENT ACT

● Mrs. HAWKINS. Mr. President, I rise in support of title V of S. 2851, the Consumer Lease and Lease Purchase-Agreement Act. This title is essentially S. 1152 which I introduced on April 27, 1983, to extend Federal protection to consumers entering into short-term lease purchase agreements and to simplify the disclosure provisions of current law.

Increasingly, consumers, particularly lower income working people who feel they can't obtain credit, are renting household items such as furniture and television sets without being informed of the total costs they may incur. It has been estimated that the number of such agreements is growing by up to 15 percent per year.

Hearings held before my Consumer Affairs Subcommittee on July 19, 1983, revealed that consumers are afforded no protection from sharp lease-purchase practices on the Federal level, and only spotty protection by the States. A consumer from Miami, FL, told us that she had been enticed into entering into a "buy by renting" arrangement under which she would become the owner of a TV, retailing for $637.95, after making a total of $2,109.12 in weekly payments. But it was only after the consumer had made $1,000 in payments that she found out

from Legal Services that she would be required to make the total of $2,109.12 in payments. My constituent lost both her $1,000 and the TV.

The Consumer Lease and Lease Purchase-Agreement Act addresses these abuses by requiring meaningful disclosures of the terms of short-term lease purchase agreements. I am pleased that it is included in S. 2851, and I urge its passage.●

Mr. MATTINGLY. Mr. President, I wish to congratulate the distinguished junior Senator from New York, Mr. D'AMATO, for his spirited defense of the interests of the two largest New York City bank holding companies—Citicorp and Chase Manhattan. The time has come, however, for the entire Senate to pass S. 2851 with title X in its present form to preserve the rights of each and every State and not the special interests of any single state. Therefore, I am delighted that my colleague from New York has decided not to offer his amendments to title X.

Title X of S. 2851, rather than granting the States new powers as some have suggested, preserves the right of each State to determine the nature and scope of bank expansion within and across State boundaries. As I have stated before, this right is derived both from the historical State control of bank expansion in this country and from the Douglas amendment to the Bank Holding Company Act of 1956.

The Douglas amendment specifically affirms the State directed nature of bank holding company expansion, in a manner similar to the McFadden act's delegation to the States of the right to control bank branching. The Douglas amendment prohibits bank holding companies from crossing state borders "unless . . . specifically authorized by the State in which such bank is located, by language to that effect and not merely by implication." It is this simple. If a State determines that it is in the best interests of its citizens that out-of-state bank holding companies be permitted to enter the State, then the State may grant such a privilege to those out-of-state holding companies.

This is not a new phenomenon. When regional bank holding companies were grandfathered under the laws of Florida, Illinois, Iowa and Nebraska, Congress was not called upon to ratify such actions. Where were Citicorp and Chase Manhattan then?

Nowhere in the Douglas amendment does it say that regionally reciprocal banking laws are improper. Nowhere does it say that if Utah enacts a regionally reciprocal banking law, New York must be part of the region. Nowhere does it say that, if New England states individually believe that the entire regional economy will benefit from reciprocal banking, New York must, after 300 years of existing outside the New England region, be considered to be part of that region.

First the Federal Reserve Board and then the Federal courts—including the U.S. Court of Appeals for the Second Circuit in New York—carefully reviewed some of the regional banking statutes, as a result of Citicorp-sponsored litigation. In every instance, these regional statutes have been found to be constitutional, and proposed mergers under these statutes have been authorized.

Despite the courts' resolution of the constitutional issue, still the harassment of regional banks acting under State law continues. The money center banks, with money to burn on endless lawsuits in countless jurisdictions, continue their myopic fight against the smaller banks. These smaller banks do not have the resources of a Citicorp or a Chase Manhattan. They desperately need Senate action now. Without such action, the cause of States rights may be lost forever.

Mr. D'AMATO has charged that supporters of regional banking and of title X fear competition and support protectionism in banking markets. Not only is this incorrect, it misses the essential nature of the regional banking movement. The principle of States' rights is the basis for regionally reciprocal State banking statutes, and title X is necessary to uphold this principle. Moreover, title X is a driving force behind the entire banking bill.

Last week a quite interesting article appeared in the editorial section of the Wall Street Journal. It illustrates well, I believe, the type of banking that some New York banks would be expected to bring to other States. I request that this article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 6, 1984]

BRING REFERENCES WHEN YOU BANK IN NEW YORK

(By Jacob M. Schlesinger)

NEW YORK.—When I moved to this city one thing struck me. From the street hawker peddling radios for $2 to the bedraggled man at the subway entrance begging for token change, everyone seemed to want my money.

This made it hard for me to understand my experience setting up a checking account.

I started what I assumed would be a routine task at Citibank. After only one day in town, I knew that with a Citicard in my wallet, I would never be stranded for cash. It seemed that Manhattan had more Citi 24-hour automated teller machines than street signs. I went to the "New Accounts" counter and asked to open one.

The man behind the counter took out a form and told me that if I set up a checking account with less than $500 in it, I would have to pay $4 a month, plus 25 cents per transaction. I would receive no interest, of course. It sounded steep, but I was prepared for the high cost of living in New York. Besides, I needed a checking account. So I accepted.

From behind the counter, the man pulled out a form and said he would need some information.

"Any identification?" he asked me. I gave him my driver's license.

"Do you live or work in the area?" I worked across the street.

"Do you have any identification from your employer?" Well no, actually. I was going to start work Monday. I had just graduated from college.

"Well, then, do you have any line of credit?" I hadn't any credit cards yet.

"Any other account with Citibank?" Of course not, I thought. That's why I want to open an account. But the Citibanker was getting impatient, so I simply said no.

"Do you have another bank account?" No, I had closed my other bank account before coming here.

"I'm sorry." He said, without much sympathy. "Next."

I was shocked. I was aware that banks have undergone revolutionary changes in the past few years, not all of which have benefited the small savers who make up a majority of their customers. Substantial attention has gone to the growing fees that consumers must pay for various services.

But fees weren't my problem. I was willing to give Citibank my money, interest free, and pay the charges. My problem was getting the opportunity to pay them. In Boston, my previous home, I had never needed more than two pieces of photo identification to conduct my finances.

New York may be the "big time," But I was learning that the big time brought with it a whole new brand of banking, complete with big hassles and little trust.

Rather than make a scene at Citibank, I walked to the nearby Chemical Bank. I went through virtually the same frustrating script. But this time the man behind the counter had a suggestion. "Try," he said with a trace of disdain, "a savings bank."

At that point I had no other choice. At three in the afternoon, every major commercial bank was closing. I went around the corner to Manhattan Savings Bank, which though lacking a 24-hour machine, boasted the friendly hours of 7:30 a.m. to 6:30 p.m.

Manhattan Savings would not let me set up a checking account with less than $500. So, getting desperate, I agreed to settle for a savings account paying 5.5%. I passed the identification test with flying colors—they were actually going to give me an account. But then I tried to put something in it.

My mother, who was with me, wanted to write me a personal check. "Out of state checks take 21 days to clear," the woman behind the desk informed her.

That was too too long, so we decided to sign over some of my mother's traveler's checks. "Wait a minute," the woman said. She left us, apparently to call on some higher authority. "Those will also take 21 days to clear," she told us when she returned.

"But these are just like cash," my mother complained. "If I walked over there," she said pointing to the tellers' windows, "and cashed these in, would you take the money?"

"Wait a minute," the woman said again, and went back to the phone. "OK," she said, as if doing us a favor. "But only a hundred dollars."

At that point I didn't care. They actually let me set up an account. Before they could

change their minds, we gave the money and ran.

No wonder New York banks have not been invited into other States. This is not protectionism—it's common sense. If these are typical of the services New York money center banks wish to bring to the Southeast, New England, or anywhere else in the country, I can see why State legislatures feel that the interests of their citizens would not be served by inviting in New York banks.

Not too long ago, my friend and the founder of the "Coalition for Regional Banking and Economic Development," Marlin D. Jackson, the bank commissioner of Arkansas, debated his New York counterpart on the regional banking issue. To quote from this debate, which was reported in the July 1984 ABA Banking Journal:

One may not presume that what's good for the giant money barons of Wall Streets is good for the rest of the country. They've shown a strong propensity for skimming the cream from the rest of the nation and investing it not where it came from or where it's most needed, but where the highest return is.

I would challenge any New York bank to cite one-tenth of the examples every community banker and most regional bankers can of times they've taken entrepreneurial risks to further the economic development of the areas they serve.

Finally, I wish to emphasize that title X was overwhelmingly supported by the Senate Banking Committee by a 12-to-5 vote and has gone unchallenged today because all amendments to title X would have been defeated by margins at least as great as our last cloture vote.

As S. 2851 is passed by the Senate and proceeds to a House/Senate conference, title X must not be amended in conference to satisfy the few institutions who seek a "trigger" for nationwide interstate banking. Any "trigger," no matter how contrived, is unacceptable to the proponents of title X. This fact was made more than clear to me in a letter of September 11, 1984, from the Independent Bankers Association of America. To quote passages from the IBAA's letter:

. . . Title X merely clarifies the nature of the powers already delegated to the states by the Douglas Amendment to the Bank Holding Company Act. This delegation of broad discretion and flexibility to each sovereign state was recently confirmed by the Second Circuit U.S. Court of Appeals when it rejected both legal and Constitutional attacks on regional reciprocity laws enacted in New England.

. . . Turning to the amendments filed by Senator D'Amato in regard to Title X, our review has led us to conclude that the adoption of any one of these D'Amato amendments would so alter the nature of Title X as to render it a fatal flaw in S. 2851, and compel the IBAA to reconsider our support for the overall legislative package. That is because each of these amendments would restrict or eliminate the present discretionary power of each sovereign state to determine on what basis, if any, it wishes to permit the entry of out-of-state bank organizations via branching or holding company acquisition of banks. Each of these amendments would narrow the current latitude delegated to the states by the Douglas Amendment or the McFadden Act. In particular, IBAA would work for the defeat of any legislation which contained a "national trigger" that would impose nationwide interstate banking at any date certain.

This attitude is also shared by the Conference of State Bank Supervisors and the Coalition for Regional Banking, among others. These groups believe, and I concur, that a national trigger is antithetical to this Nation's history of decentralized bank control.

In closing, title X is vital to the health of this Nation's dual-banking system. It is essential to those banks directly fighting Citicorp's efforts to deny each State of its fundamental banking rights. It is vital to the 9 States which have enacted regional banking laws, the 31 other States considering such laws, and the 50 States—yes, including New York—which would ultimately benefit by this promotion of States rights and local and regional economies.

Mr. CRANSTON. Mr. President, I wish to make some comments about my amendment in this section 104 to the bill S. 2851. It was adopted by an overwhelming majority of the Banking Committee. It's purpose was to clarify the status of companies which controlled depository institutions that were "nonbanks" for the purposes of the Bank Holding Company Act on July 1, 1983.

I'm afraid that the committee report language on S. 2851, page 12 is ambiguous and inaccurate. The first two sentences on that page clearly state that a company engaged in nonfinancial activities and a company engaged in financial activities that own "nonbank" banks are grandfathered and that they can continue to perform all such activities engaged in on June 27, 1984, and can expand and engage in other aspects of these activities either de novo or by acquisition, without becoming a bank holding company and without being subject to procedural, approval or other requirements of the Bank Holding Company Act. However, the example of an insurance company following the first two sentences on page 12 takes away what the first two sentences purport to give. It suggests that a parent company engaged in financial activities as of the grandfather date should be treated differently than a company engaged in nonfinancial activities. I want to make sure that it is clear that my amendment as adopted is an absolute grandfathering of a parent company of a nonbank as to activities it was engaged in on the date of the grandfather and as to any aspect or expansion of those activities whether prohibited by Bank Holding Company Act or not. These parent companies are not to be treated as bank holding companies. They are to be truly grandfathered as to their present activities, not frozen into those activities as the example illustrates.

I intended the phrase "activities of a financial nature" to have the same meaning in this context as the standard under section 4 of the Bank Holding Company Act, as amended by section 104(d) of this bill. Thus a grandfathered company engaged in nonfinancial activities not permissable for a bank holding company under the Bank Holding Company Act on June 27, 1984, could continue to perform and expand these activities or go into any other line of these activities without becoming a bank holding company.

Similarly, application of the Bank Holding Company Act would not be required if such grandfathered companies are presently engaged in financial activities that are not permissible for a bank holding company. They could continue these activities and expand into any aspect of these activities without themselves becoming a bank holding company.

Thus a grandfathered insurance company which owned or controlled a nonbank bank would not only be free to make any acquisition in a nonfinancial area but could continue to perform and expand all activities in the insurance area without being subject to any procedural or substantive provisions of the Bank Holding Company Act. This would not be so if a nonfinancial parent sought to acquire a financial company such as a paper company acquiring a securities firm. For this new activity would be restricted under 4(c)(8) because the parent had never been in this business. It was also agreed in the Committee markup that the Federal Reserve Board would from time to time determine what "activities of a financial nature" are, the Committee report is unclear, however, as to the treatment of a grandfathered parent company, when it acquires a new business activity after June 27, 1984, and such business activity was permissible at the time of the acquisition but at a later date determined by the Federal Reserve Board to be closely related to banking. I want to make it clear that it was not my intention that future determinations under the Bank Holding Company Act would be retroactive to such acquisition inadvertently causing them to become subject to the Bank Holding Company Act. The amendment does not require prior clearance with the Federal Reserve as to acquisition or activities not specifically prohibited or not specifically authorized by the Bank Holding Company Act.

My final comment concerns the language permitting the Federal Reserve

Board to require a company to register as a bank holding company if such action is necessary to protect "the public interest". This phrase, "in the public interest" is overly broad. My intent by including this phrase in the bill was to permit Board action against a company only after the Board specifically finds such action is necessary to protect the safety, soundness or stability of the companys' banking subsidiary.

I hope that this matter can be further clarified in the conference on this bill as it is highly unusual for report language on an amendment to be more restrictive that the authors interpretation of his own amendment and those who voted for it.

TITLE VIII

Mr. MATTINGLY. Mr. President, on March 26, 1984 the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board promulgated rules which would have the effect of eliminating Federal deposit insurance on deposits placed by brokerage firms for their customers. Many individuals have taken advantage of the opportunity to make deposits through brokerage firms, and programs through which brokerage firms make available deposits to their individual customers have been an unqualified success not only for individuals but to sound depository institutions and the national economy as well.

On June 20, 1984, the U.S. District Court for the District of Columbia struck down the FHLBB and FDIC rules. This decision will be appealed by the agencies. We believe that the time is right for Congress to develop a solution to the brokered deposit controversy that will address the basic concerns relating to deposit brokerage as well as preserve the proper benefits of deposit brokerage.

The benefits provided by deposit brokerage are numerous. Through deposit brokerage, individuals have received more competitive rates, a wider choice of maturities and liquidity through the secondary market provided by brokerage firms. As a result of deposit brokerage activities, many small- and medium-sized—but highly creditworthy—banks and thrifts are better able to avail themselves of a national market to raise funds. In addition, deposit brokerage has provided new, incremental funds to banks and thrifts which are utilized to fund much needed housing loans. Deposit brokerage has also provided small- and medium-sized banks and thrifts with one of the few cost-effective means to raise medium- to long-term deposits to fund their longer term assets.

The primary reason cited for curtailing deposit brokerage is that deposit brokerage presents a threat to the Federal deposit insurance system. Yet it is not deposit brokerage in and of itself that presents a potential threat to the Federal deposit insurance system; it is the rapid growth and expansion of poorly managed depository institutions that are operated on the basis of unsound banking principles. There is, in fact, no evidence to support the contention that any causality exists between deposit brokerage involving individual depositors and bank and thrift failures.

Title VIII of S. 2851 is intended to resolve the problems posed by unrestricted and irresponsible deposit brokerage and at the same time is intended to preserve for hundreds of thousands of Americans, for sound depository institutions, and for the economy as a whole, the benefits of third-party deposit brokerage. Title VIII is identical to legislation I introduced earlier this year with Senator D'AMATO, S. 2679, the Brokered Deposits Act of 1984. Title VIII directly attacks the source of the problem—the unrestrained deposit growth of institutions without the net worth to support such growth.

Title VIII places a limitation on the amount of short-term insured brokered deposits an institution may accept because these deposits have been associated with bank and thrift failures to a certain degree. In fact, to the extent that brokered deposits have been associated with bank and thrift failures, the brokered deposits in question have been short-term deposits—less than 1-year maturities—made on behalf of institutional investors. Every "horror story" to which the agencies have alluded concerning the impact of brokered deposits on bank and thrift failures can be traced to short-term brokered deposits placed on behalf of institutional investors.

In this regard, title VIII provides that a depository institution may not accept or maintain short-term insured brokered deposits in excess of twice its capital and surplus. Also, notwithstanding the amount of capital and surplus of an institution, the institution would not be permitted to have short-term insured brokered deposits in excess of 15 percent of total deposits. This restriction will prevent any institution from becoming too dependent on short-term insured brokered deposits and will also address the agencies' concern that an institution which is in sound condition can, in a very short period of time, become financially troubled. A limitation on the amount of short-term insured deposits a depository institution may accept from brokers would prevent an institution from rapidly expanding its short-term deposit growth in a manner inconsistent with the institution's safety and soundness.

Although it would appear that a limitation on the amount of short-term brokered deposits a bank or thrift may obtain would generally provide the control necessary to preserve the integrity of the Federal deposit insurance funds, it is advisable to deny access to the insured brokered deposit market for weak or poorly managed institutions. Rapid deposit growth by these institutions, even if limited to longer term deposits, may pose unnecessary risks to the insurance funds. In fact, if weak institutions were denied access to the brokered deposit market 2 years ago, it would not have been possible for these institutions to rapidly expand their deposit base, thereby increasing the ultimate liability of the Federal deposit insurance funds when these institutions failed. The language provides, therefore, that if an institution cannot meet the minimum net worth requirement applicable to such institution for general regulatory purposes, which is a sure danger sign, the institution would not be authorized to obtain any insured brokered deposits. This approach assures that the use of brokered deposits will be evaluated in the context of financial standards generally applicable to banks and thrifts and eliminates any need for a depository institution to make separate calculations as to its eligibility to accept brokered deposits.

In order to add flexibility, the language authorizes the insurance agencies, on a case-by-case basis, to permit depository institutions to obtain short-term insured brokered deposits in excess of the limitations set forth in the legislation.

The ability of healthy institutions to raise longer term—maturities of 1 year or more—insured brokered deposits would not be restricted by this rule. There is no evidence that such deposits encourage unsound bank and thrift management. Such deposits have rarely been found in failed institutions. On the other hand, there are significant benefits from such deposit brokerage activity:

The primary depositors are individual savers and such deposits are often the cornerstone of a retirement account.

Institutions raising longer term deposits have generally strengthened their balance sheets by matching liability and asset maturities. This effort has been applauded by the regulators.

Individual depositors receive the benefits of liquidity through the secondary market maintained by brokers.

We have recently witnessed increased pressures on the Federal deposit insurance funds from failures and near failures of depository institutions. We have now seen, from various studies which have been conducted, including one study undertaken by our colleagues in the House of Representatives, that brokered deposits are not the cause of these failures.

We have heard many times in the last 2 years of plans to reform the

Federal deposit insurance system. The last few months have taught us all that this long term goal may be thrust upon us even sooner. We have an opportunity at this point in time to take affirmative action. We do not need to wait for a full overhaul of the deposit insurance system.

I believe that title VIII is a responsible compromise which addresses the agencies' concerns while preserving the benefits deposit brokerage has provided. This title coupled with the existing regulatory powers the agencies currently have should enable the agencies to face fewer depository institution problems in the future.

Mr. CRANSTON. Mr. President, I believe the Senate should move ahead to reform the existing legislative structure governing banking organizations. Congress must provide some assurance that the market forces in the financial system are channeled in a manner consistent with the broad public interest.

It is the responsibility of Congress to maintain a safe and stable financial system, to assure businesses and consumers equitable and competitive access to financial services, and to preserve an effective mechanism for the conduct of monetary policy.

This role implies continued governmental concern for the stability and objectivity of financial institutions—concerns that have long been reflected in Federal policies such as the deposit insurance and discount window functions, regulatory protection against undue risk, discouraging conflicts of interest and undue concentration of banking and financial resources. We regulate bank and bank holding companies because we know that banking institutions cannot be wholly separated from the fortunes of their affiliates or from the success or failure of their businesses.

Effective deregulation of the financial system and commercial banking in particular has been going on for some time. Dramatic advances in telecommunications and sharp increases in the level and volatility of interest rates have undercut the regulatory framework emphasizing safety and minimum competition which has been in place since the Great Depression.

Since the late 1970's Congress has recognized legislatively many market-induced changes. The Depository Institutions Deregulation and Monetary Control Act of 1980 and the Depository Institutions (Garn-St Germain) Act of 1982 are two examples. These acts led to the elimination of rate ceilings on time deposits and expanded the lending authority of thrift institutions.

Market forces still clash, however, with product and geographical (interstate branching) restrictions on commercial banks and with the prohibition against interest payments on demand deposits.

The combination of financial firms, the advent of new services, and variations on old services reflect a natural and potentially constructive effort to respond to market incentives, customer needs and new technology. But what is disturbing is that much of this activity has come about through loopholes in existing legislation and through regulators' expanding the law by interpretation without congressional approval. In consequence, consumer services are less available and more costly in some cases.

Competitive inequalities exist: some institutions are able to take advantage of loopholes or ambiguities in the legal fabric; others are not. Important policy objectives in existing law have been undermined.

This pervading atmosphere of regulatory disarray—of unfairness due to a constant testing and stretching of the limits of law and regulation and circumventing their intent—is unhealthy.

The legislation before the Senate initiates the process of regulatory change. We've made progress in S. 2851 in agreeing on the definitions of bank and thrift institutions; on the scope of regulatory authority; on closing the South Dakota and the nonbank bank loopholes; and on simplifying the regulation of thrift and bank holding companies; on expanding the powers of depository institutions holding companies and on regional interstate banking compacts.

There is a clear consensus on some of the provisions of this bill. On others, there are substantial differences. The range of appropriate powers for bank holding companies is one such example.

I have problems with certain provisions; but it seems to me that the time has come to consolidate behind areas of agreement and pass this bill.

BANKS AND COMMERCIAL PAPER

Mr. MATTINGLY. Mr. President, Senate bill S. 2851, the Financial Services Competitive Equity Act, enables banks to sell and distribute three types of securities: Municipal revenue bonds, mortgage backed securities, and commercial paper.

Of these three, commercial paper is by far the simplest instrument, the easiest to understand. It refers to high quality, short-term notes issued by corporations to meet their working capital needs. These are unsecured IOU's, sold in large denominations to financially sophisticated buyers.

From the corporation's point of view, selling commercial paper is an alternative to borrowing from banks. This avenue is only open to large, financially strong companies. Other companies look to bank borrowing as their main source of liquidity.

The buyers of commercial paper are a wide variety of institutional investors, money market funds and corporations with temporary excess cash. They buy commercial paper as an alternative to buying Treasury bills or bank certificates of deposit. A bank acting as an agent or advisor does not offer or sell commercial paper to the general public. It is only sold to financially sophisticated investors in denominations of at least $100,000. The average denomination exceeds $1,000,000.

A few corporations sell their commercial paper directly to buyers, but most distribute it through dealers or agents. The dealer business is highly concentrated in the hands of six large securities firms. These six dealers control about 90 percent of the market for commercial paper sold through intermediaries.

Now commercial banks also offer commercial paper services to their corporate customers. This is natural for banks. In economic reality and in legal form, commercial paper is simply a short-term loan, and the provision of short-term loans to high quality borrowers is the basic business of commercial banking. Bank regulatory agencies have approved of this activity and treat commercial paper as a loan in their required call reports.

Furthermore, banks are naturally positioned to sell commercial paper. Money center banks raise a large proportion of their lendable funds by selling certificates of deposit. The buyers of these certificates of deposit are generally also buyers of commercial paper. Banks have the distribution capability to respond to the expanding needs of their clients wishing to purchase commercial paper through their existing sales force, which also sells Treasury bills and other money market instruments.

In recent years, litigation was initiated by the securities dealers to force banks out of the commercial paper market. One purpose of the present bill is to clarify that banks can continue to offer this service through a securities affiliate. There are many good reasons to let this activity continue.

A portion of its commercial paper is the Coca-Cola Co. which is headquartered in my home State. I ask unanimous consent to place in the RECORD a letter from the Coca-Cola Co. endorsing S. 2851 and continued bank participation in the commercial paper market.

First, the nature of the commercial paper business is extremely close to the basic business of commercial banking. For centuries, banks have been engaged in providing short-term loans to businesses. During the past 20 years, commercial paper has become the dominant way for large, highly-rated businesses to obtain short-term loans. It would be punitive and unnatural to deny banks the ability to so service the working capital needs of their largest, best-rated customers and

would also reduce the ability of banks to spread their risk.

Second, this activity involves virtually no risk. Most commercial paper is placed on an agency basis, in which the bank earns a fee for the service but does not commit its own funds as principal. Even in cases where funds are committed, such a commitment is equivalent to a very short-term, high-quality loan.

As mentioned before, commercial paper issuers are the highest end of the credit spectrum. The default rate on commercial paper is exceedingly low—a small fraction of the default rate on normal commercial bank loans. You will therefore enhance the safety and soundness of banks by encouraging them to deal more in commercial paper, which upgrades the bank's overall credit exposure and permits them to distribute their credit risks among the entire spectrum of customers.

Third, commercial paper service does not expose banks to any conflicts of interest or similar hazards which the Glass-Steagall Act sought to avoid. This is because commercial paper so much resembles a commercial loan. It would not make sense, for example, to worry about banks making imprudent loans in order to get rid of commercial paper, for holding the loan and holding the paper are virtually the same thing. Banks regularly sell off loans in their portfolios, and selling commercial paper is functionally identical.

Finally, the users of commercial paper services and the economy in general will benefit from increased competition. Companies which have used banks to sell their paper have frequently found that banks bring to them a somewhat different universe of buyers. Many companies like to use two dealers for their commercial paper business—one bank and one securities firm—in order to have the benefit of both perspectives.

If commercial paper powers were taken away from banks, it would no doubt benefit the six large Wall Street firms which dominate this business. But it would be a disservice to the economy as a whole. Our system should be open and competitive whenever possible. Banks are not only competent to offer commercial paper services, they have a natural ability to bring value to this market. This service strengthens banks by diversifying their revenue sources and upgrading their credit exposures.

The Senate Banking Committee has clarified the ability of banks to continue in this market through a securities affiliate, and any attempt to delete this provision should be resisted.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE COCA COLA CO.,
Atlanta, GA, August 20, 1984.

Hon. MACK MATTINGLY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR MATTINGLY: I am writing in regard to S. 2851, the Financial Securities Competitive Equity Act, which was recently approved by the Senate Banking Committee and which permits banks through affiliates to continue selling and distributing commercial paper.

In the past, we have used the service of a bank and its affiliate for these purposes and feel that this service has been helpful to us and our business. Also, this method enhances competition thereby ensuring a healthy climate for all businesses who participate in commercial paper transactions.

This competition benefits the economy in general as well as those who utilize these services.

I am aware of your active role in supporting this provision of S. 2851, and I hope you will continue your support for this measure.

Sincerely,

EARL T. LEONARD, Jr.

CREDIT CARD FRAUD

● Mrs. HAWKINS. The credit card fraud provisions contained in title IX of the Financial Services Competitive Equity Act, S. 2851, are important to every American who has a credit card.

Credit card fraud is sapping the economy of $1 billion a year. Since 1979, this racket has increased by 300 percent. All indications are that unless Congress acts to strengthen the current credit card fraud laws, as title IX would do, credit card fraud will continue to grow by leaps and bounds.

The credit card fraud provisions of S. 2851 are derived from S. 1555 which Senators D'AMATO, DODD, GARN, and I introduced on June 28, 1984, to strengthen and broaden the credit and debit card fraud provisions found in the Truth-in-Lending and Electronic Funds Transfer Acts. When those fraud provisions were passed, many of the present day scams were not realized. However, most fraud involves more sophisticated schemes involving the use of the account numbers. Courts have held that current law does not cover the fraudulent use of the account number alone. Our bill, which has been incorporated into title IX, corrects this by making clear that fraudulent use of the account numbers or other access means is a Federal offense. In addition to expanding coverage in a number of other areas, the provision increases criminal penalties for subsequent violation to a fine of not more than $100,000 or imprisonment for not more than 20 years or both.

Legislation is also needed to protect credit card holders from fraudulent schemes that involve the sale of credit card account numbers. Currently, there is no legal prohibition on merchants or others selling customer lists with card identification numbers. The legislation would make it illegal to sell or transfer a credit card number in connection with a scheme to defraud a consumer.

Although this legislation is important for all consumers who ultimately pay the cost of fraud, it is particularly important for the card issuers, merchants, and users of credit cards in Florida. The hearings that I conducted before my Consumer Affairs Subcommittee on May 18, 1983, revealed that Florida is the No. 2 State in credit crad fraud losses. New York is No. 1.

This is a must legislation. The House passed similar legislation in November of last year. It is time the Senate acted. Every day we delay, we are costing the American public $3 million.●

Mr. WILSON. Mr. President, I had planned to offer amendments 3940 and 3941 relative to Federal Deposit Insurance Corporation assistance to troubled banks. I understand that there is a question as to whether or not these amendments are germane as required by the rules of the Senate when proceeding under cloture. I will not press the amendments as I do not wish to delay consideration of the bill, which I support. However, I do want to outline my amendments in order to highlight concerns that I have regarding the plight of small banks which, when in trouble, do not seem to have the same chances for survival as do large banks.

My concerns for this matter have developed because of the important differences between the effects of FDIC's treatment of large banks and small banks facing difficulties. I refer, of course, to Continental Illinois National Bank, on the one hand, which obtained full coverage for depositors, and to 10 small banks across the country, where depositors with accounts in excess of the statutory insurance limit of $100,000 were subject to a modified payout plan. The FDIC has labeled that plan experimental and acknowledges it was implemented without prior notice.

My amendments were an attempt at fairness. No. 3941 would have required a 30-day public notice before the FDIC could implement new procedures for handling troubled institutions and ensure that courts could review implementation of the procedures. No. 3940 would have put into law the priorities that FDIC says it now practices with regard to preferred alternatives for banks in trouble. That is, it would have required that the FDIC attempt to find a buyer for a failing bank prior to closing it.

Mr. President, let me make one point quite clear. I fully support efforts to encourage market discipline in the banking system of America. Such discipline is a vitally important component of our deregulated financial environment. Without market discipline, deposits will go primarily to those banks offering the highest interest

rates—often the marginal operators, according to the FDIC—without regard to the soundness of the institution. But when the FDIC wants to change the rules, depositors and bankers alike deserve to know what the new conditions will be. Market discipline—yes. Overnight rule changes—no.

The FDIC is in business to provide stability as well as a perception of stability. Ad hoc rules do not lead to a perception of stability. Rather, they suggest that not just a bank is in trouble, but that the banking system itself is in trouble.

Members of the Senate and of the other body have already developed the record on Continental Illinois. Less attention has been paid to the 10 banks in six States subjected to the modified payout plan in 1984.

The FDIC provides up to $100,000 insurance for eligible accounts. When a bank fails, the FDIC has two fundamental options: Purchase of assets and assumption of liabilities, which I will discuss in a moment, and payoff of depositors. In the latter case, account holders with funds in excess of $100,000 would generally wait for the liquidation of the failed institution's assets to receive prorated shares. The liquidation process can take several years to complete.

Under the modified payout plan, uninsured account holders immediately receive prorated shares of what the FDIC believes it can recover and additional funds if the FDIC's projections prove to be low.

It may well be that uninsured account holders fare better under the modified payout plan. But depositors holding $12 million in deposits have been the unwilling guinea pigs of an experimental plan conducted without prior public notice.

I ask unanimous consent that a chart prepared by the Congressional Research Service listing the banks and amounts involved be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILSON. Mr. President, the FDIC has indicated its intention to provide public notice before again invoking the plan. Yet, the FDIC has told my staff it may use the modified payment plan even now—before giving such notice.

Mr. President, the consensus of opinion about Continental Illinois seems to be that the FDIC probably did the right thing. No such record is readily apparent concerning smaller banks. To my way of thinking, our banking system cannot tolerate a double standard. I am profoundly concerned that the ad hoc fashion in which the rules and experiments are developed and applied are hurting small and moderate sized banks in our country, while protecting the big boys.

I conveyed this fairness question to FDIC Chairman William Issac in a letter earlier this year. In response to my question about the source of authority for insuring some accounts in excess of $100,000, but not others, the FDIC replied:

There is no such authority but we do have the authority to handle troubled institutions in a variety of ways, including mergers or purchase and assumptions.

I ask unanimous consent that the correspondence I have exchanged with the FDIC on this subject be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WILSON. Mr. President, if the FDIC is going to cover some banks in full and others only on a limited basis, the least it can do is to set procedures in advance and to do so publicly, so everyone knows what is going on. This approach should foster predictability and therefore confidence in the banking system—especially for people placing money in small banks.

My second amendment, No. 3940, as I have stated, would have required the FDIC to attempt to find a buyer for a troubled bank prior to closing it. A purchase has the effect of protecting all depositors, while a closure puts in jeopardy all deposits in excess of $100,000.

I want to make it clear that my amendment would not have changed FDIC procedures regarding how much assistance it may provide in selling a bank. It would only have required an attempt at a sale.

In three-quarters of the cases, purchasers are arranged. But, in the rest, they apparently cannot be. I understand that some banks are in such bad shape that FDIC believes it is not economical to arrange a sale even with financial help from its insurance fund. But, unless it puts the troubled bank on the market, FDIC cannot know what price it might fetch. If the FDIC is really interested in market discipline, it must, itself, go to the market.

In most instances, FDIC goes to the market to try to sell a bank. But occasionally, it does not. I believe that is in everyone's interest—especially the community's interest—for FDIC to always make an attempt at a sale.

EXHIBIT 1

USE OF THE MODIFIED PAYOUT PLAN

Bank, location, and date	Total amount of uninsured deposits	Payout ratio (percent)
Seminole State National Bank, Seminole, TX, Mar. 16	705,000	55
Heritage Bank, Anaheim, CA, Mar. 16	6,700,000	35
Security National Bank of Lubbock, Lubbock, TX, Apr. 13	1,100,000	40
Gamaliel Bank, Gamaliel, KY, Apr. 19	338,000	55
United of America, Chicago, IL, Apr. 27	2,000,000	60

USE OF THE MODIFIED PAYOUT PLAN—Continued

Bank, location, and date	Total amount of uninsured deposits	Payout ratio (percent)
West Coast Bank, Los Angeles, CA, Apr. 27	4,800,000	50
First National Bank, Snyder, TX, May 4	347,000	40
The National Bank of Carmel, Carmel, CA, May 11	4,600,000	60
First Continental Bank & Trust Co., Dale City, OK, May 11	2,300,000	40
Stewardship Bank of Portland, Portland, OR, June 8	2,200,000	55

EXHIBIT 2

U.S. SENATE,
Washington, DC, May 30, 1984.

Hon. WILLIAM M. ISAAC,
Chairman, Federal Deposit Insurance Corp., Washington, DC.

DEAR MR. ISAAC: I understand from recent press accounts that the Federal Deposit Insurance Corporation has announced its intention to guarantee all deposits at Continental Illinois National Bank and Trust. A question of fairness arises when the FDIC provides full coverage for depositors of large banks while limiting coverage to $100,000 for depositors of small and medium-sized banks. Of the seven banks to which the limited deposit payoff program has been applied, two were in California.

The action of FDIC raises a number of important questions. Among them:

Under what authority can the FDIC chose to insure some accounts in excess of $100,000 but not others?

Will Continental Illinois be making increased payments to FDIC in order to obtain complete coverage?

In your judgment, does this situation suggest the need for risk-based deposit insurance, or, perhaps, a private insurance program for bank account deposits in excess of $100,000?

I would appreicate knowing your views on these matters, and I thank you for your attention to them.

Sincerely,

PETE WILSON.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, June 11, 1984.

Hon. PETE WILSON,
U.S. Senate, 720 Hart Senate Office Building, Washington, DC.

DEAR SENATOR WILSON: Chairman Isaac has asked me to reply to your letter of May 30, 1984 in which you raise certain questions relative to actions taken in respect to the Continental Illinois National Bank.

The attached question and answer sheet addresses most of these questions and others commonly asked about this situtation.

More specifically, however, you ask under what authority can the FDIC insure some accounts in excess of $100,000 but not others. There is no such authority but we do have the authority to handle troubed institutions in a variety of ways, including mergers or purchase and assumptions. In the case of Continental we merely assured the market that if it became necessary we would use one of these approaches to resolve its problems. This has the effect to protecting all depositors and creditors, a well-known fact in the United States. However, because so many of Continental's depositors are foreign we felt it was desirable to explain what our actions meant. About three-fourths of the bank failurers are han-

died either by mergers or purchase and assumption.

You also ask if Continental Illinois will be making increased payments. Their insurance premiums will not be increased but they are paying a market rate of interest on the funds advanced to them. I might note we have requested legislation (S. 2699) which would authorize us to vary insurance premiums to reflect risk and also authority to charge extra for the added supervisory effort involved in troubled banks.

We appreciate your interest and trust this is responsive to your concerns.

Sincerely,

GRAHAM T. NORTHUP,
Director.

Mr. WILSON. Mr. President, having described my amendments, I again state that I will not offer them at this time. However, I would appreciate the opportunity to engage in a short colloquy with the manager of the bill, the distinguished Chairman of the Banking Committee, regarding the concerns I have outlined.

It is my understanding that the Banking Committee will be undertaking a comprehensive review of the entire Federal deposit insurance systems early in the next Congress, and among the issues to be addressed are the differences in the treatment of large banks and small banks, some of which I have outlined.

Mr. GARN. Mr. President, the Senator is correct. The Banking Committee will be reviewing the deposit insurance programs next year, about which there are many questions to be fully developed and answered through the legislative process. Events of the past year, and actually over the past number of years, have pointed up problems in the existing systems. Certainly, Federal policies should not serve to grant a marketplace advantage to large banks when competing with small banks for deposits.

The Senator from California has made a number of very reasonable and valid points, and I assure the Senator that the Banking Committee will consider them, as well as the specific language contained in his amendments, during our review process.

As the Senator knows, for we have discussed this, to some extent, the approaches taken in his amendments are already embodied in the policies of the FDIC. I would agree with the Senator that the FDIC should move with as much deliberation and openness as possible. Clearer policies make for a greater feeling of predictability, which improves confidence in the banking system. Furthermore, the Senator's point concerning the preference for purchase and assumptions over liquidations is well founded, keeping in mind the need for the FDIC to minimize its costs. The FDIC would do well to administratively follow the approach embodied in the Senator's amendment.

Mr. WILSON. I thank the Senator for his comments. I also commend him for his strong leadership and perseverance. The bill he has fashioned, whether or not you agree or disagree with its contents—and this Senator agrees with most of it—is clearly the product of a prodigious effort, for which the Senator has earned the further respect of the Senate.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if I could have the attention of the Members of the Senate for a moment, may I say that I understand that we are about to go to final passage on this bill. I do anticipate a rollcall vote. I hope it will come very shortly, and then that would be the last rollcall vote tonight.

May I also say that I am consulting with the minority leader on the arrangement of the next sequence of events and what I propose to the minority leader and which I will not now propound a unanimous-consent request is this:

It may come as a terrible surprise to Members to know that we finally reached a place where we are going to face up to the question of TV in the Senate.

I appreciate the terms of endearment by some voices in the Chamber. But, after this bill is disposed of, I would propose to do these things: to make a motion to proceed to that resolution, and I anticipate that there might be debate on that subject—perhaps for the rest of our natural lives [laughter]—and anticipating that that is the case, then to file a cloture motion limiting debate on the motion tonight, but only if we can gain unanimous consent that the vote on cloture would occur late in the day on Tuesday next, say at 5 or 6 p.m., and in that event, Mr. President, I would not expect the Senate to be in on Friday. It is not that I am trying to entice any of you to agree, but I just thought I would lay it out that way.

One other thing, Mr. President. I will have a further remark to make on this subject after the next RECORD vote, but since there are so many here I would like to call the attention of the Senate to the fact that the next vote to be cast will be the 10,000th recorded vote to be cast by the distinguished President pro tempore of the Senate, Senator THURMOND, which puts him in a very, very rare class of Senators.

[Applause, Senators rising.]

Mr. BAKER. Mr. President, there will be an opportunity for those who choose to do so to make remarks on that vote in a few moments.

But I will make the unanimous-consent request along these lines after this vote and I will consult with the minority leader further on that point.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further amendments?

Mr. HEINZ. Mr. President, before we go to final passage, let me just take 60 seconds to say that there are some very controversial provisions remaining in this bill. I happen to have in mind the securities powers which we did not vote on today. But I do want to say that I would expect that this bill will not, if those securities powers remain in the bill after conference, that this bill is not going to have a very easy time when it comes back to the Senate.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Illinois [Mr. PERCY], and the Senator from Texas [Mr. TOWER] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. CRANSTON. I announce that the Senator from West Virginia [Mr. RANDOLPH], the Senator from Florida [Mr. CHILES], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. RANDOLPH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 89, nays 5, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—89

Andrews	Glenn	Melcher
Armstrong	Goldwater	Metzenbaum
Baker	Gorton	Mitchell
Baucus	Grassley	Murkowski
Bentsen	Hart	Nickles
Biden	Hatch	Nunn
Bingaman	Hawkins	Packwood
Boren	Hecht	Pell
Boschwitz	Heflin	Pressler
Bradley	Heinz	Proxmire
Burdick	Helms	Quayle
Byrd	Hollings	Riegle
Chafee	Huddleston	Roth
Cochran	Humphrey	Rudman
Cohen	Inouye	Sarbanes
Cranston	Jepsen	Sasser
Danforth	Johnston	Simpson
DeConcini	Kassebaum	Specter
Denton	Kasten	Stafford
Dixon	Kennedy	Stennis
Dodd	Lautenberg	Stevens
Dole	Laxalt	Symms
Domenici	Leahy	Thurmond
Durenberger	Levin	Trible
Eagleton	Long	Wallop
East	Lugar	Warner
Evans	Mathias	Weicker
Exon	Matsunaga	Wilson
Ford	Mattingly	Zorinsky
Garn	McClure	

NAYS—5

Abdnor	D'Amato	Pryor
Bumpers	Moynihan	

NOT VOTING—6

Chiles	Percy	Tower
Hatfield	Randolph	Tsongas

So the bill (S. 2851), as amended, was passed, as follows:

S. 2851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE OF ACT

SECTION 1. This Act may be cited as the "Financial Services Competitive Equity Act".

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TITLE I—FINANCIAL INSTITUTIONS COMPETITIVE EQUITY

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 101. (a) Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is amended by inserting the following new paragraph after the first paragraph of such section:

"Notwithstanding any other provision of this section, a member bank may be affiliated in any manner described in section 2(b) of this Act with a depository institution securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)).".

(b) Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by inserting the following sentence at the end of the first paragraph of such section: "Notwithstanding any other provision of this section, an officer, director, or employee of any member bank may serve at the same time as an officer, director, or employee of any of its depository institution securities affiliates. The term 'depository institution securities affiliate' shall have the meaning ascribed to it in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)).".

For purposes of this section, the term "depository institution securities affiliate" also means any securities broker or dealer, within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), that (1) enters into a contractual arrangement with a member bank pursuant to which such broker or dealer makes its securities services available on the premises of such member bank, and (2) limits its activities to those in which a depository institution securities affiliate may lawfully engage pursuant to section 4(c)(15) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)) or section 408(c) of the National Housing Act (12 U.S.C. 1730(c)).".

AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 102. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or in connection with the acquisition of an insured institution by a company under section 408 of the National Housing Act (12 U.S.C. 1730a), if such acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank or insured institution for shares of a newly formed bank holding company or savings and loan holding company and receive, after such reorganization, substantially the same proportional share interests in the holding company as they held in the bank or insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law.".

AMENDMENTS TO THE SECURITIES EXCHANGE ACT

SEC. 103. (a) Subparagraphs (i), (ii), and (iii) of paragraph (34)(A) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) are each amended by inserting immediately before the semicolons at the end thereof the following: "other than a depository institution securities affiliate as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) or as defined in section 408(a)(1)(K) of the National Housing Act (12 U.S.C. 1730a(a)(1)(K))".

(b) Section 15B(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)(1)) is amended by striking out "subsidiaries" in subparagraphs (B) and (C) and inserting in lieu thereof "affiliates".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT

SEC. 104. (a) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by amending subsection (c) to read as follows:

"(c) 'Bank' means (1) an 'insured bank' as defined in section 3(h) of the Federal Deposit Insurance Act; (2) any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that accepts demand deposits or deposits that the deposi-

tor may withdraw by check or similar means for payment to third parties and is engaged in the business of making commercial loans. The term 'bank' does not include (i) a foreign bank having an insured or uninsured branch in the United States; (ii) an insured institution; (iii) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; (iv) an organization that does not do business in the United States except as an incident to its activities outside the United States; (v) any institution that functions solely as a trust company, such as the type described in subsection (a) of the first section of the Act of September 28, 1962 (12 U.S.C. 92a(a)), and all or substantially all of the deposits of which are received solely in a fiduciary capacity; (vi) any credit union described in section 19 (b) (1) (A) (iv) of the Federal Reserve Act; (vii) an industrial loan company chartered by the State of Hawaii which was required to obtain insurance under the Federal Deposit Insurance Act by the laws of the State of Hawaii as a requisite to accepting thrift accounts from the public, except that any such industrial loan company that accepts deposits after the date of enactment of the Financial Services Competitive Equity Act that are withdrawable by check or similar means for payment to third parties shall be a 'bank' for the purposes of this Act; or (viii) any institution which is acquired by a bank holding company pursuant to approval granted by the Board under section 4 of this Act prior to the enactment of the Financial Services Competitive Equity Act and which engages solely in credit card operations and that does not accept demand deposits or deposits that the deposit may withdraw by check or similar means for payment to third parties or make commercial loans;"

(2) by inserting "or section 4(c)(15)" after "section 4(c)(8)" in subsection (h)(2); and

(3) by inserting after subsection (i) the following new subsections:

"(j) The term 'depository institution securities affiliate' means any corporation that (1) is engaged in the United States in one or more of the activities authorized pursuant to section 4(c)(15) of this Act, and (2) is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)). For purposes of this Act, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it (A) is a bank holding company or is owned or controlled by a bank holding company, or (B) is a company that owns, controls or is affiliated with a bank but does not become a bank holding company because of the amendment to section 4(a)(2) of this Act made by section 104(c)(2) of the Financial Services Competitive Equity Act.

"(k) The term 'commercial loans' does not include (1) loans to natural persons primarily for personal, family, or household purposes, whether directly, indirectly or through the use of leases; (2) loans to charitable persons; (3) loans to finance the acquisition, improvement, development, and construction of residential or commercial properties; (4) loans to natural persons through use of credit cards or similar means of access; (5) the purchase of or investment in retail installment loans and accounts receivable; or (6) investments such as commercial paper, certificates of deposit, bankers acceptances and similar money market instruments, the extension of broker call loans, the sale of Federal funds, the deposit of interest-bearing funds, mortgage-backed securities, obligations of the United States and local and State governments, or agencies and instrumentalities thereof, and such other similar types of investments as may be permitted by the institution's primary regulator. An institution shall not be deemed to be 'engaged in the business of making commercial loans' if the aggregate principal amount of its outstanding commercial loans does not exceed 10 percent of the institution's total assets in three out of every four quarters and two out of every three years.

"(l) For purposes of this Act—

"(1) the term 'depository institution holding company' means a bank holding company;

"(2) the term 'depository institution' means bank; and

"(3) the terms 'savings and loan holding company' and 'insured institution' have the meanings ascribed to them in section 408(a)(1) of the National Housing Act.".

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) by inserting before the period at the end of the second sentence of subsection (a) the following: "; or (C) with thirty days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law if, immediately following such acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization that is required for a similarly sized bank that is not a subsidiary of a bank holding company"; and

(2) by adding at the end of subsection (d) the following: "Any company that controls a company which was established or acquired on or after July 1, 1983, which became a bank as a result of the enactment of the Financial Services Competitive Equity Act, and the establishment or acquisition of which would have been prohibited by this subsection had the definition of a bank in such Act been in effect at the time of establishment or acquisition shall divest such bank within 180 days of the effective date of such Act.".

(c) Section 4(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)(2)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following: "(B) those permitted under paragraphs (8) (except for those of an insured institution) and (15) of subsection (c) of this section subject to all the conditions and requirements specified in each respective paragraph or in any order or regulation issued by the Board under such paragraphs"; and

(2) by adding at the end thereof the following: "The two-year period referred to in this paragraph shall not apply to a company that becomes a bank holding company as a result of the enactment of the Financial Services Competitive Equity Act and that acquired an institution between July 1, 1983, and the effective date of such Act which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Financial Services Competitive Equity Act. A bank holding company that controlled an institution on July 1, 1983, which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Financial Services Competitive Equity Act may continue to own and control such institution and engage in any activity that it would have been permitted to engage in on July 1, 1983, under this Act, unless (i) such company acquires control of an additional bank or an insured institution, (ii) such company's existing subsidiary bank commences accepting deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans, or (iii) such company engages in any activity of a financial nature not authorized for bank holding companies under section 4 of this Act in which it was not engaged on June 27, 1984. A company that controlled an institution on July 1, 1983, which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Financial Services Competitive Equity Act and that was not a bank holding company on the date of enactment of the Financial Services Competitive Equity Act, shall become a bank holding company only if, after the enactment of the Financial Services Competitive Equity Act, (i) such company acquires control of an additional bank or an insured institution, (ii) such company's existing subsidiary bank commences accepting deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans, or (iii) such company engages in any activity of a financial nature not authorized for bank holding companies under section 4 of this Act in which it was not engaged on June 27, 1984. For purposes of the preceding sentence, a company which, prior to June 27, 1984, acquired control of an institution that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in this Act, from an entity (not a bank holding company) which acquired such bank before July 1, 1983, shall be deemed to have controlled such bank (and any insured institution that is acquired from the same entity pursuant to a contract entered into prior to June 27, 1984) on and prior to July 1, 1983. The Board may by order, after opportunity for hearing, having due regard to the purposes of this Act (I) determine that a company described in the two preceding sentences shall register as a bank holding company and shall be considered to be a bank holding company for purposes of this Act pursuant to section 5 of this Act, or (II) determine that a company described in any of the three preceding sentences shall terminate any activity, if such action is necessary to prevent undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices or is in the public interest.".

(d) Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended to read as follows:

"(8)(A) in accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares

of any insured institution, or shares of any company the activities of which consist of activities that the Board has determined (by order or regulation) to be closely related to banking or managing or controlling banks. In determining whether an activity is closely related to banking or managing or controlling banks, the Board shall take into account technological or other innovations in the provision of banking or banking-related services.

"(B)(i) No bank holding company shall engage in any activity authorized under this paragraph either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given sixty days prior written notice of such proposal and, within such period, the Board has not issued an order (I) disapproving the proposal, or (II) suspending the time period in accordance with clause (iii) below.

"(ii) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written notice of its intent not to disapprove the action. The Board may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a bank holding company establishes de novo an office to engage in any activity previously authorized for such a bank holding company under this paragraph or changes the location of an office engaged in such activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice: *Provided, however,* That the Board may only require such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the criteria provided for in clause (iv) hereof. In the event the Board requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Board may by order suspend the time period provided in clause (i) hereof until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within thirty days of the date of such receipt unless the Board issues a disapproval order as provided in clause (i) hereof. Such a suspension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in such notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board shall also consider the managerial resources of the companies involved; and the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of the going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(vi) The Board shall, within one hundred and eighty days of enactment of the Financial Services Competitive Equity Act and from time to time thereafter, promulgate regulations under this paragraph designating particular activities that are closely related to banking. A bank holding company may petition the Board to determine by regulation that a particular activity is closely related to banking. The Board may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraphs (8) and (15) of this subsection consistent with the criteria in clause (iv) hereof and with safe and sound financial practices. In administering this paragraph, the Board shall promote competition between bank holding companies and all other companies engaged in activities closely related to banking.

"(vii) The regulation required under clause (vi) of this paragraph shall include any activity determined by the Board by regulation prior to the date of enactment of the Financial Services Competitive Equity Act to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. The Board shall not authorize under subparagraph (A) of this paragraph any activity, other than an activity authorized by the preceding sentence, expressly prohibited or limited by any other provision of this paragraph or any activity that is described in paragraph (15) of this subsection or prohibited to a member bank or an affiliate of a member bank under section 16 or section 20 of the Banking Act of 1933 (12 U.S.C 24 Seventh and 377).

"(C)(i) Notwithstanding any other provision of this paragraph, an acquisition involving direct or indirect control of an insured institution by a bank holding company (except an acquisition resulting from a transaction authorized under section 13(f) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act) shall be subject to the restrictions of section 3(d) hereof, as if the insured institution were a bank.

"(ii) Except for a branch or branches resulting from an acquisition under section 408(m) of the National Housing Act, any insured institution that becomes a subsidiary of a bank holding company may retain and operate its existing branch or branches, but otherwise its branches shall be subject to locations where a national bank may establish and operate branches in the State in which such insured branch is located.

"(iii) In any acquisition under this paragraph involving direct or indirect control of an insured institution by a bank holding company, the competitive standards in section 3(c) of this Act shall apply to the acquisition as if the insured institution were a bank.

"(D) For purposes of this paragraph, it is not closely related to banking or managing or controlling banks for a bank holding company or any subsidiary or affiliate thereof to provide insurance as a principal, agent, or broker except (i) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (ii) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (iii) any insurance agency activity in a place that (I) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (II) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (iv) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (I) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (II) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (v) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (I) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (II) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (vi) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in clause (i), (ii), or (iii); or (vii) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in

insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

"(E) Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing.".

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages or credit obligations secured by real or personal property manufactured housing and participation interests in such notes and credit obligations or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(IV) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

(f) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c)(1) The Board from time to time may require reports under oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this Act and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act, that are engaged in the same or similar lines of business, not more frequently than quarterly. In particular circumstances, the Board may require additional information in order to fulfill its responsibilities under this Act.

"(3) The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which may be assessed against, and paid by, such holding company. The Board shall, however, insofar as possible, minimize the scope and frequency of examinations of nonbank subsidiaries of a bank holding company by utilizing, where feasible, reports of applicable regulatory agencies or other bodies public or private, and by directing, to the extent feasible, the focus of such examinations to the activities or financial condition of such nonbank subsidiaries that may have a materially adverse effect on the safety and soundness or financial condition of a subsidiary bank of the bank holding company.".

(g) Section 7 of the Bank Holding Company Act of 1956 is amended by inserting before the period at the end thereof the following: ", except that (1) no State may prohibit the affiliation of a national banking association with a company engaged only in one or more of the activities described in paragraphs (8) and (15) of section 4(c) of this Act, and (2) a State chartered bank subsidiary of a bank holding company may not engage in activities or make investments outside the State where it is chartered unless those activities are permitted under section 4(c) of this Act".

(h) Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) is amended to read as follows:

"JUDICIAL REVIEW

"SEC. 9. (a) Except as provided in subsection (b) of this section, any party aggrieved by an order of the Board under this Act may obtain a review of such order in the United States Court of Appeals within any circuit where such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Board's order, a petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28, United States Code.

"(b) A Board order under section 4(c)(8) or section 4(c)(15) of this Act shall be subject to judicial review solely with respect to the Board's finding on whether the proposed activity is permissible for a bank holding company under those sections and with respect to any Board finding regarding unfair competition.

"(c) Upon the filing of a petition for judicial review, the court shall have jurisdiction to modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper, except that in any petition for review of a Board order not to disapprove a notice under section 4(c)(8) or section 4(c)(15) of this Act, the court shall not be authorized to stay the effectiveness of the Board's order, or to prevent consummation of the proposal, pending judicial review.

"(d) The court may assess against any person that petitions for judicial review under this section of a Board order under

section 4(c)(8) or section 4(c)(15) of this Act reasonable attorney's fees or other costs of litigation incurred in connection with such petition for judicial review by any other party to the action, if the court finds such petition for judicial review to be nonmeritorious.

"(e) The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive, except that the Board's findings (by order or regulation) under section 4(c)(8) or section 4(c)(15) of this Act regarding the permissibility of an activity or regarding unfair competition shall not be overturned unless demonstrated to be plainly in error and at variance with the facts.".

(i) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) Notwithstanding any other provision of this Act, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, which is chartered under State law, and which is or becomes a subsidiary of a bank holding company may engage, directly or through an affiliate, in any activity which it is permitted to conduct as a State-chartered savings bank, pursuant to express, incidental, or implied powers under State statute or regulation or under judicial interpretation of State law. The activities conducted pursuant to the preceding sentence shall be terminated within two years if any covered savings bank is acquired by a company which is not a savings bank or savings bank holding company.".

(j) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following:

"(m) The term 'savings bank holding company' means any company which owns or controls one or more State-chartered savings banks if the assets of the subsidiary (which was chartered by a State as a savings bank on or before October 15, 1982), and any other bank affiliated with the savings bank prior to the date of enactment of this subsection, constitute at least 70 percent of the total assets of the holding company. In calculating compliance with the 70 percent test, assets acquired by such other bank by merger after the date of enactment of this subsection shall not be included.".

(k) Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by inserting the period at the end thereof the following: "or to any depository institution the deposits, accounts, or obligations of which are insured or guaranteed under State law".

(l) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended to read as follows:

"(i) The term 'thrift institution' means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, (3) a Federal savings bank, and (4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.".

(m) Section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)) is amended to read as follows:

"(E) No company is a bank holding company by virtue of its ownership or control of any State chartered bank or trust company which is wholly owned by thrift institutions or savings bank and which restricts itself to the acceptance of deposits from thrift institutions of savings banks, deposits arising out of the corporate business of its owners, and deposits of public moneys.".

AMENDMENT TO THE FEDERAL RESERVE ACT

SEC. 105. (a) The Federal Reserve Act is amended by inserting after section 23A the following:

"SEC. 23B. RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—(a) A member bank and its subsidiaries may engage in any of the following transactions, only on terms and under circumstances, including credit standards, that are substantially the same as, or at least as favorable to such bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies or, in the absence of comparable transactions, those terms and circumstances that in good faith would be offered to, or would apply to nonaffiliated companies—

"(1) any covered transaction, as defined in section 23A, with an affiliate;

"(2) the sale of securities or other assets, including assets subject to an agreement to repurchase, to an affiliate;

"(3) the payment of money or the furnishing of services to an affiliate, under contract, a lease, or otherwise;

"(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or any other person; or

"(5) any transaction or series of transactions with a third party (A) if an affiliate has a financial interest in the third party, or (B) if an affiliate is a participant in such transaction or series of transactions.

For the purposes of this subsection, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate of such bank to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) A member bank and the affiliates of such bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates. A member bank and its affiliates may use similar names, except that a member and its depository institution securities affiliate may not use similar names.

"(c) A member bank and any subsidiary of such bank—

"(1) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchases are permitted under the instrument creating the fiduciary relationship, by court order, or by law of the jurisdiction under which the trust is administered; and

"(2) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an affiliate of such bank; except that this prohibition shall not apply where the purchase of such securities has been approved, prior to the time at which such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

For the purpose of this paragraph, the term 'security' means a 'security' as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)); and the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(d) For the purpose of this section—

"(1) the term 'affiliate' means an 'affiliate' as defined in section 23A of this Act (12 U.S.C. 371c) excluding a bank; and

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (c)) have the same meaning given to them in section 23A of this Act (12 U.S.C. 371c).

"(e) The Board may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to (1) further define terms used in this section; (2) exempt transactions or relationships from the requirements of this section; or (3) exclude from the definition of 'affiliate' in this section any subsidiary of a bank holding company, if the Board finds such exemptions or exclusions to be in the public interest and consistent with purposes of this section.".

(b) Section 18(j)) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

SECURITIES AFFILIATIONS OF NONMEMBER INSURED BANKS

SEC. 106. Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3)(A) The provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall be applicable to every insured nonmember bank in the same manner and to the same extent as if such insured nonmember bank were a member bank.

"(B) This paragraph does not prohibit the continuation of such an affiliation or relationship which commenced prior to July 1, 1983, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before July 1, 1983.

"(C) An affiliation or officer, director or employee relationship that becomes unlawful as a result of the enactment of this paragraph may continue for a period of two years after the date of enactment of this paragraph.

"(D) The provisions of this paragraph shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978, solely because it has an insured branch in the United States, except that the provisions of section 32 of the Banking Act of 1933 shall apply to an insured branch as if it were an insured bank.

"(E) This paragraph shall not prohibit (i) the continuation of any affiliation or relationship with a nonmember bank that is controlled by a company that is not a bank holding company under the Bank Holding Company Act of 1956 but that controlled an

institution on July 1, 1983, that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in the Financial Services Competitive Equity Act, where the affiliation or relationship commenced on or prior to June 27, 1984, or (ii) the establishment of such an officer, director, or employee relationship in connection with any such affiliation established on or prior to June 27, 1984,"; and

(2) by inserting after the words in the first sentence of paragraph (4)(A), as so redesignated under paragraph (1) of this section, "or any lawful regulation issued pursuant thereto," the following words: "or any provision of section 20 of the Banking Act of 1933, as amended,".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 107. (a) Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(K) 'depository institution securities affiliate' means any corporation that (i) is engaged in the United States in one or more of the activities authorized for depository institution securities affiliates pursuant to section 4(c)(15) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)) and subject to the limitations specified therein, and (ii) is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)). For purposes of this title, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it is owned or controlled by a savings and loan holding company. For purposes of applying section 4(c)(15) of the Bank Holding Company Act to this title—

"(i) the term 'depository institution holding company' means savings and loan holding company; and

"(ii) the term 'depository institution' means 'insured institution'; and

"(L) 'bank holding company' and 'bank' shall have the meanings ascribed to them in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

(b) Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended to read as follows:

"(c)(1) Except as otherwise provided in this subsection, no savings and loan holding company (except a unitary savings and loan holding company that acquires an insured institution pursuant to subsection (m) of this section) or subsidiary thereof which is not an insured institution shall—

"(A) for or on behalf of such subsidiary insured institution, engage in any activity or render any service for the purposes or with the effect of evading law or regulation applicable to such insured institution; or

"(B) commence or continue, after two years from the date as of which it becomes a savings and loan holding company, any business activity other than those specified in paragraph (2) of this subsection, except that such two-year period shall not apply to any company that acquires an insured institution between July 1, 1983, and the effective date of the Financial Services Competitive Equity Act: *Provided*, That any company that controlled an insured institution prior to July 1, 1983, may engage in any activity in which it was lawfully engaged, directly or through a subsidiary, on June 27, 1984. The authority conferred by the preceding proviso shall terminate at such time, after the date of enactment of the Financial Services Competitive Equity Act, as (i) a covered savings and loan holding company acquires control of a bank, (ii) the subsidiary insured institution of a covered savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or (iii) a covered savings and loan holding company engages in any activity of a financial nature not authorized pursuant to paragraph (2) for savings and loan holding companies (except for the acquisition of a bank), in which it was not engaged on June 27, 1984. Any such activity may be terminated by the Corporation, after opportunity for hearing, if it determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interests, unsound practices, or in the public interest.

"(2) The prohibitions of subparagraph (1)(B) of this subsection shall not apply to the following business activities—

"(A) furnishing or performing management services for a subsidiary insured institution;

"(B) conducting an insurance agency or escrow business;

"(C) holding or managing or liquidating assets owned or acquired from a subsidiary insured institution;

"(D) holding or managing properties used or occupied by a subsidiary insured institution;

"(E) acting as trustee under deed of trust;

"(F) acquiring shares of any bank or engaging in one or more of the following activities subject to the limitations, conditions, and requirements specified in paragraph (3) of this subsection: (i) activities determined by the Board of Governors of the Federal Reserve System (by regulation) to be closely related to banking or managing or controlling banks under section 4(c)(8) of the Bank Holding Company Act of 1956: *Provided, however*, That the Corporation may (by regulation) prohibit or limit any such activity for savings and loan holding companies; (ii) activities in which multiple savings and loan holding companies were authorized (by regulation) to engage directly on June 27, 1984; and (iii) engaging in the activities of a depository institution securities affiliate in accordance with the terms under which such activity may be conducted pursuant to the provisions of paragraph (15) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), except that notwithstanding any other provision of this subparagraph, an acquisition involving the direct or indirect control of a bank by a savings and loan holding company (except an acquisition resulting from a transaction authorized under section 13(f) of the Federal Deposit Insurance Act) shall be subject to the restrictions of section 3(d) of the Bank Holding Company Act of 1956, as if any insured institution subsidiary of the savings and loan holding company were a bank and as if the savings and loan holding company were a bank holding company; and

"(G) acquiring shares of any company which is an export trading company, as that term is defined in paragraph (14) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), and subject to all the requirements, conditions, and limitations of such paragraph (14) as if the acquiring or establishing savings and loan holding company were a bank holding company within the meaning of that paragraph, except that any notice required to be given pursuant to that paragraph shall be given to the Corporation, which shall have the same authority with respect to such notice procedure for savings and loan holding companies as the Board of Governors of the Federal Reserve System has pursuant to such paragraph (14).

"(3)(A) No savings and loan holding company shall engage, either de novo or by an acquisition, in whole or in part, of a going concern, in any activity authorized under paragraph (2)(F) of this subsection unless the Corporation has been given sixty days' prior written notice of such proposal and, within such period, the Corporation has not issued an order disapproving the proposal or extending for up to an additional thirty days the period within which such a disapproval may be issued.

"(B) An acquisition may be made prior to the expiration of the disapproval period if the Corporation issues a written notice of its intent not to disapprove the action. The Corporation may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a savings and loan holding company establishes de novo an office to engage in any activity previously authorized for such savings and loan holding company under this paragraph or changes the location of an office engaged in such activity.

"(C) The notice submitted to the Corporation shall contain such information as the Corporation shall prescribe by regulation for the notice or by specific request in connection with a particular notice: *Provided, however*, That the Corporation may only require such information as may be relevant to the nature and scope of the proposed activity and to the Corporation's evaluation of the criteria provided for in subparagraph (D) hereof. In the event the Corporation requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Corporation may by order suspend the time period provided in subparagraph (A) of this paragraph until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within thirty days of the date of such receipt unless the Corporation issues a disapproval order as provided in such subparagraph (A). Such suspension order is reviewable under subsection (k) of this section.

"(D) In determining whether to disapprove a notice under this paragraph, the Corporation shall consider whether the performance of the activity described in such notice by a savings and loan holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound financial practices. The Corporation shall also consider the managerial resources of the companies involved; and the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others

engaged in similar activities. In orders and regulations under this paragraph, the Corporation may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part of the going concern.

"(E) The Corporation shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(F) The Corporation may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraph (2)(F) of this subsection other than limitations on activities conducted pursuant to clause (iii) thereof, consistent with the criteria in subparagraph (D) hereof and with safe and sound financial practices.

"(4)(A) Notwithstanding any other provision of this subsection, any savings and loan holding company (including any subsidiary thereof which is not an insured institution) the sole insured institution subsidiary of which is a qualified thrift lender shall not be subject to the limitations and prohibitions of this subsection: *Provided, however,* That nothing in this paragraph shall exempt a bank holding company or its subsidiaries or affiliates from the provisions of the Bank Holding Company Act.

"(B) A qualified thrift lender is any insured institution that, as determined by the Corporation, has an aggregate of not less than 60 per centum of its assets (including investments made by any subsidiary of such an institution) invested in loans, equity positions or securities related to domestic residential real estate or manufactured housing and property used by an institution in the conduct of its business, and does not thereafter fall below such percentage on an average basis in three out of every four quarters and two out of every three years. For the purpose of the preceding sentence, there shall be included liquid assets of the type required to be maintained under section 5A of the Federal Home Loan Bank Act, and 50 per centum of the dollar amount of the residential mortgage loans originated and sold within 90 days of origination, except that the total amount of assets which may be included pursuant to this sentence may not exceed 10 per centum of the institution's assets. For the ten-year period following the date of enactment of the Financial Services Competitive Equity Act, a qualified thrift lender shall also include any insured institution which was chartered prior to October 15, 1982, as a savings bank under State law if the Corporation determines that the institution does not decrease the percentage of its assets invested in investments described in clause (ii) below the percentage it held on such effective date, and increases such percentage of its assets by an amount at least equal to the following percentages of the difference between 60 per centum and the percentage of its assets so invested on the date of enactment of this paragraph within the following time periods from the date of enactment of this paragraph:

"(I) within 2½ years, 25 percent;

"(II) within 5 years, 50 percent; and

"(III) within 7½ years, 75 percent.

"(C) The Corporation may grant such temporary and limited exceptions from the 60 percent of assets requirement set forth in subparagraph (B) as the Corporation deems necessary when the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirements.

"(D) Any insured institution that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years. For good cause shown, the Corporation may allow any company that controls such an institution, up to three years to comply with the investment and activities restrictions contained in this subsection.

"(E) Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not an insured institution), which owns a single insured institution shall not be subject to the limitations and prohibitions of this subsection with respect to the activities of such holding company conducted exclusively in a foreign country.

"(F) The Corporation may issue such rules or regulations, and conduct such examinations, as it determines to be necessary to carry out the provisions of this paragraph, and may enforce them with respect to any qualified thrift lender. With respect to a stock savings bank insured by the Federal Deposit Insurance Corporation, the Corporation shall rely to the maximum extent possible on examinations conducted by that agency.".

(c) Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is hereby amended as follows:

(1) The introductory phrase is amended to read as follows:

"(d)(1) Except as otherwise provided in this section, no subsidiary insured institution of a savings and loan holding company shall—";

(2) Paragraphs (1), (2), (3), (4), (5), and (6) shall be redesignated as subparagraphs (A), (B), (C), (D), (E), and (F), respectively, and subparagraphs (A), (B), and (C) shall be redesignated as clauses (i), (ii), and (iii), respectively; and

(3) The following subsection (d)(2) shall be added at the end thereof:

"(2) The prohibitions of subsection (d)(1) shall not apply to the transactions of any subsidiary insured institution of a savings and loan holding company with an affiliate engaged in the business activities specified in subparagraphs (F) and (G) of subsection (c)(2) of this section except for clause (ii) of subparagraph (F); unless the context otherwise requires, such transactions by an insured institution shall be subject to the same limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371 c and d) as if such insured institution were a member bank. The Corporation may prescribe rules or regulations for purposes of defining and clarifying the applicability of the limitations and prohibitions described in the preceding sentence.".

(d) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended by striking out clause (ii) of subparagraph (1)(B) and inserting in lieu thereof the following:

"(ii) acquired in connection with a reorganization in which a person or group of persons exchange their shares of an insured institution for shares of a newly formed holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law.".

(e) Section 408(k) of the National Housing Act (12 U.S.C. 1730a(k)) is amended to read as follows:

"(k) JUDICIAL REVIEW.—(1) Except as provided in paragraph (2) of this section, any party aggrieved by an order of the Corporation under this section may obtain a review of such order in the United States Court of Appeals within any circuit where such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Corporation's order, a petition praying that the order of the Corporation be set aside. A copy of such petition shall be forthwith transmitted to the Corporation by the clerk of the court, and thereupon the Corporation shall file in the court the record made before the Corporation, as provided in section 2112 of title 28, United States Code.

"(2) An order under subsection (c)(2) shall be subject to judicial review solely with respect to the Corporation's finding on whether the proposed activity is permissible for a savings and loan holding company and with respect to any Corporation finding regarding unfair competition.

"(3) Upon the filing of a petition for judicial review, the court shall have jurisdiction to modify the order of the Corporation and to require the Corporation to take such action with regard to the matter under review as the court deems proper, except that in any petition for review of an order not to disapprove a notice under subsection (c)(2), the court shall not be authorized to stay the effectiveness of the Corporation's order, or to prevent consummation of the proposal, pending judicial review.

"(4) The court may assess against any person that petitions for judicial review under this section of a Corporation order under subsection (c)(2), reasonable attorney's fees or other costs of litigation incurred in connection with such petition for judicial review by any other party to the action, if the court finds such petition for judicial review to be nonmeritorious.

"(5) The findings of the Corporation as to the facts, if supported by substantial evidence, shall be conclusive, except that the Corporation's findings (by order or regulation) regarding the permissibility of an activity under subsection (c)(2) or regarding unfair competition shall not be overturned unless demonstrated to be plainly in error and at variance with the facts.".

(f) Section 408(n) of the National Housing Act (12 U.S.C. 1730a) is amended to read as follows:

"(n) No State shall prohibit the affiliation of an association, as that term is defined in section 2 of the Home Owners' Loan Act of 1933, with a company engaged solely in one or more of the activities described in subparagraphs (F) and (G) of subsection (c)(2) of this section.".

(g) Section 408(a)(1)(A) of the National Housing Act is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, upon application shall be deemed to be an 'insured institution' for purposes of this section and section 408(o)(1), if the Corporation determines that it is in compliance with section 408(c)(4)(B). Any institution so notifying the Corporation that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of five years.".

AMENDMENT TO THE HOMEOWNERS' LOAN ACT OF 1933

SEC. 108. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) An association may raise capital in the form of such deposits, shares, or other accounts (all of which are referred to in this section as accounts) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, certificates, or other evidence of accounts as are so authorized."; and

(2) by striking out the first sentence of subparagraph (B).

AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT

SEC. 109. (a) Section 5A(b)(1)(D) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(D)) is amended by striking out "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C)" and inserting in lieu thereof "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C), (F), and (G)".

(b) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following:

"(e) Except as the Board may prescribe, no member shall be eligible for advances unless such member meets the qualified thrift lender asset test contained in section 408(c)(4)(B) of the National Housing Act.".

EXTENSION OF CAPITAL ASSISTANCE PROGRAMS

SEC. 110. (a) Section 206 of the Garn-St Germain Depository Institutions Act of 1982 is amended by striking out "three years" and inserting in lieu thereof "six years".

(b) Section 13(i)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(2)(F)) is amended to read as follows:

"(F) has investments in residential mortgages or securities backed by such mortgages, or in agricultural loans, respectively, aggregating at least 20 per centum of its loans. For purposes of the preceding sentence, agricultural loans includes all secured and unsecured loans, credit sales, forbearances, advances, renewals, or other extensions of credit made to any person or organization engaged in the production of agricultural products or made to farm cooperatives and for an agricultural purpose as defined by the Federal Deposit Insurance Corporation.".

LEASING AUTHORITY OF NATIONAL BANKS

SEC. 111. Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.".

SECURITIES AFFILIATIONS OF FSLIC INSURED INSTITUTIONS

SEC. 112. Section 408 of the National Housing Act is amended by adding at the end thereof the following:

"(o)(1) The provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall be applicable to every insured institution in the same manner and to the same extent as if such insured institution were a member bank.

"(2) This subsection does not prohibit the continuation of such an affiliation or relationship which commenced prior to June 27, 1984, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before June 27, 1984.

"(3) An affiliation or officer, director or employee relationship that becomes unlawful as a result of the enactment of this subsection may continue for a period of two years after the date of enactment of this subsection.

"(4) Nothing in this subsection or section 18(j)(3) of the Federal Deposit Insurance Act prohibits an affiliation or officer, director, or employee relationship between an insured institution or an institution which is eligible to become a member of a Federal Home Loan Bank, and an organization engaged principally in the issuance, sale, underwriting, or distribution, at wholesale or retail, or through syndicate participation, of—

"(A) securities representing or secured by interests in real estate or real estate loans or pools of real estate loans;

"(B) interests in partnerships formed primarily to own, operate, manage, or invest in real estate;

"(C) insurance products deemed to be securities, including without limitation variable annuities and variable life insurance;

"(D) securities of an investment company, as such term is defined in the Investment Company Act of 1940; and

"(E) any securities to the extent such issuance, sale, underwriting, or distribution is permitted for national banks.

"(5) The Corporation is authorized to issue rules and regulations and to publish interpretations governing the implementation of this subsection, and shall enforce the provisions of this subsection, except that for the purpose of paragraph (4), the Federal Deposit Insurance Corporation is authorized to issue rules and regulations and publish interpretations with respect to savings banks and other institutions subject to section 18(j)(3) of the Federal Deposit Insurance Act.".

MUTUAL HOLDING COMPANY AMENDMENT

SEC. 113. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(p)(1) Notwithstanding any other provision of law, an insured institution operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings institution, the stock of which is to be wholly owned by the mutual institution; and

"(B) transferring the substantial part of its assets and liabilities, including all its insured liabilities, to the interim savings institution. Persons having ownership rights in the mutual institution pursuant to section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 or State law shall have the same ownership rights with respect to the holding company.

"(2) A reorganization plan authorized under this paragraph must be approved by a majority of the board of directors of the mutual savings institution. In the case of an institution in which holders of accounts and obligors exercise voting rights, the plan of reorganization shall also be submitted for approval by a majority of such individuals at a meeting to be held at the call of the directors in accordance with the procedures prescribed by the institution's charter and bylaws.

"(3)(A) An insured institution seeking to establish a holding company pursuant to this subsection shall provide the Federal Home Loan Bank Board with sixty days prior written notice. The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(B) Unless the Board within such sixty-day notice period disapproves the proposed holding company formation, or extends for another thirty days the period during which such disapproval may issue, the insured institution providing such notice may proceed with the transaction.

"(C) The Board may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the insured institution involved warrant disapproval; or

"(iii) the insured institution fails to furnish the information required under subparagraph (A).

"(D) In connection with the transaction described in paragraph (1), an insured institution may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that such capital exceeds adequate reserves as prescribed pursuant to section 403(b) or the comparable provisions of State or Federal law.

"(4) A corporation organized as a holding company under this subsection may only—

"(A) invest in the stock of an insured institution;

"(B) acquire a mutual institution through merger into an insured institution subsidiary or an interim savings institution subsidiary;

"(C) merge with or acquire another holding company one of whose subsidiaries is an insured institution, except that the resulting holding company may only invest in assets and engage in activities authorized under this paragraph;

"(D) invest in a corporation the capital stock of which is available for purchase by an insured institution by Federal law or by the law of such State where the subsidiary insured institution or institutions have their home office; and

"(E) engage in the activities described in subsection (c)(2), except subparagraph (B). Not later than two years following a merger or acquisition subject to subparagraph (C) of the preceding sentence, a holding company established pursuant to this subsection shall dispose of any assets or cease any activities the exercise of which is prohibited by such subparagraph.

"(5) Unless the context otherwise requires, a holding company established pursuant to this subsection shall be subject to the other requirements of this section regarding regulation of holding companies.".

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of law, a savings bank operating in mutual form may reorganize so as to form a holding company pursuant to the procedures specified in paragraphs (1) through (3) of section 408(p) of the National Housing Act. A corporation organized as a holding company under this subsection shall be regulated on

the same terms and be subject to the same limitations as a stock savings bank holding company.".

MORTGAGE SECURITIES CORPORATIONS

SEC. 114. (a) Section 5(c)(4) of the Homeowners' Loan Act of 1933 (12 U.S.C. 1464(c)(4)) is amended by adding at the end thereof the following:

"(E) MORTGAGE SECURITIES CORPORATIONS.—Investments in the capital, stock, obligations, or other securities of a trust or corporation, the entire capital stock of which is available for purchase only by Federal associations and which engages solely in the business of issuing or servicing mortgage related securities as described in section 4(c)(15)(iii)(III) of the Bank Holding Company Act of 1956.".

(b) Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is amended by adding at the end thereof the following: "For the purposes of this subsection, the term 'affiliate' shall not include any subsidiary of an insured institution where such subsidiary is a mortgage securities corporation authorized under section 5(c)(4)(E) of the Home Owners' Loan Act of 1933.".

TITLE II—CREDIT UNION AMENDMENTS

CREDIT UNION LOANS TO HOMEOWNERS

SEC. 201. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended to read as follows:

"(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member, shall have a maturity not to exceed fifteen years or any longer term which the Board may allow unless such loan is insured or guaranteed as provided in subparagraph (iii);".

FAITHFUL PERFORMANCE

SEC. 202. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended by striking out the third sentence and inserting in lieu thereof the following: "The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 113(2) of this Act.".

MEMBERSHIP OFFICER

SEC. 203. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out "of the board of directors" in paragraph (1) and inserting in lieu thereof "of the credit union.".

POWERS OF THE BOARD OF DIRECTORS

SEC. 204. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;".

NONPARTICIPATION IN THE CREDIT UNION

SEC. 205. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended—

(1) by striking out "subject to" in subsection (a) and inserting in lieu thereof "except as provided in"; and

(2) by inserting "and enforce" after "adopt" in subsection (b).

CHANGE IN INSURANCE STATUS

SEC. 206. Section 206(d)(2) of the Federal Credit Union Act (12 U.S.C. 1786(d)(2)) is amended to read as follows:

"(2) No credit union shall convert from status as an insured credit union under this Act as provided under subsection (a)(2) of this section until the proposition for such conversion has been approved by a majority of all the directors of the credit union and by affirmative vote of a majority of the members of the credit union who vote on the proposition. Following approval by the directors, written notice of the proposition and of the date set for the membership vote shall be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. The written notice of the proposition shall in boldface type state that the issue will be decided by a majority of the members who vote. The membe· ship shall be given the opportunity to vote by mail ballot. If the proposition is approved by the membership, prompt and reasonable notice of insurance conversion shall be given to all members.".

SUNSET OF CREDIT UNION CONSERVATORSHIP AUTHORITY

SEC. 207. Section 141(a)(8) of Public Law 97-320 is amended by striking out "sections 131 and 132" and inserting in lieu thereof "section 131".

TITLE III—BANKERS BANKS

AMENDMENT TO SECTION 5136 OF THE REVISED STATUTES

SEC. 301. The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by striking out "*Provided further,* That" and all that follows through the end thereof and inserting in lieu thereof the following: "*Provided further,* That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank or a holding company which owns or controls such a bank if (1) the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (2) such bank or company and all subsidiaries thereof are engaged exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each. In no event shall the total amount of stock held by the association in any bank or holding company described in the immediately preceding proviso exceed at any time 10 per centum of the association's capital stock and paid-in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company.".

AMENDMENT TO SECTION 5169 OF THE REVISED STATUTES

SEC. 302. Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended to read as follows:

"(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association if (A) such association or its parent holding company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (B) the association, its parent holding company, and all subsidiaries thereof are organized to engage exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT

SEC. 303. (a) Section 202(3) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)) is amended—

(1) by striking out "; or" after paragraph (C) and inserting in lieu thereof a period; and

(2) by striking out paragraphs (D) and (E).

(b) Section 205(6) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(6)) is amended to read as follows:

"(6) A Federal Home Loan Bank or any bank or the parent holding company thereof organized specifically to serve depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 304. (a) Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by inserting after the first sentence thereof the following: "The term 'bank' also includes a State chartered bank or a national banking association if (A) such bank or its parent holding company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (B) such bank, its parent holding company, and all subsidiaries thereof are organized to engage exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

(b) Section 4(c)(14)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(F)) is amended—

(1) by striking the period after clause (i) and inserting in lieu thereof a semicolon;

(2) by inserting "and" after clause (ii);

(3) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) notwithstanding any other provision of law, the term 'bank holding company' shall include a bank if (1) such bank or its parent holding company is owned primarily by depository institutions, and (2) such bank, its parent holding company, and all subsidiaries thereof are organized to engage exclusively (except as provided in this paragraph) in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each. No depository institution, owning stock in a bank or a holding company described in this clause which invests in an export trading company, shall extend credit to an export trading company in an amount exceeding at any one time 10 per centum of such depository institution's capital and surplus."; and

(4) by striking out clause (iv).

TITLE IV—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Consumer Lease and Lease-Purchase Agreement Act".

AMENDMENT TO THE CONSUMER CREDIT PROTECTION ACT

SEC. 402. The Consumer Credit Protection Act is amended by adding at the end thereof the following new title:

"TITLE X—CONSUMER LEASE AND LEASE-PURCHASE ACT

"Chap. Sec.
"1. General Provisions 101
"2. Consumer Leases and Lease-Purchase Agreements 111
"3. Enforcement and Liability 121
"4. Miscellaneous 131

"CHAPTER 1—GENERAL PROVISIONS

"Sec.
"101. Short title.
"102. Findings and declaration of purpose.
"103. Definitions and rules of construction.
"104. Exempted transactions.
"105. Regulations.

"CHAPTER 2—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

"Sec.
"111. General requirements of disclosure.
"112. Consumer lease disclosures.
"113. Consumer's liability at early termination or at the end of the lease term.
"114. Lease-purchase disclosures.
"115. Renegotiations and extensions.
"116. Consumer lease advertising.
"117. Lease-purchase advertising.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"Sec.
"121. Administrative enforcement.
"122. Civil liability.
"123. Defenses.
"124. Liability of assignees.
"125. Criminal liability.

"CHAPTER 4—MISCELLANEOUS

"Sec.
"131. Relation to State laws.
"132. Effect on governmental agencies.
"133. Reports by Board and Attorney General.
"134. Effective date.

"TITLE X—CONSUMER LEASE AND LEASE-PURCHASE ACT

"CHAPTER 1—GENERAL PROVISIONS

"§ 101. Short title

"This title may be cited as the 'Consumer Lease and Lease-Purchase Act'.

"§ 102. Findings and declaration of purpose

"(a) The Congress finds that the leasing of consumer goods continues to be a popular alternative to installment credit purchases. It is the purpose of this title to assure a more meaningful disclosure of the terms of leases of personal property for personal, family or household purposes, permitting the consumer to compare more readily the various lease terms available; to limit the potential balloon payment in consumer leases to a reasonable amount; and to assure accurate disclosures of lease terms in advertising.

"(b) The Congress also finds that a significant number of consumers have begun to acquire ownership of personal property through lease-purchase agreements. These lease-purchase agreements have been offered without adequate cost disclosures. It is the purpose of this statute to assure meaningful disclosure of the terms of lease-purchase agreements; to make the consumer aware of the total cost of the agreement; to inform the consumer when ownership will transfer; and to assure accurate disclosures of lease-purchase terms in advertising.

"§ 103. Definitions and rules of construction

"(a) The following definitions apply to this title:

"(1) 'Advertisement' means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer lease or a lease-purchase agreement.

"(2) 'Agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, and manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but no limited to the acquisition of farmlands, real property with a farm residence, and personal property and services used primarily in farming.

"(3) 'Board' refers to the Board of Governors of the Federal Reserve System.

"(4) 'Consumer' means a natural person who leases personal property under a consumer lease or rents personal property under a lease-purchase agreement.

"(5) 'Consumer lease' means a contract in the form of a lease or bailment for the use of personal property, and the purchase of services incidental thereto, by a natural person primarily for personal, family, or household purposes, for a period exceeding four months, in which the total lease cost is not more than $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the expiration of the lease. The term does not include any 'credit sale' as defined in title I.

"(6) 'Consummation' means the time a consumer becomes contractually obligated on a consumer lease or lease-purchase agreement.

"(7) 'Lessor' means a person who regularly provides the use of property through consumer leases or lease-purchase agreements and to whom the obligation is initially payable on the face of the lease or lease-purchase agreement.

"(8) 'Personal property' means any property that is not real property under the laws of the State where it is located when it is made available for a consumer lease or a lease-purchase agreement.

"(9) 'Lease-purchase agreement' means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term does not include any 'credit sale' as defined in title I.

"(10) 'Residual value' means the wholesale or retail fair market value of the leased property at early termination or the end of the lease term in a consumer lease.

"(11) 'State' refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

"(b) Unless the context indicates otherwise, the term 'lease' means consumer lease, and the term 'agreement' means lease-purchase agreement.

"(c) Any reference to any provisions of this title includes reference to the regulations of the Board under this title.

"§ 104. Exempted transactions

"This title does not apply to the following:

"(1) Consumer leases and lease-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with government agencies or instrumentalities or with organizations.

"(2) A lease of a safe deposit box.

"(3) A lease or bailment of personal property which is incidental to the lease of real property, and which provides that the consumer has no liability for the value of the property at scheduled expiration except for abnormal wear and tear and that the consumer has no option to purchase the leased property.

"§ 105. Regulations

"(a) The Board shall write regulations to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements. The regulations may contain classifications and differentiations and may provide for adjustments and exceptions for any class of transaction.

"(b) The Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements and to aid the consumer in understanding the transaction. In designing forms, the Board shall consider the use by lessors of data processing or similar automated equipment. Use of the models shall be optional. A lessor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.

"(c) Any regulation of the Board, or any amendment or interpretation thereof, that requires a disclosure different from the disclosures previously required shall have an effective date of October 1 that follows the date of promulgation by at least six months. The Board may at its discretion lengthen that period of time to permit lessors to adjust their forms to accommodate new requirements. The Board may also shorten that period of time if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, lessors may comply with any newly promulgated disclosure requirement prior to its effective date.

"CHAPTER 2—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

"§ 111. General requirements of disclosure

"(a) The lessor shall disclose to the consumer the information required by this title. In a transaction involving more than one consumer, a lessor need disclose to only one of the consumers who are primarily obligated. In a transaction involving more than one lessor, only one lessor need make the disclosures.

"(b) The disclosures shall be made at or before consummation of the consumer lease or lease-purchase agreement.

"(c) The disclosures shall be made clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required under sections 112 and 114 shall be segregated from all other terms, data, or information provided.

"(d) Information required to be disclosed may be given in the form of estimates and identified as such when the lessor does not know the exact information.

"(e) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosures, the resulting inaccuracy is not a violation of this title.

"§ 112. Consumer lease disclosures

"For each consumer lease, the lessor shall disclose the following items, as applicable:

"(1) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(2) The number, amounts, and timing of scheduled payments.

"(3) The total of scheduled payments.

"(4) The total of amounts payable at the expiration of the lease (not including any difference between the anticipated residual value and the actual residual value).

"(5) The total lease cost, which is the sum of items (1), (3), and (4).

"(6) The amount of any required security deposit.

"(7) When the consumer buys required insurance from or through the lessor, the total cost. When the consumer does not buy required insurance from or through the lessor, a statement that the consumer must buy insurance and that the cost is not included in the numerical disclosures.

"(8) When any official fees and taxes are paid to or through the lessor, the total cost. When any official fees or taxes are not paid to or through the lessor, a statement that the consumer must pay official fees or taxes and that the amounts are not included in the numerical disclosures.

"(9) Any dollar charge or percentage amount that may be imposed for a late payment, other than a deferral or extension charge.

"(10) A statement that the consumer may be liable for additional amounts if the lease is terminated early.

"(11) When the consumer's liability is based on the residual value of the property, a statement that the consumer may have the property appraised at the consumer's expense by an independent third party agreed to by the consumer and lessor, and that the parties will be bound by the appraisal.

"(12) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the property:

"(A) The anticipated residual value of the property, marked as wholesale or retail;

"(B) A brief statement of the consumer's potential liability at the end of the lease term;

"(C) The product of three times the average payment allocable to a month; and

"(D) A statement that the consumer's liability will generally be limited to item (12)(C) unless the excess is a result of excessive use or unreasonable wear and use, or the lessor brings a successful court action proving that the estimate of the anticipated residual value was reasonable.

"(13) A statement that the consumer may have other costs and that the consumer should refer to the appropriate lease document for information about nonpayment and default, wear and use standards, and maintenance responsibility.

"§ 113. Consumer's liability at early termination or at the end of the lease term

"(a) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the leased property, the anticipated residual value shall be a reasonable estimate of the actual residual value of the property at the end of the lease term. There shall be a rebuttable presumption that the anticipated residual value is unreasonable to the extent that it exceeds the actual residual value at the end of the lease term by more than three times the average payment allocable to a month. The lessor shall not collect any amount in excess of three times the average payment allocable to a month unless the lessor brings a successful action in court providing that the estimate was reasonable. If the lessor fails to rebut the presumption, the lessor must pay the costs of the action and the consumer's reasonable attorney's fees.

"(b) The presumption in subsection (a) shall not apply to the extent that the excess of the anticipated residual value over the actual residual value is due to damage to the property beyond reasonable wear and use or to excessive use. The lessor may set reasonable standards for wear and use in the lease.

"(c) Subsection (a) does not preclude the right of a willing consumer and lessor to make a mutually agreeable final adjustment with respect to the excess of three times the average payment allocable to a month, provided the agreement is made after the end of the lease term.

"(d) In the lease the lessor may specify penalties or other charges for delinquency, default, or early termination, if the amounts are reasonable in light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

"(e) When the consumer's liability is based on the residual value of the leased property, the consumer may obtain at the consumer's expense a professional appraisal of the property by an independent third party agreed to by both parties. This appraisal shall be binding on the parties.

"§ 114. Lease-purchase disclosures

"For each lease-purchase agreement, the lessor shall disclose the following items, as applicable:

"(1) The number, amounts and timing of all payments necessary to acquire ownership of the property.

"(2) The total of payments necessary to acquire ownership of the property.

"(3) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership.

"(4) A statement that the total of payments does not include other charges, such as late payment, default, pickup, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges.

"(5) A statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

"(6) A statement indicating whether the property is new or used.

"§ 115. Renegotiations and extensions

"(a) A renegotiation occurs when an existing consumer lease or lease-purchase agreement is satisfied and replaced by a new lease or agreement undertaken by the same lessor and consumer. A renegotiation is a new lease or agreement requiring new disclosures. However, events such as the following shall not be treated as renegotiations:

"(1) The addition or return of property in a multiple-item lease or agreement or the substitution of the leased property, if in either case the average payment allocable to a payment period is not changed by more than 25 per centum.

"(2) A deferral or extension of one or more periodic payments, or portions of a periodic payment.

"(3) A reduction in charges in the lease or agreement.

"(4) A lease or agreement involving a court proceeding.

"(5) Any other event described in regulations prescribed by the Board.

"(b) No disclosures are required for any extension of a consumer lease or a lease-purchase agreement. However, a lessor that extends or permits a consumer to extend a consumer lease for more than one month beyond the end of the lease term shall (for purposes of section 113) recalculate the anticipated residual value of the leased property to reflect the depreciation resulting from the extended term.

"§ 116. Consumer lease advertising

"(a) If an advertisement for a consumer lease states the amount of any payment or states that any or no initial payment is required, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a lease.

"(2) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(3) That a security deposit is required.

"(4) The number, amounts, and timing of scheduled payments.

"(5) For a lease in which the consumer's liability at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

"(b) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"§ 117. Lease-purchase advertising

"(a) If an advertisement for a lease-purchase agreement refers to or states the amount of any payment or the right to acquire ownership, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a lease-purchase agreement.

"(2) The total of payments necessary to acquire ownership.

"(3) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.

"(b) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"§ 121. Administrative enforcement

"(a) Compliance with the requirements imposed by this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation; and

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the National Credit Union Administration with respect to any Federal credit union; and

"(4) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of

its powers under any Act referred to, a violation of a requirement imposed by this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each agency may exercise any other authority conferred on it by law in enforcing any requirement imposed under this title.

"(c) Except to the extent that enforcement of the requirements imposed by this title is specifically committed to some other agency under subsection (a), the Federal Trade Commission shall enforce the requirements. For the purpose of exercising its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed by this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed by this title, whether or not that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed by this title.

"§ 122. Civil liability

"(a) Except as otherwise provided in this title, a lessor who fails to comply with a requirement of section 111, 112, 113, 114, or 115 with respect to a consumer is liable to the consumer in an amount equal to the sum of—

"(1) actual damages sustained by the consumer as a result of the violation;

"(2) in the case of an individual action relating to a consumer lease, 25 per centum of the total of scheduled payments under the lease, but not less than $100 nor greater than $1,000;

"(3) in the case of an individual action relating to a lease-purchase agreement, 25 per centum of the total of payments necessary to acquire ownership, but not less than $100 nor greater than $1,000;

"(4) In the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member. The total recovery in any class action or series of class actions arising out of the same violation may not be more than the lesser of $500,000 or 1 per centum of the net worth of the lessor. In determining the amount of the award in any class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional; and

"(5) the costs of the action and reasonable attorney's fees as determined by the court.

"(b) In the case of an advertisement, any lessor who fails to comply with the requirements of sections 116 and 117 with regard to any person is liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees.

"(c) When there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. When no disclosures have been given, liability shall be imposed on all lessors.

"(d) When there are multiple consumers in a consumer lease or a lease-purchase agreement, there shall be only one recovery of damages under subsection (a) for a violation of this title.

"(e) Multiple violations in connection with a single consumer lease or lease-purchase agreement entitle the consumer to a single recovery under this section.

"(f) An action under this section may be brought in any United States district court or in any other court of competent jurisdiction within one year of the date of the occurrence of the violation, except that in the case of a violation under section 113 an action may be brought within one year of the end of the lease term. This subsection does not bar a consumer from asserting a violation of this title in an action to collect the debt brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or setoff, except as otherwise provided by State law.

"(g) A consumer may not take any action to offset any amount for which a lessor is potentially liable under subsection (a) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action brought by the lessor to collect amounts owed by the consumer.

"§ 123. Defenses

"(a) A lessor is not liable under section 121, 122, or 125 for a violation of the requirements of sections 111, 112, and 114 if within sixty days after discovering the error, and before an action under section 122 is filed or written notice of the error is received from the consumer, the lessor notifies the consumer of the error and makes whatever adjustments in the account are necessary to assure that the consumer will not be required to pay an amount in excess of the amounts actually disclosed. This provision applies whether the discovery of the error was made through a final written examination report or the lessor's own procedures.

"(b) A lessor is not liable under section 122 for a violation of this title if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error even though the lessor maintained procedures reasonably adapted to avoid such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors. An error of legal judgment with respect to the requirements of this title is not a bona fide error.

"(c) A lessor is not liable under this title for any act done or omitted in good faith in conformity with any rule, regulation, interpretation, or approval promulgated by the Board or by an official duly authorized by the Board. This rule applies even if, after the act or omission has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"§ 124. Liability of assignees

"(a) For purposes of sections 122 and 123, the term 'lessor' as used in those sections shall include an assignee of the lessor. However, a civil action for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the disclosure statement. A violation apparent on the face of the disclosure statement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned. An assignee has no liability where the assignment is involuntary.

"(b) In an action by or against an assignee, the consumer's written acknowledgement of receipt shall be conclusive proof that the disclosures were made, provided the assignee had no knowledge that disclosures had not been made when the assignee acquired the obligation.

"§ 125. Criminal liability

"A fine of $5,000 or a prison term of not more than one year, or both, may be imposed on anyone who willfully and knowingly fails to comply with any requirement imposed under this title.

"CHAPTER 4—MISCELLANEOUS

"§ 131. Relation to State laws

"(a) This title does not annul, alter, or affect the laws of any State regarding the disclosure of consumer leases or lease-purchase agreements, nor does this title exempt any person subject to the provisions of this title from complying with the laws of any State with respect to consumer leases or lease-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The laws of a State are inconsistent if a person is unable to comply with them without violating a provision of this title. The Board is authorized to determine whether such inconsistencies exist.

"(b) The Board shall by regulation exempt from the requirements of this title any class of lease transactions and lease-purchase agreements within any State if it determines that the State law contains requirements substantially similar to those imposed by this title or gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement.

"(c) Except as specified in sections 122 and 123, this title does not affect the validity or enforceability of any contract or obligation under State or Federal law.

"(d) Determinations under this section may be requested by any State.

"§ 132. Effect on governmental agencies

"No civil or criminal penalty provided by this title for violations may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of any State or political subdivision.

"§ 133. Reports by Board and Attorney General

"Each year the Board and the Attorney General shall report to the Congress concerning the administration of their functions under this title, including any recommendations necessary or appropriate. In addition, the Board's report shall include its assessment of the extent to which compliance with the requirements imposed by this title is being achieved.

"§ 134. Effective date

"(a) This title shall take effect on the October 1 that is at least two years after the date of its enactment.

"(b) All regulations, forms, and clauses required to be prescribed shall be promulgated one year prior to such effective date.

"(c) Notwithstanding subsections (a) and (b), any lessor may comply with the require-

ments of this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.".

CONFORMING AMENDMENTS

SEC. 403. (a) Section 102 of the Truth in Lending Act is amended by striking out "(a)" before "The Congress" and by striking out subsection (b).

(b) Section 105(b) of such Act is amended by striking out "or lessee", by striking out "or lessors", and by striking out "or lessor" each place it appears.

(c) Section 105(d) of such Act is amended by striking out ", or chapter 5", by striking out "or lessors" each place it appears, and by striking out "or lessor".

(d) Section 121(a) of such Act is amended by striking out "a consumer lease or", and by striking out "or lessor".

(e) Section 121(b) of such Act is amended by striking out "or one lessor as defined in section 181(3)," and by striking out "or lessor" each place it appears.

(f) Section 122(b) of such Act is amended by striking out "or lessor" and by striking out "chapters 4 and 5" and inserting in lieu thereof "chapter 4".

(g) Section 130(a) of such Act is amended by striking out "or 5", by striking out "(i)", by striking out "or (ii) in the case of an individual action relating to a consumer lease under chapter 5 of this title, 25 per centum of the total amount of monthly payments under the lease,", and by striking out "or 5".

(h) Section 130(b) of such Act is amended by striking out "or chapter 5".

(i) Section 130(d) of such Act is amended by striking out "or consumer lease".

(j) Section 130(g) of such Act is amended by striking out "or 5" and by striking out "consumer lease,".

(k) Chapter 5 of title I of the Consumer Credit Protection Act is repealed.

TITLE V—DEPOSIT AVAILABILITY

SHORT TITLE

SEC. 501. This title may be cited as the "Fair Deposit Availability Act of 1984".

DEFINITIONS

SEC. 502. As used in this title—

(1) the term "depository institution" means—

(A) any insured bank or domestic branch as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act, other than a foreign bank having an insured or uninsured branch;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(D) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(F) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act;

(2) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawal accounts, share draft accounts, savings deposits, and share accounts. Such term does not include time deposits;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "check or similar instrument" means a check, negotiable order of withdrawal, share draft, money order, or similar instrument, but does not include noncash items.

DISCLOSURE OF FUND AVAILABILITY POLICIES

SEC. 503. (a) Before opening a deposit account, a depository institution shall provide a written disclosure to the potential customer of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account. A depository institution shall also provide a written disclosure to the potential customer of all fees and charges that can be assessed against deposit accounts. In the case of a deposit account which was opened prior to the effective date of this section, the depository institution shall include such disclosure with the first regularly scheduled mailing pertaining to the account which occurs after such effective date (but not later than 90 days after such effective date) unless the depository institution has provided a disclosure which meets the requirements of this section prior to such effective date.

(b) Each depository institution shall post at each location where its employees receive deposits a clear and conspicuous notice setting forth its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument.

(c) Each depository institution shall—

(1) provide at each automatic or electronic terminal location where deposits may be made a brief reminder that deposits by check or similar instrument may not be available for immediate withdrawal; and

(2) mail at least annually a brief reminder with respect to an account that deposits by check or similar instrument may not be available for immediate withdrawal.

(d) Any change to a depository institution's general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account, or any change in the fees and charges to be assessed against a deposit account other than a change which expedites the availability of such funds, may take effect only after the depository institution has provided notice of such changes to the customer.

(e) Each depository institution shall provide disclosure, consistent with the disclosures required under subsection (a), by telephone of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into a customer's account upon the telephone request of any person.

(f) The Board shall prescribe regulations to carry out this section. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines are necessary to effectuate the purposes of this section, to prevent circumvention or evasion of this section, or to facilitate compliance with this section. The regulations of the Board shall require all disclosures, statements, and notices provided to be clear and conspicuous and in language that can be readily understood.

(g) A depository institution that does not begin to compute interest or dividends on funds deposited by check or similar instrument to an interest bearing deposit account or a time deposit on or before the date on which that depository institution receives provisional credit for the deposit (or if provisional credit is given on a nonbusiness day, the next business day) shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.

(h) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this title requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format.

(i) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

INTEREST ON DEPOSITS

SEC. 504. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument (or if provisional credit is given on a nonbusiness day, on the next business day) unless the computation of interest begins at a later date for all deposits, including cash deposits, made to the account or deposit. Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.

IMPROVED CLEARING PROCEDURES

SEC. 505. (a) Not later than 18 months after the date of enactment of this title, the Board shall publish for comment a regulation for the purpose of improving the check clearing system used by depository institutions by expediting the process for returning checks or other means in order to achieve the goal of—

(1) making deposits of funds by check or similar instrument drawn on local depository institutions available for withdrawal upon the expiration of one business day after deposit, and

(2) making deposits of funds by check or similar instrument drawn on other depository institutions available for withdrawal upon the expiration of three business days after deposit.

This subsection does not apply to any check or similar instrument which poses a serious risk of loss to a depository institution.

(b) In prescribing the regulation under subsection (a), the Board shall consider—

(1) adopting a uniform endorsement standard;

(2) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit;

(3) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(4) providing for return of all checks and similar instruments through the Federal Reserve System's clearinghouse;

(5) extending limits for returns;

(6) establishing schedules for the availability of funds deposited by checks and similar instruments;

(7) prescribing the availability of funds deposited by checks and similar instruments based on the nature of the account to which the deposit was made or the nature of the account holder;

(8) the use of electronic means of collecting and returning checks;

(9) providing for check truncation;

(10) the establishment of an automated return system;

(11) creating incentives for depository institutions to return unpaid items promptly to the depository institution of first deposit; and

(12) keeping the costs of any improvements to be implemented to a minimum.

(c) The regulation prescribed under subsection (a) shall become effective not later than 36 months after the date of enactment of this section. Each depository institution shall comply with the provisions of such regulation.

(d) The Board shall establish an Expedited Funds Availability Council (hereinafter referred to as the "Council") to advise and consult with the Board in the exercise of its functions under this section. The Council shall consist of—

(1) the Comptroller of the Currency or his delegate;

(2) the Chairman of the Federal Deposit Insurance Corporation or his delegate;

(3) the Chairman of the Federal Home Loan Bank Board or his delegate;

(4) the Chairman of the National Credit Union Administration Board or his delegate;

(5) two members of the Consumer Advisory Council designated by the Board;

(6) one representative from the users of payment systems services; and

(7) one representative from the providers of payment systems services in competition with the services offered by the Federal Reserve System.

The Council shall meet from time to time at the call of the Board.

AVAILABILITY OF CERTAIN FUNDS

SEC. 506. The Secretary of the Treasury shall by regulation require that funds deposited by a check drawn on the Treasury of the United States, which is first endorsed for deposit by a customer who has an established relationship, as defined by the Board, with the depository institution shall be available for withdrawal by that customer not later than the date when the depository institution is given provisional credit for that check or, if provisional credit is given on a nonbusiness day, on the next business day.

ADMINISTRATIVE ENFORCEMENT

SEC. 507. (a) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owner's Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the appropriate State regulatory authority shall enforce such requirements.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other authority designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

CIVIL LIABILITY

SEC. 508. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under section 503 (other than subsection (e)), 504, or 506 with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $50 nor greater than $500; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

(b) A depository institution may not be held liable in any action brought under this section for a violation of section 503, 504, or 506 if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

(c) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(d) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

EFFECT ON CHECK ACCEPTANCE POLICIES AND OTHER LAWS

SEC. 509. (a) Nothing in this title—

(1) prevents a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than is provided in this title or in regulations adopted by the Board; and

(2) affects a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check is accepted for deposit and the depository institution has made provisional settlement with the depositor, pursuant to law to—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

(b) Except as provided in subsection (a), the provisions of this title or the regulations of the Board prescribed under this title shall supersede the provisions of any State law which the Board determines to be inconsistent with the provisions of this title or such regulation, but only to the extent of the inconsistency.

IMPROVING PAYMENT MECHANISMS

SEC. 510. Not later than one year after the implementation of any regulations under section 505 of this title, the Board shall prepare a study and submit its findings to the Congress on the effect of improvements and changes in the payments system, including—

(1) the effect of the changes made by section 505 of this title, and the advisability and feasibility of further changes;

(2) an assessment of improvements that can be made in the check collection system,

including improved procedures for the return of unpaid items, reduction of costs, reduction in the number of returned checks, greater speed and efficiency in the check collection and return system, utilization of more efficient technology, and parity of treatment of depository institutions; and

(3) an assessment of the use of electronics in payments and of the need for improvements in the way the payments system provides services so as to insure efficient and affordable services, including the possible development of additional electronic services.

EFFECTIVE DATE

SEC. 511. Except as provided in section 505, this title takes effect upon the expiration of twelve months following its enactment.

TITLE VI—CREDIT DEREGULATION AND AVAILABILITY

SHORT TITLE

SEC. 601. This title may be cited as the "Credit Deregulation and Availability Act of 1984".

BUSINESS AND AGRICULTURAL CREDIT

SEC. 602. (a) Section 511 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 161; Public Law 96-221) is amended to read as follows:

"BUSINESS AND AGRICULTURAL LOANS

"SEC. 511. (a)(1) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of business or agricultural credit, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge, interest at a rate of not more than 5 per centum in excess of the United States Treasury's 3-year constant maturity rate series.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

"(b) As used in this part, the term—

"(1) 'agricultural credit' means credit extended primarily for agricultural purposes to a person that cultivates, plants, propagates, or nurtures an agricultural product;

"(2) 'agricultural purposes' include the production, harvest, exhibition, marketing, transportation, processing, or manufacturing of an agricultural product and the acquisition of farmland, real property with a farm residence and personal property and services used primarily in farming;

"(3) 'agricultural product' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish and any products thereof, including processed and manufactured products and any and all products raised or produced on farms and any processed or manufactured products thereof;

"(4) 'business credit' means credit extended primarily for business or commercial purposes, including investment, and any credit extended to a person other than a natural person; and

"(5) 'credit' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals and other extensions of credit.".

(b) Section 512 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended to read as follows:

"APPLICABILITY

"SEC. 512. (a) The provisions of this part shall apply with respect to business and agricultural credit extended on or after April 1, 1980, and prior to the earlier of July 1, 1987, or a date determined under subsection (b).

"(b) The provisions of this part shall not apply to any business or agricultural credit extended in any State after the effective date (if such effective date occurs on or after April 1, 1980, and prior to three years after the effective date of the Credit Deregulation and Availability Act of 1984) of a State law or a certification that the voters of such States have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to credit extensions subject to the laws of such State, except that such provisions shall apply to any credit extended on or after such effective date pursuant to a commitment to extend such credit which was entered into on or after April 1, 1980, and prior to such effective date.

"(c) Credit shall be deemed to be extended during the period to which the provisions of this part apply if such credit extension—

"(1)(A)(i) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(ii) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(iii) is a renewal, extension, or other modification of an extension of credit made prior to April 1, 1980, and such renewal or extension or other modification is made during such period with the written consent of any person obligated to repay such credit; and

"(B)(i) has an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980 or any amount on or after the effective date of the Credit Deregulation and Availability Act of 1984); or

"(ii) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980 or any amount on or after the effective date of the Credit Deregulation and Availability Act of 1983); or

"(2) is a renewal, extension, other modification or use of a credit agreement or extension made during such period, including an agreement entered during that period that contemplates future extensions of credit from time to time in which the charges that are assessed for or in connection with credit are calculated from time to time, in whole or in part, on the basis of the outstanding balance and the credit is extended not later than eighteen months after the effective date of the State law or certification.".

(c) The Board of Governors of the Federal Reserve System shall conduct a study of the effects of the amendments made by this section on interest rates and on the availability of business and agricultural credit, and shall report its findings to the Congress not later than December 31, 1986.

FEDERAL CREDIT UNIONS

SEC. 603. Section 107(5)(A)(vi) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)) is amended to read as follows:

"(vi) rates of interest shall be established by the board of directors of the Federal credit union;".

EFFECTIVE DATE

SEC. 604. This title shall take effect upon its enactment.

TITLE VII—DEPOSIT BROKERS

SHORT TITLE

SEC. 701. This title may be cited as the "Brokered Deposits Act of 1984".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 702. (a) Section 401 of the National Housing Act (12 U.S.C. 1724) is amended by adding at the end thereof the following:

"(e) The term 'deposit broker' means any person, other than an insured institution or an affiliate thereof in respect of funds placed with that insured institution, which, for a fee, places funds or facilitates the placement of funds of third parties in accounts issued by an insured institution. The term 'deposit broker' shall not include a person in an agency relationship with an insured institution where, as of September 12, 1984, that institution utilized such persons to serve exclusively that insured institution for the purpose of soliciting deposit funds and providing loan applications services for the residents of the State in which the institution is located and where such persons are regulated and examined by the Corporation. The Corporation may issues rules and regulations as necessary to implement this subsection.

"(f) The term 'short-term account' means any savings account which is (1) payable on a certain date less than one year after the date of deposit, (2) payable at the expiration of a specified period less than one year after the date of deposit, (3) payable upon written notice to be given less than one year before the date of repayment, (4) payable one year or more after the date of deposit and which bears interest at a rate indexed to the rate or yield on obligations or loans having a maturity of one year or less, (5) payable upon demand, or (6) a savings account which has no fixed maturity and with respect to which the insured institution must reserve the right to require notice (or the account holder may be required at any time to give notice) of less than one year before any withdrawal is made.".

(b) The National Housing Act is amended by adding at the end thereof the following:

"INSURANCE OF BROKERED DEPOSITS

"SEC. 415. The Corporation may not promulgate any rule or regulation or issue any order or interpretation which would have the effect of causing the deposit insurance available to a person for deposits or accounts placed by or through a deposit broker to differ from the deposit insurance available to such person for deposits or ac-

counts not placed by or through a deposit broker. The Corporation may issue rules and regulations in connection with the deposit insurance available pursuant to this section.

"LIMITATIONS ON BROKERED DEPOSITS

"SEC. 416. (a)(1) On and after the date of enactment of the Brokered Deposits Act of 1984, an insured institution may not accept or maintain short-term insured accounts placed by or through a deposit broker in excess of the lesser of—

"(A) two hundred percent of such insured institution's unimpaired capital and unimpaired surplus; or

"(B) fifteen percent of such insured institution's total deposits.

"(2) Except as provided in subsection (c), an insured institution which fails to satisfy the minimum net worth requirements established by the Board shall not accept any additional insured accounts placed by or through a deposit broker.

"(b) Any accounts held by an insured institution as of the date of enactment of the Brokered Deposits Act of 1984 in excess of the limitations set forth by this section may be held by such insured institution until their stated maturity. For purposes of this section, an account without a fixed or stated maturity shall be deemed to have a maturity of one month from the date of enactment of the Brokered Deposits Act of 1984.

"(c) The Corporation may grant permission to any insured institution, upon notice and application, to have or obtain short-term insured accounts placed by or through a deposit broker in excess of the limitations established by this section. Such permission shall be granted by the Corporation in a flexible manner giving equal weight to both competitive factors and safety and soundness considerations.".

AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 703. (a) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following:

"(u) The term 'deposit broker' means any person, other than an insured bank or an affiliate thereof in respect of funds placed with that insured bank, which, for a fee, places funds or facilitates the placement of funds of third parties with insured banks.

"(v) The term 'short-term deposit' means a deposit which is (1) payable on a certain date less than one year after the date of deposit, (2) payable at the expiration of a specified period less than one year after the date of deposit, (3) payable upon written notice to be given less than one year before the date of repayment, (4) payable one year or more after the date of deposit and which bears interest at a rate indexed to the rate or yield on obligations or loans having a maturity of one year or less, (5) payable upon demand, or (6) a deposit which has no fixed maturity and with respect to which the insured bank must reserve the right to require notice (or the depositor may be required at any time to give notice) of less than one year before any withdrawal is made.".

(b) The Federal Deposit Insurance Act is amended by adding at the end thereof the following:

"INSURANCE OF BROKERED DEPOSITS

"SEC. 28. The Board of Directors may not promulgate any rule or regulation or issue any order or interpretation which would have the effect of causing the deposit insurance available to a person for deposits placed by or through a deposit broker to differ from the deposit insurance available to such person for deposits not placed by or through a deposit broker. The Board of Directors may issue rules and regulations in connection with the deposit insurance available pursuant to this section.

"LIMITATIONS ON BROKERED DEPOSITS

"SEC. 29. (a)(1) On and after the date of enactment of the Brokered Deposits Act of 1984, an insured bank may not accept or maintain short-term insured deposits placed by or through a deposit broker in excess of the lesser of—

"(A) two hundred percent of such insured bank's unimpaired capital and unimpaired surplus;

"(B) fifteen percent of such insured bank's total deposits.

"(2) Except as provided in subsection (c), an insured bank which fails to satisfy the minimum net worth requirements established by the appropriate Federal banking agency shall not accept any additional insured accounts placed by or through a deposit broker.

"(b) Any deposits held by any insured bank as of the date of enactment of the Brokered Deposits Act of 1984 in excess of the limitations set forth by this section may be held by such insured bank until their stated maturity. For purposes of this section, a deposit without a fixed or stated maturity shall be deemed to have a maturity of one month from the date of enactment of the Brokered Deposits Act of 1984.

"(c) The appropriate Federal banking agency may grant permission to any insured bank, upon notice and application, to have or obtain short-term insured deposits placed by or through a deposit broker in excess of the limitations established by this section. Such permission shall be granted by such agency in a flexible manner giving equal weight to both competitive factors and safety and soundness considerations.".

TITLE VIII—FRAUDULENT USE OF CREDIT CARDS AND DEBIT CARDS

FRAUDULENT USE OF CREDIT CARDS

SEC. 801. Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more;

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card;

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards;

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

"(7) in a transaction affecting interstate or foreign commerce, knowingly furnishes, transfers, or obtains a credit card for use in connection with a scheme to defraud a consumer or any other person;

"(8) in a transaction affecting interstate or foreign commerce, with unlawful or fraudulent intent, furnishes, acquires or uses any actual or fictitious credit card account numbers or identification or other access codes, whether alone or together with names of credit card holders, or other information pertaining to a credit card account in any form, and as they may be reflected or retained in any medium; or

"(9) with unlawful or fraudulent intent, possesses five or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards that have moved in, been a part of, or constituted interstate or foreign commerce,

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b)(1) In determining the aggregate value for the purpose of any provision of subsection (a), there shall be included the dollar value of all transactions by a person using one or more credit cards in a course of conduct in violation of such provision.

"(2) As used in this section, the term 'credit card' includes account numbers or any other means of account access that can be used, alone or in conjunction with another means of access to obtain money, goods, services, or any other thing of value.

"(c) Any person who is convicted of a violation of any provision of subsection (a) or section 916 shall, for any subsequent violation of a provision of subsection (a) or section 916, be fined not more than $100,000 or imprisoned not more than 20 years, or both.".

FRAUDULENT USE OF DEBIT CARDS

SEC. 802. (a) Section 916(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693n(b)) is amended by striking out "obtained—" in paragraph (6) and inserting in lieu thereof the following: "obtained; or

"(7) in a transaction affecting interstate or foreign commerce, knowingly furnishes, transfers, or obtains a debit instrument for use in connection with a scheme to defraud a consumer or any other person; or

"(8) in a transaction affecting interstate or foreign commerce, with unlawful or fraudulent intent, furnishes, acquires, or uses any actual or fictitious account numbers or identification or other access codes, whether alone or together with names of account holders, or other information pertaining to a debit instrument in any form, and

as they may be reflected or retained in any medium; or

"(9) with unlawful or fraudulent intent, possesses five or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instruments that have moved in, been a part of, or constituted interstate or foreign commerce—".

(b) Section 916(c) of such Act is amended by inserting after "card, code," the following: "account number, other means of account access (that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other things of value or for the purpose of initiating a transfer of funds (except a transfer originated solely by a paper instrument)),".

(c) Section 916 of such Act is amended by adding at the end thereof the following:

"(d) In determining the aggregate value for the purpose of any provision of subsection (b), there shall be included the dollar value of all transactions by a person using one or more debit instruments in a course of conduct in violation of such provision.

"(e) Any person who is convicted of a violation of any provision of subsection (b) or of section 134 shall for any subsequent violation of a provision of subsection (b) or section 134, be fined not more than $100,000 or imprisoned not more than 20 years, or both.".

TITLE IX—INTERSTATE BANKING

SHORT TITLE

SEC. 901. This title may be cited as the "Interstate Banking Act of 1984".

AMENDMENT TO SECTION 5155 OF THE REVISED STATUTES

SEC. 902. The first sentence of subsection (c) of section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by striking out "and" before "(2)"; and

(2) by inserting before the period the following: "; and (3) within any other State if (A) under the statute laws of the State in which the association is located, State banks are expressly authorized to establish and operate such branches, and (B) under the statute laws of the State in which the association is seeking to establish such branches, State banks located in the State in which the association is located are expressly authorized to establish such branches, subject to restrictions as to location of branches that such State may impose on such out-of-State banks. In determining whether or to what extent to permit establishment or operation of a branch by a bank the principal place of business of which is in another State, a State may allow such branching (i) without restriction, or (ii) on the basis of the location of the States involved, the existence of laws providing for reciprocal treatment of banks located in its State, or other similar conditions".

AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 903. Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by inserting before the period at the end of the next to the last sentence the following: ", and the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be considered to be a State"; and

(2) by inserting before the last sentence thereof the following: "For the purposes of this section, a State may authorize a bank holding company, the banking operations of which are principally conducted in another State, to acquire, directly or indirectly, voting shares of, interest in, or all or substantially all of the assets of a bank located in such State. In determining whether and to what extent to permit such an acquisition by such a bank holding company, a State may allow such acquisition (1) without restriction, or (2) on the basis of the location of the States involved, the existence of laws providing for the reciprocal treatment of bank holding companies located in its State, or other similar conditions. Notwithstanding any other provision of law, the Board may consider and approve an application for approval of a merger or acquisition without regard to the limitations or conditions contained in a State law described in the preceding sentence if—

"(I) the proposed merger or acquisition otherwise meets the requirements of this section, and

"(II) the agreement and plan for the merger or acquisition was dated August 2, 1983.".

AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 904. Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(5)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(5)"; and

(3) by adding at the end thereof the following:

"(B) any proposed merger transaction the result of which will be that an insured bank will operate branches in more than one State unless such transaction is authorized by the laws of the States in which the branches will be operated, except that in determining whether and to what extent to permit such a transaction, a State may allow such a transaction (i) without restriction, or (ii) on the basis of the location of the States involved, the existence of laws providing for the reciprocal treatment of banks located in its State, or other similar conditions.".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 905. (a) Section 407 of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by redesignating subsection (r) as subsection (s); and

(2) by inserting after subsection (q) the following:

"(r) MERGERS INVOLVING MORE THAN ONE STATE.—In considering a reorganization or merger involving insured institutions the principal places of business of which are located in different States, the Corporation shall permit any such reorganization or merger if (1) it is otherwise in conformance with all applicable law, and (2) if the laws of the States in which such insured institutions are principally located expressly permit such a reorganization or merger involving insured institutions located in the States involved or permit establishment or operation of branch offices in the States involved. In determining whether or to what extent to permit such a merger or reorganization or establishment or operation of a branch office by an insured institution, the principal location of which is in another State, a State may permit such reorganization, merger, or branching (i) without restriction, or (ii) on the basis of the location of the States involved, the existence of laws providing for reciprocal treatment of insured institutions located in its States, or other similar conditions.".

(b) Section 408(e)(3) of the National Housing Act (12 U.S.C. 1730a(e)(3)) is amended by inserting new flush language following the end of subparagraph (B) thereof, as follows:

"The Corporation may allow a savings and loan holding company whose operations are principally conducted in a State to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional association located in another State, if the laws of such State expressly permit such acquisition. In determining whether and to what extent to permit such an acquisition by such a savings and loan holding company, a State may allow such acquisition (A) without restriction, or (B) on the basis of the location of the States involved, the existence of laws providing for reciprocal treatment of savings and loan holding companies located in its State, or other similar conditions.".

REPORT

SEC. 906. (a) The President, in consultation with the Attorney General, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, shall transmit a report to the Congress concerning the effect, if any, that this title has had on the financial, economic, and banking environment and on particular banks, bank holding companies, savings and loan associations, and savings banks. There shall be included in this report legislative recommendations as to whether the sunset provisions of section 907 should be allowed to take effect.

(b) The report required by subsection (a) shall be transmitted to the Congress not later than four years after the date of enactment of this title.

SUNSET

SEC. 907. (a) Effective upon the expiration of five years after the date of enactment of this title—

(1) section 5155(c)(3) of the Revised Statutes, as added by section 902 of this title, is repealed;

(2) the last two sentences of section 3(d) of the Bank Holding Company Act of 1956, as added by section 903 of this title, is repealed;

(3) section 18(c)(5)(B) of the Federal Deposit Insurance Act, as added by section 904 of this title, is repealed; and

(4) section 407(r) and that part of section 408(e)(3) of the National Housing Act which was added by section 905 of this title is repealed;

(b) The repeal or termination by subsection (a) of any amendments made by this title shall have no effect on any action taken or authorized while such amendment was in effect. Any bank or other institution the shares or assets of which are acquired in reliance upon the amendments made by this title shall after repeal of the amendments made by this title have the same powers with respect to the establishment of branch offices and merger or consolidation with other institutions, as it would have had if its shares or assets not been so acquired.

TITLE X—MISCELLANEOUS

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 1001. Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

(1) by striking out "(1)" after "(e)";

(2) by redesignating clauses (A) through (D) as clauses (1) through (4), respectively; and

(3) by striking out paragraph (2).

MODEL FORM AMENDMENT

SEC. 1002. Section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Public Law 96-221), is amended by adding at the end thereof the following:

"(h) The Federal Home Loan Bank Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements and to aid the consumer in understanding the transaction. A creditor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.".

AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT

SEC. 1003. (a) The last sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended—

(1) by striking out clause (F) and redesignating clause (G) as (F); and

(2) by inserting "and" at the end of clause (E).

(b) The second sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended by striking out "clause (G)" and inserting in lieu thereof "clause (F)".

PAYMENTS SYSTEM AMENDMENT

SEC. 1004. Section 11A of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(e)(1) In order to provide maximum information to the private sector concerning the service activities of the Federal reserve banks, the Board shall publish prior to the beginning of each calendar year a statement of—

"(A) the approximate timing of generalized price changes expected to take effect during the subsequent year;

"(B) the plans for any significant changes in the services, including new services, provided by the Federal reserve banks that are anticipated to be implemented during the subsequent year; and

"(C) any major initiatives, including significant investments, related to payment services contemplated during the subsequent one to three years.

"(2) The Board shall take all necessary steps to assure that the regulatory responsibilities of the Federal Reserve System with respect to the payments system are determined by the Board itself and not by reserve bank management with responsibilities for the operation of payments services performed by the Federal reserve banks.

"(3) The Board shall establish a Payments System Advisory Council to advise and consult with it or its designated subcommittee in the exercise of its functions under this section. In appointing the members of the Council, the Board shall seek to achieve a fair representation of the interests of providers and users of payments services, including consumers. The Council shall meet from time to time at the call of the Board.

"(4) All depository institutions, as defined in section 19(b)(1), may receive for deposit and as deposits any evidences of transaction accounts, as defined in section 19(b)(1), for the purpose of collecting such items from other depository institutions, as defined in section 19(b)(1), or from any office of any Federal reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.".

NOW ACCOUNT AMENDMENT

SEC. 1005. Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting "political," after "educational,".

AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 1006. (a) Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following:

"(h) It shall be unlawful for an issuer to purchase, directly or indirectly, any of its securities at a price above the market from any person who holds more than 3 per centum of the class of the securities to be purchased and has held such securities for less than two years, unless such purchase has been approved by the affirmative vote of a majority of the aggregate voting securities of the issuer, or the issuer makes an offer to acquire, of at least equal value, to all holders of securities of such class and to all holders of any class into which such securities may be converted.

"(i) It shall be unlawful, during a tender offer for any class of securities of an issuer if (1) with respect to at least 10 per centum of such class, the offer is unconditional, and (2) the offer is made at a price at least 25 per centum greater than the average market price for such securities during the 10 trading days prior to the commencement of the offer, for the issuer to enter into or amend, directly or indirectly, agreements containing provisions, whether or not dependent on the occurrence of any event of contingency, that increase, directly or indirectly, the current or future compensation of any officer or director.".

(b) The amendments made by subsection (a) shall take effect on June 27, 1984.

FEDERAL HOME LOAN BANK BOARD

SEC. 1007. Section 18 of the Federal Home Loan Bank Board Act (12 U.S.C. 1438) is amended by adding at the end thereof the following:

"(d) In accordance with regulations which the Board shall prescribe to prevent conflicts of interest, the Board may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Board members and employees in attending meetings and conferences concerning the functions or activities of the Board. Any payment or reimbursement accepted will be credited to the appropriated funds of the Board. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Board may include in its regulations under this subsection a limitation on such amounts.".

BANK REGULATION STUDY

SEC. 1008. (a) The Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency shall each conduct an independent study of how the risk of bank failures may be reduced. In the course of such study, each such agency shall consider—

(1) changing examination procedures to provide earlier indications of potential financial difficulties;

(2) increasing the amount and quality of required primary capital;

(3) requiring the issuance of subordinated debt as a supplement to primary capital;

(4) placing restrictions on contingent liabilities including loan commitments and stand-by letters of credit;

(5) limiting the extent of any mismatch in the maturities of assets and liabilities;

(6) establishing liquidity requirements commensurate with the volatility of a bank's liabilities and the illiquidity of its assets;

(7) increasing deposit insurance premiums for larger banks to compensate for the implicit guarantee provided for all deposit liabilities;

(8) alternatives to liquidation of troubled banks;

(9) changing liquidation procedures for failed banks; and

(10) other related issues.

(b) A report containing the results of each study shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate not later than six months after the date of enactment of this Act.

CONVERSIONS

SEC. 1009. (a) Section 403 of the National Housing Act (12 U.S.C. 1726) is amended by adding at the end thereof the following:

"(e) If, upon application, and pursuant to a plan of conversion to an institution of a type eligible to be an insured institution, the Corporation, in its discretion, determines to grant insurance of accounts to a savings bank that is an insured bank (as the term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), such insurance shall become effective at such time as the Corporation stipulates, at which time such institution automatically shall lose its status as such an insured bank. No change of deposit insurance agencies from the Federal Deposit Insurance Corporation to the Corporation shall be treated, for the purposes of section 18(i) of the Federal Deposit Insurance Act, as involving a conversion to a noninsured bank or institution, except that the Corporation shall provide the Federal Deposit Insurance Corporation with notification of any application that, if granted, would involve such a change of deposit insurance agencies, shall consult with the Corporation before disposing of the application, and shall provide the Federal Deposit Insurance Corporation with notification of the determination with respect to such application.".

(b)(1) Section 18(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(12)) is amended to read as follows:

"(12) The provisions of this subsection shall not apply to any transaction where the acquiring, assuming or resulting institution is an insured Federal savings bank or an institution insured by the Federal Savings and Loan Insurance Company, except that any insured bank involved in the transaction shall notify the Corporation in writing at least 30 days prior to consummation of the transaction and, if any approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation is required in connection therewith, such approving authority shall provide the Corporation with notification of the application for approval, shall consult with the Corporation before disposing of the application, and shall provide notificatioin to the Corporation of the determination with respect to said application.".

(2) Section 18(i) of such Act is amended by adding at the end thereof the following:

"(5) Nothing in this subsection shall apply to a conversion of an insured bank to an insured institution pursuant to section 403(e) of the National Housing Act (12 U.S.C. 1727 (e)).".

ADJUSTABLE RATE MORTGAGE LIMITS

SEC. 1010. (a). In connection with a residential mortgage transaction of less than $500,000, a creditor shall limit the total mortgages to not more than five percentage points above the initial rate over the term of the loan. As used in this section, the term "residential mortgage transaction" and "creditor" shall be the same as defined in section 103 of the Truth-in-Lending Act.

(b) The Board of Governors of the Federal Reserve Board shall prescribe regulations to carry out this section. Compliance with this section and such regulations shall be enforced as provided in section 108 of the Truth-in-Lending Act.

(c) This section shall take effect on June 1, 1985.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 1011. (a) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured bank', 'mutual savings bank', or 'savings bank' as those terms are defined in section 3 of the Federal Deposit Insurance Act or any bank that is eligible to make application to become an insured bank under section 5 of that Act. Any assets or shares of any such bank that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

(b) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended by adding at the end thereof the following:

"(5) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured institution' as that term is defined in section 401 of the National Housing Act, any institution that is eligible to make application to become an insured institution under section 403 of that Act, or any institution that is a Federal Home Loan Bank 'member' as that term is defined in section 2 of the Federal Home Loan Bank Act. Any assets or shares of any such institution that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

SECURITIES AND EXCHANGE COMMISSION EXECUTIVE COMPENSATION DISCLOSURE REQUIREMENTS

SEC. 1012. (a) The Congress finds that—

(1) the disclosure of detailed information concerning executive compensation provides stockholders and potential investors with valuable information about a company's management;

(2) information regarding management compensation is necessary in evaluating corporate efficiency;

(3) the Securities and Exchange Commission liberalized its rules regarding disclosure of executive compensation in December 1983;

(4) at a time when more specific and meaningful management compensation information should be publicly available, the Securities and Exchange Commission has moved in the direction of requiring less public information; and

(5) the current reporting requirements limit disclosure of cash compensation to executive officers thereby exempting a significant segment of management who may be among the most highly paid, and no longer require disclosure of unexercised stock options or stock appreciation rights, thereby denying the investing public another block of useful information.

(b) It is, therefore, the sense of the Congress that the Securities and Exchange Commission should reinstate the requirements for the disclosure of executive compensation which were in effect immediately prior to December 31, 1983.

DEREGULATION COMMITTEE MEETINGS

SEC. 1013. Section 203 of the Depository Institutions Deregulation and Monetary Control Act of 1984 (12 U.S.C. 3502) is hereby amended by deleting from subsection (b) thereof the following sentence: "The Deregulation Committee shall hold public meetings at least quarterly.".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. May I take a moment to thank all of those involved in this bill, Mr. President. First may I thank the distinguished ranking minority member of the Banking Committee, the Senator from Wisconsin, Senator PROXMIRE. It has been a pleasure for me to serve with him on the Banking Committee for nearly a decade now. He has always been very helpful and very considerate. I wish to thank him for his work on this bill.

I also wish to thank all members of the Banking Committee, both Republican and Democratic members, even though we may have had some disagreements. Senators RIEGLE and SARBANES, although we disagreed on some of the issues, have been extremely active in the committee, willing to work on the issues and inform themselves. I appreciate their participation.

And I appreciate the participation of Senator DODD. Again, we had some disagreements but he certainly has been helpful in the passage of the overall bill.

On my own side, although I would lik to thank all members of the committee, I would particularly like to single out Senator HEINZ and Senator D'AMATO. We had big differences of opinion on this bill, but after the initial sparring, they certainly have been cooperative and helpful in getting the bill to this point.

Senator GORTON, Senator MATTINGLY, and Senator HECHT, although they were not in the forefront of this legislation, it certainly would not have been possible to pass this without their background work in the committee and here on the floor.

Let me not take the time to go through all the staff members who have worked on this bill, but particularly to thank Dan Wall, the majority staff director, and Ken McLean, the minority staff director, and their staffs, for the untold hours they have worked on the bill. If we think we have spent a lot of time here on the floor, they have spent probably 25 hours for every hour we have spent in preparing for this bill to be on the floor.

I wish to express my thanks to all of them and I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I wish to commend the distinguished managers of this bill, Senator GARN and Senator PROXMIRE, for doing what I thought was an impossible job, to tell you the truth. When we got this bill up, I thought the odds were about 50-50 that we would ever pass it. I am delighted to find that that was a vast underestimate. I think Senators GARN and PROXMIRE have done an excellent job, as they always do, even if this bill consumed 6 days, 31 hours of time. My colleague, Senator GARN, would point out that a fair amount of that time was spent in quorum calls and other matters, and he is exactly right. But by any measure, on this important piece of legislation, they handled it with great efficiency.

SENATOR THURMOND CASTS HIS 10,000TH VOTE AS A U.S. SENATOR

Mr. BAKER. Mr. President, I am pleased to announce to the Senate that our distinguished President pro tempore, the senior Senator from South Carolina, Mr. THURMOND, has just cast his 10,000th recorded vote as a U.S. Senator, to which I referred earlier. That, of course, reflects a quantitative achievement in Senate decisionmaking which few in the history of this body have been privileged to reach. More importantly to the people of South Carolina, whom he has represented in the Senate since December 1954, and to the Nation, is the quality of his legislative and constitutent service, and the strength of his leadership.

STROM THURMOND's career has been marked by the bold, decisive actions which have given him a unique place in the history of the U.S. Senate. He was first elected to this body as a write-in candidate in 1954, the first and only U.S. Senator ever to be elected in that manner. Pursuant to a promise made to the people of his State during his 1954 campaign, STROM THURMOND resigned from the Senate on April 5, 1956, in order to place the office in a primary. He won that primary, went on to win the general election in November and resumed his Senate service on November 7, 1956.

Thereafter, he was renominated and reelected to 6-year Senate terms in 1960, 1966, 1972, and 1978. I fully expect that the voters of South Carolina will give him an overwhelming mandate this November to continue his outstanding service for another 6 years.

As Republicans, we are proud to count STROM THURMOND as the senior member of our party in the Senate. Of course, we first had to convert him from the Democratic Party in 1964, the year that another of our esteemed Senate colleagues, BARRY GOLDWATER, bore our party's standard as our candidate for this Nation's highest office. Years before that, however, STROM THURMOND had demonstrated his independence and devotion to principle above party when, out of concern for the extension of Federal power into State responsibilities, he accepted the Presidential nomination of the States Rights' Democratic Party in 1948. The ticket THURMOND headed carried 4 States and received 39 electoral votes in that historic 1948 Presidential election. A change of just 20,000 popular votes in 2 key States would have thrown that election into the House of Representatives.

Upon joining the Republican Party, STROM quickly became a key member of our leadership team, and he has become even more of a respected, central figure in the Senate leadership since 1980 when the electorate effectively gave our party the responsibility of organizing the Senate. STROM THURMOND's efforts to strengthen our national defense, his advocacy for our Nation's veterans, and his unwavering commitment to the principles of federalism and to fiscal responsibility, are legend.

JUDICIARY COMMITTEE CHAIRMANSHIP

His chairmanship of the Judiciary Committee over the past 4 years has produced a list of accomplishments of which he and all Americans can be justly proud. He skillfully guided through the Senate to a unanimous confirmation vote the nomination of Sandra Day O'Connor to be the first woman Supreme Court Justice. He authored a constitutional amendment to require a balanced Federal budget and shepherded it to passage in the Senate 2 years ago, the first time in history that either House of Congress has approved such an amendment by the requisite two-thirds vote.

Earlier this year, he led the Senate through the successful deliberation and passage of what is widely considered to be the finest and most comprehensive package of criminal law reforms passed by either legislative body in the history of this country. That package encompassed many important statutory changes, including bail reform, sentencing guidelines, property forfeiture improvements, insanity defense reform, strengthening of drug enforcement, and other highly desirable provisions. Separate Thurmond bills also passed by the Senate on the heels of the comprehensive crime bill provided for constitutionally valid capital punishment procedures for specified Federal crimes, modification of the exclusionary rule, and reform of collateral habeas corpus review of State court decisions by the Federal courts.

As Judiciary chairman, STROM persevered and ultimately was successful in gaining enactment of legislation to reformulate the Nation's bankruptcy court system and make a number of major substantive changes in bankruptcy law. He oversaw enactment of several landmark pieces of juvenile justice legislation, including the Missing Children's Act in the last Congress and the child pornography bill this year.

Another Thurmond proposal providing stiff Federal criminal penalties for tampering with consumer products with intent to cause harm was enacted into law. Additionally, a Thurmond bill, entitled "The National Productivity and Innovation Act," which amends the Federal antitrust laws to permit joint research and development ventures, hopefully will soon clear Congress.

Under STROM THURMOND's aggressive leadership, the Judiciary Committee has been one of the most active and productive of all Senate committees. In the 97th Congress, Judiciary Committee measures constituted 28 percent of all measures passed by the Senate, and 28 percent of the public bills enacted into law. For the 1st session of this 98th Congress, the Judiciary Committee was responsible for 23 percent of Senate-passed bills and an identical percentage of the public bills enacted into law. The Judiciary Committee also favorably acted upon 289 nominations for positions in the judiciary and executive branches during the 97th Congress, and 65 nominations during the 1st session of the 98th Congress.

OTHER COMMITTEE SERVICE

As the ranking majority member of the Armed Services Committee, STROM THURMOND has emphasized the necessity of rebuilding our national defense and pursuing peace through strength. A retired major general in the Army Reserve, STROM has been an untiring champion of enhancing the readiness and effectiveness of the National Guard and Reserve forces. He is widely regarded as the leading congressional proponent of legislative efforts to improve the military retiree survivor benefit program. During the course of his Senate career, STROM has assisted thousands of military personnel and their families in the resolution of individual problems relating to military service, and he has sponsored numerous measures to promote the well-being of active and retired military personnel and family members.

As the ranking majority member of the Veterans' Affairs Committee, STROM THURMOND has authored many legislative enactments to assist our Nation's veterans in receiving the quality health care, disability compensation, pension benefits, education, and other services they deserve. Among such bills was a measure to establish the position of Assistant Secretary of Labor for Veterans Employment.

Earlier this year, at the request of his Senate Republican colleagues, STROM accepted an appointment to the Labor and Human Resources Committee. Approaching this new Senate assignment in the same active, diligent manner he has accepted all others, STROM has helped shape legislation to improve vocational education and other education programs; promote vocational rehabilitation and other programs to help the handicapped; control alcohol and drug abuse; and assist the aging.

Mr. President, in my judgment, one of the most significant and lasting contributions of STROM THURMOND to the U.S. Senate and the integrity of the Government of these United States was his service as vice chairman of the Special Committee on Official Conduct. I was proud to nominate STROM, a man of impeccable character, as the ranking member of this committee, which produced a code of ethics adopted by the Senate in 1977. All of us can be grateful for the outstanding work he performed in drafting the ethics code for the Senate.

PRESIDENT PRO TEMPORE

Having worked closely with STROM over the years, I have developed a keen admiration for his talents, tenacity, devotion to duty, and sound judgment. STROM THURMOND has assuredly graced this body and further distinguished himself with his service as President pro tempore. I suspect that few, if any, who have been elected by their Senate colleagues to that high constitutional post have approached the duties of the office with more seriousness, enthusiasm, and dedication. As our colleagues are well aware, President pro tempore THURMOND has opened the Senate proceedings each day with dignity and decorum and handled other responsibilities of the office in an able, faithful, and painstakingly thorough manner.

Thus, Mr. President, I wish to take this opportunity to congratulate STROM THURMOND for his outstanding, extensive, remarkable record of statemanship as a U.S. Senator. The number of rollcall votes cast by him has reached a historic milestone. Moreover, his voting record reflects a consistency of attendance, with a cumulative voting percentage of approximately 93 percent. From the time he

cast his first vote on January 14, 1955, in favor of a Senate resolution highlighting Communist subversion, to the vote just recorded, STROM THURMOND has been a great U.S. Senator. I am pleased to pay tribute to him on this occasion today and look forward to his continued service to America for many years to come.

Mr. President, I have not had an opportunity to fully research this, but I put Senator THURMOND in a very special class. I believe I am right in saying that now there are only two Senators in this body who have cast 10,000 votes. They are Senators THURMOND and PROXMIRE. There are two others, I am told, who have cast 10,000 votes, if you combine the rollcalls they have answered to in both the House and the Senate. Those are our two colleagues from West Virginia, the distinguished minority leader, Senator BYRD, and the distinguished Senator from West Virginia, Senator RANDOLPH. But those votes must total the House and Senate. Senator THURMOND and Senator PROXMIRE accumulated their 10,000 votes by service in the Senate alone.

Senators STENNIS and LONG have been here in one case longer than the distinguished Senator from South Carolina, perhaps both of them, but I was greatly surprised when I found, and I believe this is correct though I have not personally verified it, that they have not yet reached that 10,000 mark. I will check that further to make sure that is true. I do not quite understand that anomaly.

In any event, I wish to extend my congratulations once more to the distinguished Senator from South Carolina, or distinguished President pro tem.

Mr. HOLLINGS. Mr. President, I also rise to congratulate my colleague, the Senator from South Carolina [Mr. THURMOND] on casting his 10,000th vote.

Mr. STEVENS. Mr. President, I join in congratulating the senior Senator from South Carolina for having cast his 10,000th vote. I also want to ask the staff to do some additional research. I too was looking into some of the history of the Senate to determine who else had accomplished the same voting mark as the distinguished Senator from South Carolina.

I also have noted that in my service in the Senate, I think he is the President pro tempore who has opened the Senate on more occasions than any other President pro tempore in recent history. I have asked my staff to join other members of the Senate staff here to make inquiry to see if that is correct. I think the Senator from South Carolina has been the most diligent President pro tempore that we have known during my service in the Senate, not to cast any reflection on the previous occupants of that distinguished office. He has seen fit to be present every morning that I have opened the Senate in the absence of the majority leader, to be here at the time the prayer was delivered, which I find to be reassuring.

He takes the time from his busy schedule as chairman of the Judiciary Committee and his other activities to be here to make his office as President pro tempore of the Senate more than an official office. He has made it a working office. I congratulate the Senator for his diligence as a Senator through his long history here in the U.S. Senate.

Mr. BYRD. Mr. President, I compliment the distinguished Senator from South Carolina, but I will wait until Monday because I want to do a little checking of the figures with respect to myself and Mr. RANDOLPH and Mr. PROXMIRE. The distinguished majority leader is correct in what he said, but I want to check those figures. I also want to check the figures on the votes that were cast by the late Senator Scoop Jackson. He had reached a total vote including his House service of something like 11,800-some. He was getting pretty close to 12,000 votes, which I have a feeling is probably the all-time record in the Senate, by including the House rollcall votes, because Mr. Jackson had served in the House for 10 years before he became a Senator. but I will on Monday have something to add for the RECORD. The distinguished Senator from South Carolina will not have cast his 10,001st vote by the time I speak. He will still be in the aura of the 10,000th vote at that point.

Mr. BAKER. Mr. President, just to follow up on what the minority leader said, perhaps I should not have used the figures I did because I have not had a chance to verify them personally. But by any measure the accomplishment of the Senator from South Carolina is extraordinary.

One other extraordinary thing that is brought to my attention is that if you take a 15-minute rollcall times 10,000 votes and translate it into days, that is 104 24-hour days of solid voting, which sort of helps to put the whole thing in perspective. That is a lot of votes and a long time and evidence of great diligence by the Senator from South Carolina.

Mr. THURMOND. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I am happy to yield.

Mr. THURMOND. Mr. President, I take this time to express my deep appreciation to the able majority leader for his kind remarks, and I thank the distinguished minority leader, Senator BYRD, for his kind words, and also the able and distinguished assistant majority leader or as we call him, the whip, for his kind words.

I am not going to make any long speech. I deeply appreciate the friendship of Senators. It has been a pleasure for me to work here for 30 years. I do not know of any finer place to labor than in this U.S. Senate. It has been called the greatest deliberative body in the world. Aside from that, I am convinced it is the most powerful legislative body in the world. When we think about it, the man with the greatest influence under our form of government is the President. Next to him, in my judgment, are the nine Supreme Court Justices, who not only interpret the law but frequently write it or rewrite it. Next to them are the Senators. It is a powerful position that we occupy in this body. Fifty-one Senators can stop any confirmation or approve any confirmation of the President of the United States. Fifty-one Senators can pass or stop any law in this body.

Indeed, it has been a privilege for me to serve in this body and to render the best service of which I was capable to the people of my State and the Nation. Again, I express my deep appreciation to the leaders. I think we have the ablest and the finest leaders, majority and minority, that we have had in the Senate since I have been here. I will deeply regret the departure of our distinguished and beloved majority leader, about which I will have more to say later. But I understand that our distinguished minority leader will be here right on. I thank them for their courtesies to me and thank them for their kindness, their thoughtfulness, and the inspiration they have given me throughout these years.

Mr. BAKER. Mr. President, words cannot express my gratitude to the distinguished President pro tempore for his great remarks. I would be remiss if I did not reciprocate by saying I have never seen in my career in the Senate a man who has handled his duties as President pro tempore with the style of grace and dignity and conscientious dedication as has the Senator from South Carolina. He is a great American, a great statesman. He brings great stature and luster to the U.S. Senate.

TELEVISION AND RADIO COVERAGE OF THE SENATE

Mr. BAKER. Mr. President, I am prepared at this time to propound a unanimous-consent request in respect to the next item of business if the minority leader is prepared to consider it, along with other Senators.

Mr. BYRD. I am prepared.

Mr. BAKER. I thank the minority leader.

Mr. President, as I indicated earlier, it is my desire to move to the consideration of the so-called TV in the Senate resolution. Anticipating that the

motion will be debated, then to file a cloture petition and set the vote for next Tuesday.

UNANIMOUS CONSENT AGREEMENT

Let me put this request, Mr. President.

I ask unanimous consent that upon moving to the consideration of Calendar Order No. 267, Senate Resolution 66, and the filing of a cloture petition to limit debate in respect to that motion, that the vote on the cloture motion occur on Tuesday next at the hour of 6 p.m. with the mandatory quorum prior thereto required by rule XXII be waived.

That is the end of the request, Mr. President.

Mr. LONG. Reserving the right to object, Mr. President, the Senator was correct when he said that the motion to proceed would be debated. The Senator from Louisiana intends to speak to it. There are other Senators who intend to discuss the subject. I do not believe I would object, if I understand the request. The request, I believe, would be that after the petition has been filed that we would go over and we would vote on the motion to proceed to consider the resolution at some point on Tuesday.

Mr. BAKER. To consider the motion to proceed to the resolution, yes, that is correct. May I say to the distinguished Senator from Louisiana and to the minority leader that if this order is entered, it would be the intention of the leadership on this side to ask the Senate to stand in adjournment until Monday next at the hour of 11 o'clock.

Mr. LONG. If the Senator wants to move to something else meanwhile, I would think that could be agreed to, but I would hope that we understand there would be some time to debate the motion to proceed before we vote on it on Tuesday.

Mr. BAKER. I can assure the Senator of that. I will consult with him and, of course, the minority leader, and the distinguished Senator from Maryland, Senator MATHIAS, who will be the manager on this side. We will arrange that to everyone's satisfaction.

Mr. LONG. I will not object.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I am perfectly agreeable to rest on the word of the distinguished leader. I want to be sure, however. As to the convening hour on Monday, the majority leader has indicated that would be 11 a.m. Could we agree, and I think the majority leader said we would work this out, could we agree that there would be a certain number of hours on Monday and on Tuesday for debate of this motion?

Mr. BAKER. Yes, Mr. President, I shall be pleased to do that. That contemplates, I assume, that we might move some other measure and, indeed, that would be the wish on this side. The measure I have in mind is perhaps the so-called trade bill. I would be perfectly happy to do that. Let me amend the request.

Mr. BYRD. Mr. President, may I raise one other point?

Mr. BAKER. Yes, Mr. President.

Mr. BYRD. The majority leader is probably going to shortly propound a request that contains the boilerplate language for adjournment, at which time the motion he has made to proceed will die. The motion will be dead, but the cloture motion itself will bring back before the Senate on Tuesday next the motion to invoke cloture. If it were someone else perhaps who were the majority leader, he could move to go from Thursday over to Monday and then on Monday, after 10 minutes or 5 minutes, move to adjourn over until Tuesday. This is a motion to proceed, so I am not concerned about the filing of amendments in the first degree or second degree.

Would the majority leader be willing to set aside—because, as I say, this motion will have died when we go out tonight—would he be willing to set aside a certain amount of time on Monday and on Tuesday to debate this motion if Senators so wish to debate it, notwithstanding the fact that the motion is not before the Senate on Monday?

Mr. BAKER. Mr. President, I shall be happy to do that. Of course, the minority leader is exactly right. The motion to proceed will die with adjournment. However, it will recur necessarily on the cloture vote on Tuesday, so it dies but it does not die, in effect. The minority leader's point is well taken and I would be delighted to do that. May I inquire if the 2 hours of each day would be adequate for that?

Mr. LONG. I believe that is satisfactory.

Mr. BAKER. Mr. President, I ask unanimous consent that, not withstanding any other action of the Senate, on Monday next and Tuesday next, there be 2 hours of debate to be equally divided and under the control of the distinguished Senator from Maryland, the chairman of the Rules Committee [Mr. MATHIAS] and the distinguished Senator from Louisiana [Mr. LONG] or their designees. I further ask unanimous consent that, absent other arrangements by unanimous consent, those 2 hours occur first after the close of morning business on Monday and Tuesday.

I was trying to set a time for it, Mr. President. I included in the request that the 2 hours thus provided for occur immediately after the close of morning business on Monday and Tuesday. I have provided such time as provided otherwise to occur immediately after the time allocated to the two leaders under the standing order or any special orders that may be provided for.

The PRESIDING OFFICER. Is there objection to that request? The Chair hears none. It is so ordered.

Mr. BAKER. Mr. President, it has been called to my attention that the order of things would be more likely if I provided that the 2 hours for debate on the motion on Tuesday be the last 2 hours for rather than the first 2 hours of that session that day. Therefore, I amend the request so that the 2 hours provided for in the previous order may begin at 4 o'clock and prior to the vote at 6 o'clock on Tuesday next.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. BAKER. I thank the minority leader.

The text of the agreement follows:

Ordered, That on Monday, September 17, 1984, that the first two hours of consideration to follow the expiration of Morning Business, shall occur as if the motion to proceed to the consideration of S. Res. 66, Calendar No. 267, were before the Senate, with that time to be equally divided and controlled by the Senator from Maryland (Mr. Mathias) and the Senator from Louisiana (Mr. Long) or their designees.

Ordered further, That two hours of debate occur on that motion as if it were before the Senate, beginning at 4:00 p.m. Tuesday, September 18, to be divided and controlled in the manner indicated above, and that the cloture vote on the motion to proceed occur at 6:00 p.m. that day, with the mandatory quorum call required by Rule XXII being waived.

Mr. LONG. Mr. President, I wish to designate Mr. FORD to use the time on my behalf on Monday.

Mr. BAKER. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 267, Senate Resolution 66.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 66) to establish regulations to implement television and radio coverage of proceedings of the Senate.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will state the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. Res. 66, a resolution to establish regulations to implement television and radio coverage of the Senate.

Senators HOWARD BAKER, TED STEVENS, STEVE SYMMS, JAKE GARN, PAUL TRIBLE, STROM THURMOND, WARREN RUDMAN, PETE DOMENICI, THAD COCHRAN, SLADE GORTON, CHARLES MAC MATHIAS, JAMES ABDNOR,

LOWELL WEICKER, DAN QUAYLE, MARK ANDREWS, PETE WILSON, JOHN H. CHAFEE, and GORDON HUMPHREY.

ORDERS FOR MONDAY, SEPTEMBER 17, 1984

Mr. BAKER. Mr. President, I now ask unanimous consent that if the Senate adjourns today until Monday, September 17, when the Senate convenes on that date, the reading of the Journal be dispensed with; that no resolutions come over under the rule, that the call of the calendar be dispensed with; and that, following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business not to exceed the hour of 12:30 p.m., with statements therein limited to 5 minutes each; and provided that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY, SEPTEMBER 17, 1984 AT 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, that completes the action on the matter. So that we may conduct other matters, including remarks upon the accomplishments of the President pro tempore, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 11:30 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER (Mr. WILSON. Without objection, it is so ordered.

THE AMERICAN INSTITUTE FOR CONTEMPORARY GERMAN STUDIES

Mr. MATHIAS. Mr. President, recent events in Germany have underscored the importance of the American Institute for Contemporary German Studies, a young and promising private initiative to deepen our understanding of contemporary German affairs and American-German relations. Less than 1 year ago, the institute was established in Washington as an affiliate of the Johns Hopkins University. It is the first center in the United States for systematic research and study of German political and economic developments since World War II.

The chairman of the founding board of distinguished American business leaders and scholars is our former colleague, Donald Rumsfeld, who has served as Secretary of Defense and U.S. Representative to the North Atlantic Treaty Organization, and now president and chief executive officer of G.D. Searle & Co. The institute's vice chairman is Dr. Steven Muller, president of Johns Hopkins. The honorary chairman is John J. McCloy, one of this country's most distinguished public servants who served as High Commissioner for the Federal Republic of Germany shortly after World War II.

The institute will be an outstanding resource for Americans interested in German affairs. It will conduct studies, present informational programs, and assemble a current and complete library of materials on Germany. Most importantly, the institute will help train and develop a new generation of American experts on German issues.

The institute's programs are well underway, its first major research project is a comparative study of how the U.S. Congress and the West German Bundestag deal with modern technological problems.

Over the long run, the strength of our alliance and of our relationship with the Federal Republic must be based on an understanding of German traditions, aspirations, and interests. Both West Germany and East Germany have become stronger over the past two decades, more conscious of their separate identities, and more certain in their relationships with us and other countries. American universities, Government, business, and banking stand in new need of young people who have a deep knowledge and understanding of the changing situation in these states, which are the key to the fate of Europe.

The American Institute for Contemporary German Studies is designed to foster the objective, multidisciplinary scholarship, expertise, and competence on German problems that this country will require. It deserves and will surely gain support from the academic and business communities.

The State of Maryland has benefited in a host of ways from its German heritage that extends over nearly three centuries. During the period of the greatest influence of the German university upon American higher education after our Civil War, Johns Hopkins was founded, in 1876, as the first institution in this country committed to advanced study and research on the German university model. The Hopkins has long conducted many fruitful exchange, study, and research programs involving German institutions and scholars. It is therefore especially fitting that the American Institute for Contemporary German studies has been established in affiliation with a Maryland institution which had such traditions and close bonds with Germany. All of us in Maryland wish it well.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3784. A communication from the Under Secretary of Agriculture for International Affairs and Commodity Programs transmitting, pursuant to law, the annual report of Public Law 480 activities for fiscal year 1982; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3785. A communication from the Secretary of Energy transmitting, pursuant to law, a report on a fiscal year 1980 violation of law resulting from obligation of funds in excess of authority; to the Committee on Appropriations.

EC-3786. A communication from the Director of the Office of Management and Budget transmitting a draft of proposed legislation entitled "Congressional Reports Elimination Act of 1984"; jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget and the Committee on Governmental Affairs.

EC-3787. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to make the basic pay of the Commandant of the Coast Guard comparable to the basic pay of the chiefs of the other armed forces; to the Committee on Commerce, Science, and Transportation.

EC-3788. A communication from the chairman of the Port of Houston, TX Authority transmitting, for the information of the Senate, the 1983 annual report of the Port Authority of Houston; to the Committee on Commerce, Science, and Transportation.

EC-3789. A communication from the Chairman, of the Board of the U.S. Synfuels Corporation, transmitting, pursuant to law, the unaudited quarterly report for the quarter ended June 30, 1984; to the Committee on Energy and Natural Resources.

EC-3790. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States in the 60 days previous to September 6, 1984; to the Committee on Foreign Relations.

EC-3791. A communication from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a proposal to dispose of 2.157 acres of land at the LBJ Space Center, Houston, TX; to the Committee on Governmental Affairs.

EC-3792. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the final version of the ninth annual report of the Corporation; to the Committee on Labor and Human Resources.

EC-3793. A communication from the Secretary to the Railroad Retirement Board transmitting, pursuant to law, the U.S. Railroad Retirement Board's fiscal 1986 budget request to administer the title VII labor protection program; to the Committee on Labor and Human Resources.

EC-3794. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated September 1, 1984; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-3795. A communication from the Secretary of State transmitting, pursuant to law, a report on payments made during the month of August to U.S. creditors by the Commodity Credit Corporation on credits guaranteed by the CCC for which payments had not been received from the Polish People's Republic; to the Committee on Foreign Relations.

EC-3796. A communication from the District of Columbia Auditor transmitting, pursuant to law, a report entitled "Out-of-Town Travel Within the Department of Transportation"; to the Committee on Governmental Affairs.

EC-3797. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report of a new Privacy Act record system submitted by the Defense Mapping Agency; to the Committee on Governmental Affairs.

EC-3798. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to relinquish exclusive legislative jurisdiction over lands or interests under the Secretary's control; to the Committee on Commerce, Science, and Transportation.

EC-3799. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report on the allocations and obligations of funds appropriated to carry out the provisions of the Foreign Assistance Act of 1961 and the Arms Export Control Act; to the Committee on Appropriations.

EC-3800. A communication from the President of the United States transmitting, pursuant to law, a report on his views on the DOD report on the tactical nuclear posture of the North Atlantic Treaty Organization (NATO); to the Committee on Armed Services.

EC-3801. A communication from the President of the United States transmitting, pursuant to law, a report on his views and recommendations on improving NATO conventional defense capabilities; to the Committee on Armed Services.

EC-3802. A communciation from the Acting Assistant Secretary of the Army (Civil Works) transmitting a draft of proposed legislation to amend sections 15, 19, and 20 of the act of March 3, 1899 (33 U.S.C. 409, 414, and 415) to authorize recovery by the United States of costs incurred in removal of wrecks from navigable waters; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 405. A resolution to refer the bill (S. 2761) entitled "A bill for the relief of the White Sands ranchers of New Mexico" to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 98-601).

By Mr. MATHIAS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 3932. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 153. A joint resolution to designate the week beginning October 2, 1983, as "National Children's Week."

H.J. Res. 505. A joint resolution designating the week beginning September 23, 1984, as "National Adult Day Care Center Week."

S.J. Res. 304. A joint resolution to designate the month of October 1984 as "National Quality Month."

S.J. Res. 321. A joint resolution to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Helen M. Eversberg, of Texas, to be U.S. attorney for the western district of Texas for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2990. A bill to amend the Ethics in Government Act of 1978 to provide for more useful and effective disclosure by officials of the legislative, executive, and judicial branches, and for other purposes; to the Committee on Rules and Administration.

By Mr. HEINZ (for himself, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. RIEGLE, Mr. GLENN, and Mr. BYRD):

S. 2991. A bill to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER:

S. 2992. A bill to authorize the Eleventh Airborne Division Association to establish a memorial in the District of Columbia; to the Committee on Energy and Natural Resources.

By Mr. SASSER:

S. 2993. A bill entitled "The Urban Development Action Grant Project Quality Restoration Act of 1984"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER:

S. 2994. A bill entitled "The Urban Development Action Grant Impaction Profile Improvement Act of 1984"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN (for himself, Mr. BENTSEN, Mr. SYMMS, Mr. SASSER, Mr. D'AMATO, Mrs. HAWKINS, and Mr. COCHRAN):

S. 2995. A bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines; to the Committee on Finance.

By Mr. STEVENS:

S. 2996. A bill for the relief of Susan M. Agcaoili; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. CRANSTON, and Mr. DODD):

S. Con. Res. 142. A concurrent resolution calling for the restoration of democracy in Chile; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 2990. A bill to amend the Ethics in Government Act of 1978 to provide for a more useful and effective disclosure by officials of the legislative, executive, and judicial branches, and for other purposes; to the Committee on Rules and Administration.

USEFUL AND EFFECTIVE DISCLOSURE BY GOVERNMENT OFFICIALS

● Mr. LEVIN. Mr. President, I would like to take this opportunity to introduce a bill that would amend the Ethics in Government Act of 1978. The House version of this bill was introduced on May 2, 1984, by Representative JOHN MOAKLEY of Massachusetts, and it is at his request that I am introducing this bill today.

The bill would establish a method for revising various figures under the Ethics in Government Act to accommodate for the effects of inflation. The bill would require that the numerical threshold amounts for reporting be established by regulations that would set amounts in current dollars which approximate 1978 dollar values.

The Ethics in Government Act was passed 6 years ago and set reporting

requirements for certain government official with respect to outside earned income, unearned income, gifts reimbursments, holding, and other matters. However, since its enactment 6 years ago there have been no adjustments made for inflation. Therefore, the minimum threshold figures for reporting and exemptions may now need some adjustment.

This bill is not expected to have any cost. I hope its introduction gives the Senate an opportunity to examine the threshold figures of the act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of this Act, the term "the Act" refers to the Ethics in Goverment Act of 1978 (Public Law 95-521).

LEGISLATIVE BRANCH

SEC. 2. (a) Section 102(a) of the Act is amended—

(1) by striking out "$100 or more in value" in paragraph (1)(A) and inserting in lieu thereof "in excess of the value specified pursuant to section 103(f)(1)";

(2) by striking out "$100 in amount or value" in paragraph (1)(B) and inserting in lieu thereof "the amount or value specified pursuant to section 103(f)(2)";

(3) by striking out "$250 or more in value" in paragraph (2)(A) and inserting in lieu thereof "in excess of the value specified pursuant to section 103(f)(3)";

(4) by striking out "with a fair market value of $35 or less" in paragraph (2)(A) and inserting in lieu thereof "of nominal value as specified pursuant to section 103(f)(4)";

(5) by striking out "$250 or more in value" in paragraph (2)(B) and inserting in lieu thereof "in excess of the value specified pursuant to section 103(f)(5)";

(6) by striking out "with a fair market values of $35 or less" in paragraph (2)(B) and inserting in lieu thereof "of nominal value as specified pursuant to section 103(f)(6)"; and

(7) by striking out "250 or more in value" in paragraph (2)(C) and inserting in lieu thereof "in excess of the value specified pursuant to section 103(f)(7)".

(b) Section 103(f) of the Act is amended by adding at the end thereof the following new sentences: "The designated committee of the House of Representatives and the designated committee of the Senate shall issue regulations on or before March 31 of each odd-numbered year which will establish—

"(1) a minimum value of income subject to reporting under section 102(a)(1)(A), which shall approximate $100 in 1978 dollars;

"(2) a minimum value of income subject to reporting under section 102(a)(1)(B), which shall approximate $100 in 1978 dollars;

"(3) a minimum aggregate value of gifts subject to reporting under section 102(a)(2)(A), which shall approximate $250 in 1978 dollars;

"(4) the fair market value or values to be considered of nominal value for purposes of section 102(a)(2)(A), which shall approximate $135 in 1978 dollars;

"(5) a minimum aggregate value of gifts subject to reporting under section 102(a)(2)(B), which shall approximate $100 in 1978 dollars;

"(6) the fair market value or values to be considered of nominal value for purposes of section 102(a)(2)(B), which shall approximate $35 in 1978 dollars; and

"(7) a minimum aggregate value of reimbursements subject to reporting under section 102(a)(2)(C), which shall approximate $250 in 1978 dollars.

The respective committees shall consult with each other, with the Director of the Office of Government Ethics, and with the Judicial Ethics Committee to assure, to the fullest extent practicable, consistency in any values and amounts established pursuant to this subsection, section 203(g), and section 303(e). Such regulations shall remain effective until revised in accordance with this subsection.".

(c) Rule XLIV of the Rules of the House of Representatives is amended to read as follows:

"Rule XLIV

"FINANCIAL DISCLOSURE

"1. The provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House.

"2. (a) For purposes of section 107(16) of the Ethics in Government Act of 1978, the Committee on Standards of Official Conduct is assigned the responsibility and authority of acting as the designated committee of the House of Representatives, in administering the reporting requirements of title I of such Act.

"(b) The committee shall make the determinations required under section 103(f) of such Act, by regulation, on or before March 31 of each odd-numbered year, and such regulations shall be published in the Record.

"3. (a) The Clerk shall review the records in his custody and, on or before April 15 of each year, transmit to each individual he believes to be subject to the reporting requirements of title I of such Act—

"(1) a financial disclosure form, applicable to the prior calendar year, as prescribed by the committee pursuant to section 103(f) of the Act;

"(2) a copy of regulations promulgated by the committee pursuant to section 103(f) of the Act;

"(3) the text of the Act; and

"(4) any other materials prepared by the committee or the Clerk which the committee determines would be useful to individuals in meeting their responsibilities under the title I of the Act.

"(b) By July 1 of each year, the Clerk shall compile all reports filed with him pursuant to section 101(a) of the Act and have them printed as a House document, which document shall be available to the public.".

(e) Rule XXXIV of the Standing Rules of the Senate is amended to read as follows:

"Rule XXXIV

"PUBLIC FINANCIAL DISCLOSURE

"1. The provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.

"2. (a) For purposes of section 107(16) of the Ethics in Government Act of 1978, the Select Committee on Ethics is assigned the responsibility and authority of acting as the designated committee of the Senate in administering the reporting requirements of title I of such Act—

"(b) The Committee shall make the determinations required under section 103(f) of such Act, by regulation, on or before March 31 of each odd-numbered year, and such regulations shall be published in the Record.

"3. (a) The Secretary shall review the records in his custody and, on or before April 15 of each year, transmit to each individual he believes to be subject to the reporting requirements of title I of such Act—

"(1) a financial disclosure form, applicable to the prior calendar year, as prescribed by the committee pursuant to section 103(f) of the Act;

"(2) a copy of regulations promulgated by the committee pursuant to section 103(f) of the Act;

"(3) the text of the Act; and

"(4) any other materials prepared by the committee or the Secretary which the committee determines would be useful to individuals in meeting their responsibilities under the title I of the Act.

"(b) By July 1 of each year, the Secretary shall compile all reports filed with him pursuant to section 101(a) of the Act and have them printed as a Senate document, which document shall be available to the public.".

EXECUTIVE BRANCH

SEC. 3. (a) Section 202(a) of the Act is amended—

(1) by striking out "$100 or more in value" in paragraph (1)(A) and inserting in lieu thereof "in excess of the value specified pursuant to section 203(g)(1)";

(2) by striking out "$100 in amount or value" in paragraph (1)(B) and inserting in lieu thereof "the amount or value specified pursuant to section 203(g)(2)";

(3) by striking out "$250 or more in value" in paragraph (2)(A) and inserting in lieu thereof "in excess of the values specified pursuant to section 203(g)(3)";

(4) by striking out "with a fair market value of $35 or less" in paragraph (2)(A) and inserting in lieu thereof "of nominal value as specified pursuant to section 203(g)(4)";

(5) by striking out "$250 or more in value in paragraph (2)(B) and inserting in lieu thereof "in excess of the value specified pursuant to section 203(g)(5)";

(6) by striking out "with a fair market value of $35 or less" in paragraph (2)(B) and inserting in lieu thereof "of nominal value as specified pursuant to section 203(g)(6)"; and

(7) by striking out "$250 or more in value" in paragraph (2)(C) and inserting in lieu thereof "in excess of the value specified pursuant to section 203(g)(7)".

(b) Section 203 of the Act is amended by striking out subsection (g) and inserting in lieu thereof the following new subsections:

"(g) The President, after consultation with the Director of the Office of Government Ethics, shall issue an Executive order on or before March 31 of each odd-numbered year which shall establish—

"(1) a minimum value of income subject to reporting under section 202(a)(1)(A), which shall approximate $100 in 1978 dollars;

"(2) a minumum value of income subject to reporting under section 202(a)(1)(B), which shall approximate $100 in 1978 dollars;

"(3) a minimum aggregate value of gifts subject to reporting under section

202(a)(2)(A), which shall approximate $250 in 1978 dollars;

"(4) the fair market value or values to be considered of nominal value for purposes of section 202(a)(2)(A), which shall approximate $35 in 1978 dollars;

"(5) a minimum aggregate value of gifts subject to reporting under section 202(a)(2)(B), which shall approximate $100 in 1978 dollars;

"(6) the fair market value or values to be considered of nominal value for purposes of section 202(a)(2)(B), which shall approximate $35 in 1978 dollars; and

"(7) a minimum aggregate value of reimbursements subject to reporting under section 202(a)(2)(C), which shall approximate $250 in 1978 dollars.

Such Executive order shall remain effective until revised in accordance with this subsection.

"(h)(1) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title, including any current Executive order issued pursuant to subsection (g).

"(2) In advising the President pursuant to subsection (g), the Director of the Office of Government Ethics shall consult with the designated committee of the House of Representatives, with the designated committee of the Senate, and with the Judicial Ethics Committee to assure, to the fullest extent practicable, consistency in the amounts established pursuant to subsection (g), section 103(f), and section 303(e).".

JUDICIAL BRANCH

SEC. 4. (a) Section 302(a) of the Act is amended—

(1) by striking out "$100 or more in value" in paragraph (1)(A) and inserting in lieu thereof "in excess of the value specified pursuant to section 303(d)(1)";

(2) by striking out "$100 in amount or value" in paragraph (1)(B) and inserting in lieu thereof "the amount or value specified pursuant to section 303(d)(2)";

(3) by striking out "$250 or more in value" in paragraph (2)(A) and inserting in lieu thereof "in excess of the value specified pursuant to section 303(d)(3)";

(4) by striking out "with a fair market value of $35 or less" in paragraph (2)(A) and inserting in lieu thereof "of nominal value as specified pursuant to section 303(d)(4)";

(5) by striking out "$250 or more in value" in paragraph (2)(B) and inserting in lieu thereof "in excess of the value specified pursuant to section 303(d)(5)";

(6) by striking out "with a fair market value of $35 or less" in paragraph (2)(B) and inserting in lieu thereof "of nominal value as specified pursuant to section 303(d)(6)"; and

(7) by striking out "$250 or more in value" in paragraph (2)(C) and inserting in lieu thereof "in excess of the value specified pursuant to section 303(d)(7)".

(b) Section 303 of the Act is amended by redesignating subsection (d) as subsection (e) and by inserting immediately after subsection (c) the following new subsection:

"(d) The Committee, with the approval of the Judicial Conference of the United States, shall issue regulations on or before March 31 of each odd-numbered year which shall establish—

"(1) a minimum value of income subject to reporting under section 302(a)(1)(A), which shall approximate $100 in 1978 dollars;

"(2) a minimum value of income subject to reporting under section 302(a)(1)(B), which shall approximate $100 in 1978 dollars;

"(3) a minimum aggregate value of gifts subject to reporting under section 302(a)(2)(A), which shall approximate $250 in 1978 dollars;

"(4) the fair market value or values to be considered of nominal value for purposes of section 302(a)(2)(A), which shall approximate $35 in 1978 dollars;

"(5) a minimum aggregate value of gifts subject to reporting under section 302(a)(2)(B), which shall approximate $100 in 1978 dollars;

"(6) the fair market value or values to be considered of nominal value for purposes of section 302(a)(2)(B), which shall approximate $35 in 1978 dollars; and

"(7) a minimum aggregate value of reimbursements subject to reporting under section 302(a)(2)(C), which shall approximate $250 in 1978 dollars.

The Committee shall consult with the designated committee of the House of Representatives, with the designated committee of the Senate, and with the Director of the Office of Government Ethics to assure, to the fullest extent practicable, consistency in any values and amounts established pursuant to this subsection, section 103(f), and section 203(g). Such regulations shall remain effective until revised in accordance with this subsection.".

PERIODIC REVIEW

SEC. 5. (a) As soon as practicable during the 100th Congress, the committees of the House of Representatives and of the Senate, having legislative jurisdiction for the provisions of the Act, shall conduct oversight hearings with respect to the amendments to the Act made by this Act, and shall report to the respective Houses.

(b) As soon as practicable during the 100th Congress, the committees of the House of Representatives and of the Senate, having legislative jurisdiction for the provisions of the Act, shall conduct oversight hearings with respect to the categories of valuation specified in sections 102(A)(1)(B), 102(c)(1), 202(a)(1)(B), 202(d)(1), 302(a)(1)(B), and 302(d)(1), and shall report legislation making such modifications as such committees deem appropriate. Such committees shall conduct similar reviews not less frequently than once in each ten-year period thereafter.

EFFECTIVE DATE AND TRANSITION PROVISIONS

SEC. 6. The amendments made by this Act shall take effect on January 1, 1985, and shall apply only to reports (including amendments thereto) which cover all or part of the calendar year ending December 31, 1984, or of any subsequent calendar year, except that—

(1) until regulations are first established pursuant to section 103(f) of the Act by the designated committee of the House of Representatives, reports filed pursuant to section 103(a) shall be prepared without regard to any amendments made by this Act;

(2) until regulations are first established pursuant to section 103(f) of the Act by the designated committee of the Senate, reports filed pursuant to section 103(b) shall be prepared without regard to any amendments made by this Act;

(3) until an Executive order is first issued pursuant to section 202(g) of the Act, reports filed pursuant to subsections (a) through (f) of section 203 shall be prepared without regard to any amendments made by this Act; and

(4) until regulations are first established pursuant to section 303(d) of the Act, reports filed pursuant to section 303(b) shall be prepared without regard to any amendments made by this Act.●

By Mr. HEINZ (for himself, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. RIEGLE, Mr. GLENN, and Mr. BYRD):

S. 2991. A bill to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems; to the Committee on Banking, Housing, and Urban Affairs.

COGENERATION ACTIVITIES BY GAS UTILITY HOLDING COMPANY SYSTEMS

Mr. HEINZ. Mr. President, today, I am introducing on behalf of myself, and Senators RANDOLPH, MOYNIHAN, RIEGLE, GLENN, and BYRD, legislation to enable the three registered gas utility holding companies to participate in cogeneration.

In 1978, Congress passed the Public Utility Regulatory Policies Act [PURPA] in response to increasing energy problems. PURPA included incentives for cogeneration activities which were directed to all businesses, to ensure the widest possible utilization of domestic energy resources. However, when Congress passed PURPA, it inadvertently excluded three companies from participating in cogeneration projects. These companies—Consolidated Natural Gas, National Fuel Gas, and Columbia Gas—are the only natural gas companies registered under the Public Utility Holding Company Act of 1935 [PUHCA].

All three companies have operations in Pennsylvania and throughout the Ohio Valley. This region has an energy-intensive base of industry, and thus cogeneration could substantially reduce its industrial energy costs, retain jobs, avoid plant closings, and help fight foreign competition.

Cogeneration reduces an industrial plant's costs by lowering the cost of needed steam or heat through more efficient energy use. These savings occur because cogeneration makes by-product electricity either from what is otherwise waste heat or through more efficient fuel use. The efficiency of the process also yields facilities which are environmentally sound, and which result in reduced air pollution. The resultant cogeneration benefits are passed on to the industrial customer from third-party cogenerators through various mechanisms such as shared fuel savings or steam price markdowns.

Although cogeneration clearly is taking hold in many U.S. regions, this is not the case in Pennsylvania and the Ohio Valley, where we also find it increasingly difficult to compete with growing and mostly foreign competition. There have been more than 100 plant closings in this region over the past 4 years. Cogeneration offers our

heavy industry a chance to become more competitive by reducing an important component of production costs. For example, energy accounts for 30 percent of the materials costs of producing steel, and is an important part of the cost of production of glass, paper, cement, and chemicals.

Current Pennsylvania employment rests on a manufacturing base of 1.1 million jobs, of which some 300,000 are in energy-intensive industries. Over 126,000 jobs are in steel alone. Six large steel mills and additional smaller ones have closed in this region over the last 4 years. Just one cogeneration facility located at a steel plant could help prevent an additional closing and protect 3,000 or more jobs.

However, a given industry cannot always take the lead in developing cogeneration facilities because they require a large capital investment. A cogeneration plant may cost $25 million, in comparison with $1.2 million for a regular steam boiler without cogeneration. While our energy-intensive industries are obviously anxious to reduce their high energy costs, their first order of investment must logically be in areas at the core of their business—such as the improvement or modernization of aging plants and production lines.

The involvement of the three registered gas utilities in cogeneration activities is both seriously needed and eminently logical; 70 to 85 percent of the energy output of a typical cogeneration plant is thermal, not electrical. Thus, cogeneration is a natural outgrowth of the gas industry's thermal knowledge and historic service to its industrial customers. While many cogeneration facilities use natural gas-fired engines or turbines, which are routine in gas pipeline operations, the gas industry's expertise is equally applicable to cogeneration facilities where the fuel source is coal, biomass, or waste fuels.

Mr. President, the registered gas companies, which currently are barred from any cogeneration ownership whatsoever by the oversight I mentioned earlier, appear to have the resources and expertise to assist in the establishment of cogeneration in the Ohio Valley and elsewhere. Their participation could enhance competition for cogeneration projects to the economic benefit of our region and our Nation.

This bill is simple and essentially free standing. It would not amend PURPA; nor would it tamper with any of the broad conceptual issues and safeguards imbedded in both PURPA and PUHCA. The legislation operates principally by allowing the SEC, notwithstanding the limitations in section 11(b)(1) of PUHCA on the operations of registered gas utility holding companies, to permit these companies to participate in cogeneration activities directly or indirectly through subsidiaries. The legislation applies only to those companies.

Finally, the bill does not affect the applicability of the provisions of PUHCA, other than section 11(b)(1), to registered gas utility holding companies. Thus, gas system companies wishing to participate in cogeneration projects will still be subject, for example, to the requirement that they obtain the SEC's permission to acquire assets, securities, or other interests; to the restrictions on intercompany loans and intercompany transactions; and to the requirements of regular reporting and recordkeeping.

Moreover, the SEC will retain the power to investigate and institute enforcement actions and to forbid involvement in any cogeneration or other project which would be detrimental to the public interest, the interests of investors or consumers, or to the proper functioning of the holding company system administered by the SEC.

Mr. President, I urge my colleagues to support this worthwhile legislation which will save energy, protect our environment and help make American industry more competitive.

Mr. GLENN. Mr. President, I am pleased to be an original cosponsor of the legislation introduced today by Senator HEINZ which would permit the last three gas utility holding companies still registered under the Public Utility Holding Company Act of 1935 [PUHCA] to build, own, and operate cogeneration facilities. This legislation is similar to a bill (H.R. 4467) that Representative WALGREN has already introduced in the House.

Under present law, these three companies—Consolidated Natural Gas Co., Columbia Gas System, Inc., and National Fuel Gas Co.—are prohibited from engaging in cogeneration activities because the Securities and Exchange Commission [SEC] has determined that such enterprises are not functionally related to their public utility functions, even though natural gas is often used as a fuel for cogeneration.

In recent years, Congress has sought to encourage and promote cogeneration development as an efficient energy source that is less threatening to our environment than conventional coal or oil-based generating plants. Perhaps the most significant benefit derived from cogeneration is that it reduces industrial energy costs by lowering the cost of steam and electricity through more efficient fuel use, with savings passed on to industrial customers.

Although cogeneration technology has existed since the turn-of-the-century, it is now enjoying almost unbridled growth in this country. Indeed, cogeneration is likely to produce a sizable 7 percent of our Nation's electricity this year, up from just 3 percent in 1981. Industry experts believe that by the year 2000, cogeneration will produce 15 percent of America's power. Much of this growth can be attributed to congressional incentives for the use of cogeneration, such as those embodied in the Public Utility Regulatory Policies Act [PURPA] of 1978.

In the Ohio Valley region, cogeneration offers heavy industry a chance to become more competitive by significantly reducing production costs. Indeed, a recent study by the Department of Energy [DOE] estimated that cogeneration produces average energy savings of 15 to 18 percent for the five major energy-consuming industries. For example, energy accounts for almost 30 percent of the materials cost of producing steel. A substantial decrease of these energy costs would sharply reduce the cost of steel production. Likewise, building supply manufacturers, well-dispersed throughout the Ohio Valley, consume even proportionately higher amounts of energy in assembling their products.

In all, according to another DOE-sponsored report, widespread adoption of cogeneration in the Ohio Valley could potentially save industry $1.29 billion of energy costs per year.

The most immediate impact cogeneration could have for the Ohio Valley is that by bolstering industrial competitiveness, cogeneration could also make a dent in the intolerably high level of unemployment in the region.

Unfortunately, however, the Ohio Valley trails other areas of the Nation in adopting cogeneration techniques. The paucity of development is largely attributable to the high initial costs for cogeneration projects which, for mature industrial companies in the Ohio Valley, are of lower priority than modernizing aging plant and production processes. Many other potential investors, both public and private, simply do not possess the substantial financial resources needed to invest in cogeneration projects.

This last point is of prime importance due to the fact that most of the beneficiaries of cogeneration are industrial or commerical consumers which have no interest in the construction or operation of the cogeneration facility itself. Rather, much of the recent success of cogeneration has been the result of actions undertaken by third-parties. Some reports have indicated that through this decade almost 70 percent of cogeneration plants will be built by third-party owners.

What this amendment aims to do is to allow these last three natural gas utility holding companies still registered under PUHCA to utilize their significant expertise and financial re-

sources in bringing cogeneration technology to the Ohio Valley. This legislation is technical in nature. In no way would it affect or alter the traditional jurisdiction of the SEC. The SEC will continue to retain jurisdiction over the financing of all cogeneration facilities owned by these registered gas utility holding companies. Indeed, it is my understanding that the SEC does not object in principal or policy to the ownership and operation of cogeneration facilities by these registered gas utility holding companies, but only desires to have congressional authorization for this legal interpretation.

In conclusion, this bill is a relatively simple, straight-forward measure which will enable the Ohio Valley region to begin to realize its cogeneration potential and enjoy its benefits like so many other parts of the country have already experienced. It is my hope that this legislation can be acted upon expeditiously before this session of Congress ends.

I also wish to thank both Senator HEINZ and Representative WALGREN for their efforts on behalf of bringing this important matter before Congress.

By Mr. WARNER:

S. 2992. A bill to authorize the 11th Airborne Division Association to establish a memorial in the District of Columbia; to the Committee on Energy and Natural Resources.

ELEVENTH AIRBORNE DIVISION MEMORIAL

Mr. WARNER. Mr. President, I am offering a bill today that would authorize the 11th Airborne Division Association to establish a memorial in the District of Columbia.

This memorial would be established using private funds and would, therefore, not require an appropriation by the Federal Government to erect the monument.

The Army's 11th Airborne Division, also known as the Angels of Liberation, has been distinguished during its history by a variety of significant achievements.

The division, which participated extensively in combat missions throughout the South Pacific during both the Second World War and the Korean war, was the first group of U.S. soldiers to set foot in Japan at the end of World War II.

After World War II ended. The 11th was the first U.S. Airborne Division to be assigned overseas and was the first such division to serve both in the Far East and in Europe.

In 1951, troops of the 11th Airborne Division were the first tactical units to experience an actual atomic bomb blast at close range.

This activity was in conjunction with atomic testing performed to establish the effects of such blasts.

Though the achievements cited thus far are significant, probably the most memorable accomplishment of the 11th and the reason it acquired the nickname "Angels of Liberation" ralates to the rescue mission conducted by the unit in February 1945.

In December 1942, on the island of Luzon in the Philippines, the Japanese established the Los Banos Prison Camp.

The camp initially contained 800 male prisoners of war.

Between December 1942 and February 1945, the number of prisoners in the Los Banos Camp increased to 2,158 and included women and children, as well as men.

Life for the prisoners at Los Banos was extemely difficult and became increasingly so as the war in the Pacific turned against the Japanese.

Initially, meals at Los Banos were served twice a day at 7 a.m. and 5 p.m. The meals included rice and coffee in the morning and in the evening, a ladle of rice and a ladle of stew was provided.

As the war progressed and turned against the Japanese, the meals at Los Banos became increasingly worse.

A rice reduction followed each defeat of the Imperial Army.

During the last month of imprisonment, the prisoners' struggle for survival forced them to eat weeds, flowers, vines, and various insects found in the damp soil.

Deaths in the prison camp increased to two a day in January 1945. Had the rescue not occurred, it was estimated by some that most of the prisoners would have died within a month.

At the time of the rescue, the majority of the prisoners were American, although many different nationalities were included in the prison population.

On the morning of February 23, 1945, the 11th Airborne Division parachuted from nine C-47 aircraft into Los Banos.

The U.S. paratroopers and Filipino guerrillas on the ground managed to force the Japanese guards from the camp.

Within 20 minutes of the original landing, the 2,158 prisoners were evacuated from the camp across Lake Laguna.

Some of the prisoners who left Los Banos that day had been incarcerated for more than 2 years.

Because of the 11th's daring rescue at Los Banos, as well as the division's other achievements—some of which I have highlighted here today—I am sponsoring this bill to authorize the 11th Airborne Division Association to establish a privately funded memorial in the District of Columbia.

I will soon be sending a "Dear Colleague" to each Senator urging cosponsorship of this bill.

Because of the advancing age of many of the individuals associated with the February 1945 rescue, I would ask that the Senate consideration of this bill proceed expeditiously.

By Mr. SASSER:

S. 2993. A bill entitled the "Urban Development Action Grant Project Quality Restoration Act of 1984"; to the Committee on Banking, Housing, and Urban Affairs.

S. 2994. A bill entitled the "Urban Development Action Grant Impaction Profile Improvement Act of 1984"; to the Committee on Banking, Housing, and Urban Affairs.

URBAN DEVELOPMENT ACTION GRANT PROGRAM LEGISLATION

● Mr. SASSER. Mr. President, I am introducing today legislation designed to restore and reinforce the original intent of the Urban Development Action Grant Program, UDAG has enjoyed enthusiastic bipartisan support since its inception in 1977-78 largely because of its highly cost-efficient method of generating development projects in the Nation's distressed cities. I have been among UDAG's strongest advocates, and I am committed to seeing that its potential—as demonstrated in past practice—is realized.

Late in 1983, HUD took a wrong turn with UDAG. The Department initiated a ranking system that obliterates the key cost-efficiency standard of the program. There has been some discussion about the possibility that HUD is using this tactic as a means of killing the UDAG program. I am not sure that assessment is totally fair, even given the history of sporadic budget requests for the program in the past 3 fiscal years. I do believe, however, HUD made a flawed attempt to allocate funds on a rational basis, and that there is a willingness on the part of Secretary Pierce and his staff to rectify past problems with the UDAG allocation process. Senator BAKER and I have spoken with the Secretary on this point, and that is the conclusion we have reached.

The controversy centers around the relative priority given to economic impaction and distress on the one hand, and project quality on the other. The UDAG statute requires that the overall economic status of an applicant be a primary criterion for the award of grant money. All applicants must meet threshold requirements of impaction and distress before being included on the list for ranking of their eligibility. The quality of projects is based largely on the ratio of private capital leveraged per UDAG dollar invested, and on the number of jobs created and maintained, particularly for lower income individuals.

It is the leveraging factor that makes UDAG unique, that makes it uniquely productive and popular, and that has in the past saved UDAG from

the budget ax while other programs were scaled back or eliminated. Under HUD's current formula, the practical effect of the ranking system is virtually to guarantee grant awards to cities with the greatest degree of distress—based on a shaky and dubious premise which I will address in a moment—with no reasonable access to the process for those cities whose applications represent tremendous leveraging and job-creation potential, if those cities do not happen to fit the precise distress profile mandated by the system. The dubious premise of this distress profile is the allocation of fully half of all the grading points to the amount of housing built before 1940. As I have pointed out here on a number of occasions, it is clear to any objective observer that the mere age of housing stock, without regard to its value, it a bogus determinant of the economic status of a neighborhood or its occupants. Thus, the criteria for economic impaction and distress are flawed from within, and they are given inappropriately high—virtually exclusive—priority over project quality.

I understand that some movement on this issue can be expected shortly. There is broad-based support in the Congress, and, I understand, at HUD for reinstating the proper role of cost-efficiency into the UDAG allocation formula. One appropriate means for achieving this result would be to insure that the quality of projects be given approximately half of the grading points used in the ranking system. This would have the effect of improving the productivity of the program, encouraging cities to be more creative and more responsible in crafting their projects, and generally restoring the original intent of the Urban Development Action Grant Program.

I am today submitting S. 2993 and S. 2994, Mr. President, in preparation for any legislative action which may ultimately become necessary if there is insufficient progress on this issue in other quarters. I hope that those of us in the Senate concerned with the inequitability of UDAG's allocation formula can work together in the few days remaining in this session to arrive at a reasonable agreement among ourselves and with the Department of Housing and Urban Development. I hope that it will not be necessary to force these matters to a vote, particularly in view of the crowded legislative schedule ahead of us. I look forward to working with Senator BAKER and others who have expressed an interest in reaching agreement on this important matter, and I remain hopeful of progress in the near future.

I ask unanimous consent that the full texts of both S. 2993 and S. 2994 be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(S) with respect to any grant under this section made on or after the date of enactment of this subsection, the Secretary of Housing and Urban Development shall, in ranking projects according to the priority of receipt of available funds, give substantial weight to the consideration of criteria described in subsection (d)(1)(C); for the purpose of this subsection, 'substantial' shall mean no less than 49 percent."

S. 2994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(S) with respect to any grant under this section made on or after the date of enactment of this subsection, the Secretary of Housing and Urban Development shall, in determining the comparative degree of economic distress among cities eligible for grant assistance under this title, allot no more than one-quarter of the total points allocated for measurement of such distress to the adjusted age of housing as referred to in section 119(d)(1)(A)."●

By Mr. MOYNIHAN (for himself, Mr. BENTSEN, Mr. SYMMS, Mr. SASSER, Mr. D'AMATO, Mrs. HAWKINS, and Mr. COCHRAN):

S. 2995. A bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines; to the Committee on Finance.

TAX TREATMENT OF AIRLINE FRINGE BENEFITS

● Mr. MOYNIHAN. Mr. President, I rise today with my distinguished colleagues, Mr. BENTSEN, Mr. SYMMS, Mr. SASSER, Mr. D'AMATO, Mrs. HAWKINS, and Mr. COCHRAN, to introduce legislation which is both worthy and timely. Similar legislation was introduced yesterday in the House of Representatives, H.R. 6231, by the distinguished Congressman from California, Mr. STARK, and others.

The Tax Reform Act of 1984 maintains the nontaxable status of certain no additional cost services, permitting airlines to continue the time-honored practice of providing free or reduced cost standby air travel to their employees. However, the benefits may be offered on a nontaxable basis only to employees in the airline line of business. The line-of-business rule was adopted to prevent conglomerates from providing employees in one line of business, such as hotels, with benefits from another line, such as car rentals.

These rules have had an unforeseen adverse effect on employees of Pan Am World Services, Inc. Many of these individuals formerly were employees of Pan American World Airways, Inc., and transferred to World Services with no thought that their fringe benefits could become taxable. Pan Am World Services, Inc., does not itself operate an airline, but many of its areas of operation are closely related to aviation, airport, and aerospace activities.

These individuals have committed themselves to specific personal and career paths. This is especially so in the case of retirees. It is inequitable to change the taxation of the standby air travel benefits provided to these individuals.

Although the Tax Reform Act permits an employer to waive the line-of-business limitation by subjecting itself to an excise tax, this mechanism does not provide a solution in this case. Because the great majority of Pan Am World Service, Inc.'s employees are in the airline business, the amount of excise tax imposed would exceed the entire value of the benefits provided to employees outside the airline line of the business.

Mr. President, my bill would provide only a narrow extension of the line-of-business concept to cover Pan Am World Service employees. Most important, the legislation would apply only to persons employed as of September 12, 1984. This grandfather rule would protect only those who had legitimately anticipated the continued nontaxable status of standby air travel benefits, not new employees. The question is one of basic fairness to these American workers. I hope we can act on this legislation quickly.

Mr. President, I ask unanimous consent that the text of the bill appear in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting after subsection (f) the following new subsection:

"(g) DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING AIRLINE.—If, as of September 12, 1984—

"(1) an individual was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of one member of an affiliated group (as defined in section 1504 of such Code) and was eligible for non-additional-cost services in the form of air transportation provided by another member of such affiliated group,

"(2) at least 50 percent of the individuals performing services for the first such corporation were or had been employees of or had previously performed services for the second such corporaton, and

"(3) the primary business of the affiliated group was air transportaton of passengers, then, for purposes of applying paragraphs (1) and (2) of section 132 (a) of the Internal Revenue Code of 1954, with respect to no-

additional-cost services and qualified employee discounts provided for such individual by such other members, the employer of such individual shall be treated as engaged in the same line of business as such other members. For purposes of the preceding sentence and section 132 of the Internal Revenue Code of 1954, an individual who is performing services for the first such corporation who is an employee of the second such corporation shall be treated as also an employee of the first such corporation.".●

● Mrs. HAWKINS. Mr. President, I am pleased to be an original sponsor of S. 2995, a bill to insure that employees of certain affiliates of airline corporations continue to receive tax-free flight privileges to the same extent as employees of the parent corporation. The bill is a response to certain questions which have arisen in relation to the recently enacted Deficit Reduction Act of 1984. In particular, there is some controversy as to whether present employees and retirees of Pan Am World Services, Inc., an affiliate of Pan American involved in the air and aerospace industry in Cape Canaveral and elsewhere around the country, can continue to receive tax-free flight privileges under the 1984 act.

This bill further clarifies what I believe was the obvious intent of Congress in passing the Deficit Reduction Act of 1984—that employees connected with the air and aerospace industry continue to receive tax-free flight privileges. For example, the employees of World Service, Inc. have received such privileges on a tax-exempt basis for decades. It was simply not the intent of Congress to change the tax status of these employees' flight privileges.

Mr. President, many of the affected employees at Cape Canaveral are involved in projects which relate directly to our national security. The provision of flight privileges have helped corporations such as World Services maintain a qualified and stable force of engineers, mechanics, and other support personnel. This bill insures that such employers can retain what have clearly been an effective and successful system of compensation and that employees who have made career decisions based on the availability of flight benefits will continue to receive them.

The employees of Pan American World Services and the unions who represent them have been tremendously concerned over this loss of benefits. Many of them have accepted lower compensation than they would otherwise deserve in return for access to the flight privileges, and these lower wages are incorporated into their union contracts, which do not expire until 1988. Thus failure to enact the legislation will result in a forced reduction of compensation for the more than 3,000 World Service employees in Florida and many additional employees in other parts of the Nation.

Although the hour is late, I would certainly hope we could find a way to enact the legislation this year and avoid this inequity for World Service employees. I will be willing to do all I can to this end, and I am certain the other sponsors will also.●

● Mr. COCHRAN. Mr. President, today I am pleased to join my colleague from New York and others in introducing legislation which will correct an unfortunate inequity in a provision of the recently enacted Deficit Reduction Act.

I refer to section 531, which established new rules for the tax treatment of employee fringe benefits. The act generally permits exclusion from an employee's income of the value of "no-additional-cost" services to those employees who work in the line of business offering such services to the public in the ordinary course of business. The new law also provides that employee fringe benefits exceeding 1 percent of the employer's total payroll will be taxable.

The intent of this new rule is commendable; to prevent multiconglomerates from allowing their employees to receive an unlimited array of tax-free benefits. However, such is not the case in the situation which this legislation addresses. As a result of section 531, 7,700 employees and retirees of Pan Am World Services, Inc., an affiliate of Pan Am World Airways, will effectively be denied benefits on which they have relied for years.

Approximately 450 of these employees and retirees are affiliated with the National Space Technologies Laboratories in Mississippi, which is the test site for certification of the space shuttle engines. These 450 individuals and 1,200 of their dependents have relied for years upon their eligibility for reduced cost standby travel on Pan Am, as provided for decades to Pan Am World Services employees. Significant career and personal decisions have been made based upon their continued eligibility for these benefits. These employees are now in a position where they cannot move on to comparable employment elsewhere or replace these benefits. This is particularly true with regard to retirees of World Services, who are irreparably affected.

The elective grandfather rule in the act provides an inappropriate relief mechanism which will not eliminate the unfair treatment for these retired and current workers. Because the vast majority of Pan Am workers are in the airline business, even modest use of the standby air travel benefit would result in an excise tax which would far exceed the total value of benefits provided to World Services employees. This mechanism ought not to serve as the sole avenue of relief in situations such as Pan Am's, where the group which is concededly eligible for the tax-free benefit is far greater in size than the other employees sought to be included. Indeed, most of the affected individuals in this instance are former airline employees who have been transferred to the subsidiary without any contemplation that their ability to use standby air travel would be endangered.

The legislation offered today would provide transitional relief to those individuals who have made irreversible career and personal decisions in reliance on the continued availability of this benefit. I appreciate the opportunity to join in the effort to address this important issue, and I urge my colleagues on the Finance Committee to bring this measure to the floor before the Senate adjourns in October.●

● Mr. BENTSEN. I am happy to join with my colleagues in introducing this bill to correct an unfair and unintended result of the Deficit Reduction Act of 1984.

The Deficit Reduction Act adds to the Internal Revenue Code for the first time a detailed set of rules governing the taxation of fringe benefits. Our principal intent in enacting this set of rules was to make it clear once and for all that customary fringe benefits received by employees are not subject to income taxation. For years, the Treasury Department had proposed to tax fringe benefits, and the Congress had repeatedly enacted legislation precluding action by Treasury. This year we felt it was time to set forth the tax-free status of fringe benefits in the Code.

Another purpose of codifying the fringe benefit provisions in the Code was to put an end to certain practices felt to be improper. Thus, we inserted a nondiscrimination standard into the law, so that employers cannot deprive lower-paid employees of the same fringe benefits offered to those higher on the ladder. We also put limits on the extent to which employees can receive as a fringe benefit free or discounted goods or services that are outside the employees' line of business. What we did not intend to do in enacting the new rules was to cut back on legitimate benefits that current employees are enjoying. Rather, we made every effort to enact reasonable transition rules and exceptions to protect existing arrangements.

Unfortunately, we were not aware of the situation of the employees of Pan Am World Services. That company is an affiliate of Pan Am World Airways, and for years its employees have received airline passes as a fringe benefit. Those passes have been a significant inducement to the employees to work for the company—the passes have been available both during years of employment as well as during retirement. Many employees have worked long years for the company in

the expectation of receiving the passes during retirement. And many of the employees have transferred to the company in recent years from Pan Am World Airways, in the expectation that airline passes would continue.

The new fringe benefit rules will cause the airline passes received by the employees of Pan Am World Services to be treated as taxable income. This is so because of the line-of-business requirement in the new rules. As a result, the company almost certainly will cancel the passes rather than either follow all the expensive record-keeping and withholding requirements associated with the payment of taxable compensation or pay the new excise tax set forth in the new rules.

The bill that my colleagues and I introduce today will simply provide a fair and reasonable grandfather rule for Pan Am World Services. The amendment will permit the current employees of the company to continue to receive airline passes tax free. The bill will not apply to new employees—new employees will join the company with the knowledge that the company may not provide them with free airline passes. I think the bill is a fair solution to an unfair problem caused by the Deficit Reduction Act, and I hope we can act on the measure in this session.●

● Mr. SYMMS. Mr. President, I am pleased to be able to join my colleagues in cosponsoring legislation which will correct an inequity that has been caused by provisions which were enacted in the Deficit Reduction Act of 1984.

The Deficit Reduction Act of 1984 put into statute many of the nonstatutory fringe benefits that were a cause of considerable consternation since the mid-1970's. However, while clarifying this matter, we also changed the rules for employees and retirees who joined or worked for an organization based on a different set of rules. These changes have had a particularly adverse impact on airline personnel who are currently employees or retirees of affiliated corporations.

Under the proposal being advanced today, an individual who on the date of enactment was performing services for one member of a corporate group and was eligible for nontaxable air travel benefits provided by a corporate affiliate would continue to be eligible to treat the benefits as nontaxable if two conditions are met. First, the primary business of the group as of the date of enactment must be air transportation of passengers. Second, at least 50 percent of the persons performing services on the date of enactment for the member of the group for which the individual is currently performing services must have been employees of or previously have performed services for the group's airline affiliate.

It is my hope that this transition rule can eventually be seriously considered by the Congress because the affected individuals have relied on the continuing availability of nontaxable standby air travel benefits. In many cases, this expectation has resulted in these individuals making personal and career decisions, which cannot be changed, particularly in the case of retirees. Individuals who formerly were employed in the airline line of business have been transferred to other lines of business, only to discover that in their future employment in the group and in their retirement they will be ineligible for tax-free treatment of standby air travel benefits.●

By Mr. STEVENS:

S. 2996. A bill for the relief of Susan M. Agcaoili; to the Committee on the Judiciary.

RELIEF OF SUSAN M. AGCAOILI

Mr. STEVENS. Mr. President, I would like to voice my support for the private relief bill I now introduce for referral to the appropriate Senate committee. This bill is designed to grant permanent residency in the United States to Susan M. Agcaoili, the daughter of the late Mr. Jose B. de Mesa. Mr. de Mesa served honorably on behalf of the Allied Forces in the Philippines during World War II. In return for this service, Mr. de Mesa was promised U.S. citizenship for himself and his family. Specifically, this body passed the Second War Powers Act of 1942 expressly to liberalize the requirements for citizenship for those aliens, such as Mr. de Mesa, who served honorably on behalf of the Allied cause. Based on this promise, Mr. de Mesa had a dream of uniting his family in America as U.S. citizens. However, due in large part to an incomplete effort in implementing the legislation, Mr. de Mesa never received his U.S. citizenship.

Mr. de Mesa's wife, Mrs. Lourdes de Mesa, has since relocated in the United States and became a U.S. citizen through naturalization. She has continued to pursue her late husband's dream of uniting their family in America as U.S. citizens. Her hope of fulfilling her and her late husband's dream is quickly waning. Visa availability for the fourth preference category for adult children is backlogged for years in the Philippines, so it is unlikely that Mrs. de Mesa will ever be able to truly achieve the objective she and her husband intended many years ago.

Passage of this bill will enable the United States of America to fulfill its promise to Jose B. de Mesa: eventual American citizenship for his family in return for his having served honorably on behalf of the Allied cause during World War II.

Mr. President, I ask unamimous consent that the bill be printed in the RECORD following my remarks, and I thank to Senate for its consideration in this matter.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Immigration and Nationality Act, in the administration of such Act, Susan M. Agcaoili shall be issued a visa and admitted to the United States for permanent residence upon filing an application for a visa and payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202 of such Act.

ADDITIONAL COSPONSORS

S. 2189

At the request of Mr. ABDNOR, the names of the Senator from Alaska [Mr. STEVENS] was added as cosponsor of S. 2189, a bill to authorize the Secretary of the Interior to construct, operate and maintain the central South Dakota water supply system (CENDAK unit) Pick-Sloan Missouri Basin Program, SD.

S. 2258

At the request of Mr. MOYNIHAN, the names of the Senator from Arizona [Mr. GOLDWATER] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

S. 2644

At the request of Mr. JEPSEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as cosponsor of S. 2644, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity—resulting from changes made in 1977 in the benefit computation formula—between those levels and the benefit levels of persons who became eligible for benefits before 1979.

S. 2768

At the request of Mr. MATHIAS, the name of the Senator from New York [Mr. MOYNIHAN] was added as cosponsor of S. 2768, a bill to provide for the education in the United States of certain students of limited financial means from developing countries.

S. 2770

At the request of Mr. MELCHER, the name of the Senator from Oklahoma [Mr. BOREN] was added as cosponsor of S. 2770, a bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes.

S. 2833

At the request of Mr. ABDNOR, the name of the Senator from Ohio [Mr. METZENBAUM] was added as cosponsor of S. 2833, a bill to limit to the national median family income the amount of farm loss which may be deducted against nonfarm income by high income taxpayers in competition with full-time, family-sized farm operators.

S. 2927

At the request of Mr. GRASSLEY, the names of the Senator from Missouri [Mr. EAGLETON], the Senator from Hawaii [Mr. INOUYE], the Senator from Michigan [Mr. LEVIN], the Senator from Maine [Mr. MITCHELL], and the Senator from West Virginia [Mr. RANDOLPH] were added as cosponsors of S. 2927, a bill to amend title 5 of the United States Code regarding the authority of the Special Counsel.

SENATE JOINT RESOLUTION 262

At the request of Mr. PACKWOOD, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 262, a joint resolution to designate March 16, 1985, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 331

At the request of Mr. DANFORTH, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Joint Resolution 331, a joint resolution to require the Interstate Commerce Commission to consider certain indicators in determining the revenue adequacy of railroads, and for other purposes.

SENATE JOINT RESOLUTION 343

At the request of Mr. JEPSEN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Connecticut [Mr. DODD], and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of Senate Joint Resolution 343, a joint resolution to designate the week of September 16, 1984, through September 22, 1984, as "National Independent Free Paper Week."

SENATE JOINT RESOLUTION 346

At the request of Mr. LEVIN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from New York [Mr. MOYNIHAN], the Senator from California [Mr. CRANSTON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate the year of 1985 as the "Year of the Teacher."

SENATE JOINT RESOLUTION 351

At the request of Mr. SASSER, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become "Big Brothers" and "Big Sisters" to youth in need of adult companionship.

SENATE RESOLUTION 122

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Resolution 122, a resolution expressing the sense of the Senate that the President should reduce imports of apparel so that imported apparel comprises no more than 25 percent of the American apparel market.

SENATE RESOLUTION 431

At the request of Mr. DIXON, the names of the Senator from North Dakota [Mr. ANDREWS] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Resolution 431, a resolution relating to Canadian pork imports.

SENATE RESOLUTION 433

At the request of Mr. RIEGLE, the names of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Resolution 433, a resolution to congratulate the U.S. athletes who have participated in the games of the XXIII Olympiad and urge enactment of the Senate bill relating to the clarification of certain equal opportunity laws.

SENATE RESOLUTION 436

At the request of Mr. PELL, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], and the Senator from West Virginia [Mr. RANDOLPH] were added as cosponsors of Senate Resolution 436, a resolution to commemorate the 100th anniversary of the Naval War College in Newport, RI.

SENATE CONCURRENT RESOLUTION 142—RELATING TO DEMOCRACY IN CHILE

Mr. KENNEDY (for himself, Mr. CRANSTON, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 142

Whereas September 11, 1984, marks the 11th anniversary of the establishment of military rule in Chile;

Whereas on September 11, 1973, a military coup led by General Augusto Pinochet overthrew the constitutionally elected government of Salvador Allende and brought about the collapse of democratic institutions in Chile;

Whereas in the months following the September 1973 coup, up to 25,000 Chileans were killed by the regime of President Pinochet;

Whereas the government of Augusto Pinochet has been linked by U.S. investigators to acts of terrorism and assassination in Argentina, Italy, and the United States, and was found "legally culpable" by a U.S. Federal District Court Judge for the September 21, 1976, murders of former Chilean Ambassador Orlando Letelier and Ronni Moffitt;

Whereas only a fraction of the nearly 30,000 Chileans exiled by the Pinochet regime since the 1973 coup have been allowed to return to their country;

Whereas Amnesty International has noted that in recent years there has been a marked deterioration in the human rights situation in Chile, demonstrated by a consistent pattern of arbitrary detention, political imprisonment and killings, and systematic torture;

Whereas Amnesty International, the International Commission of Jurists, the United Nations Human Rights Commission Ad Hoc Working Group of Chile, the United Nations General Assembly, and the Organization of American States Commission on Human Rights have stated that the regime of Augusto Pinochet has violated basic human rights and political freedoms in Chile since the military coup of 1973;

Whereas the present Chilean constitution grants executive authority to Augusto Pinochet until 1989 and allows for delays in popular elections until 1998;

Whereas between June 1983 and September 1984, 106 persons were killed by the Chilean Armed Forces during public demonstrations of opposition to the regime of Augusto Pinochet, and thousands more were arrested, mostly from working-class neighborhoods;

Whereas national protests to the military dictatorship this September 4 and 5 demonstrated once again the desire of the people of Chile for a return to democracy;

Whereas General Augusto Pinochet has stated publicly that "I don't have confidence in orthodox democracy," and asserts that the relationship between Chile and the United States has never been better; and

Whereas it is the purported aim of the Reagan Administration to restore democracy to Latin American nations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

(1) That the U.S. Congress supports the Chilean people in their efforts to end the military dictatorship and bring about the immediate restoration of democratic institutions and human rights in Chile; and

(2) That until Chile returns to its long tradition of democratic procedures and institutions——

(A) the United States should continue to deny any and all military assistance directly or indirectly to the government of Augusto Pinochet;

(B) the United States should also deny all economic assistance to the government of

Chile, including Export-Import Bank and Commodity Credit Corporation guarantees and loans; and

(C) as mandated under section 701(f) of the International Financial Institutions Act of 1977, the United States should oppose all loans and grants to Chile by international financial institutions such as the Inter-American Development Bank, the International Bank for Reconstruction and Development, and the International Development Association, unless such assistance is directed specifically to programs which serve the basic human needs of the people.

Mr. President, today I am proud to offer with Senators CRANSTON and DODD in the Senate and Representative WEISS and others in the House, a concurrent resolution calling for the restoration of democracy in Chile.

One year ago we introduced a similar resolution to mark the 10th anniversary of the brutal military coup in Chile. September 11 was the 11th anniversary of that coup. In the past year, the situation in Chile has become worse instead of better. Earlier this month nine persons, including a French priest, died during the Pinochet regime's violent suppression of demonstrations peacefully calling for a return to democracy. The Chilean people's unceasing desire for a return to democracy and freedom is more evident than ever, as is the need for the United States to distance itself from the repressive and brutal dictatorship of General Pinochet. General Pinochet should not be heard to say, as he did to the New York Times in August, that Chile's relations with the United States have never been better.

Our resolution provides that, until Chile returns to its long tradition of democratic government and institutions, the United States should deny all military and economic assistance to the Pinochet Government—except for humanitarian aid to the people of Chile on a nongovernmental basis.

AMENDMENTS SUBMITTED

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

KENNEDY (AND PACKWOOD) AMENDMENT NOS. 4107 AND 4108

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. PACKWOOD) submitted two amendments intended to be proposed by them to an amendment to the bill (S. 2851) to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes; as follows:

AMENDMENT No. 4107

In lieu of the matter proposed to be inserted, insert the following:

TITLE XII—CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. 1201. This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. 1202. (a) The matter preceding clause (1) of section 901 (a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) For the purpose of this title, the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education"; and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act is amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu thereof "so found".

(3) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. 1203. (a) Section 504 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) For the purpose of this section, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. 1204. (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

(b) Section 303 of the Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(c)(1) Section 304(a)(4) of the Act is amend-ed by striking out "to any program or activity".

(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", in the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu thereof "operations of the recipient"; and

(C) by striking out "of such program or activity" in clause (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

(3) Section 304(c)(1) of the Act is amended by striking out "any program or activity receiving".

(d)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

(2)(A) The second sentence of section 305(b) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(4) the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. 1205. (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" in clause (1) and inserting in lieu thereof "so found".

(c) Title VI of the Act is amended by adding at the end thereof the following new section:

"SEC. 606. For the purpose of this title, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

EFFECT ON AGENCY REGULATIONS

SEC. 1206. The term "recipient" shall not be construed to include any entity which would not have been a recipient under agency regulations in effect on February 27, 1984, or to exclude any entity which would have been a recipient under agency regulations in effect on February 27, 1984.

AMENDMENT NO. 4108

In lieu of the matter proposed to be inserted, insert the following:

TITLE XII—CIVIL RIGHTS ACT OF 1984

SHORT TITLE

SEC. 1201. This title may be cited as the "Civil Rights Act of 1984".

PROHIBITION OF SEX DISCRIMINATION

SEC. 1202. (a) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) For the purpose of this title, the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

(c)(1) The first sentence of section 902 of the Act is amended—

(A) by striking out "to any education program or activity" and inserting in lieu thereof "for education"; and

(B) by striking out "such program or activity" and inserting in lieu thereof "recipients".

(2) The third sentence of section 902 of the Act is amended—

(A) by striking out "under such program or activity";

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" and inserting in lieu thereof "so found".

(3) Section 903 is amended by striking out "1002" and inserting in lieu thereof "902".

NONDISCRIMINATION ON THE BASIS OF HANDICAPPING CONDITION

SEC. 1203. (a) Section 504 of the Rehabilitation Act of 1973 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "his" and inserting in lieu thereof "such individual's";

(2) by striking out "in" the third time it appears;

(3) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(4) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of"; and

(5) by striking out "under any program or activity conducted".

(b) Section 504 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) For the purpose of this section, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

(c) Section 505(a)(2) of the Act is amended by inserting ", as amended," after "1964".

PROHIBITION OF AGE DISCRIMINATION

SEC. 1204. (a) Section 302 of the Age Discrimination Act of 1975 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in programs or activities receiving" and inserting in lieu thereof "by recipients of"; and

(2) by striking out "programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)" and inserting in lieu thereof "recipients of funds under chapter 67 of title 31, United States Code".

(b) Section 303 of the Act is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits";

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(c)(1) Section 304(a)(4) of the Act is amended by striking out "to any program or activity".

(2) Section 304(b)(1) of the Act is amended—

(A) by striking out ", in the program or activity involved";

(B) by striking out "operation" in clause (A) and inserting in lieu thereof "operations of the the recipient"; and

(C) by striking out "of such program or activity" in clause (A) and inserting in lieu thereof "in furtherance of which the Federal financial assistance is used".

(3) Section 305(c)(1) of the Act is amended by striking out "any program or activity receiving".

(2)(1) Section 305(a)(1) of the Act is amended by striking out "under the program or activity involved".

(2)(A) The second sentence of section 305(b) of the Act is amended by striking out "the particular program or activity, or part of such program or activity, with respect to which such finding has been made" and inserting in lieu thereof "assistance which supports the noncompliance so found".

(B) The third sentence of such section is amended to read as follows: "No such termination or refusal shall be based in whole or in part on any finding with respect to any noncompliance which is not supported by such assistance.".

(3) Section 305(e)(1) of the Act is amended by striking out "Act by any program or activity receiving Federal financial assistance" and inserting in lieu thereof "title".

(e) Section 309 of the Act is amended by—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(4) the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

NONDISCRIMINATION BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

SEC. 1205. (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of".

(b)(1) The first sentence of section 602 of the Act is amended by striking out "program or activity" each time it appears and inserting in lieu thereof "recipient" each such time.

(2) The third sentence of section 602 of the Act is amended—

(A) by striking out "under such program or activity" in clause (1);

(B) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time;

(C) by striking out "program, or part thereof, in which" in clause (1) and inserting in lieu thereof "assistance which supports"; and

(D) by striking out "has been so found" in clause (1) and inserting in lieu thereof "so found".

(c) Title VI of the Act is amended by adding at the end thereof the following new section:

"SEC. 606. For the purpose of this title, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit.

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.".

KENNEDY (AND PACKWOOD) AMENDMENT NO. 4109

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. PACKWOOD) submitted an amendment intended to be proposed by them to amendment No. 3762 to the bill S. 2851, supra; as follows:

On page 7, after line 21, add the following:

EFFECT ON AGENCY REGULATIONS

SEC. 1206. The term "recipient" shall not be construed to include any entity which would not have been a recipient under agency regulations in effect on February 27, 1984, or to exclude any entity which would have been a recipient under agency regulations in effect on February 27, 1984.

HATCH AMENDMENTS NOS. 4110 THROUGH 4139

(Ordered to lie on the table.)

Mr. HATCH submitted 30 amendments intended to be proposed by him to amendment No. 3762 proposed by Mr. KENNEDY (and Mr. PACKWOOD) to the bill S. 2851, supra; as follows:

AMENDMENT No. 4110

On page 2 strike lines 9 through 12.

AMENDMENT No. 4111

On page 7 line 20 strike the words "support from" and insert in lieu thereof the words "Federal financial assistance through".

AMENDMENT No. 4112

On page 6 line 8 strike the words "support from" and insert in lieu thereof the words "Federal financial assistance through".

AMENDMENT No. 4113

On page 6 line 1 strike the word "and" and strike lines 2 through 5.

AMENDMENT No. 4114

On page 6 line 7 strike the words "entity or a person" and insert in lieu thereof the word "recipient".

AMENDMENT No. 4115

On page 4 line 1 strike the words "support from" and insert in lieu thereof the words "Federal financial assistance through".

AMENDMENT No. 4116

On page 3 line 34 strike the words "entity or a person" and insert in lieu thereof the word "recipient."

AMENDMENT No. 4117

On page 6 line 5 add after the comma "except not withstanding any person or entity not covered under provisions of the previous law."

AMENDMENT No. 4118

On page 5 line 33 strike out "including" and insert in lieu thereof "excluding".

AMENDMENT No. 4119

On page 5 line 16 change the period to a comma and add "providing that any recipient of such assistance charged with noncompliance has not presented evidence or explanation contrary to such charge of noncompliance."

AMENDMENT No. 4120

On page 5 line 12 change the period to a comma and add "as substantiated only on grounds that recipient has failed to refute such charges of noncompliance."

AMENDMENT No. 4121

On page 6 delete all language in lines 17-18.

AMENDMENT No. 4122

On page 6 delete all language between lines 19-21 inclusive.

AMENDMENT No. 4123

On page 6, line 9 change the period to a comma and add "except notwithstanding any person or entity not covered by provisions of the previous law."

AMENDMENT No. 4124

On page 2, line 9 add the words "of federal financial assistance" between the words "transferee" and "of".

AMENDMENT No. 4125

On page 2, line 14, strike the words "entity or a person" and insert in lieu thereof the word "recipient".

AMENDMENT No. 4126

On page 2, line 14, beginning with ", or which" delete everything through the word "subunits." on line 16.

AMENDMENT No. 4127

On page 3, line 29, between the words "of" and "any" insert the following:

"federal financial assistance from".

AMENDMENT No. 4128

On page 3, line 34, strike the words "entity or a person" and insert in lieu thereof the word "recipient".

AMENDMENT No. 4129

On page 6 delete all language between lines 22-25 inclusive.

AMENDMENT No. 4130

At the end of the amendment add the following new section: "Notwithstanding any other provision of this act, no individual who is engaged in the business of farming and no corporation that is principally engaged in the business of farming shall be deemed to be a recipient under this Act if such individual or corporation does not receive direct federal financial assistance or if such individual or corporation is the ultimate beneficiary of any such assistance."

AMENDMENT No. 4131

At the end of the amendment, add the following new section:

"Notwithstanding any other provision of this Act, no State or local commission or board which is engaged in the licensing of persons in occupations for which such licenses are required shall be deemed to be a recipient under this Act unless such commission or board receives direct federal financial assistance."

AMENDMENT No. 4132

At the end of the amendment, add the following new section:

"Notwithstanding any other provision of this Act, federal financial assistance shall not include reduced mailing rates allowed to

qualified educational, charitable, or other non-profit organizations".

AMENDMENT No. 4133

On page 3, line 28, strike the word "and" and strike lines 29 through 32.

AMENDMENT No. 4134

On page 7, line 13, strike the word "and" and strike lines 14 through 17.

AMENDMENT No. 4135

At the end of the amendment, add the following new section:

"Notwithstanding any other provision of this Act, no business employing fewer than 15 persons shall be deemed to be a recipient under this Act if such business does not receive direct federal financial assistance or if such business is the ultimate beneficiary of any such assistance."

AMENDMENT No. 4136

At the end of the amendment, add the following new section:

"Notwithstanding any other provision of this Act, no pharmacy or other commercial establishment shall be deemed to be a recipient under this Act because such pharmacy or establishment fills prescriptions paid for in part or in full through the medicare or medicaid program."

AMENDMENT No. 4137

On page 2, line 14, strike the words "entity or a person" and insert in lieu thereof the word "recipient".

AMENDMENT No. 4138

On page 2, line 15, strike the words "support from" and insert in lieu thereof the words "Federal financial assistance through".

AMENDMENT No. 4139

On page 7, line 19, strike the words "entity or a person" and insert in lieu thereof the word "recipient".

DeCONCINI AMENDMENT NO. 4140

(Ordered to lie on the table.)

Mr. DeCONCINI submitted an amendment intended to be proposed by him to an amendment to the bill S. 2851, supra; as follows:

At the end of the amendment add the following: "no regulation of the Federal Home Loan Bank Board shall impose greater restrictions on direct investments than those provided in section 107 of this bill until after December 31, 1986."

EXON AMENDMENT NO. 4141

(Ordered to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to an amendment to the bill S. 2851, supra; as follows:

Strike the entire amendment and insert the following:

Section 13(i)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1823 (i)(2)(F)) is amended to read as follows:

"(F) Has investments in residential mortgages or securities backed by such mortgages, or in agricultural loans, respectively, aggregating at least 20 per centum of its loans. For purposes of the preceding sentence, agricultural loans include all secured and unsecured loans, credit sales, forbearances, advances, renewals, or other extensions of credit made to any person or organization engaged in the production of agricultural products or made to farm cooperatives and for an agricultural purpose as defined by the F.D.I.C."

HATCH AMENDMENTS NOS. 4142 THROUGH 4240

(Ordered to lie on the table.)

Mr. HATCH submitted 99 amendments intended to be proposed by him to amendment No. 3762 proposed by Mr. KENNEDY (and Mr. PACKWOOD) to the bill S. 2851, supra; as follows:

AMENDMENT No. 4142

Add the following after "subunits" on page 3, line 7; page 5, line 10; page 8, line 8; and page 10, line 2:

"Provided, however, That no institution of higher education shall be deemed a 'recipient' where the only Federal financial assistance extended consists of grants received directly by students in attendance at such institutions under 20 U.S.C. 1070a (Basic Educational Opportunity Grant Program, ADA); or 38 U.S.C. 1681 (Veteran's Educational Assistance Program). This exclusion shall not apply to proprietary institutions of higher education, vocational schools, any school not entitled to tax exempt status under 26 U.S.C. 501(c)(3), or to any school which, during the five years preceding as a result of a final judgment of any court of the United States, has been found in violation of any provision of the United States Constitution or law of the United States relating to civil rights."

AMENDMENT No. 4143

On page 4, between lines 4 and 5, insert the following new subsection:

(d) Title IX of the Act is amended by adding at the end thereof the following new section:

"CONSTRUCTION WITH RESPECT TO RECIPIENTS NOT PRIMARILY EDUCATIONAL INSTITUTIONS

"SEC. 908. Notwithstanding any other provision of this title, this title shall apply to a recipient which is not primarily an educational institution only with respect to the educational programs or activities of the recipient which receive Federal financial assistance.".

AMENDMENT No. 4144

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That no entity shall be deemed to receive Federal financial assistance because they transact business with individuals or other entities receiving Federal welfare or other social services benefits."

AMENDMENT No. 4145

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That no person or entity engaged in the business of farming or ranching shall be deemed the 'transferee' of a grocery store or the supplier of a grocery store which receive Federal financial assistance."

AMENDMENT No. 4146

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That no entity shall be deemed a 'transferee' of Federal financial assistance because they transact busines with individuals or other entities receiving Federal welfare or other social services benefits."

AMENDMENT No. 4147

Following page 4, line 4, add the following new subsection:

"(d) Nothing in Title IX shall require an educational institution to treat abortion in a manner indistinguishable from other medical procedures for purposes of student or employee health or leave policies."

AMENDMENT No. 4148

Insert at the appropriate place in S. 2851 the following new provision:

"No individual or other entity shall be found to be in violation of Title IX, Title VI, section 504 of the Rehabilitation Act, or the Age Discrimination Act unless such individual or entity shall be determined to have had the intent or purpose of treating an individual in violation of such laws. Such intent or purpose may be established on the basis of the totality of circumstances."

AMENDMENT No. 4149

Insert the following provision in the appropriate place in S. 2851:

"Nothing in this Act shall be deemed to expand existing Federal authority to terminate financial assistance for the failure to comply with Federal rules and regulations under Title IX, Title VI, section 504 of the Rehabilitation Act, and the Age Discrimination Act."

AMENDMENT No. 4150

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal tax exemptions shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4151

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal tax exemptions for religious, charitable, and educational institutions shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4152

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the reimbursement of Federal rent vouchers to landlords shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4153

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the extension of Federal vocational or job training funds to businesses shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 4154

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the receipt of subsidized water from water projects sponsored by the Bureau of Reclamation shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 4155

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the use by a business of water purified in municipal wastewater treatment facilities constructed with Federal assistance shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 4156

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal contracts in which private businesses provide goods or services in return for fair consideration shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 4157

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That technical assistance provided to businesses employing fifteen or fewer persons from State or local economic development programs which receive funds from the Federal government shall not constitute the extension of Federal financial assistance to such business for purposes of this section."

AMENDMENT No. 4158

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the use of facilities owned by a State or local government receiving Federal financial assistance shall not constitute Federal financial assistance to the entity making use of such facilities."

AMENDMENT No. 4159

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the receipt of Federal funds by a political party organization under the Federal Election Campaign Act shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 4160

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the term 'recipient' shall not be deemed to include national or state political parties."

AMENDMENT No. 4161

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal tax credits for businesses engaged in vocational training programs shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 4162

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the receipt of loans from the Small Business Administration shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 4163

Strike the definition of "recipient" in Sections 2, 3, 4, and 5 and insert in lieu thereof the following new definition:

"For the purpose of this title, the term 'recipient' means—

"(A)(i) any State or political subdivision thereof;

"(ii) any person, or private agency, institution, organization, or other entity;

"(iii) any subunit of any such State or political subdivision thereof, or of any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another recipient as defined in (A)(i), (ii), or (iii); or through a person for use at an educational institution); or

"(B)(i) the successor or assignee of any recipient as defined in (b)(2)(A); or

"(ii) the transferee of Federal financial assistance from any recipient as defined in (b)(2)(A).

"Provided, however, That—

"(1) Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subdivisions or subunits, shall be presumed to be extended to all its subdivisions or subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received;

"(2) Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to the entire such agency, institution, organization, or other entity unless it is established by clear and convincing evidence that any administratively separate operating unit or subsidiary entity was not directly involved in providing the service or benefit supported by the Federal financial assistance; and

"(3) the ultimate beneficiary of any Federal financial assistance shall not be deemed a recipient.

"(3) The term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal departments and agencies are subunits of municipalities."

AMENDMENT No. 4164

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That no State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof (including any subunit thereof) shall be deemed to receive Federal financial assistance unless it receives such assistance in fact."

AMENDMENT No. 4165

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That nothing in this section shall be deemed to include within the term 'recipient' any entity not covered prior to the Supreme Court's decision in *Grove City* v. *Secretary of Education, Bell."*

AMENDMENT No. 4166

In the definition of "recipient," wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the receipt of Federal crop loans or subsidies shall not constitute the receipt of Federal financial assistance for purposes of this section."

AMENDMENT No. 4167

In the definition of "recipient," wherever it appears, insert the following new language at the end thereof:

"Provided, however, That nothing in this section shall be construed as changing the status of historically black colleges and universities or historically single-sex colleges and universities."

AMENDMENT No. 4168

In the definition of "recipient," wherever it appears, insert the following new language at the end thereof:

"Provided, however, That this section shall not be deemed to affect the admissions policy of any institution of higher education."

AMENDMENT No. 4169

In the definition of "recipient," wherever it appears, insert the following new language at the end thereof:

"Provided, however, That an entity shall not be deemed to receive support from the extension of Federal financial assistance to a subunit unless it receives financial assistance from such subunit."

AMENDMENT No. 4170

In the definition of "recipient," wherever it appears, insert the following new language at the end thereof:

"Provided, however, That a wholesale business shall not be deemed to be the 'transferee' of a retail business receiving Federal financial assistance for purposes of this section."

AMENDMENT No. 4171

In the definition of "recipient," wherever it appears, insert the following new language at the end thereof:

"Provided, however, That food stamp reimbursements to grocery stores shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4172

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Medicare or Medicaid reimbursements to providers of goods or services relating to health care shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4173

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Medicare or Medicaid reimbursements to pharmacies shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4174

Insert the following provision where appropriate in S. 2851:

"Nothing in Title IX, Title VI, section 504 of the Rehabilitation Act, or the Age Discrimination Act, shall be construed to require any entity to adopt quotas or numerical goals on the basis of race, color, national origin, sex, handicap, or age, or to adopt policies of preference with respect to individuals classified on the basis of these characteristics."

AMENDMENT No. 4175

Add the following new subsection 5 (d):

"(d) Insert the word "religion," following the word "color," wherever the latter word appears."

AMENDMENT No. 4176

Strike everything following the title and insert in lieu thereof the following:

"SEC. 2. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by any educational institution, including any of said institution's component programs or activities, if said institution controls or administers, in its sole and lawful discretion, Federal financial assistance provided to said institution or any of its component programs or activities."

AMENDMENT No. 4177

Insert the following new subsection after page 4, line 4:

"(d) Nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to student grading at institutions of higher education."

AMENDMENT No. 4178

Insert the following new subsection after page 4, line 4:

"(d) Nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating to the granting of academic tenure to individuals at institutions of higher education."

AMENDMENT No. 4179

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That extension of Federal financial assistance to a political subdivision of a State shall not be deemed to constitute Federal financial assistance to any other political subdivision of such State."

AMENDMENT No. 4180

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That no organization which is the beneficiary of a Federal charter shall be deemed to receive Federal financial assistance for purposes of this section."

AMENDMENT No. 4181

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That no newspaper receiving special exemptions from Federal antitrust laws shall be deemed to receive Federal financial assistance for purposes of this section."

AMENDMENT No. 4182

In the definition of "recipient", wherever it appears, strike the word "State" or "State or".

AMENDMENT No. 4183

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That no individual recipient of Federal welfare or other social services benefits shall be deemed to receive Federal financial assistance for purposes of this section."

AMENDMENT No. 4184

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Federal financial assistance to a particular subunit, department, or instrumentality of a State government shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State government."

AMENDMENT No. 4185

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Federal financial assistance to a particular subunit, department, or instrumentality of a political subdivision shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such political subdivision."

AMENDMENT No. 4186

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the provision of Federal safety or health inspectors for an industry shall not be deemed to constitute the extension of Federal financial assistance to such industry, or to any individual business within the industry, for purposes of this section."

AMENDMENT No. 4187

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided,* That contracts for the purposes of providing Federal assistance to handicapped persons shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4188

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That housing and mobile home loans made by the Veterans Administration shall not be deemed to constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 4189

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Federal programs providing contracts of insurance or guaranty shall not constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4190

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Federal financial assistance received by a private agency, institution, organization, or other entity shall be presumed to be extended to all of its administratively separate units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit supported by the Federal financial assistance."

AMENDMENT No. 4191

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That an entity does not 'receive support' as that term is used in this section, solely because its resources are made available for other purposes as a result of its subunit's receipt of Federal financial assistance."

AMENDMENT No. 4192

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That nothing in this section shall be construed to affect the Revenue Sharing Act."

AMENDMENT No. 4193

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the term 'receives support' shall be construed to refer to the receipt of Federal financial assistance."

AMENDMENT No. 4194

On page 10, following line 2, insert the following language:

"SEC. 6. The Congress and the Federal judiciary may be considered to be recipients of Federal financial assistance for purposes of section 901 of the Education Amendments of 1972, section 504 of the Rehabilitation Act, section 303 of the Age Discrimination Act, and section 601 of the Civil Rights Act of 1964 to the same extent that other federal entities are covered by those acts."

AMENDMENT No. 4195

On page 10, following line 2, add the following language:

"SEC. 6. Nothing in this Act or the amendments made by this Act shall be construed as changing the status of historically black colleges and universities."

AMENDMENT No. 4196

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the term 'recipient' shall not be construed to include a church, convention, or association of churches, religious order, or other religious

organization, or any subunit of the foregoing, whether or not separately organized or incorporated, which does not actually receive Federal financial assistance."

AMENDMENT No. 4197

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that no Federal financial assistance was in fact received."

AMENDMENT No. 4198

Strike everything following the title and insert the following in lieu thereof:

SEC. 2. That the matter preceding clause (1) of section 901(a) of the Education Amendments of 1972, relating to the prohibition of sex discrimination, is amended—

(a) by striking out "in" the second time it appears;

(b) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(c) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any educational institution".

SEC. 3. The first sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "education program or activity" and inserting in lieu thereof "educational institution"; and

(b) by striking out "such program or activity" and inserting in lieu thereof "such institution".

SEC. 4. The third sentence of section 902 of the Education Amendments of 1972 is amended—

(a) by striking out "under such program or activity"; and

(b) by striking out "to whom" each time it appears in clause (1) and inserting in lieu thereof "to which" each such time.

AMENDMENT No. 4199

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That technical assistance provided to a community from another community receiving Federal financial assistance shall not constitute Federal financial assistance to the former community."

AMENDMENT No. 4200

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal tax exemptions under 26 U.S.C. 501(c)(3) and 501(c)(8), and eligibility to receive tax deductible contributions under 26 U.S.C. 170(c) shall not constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 4201

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That the extension of Federal financial assistance to a public entity shall not be deemed to constitute Federal financial assistance to a private entity providing goods or services to that entity."

AMENDMENT No. 4202

Insert the following provision at the appropriate place at the end of S. 2851.

"Federal financial assistance provided to one program or activity of a recipient does not "support", as that term is used in this Act, other programs or activities of the recipient solely because other resources have been made available to such latter programs or activities as a result of the assistance provided to the former program or activity."

AMENDMENT No. 4203

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That reimbursement or payment for goods supplied or services rendered shall not constitute Federal financial assistance for purposes of this Act."

AMENDMENT No. 4204

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That no church or religious organization shall be deemed to be in receipt of Federal financial assistance because of their administration of Federal food programs."

AMENDMENT No. 4205

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That no charitable organization shall be deemed to be in receipt of Federal financial assistance unless it actually receives Federal financial assistance."

AMENDMENT No. 4206

Insert the following new subsection after page 4, line 4:

"(d) Nothing in this Act shall be construed to extend authority to the Federal government to inquire into matters of discretion relating either to student grading, or the granting of academic tenure to individuals, at institutions of higher education."

AMENDMENT No. 4207

Following the definition of "recipient", wherever it appears, insert the following new language;

"(3) The term 'subunit' shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal agencies and departments are subunits of municipalities."

AMENDMENT No. 4208

In the definition of "recipient", however it appears, insert the following language at the end thereof, *"Provided, however,* That the ultimate beneficiary of any Federal financial assistance shall not be deemed a recipient."; insert "person," following "organization," wherever that term appears.

AMENDMENT No. 4209

In the definition of "recipient", wherever it appears, strike the language in the second parenthetical provision and insert in lieu thereof: "(directly or through another recipient; or for the use of a person at an educational institution".

AMENDMENT No. 4210

In the definition of "recipient", wherever it appears, strike the words "or other entity" and "or entity".

AMENDMENT No. 4211

In the definition of "recipient", wherever it appears, insert "or" before "assignee" and strike the word "transferee".

AMENDMENT No. 4212

In the definition of "recipient", wherever it appears, strike the words "public or" preceding the words "private agency".

AMENDMENT No. 4213

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"Provided, however, That Federal financial assistance to a particular subunit, department, or instrumentality of a State or political subdivision thereof shall not constitute Federal financial assistance to another subunit, department, or instrumentality of such State or political subdivision thereof."

AMENDMENT No. 4214

Strike the definition of "recipient", wherever it appears, and substitute in lieu thereof the following definition:

"(A)(i) any State or political subdivision thereof;

(ii) any person or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits; or

(B)(i) the successor or assignee of any recipient as defined in (c)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (c)(2)(A)."

AMENDMENT No. 4215

In the definition of "recipient", wherever it appears, insert a period in lieu of the comma following the second parenthetical provision and strike the remainder of the definition.

AMENDMENT No. 4216

Strike everything from page 3, line 22, through page 4, line 2.

Strike everything from page 6, line 23, through page 7, line 2 and renumber accordingly.

On page 9, strike lines 6 through 10.

AMENDMENT No. 4217

Insert the following new subsection after page 4, line 4:

"(d) Section 901(a)(3) is amended by adding the following language at the end thereof: "Any applicant seeking such an exemption shall make an initial showing of a sincerely held religious belief with the

burden then lying upon the Government to demonstrate why such applicant is not entitled to the benefit of such exemption." "

AMENDMENT No. 4218

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Federal financial assistance extended to a State government shall not constitute Federal financial assistance to its political subdivisions."

AMENDMENT No. 4219

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That Federal financial assistance to the political subdivision of a State shall not constitute Federal financial assistance to the State government itself."

AMENDMENT No. 4220

Strike everything in S. 2851 following the title and insert in lieu thereof:

"SEC. 2. Part II of the Supreme Court's decision in Grove City v. Secretary of Education, Bell (relating to programmatic coverage of title IX) is hereby overturned."

AMENDMENT No. 4221

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That no nonprofit organization devoted generally to the achievement of civil rights shall be deemed to be the 'recipient' of Federal financial assistance for purposes of this section."

AMENDMENT No. 4222

On page 4, line 4, add the following new subsection:

"(d) Section 901(a)(3) is amended by striking everything following "educational institution which is" and inserting in lieu thereof the following: ", in whole or substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, or society, or in which the curriculum is directed toward the propagation of a particular religion if the application of this subsection would not be consistent with the tenets of such religion."

AMENDMENT No. 4223

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That no nonprofit organization shall be deemed to receive Federal financial assistance because it utilizes Federal facilities or because it utilizes the facilities of State or local governments which receive Federal financial assistance."

AMENDMENT No. 4224

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the provision of Federal air traffic controllers shall not constitute the extension of Federal financial assistance to an airport or an airline for purposes of this section."

AMENDMENT No. 4225

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the extension of a Federal license for operation to an entity shall not be deemed to constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4226

Insert the following new provision at the appropriate place in S. 2851:

"Upon the enactment of this Act, the Office of Management and Budget shall promulgate, within ninety days, rules and regulations which shall ensure that there is no duplication of Federal regulatory or compliance efforts under title IX, title VI, section 504 of the Rehabilitation Act, and the Age Discrimination Act."

AMENDMENT No. 4227

Insert the following new provision at the appropriate place in S. 2851:

"Upon the enactment of this Act, the General Accounting Office shall undertake a study which shall analyze the extent of personal liability on the part of State and local government officials existing under the law and shall make whatever recommendations it sees fit with regard to this situation. Such study shall be completed and submitted to the Congress within ninety days of the enactment of this Act."

AMENDMENT No. 4228

Insert the following new provision at the appropriate place in S. 2851:

"Upon the enactment of this Act, the General Accounting Office shall undertake a study which shall analyze the extent to which the provisions of the four laws affected by this Act may be enforced by private lawsuits and shall make whatever recommendations it sees fit with regard to this situation. Such study shall be completed and submitted to the Congress within ninety days of the enactment of this Act."

AMENDMENT No. 4229

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the application of Federal rules and regulations to a business shall not constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4230

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the administration of Medicare or Medicaid programs by an entity engaged in the business of insurance shall not constitute the extension of Federal financial assistance to such entity."

AMENDMENT No. 4231

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the participation by a farmer in a Federally administered program of marketing orders shall not constitute Federal financial assistance for purposes of this section."

AMENDMENT No. 4232

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That the participation of a community in the Federal school lunch program shall not constitute the extension of Federal financial assistance to such community."

AMENDMENT No. 4233

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That contracts relating to agricultural research shall not constitute the extension of Federal financial assistance for purposes of this section."

AMENDMENT No. 4234

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That loans made by the Rural Electrification Administration to rural electric and telephone cooperatives shall not constitute Federal financial assistance to such cooperatives."

AMENDMENT No. 4235

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That loans made by the Rural Electrification Administration to rural electric and telephone cooperatives shall not constitute Federal financial assistance to consumers of electric or telephone service from such cooperatives."

AMENDMENT No. 4236

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That direct and insured loans made by the Farmers Home Administration shall not constitute Federal financial assistance for the purposes of this section."

AMENDMENT No. 4237

Substitute the following definition of "recipient" for that contained in section 2, 3, 4, and 5:

(A)(i) any State or political subdivision thereof;

(ii) any person, or private agency, institution, organization, or other entity;

(iii) any subunit of any such State or political subdivision thereof, or of any such private agency, institution, organization, or other entity,

receiving Federal financial assistance (directly or through another recipient as defined in (A)(i), (ii), or (iii); or through a person for use at an educational institution); or

(B)(i) the successor or assignee of any recipient as defined in (b)(2)(A); or

(ii) the transferee of Federal financial assistance from any recipient as defined in (b)(2)(A).

Provided, however, That—

(1) Federal financial assistance received by a State or a political subdivision thereof shall, if it is extended to such State or political subdivision under terms which permit the State or political subdivision to allocate assistance to its subunits, shall be presumed to be extended to all its subunits unless, as to any one of them it can be shown, by clear and convincing evidence, that to Federal financial assistance was in fact received;

(2) Federal financial assistance received by a private agency, insitution, organization, or other entity shall be presumed to be extended to all of its administratively separate operating units and subsidiary entities unless, as to any one of them it can be shown, by clear and convincing evidence, that any such unit or entity was not directly involved in providing the service or benefit

supported by the Federal financial assistance; or

(3) The term "subunit" shall refer to that part of a State or political subdivision thereof, or any private agency, institution, organization, or other entity which has a direct reporting and fiscal relationship to its parent entity. Political subdivisions that are separately incorporated, including towns, cities, or counties, are not subunits of a State. State agencies and departments are subunits of a State; county agencies and departments are subunits of counties; and municipal departments and agencies are subunits of municipalities.

AMENDMENT No. 4238

In the definition of "recipient", wherever it appears, insert the following new language at the end thereof:

"*Provided, however,* That no charitable organization shall be deemed to receive Federal financial assistance because of any pattern and practice of participation in such organization by volunteers provided by an institution of higher education receiving Federal financial assistance."

AMENDMENT No. 4239

Page 10, after line 2, insert the following:

SEC. 6. With respect to matters relating to the performance of their official duties, Members of the Congress and all subunits of the Congress shall be deemed to be recipients of Federal financial assistance and educational institutions for the purposes of section 901 of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, section 303 of the Age Discrimination Act of 1975, and section 601 of the Civil Rights Act of 1964.

TITLE II—CONGRESSIONAL OFFICE OF CIVIL RIGHTS

SEC. 201 (a) (In general) (1) There is established an office of the Congress to be known as the Congressional Office of Civil Rights (hereafter in this chapter referred to as the "Office."). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on Ethics and the Ranking Majority and Minority Leaders of each House, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director first appointed shall expire at noon on January 3, 1985, and the terms of office of directors subsequently appointed shall expire at noon on January 3 or each fourth year thereafter. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5) The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule in section 5314 of Title 5. The Deputy Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as so in effect, for level IV of the Executive Schedule in section 5315 of such title.

(b) (Personnel)—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, expenses of the Office shall be paid from the contingent fund of the Senate upon vouchers approved by the Director.

DUTIES OF THE OFFICE

SEC. 202. DUTIES.—It shall be the duty and function of the Office to enforce in the Congress and the agencies of the Congress Title IX Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and title VI of the Civil Rights Act of 1964 by:

(1) investigating all complaints by employees of the Congress of unlawful discrimination in the Congress and its agencies.

(2) imposing financial and other penalties upon Members of Congress, their offices, the offices of Congressional committees, and agencies of the Congress as a whole in accordance with schedules of penalties that are established by the Ethics Committee of the House of Representatives for House members and offices, the Ethics Committee of the Senate for Senate members and offices, and jointly by both House and Senate ethics committees for agencies of the Congress as a whole.

(3) using as a guide for compliance the regulations that are promulgated by the executive agencies regarding title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and title VI of the Civil Rights Act of 1964.

REVIEW AND APPEAL

SEC. 203. The Ethics Committee of the House of Representatives for the House and the Ethics Committee of the Senate for the Senate may review, adjust or reverse any action taken by the Office in the pursuit of its duties in the House and Senate respectively. Either the House or Senate ethics committees can review, adjust or reverse any action taken by the Office in pursuit of its duties regarding agencies of the Congress as a whole.

SCHEDULES OF PENALTIES

SEC. 204. The Ethics Committee of the House of Representatives for the House, the Ethics Committee of the Senate for the Senate and both Committees jointly for agencies of the Congress as a whole will develop schedules of penalties to be imposed upon Members of Congress, their offices, committee offices, and agencies of the Congress as a whole when any of these parties discriminates against an employee or prospective employee of the Congress in manner that is unlawful under title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

AMENDMENT No. 4240

On page 10, after line 2 insert the following:

SEC. 6. (a) Title IX of the Education Amendments of 1972 is amended by inserting at the end thereof the following new section:

"INTERPRETATION WITH RESPECT TO TRADITIONAL EMPLOYMENT PRACTICES

"SEC. 908. Notwithstanding any other provision of this title, no employment practice which is lawful under title VII of the Civil Rights Act of 1964 or section 6(d) of the Fair Labor Standards Act of 1938 (known as the Equal Pay Act) shall be an unlawful practice under this title.".

(b) Title VI of the Civil Rights Act of 1964 (as amended by section 5(c) of this Act) is amended by adding at the end thereof the following new section.

"SEC. 607. Notwithstanding any other provision of this title, no employment practice which is lawful under title VII of the Civil Rights Act of 1964 or section 6(d) of the Fair Labor Standards Act of 1938 (known as the Equal Pay Act) shall be an unlawful employment practice under this title.".

On page 10, after line 2 insert the following new section:

SEC. 6. (a) This section applies to—

(1) title VI of the Civil Rights Act of 1964, relating to nondiscrimination in federally assisted programs,

(2) title VII of the Civil Rights Act of 1964, relating to equal employment opportunity,

(3) title IX of the Education Amendments of 1972, relating to prohibition of sex discrimination,

(4) the section 6(d) of the Fair Labor Standards Act of 1938, (known as Equal Pay Act),

(5) any other Federal provision of law prohibiting employment discrimination.

(b) Whenever a claim or a charge is made under any statute set forth in subsection (a) alleging an unlawful employment practice or other illegal employment discrimination and a Federal department or agency begins an investigation of that claim or charge, no other Federal department or agency may investigate such claim or charge.

SEC. 5. The term "any program or activity receiving Federal financial assistance" in 29 U.S.C. 794, 42 U.S.C. 2000d, and 42 U.S.C. 6102 shall be construed without reference to, consideration of, or regard to the term "any education program or activity receiving Federal financial assistance" in section 901(a) of title IX of the Education Amendments of 1972 as that term was construed by any court prior to the effective date of the amendments enacted by this Act.

(c) Whenever—

been taken from such action, or

(2) a final judgment is entered by a court, with respect to any claim or charge made under a statute set forth under subsection (a) no civil action may be brought in any

court of the United States with respect to such claim or charge.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1985

MELCHER AMENDMENT NO. 4241

(Ordered to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill (S. 2793) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1985, and for other purposes; as follows:

On page 12, line 17, strike "." and insert in lieu thereof the following: ": *Provided further*, That (1) not less than 5 percent of the amount appropriated by this paragraph shall be available only for the delivery of primary health care services and basic health education (primarily oral rehydration and immunization programs), training for health care workers, and medical supplies and equipment for primary health care, with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate, (2) not more than one-third of the amount allocated to carry out this proviso may be used in any one country, and (3) funds allocated to carry out this proviso shall remain available for obligation until September 30, 1986."

Mr. MELCHER. Mr. President, today I am submitting an amendment that I will offer when the Senate considers S. 2793, an orginal bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1985.

My amendment is a simple one and it adds no new money to this appropriations bill. The amendment provides increased resources for simple, low-cost, effective health measures in developing countries by earmarking 5 percent of the Economic Support Fund [ESF] budget for basic, proven health measures.

Excluding water and sewer projects, less than 1 percent of the $3.4 billion in foreign aid channeled through the ESF is targeted for health services. Further, there is a growing balance of billions of unexpended dollars in the ESF. At the beginning of fiscal year 1983 the ESF had a balance of $3.6 billion. It is estimated that these unspent funds will reach $4.1 billion at the end of this fiscal year.

It is tragic to see these funds pile up in a world where a small investment in utilizing the key advances made in basic health care in the basic decade could save hundreds of thousands of lives. Improved low-cost vaccines have been developed against six killer diseases that annually kill 5 million people and cripple 5 million more. Primary health services, training for health workers, and medical supplies and equipment—all of which would be provided by this amendment—could save millions more. For example, oral rehydration packets, which can be made for as little as 5 cents each, could save half of the 5 million children who die annually from diarrheal diseases.

All of these basic health measures are technologies that are available now and have been shown in the field to have important effect on economic productivity, particularly in agriculture. These are often simple techniques, but are techniques that can stop the deadly interaction of infection and malnutrition.

As Dr. William Walsh of Project Hope states, "A healthy citizen is any country's most important economic asset."

In addition to Project Hope, this proposal enjoys the support of Catholic Relief Services, CARE, Save the Children, RESULTS, Bread for the World, the African Medical and Research Foundation, the American Association for World Health, and World Vision.

I certainly urge my colleagues to support this amendment when it is brought up on this bill or on any other appropriate measure.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

KASSEBAUM AMENDMENT NO. 4242

Mrs. KASSEBAUM proposed an amendment to the bill S. 2851, supra; as follows:

On page 111, line 2, strike all after "accounts issued by an insured institution." and insert the following:

"The term 'deposit broker' shall not include a person in an agency relationship with an insured institution where, as of September 12, 1984, that institution utilized such persons to serve exclusively that insured institution for the purpose of soliciting deposit funds and providing loan applications/services for the residents of the state in which the institution is located and where such persons are regulated and examined by the Corporation. The Corporation may issue rules and regulations as necessary to implement this subsection."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 13, at 9:30 a.m., to hold an oversight hearing to consider the Bonneville Power Administration's repayment of obligations to the U.S. Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, September 13, at 10 a.m., to hold a hearing to consider the following bills:

S. 2773. Georgia Wilderness Act of 1984;

S. 2808. Mississippi National Forest Wilderness Act of 1984;

H.R. 3788. Texas Wilderness Act of 1984;

H.R. 4263. Tennessee Wilderness Act of 1984;

H.R. 5076. Pennsylvania Wilderness Act of 1984;

S. 2805, H.R. 5121. Virginia National Forest Wilderness Act of 1984;

H.R. 5221. To extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes;

S. 2256. To exempt restaurant central kitchens from Federal inspection requirements; and

Other business pending before the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 13, at 4 p.m., to receive a briefing on U.S. policy in Central America.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 13, 1984, at 10 a.m., to hold a hearing on Senate Joint Resolution 236, East-West cooperation in outer space.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 13, 1984, at 2 p.m., to hold a briefing on Communist insurgency in the Philippines.

The PRESIDING OFFICER. Without objection it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 13, at 10 a.m., to receive a closed-session briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Commit-

tee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, September 13, in order to mark up S. 2892, reauthorization of Superfund.

The PRESIDING OFFICER. Without objection, it is so ordered.

TASK FORCE ON SELECTED DEFENSE PROCUREMENT MATTERS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Task Force on Selected Defense Procurement Matters of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, September 13, to hold a hearing to receive testimony on the defense procurement process.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SUPERFUND

● Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works is considering a bill to extend and expand the chemical Superfund Program. We are making good progress, and I hope that a bill will be reported tomorrow.

This morning's edition of the Washington Post contains and editorial dealing with that subject. The reason for my remarks today is not only the content of this morning's editorial, but also the addition it makes to a pattern that has developed at the Post over the last year or so.

This pattern is one that concerns many Members, including myself. It was for this reason that when the post last printed an editorial dealing with the subject of the Superfund reauthorization, I submitted an article in the hope that the paper would follow its usual custom of printing opposing editorial viewpoints. For reasons that were not explained, the Post declined to print my views.

If it were only those of us in Washington who read the editorial page of the Post, this matter should probably be dropped. But literally hundreds of other newspaper and broadcast journalists rely on the Washington Post for information and advice. It was because of this that I submitted a reply to the last Post editorial. Since it was not printed there, however, I would like to take this opportunity to exercise a congressional prerogative. I ask that this morning's Post editorial, together with several others from the past, be printed in the RECORD, following the text of the article which I submitted earlier this summer.

What concerns me is the consistency with which these editorials choose victims over polluters, even when many of the issues are the same. For example, an administrative compensation program for asbestos victims—a program which would have as a major element to relieve the companies of the liability which they now have in a court of law—is a good idea, according to the Post. But an administrative compensation program for the victims of other poisons—but one which would still hold the manufacturers liable in a court of law—is a bad idea.

Similarly, a Federal cause of action for the victims of toxic chemicals is a bad idea according to the Post. Of course, the intent of such proposals is to make it easier for such victims to get into court, so it would increase the burden on polluters. But on the other hand, a Federal cause of action for the victims of products is a good idea, according to the Post. Left unsaid is that the product liability cause of action would increase the barriers confronting victims, not lower them, which is why over 100 industry groups are supporting the bill.

As these editorials are examined, it appears that in the case of asbestos, the Post supports a position which increases the burdens of victims and decreases that of the industry. In the case of product liability, it supports a position which increases the burdens of victims and decreases that of industry. And in the case of Superfund, it again supports a position which prefers the polluter to his victims.

I have great regard for the Post and it is in this spirit that I make these comments. I would hope that the Post's leadership would ask itself how victim compensation can be good in one context, but bad in another; and how a Federal cause of action could be desirable in one area, but not another; and, finally, why the enactment of Superfund in 1980 was a good idea, but its extension in 1984 would be a bad one.

The material follows:

REPLY OF SENATOR STAFFORD TO POST EDITORIAL

During most of my 24 years in Washington, the editorials of The Washington Post could be counted on to measure up to two traditions.

First, the facts would be straight.

Second, the sentiment—if not necessarily the conclusions—would favor the disadvantaged and the neglected.

"Superfund for Lawyers" suggests that each of those traditions may be discontinued by The Post.

The "facts" of the editorial, at least as they relate to what the Senate Committee on Environment and Public Works is doing, are flatly wrong.

Worse, this editorial, as with a disturbing number of other recent Post editorials, seems more concerned with the welfare of the polluters than with the welfare of the victims of the polluters.

The factual inaccuracies may be a natural consequence of The Post's lack of coverage of the Senate Committee's July 31st hearing on S. 2892, the Superfund bill introduced in the Senate by Senator Jennings Randolph of West Virginia and me.

Had The Post covered the hearing, you and your readers would know that Leslie Cheek III, Washington representative for one of the nation's largest environmental impairment insurance companies (and the industry's most experienced and outspoken critic of Superfund victim's compensation proposals), testified that our bill was, in his opinion, insurable.

He made that statement because the bill is not—despite what the editorial says—"more lenient" in terms of what a plaintiff must prove. Nor would it allow damages to "be collected from any one defendant even if that company had added only a small amount of waste to the site," as the editorial asserts.

On the contrary, what S. 2892 would do is allow victims into Federal court under a more demanding standard of liability, a privilege which the government already enjoys in Superfund cases.

Perhaps more disturbing than the editorial's inaccuracies are its sentiments. It seems to proceed from the assumption that, because the lawyers for plaintiffs profit from lawsuits against chemical companies, the lawsuits should not be filed.

I am no apologist for the plaintiff's lawyers. But, in fairness it must be noted that the only alternative open to victims is to sue when they are confronted by a richly endowed and determined industry which denies its liability. It seems fair that victims have that right in a federal court, which has the experience, the judges and the resources to assure a fair and timely hearing.

The Post apparently disagrees. Or, more accurately, it disagrees in cases involving toxic chemicals. Where products generally are concerned, The Post's position is that a federal cause of action is a good idea, not a bad one. (See "Suing the Manufacturer" of April 17, 1984.)

On the surface, it is difficult to reconcile these two editorial positions. But, they do have one thing in common: in each case, The Post would lessen the burden of industry and increase the burden of the public.

Under virtually every one of the asbestos compensation bills, victims would be forced to give up their right to sue as the price for receiving limited amounts of money for doctors' bills. What such a program would guarantee is not that victims would be compensated fully, but that asbestos companies—now virtually certain to be bankrupted as court after court finds against them for the harm inflicted on countless persons by their products—will continue to live and prosper. Thus, those who stand to gain the most are not the victims of pollution, but the polluters themselves.

Somewhat surprisingly, although The Post supports the pro-industry compensation program for asbestos victims, it seems to oppose government help for those who have lost their lives or health to paraquat, DDT, or PCBs. Somehow, a program to compensate the victims of poisonous chemicals "leads quickly into the broader issue of how far this country wants to go in guaranteeing full health coverage and disability benefits to everyone."

Is there a difference between the proposals to compensate the victims of asbestos on the one hand with the proposals to compensate the victims of chemicals on the other which explains such seemingly inconsistent editorial positions?

Yes.

One releases the companies from their legal liability to the dead and injured. The other—the program opposed by The Post—would continue to hold polluters legally accountable.

It is a great tragedy that lives have been lost to these poisons. And the way to make sure that it will not happen again is to see to it that the legal system continues to function as it should, forcing companies to pay the cost of their wrongs. This is the first and best argument for giving victims the right to sue, whether in state or federal court. It is also the reason that polluters fight so desperately to avoid increasing the power of victims. It is strange to see The Post on the side of the polluting industries in this matter.

It can be hoped that these seemingly inconsistent viewpoints are merely the result of unhappy coincidence. But, there is a fear that something more fundamental is at work. And, if "Superfund for Lawyers" is any indication, it has little to do with the facts.

[From the Washington Post, April 13, 1984]

SUPERFUND SCRAMBLE

Congressional supporters of an expanded hazardous dump cleanup program are looking for ways to push a Superfund bill through Congress in the next three weeks. The House has already passed an ambitious reauthorization bill so that fast Senate approval of a stripped-down measure might let conferees produce a final version before adjournment. But too many major issues remain unresolved to justify such hasty treatment.

Even though Superfund doesn't expire until next fall, Congress would like to pass a Superfund bill this session, if only to assure the public that, if reelected, the Reagan administration would not install someone unfit as guardian of the program. And even the chemical industry, which provides most of Superfund's revenues, agrees that assurance of increased funding is needed. But there is not good agreement on how much money can usefully be spent, how it ought to be raised, and what it should be spent on—in other words, all the central issues.

Given the difficulties of planning, negotiating and engineering cleanups, the Environmental Protection Agency says it can't usefully spend more than about $5 billion over the next five years. EPA has greatly accelerated cleanup efforts over the past two years. But a $5 billion fund would still mean considerably expanded efforts. Raising unneeded revenue would be not only senseless but harmful.

Currently Superfund gets most of its money for cleaning up old—sometimes ancient—dump sites from a tax on new chemical production. There is at least a rough sort of justice to the tax; it is easy to raise and probably doesn't cause much economic harm at current levels. But the much higher tax needed for an expanded fund would certainly put the domestic chemical industry, still a major exporter, at a severe disadvantage relative to its ever more aggressive international competitors.

The House-passed bill would shift part of the new tax burden to all generators of hazardous waste—but only if the Internal Revenue Service, which has no interest in complicating its collection job, comes up with an acceptable plan. So far the Senate hasn't dealt with the issue at all.

A hastily constructed bill is also likely to end up diverting Superfund resources from the urgent purpose of cleaning up hazards to questionable plans for compensating possible victims of waste exposure, assessing health effects and responding to lawsuits brought by citizens' groups. Congress also needs to consider whether it makes sense to encourage EPA and the courts to assess full damages against any one contributor to a dump site no matter how many other firms added to the mess.

It's just not likely that Congress will come up with a satisfactory Superfund bill in the adjournment rush. Congress should turn its attention to finishing up work on amendments closing important loopholes in laws covering future dumping of hazardous wastes, and leave the job of expediting cleanup of old dumps to the next Congress.

[From the Washington Post, August 13, 1984]

SUPERFUND FOR LAWYERS

Congress doesn't have to act on Superfund until the fall of next year. But it would like to assure voters before this fall's elections that hazardous-dump cleanups will not only continue, but expand in the future. That's understandable. But Congress, eager to appear attentive to people who claim their plight results from exposure to chemical wastes, is also considering adding victim compensation provisions to the law. That raises difficult questions of legal policy and social equity.

People who believe they have suffered from toxic wastes can, of course, sue for damages in state courts. But because toxic exposure may be only one of many factors contributing to an illness, claimants have found it difficult to win these cases and are pressing for a more responsive federal compensation system. Earlier this year a House subcommittee rejected a proposal setting up and administrative compensation system so generous that it might have ended up compensating almost everyone in the United States who contracts cancer.

Now—despite unanimous disapproval of a committee of well-known lawyers appointed to review compensation approaches—a House committee has approved, and a Senate committee is considering, letting people sue for exposure damages in federal court. The terms are not only more lenient than those prevailing in state courts, but also depart from carefully developed rules governing other federal court actions.

A person claiming damages could, for example, choose to sue any company that had ever generated or transported waste dumped in a site, operated a site or owned land on which waste was dumped. Full damages—covering pain and suffering, legal fees and reduced property value because of a site's location—could be collected from any one defendant, even if that company had added only a small amount of waste to the site, had done so at the direction of local authorities or was in no way negligent. The losing company could then try to sue all other contributors to the dump if it could find them—and if it could afford it.

Provisions such as these fly in the face of what most people think is fair. They wouldn't even work well for victims. As in asbestos exposure cases, some victims would get bigger settlements than others with far more severe injuries. More than half of the benefits would go for legal costs. Promoting more lawsuits could also paralyze cleanup efforts, since companies would be even less willing to admit involvement and dumps might have to be left unchanged for evidence.

Superfund was designed to make all generators of hazardous wastes contribute to cleanup efforts. Civil and criminal actions are also being pursued against especially egregious violators. And state courts are, with proper caution, developing principles to deal with toxic exposure cases. Superfund's purpose is to clean up dumps that are, even now, leaking toxic wastes into water supplies. Progress on that front has been far from spectacular. The Superfund legislation ought not to be diverted into the very separate question of dealing with environmental health damages, a subject that leads very quickly into the broader issue of how far this country wants to go in guaranteeing full health coverage and disability benefits to everyone.

[From the Washington Post, June 2, 1984]

MONDALE, HART AND ASBESTOS

Because they worked with asbestos years ago, tens of thousands of Americans will die earlier than they should have. How to compensate them—to the extent to which compensation is possible—will be an important question of social policy over the next four years. But it doesn't lend itself to the king of primary election campaigning now going on in New Jersey.

Becuse Gary Hart has sponsored compensation legislation, Walter Mondale organized a meeting of asbestos victims to give emotional force to his differing view. The testimony of the former asbestos workers was moving and troubling. Mr. Mondale used the occasion to attack the Hart bill vehemently as an erosion of victims' rights and an invasion of the protection that they now enjoy. But Mr. Mondale is wrong.

Under present law, asbestos victims can sue—not their former employers, because of the workmen's compensation rules, but the suppliers and manufacturers of the asbestos products with which they worked. It is a slow and intricate kind of litigation—and, for the lawyers, well paid. Last year the Rand Corporation published a study of the settlements of some 3,800 asbestos liability cases. It found that the average settlement cost the defendants about $95,000. The victim got, on the average, slightly over one-third of the money. The rest? It went to lawyers—the victims' lawyers, the defendants' lawyers, and the costs of further suits among the defendants and their insurance companies.

Mr. Mondale says that he is defending the victimms' right to sue. But these suits are proving to be a poor way—not only expensive but inordinately protracted and uncertain—to meet the claims of people who are usually elderly and often incapacitated. Is there a better way? There certainly is—a compensation fund, with adjudication taken out of the courts and put in the hands of specialized referees. That's the Hart proposal. The fund would be fed by levies on the asbestos industry and by the federal government. There is a large federal responsibility here. Many of the victims now suing are people who worked in the shipyards during World War II, when federal specifications required asbestos insulation.

Mr. Mondale was trying to respond to a kind of distress for which the blame is shared by many industrial companies and government agencies. But in the asbestos cases, protecting the victims' right to sue means very little more than protecting the lawyers' fees.

[From the Washington Post, Aug. 6, 1984]

ASBESTOS CLAIMS AND LEGAL COSTS

By most calculations, some 200,000 people will die prematurely over the next two decades because their jobs have exposed them to asbestos. It is typically 15 to 40 years from the time a person is exposed until the

symptoms of disease begin to appear. Many of the current suits are being filed by people who were shipyard workers during World War II. It means that the volume of asbestos litigation is likely to expand greatly over the next generation, regardless of any precautions taken now.

It has been evident for some time that the conventional sort of product liability litigation is extremely inefficient in the asbestos cases. The Rand Corporation now has begun publishing research showing just how badly things are going. Rand's Institute for Civil Justice surveyed the 3,800 asbestos claims that had been settled before last Aug. 26, when the Manville Corp. interrupted the process by filing for bankruptcy. If you had the impression that most of the money was going to lawyers, and shockingly little to the people suffering from asbestiosis and cancer, you're right.

The average claim has cost the defendants and their insurance companies about $95,000. Of that they spent $45,000 on their own legal defense and they paid $60,000 in compensation. But out of that compensation the victims paid an average of $25,000 in their own lawyers' fees.

To put it the other way, out of that $95,000 the lawyers for both plaintiff and defendant got $60,000. The plaintiff, when all the legal bills were paid, ended up with $35,000—slightly more than one-third of the total amount of money devoted to the case.

The litigation, including both the cases already settled and those still open, has cost about $1 billion. Lawyers' fees, including the cost of defendants' suits against each other, and administrative expenses have absorbed more than three-fourths of that $1 billion. Since people are generally barred by the workmen's compensation laws from suing former employers, they sue the manufacturers of asbestos products, suppliers, middlemen, contractors and so forth. Each plaintiff sues, on the average, 20 defendants, a figure that helps explain the inordinate legal costs.

It's nice for the lawyers. But does the result even remotely approximate anybody's idea of justice? Unhappily, the asbestos cases may be only the first of a wave of claims arising from other industrial hazards and their relationships to diseases with long latencies. It's time for Congress to take these cases out of the courts and put them into special tribunals that can arrive at fair settlements that chiefly benefit not the advocates but the people who are the victims of asbestos.

[From the Washington Post, July 21, 1983]

ASBESTOS LAWSUITS

Every step in the asbestos litigation confirms the impression that conventional product liability lawsuits are a terrible way to try to reach fair settlements. Now the Manville Corp. has sued the federal government to make a political point, and the point deserves consideration. If Manville bears blame for exposing workers to carcinogenic materials, it charges in its suit, then the government shares that blame. A fair and orderly system of compensation is going to require congressional legislation. You don't have to like Manville's past record to agree with it on that conclusion.

About half of the suits against Manville have been brought by people who worked with asbestos during World War II in shipyards that the government was running. Although these people may have later been afflicted by cancer, they cannot sue the government. They are limited to whatever modest benefits they can get in federal compensation payments. Many of these people have responded by suing Manville as the supplier of the asbestos.

Manville has settled some of these suits and is now in turn suing the government to recover the cost of those settlements. The amount of money directly involved is small. Manville wants to demonstrate that its practices were not limited to one company, or to private industry. It is not clear on the present record that in the 1940s anyone in government knew as much as Manville did about the effects of asbestos. But a lot of people knew that the stuff was not benign. During the war people took risks that they would not take today.

For the victims, the pursuit of equity through the courtroom is a highly uncertain and eccentric process. Some can recover heavy damages for exposure four decades ago, if the defendant is a company that is still in business and profitable. If not, the victims are out of luck. Some of the victims are able to prove that they worked with a certain product at a given time and place many years ago. Others can't prove it and, although they may suffer the same disease for the same reason, they cannot collect. The present method of compensation benefits mainly the lawyers, who by some estimates are getting perhaps two-thirds of the money now being poured into fighting and settling the asbestos victims' claims.

A better solution is a compensation pool fed by levies on the companies that exposed workers to asbestos and by the government. Some lawyers regard civil suits as the proper way to punish companies for their past transgressions. But the companies will pay very substantial damages in any case. It's important to find a better way to provide prompt and reliable help to the people who worked with asbestos many years ago and are now suffering for it.

[From the Washington Post, Apr. 17, 1984]

SUING THE MANUFACTURER

In the past 10 years, product liability suits against manufacturers have increased sixfold. Damage awards, both compensatory and punitive, have grown to the point where entire industries have been severely strained and many more are concerned about the uncertainty of their legal liabilities.

The confusion is due in part to the fact that each state has its own rules, usually evolving over time in the courts of the state, for handling negligence cases. This works perfectly well to establish whether Mr. Doe was negligent when he sideswiped Mr. Roe's car, or whether Dr. Jones exercised due care in operating on Mrs. Smith.

It is a lot more difficult, though, when Mr. Doe sues General Motors for producing the car involved in the accident or Mrs. Smith sues a drug manufacturer for her reaction to the medicine she received in the recovery room. In both cases, the product is made in a standard way and sold nationally, but each state has its own standard of liability.

Can an injured party collect, for example, if the product was safe at the time of manufacture but years later was found to have caused some harm the manufacturer could not have predicted? Suppose the user had not followed specific warnings—"Do not dive in this 3½-foot pool"—or had altered the product by removing protective shields or safety devices. What if the product was used for a purpose other than that intended by the manufacturer—spraying perfume on a lighted candle? Can an injured party collect under any of these circumstances? Yes and no, depending on what state you're in.

A bill reported by the Senate Commerce Committee seeks to bring some order to this situation by establishing federal standards in product liability cases. The bill contains a number of controversial provisions, some designed to aid a particular industry. Not surprisingly, it is opposed by the legal establishment: far more money has been spent litigating these cases in multiple, diverse forums, than has been paid to victims.

It is a good idea, nonetheless, to establish some uniformity and set reasonable standards of liability. Some of the more outlandish product liability suits would fail under these standards. State juries could no longer find a crane manufacturer liable for injuries caused when the equipment was driven into a power line. A single-control shower faucet manufacturer wouldn't be blamed if the user turned it all the way in one direction and was burned. But the uncertain and enormous liabilities facing manufacturers who can be sued in 51 diverse jurisdictions is a real problem. Congress can and should bring some order to the situation.●

THE PLIGHT OF ALEKSANDER YAKIR

● Mr. COHEN. Mr. President, all of us must be concerned about the continuing repression of Jews in the Soviet Union. During my visit to that country earlier this year, one of my most moving experiences was the meeting I had with a noted "refusenik," Naum Meiman. Talking with him and learning of the difficult life he has had since he first began his effort to emigrate from the Soviet Union served as a chilling reminder of what life is like for Soviet Jews.

I have recently learned of the case of another "refusenik," Aleksander Yakir, a young Jew convicted of "draft evasion" about a month ago in the Soviet Union. Yakir is faced with the possibility of spending the next 2 years in a prison or labor camp. His real offense is his desire to leave the Soviet Union.

Aleksander Yakir's cause has been taken up by an unprecedented coalition of leadership representing Christian, Jewish, civil rights, human rights, and peace organizations. It has been an honor for me to work with these organizations on his behalf. I was among those who cabled Soviet officials asking that he be released and that he and his family be allowed to emigrate to Israel.

The Yakir family has been subject to repression for many years. In 1938, Maurice Yakir and his brother, both important generals in the Soviet Army, were shot during the Stalinist purges. Clara Yakir, now in her seventies, spent more than 15 years breaking rocks as a common laborer in Siberia. Another relative of the Yakirs was jailed after a show trial in 1972 for documenting abuses of political prisoners in U.S.S.R.

It was more than 10 years ago, in October of 1973, that Aleksander and his parents, Reema and Yevgeny Yakir, applied for exit visas. They were refused on the grounds of Yevgeny's "secret classification" as a mechanical engineer, even though his job was entirely routine. The father lost his job and has since been eking out a living doing technical translations. When Aleksander applied on his own to leave for Israel, he was refused on "humanitarian grounds," because the authorities "do not split up families."

On June 18, 1984, Aleksander was arrested and charged with "draft evasion." He had been threatened with induction into the army since graduation from the Moscow Technical Institute in 1977. With his June arrest and August sentencing, he now faces the possible prison sentence.

The charge of "draft evasion" has been used many times against young Soviet Jews, such as Aleksander, who have been "refuseniks" since childhood. Their efforts to avoid the draft are a result of the catch-22 situation in which they would be placed. They are either refused permission to emigrate because of the "state secrets" they were exposed to in the military or, if they request not to serve for this reason, they are hounded for draft evasion.

Journalist Reuben Ainsztein has captured the dilemma faced by the Yakir family: "Revolutions, it is said, devour their own children. But for people called Yakir, in the U.S.S.R., the process is already entering the third generation."

The tragic story of Aleksander Yakir and his family is a sad example of the plight of Jews living in the Soviet Union and wishing to emigrate to Israel. It is essential that we continue to draw attention to the stories of Aleksander Yakir and others facing similar difficulties in the Soviet Union—difficulties which result solely because they are Jewish and wish to emigrate. We must continue to work for a loosening of Soviet emigration laws and for an improvement in that nation's commitment to human rights for all its citizens.●

OAK RIDGE FEDERAL BUILDING NAMED FOR THE LATE CONGRESSMAN JOE L. EVINS

● Mr. SASSER. Mr. President, it gives me great pleasure to rise today to honor the late Congressman Joe L. Evins by designating the Federal building on Administration Road in Oak Ridge, TN, as the Joe L. Evins Federal Building.

Joe L. Evins was one of Tennessee's most outstanding and distinguished political leaders. Before stepping down in 1976, Congressman Evins served an unprecedented 15 terms and 30 years; a longer tenure than any individual from Tennessee has ever served in the House of Representatives. Congressman Evins, who passed away in March, represented Tennessee's old Fourth and Fifth Congressional Districts in middle Tennessee. His specialties in Congress were public works and the Small Business Administration which he helped to create.

As chairman of the House Public Works Appropriations Subcommittee, Congressman Evins oversaw funds for the U.S. Corps of Engineers, the Tennessee Valley Authority, and the old Atomic Energy Commission. Among his specific accomplishments were securing funds for several TVA and Corps of Engineers dams, the Appalachian Center for Crafts, and the Tennessee-Tombigbee Waterway. Congressman Evins was also instrumental in obtaining for Oak Ridge the building that houses the present offices of the Department of Energy.

Congressman Evins demonstrated a grasp of the important energy issues of his day, issues that are still important today. When confronted with differing interests, he listened to all sides and always dealt as a gentleman, even with those who opposed his views. Through his influence and hard work, life in his district, his State, and the Nation have been and continue to be enhanced.

It is a small gesture on the part of Congress to remind people of Joe Evin's good work in formulating programs concerning energy and public works accomplished during his outstanding congressional service.

We honor him by giving his name to the Federal building on Administration Road in Oak Ridge.

An editorial recently appeared in the Clinton Courier News that spoke eloquently about Congressman Evins. With unanimous consent, I request that that editorial be printed in the RECORD immediately following my remarks.

The editorial follows:

JOE L. EVINS

(By Horace V. Wells, Jr.)

During the years Anderson County was in the Fourth Congressional District and was represented by Joe L. Evins, he was intensely interested in taking care of the needs of the people and communities here. In fact, it was largely through his efforts that Oak Ridge obtained the building that houses the offices of the Department of Energy, as well as the new museum building and many other facilities there.

Now that the congressman, who retired in 1977 after serving 15 terms, has died of a heart attack and it probably should have been done before, it would be fitting if the DOE office building in Oak Ridge might be named for him. He died March 31 at the age of 73.

A key figure in the state Democratic party for years, he became one of the most powerful men in Congress, serving as chairman of the Subcommittee on public works and atomic energy appropriations. Yet, with all his power, Joe L. Evins was a humble man, always courteous and thoughtful.

Naming the DOE building in his honor would be a small way to remember this gracious and helpful man.●

INDIAN HEALTH CARE IMPROVEMENT ACT

● Mr. ABDNOR. Mr. President, as a cosponsor of S. 2166, the Indian Health Care Improvement Act, I am pleased that the Senate has acted favorably in passing this important legislation which has widespread positive implications for the native Americans of our Nation.

Native Americans continue to experience the lowest health status of all Americans. Infant mortality rates continue to be among the highest and the incidence of tuberculosis is six times greater than that experienced by other Americans. This is a situation which demands attention.

I am especially pleased that this reauthorization bill includes a major emphasis on preventive health care and health education programs. Prevention is much more successful than finding cures and it will have a positive impact on the lives of native Americans for years to come.

In addition, this legislation addresses the serious needs in areas such as direct patient care, mental health, dental care, and alcohol abuse treatment. Legislative authority for urban and rural Indian health programs will also be extended. This legislation will also attempt to address the dangerous shortage of physicians, medical assistants, and nurses which is now occurring in Indian country.

I should like to take this opportunity to commend the chairman of the Senate Select Committee on Indian Affairs, Mr. ANDREWS, for his efforts to craft a bill which would address the concerns of all Senators. Under his guidance we have a bill which will address many of the long-standing health problems of our native Americans. I am pleased that my colleagues have joined in reauthorizing this vital program.●

COMMENDING THE PRESIDENT'S DECISION ON COPPER

● Mr. CHAFEE. Mr. President, last week the President courageously refused to take action to restrict our markets to imported copper. In the midst of an election campaign it is particulary difficult for a President to deny protection to a U.S. industry, but this was the right decision and the President is to be highly commended. Import restraints would have meant higher copper prices for the primary metal and thus higher costs for all the American manufacturing industries that use copper. The end result would

have been a less competitive U.S. industry and lost jobs.

On August 21, I and a number of other Senators wrote the President urging him not to impose copper restraints. The same group of Senators wrote again on September 13 applauding the President's decision, and I ask that this correspondence be printed in the RECORD at the close of my statement.

I add, Mr. President, my hope that the President will demonstrate equal courage and commitment to principle and deny protection to the steel industry. There can be no doubt that restrictions on steel imports would be offset by decreased employment in other sectors of the economy. In fact, a decision to restrict steel trade would be a good deal more devastating than copper restrictions—in terms of jobs, dollars and implications for American industrial policy generally.

The Congressional Budget Office, in its report of July 1984 on the effects of import quotas on the steel industry, predicted that the negative impact of a steel quota would be most noticeable on output and employment in those industries that consume significant quantities of steel—automotive production, machinery, construction, and the like.

The fact that quotas may seem at the moment to be good politics doesn't make them good economics, even in the short run. CBO also concluded that a quota limiting imports to 15 percent of the market for 5 years would cost consumers $25 billion. Since all that would only increase industry employment by 34,000, that means each job saved would cost $146,000 annually.

Considering the cost for so little result, I hope the President will say no.

The correspondence follows:

U.S. SENATE,
Washington, DC, August 21, 1984.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We strongly urge you not to impose restrictions on imports of copper. Not only would such measures not be beneficial to the domestic copper industry, they could be counterproductive. The solution to the problems experienced by the copper industry is not to provide protection to one segment of the industry at the expense of another. The restrictions sought by the domestic copper producers would have precisely that impact.

The primary consumer of copper in the United States is the copper fabricating segment of the industry. Manufacturers of wire and cable and brass products account for approximately 98 percent of U.S. copper consumption. By granting the relief sought by the copper mining, smelting, and refining segment of the industry, copper fabricators, the producers' principal customer base, would be seriously injured.

Imposition of quotas or tariff increases would raise U.S. copper prices significantly above world prices. A two-tiered price structure would place U.S. copper fabricators at a significant cost disadvantage relative to their foreign competitors. Consequently, foreign fabricators, who would have unrestricted access to lower-cost copper produced outside the United States, would flood the U.S. market with their less expensive fabricated products. The injury suffered by copper fabricators as a result of a loss in market share would flow back to the copper producers. In fact, because of the substantial erosion of their only market, their American customer base, domestic copper producers would be substantially worse off than they are today.

Lost market shares also would threaten the jobs of the over 100,000 workers employed in the copper fabricating segment, a much larger segment in terms of sales revenue and employment than the copper producing segment. These 100,000 workers reside in such states as Indiana, Illinois, Ohio, Michigan, Wisconsin, California, Missouri, Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Georgia, Tennessee, North Carolina, Virginia, Alabama, Florida, Louisiana, Kansas, and Texas. The enormous economic and social costs precipitated by a quota or injurious tariff increase would outweigh any temporary benefit to the copper producing segment of the industry.

Because copper is a commodity, traded on a global market at a world price, it is only through strong world economic growth which will raise the world price for copper that U.S. copper producers will recover from their current difficulties. It is clear that import restrictions which causes a permanent reduction in copper fabrication in the United States and a net loss in U.S. employment are not the answer.

Sincerely,

Senators Bill Bradley, Frank R. Lautenberg, Dan Quayle, Charles H. Percy, Paul E. Tsongas, John W. Warner, Nancy L. Kassebaum, Robert T. Stafford, Alfonse D'Amato, John H. Chafee, Richard G. Lugar, Claiborne Pell, Christopher J. Dodd, Paul S. Trible, Jr., and Patrick J. Leahy.

U.S. SENATE,
Washington, DC, September 12, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On August 21, we wrote to you strongly urging that you not impose restrictions on imported copper because we believe that such restrictions would have damaged our important copper fabricating industry, hurt the economy and jeopardized American jobs.

We are therefore very grateful for your decision on September 6 that you would refuse to impose restraints and thus retain an open, competitive market in these products. We know that this decision was difficult, but it is a courageous decision, consistent with your own belief in maintaining a free and open international trading system.

Sincerely,

Senators Alfonse D'Amato, Frank R. Lautenberg, Dan Quayle, John H. Chafee, Bill Bradley, Richard G. Lugar, Charles H. Percy, Paul E. Tsongas, John W. Warner, Nancy L. Kassebaum, Robert T. Stafford, Claiborne Pell, Christopher J. Dodd, Paul S. Trible, Jr., and Patrick J. Leahy.●

SISTERS OF CHARITY CELEBRATE 125TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, September 29, 1984 will mark the 125th anniversary of the founding of the Sisters of Charity of St. Elizabeth, a religious order with an exemplary record of public service. Although the original intent of the Sisters of Charity was to focus on the areas of education and health care, the congregation has expanded their services to meet the changing needs of society.

Today, the sisters play a vital role in several social service areas, including the counseling of unwed mothers, the emotionally disturbed, and those with drug or chemical dependencies. In addition, the sisters are involved in providing health care to migrant workers, day care for children and the elderly, and general advocacy for the poor and the homeless. They also staff the college of St. Elizabeth at Convent Station, NJ, five hospitals in three States, and numerous elementary and secondary schools.

The Sisters of Charity trace their origin to the religious community founded in Maryland in 1809 by St. Elizabeth Ann Seton. We in New Jersey are fortunate to have women of such dedication based in our State. New Jerseyites have benefited greatly from contributions these sisters have made to our community.

But the Sisters of Charity have reached out to communities beyond the borders of New Jersey. They have also helped to serve the needs of the people of 20 other States, the Virgin Islands, Bolivia, Chile, Puerto Rico, and China. Currently, more than 1,000 sisters are members of the congregation.

The Sisters of Charity have enriched the lives of millions of people around the world. One hundred and twenty-five years of devoted public service is a cause for celebration.●

THE 20TH ANNIVERSARY OF SCORE (SERVICE CORPS OF RETIRED EXECUTIVES)

● Mr. DANFORTH. Mr. President, 1984 marks the 20th anniversary of the Service Corps of Retired Executives [SCORE], a volunteer organization of retired businessmen and women who freely give of their time and experience to counsel beginning and enterprising businesses. This year, more than 12,000 SCORE volunteers, operating in more than 400 chapters located in every State plus the District of Columbia, Puerto Rico, Guam, and the Virgin Islands, celebrate this 20th anniversary as volunteer small business counselors by reporting that more than 1,200,000 small business clients have received free management counseling since its inception in 1964.

SCORE first began in Boston early in the 1960's when a few dedicated retirees decided to offer the benefit of their experience to aid struggling young businesses. The idea soon spread to other areas, and the Small Business Administration in 1964 took steps to utilize SCORE as a small-business management assistance resource.

In 1969, ACE [Active Corps of Executives] was established by SBA to supplement SCORE counseling services by utilizing the talents of volunteers not yet retired but still actively employed. In 1982, ACE was merged with SCORE into a single organization. Today, ACE members account for about one-fourth of the membership of SCORE.

SCORE members are dedicated to their program of offering free counseling to small-business persons. SCORE members often donate 20 or more hours of their time each week guiding a small businessman or woman through the intricacies of basic accounting principles, or teaching basic management fundamentals, personnel policies, and how to make major business judgments.

SCORE has its greatest effect on clients in one-on-one counseling, which is ordinarily the most costly form of management assistance. It is not unusual for a SCORE counselor to spend 40 hours a week on a specific case, guiding the small business around pitfalls such as inventory obsolescence, top-heavy personnel costs, failure to take into account tax consequences, and the selection of an unprofitable location for the business.

SCORE counselors also conduct prebusiness workshops and seminars which help small business men and women to understand the problems of ownership and management. These workshops provide a wealth of experience in sales, advertising, financial control, and purchasing to teach the beginning or struggling businessperson the basic principles of management.

The Small Business Administration, which sponsors the SCORE program, affirms the country's debt to these men and women who selflessly contribute of their wisdom, experience, and time to this very important activity.

It is most appropriate, Mr. President, as the volunteers of SCORE mark their 20th anniversary that we commend them for their remarkable dedication and service to the Nation's small businesses.●

IN PRAISE OF SENATOR STENNIS

Mr. GOLDWATER. Mr. President, I am sorry that the senior Senator from Mississippi has left the Chamber because I wanted to comment on the speech that he made yesterday relative to our first duty under the Constitution. That is to provide for the defense of our country.

I think very, very often we forget all about that and we begin thinking that feeding somebody, putting somebody in school, building highways, and building dams is our first duty. I am so happy that he called the attention of this body to the fact that we are supposed to provide for the defense of the country and, in the way he put it, begged both Houses to get along with the job before us, which is to provide a Department of Defense bill for us on which to vote. I thank the Senator from Mississippi for his comments. They are long, long overdue and we need to be reminded of that more than just once in a while. I yield the floor.

THE CALENDAR

Mr. BAKER. Mr. President, I have four items that are cleared for action by unanimous consent on this side. Could I inquire of the minority leader if he would be prepared to do these now? Let me quickly list all four. First I propose to indefinitely postpone Calendar 175, S. 655, and then to pass three concurrent resolutions. They are Calendar 1165, 1166, and 1167.

I would propose, Mr. President, given the lateness of the hour, to do the three concurrent resolutions en bloc, if the minority leader can clear them, if he has no objection.

Mr. BYRD. Mr. President, there is no objection. I compliment the distinguished majority leader for indicating that he would proceed en bloc.

Mr. BAKER. I thank the Senator.

MEASURE INDEFINITELY POSTPONED

Mr. BAKER. Mr. President, I first ask that Calendar Order 175, S. 655, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMIGRATION OF SYRIAN JEWS

The Senate proceeded to the consideration of the concurrent resolution (S. Con. Res. 94) expressing the sense of Congress that the President of Syria should permit Jewish emigration.

SYRIAN JEWRY

Mr. MOYNIHAN. Mr. President, with passage of Senate Concurrent Resolution 94 the U.S. Senate has made clear to the world its commitment to provide refuge in America for those members of the Syrian Jewish community who desire to emigrate.

It is to be hoped that the government of Syria will endeavor to demonstrate a willingness to permit such emigration in the weeks and months to come.

Senators will recall that Senate Concurrent Resolution 94 was introduced by the Senator from New York earlier this year in the wake of a tragic incident in Allepo, Syria that underscored the special danger in which the Syrian Jewish community finds itself under the current Syrian regime. In December Mrs. Lillian Antabi Abadi, a young Syrian Jewish mother, was found brutally murdered, along with her 6-year-old son Joseph and her 3-year-old daughter, Sandy. Mrs. Abadi was married to a prominent Jewish businessman, and her murder was followed by telephoned threats to other Syrian Jews that they would soon meet the same fate. A campaign of murderous harassment of the small Syrian Jewish community seemed to be underway.

It seemed to me particularly appropriate then—and it remains important today—for the Senate to state its view of the situation. The Syrian Jewish community is the oldest Jewish community in the world, sadly, it has become clear to the world that the only recourse for Jews in Syria is to emigrate to other countries where they may be permitted to live freely as Jews.

For many reasons, the United States is an obvious place of refuge. If the authorities in Syria desire to improve the currently poor relationship with this country, then one way to do it would be to permit those members of the Syrian Jewish community who desire to do so to emigrate to the United States.

It is worth noting that passage of this resolution is also meant to convey to the executive branch of our Government the Senate's sentiment that Syrian Jews ought to be permitted to receive refuge in this country whenever that may be propitious.

I want to express my appreciation to the several members of the Committee on Foreign Relations who have expressed their support for this measure and who have undertaken in recent days to have the resolution reported favorably from committee. Chairman PERCY, in particular, has been generous in his support of this expression of Senate sentiment.

Mr. President, I ask unanimous consent that the full text of the concurrent resolution, as reported from committee be printed in the RECORD, along with the names of those Senators who have cosponsored it.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

The cosponsors of the concurrent resolution are: Mr. MOYNIHAN (for himself, Mr. SPECTER, Mr. PERCY, Mr. D'AMATO, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. CRANSTON).

S. CON. RES. 94

Whereas the Syrian Government has forbidden all members of the Syrian Jewish community to emigrate;

Whereas the approximately four thousand Jews living in Syria have been victims of a systematic anti-Jewish, anti-Zionist pro-

gram which has included severe restrictions on travel abroad, laws requiring that all Jews bear special identification cards, and restrictions on Jewish rights of inheritance;

Whereas events, including the unexplained murders of a young Syrian Jewish woman and her children, suggest a pattern of violence against the Jews of Syria; and

Whereas Syrian President Hafez Assad stated in a 1976 interview that he would allow the members of the Syrian Jewish community to emigrate to the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President of Syria should immediately permit all members of the Syrian Jewish community to emigrate from Syria to the United States.

The concurrent resolution was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMEMORATING THE UKRAINIAN FAMINE OF 1933

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 111) to commemorate the Ukrainian famine of 1933 which had been reported from the Committee on Foreign Relations, with amendments; as follows:

(The parts of the concurrent resolution intended to be stricken are shown in boldface brackets, and the parts of the concurrent resolution intended to be inserted are shown in italics.)

Resolved by the House of Representatives (the Senate concurring), That **[**it is the sense of Congress that the President of the United States shall take in the name of humanity immediate and determined steps to**]** *the Congress hereby condemns the systematic disregard for human life and for human and national rights and liberties that characterizes the policies of the Union of Soviet Socialist Republics, expresses sympathy for the millions of victims of such policies and urges the President to—*

(1) **[**issue a proclamation in**]** *proclaim a day for* mournful commemoration of the great famine in the Ukraine during the year 1983, which constituted a deliberate and imperialistic policy of **[**the Soviet Russian Government**]** *Moscow* to destroy the intellectual elite and large segments of the population of the Ukraine and thus enhance its totalitarian Communist rule over the conquered Ukrainian nation;

(2) urge the Government of the Union of Soviet Socialist Republics to remove current restrictions on the shipment of food parcels and other necessities to residents of the Union of Soviet Socialist Republics by private individuals and charitable organizations;

[2**]** (3) issue a warning that continued **[**enslavement**]** *subjugation* of the Ukrainian nation as well as other non-Russian nations within the Union of Soviet Socialist Republics constitutes a threat to world peace and normal relationships among the peoples of Europe and the world at large; and

[3**]** (4) manifest to the peoples of the Union of Soviet Socialist Republics through an appropriate and official means the historic fact that the people of the United States share with them their aspirations **[**for the recovery of their freedom and national independence**]** *to determine their own destiny and recover their freedom.*

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INFRINGEMENTS OF RELIGIOUS FREEDOMS BY THE GOVERNMENTS OF THE WARSAW PACT STATES

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 119) expressing the sense of the Congress concerning infringements of religious freedom by the governments of the Warsaw Pact states, which had been reported from the Committee on Foreign Relations, with amendments, as follows:

(The parts of the concurrent resolution to be stricken are shown in boldface brackets, and the parts of the concurrent resolution to be inserted are printed in italic.)

S. CON. RES. 119

Resolved by the Senate (the House of Representatives concurring), That the Congress opposes and condemns infringement of religious freedom, persecution of religious believers, and discrimination on religious grounds by the Governments of the Warsaw Pact states.

SEC. 2. Accordingly, it is the sense of the Congress that the Government of the United States should raise publicly and privately the failure of the *Soviet Union, Czechoslovakia, Romania, Bulgaria, German Democratic Republic, Hungary, and Poland,* Warsaw Pact states, to fulfill commitments on religious freedom undertaken in the Helsinki Final Act and to respect international law on human rights and fundamental freedoms, especially in the area of religion, at every appropriate international forum, including all of the meetings of the Conference on Security and Cooperation in Europe, all appropriate gatherings of the United Nations, and in bilateral meetings with the offending governments.

SEC. 3. The President shall transmit a copy of this resolution to the Ambassador from each of the Warsaw Pact states.

Mr. PELL. Mr. President, on June 8, I introduced Senate Concurrent Resolution 119, which condemns infringements of religious freedom, persecution of religious believers, and discrimination on religious grounds by the Governments of the Warsaw Pact states. Twenty-three Senators have joined me in cosponsoring this resolution. On June 12 the Foreign Relations Committee held an extensive hearing on protecting and promoting religious rights in the Soviet Union and Eastern Europe. All of the witnesses including Mr. John Hvasta, executive director of the Slovak American National Council, who played an instrumental role in the formation of Senate Concurrent Resolution 119, reaffirmed the need for the U.S. Government to take steps, publicly and privately, to promote genuine religious freedom in the Warsaw Pact states. Senate Concurrent Resolution 119, which was unanimously approved by the Foreign Relations Committee, is one of these steps.

As a member and former cochairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission, I have long been concerned about the failure of the Soviet Union and its Warsaw Pact allies to fulfill commitments on religious freedom undertaken in the Helsinki Final Act and to respect international law on human rights, especially in the area of religion. As signatories of the final act, they have pledged to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience." Despite this solemn pledge, most of the Warsaw Pact states severely restrict religious activities and practices by law and impede the exercise of religious freedom by controlling the affairs of religious bodies. Moreover, individuals who attempt to exercise religious freedom are subject to state-sponsored discrimination in employment, housing and education, and in some states, for example Czechoslovakia and the Soviet Union, they are brutally persecuted and often imprisoned.

The Husak regime in Czechoslovakia has waged a constant campaign to minimize the role of religion in the lives of the Czech and Slovak peoples. The Catholic Church has been the regime's primary target because Catholicism is the dominant religion and the root of nationalism in Czechoslovakia. Catholic priests and lay believers, particularly in Slovakia where the Catholic Church is well established, have been subjected to house searches, harassment, detention, arrests and imprisonment. Catholic parishes have been deprived of priests because the Government of Czechoslovakia refuses to reach agreement with the Vatican on candidates for the priesthood. As a result, many priests have been forced to practice without licenses—a situation which makes them even more vul-

nerable to harassment and persecution by the government.

In the Soviet Union, restrictions on the activities of all religious groups including those that are officially recognized are so severe that thousands of Soviet believers have been forced to form illegal groups in order to practice their religion according to their conscience. Baptists, Jews, and other Soviet citizens who have attempted to exercise their right of religious expression have been harassed and imprisoned. Since 1980, Jews have often been victims of the government's intensified antireligious campaign. Jewish activists who have attempted to organize unofficial religious study groups have been subjected to various forms of intimidation as well as threats of arrest and imprisonment.

Mr. President, our own country was born out of the struggle for religious freedom, and I believe, as Americans, that we have a sacred duty to do all that we can to achieve this important freedom for the people of the Warsaw Pact states. Senate Concurrent Resolution 119, which we are considering today, calls upon all branches of the U.S. Government to raise this issue, publicly and privately, with the offending governments at every appropriate forum. I urge all of my colleagues to vote for it.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The reported amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, and the preamble, as amended, are as follows:

S. CON. RES. 119

Whereas the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted by the same body on November 25, 1981, proclaim the principles of nondiscrimination and equality before the law and the universal right to freedom of thought, conscience, and religion for all individuals;

Whereas the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the Helsinki Final Act), which all of the Warsaw Pact states have signed, commits the participating states to act in conformity with the purposes and principles of the Universal Declaration of Human Rights and to fulfill their obligations with respect to human rights and fundamental freedoms as set forth in international law;

Whereas the Helsinki Final Act reaffirms the commitment of the participating states to respect human rights and fundamental freedoms including the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience;

Whereas the constitutions of the Warsaw Pact states provide for freedom of religion both for the individual and for religious groups or sects, the laws of these states are highly restrictive with respect to religious activities and practices and do not permit certain denominations such as the [Greek Catholics] *Baptists, Pentecostals,* and the Seventh Day Adventists to practice their religion freely in the Soviet Union, or sects such as the Jehovah's Witnesses in Romania, [and] East Germany *and the Soviet Union and the Uniates in Romania and the Soviet Union* to function as legally recognized religious entities;

Whereas the governments of the Warsaw Pact states impede the free exercise of religion through administrative interference in the affairs of religious bodies including control over seminaries, religious publications and materials, construction and restoration of church buildings, finances, and the selection of religious leaders;

Whereas the Government of Czechoslovakia, in particular, has [refused to reach] *not reach* an agreement with the Vatican on filling the vacant bishoprics of the Roman Catholic Church in Czech and Slovak dioceses;

Whereas religious believers in several Warsaw Pact states experience officially sanctioned discrimination in employment, housing, and education;

Whereas the governments of most Warsaw Pact states severely restrict or prohibit optional religious instruction for children even on church premises;

Whereas the Governments of Czechoslovakia, Romania, the Soviet Union, and *at times* Bulgaria persecute, imprison, and confine religious believers for exercising religious freedom;

Whereas the Government of Poland has [exerted] *attempted to exert* pressure on the Catholic Church to endorse governmental policies, particularly with respect to Solidarity and its members;

Whereas the Government of Czechoslovakia has increased persecution of clergy and religious believers, especially those of the Catholic faith, since the birth of Solidarity in Poland;

Whereas the restrictions imposed by the Government of the Soviet Union on the activities of all religious groups including officially recognized groups such as the Russian Orthodox Church, the Roman Catholic Church, the Four Islamic Spiritual Boards, and the All-Union Council of Evangelistical Christians and Baptists are so severe that thousands of Soviet believers have been forced to form illegal groups in order to practice their religion according to their conscience;

Whereas the Soviet Union has severely curtailed the right of Jews to study and practice their religion and to adhere to their cultural traditions;

Whereas religious activity in the occupied Baltic States of Lithuania, Latvia, and Estonia has been harshly repressed by the Government of the Soviet Union; and

[Whereas Romania and the Soviet Union deny the fundamental right to emigrate to those individuals desiring to escape religious persecution: Now, therefore, be it.]

Whereas in most cases the Warsaw Pact states prevent individuals from escaping religious persecution by denying the fundamental right to emigrate to all of their citizens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress opposes and condemns infringement of religious freedom, persecution of religious believers, and discrimination on religious grounds by the Governments of the Warsaw Pact states.

SEC. 2. Accordingly, it is the sense of the Congress that the Government of the United States should raise publicly and privately the failure of the *Soviet Union, Czechoslovakia, Romania, Bulgaria, German Democratic Republic, Hungary, and Poland,* Warsaw Pact states, to fulfill commitments on religious freedom undertaken in the Helsinki Final Act and to respect international law on human rights and fundamental freedoms, especially in the area of religion, at every appropriate international forum, including all of the meetings of the Conference on Security and Cooperation in Europe, all appropriate gatherings of the United Nations, and in bilateral meetings with the offending governments.

SEC. 3. The President shall transmit a copy of this resolution to the Ambassador from each of the Warsaw Pact states.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. BAKER. Mr. President, on Monday, the Senate will convene at 11 a.m.

After recognition of the two leaders under the standing order, Senator PROXMIRE will be recognized on special order for not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business until 12:30 p.m., in which Senators may speak for not more than 5 minutes each.

At the close of the time for the transaction of routine morning business, there will be 2 hours of debate, equally divided, on the Baker motion to proceed to the consideration of the TV in the Senate resolution.

During the remainder of the day, it may be that the Senate will be asked to proceed to the consideration of other matters. A normal day is expected on Monday.

ADJOURNMENT UNTIL 11 A.M. ON MONDAY, SEPTEMBER 17, 1984

Mr. BAKER. Mr. President, if no other Senator seeks recognition, I move, in accordance with the order previously entered, that the Senate now stand in adjournment until 11 a.m. on Monday next.

The motion was agreed to, and at 11:19 p.m., the Senate adjourned until Monday, September 17, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1984:

FEDERAL MARITIME COMMISSION

Edward J. Philbin, of California, to be a Federal Maritime Commissioner for the term expiring June 30, 1989, vice James V. Day, term expired.

U.S. POSTAL SERVICE

John N. Griesemer, of Missouri, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1986, vice John R. McKean.

FEDERAL HOSPITAL INSURANCE TRUST FUND

The following-named persons to be members of the Board of Trustees of the Federal Hospital Insurance Trust Fund for terms of 4 years (new positions—Public Law 98-21 of April 20, 1983):

Mary Falvey Fuller, of California.
Suzanne Denbo Jaffe, of New York.

OLD-AGE AND SURVIVORS AND DISABILITY INSURANCE TRUST FUNDS

The following-named persons to be members of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for terms of 4 years (new positions—Public Law 98-21 of April 20, 1983):

Mary Falvey Fuller, of California.
Suzanne Denbo Jaffe, of New York.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

The following-named persons to be members of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for terms of 4 years. (new positions—Public Law 98-21 of April 20, 1983):

Mary Falvey Fuller, of California.
Suzanne Denbo Jaffe, of New York.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William E. Brown, XXX-... X..., U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James R. Brown, XXX-X... XXX-XX... U.S. Air Force.

EXTENSIONS OF REMARKS

HIGHER EDUCATION AND TECHNOLOGY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. HYDE. Mr. Speaker, we recently observed the first anniversary of the report of the National Commission on Excellence in Education's report, "A Nation at Risk." This report and other reports have caused us to make a careful reexamination of our educational system.

The United States is moving into an "information age" and it has been encouraging to find many schools—from elementary through university—using technology to strengthen and enhance their educational programs.

I am a graduate of Loyola University of Chicago, and recently the U.S. Education Department's Assistant Secretary for Educational Research and Improvement spoke before the faculty and students of the School of Education of Loyola University on the beneficial uses of instructional technology and the challenge the United States faces in a society where technology is occupying a larger and larger role. Dr. Senese's visit was sponsored by Dr. Gerald L. Gutek, the dean of the School of Education, who honored Dr. Senese by making him an honorary alumnus of the School of Education of Loyola University.

Dr. Senese provided some thoughtful comments on our educational system and its future development. I would like to enter into the CONGRESSIONAL RECORD a copy of Dr. Senese's speech, "Higher Education and Technology—The Challenge We Face in the 1980's."

HIGHER EDUCATION AND TECHNOLOGY—THE CHALLENGE WE FACE IN THE 1980'S

(By Dr. Donald J. Senese, Assistant Secretary for Educational Research and Improvement, U.S. Education Department)

Good evening.

It is a great pleasure to be here at Loyola University and to have the opportunity to address such a distinguished group of educators on a topic of such vital importance—higher education and technology. This topic requires us also to focus on what exactly is the role of technology—especially instructional technology—in our society presently. The questions are obvious: Is it a fad? Is it another "buzzword" of the education establishment designed to produce a flurry of activity but with few lasting results? Or is it something which will bring a profound and lasting change not only in education but in our society?

Allow me to focus on three important commentaries on our present society.

First, we are moving from the "Industrial Age" to the "Information Age"—a very significant development in how our society will be functioning. In "Megatrends: Ten New Directions Transforming Our Lives," John Naisbitt talks of a restructuring of American society now evolving with an economy based on the creation and distribution of information. This movement in the dual direction of high tech/high touch, he reminds us, matches each new technology with a compensatory human response. With the coming of that information society, we have an economy for the first time based on a key resource which is not only renewable but self-generating—an integrated information and communication system than transmits data and permits instantaneous interaction between persons and computers. "Information" is that key resource; self-generation is the issue. Naisbitt perceptively comments: "Running out of it is not a problem, but drowning in it is . . . We are drowning in information but starved for knowledge."

Second, the computer is a given; it exists; it has an expanding role in our everyday life and more and more aspects of our society are being influenced by the use of the computer.

Dr. Herbert A. Simon, university professor at Carnegie-Mellon University, has placed the development of the computer in proper perspective, especially as we relate its use in the field of education:

"Nobody really needs convincing these days that the computer is an innovation of more than ordinary magnitude, a one-in-several-centuries innovation and not a one-in-a-century innovation or one of these instant revolutions that are announced every day in the papers or on television. It really is an event of major magnitude."

By careful observation and the use of imagination, it is not necessary to be either a seer or a sage to realize that the key to the expansion of education over the coming decades will be the computer which in every kind of setting from the school to the home to the library to the community will enhance individualized instruction. "A Nation at Risk," the report of the National Commission on Excellence in Education, challenged our nation to set the goal of building a "Learning Society." Education has a better chance of becoming a lifelong pursuit from computer lessons in kindergarten to graduate degrees for senior citizens by use of the computer.

The computer will stimulate profound changes in education over the next decades. It has already profoundly affected the acquisition of knowledge and the conduct of research in higher education. Its effects on the organization and retrieval of information especially on library functions are becoming increasingly evident. It will soon affect changes in the number of off-campus students and on education out-of-school. And together with new knowledge from research in cognitive science, it must ultimately affect teaching and learning in the classroom.

Computer technology and telecommunications have so blended in the last decade that there is barely a distinction. Computers are relied upon by communications technology at almost every step in the processing of messages and the routing of messages as well as the processing and routing of conversations. Any serious computer can be used as a sophisticated communications device. In an article entitled "The Unpredictable Computer", the authoritative Far Eastern Economic Review (November 10, 1983) noted that the microcomputer driven by a single relatively inexpensive chip called a microprocessor, has brought about a revolution. The article noted:

"The real impact of this revolution is coming with the exploitation of the microcomputer's communications potential along with its conventional calculation and word-processing functions. Equipped with a modem, the microcomputer can be linked over telephone lines to other computers around the world to send and receive messages, retrieve information from external data bases and electronic bulletin boards or newsletters, or to pass on data for external processing."

Third, computers are becoming a part of the material or equipment students are taking to colleges and universities. The unusual roommate one discovers on campus today for the college freshman is the personal desk top computer.

Institutions of higher education are considering plans to use computers in every field of learning. A handful of colleges such as Stevens Institute of Technology (Hoboken, New Jersey), Clarkson College (Potsdam, New York) and Carnegie-Mellon University (Pittsburgh, Pennsylvania) require students to have computers. Even college book stores, in some instances, are becoming computer stores. Computer programs are being especially designed for college classes.

The computer offers to bring a new dimension to the focus of learning. Television offers a passive form of learning for the home and school, a one way reception by the student; the computer offers an interactive means of education in which the instructor and student can interact and exchange information hundreds or even thousands of miles away, eliminating time and geographic barriers.

Electronic learning has a great potential now just barely being realized for American education.

We can reach out to more and more people with a new system—computer to computer communication.

Education—particularly postsecondary—can go beyond barriers—people isolated in villages, prisons, nursing homes and confined for any reason at home or in an institution—can have access to a wide variety of learning.

Just recently, a private organization announced the development of the first "electronic university." A number of colleges and universities have agreed to allow credit in their institutions for students taking courses via this electronic university.

One can imagine the great potential of this development for post-secondary education. Individuals can take courses or whole programs in their homes for training for the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sake of learning new things or to prepare for new careers. We are living in a rapidly changing age when individuals can no longer be content with one career during a lifetime but may need to prepare for two or three or more career changes in a lifetime. Computers offer the individual a regular opportunity to upgrade skills or to acquire new skills. Knowledge can be more widely diffused in the career arena and great steps toward equity as under employment and underutilization of human resources can be eliminated, or certainly minimized. Corporations will have greater opportunity to train, retrain, and upgrade training of their workforce in a world growing more competitive for the United States.

Electronic learning via computers allows even more than other telecommunication developments the use of other than school rooms for education—libraries, museums, community centers, and one's own living room.

The interactive nature of communication plus pictures and graphics will allow students to get the benefit of outstanding teachers in specialized fields. Students' contact with teachers will be enhanced—thousands of miles away yet still with direct contact.

Computer learning can be best adopted to the best method for the individual student. Students can work at this own speed on desk top computers on different subjects; a student can drill as much as he or she needs without taking up unnecessarily the time of the teacher and fellow classmates. Based on individual evaluation, students who learn better through hearing would receive much of their instruction orally while those who learn better through visual information would spend more time reading and writing on visual screens.

As with any new development especially one representing such a vast change, the role of the federal government is an evolving one and is one under current debate. Allow me to outline observations on the role currently from the perspectives of this Administration.

First and foremost, the federal government recognizes the great benefits to higher education of technology and seeks to impose no barriers as institutions of higher education makes their decisions on ways and means to proceed. The Reagan Administration seeks to promote a concept of an opportunity society so these advances can take place with minimal interference.

Second, in accord with this Administration's desire to promote less federal control and more State, local and institutional autonomy in education, there will not be a massive federal aid program providing for software and/or hardware for universities. Such a program if undertaken would be very expensive, could easily ignore the different needs of vastly differing institutions and could pose threats to a university's decision-making powers in a vital area such as curriculum.

Third, there will be a continuation of federal programs which will assist in an indirect and direct means for higher education to participate in the technology revolution. The student loan program will continue to provide grants and loans to students so they follow studies preparing themselves for the new work opportunities in technology. There is also the FIPSE program (Fund for the Improvement of Postsecondary Education) which operates from our Office of Postsecondary Education. FIPSE makes specific grants for innovative projects in higher education and in recent years under the Reagan Administration these grants have favored projects in technology. Grants for Fiscal Year 1983 included the following projects: teaching macroeconomics using VISICALC software as a classroom lecture complementary activity (Colorado State University); developing a national inventory of microcomputer uses in education and an inventory of the uses of other electronic technologies (Harvard Graduate School of Education); extending verbal, mathematical and computer literacy training to rural adults (University of Idaho); developing a flexible computerized medical textbook in pathology which allows this "living text" to be continually updated and serve not only as a continuing education system but as an information bank (University of Illinois College of Medicine); developing a computer program to stimulate phenomena in optics, a program which can be used for junior high through graduate school (University of Maryland); establishing an institute to train computer science faculty from small liberal arts college in improved teaching methods and in techniques to better meet student needs (Union College, Lincoln, Nebraska); and designing as well as implementing a computer assisted academic advisement program using the PLATO system (University of Delaware). These grants provide the important funds to develop programs which can be disseminated to other postsecondary institutions.

The "technology revolution" so often referred to in the media is here and now; it is not in the future. This technology revolution is bringing us to new frontiers of knowledge as the torch is passed from leaders of the industrial age to leaders of the information age. It challenges us not only in our own country but in the international arena of global competition. If the United States is not to disappear from the roll call of leading economic powers, we must recognize and adjust to the challenge of economic competition through the explosion of technology.

When faced with a challenge, this nation has a long history of turning to higher education for practical solutions. The Morrill Act (1862), which had such a profound effect on the productivity of agriculture in this country, is an early example. The close collaboration between university scientists and engineers that contributed immeasurably to our country's victory in World War II is a more recent one. A grateful nation subsequently financed the "golden age of American university development" for the 25 years between 1950 and 1975.

I selected these two of many possible examples because they are essentially technological in character. The nation now appears to be facing a new international challenge to its economic competitiveness that many think has also a strong technological character. It is natural that we should again look to higher education for practical solutions. What might higher education's specific contributions be?

It seems to me that a short list would have to include—

Research that assists business and industry to advance the technological frontier;

Education and training of scientific and technical manpower needed by business and industry;

Preparation of all citizens to live in a technological society in which decisions are increasingly based on scientific and technological considerations, and

Research on how best to use technology to advance education at all levels.

It is a great challenge and opportunity for all of you involved in education. We must be bold in realizing our future tasks.

It was only a very short time ago in the panorama of human history that we had the invention of that very useful device we know as the telephone.

Even at the time of the invention of the telephone by Alexander Graham Bell, many of the more intelligent people of the time viewed it with skepticism. A common reaction might have been: Why would anyone want to talk to another person over a wire?

Let us focus for a moment on the invention of the telephone. In less than a century since the invention of the telephone, telephonic communication ranks as one of the all time critical change agents in the world.

This telephonic communication system made possible direct communication by one person with virtually any other person in the world and its impact has influenced the social, political and economic development of society. The creative genius of experts led to the expansion of telecommunications to include such developments as satellite communication, data transmission, video transmission and slow-scan and cable television.

All of these developments brought significant changes as well as enormous opportunities for education. It changed the old master-tutor relationship; it brought education beyond the four walls of the classroom; it expanded opportunities to tap knowledge throughout the world and to bring the wisdom of scholars from the far corners of the globe to the immediacy of one's own classroom and home. These changes helped to transform the home as well as the classroom into a learning environment. The people who master this development will find that it will not only change their lives and the way they think of themselves as human beings but will profoundly affect the balance of power in the world.

It is important that we develop our human resources to the best extent possible for our survival as a nation. We have seen documented the decline of U.S. school standards since the early 1960s: class grades have remained up but real performance has gone down. Dr. Barbara Lerner has noted that this has occurred in a period where we have sent more of our young people to school for longer periods of time than any other nation in the world. American productivity has also declined during this period. Dr. Lerner warns that the United States might face the period where high level managerial, professional and scientific talent will be in short supply and consequently the United States may discover this situation bringing serious economic, political and social problems.

Perhaps the significance of the challenge we face in learning was best stated by Columbia University professor Diane Ravitch in her recent work, "The Troubled Crusade: American Education 1945–1980." Dr. Ravitch notes:

"To believe in education is to believe in the future, to believe in what may be accomplished through the disciplined use of intelligence, allied with cooperation and good will. If it seems naively American to put so much stock in schools, colleges, universities, and the endless prospect of self-improvement and social improvement, it is an admirable, and perhaps even a noble flaw."

And finally, in opportunity, the United States must once again regain confidence in its ability to grow and expand and develop. During the 1960s and 1970s we experienced in our public life advocates of limited

growth and limited development, a philosophy leading to lack of confidence in ourselves and our society and a malaise prevalent in our institutions of higher education. The late Herman Kahn, in his last book, "The Coming Boom," observed that one of the reasons he expected high and sustained growth rates through the 1980s and 1990s was because of a whole host of new technologies and technological improvements ripe for large-scale exploitation, notably computer networks.

The electronic learning, growing more and more popular, builds upon these amazing developments in society, in learning and in opportunity. The technology is here; the will to use it effectively must also be present.

I should mention that we need to be aware of the disadvantages or limits on this breakthrough—educators unwilling to change may resist; special interests may lobby vigorously against it fearing it will replace teachers; competitors may undermine it for their personal interest; an apathetic public may fail to respond; quality of courses may be compromised in seeking a greater quantity of students; equalitarians may be dissatisfied with opportunities for access.

However, we need to recognize the great advantages—electronic learning can give greater access, more extensive educational opportunities, and an enhanced relationship between teachers and students; this development requires no knowledge of technology except the ability to push buttons; expansion of education is related to the declining cost of technology; a great educational system can further expand developing a more knowledgeable population and informed worker and consumer. An expanded and better educated population can assist American productivity at home, and American leadership in the world.

All of you gathered here—the innovators and inventors, the educators and education writers—all can play a vital role in this next stage of development for technology and education. As John Naisbitt writes in his final statement in Megatrends: "My God, what a fantastic time to be alive!"●

A WELCOME TO ASIAN-INDIANS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. GARCIA. Mr. Speaker, on September 18, between 11:30 a.m. and 1:30 p.m. the Indian-American Forum for Political Education will be hosting a luncheon in S-138 for Members of Congress. The purpose of the luncheon is to introduce to Members the leaders of the forum, and to better acquaint us with the Asian-Indian community at large.

This is an excellent opportunity to learn more about the dynamic Asian-Indian community. There are nearly 500,000 Asian-Indians in this country including a wide range of professionals—scientists, doctors, economists, architects, and businessmen. They are an important community who share traditional American values such as a strong belief in the family and hard work.

I think it is important that we begin to recognize the contributions of Asian-Indians to our great Nation, and welcome their emergence on the American political scene. I am submitting some information for my colleagues on the Indian-American forum so that they can better acquaint themselves with that organization and the Asian-Indian community across the country.

The information follows:

INDIAN-AMERICAN FORUM FOR POLITICAL EDUCATION

INTRODUCTION

As Indian-Americans develop long-term interests in the U.S. political system, it becomes necessary for them to educate themselves in order to make intelligent decisions. The Indian-American Forum for Political Education (IAFPE) will serve as an instrument for such an educational process. This non-partisan educational organization has chapters in several states around the country and is the only national association for political education of American citizens and residents of Asian-Indian origin.

PURPOSES AND FUNCTIONS

The major purposes of the Forum are to function as a catalyst in promoting political awareness and developing civic consciousness and to provide opportunities for learning various aspects of issues affecting the lives of individuals of Indian origin residing in the United States of America. This learning process is to take place through discussion sessions on contemporary civic, economic, and political developments.

Although no political activities are planned, the Forum will attempt to influence and encourage participants toward appropriate political initiatives when the necessity arises. Therefore, the educational activities will be results oriented. The meetings of the Forum may attract leaders of political entities who are interested in educating the Forum participants about various local, national, and international issues and to listen to the concerns and opinions of the participants. Eventually, these two-way informal exchanges of ideas among the active participants of the Forum and political leaders will develop an atmosphere of mutual respect and understanding. The goodwill and political awareness emerging from these contacts can be utilized for the benefit of all participants whenever they face problems either as individuals or as members of the community. Political leaders, conversely, can receive support and advice from Forum participants whenever they need community support in activities such as election and passage of legislative proposals.

ORGANIZATIONAL STRUCTURE

After one year of informal operation with a National Coordinator and State Chapter Coordinators, the Forum's National Advisory Committee and state coordinators from New York, New Jersey, Maryland, Virginia, North Carolina, Florida, and Georgia met on October 15, 1983, and approved a formal organizational structure for the future activities of the Forum. On January 26, 1984, the Forum's leadership met and adopted a constitution. After conducting a nationwide membership campaign and local elections, the IAFPE's National Assembly of delegates from 16 states met on May 26, 1984, in Washington, D.C. and elected national officers and a new Board of Directors for a two-year term ending May 1986.

[From the India-West, Aug. 3, 1984]

IAFPE LAUNCHES VOTER EDUCATION DRIVE FOR INDIAN AMERICANS

WASHINGTON, D.C.—A voter education campaign designed to supplement other voter registration campaigns among Asian Indian organizations was launched last week in Washington by the Indian American Forum for Political Education (IAFPE).

The campaign provides for a plan which will arrange for Indian American representatives to receive authorization from county voter registration offices to visit voters in their homes or offices and enroll them onto voter lists, according to a press release from IAFPE.

IAFPE hopes to assist voters in gathering information on party platforms as well as views of individual candidates on matters of direct concern to Indian Americans. Already, its voter registration campaign is in full swing and they have established liaison with the Democratic National Committee, the Republican National Committee, the League of Women Voters, and the Asian American Voters Coalition to help them in this effort.

Asian Indian associations are being urged to request position papers on issues affecting the community by writing to Dr. Ravindra Nath, Suite 310, 1819 H Street, Washington, D.C. 20006. Individuals interested in participating in the voter registration programs may contact Achamma Chandersekaran at (301) 279-5691.

That the half million Indian Americans in this country are becoming a political and economic force was recognized by the Hon. Robert Garcia of New York in the House of Representatives last week when he drew the House's attention to a statement made earlier by IAFPE president Dr. Joy Cherian on the Family Reunification Provisions in the Immigration Reform and Control Act of 1983.●

A DARK DAY FOR NORTHERN CALIFORNIANS

HON. GENE CHAPPIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. CHAPPIE. Mr. Speaker, I'm obviously disappointed that the House of Representatives has passed such an excessive and irresponsible wilderness bill for my State and district. We all recognize the need and importance of preserving pristine examples of our natural environment for the benefit of future generations of Americans, but the 1.8 million acres incorporated in H.R. 1437 goes far beyond reasonable and prudent.

I supported the original 1.2 million acre wilderness proposal made by the Carter administration. Both the Forest Service and the Reagan administration had also reviewed and endorsed this plan. So, clearly, the brief history of this so-called compromise 1.8 million acre plan is one of back-

room deals and special interest group concessions.

Senators WILSON and CRANSTON have cut this deal by themselves, without our input or review, and have rammed it through both Chambers of Congress. Honestly, even as this legislation awaits the signature of the President, I have no idea where the lines on this comprehensive and important legislation are drawn.

Unfortunately, the additional 600,000 acres of wilderness included in this bill is going to have a real impact on northern California. Not only will there be a loss of jobs and potential jobs, but this law closes off forest land and natural wonders to many different groups, especially the handicapped and the elderly recreational enthusiasts. Contrary to the statements of the weekend environmentalists who make their living in the city, H.R. 1437 will really only benefit a handful of hardy backpackers.

Simply, put, the bill passed by Congress puts too many acres off limits to too many people and I'm hopping mad that some of my colleagues in this Chamber seem to think they are better equipped to decide what is best for my constituency.

Mr. Speaker at this point I would like to have two letters written to me concerning this matter included in the RECORD:

WESTERN TIMBER ASSOCIATION,
San Francisco, CA, August 28, 1984.

Hon. GENE CHAPPIE,
Longworth House Office Building,
Washington, DC.

DEAR GENE: The assistance and leadership you have provided in fighting the California Wilderness Bill is much appreciated. You and your staff have been very helpful throughout the long, arduous legislative process. Although the outlook for defeating the wilderness bill looks bleak, we think several issues need to be brought to the attention of Congress before the final vote.

1. Further Planning remains at 1.9 million acres.

As late as three weeks ago, Senator Wilson insisted that only about one million acres would remain in further planning. With a cavalier attitude towards details and in the rush to get the bill enacted, the sponsors did not know what acreage was in further planning. All the while they claimed that the bill was going to resolve uncertainty and solve the roadless problem. Now we find that about 1.9 million acres remain in further planning which essentially means the bill prohibits development on 75% of the acres that were in controversy. This has been the sponsor's best kept secret about the bill and we believe the massive acreage in further planning is an atrocity. Hopefully something can be done by the House to reduce further planning acres to the one million figure intended by Wilson. Alternately, the House could make it clear that the intent is not to see all the 1.9 million acres of further planning eventually designated wilderness.

2. Maintain current levels of nonwilderness activities.

The sponsors of the Wilderness Bill claim that it is balanced and provides for jobs and economic improvement. However, the bill has no assurances that even the current level of economic activity will be maintained. Californians should be able to enjoy the level of use from their National Forests that they have had in the past. Firewood availability, energy production, off-road vehicle recreation, timber production, etc. should not be diminished by the bill. This idea of maintaining current production is not without legislative precedent and was embodied in the Alaska Lands Act.

The California bill should set *minimum* levels of nonwilderness uses and should link these targets with the disposition of the 1.9 million acres of further planning and management of the released roadless areas. For example, O.R.V. and motorized recreation has amounted to over 30 million visitor days in Region 5. The National Forests should contribute a minimum of 2 billion board feet of timber to California's supply. Resolution of the further planning areas should not diminish the resource uses below the target levels.

3. Management of released roadless areas so as to avoid defacto wilderness.

Hopefully through some legislative means, be it by conference report, amendment to the bill, or floor colloquy, the House can encourage management of the released roadless areas for uses that are prohibited in wilderness. Note the use of the world "encourage." We realize that Congress cannot mandate development of any roadless area because the Forest Service must comply with other environmental laws and regulations.

The Senate Committee Report merely says the Forest Service should manage released roadless areas for "non-wilderness multiple-use." This includes backcountry recreation, spotted owl management, and other nonwilderness multiple-uses that will not provide jobs or improve the economy. The current language essentially permits defacto wilderness. We believe this can be avoided by using language that refers to management of released roadless areas for uses prohibited in wilderness.

In summary, we want to avoid defacto wilderness management of the released roadless areas by first distinguishing that management is for *uses prohibited in wilderness* and *encouraging* such uses subject to existing law.

4. Maps unavailable and impacts underestimated.

The one-inch to the mile topographic maps of the wilderness proposals are essentially complete. The Forest Service has been told by the Senate Energy and Natural Resources Committee not to release the maps. We think Congress and the public should be permitted to learn the details of a proposal before it is presented for a vote. We have filed a Freedom of Information Act request for the maps. The topographic maps will show whether an O.R.V. trail is on the wilderness or nonwilderness side of the boundary and whether ski lift supports may be placed on certain ridges. The Senate apparently wants to keep everyone in the dark until after the bill is enacted.

On the Six Rivers and the Klamath National Forests, the local Forest Service now estimates that the negative impact of the wilderness bill on potential timber production is two to four times greater than originally thought. So although the acres of the wilderness bill are midway between the Forest Service and Burton proposals, the impacts on timber production and other resources are much closer to the Burton bill. This makes the term compromise inapplicable to the California Wilderness Bill.

In conclusion, we realize that the problems of too much further planning, no assurance that the level of current use will be maintained, and defacto wilderness management of released roadless areas, will be difficult to correct in the House. At minimum the problems can be used to illustrate the serious faults of the Wilderness Bill. Your continued effort to delay or defeat the bill would be appreciated.

WILLIAM N. DENNISON,
Executive Vice President.

CALIFORNIA MINING ASSOCIATION,
Jackson, CA.

The California mining industry has a grave concern about the withdrawal of lands containing substantial reserves of critical and strategic minerals.

We feel current wilderness proposals, specifically Wilson/Cranston/Burton (H.R. 1437), run counter to Congressionally-adopted national policies calling for the encouragement of domestic production of minerals crucial to our national defense.

You will find outlined several specific examples drawn from locations added to the California wilderness system by the Wilson/Cranston/Burton bill.

If you have any questions about this threat to the country's security please feel free to contact me.

Sincerely,

RAY B. HUNTER,
Executive Director.

EXECUTIVE SUMMARY

Pending wilderness proposals appear to have disregarded California's role as a supplier of the country's legislatively-defined critical minerals and in doing so threaten the national defense.

California's diverse and complex geology has made it the leading producer of nonfuel minerals in the United States. Its reserves contain the minerals needed to sustain the American life and to fuel its industries.

Also, it is a rich source of minerals defined as "strategic," those which are instrumental to our defense and national welfare. Chromium, tungsten, cobalt, uranium, manganese and hundreds of commodities being discovered and put to use in our ever-expanding security technology are found in California. The demand for these minerals, coupled with this country's need to move toward independence from foreign sources, has been delineated in public policy.

With only cursory information, incomplete or nonexistent surveys, the Wilson/Cranston/Burton legislation (H.R. 1437) proposes to designate as wilderness thousands of acres with millions of pounds of proven strategic mineral worth. This action is taken with no regard to changing technology which is developing new methods for mineral extraction and new uses for them on a regular basis.

The finely-crafted compromise, which saw industry support proposals from both the Carter and Reagan Administrations to add 1.2 million acres of wilderness designation, was drawn to expedite the resolution of the land withdrawal question. It now has been pushed aside. If strategic minerals reserves are abandoned on those lands, and added to the deposits precluded from development by Wilson/Cranston/Burton, this country is placed in a frightening paradox:

Third-world nations will be the source for the minerals needed to maintain our national defense while the same elements are locked up in California's wilderness.

CONCLUSION

The role of California as a supplier of critical minerals—and that role in relation to stated national defense policy—apparently was disregarded in the Wilson/Cranston/Burton wilderness legislation.

As illustrated by the enclosed case studies, and borne out by more intensive analysis of virtually every area added to the Administration's wilderness proposal, these sites for the most part have not been subjected to intensive minerals surveys to assess their actual worth. Some areas were excluded from wilderness in the past specifically because of their high minerals values.

In other cases, acreage is added unnecessarily apparently simply in an "expanding existing wilderness" philosophy. Legislation backers have manipulated some boundaries in acknowledgement of critical minerals reserves.

With the addition of the new acreages, the country must not overlook sizable strategic minerals reserves on lands included in the Administration's position. Certainly, any compromise postures on the part of industry must be set aside as it contemplates removal of large strategic deposits from all possibility of development.

What has not been considered at all is the ever-changing technology of mining which makes it possible to develop reserves previously considered economically unfeasible. This wilderness allocation has been proposed with no predictions on the future needs of this country for commodities newly, or yet to be, discovered.

California's complex geology and its location in a highly mineralized part of the world makes it a likely candidate for vast reserves of new minerals to be used by as-yet unknown technologies in the next centuries. Rather than assessing mineral potential in terms of what is demonstrably present at the time of a given study, California's mineral wealth is so vast its potential should be considered as existing until all testing can prove conclusively that a commodity is not present. Indeed, even then it would be impossible to absolutely rule out the possibility of another type of mineral on the site.

Certainly, it isn't feasible for private enterprise or government to undertake such a massive survey. However, without such evidence, it seems inconceivable that large acreages can be arbitrarily designated as off-limits to all mining or mineral exploration for the rest of time.

This country has recognized the need for strategic minerals. It has publicly proclaimed the need for stockpiles and working toward energy independence. Yet, in a seemingly casual manner, acres of strategic mineralization will no longer be available if this legislation is enacted.

Some resources can be moved to be developed; others can be cultivated in other locations. Minerals can only be harvested from the place where they occur and millions of tons are about to be made unavailable. They simply do not exist elsewhere.●

APPALACHIANS, LOST IN THE BIG CITY

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. MITCHELL. Mr. Speaker, the following article is the final one of the three-part series by Colman McCarthy regarding the Appalachians. It is as it appeared in the June 17, 1984 edition of the Washington Post.

[From the Washington Post, June 17, 1984]

APPALACHIANS, LOST IN THE BIG CITY

(By Colman McCarthy)

BALTIMORE.—Except for the nondescriptness of the row houses on both sides of the narrow forlorn street, the eight people sitting on the porch might well have been back where they came from: Appalachia. The six men and women and two children live in the Remington neighborhood, an isolated community of former mountaineers whose urban subculture is among the poorest and least visible in the city.

Common to the 1,100 households in this north central section of Baltimore is an emotional tie to Appalachia, from the hollows in southern West Virginia to coal towns in western Pennsylvania. In the 1950s and 1960s, an outmigration of young people came to cities like Detroit, Akron, Chicago, Cleveland, Pittsburgh and Baltimore with hopes of going higher in the world than their coal-mining parents, beginning at least with jobs above ground.

Work was available in the mills and factories of Baltimore. Today Remington is a lost community. Most of the mills have closed. In the past year, three factories employing more than 400 workers have either shut down or moved out. The Appalachians who were lured here 20 and 30 years ago by the chance for a paycheck can't go back to the mountains. There are no jobs there either. In parts of the coalfields, unemployment ranges from 30 to 80 percent. In Remington, about a third of the community lives below the poverty line.

An equal percentage of the population is under 18. Most of those will leave high school before graduating. A local teacher, reporting that nearly all the children from Remington come into school below grade level, says that in the Appalachian families education was "never a priority. There are too many other important things. . . . People are more aware of what they can contribute to the family than what their future education can contribute to themselves."

On the porch the other afternoon, with temperatures in the mid-90s, the urban Appalachians of Baltimore were as reluctant to talk with a stranger about their problems as rural Appalachians would be with a passing-through outsider. One of the women, leaning on a porch pillar while her teen-aged daughter sat behind her, spoke softly about her ordeal of getting the family's fuel bill adjusted. She avoided the details. The humiliation of having to worry about pinching a dollar or two was a pain best carried privately. She wanted no stranger looking on her as a charity case.

This hesitancy to "fuss" is ingrained in the Appalachian psyche. It has been carried from the hills to the row houses as surely as the love of mountain music. Families stick together in clannishness. But this blood solidarity is seldom extended into political coalitions. There is no national organization to represent displaced Appalachians.

That fact, coupled with low voter turnout in places like Remington, means that politicians run little risk in ignoring these communities of poor whites. In the presidential primary campaign, Jesse Jackson spoke of a rainbow coalition of blacks, Hispanics, Filipinoes, Indians, gays and lesbians. If he included destitute refugees from the mountains, no one in Remington heard him.

In many parts of Appalachia, country doctors report that mental depression is epidemic. It is the same here: a pervasive joylessness girded by an unceasing low self-image. Alcoholism is as rampant as black lung is in the mountains. Homeless teenagers have begun to show up." Two years ago, a mother dropped off her 14-year-old son with a family of cousins. She left and hasn't been back. To survive, the boy went to the streets and became a male prostitute.

Like the hills back home, Remington's hope has been strip/mined. Reclamation projects are also rare here. Rep. Parren Mitchell, whose congressional district includes Remington, says that "nothing has been done to bring the area into the urban enterprise zone concept. I see no relief in the near future. The factories are closing and industries are not moving back to the city. I have sympathy for the people. They are caught in economic adversity not of their own making."

A thoroughfare that cuts through Remington is North Howard Street. It is one of the main routes to and from Memorial Stadium, home of the world champion Orioles. Travelers speed through Remington the way they ride the interstates across Appalachia: eyes and mind straight ahead. City or country, we bypass a whole people.●

MARE ISLAND NAVAL SHIPYARD 130TH BIRTHDAY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mrs. BOXER. Mr. Speaker, on September 16, 1984, one of this Nation's most important shipyards, the first to be established on the Pacific coast—Mare Island Naval Shipyard—will celebrate 130 years of outstanding contributions to our national security.

More than 512 ships of all classes, from tugboats to submarines, destroyers, cruisers, and battleships have been launched by this great navy yard, famed for its workmanship and the dedication and loyalty of its employees.

Today, the mission of Mare Island Naval Shipyard is mainly the repair and overhaul of nuclear submarines, although it is prepared to construct ships again, almost at a moment's notice.

It is extremely important to the security of our Nation that Mare Island and other Federal shipyards continue the roles for which they were established.

The Vallejo, CA, Times-Herald, an outstanding newspaper in my Sixth District, makes that point extremely well in the following editorial, published August 31, 1984:

SHIPYARD SPLIT: 70-30 OR 60-40

The history of the Navy yard system is as long as the history of America, even a little longer. Always, the country has repaired its own ships in its own Navy yards.

Mare Island was established 130 years ago to provide the beginnings of this service in the Pacific. Over the years, there have been many attempts to interrupt or supplant these yards by awarding contracts to private shipyards. In recent years, efforts have been made to legislate percentage splits between the public and private yards for the repair and overhaul work for naval ships.

In 1963, the Congress, pressured by private interests and with the acquiesence of the Navy's chief of the Bureau of Ships, put into law the requirement that naval ship repair should be divided 65-35, with not less than 35 percent to be assigned to the private sector. The Navy immediately found the required split to be awkward, restrictive and actually created problems in quality assurance.

The Navy asked to be relieved of the constraint and was in 1968. Navy said it would keep the split around 70-30, with virtually all of the complex ships being overhauled in Navy yards and almost all of the auxiliary ships, contracted to private yards.

In 1971, there was an attempt to legislate a 50-50 split. It failed. Last year, Rep. Duncan Hunter, R-San Diego, a member of the House Armed Services Committee, inserted language in the military appropriations bill that required the Navy to study and report the effect of a 50-50 and 60-40 split of Navy repair work.

The Navy made its report, which indicated its concern with the proposal saying that a 50-50 split would result in closure of two naval shipyards (Philadelphia and Long Beach) and that the other yards would be reduced by approximately 25 percent. The 60-40 split would have a lesser effect, but Philadelphia and Long Beach would still go.

The House was not satisfied with this analysis and directed its Surveys and Investigation staff to review the overall problem. They did and concluded that there was a problem but without a solution. The problem was that the private yards were losing their ability to respond because of lack of work.

The Congress, again, directed the Navy to study a 50-50 split of Navy work between the private and public sectors. The Navy has made another report, this time projecting for the next several years the Navy work requirements. In this report, the Navy iterates its statements in the previous report saying that:

"Shipyards are vital assets to the nation and must be maintained at a level sufficient to ensure the executability of the fleet maintenance and modernization program.

"Eight naval shipyards are required to ensure executability of the program and meet the strategic and operational requirements. Policies affecting the distribution of the maintenance program must have long-term stability and should not be changed on a yearly basis. The current public/private split policy (70-30) provides a workable system, with enough flexibility to compensate for changing ship mixes and the different types of ship maintenance programs being used by the Navy. The current legislation serves the best interest of the nation and should not be changed since it maintains a viable ship overhaul base supporting the modernization, operational and business requirements of effectively maintaining the fleet."

We agree with the Navy's assessment, since it is obvious that taking work from one area and assigning it to another will not increase the industrial base, certainly a continuing problem. Navy yards, especially Mare Island, are vital elements in our national defense posture, maintained at a cost as part of our national defense.

And, we might add, this had been a message that has been well carried by Rep. Barbara Boxer, D-Vallejo and Rep. Vic Fazio, D-Solano.

A gradual reduction of naval shipyards, from 11 to the current eight, over the years indicates, at least to us, the continual attention the Navy has given to the size and amount of its facilities and the overall requirements of the fleet.

What we'd like Boxer and Fazio to continue repeating to the Congress, especially Rep. Hunter is, "If it ain't broke, don't fix it."●

A NEW SHIP CONSTRUCTION AND RECONSTRUCTION PROGRAM TO ENSURE ADEQUATE NATIONAL DEFENSE CAPABILITIES

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. McKERNAN. Mr. Speaker, today I am introducing a bill to amend title VII of the Merchant Marine Act of 1936 to provide for the construction in U.S. shipyards of modern vessels with a dual commercial and military adaptability. The new ships would be paid for by the Department of Defense and sold or chartered to U.S. citizens for operation in the commerce of the United States. Vessel operators would be permitted to deposit their obsolete, but militarily useful ships into the National Defense Reserve Fleet to defray charter costs.

The single most important justification for the support of a U.S.-flag merchant fleet is the need to have strategic sealift resources available in time of war or national emergency. There is, of course, an economic justification for the merchant marine, but it is less well defined, and the rationale has been debated by economists within our own Government. On the other hand, the military necessity for a U.S.-flag merchant fleet for sealift purposes is indisputable.

In wartime, fully 90 percent of the supplies needed to support our troops must be carried by sea. Some estimates say two merchant vessels are needed to support a single gray hull or warship and the associated complement of Armed Forces committed ashore. In fact, this was the British experience in the Falkland Islands conflict. If we are to have a 600-ship Navy, then at a minimum, 1,200 merchant ships capable of acting as military auxiliaries will be necessary. At the present time, all sources considered, there are 1,100 militarily useful vessels available to our Nation should we need them. At first blush, the shortfall appears to be, at worst, modest, and one might ask, why the cause for alarm? A brief analysis of the sources of our military sealift exposes the fallacy of relying upon the estimate of 1,100.

Of these 1,100 ships 400 are pledged from NATO countries and would be unavailable in a non-NATO conflict. One hundred and eighty-three are aging vessels in the National Defense Reserve Fleet whose ability to perform is uncertain. Seventy-two are owned by U.S. citizens, but are operated under foreign flags and crewed by foreign crews whose allegiance may not lie with U.S. interests.

Considering these facts, it quickly becomes apparent that the fleet upon which we can depend is around 545 vessels, less than half the size we'd need in time of war, and this does not even take into consideration the ships required to supply everyday business and industrial needs. Nor does it consider battle casualties. Remember, we lost more merchant ships in World War II than we have in the entire U.S.-flag commercial fleet today. The facts bear out the shocking urgency of the situation. We have heard over and over again that the merchant marine is our "fourth arm of defense." It is frightening to think that this arm could not be raised in defense should it be needed.

Surely a commercially generated maritime rebirth would be preferable to a Government-financed ship construction program. If I thought that might happen, I would not stand before you today to ask for your support of this bill. The sad fact is commercial forces cannot and will not result in the construction of vessels with national defense relevance. Indeed, future construction of any commercial vessel in a U.S. shipyard is doubtful. Navy construction alone will not support our shipyards. It is time we faced this defense weakness head on—the problem is not prospective, the decline of our shipyard and labor base is a present one—the price of any further delay will be the loss of our already struggling shipyards and maritime labor base so necessary to the defense of our country.

My message is really a simple one. We need vessels in greater numbers, active shipyards, and a skilled labor base for our national defense. Our present capabilities fall short of our need. It is unlikely that commercial market demand will generate construction here in the United States and almost certainly will not result in the type of ships our defense strategy demands. Yet, we require these vessels just the same.

My bill would result in the construction of modern, efficient vessels capable of use both commercially and in time of war. They would replace older, less efficient tonnage which could move into the National Defense Reserve Fleet under the trade-in provi-

sion of the bill. The new vessels would be available for charter at rates which would permit them to compete in the U.S. foreign and domestic trades, but at rates sufficiently high so as not to unduly disadvantage existing U.S. operators in the same trade.

Although my program will entail some cost, if our national strategy of forward deterrence is to mean anything at all—we must have merchant vessels to support our Armed Forces. This is a legitimate cost of national defense and one which I believe we as taxpayers ought to be willing to pay. The Department of Defense, whose responsibility is the defense of our country, ought to be the source of funding for this program.

Clearly, the bill is not a panacea, but a realistic balm for an ailing defense industrial base, providing jobs, increased tax revenues to the Treasury, an improvement in the balance of payments, an infusion of militarily valuable vessels into the National Defense Reserve Fleet, and modern, economical defense relevant vessels into the active U.S.-flag merchant fleet. I urge my colleagues to support my bill and a new era of growth in our merchant fleet.●

THE RESIDENTIAL ENERGY CONSERVATION TAX CREDIT ACT OF 1984

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. OTTINGER. Mr. Speaker, today I am introducing legislation to preserve and improve a valuable incentive for investment in energy conservation, the residential energy conservation tax credit. Since its passage in 1978, this credit has served as a powerful expression of this Nation's commitment to energy conservation, a commitment that has assisted over 22 million taxpayers to insulate their homes. This national commitment, however, is threatened by the expiration of the credit on December 31, 1985. If this is allowed to happen, it would extinguish the single most successful Federal inducement to invest in energy conservation. Action to extend is needed now so that adequate leadtime can be provided to manufacturers to plan production. Going into next year with the disposition of the credit uncertain will assuredly lead to disruptive marketplace conditions.

The bill would extend the credit to December 31, 1990, adjust the credit from its current 15 percent on a maximum expenditure of $2,000 to a 40-percent credit—the same as the residential renewable energy credit—on a maximum expenditure of $1,000, and limit eligibility to households with adjusted gross incomes of $40,000 or less. The full 40-percent credit would be available to persons up to $30,000 in adjusted gross income, and then phase down to zero at $40,000.

A draft analysis by the Department of Energy shows that the credit I am proposing can save energy at a Federal cost of only $6.24 a barrel of oil equivalent—nearly 40 percent more cost-effective than the current credit. At the same time, the income ceiling should reduce DOE's preliminary estimate of the cost of this credit by approximately 30 percent, while improving the attribution rate and the overall cost-effectiveness of the credit. With the income ceiling, the annual cost to the Treasury can be expected to average approximately $800 million and the total 5-year cost of this proposal will be approximately $4 billion.

This is a significant amount, but only a modest step toward restoring a more rational balance in our current energy priorities. I urge my colleagues to consider:

We will spend $8 billion over the same 5-year period by allowing oil and gas companies and individual investors the expense exploration and development costs.

We will spend $10 billion over 5 years by allowing oil and gas companies and individual investors to claim an excess cost depletion allowance on production.

In June we forgave an estimated $12 billion in taxes owed by major corporations on export income deferred under domestic international sales corporations. As noted on the floor of the House June 27 by my colleague Mr. STARK, "It is interesting to note that with one sweep of the pen early Saturday morning, we gave $12 billion to the major corporations in this country tax free, as a gift. It was never asked for. They were willing to pay about $4 billion of that in taxes without even fighting."

Surely if we are capable of supporting such programs, we should be able to support the residential energy conservation tax credit—a credit that goes directly to individuals when they invest in our energy security.

I realize, as I offer this legislation, that encouraging energy conservation is not as "sexy" as a synfuels corporation or a breeder reactor. But it makes more sense. Residential conservation measures typically cost in the range of a few cents up to $20 per barrel of oil equivalent, whereas the Synthetic Fuels Corporation has proposed financing fuels that will cost from $60 to $92 per barrel. Moreover, conservation is safe and clean. It reduces demands to sacrifice environmentally sensitive land, watersheds, or ocean areas for energy production, and reduces the combustion of fossil fuels contributing to acid rain.

Since 1978, the tax credit has established an impressive record of success. The credit has been widely used by taxpayers across the country. According to figures from the Internal Revenue Service, energy conservation credits have been used by 22 million taxpayers through 1982. In total, these taxpayers have invested over $14 billion in energy conservation measures.

The returns on these investments have accrued not only to individual households, in the form of lower energy bills, but also to the Nation as a whole. Our energy security has been enhanced. Oil imports have fallen from a high of 8.8 million barrels per day in 1977, the year preceding the conservation credit, to 4.9 million barrels per day in 1983. The annual per capita consumption of energy has declined as well, from a high of 351 million Btu in 1978 to 301 million Btu in 1983, the lowest level since 1967. The residential consumption of energy between 1978 and 1983 has declined 12 percent. According to a study by Oak Ridge National Laboratory, approximately half of these savings are due to energy conservation and efficiency. For the first time in the postwar era, this Nation has managed a sustained effort to eliminate energy waste.

At this time, however, we have realized only a piece of a much greater energy conservation potential: roughly one out of four households has taken advantage of this credit. A study by the Congressional Research Service released this spring by the Subcommittee on Energy Conservation and Power, which I chair, found that the maximum use of cost-effective measures could have reduced residential energy consumption in 1981 by another 40 percent. The residential energy reductions that have been achieved to date are only a fraction of what can be accomplished.

As I mentioned earlier, this bill would increase the allowable credit percentage from 15 percent to 40 percent, but would reduce the allowable expenditure ceiling from $2,000 to $1,000. In a recent draft study of the energy conservation credit, DOE concluded that this particular combination of a 40-percent credit and a $1,000 expenditure ceiling was the most cost effective combination compared to either the current 15-percent credit or to a 50-percent credit. As the following table indicates, the 40-percent credit will lower the Federal cost per barrel of energy savings by an estimated 39 percent:

	Current 15-percent $2,000 maximum expenditure	Alternate A, 40-percent $1,000 maximum expenditure	Alternate B, 50-percent $1,200 maximum expenditure
Total (5-yr) revenue loss ($10⁶)	1,117	5,730	8,309
Energy savings (10⁶ BOE):[1]			
After 5 yr	6.5	52.3	64.5
After 15 yr	97.2	784.5	967.5
Cost of energy saved (dollars BOE):[2]			
After 5 yr	47.68	24.67	28.84
After 15 yr	10.03	6.24	7.17

[1] Assuming a 3-yr payback on conservation investments.
[2] With revenue losses discounted at 10 percent.

A 40-percent credit will also increase the use of the credit and thus the tax revenue foregone. Based on DOE's analysis, I estimate that this bill, which includes a $40,000 income eligibility ceiling, will cost approximately $800 million annually, compared to the current cost of approximately $300 million annually and $8.25 billion we just reapproved for the Synthetic Fuels Corporation.

Briefly, I ask my colleagues to consider the costs associated with not maintaining a strong national effort to control energy consumption. In 1981, DOE took a look at what energy price shocks meant to the U.S. economy in the 1970's. The report states that the effect of higher energy prices included:

A reduction in real GNP of between $25 billion and $55 billion annually between 1974 and 1978, and between $60 billion and $95 billion in 1979 and 1980.

An increase, on average, of from 1.9 to 2.5 percentage points to the Consumer Price Index-Urban [CPIU] and 1.5 to 2.3 percentage points to the GNP price deflator.

Employment losses of from 900,000 and 2.1 million jobs over the 1973–80 interval.

These numbers indicate the staggering loss of productivity experienced in this country alone because of our vulnerability to energy-driven price shocks. We are still paying the price for our earlier complacency. Americans now spend approximately $400 billion annually on energy—$60 billion of this is spent on oil imports, $87 billion is spent for residential energy. And now, disturbing new signs have begun to appear. Over the last 6 months, oil imports have reversed their downward trend, running 25 percent higher in June than a year earlier. Arab OPEC imports are approximately the same level as when the first oil embargo crippled our economy in 1983.

We must act now, emphatically, to make energy conservation our highest priority. Few actions we can take produce such immediate benefits both to the Nation and to the individual homeowner. A homeowner who is encouraged by the tax credit to spend $1,000 weatherizing his or her home can expect to save over $200 annually for 15 years or more, or more than $3,000. The nominal cost to the Federal Government is $400. In fact, due to economic activity stimulated directly, when the homeowner makes the investment, and indirectly, when the homeowner spends money saved as a result of the investment, taxes will be paid back to Federal Government to reduce the real Federal cost.

Critics of the tax credit like to charge that in many cases, the investment would be made without the tax credit and, therefore, much of the tax credit is a windfall. There are undoubtedly persons who make conservation investments and discover, after the fact, that they are eligible for a tax credit. Attempts to estimate how many claimants fall into this category are inconclusive, however. In an analysis by the General Accounting Office of 12 different studies, GAO concluded that past research on energy tax incentives' effectiveness provides no definite answers. For purposes of the DOE analysis mentioned earlier, the authors assumed a very conservative 15-percent attribution rate based on surveys of people who had taken the current credit. In fact, if we increase the credit to 40 percent, the attribution rate will also increase because the credit will provide a much greater incentive to invest.

In any event, it is important to recognize that no one has yet devised a reliable method of separating those who are influenced by the credit from those who are not. This is true not just for the conservation credit, but for all tax credits designed to stimulate investment. The investment tax credit, for example, will cost the Treasury $19 billion next year, yet we have no idea how much of the investment would have occurred even without the ITC. Accelerated depreciation for equipment will cost over $20 billion, yet there is no reliable analysis to support the claim that "but for" this incentive, investment would occur at a lower rate.

Clearly the business community believes the credits are effective. Retail establishments use the credit in their ads for insulation, thus catching a potential buyer's eye. The buyer may be influenced by the official imprimatur associated with his government's support for conservation investment. He may read an article about the credit in the real estate section of his newspaper, or hear it mentioned on a consumer talk show. All of these factors can play a role in helping the consumer overcome resistance to making an energy conservation investment, even if the economic benefits are never considered at all. If, as I propose, the potential credit is 40 percent of the investment instead of the current 15 percent, the credit clearly has much greater potential for playing a very influential role in stimulating energy conservation investment.

Critics also suggest that the credit largely benefits the upper class, and is therefore a "windfall for the rich." However, the accompanying table shows that most of the current residential energy conservation credit is claimed by the middle class. Nearly as many taxpayers earning less than $20,000 took the credit as those earning more than $40,000.

1981 ENERGY CONSERVATION CREDIT—BEFORE LIMITATION

Adjusted gross income	Amount (thousands)	Percent of total
0 to $10,000	$19,753	5.4
$10,000 to $20,000	63,737	17.5
$20,000 to $30,000	95,487	26.2
$30,000 to $40,000	88,477	24.3
$40,000 to $50,000	48,638	13.3
$50,000 to $75,000	33,221	9.1
$75,000 to $100,000	7,170	2.0
$100,000	8,038	2.2
Total	364,521	

Nevertheless, it is certainly true that wealthy educated individuals are least in need of a credit as an incentive because they are in the best position to understand the inherent benefits of energy conservation, to afford it, and to cope with the many inconveniences of getting the job done right. Therefore, to reduce the cost of the credit in a way that should have only a minimal impact on our energy savings goals, I have also included in this bill an income eligibility cap of $40,000 in adjusted gross income.

One can argue that the credit wouldn't be needed if such large Federal incentives didn't exist for oil, gas, nuclear and utilities—which may be as large as $30 billion a year. But these credits do exist, and energy sources such as conservation and solar must be given comparable encouragement to compete. Moreover, if we turn back now and allow this credit to expire, we would be sending the wrong message at the wrong time. We would be telling the American people that energy conservation is no longer a national goal. Do we really want to arrest the progress that has been made?

Both the House and Senate have responded to this question by affirming their support for the residential energy conservation credit. On October 7, 1981, House Resolution 243 was introduced expressing the sense of the House to continue the energy conservation tax credit. It had 261 cosponsors. On April 12, 1984, the Senate expressed its support for the credit when it voted 55 to 38 for the Cohen amendment not to curtail the conservation credit. Moreover, Energy Secretary Hodel, in testimony this spring before the Senate Committee on Energy and Natural Resources stated that "from an energy standpoint, I think they—the credits—make sense and should be continued." And the National Gover-

nors' Association endorsed the extension of both the energy conservation and the renewable energy credits at their national gathering this July. Throughout the history of the conservation credit, there has been consistent support from all sides.

Mr. Speaker, when I consider the increasing number of people assisted by this credit, their contribution to our energy independence, the real progress we as a nation are making toward using scarce energy resources more efficiently, the positive effects of increased conservation over increased consumption on utility rates and the environment, and consistent congressional support for this credit, I find compelling reason to preserve and strengthen the residential energy conservation tax credit. I urge my colleagues to cosponsor this bill.●

ELECTION STIRS EPA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. FLORIO. Mr. Speaker, this past Monday, the Environmental Protection Agency announced that it was listing coke oven emissions as a hazardous air pollutant that could cause cancer. This gives coke the dubious distinction of becoming the eighth toxic air pollutant listed by the EPA since Congress first instructed the agency to identify and reduce emission of potentially hazardous air pollutants 14 years ago.

In the late 1970's the EPA identified 37 such pollutants as high priorities for study as potential hazards to human health. Up until this week, only seven had been listed, and of those seven, only five have been partially regulated by the agency. For more than a decade, the EPA has taken little affirmative action in reducing the toxins that are emitted daily into the air we breathe. I, therefore, find it more than a coincidence that the EPA has chosen to announce its action on coke barely 2 months before the Presidential election.

As the article below so astutely points out, coke oven emissions standards have been held in limbo by the EPA for the past 5 years. During this time, myself and others have repeatedly called upon the agency to speed up its schedule for setting toxic emissions standards and listing air pollutants that could prove hazardous to human health. Our calls have been met by deaf ears.

Now, those same ears have seemingly been opened by yet another call: a call to the voting booth. A call which, not so mysteriously, has awakened the administration's interest in our environment and our public's health.

Keeping this in mind, it is too bad Presidential elections do not come but once every 4 years.

[From the New York Times, Sept. 12, 1984]

E.P.A. ADDS COKE OVEN EMISSIONS TO LIST OF CANCER HAZARDS

(By Philip Shabecoff)

WASHINGTON, Sept. 10.— The Environmental Protection Agency announced Monday, after years of consideration, that it was listing coke oven emissions as a hazardous air pollutant that could cause cancer.

After making a determination under the terms of the Clean Air Act, the agency said it would issue regulations requiring lower emissions to reduce the risk to public health.

Coke is used primarily in steel-making blast furnaces. The agency said there were 42 coke plants around the country, many near large cities, meaning large numbers of people were exposed.

The agency estimated that as many as 16 people who did not work in the plants died of cancer each year because of exposure to the emissions.

The agency said the risk of cancer to people exposed outside the plant has not been established as firmly as the risk to workers inside. But it added, "In the absence of sound scientific evidence to the contrary, a carcinogen should be considered to pose some cancer risk at any level of exposure."

The American Iron and Steel Institute said the environmental agency's decision was "neither warranted or necessary." The trade group said there was no solid evidence and asked that the decision be withdrawn.

The institute would not comment on any impact the agency's decision might have on the steel industry.

David Doniger, a lawyer for the Natural Resources Defense Council, an environmental group, said "We are pleased by the agency's decision, but it should have been done years earlier." Mr. Doniger said the agency had had standards for reducing coke oven emissions "lying around on the shelf unchanged since 1979." He added that the agency's plans for regulating the emissions were "weaker than what several states are already doing."

The agency noted that coke-making produced "chemically complex emissions," including solid particles, aromatic compounds such as benzene and trace metals such as arsenic and cadmium. It also noted that studies of coke oven workers had shown them to be at "excess risk of mortality from lung, prostate and kidney cancer."

The Labor Department's Occupational Safety and Health Administration has already required reduction of worker exposure to coke oven emissions.●

WHO NEEDS ACCREDITATION?

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. MITCHELL. Mr. Speaker, the following article is the second in a three article series written by Colman McCarthy concerning a disparate group of displaced mountain people known as Appalachians. The article is as it appeared in the Washington Post on June 16, 1984.

The article follows:

[From the Washington Post, June 16, 1984]

WHO NEEDS ACCREDITATION?

(By Colman McCarthy)

BALTIMORE.—Do not tell Tom Culotta, as he is told all the time, that he should get a college degree before he dares go into the classroom to teach. Culotta, 29, is the president and one of three faculty members of the Community School, a storefront learning center for 25 students in a neighborhood of displaced and poor white Appalachians. The public school dropout rate in the eight-block-by-five-block enclave in north-central Baltimore ranges from 65 to 85 percent.

College degrees, teaching certificates and doctorates in education are not needed to reach the trammeled kind of young people who find their last-chance way to the alternative Community School. All that matters is that a natural teacher such as Tom Culotta be there to share his time and knowledge. He is an instinctual encourager and inspirer. He has given his uncredentialed skills for the past three years in a setting where little that is beautiful—least of all education—is thriving.

"We've has a good year," Culotta told a visitor the other afternoon in the Community School's book-lined basement, which doubles as a classroom. "We haven't had a single rat day." A rat day occurs when school is closed so the students can trap, drive out or kill the rats that occasionally infest the building, which is attached to a liquor store on one side and a pawn shop on the other.

There were no rats during the past school year becaue Culotta, dozens of community people and some of his students renovated their once-ramshackle three-story structure. The school received a $30,000 HUD grant through a city housing agency. Only $100 went for labor. Culotta and the community volunteered the rest: the designing, carpentry, wiring, plumbing and painting. They put into action Willa Cather's belief that "handiwork is a beautiful education in itself, and something real. . . . The one education which amounts to anything is learning how to do something well, whether it is to make a bookcase or write a book."

The bookcases at the Community School are heavy with the basic texts in English, math, science and social studies. In the nearby junior high school, the teacher-student ratio is one to 36. At the Community School, it is one to 12. The difference is between chaos and calm. Culotta knows the names, families and personalities of each student. He has been to their homes. A small room on the third floor of the school is his own home. He isn't just a teacher; he is a community presence. With an exuberance bordering on rapute, he has persuaded a poor working-class white neighborhood in which 85 percent of the residents lack a high-school diploma that education is crucial.

Culotta has had the conventional academic successes that are a mark of unconventional schools: Students getting up to grade level after three or four months of classes, attendance rates rising sharply, high morale. No one sleeps in class. Fighting is rare. A community-service program has been started.

Most of the alternative high schools now operating in the United States report these kinds of breakthroughs. They are the natural results when learning is individualized, students are respected and teachers are un-

stinting in their drives to educate kids whom everyone else has given up on.

Among alternative school teachers, Culotta is forced to be doubly creative. He has no large budget. Last year, the Best Products Foundation came through with a $22,000 grant, enough to hire two certified teachers. Because his operation is small and only three years old, it is not accredited. "The main reason the kids come here," he explains, "is to get an education, not diplomas or a piece of paper. We would like to give them that, but for now we are satisfied that a least the major need is taken care of—a genuine education."

Culotta believes in discipline, but it is not a posturing toughness that so often means an incompetent teacher humiliating a child. Part of the Community School's rigor is asking the students for tuition: $2.50 a week. This is nickel and dime compared with yearly tuitions of $4,000 and $5,000 at elite private schools. "The $2.50 collected," Culotta explains, "because we want the kids to know that education isn't easy and it's something they are going to have to want and go after. We work them hard. They learn at an incredibly fast pace."

Tom Culotta and the Community School emit a sense of warmth. Students and teachers trust each other. The recent run of commission reports on education had little to say about self-educated teachers in unaccredited schools in scruffy neighborhoods. Next time around the commissions should drop by this Baltimore school. They will learn something.●

BANKING LEGISLATION BEFORE THE CONGRESS

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. MICA. Mr. Speaker, the Congress is considering major banking legislation pending before the Senate at this very moment.

Congressional Quarterly has presented an excellent summary of the controversy surrounding this legislation and I ask unanimous consent that this be placed in the RECORD so Members may have the benefit of this analysis:

CRITICS BLOCK SENATE ACTION ON BANKING DEREGULATION BILL

The Senate, returning to work Sept. 5 after a three-week recess, immediately came to a stop as New York's senators filibustered a comprehensive banking bill that major banks in their state oppose.

Citibank and the Chase Manhattan Bank want to kill the bill (S. 2851—S. Rept. 98-560) primarily because of one provision. It would sanction compacts formed by states to keep big New York and California banks from opening branches in their regions to compete with local banks.

For three days, New York Sens. Daniel Patrick Moynihan, D, and Alfonse M. D'Amato, R, blocked approval of procedural motion by Majority Leader Howard H. Baker, Jr., R-Tenn., to consider the bill.

Baker and Jake Garn, R-Utah, chairman of the Banking Committee and sponsor of the bill, were ready with the signatures required for a petition for a cloture vote to end the filibuster. They filed it Sept. 6, but because two working days must elapse after filing, a vote on the motion will be Sept. 10.

If the first motion does not get the necessary 60 votes, the second will be voted on the next day. Assuming supporters succeed, opponents are prepared to stall further. D'Amato has filed more than 40 amendments, one of which can be multiplied into "an infinite number" by a simple date change, an aide said.

PASSAGE QUESTIONED

The Senate reception for the banking bill has bolstered predictions that major banking legislation will not be approved this year.

"We may end up with nothing," William Proxmire, D-Wis., the Banking Committee's ranking minority member and a supporter of most aspects of the bill, said after the second day's debate.

A frustrated Garn condemned the "greed, greed, greed" of lobbyists and the insincerity of senators who urge him to delay for further study, despite two years of hearings on his bill.

The measure would close two loopholes that have allowed banks to evade federal laws against interstate branches and marketing of non-banking services, such as insurance. It also would lift prohibitions against banks dealing in securities so they could underwrite municipal revenue bonds and mortgage-backed securities.

Major banks object that the limited securities powers are not enough. Garn's original bill (S. 2181) would have freed them to compete in the real estate and insurance businesses also.

But many smaller banks support the bill. They are anxious to close the loophole that has allowed major banks to open limited-purpose banks—the so-called non-bank banks—in their communities.

Though major banks are disappointed that Garn's bill is no longer the broad deregulation measure he introduced, they most object to the regional compacts provision.

Legislatures in New England, the Southeast and Far West have approved reciprocal agreements limiting interstate banking to firms within their region's boundaries. Citicorp, parent company of Citibank, alleges that the New England pact violates the Constitution's interstate commerce clause. Having lost in lower courts, the banking giant is appealing to the U.S. Supreme Court.

On the Senate floor, Moynihan said such "anti-competitive" compacts violate "a clear spirit of the Constitution which is opposed to the notion of individual states making arrangements with one another that exclude the participation of other states."

CONTINENTAL CONNECTION?

Garn listened patiently to most of the opponents' remarks—until Moynihan linked the bill to the near-collapse of Continental Illinois National Bank & Trust Co. Opponents of banking deregulation, including House Banking Chairman Fernand J. St Germain, D-R.I., argue that Congress should not free banks to operate in more risky businesses at a time of unprecedented banking failures.

Such statements exasperate Garn, who contends that Continental's problems stem from bad loans and bad management and are irrelevant to deregulation.

"This legislation would be the same, I say, regardless of the timing of Continental Illinois," he said.

Garn also repeated his pledge, made in an Aug. 7 floor speech, that he will not support a narrower bill that only closes loopholes without providing new powers for banks. A pending House banking bill (HR 5916) is such a loophole closer.

"That is so narrow as to be totally unacceptable to this senator," he said.

Garn insisted his bill is "95 percent noncontroversial." He said the stumbling blocks are the compacts provision; the securities powers, and a provision to close what is known as "the South Dakota loophole." The term refers to liberal state laws that allow national banks to acquire state-chartered institutions, through which they can then market insurance outside that state.●

OUR MAN IN ASUNCIÓN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. GARCIA. Mr. Speaker, on September 11, the Wall Street Journal had an article on the U.S. Ambassador to Paraguay, Mr. Arthur Davis. The Journal article goes on to describe what a fine job Ambassador Davis has been doing.

The Ambassador was a political appointee with no diplomatic experience. Yet, during the past 2 years he has been able to make our Embassy in Asunción a symbol of what he considers to be American values. These values are: respect for human rights, freedom of the press, and freedom to oppose—peacefully—the party in power.

Mr. Davis is a Republican, and a friend of conservative, Republican businessman Joseph Coors. Yet, the Ambassador has shown that he is an American above all else. His tenure in Asunción is an example of how to achieve bipartisan support for our foreign policy—by emphasizing what is best about our country.

I have had the pleasure of meeting with Ambassador Davis several times in Washington and in Paraguay. He and his capable staff are among the finest representatives our Nation has anywhere in the world.

I am submitting the Wall Street Journal article for my colleagues' perusal.

UNLIKELY AMBASSADOR PUTS INDELIBLE MARK ON JOB IN PARAGUAY: COLORADO'S ARTHUR DAVIS TAKES STAND ON HUMAN RIGHTS; PULLING OUT OF BIG PARADE

(By Robert S. Greenberger)

When President Reagan appointed Arthur Davis ambassador to Paraguay, nobody would have guessed that the Colorado shopping-center developer with no previous diplomatic service soon would be leading a human-rights drive in South America's oldest dictatorship.

"I didn't go down there with the idea of being a human-rights activist," Mr. Davis says. "But I realized that if I didn't represent what the United States stood for, I wouldn't have their respect." Since arriving in Asuncion two years ago, Mr. Davis has openly supported opponents of the military

regime and prodded the State Department to take a tougher human-rights stance toward Paraguay.

Mr. Davis isn't even certain how he got the ambassadorship. He does allow, however, that he might have had a little help from a friend Joseph Coors, the influential conservative Republican and Colorado beer maker, wrote to the White House on Mr. Davis's behalf. "I have to think it helped me considerably," he says.

His only experience in Latin America was an 11-year stint, beginning in 1945, as a weather forecaster in Chile for the former Pan American Grace Airways. The conservative Republican wasn't even a big contributor to Mr. Reagan's 1980 election campaign. "I'm embarrassed to say I gave less than $100." he says. So he was surprised when, after expressing interest in working in the region, he got a call from President Reagan in February 1982 offering him the job in Asuncion

PROMOTING AMERICAN VALUES

But unlike many political appointees who are sent to small nations and are never heard from again, the 66-year-old businessman is an active citizen-diplomat. With refreshing candor and directness, he promotes what he considers American values, often crossing swords with Gen. Alfredo Stroessner, who has ruled Paraguay for 30 years. When Mr. Davis first arrived in Asuncion, he recalls, a senior Paraguayan diplomat boasted that the country had only 12 political prisoners. Mr. Davis quickly responded "Well that's fine, but if you were one of them would you say only 12?"

Mr. Davis was incensed when Gen. Stroessner last March shut down ABC Color, Paraguay's leading opposition newspaper. Not content with merely firing off an angry letter of protest, he hit Gen. Stroessner with a symbolic gesture that really hurt—he canceled a planned appearance by the U.S. Southern Command's band and its parachute team at Paraguay's May 15 Independence Day Parade.

Although the newspaper remained closed, the unusual protest "caused a greater reaction than any other thing we've done" in Paraguay, Mr. Davis says. "Gen. Stroessner looked upon it as an affront. He told me it wasn't the kind of decision a friend would make. I told him it was a decision I had to make to show my displeasure over the closing of the paper.

Such actions and blunt talk cut against the normally subtle diplomatic grain. "He seems to have a very uncomplicated approach to things," says a senior State Department official, with just a hint of condescension.

Mr. Davis isn't afraid to take on the State Department, either. Earlier this year, for example, the department published a list of international terrorist groups. The list mistakenly included the name of Mopoco, the Spanish acronym for a dissident wing that Gen. Stroessner expelled from his ruling Colorado party. The group protests frequently and persistently against the regime with speeches and similar actions, but isn't an armed guerrilla group. Gen. Stroessner quickly used the State Department list to discredit Mopoco.

Ambassador Davis quickly pointed out the error to Washington and had Mopoco deleted from the list. He then further infuriated Gen. Stroessner by publicizing the correction in Paraguay and publicly apologizing to a leader of the dissidents.

Recently, Mr. Davis has gone a step further. To show his sympathy for Mopoco members, who often are harassed and followed by motorcycle police, the U.S. ambassador invites the dissidents to join Paraguayan government officials at parties at the embassy. Mr. Davis says members of the two groups, many of whom attended school together, "greet each other very socially, but there isn't a whole lot of conversation between them."

At his embassy parties, Mr. Davis likes to amuse guests by showing them an aviary filled with his private collection of parrots and other exotic tropical birds. Often, he enters the cage, calls the birds by name and converses with them in Spanish, which the former New Englander speaks with a thick Boston accent.

Last year, Mr. Davis fought another battle with the administration when he learned that the White House planned to name a retired U.S. National Guard general to head the Peace Corps in Paraguay. Mr. Davis believed that such a step would be, at the least, insensitive in a country that has been dominated by the military for three decades. He also thought such a move would demoralize members of the Peace Corps.

"Most of these Peace Corps people are young, hard-working and idealistic. If they wanted to be led by the military, I guess they could have joined the Army," he says.

According to one former U.S. official, Mr. Davis threatened to resign if the appointment were made. He denies that he made such a threat, but, in any case, the nomination was dropped.

Such actions have won praise for Mr. Davis from many groups generally critical of the administration's human-rights efforts. These groups charge that the administration reserves most of its criticisms for leftist governments and ignores human-rights violations by right-wing governments, such as the Stroessner regime.

"Davis, who we thought initially would join the wide list of Reagan ambassadorial failures, has turned out to be a very pleasant suprise," says Laurence Birns, director of the Council on Hemispheric Affairs, a liberal research group that monitors Latin American issues. "He has been one of the most active ambassadors concerned with press freedom and other rights."

Mr. Birns adds that Mr. Davis's actions show how ambassadors, particularly in small countries where U.S. strategic interests aren't directly involved, can influence events.

Although the State Department supports Mr. Davis's actions, the Reagan administration has sent mixed signals to the Stroessner regime. In 1981, the White House reversed a Carter-administration policy and said it wouldn't any longer oppose International Development Bank loans to Paraguay. And in July, the Reagan administration quietly asked Congress to raise the funds for this year's military education and training program for Asuncion to $75,000 from $50,000. Though the sum is only a drop in the U.S. appropriations bucket, critics call it the wrong signal to send to Paraguay.

Mr. Davis defends these actions. He says the international loans are for humanitarian programs whose suspension would hurt the people rather than the government. And the military funds, he says, "are for a training program that the U.S. gets as much out of as Paraguay because it wins the friendship of young Paraguayan officers."

The U.S. can't apply direct pressure on Paraguay. During the 1970s, the Paraguayan economy grew at a robust annual rate of 8% to 9%, largely because of a mammoth hydroelectric project built with Brazil. As a result of the growth, Paraguay became ineligible for U.S. economic assistance. And other than the training program, Paraguay doesn't receive any U.S. military assistance.

Anyway, Mr. Davis believes that pressing Paraguay would be unproductive. The aging Paraguayan dictator may be approaching the end of his reign. The winds of democratic reform are sweeping across Paraguay's giant neighbors, Argentina and Brazil. Prompted by pressure from Argentina, Gen. Stroessner recently agreed to permit thousands of refugees to return home. Mr. Davis believes that he has exerted enough pressure and that now is the time for "quiet diplomacy." He also contends that he has forged ties with opposition leaders by supporting their causes.

Mr. Davis confesses that, at times, he thought his brand of diplomacy would be criticized at home. "I've been surprised sometimes that I haven't had any reaction," he says. State Department officials maintain, however, that Mr. Davis has their full support.

Meanwhile, he continues to view his own job with unconcealed awe. "To go from a shopping center developer to being ambassador, which has got to be the best job in the world, is quite an adjustment for me," he says. "I kind of feel better about myself than I ever have."●

TRUE UNEMPLOYMENT STATISTICS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. EVANS of Illinois. Mr. Speaker, this past April, I introduced the truth in unemployment statistics, package which highlights the inadequacy of current methods of determining unemployment rates and compensation. Instead, I proposed that our official rates of unemployment should reflect the real level of unemployment being experienced in those areas hardest hit by the recent recession.

The resolution I introduced, House Concurrent Resolution 293, which calls for the use of the total rate of unemployment in determining unemployment benefits, has been endorsed by the northeast-midwest caucus and has over 40 cosponsors.

The problem of misleading unemployment figures has never been clearer than the last 4 years. The long-term unemployed and discouraged workers are there in our districts, but do not appear in the statistics in Washington.

The following article by David Page which appeared in the August 28 issue of the New York Times underscores how this administration's data falls short and the problem of what he calls phantom unemployment. I commend this article to our colleagues.

THE PHANTOM JOBLESS

(By David A. Page)

PITTSBURGH.—Unemployment figures, like all statistics, can be misleading. In the unemployment rate, accuracy depends not just on who you count, but who you don't count.

The Reagan Administration reports the national unemployment rate for July as 7.5 percent, with 8.5 million people unemployed. But the Joint Economic Committee of the Congress reports that 2.5 million people have disappeared from the labor force, and that the real unemployment rate is 9.7 percent. In studying employment patterns in a three-state region comprising western Pennsylvania, eastern Ohio and West Virginia over the past three years, we have discovered the same pattern: unemployment figures that look good only when we ignore the phantom unemployed—those who have dropped out of the labor force.

In the first year of our survey, from December 1981 to December 1982, 259,000 people became unemployed, and the unemployment rate went from 11 percent to 16 percent. From December 1982 to December 1983, the unemployment rate dropped from 16 percent to 12.8 percent. However, the number of employed people actually dropped by 8,000 while the labor force of about five million decreased by 194,000 people.

Thus, the 3.2 percent improvement in the unemployment rate was due to people disappearing from the labor force and not to an improvement in employment. When the 194,000 phantom unemployed were added to those being reported as unemployed, the unemployed rate returned to 16 percent.

Our analysis for May 1984 shows an additional 95,000 people employed this year. And the reported unemployment rate has declined to 11.2 percent. The number of phantom unemployed has also dropped, to 137,000. Again, when these phantom unemployed workers are added to those people reported as unemployed, the unemployment rate rises to 14 percent.

What has happened to the phantom unemployed? A fraction of them have been retired early and involuntarily, and 2 percent of our population has left the region in the past two years, according to the Census Bureau. But even adjusting for these factors, the current unemployment rate is still between 13 and 14 percent.

Almost all of the phantom unemployed are still in the region. Having lost their jobs and exhausted their unemployment compensation, they are no longer counted by the Labor Department, which refers to them as "discouraged workers."

Unemployment exacts heavy costs, socially and economically. The tragedy of a strong working family being torn apart by joblessness needs no elaboration. Beyond that, Federal and state governments pay $20 billion a year for every one million unemployed workers (in unpaid taxes and benefits), according to the Federal Office of Management and Budget. At that rate, the 823,000 unemployed workers in our region between December 1982 and 1983 cost Federal and state governments $16.4 billion.

On the national level, 11 million unemployed workers (this includes both the reported and the phantom unemployed) cost or Federal and state treasuries as much as $220 billion annually. This figure surpasses our current Federal budget deficits of nearly $200 billion.

It is not my purpose here to suggest remedies to the unemployment problem. But the fact that unemployed people in our region alone cost about $16 billion last year, and that unemployment in the nation cost about $200 billion, suggests that the Government should explore regional and national policies of reindustrialization aimed at providing work for the permanently unemployed. Doing nothing is the most expensive alternative.

MART NIKLUS AND THE ESTONIAN HUMAN RIGHTS MOVEMENT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. LEVIN of Michigan. Mr. Speaker, 50th birthdays are generally a happy occasion when family and friends celebrate our well-being and mark a watershed in our lives. We, ourselves, take time to reflect upon the course our lives have taken over a half century of existence, and in most cases feel reassured in the warmth of our friends well-wishes.

On September 22, Mart Niklus, an Estonian human rights activist, spends his 50th birthday in solitary confinement in a Soviet prison far from his family, his friends and his native land of Estonia. This week, the U.S. Congress has the chance to penetrate the wall of silence around Mart Niklus and offer some comfort to a brave individual who has served as a Helsinki monitor in Soviet occupied Estonia and the Soviet Union. I join with my colleague BRIAN DONNELLY, co-chairman of the Ad Hoc Committee on the Baltic States and Ukraine in urging the Members of this Congress, to a person, to sign the birthday scroll now being prepared for mailing to Mart Niklus in his Soviet prison cell.

Mart Niklus will know that his efforts in the defense of individual rights, religious rights and the right of national self-determination are recognized and valued. He will know that his 50 years of existence have served mankind well. He will know that free men will not allow his voice to be silenced.

We live in an age where the ideal of individual freedom is under assault by authoritarian and totalitarian governments of every persuasion. We live in an age where the individual is an expendable commodity to authoritarian and totalitarian governments alike. We live in an age where the lives of individuals are quickly snuffed out when they find themselves in the paths of efficient, undeviating, bureaucratic machines of government control. And yet, how precious are those individuals; the ones who keep their humanity long after their governments, drugged with power, have forgotten their own.

Mart Niklus is such an individual.

Mart Niklus is a teacher by training and temperament. Although trained in the biological sciences, he has spent much of his professional life teaching languages. He is a sensitive, imaginative, and talented individual who enjoys sharing his knowledge of the natural world and human nature with other people. Yet, over the course of his life he has spent 20 years, most of his adult life, locked away from his society because he has also sought to teach his government a little of what he has learned about the nature and the rights of man.

In August 1979, Niklus signed his name to a document now known as the Baltic Charter. In doing so, he joined 44 other Balts in recalling the shameful Molotov-Ribbentrop pact of August 1939 when Hitler and Stalin bargained away the freedom of millions of people living in the Baltic republics. Mart Niklus was 5 years old in 1939, but children age quickly during a war. He grew up with destruction, torture and tears all around him. And although the guns of World War II have long been silenced, his country remains occupied by a foreign army, the army of Stalin and Molotov. Mart Niklus passionately believes in the individual's right to be free to choose where to live, where to work, and how to think. He also believes that good men will come to agree on these fundamental rights and that change is possible.

To touch the hearts of a society grown numb on Soviet dogma seems an impossible task, but the dissidents of the Soviet Union and the resistance movement of the Baltic continue to try. If one is unwilling to fight, then the battle is already lost.

In January 1980, shortly before his most recent imprisonment, Mart Niklus joined with other Balts in signing a letter to the late Leonid Brezhnev and to then U.N. Secretary-General Waldheim condemning the Soviet invasion of Afghanistan. The letter drew a parallel with the Soviet troops that marched into the Baltic States in 1940. The letter went on to state that the Soviets used the Soviet-Afghan Friendship Treaty as the reason for armed intervention, but the Soviets had not explained which Afghan Government asked for the troops, nor had the Afghans complained to the United Nations about any external threat. Besides, it went on, the intervention contradicted a 1933 Soviet-Afghan agreement that defined aggression as the entry of troops from any country. The letter concluded that no other Afghan neighbor had sent troops.

Many human rights activists in the Soviet Union have challenged the Soviet Government on the war in Afghanistan. Most, like Andrei Sakharov and his friend Mart Niklus have found that the cost of speaking up is indeed

high. Sakharov, now 5 years into his forced exile, is so completely isolated that we in the West wonder if he is still alive. Niklus we know is alive, but has been in solitary confinement in a Soviet prison for almost 5 years.

Let us remember Mart Niklus on his 50th birthday. Let us share with him our admiration for his strength and courage in seeking the truth. His life is a testament to the good in man. He has served as a conscience not only to his own society, but to ours. Mart Niklus, your 50 years on this Earth have been well spent.●

TEACHING THE SOVIETS RESPECT, REAGAN STYLE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. GOODLING. Mr. Speaker, the long-awaited acceptance by the Soviets to President Reagan's desire for a top-level meeting hopefully marks a turning point in the current United States-Soviet thaw. When Mr. Gromyko meets with the President, he will do so in a different capacity from his meetings with previous U.S. Presidents: Gromyko is now not just the Soviet Foreign Minister, but also Deputy Premier and one of the troika of elderly men ruling the Soviet Union at present. As such he will be able to speak with far greater power than before and may be able to create an atmosphere for real progress. We should not, however, get our hopes up too high. As always, the Soviet Union will remain the Soviet Union and their long-term goals will be just the same. It is nice to see that the Soviets have finally realized that they cannot interfere in U.S. internal politics as this sudden acceptance to meet with the President indicates that they have given up trying to influence our election.

For Mr. Mondale's part, he seems distressed by the proposed meeting and tries to belittle it by ignoring Gromyko's new political stature in the Kremlin, as well as the fact that it has been virtually impossible for President Reagan to meet with leaders that mysteriously disappear for weeks and months at a time before following one another in rapid succession to the grave. It may indeed be the last part of the final quarter of President Reagan's first term before he meets with one of the Soviet leaders, but Mr. Carter's meeting with Brezhnev early on did nothing to prevent the Soviets from invading Afghanistan. In a letter to the editor in yesterday's New York Times, Prof. W. Scott Thompson of Georgetown University makes precisely that point, saying, "The Red Army has not rolled across frontiers under Reagan's watch." The professor goes on to note that America needs respect from the Soviets and not "sweet talk." Under President Reagan, it would appear that America has gotten that respect, even if in doing so it took almost 4 years for Gromyko to come to the White House.

Mr. Speaker, I would like to enclose Professor Thompson's letter to the editor in the RECORD for the benefit of my colleagues who may have missed it.

AMERICAN "SWEET TALK" WITH MOSCOW WON'T DO

To the Editor:

Messrs. Harriman, Clifford and Shulman's call for bipartisanship on nuclear arms issues ("Bipartisanship—or Danger," Op-Ed Sept. 2) would read more credibly had the previous Administration, which each of them served or advised, been interested in rebuilding such a tradition.

The Ford Administration, in its last year, achieved a remarkable degree of consensus on the need to rebuild, prudently, our nuclear arsenal in the face of a Soviet buildup unique in history—and dwarfing anything the United States has attempted since.

President Carter began systematically dismantling the programs which a Democratic Congress had funded, until his remarkable epiphany on Soviet intentions following the U.S.S.R. invasion of Afghanistan. The last Carter five-year defense plan was within a few billion dollars of the most recent Congressionally approved Reagan plan.

The responsibility of an administration is to the nation's security, not to negotiations for the sake of negotiation, nor to copying past Presidents if conditions have changed.

It is remarkable what short shrift Messrs. Harriman, Clifford and Shulman gave the I.N.F. negotiations in Europe, surely the most important indicator of Soviet intent in the last several years.

Through a bipartisan team, the Reagan Administration negotiated with the Soviets in fufillment of the 1979 NATO commitment made under Carter, and despite the weekly deployment of new Soviet SS-20's. When the Soviets refused substantive compromise, NATO acted on the other half of the 1979 agreement and began deploying our intermediate weapons, whereupon the Soviets walked out. Shortly after, they walked out of the Start talks on equally flimsy grounds.

Is it "extremism" in these circumstances to await more propitious circumstances to resume talks? Or should we make a series of pre-emptive concessions to induce the Soviets to return to the table—in which case their return might well be further delayed as they see how much they can squeeze out of a spineless America. Perhaps the extremism of a posture offering the Soviets a "freeze" of the existing balance, consolidating the acquired Soviet advantages in virtually every area of nuclear arms, ought also to be considered.

Moscow may be more "truculent" than in a long time; so be it. The Red Army has not rolled across frontiers under Reagan's watch. It is not sweet talk with Moscow that America needs, it is respect. That will lead to the negotiation of real reductions—down to Reagan's proposed program envisaging a cut to 5,000 warheads on each side.

My guess is that a second Reagan Administration will achieve it.●

TOM RICCIO

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Ms. OAKAR. Mr. Speaker, it's a pleasure to see the success of Cleveland's writer-director Tom Riccio. I've known Tom for years and followed his career closely. He and his wife are a brilliant, witty couple who are making stage history. We are proud of him and his fine parents, the late Tony Riccio and his mother, Fanny Riccio:

ALL THE WORLD'S A STAGE, SO RICCIO'S FOUND HIS ROLE

(By Peter Bellamy)

Tom Riccio is so busy directing and writing plays he doesn't have time to ponder the paucity of work in the theater.

"There is chronic unemployment in the theater," said Riccio. "You have to keep on looking for it, and if it isn't there go out and create work for yourself.

"After I directed 'Sea Marks' at the Play House last year, I decided to leave Cleveland so I wouldn't have to repeat the experience I'd had here. Since then I've found work in Boston, Rome, New York and Switzerland.

"I'm directing 'La Mulata,' a new play by Esteban Fernandez, which will open the season at Cafe La Mama in New York City and play there Sept. 4-30. I'll also direct a one-woman show for Leslie Felbain of University Heights at a theater festival in Switzerland near Zurich in late October.

"Leslie's skills include acting, mime, song, dance, unicycling, clowning, juggling, masque and tightrope walking. She's studied and taught at the Jacques L'Coq School of Masque in Paris and appeared all over Europe."

Riccio continued: "I'm writing a play with Marvin Cohen about a novelist who writes a TV play whose main character escapes from him, only to be pursued by the novelist. Cohen's last play, 'Necessary Ends,' was produced by Joseph Papp at the New York Shakespeare Festival.

"This month in New York I've been rehearsing Felbain for her show during the day and 'La Mulata' at night. Since I left Cleveland I've also directed 'The Country Wife' in Boston and a workshop production of 'The Buzzing of the Flies' at Cafe La Mama.

"I then directed 'The Buzzing of the Flies,' which is about a banker who takes refuge in a mental hospital, at a theater in Rome. Happily, the Fascists thought it was an attack on the Communists and the Communists thought it was the reverse.

"Dario D'Ambrosi, who produced 'Buzzing of the Flies,' is a colorful character. He's a former soccer star from Milan and soccer fans flock to his plays. Italian theater is heavily subsidized by the government, and D'Ambrosi has been arrested twice at the Ministry of Culture for creating a disturbance when he didn't think his plays were getting sufficient subsidy."

Riccio's other activities since leaving Cleveland have included writing and directing the play, "Wired," about a man who can hear radio and sound waves, for the American Cable Theater in Boston. He's also become a member of the Dramaturg and Directors Workshop at the American Place Theater in New York City.

Riccio's actress wife, Lolita, shares his positive work ethic.

He met her when she was playing a wench and he a wencher in "Tom Jones," which he adapted for the stage at Cleveland State University. They were married June 18, 1983.

She did bits on the "All My Children" soap opera and in London appeared as a villain in the film, "Scream for Help," scheduled for fall release. She also appeared in "Buzzing of the Flies" in New York and this summer modeled for department store catalogs.

Most recently she made TV commercials for Chrysler and for Oreo cookies and ice cream. In the latter, made at the old Gloria Swanson estate in New Jersey, she wore $250,000 in emeralds and diamonds. She's also just appeared in several "Mike Hammer" TV episodes.

Riccio has a master of fine arts degree from Boston University, was an assistant director for Cleveland Opera, taught at Karamu and Lakewood Little Theater and has been a company manager and theatrical press agent. He was co-founder of the Laboratory Theater at Cleveland State University.

Not unmindful of the lesser "slings and arrows of outrageous fortune," he was stung by a wasp while sunbathing at the Vermillion summer home of his godfather, Joseph Lombardo, former city councilman in Ward 2, the day before this interview.

If the bottom should ever drop out of the theatrical profession, Riccio is a registered merchant seaman and has had extensive training in hotel-motel management.●

SUCCESSFUL INNER CITY BANKING

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. GARCIA. Mr. Speaker, at a time of bank branch closings and an increased emphasis by the Nation's bankers on the upper income consumer, there is one ray of hope for the small businessperson and low-income consumer in communities such as the South Bronx. The hope in my district is the New York National Bank.

New York National is a new institution, stepping into an area abandoned or ignored by many of New York's large financial institutions. Not only has New York National survived, it has succeeded in spite of the reservations of the big money people. Its success, however, was not unexpected by the superb team leading the bank including Serafin Mariel, the bank's president, and Ivan Irizarry, its executive vice president.

In its short history, New York National has become more than a bank. It has established a three pronged strategy to deal with the problems confronting small and minority businesspersons. Recognizing that small businesses are traditionally undercapitalized and in need of qualified financial and business advice, New York National has launched two other financial units: a small business investment company to provide equity; and a financial consultant operation to meet management needs. The bank now provides credit, capital, and financial services to businesses within one of America's most economically distressed areas.

New York National is living proof that it is possible to survive and thrive in areas like the South Bronx and that a community will support an institution tailored and willing to serve them.

Recently, Hispanic Business magazine printed an article explaining New York National's strategy and success. I would like to share it with my colleagues.

The article follows:

[From the Hispanic Business, September 1984]

NEW YORK NATIONAL'S THREE PRONGED STRATEGY

(By Udayan Gupta)

When Serafin Mariel resigned as vice president of New York's Bankers Trust Company and announced his intention of establishing New York National Bank—a small bank devoted primarily to serving small businesses—not too many people gave his idea a chance. They were even more skeptical at his choice of a location—a former Bankers Trust branch in the South Bronx, one which the bank was in the process of closing out.

"We gave him a year," says a nearby store owner. "If the large banks couldn't make it here, how could such a small one?" But in just over two years, Mr. Mariel has proved the skeptics wrong. Not only has New York National Bank survived but with assets of $19.4 million and nearly $50 million in deposits, it has effectively demonstrated that it is in the South Bronx to stay.

In fact, the bank has not only stayed its ground, it has added to it. By negotiating with Manufacturers Hanover Trust it acquired two more locations for its operation—one just down the street, the other in Manhattan's predominantly Hispanic East Harlem.

Indeed, New York National Bank is living proof that it is possible to find a niche for specialized banks in the midst of markets that the large banks have ignored or failed to serve. More importantly, it is an indication that small businesses and minority groups are more than willing to support an institution specially tailored to serve them.

Mariel conceived the New York National Bank idea at a time when the banking industry was in turmoil. High rates of bank failures, 20 percent interest rates and the cloud of deregulation had caused many traditional bankers to question the future of the industry. But the crisis also opened up a buying window for Mariel and a group of associates and investors. Thus, when Bankers Trust announced its intention of shutting the doors on its East 163rd Street branch, Mr. Mariel acted quickly to buy it out. In the process he picked up the branch's existing deposits, loan portfolio, furnishings and the building lease for less than $200,000.

There are those who believe that starting a business during hard times may actually be easier than during the boom years. Mariel shares that view. He points out that it is eay to be generous about loans during a booming economy—loans which can often prove to be a problem when the economy slows down. But during the more difficult economic periods, those who come to ask for loans are usually those with a good proposal and some staying power. "You may actually end up with a healthier loan portfolio," he says.

Of course, there were those who predicted that New York National could not effectively take over the Bankers Trust business. Once depositors recognized the implications of being served by a fledgling, start-up bank, they would quickly rush to a larger, more versatile bank. That has not happened. Not only have the former Bankers Trust depositors stayed with the new bank, they have encouraged a whole slew of new depositors.

In fact, many of the new depositors—as well as some of the older ones—are investors in the banks as well. Mariel has used a strategy that many recent start-ups are employing—involving the community not just as depositors but as shareholders as well. "That way, they have a vested interest in bringing new business to the bank," Mr. Mariel explains. But that also ensures them a better brand of service. Indeed, the attention and the red carpet treatment that many of them receive as owners of the bank would be unthinkable in the context of a larger bank.

Significantly, Mariel wants to do more with the area's small businesses than just providing banking and depositor services. Recognizing that small businesses are traditionally undercapitalized and short of qualified financial and business advice, he has helped launch two other financial units—a small business investment company that will provide equity to area businesses and a financial consultant. "We see ourselves as more than a bank," Mariel emphasizes. "We see ourselves as part of a financial services triad—one that provides credit, capital and financial services."

The bank, of course, is the cornerstone of the triad concept. And, as a number of bank officers like to point out, it is the key to the growth and development of the other services as well.

In building up the bank, Mariel has succeeded in pooling together some of the area's high-level businesses as well as bringing in a number of highly experienced professionals familiar with the community and the business. But more than that, a rather personalized group of products and services has convinced his depositors about the advantages of doing business at New York National.

In many ways, New York National's founders and investors are a veritable who's who of Bronx business. They include:

Antenor Adam, the owner of three McDonald's franchises and a past president of the Black-Hispanic McDonald's Operators Association, New York region;

Kamal Alsultany, the owner and director of S.C.S. Business and Technical Institute, the largest school of its kind in the state;

Samuel Monroe, president of Marsam Management Inc., a management consultant firm;

Hiram Rodriguez, president of La Rosa Del Monte Express Inc., household and commercial movers; and,

Joseph Bob Simone, president of Hunts Point Auto Workers, Inc., and a vice president of P.D.J. Simone Realty Co.

Just as important are the principals involved in the bank. Mariel himself was with Bankers Trust for 17 years, 11 of them in charge of the bank's branch operations in the Bronx. Later, he became section head of the Andean Division of the bank's Latin

American Group responsible for the bank's relationship with Columbia, Ecuador, Guyana, the Netherlands Antilles, Surinam and Venezuela. Ivan Irizarry, New York National's executive vice president, served as a regional administrator of the SBA from 1977 to 1981, serving 12 field offices located in New York, New Jersey, Puerto Rico and the U.S. Virgin Islands. Later Irizarry went on the head Omega Management, his own consulting firm. Efrain Pardo, vice president and cashier, comes to the bank with over 20 years banking experience, first with Bankers Trust and later with Manufacturers Hanover.

Significantly, Mariel brought in other officers and executives with similar experiences and professional backgrounds. "The quality of our lending officers is as good as at any of the major banks with assets of $100 million or over," Mariel points out proudly. What made them leave their previous jobs and take the new one and in the process take significant salary cuts? A number of officers point to the bank's entrepreneurial environment, one in which they own stock, as well as the opportunity to move farther than they could have in their previous positions. Adds Mariel, "We are not looking at individuals who are looking for security. We're looking at those who enjoy the adventure and exhilaration of a new job."

The importance of New York National is also in its location, long considered by many major banks to be unworkable. It sits on a busy commercial strip along Southern Boulevard and Westchester Avenue with nearly 1,200 businesses within its effective lending area. "These are solid 'low tech' companies," says Bob Cohen, president of the bank's FISCO (Financial Service Company) unit, emphasizing that many of these businesses are mature companies with a regular and consistent income. These are not the kinds of companies that high-rolling venture capitalists may be attracted to but they are the main staple of New York National's business.

Not surprisingly, the bank has served them well. When John Morales of Boulevard Shoes walked in for a credit line that would help him order a supply of boots from a wholesaler, the bank called up the wholesaler and arranged credit instead. It may not have been the most orthodox way of providing credit, but for Morales it was enough.

Similarly, when a local record and novelty shop owner walked in for a working capital loan, the bank worked with the proprietor and the SBA to help her secure the necessary loan. When a contractor wanted additional bonding for his firm, the bank worked with his broker and insurance company to help increase the limit. Indeed, the bank has begun to play a vital role in making businesses work and in working with others to make additional financing not only possible but viable.

However, Mariel is quick to point out that his is a business venture, with responsibilities to investors and shareholders. "We won't be all things to all people," he affirms, adding that while the stated mission is to serve small businesses, he has no intention of working with those who just can't be helped. In fact, the secret to the bank's success lies in how well it can control its growth, argues Bob Cohen. Many companies often grow too fast, well beyond what their resources can adequately support. "We don't want to get stretched too thin," he says.

Nearly all the business that New York National has been conducting until now is a result of acquiring the deposit of Bankers Trust and Manufacturers Hanover and the referrals of depositors. It has yet to market itself and its package of products and services. Mariel points out that the bank has been testing the products out in the field and will begin a formal marketing effort beginning this fall.

TRIAD CAPITAL CORP.

While the bank has been moving ahead full steam, Mr. Mariel has not been idle on other fronts. Last year he began developing the notion of Triad Capital Corporation, a small business investment company that would provide equity capital to many of the area's businesses. As Lorenzo (Jim) Barrera, president of the investment company explains it, "Triad will do many things that the bank itself cannot. At other times it will help the bank do a lot more."

To help launch Triad Capital, New York National Bank hired Jim Barrera, a Wall Street professional. Indeed, Barrera brings with him years of experience gained at Merrill Lynch and Prudential Insurance. He also helped establish a management consulting company with offices in New York, Chicago and Puerto Rico.

Creating an SBIC (Small Business Investment Corporation) is not a new concept for banks even though they have traditionally shied away from equity investments. Over the last few years, many major banks have created subsidiaries expressly for the purpose of equity investments. Indeed, banks such as Citibank and Manufacturers Hanover have invested large sums of venture capital through their SBIC subsidiaries with remarkably high returns. All that New York National is attempting to do with Triad, notes Barrera, is keep up with what the others are doing and stay within the mainstream of the current revolution in financial services.

Of course, Triad will not be an ordinary SBIC. It will invest primarily in companies that are owned or controlled by minorities and under SBA regulations which give it the designation of a MESBIC (Minority Enterprise Small Business Investment Corporation). According to Mariel, it may be the only MESBIC operating in the Bronx.

New York National began raising capital for Triad through a private placement in late 1983 and succeeded in raising $500,000 from a diverse group of business and professional leaders in the South Bronx. Of the 35 initial shareholders, 30 are individuals, three small businesses and two are banks—Manufacturers Hanover which owns two percent and New York National itself which received 11.4 percent for its $78,000 investment.

Barrera is quick to emphasize that Triad—even though it is not controlled by New York National—will work closely with it. In fact, it has already begun to explore a number of situations jointly. When a local manufacturer came looking for money at the bank, it entered the discussions along with Triad. As a result, the manufacturer ended up receiving $600,000—$450,000 from the bank and the other $150,000 from the MESBIC. "If we hadn't worked together," explains Barrera, "we couldn't have provided that level of financing."

Barrera plans to involve Triad in three principal areas:

Mergers and acquisitions. The Bronx is teeming with a large number of mature companies with stable earnings whose owners, many of whom are aging, would love to cash out;

Young established companies in the area which need capital for growth and expansion but may not attract the attention of the more established venture capitalists;

Start-up situations in which the entrepreneurs have a track record from other successful ventures and industries.

Barrera is also excited about the potential of investing in high technology though he is the first to admit that the Bronx has never been a fertile territory for such firms and that Triad itself may not have the capability of evaluating such proposals. However, Triad is participating in a consortium of MESBICs in order to participate in high-technology deals—minimizing the risks by sharing the investment costs but taking advantage of the high returns that a successful investment can offer.

Triad hadn't yet invested in any deals by mid-summer but it had lined up over $500,000 in capital and was gearing up for even more. Barrera pointed out that he had seen a number of deals and would soon commit as much as $300,000 in equity investments over the next few months.

FINANCIAL COUNSELING

As Triad takes off, Mariel's final piece of the financial puzzle is about to fall into place—FISCO, the financial services company. FISCO is a recognition of the widely-held belief that small businesses often need more than just capital, they need counseling. In fact, to put capital to work wisely and effectively they need to know who they are and what they can do best. In many ways, FISCO is New York National's insurance policy, helping it to make sure that its borrowers are in good financial health and have access to competent business advice.

The establishment of the financial services company is the result of a long, hard look at the marketplace and its needs. A study conducted by New York National itself indicated that many of the small businesses in the area would welcome a one-stop financial center, one which not only provided capital but information and advice. Of the 23 financial services products offered to the surveyed companies, insurance and financial consulting, investment banking, insurance brokerage, government contract consulting, pension planning and systems consulting topped the charts. Not surprisingly, FISCO plans to offer many of these services.

To launch FISCO, Mr. Mariel tapped a senior Bankers Trust executive, Robert Cohen, and committed $175,000 for the start-up. In return, FISCO will be a wholly-owned subsidiary of the bank.

Will that create a conflict in the advice and services it might offer? Not really, according to Cohen. Even though FISCO will work closely with its parent, it will try and maintain an arms-length approach. More importantly, it plans to receive help wherever available. "If one of our clients can't be helped by New York National, we will still have the option of going somewhere else," explains Cohen.

At the outset, FISCO plans to offer an array of services from cash management and financial consulting to risk management and export advice. However, its most strategic involvement may come in helping clients secure venture capital and in acting as consultants during mergers and acquisitions. Through FISCO, New York National is positioning itself in the attractive and profitable mergers and acquisitions market.

There is no reason to believe that it won't get a piece of the action.

FISCO, Triad Capital and New York National—the three together may seem to be a somewhat ambitious and foolhardy venture. Those who know and understand the present financial climate know better. It is not difficult to understand that Mariel and his associates have quickly grasped the realities of banking today—that it may not be possible for everyone to be a generalist. The most likely to succeed in this marketplace are those companies that are willing to focus on a niche and provide diversified services designed specially for that niche.

By setting its sights on small business and establishing its triadic financial services group, New York National is merely letting it be known that it intends to be a major player in this marketplace and that it is here to stay.

(Udayan Gupta is a New York-based writer whose articles have appeared in Advertising Age and Quest.) ●

COMMEMORATING THE 174TH ANNIVERSARY OF MEXICAN INDEPENDENCE DAY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. KILDEE. Mr. Speaker, Sunday is September 16, the day on which our neighboring Republic of Mexico celebrates its independence.

On September 16, 1810, just 34 years after our own Declaration of Independence, a parish priest named Father Miguel Hidalgo pulled the rope that rang the bell in the village church of Dolores until the oppressed countrymen from the nearby farms filled the courtyard to overflowing. Then he called upon them to free their native land from the tyrannies of the Spanish Crown.

Not quite 3 months later, Father Hildalgo and his followers proclaimed the abolition of slavery from Mexican soil—and wrote the Western Hemisphere's first land reform statute. In the new world the name of Hidalgo will rank forever alongside those of Washington, Jefferson, and Lincoln in the annals of human freedom.

In recognition of this important date, and in celebration of Hispanic heritage week, I am proud to pay tribute to the Hispanic community of our Nation.

Today, Hispanics are providing a new spirit and force in America which will help shape the future course of this Nation. Hispanic activism and political activity has already left its mark on the national political landscape.

Hispanics provided the margins of victory for Governor Tony Anaya in New Mexico, Governor Mark White in Texas, and for Mayor Harold Washington in Chicago. Hispanic mayors have also been elected in San Antonio, Miami, Denver, and Santa Fe. And with Hispanic registration and voting rates increasing, Hispanics could make the difference in the 1984 Presidential election as well as in several key congressional and statewide races.

Hispanics in the 7th Congressional District of Michigan have also made many contributions to the development and enrichment of our community, State, and Nation.

In 1981, Jose Berrara became the first Hispanic elected to public office in Genesee County when he was elected to the Burton City Council.

Just last year, Paul Vasquez was elected to the city council from the east side of Flint. His election, by a mere 35-vote margin, would not have been possible without the massive increase in voter registration and turnout among Hispanics in Flint.

Earlier this year, Henry Acevedo became the first Hispanic ever to represent the city of Flint at a Democratic National Convention.

Maria Enriquez, an Hispanic from Flint, was recently appointed by the Governor to the State Commission on Spanish Speaking Affairs, a commission I helped establish in 1975 in order to develop a unified policy and plan of action to serve the needs of Michigan's Hispanic people. This commission was, until recently, chaired by another Flint Hispanic, Joe Benavidez.

And next week, Lee Gonzales, a former member of my congressional staff, begins work as an adviser to Governor Blanchard in Lansing.

Many more in the Hispanic community of the 7th District have contributed greatly to our community's well-being.

September 16 is not just a date of importance to Mexican-Americans alone. Indeed, it is of great significance to all those sharing in the proud heritage of the Hispanic culture, and indeed, all Americans. Today, all Hispanics must recognize, and seek to strengthen, your common heritage. Together, through a united and active Hispanic people, bound by your common interests and pride, you will at last attain the political and economic equality for which you have already begun to reach.●

AMEND THE NATIONAL LABOR RELATIONS ACT WITH RESPECT TO RETIREE BENEFITS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. CONTE. Mr. Speaker, on September 5, I introduced legislation which would protect the rights of retirees in collective bargaining agreements. This legislation, which has been introduced in past Congresses, has never advanced beyond the hearing stage.

Mr. Speaker, in 1971, the Supreme Court ruled in Allied Chemical and Alkali Workers of America, Local Union No. 1 against Pittsburgh Plate Glass Co. Chemical Division that retirees' benefits are not, under the meaning of section 8 of the National Labor Relations Act, a mandatory subject of bargaining. The Court's decision overturned an earlier decision by the National Labor Relations Board, which held that the benefits of already retired employees were a mandatory subject of bargaining as terms and conditions of employment of the retirees themselves. The NLRB ruled, in general, that an employer's mid-term unilateral modification of such benefits constituted an unfair labor practice.

The legislation which I have introduced would adopt the view of the NLRB and thus overturn the Supreme Court's decision. Section 8 of the National Labor Relations Act requires as a mandatory subject of bargaining, terms and conditions of employment. Under the Supreme Court's decision, the rights of retirees—including pension and health benefits—are apparently not included in terms and conditions of employment even though the NLRB held that the benefits of already retired employees vitally affects the terms and conditions of current employment.

H.R. 6187 would make bargaining with respect to retirement benefits for retired employees a mandatory subject of bargaining. In addition, it is illegal to make unilateral changes in an area considered to be a mandatory subject to bargaining. Without my legislation, conditions affecting retired employees can be altered unilaterally by the union or management.

I believe that this legislation is necessary to protect the rights of retired employees who, in many cases, helped build the company for which they worked. To that extend, they should be able to share in the future successes of that company. Retired employees often live on fixed incomes in an inflationary economy. The cost of living has risen steadily in recent years and the cost of hospitalization has doubled in some parts of the country. Yet pension and hospitalization benefits under collective bargaining agreements have tended to lag behind costs in part because the adjustment of these benefits remains a permissive rather than mandatory subject of bargaining. Absent legal compulsion, some employers and unions have voluntarily continued their practice of bargaining with regard to retirees' benefits, but others have taken the opportunity to stop serious bargaining in this area as well as to make unilateral changes in the retirees' benefits.

Mr. Speaker, in years past, the Committee on Education and Labor has

held hearings on legislation similar to this. I would urge that this legislation go beyond the hearing stage and to a markup by the full committee. I urge support for this legislation, and urge my colleagues to join me in sponsoring it.●

WHY THE SECRECY ABOUT TIGHTENING THE BANK SECRECY ACT?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. PAUL. Mr. Speaker, on Monday, September 10, with fewer than 10 Members of the House of Representatives on the floor, a bill was passed by voice vote increasing the Treasury Department's power to monitor how citizens use their money. If this bill passes the Senate also, the Bank Secrecy Act of 1970, which outlaws financial privacy in the United States, will be significantly tightened by eliminating one of our constitutional rights.

This swift enactment of the new powers was handled in almost total secrecy. On Friday, September 7, the list of bills to be considered this week was released by the majority leader's office, after most Members had returned to their districts to campaign. Most Members are still not even aware of the action the House took on Monday.

This bill is substantially the same piece of legislation that was overwhelmingly defeated 4 years ago. The fact that a majority of Members voted it down in 1980 is probably the reason it has been stealthily managed this week, cleverly whisked by when the leadership knew most Members would be out of town. Was it proper to use the Suspension Calendar procedure, supposed to be reserved for noncontroversial measures, not measures defeated by a two-thirds vote in the 96th Congress, to foist this bill on the public?

The section of the bill that has drawn the most heated opposition is the section that says, "A customs officer may stop and search, without a search warrant a * * * person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported." The courts have upheld the right of customs officers to search people who might be smuggling or illegally importing things, but now we seem to have expanded their powers to warrantless searches of people who may be innocently exercising their constitutional right to travel abroad.

Moreover, this bill is not restricted to enforcing the law against criminals with suitcases full of cash, as the term "money laundering" suggests. This bill will affect anyone who carries any valuable coin or paper out of the country. Fifteen U.S. gold coins, for example, would fall under the provisions of this bill. Nothing is exempt, since anything traded on foreign markets—art objects, rare stamps, pedigreed dogs or horses—as well as stocks, bonds, and promissory notes will serve as good substitutes for cash.

The person who may be victimized under this legislation is not guilty of any violation—the reporting requirement applies to someone who has clear legal title to his "monetary instruments."

This proposal to strengthen the Bank Secrecy Act greatly alarms me. In the modern world, virtually every part of daily life occurs with the intermediation of money. As long as the philosophy of socialism remains dominant in this Congress—the common belief that Government doesn't have to respect anyone's individual rights so long as we simply claim we are "regulating the economy"—you can trust the Bank Secrecy Act will be abused by some future administration. This bill merely authorizes the Secretary of the Treasury to set up a domestic spying and informant system to prepare for some future wave of economic repression.

If this bill passes the Senate, Congress will be building an invisible "Berlin wall" around America. For the past 6 years, Congress has been pushed by the administration to increase the powers of law enforcement over the movements of money in our society. The wall in Berlin, of course, only makes it possible for East German border guards to enforce their emigration laws more easily. How can any law-abiding citizen object?

To me, this is a question of civil liberties. What are the arguments in favor of this legislation? The real question we must ask is "Why should the administration have this power in the first place?" Drug smugglers are supposed to be the target of this bill.

Its supporters argued the only new thing this bill, H.R. 6031, does is close a loophole in the Bank Secrecy Act, by making it possible to enforce the requirement to disclose financial transactions when people try to leave the United States—to prevent "money laundering" by organized crime.

This bill empowers the Secretary of Treasury to make American citizens fill out financial declarations in advance of any foreign travel. Will the Customs Service begin to require everyone to undergo an "exit interview" in the future, to make sure all required reports have been filed? What assurance do we have that the Secretary will not issue regulations to require a 48-hour advance filing of these reports? None.

All of the Members of Congress who spoke in favor of the bill cited drug trafficking as the target. They celebrated "this new tool" in the war against crime. The only reservations voiced against the bill was that it did not also permit wiretapping in cases of money laundering. The Senate bill, S. 1762, title IX, contains that power. There may now be a conference committee between the House and Senate to consider adding that wiretapping power—or the Senate could ratify H.R. 6031 with the same haste, and without advance notice, as the bill was rushed through the House of Representatives.

The arguments against drug smugglers are thrown about as if this legislation were strictly directed against organized criminal gangs who are poisoning American children. But this bill is not a drug-enforcement bill—it is a broad grant of power to the Secretary of the Treasury to require advance submission of financial disclosure reports and pay rewards to private citizens to spy on business associates or neighbors who may be trying to leave this country for whatever reasons they may have without reporting it.

The United States does not impose any other restrictions on the freedom of citizens to travel; a passport is not even required. The Supreme Court has ruled, *Kent* v. *Dulles*, 357 U.S. 116 (1958), that we have a fifth amendment right to travel. We don't have to tell the Government when we depart—until now.

The particular thing that makes this bill so dangerous is its complete lack of focus on any particular crime. Drug trafficking is just a plausible excuse. The general declaration of purpose in the Bank Secrecy Act says nothing about drugs. It gives as the reason to require banks and individuals to file reports—for all expenditures of $100 or more and cash transactions of $10,000 or more—merely the "high degree of usefulness" of such financial reports in "criminal, tax, or regulatory investigations." The Government wants to know about your use of money for every conceivable regulatory use.

It may not be too late to stop this unconstitutional bill in the Senate—but the sneaky tactics of surprise in the House of Representatives worked like a charm.●

IT'S TIME FOR A NATIONAL LOTTERY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. LUKEN. Mr. Speaker, today I am introducing legislation to study the

feasibility of establishing a national lottery to help reduce the staggering Federal deficit.

The Presidential candidates are debating what kinds of revenue are needed, but no one denies that the United States has a problem with the Federal Government spending $4 for every $3 it takes in. Additional revenues are surely needed.

At the present time, 18 States are enjoying lotteries with increasing zest, and neighboring countries such as Canada and Mexico also benefit from lottery proceeds.

In Chicago last week, a 28-year-old printer became the largest single winner in North American history, claiming a $40 million prize from the Illinois State lottery.

On August 4, eight persons from Ohio shared winnings of $24.6 million—the second biggest lottery prize in American history.

The largest previous single winner was a New Yorker, who won $20 million in the New York State lottery in July.

If the United States were to adopt a national lottery, as much as $50 billion of the Federal deficit could be reduced over a 5-year period. And, a national lottery would be unlikely to impair the profitability of State lotteries, since the existence of a national lottery would expand interest on the part of the public in lotteries generally.

My legislation calls for the establishment of a Government commission to study the feasibility of a national lottery. Part of that study would be an assessment of the impact of a national lottery upon State lotteries.

The national lottery program could be administered by an existing Federal agency or by a new lottery commission. Tickets would be purchased from vending machines in local stores and would cost $1 a ticket for a week's participation. Winners would be announced weekly on network television and radio.

A national lottery would draw money away from illegal gambling and reduce funding for organized crime. Some of the dollars now spent in the underground economy would return to the economic mainstream.

Another feature might be a connection with the Kentucky Derby. There might be weekly drawings with an annual Kentucky Derby sweepstakes.

Studies show the average lottery ticket purchaser in my own State of Ohio has an income of over $18,000. So I do not believe a national lottery would place heavy emphasis on participation by the poor.

As recent events demonstrate, lotto mania is sweeping our country. Passage of the National Lottery Commission Act offers a novel way to reduce the Federal deficit while giving millions of Americans an opportunity—against admittedly very long odds—to win enormous prizes without having to risk very much money.●

DAVID B. SOLL: "MAN OF THE YEAR"

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. BORSKI. Mr. Speaker, this Sunday evening the Jewish National Fund Council of Philadelphia, Physicians and Surgeons Division, will honor David B. Soll, M.D., F.A.C.S., as its "Man of the Year" and will be establishing a childrens recreation center in the Philadelphia Physicians Forest, Israel, in his honor.

I rise to pay special tribute to Dr. Soll for his many years of dedication and devotion to humanitarian causes, for his many contributions in the field of ophthalmology and ophthalmic surgery, and for his active promotion of closer friendship and cooperation between Israel and the United States.

Mr. Speaker, Dr. Soll is a world renowned ophthalmologist who practices in Philadelphia. He has taught and lectured in many foreign countries. Among his major contributions are the development of new plastic surgical procedures for reconstruction of eyelids in patients who have traumatic injuries, malignancies, and thyroid eye problems. He has developed new instrumentation for cataract surgery, developed a glaucoma operation widely used throughout the world, and most recently, developed a protective substance for use in cataract and eye surgery which significantly improves the final results and minimizes the chances of complications occurring. He is considered to be one of the foremost experts in cataract and intraocular lens surgery.

In his capacity as professor and chairman of the Department of Ophthalmology at Hahnemann University, Dr. Soll established an affiliation between his department and the eye department at Hadassah Medical Center in Jerusalem. He has also volunteered his surgical skills and services in Israel. Many patients there suffered from deformities resulting from war injuries. His experiences led him to organize in 1980 the first conference on eye plastic surgery ever held in Israel. The conference was a great success and proved to be the impetus in starting the subspecialty of ophthalmic plastic surgery in Israel.

Dr. Soll received his medical degree from the Chicago Medical School and a postgraduate master's degree in ophthalmology from the New York University Medical School where he pioneered research on refractive surgery.

In addition to Dr. Soll's appointment as professor and chairman at Hahnemann University, he is director of the ophthalmology department at Rolling Hill Hospital, Frankford Hospital, and the Philadelphia Geriatric Center.

Among his national appointments, Dr. Soll has served as president of the American Society of Ophthalmic Plastic and Reconstructive Surgery, the American Association of Cosmetic Surgeons, and as a member of the Committee on Trauma of the American College of Surgeons. In addition to having authored over 100 publications, Dr. Soll also serves on the editorial board of several national and international ophthalmology journals.

Mr. Speaker, I also rise to honor Dr. Soll on the basis of personal knowledge of his great skill and caring manner as a doctor. In May 1982, just a few short weeks after being elected as the Democratic nominee for the seat that I now hold, my eye was seriously injured while I was fixing a wooden fence in the back of my house.

The injury required intraocular lens surgery to correct the damage and I was in the hospital for several weeks. Following that, I continued to see Dr. Soll on a regular basis and still do today. During the whole course of my ordeal, Dr. Soll thoroughly explained all of the procedures to me, demonstrated exceptional care in this matter, and inspired my complete confidence in his judgment and skill. For saving my eyesight well beyond my initial expectations, I wish to publicly thank Dr. Soll.

Mr. Speaker, I congratulate Dr. David B. Soll on the "Man of the Year" award he will receive on Sunday. I believe he has an exemplary record of achievement and contribution. I know that his wife, Jean, his four children, Abby, Stephen, Warren, and Adam, and all of his colleagues and patients are very proud of him.●

PERSONAL EXPLANATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. OBERSTAR. Mr. Speaker, because I was in my district yesterday, I was not recorded on the legislative business of September 12. For that reason, I rise to state for the RECORD how I would have voted, had I been present yesterday.

Rollcall No. 382: H.R. 5798, conference report, Treasury appropriations, "yea."

Rollcall No. 383 (motion to insist upon disagreement with Senate with respect to H.R. 5798), "nay."

Rollcall No. 384: rule providing for consideration of H.R. 1497, "yea."

Rollcall No. 385: H.R. 1497, California Wilderness Act, "yea."

Rollcall No. 386: H.R. 3347, extradition improvement procedures, "yea."

Rollcall No. 387: H.R. 6071, legislation to strengthen prohibitions against trademark counterfeiting, "yea."●

THE GREATEST SHOWMAN ON EARTH!

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. IRELAND. Mr. Speaker, over the years I have had the priviledge of being an associate and friend of the late Irvin Feld, who passed away last week in Florida. As owner and promoter of the Ringling Brothers Circus, Irvin Feld brought joy and laughter into the hearts of children and adults alike. He also exemplified the best of the free enterprize system and the entrepreneural spirit.

The son of Eastern European immigrants, Mr. Feld fell in love with the circus as a child, and as a teenager in the 1930's he worked at a somewhat related occupation—selling carnival trinkets. After years of hard work, including management of the circus, he bougth the "Greatest Show on Earth" in 1967.

But the circus was not his only triumph. Branching off from a drug store he and his brother owned in Washington, DC, Mr. Feld found he had a talent for determining what would sell and what would not. He founded Super Music City record stores and not long afterward, he began producing both his own records and his own live concerts.

Credited with anticipating the rock and roll mania, Mr. Feld began in the 1950's to book such performers, then relatively unknown, but soon to become explosively famous, as Chubby Checker, Bill Haley and the Comets, Fats Domino, and the Everly Brothers. By the 1960's he was arranging personal appearances for such names as Frank Sinatra, Nat King Cole, and Harry Belafonte.

Despite other successful endeavors, the circus remained his first love and greatest achievement. When he first became manager of the circus in 1956 he turned it from dowdy to dazzling. He eliminated the distasteful so-called freak shows and added new acrobatic acts. He scoured Europe for new acts and developed his own clown school. All in all it was his show—the Greatest Show on Earth.

Irvin believed in wholesome family entertainment, something we hear little about these day, and something which is more than a little difficult to find. Irvin Feld gave his life to the circus for the benefit of all of us. He was a great man and a friend. He will be sorely missed by all who knew him and by those, both young and old, whose lives he touched through entertainment.●

MOBILE MEALS AND MEALS ON WHEELS

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. CAMPBELL. Mr. Speaker, I would like to bring to your attention and the attention of the Members of this body some very special people from my district in South Carolina. Over 1,200 individuals volunteer their time to prepare and deliver meals to needy people in their communities. The Mobile Meals Program in Greer and Spartanburg and Meals on Wheels in Greenville and Union provide one hot and well-balanced meal per day to those unable to prepare, or have prepared, meals for themselves. The recipients of these meals are homebound, and this service is invaluable to their well-being.

Greer Community Ministries, Inc., operates the Mobile Meals Program in Greer, SC. Mr. Jesse E. Crim chairs Greer Community Ministries and receives valuable assistance from Evelyn Redmund and about 150 volunteers who prepare and deliver 140 meals per day, 5 days a week.

Mrs. Jayne McQueen is the executive director of Mobile Meals Service of Spartanburg, South Carolina, Inc. Over 700 volunteers serve 720 meals 5 days a week to citizens throughout Spartanburg County.

Bonnie Johnson directs the newest program in the fourth district. Meals on Wheels of Union is seeking to meet the needs of the homebound of Union County and delivers about 60 meals per day. With the help of humanitarians such as Agatha Burgess, this service will continue to grow.

Meals on Wheels of Greenville is directed by Jane Durham. Aided by Westminister Presbyterian Church and hundreds of volunteers, over 700 meals per day are prepared and delivered.

Mr. Speaker, the efforts of Mobile Meals and Meals on Wheels are to be applauded. But it is the dedication of the volunteers that is the backbone of these programs. They seek no public attention for themselves, but only to provide human contact and friendship to others. Furthermore, the meals they deliver and the attention they give to the recipients' well-being keep many persons from being institutionalized needlessly and allow them to live independently as long as possible.

Also, all funding for these programs is provided by the private sector. Individuals and businesses invest in their communities and offer the capital necessary to operate these programs.

Mr. Speaker, I am proud that these extraordinary citizens reside in my congressional district. Their selflessness is an example to us all. I am pleased to offer, in this small way, the recognition they so richly deserve.●

THE JEWISH NATIONAL FUND TREE OF LIFE AWARD

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. GRADISON. Mr. Speaker, the Torah has been likened to a tree of life, supporting and nurturing the people of Israel throughout our history.

One of the most sacred moments in the Jewish religion is the reading of the Torah, chanting in a tradition handed down over the centuries. No more than 3 days are permitted to pass without reading from the Torah. One of the most meaningful moments is when the Torah is returned to the ark and the entire congregation sings the prayer: "It is a tree of life to those who take hold of it and blessed are those who support it." (Proverbs 3:18.)

The Jewish National Fund, which has planted over 160 million trees in Israel, built mammoth systems of roads and highways, greened the Negev desert into an agricultural miracle and converted the barren hillsides of the Galilee into orchards and farms and prepared sites for settlements and industry, has established a Tree of Life Award, given in recognition of outstanding community involvement and commitment to the cause of American-Israel friendship.

The Tree of Life Award will be presented to Joseph F. Rippe of Cincinnati, OH, on September 16, 1984. In addition to presenting the award, the JNF will establish the Joseph F. Rippe forest at Kabri between Nahariya and Ma'alot in the Galilee.

Joseph F. Rippe has served as president—1972-80—and chief executive officer—since May 1980—of the Provident Bank and Provident Bancorp, Inc. Mr. Rippe formerly served as president of the Southern Ohio Bank from 1964-72.

A graduate of Norwood High School, he served in the U.S. Navy during the years of 1944-46 in the South Pacific and Japan. He attended the University of Cincinnati.

In 1951, Mr. Rippe became president of Modern Real Estate Sales Co. and has been active in the real estate business for more than 30 years. He was a realtor, developer and builder of various subdivisions and apartments throughout Hamilton and Warren Counties.

Mr. Rippe formerly served 6 years as a member of the Ohio Bank Board and

served from January 1974 through December 1976 as a director on the board of the Cincinnati branch of Federal Reserve Bank. In addition, he is a board member of various manufacturing companies in the Cincinnati area.

His civic activities include serving as a board member and president of Hamilton County SPCA and as an honorary alumnus of Xavier University. He is a past honoree of both the City of Hope and the National Jewish Hospital at Denver. During the 1960's and 1970's he served as chairman of MAAA at Xavier University. Mr. Rippe has been active in numerous Moeller High School fund raising drives and involved in various other charities throughout Cincinnati.

I am pleased to call this important honor to the attention of my colleagues.●

HELPING THE MORTGAGE MARKET

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mrs. COLLINS. Mr. Speaker, the Secondary Mortgage Enhancement Act passed Tuesday would bring more funds into the housing market, thereby ensuring that there will be enough money to cover the increased demand for housing in the years to come.

We need this legislation to permit State and local employees' pension funds, insurance companies, and State banks, for example, to participate in the secondary market for mortgages. Such sources of funds would help Federal and quasi-Federal agencies meet the estimated $4 trillion in mortgage credit that will be needed in the next 10 years. They cannot do that alone any longer.

High interest rates make this bill necessary. Savings and loan associations and banks—the traditional mortgage lenders—are leery of holding on to the long-term, fixed-rate mortgages they give to homebuyers because they are not sure which way interest rates will move in these days of huge budget deficits.

Once again, we Democrats have had to take the lead to fix a potential trouble point in our economy because of the huge unprecedented deficits created by this Republican administration. Once again, we can see where the unnecessary increases in the defense budget and the tax breaks for wealthy individuals and corporations are creating problems, despite rhetoric to the contrary by the administration.●

HOUSE JOINT RESOLUTION 595, NATIONAL SPINA BIFIDA MONTH

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. MAZZOLI. Mr. Speaker, as the sponsor of House Joint Resolution 595, designating the month of October 1984, as "National Spina Bifida Month," I am very pleased that the resolution was yesterday cleared by the House for Presidential signature into law.

I introduced House Joint Resolution 595 on June 28, 1984, and since that time have been very happy with the strong display of support I have received from my House colleagues for this resolution.

This support is due, in no small part, to the dedication and hardwork of Mrs. Suzy Sabadie, of the Spina Bifida Association of America, and her young sons Mark and Erik, who "wore the treads off their tennis shoes" going door to door encouraging Members to cosponsor House Joint Resolution 595. The Sabadie's are an inspiration to us all. Suzy is at this moment on the west coast seeing bicyclists through the first leg of their long journey across country in support of the spina bifida cause.

Spina bifida results from the failure of the spine to close properly during prenatal development. It is a most common birth defect, occurring in 1 of every 1,000 births. Most of the March of Dimes and Easter Seal poster children have spina bifida.

Yet, spina bifida remains a little known and little understood handicapping condition. Research indicates that approximately half of the American population is not familiar with this crippling defect.

Proper care facilities and specialized professionals to provide the most effective treatment for children and adults with spina bifida are limited nationwide.

It is, therefore, fitting that there be a Federal proclamation designating October 1984, as National Spina Bifida Month. Such a proclamation will increase public awareness of the problem and stimulate the interest and concern needed to increase research which will lead to the development of treatment for this handicapping condition.

I hope the President will quickly sign the resolution so planning can get underway immediately for appropriate ceremonies and activities in conjunction with National Spina Bifida Month.

I thank all of my colleagues who joined me in this effort. I thank Chairwoman KATIE HALL for moving so promptly to bring House Joint Resolution 595 to the House floor. And, I thank Suzy Sabadie and her dedicated family for helping us achieve this worthwhile goal.●

CALL TO CONSCIENCE VIGIL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. HOYER. Mr. Speaker, in July 1983, I was honored to participate in the dawn to dusk fast in honor of Soviet dissident Vladimir Slepak, who is one of the most respected human rights advocates in the Soviet Union and was one of the first to spark the cry for freedom for Soviet Jews. For 14 years Vladimir Slepak has sought permission to leave the Soviet Union. Slepak has worked as a radio and television engineer, and, in June 1976 was a member of the group which monitored Soviet compliance with the Helsinki accords. In June 1978, he was arrested and tried for malicious hooliganism and was sentenced to 5 years of internal exile. His wife went with him to southeast Siberia, close to the Chinese/Mongolian border. Prior to his arrest, his home was bugged and burglarized and his family was beaten.

Now more than a year later, I once again join many of my colleagues in the "Call to Conscience Vigil" but without any good news for the Slepak family. It is distressing to know that the Slepaks are still being denied the simple right to travel, and to join their two sons and grandchildren who are citizens of Israel. But this has become more and more the norm.

The Soviet Union is a nation with the third largest number of Jews. It has, with historical continuity, violated the rights of those Jews. It is a state that refuses to allow Jews to live in their homeland with dignity and with the freedom to be Jews, yet denies them the right to leave to fulfill these rights. It is a state that appears to have as its goal an end to emigration. The Soviet Union allowed 1,314 Jews to emigrate in 1983, the lowest annual total in 20 years and only half of the 2,688 emigrants who were permitted to leave in 1982. As of the end of June 1984, only 569 Jews were allowed to leave. The closing of synagogues, banning of Hebrew language instruction, the pervasive discrimination in education, employment and social life, and the confiscation of prayer books are all a part of a sinister state policy to destroy Jewish culture.

It is critical that each of us in our own way let the citizens of the Soviet Union know that we care and that we have not abandoned and will never abandon their cause. We must continuously denounce the forced surrender of basic human rights to the arbitrary will of a repressive government.

We must intensify our efforts to demand that the Soviet Government account for its behavior. We are hopeful that by our actions taken today and by the words spoken today we will aid in the transformation of Soviet policy toward Jews and renew our own faith in humanity. I share the convictions of my colleagues that we all are touched by any nation's violation of human dignity and that we cannot participate in the world and not feel responsible.●

SECOND BAPTIST CHURCH OF PERTH AMBOY CELEBRATES ITS 80TH ANNIVERSARY

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. DWYER of New Jersey. Mr. Speaker, I would like to call to the attention of my colleagues a very special occasion in New Jersey's Sixth Congressional District, and in particular, the city of Perth Amboy, home of the Second Baptist Church, which next month will be celebrating its 80th year.

Those 80 years have been a period of tremendous growth for this church, which commenced its religious history in 1892, with a core membership of 35. The Second Baptist Church was incorporated in Perth Amboy in 1904, and has since grown to more than 500 parishioners, 150 of which have joined in just the last year.

In addition to its church school and full complement of programs for youth, singles, families, and senior citizens, the Second Baptist Church reaches out to its home community as well, through its food pantry ministry to the hungry, self-help seminars, and in many other ways.

Over the years, church parishioners, their sons and daughters, have given generously of their time and talents toward the betterment of our community and our Nation. The history of the Second Baptist Church is rich in the kind of unselfish giving that is a tradition of the Baptist faith.

The church is also active in the American Baptist Churches of New Jersey, the Progressive National Baptist Convention, and the Middlesex Central Baptist Association, and has had 13 ministers during its history. The Reverend Donald Hilliard, Jr., a graduate of Princeton Theological Seminary, became pastor last year, and his own faith and guidance is witnessed through this service on a number of community boards and through his work as director of an interdenominational outreach group for youth in the central Jersey area.

Mr. Speaker, I salute the parishioners of the Second Baptist Church who have done so much to enrich our community and congratulate them warmly upon the 80th anniversary of this fine church.●

TRIBUTE TO RABBI JAY MARCUS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. SCHUMER. Mr. Speaker, I would like to join with my colleagues GARY ACKERMAN, SALA BURTON, SAM GEJDENSON, BEN GILMAN, MEL LEVINE, HENRY WAXMAN, and TED WEISS to pay tribute to Rabbi Jay Marcus of New York.

For the past year, Rabbi Marcus has generously taken time from his duties as rabbi at Young Israel of Staten Island and as founder of the Genesis Foundation in order to come to Washington twice a month to lead discussions for us on various aspects of Judaism. I know my colleagues share my gratitude not only for the time Rabbi Marcus has devoted to our discussions, but also for the rewards they have brought us. As Members of Congress, we are forced to spend most of our time rushing from place to place and from topic to topic. Rarely do we have the opportunity to engage in extensive discussions on topics not directly related to pending legislation. In that way, sometimes we lose sight of the broader picture of the world.

That is why these meetings with Rabbi Marcus have been so valuable to us. Not only has Rabbi Marcus helped bring together a group of legislators from different geographic regions and even different parties by reminding us of our common heritage, his unique ability to link historical traditions and literature with contemporary issues has enabled us to reflect on the ways that heritage can help us become better legislators. Our discussions have enabled us to see not only issues involving Israel and the world's Jewish community in a new light, but he has shown us how many other issues are affected by Jewish history and tradition. In addition, Rabbi Marcus' warmth, compassion, and probing insight have helped create such an inviting atmosphere that many of us anticipate these meetings as one of the high points of our week.

So it is with great admiration and affection that we honor Rabbi Jay Marcus. He has enabled us to grasp Jewish literature with a better understanding, to examine Jewish culture with eyes open to the necessity of tradition, and above all, to realize that the solutions to many of our contemporary problems are inherently linked to our traditions and our past.●

THE 100TH ANNIVERSARY OF HOLY FAMILY HIGH SCHOOL

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. STUDDS. Mr. Speaker, I would like to call the attention of my colleagues to the upcoming 100th anniversary of the founding of Holy Family High School in New Bedford, MA.

Holy Family High School, founded in 1884 as St. Joseph's High School, was southeastern Massachusetts' first Catholic secondary school. Today, a century later, it is the only remaining parish secondary school in the diocese of Fall River which serves the entire southestern Massachusetts area.

Holy Family High School has, over the years, distinguished itself in both academics and athletics. In the area of athletics, with a student body of only 240 persons, Holy Family High is noted for its championship basketball teams of the late 1960's and early 1970's. Most importantly however, Holy Family has distinguished itself in the area of academics. Holy Family High School can proudly boast that 85 to 90 percent of its graduates go on to college with many individuals entering and excelling in careers as doctors, lawyers, and civic and business leaders in the community. The community shares Holy Family's pride in its continuing contribution to southeastern Massachusetts and the Commonwealth of Massachusetts.

I would like to take this opportunity to respectfully extend my own best wishes to Principal Kenneth Kramer, to its faculty and staff, to its students past and present, to its director the Reverend John P. Driscoll, and to the entire community which has benefited from the excellence associated with a Holy Family High School education.●

BIRMINGHAM CELEBRATES GREEK HERITAGE

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. ERDREICH. Mr. Speaker, on Tuesday, September 18, 1984, the Birmingham Historical Society will celebrate "Greek Heritage Night," highlighting the many contributions that Americans of Greek descent have made to the economic and cultural vitality of the city of Birmingham.

The influence of Greece and its descendants has been a part of the ethnic mosaic that makes up Birmingham since George Cassimus, Birmingham's first Greek immigrant, left his

native land and settled in Birmingham in 1884.

Those who came seeking a better life brought with them the courage and curiosity of Odysseus, the love of learning associated with Plato, and the entrepreneurial skills that have made them such an important part of Birmingham's economic base.

As the program for "Greek Heritage Night" notes:

Our Greek community, like the proud but dispersed Greek colonies of the ancient world, is united by the inheritance of a culture, a religion, and a language which they have directly and indirectly shared with us all. America has offered its immigrant Greeks a modern version of the good life and an opportunity to participate in what might approach, with individual effort and involvement, the "perfect state" envisioned by their distant forefathers.

Our Greek community came to America with visions not unlike those of their forefathers, of the good life and a perfect state and many of their dreams have been realized in our land of opportunity.

As the Birmingham community recognizes the rich Greek heritage that has made our total community even richer, I would like to congratulate the Birmingham Historical Society and all the participants in "Greek Heritage Night." Also, I would like to commend "Birmingfind", which highlights the growth of the Greek community in their excellent booklet, "The New Patrida: The Story of Birmingham's Greeks." This event gives proper recognition to one of our many ethnic traditions that has made Birmingham the great city that it is.●

HEALTH PROFESSIONS AND SERVICES AMENDMENTS

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. DOWDY of Mississippi. Mr. Speaker, I applaud the House for approving H.R. 5602, the Health Professions and Services Amendments of 1984. This important legislation will make an important difference in the lives of many of our Nation's citizens by establishing and continuing creative and low-cost programs that successfully deliver quality health care.

Equally important, H.R. 5602 provides funding assistance that is crucial to the education of students who would otherwise be limited in their opportunities to become health care professionals. Professional education is expensive for any field, but nowhere is financial support more needed than in the areas of nursing, medicine, and public health.

Considering the burden placed on the Federal budget because of soaring health care costs, funding for the National Health Service Corps, health maintenance organizations, and migrant and community health centers is a very wise investment. H.R. 5602 will assure an adequate number of well-trained health care professionals and the continued viability of cost-saving health programs designed to service the needy, the elderly, and those who live in areas where the health care that many of us take for granted is in short supply.

I am particularly impressed with provisions of the bill that instruct the Secretary of Health and Human Services to provide health care purchasers with state-of-the-art technical advice about how to collect, interpret, and share information about the use, cost, and quality of health care services. This provision will greatly aid efforts to contain health care costs by allowing purchasers to choose the most cost-effective providers and by giving providers additional incentives to operate efficiently.

I commend my colleagues in the House for supporting H.R. 5602. I believe that we can all be very proud of our efforts to make quality health care available and affordable to all of the people of our Nation.●

THE 135TH ANNIVERSARY OF THE FREE SONS OF ISRAEL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. ACKERMAN. Mr. Speaker, I would like to ask my colleagues in the House of Representatives to join with me in commemorating the 135th anniversary this year of the oldest Jewish Fraternal Benefit Order in the United States, the Free Sons of Israel.

Founded in 1849, the order sprang from a desire among a small group of Jewish immigrants to forge a place for themselves and their families in America.

Mr. Speaker, this is a momentous occasion in our history. The Free Sons of Israel—an order that has as its cornerstones friendship, social conscience, dignity, and peace—has survived the changing and sometimes adverse economic, political, and cultural eras in this Nation. The Free Sons have held fast to their precepts, that community is essential and valuable to the Jewish people; that the elderly deserve a dignified way of life; that the needy merit our aid; and that the burdens of our brothers and sisters in Israel are ours to share and to lighten.

Today, the Free Sons of Israel has a membership of 10,000 men and women dedicated to fighting for freedom from prejudice and for the rights of all individuals, regardless of race, creed, or color. Its structure—involving service to senior citizens, summer camps for needy children, social action in support of Israel, and many other programs—provides us all with a model of how a community of people joined together by a common vision can achieve its goals, and how that community can be an example of brotherhood and service to people throughout this country and throughout the world.

The order has not yet completed its self-appointed task. Its men and women are still vigilant in protest of anti-Semitic activities and in defense of the welfare of Jewish people at home and abroad.

The Free Sons are marking their anniversary this year with a week of events and awards ceremonies, beginning on October 13, 1984.

Mr. Speaker, I would like to take this moment to commend the Free Sons of Israel and their proud officers: Grand Master Robert Grant, First Deputy Grand Master Herbert Silverstein, Second Deputy Grand Master Charles Mackoff, Third Deputy Grand Master Daniel Burstein, Fourth Deputy Grand Master Martin Renwick, Fifth Deputy Grand Master Diana Levine, Grand Secretary Stanley Siflinger, Grand Treasurer Hy Galler, Counsel Samuel Field, and Grand Chaplin Rabbi Jacob Goldberg. I ask all of the Members of the Congress of the United States to join me in congratulating the Free Sons of Israel. Let us share in their celebration of 135 years of service, and of 135 years of hope.●

A CONGRESSIONAL SALUTE TO ARTHUR L. REEVES ON HIS RETIREMENT FROM THE DOMINGUEZ WATER CORP.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. ANDERSON. Mr. Speaker, on September 29 a retirement party will be held at the Carson Community Civic Center to honor Arthur L. Reeves, senior vice president of the Dominguez Water Corp., who is retiring after nearly four decades of dedicated service. I take this opportunity to commend and congratulate Art on a job well done.

Art, who is greatly respected throughout the entire south bay area, has devoted countless hours in helping make our community a better place to live and work. In addition to being a member of the Carson Formation Committee, Art has served as president of the Dominguez/Carson Rotary, 1956-57; president, Torrance Chamber of Commerce, 1964; president, Dominguez Chamber of Commerce, 1958; president, Carson Chamber of Commerce, 1962; and president, Dominguez-Carson Industrial Council 1974.

Art has also worked tirelessly in behalf of numerous charitable organizations. These include the United Way; Boy Scouts; Red Cross; and YMCA. He has also served as president of the El Toro Foundation, to raise funds for the athletic foundation at Cal-State Dominguez Hills.

Somehow, Art has also found the time to become activity involved in many professional organizations. Among these are the American Water Works Association; California Water Association; West Basin Water Association; and the Central Basin Water Association.

It should also be noted that Art served on the Long Beach World's Fair Committee, 1970–71 and has been a member of the Long Beach Executive Dinner Club—member of the board of directors in 1983.

Mr. Speaker, Art Reeves has been a driving force in the community for many years. His contributions have been many and, I'm sure, he will be sorely missed by his colleagues at the Dominguez Water Corp. His dedication and involvement in the community is a model for all to follow.

My wife, Lee, joins me in congratulating Art on this memorable occasion and we wish him and his wife, Geneva, and their two daughters, Leslie and Patricia, all the best in their future endeavors.●

TRIBUTE TO JULIAN JACKSON OF ST. CROIX

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. DE LUGO. Mr. Speaker, for many years the U.S. Virgin Islands has produced an extraordinary wealth of athletic talent in many fields, particularly baseball, basketball, and boxing. Another young man is adding his star to those lights: Julian Jackson of St. Croix and I appreciate this opportunity to brag a little about this talented youngster who has made the people of the Virgin Islands so very proud.

Julian only began his professional career earlier this year, and ever since his first fight, on February 12 in San Juan, PR, he has been unbeaten, and has racked up the enviable record of 20 consecutive victories, 18 by knockouts. On June 20, he won the Continental Americas junior middleweight title, and to eliminate any possible doubt as to his claim to that title, he successfully defended it by scoring yet another knockout over his challenger on August 15. Before going into that fight he was ranked No. 4 by the World Boxing Association, and fifth by the World Boxing Council, and he is obviously going even higher.

Julian has trained right in the Virgin Islands, which makes us all doubly proud of his outstanding record and accomplishments. He is credit to his managers, Russel Nandlal and Carl King and has brought great credit to the Virgin Islands. I hope my colleagues will join with me in wishing this fine young man continued success.●

PLIGHT OF APPALACHIANS—IN BALTIMORE

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. MITCHELL. Mr. Speaker, in these hectic and complex times, it is easy to isolate ourselves from the problems of those less fortunate than ourselves. I think it is important, however, that we take time out of our busy schedule to concern ourselves with these persons.

In the north central section of Baltimore, there is a populace consisting of 1,100 households of overlooked, disparate citizens. They are called displaced mountain people who have been forced to live in the city to survive.

In reading the following article, and two others which will run on consecutive days, I think you will gain some insight into the plight of the Appalachians. These articles were written by Colman McCarthy and appeared in the Washington Post on June 16, 17, and 19, 1984.

The following is the text of the first article as it appeared in the Post:

PLIGHT OF APPALACHIANS—IN BALTIMORE

BALTIMORE.—Instinctive optimism has always marked the collective character of Appalachians, especially the displaced ones trapped in the pessimism of an alien city and collapsing economy. In Baltimore's Remington neighborhood, where memories of life in the mountains run as deep as yearnings to get on a Greyhound and go back home for at least a weekend, optimism is on display at the Community Survival Center.

Since 1977, it has been laboriously struggling to organize the local poor white community to fight against its powerlessness. A food cooperative, a home-improvement program, evening adult-education classes, counseling for unmarried mothers, medical clinics and dances have been among the successes. No federal money supports the center's programs.

The support comes from self-sacrifice, beginning with the 28-year-old director who lives in a garret at the center and takes a salary of $60 a month. His wealth is in his self-reliance and independence, which is Remington's rich vein, too. To outsiders, that doesn't look like much. From within, it has meant nearly everything. Hard times have been survived in the mountains. They will be survived here.

The center is a half-block from a fumy intersection in the north central part of the city. An Exxon station is across the street. Blocks away is an abandoned building, a gateway to the homeless zone. The center is a trusted force because its origins are local.

No well-meaning government agency arrived to proclaim its official pity on "urban hillbillies" by announcing that the solution to their problems was a community center. What the local people chose to call their operation—a survival center, because surviving is literally the crisis—suggests that only neighborhood citizens could understand their own needs.

A few weeks ago during the Maryland Democratic presidential primary, campaign workers for one of the candidates approached the center's director: Would a visit by the candidate be welcomed? "Our feeling," he recalls, "was that if he wanted to come in and listen to people in the community and find out our concerns and worries and do that kind of work, then we would be more than happy to have him. We would welcome any candidate, I don't care who he is. But we aren't going to be here for a media event. Not when we are overlooked the rest of the time." None of the three Democratic candidates came to Remington.

It may have been just as well. Suspicion of outlanders is part of the Appalachian identity. Distrustfulness is the natural defense after decades of betrayals by adversative coal and timber companies who took the wealth of the hills in a style of rape-and-run exploitation seen in no other part of the country. The region has also seen an inflow of problem-solving experts who, as a mountaineer once described them, "pop in, pop off and pop out."

In contrast to the suspicion of strangers, Appalachians in urban sites like the Remington neighborhood are known to be unbelievably kind and openhearted to each other. People come to the Survival Center as much to ask what they can contribute to the place as to how they can benefit from the programs. Children are often the most generous. Their inbred kindness is the last cultural legacy they have received from the Appalachia their parents left behind.

Remington is a neighborhood of 1,100 households. Nationally no accurate figure is available on the number of mountain people living in cities. Many drop out. They were never eligible for benefits like food stamps or would rather go hungry than take welfare and lose self-esteem. Many subsist in the underground economy. The Appalachian Regional Commission has no programs specifically designed for urban mountaineer communities. The commission, which the Reagan administration has unsuccessfully tried to kill, is denied adequate funds to serve even rural Appalachians. It, too, is practiced in the ways of survival.

In cities like Detroit, Pittsburgh and Cleveland, displaced Appalachians have organized their self-reliance into operations similar to the Community Survival Center in Baltimore. For much of the nation, urban poor whites from the mountains are pariahs. Among themselves, the truer reality prevails. These are generous, gentle people who care for their own, even when that means sharing what little they own.●

CONGRESS MUST ACT TO PROMOTE STABILITY IN THE REGULATION OF NUCLEAR POWER

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. BROYHILL. Mr. Speaker, there can be no doubt that the widely publicized problems plaguing the construction of several nuclear powerplants are due in large measure to the manner in which the Federal Government regulates this industry. One significant factor contributing to regulatory uncertainty is the Nuclear Regulatory Commission's practice of imposing new or modified safety requirements without any systematic analysis of cost-effectiveness or impact on overall safety. This practice, commonly referred to as "backfitting," hinders safety assessments and results in completed plants being significantly different and much more costly than originally envisioned. This was one of the major reasons why I joined a bipartisan group of colleagues in introducing H.R. 5053—legislation to reform the nuclear licensing and regulatory process.

Some have expressed a belief that this legislation is unnecessary because they believe the Nuclear Regulatory Commission already has the authority it needs to set its house in order. However, even the Commission has acknowledged that it is incapable of making the fundamental reforms necessary to stabilize the regulatory process without legislation. The memorandum I am inserting at the end of my statement is the most recent illustration of this problem. For a considerable time, the Commission has entertained proposals to improve the process used to modify regulatory requirements and impose backfits—with little or no progress. And now, James Tourtellotte, chairman of the Commission's own internal regulatory reform task force, has reported to the Commission that the NRC staff apparently has not been following the little guidance the Commission has provided on this very important problem. Mr. Tourtellotte should be commended for his candor and persistence in continuing to draw the Commission's attention to this matter. I urge my colleagues to read this memorandum carefully and support H.R. 5053, the Nuclear Powerplant Standardization Act of 1984.

U.S. NUCLEAR
REGULATORY COMMISSION,
Washington, DC, August 28, 1984.

Memorandum for: Chairman Palladino, Commissioner Roberts, Commissioner Asselstine, Commissioner Bernthal, Commissioner Zech.

From: James R. Tourtellotte, Chairman, Regulatory Reform Task Force.

Subject: Current backfit practices.

A review of current backfit practices under the SRM suggests some serious problems may exist. Because more than a year has elapsed since the SRM was issued, the Commission should review the process with a view toward improvement.

Initially, it should be noted that Duquesne Light submitted eight objections to backfitting between May 30 and June 25, 1984. None of the letters have been answered and none of the issues have appeared on the NRR monthly status report on backfitting.

There are a number of things wrong with this situation. At a minimum, the licensee deserves a timely reply to the letters, even if one were to assume the Staff is right. Moreover, if the Staff has a rational basis for imposing the requirement in the first place, it would not appear to be particularly burdensome to require them to state that basis in a response to the licensee. On the other hand, if they have no rational basis, they should not be imposing a requirement.

Failure to respond for over four months with no indication of when a response will be made is fundamentally symptomatic of the complaint that the licensing process is uncertain. The inaction in this case appears to be antithetical to the Commission's objective of reducing uncertainty in the licensing process.

Inaction by the Staff works in their favor and against the licensee. This is unjustifiable and oppressive. Through Staff inaction, the licensee is drawn inexorably toward SER and licensing dates with major items open and undiscussed. Staff is fully aware that this is a way to increase leverage and put the licensee in a position where it is forced to "cave."

In addition to the Duquesne matter, the NRR Status Report suggests other possible problems.

It was my understanding that the SRM process required the Staff to provide a rationale for requiring a backfit. The NRR Status Report does not show a rationale but suggests instead that the licensee has the burden of showing why a backfit is not required. If that is the case, NRR has not changed its backfit practices and all of the paper generated by the SRM is only that—paper. For example, see the second item on page one of the status report, SA-83-2, Palisades, T. Wambach, SEP/DL. the issue is, "Single failure of MSIV could lead to a two steam generator blowdown for break upstream of MSIV." Under "status" the report states, "Licensee disagrees with reqmnt; will submit PRA by 9/84 justifying position."

Two things are wrong with this. First, the status report should have a brief statement of the rationale or at least a reference to the rationale, if one exists. Second, the status indicates that the Staff is not meeting its responsibilities but is following the old practice of requiring the licensee to prove the negative or at least that the requirement is not necessary.

Resolution of the backfit problem is crucial to bringing certainty to the licensing process. I recommend that the Commission take a stronger hand in assuring that the Staff does not perpetuate its previous backfit practices. Specifically, if the Commission does not wish to review these matters on its own, someone at the Commission office level should be appointed for oversight purposes.

To a somewhat different point, I have received a number of informal comments to the effect that the industry is still reluctant to file backfit complaints because of fear of retaliation by the NRC Staff. The Commission should correct this impression by issuing a policy statement or staff guidance.●

RESTORE DEMOCRACY TO CHILE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. WEISS. Mr. Speaker, I am introducing today a resolution calling upon the U.S. Government to continue to deny military assistance and to deny all future nonhumanitarian economic assistance to Chile until that country returns to democracy.

Joining me in sponsoring the resolution in the House are Representatives BILL ALEXANDER, chief deputy majority whip, GARY ACKERMAN, SAM GEJDENSON, and GEORGE MILLER.

Senators EDWARD KENNEDY, ALAN CRANSTON, and CHRISTOPHER DODD are introducing the same resolution in the U.S. Senate.

This week is the 11th anniversary of the bloody coup that brought Gen. Augusto Pinochet to power. In the first few weeks following the September 1973 coup, 25,000 Chileans were killed, and 100,000 imprisoned, detained, and tortured by Chilean security forces.

Today, President Pinochet continues to use imprisonment, torture, and detentions to intimidate the Chilean people into silence. In the first 6 months of 1984, more than 1,600 people have been detained for political activity and protests. During the same period, 33 people were tortured.

This resolution affirms the support of the Congress and the American public for the spirit of freedom and democracy that still cries out among the Chilean people.

This spirit was expressed by Victor Jara, the gifted Chilean folksinger and songwriter. Imprisoned in Santiago's National Stadium along with thousands of other Chileans just after the 1973 coup, Jara was brutally beaten by Chilean security forces who use rifle butts to crush his fingers and break his hands. Jara, although his hands had been destroyed, led the crowds of prisoners in singing the national anthem, whereupon he and countless others in the stadium were gunned down.

This resolution encourages our Government to take vigorous steps to help

rid the Chilean people of repression and injustice through peaceful means.

I urge my colleagues to join me and the original cosponsors of this resolution to affirm the spirit of freedom of the Chilean people by calling upon Chile to return to democracy.

H. CON. RES. —

Whereas September 1984 marks the 11th anniversary of the establishment of military rule in Chile;

Whereas on September 11, 1973, a military coup led by General Augusto Pinochet overthrew the constitutionally elected government of Salvador Allende and brought about the collapse of democratic institutions in Chile;

Whereas in the months following the September 1973 coup, up to 25,000 Chileans were killed by the regime of President Pinochet;

Whereas the government of Augusto Pinochet has been linked by United States investigators to acts of terrorism and assassination in Argentina, Italy, and the United States, and was found "legally culpable" by a United States District Court Judge for the September 21, 1976, murders of former Chilean Ambassador Orlando Letelier and Ronni Moffitt;

Whereas only a fraction of the nearly 30,000 Chileans exiled by the Pinochet regime since the 1973 coup have been allowed to return to their country;

Whereas Amnesty International has noted that in recent years there has been a marked deterioration in the human rights situation in Chile, demonstrated by a consistent pattern of arbitrary detention, political imprisonment and killings, and systematic torture;

Whereas Amnesty International, the International Commission of Jurists, the United Nations Rights Commission Ad Hoc Working Group of Chile, the United Nations General Assembly, and the Organization of American States Commission on Human Rights have stated that the regime of Augusto Pinochet has violated basic human rights and political freedoms in Chile since the military coup of 1973;

Whereas the present Chilean constitution grants executive authority to Augusto Pinochet until 1989 and allows for delays in popular election until 1998;

Whereas between June 1983 and September 1984, 106 persons were killed by the Chilean armed forces during public demonstrations of opposition to the regime of Augusto Pinochet, and thousands more arrested, mostly from working class neighborhoods;

Whereas national protests on September 4 and 5, 1984, to the military dictatorship demonstrated once again the desire of the people of Chile for a return to democracy;

Whereas General Augusto Pinochet has stated publicly that "I don't have confidence in orthodox democracy" and asserts that the relationship between Chile and the United States has never been better; and

Whereas it is the purported aim of the Reagan Administration to restore democracy to Latin American nations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress supports the Chilean people in their efforts to end the military dictatorship and bring about the immediate restoration of democratic institutions and human rights in Chile. Until Chile returns to its long tradition of democratic procedures and institutions—

(1) the United States should continue to deny any and all military assistance directly or indirectly to the government of Augusto Pinochet;

(2) the United States should also deny all economic assistance to the Government of Chile, including Export-Import Bank and Commodity Credit Corporation guarantees and loans; and

(3) as mandated under section 701(f) of the International Financial Institutions Act, the United States should oppose all loans and grants to Chile by international financial institutions such as the Inter-American Development Bank, the International Bank for Reconstruction and Development, and the International Development Association, unless such assistance is specifically directed to programs which serve the basic human needs of the people.●

SPOTTING SOVIET STRATEGIC ADVANCES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, as the upcoming election draws near, the issues of defense spending and nuclear arms talks with the Soviets succumb more and more to political pressures. This is alarming to me because I believe that providing a strong defense is the highest priority of any government. The need to maintain sufficient defenses to deter aggression is especially important in this nuclear era where the Soviets are continually upgrading and expanding their nuclear arsenals, as well as actively developing numerous ballistic missile defenses including space-based weapons systems.

The research, development and deployment of conventional as well as antisatellite and space-based weapons systems present the same problems as nuclear weapons. Any vacillations on our part, or any reluctance to maintain our current forces is perceived by the Soviets as weakness, and weakness merely invites aggression. Certainly history has taught us that lesson. I believe that rather than lessen the likelihood of war, lack of arms development and modernization could actually be a catalyst for war. What we must realize is that the survival of a free society in this world requires certain costs, and a strong defense is one of those costs.

The following article by William Kucewicz of the Wall Street Journal, provides a frightening and well documented account of how the Soviets have opened the window of vulnerability even wider despite the Reagan administration's efforts to close it. In light of this, I find it totally unacceptable that the Soviets can continue to expand both their offensive and defensive capabilities, while the United States makes little or no effort to even provide for the survival of its citizens. I believe that we must use all the advanced technology that we have at our disposal to defend the people of the United States against the threat of Soviet aggression and the horror of nuclear war.

SPOTTING SOVIET STRATEGIC ADVANCES

(By William Kucewicz)

During the 1980 presidential campaign, candidate Ronald Reagan promised to close the "window of vulnerability" created by the Soviet Union's massive arms buildup of the 1970s and our own lax response. Today, despite President Reagan's substantial increase in defense spending, that "window of vulnerability" hasn't closed. In fact, it is opening even wider.

Several recent Soviet breakthroughs in high-technology military armaments, currently worrying U.S. intelligence and military officials, go beyond anything the U.S. now has in its arsenal or plans to produce anytime soon. Indeed, such new Soviet weaponry soon could endanger all three legs of our strategic triad for the first time. These new Soviet threats loom so large that any talk of defense cuts during this year's election campaign is not only ill-informed but dangerous to Western security.

The perilous Soviet developments range from a quantum increase in the size of the U.S.S.R. intercontinental ballistic missile (ICBM) force, to supersonic cruise missiles, to space-based radar capable of detecting our nuclear-armed submarines at sea—the one leg of our triad previously thought to be invulnerable.

The SS-20 missile. The Soviets are preparing to target some of these supposed "intermediate range" missiles on the continental U.S., making them a new ICBM.

On April 2, 1984, six SS-20 missiles were test fired from the Yurga missile complex near Kirov in the western Soviet Union on a trajectory over the North Pole toward the U.S. The missiles, carrying dummy warheads, were destroyed in flight over the polar regions of the Barents Sea.

IMPENDING FUNDAMENTAL SHIFT

The launches marked the first time the Soviets have tested the SS-20—until now viewed as solely a threat to Western Europe and the Far East—on an azimuth directed at the continental U.S.

The SS-20 tests, first reported in the Heritage Foundation's "National Security Record" and independently confirmed by The Wall Street Journal, signal an impending fundamental shift in the balance of strategic forces between the U.S. and the U.S.S.R. Intelligence data about the telemetry of the SS-20 tests indicate that by lightening the warhead load, the Soviets have increased the missile's range beyond the 5,500-kilometer threshold defined by SALT as an ICBM. Previously, the Soviets had maintained that the missile's range was a convenient 500 kilometers shy of that limit. In light of the April test firings, the SS-20 no longer can be viewed as just an intermediate-range missile threatening Europe and Asia—as interpretation the Russians have encouraged—but as a potential ICBM capable of hitting the U.S. mainland.

Not only have the majority of U.S. intelligence analysts heretofore underestimated the range of the SS-20, but they also have played down the number of these missiles being produced and deployed by the Soviet Union. The latest official U.S. statements

cite 378 deployed SS-20s. In fact, the number of completed SS-20 launchers currently stands at 400, with another 20 under construction—nearly double the number deployed when President Reagan took office.

The number of launchers, however, tells only part of the story. The SS-20 missile is a two-stage, solid-fuel rocket, capable of carrying up to three warheads. It is launched from a relatively small, mobile platform that can be moved along most roads and, because of its size and mobility, is easy to conceal from U.S. reconnaissance satellites. Moreover, each launcher can handle more than one missile; it can be reloaded with additional missiles like bullets in a rifle.

Indeed, current U.S. intelligence data about the Soviet Union's SS-20 missile-production facilities indicate that the Soviets plan to deploy at least five reloads per launcher, in addition to the launcher's initial missile. In total, the Soviets are now preparing to deploy about 2,500 SS-20 missiles, carrying as many as 7,500 warheads targeted at Western Europe, the Far East and the U.S. That's a far cry from the planned U.S. deployment in Europe of 464 cruise missiles and 108 Pershing IIs, each carrying only one warhead, intended to counterbalance the SS-20 threat.

Soviet cruise missiles. The U.S. thus far has enjoyed a monopoly on these high-technology, drone aircraft, which can evade standard radar detection and hit a target with a high degree of accuracy due to computerized, terrain-mapping guidance systems. The U.S. advantage is not only coming to an end, the Soviets also are developing and deploying cruise missiles that may eclipse our own.

The Soviets are developing five different types of cruise missiles. The sea-launched SS-X-21, now operational, is small enough to be fired from standard Soviet torpedo tubes; the SS-N-21 is now being deployed on the Victor III-class nuclear submarine. The ground-launched SSC-4 cruise missile is now being stationed in Warsaw Pact countries, in apparent response to NATO's intermediate-range missile buildup. The air-launched AS-X-15 is being tested on the Tu-95 Bear bomber and the new, long-range Blackjack bomber.

In addition to these three types of cruise missiles, which are similar to ones now being produced and deployed by the U.S., the Soviets are working on two other sea- and land-based versions for which the U.S. has no match. These new missiles would be supersonic, unlike the slow-moving U.S. models, and much larger, giving them the capability to travel longer distances and carry heavier payloads. Since late July, the Soviet press has bragged about the successful testing of the ground-launched version of this new cruise missile.

But it's the sea-launched version of this supersonic cruise missile that has the U.S. Air Force extremely worried. This Soviet missile, apparently intended for deployment on the Soviet's stretched Yankee-class submarines stationed off the U.S. coast, potentially could destroy our Strategic Air Command bomber bases in the U.S. interior before many of our planes could get off the ground. Because of the cruise missile's low flight path, it can fly under standard radar and reach undetected into the heart of the U.S. in 30 to 45 minutes. By contrast, submarine-launched ballistic missiles, which can reach U.S. inland bases in six to eight minutes, would almost immediately be detected by U.S. radar because of the SLBMs' high trajectory.

Space-based radar. The Soviets are working on a new type of radar to be based in space or in high-altitude aircraft that could detect many of our nuclear-armed submarines at sea. It is called synthetic-aperture radar. One military expert called the Soviet program "the most significant strategic development in 10 years."

The radar apparently can detect a submerged submarine by discerning subtle effects on the water's surface, on water moving around the submarine and even in the color and radioactivity of plankton. The Soviets have been testing the radar from high-flying aircraft and from the Salyut 7 space station against their own submarines with considerable success. The Soviet radar is far more sophisticated than the U.S. acoustic detection techniques.

The Soviet space-based radar program may provide a clue as to why the Kremlin was so keen recently about beginning talks with the U.S. on an anti-satellite (ASAT) treaty, even though it had walked out of other arms-control talks. A U.S. ASAT program would be able to blind such new Soviet radar satellites and thus could help preserve U.S. submarines at sea. An ASAT treaty would effectively protect these Soviet "eyes" and thus endanger our own submarine deterrent.

A Defense Intelligence Agency report, quoted in the Pasha Publication's "Military Space" newsletter, says that the Soviet space-based radar effort "is a matter of concern because it demonstrates that the Soviets are determined to destroy all three legs of the U.S. deterrent Triad if they possibly can find the means to do so."

SITTING DUCKS

In sum, the U.S. strategic triad could become more vulnerable to a Soviet knockout strike than ever before. Our Minuteman ICBMs are already undefended against the Soviet Union's large, accurate ICBMs, and the Soviet effort to build a nationwide anti-ballistic-missile (ABM) system could reduce the retaliatory impact of any surviving Minutemen. Our bombers, which face the challenge of penetrating the best air-defense system in the world, could become vulnerable to attack while still on the ground from low-flying, supersonic cruise missiles. Our nuclear armed submarines, half of which are in port at any given time and are therefore sitting ducks, could become victims of Soviet space-based radar detection within a decade.

Given this growing Soviet threat, the U.S. must begin a diversified program to make our triad more survivable and capable of inflicting heavy retaliatory blows against the U.S.S.R. Strategic defense is one solution; an ABM system, or a "star wars" space-based defense, would significantly enhance the survivability of our forces on the ground. The production of a mobile, highly accurate ICBM like the Midgetman also would increase the credibility of our retaliatory response. Improved cruise missiles and Pershing IIs also would help counter the mounting Soviet cruise-missile threat.

Without such steps, the "window of vulnerability" will open even wider and the U.S. will be more at risk of a Soviet first-strike than ever before. When U.S. politicians during this year's election campaign argue over $100 hammers and defense cuts, the leaders in the Kremlin must be smiling.●

WOMEN AND THE NUCLEAR ARMS DEBATE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. OBERSTAR. Mr. Speaker, while the debate over nuclear arms control is an issue of vital importance to each and every American, American women have demonstrated a particularly active role in defining and shaping that debate. The Women's National Conference on Preventing Nuclear War is a clear example of the effort to make our world free from the risk of nuclear war. Yesterday, a number of our colleagues participated in a series of 1-minute speeches, led by Congresswoman SCHROEDER and Congresswoman BOXER, in support of women's active involvement in the arms control debate. Because I was in my district yesterday, I was unable to participate in that commendable effort.

I would like to take this opportunity to give special recognition to a woman from my district who attended that conference, Mrs. Mary Van Evera of Duluth, MN. Mrs. Van Evera has long been an outspoken opponent of policies which increase the threat of nuclear holocaust. She is a citizen activist who has worked on a grassroots level to motivate people and increase public awareness of the dangers of the nuclear arms race and to increase knowledge of the complex issues involved in the arms control debate. Having worked closely with Mrs. Van Evera on this issue, I know that she has made a significant contribution to the peace movement in Minnesota.

We all owe a great debt to people like Mrs. Van Evera who have given so much time and effort to promote policies which will enhance the prospects for peace. The spiraling nuclear arms race must end. It will only end, however, when policymakers understand that the American people will no longer accept policies which devote billions of dollars to weapons which have the capacity to eliminate any trace of humanity from the face of the Earth.

Women have spearheaded the peace movement and continue to draw our attention toward the issue of arms control. I am grateful to these women, and in particular to Mary Van Evera for her hard work in Minnesota and for all she has contributed to the prevention of nuclear war.

I would like to commend to my colleagues the following article on Mrs. Van Evera which appeared in the Duluth Herald & News Tribune on September 12.

[From Duluth Herald & News Tribune, Sept. 12, 1984]

DULUTH WOMAN ATTENDS ANTIWAR CONFERENCE

(By Susan Stanich)

If more women get involved in politics, the chances of a nuclear confrontation would diminish.

That's the philosophy behind the National Women's Conference to Prevent Nuclear War. The conference now is under way in Washington, D.C.

"I think women by their very natures are those who care for families and seek harmony and the security and well-being of their families," said Mary Van Evera, 1700 Lakeview Drive in Duluth, who will attend today's conference. "They have been closer to this than men, who have historically been soldiers."

The purpose of the gathering of 250 women leaders from all over the country is to launch a nationwide, nonpartisan effort to unify women in a campaign to prevent nuclear war through verifiable arms control agreements and the reduction of nuclear weapons.

These women then will return to their communities and, through their various organizations, find women who are concerned about the nuclear buildup and get them registered to vote. Because only about half of those eligible to vote are registered, the potential is considerable, Van Evera said.

Van Evera is one of about 100 on the conference's advisory board—a board that includes Geraldine Ferraro, Helen Caldicott, LaDonna Harris, Bella Abzug and Barbara Jordan. Actress Joanne Woodward is chairwoman of the conference.

"(Columnist) Ellen Goodman will be lead speaker and a very great number of women from different walks of life will speak on the importance of women making their opinions known to prevent nuclear war," Van Evera said. She is vice chairwoman of the Northland College Board in Ashland, a member of the Duluth League of Women Voters and co-chairwoman of the Duluth Committee for a Nuclear Freeze.

"Men still have something in them that responds with excitement to war. Maybe it's in their genes, because they've been the traditional protectors," she said.

Van Evera was scheduled to preside at a meeting of the executive committee of the World Policy Institute in New York City, an organization of scholars, researchers and others which publishes the quarterly "World Policy."

"They felt they were glad to have a woman chair it for the first time, because they think that women bring a special understanding to the issue of peace. I'm their little nut from the west; the rest are very prominent."

The organization assesses current U.S. policies and tries to find practical alternatives to war that will "restore genuine security to the U.S. and the world," she said.●

REPRESENTATIVE BILL THOMAS JOINS IN SPONSORING FRINGE BENEFIT CORRECTION BILL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. STARK. Mr. Speaker, I am pleased to report that Representative BILL THOMAS of California has joined me in sponsoring H.R. 6231, a bill to make corrections in the fringe benefit legislation enacted earlier this year.

As a member of the Ways and Means Committee, Mr. Thomas is an important addition to the supporters of this bill.●

A CONGRESSIONAL SALUTE TO ARCHIE SNOW, REDONDO BEACH COUNCILMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. ANDERSON. Mr. Speaker, on September 19, a group of distinguished citizens from the city of Redondo Beach are meeting in tribute to one of their most admired citizens, Archie Snow, who has contributed immeasurably to community life there.

Born in Steubenville, OH, Archie came to Redondo Beach in 1930, and graduated from Redondo Union High School in 1934. During World War II, he served as second assistant engineer in the merchant marine.

After the war, Mr. Snow worked for over 25 years for Wyle Laboratories in El Segundo as a test technician and test engineer. Although he retired in 1981, he still goes in from time to time just to help out. He has also been active in government, both Federal and State, on behalf of Redondo Beach and Los Angeles County. Two of his primary concerns for which he works especially hard are housing for seniors, and the needs of the handicapped. He was also on Governor Brown's task force on hazardous and toxic materials and waste disposal.

Archie's community involvement, which comprises a somewhat staggering list includes membership and service in: the North Redondo Rotary Club; the Elks Lodge 1378; the Fraternal Order of Eagles Aerie 935; the Sons of the American Legion, Post 184; the South Bay Squadron; the North Redondo Beach Business Association; the North Redondo Development Corp.; the Redondo Beach Chamber of Commerce; the Gray Panthers; the Executive Board Disabled Services, Inc.; the Executive Committee Southern California Association of Governments; vice chair of the Beach Cities Transit Authority; and the Independent Cities Association.

He was responsible for initiating the $8 million Lawndale urban development action grant for the Galleria at South Bay project, a shopping center. He also is the representative of the city of Redondo Beach to the El Segundo Employer's Association, where he received their Green Light Award for his outstanding contribution to transportation in the South Bay.

My wife, Lee, joins me in paying tribute to Archie Snow, who continues to shine as an example of solid, community-oriented citizenship. We wish Archie, his wife, Eva, and their children, Sheila and Paul all the best in their future endeavors.●

NATIONAL INDEPENDENT RETAIL GROCERS WEEK

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. CAMPBELL. Mr. Speaker, I rise today to pay tribute to the American independent retail grocer. Across this great Nation, in the largest cities and the smallest towns, they ensure the steady and uninterrupted flow of grocery products to the American consumer. These small business people raise the American free enterprise system to its highest levels, providing needed services to the communities in which they live and work.

Independent retail grocers account for 64 percent of all grocery stores in the United States and are responsible for nearly one-half of all grocery products distributed. They provide employment for over 1 million people. The independent retail grocery stores know no geographical or socioeconomic boundaries with locations as diverse as Beverly Hills, CA, the South Bronx of New York, and Spartanburg, SC.

The independent retail grocer exemplifies the small business entrepreneur, the backbone of the American free enterprise system. Usually operating one store, independent grocers tailor their businesses to serve the needs of the community where they are located. Independent retail grocers deliver the highest quality product at the least expense—unsurpassed by any other food distribution network in the world.

Mr. Speaker, I ask my colleagues in the House to join me in honoring the American independent retail grocer by cosponsoring legislation I introduced today proclaiming September 8–14, 1985, as National Independent Retail Grocers Week.●

EFFECT OF FEDERAL POLICIES ON LOW-INCOME AMERICANS

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. EDGAR. Mr. Speaker, yesterday I had the privilege of participating in a press conference held to release a new study written by the Center on Budget and Policy Priorities for Interfaith Action for Economic Justice. The

report, entitled "End Results: The Impact of Federal Policies Since 1980 on Low-Income Americans," is the single most comprehensive documentation of the effects of the Reagan administration's policies on the least fortunate in our society that I have seen, and I urge all of my colleagues to read it. I would especially hope that someone on the White House staff would obtain a copy for President Reagan, who said in a recent news conference that he had not seen "one single shred of evidence" that his policies had had a more adverse impact on the poor than on the middle and upper class of this Nation. Well, Mr. President, the evidence is now in.

The message of "End Results" is both simple and disturbing. Poverty is on a sharp increase in America, and our current economic recovery is leaving many people behind. This report is the story of how the Reagan administration's policies have hurt those people in our society who are least able to help themselves—the poor, the elderly, the handicapped, and children. These results have been inevitable given this administration's philosophy of seeking to correct the national economy by providing incentives for the wealthy while abandoning traditional commitments to the poor.

Americans have traditionally shown compassion for those less fortunate than themselves, and nowhere has this been more evident than in the work of groups such as Interfaith. But they cannot do it alone. The Government has a responsibility to all of its citizens, and we can no longer shirk it. Policies must change if we are to achieve the goal of an economy and a society that encompasses a sense of justice and compassion, that accommodates the basis needs of all of its people, and that recognizes and encourages the basic dignity and opportunity for all of us that this Nation has traditionally stood for.

I was outraged when I read this report—as I have been outraged by the policies of this administration over the last three years. The results are in, and the gaps in the safety net seem to resemble the Grand Canyon. This country cannot realize its fullest potential by leaving so many of its people behind, and we must recognize that we have a choice—to reverse the policies that have led to a sharply increasing rate of poverty and will continue in that direction, or to change those policies to address the inequities of our system and make this a government that is truly for all the people. I think the choice is clear.

I ask unanimous consent to insert highlights from "End Results" into the RECORD, and again, I urge my colleagues to obtain the full report from Interfaith.

HIGHLIGHTS FROM "END RESULTS: THE IMPACTS OF FEDERAL POLICIES SINCE 1980 ON LOW INCOME AMERICANS"

The number of Americans living in poverty has increased by over 9 million since 1979—or 35 percent—the largest increase since the poverty figures began being recorded. During this period, the number of children below age 6 in poverty jumped 51 percent. One in every four children below age 6 (and one in every two black children below age 6) is now poor.

Even before the current Administration took office, the saftey net had major gaps. For poor families with children, the safety net was already deteriorating during the 1970's. Benefits in the Aid to Families with Dependent Children program (AFDC), the nation's basic cash assistance system for indigent families with children, fell 36 percent from 1970 to 1983, after adjusting for inflation. AFDC benefits for a family with no other income now fall below half the poverty line in 30 states. In addition, in over half the states, two-parent families with children are ineligible for AFDC. In many jurisdictions, these families, as well as single individuals and childless couples below age 65 (such as a 58-year-old widow) can get neither cash assistance or health care coverage, no matter how destitute they are.

The budget reductions since 1980 have been heavily concentrated on programs targeted at low income persons—and have substantially aggravated this situation. Congressional Budget Office data show that programs for the poor were reduced $57 billion over the four-year period from fiscal year 1982 through fiscal year 1985—and that these low income programs were reduced more that twice as deeply (in proportionate terms) as social programs not concentrated on the poor. Low income programs bore nearly one-third of all cuts made anywhere in the federal government although they constitute less than one-tenth of the budget. No other part of the federal budget was cut so sharply.

A growing array of data has begun to document the hardships these cuts have caused. A recent General Accounting Office study, for example, found that large numbers of the 493,000 single-parent families terminated from AFDC were pushed deeper into poverty by the cuts. In the five cities where the GAO examined the impacts of these cuts, the average family terminated from AFDC lost $1,400–$2,700 a year in AFDC and food stamp benefits, and many also lost Medicaid coverage. In most of the areas the GAO examined, 30 percent–60 percent of these families had no health coverage after being dropped from AFDC, more than half had run out of food at least once, and more than one-fourth had a utility shut off due to inability to pay a bill.

Many of the cuts in different low income programs affected the same poor families. Many families who had their AFDC payments reduced or terminated also had their food stamp benefits cut, had to start paying more for some medical services due to Medicaid reductions, faced rent increases if they lived in subsidized housing, and had to pay higher fees for day care services if they worked. Many also saw their heating bills rise swiftly as well, with federal energy assistance failing to keep pace. It is difficult for a poor family to cope with simultaneous increases in food, rent, medical, and fuel bills—and even harder if its child care costs are raised or its AFDC grant is reduced at the same time. Many of the budget cuts are harsh when considered individually, but their combined effect on the same families and made them still more severe.

Had the Administration been granted all the reductions it sought, the impacts would have been still more severe. In most low income programs, the Administration sought reductions over twice as large as those the Congress enacted. The Urban Institute has found that the Administration proposed to cut food stamp and child nutrition programs in half, to cut the WIC program and the compensatory education program (Title I) by more than 60 percent, and to cut low income energy assistance and health and social services programs by 40 percent.

TAXES AND THE WORKING POOR

Low income working families not only bore the heaviest share of the budget cuts—they also were hit with large tax increases. Today, the federal tax burdens of families at the poverty line are typically double or triple what they were only six years ago. A family of four with income at the poverty line paid $269 in federal income and payroll tax in 1978 and $460 in 1980. This year, the family pays $1,076 in federal taxes.

In addition, in 1980, most families with incomes below the poverty line did not have to pay federal income taxes. Today, a family of four with income $1,800 below the poverty line must pay income tax. Recent Census data show that the number of families with gross incomes below the poverty line who must pay federal income tax has more than doubled since 1980.

These large increases in the taxes of low income working families were in significant part a result of policy decisions made in 1981. For years prior to 1981, all major tax bills contained provisions to offset the impact of inflation on the taxes of low income working families. The 1981 tax bill broke with precedent by failing to contain any such provisions. The 1981 bill contained $750 billion in new tax breaks—largely for more affluent individuals and large corporations—but at the same time did nothing to prevent the taxes of the working poor from soaring. Tax provisions to address this problem were considered in 1981 but were successfully opposed by the Administration.

In the aftermath of the 1981 act, the maximum rate of tax that affluent investors pay in profits from capital gains is actually lower than the marginal income and payroll tax rate paid by a working family of four earning $12,000.

Similarly, the effective tax rates paid by many large corporations are now below the tax rates paid by many moderate income families. Corporate income taxes contributed 25 percent of federal tax revenues in the 1950's and 1960's—but contributed just 6 percent in 1983. Japan—with an economy one-third the size of ours—collects more in corporate income taxes than the U.S. does.

WIDENING GAPS BETWEEN RICH AND POOR

Numerous studies—such as those from the Congressional Budget Office and the Urban Institute—show a widening gap between rich and poor in the U.S. The CBO found that the budget and tax cuts will reduce the income and benefits of those under $20,000 by $20 billion over the 1983–1985 period, while those over $80,000 will gain $35 billion. On a household basis, households under $10,000 will lose an average of $1,100 apiece over this 3-year period, while households over $80,000 will gain an average of $24,000 each.

Census data issued last month provide further evidence. These data show that the

income gap between the top and bottom of U.S. society is now wider than at any time since the Census Bureau began collecting this data in 1947. The poorest two-fifths of the population now receive a smaller share of the national income than at any time since 1947. The wealthiest two-fifths now receive a larger share of the national income than at any time since 1947. The poorest fifth now receives 4.7 percent of the national income while the wealthiest fifth gets 42.7 percent—nine times as much.

Even the middle class has lost ground. It, too, received (in both 1982 and 1983) a smaller share of national income than at any other time since 1947.

The Urban Institute found similar results. It found that the real disposable income of families in the poorest fifth fell nearly 8 percent since 1980 while those in the wealthiest fifth rose nearly 90 percent, and that in just four years, families in the bottom two-fifths lost all the ground they had gained [in terms of their share of the national income] over the preceding two decades.

IMPACTS ON MINORITIES, WOMEN, AND CHILDREN

The most severe impacts were on minorities, women, and children. They make up large proportions of the low income programs that were cut most deeply, while receiving much smaller-than-average tax cuts.

While 13 percent of white families are in the under-$10,000 group that suffered the largest losses, 37 percent of all black families are in this income group.

An Urban Institute study of the 1981 budget cuts found that the average black family lost three times as much in benefit reductions as the average white family.

Hispanics also fared badly. The number of Hispanics living in poverty has risen 45 percent since 1979 and Hispanics were adversely affected by the budget cuts. The same study at the Urban Institute found that the average Hispanic family lost twice as much as the average white family from the 1981 budget cuts.

In addition, Census data released this summer showed that in the first year the Administration's budget and tax program was in effect for a full year (1982), real after-tax income for Hispanics fell by nearly $2 billion. This represented an average loss of $460 a year in cash income for every Hispanic household in the nation.

Female-headed households were also hard hit. Female-headed households make up the majority of those aided in most low income programs. The Census data show that there was an average loss of $425 in real after-tax income for female-headed household with children in 1982.

Finally, children were also strongly affected. As a result of the cuts, 700,000 children were dropped from Medicaid, 290,000 fewer children receive services at community health centers, 460,000 fewer children were screened for lead poisoning last year, 440,000 fewer children received remedial services through the "Title I" compensatory education program last year, and nearly 3 million fewer children eat school lunches and breakfasts.

The budget and tax policies pursued since 1980 redistributed income and benefits away from minorities, women, and low income children—and widened the already large gaps between minorities and non-minorities and between female-headed households and the rest of society.●

A BILL TO AMEND THE UNIFORMED SERVICES FORMER SPOUSE PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mrs. SCHROEDER. Mr. Speaker, today, Representative BARBARA BOXER and Representative KENT HANCE are joining me in introducing an amendment to Public Law 97-252, the Uniformed Services Former Spouse Protection Act.

The amendment eliminates from Public Law 97-252 the qualifier "disposable" from the term "retired pay" and the withholding exemptions A-F.

The withholding exemptions listed in the act are being used by retired members as a tax shelter. The exemptions allow for Federal, State, and local taxes to be withheld. Many retired members are engaged in postretirement careers; the withholding taxes that are required to be taken from that income are coming from their military retired pay. There have also been instances where the second spouse's withholding taxes have been deducted from the retired member's retirement pay.

The May 21, 1984, Army Times reported the following example of such an abuse:

In the case reviewed by the CompGen, B-213895, the former spouse of an unnamed Air Force colonel applied in April 1983 to the service finance center for direct payment to her of 41.37 percent of the colonel's retired pay. The first monthly payment, $900.92, was made to her in June. This was equal to 41.37 percent of the colonel's disposal monthly retired pay of $2,177.71.

That same month, the colonel asked the Air Force to deduct an additional $2,000 a month from his retired pay for income tax withholding on his outside income. He said he and his current wife expected to file a joint return and their estimated combined income for 1983 was about $132,000. This was broken down as $26,000 in retired pay, $60,000 from his earnings as an investment broker, $10,000 in consulting and lecturing fees, $36,000 that his wife would earn as a real estate agent.

The colonel estimated that he and his wife would have about $40,000 in personal exemptions, deductions and other adjustments so net taxable income would be about $92,000. Under the progressive rate schedule, the retiree explained, a portion of the net income would fall in the 49-percent-rate bracket so the finance center should assume his retired pay would be taxed at the rate and withheld accordingly.

Because only a few dollars had been withheld from his retired pay for Federal tax purposes during the first half of 1983, the retiree asked the Air Force to withhold money from his pay for the remainder of the year at double the rate—98 percent or $2,000 a month. This would have reduced disposal income available for division with his ex-spouse to $177.71 a month and reduced her monthly payment from $900.92 to $73.52.

Other exemptions allowed by the act include deductions for life insurance and SBP premiums. Fines and forfeitures owed to the U.S. Government are also deductible. These debts, which have nothing to do with the former spouse, are essentially being paid for in part by her. We see no indication that the finance centers that handle the retired pay are aware of or care about this overwithholding.

Public Law 97-252 is the only pension law that uses the term "disposable pay" with all the loopholes permitted. The CIA and civil service language lets the courts decide the portion of the retirement benefits to be allocated to the spouse. Foreign Service retirement provisions make no mention of disposable pay. The new private pension bill has very clear, simple provisions regarding domestic relations orders. In contrast, Public Law 97-252 is a quagmire. The result of the "disposable pay" wording is that women are getting a good deal less in payments than they would if they were married to someone in the civil service, CIA, Foreign Service, or railroad retirement plans.

The intent of Congress in passing the Uniformed Services Former Spouse Protection Act, Public Law 97-252, was to correct injustice, not to create new ones.

H.R. 6246

A bill to amend section 1408 of title 10, United States Code, to eliminate certain reductions from the amount of retired or retainer pay which a spouse or former spouse of a member of the uniformed services is entitled to receive as a result of any court order

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 1408(a)(4) of title 10, United States Code, is amended—

(1) by striking out "Disposable retired" and inserting in lieu thereof "Retired"; and

(2) by striking out "less amounts which—" and the matter that follows up to the period.

(b) Section 1408 of such title is amended by striking out "disposable" each place it appears.

SEC. 2. The amendments made by this Act shall apply with respect to payments of retired or retainer pay made for any month which begins not less than 90 days after the date of the enactment of this Act, but such amendments shall not apply with respect to payments of retired or retainer pay which are provided for in any court order which became final before June 26, 1981.●

COMMODORE BARRY DAY

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. SHANNON. Mr. Speaker, as one of the founders of the Friends of Ire-

land, an organization of 64 Members of the House and Senate, I would like once again to note that today is Commodore Barry Day. September 13 is a day of special significance to the Ancient Order of Hibernians who celebrate this day in honor of the Father of the American Navy. The AOH was founded in New York City in 1836 to aid Irish immigrants and seek greater recognition of the accomplishments and patriotism which the Irish have brought to this country. There are 57 Divisions of the AOH around America named in honor of Commodore Barry, and nearly all of them have some activity in his honor on this day.

The Washington, DC, John Barry Division of the AOH is again sponsoring a wreath-laying ceremony by the U.S. Navy Secretary John Lehman today at the Barry statue on 14 Street, followed by a reception aboard the U.S.S. *Barry* this evening.

On behalf of the Friends of Ireland, I would like to submit for the record a statement written by AOH member and U.S. Navy Comdr. James F. Duffy, a professor at the Naval Academy.

COMMODORE JOHN BARRY

(By Commander James F. Duffy)

John Barry was born in 1745 in the village of Ballysampson in County Wexford, Ireland, and went to sea as a cabin boy at the age of ten years. The year in which he first arrived in the Colonies is unknown, but Barry had sailed from Philadelphia for several years prior to receiving his first command, the 78-ton schooner Barbados in 1766. His reputation as a fine sea captain grew as he made numerous voyages between Philadelphia, London and the West Indies. In 1775 he had received his sixth command, the famous Black Prince, a fully rigged ship of 200 tons in which he established an 18th century speed record for a 24 hour run. In December 1775, Barry was commissioned as a captain in the Continental Navy and given command of the brig Lexington, in which he soon distinguished himself by defeating an armed British tender, the Edward. HMS Edward was the first English naval vessel brought into an American port as a prize. This exploit brought fame to the 31 year old Captain Barry and he was hailed throughout the rebellious colonies. Subsequent ship commands during the Revolution included the frigates Effingham, Raleigh and Alliance; in all of which he served his adopted nation heroically. It was in the Alliance that Barry fought the last sea battle of the Revolutionary War against three British frigates in which he badly damaged HMS Sybil and fought the others off.

Following the end of hostilities in 1783 he was appointed to superintend the building of the frigate United States, a sister ship of Constitution. He commanded the United States for several years. In 1793, President George Washington called upon Barry to serve as the new United States Navy's senior and first commissioned officer. It was at this time that he gained the reputation as the "Father of the American Navy," having been instrumental in the establishment of the Navy Department, the opening of several Navy yards and the training of several young lieutenants who were destined to distinguish themselves as intrepid U.S. Navy captains in the War of 1812. Commodore Barry's service as the Fleet Commander in the West Indies on two extended deployments during the Quasi-War with France (1799-1801) earned him the courtesy title of commodore. Commodore Barry retired to his estate, Strawberry Hill, outside Philadelphia where, his health having failed, he died on September 13, 1803. Mourned by a very large contingent of distinguished naval and military officers and with thousands of Philadelphians in attendance, he was laid to rest honored by his adopted nation in St. Mary's churchyard. His grave may be still seen by visitors.

Commodore John Barry has been immortalized by statues in both Washington, D.C. and in County Wexford, Ireland. In addition, his impressive portrait can be viewed in the Memorial Hall at the U.S. Naval Academy, Annapolis, Maryland.●

MARX DEFROCKED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, since the 1960's, Communist movements throughout the Third World have all too often successfully aligned their objectives with those of Marxist Catholic priests. Labeled "liberation theology," these Communist movements operate under the pretense that they are tempting to help the oppressed poor people free themselves from the veils of totalitarianism and repressive dictatorships. Using the Bible and Christ's concern for the poor as a smokescreen, the Communist have concealed their real motives and have even tried to legitimize their efforts.

What is truly alarming about all of this is that these propaganda efforts have actually worked. Despite numerous efforts to expose the facade of Communist guerrilla movements in Southeast Asia, in Africa, in Afghanistan, and most recently in Central America, liberals have made the grave mistake of accepting the reasoning provided within the Communist created "liberation theology" doctrine. Meanwhile, the number of countries that have fallen prey to communism continues to grow.

Where democratic governments have failed to discredit the "liberation theology" message, Pope John Paul II may well succeed. A recent report that was released by Pope John Paul's Vatican could provide just the catalyst to reverse this Communist propaganda effort. The report not only denounced "liberation theology," but described the core of Marxist theory as "the denial of the human person, his liberty and his rights." Most especially in countries such as those in Latin America where Catholicism plays a vital role, such a repudiation of Marxism could have a devastating impact on Communist guerrilla movements.

The following article that appeared in the Wall Street Journal, explains how the Communists have manipulated religion to work on their behalf, and how Pope John Paul II took a strong stand to expose this charade. As Members of this legislative body, it is high time for us to follow the Pope's lead.

[From the Wall Street Journal, Sept. 5, 1984]

MARX DEFROCKED

The communist effort to destabilize the entire Latin American continent has just been dealt a stunning blow from the world's leading anti-Marxist dissident—Pope John Paul II. John Paul's Vatican released over the weekend a 36-page repudiation of that part of the Marxist movement that defines itself in the preaching of something called "liberation theology." The publication of this document means that communist politicians and guerrillas will now have to come up with a new publicity gimmick to sell themselves to civilized world society.

It no doubt sounds harsh to dismiss the liberation-theology movement as little more than a publicity gimmick, but it is important here to distinguish between the priests and nuns who found Christian comfort in the utopian dreams of Karl Marx and the hard-headed communist men and women who are in the deadly serious business of taking control of nations. Certainly the pope, with his still-fresh memories of life in Poland, understands the difference.

"The class struggle as a road toward a classless society is a myth," the Vatican document says. "Those who allow themselves to be caught up in fascination with this myth should reflect on the bitter examples history has to offer about where it leads." Those unnamed bitter examples are Russia, Estonia, Latvia, Lithuania, Czechoslovakia, Poland, Hungary, China, Vietnam, Cambodia, Afghanistan, Nicaragua and Cuba. The document explains concisely how these nations became alike in a way few people need to have described for them: "The denial of the human person, his liberty and his rights, are at the core of Marxist theory."

Since the late 1960s, however, "liberation theology" has served as a kind of philosophical Potemkin village for Latin America's communists, who by linking their goals with those of Marxist Catholic priests managed to make their own operations appear legitimate and even respectable to many people outside the Latin continent. The strategy has been both simple and disarming: The Gospel message speaks repeatedly of Christ's concern and love for the poor. Similarly, Latin American guerrilla movements are represented as merely spontaneous, indigenous attempts to correct the wrongful oppression of the poor. Supporters of both liberation theology and secular Marxism say they share one, common goal: justice.

By the time this message reaches the halls of Congress or the pews of North American churches it generally sounds like the most unobjectionable idea since the Sermon on the Mount. Unluckily for the Marxists, the Catholic church's college of cardinals in 1978 elected as pope a man who had lived from not long after the end of World War II onward under a Marxist government. He might not put it so bluntly, but the message John Paul II is telling the world about Marxists is equaly simple: They're lying.

In one particularly compelling passage in the document on Marxist liberation theolo-

gy, the Vatican says: "Millions of our own contemporaries legitimately yearn to recover those basic freedoms of which they were deprived by totalitarian and atheistic regimes which came to power by violent and revolutionary means, precisely in the name of liberation of the people. This shame of our time cannot be ignored: While claiming to bring them freedom, these regimes keep whole nations in conditions of servitude which are unworthy of mankind. Those who, perhaps inadvertently, make themselves accomplices of similar enslavements betray the poor they mean to help."

At the bottom of this issue, of course, is the question of what policies will most effectively increase and sustain real individual incomes—thus making the poor less and less poor—in these developing countries. During the debate over the Latin debt problem, we've been arguing for policies that will stimulate private initiative and reduce the discouraging claim governments make on their citizens' incomes with taxes and inflation. There is now a lively policy debate under way among supporters of growth led by the private sector.

Latin America's liberation theologists and their many supporters in the American Catholic church are not part of this debate. Their alternative has been Christian Marxism. Marxist governments currently exist in two Latin countries, Nicaragua and Cuba. The leaderships of both governments abhor Christianity.

The alliance of Marxism and the Gospel of Christ has been a preposterous and cynical charade from its inception. Having seen the consequences of liberation theology himself during his visit to Nicaragua, John Paul II clearly decided that it was long past time for the charade to stop.●

EXPANSION OF VIETNAM VETERAN OUTREACH PROGRAM

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. HAMMERSCHMIDT. Mr. Speaker, today the Veterans' Administration announced the opening of 52 more storefront outreach counseling centers across the country to serve Vietnam era veterans. These centers are in addition to the 136 which already exist.

Mr. Speaker, the vast majority of Vietnam veterans have returned home and adjusted extremely well to civilian life. However, for some the return has been most difficult and, even though the Vietnam war has been over since 1975, a need still exists to give them a helping hand. This is the purpose and objective of these centers.

Since the Outreach Counseling Program began in 1979, more than 250,000 Vietnam era veterans and 50,000 of their family members have received counseling on a variety of readjustment problems, including posttraumatic stress disorder, and marital and employment difficulties. Currently, these centers are seeing an average of 6,300 new veteran clients each month. With the addition of the new centers, and expansion of staff in some of the current ones, this figure can be expected to rise to about 10,000 over the next year.

Mr. Speaker, these centers are staffed by social workers, psychologists, and medical paraprofessionals. Many staffers are Vietnam veterans themselves who can personally relate to the needs of those whom they serve. They have been doing an excellent job in a very positive manner and they are to be congratulated.

Mr. Speaker, the current expansion of the Outreach Counseling Program comes about because of increased funding provided for in the Veterans' Administration Appropriations Act which the Congress passed and the President recently signed. It was originally intended that this program operate for only 2 years until September 30, 1981. However, because of its success and because of the obvious need, it has been extended by law until 1988. I am confident that it will continue to work well and serve a great need for many Vietnam era veterans who will receive assistance from it.

Mr. Speaker, I include in my remarks a listing of the sites of the 52 new outreach centers.

Thank you, Mr. Speaker.

Arizona: Prescott.
California: Eureka, Sacramento, Santa Barbara, Santa Cruz, San Diego County (satellite), San Bernardino County (satellite).
Colorado: Boulder.
Connecticut: Norwich (satellite).
Florida: Tallahassee, Palm Beach County, Sarasota, Pensacola.
Georgia: Savannah.
Idaho: Pocatello.
Illinois: Moline/Rock Island, Springfield, Chicago.
Indiana: Gary.
Louisiana: Shreveport.
Massachusetts: Lowell (satellite), New Bedford (satellite), Worcester (satellite).
Mississippi: Biloxi (satellite).
Missouri: St. Louis (satellite).
Montana: Missoula.
New Jersey: southern.
New Mexico: Santa Fe (satellite).
New York: Syracuse, Rochester.
North Carolina: Greensboro, Rocky Mount/Jacksonville.
Oregon: Salem/Corvallis, Medford (satellite).
Pennsylvania: Erie, Scranton.
South Carolina: Columbia (satellite).
Tennessee: Chattanooga, Johnson City.
Texas: Austin, Houston, Midland, Amarillo, Corpus Christi, Lubbock.
Utah: Provo (satellite).
Virginia: Fairfax County, Roanoke.
West Virginia: Martinsburg, Charleston (satellite).
Puerto Rico: Ponce (satellite), Arecibo (satellite).●

LOCAL OFFICIALS FOR FAIR TRADE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. EDGAR. Mr. Speaker, I was present today at a meeting of LOFT, Local Officials for Fair Trade, led by Richard S. Caluguiri, Mayor of Pittsburgh, PA, and acting chairman of LOFT. This bipartisan delegation, composed of officials from steel communities, lobbied Congress today to draw attention to the growing foreign trade crisis that our Nation is now facing.

Continuing unfair trade practices threaten to seriously damage the industrial base of our Nation's economy and is of special concern to those of us in older industrial States, such as Pennsylvania. There can be no long-term prosperity and stability if our basic industries are simply allowed to decline and erode. I have always maintained that the most efficient way to create a fair worldwide economic system is to support the free market. However, when unfair trade practices, subsidized industries, and the dumping of foreign products threaten American jobs and industry, we must protect ourselves through the limited application of carefully chosen restrictions in imports.

The import problem is particularly acute in the steel industry, where foreign products seriously threaten to choke the economies of steel communities throughout the Nation. According to LOFT, steel imports have risen from about 15 percent of U.S. consumption to around 25 percent in 1984. In the same period, the number of workers in the domestic steel industry was halved and the industry's utilization of capacity also dropped drastically. These facts make it all the more important that President Reagan act favorably upon the recommendations of the International Trade Commission to address the serious condition of the U.S. steel industry.

I join the members of LOFT in calling for the swift consideration of and support by the House for H.R. 5081, the revised Fair Trade Steel Act. H.R. 5081, of which I am a cosponsor, is a bill to temporarily restrict imports. It is part of an overall effort to deal with the accelerated rate of import penetration of the domestic steel market, now over 20 percent. Wisely, H.R. 5081 sets a temporary limit of steel imports at 15 percent of the American market. The import limitation would last for only 5 years; steel industry profits gained during this time would be required to be invested in modernization of the steel industry.

In short, the goal of the legislation is to aid the American steel industry in gaining a more competitive position in the international economy. I am glad to note that we have topped the 200 mark in cosponsors for the bill. This shows the strong support in the House of Representatives for protecting steelworkers and steel communities and for getting the steel industry back into a healthy economic condition.

The steel industry's crisis also underscores the growing trade deficit which is being fueled, in part, by the staggering Federal budget deficit. Higher interest rates attract money from overseas thus bidding up the value of the dollar abroad. The overvalued dollar raises the price of American products overseas and makes them less attractive to foreign markets. This helped create a nearly $70 billion trade deficit in 1983. It will be almost twice as large in 1984. This borrowing from foreigners allows us to live beyond our national means, to have huge military spending and tax cuts at the same time. But bloated foreign borrowing (and it will have to be repayed—with interest!) is rapidly pushing the United States into the position of being a major debtor Nation.

The time to act is now. Along with LOFT, I urge my colleagues to support H.R. 5081 and other measures to counteract the trade deficit problem.●

BAILOUT OF REA

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 13, 1984

● Mr. BETHUNE. Mr. Speaker, the $7.9 billion bailout of the Rural Electrification Administration is bad news for the taxpayers, especially rural taxpayers, but there is hope that the bill might be improved in the Senate.

There are several Members in the Senate who are willing to take unpopular stands to do what's best for the rural cooperative and the taxpayers, as well. The bailout has been slowed down by a September Reader's Digest article entitled, "Power Play on the Potomac," that was critical of the bailout and supportive of the approach I had offered in the House of Representatives. Following here is a copy of the article for insertion in the CONGRESSIONAL RECORD.

There are several reasons why Congress continues to wastefully spend and lend the taxpayers' money as if there were no tomorrow.

THE DESIRE TO BE REELECTED

Congress continues to spend the taxpayers' money on new spending programs, bailouts, and subsidies because it is composed of professional politicians whose main concern is to continue getting elected. Instead of making policy that is practical and long term, it is more politically expedient to do what's best in the short term and worry about tomorrow's problems tomorrow.

INCUMBENTS, BEING PART OF THE ESTABLISHMENT, ARE RESISTENT TO CHANGE

Times have changed since the New Deal. America is changing, but the establishment incumbents resist change because it's too risky. They follow the view that "it is best not to rock the boat." Everybody likes establishment incumbents, because they never take a position regardless of the cost to taxpayers.

LOBBY GROUPS HAVE TOO MUCH INFLUENCE

The average taxpayer doesn't have a chance against powerful lobbyists who can contribute great sums to campaigns, do favors for candidates, send mail, mobilize large blocks of votes, and dispense other benefits. During an election year, they get what they want—we pay the price.

CONGRESS HAS LEARNED THE DEVIOUS ART OF "OFF BUDGET" SPENDING AND LENDING

A lot of politicians talk about reducing the deficit, but when it comes to the tough votes, they won't stand up to pressure. To get around this problem, they have simply moved some items, like REA, off the budget so that it doesn't count against the deficit. It does, however, count against the $1.6 trillion debt that our children and grandchildren will have to pay.

REFUSAL TO ADMIT THERE IS NO FREE LUNCH

For years, we have pretended we are getting some Federal money as if it did not come from the taxpayers and as if there would be no day of reckoning. It was easier to play that game than to say "no" to powerful lobby groups. Everything offered by the Federal Government will cost you. You either pay now or your children will pay later. Members of Congress realize this, but it is more important to some of them to get elected now and raise the taxes to pay for this later.

The article follows:

POWER PLAY ON THE POTOMAC

(By Eugene H. Methvin)

Last March 1, the U.S. House of Representatives met briefly for a grand old election-year pastime; showering billions of federal dollars upon a favored—and politically potent—special-interest group. The vote was 283 to 111 to approve an estimated $10 billion to $21 billion in subsidies so "needy" Americans who live on Rural Electrification Administration (REA) electric co-op lines can enjoy cheaper electricity. If approved by the Senate, the Rural Electrification Self-Sufficiency Act of 1984 would convert a once-proud selfhelp program into a perpetual gravy train on which some 26 million favored Americans ride, while the other 210 million push. Indeed, many of the beneficiaries would instantly repudiate the subsidies if they understood what is being done in their name. Look who gets the goodies:

In Georgia, 80 percent of five REA co-ops live within the Atlanta metropolitan area. In affluent Cobb County (where the median family income is $23,853 a year) and other suburbs, 56,699 families hook into the Cobb Electric Membership Corporation (EMC). So do 1633 small and 730 large commercial and industrial customers—hardly anyone's notion of needy rural America. Yet last year Cobb EMC benefited from a nearly $2-million subsidy on $29 million it borrowed at five-percent interest from Washington between 1979 and 1982.

In Alaska, 99.5 percent of the Chugach co-op's 49,876 customers live in Anchorage, where the annual median family income is $10,800 above the national norm. Other heavily subsidized co-ops serve thriving suburbs outside New York, Denver, Indianapolis, Tampa-St. Petersburg, Minneapolis-St. Paul and other major cities. They supply power for factories, airports, shopping malls, yacht marinas, country clubs, resort hotels and even, in Nevada, an infamous house of ill repute.

The nearly 1000 REA co-ops scattered across 46 states constitute the fastest-growing sector of the utility industry. A large majority of their new customers are suburban or small-town residents—not the people in rural areas that the program was set up to help. Fewer than half the nation's 2.4 million farms hook onto REA lines.

Ironically, the REA is one of the greatest success stories launched by any government. In 1935, when the agency was created, only 12 percent of U.S. farms had electricity. The REA helped rural people form cooperative, nonprofit corporations, giving them engineering assistance and start-up loans. By 1952, more than 88 percent of American farms were electrified. The co-ops received no financial subsidies, and virtually all repaid their loans on or ahead of schedule at rates often higher than the Treasury paid to borrow money.

Meanwhile, in 1943, a former Arkansas Congressman joined with some co-ops to create their own Washington lobby, the National Rural Electric Cooperative Association (NRECA). These professional pleaders convinced Congress in 1944 that it should extend the REA loan program's ten-year life and set interest rates at two percent, then above the taxpayers' cost of Treasury borrowings.

By 1973 booming suburban and resort development meant that many co-ops needed vast amounts of expansion capital. Moreover, the two-percent subsidized interest rate had already become politically indefensible because the Treasury had to pay almost triple that rate to finance REA co-op borrowings of about $350 million a year. As part of a program to wean the co-ops away from federal subsidies, Congress created an REA "revolving fund," financed by an interest-free Treasury loan of the $7.9 billion [1] being repaid by the co-ops; repayments were to begin in 1993. Only financially struggling, remote or disaster-devastated co-ops were supposed to get two-percent money in the future. Healthy co-ops would pay five percent, then close to Treasury costs, for part of their needs, and be required to raise the rest from non-government lenders.

But the NRECA sabotaged even the generous weaning plan. In "technical" amendments that few on Capitol Hill understood, Congressional allies ordered the REA to lend about twice as much yearly as the interest-fee fund received in co-op repayments, and required it to provide even the

[1] Including $1.9 billion owed by rural phone companies.

fattest co-ops at least 70 percent of their expansion capital. Today, the Treasury's borrowing cost is more than 13 percent, which it charges to the revolving fund, while the fund continues lending at five percent or less. Result: the REA interest-free fund will go broke unless Congress approves a bailout.

Now the NRECA has mounted an election-year campaign to bulldoze through Congress a new open-ended subsidy scheme. The NRECA's Self-Sufficiency Act would have taxpayers forgive the $7.9-billion revolving-fund loan and provide other interest-rate subsidies that may cost the Treasury an estimated $21 billion over the next 36 years.

With their complex, abstruse bill, the lobbyists are dealing in deliberate obfuscation. Declared NRECA chief economist Donald E. Smith, "There is not one penny of taxpayer cost in this bill"—a statement that the General Accounting Office, Office of Management and Budget, Library of Congress and Congressional Budget Office have all debunked. (Smith now waffles on it.)

The NRECA also argues that co-ops get far less help from REA than investor-owned utilities receive from accelerated depreciation and tax credits. But the GAO, OMB and Library of Congress all agree: more bunk. National Economic Research associates senior vice president Joe D. Pace has calculated annual federal subsidies to private-utility customers and compared them with those to co-op customers. The co-op customers have a net yearly advantage of about $160 each. "There can be no excuse for underpricing electricity for a favored few without regard to need," says Pace. "This encourages them to use 20-percent more electricity than those customers not so subsidized."

But Congressmen understand NRECA's political power, which arises from two big weapons:

1. *Money.* Co-ops have contributed to a political-action fund that over the past five years has poured more than $500,000 into Congressional-campaign coffers, reports The Wall Street Journal. Of the 283 Representatives who voted for NRECA's bill, 226 got $299,863, part of the $360,130 that the NRECA has funneled to 297 current House members since 1980. The biggest beneficiary has been Rep. Ed Jones (D., Tenn.), who heads the House subcommittee that oversees REA subsidies and who introduced the bill to increase them. The NRECA also gave $160,246 to 67 Senators.

2. *Propaganda.* Via electricity-bill inserts, the NRECA can deliver political messages every month into the homes of the 26 million who live on co-op lines. The NRECA also sends a weekly newsletter and monthly magazine to co-op officials and employees; state associations publish their own monthly magazines, with a circulation of several million. Any lawmaker who "votes wrong" is labeled an enemy of rural electrification.

"This lobby is designed to hit Congress at its weakest link," one Capitol Hill staffer told me. "They craft a bill almost no Congressman has the time to comprehend and pump out scare propaganda about 'turning off the lights in rural America' if there are no additional subsidies. Then they come at legislators with campaign cash and threats of voter reprisals."

Thus, in the last decade taxpayers have shelled out $32 billion in REA subsidies through outlays and tax breaks, according to OMB estimates, to placate this political powerhouse on the Potomac. Assuming a 14-percent Treasury rate, each additional $1 million loaned will, over its 35-year term, cost taxpayers an estimated $3.7 million. Warns Sen. Alan K. Simpson (R., Wyo.): "This bill is a classic case of how special-interest groups—using a magnificent blend of emotion, hype, high drama, guilt, political retribution and distortion—attempt to unload today's problems on tomorrow's taxpayers."

A few co-ops have proved they can fulfill their original proud motto, "Owned by Those We Serve." The thriving Marshall-DeKalb co-op serves some 12,000 members in two northeast Alabama counties whose monthly bills run below those of neighboring co-ops. In 1964 they paid off their original $1,060,847 REA loan, and today financed healthy growth solely from earnings.

Although the Self-Sufficiency Act was passed overwhelmingly by the House, it faces rising Senate opposition, and the threat of a White House veto. Senator Simpson offers in its place a real reform package, first proposed by Rep. Ed Bethune (R., Ark.) in the House. The Simpson-Bethune subsitute would require the REA to repay the $7.9 billion as scheduled, and raise the co-ops' interest rates to about the federal government's cost of borrowing. (Co-ops with severe problems would get a hardship rate.)

In this election year you can write a strong message to your Senator and Representatives: Stop yielding to special-interest groups and pass the Simpson-Bethune reform for true self-sufficiency. Tell the whole Congress, by sending a copy of your letter to Sen. Alan K. Simpson, Room 709, Hart Senate Office Building, Washington, D.C. 20510. Otherwise, the whole nation will pay the price of this free ride.●

HOUSE OF REPRESENTATIVE—*Friday, September 14, 1984*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, the inspiration of all that is good and all which is beautiful, we give thanks for those whose vision, determination, and labor have built our Nation and given us a good heritage. As we have received the responsibility for the affairs of government from those who have gone before, so may we be faithful in our stewardship for our land through acts of justice and mercy that we will leave to those who follow us, a nation strong of purpose, rich in our diverse culture, and committed to living peacefully with all people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BROWN of Colorado. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 250, nays 16, answered "present" 1, not voting 165, as follows:

[Roll No. 392]

YEAS—250

Addabbo	Bevill	Clinger
Akaka	Bilirakis	Coats
Anderson	Bliley	Coleman (MO)
Andrews (NC)	Boland	Collins
Andrews (TX)	Boner	Conable
Annunzio	Bonker	Conte
Anthony	Borski	Courter
Archer	Boucher	Darden
Badham	Breaux	Daschle
Barnes	Brown (CA)	Davis
Bateman	Brown (CO)	de la Garza
Bates	Burton (CA)	DeWine
Bedell	Burton (IN)	Dicks
Bellenson	Campbell	Dingell
Bennett	Carr	Dixon
Bereuter	Chappell	Dorgan
Berman	Clarke	Downey
Dreier	Kramer	Rangel
Duncan	Lagomarsino	Ratchford
Dwyer	Latta	Ray
Eckart	Leach	Regula
Edgar	Leath	Reid
Edwards (AL)	Lehman (CA)	Richardson
Edwards (CA)	Lehman (FL)	Ridge
Edwards (OK)	Lent	Rinaldo
English	Levin	Ritter
Erdreich	Levine	Robinson
Erlenborn	Levitas	Rodino
Evans (IL)	Lewis (CA)	Roe
Fazio	Lewis (FL)	Rogers
Fiedler	Livingston	Rose
Fields	Lloyd	Rowland
Fish	Loeffler	Roybal
Flippo	Long (LA)	Russo
Foglietta	Long (MD)	Sabo
Ford (TN)	Lott	Schaefer
Frank	Lujan	Scheuer
Frenzel	Lundine	Sensenbrenner
Gekas	Lungren	Sharp
Gingrich	Madigan	Shaw
Glickman	Marlenee	Shelby
Gonzalez	Martin (NY)	Shumway
Goodling	Matsui	Shuster
Gore	Mavroules	Slattery
Gradison	Mazzoli	Smith (FL)
Gray	McCloskey	Smith (IA)
Green	McCollum	Smith (NE)
Gunderson	McCurdy	Snowe
Hall (OH)	McDade	Solarz
Hall, Ralph	McEwen	Spence
Hall, Sam	McGrath	Spratt
Hamilton	McHugh	Staggers
Hammerschmidt	McKernan	Stenholm
Hance	Michel	Stokes
Hatcher	Mineta	Stratton
Hawkins	Molinari	Sundquist
Hefner	Montgomery	Synar
Hertel	Moody	Tallon
Hightower	Moore	Tauke
Hillis	Moorhead	Taylor
Hopkins	Morrison (WA)	Thomas (GA)
Horton	Mrazek	Udall
Howard	Murphy	Valentine
Hoyer	Murtha	Vento
Hubbard	Myers	Watkins
Huckaby	Natcher	Waxman
Hughes	Nelson	Weiss
Hutto	Nowak	Wheat
Hyde	Oakar	Whitehurst
Ireland	Obey	Whittaker
Jeffords	Owens	Whitten
Jenkins	Packard	Williams (MT)
Johnson	Panetta	Winn
Jones (NC)	Parris	Wise
Jones (OK)	Pashayan	Wolf
Kasich	Patman	Wortley
Kastenmeier	Paul	Wyden
Kazen	Pease	Wylie
Kildee	Petri	Yates
Kindness	Pickle	Young (AK)
Kleczka	Porter	Young (FL)
Kogovsek	Price	Young (MO)
Kolter	Pursell	
Kostmayer	Rahall	

NAYS—16

Clay	Gejdenson	Roberts
Coughlin	Holt	Roemer
Craig	Jacobs	Sikorski
Dickinson	Lowry (WA)	Solomon
Emerson	Miller (OH)	
Evans (IA)	Penny	

ANSWERED "PRESENT"—1

Dymally

NOT VOTING—165

Ackerman	AuCoin	Boehlert
Albosta	Barnard	Boggs
Alexander	Bartlett	Bonior
Applegate	Bethune	Bosco
Aspin	Biaggi	Boxer
Britt	Hansen (ID)	Quillen
Brooks	Hansen (UT)	Rostenkowski
Broomfield	Harkin	Roth
Broyhill	Harrison	Roukema
Bryant	Hartnett	Rudd
Byron	Hayes	Savage
Carney	Heftel	Sawyer
Carper	Hiler	Schneider
Chandler	Hunter	Schroeder
Chappie	Jones (TN)	Schulze
Cheney	Kaptur	Schumer
Coelho	Kemp	Seiberling
Coleman (TX)	Kennelly	Shannon
Conyers	LaFalce	Siljander
Cooper	Lantos	Simon
Corcoran	Leland	Sisisky
Coyne	Lipinski	Skeen
Crane, Daniel	Lowery (CA)	Skelton
Crane, Philip	Luken	Smith (NJ)
Crockett	Mack	Smith, Denny
D'Amours	MacKay	Smith, Robert
Daniel	Markey	Snyder
Dannemeyer	Marriott	St Germain
Daub	Martin (IL)	Stangeland
Dellums	Martin (NC)	Stark
Derrick	Martinez	Studds
Donnelly	McCain	Stump
Dowdy	McCandless	Swift
Durbin	McKinney	Tauzin
Dyson	McNulty	Thomas (CA)
Early	Mica	Torres
Fascell	Mikulski	Torricelli
Feighan	Miller (CA)	Towns
Ferraro	Minish	Traxler
Florio	Mitchell	Vander Jagt
Foley	Moakley	Vandergriff
Ford (MI)	Mollohan	Volkmer
Fowler	Morrison (CT)	Vucanovich
Franklin	Neal	Walgren
Frost	Nichols	Walker
Fuqua	Nielson	Weaver
Garcia	O'Brien	Weber
Gaydos	Oberstar	Whitley
Gephardt	Olin	Williams (OH)
Gibbons	Ortiz	Wilson
Gilman	Ottinger	Wirth
Gramm	Oxley	Wolpe
Gregg	Patterson	Wright
Guarini	Pepper	Yatron
Hall (IN)	Pritchard	Zschau

□ 1020

Mr. REID changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

APPOINTMENT OF MEMBERS TO THE MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

The SPEAKER. Pursuant to the provisions of section 4(a), Public Law 98-399, the Chair appoints as members of the Martin Luther King, Jr., Federal Holiday Commission, the following Members on the part of the House:

Mr. GRAY of Pennsylvania;
Mrs. HALL of Indiana;
Mr. REGULA of Ohio; and
Mr. COURTER of New Jersey.

PRESIDENT REAGAN'S TAX INCREASES

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker and my colleagues, President Reagan says that perhaps, maybe, he will not raise taxes if he is reelected, maybe.

For the first time in my life a Presidential candidate, in this instance Walter Mondale, has been refreshingly frank about what his economic policies will be if he is elected. I am told that folks down at the White House are pointing with alarm to the fact that Mr. Mondale says he wants to close tax loopholes on the rich which were opened by the White House, and I know for a fact that my Republican colleagues in this body are pointing with alarm to 1985 when the Mondale proposal will collect $85 billion.

Now, what they do not tell you is this: Since he has been President, Ronald Reagan has quietly worked for, supported and quietly signed for tax increases which by 1985 will amount to $113 billion. That is $25 billion more in taxes than Walter Mondale suggests. Ronald Reagan has already signed tax increases which will collect an additional $113 billion by 1985.

A TRIBUTE TO CHAD COLLEY, NATIONAL COMMANDER, DISABLED AMERICAN VETERANS

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, Arkansas is extremely proud of one of its most outstanding citizens and patriots, Mr. Chad Colley.

Mr. Colley has just recently been elected as National Commander of the Disabled American Veterans. This great organization has been growing steadily over the years and it will be Chad's great fortune and honor to preside over the DAV as that organization achieves its long-sought goal of 1 million members during 1985. The DAV couldn't have a better or more qualified leader.

Mr. Speaker, Chad Colley is a constituent of mine and I have known him and his fine family for many years. I can assure you from personal knowledge that he is an inspiration to all who know him. He survived the blast of a land mine in Vietnam even though he lost both legs and an arm. His resolute determination caused him to overcome this tremendous adversity and to return home to a very successful and productive life.

Before entering service, Mr. Colley graduated from North Georgia College where he was listed in Who's Who among college students. While a student, he won the school's sports and distinguished military graduate awards. He was a member of ROTC.

Following graduation, Mr. Colley was commissioned as a second lieutenant in the U.S. Army in 1966. He served in Vietnam with the famed 101st Airborne Division. It was during such service at a place just northwest of Saigon that he received his devastating wounds.

Chad returned home as a determined citizen wanting to help his country. He became active in the DAV in Arkansas. He rose to positions of prominence in his local chapter and then in his State department. On three occasions, he held high national office in the DAV, culminating in his selection this year as its National Commander. As the leader and principal spokesman for the organization, he will travel across the country visiting local chapters, speaking at State and national meetings, and appearing on numerous radio and television programs. He will be an eloquent advocate for disabled veterans.

In 1970, Mr. Colley was the recipient of the DAV's Outstanding Disabled Veteran of the Year. He has been awarded the honor medal by the Daughters of the American Revolution and was finalist in the Junior Chamber of Commerce national oratorical contest. He owns and operates a mobile home and land development company near Fort Smith, AR. He lives nearby in Barling, AR, with his wife, Betty Ann, and two children, Emily and Ryan.

Mr. Speaker, you will understand the pride that the citizens of Arkansas have in the fact that a native son is now the National Commander of the Disabled American Veterans. That organization is a forceful and dynamic voice for good. It speaks out for the disabled veterans of our country and represents their interests in the Congress of the United States and all across the Nation. Chad Colley will follow a succession of fine National Commanders who have been its leaders. I congratulate the DAV for having the wisdom to elect him to its highest office.

WE SHOULD REGULATE, NOT DEREGULATE BANKS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I believe in regulating banks, if done fairly regulation in this industry promotes competition, safety, and soundness, serving both the consumer and the investor.

We do not need to deregulate banks, we need to reregulate them, eliminating current double standards which pit the small banks against the big banks.

Look at some examples of the double standard: Capital requirements, your local bank has a larger percentage capital requirement in practice than does any of America's top 20 banks, giving the big banks more leverage, more profit, and more power.

No. 2, long write-off requirements: Your local bank works under tough rules writing off loans in default; not the big boys. Millions of dollars of foreign loans sit unclassified on the big banks' books.

The regulations would close your local bank this afternoon under a comparable circumstance.

Finally, protection of depositors: The FDIC protected every depositor in the Continental Illinois Bank while it let Penn Square and Oklahoma go down the tubes, taking many depositors with it.

A double standard? You bet. We need to change that. We need to reregulate banks, not deregulate them.

Deregulation allows the small banks to fail while it protects the big boys and lets them accelerate their accumulation of money, power, and even greed.

FLORIDA SOFTBALL TEAM: NO. 1 WHERE IT COUNTS

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, I had the pleasure Wednesday night of going out to the ballfield and seeing the all-Florida softball team fight and claw its way to its fifth victory in 3 nights, earning a berth in the finals of the Robert V. Rota Congressional Softball Tournament.

The all-Florida team, a mixture of dedicated staff persons from almost all of the Florida delegation offices, was upset in the finals last night.

They lost by a total of three runs in the two final games and finished second in only their second year as a team on Capitol Hill.

In my mind, they are not losers, most of the all-Florida team was tired, hurt, and sore, but they played on with heart and with courage like the true champions they are.

I congratulate them for a super season. To coin a phrase well known to University of Florida fans—wait 'til next year, orange and blue.

PANAMA CANAL ACT OF 1979 AMENDMENTS

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, there can be no doubt that the maintenance of an adequate American work force in Panama is essential to the national and commercial security of this Nation. It is because of this national interest that I am introducing, this morning, a bill to amend the Panama Canal Act of 1979 to help reverse a decline in our U.S. employees' morale which threatens the ability of the Canal Commission to maintain an adequate work force in Panama.

This decline in morale is a direct result of a treaty-mandated loss of U.S. military exchange, commissary and APO mailing privileges which, up until now, have been available to the American employees of the Canal Commission. In response to this loss of privileges, the Commission has put together a package of in-kind benefits designed to partially offset the monetary value of loss incurred by the employees.

Without an effective compensation package, Mr. Speaker, we risk a mass exodus of U.S. employees from Panama. However, the effect of the package settled on by the Canal Commission will be minimal if it is to be considered as taxable income as would be the case unless provided otherwise for through legislation. This bill, then, that I am introducing today, makes that necessary change.

Mr. Speaker, I hope that this legislation, which should be considered noncontroversial with regard to House consideration but imperative with regard to the maintenance of our citizen work force in Panama, gains timely passage.

□ 1030

CHILD PROTECTION ACT

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, crime is a pervasive problem that confronts us all.

As a former policeman, defense lawyer and prosecutor, I am strongly committed to our legislative efforts to penalize those who violate our laws. That's why I cosponsored the Child Protection Act, now public law, to strengthen the Federal laws against child pornography.

Other important anticrime measures that have become law include the Controlled Substances Registrants Protection Act to protect the manufacturing and distribution of controlled substances from burglary and robbery and the Federal Anti-Tampering Act to provide criminal penalties for tampering with drugs and consumer products.

The House has passed legislation to match funds to State and local governments to carry out specific anticrime programs. We are also working on stronger legislation to prevent illegal drug use and distribution.

And though our session is near an end we will continue to consider other measures to alleviate the fears of law-abiding citizens who deserve protection from the threat of crime.

DEATH PENALTY LEGISLATION SHOULD BE CONSIDERED

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the polls consistently show that the American public is overwhelmingly in favor of the imposition of the death penalty in proper cases involving violent homocides.

Yet, the House of Representatives and its Judiciary Committee have refused steadfastly over the last 18 months to even consider the question of the death penalty.

The crime package that the President has promulgated and sent to the Congress of the United States contains a provision that would allow the imposition of the death penalty in proper cases. Yet, no action has been taken.

Several of us have introduced legislation in the House here offering to debate the question of the death penalty. Yet no action.

Very recently, in a meeting of the Criminal Justice Subcommittee of the Judiciary Committee, when we attempted to offer an amendment to an assault on Federal officials piece of legislation, the majority in the Criminal Justice Subcommittee, on a straight party line, rejected the amendment.

How long can we go on without this needed deterrent in our criminal justice system?

Many of the States have restored the death penalty, which is acting as a deterrent to violent crime. It is time that the Federal jurisdiction applied the death penalty in proper cases.

I ask that every Member consider fast action on this issue.

ALL-FLORIDA SOFTBALL TEAM

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, some have said that finishing in second place is like attending a wedding and dancing with the bride's mother. It can be nice but is not quite the real thing.

I disagree somewhat with that, however. Last night, the all-Florida softball team finished second in the Robert Rota Congressional B-League tournament and to everyone involved that achievement is as sweet as if they were dancing with the bride.

The all-Florida team, made up of staffers from the offices of the Florida delegation, has only been in existence for 2 years. Yet even in that short time this team was not only able to hold its own in a league made up of over 200 more seasoned teams, but the Florida team managed to successfully compete in a tournament comprised of 56 of the very best teams in the league. This fine accomplishment serves as an excellent reminder that winners don't only come in first place.

On behalf of the other Florida Members whose offices include all-Florida players, we just want to say that we're proud of the all-Florida team. And who knows, maybe next year we really will be dancing with the bride.

MONDALE'S PROMISES WILL HURT AMERICA

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Walter Mondale says his budget program will make things better for Americans.

Really? How can a program that will cost 205,000 people jobs help Americans; 4,200 of these people are from my State, the great State of Indiana.

The only area where Mondale promises to make specific cuts is in the country's vital defense program. The cuts that will cost 205,000 jobs nationally, including 4,200 jobs in Indiana, is the B-1 bomber program. The B-1 is a replacement for the aging B-52 bomber and is vital to our national defense.

Once again, Walter Mondale's promises will hurt America. Not only will he hurt severely our national defense program, but he will put 205,000 of his fellow Americans out of work in the process.

HIGH PLAINS STATES GROUND WATER DEMONSTRATION PROGRAM ACT OF 1983

Mr. KAZEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 71) to authorize and direct the Secretary of the Interior to engage in a special study of the potential for ground water recharge in the High Plains States, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 6, strike out "Act." and insert Act: *Provided*, That funds made available pursuant to this Act shall not be used for the study or construction of groundwater recharge demonstration projects in the High Plains States and other Reclamation Act States which would utilize water origi-

nating in the drainage basin of the Great Lakes.

Page 5, after line 16, insert:

SEC. 5. The Secretary, acting through the Bureau, and the Administrator of the environmental Protection Agency (hereinafter referred to as the "Administrator") shall enter into a memorandum-of-understanding to provide for an evaluation of the impacts to surface water and groundwater quality resulting from the groundwater recharge demonstration projects constructed pursuant to this Act. The Administrator shall consult with the United States Geological Survey and shall make maximum use of data, studies, and other technical resources and assistance available from State and local entities in conducting the evaluation. The evaluation of water quality impacts shall be completed so as to be included in the Secretary's final report to the Congress referred to in section 4(c)(2) of this Act.

Page 5, line 17, strike out "5" and insert "6".

Page 5, strike out all after line 23 over to and including line 5 on page 6, and insert:

SEC. 7. There is authorized to be appropriated for fiscal years beginning after September 30, 1983, $20,000,000 (October 1983 price levels) to carry out phase II. Amounts shall be made available pursuant to the authorization contained in this section in sums for individual projects based on findings of feasibility by the Secretary.

Page 6 line 6, strike out "7" and insert "8".

Page 6 line 7, strike out "6" and insert "7".

Page 6 line 17, strike out "8" and insert "9".

Page 7, after line 2, insert:

SEC. 10. No funds authorized to be appropriated by this act shall be used for any activities associated with:

(1) the interstate transfer of water from the State of Arkansas; or

(2) the study or demonstration of the potential for the interstate transfer of water from the State of Arkansas.

Mr. KAZEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. TALLON). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. BROWN of Colorado. Reserving the right to object, Mr. Speaker, would the gentleman from Texas explain to the body the nature of the Senate amendments.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, H.R. 71 authorizes the construction of demonstration projects for ground water recharge.

The Senate amendments require specific line item appropriations for each demonstration project. This will give Congress the opportunity to judge each proposed project on its merits, should it choose to do so.

Another amendment involves the EPA to the extent that it would assure that none of the projects would degrade ground water resources which are, or may be, used for drinking water.

Two other amendments approved by the Senate prohibit the use of any funds authorized to be appropriated for the diversion of water from the Great Lakes or the Arkansas River Basin. Since it was never intended that the demonstration projects involve interbasin transfers of water, the amendments are not likely to have any significant impact on the demonstration program.

Mr. BROWN of Colorado. Mr. Speaker, I want to take this opportunity to congratulate Chairman KAZEN and Congressman BEREUTER of Nebraska who have put so much hard work into getting this bill passed. I note that the bill was essentially unchanged by the Senate, which added what are basically technical or clarifying amendments to the House bill. This speaks very well for the efforts of the subcommittee on this bill.

As many Members know, the problem of ground water overdrafting is an increasingly serious one in Colorado and in the West. According to Congressman BEREUTER of Nebraska:

It is likely that some areas of the High Plains will have totally exhausted their available ground water supplies by the turn of the century. Because of this projected depletion of ground water, it is estimated that more than 5 million acres in the High Plains will revert to dryland farming practices or rangeland by the year 2020.

We need to make a concerted effort now to find the best ways to deal with this problem before the crisis which some are predicting for the future becomes a reality. The ground water recharge demonstration program is a key step which will provide important new information to help in dealing with this problem.

As amended by the Senate, the bill sets up a two-phase program for demonstration projects for ground water recharge. The Bureau of Reclamation will be the principal agency to administer the program. In phase I, the Bureau of Reclamation will develop plans for demonstration projects "the purpose of which is to determine whether various recharge technologies may be applied to diverse geologic and hydrologic conditions represented in the High Plains States and other Reclamation Act States." There is $500,000 authorized for phase I. In phase II, the Bureau of Reclamation is "authorized and directed" to design, construct, and operate a number of demonstration projects in the High Plains States. There is $20 million authorized for phase II.

I understand the Bureau of Reclamation may issue an informational notice describing the program and calling for project proposals by interested local areas. A preliminary selection of projects is scheduled to be made 6 months after funds are first appropriated.

I call particular attention to the fact that the bill requires that States or local communities contribute 20 percent of the cost of these projects. This requirement is intended to ensure both the fiscal soundness and the desirability of projects which are chosen, since the State and Federal Governments will both have strong interests in overseeing their investments with such a requirement in place.

The problem of ground water overdrafting is probably not susceptible to a simple solution, but I believe this bill can make a significant contribution to our understanding of the problem, and I support its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas [Mr. KAZEN]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MARINE SANCTUARIES AMENDMENTS OF 1983

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1102) to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. YOUNG of Alaska. Reserving the right to object, Mr. Speaker, and I will not object to this bill but merely wish to commend my colleagues for bringing it to the floor today.

While I continue to have reservations about the marine sanctuaries title of the bill, I am satisfied with the colloquy held with the chairman and hope that the legislative intent demonstrated will help to prevent any future problems for ocean resource industries.

I also want to mention my strong support for the other provisions of the bill, especially the amendments to the fishermen's contingency fund and the fisheries loan program. The amendments we will adopt today make both of those programs more responsive to the needs of our commercial fishing industry. I am especially pleased with the new provisions that allow a higher recovery for economic loss. This will certainly help those fishermen who lose gear in the course of fishing operations.

I would like to make some specific comments regarding marine sanctuaries. The intent of section 303 is to ensure that marine sanctuaries are not designated unless they are carefully screened and meet specific standards. Also, section 304 requires additional steps, including an environmental impact statement and resource assessment, before designation. Subsection 303(a) contains five mandatory standards for designation, each requiring a secretarial finding or determination following extensive interagency review. Subsection 303(b) lists nine complex factors the Secretary must carefully consider in conjunction with interagency consultations before designating a marine sanctuary. Subsections 303 (a) and (b) combined, therefore, include 14 inter-related criteria. Further, the resource assessment required under paragraph 303(b)(3) must be included in the environmental impact statement required by paragraph 304(a)(2). It is my understanding that the Congress does not condone the designation of any marine sanctuary unless it is first carefully screened and meets each of the required standards.

Before a marine sanctuary is designated, the Secretary must find that it is small enough to allow comprehensive management and that it will not be designated if present or potential uses are or will be conducted under laws, regulations, or policies adequate to protect the area. Further, consulatation by the Secretary means precisely that, and not agreement after the fact by personnel in other agencies. In particular, subparagraphs 303(a)(2)(D) and 303(b)(1)(F) refer to size of a marine sanctuary. These provisions require that the area be "discrete." This means small enough to, and of a nature which would, allow coordinated and comprehensive management. Clearly, areas of the size of some marine sanctuaries that have been proposed for designation in the past are not discrete and are not of a nature which would allow coordinated and comprehensive management. If the intent of this program is to achieve coordinated and comprehensive management of special areas in the absence of existing authorities, then it should be clearly demonstrated that this program has the fiscal and administrative capacity to do so for any proposed marine sanctuary area, particularly in terms of its physical size. Certainly, the largest of the existing marine sanctuaries is the maximum size currently contemplated to satisfy the provisions of subparagraphs 303(a)(2)(D) and 303(b)(1)(F). Furthermore, the Secretary should not designate an area as a marine sanctuary if existing authorities or programs provide the desired level of protection for the area and its resources. Specifically, subparagraph 303(a)(2)(B) directs the Secretary to make a finding that "existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area * * *" prior to designating a marine sanctuary. I believe such a finding would be difficult to make and sustain considering the many existing stringent State and Federal environmental laws and regulations which already ensure extensive protection of the marine environment

Another issue pertains to interagency consultations prior to marine sanctuary designation and those related to implementation of a marine sanctuary including proposed regulations, covered respectively by paragraph 303(b)(2). These provisions, in a nutshell, require a secretary to consult extensively with other Federal and State agencies on a number of issues prior to designation. These before-the-fact consultations must, for each candidate for designation as a marine sanctuary, include thorough interagency discussion of proposed findings and analysis of factors evaluated to make the findings. Without adhering to strict interagency review procedures it would be impossible for the Secretary to designate a marine sanctuary or regulate it in any particular manner. The legal validity of any designation action under this legislation requires before-the-fact interagency review. It should also be noted that subparagraph 303(b)(2)(A) also requires consultation with the Congress, in particular the Merchant Marine and Fisheries Committee.

One important purpose of these amendments is to avoid disrupting ongoing programs conducted or monitored by other Federal agencies, or in the case of commercial fishing, by the Regional Fishery Management Councils. The purpose of all the before-the-fact interagency review and approval is to ensure that ongoing or planned Federal programs administered by other agencies are not disrupted by the designation of a marine sanctuary and its subsequent management. The intent is to provide the agencies whose programs would be affected by a designation with the opportunity to review the impact of designation and subsequent regulation and management of a marine sanctuary on their programs, and not to let the Secretary unilaterally make that judgment for them.

In addition, the intent of this bill is to ensure that other agencies involved in activities in a proposed site have full rights of participation in the regulatory process, so that implementing regulations do not unduly restrict other agency activities without their prior review.

Because some of the provisions are not fully covered by legislative history, I also want to offer the following to more clearly explain congressional intent behind the various sections of this bill.

SECTION-BY-SECTION ANALYSIS OF S. 1102

TITLE I—MARINE SANCTUARIES

This title completely revises the existing law regarding marine sanctuaries.

It defines Congressional intent with respect to the marine sanctuaries program and codifies the program's existing purposes and policies as outlined in NOAA's Program Development Plan (PDP). Further, it sets specific standards and factors that the Secretary of Commerce must consider when designating a marine sanctuary and expands the consultation procedures required when designating a sanctuary to include consultation with Regional Fishery Management Councils.

The Secretary of Commerce is required to include, as part of the Draft EIS on a proposed sanctuary, a resource assessment report documenting the present and potential uses of the area, including fishing, minerals, and energy development. Procedures are established that the Secretary must follow in preparing the sanctuary proposal, including public notice and notice to the Congress, the environmental impact statement, and public hearing requirement.

Regional Fishery Management Councils are given the opportunity to draft regulations governing fishing within proposed sanctuaries. If the Council declines, or fails within a reasonable time, to prepare appropriate regulations, the Secretary shall prepare the draft regulations.

Finally, it establishes a 45-day Congressional review and reporting period prior to final site designation and sets up Congressional and gubernatorial disapproval processes. The Congressional disapproval vehicle is a prescribed joint resolution to be approved and signed by the President. If the Governor disapproves a site designation, that designation shall not take effect in state waters.

The Secretary of State, in consultation with the Secretary of Commerce, has discretionary authority to make necessary arrangements with other governments for the protection of any sanctuary and the promotion of the sanctuaries' purposes. These arrangements may well be useful, although the need for them may be reduced by the recent establishment of the United States Exclusive Economic Zone which augments previous U.S. authority over ocean areas where sanctuaries may be designated.

Appropriations are authorized as follows: FY 85—$3 million; FY 86—$3.3 million; FY 87—$3.6 million; and FY 88—$3.9 million.

House Report No. 98-187 sets forth a fuller discussion of the Congressional mandate and of each provision of the bill. The provisions regarding resource assessment report, criteria for drafting fishing regulations by the Councils, reduction of the time

for Congressional and gubernatorial disapproval, consistency with the recent *Chadha* decision, the privileged and undebatable status of the joint resolution, and clarification of access and valid rights have been modified since that report was published but to the extent possible should be interpreted as consistent with that report. The clarification of rights is merely a grandfather for certain existing rights which are all subject to regulation by the Secretary of Commerce. The word "valid" is included for emphasis only and is considered to be legally redundant and superfluous.

TITLE II—MARINE SAFETY

Subtitle A contains the Maritime Safety Act of 1984. It requires the owner, agent, or managing operator of a vessel, which is required to be inspected by the Coast Guard, to inform the Coast Guard at least 30 days, but nor more than 60 days, before the vessel's current certificate of inspection exprires. Further, it provides penalties for operation of a vessel without a certificate of inspection. The penalty will be up to $2,000 per day for vessels under 1,600 tons and up to $10,000 per day for other vessels. The Coast Guard can waive the penalty if unforeseen circumstances prevent a scheduled inspection. The Secretary of Transportation is authorized to order the owner, agent, or managing operator of the vessel, which lacks a required certificate of inspection, to return the vessel to its mooring until a certificate is issued, or take other appropriate action. In addition, it amends several existing laws relating to vessel inspection, in order to increase, and make more uniform, the civil penalty applicable for a violation of those laws. Many of the penalties are for up to $5,000 per violation.

The owner, agent, or managing operator of any vessel of the United States is required to immediately notify the Coast Guard when that person has reason to believe, becuase of lack of communication with or non-appearance of the vessel or any other incident, that the vessel may have been lost or imperiled and to immediately try to determine the status of the vessel, which is required to report under USMER, is required to try immediately to determine the status of the vessel and to notify the Coast Guard if more than 48 hours have passed since hearing from the vessel. It also requires the master of the USMER vessel to report to the owner at least once every 48 hours and provides civil penalties for failure to make any of the required reports.

In addition, it raises the $60 per ton limit of shipowner's liability for death and personal injury claims to $420 per ton to adjust the figure due to inflation since the 1936 enactment of the $60 per ton law.

House Report No. 98-525 contains the full statement of Congressional intent and a detailed analysis of each provision. Slight modifications have been made since the report was published, which should be interpreted to be consistent with that report.

Subtitle B concerns recreational diving safety. It requires the Rules of the Road Advisory Council and the National Boating Safety Advisory Council to report, within 180 days after enactment, recommendations to the Secretary of Transportation concerning the need for display of the red-with-diagonal-white-stripe "divers flag" to promote recreational diving safety. Any factor may be considered by each Council including those enumerated in the provision. There is a particular concern to receive a recommendation regarding preemption of state law, as approximately 30 of the 50 states have their own statutes. The Secretary is required to report to Congress, within one year after enactment, the Councils' recommendations, the Secretary's evaluation of them, the Secretary's recommendations, and proposed legislation to implement the Secretary's recommendations if required. The intent is to set up a process for the full examination of the safety issues surrounding divers and vessels in the maritime environment. Existing law is unaffected by this provision.

TITLE III—NOAA CORPS PROVISIONS

Subtitle A concerns health care for certain NOAA personnel. It responds to a provision in the Omnibus Budget Reconciliation Act of 1981, which phased out Public Health Service (PHS) hospitals and other facilities, and subsequent determinations (effective with the enactment of the second continuing resolution for 1983) prohibiting the PHS from budgeting for health services for eligible NOAA employees.

First, it provides permanent authority for the Secretary of Commerce to budget for dental and medical care for the NOAA Corps, including dependents and survivors, and the crews of NOAA vessels, and authorizes the Secretary to provide health care by contracting directing with private facilities or by reimbursing another agency—including the Public Health Service—qualified to provide care. It changes no basic entitlements and is virtually identical to authority given to the Coast Guard.

In addition, it contains technical amendments to clarify that non-NOAA Corps crew members, dependents, and retired ships' officers who are eligible for hospitalization care are entitled to this care without regard to whether care is provided at PHS facilities or by contract with private hospitals and facilities. This section affects roughly 165 older career NOAA employees who have either been retired or in continuous active service for at least 20 years. These individuals are entitled to PHS health care by law. However, their PHS hospitalization benefits were inadvertently cut off by closure of PHS facilities. When similar care was provided on a contract basis with private facilities, there was an administrative determination that care in private facilities was not allowed under existing law. For a more detailed explanation of Subtitle A, see House Report 98-526.

Subtitle B amends the Coast and Geodetic Survey Commissioned Officers' Act of 1948 in several respects. It establishes similar involuntary separation entitlements for commissioned officers of the National Oceanic and Atmospheric Administration to those already provided for officers of the Armed Services, provides the Secretary of Commerce with greater flexibility in the assignment of NOAA Corps officers throughout the Administration by removing the restriction on the number of NOAA Corps officers who may hold temporary promotions, and provides authority to designate a limited number of positions of importance and responsibility as flag grades when held by commissioned officers. Additionally, this subtitle will align the grade structure of the NOAA Corps with that of the Navy by replacing the grade of rear admiral (lower half) with the grade of commodore.

With respect to the involuntary separation provisions, it includes the rank of lieutenant commander among the ranks which, if not otherwise qualified for retirement, may be separated from the service as recommended by a personnel board. Further, it provides that any officer who is separated from the NOAA Corps and who has completed five or more years of continuous active service immediately before that separation is entitled to the amount of separation pay which is 10 percent of the product of the years of active service times one year's salary at the time of separation or $30,000, which ever is less, unless the Secretary determines that the payment is unwarranted. Any officer who is separated from the NOAA Corps and who has completed more than three but less than five years of continuous active service is entitled to one-half of the above amount but in no event more than $15,000, unless the Secretary determines that the payment is unwarranted. The period for which an officer has previously received separation pay, severance pay, or readjustment pay may not be included in determining the years of creditable service. Also, an officer who has received separation pay under this section or severance pay or readjustment pay under any other provision of law and who later qualifes for retirement shall have the amount of separation pay deducted from retirement payment.

The provisions creating greater flexibility in the assignment of commissioned officers allow the President to appoint, with advice and consent of the Senate, one officer to the grade of vice admiral, three officers to the grade of rear admiral, and three officers to the grade of commodore. Certain positions within NOAA designated by the Secretary may be filled with NOAA Corps commissioned officers so appointed. An appointment under this provision creates a vacancy on the active list. However, the officer retains the permanent grade held by that officer at the time of the appointment. Savings clauses are provided so that an officer serving as rear admiral (upper half) before enactment of this Act shall, after enactment, serve in the grade of rear admiral. An officer serving as rear admiral (lower half) before enactment shall, after enactment, serve in the grade of commodore but shall retain the title and uniform of rear admiral.

In addition, these provisions remove the limit on the number of officers holding temporary promotions. An officer in any permanent grade may, under current law, be temporarily promoted to the next higher grade by the President and the temporary promotion will terminate upon the transfer of the officer to a new assignment.

Administratively, this subtitle replaces the appointment authority for flag grades contained in Reorganization Plan No. 4 of 1970 and affirms the authority of the Secretary to assign commissioned officers to a wide range of administrative and operational positions. This subtitle will also correct an obvious drafting error in Section 3(a)(1) of Public Law 95-219.

TITLE IV—FISHERIES

Subtitle A renames the Pacific Tuna Development Foundation as the Pacific Fisheries Development Foundation in order to illustrate the broader concerns of the Foundation and to make the name consistent with that of similar foundations.

Subtitle B makes changes in the Fishermen's Contingency Fund as established under the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978. The OCSLAA were to compensate commercial fishermen for damages to vessels and gear resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf, and for resulting economic loss. Currently, OCSLAA provides for compensation of an amount equal to 25

percent of economic loss. This subtitle increases that to an amount equal to 50 percent of loss. The term "resulting economic loss" means the gross income, as estimated by the Secretary, that a commercial fisherman eligible for compensation will lose by reason of not being able to engage in fishing or having to reduce the fisherman's fishing effort during the period before the damaged or lost fishing gear is repaired or replaced and available for use. It ensures an adequate amount of time to file claims by prescribing a minimum 90-day period to do so.

Subtitle C makes changes to the Fisheries Loan Fund (FLF). It extends through Fiscal Years 1985 and 1986 the authority of the Secretary of Commerce to deposit foreign fishing fees into the Fisheries Loan Fund, and to make loans from the Fisheries Loan Fund to fishermen to avoid default on Federal loan guarantees, to avoid default on vessel loans not guaranteed by the Federal Government, or to cover vessel operating expenses under certain circumstances. Further, it extends through Fiscal Years 1985 and 1986 the authorization of $50,000 for the Secretary of Commerce and $100,000 for the Department of the Interior to recruit, train, and accept volunteers to assist in fish and wildlife programs.

Finally, it provides that all monies in the Fisheries Loan Fund shall be invested by the Secretary of Commerce in United States obligations, except money needed for loans or administrative expenses. The accrued proceeds shall be credited by the Secretary of the Treasury to the debt incurred under the Title XI Fishing Vessel Loan Guarantee Program. The investment proceeds would assist in the liquidation of approximately $18 million of debt borrowed from the Treasury by the Secretary of Commerce because of inadequate reserves to cover payments necessitated by an excessive number of defaults on government guaranteed vessel loans. The crediting of investment proceeds would be subject to appropriations.

Subtitle D approves the Governing International Fisheries Agreement between the United States and the Government of Denmark and the Faroe Islands.

TITLE V—VESSELS

This title lists seven vessels made eligible for documentation as U.S. vessels. It cures various defects in the vessels' titles under the terms of the Merchant Marine Act or title 46, United States Code. These vessels are: WINGAWAY, official number 654146; ENDLESS SUMMER, official number 296259 (House Report No. 98-514); MUSKEGON CLIPPER, official number 252908; SCUBA KING, official number 532376; ULULANI, official number 239729; NO SLACK, official number 587630; LA JOLIE, Michigan number MC2780LB (House Report No. 98-516).

The format of this title has been developed for use in drafting provisions of this nature by the Merchant Marine and Fisheries Committee and is recommended for future provisions of this nature. It is understood that any defect of the type corrected by this title, occurring subsequent to the enactment of this title, would require additional legislative action to cure it.

□ 1040

I would like to engage the subcommittee chairman, the gentleman from Louisiana [Mr. BREAUX], in a colloquy regarding marine sanctuaries in this bill. I have included detailed remarks for the congressional intent and understanding regarding sections 303 and 304, as well as various actions permitted under this legislation with regard to the designation of marine sanctuaries. In addition, I have included in my statement a detailed analysis of the entire bill, S. 1102.

Does the gentleman from Louisiana agree that this is an accurate statement regarding these sections of congressional intent on this bill?

Mr. BREAUX. Mr. Speaker, the gentleman has precisely stated the situation. I commend him for his comments. His statements accurately reflect the intent of the legislation.

Mr. YOUNG of Alaska. I thank the gentleman for his comments.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of S. 1102.

I am particularly pleased to note that my bill, H.R. 5732, the "Diver Down Flag" bill, is incorporated as subtitle B, of title II.

Recognizing the need to promote and protect the safety of recreational skin and scuba divers across the country signifies a long awaited awareness of the needs of this large body of diving enthusiasts.

For almost 27 years, whenever divers have engaged in their sport, they have proudly displayed a bright red flag with a white diagonal strips which by tradition means "Diver down, stay clear."

I say proudly displays with good reason. The flag was diver inspired and diver designed, and is today not only instantly recognized, but is required as a safety measure by more than 30 States.

We have now reached the point where, in order to provide adequate safety for this ever-growing sport, a uniform nationwide safety standard based upon this flag, must be developed. This is what subtitle B will do.

It directs the Rules of The Road Advisory Council, and the National Boating Safety Advisory Council, to develop within 180 days, recommendations on how the traditional divers flag should be displayed. These councils will work with the recreational diving community to design appropriate standards that will assure diving safety throughout the country.

These standards and provisions are essential to safeguard the diving community of this Nation and I urge you to approve this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MARINE SANCTUARIES

SEC. 101. This title may be cited as the "Marine Sanctuaries Amendments of 1983".

SEC. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

"TITLE III—NATIONAL MARINE SANCTUARIES

"SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

"(a) FINDINGS.—The Congress finds that—

"(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but such efforts have been directed almost exclusively to land areas above the high-water mark;

"(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

"(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

"(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resource conservation and management; and

"(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas which will complement existing regulatory authorities;

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

"(4) to enhance public awareness, understanding, appreciation and wise use of the marine environment; and

"(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.

"SEC. 302. DEFINITIONS.

"As used in this title, the term—

"(1) 'draft management plan' means the plan described in section 304(a)(1)(E);

"(2) 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

"(3) 'marine environment' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law;

"(4) 'Secretary' means the Secretary of Commerce; and

"(5) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands,

American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

"SEC. 303. SANCTUARY DESIGNATION STANDARDS.

"(a) STANDARDS.—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that such designation will fulfill the purposes and policies of this title, and if the Secretary finds that—

"(1) the area is of special national significance due to its resource or human-use values;

"(2) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research and public education, and that designation of such area as a national marine sanctuary will facilitate these objectives; and

"(3) the area is of a size and nature which will permit comprehensive and coordinated conservation and management.

"(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING FINDINGS.—

"(1) FACTORS.—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

"(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

"(B) the area's historical, cultural, archaeological, or paleontological significance;

"(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

"(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

"(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

"(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

"(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

"(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development; and

"(I) the socioeconomic effects of sanctuary designation.

"(2) CONSULTATION.—In making such determination, the Secretary shall consult with—

"(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Secretaries of State, Defense, Transportation, the Secretary of the Department in which the Coast Guard is operating, the Secretary of the Interior, the Administrator, and the heads of other interested Federal agencies;

"(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

"(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

"(E) other interested persons.

"(3) RESOURCE ASSESSMENT REPORT.—In making such determination, the Secretary also shall draft, as part of the environmental impact statement referred to in section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall be responsible for drafting a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration which are subject to the primary jurisdiction of the Department of the Interior.

"SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

"(a) SANCTUARY PROPOSAL.—

"(1) NOTICES.—In proposing to designate a national marine sanctuary, the Secretary shall issue in the Federal Register a notice of the proposal, proposed regulations that may be necessary and reasonable to implement such proposal and a summary of the draft management plan. The Secretary shall provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal. The Secretary shall also prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal. Such draft statement shall include the resource assessment report required under section 303(b)(3), and maps depicting the boundaries of the proposed designated area and the existing and potential uses and resources of the area. Copies of the draft environmental impact statement shall be available to the public. No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties. On the same day as such notice is issued, the Secretary shall also submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

"(A) the terms of the proposed designation;

"(B) the basis of the findings made under section 303(a) with respect to the area;

"(C) an assessment of the considerations under section 303(b)(1);

"(D) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

"(E) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement and surveillance activities for the area;

"(F) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

"(G) the draft environmental impact statement;

"(H) an evaluation of the advantages of cooperative State and Federal management where proposed marine sanctuaries lie within the territorial limits of any State or are superjacent to the subsoil and seabed within the seaward boundary of a State, as the term 'boundary' is used in the Submerged Lands Act (43 U.S.C 1301 et seq.); and

"(I) proposed regulations to implement the terms of designation and the measures referred to in subparagraphs (A), (D), and (E) and paragraph (3).

"(2) TERMS OF DESIGNATION.—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

"(3) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare such draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council or a Council determination that regulations are not necessary pursuant to this paragraph shall be accepted and promulgated by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall also use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare such regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to fishing regulations shall be drafted, approved and promulgated in the same manner as the original regulations.

"(4) COMMITTEE ACTION.—After receiving the prospectus under subsection (a)(1), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider such report before publishing a notice to designate the national marine sanctuary.

"(b) TAKING EFFECT OF DESIGNATIONS.—

"(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall also advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(4). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

"(A) the Congress disapproves the designation or any of its terms, by enacting a joint resolution of disapproval described in paragraph (3); or

"(B) in the case of a national marine sanctuary that is located partially or entirely within the jurisdiction of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the jurisdiction of the State.

"(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) (A) or (B) will affect the designation in such a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the designation. If the Secretary does not withdraw the designation, only those portions of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

"(3) RESOLUTION OF DISAPPROVAL.—For the purposes of this subsection, the term 'resolution of disapproval' means a joint resolution which states after the resolving clause the following: 'That the Congress disapproves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on .', the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: 'That the Congress approves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on but disapproves the following terms of such designation: first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

"(4) PROCEDURES.—

"(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(4) and paragraph (1) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

"(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(5) ACCESS AND VALID RIGHTS.—Nothing in this title shall be construed as terminating, or granting to the Secretary the right to terminate, any valid lease, permit, license, right of subsistence use, or right of access: *Provided,* That such lease, permit, license or right was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1983, with respect to any national marine sanctuary designated before such date: *Provided further,* That such lease, permit, license or right is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1983: *And provided further,* That the exercise of such lease, permit, license or right shall be subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

"SEC. 305. INTERNATIONAL APPLICATION OF REGULATIONS AND NEGOTIATIONS.

"(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign state of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag state of the vessel, no regulation applicable to areas or activities outside the jurisdiction of the United States shall be applied to a person not a citizen, national, or resident alien of the United States.

"(b) NEGOTIATIONS.—After the taking effect under section 304 of the national marine sanctuary that applies to an area or activity beyond the jurisdiction of the United States, the Secretary of State shall take such action as may be appropriate to enter into negotiations with other governments in order to make necessary arrangements for the protection of the sanctuary and to promote the purposes for which it is established.

"SEC. 306. RESEARCH AND EDUCATION.

"The Secretary shall conduct such research and educational programs as are necessary and reasonable to carry out the purposes and policies of this title.

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

"(b) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

"(3) IN REM JURISDICTION.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States. The Attorney General may bring suit either on his own initiative or the request of the Secretary.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated not to exceed the following sums:

"(1) $2,264,000 for fiscal year 1984.

"(2) $2,500,000 for fiscal year 1985.

"(3) $2,750,000 for fiscal year 1986.

"SEC. 309. SEVERABILITY.

"If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.".

TITLE II—MARINE SAFETY

SUBTITLE A

SEC. 201. (a) Before February 12, 1984, the Secretary of the Department in which the Coast Guard is operating shall prescribe final regulations requiring exposure suits on appropriate vessels operating in waters that are less than sixty degrees Fahrenheit.

(b) A vessel may not be exempted from the requirements of this section only because that vessel carries other lifesaving equipment.

(c) An exposure suit required by this section must provide adequate themal protection, buoyancy, and flotation stability, and any other requirement the Secretary prescribes.

(d)(1) The owner, charterer, managing operator, agent, master or individual in charge of a vessel violating thiis section or a regulation prescribed under this section is liable to the United States Government for a civil

penalty of not more than $5,000. The vessel also is liable in rem for the penalty.

(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than $25,000, imprisoned for not more than five years, or both.

(e) The Secretary shall by regulation designate waters in specified geographic areas, and shall designate specified times of the year, that meet the temperature standards of this section. Those regulations are deemed to comply with this section.

(f) The regulations prescribed under this section shall be effective before August 31, 1984.

SUBTITLE B

SEC. 210. This subtitle may be cited as the "Maritime Safety Act of 1983".

SEC. 211. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

"(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

"(1) will be required to be inspected; or

"(2) will not be operated so as to require an inspection.".

(b) Section 3311 of title 46, United States Code, is amended by—

(1) inserting "(a)" before "A vessel";

(2) striking the word "valid"; and

(3) inserting at the end the following:

"(b) The Secretary may direct the owner, charterer, managing operator, agent, master, or individual in charge of a vessel subject to inspection under this chapter not having a certificate of inspection—

"(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued; or

"(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment.".

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking "The" the first time is appears and substituting "Except as otherwise provided in this part, the" and

(B) by striking "$1,000, except that when the violation involves operation of a barge, the penalty is $500.", and substituting "not more than $5,000.".

(2) Subsection (c) is amended by striking "$2,000," and substituting "$5,000,".

(3) Subsection (d) is amended by striking "$2,000," and substituting "$5,000,".

(4) Subsection (e) is amended by striking "$2,000," and substituting "$10,000,".

(5) Subsection (f) is amended by striking "$5,000," and substituting "$10,000,".

(6) Subsection (g) is amended by striking "shall be fined not more than $10,000, imprisoned for not more than one year, or both," and substituting "is liable to the Government for a civil penalty of not more than $5,000,".

(7) Subsection (h) is amended by striking "United States Government for a civil penalty of not more than $500." and substituting "Government for a civil penalty of not more than $1,000.".

(8) At the end add the following:

"(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than $1,000.

"(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the government for a civil penalty of not more than $10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than $2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(2) A person is not liable for a penalty under this subsection if—

"(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;

"(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

"(C) The Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

"(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(l) A person committing an act described by subsections (b)-(f) of this section is liable to the Government for a civil penalty of not more than $5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.".

SEC. 212. (a) Chapter 23 of title 40, United States Code is amended as follows:

(1) At the end of the chapter analysis, add the following:

"2306. Vessel reporting requirements.".

(2) In section 2301, strike "This chapter" and substitute "Except as provided in section 2306 of this title, this chapter".

(3) Add at the end the following:

"§ 2306. Vessel reporting requirements

"(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within twenty-four hours after nonwritten notification to the Coast Guard under these paragraphs.

"(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than $6,000 for each day during which the violation occurs.

"(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every forty-eight hours.

"(2) A master violating this subsection is liable to the Government for a civil penalty of not more than $1,000 for each day during which the violation occurs.

"(c) The Secretary may prescribe regulations to carry out this section.".

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking "and incidents", and

(B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking "or incident".

SEC. 213. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out "$60" each place it appears and insert in lieu thereof "$420".

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 214. Sections 211(a) and 212 of this subtitle are effective one hundred and eighty days after the date of enactment of this Act.

TITLE III—MISCELLANEOUS

SUBTITLE A

SEC. 301. (a) Section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding "(a)" after "SEC. 3." and by adding at the end the following new subsection:

"(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.".

(b) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking "at facilities of the Public Health Service: *Provided*, That" and inserting in lieu thereof "by Public Health Service if".

(c) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking out "at its hospitals and relief stations"; and

(2) by striking out "at hospitals of the Public Health Service: *Provided*, That" and inserting in lieu thereof "by the Public Health Service if".

SUBTITLE B

SEC. 310. (a) Chapter 9 of title 14, United States Code, is amended by inserting after section 181 the following new section:

"§ 181a. Cadet applicants; preappointment travel to Academy

"The Secretary is authorized to expend appropriated funds for selective preappointment travel to the Academy for orientation visits of cadet applicants.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 181 the following new item:

"181a. Cadet applicants; selective preappointment travel to Academy.".

SEC. 311. (a)(1) Section 42(b) of title 14, United States Code, is amended by striking out ".375" both places it appears and inserting in lieu thereof "0.375".

(2) Section 290 of such title is amended by striking out "Board" in the fourth sentence and inserting in lieu thereof "Boards".

(3) The table of sections at the beginning of chapter 13 of such title is amended by striking out the item relating to section 462a.

(4) Section 724 of such title is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking out the last sentence; and

(C) by adding at the end thereof the following new paragraph:

"(2) The authorized number of Reserve officers in an active status not on active duty in the grades of commodore and rear admiral is a total of two. However, the Secretary may authorize an additional number of Reserve officers not on active duty in the grades of commodore and rear admiral as necessary in order to meet planned mobilization requirements.".

(b)(1) The matter in the table in section 201(a) of title 37, United States Code, under the heading "Navy, Coast Guard, and National Oceanic and Atmospheric Administration" and in the columns for O-8 and O-7 is amended to read as follows:

.....	"Rear admiral (Navy and Coast Guard) and Rear admiral (upper half) (National Oceanic and Atmospheric Administration)
.....	"Commodore (Navy and Coast Guard) and Rear admiral (lower half) and commodore (National Oceanic and Atmospheric Administration)"

(2)(A) The heading of section 202 of such title is amended to read as follows:

"§ 202. Pay grade: retired Coast Guard commodores".

(B) The item relating to section 202 in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"202. Pay grade: retired Coast Guard commodores.".

(c) The matter in the table in section 741(a) of title 10, United States Code, under the heading "Navy and Coast Guard" is amended—

(1) by striking out "Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard)" and inserting in lieu thereof "Rear admiral"; and

(2) by striking out "Commodore (Navy) and Rear admiral (lower half) (Coast Guard)" and inserting in lieu thereof "Commodore".

SEC. 312. (a) Chapter 55 of title 10, United States Code, is amended as follows:

(1) Section 1072 is amended—

(A) by striking out "the Secretary of Defense" and all that follows through "may be," in paragraph (2)(D)(iii) and inserting in lieu thereof "the administering Secretary"; and

(B) by adding at the end thereof the following new paragraph:

"(3) 'Administering Secretaries' means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.".

(2) Section 1073 is amended by striking out "and the Secretary" and all that follows through "Navy, and" and inserting in lieu thereof "the Secretary of Transportation shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter".

(3) Section 1074 is amended by striking out "Secretary of Defense and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "administering Secretaries".

(4) Section 1076 is amended by striking out "the Secretary of Defense and the Secretary of Health and Human Services" in subsections (b) and (d) and inserting in lieu thereof "the administering Secretaries".

(5) Section 1078 of title 10, United States Code, is amended by striking out "the Secretary of Health and Human Services" in subsections (a) and (b) and inserting in lieu thereof "the other administering Secretaries".

(6) Section 1079 is amended—

(A) by striking out "the Secretary of Defense and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "the administering Secretaries"; and

(B) by striking out "with the Secretary of Health and Human Services" in subsections (a) and (h)(2) and inserting in lieu thereof "with the other administering Secretaries".

(7) Section 1080 is amended by striking out "the Secretary of Health and Human Services" in the second sentence and inserting in lieu thereof "the other administering Secretaries".

(8) Section 1081 is amended by striking out "the Secretary of Defense or the Secretary of Health and Human Services" and inserting in lieu thereof "one of the administering Secretaries".

(9) Section 1083 is amended by striking out "the Secretary of Health and Human Services" in the second sentence and inserting in lieu thereof "the other administering Secretaries".

(10) Section 1084 is amended—

(A) by striking out "the Secretary of Defense or the Secretary of Health and Human Services" in the first sentence and inserting in lieu thereof "an administering Secretary"; and

(B) by striking out "he" in the second sentence and inserting in lieu thereof "the administering Secretary".

(11) The text of section 1085 of title 10, United States Code, is amended to read as follows:

"If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the average cost of providing the care.".

(12) Section 1086 is amended—

(A) by striking out "the Secretary of Health and Human Services" in subsection (a) and inserting in lieu thereof "the other administering Secretaries"; and

(B) by striking out "the Secretary of Defense and the Secretary of Health and Human Services" in the second sentence of subsection (e) and inserting the lieu thereof "the administering Secretaries".

(b)(1) Before October 1, 1985, the Secretary of the department in which the Coast Guard is operating may test a flat rate per diem allowances system for military travel allowances.

(2) These flat rate per diem allowances are an amount determined by the Secretary to be sufficient to meet normal and necessary expenses in the area in which travel is performed.

(3) The allowances may be not more than $75 for each day in the continental United States.

(4) The test may not begin before the Committees on Commerce, Science, and Transportation and Armed Services of the Senate and the Committees on Merchant Marine and Fisheries and Armed Services of the House of Representatives are notified of the test.

SUBTITLE C

SEC. 320. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the vessel Wingaway, official number 654146, owned by George M. Brereton, has the right to engage in the coastwise trade.

SEC. 321. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel Dad's Pad, official number 549526, owned by John C. Sciacca, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

SEC. 322. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel Zorba, official number 229763, owned by Howard Costa, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

SEC. 323. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel La Jolie, Michigan registration number MC-2807-LB, owned by Hugh Lewis, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

SEC. 324. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel Endless Summer, official number 296259, owned by the Commonwealth of Virginia, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

SEC. 325. (a) Section 8101(g) of title 46, United States Code, is amended by striking "or part B of this subtitle applies" and substituting "applies or which is subject to inspection under chapter 33 of this title".

(b) Section 8301(a) of title 46, United States Code, is amended by—

(1) [illegible]ter "lakes" inserting "(except the Great Lakes)"; and

(2) striking "to which part B of this subtitle applies" and inserting "subject to inspection under chapter 33 of this title".

(c) Section 8301(a)(1) of title 46, United States Code, is amended by inserting "propelled by machinery or carrying passengers" after "vessels".

(d) The analysis of chapter 85 of title 46, United States Code, is amended by adding:

"8503. Federal pilots authorized.".

(e) Section 8501(a) of title 46, United States Code is amended by striking "part," and substituting "subtitle,".

(f) Chapter 85 of title 46, United States Code, is amended by adding the following new section:

"§ 8503. Federal pilots authorized

"(a) The Secretary may require a pilot licensed under section 7101 of this title on a self-propelled vessel when a pilot is not required by State law and the vessel is—

"(1) engaged in foreign commerce; and

"(2) operating on the navigable waters of the United States.

"(b) A requirement prescribed under subsection (a) of this section is terminated when the State having jurisdiction over the area involved—

"(1) establishes a requirement for a State licensed pilot; and

"(2) notifies the Secretary of that fact.

"(c) For the Saint Lawrence Seaway, the Secretary may not delegate the authority under this section to an agency except the Saint Lawrence Seaway Development Corporation.

"(d) A person violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

"(e) A person that willfully and knowingly violates this section or a regulation prescribed under this section shall be fined not more than $50,000, imprisoned for not more than five years, or both.".

(g) Section 7 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1226) is repealed.

SUBTITLE D

SEC. 330. Section 2 of the Central, Western, and South Pacific Fisheries Development Act (Public Law 92-444; 16 U.S.C. 758e) is amended by striking out "Pacific Tuna Development Foundation" and inserting in lieu thereof "Pacific Fisheries Development Foundation".

SUBTITLE E—SHIPPING

SEC. 340. Subtitle II of title 46, United States Code, "Shipping", is amended as follows:

(1) Section 2101(13) is amended by striking "except an oceanographic research vessel or an offshore supply vessel." and substituting "except a fishing, fish processing, oceanographic research, or offshore supply vessel.".

(2) Section 2101(21)(C) is amended by—

(A) striking "an offshore supply" and substituting "a fishing or fish processing vessel, a vessel exempt under section 3302(k) of this title, or an offshore supply";

(B) striking "or" at the end of subclause (viii);

(C) striking "board." at the end of (ix) and substituting "board; or"; and

(D) adding at the end the following:

"(x) for a fishing or fish processing vessel or a vessel exempt under section 3302(k), an individual employed in fishing or fish processing carried on board the vessel; or"; and

(3) Section 2101 is amended by inserting between clauses (10) and (11) the following:

"(10a) 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.".

(4) Section 2101 is amended by inserting between clauses (11) and (12) the following:

"(11a) 'fishing' means—

"(A) the catching, taking, or harvesting of fish;

"(B) the attempted catching, taking, or harvesting of fish; or

"(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

"(11b) 'fishing vessel' means any vessel used primarily for, or equipped to be used primarily for, or of a type normally used primarily for, commercial fishing.

"(11c) 'fish processing' means processing or any other activity primarily in support of commercial fishing, including preparation, supply, storage, refrigeration, or transportation.

"(11d) 'fish processing vessel' means any vessel used primarily for, or equipped to be used primarily for, or of a type normally used primarily for, fish processing.".

(5) Section 3302 (b) and (c) is amended to read as follows:

"(b) A fishing vessel is exempt from section 3301 (1), (4), and (7) of this title.

"(c) A fish processing vessel is exempt from section 3301 (1), (4), (6), and (7) of this title.".

(6) Section 3302 is amended by adding the following subsection:

"(k) Before January 1, 1989, a fishing or fish processing vessel, in operation prior to January 1, 1984, carrying cargo or carrying not more than twelve individuals employed in fishing or fish processing to or from another fishing or fish processing vessel or a facility used in fish processing, or and to or from a remote community in Alaska, is exempt from section 3301 (1), (3), (4), (6), (7), and (8) of this title.".

(7) Section 3702 (c) and (d) is amended to read as follows:

"(c) This chapter does not apply to a fishing or fish processing vessel.

"(d) A fishing or fish processing vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk and when not used only for fishing or fish processing.".

(8)(A) Item 7111 in the analysis of chapter 71 is amended to read as follows:

"7111. Licenses for fishing and fish processing vessels.".

(B) section 7111 is amended to read as follows:

"§ 7111. Licenses for fishing and fish processing vessels

"Examinations for licensing individuals on fishing and fish processing vessels shall be oral.".

(9) Section 7301(a)(1) is amended by striking "fishing" and substituting "fishing or fish processing".

(10) Section 8104(c) is amended by striking "fishing" and substituting "fishing or fish processing".

(11) Section 8104(d) is amended by striking "a fishing or whaling vessel," and substituting "a fishing, fish processing, or whaling vessel, a vessel exempt under section 3302(k) of this title,".

(12) Section 8701(a) is amended by—

(A) striking "and" at the end of clause (4);

(B) striking "personnel." at the end of clause (5) and substituting "personnel; and" and

(C) adding at the end the following clause:

"(6) a vessel exempt under section 3302(k) of this title.".

(13) Section 8702(a) is amended by—

(A) striking "and" at the end of clause (4);

(B) striking "personnel." at the end of clause (5) and substituting "personnel; and" and

(C) adding at the end the following clause:

"(6) a vessel exempt under section 3302(k) of this title.".

(14) Sections 8301(c), 8302(a)(1), 10303(c), 10309(c), 10311(e), 10313(b), 10313(e), 10313(h), 10314(e), 10504(a), 10504(d), 10505(d), 10509(c), 10901, 11103(c), and 11106(d) are amended by striking "a fishing or whaling vessel" and substituting "a fishing, fish processing, or whaling vessel".

(15) Section 11108 is amended by striking "a fisherman employed on a fishing vessel" and substituting "an individual employed on a fishing or fish processing vessel".

(16) Section 11109(c) is amended to read as follows:

"(c) This section applies to an individual on a fishing or fish processing vessel.".

SUBTITLE F—PACIFIC SALMON

SEC. 350. Insert in 22 U.S.C. 1978(a)(1) after "under circumstances which diminish the effectiveness of" the following: "domestic conservation efforts relating to Pacific salmon or".

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana [Mr. BREAUX].

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BREAUX: Strike all after the enacting clause and substitute:

TITLE I—MARINE SANCTUARIES

SEC. 101. This title may be cited as the "Marine Sanctuaries Amendments of 1984".

SEC. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

"TITLE III—NATIONAL MARINE SANCTUARIES

"SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

"(a) FINDINGS.—The Congress finds that—

"(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

"(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

"(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

"(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resource conservation and management; and

"(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

"(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

"(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.

"SEC. 302. DEFINITIONS.

"As used in this title, the term—

"(1) 'draft management plan' means the plan described in section 304(a)(1)(E);

"(2) 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

"(3) 'marine environment' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law;

"(4) 'Secretary' means the Secretary of Commerce; and

"(5) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth territory, or possession of the United States.

"SEC. 303. SANCTUARY DESIGNATION STANDARDS.

"(a) STANDARDS.—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary—

"(1) determines that the designation will fulfill the purposes and policies of this title; and

"(2) finds that—

"(A) the area is of special national significance due to its resource or human-use values;

"(B) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

"(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

"(D) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

"(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.—

"(1) FACTORS.—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

"(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

"(B) the area's historical, cultural, archaeological, or paleontological significance;

"(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

"(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

"(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

"(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

"(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

"(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development; and

"(I) the socioeconomic effects of sanctuary designation.

"(2) CONSULTATION.—In making determinations and findings, the Secretary shall consult with—

"(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

"(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

"(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

"(E) other interested persons.

"(3) RESOURCE ASSESSMENT REPORT.—In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior.

"SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

"(a) SANCTUARY PROPOSAL.–

"(1) NOTICE.—In proposing to designate a national marine sanctuary, the Secretary shall—

"(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

"(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

"(C) on the same day the notice required by subparagraph (A) is issued, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

"(i) the terms of the proposed designation;

"(ii) the basis of the findings made under section 303(a) with respect to the area;

"(iii) an assessment of the considerations under section 303(b)(1);

"(iv) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

"(v) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement, including surveillance, activities for the area;

"(vi) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

"(vii) the draft environmental impact statement;

"(viii) an evaluation of the advantages of cooperative State and Federal management if all or part of a proposed marine sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.); and

"(ix) the proposed regulations referred to in subparagraph (A).

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary shall—

"(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 303(b)(3), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

"(B) make copies of the draft environmental impact statement available to the public.

"(3) PUBLIC HEARING.—No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

"(4) TERMS OF DESIGNATION.—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

"(5) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and

compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations.

"(6) COMMITTEE ACTION.—After receiving the prospectus under subsection (a)(1)(C), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

"(b) TAKING EFFECT OF DESIGNATIONS.—

"(1) NOTICE.—In designating a national marine sancturay, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

"(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

"(B) in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

"(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that action taken under paragraph (1) (A) or (B) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

"(3) RESOLUTION OF DISAPPROVAL.—For the purposes of this subsection, the term 'resolution of disapproval' means a joint resolution which states after the resolving clause the following: 'That the Congress disapproves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on .', the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: 'That the Congress approves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on but disapproves the following terms of such designation: the first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

"(4) PROCEDURES.—

"(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die: and

"(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

"(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rules of such House.

"(c) ACCESS AND VALID RIGHTS.—

"(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access if the lease, permit, license, or right—

"(A) was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1984, with respect to any national marine sanctuary designated before that date; or

"(B) is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1984.

"(2) The exercise of a lease, permit license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

SEC. 305. APPLICATION OF REGULATIONS AND INTERNATIONAL NEGOTIATIONS.

"(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

"(1) generally recognized principles of international law;

"(2) an agreement between the United States and the foreign state of which the person is a citizen; or

"(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

"(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

"SEC. 306. RESEARCH AND EDUCATION.

"The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this title.

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

"(b) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

"(3) IN REM JURISDICTION.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attoney General in the name of the United States. The Attorney General may bring suit either on the Attorney General's own initiative or at the request of the Secretary.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated:

"(1) $3,000,000 for fiscal year 1985.

"(2) $3,300,000 for fiscal year 1986.

"(3) $3,600,000 for fiscal year 1987.

"(4) $3,900,000 for fiscal year 1988.

"SEC. 309. SEVERABILITY.

"If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application

of such provision to other persons and circumstances shall not be affected thereby.".

TITLE II—MARINE SAFETY

Subtitle A—Inspection and Reporting Requirements

SEC. 210. This subtitle may be cited as the "Maritime Safety Act of 1984".

SEC. 211. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

"(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

"(1) will be required to be inspected; or

"(2) will not be operated so as to require an inspection.".

(b) Section 3311 of title 46, United States Code, is amended by—

(1) striking "A vessel" and substituting "(a) Except as provided in subsection (b), a vessel";

(2) striking the word "valid"; and

(3) inserting at the end the following:

"(b) The Secretary may direct the owner, charterer, managing operator, agent, master, or individual in charge of a vessel subject to inspection under this chapter and not having on board a certificate of inspection—

"(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued;

"(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment; or

"(3) to have the vessel proceed to a place to make repairs necessary to obtain a certificate of inspection.".

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking "The" the first time it appears and substituting "Except as otherwise provided in this part, the" and

(B) striking "$1,000, except that when the violation involves operation of a barge, the penalty is $500.", and substituting "not more than $5,000.".

(2) Subsection (c) is amended by striking "$2,000," and substituting "$5,000,".

(3) Subsection (d) is amended by striking "$2,000," and substituting "$5,000,".

(4) Subsection (e) is amended by striking "$2,000," and substituting "$10,000,".

(5) Subsection (f) is amended by striking "$5,000," and substituting "$10,000,".

(6) Subsection (g) is amended by striking "shall be fined not more than $10,000, imprisoned for not more than one year, or both," and substituting "is liable to the Government for a civil penalty of not more than $5,000,".

(7) Subsection (h) is amended by striking "United States Government for a civil penalty of not more than $500." and substituting "Government for a civil penalty of not more than $1,000.".

(8) At the end add the following:

"(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than $1,000.

"(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than $2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(2) A person is not liable for a penalty under this subsection if—

"(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;

"(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

"(C) The Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection

"(k) The owner, charterer, managing operator, agent, master, or individual in charge of the vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(l) A person committing an act described by subsections (b)-(f) of this section is liable to the Government for a civil penalty of not more than $5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.".

SEC. 212. (a) Chapter 23 of title 46, United States Code is amended as follows:

(1) At the end of the chapter analysis, add the following:

"2306. Vessel reporting requirements.".

(2) In section 2301, strike "This chapter" and substitute "Except as provided in section 2306 of this title, this chapter".

(3) Add at the end the following:

"§ 2306. Vessel reporting requirements

"(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States, having reason to believe (because of lack of communication with or nonappearance of a vessel of any other incident) that the vessel may have been lost or imperiled, immediately shall—

(A) notify the Coast Guard; and

(B) use all available means to determine the status of the vessel.

"(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), has received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall—

(A) notify the Coast Guard; and

(B) use all available means to determine the status of the vessel.

"(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours after nonwritten notification to the Coast Guard under those paragraphs.

"(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than $5,000 for each day during which the violation occurs.

"(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

"(2) A master violating this subsection is liable to the Government for a civil penalty of not more than $1,000 for each day during which the violation occurs.

"(c) The Secretary may prescribe regulations to carry out this section.".

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking "and incidents"; and (B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking "or incident".

SEC. 213. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out "$60" each place it appears and inserting in lieu thereof "$420".

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 214. Sections 211(a) and 212 of this subtitle are effective 180 days after the date of enactment of this Act.

Subtitle B—Recreational Diving Safety

SEC. 220. (a) Within 180 days after the date of enactment of this section, the Rules of the Road Advisory Council and the National Boating Safety Advisory Council shall report to the Secretary of the department in which the Coast Guard is operating recommendations regarding the need for the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe) or any other signal, if appropriate, to promote safety in recreational diving operations and navigation under the jurisdiction of the United States. In developing the recommendations, the councils shall consider, as a minimum: visibility requirements; restriction of diver and vessel operations in a diving area; adequacy of, and conformity with, the laws of the States and international practice and with the laws of the United States governing navigation safety; appropriate penalties; and the views of the recreational diving community.

(b) Within one year after the date of enactment of this section, the Secretary of the department in which the Coast Guard is operating shall transmit to Congress the recommendations required under subsection (a) of this section and the Secretary's evaluation and recommendations for recreational diving safety and, as appropriate, proposed legislation to implement those recommendations.

TITLE III—NOAA CORPS

SUBTITLE A—HEALTH CARE

SEC. 310. (a) Section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding "(a)" after "SEC. 3." and by adding at the end the following new subsection:

"(b) the Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.".

(b) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking "at facilities of the Public Health Service: *Provided*, That" and inserting in lieu thereof "by the Public Health Service if".

(c) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking "at its hospitals and relief stations"; and

(2) by striking "at hospitals of the Public Health Service: *Provided,* That" and inserting in lieu thereof "by the Public Health Service if".

SUBTITLE B—PERSONNEL PROVISIONS

SEC. 320. (a)(1) Sections 8 and 9 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853g, 853h) are amended to read as follows:

"SEC. 8. (a) as recommended by the Personnel board—

"(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

"(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

"(b) In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

"(c) Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretry of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

"SEC. 9. (a) An officer who is separated under section 8 and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

"(b)(1) In the case of an officer who has completed five or more years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) 12 times the monthly basic pay to which the officer was entitled at the time of separation, or $30,000, whichever is less.

"(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1), but in no event more than $15,000.

"(C) In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

"(d)(1) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not be included in determining the years of creditable service that may be counted in computing the separation pay of the officer under this section.

"(2) The total amount that an officer may receive in separation pay under this section and separation pay, severance pay, and readjustment pay under any other provision of law based on service in a uniformed service may not exceed $30,000.

"(e)(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

"(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Veterans' Administration, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.".

(2) Section 1174(h)(1) of title 10, United States Code, is amended by striking out "severance pay" the first and second place it appears and inserting in lieu thereof "separation pay, severance pay,".

(b) Section 12(c) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853j-1(c)) is amended—

(1) by striking out "deemed necessary or desirable" and inserting in lieu thereof "determined";

(2) by striking out "alone provided" and inserting in lieu thereof "alone. Any";

(3) by striking out "will terminate" and inserting in lieu thereof "terminates"; and

(4) by striking out "assignment," and all that follows and inserting in lieu thereof "assignment.".

(c)(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.) is amended by adding at the end thereof the following new section:

"SEC. 24. (a) The Secretary may designate positions in the Administration as being positions of importance and reponsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or commodore as designated by the Secretary for each position, and may assign officers to those positions. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

"(b) The number of officers serving on active duty under appointments under this section may not exceed—

"(1) one in the grade of vice admiral;

"(2) three in the grade of rear admiral; and

"(3) three in the grade of commodore.

"(c) An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

"(d) An appointment of an officer under this section—

"(1) does not vacate the permanent grade held by the officer; and

"(2) creates a vacancy on the active list.

"(e) The provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan.".

(2) After the date of the enactment of this Act, no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).

(3) Effective as of December 28, 1977, section 3(a)(1) of Public Law 95-219 is amended by striking out "Section 2" and inserting in lieu thereof "Section 2(e)".

(4)(A) An officer of the commissioned corps of the National Oceanic and Atmospheric Administration who on the day before the date of the enactment of this Act was carried on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half shall after that date be serving in the grade of rear admiral.

(B) An officer who on the day before the date of the enactment of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date be serving in the grade of commodore, but shall (while serving in that grade) retain the title of rear admiral and be entitled to wear the uniform and insignia of a rear admiral.

(C) An officer who on the date before the date of the enactment of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral.

TITLE IV—FISHERIES

SUBTITLE A—PACIFIC FISHERIES DEVELOPMENT FOUNDATION

SEC. 410. Section 2 of the Central, Western, and South Pacific Fisheries Development Act (Public Law 92-444; 16 U.S.C. 758e) is amended by striking out "Pacific Tuna Development Foundation" and inserting in lieu thereof "Pacific Fisheries Development Foundation".

Subtitle B—Fishermen's Contingency Fund

SEC. 420. Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841 et seq.) is amended—

(1) by striking in section 403(a)(1) "limitation on" and substituting "limitation of not less than 90 days on";

(2) by striking out "25 per centum" in section 403(c)(1) and inserting in lieu thereof "50 percent";

(3) by striking out ", except" and all that follows thereafter in section 405(a) and inserting in lieu thereof "under subsection (d)(1).''; and

(4) by inserting "time," before "form" in section 405(d)(1).

Subtitle C—Fisheries Loan Fund

SEC. 430. The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) is amended—

(1) by striking out "September 30, 1984" each place it appears in section 4(c) and inserting in lieu thereof "September 30, 1986"; and

(2) by striking out "1982, 1983, and 1984." in section 7(c)(6) and inserting in lieu thereof "1982, 1983, 1984, 1985, and 1986.".

SEC. 431. Section 221(a) of the American Fisheries Promotion Act (16 U.S.C. 742(c) note) is amended—

(1) by amending subsection (a)—

(A) by amending the side heading to read as follows: "LOAN AUTHORITY.—", and

(B) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986";

(2) by amending subsection (b)—

(A) by striking out "each of fiscal years 1982, 1983, 1984," in paragraph (2)(A) and inserting in lieu thereof "each of fiscal years 1982, 1983, 1984, 1985, and 1986,", and

(B) by striking out "1981, 1982, 1983, and 1984" in paragraph (2)(C) and inserting in lieu thereof "1981, 1982, 1983, 1984, 1985, and 1986"; and

(3) by striking out "any of fiscal years 1981, 1982, 1983, and 1984," in subsection (c)(1) and inserting in lieu thereof "any of fiscal years 1981, 1982, 1983, 1984, 1985, and 1986,".

SEC. 432. All moneys in the Fisheries Loan Fund established under Section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), as amended, shall be invested by the Secretary of Commerce in obligations of the United States, except so much as shall be currently needed for loans or administrative expenses authorized under the Fisheries Loan Fund. All accrued proceeds from such investment shall be, subject to amounts provided in advance by appropriations, credited by the Secretary of the Treasury to the debt of the Secretary of Commerce incurred under Section 1105(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1275), as amended, in connection with fisheries financing under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended, for so long as such debt exists. All accrued proceeds from such investment, after such debt has been liquidated, shall be, subject to amounts provided in advance by appropriations, credited to the fisheries portion of the Federal Ship Financing Fund established under Section 1102 of the Merchant Marine Act, 1936 (46 U.S.C. 1272), as amended, and used for the fisheries purposes provided in title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended.

Subtitle D—Governing International Fishery Agreement With the Home Government of the Faroe Islands and the Government of Denmark

SEC. 440. Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act of 1976, the Governing International Fishery Agreement between the Government of the United States of America of the One Part and the Home Government of the Faroe Islands and the Government of Denmark of the Other Part Concerning Faroese Fishing in Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated July 13, 1984—

(1) is approved by Congress as a governing international fishery agreement for purposes of that Act; and

(2) may enter into force with respect to the United States in accordance with the terms of Article XVI of the Agreement following the enactment of this title.

TITLE V—VESSELS

SEC. 510. Notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 833), as applicable, the Secretary of the department in which the Coast Guard is operating may issue certificates of documentation for the following vessels—

(a) Wingaway, official number 654146;

(b) Endless Summer, official number 296259;

(c) Muskegon Clipper, official number 252908;

(d) Scuba King, official number 532376;

(e) Ululani, official number 239729;

(f) No Slack, official number 587630; and

(g) La Jolie, Michigan registration number MC2780LB.

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana [Mr. BREAUX].

The amendment in the nature of a substitute was agreed to.

Mr. BREAUX. Mr. Speaker, I am pleased to rise in support of S. 1102 which, I believe, will substantially strengthen the existing Marine Sanctuaries Program. In addition, titles II through V of this bill contain several noncontroversial yet very important provisions that have been worked out among our committee and the Senate relating to maritime safety, the NOAA corps, fisheries and the documentation of certain vessels under U.S. law.

Since its inception in 1972, the Marine Sanctuaries Program has been wrought with controversy largely attributable to the initial failure of Congress to provide clear and specific guidance regarding the objectives of this program. The bill before us represents the product of an extensive and commendable effort on the part of the Members and staffs of the House and the Senate to rectify many of the deficiencies in existing law.

First, title I of the bill clarifies that the Marine Sanctuaries Program is not to be used as an oceanwide management tool but is simply a means to protect relatively small, discrete areas of the marine environment where existing State and Federal authorities are inadequate. Such areas must possess certain unique characteristics of national significance which not only should, but can be practically managed as a unit. Furthermore, this legislation specifies that while the overall thrust of the program is to protect certain unique areas from degredation, we have not created another wilderness area system in which man's activities are to be uniformly excluded. Instead, man's activities are to be permitted, and in some cases, encouraged in marine sanctuaries to the extent that such activities do not detract from the integrity of the sanctuary.

Over the years, many ocean resource user groups have indicated a need for greater access to a better defined decisionmaking process regarding marine sanctuary designations. In this bill we have provided explicit guidelines for the Secretary of Commerce, in full cooperation with other affected Federal agencies, to evaluate and ultimately select proposed marine sanctuary sites. This evaluation must include the preparation of an environmental impact statement along with a resource assessment report documenting the present and potential uses of the area, including fishing, minerals, and energy development.

Marine sanctuary proposals are then to be submitted to the Merchant Marine and Fisheries Committee and the Committee on Commerce, Science, and Transportation in the Senate for their evaluation. It is intended that these committees will provide a forum to hear and evaluate disputes raised by those interests directly impacted by proposed marine sanctuary designations and to make responsible recommendations to the Secretary thereon. I fully expect that the Secretary will seriously consider the recommendations of Congress in making final marine sanctuary designations. If this is not found to be the case, I believe it will be appropriate for Congress to assert greater authority in designing marine sanctuaries through an affirmative sanctuary approval process.

Title I of the bill further directs the regional fishery management councils to develop draft regulations which pertain to fishing within marine sanctuaries. It is intended that the Secretary of Commerce shall promulgate such regulations according to proper administrative procedure to the extent that such draft regulations are consistent with the purposes and policies of the Marine Sanctuaries Act and the goals and objectives of the proposed sanctuary designation. It is further intended that, in developing such draft regulations, the regional fishery management councils will apply the national standards for fishery management of the Fishery Conservation and Management Act.

Title II of this bill contains the Maritime Safety Act of 1984 which addresses a number of deficiencies in existing law regarding the safe operation of U.S. merchant vessels. These provisions include a requirement for the owner, agent, or managing operator of a vessel to notify the Coast Guard well in advance of any upcoming inspection requirements of vessels under their purview, as well as stiff civil penalties for the operation of a vessel without a certificate of inspection.

In order to facilitate and expedite a timely response to maritime disaster

by the U.S. Coast Guard, title II further requires the owner, agent or managing operator and the master of a merchant vessel to maintain frequent scheduled communications as a means to keep constant track of vessels. Immediate notification of the U.S. Coast Guard is also required if scheduled communications with a vessel are broken and there is a reason to believe that such vessel may have been lost or imperiled.

Lastly, the Maritime Safety Act of 1984 contained in title II of this bill attemts to modernize a 1936 law which imposes a $60 per ton limit of shipowner's liability for death and personal injury claims by raising that limit, consistent with inflation, to $420 per ton.

Title II of the bill also contains a noncontroversial provision relating to the safety of recreational diving in U.S. waters. The bill directs the rules of the Road Advisory Council and the National Boating Safety Advisory Council in cooperation with the U.S. Coast Guard to fully examine and report on the safety issues surrounding divers and vessels in the maritime environment, particularly with respect to the need for display of the divers flag to promote diving safety as it relates to existing State laws.

Briefly, title III of S. 1102 attempts to bring the health care and retirement benefits of certain National Oceanic and Atmospheric Administration [NOAA] personnel, particularly those in the NOAA Corps which is responsible for operating the NOAA vessel fleet, more into line with other similar agencies. The health care provisions respond to the fact that the Public Health Service facilities which provide services to the NOAA Corps personnel have been phased out of existence. These provisions change no basic entitlements and are virtually identical to the authority given to the U.S. Coast Guard. In order to improve the administration and functioning of the NOAA Corps, this title of the bill also provides the Secretary of Commerce with the flexibility to assign commissioned officers in the NOAA Corps to a wide range of administrative operational positions.

Title IV of the bill contains several noncontroversial but very important provisions relating to fisheries. Briefly, section 410 amends the Central, Western, and South Pacific Fisheries Development Act to change the name of the Pacific Tuna Development Foundation to the Pacific Fisheries Development Foundation. This change simply reflects the intention of the National Marine Fisheries Service and the Foundation to expand their traditional tuna fishery development activities to include the development activities to include the development of other fishery resources in the central, western, and south Pacific region.

Section 420 amends the fishermen's contingency fund established under title IV of the Outer Continental Shelf Lands Act. As you know, the fishermen's contingency fund provides compensation to U.S. commercial fishermen for vessel, gear, and economic loss resulting from obstructions related to oil and gas exploration and development on the Outer Continental Shelf [OCS]. The fund is entirely capitalized by assessments on the oil and gas industry operating on the OCS.

Because of difficulties in program administration and with fishermen meeting the current statutory deadline for filing claims within 60 days, the amendment directs the Secretary of Commerce to establish by regulation a timeframe for claim filing procedures which is more responsive to the needs of both industry and the National Marine Fisheries Service which administers this program. The amendment does specify, however, that in no case shall the limit on the time for filing a claim be less than 90 days. In addition to these provisions, section 420 of the bill amends the fishermen's contingency fund to increase the level of compensation for a fishermen's economic loss—that being the gross revenue lost during the time required for gear or vessel repair—from 25 percent to 50 percent. This level of compensation will preserve the strong disincentive for fraudulent economic loss claims yet will provide a much more equitable settlement to an aggrieved fishing industry.

Section 430 of the bill reauthorizes the fisheries loan fund established pursuant to the Fish and Wildlife Act of 1956. As you know, this fund is currently used primarily to provide short-term assistance to commercial fishermen in danger of defaulting first, on Federal loan guarantees under the Title XI Obligation Guaranty Program and, second, on other non-Federal loans. As such, the fund has served as an important protection for Federal investments in a number of fisheries throughout the United States and is capitalized entirely by fees assessed on foreign fishermen for the privilege of fishing in U.S. waters.

Section 430 also amends the Fisheries Loan Fund Program to deposit the moneys in the fund in an interest bearing account which will generate revenue, subject to appropriations, to assist in compensating any defaults which have or will occur under the title XI program. I think this provision represents a sound business approach to the management of these funds and is a very appropriate use of foreign fishing fees to assist our Government and fishing industry.

Finally, section 440 of this title provides the necessary congressional approval of a Governing International Fishery Agreement [GIFA] recently negotiated by the State Department between the United States and Denmark on behalf of the Faroe Islands. This agreement will permit the Faroese shark fishermen to continue to operate a small fishery in U.S. waters in the North Atlantic and will contribute to the maintenance of very positive fishery relations with this Nation.

Last, title V of the bill authorizes the Secretary of the department in which the Coast Guard is operating to issue certificates of documentation for seven vessels so that they may engage in coastwise trade in the United States.

● Mr. JONES of North Carolina. Mr. Speaker, S. 1102 is a bill composed of a number of different parts that include various measures of interest to the Committee on Merchant Marine and Fisheries.

The primary bill, to which all other legislative vehicles have been attached, would reauthorize and make some important changes to the National Marine Sanctuaries Program. The House bill, H.R. 2062, was passed by this body on June 14, 1983, under suspension of the rules by a 379-38 vote. This bill that has been sent to us from the other body maintains the essential features and integrity of H.R. 2062.

The concept of protecting special areas of the public domain is not a new one: This Nation has dedicated 81.5 million acres as national parks; 90 million acres as national wildlife refuges; and millions more acres as national forests, wilderness areas, wild and scenic rivers, and other special designations. Applying the concept to special areas of the ocean environment is relatively new.

In 1972, title III of the Marine Protection, Research and Sanctuaries Act gave a broad mandate for protection of special ocean areas. While that broad mandate has led to certain misunderstandings, it has not led, as some have suggested, to widespread misuse. In the program's 10-year history, only six sites have been designated as national marine sanctuaries, encompassing some 1.5 million acres. This amounts to only 0.15 percent of the entire Outer Continental Shelf [OCS]. By any standard, the program has been a modest one.

While the concept is a sound one, and its administration has been modest, legitimate questions and concerns have arisen regarding the program's future directions and long-range objectives. The original, broad mandate of title III is not sufficient to resolve such concerns. H.R. 2062, a bill which passed the House by a vote of 379-38, refined and clarified that original mandate. S. 1102 is virtually identical to that bill, and achieves the same objectives, which I will enumerate:

First, a clear and consistent statement of findings and purposes clarifies that the primary and overriding objective of a national marine sanctuary is resource protection. Although management is to be based on the concept of multiple use of sanctuary resources, the emphasis is on active conservation and management—including regulation where necessary—to control the mix of uses and maintain the recognized values of the site.

Second, a system of checks and balances is instilled within the legislation to prevent duplicative protections and regulations. Several provisions of this legislation are designed to ensure that sanctuary designation will occur only where there is evidence that existing authorities are insufficient to achieve the desired protections. In addition, sanctuary management is to rely primarily on coordination and enhancement of existing authorities, and only secondarily on additional regulation.

Third, exhaustive procedural clarifications provide a step-by-step outline for decisionmaking. Clear designation standards and compulsory consultation will facilitate more effective public involvement. Enhanced congressional review, including advanced notification and reporting requirements and opportunity for dissapproval of any designation, will lead to a process which is more sensitive to the concerns of affected parties.

While both the House-passed and Senate-passed bills are virtually identical organizationally, procedurally, and programmatically, several differences need explanation:

(1) The Senate bill contains the requirement of a resource assessment report, in conjunction with development of an environmental impact statement, which is designed to ensure that all present and potential uses of sanctuary resources are cataloged and considered. Such information would be available without this requirement, but this provision would ensure that it is consolidated and presented in report form;

(2) Common to both bills is a requirement that the relevant regional fishery management councils draft any regulations to govern fishing within a sanctuary. Although S. 1102 places greater restrictions on the Secretary's authority to reject or modify such draft regulations, the operative clause of both bills is identical: Regulations drafted by a regional council must fulfill the purposes and policies of title III and the goals and objectives of the proposed designation;

(3) The vehicle for disapproval of a proposed designation is changed from a concurrent resolution—in H.R. 2062—to a joint resolution—in S. 1102. This change was necessitated by the recent decision of the U.S. Supreme Court in Chadda against the U.S. Immigration and Naturalization Service. Additionally, under S. 1102, a resolution of disapproval would, once reported from committee, be considered a privileged motion. The latter constitutes an amendment to the rules of the House for which we have received consent from the Committee on Rules; and

(4) A provision safeguarding access and valid rights to use sanctuary resources was added to the Senate bill to ensure that sanctuary designation would not be used as a mechanism to terminate access or rights which had been established prior to designation of an area as a sanctuary. Such rights include permits, leases, licenses and subsistence use rights. It is clear, however, that all such rights are subject to regulation, by the Secretary, as necessary to provide protection to sanctuary resources.

The Members and staff of both bodies have worked through both sessions of the 98th Congress to arrive at this measure. It is thoroughly considered, and it will serve well to balance the needs for development and protection of that Nation's ocean margins. This is not an easy task, and it will not come without conflict, but this measure will ensure that such conflicts are addressed directly, and resolved fairly.

● Mr. Speaker, I would also like to address the colloquy between the gentleman from Louisiana and the gentleman from Alaska.

I would like to take this opportunity to clarify for the record that these distinguished members of the committee are offering their comments on the marine sanctuaries portion of S. 1102 in their individual capacities and not on behalf of the Committee on Merchant Marine and Fisheries. To the extent that their comments differ from the interpretations or statements of intention that are contained in the committee's report, the latter should be understood to reflect the views of the committee, while the former reflects the views of these individual members. To clarify the record, I would like to take a few moments to point out several areas in which the gentlemen's colloquy differs from the committee's understanding of the legislation.

First, there is no intention to favor the selection of small sites as implied in the colloquy.

The colloquy erroneously interprets the bill to require that no marine sanctuary may be designated unless the Secretary finds that "it is small enough to allow comprehensive management * * *". In fact, the bill requires a finding that "the area is of a size and nature that will permit comprehensive and coordinated conservation and management. While an area may be too large for comprehensive management, it is also possible that an area may be too small, and therefore, insufficient to control activities affecting sanctuary resources. In addition, the House report—page 21—allows that:

> The Secretary retains the flexibility to tailor the boundaries of a sanctuary in order to protect the resources of the area. However, the Secretary should limit the size of sanctuaries to the geographic area necessary to protect these resources.

The bill's intent is to ensure that a sanctuary is of a proper size to achieve the stated purpose—resource protection—no bigger and no smaller.

Second, the colloquy incorrectly claims that the term "discrete" refers to, and places limitations on, the size of a sanctuary.

The colloquy suggests that these amendments require that marine sanctuaries be discrete and that this term means "small enough to, and of a nature which would, allow coordinated and comprehensive management." I must clarify for the record the committee's understanding of the term "discrete."

Section 303(a) authorizes the Secretary to "* * * designate any discrete area of the marine environment as a national marine sanctuary * * *". The term is also applied in section 303(b)(1)(F) which requires the Secretary to consider:

> The manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities.

The term is not defined in the legislation and was not discussed in the House report. The intent was that the plain meaning of the term would apply. Webster's new collegiate dictionary defines the term to mean "constituting a separate entity or individually distinct." Furthermore, the context in which the term is applied in section 303(b)(1)(F) reveals that the term "discrete" does not modify or refer to size. Rather, it refers to ecological considerations and to the stated preference that the sanctuary constitute an ecological unit with clearly definable boundaries.

Third, there is no requirement for demonstration of fiscal and administrative capacities prior to designation of a sanctuary.

The colloquy suggests that no sanctuary should be designated unless it is first:

> Clearly demonstrated that this program has the fiscal and administrative capacity to * * * achieved coordinated and comprehensive management.

It should be noted that the bill itself requires no demonstration of fiscal or administrative capacity prior to designation. Section 304(a)(1)(C) requires the Secretary to provide specific information to the Congress regarding each proposed designation, and clause (vi) identifies the following information:

An estimate of the annual cost of the proposed designation, including costs of personnel, equipment, and facilities, enforcement, research, and public education.

However, the intent of this provision is simply to facilitate more informed review of the proposal by the Congress. In addition, the House report—page 21—references "fiscal and staff constraints" as one additional factor which the Secretary should evaluate in establishing sanctuary boundaries. However, in no manner could this be construed as a requirement for demonstration of such capacity prior to designation.

Fourth, there is no basis for asserting that any of the established standards will be difficult to sustain.

Section 303(a) outlines five standards which must be met by any area proposed for designation as a marine sanctuary. Section 303(a)(2)(B) requires a finding that:

Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area * * *

The colloquy concludes that:

* * * such a finding would be difficult to make and sustain considering the many existing stringent State and Federal environmental laws and regulations which already ensure extensive protection of the marine environment.

Under section 303(a), there is no basis for a judgment that one of the five standards would be any more or less difficult to sustain than the others. Neither is this interpretation supported by the detailed discussion of this standard in the House report. Furthermore, such an interpretation is not compatible with the general intent of the bill as expressed in the House report and floor debate on H.R. 2062. The future designation of marine sanctuaries is clearly anticipated in the findings—section 301(a)—and the purposes and policies—section 301(b). The degree of difficulty associated with any one of the findings will turn on the facts of each case. In general, the committee intended to adopt a set of findings that would, as a whole, constitute reasonable and appropriate standards to govern the designation process. It did not, however, intend by these requirements to erect a set of difficult barriers to the designation of marine sanctuaries, just as it did not intend these findings to be mere formalities.

Lastly, it is not the intent of these amendments to ensure that the activities of other Federal agencies are not disrupted, but rather, that they are disrupted only to the extent necessary to achieve the desired protection.

The colloquy strongly implies that a designation is not to occur if it would disrupt the ongoing or planned activities of another Federal agency. Such interpretation is contradictory to the authority which is granted to the Secretary of Commerce by these amendments. The Secretary is authorized to designate marine sanctuaries and to promulgate regulations necessary to implement that designation. There is no condition on the Secretary's authority to regulate activities affecting the sanctuary except those provided in sections 304(a)(5) and 304(c), governing fishing regulations and access and valid rights respectively. Neither of these provisions precludes, either explicitly or implicitly, disruption of Federal agency activities.

While interagency consultation is designed to inform the Secretary of the concerns of other Federal agencies, it is the Secretary who is empowered with final decisionmaking authority, including the decision to designate a site and to regulate activities affecting the resources of that site. Such decisions may necessarily involve the disruption of other Federal agency activities. However, such disruptions are to be limited to the extent necessary to achieve protection of the resource.

Finally, the colloquy implies that the views of Federal agencies are to be elevated above those of other potentially affected or interested parties enumerated in section 303(b). This implication is inappropriate. The views of all parties should be afforded due consideration by the Secretary.●

● Mr. D'AMOURS. Mr. Speaker, I rise in support of S. 1102, which, among other things, reauthorizes the National Marine Sanctuary Program. The House counterpart to this provision is H.R. 2062 which was introduced by myself and Mr. PRITCHARD and passed the House on June 14, 1983, by the overwhelming vote of 379 to 38.

The National Marine Sanctuary Program was created in 1972 in order to provide a mechanism to protect and manage valuable areas of our marine environment. Six sanctuaries have been designated to date. These sanctuaries have been designated to protect such diverse areas as the historically and culturally significant Civil War ironclad U.S.S. *Monitor*, recreationally and educationally valuable reef areas off Georgia and Florida, and marine mammal and bird habitats off California that are important for their ecological conservation and research values.

S. 1102 reauthorizes the program for 4 years. The authorization levels start at $3 million for fiscal year 1985 and increase to $3.9 million for fiscal year 1988. These levels will allow the designation and management of one new sanctuary per year.

The program has not been without controversy. This is largely because of mistaken public perceptions about the goals and purposes of this program and because of the failure of Congress to provide clear policy directives. Many of the early problems were successfully solved by the current program managers, and this bill attempts to correct the remaining outstanding problems.

H.R. 2062, as passed by the House, would substantially amend title III of the Marine Protection, Research and Sanctuaries Act. It reaffirms that the mission of the program is the establishment of a system of national marine sanctuaries based on identification, designation, and comprehensive management of special marine areas for the long-term benefit and enjoyment of the public. It sets forth explicit purposes and policies for the program by codifying the program's existing goals and policies as set forth in the January 1982 "program development plan" for the National Marine Sanctuary Program. It establishes standards and factors for the Secretary of Commerce to apply when assessing areas of the marine environment for sanctuary designation. It outlines site designation procedures for the Secretary to follow, including broadened consultations with affected parties, participation by regional fishery management councils in the drafting of fishing-related regulations and a review period for Congress to analyze proposed sanctuaries.

All of the major provisions of H.R. 2062 were acceptable to the Senate and are contained in S. 1102. Some modifications and clarifications are contained in the Senate-passed version and I want to briefly highlight them:

S. 1102 requires the Secretary of Commerce, in consultation with the Secretary of the Interior, to complete a resource assessment report documenting present and potential uses of an area, including fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses;

S. 1102 clarifies the specific criteria used to determine when it is appropriate for regional fishery management councils rather than the Secretary of Commerce to assume responsibility for drafting of sanctuary regulations. The Senate version is identical to the previous House version, however, in making clear that even when it falls to the regional councils to draft the regulations, it is up to the Secretary to make the final determination that the regulations are consistent with the purposes and policies of the program and the goals and objectives of the proposed sanctuary;

S. 1102 reduces the time for congressional and gubernatorial disapproval from 90 days to 45 days and changes the concurrent resolution to a joint resolution, consistent with the Chadha decision;

S. 1102 makes in order a privileged and nondebatable motion to consider a joint resolution on the floor; and

S. 1102 seeks to protect existing access and valid rights in current and

proposed sanctuaries, with the understanding that access and rights are subject to regulation by the Secretary consistent with the purpose of the sanctuary designation.

Mr. Speaker, these modifications are constructive and I see no reason why we should not adopt them.

S. 1102 and its companion bill H.R. 2062 represent carefully crafted compromises. The amendments will allow program managers to protect and comprehensively manage marine areas for the long-term benefit and enjoyment of the public by designating representative areas of the marine environment that are important because of their resource or human-use values, yet will still ensure that affected parties can be active participants in the designation process.

This bill represents long hours of effort on the part of many people. I want to commend the Members of both Houses for their work on the bill. The sanctuary program is an important marine program, and I strongly believe that S. 1102 will strengthen the program. I urge my colleagues to support this bill.●

● Mr. CARPER. Mr. Speaker, I rise as a strong supporter of the Marine Sanctuaries Program. The need for a functional and effective program is no less now than it was when Congress passed the original legislation in 1972. Indeed, the increase in human activity in our coastal waters has made this program even more important by allowing for the protection of discrete but significant areas of our coastal waters. The richness and diversity of our offshore areas are no less deserving of responsible management and protection than our national parks, wilderness areas, wildlife refuges and other components of our treasured natural heritage.

It is for this reason that I am concerned by some comments which have been made on the House floor regarding the legislative intent behind this worthwhile bill. First, I feel the Marine Sanctuaries Amendments of 1983 speak eloquently, in their own way, of the purpose intended for this legislation. Furthermore, members of both the House and Senate committees have worked diligently to clarify the proposed law in their committee reports.

It is correctly asserted that the Secretary of Commerce must, according to this legislation, determine that proposed sanctuaries meet five standards before they are designated. The Secretary is also requested to consider nine other factors in reaching his decisions. Clearly, neither the House Merchant Marine and Fisheries Committee nor the Senate Commerce Committee intend that the standards set by this bill would be so restrictive that no sanctuaries would be designated. The purpose of this legislation is to provide for the conservation and management of nationally significant marine areas, not to establish insurmountable hurdles to the designation of marine sanctuaries.

Another issue of concern involves the size of areas to be designated as marine sanctuaries. This legislation authorizes the Secretary of Commerce to "designate any discrete area of the marine environment as a national marine sanctuary" and to promulgate appropriate regulations (sec. 303(a)). In an earlier colloquy, it was interpreted that discrete means "small." Indeed, the true meaning of the word and the intent in using this term, is that a designated area be "individually distinct" and easily definable in geographic scope and ecological, cultural or other character. A careful review of the bill shows clearly that a designated area should be limited to a "size and nature which will permit comprehensive and coordinated conservation management" (sec. 303(a)(3)). This requirement is a hard and fast standard that must be met by all designated sites, and constitutes the only restriction on the size of sanctuaries designated by the Secretary.

In order to make a reasonable determination on sanctuary designations, the Secretary is required to consult with the House Merchant Marine and Fisheries Committee and with the Senate Commerce Committee, several Federal agencies, State and local governments, the appropriate Regional Fishery Management Council, and other interested persons. In no case, however, is the Secretary required to secure the approval of these parties—a point clearly made by the legislation and both House and Senate reports.

There are, however, a number of public and private uses of ocean resources that could be affected by the designation of a national marine sanctuary, including fishing and energy development. Under this legislation, public and private uses of the resources in a marine sanctuary may be allowed provided they are "compatible with the primary objective of resource protection" (sec. 301(b)(5)). Specific protection for fisheries (sec. 304 a 3) and for preexisting leases and permits (sec. 304(b)(5)) are included in the bill.

Moreover, contrary to the assertions made in the colloquy, the existing protections afforded the marine environment by existing statutes are not necessarily adequate for the proper management of valuable resources. A Congressional Research Service report in 1980 and a 1981 General Accounting Office report indicate the Marine Sanctuary Program can provide environmental protection not otherwise available. This finding is reinforced by the Merchant Marine and Fisheries Committee report (H. Rept. 98-187, pp. 20-21) which states:

> Depending on the location, the resources, and the existing mechanisms, a sanctuary could either complement existing mechanisms by filling specific gaps or could form a management umbrella over a fragmented system to help coordinate diverse but related efforts.

For many reasons, our coastal waters need careful and responsible protection. Their biological productivity is far more than a scientific curiosity, it is the underpinning of this Nation's bountiful fisheries resources. Protection of selected areas of our offshore waters is a pressing need in the face of accelerating coastal development and human activity.

Once again, I am delighted to see this important legislation reach this stage on its path toward enactment. I commend my colleagues in both Houses for their work on this bill.●

● Mrs. BOXER. Mr. Speaker, I rise in strong support of S. 1102, which reauthorizes and amends title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

Under the current administration, we have seen increased pressure to develop our marine resources, more often than not, at the expense of our environment. The marine sanctuaries program authorized by this bill recognizes that "certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance." For the purposes of environmental protection and preservation, our National Marine Sanctuaries Program identifies areas of the marine environment of special national significance and provides for the coordinated conservation and management of these areas.

The chairman of the Merchant Marine and Fisheries Committee has indicated that the colloquy entered into by the Members managing this bill on the House floor does not represent the views of the committee. I concur with the chairman.

The meaning and intent of the Marine Sanctuaries Amendments of 1984 are amply explained in the House report (H. Rept. 98-187) and Senate report (S. Rept. 98-280). As the House report clearly states, these amendments codify the existing administration of the marine sanctuaries program.

As a member of the Merchant Marine and Fisheries Committee who participated in the hearings and vote on H.R. 2062, the companion bill to S. 1102, my understanding of congressional intent in passing the 1984 amendments is to grant the Secretary of Commerce unambiguous authority to designate areas as marine sanctuaries and adopt regulations to protect the natural resources of these areas.

The bill directs the Secretary of Commerce to consult with the House

Mechant Marine and Fisheries Committee, the Senate Commerce Committee, several Federal agencies, State and local governments, the appropriate Regional Fishery Management Council, and other interested persons. Nowhere do the 1984 amendments require the Secretary to secure the approval of these parties. Nowhere do the 1984 amendments require congressional approval in the designation of marine sanctuaries.

The 1984 amendments do require, however, that before designating a national marine sanctuary, the Secretary of Commerce must determine that such designation will fulfill the purposes and policies of the act and find that the proposed sanctuary meets four standards. The committee did not intend to create barriers or obstacles to the designation of marine sanctuaries. The standards in section 303 are not intended to be standards that are difficult to meet. Rather, these standards are intended to be reasonable ones that will ensure that marine areas of special national significance are designated as national marine sanctuaries.

While the marine sanctuaries program encourages the coordination of existing Federal programs in the area of a proposed marine sanctuary, this does not mean that the marine sanctuary program should avoid disruption of Federal activities. The primary purpose of the marine sanctuaries program and the 1984 amendments is to protect marine resources. Toward that end, the designation and implementing regulations of marine sanctuaries will inevitably involve some disruption of other Federal activities in the area.

Off the coast of my district, the Point Reyes-Farallon Islands National Marine Sanctuary is home to a unique seabird community and various marine mammal populations, including the gray whale, California sea lion, harbor seal, and elephant seal. The designation of this outstanding area as a marine sanctuary was greatly hailed in my State of California. While the sanctuary represents only a minuscule fraction of the Outer Continental Shelf, it is a critical habitat for many bird and pinniped species. I strongly support the Marine Sanctuaries Amendments of 1984 which continue the program's historical emphasis on resource protection by excluding disruptive activities such as oil and gas development.●

● Mr. D'AMOURS. Mr. Speaker, I rise in support of S. 1102, which, among other things, reauthorizes the National Marine Sanctuary Program. The House counterpart to this provision is H.R. 2062 which was introduced by myself and Mr. PRITCHARD and passed the House on June 14, 1983 by the overwhelming vote of 379 to 38.

The National Marine Sanctuary Program was created in 1972 in order to provide a mechanism to protect and manage valuable areas of our marine environment. Six sanctuaries have been designated to date. These sanctuaries have been designated to protect such diverse areas as the historically and culturally significant Civil War ironclad U.S.S. *Monitor*, recreationally and educationally valuable reef areas off Georgia and Florida, and marine mammal and bird habitats off California that are important for their ecological, conservation, and research values.

S. 1102 reauthorizes the program for 4 years. The authorization levels start at $3 million for fiscal year 1985 and increase to $3.9 million for fiscal year 1988. These levels will allow the designation and management of one new sanctuary per year.

The program has not been without controversy. This is largely because of mistaken public perceptions about the goals and purposes of this program and because of the failure of Congress to provide clear policy directives. Many of the early problems were successfully solved by the current program managers, and this bill attempts to correct the remaining outstanding problems.

H.R. 2062, as passed by the House, would substantially amend title III of the Marine Protection, Research, and Sanctuaries Act. As set forth in the committee's report on the bill (H. Rept. 98-187, p. 1) H.R. 2062 reaffirms that the mission of the program is the establishment of a system of national marine sanctuaries based on identification, designation, and comprehensive management of special marine areas for the long-term benefit and enjoyment of the public.

It sets forth explicit purposes and policies for the program by codifying the program's existing goals and policies as set forth in the January 1982 program development plan for the National Marine Sanctuary Program. It establishes standards and factors for the Secretary of Commerce to apply when assessing areas of the marine environment for sanctuary designation. It outlines site designation procedures for the Secretary to follow, including broadened consultations with affected parties, participation by regional fishery management councils in the drafting of fishing-related regulations and a review period for Congress to analyze proposed sanctuaries.

All of the major provisions of H.R. 2062 were acceptable to the Senate and are contained in S. 1102. Some modifications, clarifications, and structural changes are contained in the Senate-passed version and in the version we take up today and I want to briefly highlight them:

S. 1102 requires the Secretary of Commerce, in consultation with the Secretary of the Interior, to complete a resource assessment report documenting present and potential uses of an area, including fishing, research and education, minerals and energy development, subsistance uses, and other commercial or recreational uses.

S. 1102 clarifies the specific criteria used to determine when it is appropriate for regional fishery management councils rather than the Secretary of Commerce to assume responsibility for drafting of sanctuary regulations. The Senate version is identical to the previous House version, however, in making clear that even when it falls to the regional councils to draft the regulations, it is up to the Secretary to make the final determination that the regulations are consistent with the purposes and policies of the program and the goals and objectives of the proposed sanctuary.

S. 1102 reduces the time for congressional and gubernatorial disapproval from 90 days to 45 days and changes the concurrent resolution to a joint resolution, consistent with the Chadha decision.

S. 1102 makes in order a privileged and nondebatable motion to consider a joint resolution on the floor.

S. 1102 seeks to protect existing access and valid rights in current and proposed sanctuaries, with the understanding that access and rights are subject to regulation by the Secretary consistent with the purposes of the sanctuary designation.

Mr. Speaker, these modifications are constructive and I see no reason why we should not adopt them.

S. 1102, like its counterpart H.R. 2062 establishes definite procedures for the Secretary of Commerce to follow when designating and managing national marine sanctuaries. Section 303(a) requires that before designating any area as a marine sanctuary, the Secretary must determine that the designation will fulfill the purposes and policies as set forth in section 301, and must make four findings: First, the area is of special national significance because of its values; second, existing State and Federal regulatory and management mechanisms are not adequate to provide for coordinated and comprehensive management of the area; third, designation as a sanctuary will facilitate coordinated and comprehensive management; and fourth, a proposed sanctuary will be of a size and nature that will facilitate comprehensive and coordinated conservation and management.

Section 303(b)(1) outlines nine factors for the Secretary to consider when making the determination and findings of section 303(a). There is no requirement that a sanctuary must meet all nine factors in order to be designated, but rather the Secretary must use the factors to evaluate proposed sanctuaries.

Section 303(b)(2) obligates the Secretary to consult with several persons and organizations before designating an area as a marine sanctuary. As it is made clear in the House report, inadequate or ill-timed consultation has led to problems in the past. In order to alleviate these problems, the Secretary is expected to consult with all interested persons and groups of all important stages of the site evaluation and designation process. However, it is understood that the Secretary has the ultimate authority to designate sanctuaries.

The issue of the size of a national marine sanctuary received considerable discussion within the Merchant Marine and Fisheries Committee. Ultimately the committee chose not to legislatively limit the size of sanctuaries, but rather to provide factors to guide the Secretary in tailoring the boundaries of a sanctuary in order to protect the resources of the area. These factors include but are not limited to distribution of the area's resources; human activities in the area; fiscal and staff constraints; accessibility; potential enforcement and surveillance problems; and the capabilities of State and Federal authorities. The committee concurred with a NOAA policy statement that the upper limit of the sanctuary size spectrum is represented by the Channel Islands National Marine Sanctuary.

Another issue that received considerable attention in discussions before the Merchant Marine and Fisheries Committee involved the regulation of activities within established sanctuaries, especially fishing activities. The committee discussed the variety of uses that are likely to take place within sanctuaries and what controls might be necessary to control the mix of uses in order to maintain the recognized values of a site. The committee affirmed that it may be both necessary and proper to regulate specific uses in order to conserve or manage a site's inherent resource or human-use values. The committee made it clear in section 301(b)(5) that public and private uses of the resources of a marine sanctuary may be allowed provided that they are compatible with the primary objective of resource protection. This emphasis upon resource protection is also explicity expressed regarding fisheries in section 304(a)(3) and preexisting leases and permits in section 304(c)(2).

Mr. Speaker, S. 1102 and its companion bill, H.R. 2062, represent carefully crafted compromises. The amendments will allow program managers to protect and comprehensively manage marine areas for the long-term benefit and enjoyment of the public by designating representative areas of the marine environment that are important because of their resource or human-use values, yet will still ensure that affected parties can be active participants in the designation process.

This bill represents long hours of effort on the part of many people. I want to commend the Members of both Houses for their work on the bill. The sanctuary program is an important marine program, and I strongly believe that S. 1102 will strengthen the program. I urge my colleagues to support this bill.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CORRECTING ERRORS IN ENROLLMENT OF S. 1538, DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 141) to correct technical errors in the enrollment of the Senate bill (S. 1538) to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications, to amend title XXXV, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1538) to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications, to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes, the Secretary of the Senate shall make the following changes. In sections 505(j)(4)(B)(iii)(III) and 505(c)(3)(C)(iii) of the Federal Food, Drug, and Cosmetic Act as added by sections 101 and 103(b) of the bill, respectively, strike out "not invalid" and insert in lieu thereof "invalid".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLILEY. Mr. Speaker, reserving the right to object—and I shall not object—will the gentleman from California [Mr. WAXMAN] explain the resolution?

Mr. WAXMAN. If the gentleman will yield. This concurrent resolution is necessary to correct an error in S. 1538, the Drug Price Competition and Patent Term Restoration Act, which has been passed by the House and the Senate. In title I of the bill, the phrase, "if the court decides that such patent is not invalid or not infringed" appears in sections 101 and 103. The double negative "not invalid" is incorrect. This concurrent resolution will correct the phrase to read, "if the court decides that such patent is invalid or not infringed."

Mr. BLILEY. I thank the gentleman for his explanation.

Mr. Speaker, I support the bill, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

INDIAN HEALTH CARE AMENDMENTS OF 1984

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 560

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4567) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Energy and Commerce now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 6039 as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. At the conclusion

of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 560 is an open rule providing for 1 hour of general debate on H.R. 4567, the Indian Health Care Amendments of 1984. The rule provides 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. Both committees have been provided with an equal amount of time since H.R. 4567 was jointly referred to them.

It should be noted that the rule waives section 402(a) of the Budget Act because the Energy and Commerce Committee was unable to file its report on the bill by the required deadline of May 15, 1984.

The rule makes in order an amendment in the nature of a substitute consisting of the text of H.R. 6039 as an original bill for purpose of amendment under the 5-minute rule. Each section of the substitute shall be considered as having been read. The substitute, H.R. 6039, is the product of discussions between the two committees that had jurisdiction over the original legislation.

With respect to the substitute, the rule waives points of order for failure to comply with the provisions of clause 5(a) of rule XXI, which prohibits appropriations in a legislative bill.

The rule also provides for one motion to recommit with or without instructions.

House Resolution 560 is an open rule, and any germane amendment is in order either to the bill or to the amendment in the nature of a substitute. I am not aware of any opposition to this open rule, and I urge my colleagues to adopt it.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 560 is an open rule, providing for 1 hour of general debate on the bill, H.R. 4567, the Indian Health Care Amendments of 1984. Thirty minutes of the debate time is allotted to the Committee on Interior and Insular Affairs, and 30 minutes to the Committee on Energy and Commerce.

Mr. Speaker, the rule waives section 402(a) of the Budget Act against the consideration of the bill. Section 402(a) requires that bills be reported prior to May 15. Although the Interior Committee reported its version on May 15, the Energy and Commerce Committee did not report until May 21, thus necessitating this waiver.

Mr. Speaker, because the two committees of jurisdiction reported different versions, a compromise was subsequently worked out between the chairmen of those two committees and introduced as H.R. 6039. That bill is made in order as an original bill for the purpose of amendment under this rule, and each section is considered as read.

Finally, the rule waives clause 5(a) of rule 21 against the substitute because there are matters in here which can technically be considered appropriations, and clause 5(a) prohibits appropriations in a legislative bill.

Mr. Speaker, the bill which this rule makes in order would extend for 3 years the Indian Health Care Improvement Act which was first enacted in 1976. The purpose of that act is to raise the health status of American Indians and Alaskan Natives to the highest possible levels. While much has been accomplished under that act, much remains to be done.

The health status of American Indians is still far below that of the average American. The tuberculosis death rate among Indians is about six times greater than that of the U.S. population at large. The alcoholism mortality rate for Indians is five times greater than the general population.

The consensus bill made in order by this rule would authorize approximately $208 million over the next 3 years for a variety of health programs for Indians, including Indian health professions development health and sanitation facilities construction, and health services to the urban Indian population.

Mr. Speaker, the bill is not without constroversy, however. While the measure was reported from both committees by voice vote, there are three sets of minority, separate, and dissenting views in the report of the Committee on Energy and Commerce. The ranking minority member of the Health Subcommittee [Mr. MADIGAN] indicated in his testimony before the Rules Committee that there are several provisions in the bill which need improvement and to which he would like to offer amendments.

Finally, I should point out that the administration has expressed opposition to the compromise bill and has recommended amendments to reduce the authorization levels; to confine the Indian Health Service to using only funds made available from other appropriations for the construction of sanitation facilities—rather than authorize additional funds for that purpose; to delete unnecessary program expansions not included in the President's budget; and to delete that section which moves the IHS from its present location in the Health Resources and Services Administration and which provides for a separate IHS budget submission to the President.

However, Mr. Speaker, I would again point out that this is a completely open rule which will afford Members an opportunity to offer amendments to further improve this legislation. I urge its adoption so we can proceed with the general debate and amendment process on this bill.

□ 1050

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 560 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4567.

□ 1052

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4567) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, with Mr. HALL of Ohio in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Arizona [Mr. UDALL] will be recognized for 15 minutes; the gentleman from Alaska [Mr. YOUNG] will be recognized for 15 minutes; the gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes; and the gentleman from Virginia [Mr. BLILEY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am pleased to bring before the House for consideration H.R. 4567, to reauthorize and amend

the Indian Health Care Improvement Act.

This legislation has been the subject of intensive consideration by the Interior Committee. In anticipation of the expiration of the authorization for the Health Care Improvement Act in fiscal year 1984, the Interior Committee, in cooperation with the Senate Select Committee on Indian Affairs, held exhaustive oversight hearings early in 1983.

Hearings were held, either by my committee or the Senate committee, in Albuquerque, NM; Phoenix, AZ; Bismarck, ND; Billings, MT; and Anchorage, AK. Scores of witnesses were heard and most Indian tribes across the country had an opportunity to make their views and needs known to the Congress.

After extensive committee drafting, I introduced H.R. 4567 on November 18, 1983, with broad, bipartisan cosponsorship.

Finally, in March and April of this year, my committee held 4 days of hearings on the bill and, again, took testimony from many Indian tribes and other public witnesses. In May of this year, my committee reported this bill, with several amendments, by voice vote.

I want to take this opportunity to thank Congressmen McNULTY, McCAIN, RICHARDSON, LUJAN, VENTO, and KOGOVSEK for the active concern, involvement, and support they have shown in the committee development and consideration of this important legislation.

H.R. 4567 was also jointly referred to the Committee on Energy and Commerce because of their general jurisdiction over health matters. Under the guidance of the gentleman from California [Mr. WAXMAN] that committee reported the legislation on May 21 of this year. The Energy version was, in a few areas, substantially different from the Interior version and these differences engendered some controversy.

However, our committees were able to work out our differences and arrive at compromise language. This compromise was introduced by myself and Mr. WAXMAN as H.R. 6039, the text of which is being considered for amendment today. I want to express my appreciation to Mr. WAXMAN and his subcommittee for their cooperation and support in the development of this legislation.

Mr. Chairman, I will not dwell on the details of H.R. 4567 as amended. In the main, it reauthorizes and continues the programs, efforts, and reforms in Indian health which were put into place by the Indian Health Care Improvement Act and continued by the 1980 amendments. While this act has already brought about significant improvement in Indian health conditions and our administration of Indian health programs, there is yet much that remains to be done if Indians are to enjoy a health status comparable to the rest of the population.

Except for diseases of affluence, Indians in this Nation still suffer from afflictions and poor health conditions at rates higher than the rest of the Nation.

And we have not fairly met our legal and moral obligation to the Indian tribes and people in this area. As noted in the Interior Committee report, our appropriations to the Indian Health Service, on a per capita basis in constant 1983 dollars, declined from $906 in 1977 to $707 in 1984. The per capita health expenditures for the general population rose from $1,087 in 1977 to $1,177 in 1984.

Mr. Chairman, I also believe that my committee has acted responsibly in terms of the fiscal restraints we face. The total authorization contained in the Indian Health Care Improvement Act for fiscal year 1984, was approximately $202,215,000. Actual appropriation under that act for fiscal year 1984 was $134,494,000. The cost of this legislation, as contained in H.R. 6039, is $65,950,000 for fiscal year 1985; $68,500,000 for fiscal year 1986; and $71,600,000 for fiscal year 1987.

Mr. Chairman, this is badly needed legislation and good legislation. I am including with my statement today a brief analysis of the provisions of the legislation as contained in H.R. 6039, including discussion of the compromises reached between the Interior and Energy Committee on their differences.

I urge the Members to support this bill.

ANALYSIS OF H.R. 6039 AS AN AMENDMENT TO H.R. 4567 IN THE NATURE OF A SUBSTITUTE AS COMPARED WITH THE INTERIOR AND ENERGY COMMITTEE VERSIONS OF H.R. 4567

SECTION 1

Subsection (a) cites the Act as the "Indian Health Care Amendments of 1984". Same in all versions.

Subsection (b) notes that cited amendments are to the Indian Health Care Improvement Act, as amended, unless otherwise stated. Same in all versions.

SECTION 2

Section 2 amends section 4 of the Act by striking all of subsection (i), (j), and (k) relating to rural Indian definitions. Same in all versions.

SECTION 3

Subsection (a) amends section 102 of the Act to reauthorize funding for the Health Professions Recruitment Programs for Indians for FY 1985, 1986, and 1987. Substantially the same in all versions.

Subsection (b) amends section 103 of the Act to reauthorize funding for the Health Professions Preparatory Scholarship Programs funding for Indians. Substantially the same in all versions, except that language limiting the authority of the Secretary to deny scholarships solely on the basis of scholastic achievement was moved to this subsection in H.R. 6039 from subsection 3(c) as contained in the two Committee versions.

Subsection (c) amends section 104 of the Act to rewrite and reauthorize the Indian Health Scholarship Program. Substantially the same in all versions, except as noted in subsection (b) above.

Subsection (d) amends section 105 of the Act to reauthorize funding for the Indian Health Service Extern program. Same in all versions.

SECTION 4

Subsection (a) amends section 201 of the Act with respect to health services. Section 201 of the Act established a scheme to raise the health standards of all tribes to a level comparable to the rest of the Nation within seven years. As reported by the Interior Committee, subsection (a) refocused the purpose of section 201 to achieve a parity of funding of health services among all tribes, while still trying to achieve the goal of eliminating the gap between Indians and non-Indians, by establishing a special fund for tribes having a greater degree of deficiency in health resources.

The Energy version of subsection (a) adopted an entirely different approach by requiring a reallocation of any increases in funding of the Indian Health Service to tribes within States having the lowest per capita expenditure of the IHS funding in the previous fiscal year.

H.R. 6039 adopts, basically, the Interior version with minor amendments.

Subsection (b) of the Interior version established an Indian Catastrophic Health Emergency Fund to better enable the Indian Health Service to meet the extraordinary costs associated with catastrophic illnesses and medical disasters.

The Energy version contained no similar provision.

H.R. 6039 adopted the Interior language with modifications. The differences between the Interior version and H.R. 6039 are—

(1) the threshold costs above which the concerned IHS service unit would be entitled to reimbursement from the funds was changed from $15,000–$25,000 to $10,000–$20,000.

(2) the fund was only authorized for three fiscal years instead of being open-ended.

(3) the authorization level was changed from $15,000,000 to $12,000,000.

(4) a Secretarial report was required on the operation of the fund.

SECTION 5

Section 5 amends section 301 of the Act relating to the construction of Indian Health facilities. The section is substantially the same in all versions.

Section 301, as amended by section 5, requires the Secretary to submit to the Congress the current health priority system report including the top priority inpatient facilities and the top ten priority outpatient facilities. It requires consultation with the tribes on the report for the succeeding two fiscal years.

Section 301(b)(1) simply makes clear what is already law under the Indian Self-Determination Act that Indian tribes may contract for or secure a grant of funds for the construction of facilities for the benefit of their tribes and members.

SECTION 6

Section 6 amends section 302 of the Act relating to the contruction of sanitation facilities for Indian tribes and communities. The section is substantially the same in all versions.

Section 302, as amended by section 6, requires the Secretary to submit a report to

Congress defining the deficiencies of sanitation facilities for all Indian tribes and requires him to embark on a plan to bring all tribes up to certain defined levels of deficiency within ten years. It also authorizes the Secretary to provide certain financial assistance to Indian tribes operating their own sanitation systems. Section 302(f), again, simply makes clear the law under the Self-Determination Act that tribes have a right to contract for, or secure a grant of funds designated for the construction of sanitation facilities of their benefit.

SECTION 7

Section 7 reauthorizes and amends title V of the Act establishing Health Services for Urban Indian programs. It is substantially the same in all versions. The section deletes all provisions for Rural Indian programs in the original Act. A section of the Interior version requiring the Secretary to apply a funding allocation formula among urban Indian organization applicants, which was not contained in the Energy versions, was dropped in H.R. 6039.

SECTION 8

Section 8 amends title VI of the Act to provide for the creation of an Office of Indian Health Service in the Public Health Service. The effect of the provision is to remove IHS from the Health Resources and Services Administration and to create it as a co-equal agency within the Public Health Service.

The Interior version had a provision creating an Office of Indian Health Service within the Department of Health and Human Services under a new Assistant Secretary for Indian Health. This was dropped in H.R. 6039 in favor of the Energy provision noted above.

SECTION 9

Section 9 amends section 705 of the Act to provide that Federal contracting requirements for competitive bidding can be waived or bids thereunder rejected under certain circumstances with respect to the procurement of health services. Substantially the same in all versions.

SECTION 10

Section 10 amends section 706 of the Act by providing a new program relating to Indian juvenile alcohol and drug abuse. Substantially the same in all versions.

SECTION 11

Section 11 amends section 707 of the Act relating to a nuclear resources development health hazard study for Indian reservations by reauthorizing the study and authorizing the study to be made by the National Academy of Sciences. Identical in all versions.

SECTION 12

Section 12 amends section 708 of the Act by inserting a new provision authorizing treatment of non-Indian or otherwise ineligible persons in IHS facilities or through IHS resources and establishes standards for such treatment. An identical provision was contained in both the Interior and Energy version. Minor amendments were made to this provision in H.R. 6039.

SECTION 13

Section 13 amends section 706 of the Act by inserting new language defining California Indians for purposes of eligibility for IHS services. No provision in this respect was included in the Interior version. H.R. 6039 adopts the Energy language with minor amendments. The definition under section 706(2) of H.R. 6039 is intended to include California Indians who met the requirements of section 1 of the 1928 Act and not persons covered under subsequent amendments to the 1928 Act.

SECTION 14

Section 14 amends section 710 of the Act to provide new language to continue the special program started by IHS for the control and reduction of Hepatitis-B among Alaska Natives. Substantially the same in all versions.

SECTION 15

Section 15 amends title VII of the Act by adding the following new sections:

Section 712 provides that California, except for certain designated urban counties, shall be considered as a contract health care delivery area for the purpose of providing contract health care to Indians within the State. The Interior version had no similar provision. H.R. 6039 adopts the Energy provision, but adds the language excluding the urban counties.

Section 713 provides that IHS shall provide funds for maintenance, employee training, cost-of-living increases, and other related expenses to tribal contractors under the Indian Self-Determination Act. The Interior version had no similar provisions. H.R. 6039 adopts the Energy version provision. This provision is primarily boiler-plate as the designated costs are provided for in the Self-Determination Act.

In addition, section 713 incorporates language from the Energy version making provision for Self-Determination contracts for health services where there are non-tribal Indians serviced by the service unit. No similar provision was in the Interior version. The H.R. 6039 provision limits the effect of the section to California.

Section 714 limits the authority of the Secretary to remove, or withdraw funding for, members of the National Health Service Corp in IHS facilities. No similar provision was included in the Interior versions. H.R. 6039 adopts the Energy version language with minor amendments.

Section 715 relates to the use of funds, other than funds appropriated for the Indian Health Service, for lobbying or litigation purposes by Indian contractors. No similar provision was included in the Interior version. H.R. 6039 adopts the Energy language with minor amendments.

Section 716 requires the Secretary to develop and implement a plan to reduce the rate of Indian infant and maternal mortality to the national level by January, 1990. A similar provision is included in all versions. H.R. 6039 adopts the Energy language.

Section 717 defines, for purposes of this Act, the terms "Area Office" and "service unit". No such provision was included in either the Interior or Energy version.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4567, the Indian Health Care Amendments of 1984.

I would first like to commend the gentleman from Arizona, the chairman of the Interior Committee, for his leadership on this legislation. I would also like to thank my colleagues on the Energy and Commerce Committee for their work on H.R. 4567 and on the compromise legislation now before us as H.R. 6093.

H.R. 4567 continues a comprehensive effort to improve the health status of American Indians and Alaska Natives. That effort began in 1976, with passage of Public Law 94-437, the Indian Health Care Improvement Act. That act recognized the clear legal and moral obligation of the United States to provide health care to Indians. It was tailored to meet the extensive, often shocking, health care needs on reservations and in native villages. And it provided for a systematic effort to overhaul the understaffed, outdated and ill-equipped facilities of the Indian Health Service. The act also authorized a modest but vital effort to address the health needs of native Americans living in urban areas.

In the 1976 act, Congress authorized funding for the first 4 years of an ambitious, 7-year effort to raise the level of Indian and native health to a par with the general population. In 1980, Congress revised and extended these authorizations through fiscal 1984. Because appropriations have lagged well behind the amounts authorized, and because inflation in medical costs has been very high over the past 8 years, the goals of the original act have only been partially met.

Progress in some areas has been dramatic; in others, it is hardly noticeable. Because of the act, more Indians are studying and working in health professions than ever before. Many acute health care shortages on reservations and in Native villages have been relieved. More than a dozen hospitals and clinics have been replaced, and others have been modernized or repaired. There are now 37 clinics serving Indians in urban areas. Despite this, Indians and Alaska Natives still suffer from a greater incidence and a wider range of diseases and afflictions than does the general population.

In terms of access to health care resources, more than half of all Indians and Alaska Natives are considered by the Indian Health Service to be 40 to 60 percent deficient. In other words, care for many types of ailments or injuries is simply not available.

To deal with these realities, H.R. 4567 continues the programs authorized under the 1976 act through fiscal year 1987, and provides some changes in program administration.

It continues the successful manpower programs.

It authorizes funding to raise the 184 tribes who are 40 to 60 percent deficient in access to health resources to a 20- to 40-percent deficiency level.

Because the Indian Health Service is experiencing a shortfall of approximately $15 million each year in contract care funding for health emergencies, the bill authorizes a catastrophic health fund as a distinct supplement to the IHS contract care budget.

It requires the administration to submit estimates for construction of the highest priority projects, to enable

Congress to make more informed decisions about funding hospital construction.

It requires similar information to be submitted as a basis for a 10-year program to reduce the health hazards caused by poor water and sanitation in Indian communities.

It provides continued authority for the urban Indian projects. These projects have proven extremely valuable and cost effective, and have managed to generate more than a dollar from supplemental sources for each Federal dollar appropriated.

Mr. Chairman, this bill provides new authority, identified as necessary by the GAO, to enable the Indian Health Service to protect the Federal investment in Indian community water and sanitation systems.

It also provides direction and new authority to coordinate Federal agency efforts to provide a program of education and prevention concerning juvenile alcoholism and drug abuse. Substance abuse is probably the most serious health and social problem affecting Indians and Natives, yet there is no specific overall effort to prevent it among vulnerable Indian young people. This program is a much-needed but modest beginning toward that end.

I am very pleased that H.R. 4567 continues a special program in Alaska to deal with a serious outbreak of hepatitis-B virus. This effort, in cooperation with State officials, must be continued to assure the health and safety of all Alaskans.

H.R. 4567 provides for an important change in the bureaucratic structure in the Department of Health and Human Services. It would raise the status of the Director of the Indian Health Service to a level equal to that of the Director of the Health Services and Resources Administration. I strongly support this move as a small but important step toward making the IHS more responsive to Indians and to the Congress. It would put the IHS Director in a better position to advocate the needs and special concerns of the Indian Health Service and would reduce some of the redtape which he must contend with in order to run the IHS. This change is supported by virtually all Indian tribes and Alaska Natives, and I believe it is long overdue.

Mr. Chairman, I believe that in view of the budgetary problems we face, H.R. 4567, as amended by H.R. 6039, is a fiscally responsible bill. The authorization levels can hardly be considered excessive. The bill authorizes $65.9, $68.5 and $71.6 million for fiscal years 1985, 1986 and 1987, or a total of $206 million. The existing authorization for these programs in fiscal 1984 alone is $202 million, of which $134 million was actually appropriated.

The responsibility of the United States to provide health services to Indians and Alaska Natives is clear and unique. As a matter of law we are committed to raising the health standards of these people to the highest possible level. If they are ever to reach parity in health status with the rest of the Nation, we must acknowledge the extent of their needs and the real costs of addressing them, including inflation. In considering these authorizations and future appropriations, we must recognize the fact that per capita appropriations to the IHS, in constant 1983 dollars, have declined from $906 to $707 since 1977. At the same time, per capita health expenditures for the general population have increased from $1,087 to $1,177.

H.R. 4567 will maintain a modest rate of increase in the effort to raise the health status of Indians and Natives. The program changes and authorizations it contains reflect extensive evidence compiled in hearings over the past 2 years. The bill enjoys overwhelming support from the Indian and Alaska Native community. It has broad bipartisan support and substantial, if less than total, support from the administration. H.R. 4567 is a sound and reasonable piece of legislation. I urge the House to pass it.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 4567, the Indian Health Care Amendments of 1984.

Mr. Chairman, in my home State of New Mexico, there are over 110,000 native American residents. My district has the highest native American population in the country; 96,000 native Americans in New Mexico's Third Congressional District depend on the Indian Health Service for their medical care. And while the leaders of the Pueblos and reservations in my district are working hard to improve the quality of life for their people, unemployment remains high and health care needs are many.

Based on the Constitution, numerous treaties, and statutes, and historical development, the United States has assumed a unique moral and legal obligation to provide health care services to the Indian people. Inherent in this obligation is the responsibility that Indians enjoy a health status comparable to that of the rest of the Nation.

Washington bureaucrats continue to tell the Indian people that health care is not a trust responsibility of the Federal Government. I strongly disagree with the callous, uncaring cost benefit approach of this administration to the health care needs of native Americans and its disregard for our constitutional obligations to the Indian people. I see extreme health care needs on the reservations, Pueblos and in the urban areas in my district—and I believe that human needs are more important than management objectives.

In recognition of the extreme deficiencies of health resources for Indian people, Congress enacted the Indian Health Care Improvement Act in 1976. New programs were established to increase the health professional manpower available to serve native Americans and to meet the growing medical needs of Indians in urban areas. While significant improvements in Indian health conditions have resulted from this action, the Indian tribes still suffer some of the most severe health conditions in this Nation.

The Indian Health Care Amendments of 1984 would continue the fight to improve Indian health care. This bill would reauthorize the programs and efforts in Indian health established by the Indian Health Care Improvement Act of 1976 for the next 3 years. It would make major improvements in Indian health care efforts by adding new provisions for catastrophic illnesses and medical disasters, Indian juvenile alcohol and drug abuse programs and urban Indian health care services. The bill would also require the Secretary of Health and Human Services to submit reports detailing the status of Indian health services, Indian health care needs and the special health care needs of urban Indians.

The Congress, by supporting the Indian Health Care Amendments of 1984, will be reaffirming its commitment to native Americans and will help to ensure that the U.S. Government honor its obligations and trust responsibilities to the Indian people. I urge my colleagues to join with me in strong support of this important legislation.

□ 1100

Mr. UDALL. Mr. Chairman, on our side I only have one further request. However, the gentleman from Minnesota is not here, and I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4567, the Indian Health Care Amendments of 1984.

This bill would revise and extend for 3 years the Indian Health Care Improvement Act. First enacted in 1976, and then reauthorized in 1980, this act was intended to raise the health status of American Indians and Alaska Natives to the highest possible level.

The act has helped to bring about some significant improvements in the health status of Indians. For example, the infant mortality rate for Indians has dropped from 17.7 deaths per 1,000 live births over the 1975 to 1977 period to 14.6 over the 1978 to 1980

period. The age-adjusted tuberculosis death rate for Indians dropped from 8.5 deaths per 100,000 population in 1976 to 3.6 in 1980.

But anyone who read Monday's Washington Post article on the Rosebud Reservation in South Dakota can see that much remains to be done to improve Indian access to quality health care.

According to the Post, the Indian Health Service operates a small, 29-bed hospital on the reservation to provide health services to the Rosebud Sioux Tribe. The hospital operating room has been closed since 1978, and critical cases must be airlifted to cities several hours away. Over the past 3 years, the hospital has hired over 200 temporary doctors to fill vacant positions at the hospital. A number of these physicians have been unqualified at best, and dangerous to their patients at worst.

It is evident that the quality and continuity of patient care have been seriously compromised at Rosebud by the lack of adequate resources. But even more disturbing is the fact that, according to the Indian Health Service, the Rosebud Sioux have fewer resource requirements than 156 other tribes elsewhere throughout the country. You have to ask yourself, how adequate is the health care that members of those more needy tribes are receiving?

In part because of such widespread resource deficiencies, the health status of Indians remains below that of the general U.S. population. The age-adjusted Indian death rate for tuberculosis is about six times greater than for the general U.S. population. For alcoholism, the Indian mortality rate is five times greater than the general U.S. rate.

These differences in health status are simply not acceptable. We as a nation have a moral obligation to the Indian people to do what we can to raise their health status to at least the level of the U.S. population. This bill provides a framework for meeting this obligation.

H.R. 4567 would extend the existing Indian health manpower authorities that are the source of much-needed physicians and other health professionals for the Indian people.

The bill would make major improvements in the procedures for building and renovating Indian health and sanitation facilities.

The bill would extend the successful Urban Indian Health Program, which provides critical health and referral services to Indians no longer living on or near reservations.

The bill would reaffirm congressional support for Indian control of their own health programs, by placing tribal contractors on an equal footing with programs operated directly by the Indian Health Service with regard to funding, eligibility, and other matters. These provisions are of particular importance in California, where all health services are delivered by the tribes themselves under contract with the IHS.

I want to assure those Members who are concerned about the bill's fiscal impact that it is not, by any stretch of the imagination, a "budget buster." According to CBO, this bill provides for new budget authority of only $208 million over the next 3 years. Given the unmet health needs in many Indian communities, this is a very modest sum indeed. In fact, it represents a reduction from the authorization levels now in the Indian Health Care Improvement Act.

I want to emphasize that the text of the bill now before the House represents the joint recommendations of both of the committees that considered these issues in detail. The provisions contributed by the Energy and Commerce Committee are explained in our committee's report.

The bill now before the House does not contain a provision, reported by the Energy and Commerce Committee, intended to make the allocation of IHS funds among the tribes in various States more equitable. Instead, the bill would address the inequitable distribution of Indian health resources, which has severely disadvantaged tribes in California, Utah, and other States, through a special Indian health care improvement fund.

This bill has the support of all major national Indian organizations as well as the major tribal and nontribal groups in my own State of California, including the California Rural Indian Health Board, the California Urban Indian Health Council, and Riverside-San Bernardino County Indian Health, Inc.

I believe this is a sensible, necessary, and fiscally responsible piece of legislation that Members on both sides of the aisle can support. I urge you to vote "aye" on final passage.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I whole-heartedly support simple reauthorization of the Indian Health Care Improvement Act. While improvements in the health status of Indians have been made, there continues to be a disparity betweeen the health status of Indians and that of the general population. Although Indian health services are authorized by other provisions of law, the Indian Health Care Improvement Act is essential for a number of necessary programs including manpower, and the use of the buy Indian authority for construction.

However, H.R. 6039, which I understand will be introduced as an amendment in the nature of a substitute to H.R. 4567, contains several provisions which make substantial changes in the Indian Health Care Improvement Act. I believe that a number of these changes are counterproductive to the cause of improved health care for Indians.

Section 8 of the bill, which requires a reorganization of the Indian Health Service, is ill conceived and inappropriate. Removing the Indian Health Service from the Health Resources and Services Administration would not be in the best interests of the Indian people. The Indian Health Service should remain a component of the Health Resources and Services Administration [HRSA], it is the largest bureau within HRSA and draws a major share of that agency's administrative support. HRSA also administers most of the health services delivery programs of the Department of Health and Human Services, including the National Health Service Corps, many of whose members serve in the Indian Health Service. In fact, during the last 2 fiscal years, over 65 percent of the Indian Health Service physicians were provided by the National Health Service Corps Program. Over 100 scholarship obligated physicians were assigned to the Indian Health Service last year and a similar number are expected to be assigned to the Service this fall. I think it would be very unfortunate if the existing working relationship among these programs was disturbed. I worry that it would impede the progress of the Indian Health Service.

The other provision in section 8 requires independent submission of the IHS budget to the President for review and submission to Congress. The Indian Health Service budget should be processed according to the normal budget procedure where competing needs can be evaluated and considered judgments made. Although the Indian Health Service is an extraordinarily important bureau within the Department of Health and Human Services, it should not be singled out for special treatment in assessing the resources it needs to function well.

I sincerely hope that the reorganization provision as well as the budget bypass provision of section 8 of H.R. 6039 can be modified if and when we go to conference on this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the very distinguished gentleman from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 4567, the Indian Health Care Improvement Act Amendments, and commend Chairmen UDALL and WAXMAN and their staffs for their diligent and

successful efforts in working out a bill acceptable to both the Interior and Energy and Commerce Committees.

The Indian Health Care Improvement Act is like a partially filled glass of water. It is half full but also half empty. The health of Indian people has certainly improved since its enactment in 1974. The goal of that law was to bring the level of health of Indian people up to par with the rest of the population within 7 years. While that goal has not been met, important gains have been made in some areas. The incidence of tuberculosis and the infant mortality rate among Indian people have been reduced. Nevertheless, the tuberculosis rate is three times higher and the infant mortality rate is 20 percent higher among Indian people than the rest of the population.

Another area where improvement can be directly tied to the Indian Health Care Improvement Act is the increasing number of Indian people receiving training in medial professions. There are now 3,221 Indian nurses and 720 Indian doctors working at IHS facilities. This is a dramatic improvement, but there is still a long way to go. There are twice as many doctors and nurses available to non-Indians than are available to the Indian population. The vacancy rate at the Indian Health Service for doctors and nurses is very high, with the Aberdeen area having a 50-percent vacancy rate for both doctors and nurses. I am hopeful that the tribal colleges can play an increasingly important role in the training of Indian health professionals. The Oglala Lakota College on the Pine Ridge Reservation has trained 50 percent of the nurses currently at the Pine Ridge and Rosebud Hospitals.

Without a conscious and visible effort such as the mandates in the Indian Health Care Improvement Act these and other areas of improvement in Indian health would not have taken place.

Examples where the glass is certainly empty are diseases among Indian people associated with poverty, diseases most of the non-Indian population has not had to contend with for many years. There have been recent outbreaks of bubonic plague among Southwest Indians and hepatitis-B in Alaska. Another disease which has not even come close to having the proper emphasis is alcoholism, a disease with complex causes, some of which certainly are the despair resulting from extreme poverty and joblessness.

I have seen the administration's official position on the legislation before us today, and it is most disappointing. It does not reflect what I know is the level of understanding and concern of many people at the Indian Health Service. Only the Office of Management and Budget, with an obvious lack of knowledge about these subjects, would characterize the modest steps contained in this bill relating to juvenile Indian substance abuse as "unnecessary and uncalled for." I highlight this portion of the administration's position statement because the juvenile alcohol and drug provisions are the ones in which I have been the most intensely involved. Substance abuse, ranging from lysol, to drugs, to alcohol, is seen more prevelant among Indian youth than the adolescent population as a whole. And at the same time, there are fewer financial resources available to help fight this problem in Indian country. States generally do not use their already inadequate funds for tribal alcohol and drug programs, feeling that they are a Federal responsibility. There are, in addition, few private funds available among a population where unemployment levels reach 80 and 90 percent. The Federal Government has made very little effort in trying to help prevent and arrest alcohol and drug abuse among Indian people. The Warm Springs Tribe, home of Assistant Secretary for Indian Affairs, Ken Smith, has documented that 70 percent of their contract health care costs are alcohol related. The amount of authorization in this bill, by the way, is $1.5 million for the training of education personnel in the area of alcohol and drug abuse.

Another area of administration objection to this bill is the catastrophic fund provision. There was a tragedy in my area of the country last year which illustrates the need for this fund. Eight children at the Santee Reservation in Nebraska were severly burned in a propane explosion. The cost paid by IHS to treat these children was $200,000. This $200,000 represented 22 percent of the health care budget for the Wagner Service Unit area which included the Santee and Yankton Tribes and a portion of the Rosebud Reservation. The care for these children must continue, and the total bill will be anywhere from $500,000 to $1 million. Other similar catastrophies, some involving dialysis, have occurred which have in one fell swoop depleted IHS funds for a particular tribe, thus denying many tribal members health care services.

Finally, I would like to express my support for the elevation of IHS within the Department of Health and Human Services. Just as it took a highly visible and conscious decision in 1974 to improve Indian health by enacting the Indian Health Care Improvement Act, the elevation of IHS can serve a similar purpose. IHS should not be buried under layers of bureaucracy which do not have much knowledge or sensitivity to Indian health issues. Raising the position of the Indian Health Service within the Department of Health and Human Services will improve the chances that the health of Indian people, now the worst of any people in the Nation, receives the constructive attention it deserves.

□ 1110

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman from Alaska for yielding to me.

Mr. Chairman, let me congratulate those who have worked so hard on this legislation. I am very much in support of this legislation, and it shows the commitment that this Congress has, and particularly those members of the Committee on Interior and Insular Affairs, the chairman who has brought the entire Indian affairs question into the full committee to give it that visibility. I think that is very good. The commitment that is shown through this legislation to proper health for our Indian citizens is correct and proper.

However, Mr. Chairman, we are judged so many times by the old philosphy of how much money we put into a program. I am very concerned throughout the Congress, not just on this legislation that there is very little oversight to look at the quality of the program. It seems that every time we talk about a program, all that we discuss is how much we put into it last year and how much we are going to put into it this year. It is taken for granted that if we put in more money, then we are great supporters of the particular program, and if we do not think it ought to have all of the money that is requested that, therefore, somehow we are opposed to quality health care or whatever the program may be.

Mr. Chairman, that is the case throughout the health care industry, not only in the health programs for our Indian citizens. But it is time to look at the quality of those programs. Are they really delivering the services for the amount of money that they are spending?

In the Medicare-Medicaid field everyone knows that it has gotten so expensive that we have to look at cost containments, and there are several things going on in that area that I am pleased to see, but very, very little is being done in this particular area.

Mr. Chairman, I bring those things up only to point out that more of that needs to be done. As a matter of fact, this Congress has been remiss in monitoring the various programs and seeing that we are getting our money's worth.

Having said that, and not knowing whether we are getting the maximum return for what we are putting in it because of the shortcomings in Indian health programs, I do intend to support this legislation.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentleman from Alaska for yielding this time to me.

Mr. Chairman, I commend the key members of the two committees involved in this legislation. I stand in strong support of the legislation.

I would like to associate myself with the remarks in two areas that my neighbor, the gentleman from South Dakota [Mr. DASCHLE] spoke about, first the catastrophic health insurance fund that would be established, an allocation, an earmarking of funds for handling those catastrophes that occasionally appear. Unfortunately, the catastrophe that brought my attention to a deficiency in the current programs came in my own district.

The gentleman from South Dakota mentioned the eight children involved in a propane fire from the Santee Sioux Reservation. It was for that reason that I brought this problem of fund allocation, not to mention the human suffering, to the attention of the Committee on Interior and Insular Affairs, and I very much appreciate their dealing with this problem very effectively in this legislation.

The Wagner Unit which received funds for this also covers a variety of Indian tribes in the State of South Dakota, including the Rosebud Sioux Reservation. One really only has to look at the newspaper accounts in the Washington Post during this week about conditions on the Rosebud Sioux Reservation in South Dakota to realize that life on many of our reservations has become little more than a relentless effort to survive.

Jobs are scarce or nonexistent, housing in many cases in desperately inadequate, and sadly enough, the biggest health and social problem on the reservations today is typically alcoholism. Some estimates claim that Indian people suffer from the disease 18 times more frequently than non-Indian people. Some Indian children of 9 or 10 years of age use alcohol. Many are habitual users by the age of 14.

During the last 2 weeks, this Member visited a school on a Indian reservation. According to the school superintendent, 30 children out of a special education population of 140, mentally or physically handicapped, are victims of fetal alcohol syndrome. This is out of a total population of 440 children.

In addition, he estimates that there are many more children in the school suffering from this syndrome who have not yet been accurately diagnosed. This means that almost certainly at least 25 percent of the special education students in that school are suffering from a condition that, with education, could have been prevented. But for all of these children, their life prospects, already bleak, are really almost hopeless. The Indian communities where their children live are losing the battle against alcohol and drug abuse. They are losing their hopes and dreams for a better future—their children.

I commend the committee for the special attention given to the problems of juvenile alcohol and chemical abuse. I think it is extremely important that we concentrate our efforts on this, and I also call the attention of my colleagues to a more comprehensive effort in the form of a bill recently introduced by myself and the gentleman from South Dakota [Mr. DASCHLE].

Again, my commendations to the committee for their involvement in this legislation and for the legislation they have presented to us.

Mr. VENTO. Mr. Chairman, I rise in strong support of H.R. 4567, the reauthorization of the Indian Health Care Improvement Act. As a member of the Interior and Insular Affairs Committee, and a sponsor of this bill, I am pleased that the House is considering this vital legislation. H.R. 4567 is an affirmation of our commitment to address the severe health care problems that Indians face. This legislation is the means by which we can assure that Indians have the quality health care they need and deserve.

The unique legal relationship between the United States and Indians has, in the past, been a restraint which precluded both reservation and urban Indians from making use of national health care resources on the same basis as other citizens. In 1976, Congress enacted into law the original Indian Health Care Improvement Act to upgrade the depressing health status that Indians as a people faced. While much has been accomplished in meeting the health care needs of Indians, tremendous work still remains in bringing the Indian community to an acceptable health care level. Today, Indian people still suffer the lowest health status of any ethnic group in the country. The Indian Health Service cites the average age of death for Indians at 47.2 years. Indian infants are twice as likely to die before their first birthday as compared to the general public.

Representing an urban district, I have seen first hand the health care problems that urban Indians face. That is why I have taken a special interest in title V, the Urban Indian Health Program. According to the 1980 census, over 50 percent of the American Indian population now resides in urban communities across the Nation. It is only in the last decade that we have begun to comprehensively address the health needs of an urban group who has fallen through the safety net available to others in the community. Currently, there are 37 urban Indian health programs located in 19 States, which provide a wide range of health services. These urban health programs have demonstrated outstanding success in improving the overall health status of their client population. The funds and support services available under title V have provided a critical base and serve as a catalyst for funds and support from other Federal, local, and private sources.

One of the tragedies in the last 4 years has been the Reagan administration's attempts to zero out the modest Federal funding for title V, even as their budget requests readily admit that the urban Indian population is medically underserved. Congress has resisted these efforts by recognizing the value of the Urban Indian Health Program.

The comprehensive health care system embodied in H.R. 4567 is vital to our efforts to secure for our Indian citizens, as promised in our treaties and statutes, a health status comparable to the rest of the Nation. I commend the legislation to the House and urge its passage.

● Mr. ROTH. Mr. Chairman, I rise in support of H.R. 4567, the Indian health care amendments as reported. This legislation reauthorizes vital health services made available to American Indians.

Congress enacted the Indian Health Care Improvement Act in 1976 to authorize health programs specifically targeted to improve the health status of American Indians. Despite some improvements in Indian health care, it is apparent that the majority of Indians continue to live in an environment characterized by inadequate and understaffed health facilities, improper waste disposal and water supply systems, and continuing dangers of deathly or disabling conditions. As a result, the health status of Indians remains far below that of the general public.

The Indian Health Care Improvement Act expires in fiscal year 1984. We as a nation must now continue to support a policy which seeks to gurantee American Indians adequate health care. The United States has assumed a unique legal and moral obligation to provide health services to Indian people. Inherent in this obligation is the responsibility to ensure that Indians enjoy a health status comparable to that of the rest of the Nation. Unfortunately, we have not yet met that responsibility.

In consideration of the reauthorization of the Indian Health Care Improvement Act, we must examine closely the attempt made to improve the operation of the program so that the original goal of the act of elevating the health status of Indians to a

level comparable to the rest of the Nation can be more nearly approached. This goal can be met with the implementation of this bill.

One important step in achieving this goal will be made by elevating the Indian Health Service from a bureau within the Health Resources and Services Administration to a major agency within the Public Health Service, allowing IHS to submit its annual budget directly through the President to Congress, bypassing Health and Human Services [HHS] and the Office of Management and Budget [OMB]. Under this plan, an Assistant Secretary for Indian Health would administer all Indian health programs and report directly to the Secretary. This action will clearly result in improvement of the ability of IHS to meet and discharge its obligations, and it will signal to the Indian community that we are serious about meeting our responsibility.

According to the Indian Health Service, there are currently an estimated 1.5 million American Indians in the United States. In Wisconsin the American Indian population is 32,026 with the Indian Health Service providing health care for 18,941 statewide. The IHS in Wisconsin operates six full-time health service centers and four health service stations. All of these health facilities are operated by the tribes. I strongly support our continuing commitment in authorizing these facilities and upholding our obligation to provide adequate Indian health care.

Mr. Chairman, we need to pass this legislation today. Let us continue this Nation's efforts in achieving the original goal of this vital program.●

● Mr. McCAIN. Mr. Chairman, I am pleased to rise in strong support of H.R. 4567, the Indian Health Care Amendments of 1984.

As the distinguished chairman of the Interior Committee has stated, this legislation has been the subject of extensive hearings in three committees of the House and Senate over the past 2 years.

The record of those hearings shows that substantial progress has been made in the status of Indian health as a result of the programs and efforts established under the Indian Health Care Improvement Act of 1976 and the 1980 amendments to it.

The record also shows that Indian health continues to lag well behind that of the general population. Indeed, recent statistics indicate that on more than half the 265 reservations in the continental United States and in Alaska Native villages, native Americans are 40 to 60 percent deficient in terms of their access to a standard measure of health care resources. In my State of Arizona, with its large Indian population, 17 of 20 reservations rate a 40 to 60 percent deficiency.

The Indian health scholarship programs of the 1976 act have enabled hundreds of young Indians to obtain education and skills in various health professions. Many now work on or near reservations in IHS facilities. Many more are needed, however, to eliminate shortages of health professionals that are common to IHS facilities, especially in remote reservation areas.

As a result of title II appropriations, many health service backlogs for surgeries, such as for otitis media, an inner ear disease, and the incidence of such diseases as tuberculosis, have been eliminated or reduced. However, statistics reveal Indian people continue to suffer from a variety of environmentally related diseases and other afflications at rates well above those of the general population. Alcoholism, which is an economic and social problem as well as a health problem, remains the scourge of Indian society.

Since 1976 more than a dozen IHS hospitals have been upgraded to meet JCAH accreditation standards. Several new Indian hospitals and clinics have been built. Other facilities have been modernized, repaired, and staffed with Medicare and Medicaid funds available to IHS as a result of the 1976 act. Despite these improvements, 9 of 48 IHS hospitals still are unable to meet accreditation standards, and many of the more than 200 IHS health stations and clinics are understaffed and/or located in substandard structures.

In urban areas, where roughly half of all native Americans now live, Indians have experienced considerable difficulty gaining access to health care. Under the 1976 act, 37 urban clinics provide a wide range of direct and indirect care and help Indians obtain access to existing health care resources. In Phoenix, as in other cities, the Urban Indian Program does yeoman work in meeting the needs of so-called urban Indians.

If we are to achieve the goals of the 1976 act—to raise the health status of Indian people to a level of parity with the general population and to increase Indian involvement in their health care system—then Congress has a duty to continue the efforts begun under the Health Care Improvement Act. That is the purpose of the legislation before us.

H.R. 4567 is a sound, fair, reasonable bill that represents a responsible effort to fulfill this Nation's legal and moral obligations to improve the health of Indian people. It enjoys bipartisan support in this House and in the other body. It has unanimous support from Indians and Indian tribes around the country. The administration, with some objections to particular provisions, supports reauthorization. H.R. 4567 is good legislation and I urge my colleagues to support it.●

□ 1120

Mr. WAXMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, we have no more speakers, and I yield back the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the text of H.R. 6039 shall be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce, and each section of said substitute shall be considered as having been read.

The Clerk will designate section 1.

The Clerk proceeded to designate section 1.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The amendment in the nature of a substitute consisting of the text of H.R. 6039 is as follows:

H.R. 6039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Indian Health Care Amendments of 1984".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et. seq.).

SEC. 2. Section 4 is amended by striking out subsections (i), (j), and (k).

SEC. 3. (a) Subsection (c) of section 102 is amended to read as follows:

"(c) For the purposes of this section, there are authorized to be appropriated $550,000 for fiscal year 1985, $600,000 for fiscal year 1986, and $650,000 for fiscal year 1987.".

(b) Section 103 is amended by—

(1) inserting "(1)" after "SEC. 103. (a)", redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of an applicant's scholastic achievement where such applicant has been admitted to or maintained good standing at an accredited institution.";

(2) inserting before the period at the end of subsection (c) the following: "of a grantee while attending school full time"; and

(3) amending subsection (d) to read as follows:

"(d) For the purposes of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1985, $4,700,000 for fiscal year 1986, and $5,400,000 for fiscal year 1987.".

(c) Section 104 is amended to read as follows:

"INDIAN HEALTH SCHOLARSHIPS

"SEC. 104. (a) In order to provide health professionals to Indian communities, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full time in schools of medicine, osteopathy, dentistry, veterinary medicine, nursing, optometry, public health, and allied health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l) except as provided in subsection (b) of this section.

"(b)(1) The Secretary, acting through the Service, shall determine who shall receive such scholarships and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

"(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full time in a health professions school referred to in subsection (a).

"(3) The active duty service obligation prescribed under section 338B of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service in the Indian Health Service, including service under a contract under the Indian Self-Determination and Education Assistance Act (Public Law 93-638); in a program assisted under title V of this Act; or in the private practice of his profession if, as determined by the Secretary, in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(c) For the purpose of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 4 of this Act, including all individuals described in clauses (1) through (4) of that subsection.

"(d) For the purposes of this section, there are authorized to be appropriated $6,100,000 for fiscal year 1985, $7,000,000 for fiscal year 1986, and $8,100,000 for fiscal year 1987.".

(d) Section 105(a) is amended by—

(1) inserting "(1)" after "SEC. 105. (a)" and adding at the end thereof the following paragraph:

"(2) No stipend may be paid to any person under sections 103 and 104 of this title while such person is employed under this section."; and

(2) amending subsection (d) to read as follows:

"(d) For the purposes of this section, there are authorized to be appropriated $300,000 for fiscal year 1985, $350,000 for fiscal year 1986, and $400,000 for fiscal year 1987.".

SEC. 4. (a) Section 201 is amended to read as follows:

"HEALTH SERVICES

"SEC. 201. (a)(1) To further implement the national policy of raising the health status of Indians to a zero level of deficiency as defined in subsection (c) by eliminating backlogs in health care services and meeting unmet Indian health needs as soon as possible and in an equitable manner, the Secretary is authorized to expend, through the Service, over the three-year period beginning with fiscal year 1985 the amounts authorized to be appropriated by subsection (e) of this section. Funds requested under this section shall be separately stated in the Service budget request as submitted to Congress under section 1105 of title 31, United States Code, and funds appropriated under this section shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13) or any other law. Funds appropriated under this section in any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(2) Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs of the Service, nor is it intended to discourage the Service from undertaking additional efforts to achieve parity among tribes.

"(b)(1) Funds appropriated under this section shall be expended to augment the ability of the Service to meet the following health service responsibilities—

"(A) clinical care (direct or indirect);

"(B) preventive health;

"(C) dental care (direct or indirect);

"(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

"(E) emergency medical services;

"(F) treatment and control of, and rehabilitative care related to, alcoholism among Indians;

"(G) accident prevention programs;

"(H) community health representative programs; and

"(I) maintenance and repair.

"(2) Where any funds allocated to a service unit are used for a contract under the Indian Self-Determination and Education Assistance Act, not more than 15 percent of such funds shall be used for health planning, training, technical assistance, and other administrative support functions.

"(3) To the extent that all or a portion of the funds appropriated under subsection (e) are required to raise service units which are below a Level II deficiency, as defined in subsection (c), to such level, such funds shall not be available for allocation to service units at or above such level. Funds appropriated under this section shall be allocated on a service unit basis and apportionment of a service unit's allocation of funds among the health service responsibilities listed in paragraph (1) shall be as determined by the Service and the affected Indian tribe or tribes.

"(c)(1) Within sixty days of the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress the current health services priority system report of the Service for each service unit including units serving newly recognized or acknowledged tribes. Such report shall contain—

"(A) the methodology for determining tribal health resources deficiencies; the level of health resources deficiency for each service unit; the amount of funds necessary to raise all service units below a Level II deficiency to a Level II deficiency; the amount of funds necessary to raise all service units below a Level I deficiency to a Level I deficiency; and the amount of funds necessary to raise all service units to a zero level of deficiency; and

"(B) an estimate of—

"(i) the amount of health service funds appropriated under the authority of this or any other Act for the preceding fiscal year which is allocated to each service unit or comparable entity; and

"(ii) the number of Indians eligible for health services in each service unit.

"(2) For purposes of this section, health resources deficiency levels shall be defined as follows:

"Level I—0 to 20 percent deficiency,

"Level II—21 to 40 percent deficiency,

"Level III—41 to 60 percent deficiency,

"Level IV—61 to 80 percent deficiency, and

"Level V—81 to 100 percent deficiency.

"(3) The Secretary shall establish by regulation procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of the service unit through which such tribe receives health services.

"(d) Upon enactment of the Indian Health Care Amendments of 1984, the Secretary, acting through the Service, shall take all necessary action, in cooperation with each Indian tribe, to bring current the tribal specific health plans which were developed as a part of the plan required by section 703 of this Act and which formed the basis for such plan in response to the requirements of section 701 of this Act. These plans shall be based upon the methodology submitted under subsection (c), may be further modified through tribal consultation, and shall form the basis for the health services priority system report to be submitted by the Secretary for fiscal years 1986 and 1987. Such reports shall be submitted to the Congress not more than thirty days after the submission of the annual budget for such fiscal years to the Congress by the President.

"(e) For each of the three fiscal years beginning with fiscal year 1985, there are authorized to be appropriated for the purposes of this section such sums as may be necessary to raise all service units to at least a Level II deficiency on the health services priority system. Any funds appropriated under this subsection shall be designated as the Indian Health Care Improvement Fund.

"(f) The Secretary, acting through the Service, shall expend directly or by contract, including contracts under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), not less than 1 percent of the funds appropriated under subsection (e) for research in the areas of Indian health care set out in subparagraphs (A) through (G) of subsection (b)(1).".

(b) Title II is amended by adding at the end thereof the following new section:

"CATASTROPHIC HEALTH

"SEC. 202. (a) There is established an Indian Catastrophic Health Emergency Fund to be administered by the Secretary, acting through the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses

falling within the responsibility of the Service. The fund shall be administered by the central office of the Service and shall not be allocated, apportioned, or delegated on a service unit or area office basis. Funds appropriated under subsection (c) shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13) or any other law. No part of the fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

"(b) The Secretary shall, through the promulgation of regulations consistent with the provisions of this section—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment, whether provided under contract or directly by the Service, would qualify for payment from the fund; and which shall provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the fund until its cost of treating any victim of such catastrophic illness or disaster shall have reached a certain threshold cost which the Secretary shall establish at not less than $10,000 or not more than $20,000;

"(2) establish a procedure for the reimbursement of service units or facilities rendering treatment or, whenever otherwise authorized by the Service, the reimbursement of non-Service facilities or providers rendering treatment;

"(3) establish a procedure for payment from the fund where the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service;

"(4) establish a procedure that will assure that no payment shall be made from the fund to any provider to the extent that the provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible or by which the patient is covered.

"(c) There is authorized to be appropriated for the purposes of this section $12,000,000 for fiscal year 1985 and in fiscal years 1986 and 1987 such sums as are necessary to maintain the fund at $12,000,000. Funds appropriated under this section shall remain available until expended.

"(d) The Secretary shall report to Congress on the operation of the fund on January 1, 1987. Such report shall include—

"(1) the number and nature of disasters and catastrophic illnesses for which reimbursement was sought;

"(2) the costs associated with these disasters or illnesses;

"(3) the amounts reimbursed by the fund in connection with such illnesses and disasters;

"(4) the effect of the fund on the ability of the service unit to meet the health needs of their Service populations; and

"(5) the Secretary's recommendations regarding the future operation of the fund.".

SEC. 5. Section 301 is amended to read as follows:

"HEALTH FACILITIES

"SEC. 301. (a)(1) Within sixty days after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall submit to the Congress a report which shall set forth the current health facilities priority system of the Service and which shall include the planning, design, construction, or renovation needs for the ten top priority inpatient care facilities and the ten top priority ambulatory care facilities together with required staff quarters, the justification for such priority listings, and the projected cost of such projects. The report shall also include the methodology adopted by the Service in establishing priorities under its health facilities priority system.

"(2)(A) Within thirty days of the submission of the annual budget to the Congress by the President for fiscal years 1986 and 1987, the Secretary shall submit to the Congress a report which complies with the requirements of paragraph (1).

"(B) In preparing such report in such fiscal years, the Service shall consult with tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities with funds from the Service under the Indian Self-Determination Act, and shall review the needs of these tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

"(3) The Service shall use the same criteria for fiscal years 1985, 1986, and 1987 to evaluate the needs of facilities operated under contract under the Indian Self-Determination Act as it uses to evaluate the needs of facilities operated directly by the Service in such fiscal years.

"(b)(1) All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) for the planning, design, construction, or renovation of health facilities for the benefit of a tribe or tribes may be used for the expenses of such activities incurred by such tribe or tribes under contracts or grants under the Indian Self-Determination Act. Title to any facility constructed under a grant under this section shall be in the United States.

"(2) Any tribal contractor or grantee shall expend such funds for the purpose for which appropriated pursuant to rules and regulations established by the Secretary for contracting and procurement.

"(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for facilities planning and design, construction, or renovation under the Act of November 2, 1921 (25 U.S.C. 13), the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

"(2) ensure, wherever practicable, that such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Commission on Accreditation of Hospitals.

"(d) The Secretary shall not close, under any existing authority, any Service hospital or other outpatient health care facility or any portion thereof unless he has submitted to the Congress at least one year prior to the planned closure date an evaluation of the impact of the proposed action which shall include the following factors—

"(1) accessibility of alternative health care resources for the service population;

"(2) cost effectiveness of the closure;

"(3) quality of health care to be provided to the service population after closure;

"(4) availability of contract health care funds to maintain current levels of service; and

"(5) the views of the Indian tribe or tribes served by such facility on the planned closure.

"(e)(1) Notwithstanding any other law, an Indian tribe may acquire and expend funds, other than funds appropriated to the Service, for major renovation and modernization, including planning and design for such renovation and modernization, of Service facilities, including facilities operated under contract under the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

"(2) Any project undertaken under paragraph (1) shall be subject to the approval of the Area Director and shall—

"(A) not require or obligate the Service to provide any additional staff or equipment; and

"(B) not divert Service funds from a higher priority project on the current health facilities priority system as provided in subsection (a).

"(3) Any tribe undertaking a project under paragraph (1) shall have full authority to administer such project, but shall do so in accordance with applicable rules and regulations promulgated by the Secretary governing construction or renovation of Service health facilities.".

SEC. 6. Section 302 is amended to read as follows:

"SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

"SEC. 302. (a)(1) Congress finds that—

"(A) the provision of safe water supply and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

"(B) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

"(C) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

"(D) many Indian homes and communities still lack safe water supply and sanitary sewage and solid waste disposal facilities;

"(E) it is in the interest of the United States and it is the policy of the United States that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply and sanitary sewage and solid waste disposal facilities as soon as possible; and

"(2) Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(b) Beginning in fiscal year 1985, the Secretary, acting through the Service, shall develop and begin implementation of a ten-year plan to provide safe water supply and sanitary sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

"(c)(1) Within sixty days of the date of the enactment of the Indian Health Care Amendments of 1984, the Secretary shall report to Congress on the Service's sanitation facilities priority system. The Secretary, in preparing such report, shall uniformly apply the methodology for determining sanitation deficiencies to all Indian tribes. Such report shall identify the methodology for determining sanitation deficiencies; the level of deficiency for each Indian community or tribe; the amount of funds necessary to raise all communities to a level I deficiency; and the amount of funds neces-

sary to raise all communities or tribes to a zero level of deficiency. For the purpose of such report—

"(A) a level I deficiency means a sanitation system which complies with all applicable water supply and pollution control laws and regulations in which the defined deficiencies consist of routine replacement, repair, or maintenance needs;

"(B) a level II deficiency means a sanitation system which complies with all applicable water supply and pollution control laws and regulations in which the defined deficiencies consist of capital improvements necessary to improve the facilities to meet the needs of the communities for domestic sanitation facilities;

"(C) a level III deficiency means a sanitation system which has an inadequate or partial water supply and sewage disposal facility which does not comply with applicable water supply and pollution control laws and regulations or which has no solid waste disposal facility.

"(D) a level IV deficiency means a sanitation system which lacks either a safe water supply system or a sewage disposal system; and

"(E) a level V deficiency means the absence of a safe water supply and sewage disposal system.

Any tribe or community which lacks the operation and maintenance capability to meet pollution control laws and regulations shall be deemed to have a level III deficiency;

"(2)(A) Within thirty days of the submission of the annual budget to the Congress by the President for fiscal years 1986 and 1987, the Secretary shall submit a report to the Congress which meets the requirements of paragraph (1).

"(B) In preparing such report in such fiscal years, the Secretary, acting through the Service, shall consult with tribes and tribal organizations including those operating health care programs or facilites under contracts under the Indian Self-Determination and Education Assistance Act to determine the sanitation needs of each tribe.

"(d)(1) To clarify the powers conferred by subsection (a) of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) the Secretary, acting through the Service, is authorized to provide—

"(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities,

"(B) ongoing technical assistance and training in the management of utility organizations, and

"(C) operation and maintenance assistance for and emergency repairs to tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities in situations where the community or tribe or family is not financially or technically capable of performing the required emergency repairs with their own resources.

"(2)(A) This section is not intended to diminish the primary responsibilities of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operation and maintenance of sanitation facilities.

"(B) The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a precondition for the provision or construction of such facilities and the Secretary may not require a tribe or community to accept a transfer of such facilities where he has determined the tribe or community does not have, or may not be reasonably expected to achieve, such capability.

"(e) For the purpose of providing necessary funds and staff to implement the expanded responsibilities of the Service under subsection (d)—

"(1) there is authorized to be appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987, and

"(2) there is authorized to be appropriated for each of the fiscal years 1985, 1986, and 1987, $850,000 to support thirty new full-time equivalents for the Service

"(f) Any funds appropriated and allocated for the purpose of providing water supply and sewage disposal services for the benefit of any tribe or tribal organization may be used for expenses incurred by any such tribe under contract or grant for the provision of such services under the Indian Self-Determination Act.".

SEC. 7. Title V is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"PURPOSE

"SEC. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian populations.

"CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

"SEC. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in urban centers in which such organizations are situated, programs which meet the requirements of this title. The Secretary, acting through the Service, shall include such conditions in any such contract as he considers necessary to effect the purpose of this title.

"CONTRACTS FOR THE PROVISION OF HEALTH CARE OR REFERRAL SERVICES

"SEC. 503. (a) The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations for the provision of health care or referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract shall include requirements that the urban Indian organization undertake to—

"(1) determine the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) determine the current health status of urban Indians residing in such urban center;

"(3) determine the current health care needs of urban Indians residing in such urban center;

"(4) identify all public and private health service resources within such urban center which are or may be available to urban Indians;

"(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

"(6) assist such health service resources in providing service to such urban Indians;

"(7) assist such urban Indians in becoming familiar with and utilizing such resources;

"(8) provide basic health education to such urban Indians;

"(9) establish and implement manpower training programs necessary to accomplish the directives described in paragraphs (6) through (8);

"(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(12) where necessary, provide or contract for health care services to urban Indians.

The Secretary may not renew any contract entered into under subsection (a).

"(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which contracts may be entered into under this title. Such criteria shall include—

"(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

"(2) the size of the urban Indian population in the urban center involved;

"(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

"(4) the extent to which the requirements described in subsection (a) would duplicate—

"(A) any previous or current public or private health services project which is situated in an urban center and which is not funded under this title; or

"(B) any project funded under this title;

"(5) the capability of an urban Indian organization to meet the requirements of subsection (a);

"(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(7) the appropriateness and likely effectiveness of conducting the activities described in subsection (a) in an urban center; and

"(8) the extent of existing or likely future participation in the activities described in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS

"SEC. 504. (a) The Secretary, acting through the Service, may enter into contracts with urban Indian organizations which are situated in urban centers and for which contracts have not been entered into under section 503.

"(b) Any contract entered into by the Secretary under subsection (a) shall require—

"(1) the urban Indian organization—

"(A) to document the health care status and unmet health care needs of urban Indians in the urban center involved;

"(B) with respect to urban Indians in the urban center involved, to determine the matters described in paragraphs (2), (3), (4), and (8) of section 503(b); and

"(2) the urban Indian organization to complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.

"EVALUATIONS: CONTRACT RENEWALS

"SEC. 505. (a) The Secretary, acting through the Service, shall develop procedures to evaluate performance of contracts entered into by urban Indian organizations under this title. Such procedures shall in-

clude provisions for carrying out the requirements of this section.

"(b) The Secretary, acting through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of evaluating the performance of such organization under such contract.

"(c) If, as a result of the evaluations conducted under subsection (b), the Secretary determines that an urban Indian organization has not satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of unsatisfactory performance and modify such contract to prevent future occurrences of such unsatisfactory performance. If the Secretary determines that such unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and may enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.

"(d) In determining whether to renew a contract with an urban Indian organization under section 503, or whether to enter into a contract with an urban Indian organization under section 503 which has completed performance of a contract under section 504, the Secretary shall review the information generated by the urban Indian organization in compliance with sections 503(a) and 504(b), the reports submitted under section 507, and, in the case of a renewal of a contract under section 503, the results of the on-site evaluations conducted under subsection (b).".

"OTHER CONTRACT REQUIREMENTS

"SEC. 506. (a) Contracts with urban Indian organizations under this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1925 (40 U.S.C. 270a).

"(b) Payments under any contract under this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

"(c)(1) Notwithstanding any provision of law to the contrary, the Secretary may, at the request, or with the consent, of an urban Indian organization, revise or amend any contract made by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

"(2) Whenever an urban Indian organization requests the Secretary to assume responsibility for any contract entered into under this title, the Secretary shall assume such responsibility not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

"(d) The Secretary may permit an urban Indian organization performing a contract under this title to use federally owned facilities within the Secretary's jurisdiction under such terms and conditions as may be jointly agreed upon for the use and maintenance of such facilities.

"(e) Contracts with urban Indian organizations and regulations adopted under this title shall assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

"REPORTS

"SEC. 507. (a) For each fiscal year in which an urban Indian organization receives or expends funds under a contract under this title, such organization shall submit to the Secretary a quarterly report including—

"(1) in the case of a contract under section 503, information gathered under paragraphs (10) and (11) of subsection (a) of such section;

"(2) information on activities conducted by the organization under the contract;

"(3) an accounting of the amounts and purposes for which Federal funds were expended; and

"(4) such other information as the Secretary may request.

"(b) The report required under subsection (a) and information production required under sections 503(a) and 504(b) of any urban Indian organization under a contract under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(c) The Secretary shall allow as a cost of any contract entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

"REPORTS OF THE SECRETARY

"SEC. 508. (a) Within one year after the date of enactment of the Indian Health Care Amendments of 1984, the Secretary, acting through the Service, shall submit a report to Congress which assesses the health status and health care needs of urban Indians. The report shall—

"(1) specify the health care needs of urban Indians and, with respect to urban centers for which urban Indian organizations have entered into contracts under section 503, whether additional health care personnel are required to meet such needs;

"(2) make recommendations for additional programs, technical assistance, funding, and additional health care personnel to meet the health care needs of Indians in urban centers; and

"(3) contain recommendations for legislation and administrative actions to achieve the national goal of raising the health status of urban Indians to a level equal to that of the general population.

"(b) Not later than April 1, 1987, the Secretary, acting through the Service and with the assistance of the urban Indian organizations that have entered into contracts under this title, shall review the programs established under this title and submit to Congress an assessment thereof and recommendations for any further legislative efforts the Secretary deems necessary to meet the purpose of this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 509. There are authorized to be appropriated for contracts with urban Indian organizations under this title $12,000,000 for fiscal year 1985, $13,200,000 for fiscal year 1986, and $14,400,000 for fiscal year 1987.".

SEC. 8. (a) Title VI is amended to read as follows:

"TITLE VI—OFFICE OF INDIAN HEALTH SERVICE

"OFFICE OF INDIAN HEALTH SERVICE

"SEC. 601. Not later than 6 months after the date of enactment of this Act, the Indian Health Service shall be removed as a bureau of the Health Resources and Services Administration and shall be placed in the Public Health Service at the same level as such Administration.

"BUDGET ESTIMATE

"SEC. 602. The Director of the Service shall prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for programs of the Indian Health Service and shall receive directly from the President and the Office of Management and Budget all funds appropriated for obligation and expenditure by the Service.".

SEC. 9. Section 705 is amended to read as follows:

"COMPETITIVE PROCUREMENT

"SEC. 705. (a) The Secretary, acting through the Service, may waive any statutory or administrative requirement for competitive procurement of health services if, in the judgment of the Chief Medical Officer who will have jurisdiction over such health services, such competitive procurement would compromise the accessibility, quality, and continuity of health services or would not result in any appreciable competition or savings.

"(b) The Secretary, acting through the Service, shall reject any bid submitted under any statutory or administrative requirement for competitive procurement of health services upon the certification of the Chief Medical Officer who will have jurisdiction over such health services that acceptance of such bid would compromise the accessibility, quality, and continuity of health services.".

SEC. 10. Section 706 is amended to read as follows:

"JUVENILE ALCOHOL AND DRUG ABUSE

"SEC. 706. (a) Within ninety days of the date of enactment of the Indian Health Care Amendments of 1984, the Secretary shall enter into an agreement with the Secretary of the Interior and the Secretary of Education to coordinate the efforts of their Departments related to alcohol and drug abuse among Indian juveniles. The agreement shall provide for the identification and coordination of available resources and programs to combat Indian juvenile alcohol and drug abuse through prevention, education, counseling, and referral. The Secretary shall publish such agreement in the Federal Register within one hundred and twenty days of the date of enactment of the Indian Health Care Amendments of 1984.

"(b) The Secretary, acting through the Service and in consultation and cooperation with the Secretary of the Interior and the Secretary of Education, shall develop a program to provide training in—

"(1) preventive education;

"(2) the identification of juvenile alcohol and drug abusers; and

"(3) counseling techniques on juvenile alcohol and drug abuse.

Such training shall be provided to elementary and secondary teachers and counselors—

"(A) in schools operated by the Bureau of Indian Affairs;

"(B) in schools operated under contract with the Bureau of Indian Affairs; and

"(C) in public schools on or near Indian reservations (including public schools in Oklahoma and Alaska with significant numbers of Indian students).

The Service may provide such training either directly or through contract with qualified private or public entities.

"(c) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation with the Service, shall review

existing literature and reports on juvenile alcohol and drug abuse, including studies and school curricula and any other material relevant to an understanding of the problem of juvenile alcohol and drug abuse, and shall make available the results of such review to the schools described in subsection (b).

"(d) The Secretary shall establish an Office of Alcohol and Drug Abuse within the Service which shall be responsible for the administration of the programs and authorities of the Service in the field of alcohol and drug abuse. The Office shall have assigned to it a number of full-time equivalent positions which shall be not less than eight full-time equivalent positions in the Central Office of Service and one full-time equivalent position in each Service area and Program Office.

"(e) For the purpose of implementing subsection (b), there is authorized to be appropriated $1,500,000 for each of the fiscal years 1985, 1986, and 1987.".

SEC. 11. Section 707 is amended to read as follows:

"NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

"SEC. 707. (a) The Secretary, acting through the Service, shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the health hazards to Indian miners of nuclear materials and Indians on or near Indian reservations and in Indian communities as a result of nuclear resource development. Such study shall include—

"(1) an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems;

"(2) an analysis of the potential effect of ongoing and future nuclear resource development on Indians living in or near Indian reservations and communities;

"(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear powerplant operation and construction, and nuclear waste disposal;

"(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the ten years prior to the date of enactment of the Indian Health Care Amendments of 1984 that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

"(5) an evaluation of the efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out an education program for such Indians regarding the health and safety hazards of nuclear resource development.

To assist the Academy in conducting such study, the Secretary and the Secretary of the Interior shall furnish at the request of the Academy any information which the Academy deems necessary for the purpose of conducting the study. In addition, they shall cooperate with the Academy in obtaining information necessary to carry out the intent of the study.

"(b) Upon the completion of such study, the Secretary, acting through the Service, shall, on the basis of the results of such study, develop a health care plan to address the health problems studied under subsection (a). The plan shall include—

"(1) methods for diagnosing and treating Indians currently exhibiting nuclear resource development related health problems;

"(2) preventive care for Indians who may be exposed to such health hazards as a result of nuclear resource development, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or otherwise affected by nuclear development activities that have had or could have a serious impact upon the health of such individuals; and

"(3) a program of education for Indians who, by reason of their work or geographic proximity to nuclear development activities, may experience health problems.

"(c) The Secretary shall submit to Congress the results of the study conducted under subsection (a) no later than eighteen months after the date of enactment of the Indian Health Care Amendments of 1984. The health care plan prepared under subsection (b) shall be submitted to Congress no later than one year after the date the results of the study are submitted. Such report shall include recommended activities for implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

"(d) For the purpose of conducting the study required by subsection (a) of this section, there is authorized to be appropriated $350,000.".

SEC. 12. Section 708 is amended to read as follows:

"SERVICE TO INELIGIBLE PERSONS

"SEC. 708. (a)(1) The Secretary, acting through the Service, may provide or authorize the provision of medical care, treatment, or benefits by the Service to persons who are not otherwise eligible for such services in health facilities maintained by the Service or contracted under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or through contract health care services, subject to the limitations of this section.

"(2) Persons eighteen years of age or under who are the natural or adopted children (including foster- and step-children), legal wards, or orphans of an eligible Indian person and who are not otherwise eligible for the medical care, treatment, or benefits of the Service shall be eligible for all such services on the same basis and subject to the same rules as apply to eligible Indians until their nineteenth birthday. The existing and potential medical needs of such persons shall be taken into consideration by the Service in determining the need for, or the allocation of, its health resources. Any such person who has been determined to be legally incompetent prior to their nineteenth birthday shall remain eligible for such services until one year after the date such disability has been removed.

"(3) Non-Indian spouses of eligible Indians or spouses of Indian descent who are not otherwise eligible for the medical care, treatment, or benefits of the Service shall not be eligible for such service unless they are made eligible, as a class, by an appropriate resolution of the governing body of the relevant Indian tribe. The medical needs of persons made eligible under this subsection shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(b)(1)(A) At the request of the Indian tribe or tribes included within the service area of any service unit of the Service, the Secretary may authorize the medical care and treatment of otherwise ineligible persons residing within such service area in health facilities maintained and operated by the Service.

"(B) Persons receiving medical care and treatment under this subsection shall be liable for the payment for such services under a fee schedule adopted by the Secretary which, in the judgment of the Secretary, shall result in reimbursement in an amount not less than the actual cost of providing the service. Fees collected under this subsection, including medicare or medicaid reimbursements under titles VIII and XIX of the Social Security Act, shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility.

"(2)(A) Except as provided in subparagraph (B), where the governing body of an Indian tribe or, in the case of a multi-tribal service area, any Indian tribe revokes its concurrence to the provision of services under paragraph (1)(A), the Secretary's authority to provide such service shall terminate at the end of the fiscal year following the fiscal year in which such revocation was adopted.

"(B) In California, in the case of a multi-tribal service area, unless 51 percent or more of the Indian tribes in the Service area revoke their concurrence to the provision of services under paragraph (1)(A), the authority to provide such service shall not be affected.

"(3)(A) In the case of health facilities operated directly by the Service, such medical care and treatment may be provided under this subsection only where the Secretary and the affected tribe or tribes have jointly determined that—

"(i) the provision of such service will not result in a denial or diminution of services to eligible Indian persons; and

"(ii) there is no reasonable alternative health facility or service, within or without the service unit area, available to meet the medical needs of such persons.

"(B) In the case of health facilities operated under contract under the Indian Self-Determination and Education Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under a contract with the Service under the Indian Self-Determination Act is authorized determine the eligibility for such services of persons who are not otherwise eligible for such services. Such determination shall be in accordance with the requirements of this section.

"(4) The Service may continue to provide medical care, treatment, and benefits to persons not provided service under subsections (a) or (b) to achieve stability in a medical emergency, to prevent the spread of a communicable disease or otherwise deal with a public health hazard; to provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or to immediate family members of an eligible person where such care is directly related to the treatment of the eligible person.

"(5) Hospital privileges in health facilities operated and maintained by the Service or operated under contract under the Indian Self-Determination and Education Assistance Act may be extended to non-Service health care practitioners under a plan adopted under subsection (d) of this section. Such non-Service health care practitioners shall not be regarded as employees of the Federal Government for purposes of sec-

tions 1346(b) and 2671 et seq. of title 28 of the United States Code relating to Federal tort claims even if providing services to eligible persons as a part of the condition under which privileges are extended. This subsection shall not affect the conditions under which ineligible persons may be provided health services at Service facilities in cases where non-Service health care practitioners may be extended hospital privileges in Service facilities under any other provision of law.".

SEC. 13. Section 709 is amended to read as follows:

"ELIGIBILITY OF CALIFORNIA INDIANS

"SEC. 709. The following California Indians shall be eligible for care from the Service:

"(1) Members of federally recognized tribes.

"(2) All Indians of California as defined in the first section of the Act of May 18, 1928 (25 U.S.C. 651).

"(3) Indians who hold trust interests in public domain, national forest, or Indian reservation allotments in California.

"(4) Indians in California who were listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and their descendants. This paragraph shall cease to be effective after October 1, 1988.".

SEC. 14. Section 710 is amended to read as follows:

"REDUCTION AND CONTROL OF HEPATITIS-B IN ALASKA

"SEC. 710. The Secretary, acting through the Indian Health Service and the centers for Disease Control, shall, in cooperation with the State of Alaska, provide for screening and reporting of cases of hepatitis-B among Native Alaskans and vaccinations to prevent and control the incidence of hepatitis-B among Native Alaskans. Not later than December 30, 1986, the Secretary shall submit to Congress a report detailing the activities carried out under this section and outlining what subsequent actions should be taken to continue to control the incidence of hepatitis-B in Alaska, together with a recommended schedule for the completion of such actions.".

SEC. 15. Title VII is amended by adding at the end thereof the following new sections:

"CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

"SEC. 712. (a) The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, and Santa Clara, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.

"(b) This section shall take effect October 1, 1984.

"CONTRACT HEALTH FACILITIES

"SEC. 713. (a) The Indian Health Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Indian Health Service under the Indian Self-Determination Act—

"(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

"(2) for employee training,

"(3) for cost-of-living increases for employees, and

"(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Indian Health Service.

"(b) In the case of eligible California Indians as defined by section 709 of the Indian Health Care Improvement Act, as amended by this Act, who are not members of Indian tribes or eligible for membership in such tribes, the Secretary may not enter into a contract to provide health services to such Indians under section 103 of the Indian Self-Determination Act if 51 percent of the adult population of such Indians object prior to the award of such contract either individually or through any legally established organization of Indians, in which case the Secretary, acting through the Service, shall make alternate arrangements for the delivery of health care services to such Indians. Nothing in this section shall be construed to restrict or interfere with the right of any Indian tribe to contract for health services on behalf of its own members.

"NATIONAL HEALTH SERVICE CORPS

"SEC. 714. (a) The Secretary of Health and Human Services shall not—

"(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act; or

"(2) withdraw funding used to support such member

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services. This section shall take effect as of October 1, 1983.

"RESTRICTIONS ON THE USE OF INDIAN HEALTH SERVICE APPROPRIATIONS

"SEC. 715. Unless otherwise specifically provided, any restriction placed on the use of appropriations for Indian health services shall not be interpreted—

"(1) to apply to the use of funds other than such appropriated funds by an entity with a contract with the Indian Health Service;

"(2) to prohibit the support of litigation with such other funds; or

"(3) to prohibit the promotion of public support for or opposition to any legislative proposal with such other funds.

"INFANT AND MATERNAL MORTALITY

"SEC. 716. Not later than January 1, 1985, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1990:

"(1) Reduction of the rate of Indian infant mortality in each Area Office of the Service to twelve deaths per one thousand live births or to that of the United States population, whichever is lower.

"(2) Reduction of the rate of maternal mortality in each Area Office of the Service to five deaths per one hundred thousand live births or to that of the United States population, whichever is lower.

The Secretary shall report to Congress on January 1 of each year after fiscal year 1985 on the progress that has been made toward achieving such objectives.

"DEFINITIONS

"SEC. 717. As used in this Act—

"(1) 'Area Office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographical area; and

"(2) 'service unit' means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act through which services are provided, directly and by contract, to the eligible Indian population within a defined geographic area.".

TECHNICAL AMENDMENTS OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I have a series of technical amendments at the desk which I offer, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Technical Amendments offered by Mr. UDALL: On page 1, in line 7, strike the phrase "an amendment or repeal is expressed in terms if".

On page 9, in line 9, insert the word "as" before the word "may".

On page 11, at the end of line 18, insert the word "and".

On page 24, strike all of lines 1 and 2.

On page 26, at the end of line 2, insert the following: "(c) The Secretary may not renew any contract entered into under this section.".

On page 27, in line 19, strike "1925" and insert, in lieu thereof, "1935".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendments considered en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. YOUNG of Alaska. Mr. Chairman, reserving the right to object, may I ask the gentleman, are these the same amendments, numbered 1 through 6, which he provided to the minority?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, the gentleman is correct. They are technical amendments. There are no hidden balls or substitutes here. The gentleman is entirely correct.

Mr. YOUNG of Alaska. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I ask for the adoption of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Arizona [Mr. UDALL].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I have another amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. UDALL: On page 30, beginning with line 25, strike all of section 601 and insert, in lieu thereof, the following:

"SEC. 601. (a) In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as is or may be hereafter be provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services an Office of Indian Health Service which shall be under the direction of an Administrator for Indian Health who shall report directly to the Assistant Secretary for Health.

"(b) All health programs and authorities under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including but not limited to programs, functions, responsibilities, and authorities under this Act; the Act of November 2, 1921 (25 U.S.C. 13); the Act of August 5, 1954 (68 Stat. 674), as amended; the Act of August 16, 1957 (71 Stat. 370); the Indian Self-Determination and Education Assistance Act (P.L. 93-638); and the Act of December 5, 1979 (93 Stat. 1056), shall be delegated solely to the Administrator for Indian Health.

"(c) In the implementation of the delegation described in subsection (b), the Administrator for Indian Health shall undertake the administrative and financial management, personnel, contracting, granting, management and program policy development and planning, evaluation, and public information functions and shall receive compensation at the rate now or hereafter provided by law for Assistant Surgeon Generals corresponding with the grade of Major General or the Civil Service equivalent.

"(d) All personnel, records, equipment facilities, and interests in property that were administered by the Indian Health Service on the date of enactment of this section shall be transferred to the Office of Indian Health Service. There shall also be allocated to the Office of Indian Health Service budget and personnel ceiling authority necessary to implement fully the delegation described in subsection (b) and the functions described in subsection (c).

"(e) The requirements of this section shall be met within one hundred and eighty days after the date of enactment of this section. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers, under existing authority, involved in implementing this section."

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, when the Interior Committee reported H.R. 4567, it contained a provision providing for the creation of an Assistant Secretary for Indian Health within the Department of Health and Human Services. This provision was strongly supported by all the Indian witnesses before my committee. The adminsitration was almost alone in its opposition to the Assistant Secretary provision.

As a former chairman and current member of the Post Office and Civil Service Committee, I am generally opposed to the creation of new Assistant Secretary positions. However, based upon the testimony before my committee, I was firmly convinced that this provision would not just be a token or symbolic gesture, but would result in a significant improvement of the ability of IHS to meet the critical health needs of the Indian people.

Nevertheless, in the spirit of compromise with the Energy and Commerce Committee and in recognition of the administration's position, I agreed to drop the Assistant Secretary provision in favor of the Energy Committee provision which simply creates an Office of Indian Health Services in the Public Health Service. H.R. 6039, which is before us as an amendment in the nature of a substitute for H.R. 4567, contains that provision.

However, I am not satisfied that the existing language of the substitute is adequate to effectively accomplish the creation of this new office.

The amendment I am offering does not alter the purpose of section 8 of the substitute in creating a new Office of Indian Health Service in the Public Health Service. Rather, it provides more definitive language to ensure that the creation of that office and the transfer of the existing Indian Health Service will be more expeditiously and efficiently carried out.

Mr. Chairman, I urge the adoption of this strengthening amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. UDALL].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: On page 16, line 12, add the following new subsection (f):

(f)(1) The Secretary shall convey to the Bethel Native Corporation, an Alaska Native Corporation organized pursuant to the Alaska Native Claims Settlement Act, all right, title, and interest of the United States in and to the following real property situated in Bethel, Alaska, described as: U.S. Survey No. 4000, excluding those lands identified as tracts A and B in the determination AA-18959 of the Bureau of Land Management issued on September 30, 1983 pursuant to section 3(e) of Public Law 92-203.

(2) The Secretary is authorized and directed to enter into a contract for sale of the service hospital, housing facilities owned by the Service, fixtures, equipment, and appurtances located on the property described in subsection (1) to the Bethel Native Corporation upon the execution of a lease-purchase agreement between the Service and the Bethel Native Corporation whereby the Bethel Native Corporation shall agree to a purchase of the service hospital, housing facilities, fixtures, equipment and appurtances at a price which recovers the actual federal expenditures in the construction of said hospital and facilities and whereby the Service shall agree to lease and operate said hospital and facilities.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, this amendment will resolve a conflict in land claims involving the Indian Health Service and the local Alaska Native Corp., for the village of Bethel, AK. In doing so, the amendment recognizes the valid selection of the Bethel Native Corp., a selection which has been determined by the Bureau of Land Management to be a valid selection under the Alaska Native Claims Settlement Act.

The land in question has long been claimed by the local Native group under the terms of ANCSA. The Public Health Service constructed in 1979 a new hospital and support facilities on these lands, in a location which had not been used previously by the Service. Therefore, a conflict arose over ownership of the lands on which the new hospital and facilities are located. Citing the previous claim of the Bethel Native Corp., under ANCSA, the BLM last year issued a determination that the selection of the village corporation was valid.

In order to resolve the conflict over ownership of lands in question, the amendment would authorize a conveyance of those lands to the village corporation. Additionally, the amendment authorizes the Secretary to enter into a contract for the sale of the hospital and related facilities in return for a leasing agreement by which the Indian Health Service will continue to operate the hospital. The purchase is to be privately financed and the price is to be set at a level which fully recovers the Federal expenditures.

Mr. Chairman, the amendment is intended to resolve the land title issues in a manner which recovers the Federal investment and ensures that quality medical services are continued to be supplied in the area. I believe it represents a fair resolution of the land title conflict and, for these reasons, I urge my colleagues to support this amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I am glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I appreciate the problem posed by the gentleman from Alaska and the purpose of his amendment. However, we have not had a full opportunity to review the

language of this amendment nor have we had an opportunity to receive the views of the administration and other concerned parties on this matter. I do understand that there may be some problems if this amendment is adopted in insuring adequate health care to the Alaska Natives in the Bethel area.

However, I am willing to interpose no objection to the adoption of this amendment subject to an understanding with the gentleman. It would be my intent to drop this amendment from the bill in conference, unless, in the interim, a firm case can be made for the proposal, including assurances that health care will not suffer, and no strenuous, meritorious objections are raised by the administration and other concerned parties.

Mr. YOUNG of Alaska. Mr. Chairman, knowing the superb leadership of the committee chairman, I am confident there will be the votes to remove the amendment if it is not agreed to, but we hope to resolve this conflict. It is a definite deterrent to the medical services, and there will be a conflict over the areas if we do not do it. But I gladly in this colloquy recognize the leadership of the committee chairman, and I am sure I will be able to support him in the conference.

Mr. UDALL. With that understanding, Mr. Chairman, I do not object to the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, the Clerk has an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON: Page 31, insert after line 10 the following:

SEC. 9. (a) Section 704 is amended by inserting "(a)" after "SEC. 704." and by adding at the end thereof the following new subsection:

"(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes, tribal organizations, or Indian organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe) facilities used for the administration and delivery of health services by the Indian Health Service or by programs operated by tribes, tribal organizations, or Indian organizations, to compensate such tribes, tribal organizations, or Indian organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.".

Page 31, line 11, strike out "SEC. 9." and insert "(b) in lieu thereof.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I rise at this time to offer an amendment. This amendment seeks only to clarify existing policy regarding compensation for space costs to Indian tribes which contract out for the provision of health services. Let me briefly give my colleagues some background on this issue.

In 1975, the Congress enacted the Indian Self-Determination and Education Assistance Act, a milestone piece of legislation providing Indians with the authority to run their own programs rather than have them run by the Federal Government. Contracting provided the mechanism by which Indians could take over the administration of their own programs. Subsequently, many Indian tribes entered into contracts with the Indian Health Service for the administration of all or part of health service programs.

In 1976, the Congress enacted another milestone piece of legislation—the Indian Health Care Improvement Act, which for the first time set out a specific plan for the elevation of the health status of Indian people and which provided the resources necessary to begin to meet the goal of bringing the level of Indian health up to that of the general population. The act also sought to achieve the maximum participation of Indian people in Indian health programs. Finally, one small section of the 1976 Health Care Act gave the Secretary the authority to enter into leasing agreements with Indian tribes. What this provision means is that the Federal Government has the option of using a preexisting Indian facility for the provision of health services as long as the tribe which owns the facility is compensated for its use through lease payments.

Based on the two pieces of legislation I have mentioned, Mr. Chairman, the following scenario has become quite common: an Indian tribe contracts from IHS for the provision of health services, but because Federal dollars available for the construction of new facilities are quite scarce, the tribe goes out and gets a loan for the contruction of a health facility. Since the tribe itself has constructed the facility to be used, it naturally expects to receive IHS compensation for space costs which the tribe could in turn use toward making payments on the loan. This, in fact, has been the case for the past few years, as tribes which have taken over the administration of their own health programs, but which also use their own health facilities, have been able to receive compensation for the cost of these facilities from the Federal Government.

Now, because of organizational changes within the Department of Health and Human Services, the policy regarding lease payments has become confused. Many tribes have been told that they cannot receive lease payments on their facility unless IHS is operating the program. In my own district in Connecticut, our newly recognized Indian tribe, the Mashantucket Pequots, cannot yet go ahead with their application for a loan to construct a facility because Department officials have given them conflicting signals as to whether or not the tribe will be able to receive lease payments if they choose to enter into a contract for health services with IHS.

I am here today to make clear that in passing both the Indian Self-Determination Act of 1975 and the Indian Health Care Improvement Act of 1976, the Congress intended first—that to the greatest extent possible, Indians were to be responsible for running their own health programs, second—that it was desirable for the U.S. Government to enter into lease agreements with Indian tribes which provide their own health facilities for use in carrying out the Federal mandate of improving Indian health, and finally—that these two aims were in no way to be mutually exclusive.

Mr. Chairman, lease payments provide the Government with a way of avoiding the expenditure of enormous sums of money to construct health facilities for all tribes which need them. To deny lease payments to Indian tribes exercising their legitimate right to contract for health services is to discourage those tribes from assuming control of their programs and hence, to impede progress toward the goal of Indian self-determination.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am familiar with the gentleman's amendment and am willing to accept it.

Section 704 of the Indian Health Care Improvement Act, as amended in 1980, provided authority for the Secretary to enter into lease arrangements with Indian tribes for the purpose of carrying out the act and in general meeting the health care responsibilities of the Indian Health Services. As noted in the legislative history of the act, it was the committee's intent that the provision be given a liberal construction to achieve those purposes.

The gentleman has indicated that some of the tribes are encountering difficulty with the Department in entering into lease arrangements to better serve the health needs of their people. While I believe that the existing language was intended to permit the kind of lease arrangements he has

referred to, I concur that perhaps more forceful explicit guidance to the Department may be in order, and I, therefore support his amendment.

Mr. LUNDINE. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to my colleague, the gentleman from New York.

Mr. LUNDINE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of this amendment. I first want to thank both the gentleman from Connecticut [Mr. GEJDENSON], the author of this amendment, and the distinguished chairman of the Interior Committee, Mr. UDALL, for their assistance and cooperation. This amendment addresses an issue which is critically important to the Seneca Indian Nation of the Southern Tier of New York which I represent in Congress.

This amendment clarifies congressional intent to permit the Secretary to enter into various lease and contract agreements with Indian tribes to compensate them fully as they would a private contractor for use of their tribal lands and buildings in providing health services to the Indian community. Such leasing and contracting agreements are critical to improving the health care delivery system for Indians and to achieving the goals and spirit of the Indian Self-Determination Act [Public Law 93-638].

Recent experience of the Seneca Nation of Indians in my congressional district indicates that the congressional intent regarding this leasing and contracting authority is being questioned by officials at the Department of Health and Human Services. The language in this amendment will make clear to Department officials congressional intent that the Indian Health Service reimburse tribes for all of the costs associated with the costs of financing and maintaining capital construction associated with the Indian health care delivery system.

As a result of a case brought before the courts by the Rincon Band of Mission Indians of California, the Indian Health Service was ordered by the courts to provide uniform levels of health care to all Indians around the country. The Seneca Nation of Indians located in my congressional district is one tribe found to be in need of additional health care upgrading under this court-ordered program. For the past 3 years, the Senecas have been the recipient of funds made available for programmatic expansion under this court order. However, they cannot achieve such programmatic expansion or utilize these funds unless they can also expand their facilities. The threat to the leasing arrangement being posed by the current intrepretation of the law endangers this court-ordered effort to provide an acceptable level of health care to our Indian community.

In my district, the Seneca Nation Health Department was founded in 1976 to deliver comprehensive health services to the Seneca people and other Indians residing in that area. The program was established with a special appropriation made by Congress to the Indian Health Service to fund the program through a cost-reimbursement contract under Public Law 93-638, the Indian Self-Determination Act.

Using tribal manpower and largely tribal funds, the Seneca Nation erected two outpatient health care facilities, one on each of its two populated reservations to house the program. However, under then available interpretations of the law regarding costs, only a fraction of the initial investment by the tribe in these facilities has been recouped. Recognizing that many tribes were only being reimbursed for a portion of their legitimate costs, as part of the Indian Health Care Improvement Act of 1980, the Congress authorized the Indian Health Service to begin to lease space from tribes. In 1982, a needed addition to the Cattaraugus Health Center was developed with tribal funds—this time under such a leaseback arrangement with the Indian Health Service through the Regional Office of Facilities, Engineering, and Construction [ROFEC] in New York City. This has worked well for the tribe.

Early in 1984, the tribe approached the Indian Health Service with a proposal to initiate under a similar leaseback arrangement a facility-based alcoholism program. This new program requires either tribal purchase of an existing structure or new construction. Because the New York City ROFEC office is currently being dismantled, the Senecas approached the Health Resources and Services Administration at the Department of Health and Human Services and were told that such a leaseback arrangement was not possible under current regulations. This, of course, calls into question the existing lease arrangement with the Senecas and has halted further development of the alcoholism project. Since that time, clinic expansions on both reservations have been stalled for the same reason.

This amendment should make clear congressional intent with respect to use of leasing arrangements to provide Indian nations a fair market use for Indian health care facilities in accordance with the goals of the Indian Self-Determination Act. Any contrary interpretation to this amendment will greatly frustrate the effort to finance health care facilities for Indian tribes and retard progress toward the very important goal of this legislation—providing quality health care to Native Americans. I urge the adoption of this amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I have no objection to the amendment, and I want to compliment the gentleman from Connecticut [Mr. GEJDENSON] for offering it. It does solve some of the bureaucratic nightmares he is faced with and that probably other areas are faced with. Again I compliment the gentleman for offering his amendment.

Mr. LUNDINE. Mr. Chairman, I thank the gentleman for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendment was agreed to.

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Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Indian Health Care Act amendments.

Earlier this year, the public television series on Indian health under their series called NOVA carried a very special detailed documentary on the problems of Indian health throughout the United States. Just this past week the Washington Post ran a very extensive series of articles about the Rosebud Sioux Reservation in South Dakota, including a description of some of the very serious problems with the health care system on that reservation.

I think those two programs focus very refreshingly and very importantly on an aspect of health care among the Indian people of America that is very appropriate, very timely, and gives further impetus to this legislation.

In the northernmost part of my congressional district, in northeastern Minnesota, the Bois Forte Reservation is another and vivid example of the need for this legislation and the need for reform and improvement of the Indian health care delivery system. This is a reservation of Chippewa Indians. They live in a very isolated and sparsely settled area of northeastern Minnesota, over an hour away from the nearest hospital and until recently they had no ambulance service at all. The health care facilities on this reservation of nearly 100,000 acres are widely scattered and they are not very well coordinated. They have had a well-baby clinic for several years, but it has been operated with difficulty, with a great deal of need and enthusiasm, but without adequate services and financing. Access for residents of the reservation is extremely difficult and in addition to that, they simply do not have the trained health care pro-

fessionals needed to provide delivery of health care services.

The chemical dependency program on the reservation is located in a building that has no running water and no indoor plumbing. Those who come in for counseling do not even have privacy, because counseling has to be done in single large area rooms with no dividers and no partitions. They simply desperately need a new facility.

Those are just a few examples of the urgent need for improvement in health care for the Indian population in northeastern Minnesota, and of the seven reservations in Minnesota, five are located in a district that I represent; but that is not unique to northeastern Minnesota. I think you could find these situations on Indian reservations throughout the United States. Certainly it has been my experience in talking with representatives of other Indian tribes and other reservations throughout the United States that their principal concern is for an adequate health care system.

This legislation is a follow-on to the Indian Health Care Improvement Act that passed first in 1976 in which the Congress attempted to address serious health care problems among American Indians.

Much has been done in consequence of the act, but much more remains to be done. The agenda is long and it is urgent.

I compliment the chairman of this committee, the chairman of the Energy Committee, and the gentleman from California [Mr. WAXMAN] and his Subcommittee on Health for their combined joint efforts in focusing on the needs and problems of health care among American Indians.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I would be happy to yield.

Mr. UDALL. Mr. Chairman, I wanted to thank the gentleman for his sensitivity over the years to these problems. I guess most of the obligation falls on those of us in the committee to produce the details of the legislation, but with the strong bipartisan support of people like the gentleman from Minnesota and the gentleman from Nebraska [Mr. BEREUTER] and others who are not on the committee, we have been able to get to the floor here in a bipartisan spirit and do something about this very serious set of problems, so I thank the gentleman and commend him for his support and interest and his concern for the American Indians in his congressional district and his State.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman very much for those remarks.

I, too, want to commend the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Alaska [Mr. YOUNG], who represents a very great many Indians of many different origins. He has consistently reflected a deep concern and continuing effort.

If Members could just go to those reservations where health care facilities have been built, where health care professionals have been introduced to the reservation and are actively providing the services and see the joy and see the delight on the faces of the people and their gratitude, it would be compensation enough for the work done here today.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a cosponsor of and I encourage support for reauthorization of the Indian Health Care Improvement Act.

This bill has been carefully studied in two House committees, the Interior Committee and the Committee on Energy and Commerce. The result is legislation which will continue the important commitment to bettering the health conditions for American Indians and Alaskan Natives.

Many of you have recently read in the Washington Post details about the health conditions at the Rosebud Reservation in our neighboring State of South Dakota. Improvements have been made to the Indian Health Care Improvement Act, yet as the Post article reports, the task is not yet complete. It is a disgrace that the health status of Indians is still at a level much lower than all other Americans.

The act to date has resulted in the infant mortality and death rate from childhood illness dropping 70 percent since 1955, yet the health status of American Indians and Alaskan Natives still lags 15 to 20 years behind that of the general population. Indians still have a shorter life expectancy than any other Americans. Fatalities from flu, pneumonia, tuberculosis, and disabilities such as hearing loss from ear infections still exceed national norms for Indians. The doctor-to-population ratio for native Americans is half the current ratio for other Americans.

So the task is not complete. Yes; we need to pass this legislation and I urge my colleagues to vote yes for passage of reauthorization of the Indian Health Care Improvement Act.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WILLIAMS of Montana] having assumed the chair, Mr. HALL of Ohio, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4567) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, pursuant to House Resolution 560, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have the usual 5 legislative days in which to insert their remarks in the RECORD on the bill just considered, and that I be allowed to include extraneous material in a section-by-section analysis of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE A REPORT ON H.R. 6206, WATER RIGHTS OF THE AK-CHIN INDIAN COMMUNITY

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until 5 p.m. today to file a report on the bill, H.R. 6206, a bill relating to the water rights of the Ak-Chin Indian community.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. LUJAN asked and was given permission to address the House for 1 minute.)

Mr. LUJAN. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. MURTHA] to see if he can give us an accounting of next week's program.

Mr. MURTHA. Mr. Speaker, the program for the House of Representatives for the week of September 17, 1984, is as follows:

On Monday, September 17, the House meets at noon.

All recorded votes on the Consent Calendar, the Suspension Calendar, and district bills will be postponed until the last item of business on Tuesday, September 18.

□ 1140

We have special District Day with three bills:

H.R. 6223, District of Columbia Group Hospitalization amendments;

H.R. 4994, D.C. Tax Exemption for Jewish War Veterans Memorial;

H.R. (to be announced), St. Elizabeth's Hospital.

Under suspensions (15 bills):

H.R. 5189, United States Code title 18 amendments re Secret Service;

H.R. 5164, Central Intelligence Information Act;

H.R. 3726, increase effectiveness of fighting fires on Federal lands;

S. 2155, Utah Wilderness;

H.R. 6206, Ak-Chin Indian community water rights;

H.R. 1511, common carriers by water in foreign commerce—United States and Canada;

H.R. 5831, medical computer crime;

H.J. Res. 551, reappoint Ann Armstrong to Board of Smithsonian;

H.J. Res. 552, reappoint A. Leon Higginbotham, Jr., to Board of Smithsonian;

H.R. 5611, authorize 11th Airborne Division Association to Establish a Memorial;

H.R. 4025, Smithsonian transfer bill;

H. Con. Res. 298, sense of Congress re Namibian prisoners;

H. Con. Res. 122, sense of Congress that South Africa should cease "blackspot" policy;

H. Res. 430, the Mandela freedom resolution; and

H. Con. Res. 42, honorary South African consulates in the United States.

Tuesday, September 18, the House meets at noon for the Private Calendar and under suspension six bills:

H.R. 6064, omnibus tariff bill;

H.R. 3336, insanity defense;

H.R. 6012, sentencing reform bill;

H.R. 5656, Dangerous Drug Diversion Control Act;

H.R. 3880, Strategic Petroleum Reserve Reliability Improvement Act; and

H.R. 5959, safe drinking water amendments.

Then we have H.R. 5290, Compassionate Pain Relief Act, open rule, 1 hour.

Recorded votes on District bills and suspensions debated on Monday, and recorded votes on suspensions debated on Tuesday.

Wednesday and the balance of the week the House meets at 10 a.m., September 19, 20, and 21 for consideration of H.R. 5585, the Railroad Safety Act, an open rule, 1 hour; H.R. 3082, the Emergency Wetlands Resources Act, an open rule, 2 hours; H.R. 6067, law enforcement officers protection, subject to a rule being granted; and House Joint Resolution to be announced, continuing appropriations, fiscal year 1985, subject to a rule being granted.

The House will adjourn by 3 p.m. on Friday. Conference reports will be brought up at any time. Any further program will be announced later.

Mr. LUJAN. I may have a couple of questions on the program for next week. First of all, the votes on suspensions will be held after the completion of all other business; is that correct?

Mr. MURTHA. That is correct.

Mr. LUJAN. It is anticipated that on the Compassionate Pain Relief Act that there would be votes sometime during the consideration of that bill; is that correct?

Mr. MURTHA. That is correct.

Mr. LUJAN. The other questions I have have to do with the continuing resolution; does the gentleman have any day that he might tell us when that continuing resolution might be scheduled? Has a date been set or time been set for it either on Thursday or Friday? It just appears on the program but does not indicate when.

Mr. MURTHA. It is anticipated at this time that the continuing resolution will be brought up Friday of next week.

Mr. LUJAN. Friday? So Members should anticipate there will be votes on Friday?

Mr. MURTHA. There will be votes on Friday.

Mr. LUJAN. I thank the gentleman.

ADJOURNMENT TO MONDAY, SEPTEMBER 17, 1984

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ENHANCEMENT OF ECONOMIC DEVELOPMENT ON GUAM, THE VIRGIN ISLANDS, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS

Mr. WON PAT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5561) an act to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment and the House amendments to the Senate amendment.

The Clerk read the Senate amendment and the House amendments to the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

TITLE I

SEC. 101. From the sums authorized to be appropriated to the Secretary of the Interior for technical assistance to the territories there may be appropriated not to exceed $2,000,000 for each of fiscal years 1985, 1986, and 1987 for technical assistance (including but not limited to management, marketing, and finance) in developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

SEC. 102. The Secretary of the Interior is authorized and directed to report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate not later than Janaury 1 of fiscal years 1985, 1986, and 1987 on the executive branch's efforts regarding and recommendations for developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

TITLE II

SEC. 201. (a) Subsection (b) of section 8 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574) is amended—

(1) by striking out "shall be sold at public sale and" in the fourth sentence of paragraph (i), and

(2) by adding at the end thereof the following new paragraph:

"(iii)(A) The legislature of the government of the Virgin Islands may cause to be issued after September 30, 1984, industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

"(B) Except as provided in subparagraph (C), any obligation issued under subparagraph (A) and the income from such obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

"(C) Any obligation issued under subparagraph (A) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

"(D) For purposes of this paragraph—

"(I) The term 'State' includes the District of Columbia.

"(II) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.

"(E) For exclusion of interest for purposes of Federal income taxation, see section 103 of the Internal Revenue Code of 1954.".

SEC. 202. (a) The legislature of the government of American Samoa may cause to be issued after September 20, 1984, industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

(b)(1) Except as provided in paragraph (2), any obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

(2) Any obligation issued under subsection (a) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

(3) For purposes of this subsection—

(A) The term "State" includes the District of Columbia.

(B) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.

(c) For exclusion of interest for purposes of Federal income taxation, see section 103 of the Internal Revenue Code of 1954.

TITLE III

SEC. 301. Title 46, United States Code, is amended—

(a) in section 2101 add a new paragraph (3a) to read as follows: "(3a) 'citizen of the United States' means a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled in the Northern Mariana Islands within the meaning of section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 278).";

(b) in section 12106 add the following at the end:

"(c) A coastwise license to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

"(1) is less than two hundred gross tons;

"(2) was not built in the United States;

"(3) is eligible for documentation; and

"(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade."; and

(c) in section 12108 add the following at the end:

"(c) A fishery license to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

"(1) is less than two hundred gross tons;

"(2) was not built in the United States;

"(3) is eligible for documentation; and

"(4) otherwise qualifies under the laws of the United States to be employed in the fisheries trade.".

SEC. 302. A vessel, whether United States-built or foreign-built, and otherwise meeting the criteria set forth in sections 12106(c) or 12108(c) of title 46 of the United States Code, may be sold, chartered, leased, mortgaged, or transferred by any other means to any "citizen of the United States" as defined in section 2101(3a) of such title, without the approval of the Secretary of Transportation, pursuant to section 9 of the Shipping Act, 1916, as amended (46 App. U.S.C. 808).

TITLE IV

SEC. 401. To further the rehabilitation, upgrading, and construction of public facilities in the territories of the United States:

(a) Section 1(a)(1) of the Act of August 18, 1978 (92 Stat. 487), as amended, is further amended by adding "effective October 1, 1985, $16,300,000," before the words "such sums".

(b)(1) There are authorized to be appropriated from funds heretofore authorized for technical assistance $600,000 in fiscal year 1985 (to remain available until expended) to the Secretary of the Interior who, in consultation with and with the assistance of the Secretary of Transportation, shall use said funds exclusively for planning improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands.

(2) Section 303 of the Act of October 19, 1982 (96 Stat. 1705), as amended, is further amended by inserting after "water and power" the words "and improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands".

(c) The Secretary of the Interior is authorized and directed, in consultation with and with the assistance of the Secretary of Housing and Urban Development, to study the desirability and feasibility of initiating a program for the development of housing in American Samoa and including the territory in existing Federal housing programs and to submit such recommendations (such recommendations to include, but are not limited to, any changes or modifications which would be necessary to such existing Federal housing programs to adapt them to the culture and traditions of American Samoa) as he may deem appropriate to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of the United States within one year of the date of enactment of this Act.

(d) There are authorized to be appropriated $2,000,000 in fiscal year 1985 (to remain available until expended) to the Secretary of the Interior for grants to the government of Northern Mariana Islands for improvements in the production and distribution of water.

TITLE V

SEC. 501. There is hereby conveyed, without consideration, to the Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands, all of the right, title, and interest of the United States in and to parcel numbered 9F, Estate Hospital Ground, Numbered 9 New Quarter, St. Thomas, Virgin Islands (known as Ebenezer Home), and improvements thereof.

SEC. 502. Section 11 of the Revised Organic Act of the Virgin Islands, as amended, is further amended by striking the words "St. Croix, free of rent" and inserting in lieu thereof "Saint Croix, which house, together with land appurtenant thereto is also transferred to the government of the Virgin Islands".

TITLE VI

SEC. 601. To rationalize the application of certain statutes so that the development of the territories of the United States is facilitated—

(a) section 1013 of the Act of November 10, 1978 (92 Stat. 3467) is amended by deleting "subsection" and inserting in lieu thereof "section";

(b) section 501(d) of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159), as amended, is further amended by deleting "Samoa" where it appears and inserting in lieu thereof "Samoa, Guam, the Virgin Islands,";

(c) section 119(n)(1) of the Act of August 22, 1974 (88 Stat. 633), as amended, is further amended by deleting "Guam" and inserting in lieu thereof "Guam, American Samoa, the Northern Mariana Islands";

(d) section 17(a) of the Act of April 27, 1935 (49 Stat. 163), as amended, is further amended by deleting "Puerto Rico, and the Virgin Islands" and "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands";

(e) the Act of December 22, 1975 (89 Stat. 871), as amended, is amended by deleting "Samoa" in sections 391(a) and 398(b) and inserting in lieu thereof "Samoa, the Northern Mariana Islands";

(f) section 3(4) of the Energy Policy and Conservation Act (42 U.S.C. 6202(4)), is amended to read as follows:

"(4) The term 'State' means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States.".

(g) section 513(2) of the National Energy Extension Service Act (42 U.S.C. 7011(2)), is amended to read as follows:

"(2) 'State' means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States.".

TITLE VII

VIRGIN ISLANDS

SEC. 701. In section 3 of the Revised Organic Act of the Virgin Islands, as amended (68 Stat. 4981; 48 U.S.C. 1561), the proviso in the next to the last paragraph is amended to read as follows: "Provided, That all offenses against the laws of the United States and the laws of the Virgin Islands which are prosecuted in the district court pursuant to sections 22 (a) and (c) of this Act may be had by indictment by grand jury or by information, and that all offenses against the laws of the Virgin Islands which are prosecuted in the district court pursuant to section 22(b) of this Act or in the courts established by local law shall continue to be prosecuted by information, except such as may be required by local law to be prosecuted by indictment by grand jury.".

SEC. 702. Section 21 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1611) is amended to read as follows:

"SEC. 21 (a) The judicial power of the Virgin Islands shall be vested in a court of record designated the 'District Court of the Virgin Islands' established by Congress, and in such appellate court and lower local courts as may have been or may hereafter be established by local law.

"(b) The legislature of the Virgin Islands may vest in the courts of the Virgin Islands established by local law jurisdiction over all causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the concurrent jurisdiction conferred on the District Court of the Virgin Islands by section 22 (a) and (c) of this Act.

"(c) The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and duties of the judges and officers thereof, oaths and bonds, and the times and places of holding court shall be governed by local law or the rules promulgated by those courts.".

SEC. 703. (a) Section 22 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1612) is amended to read as follows:

"SEC. 22. (a) The District Court of the Virgin Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States. The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the

income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of the Internal Revenue Code of 1954 shall constitute an offense against the government of the Virgin Islands and may be prosecuted in the name of the government of the Virgin Islands by the appropriate officers thereof in the District Court of the Virgin Islands without the request or the consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section 27 of this Act.

"(b) In addition to the jurisdiction described in subsection (a) the District Court of the Virgin Islands shall have general original jurisdiction in all causes in the Virgin Islands the jurisdiction over which is not then vested by local law in the local courts of the Virgin Islands: Provided, That the jurisdiction of the District Court of the Virgin Islands under this subsection shall not extend to civil actions wherein the matter in controversy does not exceed the sum or value of $500, exclusive of interest and costs; to criminal cases wherein the maximum punishment which may be imposed does not exceed a fine of $100 or imprisonment for six months, or both; and to violations of local police and executive regulations. The courts established by local law shall have jurisdiction over the civil actions, criminal cases, and violations set forth in the preceding proviso. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by local law for the purposes of determining the availability of indictment by grand jury or trial by jury.

"(c) The District Court of the Virgin Islands shall have concurrent jurisdiction with the courts of the Virgin Islands established by local law over those offenses against the criminal laws of the Virgin Islands, whether felonies or misdemeanors or both, which are of the same or similar character or part of, or based on, the same act or transaction or two or more acts or transactions connected together or constituting part of a common scheme or plan, if such act or transaction or acts or transactions also constitutes or constitute an offense or offenses against one or more of the statutes over which the District Court of the Virgin Islands has jurisdiction pursuant to subsections (a) and (b) of this section.".

(b) The provisions of this section shall not result in the loss of jurisdiction of the District Court of the Virgin Islands over any complaint or proceeding pending in it on the day preceding the effective date of this amendatory Act and such complaint and proceeding may be pursued to final determination in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit, and the Supreme Court, notwithstanding the provisions of this amendatory Act.

SEC. 704. Section 23 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1613) is amended to read as follows:

"SEC. 23. The relations between the courts established by the Constitution or laws of the United States and the courts established by local law with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States, including the Supreme Court of the United States, and the courts of the several States in such matters and proceedings: Provided, That for the first fifteen years following the establishment of the appellate court authorized by section 21(a) of this Act, the United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the highest court of the Virgin Islands from which a decision could be had. The Judicial Council of the Third Circuit shall submit reports to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives at intervals of five years following the establishment of such appellate court as to whether it has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States from all such final decisions. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this section.".

SEC. 705. The Revised Organic Act of the Virgin Islands is amended by adding to it a new section 23A:

"SEC. 23A. (a) Prior to the establishment of the appellate court authorized by section 21(a) of this Act, the District Court of the Virgin Islands shall have such appellate jurisdiction over the courts of the Virgin Islands established by local law to the extent now or hereafter prescribed by local law: Provided, That the legislature may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Virgin Islands or of any order or regulation issued or action taken by the executive branch of the government of the Virgin Islands with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the District Court of the Virgin Islands shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The chief judge of the district court shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time to time pursuant to section 24(a) of this Act: Provided, That no more than one of them may be a judge of a court established by local law. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure. Appeals pending in the district court on the effective date of this Act shall be heard and determined by a single judge.

"(c) The United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the district court on appeal from the courts established by local law. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"(d) Upon the establishment of the appellate court provided for in section 21(a) of this Act all appeals from the decisions of the courts of the Virgin Islands established by local law not previously taken must be taken to that appellate court. The establishment of the appellate court shall not result in the loss of jurisdiction of the district court over any appeal then pending in it. The rulings of the district court on such appeals may be reviewed in the United States Court of Appeals for the Third Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.".

SEC. 706. (a) Section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(a)) is amended to read as follows:

"(a) The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of ten years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The judge of the district court who is senior in continuous service and who otherwise qualifies under section 136(a) of title 28, United States Code, shall be the chief judge of the court. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of a court of record of the Virgin Islands established by local law, or a circuit or district judge of the Third Judicial Circuit, or a recalled senior judge of the District Court of the Virgin Islands, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States.".

(b) Section 24(b) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(b)) is amended to read as follows:

"(b) Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and, notwithstanding the provisions of rule 7(a) and of rule 54(a) of the Federal Rules of Criminal Procedure relating to the requirement of indictment and to the prosecution of criminal offenses in the Virgin Islands by information, respectively, the rules of practice heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the district court and appeals therefrom: Provided, That the terms 'Attorney for the government' and 'United States attorney' as used in the Federal Rules of Criminal Procedure, shall, when applicable to causes arising under the income tax laws applicable to the Virgin Islands, mean the Attorney General of the Virgin Islands or such other person or persons as may be authorized by the laws of the Virgin Islands to act therein: Provided further, That in the district court all criminal prosecutions under the laws of the United

States, under local law under section 22(c) of this Act, and under the income tax laws applicable to the Virgin Islands may be had by indictment by grand jury or by information: Provided further, That an offense which has been investigated by or presented to a grand jury may be prosecuted by information only by leave of court or with the consent of the defendant. All criminal prosecutions arising under local law which are tried in the district court pursuant to section 22(b) of this Act shall continue to be had by information, except such as may be required by the local law to be prosecuted by indictment by grand jury.".

SEC. 707. Section 25 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1615) is amended to read as follows:

"SEC. 25. The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and adjacent islands and cays. Court for the Division of Saint Croix shall be held in Christiansted, and for the Division of Saint Thomas and Saint John at Charlotte Amalie.".

SEC. 708. Section 27 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1617) is amended by substituting the words "courts established by local law" for "inferior courts of the Virgin Islands" wherever they appear, and by deleting the last two sentences.

SEC. 709. The Act of May 20, 1932 (47 Stat. 160, 48 U.S.C. 1400) is repealed.

TITLE VIII

GUAM

SEC. 801. Section 22 of the Organic Act of Guam (64 Stat. 389; 48 U.S.C. 1424), as amended, is amended to read as follows:

"SEC. 22. (a) The judicial authority of Guam shall be vested in a court of record established by Congress, designated the 'District Court of Guam,' and such local court or courts as may have been or shall hereafter be established by the laws of Guam in conformity with section 22A of this Act.

"(b) The District Court of Guam shall have the jurisdiction of a district court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States.

"(c) In addition to the jurisdiction described in subsection (b), the District Court of Guam shall have original jurisdiction in all other causes in Guam, jurisdiction over which is not then vested by the legislature in another court or other courts established by it. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by the laws of Guam for the purpose of determining the requirements of indictment by grand jury or trial by jury.

"SEC. 22A. (a) The local courts of Guam shall consist of such trial court or courts as may have been or may hereafter be established by the laws of Guam. On or after the effective date of this Act, the legislature of Guam may in its discretion establish an appellate court.

"(b) The legislature may vest in the local courts jurisdiction over all causes in Guam over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the exclusive or concurrent jurisdiction conferred on the District Court of Guam by section 22(b) of this Act.

"(c) The practice and procedure in the local courts and the qualifications and duties of the judges thereof shall be governed by the laws of Guam and the rules of those courts.

"SEC. 22B. The relations between the courts established by the Constitution or laws of the United States and the local courts of Guam with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States, including the Supreme Court of the United States, and the courts of the several States in such matters and proceedings: Provided, That for the first fifteen years following the establishment of the appellate court authorized by section 22A(a) of this Act, the United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the highest court of Guam from which a decision could be had. The Judicial Council of the Ninth Circuit shall submit reports to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives at intervals of five years following the establishment of such appellate Court as to whether it has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States from all such final decisions. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"SEC. 22C. (a) Prior to the establishment of the appellate court authorized by section 22A(a) of this Act, the District Court of Guam shall have such appellate jurisdiction over the local courts of Guam as the legislature may determine: Provided, That the legislature may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of Guam or of any orders or regulations issued or actions taken by the executive branch of the government of Guam with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the District Court of Guam shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The district judge shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division of any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time to time pursuant to section 24 of this Act: Provided, That no more than one of them may be a judge of a court of record of Guam. The concurrence of two judges shall be necessary to any decision of the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"(d) Upon the establishment of the appellate court provided for in section 22A(a) of this Act all appeals from the decisions of the local courts not previously taken must be taken to the appellate court. The establishment of that appellate court shall not result in the loss of jurisdiction of the appellate division of the district court over any appeal then pending in it. The rulings of the appellate division of the district court on such appeals may be reviewed in the United States Court of Appeals for the Ninth Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.

"SEC. 22D. Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and notwithstanding the provision in rule 54(a) Federal Rules of Criminal Procedure relating to the prosecution of criminal offenses on Guam by information, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the District Court of Guam and appeals therefrom; except that the terms, 'Attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, including the Guam Territorial income tax, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein.".

SEC. 802. Section 24 of the Organic Act of Guam, as amended (64 Stat. 390; 48 U.S.C. 1424b), is amended, by—

(a) substituting in the first paragraph of subsection (a) the words "for the term of ten years" for "for a term of eight years";

(b) substituting in the second paragraph of subsection (a) the words "a local court of record" for "the Island Court of Guam";

(c) inserting in the second paragraph of subsection (a) between the words "ninth circuit" and "or" the words "or a recalled senior judge of the District Court of Guam or of the District Court for the Northern Mariana Islands";

(d) substituting in subsection (b) the numbers "35" and "37" for "31" and "33", respectively; and

(e) deleting subsection (c).

SEC. 803. Section 1 of the Act of August 27, 1954 (68 Stat. 882), is amended by repealing that portion which reads: "that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further".

TITLE IX

NORTHERN MARIANA ISLANDS

SEC. 901. Section 1 of the Act of November 8, 1977 (91 Stat. 1265, 48 U.S.C. 1694) is amended by—

(a) substituting in subsection (b)(1) the words "for a term of ten years" for "for a term of eight years";

(b) inserting in subsection (b)(2) between the words "President" and "or", the words "or a recalled senior judge of the District Court of Guam or of the District Court of the Northern Mariana Islands"; and

(c) substituting the following for subsection (c): "Where appropriate, and except as otherwise provided in articles IV and V of the Covenant approved by the Act of March 24, 1976 (90 Stat. 263), the provisions of part II of title 18 and of title 28, United States Code, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to title 11, 18, and 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom; except that the terms 'Attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the Attorney General of the Northern Mariana Islands or such other person or persons as may be authorized by the laws of the Northern Mariana Islands to act therein.".

SEC. 902. Section 2(a) of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694a(a)), is amended to read as follows:

"(a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States. With respect to the government of the Trust Territory of the Pacific Islands or its agencies of instrumentalities the jurisdiction of the district court shall extend only (a) to actions brought by that government or its agencies or instrumentalities, (b) to actions brought against that government or its agencies or instrumentalities based upon a commercial activity carried on by that government or its agencies or instrumentalities within the Northern Mariana Islands, and (c) to actions in which money damages are sought against that government or its agencies or instrumentalities for personal injury or death, or damage to or loss of property, occurring in the Northern Mariana Islands and caused by the tortious act or omission of that government or its agencies or instrumentalities, or of any official or employee thereof while acting within the scope of his office or employment, except any claim based upon the exercise or failure to exercise a discretionary function, regardless of whether the discretion be abused, or any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights. In any suit by or against the government of the Trust Territory or its agencies or instrumentalities permissible under this section, that government or its agencies or instrumentalities shall be entitled to such rights and privileges as are applicable to the United States when it is a party. In cases in which the district court would have no jurisdiction over the government of the Trust Territory of the Pacific Islands if suit were brought against it, the district court shall equally have no jurisdiction over actions brought against the officers or employees of that government or its agencies or instrumentalities with respect to their acts or omissions colorably related to their official duties.".

SEC. 903. Section 3 of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694b) is amended to read as follows:

"SEC. 3. (a) Prior to the establishment of an appellate court for the Northern Mariana Islands the district court shall have such appellate jurisdiction over the courts established by the Constitution or laws of the Northern Mariana Islands as the Constitution and laws of the Northern Mariana Islands provide, except that such Constitution and laws may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263) (hereinafter referred to as 'Covenant'), or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Northern Mariana Islands or of any orders or regulations issued or actions taken by the executive branch of the government of the Northern Mariana Islands with the Constitution, treaties, or laws of the United States, including the Covenant or with any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 1(b)(2) of this Act: Provided, That no more than one of them may be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.".

SEC. 904. Section 4 of the Act of November 8, 1977 (91 Stat. 1266, 48 U.S.C. 1694c) is amended by inserting the words, "including the Supreme Court of the United States," between the words "courts of the United States" and "and".

TITLE X

GENERAL PROVISIONS

SEC. 1001. With respect to cases and controversies which may have arisen or may arise in the Northern Mariana Islands against the Government of the Trust Territory of the Pacific Islands over which the District Court of the Northern Mariana Islands lacks jurisdiction, the High Court of the Trust Territory of the Pacific Islands shall have such jurisdiction as it possessed on January 8, 1978.

SEC. 1002. Sections 335, 336 and 402(e) of the Act of November 6, 1978 (92 Stat. 2680, 2682) are repealed.

SEC. 1003. (a) Any judge or former judge who is receiving, or will upon attaining the age of sixty-five years be entitled to receive, payments pursuant to section 373 of title 28, United States Code may elect to become a senior judge of the court on which he served while on active duty.

(b) The chief judge of a judicial circuit may recall any such senior judge of his circuit, with the judge's consent, to perform in the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands such judicial duties and for such periods of time as the chief judge may specify.

(c) Any act or failure to act by a senior judge performing judicial duties pursuant to this section shall have the same force and effect as if it were the act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving for purposes of the number of judgeships authorized for that court.

(d) Any senior judge shall be paid, while performing duties pursuant to this section, the same compensation (in lieu of payments pursuant to section 373 of title 28, United States Code) and the same allowances for travel and other expenses as a judge in active service.

(e) Senior judges under subsection (a) of this section shall at all times be governed by the Code of judicial conduct for the United States judges, approved by the Judicial Conference of the United States.

(f) Any person elected to be a senior judge under subsection (a) of this section and who thereafter—

(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (b) of this section);

(2) engages in the practice of law; or

(3) materially violated the code of judicial conduct for the United States judges, shall cease to be a senior judge and to be eligible for recall pursuant to subsection (b) of this section.

SEC. 1004. The prosecution in a Territory or Commonwealth is authorized—unless precluded by local law—to seek review or other suitable relief in the appropriate local or Federal appellate court, or, where applicable, in the Supreme Court of the United States from—

(a) a decision, judgment, or order of a trial court dismissing an indictment or information as to any one or more counts, except that no review shall lie where the constitutional prohibition against double jeopardy would further prosecution;

(b) a decision or order of a trial court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the prosecution certifies to the trial court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding; and

(c) an adverse decision, judgment, or order of an appellate court.

SEC. 1005. The provisions of sections 706(a), 802(a), and 901(a) of this Act extending the terms of district court judges of the Virgin Islands, Guam, and the Northern Mariana Islands, respectfully, from eight to

ten years shall be applicable to the judges of those courts holding office on the effective date of this Act.

SEC. 1006. Titles VII, VIII, IX, and X of this Act shall become effective on the ninetieth day following their enactment.

House amendments to the Senate amendment: Amend title II by adding the following:

"SEC. 203. Section 11 of the Organic Act of Guam (64 Stat. 387, 48 U.S.C. 1423a), as amended, is amended by inserting, immediately before the sentence that begins with the words 'Should the Guam Power Authority fail to pay', the following language: 'At the request of the Board of Directors of the Guam Power Authority for a second refinancing agreement and conditioned on the approval of the Government of Guam pursuant to the law of Guam, and conditioned on the establishment of an independent rate-making authority by the Government of Guam, the Secretary may guarantee for purchase by the Federal Financing Bank, on or before December 31, 1984, according to an agreement that shall provide for—

"'(a) substantially equal semi-annual installments of principal and interest,

"'(b) maturity of obligations no later than December 31, 2004,

"'(c) authority for the Secretary, should there be a violation of a provision of this legislation, or covenants or stipulations contained in the refinancing document and after giving sixty days notice of such violation to the Guam Power Authority and the Governor of Guam, to dismiss members of the Board of Directors or the general manager of the Guam Power Authority, and (a) appoint in their place members or a general manager who shall serve at the pleasure of the Secretary, or (b) contract for the management of the Guam Power Authority, and

"'(d) an annual simple interest rate of seven percentum; and the Federal Financing Bank shall purchase such Guam Power Authority obligations if such Guam Power Authority obligations are issued to refinance the principal amount scheduled to mature on December 31, 1990. Should such second refinancing occur, (1) the independent rate-making authority to be established by the Government of Guam, or in its absence, the Board of Directors of the Guam Power Authority, shall establish rates sufficient to satisfy all financial obligations and future capital investment needs of the Guam Power Authority that shall be consistent with generally accepted rate-making practices of public utilities, and (2) the Government of Guam shall not modify the requirements of such refinancing agreement without agreement of the Secretary. There are authorized to be appropriated to the Secretary of the Interior for payment to the Federal Financing Bank such sums as are necessary to pay (1) the repurchase payment required under the fifth paragraph of the December 31, 1980, note from the Guam Power Authority to the Federal Financing Bank and any subsequent repurchase payments required under the second refinancing agreement, and (2) the interest rate differential between the seven percentum to be paid by the Guam Power Authority and the second refinancing agreement and the interest rate that would otherwise be determined in accordance with the above cited Section 6 of the Federal Financing Bank Act.'.

"SEC. 204(a) The Governor of any possession of the United States may for calendar years 1984 and 1985 proclaim a formula (different from that provided by section 103A(g) of the Internal Revenue Code of 1954) for allocating the State ceiling under such section among the governmental units in such possession having authority to issue qualified mortgage bonds (as defined in section 103A(c) of such Code).

"(b) The authority provided by subsection (a) shall not apply after the effective date of any legislation with respect to the allocation of the State ceiling enacted by the legislature of the possession after the date of the enactment of this Act.".

Amend title III as follows:

(a) in section 301(a), change "(90 Stat. 278)" to "(48 U.S.C. 1681 note).";

(b) in section 301(c) change the new section 12108(c)(4) to read:

"(4) otherwise qualifies under the laws of the United States to be employed in the fisheries."; and

(c) change section 302 to read:

"SEC. 302. A vessel that is or was last documented under chapter 121 of title 46, United States Code, may be sold, chartered, leased, mortgaged, or transferred by any other means to a citizen of the United States (as defined in section 2101 of that title) without the approval of the Secretary of Transportation under section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808).";

(d) After section 302, add the following:

"SEC. 303. The weight limitations contained in subsections (b) and (c) of Section 301 above shall not apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands (61 Stat. 3301).".

Amend title IV as follows:

(a) in section 401(b)(1), by striking the words "from funds heretofore authorized for technical assistance"; and

(b) in section 401(d), by changing "$2,000,000" to "$15,000,000".

Amend title V b · adding the following:

"SEC. 503. The Department of the Army may remove from American Samoa any of the 4500 kilowatt power plants sent to American Samoa pursuant to the 1974 loan agreement between the Department of the Army and the Department of the Interior, and all charges that may accrue or may have accrued under such agreement shall be excused.".

"SEC. 504. Section 818(b)(2) of the Military Construction Authorization Act, 1981 (Public Law 96-418) is amended by adding at the end thereof the following: 'Reasonable development costs shall be a fixed standard percentage of such monetary consideration received by the Government of Guam. The fixed standard percentage shall be determined by a study, conducted by the Secretary, typical development costs required to convert comparable lands to finished developed sites, expect that such percentage shall not exceed 30 percent.'.".

Amended title VI as follows:

(a) After paragraph (g) insert the following:

"'(h) Amend the first sentence of section 30 of the Organic Act of Guam (64 Stat. 392, as amended 48 U.S.C. 1421h) by adding after the words 'inhabitants of Guam' the following:

"'(including, but not limited to, compensation paid to members of the Armed Forces and pensions paid to retired civilians and military employees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam)'.".

(b) Add the following after section 601:

"SEC. 602. Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"'(1) The requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determined that—

"'(1) Guam has developed an adequate arrival and departure control system, and

"'(2) such a waiver does not represent a threat to the welfare, safety, or security of the United States.'.

"(b) Section 214(a) of such Act (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: 'No alien admitted to Guam without a visa pursant to section 212(l) may be authorized to enter or stay in the United States other than in Guam or to remain in Guam for a period exceeding fifteen days from date of admission to Guam.".

Amend title VII as follows:

(a) by striking in section 704 the words "of appeals from" and inserting in lieu thereof the words "to review by writ of certiorari"; and

(b) by adding after section 706(b) the following:

"(c) The provisions of subsection (a) of this section regarding the determination and qualifications of the chief judge of the District Court of the Virgin Islands shall not apply to a person serving as chief judge of said court on the effective date of this Act."

Amend title VIII by striking in section 801 where it amends section 22B of the Organic Act of Guam the words "of appeals from" and inserting in lieu thereof the words "to review by writ of certiorari".

Amend title IX by striking in section 902 all after the first sentence of the new text of paragraph (a) beginning with the words "With respect to" and ending "official duties.".

Amend title X by striking all of section 1001 and renumbering subsequent sections accordingly.

Mr. WON PAT (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I might inquire of the gentleman from Guam: Are the amendments at the desk the same as the amendments that were worked out between the majority and the minority?

Mr. WON PAT. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I am glad to yield to the gentleman from Guam.

Mr. WON PAT. If the gentleman will yield, yes, they are.

The amendments to the Senate have the support of all the representatives of the territories and we believe they will be acceptable to the other body.

This will, we hope, conclude action on the 1984 omnibus territories bill as far as the House is concerned.

On behalf of all of the Delegates representing the U.S. territories, I want to thank the Members of the House for their help and contributions to progress for the peoples of our island communities.

I particularly want to thank my good friend, BOB LAGOMARSINO, who is always so helpful and constructive and with whom it is always a pleasure to work.

Mr. Speaker, H.R. 5561 is a bill to facilitate the economic development of the U.S. territories by providing necessary assistance for and removing unnecessary impediments to growth.

It received broad bipartisan support in the Committee on Interior and Insular Affairs, which has broad jurisdiction over matters affecting the territories. Further, upon passage of the House it had been amended to reflect concerns of the Committees on the Budget, Merchant Marine and Fisheries, and Ways and Means.

Of course, the gentleman from California and I also worked closely with territorial leaders and consulted with the administration on this legislation, which is so central to the longstanding national policy goal of territorial development.

In passing the bill just prior to the last recess, the Senate amended it in a number of respects. The most important of these changes dropped refinancing of the Guam Power Authority's Federal debt; increased the fiscal year 1986 authorization for essential Guam water projects; included the Northern Mariana Islands and the Trust Territory of the Pacific Islands in the Energy Policy and Conservation Act and the Energy Extension Service Act; dropped the authorization for sewer collector system grants; and substituted provisions of the legislation to improve the judicial relationship between the United States and Guam, the Virgin Islands, and the Northern Mariana Islands for the more limited judicial provisions in our bill.

We regarded the Senate additions to the bill as welcome, but the deletions as disappointing.

In explaining their reasons for having the two provisions I noted dropped from the bill, our Senate counterparts indicated a willingness to reconsider them if certain changes were made. This led to informal discussions of compromises. They centered on reflecting the concerns of the Senate but preserving the most important aspects of the assistance the House had approved.

Those discussions led to the amendments before the House. As I said, we believe that they are acceptable to Senate leaders on territorial issues.

Thus, we expect that if the House makes the amendments I am proposing, the Senate will concur in final congressional approval this 1984 omnibus insular areas assistance bill.

I must, in particular, express my appreciation to Senators WEICKER, JOHNSTON, MCCLURE, and MATSUNAGA for the leadership that would make this possible. It is also our hope that the administration will approve the bill, as we propose to amend it.

Although they opposed many of the provisions in their initial form, we have worked closely with the Department of the Interior, the agency responsible for the territories, as well as other agencies on administration concerns. The legislation I am asking the House to approve now has been amended substantially in a sincere effort to reach a reasonable compromise with the administration.

The help that it would provide the territories in their efforts to expand economic activity is imperative and substantial. As the gentleman suggests, it also represents the most careful congressional consensus developed on any annual omnibus insular areas bill within memory.

The gentleman knows that this would not have been possible without the sensitivity and diligence of the leaders of the Committee on Interior and Insular Affairs, Chairman MORRIS UDALL, and Banking minority member, MANUAL LUJAN, JR., and other members such as SALA BURTON.

Neither would it have been possible without the inspired, good work of my fellow territorial representatives, RON DE LUGO, BALTASAR CORRADA, and FOFO SUNIA.

Nor would it have been possible without the understanding and cooperation of leaders of other committees including the chairman of the Committee on Merchant Marine and Fisheries, WALTER JONES; the chairman of the Committee on Ways and Means, DAN ROSTENKOWSKI; the chairman of the Committee on Government Operations, JACK BROOKS; the chairman of the Committee on the Judiciary, PETER RODINO; and the chairman of the Subcommittee on Immigration, Refugees, and International Law, ROMANO MAZZOLI.

Let me now explain the changes our amendments propose to the bill as amended by the Senate.

Our first amendment would restore refinancing of Guam Power Authority as section 203.

This may be the most controversial—and critical—element of this bill.

It is needed to prevent a financial collapse by a utility that has already defaulted on Federal and private obligations. This collapse might very well result in costs possibly greater than those involved in the refinancing. And the utility is relied upon by some of our most strategic Pacific military installations as well as the people and businesses of the territory.

The language we now propose is the result of compromises between all concerned.

Most important, I believe, is that it would accomplish our primary goal of enabling GPA to continue to operate, meeting its obligations with stable finances and reasonable rates.

This is also the objective of Guam's visionary Governor, Ricardo Bordallo, and responsible legislature majority. They have agreed with us to substantial concessions to obtain financing terms that give GPA a new fiscal lease on life.

They recognize the wisdom of the independent ratemaking insisted on by my Senate counterpart, LOWELL WEICKER, who has been so helpful on this issue as he is with all territorial issues.

They also recognize that the standby authority demanded by the Reagan administration to ensure that GPA adheres to refinancing stipulations must be accommodated.

We propose to meet the Department of the Interior part way on this. We would agree to their basic point: that they be authorized to step in and provided management if, and only if, Guam violates the requirements of the refinancing.

However, we do not intend to authorize Interior to sell the utility if Guam violates the requirements of the refinancing in this legislation, as they would like.

This is not because we are opposed to private operation of the utility. Indeed, eventually that may make sense for this essential public service. Further, Congress would have to consider private operation if GPA is confronted with more overwhelming financial troubles as a result of noncompliance with the stipulations of this refinancing.

We have not included the authority to sell the utility that the administration wants because that is a judgment Congress should make only in the event that it is necessary. Additionally, it is a measure that should be taken only with the opportunity for the people of Guam to debate the question and make their views known to Congress.

Granting such authority before there is a necessity for such a drastic step would be excessive. It would not ensure the careful consideration that should be taken.

Frankly, neither does it express the confidence in the GPA board and management that should be expressed. As Senator WEICKER has understood, GPA's financial problems have not been of their making. We think that this amendment gives them the chance—and independence—they need to get GPA back on its feet.

This amendment also contains a new section 204 which would provide temporary authority for the Governors of the territories to allocate the authority to issue tax-exempt mortgage subsidy bonds among governmental units.

The Deficit Reduction Act of 1984 (Public Law 98-369) extended until the end of 1987 the authority of State and local governments to issue mortgage subsidy bonds. It subjected such bonds issued by the territories to the same limitations that apply to such issuance in the case of each State and the District of Columbia.

When limitations on the annual amount of mortgage subsidy bonds that can be issued in each State were enacted in 1980, each Governor was given temporary authority to allocate the ceiling among issuing authorities. This section would give similar temporary authority to the Governors of the territories that have the authority to issue such bonds.

Under the provision, the Governor may for calendar years 1984 and 1985 proclaim a formula, different from that provided by section 103A(g) of the Internal Revenue Code of 1954, for allocating the mortgage subsidy bond ceiling. This authority would not apply after the effective date of any allocation formula enacted by the territorial legislature after the date of enactment of this act.

The changes we would make to title III are essentially minor in nature. But this title itself is of major significance to the Pacific territories.

Title III would provide exemptions to vessel documentation and manning laws that have impeded the development of local fishing industries capable of tapping the tremendous ocean resources of the American Pacific islands.

We are indebted to the Committee on Merchant Marine and Fisheries for their sensitivity in this area. These provisions are a product of compromises between our committees.

The compromises are a noteworthy step in the rational adaptation of Federal maritime laws to the unique circumstances of the Pacific territories. They are accompanied by a welcome willingness to examine other related issues not addressed by this bill. At the same time that they enable Pacific island Americans to take advantage of the natural opportunity around them, they compromise no other domestic interests.

A letter from Chairman JONES to Chairman UDALL, who has also been most understanding on this issue, explains better than could I the changes in sections 301 and 302 of the Senate amendment. It reads:

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, DC, September 6, 1984.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, H.R. 5561 as passed by the House, was amended and passed by the Senate. I have been informed that the differences between the two versions will be worked out and there probably will not be a conference committee.

The Senate amendment poses a problem in that, while it allows a vessel documented in the fisheries or coastwise trade to be sold, chartered, or transferred to a national of Samoa, or a citizen of the Northern Mariana Islands without the Secretary's permission, it does not allow a vessel documented as a yacht or under registry to have the same privilege. This needs to be changed to make the application consistent to all vessels that are documented. There are also a couple of purely technical amendments that also need to be made.

I have enclosed a copy of an amendment that should be made to H.R. 5561. If this amendment is included, I see no reason to convene a conference on this bill since issues of concern to this Committee will have been resolved.

I appreciate all of your help on this project, and I look forward to working with you on similar endeavors in the future.

With best regards, I am

Sincerely,

WALTER B. JONES,
Chairman.

A new section 303 is added at the request of the Northern Mariana Islands new and capable representative, Froilan Tenorio. It would ensure that the exemption of those islands from certain vessel documentation laws is preserved through termination of the Pacific Islands Trusteeship and is not superseded by section 301.

This exemption was proclaimed by former President Jimmy Carter, pursuant to the authority of our covenant with the Northern Marianas and consistent with our trusteeship obligations regarding them. Until the Northern Marianas fully become the members of the American political family that they are to be, section 301 should not impose any new limitations upon them.

We would next amend section 401(b) as requested by the able Delegate from the Virgin Islands to restore the House's original method of authorizing $600,000 to plan improvements to the St. Croix, VI airport. This should not add to the cost of this bill but would provide the appropriations process and the administration with as much flexibility as they might need to fund this worthwhile project.

Section 401(d) would be amended to authorize $15 million to improve water facilities in the Northern Marianas as of fiscal year 1986. This is in addition to $2 million which we expect to have appropriated for this need this coming fiscal year.

As the Governor of the territory, Pedro P. Tenorio, persuasively points out, the need for Federal assistance is unquestionably manifest.

I visited Saipan just weeks ago. The water infrastructure and quality on that island is so poor as to present a clear danger to the public health.

I urge the administration, or its successor, to include these funds in its budget request next year. I also note here that the intent of this authorization is to provide funding for construction purposes and not further study of the problem.

I first considered what is proposed in our new section 503 when I visited American Samoa earlier this year and this problem was brought to my attention by the respected Delegate from that territory.

On that trip, staff and I examined the power situation of the islands, including the remaining generators of those loaned to the territory a decade ago to provide emergency service.

Much of this equipment must literally be described as junk. Its greatest possible value would be as a source of parts for the operational generators not among those already returned.

The condition of the equipment makes the proposal that the territory pay to have it all restored even more ludicrous than the facts of the loan make it. The responsibility is clearly a Federal one and our committee has been disappointed that the agencies involved have not worked out the payment issue.

In our report on the 1985 budget, we noticed our intent:

> to ensure that the problem is resolved in a manner that would not put additional strain on the resources of American Samoa or further encumber the limited resources that the administration seems willing to dedicate to the nation's territories.

This amendment responds to that by excusing any outstanding obligations between the territorial or Federal Governments or between Federal agencies.

I regret that we have had to resort to this or to a legislative solution at all. I recognize that it may not be regarded as the most desirable solution by both agencies involved. But this is apparently the only resolution that will not ultimately penalize the people of American Samoa and will also return to the Corps of Engineers equipment inventoried as part of their strategic reserve.

The corps has done some fine work in the Pacific territories. I am convinced that they are sensitive to the situation this amendment deals with. I hope that they know that their help in the emergency situation which existed in American Samoa was vital and is sincerely appreciated.

Our new section 504 is an amendment needed to resolve a problem un-

intentionally created by an amendment to legislation that was enacted 4 years ago at my request.

That law transferred title to 927 acres of excess Navy land to the government of Guam. The property is needed to develop Apra Harbor as the island's only commercial port. Unfortunately, the amendment conforming the transfer to other like transfers unintentionally, but effectively, prevented financing of the port development.

I am indebted to the sage chairman of the Committee on Government Operations, for his help in working out this solution to the problem.

Making use of the property is one of three elements of my effort to develop a harbor facility that is critical to a U.S. territory so distant from the U.S. mainland. The other aspects of my effort have been obtaining the funds needed to develop dock infrastructure and to move the Navy's ammunition wharf, the location of which has precluded commercial activity.

The section amends section 818 of the 1981 Military Construction Authorization Act to provide a mechanism for quantifying the reasonable development costs the Government of Guam may retain from sale or lease of this property. Section 818 requires all consideration from sale or lease of the property, minus reasonable development costs, be paid to the United States.

Under this amendment, the Secretary of the Navy will study typical development costs required to convert comparable lands to finished developed sites and determine a fixed standard percentage of all lease or sale proceeds that may be considered reasonable development costs. In no event, however, may that fixed standard percentage exceed 30 percent. It is our understanding that this amount will enable the government of Guam to develop the property.

This procedure will eliminate the disagreements and constant negotiations required to determine reasonable development costs for each transaction.

The amendment proposing a new section 601(h) is intended to rectify an inconsistency in Federal law which calls into question a basic principle in the fiscal relationship of the territories to the United States.

That principle is that Federal tax collections or what would be Federal tax collections in the territories are returned to the territorial governments.

This makes sense as a means of indirect Federal support in view of the need for the assistance. It also makes sense because the territories neither have a vote in the disposition of Federal funds, nor share equally in them.

A 1972 law enacted to respond to the request of the government of Guam during the Camacho administration, as interpreted by the Treasury, can be read to supersede the full authority to cover over for at least a couple of classes of Guam resident taxpayers. These include retired Federal employees on the island and Guam residents in the Armed Forces who are stationed elsewhere.

As a consequence, Guam is not now receiving all of the revenues which are generated from it. This is contrary to the intent of the Organic Act.

The Inspector General of the Department of the Interior brought the situation about to my attention a few months ago after administrative efforts to resolve the problem failed.

Both Interior and Treasury officials recognize the need for clarification.

We, therefore, propose to include additional language in the Organic Act to clarify the intent of that basic law establishing the Federal territorial relationship. It would ensure that taxes on the income of all Guam residents is covered over to the government of Guam, as Congress and the President intended in the Organic Act.

Selection 602 is identical to a provision that has passed the House twice, most recently in the immigration reform bill now in conference.

It is included here because that legislation is controversial for other reasons and the chairman of the Subcommittee on Immigration, Refugees, and International Law, and of the full Committee on the Judiciary, graciously recognize that its fate should not necessarily be tied to that of more far-reaching improvements of the Nation's immigration laws.

The section would provide for a narrow exception to visa requirements for the only Pacific territory subject to Federal immigration laws: Guam. It would permit the Justice, State, and Interior Departments to waive visa requirements for persons visiting the island for not more than 15 days for tourist or business purposes.

This waiver would be contingent upon Guam having an adequate control system and a Federal recognition that it in no way poses a threat to the rest of the Nation.

The waiver is needed to facilitate development of the island's tourism industry, which largely involves Japanese visitors. Many potential Japanese visitors to the territory are discouraged because of the difficulty of obtaining a U.S. visa.

Because they maintain their own immigration system, U.S. visas are not needed to visit Guam's sister and, in terms of tourism, competitor Mariana Islands.

The waiver would not permit a visitor to enter into any other part of the United States. The effective barrier to such entry remains in Honolulu. There all persons traveling from the U.S. territory of Guam to elsewhere in the United States go through immigration clearance.

As you may have detected from my tone, I am not particularly happy about Americans having to clear immigration when traveling between parts of America. Approval of this Guam only visa waiver, though, should make this inconvenience for the Americans of Guam worthwhile.

I stated that we are pleased with the addition of the Federal-territorial judicial reform provisions contained in titles 7 through 10 of the Senate amendment since we have been working on them with our counterparts on the other side of the Capitol.

In almost all respects this is an accurate. We have, however, made a few minor amendments.

In sections 704 and 801 we would provide the circuit courts of appeals the discretion to hear appeals from Virgin Islands and Guam courts of last resort, if the territories do indeed establish them, for the 15-year transition period during which the circuit courts would serve as an interim step to review by the Supreme Court.

We did this in response to a suggestion by the Administrative Office of the U.S. Courts. At the same time we did not include a similiar suggestion of providing this discretion prior to or if the territorial appellate courts are not established. There would, thus, continue to be a right of appeal to the circuit courts from appeals to the district courts, as there is now.

The amendment proposing a new section 706(c) is a worthwhile provision requested by the distinguished Delegate from the Virgin Islands. It is necessary to ensure that the current chief judge of the district court of the Virgin Islands, a respected jurist, may continue in that capacity. A question about this could otherwise be raised by the qualifications for chief judge which would be established by section 706(a).

Our amendments would also remove a portion of section 902 and section 1001 of the Senate amendment. These provisions were designed to clarify the proper roles of the high court, the U.S. district court for the Northern Marianas and the commonwealth court.

Questions were raised over the effect of these provisions subsequent to the Senate action.

In removing these provisions we do not express either approval or disapproval of the Senate action. Unfortunately, there is not sufficient time to fully research the questions raised from the Northern Marianas or obtain the views of the administration which supported the Senate action.

Removal of these provisions at this time will permit both the House and Senate as well as the administration to review the questions and, if necessary, modify these provisions.

The provisions were designed by the Senate primarily to clarify the status of the trust territory government, which is located in the Northern Marianas although it no longer exercises any administrative functions with respect to the commonwealth.

The other body reflected the view that it is important to wind down the high court as constitutional governments develop in the trust territory and that the geographic accident of the location of the trust territory government not be used to expand the jurisdiction of the district court in the Nothern Marianas over causes of action arising in the trust territory. There is merit in this. At the same time we must be careful that in resolving one problem we do not create others.

As I stated earlier, the removal of these sections should not be interpreted as either approval or disapproval of the language. It is, rather, a conservative approach to permit a fuller review of this issue and, if necessary, the development of an alternative which could be considered next year.

In addition, we must note that under sections 706(b) and 801, interlocutory appeals from an order of a district court judge would be governed in the same manner as such interlocutory appeals in the district courts are now governed, that is under 28 U.S.C. 1292.

Finally, Mr. Speaker, I want to tell Members that Senator WEICKER offered an excellent analysis of the Federal-territorial judicial relationship provisions contained in titles 7 through 10 when he offered the Senate amendment.

This analysis conforms to our own intent except to the extent that the statements I have just made regarding those provisions otherwise indicates.

Because we worked so closely on this landmark development of territorial judicial systems with the Senate and to provide a clear statement of legislative intent regarding these provisions if questions arise in the future, I would like to present to the Members, Senator WEICKER's analysis. In doing so, I want to acknowledge the outstanding contributions to these historic portions of this legislation by staff of the Senate Energy and Natural Resources Committee, officials of the Departments of Justice and Interior, and judges in the territories and the circuit courts affected.

TITLE VII—VIRGIN ISLANDS

Section 701. This section amends § 3 of the Revised Organic Act of the Virgin Islands of 1954 (referred to in this title as "Act"), 48 U.S.C. § 1561, by authorizing the prosecution by indictment or by information of violations of the laws of the United States and of certain local offenses closely related to such violations. It is designed to face the problem presented by *United States* v. *Christian*, 660 F.2d 892 (3rd Cir. 1981), which held that existing law precludes the impanelling fo federal grand jury for the investigation of violations of federal laws in the Virgin Islands.

Section 702. This section amends § 21 of the Act, 48 U.S.C. 1611, by authorizing the establishment of a local appellate court. It also authorizes the legislature of the Virgin Islands to vest in the local courts jurisdiction over all causes in the Virgin Islands over which the federal courts do not have exclusive jurisdiction. If the legislature exercises the authority, it must confer on the local courts exclusive jurisdiction. It may not provide litigants an option to proceed in local or in federal court. That jurisdiction of the local court, however, is subject to the concurrent jurisdiction of the district court provided for in § 22 (a) and (c). The procedure in the local courts is to be governed by local law.

Section 703. (a) Section 703(a) amends §§ 22 and 23 of the Act, 48 U.S.C. §§ 1612, 1613. Section 22(a) confers on the District Court of the Virgin Islands the full jurisdiction of a district court of the United States. In view of the decision in *Chase Manhattan Bank (N.A.)* v. *South Acres Development Co.*, 434, U.S. 236 (1978) § 22(a) states specifically that the district court has the diversity jurisdiction provided for in 28 U.S.C. § 1332. The redraft of § 22(a) takes account (a) of the amendment of 28 U.S.C. § 1331, which has eliminated the jurisdictional amount in the federal question jurisdiction of the district courts, and (b) of the amendment of § 22(a) by § 336(a) and 402(e) of the Bankruptcy Reform Act of 1978, 92 Stat. 2680, 2682, which conferred on the District Court of the Virgin Islands the jurisdiction of a bankruptcy court of the United States. In analogy to § 31 of the Organic Act of Guam, 48 U.S.C. § 1421i(h), the district court will also have exclusive jurisdiction in all proceedings under the income tax laws applicable to the Virgin Islands, except certain ancillary laws enacted by the legislature of the Virgin Islands.

This provision is based on the consideration that since the income tax laws applicable to the Virgin Islands are the provisions of the Internal Revenue Code uniformity of interpretation requires that questions involving the interpretation of those laws be litigated only in the federal courts. This provision appears to be necessary in view of the characterization of the income tax laws of the Virgin Islands as a local Territorial tax which is reviewable in the district court only by virtue of local legislation. *Dudley* v. *Commissioner of Internal Revenue*, 258 F.2d 182 (3rd Cr. 1958). Another reason for this provision is the factor that this bill would abolish the concurrent jurisdiction of the district court over causes based on local law, if local law has vested jurisdiction over them in the local courts. *See* Section § 22(b). The Section further provides that violations of the federal income tax laws applicable to the Virgin Islands constitute offenses against the government of the Virgin Islands, which the appropriate officer of the Virgin Islands may prosecute in the district court without the request or consent of the United States Attorney normally required by Section 27 of the Act, 48 U.S.C. § 1617. This sentence is modelled on Section 31(f) of the Organic Act of Guam; 48 U.S.C. § 421i(f).

The purpose of section 22(b) is to eliminate the present situation of both the district court and the local court having jurisdiction over strictly local causes. Upon the effective date, the district court will no longer have jurisdiction over any cause over which local law has vested jurisdiction in the local courts. The decision as to whether jurisdiction over strictly local causes should be vested in the district court or the local courts will be made by local law. At any time the local legislature may divest the local courts of jurisdiction over any cause which will automatically revest jurisdiction in the district court, or, by vesting jurisdiction in the local courts, the local law will have the effect of divesting the district court of jurisdiction.

The only exceptions are those provided by federal law, such as diversity cases under 28 U.S.C. 1332 or causes involving a federal question under 28 U.S.C. 1331. In addition, under section 22(c), the district court will retain concurrent jurisdiction over closely related offenses.

Section 22(c) confers on the district court concurrent jurisdiction over offenses of which the local courts have jurisdiction, if those offenses are closely related to offenses over which the district court has jurisdiction. The purpose of this provision is to obviate the need for trying in different courts separate aspects of the same offense or of closely related offenses. This subsection is based in part on Rule 8(a) of the Federal Rules of Criminal Procedure.

(b) Section 703(b) takes account of the loss of the district court's present concurrent jurisdiction over local causes transferred by local law to the local courts, and continues the jurisdiction of the federal courts over the local causes pending in the federal trial and appellate courts on the effective date of this Act.

Section 704. This section replaces § 23 of the Act, 48 U.S.C. § 1613. It provides generally that the relations between the local courts of the Virgin Islands and the federal courts, including the Supreme Court, shall be the same as the relation between the state courts and the federal courts, except that for the first fifteen years following the establishment of the local appellate court, all the decisions of the highest local court from which a decision may be had shall be reviewable in the United States Court of Appeals of the Third Circuit. The phrase "including the Supreme Court of the United States" is included to explicitly note the jurisdiction of the Supreme Court.

The transitional period of fifteen years is the same as the one provided for in § 4 of the Act of November 8, 1977, 48 U.S.C. § 1694(c), relating to the Northern Mariana Islands. It is based on the consideration that, during the formative years of the new appellate court and while it establishes its institutional traditions, its decisions should be reviewed by a court of appeals which is familiar with the local conditions rather than on a discretionary basis by the Supreme Court.

The Court of Appeals is authorized to promulgate rules necessary to carry out the provisions of this section and may, to the extent it decides it advisable as a matter of transition and consistent with its assessment of the institutional tradition of the local court and the rights of appellants, by rule proceed to review on the basis of certiorari. The Committee is aware of the long experience which the Virgin Islands already has of having appeals taken to the Third Circuit from the district court of strictly local matters and the concern that a shorter transition period could be enacted. The quality of the judicial process, however, is of critical concern and cannot be properly evaluated until after the establishment of the local appellate court. The section therefore requires the Judicial Council of the Third

Circuit at five year intervals to submit reports as to whether there is further need for review by the Court of Appeals for the Third Circuit. Should the Council indicate that the local appellate court has developed its institutional traditions, the Committee can consider legislation amending this section to shorten or eliminate the transition period.

After the expiration of the transitional period referred to in the proviso, the Supreme Court of the United States will have jurisdiction to review the decisions of the courts of the Virgin Islands in the same manner in which it reviews the decisions of the courts of the several states. See 28 U.S.C. § 1258 governing the review of the decisions of the Supreme Court of Puerto Rico by the Supreme Court of the United States.

Section 705. This section adds a new § 23A to the Act. It amplifies the last sentence of § 22 of the Act, 48 U.S.C. 1612, relating to the appellate jurisdiction of the district court over the decisions of the local courts. Section 23A provides that prior to the establishment of the appellate court authorized by § 21(a), the decisions of the local courts shall be reviewable in the district court, as provided by local law. The local legislature, however, may not preclude appeals to the district court from decisions of the local courts involving federal questions.

The pertinent proviso has been drafted (a) to assure the reviewability in the district court of local actions which are in conflict with the Constitution of the United States, federal statutes, including the Organic Act, and the acts of federal officials authorized by federal law and (b) to obviate the contention that every act of the legislative or executive branch of a territorial government raises a federal question because all those acts derive their authority from federal law, in particular the Organic Act. *See* in this context *Taisacan* v. *Camacho*, 660 F.2d 411, 413 (9th Cir. 1981) and *Camacho* v. *Civil Service Commission*, 666 F.2d 1257, 1261-1262 (9th Cir. 1982).

Although the section continues the current practice of review by the district court, the Committee agrees with the concerns raised by the Fourth Constitutional Convention, Governor Luis, and others that the present system of reviewing decisions of local courts by a single judge is inappropriate. The section creates an appellate division within the district court for the purpose of reviewing appeals from the local court.

The appellate division consists of three judges as on Guam and the Northern Mariana Islands (see 48 U.S.C. § 1424 and 1694b, respectively). Following the precedent of § 3 of the Act of November 8, 1977, 48 U.S.C. § 1694b, applicable to the Northern Mariana Islands, § 23A(b) provides that no more than one judge of a court established by local law may be a judge of the appellate division. This provision was included in the 1977 Act because it would be undesirable to have a majority in the appellate division consist of judges who are members of the very court the decision of which was being reviewed.

The section does provide, however, that any appeals which are pending in the district court on the effective date of the Act will continue to be heard and determined by a single judge. It likewise continues the jurisdiction of the district court over any appeal then pending upon the establishment of a local appellate court.

The final decisions of the district court on appeal from the local courts are reviewable in the Court of Appeals for the Third Circuit and, consistent with the administration of justice, may be limited to review by certiorari or other method of summary disposal as provided by rule.

Section 706. This section deals with the substance of § 24 (a) and (b) of the Act, 48 U.S.C. § 1414 (a) and (b), and the last two sentences of § 25 of the Act, 48 U.S.C. § 1615.

Section 706(a) amends § 24(a) of the Act by providing that the district judges shall be appointed for terms of ten years. Under existing law, the district judges of the territorial courts are appointed for terms of eight years. They become, however, eligible for retirement benefits only after ten years of service.

28 U.S.C. § 373. The purpose of the change is to avoid the hardship which 28 U.S.C. § 373 imposes on district judges who fail of reappointment after their first term. The redraft of § 24(a) incorporates by reference the amendment of 28 U.S.C. § 136(a), relating to the appointment of the chief judges of the district courts by § 202 of the Federal Courts Improvement Act of April 2, 1982, 96 Stat. 52. It would also authorize the Chief Judge of the Third Judicial Circuit to assign to the district court a recalled senior judge of the district court of the Virgin Islands.

While the extension of the term for district judges is prospective, the Committee is aware of the situation of those judges presently serving who would not be eligible for retirement benefits if not permitted to serve an additional two years until their successors are chosen and qualified or unless the existing law were amended to make such benefits available upon completion of their present term. Testimony was received suggesting that the extension of the term be made applicable to the terms of present judges and the Committee has addressed this issue in section 1005.

Section 706(b) replaces § 24(b) of the Act. It expands the scope of the next to the last sentence of § 25 of the Act, 48 U.S.C. § 1615 by extending to the Virgin Islands "where appropriate" Part II of title 18, and title 28, United States Code, and the rules of procedures adopted or promulgated pursuant to titles 11, 18, and 28, United States Code. At present some of the statutory procedural provisions are expressly applicable to the Virgin Islands in a haphazard manner, leaving it open whether and to what extent other provisions also apply to the Virgin Islands.

Moreover some chapters of title 28, United States Code, apply to some territories, but not to others. Thus chapter 43 relating to United States Magistrates applies to the Virgin Islands (28 U.S.C. § 631) and to Northern Mariana Islands (48 U.S.C. 1694(c)), but the Court of Appeals for the Ninth Circuit has taken the position that it does not apply to Guam. This subsection and its counterparts applicable to Guam and the Northern Mariana Islands (section 801 and 901(c) of this Act) would have the effect of making the provisions of part II of title 18 (such as venue) and title 28 generally applicable to all territorial courts. It is intended that in the Virgin Islands the only exceptions to this extension will be those provisions which are in conflict with specific legislation applicable to the Virgin Islands and those relating to judges who are appointed during good behavior.

The first proviso in § 24(b) is designed to provide that if the Attorney General of the Virgin Islands or his designee prosecutes in the District Court of the Virgin Islands any cases arising under the federal income tax laws applicable to the Virgin Islands he shall have the authority of a United States Attorney under the Federal Rules of Criminal Procedure as authorized by the amendments made by section 703(a) of this Act.

The last two provisos of § 24(b) implement the amendment of 3 of the Act by § 701 of this legislation. They provide (a) that federal offenses, local offenses coming within the scope of § 22(c), and offenses against the income tax laws applicable to the Virgin Islands may be prosecuted by indictment by grand jury or by information, and (b) that once a matter has been before a grand jury it may be prosecuted by information only by leave of court or with the consent of the defendant.

Section 707. This section amends § 25 of the Act, 48 U.S.C. 1615. It generally restates the first sentence of that section. The subject matter of the second sentence relating to the sessions of the court has been omitted since it is covered by 28 U.S.C. § 139, rendered applicable to the District Court of the Virgin islands, by § 24(b). The subject matter of the last two sentences has been transferred to § 24(b).

Section 708. Subsection (a) amends § 27 of the Act, 48 U.S.C. § 1617, by substituting the words "courts established by local law" used in this legislation for the term "inferior courts of the Virgin Islands" used in the Act. It also repeals the last two sentences of § 27 because they duplicate 28 U.S.C. § 546, which has been made applicable to the Virgin Islands by the amendment of § 24(b) and by the first sentence of § 27.

Section 709 repeals the Act of May 20, 1932 (47 Stat. 160, 48 U.S.C. 1400) which conferred admiralty jurisdiction on the district court of the Virgin Islands. This provision is no longer required in view of the amendment of § 22(a) of the Act, 48 U.S.C. § 1612(a), by § 703(a) of this legislation, which confers on the District Court for the Virgin Islands the full jurisdiction of a district court of the United States, including the admiralty jurisdiction under 28 U.S.C. § 1333.

TITLE VIII—GUAM

Section 801. This section restates and amplifies § 22 of the Organic Act of Guam (referred to in this title as the "Act"), 48 U.S.C. § 1414.

Section 22(a) restates the first sentence of § 22(a) of the Act, 48 U.S.C. § 1424(a).

Section 22(b) deals with the first clause of the second sentence of § 22(a) of the Act, 48 U.S.C. § 1424(a). It confers on the district court of Guam the full jurisdiction of a district court of the United States. In view of the decision in *Chase Manhattan Bank (N.A.)* v. *South Acres Development Co.* 434 U.S. 236 (1978), the section states specifically that the district court has the diversity jurisdiction provided for in 28 U.S.C. 1332.

Section 22(b) also takes account (a) of the amendment of 28 U.S.C. § 1331, which has eliminated the jurisdictional amount in the federal question jurisdiction of the district courts, and (b) of the amendment of § 22(a) by § 335(a) and 402(e) of the Bankruptcy Reform Act of 1978, which conferred on the district court of Guam the jurisdiction of a bankruptcy court of the United States.

Section 22(c) restates the second clause of the second sentence of § 22(a) of the Act, 48 U.S.C. § 1424. It adds that where the district court retains jurisdiction over local causes because they were not transferred by the legislature to the local courts, the district court shall be deemed to be a court estab-

lished by the laws of Guam for the purposes of the requirements of indictment by grand jury or trial by jury. The local legislature would also have the power to divest the local courts of jurisdiction over local causes and to return it to the district court.

Section 22A restates the part of the first sentence of § 22(a) of the Act, 48 U.S.C. § 1424(a), which relates to the local courts. The section specifically authorizes the legislature of Guam to establish an appellate court, but only after the effective date of this Act. The subsection therefore will not have the effect of reviving the Supreme Court of Guam which was established in 1974 and struck down by the Supreme Court of the United States in *Guam* v. *Olsen*, 431 U.S. 195 (1977).

Section 22A (b) and (c) generally restate the last sentence of the first paragraph of § 22(a) of the Act, 48 U.S.C. § 1424(a), relating to the power of the legislature to determine the jurisdiction and procedure in the local courts of Guam. Section 22A (b) spells out (a) that the legislature of Guam does not have the power to vest in the local courts jurisdiction over causes over which the federal courts exercise exclusive jurisdiction and (b) that the jurisdiction of the local courts of Guam is subject to the concurrent jurisdiction of the District Court of Guam under § 22(b). Section 22A(c) provides that the procedure in the local courts shall be governed by the laws of Guam or by the rules of court.

Section 22B deals with the relations between the federal courts and local courts of Guam. It provides generally that the relations between the local courts of Guam and the federal courts, including the Supreme Court of the United States, shall be the same as the relations between the state courts and the federal courts, except that for the first fifteen years following the establishment of the appellate court, all the decisions of the highest local court from which a decision may be had shall be reviewable in the United States Court of Appeals for the Ninth Circuit.

The transitional period of fifteen years is the same as the one provided for in § 4 of the Act of November 8, 1977, 48 U.S.C. § 1694c, relating to the Northern Mariana Islands. It is based on the consideration that, during the formative years of the new appellate court and while it establishes its institutional traditions, all decisions of that court should be reviewable by a court of appeals which is familiar with the local conditions rather than on a discretionary basis by the Supreme Court.

The Court of Appeals is authorized to promulgate rules necessary to carry out the provisions of this section and may, to the extent it decides it advisable as a matter of transition and consistent with its assessment of the institutional tradition of the local court and the rights of appellants, by rule proceed to review on the basis of certiorari. The Committee is aware of the long experience which Guam already has of having appeals taken to the Ninth Circuit from the district court of strictly local matters and the concern that a shorter transition period could be enacted. The quality of the judicial process, however, is of critical concern and cannot be properly evaluated until after the establishment of the local appellate court. The section therefore requires the Judicial Council of the Ninth Circuit at five year intervals to submit reports as to whether there is further need for review by the Court of Appeals for the Ninth Circuit. Should the Council indicate that the local appellate court has developed its institutional traditions, the Committee can consider legislation amending this section to shorten or eliminate the transition period.

After the expiration of the transition period referred to in the provisio, the Supreme Court of the United State will have jurisdiction to review the decisions of the courts of Guam in the same manner in which it reviews the decisions of the courts of the several states. See 28 U.S.C. § 1258 governing the review of the decisions of the Supreme Court of Puerto Rico by the Supreme Court of the United States.

Section 22C amplifies the second paragraph of § 22(a) of the Act, 48 U.S.C. § 1424(a), relating to the appellate jurisdiction of the district court. It provides that prior to the establishment of the appellate court authorized by § 22(a), the decisions of the local courts shall be reviewable in the appellate division of the district court, as provided by the local legislature. The latter, however, may not preclude appeals to the appellate division from decisions of the local courts involving federal questions.

The pertinent proviso has been drafted (a) to assure the reviewability in the appellate division of the district court of local actions which are in conflict with the Constitution of the United States, federal statutes, including the Organic Act, and the acts of federal officials authorized by federal law and (b) to obviate the contention that every act of the legislative or executive branch of a territorial government raises a federal question because all those acts derive their authority from federal law, in particular the Organic Act. See in this context *Taisacan* v. *Camacho*, 660 F.2d 411, 413 (9th Cir. 1981) and *Camacho* v. *Civil Service Commission*, 666 F.2d 1257, 1261-1262 (9th Cir. 1982).

Section 22C(b) provides for the establishment of an appellate division of the district court to review any appeals from the local courts and incorporates the precedent of § 3 of the Act of November 8, 1977, 48 U.S.C. § 1694b, applicable to the Northern Mariana Islands, by providing that no more than one judge of a local court of Guam may be a judge of the appellate division. This provision was included in the 1977 Act because it would be undesirable to have a majority in the appellate division consist of judges who are members of the very court the decision of which was being reviewed.

The final decisions of the appellate division are reviewable in the Court of Appeals for the Ninth Circuit and consistent with the administration of justice, may be limited to review by certiorari or other method of summary disposal as provided by rule.

Section 22D is based on and expands § 22(b) of the Act, 48 U.S.C. § 1424(b), which now generally makes the Federal Rules of Procedure applicable to Guam. Section 22D will also extend to Guam "where appropriate" the procedural provisions of title 18 and title 28, United States Code. At present some of the statutory procedural provisions are expressly applicable to Guam in a haphazard manner, leaving it open whether and to what extent other provisions also apply to Guam.

Moreover some chapters of title 28, United States Code, apply to some territories, but not to others. Thus chapter 43 relating to United States Magistrates applies to the Virgin Islands (28 U.S.C. § 631) and to the Northern Mariana Islands (48 U.S.C. § 1694(c)), but the Court of Appeals for the Ninth Circuit has taken the position that it does not apply to Guam. This subsection and its counterparts applicable to the Virgin Islands and the Northern Mariana Islands would have the effect of making the provisions of part II of title 18 and title 28 (such as venue) generally applicable to all territorial courts. It is intended that on Guam the only exceptions to this extension will be those provisions which are in conflict with specific legislation applicable to Guam and those relating to judges who are appointed during good behavior.

Section 22D omits the provisions of § 22(b) of the Act, 48 U.S.C. § 1424(b), relating to trial by jury and prosecution by information rather than by grand jury. These provisions appear to have been superseded by § 10 of the Elected Governor Act of 1968, 48 U.S.C. § 1421b(u), which introduced into Guam the Fifth and Sixth Amendments to the Constitution of the United States without the reservation relating to grand juries contained in the corresponding provisions applicable to the Virgin Islands. Grand juries and petit juries therefore have been utilized in federal prosecutions on Guam for many years.

Section 802 amends § 24 of the Act, 48 U.S.C. § 1424b, relating to the district judge and the officers of the District Court of Guam. Section 202(a) provides for the appointment of the district judge for a term of ten rather than eight years in order to provide for retirement benefits to district judges who fail to reappointment after their first term. The Committee's concerns expressed in the discussion of section 706 also apply to judges in Guam.

Section 802(b) is self explanatory.

Section 802(c) authorizes the Chief Judge of the Ninth Judicial Circuit to assign to the district court a recalled senior district judge. See Sec. 1003.

Section 802(d) conforms § 24(b) of the Act, 48 U.S.C. § 1424(b), to the renumbering of the chapters of title 28, United States Code, in 1966.

Section 802(e) repeals § 24(c) of the Act, 48 U.S.C. § 1224(c), which has become redundant as the result of the general applicability to Guam of title 28, United States Code by virtue of § 22D.

Section 803. The reason for this repeal is given in the last two sentences of the explanation of § 22D.

TITLE IX—NORTHERN MARIANA ISLANDS

This Title amends the Act of the November 8, 1977, 91 Stat. 1265, 48 U.S.C. §§ 1694-1694e (referred to as the Act in this title), which establishes the federal judicial system in, and its relationship to the local courts of, the Northern Mariana Islands in conformity with Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved on March 24, 1976, 90 Stat. 263 (Covenant), 48 U.S.C. § 1681, note.

Section 901(a) amends § 1(b)(1) of the Act. 48 U.S.C. § 1694(b)(1), by providing that the district judge shall be appointed for a term of ten rather than of eight years. The Committee's concerns expressed in the discussion of section 106 apply equally to the situation of judges in the Northern Mariana Islands. The purpose of this amendment is to provide for retirement benefits to a district judge who fails of reappointment after his first term. Sec. 901(b) authorizes the Chief Judge of the Ninth Judicial Circuit to assign to the District Court of the Northern Mariana Islands a recalled senior district judge. See § 1003.

Sec. 901(c) is based on and expands § 1(c) of the Act, which now generally makes the Federal Rules of Procedure applicable to

the Northern Mariana Islands, unless otherwise provided in Articles IV and V of the Covenant. In addition to the existing law, § 901(c) will extend to the Northern Mariana Islands the Part II of title 18 and 28, United States Code, where "appropriate" and not inconsistent with Articles IV and V of the Covenant.

At present some of those statutory procedural provisions are expressly applicable to the Northern Mariana Islands in a haphazard manner, leaving it open whether and to what extent other provisions also apply to them. Moreover some chapters of title 28, United States Code, apply to some territories, but not to others. Thus chapter 43 relating to United States Magistrates applies to the Virgin Islands (28 U.S.C. § 631) and to Northern Mariana Islands (48 U.S.C. § 1694(c)), but the Court of Appeals for the Ninth Circuit has taken the position that it does not apply to Guam. This subsection would have the effect of making the provisions of Part II of title 18 and title 28 (such as venue) generally applicable to the District Court for the Northern Mariana Islands. It is intended that the only exceptions to this extension will be those provisions which are in conflict with specific legislation applicable to the Northern Mariana Islands, in particular Articles IV and V of the Covenant, and those relating to judges who are appointed during good behavior.

Section 902 amends § 2(a) of the Act, 48 U.S.C. § 1694(a), in four aspects. First, it adjusts the section to the recent amendments of 28 U.S.C. § 1331, pursuant to which the district courts have federal question jurisdiction without regard to the amount in controversy. Second, it provides that the court will have the jurisdiction of a bankruptcy court of the United States, as have the district courts of Guam and of the Virgin Islands. Third, in view of the decision in *Chase Manhattan Bank* v. *South Acres Development Co.*, 434 U.S. 236 (1978), the section states specifically that the district court has the diversity jurisdiction provided for in 28 U.S.C. § 1332. Fourth, it provides that the jurisdiction of the district court with respect to the government of the Trust Territory of the Pacific Islands shall extend only to actions brought by that government and, generally, to those actions against it which may be brought against a foreign government under the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605, *i.e.* to those which are based on commercial activities carried on in the Northern Mariana Islands or on certain torts occurring there. In such actions the Trust Territory Government is entitled to such rights and privileges as are applicable to the United States where it is a party, *e.g.* venue, the statute of limitations, absence of a jury trial, and counterclaims.

This provision has been prompted by the decision of the Appellate Division of the District Court for the Northern Mariana Islands in *Sablan Construction Company* v. *Government of the Trust Territory of the Pacific Islands*, 526 F.Supp. 135 (D. N.M.I. App. Div. 1981) in which the court assumed jurisdiction in a tax case involving the Trust Territory Government. The provisions of the bill to treat that government as a foreign government and not as an agency of the United States is based on a number of decisions which hold within a broad spectrum of issues, that the government of the Trust Territory is not an agency of the United States. See in this context in particular, *People of Saipan* v. *United States*, 502 F.2d 90, 95-96, 99-100, (9th Cir. 1974), *cert. denied* 420 U.S. 1003 (1975); *Gale* v. *Andrews*, 643 F.2d 826, 830, 832 (D.C. Cir. 1980); *Porter* v. *United States*, 204 Ct. Cl. 355, 364, 365, 496 F.2d 583, 589, 590 (Ct. Cl. 1976); *RCA Global Communications Inc.* v. *U.S. Department of the Interior*, 432 F.Supp. 791, 794 (D. Guam 1977). The last two decisions indeed consider the government to be a foreign government. The interests of the people of the Northern Mariana Islands are sufficiently protected by giving the district court contract and tort jurisdiction over the Trust Territory Government and by the provisions of § 1001. Above all, the preclusion of review by the district court of the governmental activities of the Trust Territory Government is not likely to prejudice the citizens of the Northern Mariana Islands since that government has exercised few, if any, governmental functions with respect to those Islands since 1976. On the other hand, continued jurisdiction of the district court over the Trust Territory Government may result in suits being brought against it by residents of other Micronesian islands and adversely affect the detailed claims settlement procedures provided for in the Compact with the Micronesian entities.

The Compact of Free Association which has been negotiated with the Republic of the Marshall Islands, the Federated States ofMicronesia, and the Republic of Palau sets forth a different legal and judicial relationship than that which obtains under the Trusteeship Agreement. The Committee will consider that relationship when the Compact is praesented to the Congress for approval and may also consider the respective roles of the Trust Territory High Court, the district court in the Marianas, the local courts of the Micronesian governments, and Court of Appeals for the Ninth Circuit during the period after approval of the Compact and prior to termination of the trusteeship and post-trusteeship as well as for any governments not covered by either the Compact or the Covenant.

The last sentence of Section 902 provides that a lack of the district court's jurisdiction over the Trust Territory Government cannot be circumvented by suits against the officers or employees of that government.

Section 903 deals with § 3 of the Act, 48 U.S.C. § 1694b, relating to the appellate jurisdiction of the district court for the Northern Mariana Islands.

First, § 903(a) establishes beyond any doubt that the appellate division of the District Court for the Northern Mariana Islands has jurisdiction only over the appeals from the decisions of the local courts of the Northern Mariana Islands and not over those of the district court. This clarification of the meaning of § 3 of the Act has been occasioned by the decision in *Sablan* v. *Santos*, 634 F.2d 1153 (9th Cir. 1980), which held that appeals from district court decisions in local law matters are to be taken to the appellate division of the district court rather than to the Court of Appeals for the Ninth Circuit. That decision is in conflict with § 402(c) of the Covenant with the Northern Mariana Islands (48 U.S.C. § 1681, note) on which § 3 of the Act is based. The explanation of § 402(c) in the Senate Report on the Covenant specifically states "the District Court will have such appellate jurisdiction over the decision of the local courts of the Northern Mariana Islands as the laws of the Northern Mariana Islands provide". (S. Rep. No. 433, 94th Cong. 1st Sess. 73 (1975) (emphasis added.)) The clause "such appellate jurisdiction as the laws of the Northern Mariana Islands provide" means, as do the corresponding provisions on Guam and in the Virgin Islands (48 U.S.C. § 1424(a) and 1612), that the laws of the Northern Mariana Islands may restrict the right of appeal, not that a local legislature can determine the court to which the decisions of a federal court may be appealed.

Moreover, the appellate division of the District Court for the Northern Mariana Islands has been patterned on the appellate division of the District Court of Guam. *In re Webster*, 363 F.2d 837, 839 (9th Cir. 1966), held that the appellate division of the District Court of Guam "has no jurisdiction except to hear appeals from the Island Court of Guam (*i.e.* the local court) to the District court of Guam." Subsequent decisions of the Court of Appeals for the Ninth Circuit, *Taisacan* v. *Camacho*, 660 F.2d 411, 413, (9th Cir. 1981), and *Camacho*, v. *Civil Service Commission*, 666 F.2d 1257, 1259-62 (9th Cir. 1982), point to the problems created by *Sablan* v. *Santos, supra*, viz., (a) the difficulty of determining whether a decision is based on local or Federal law (666 F.2d at 1262); (b) whether an appeal to the Court of Appeals lies from a decision of the appellate division on matters of local law; and (c) whether a decision of the district court on matters of federal law can be appealed directly to the Court of Appeals. Hence, it appears imperative to clarify the point that all appeals from the decisions of the trial division of the district court go directly to the Court of Appeals for the Ninth Circuit.

Second, § 903(a) provides, as do § 705, (§ 23A(a)) and § 801, to the appellate division of the district court from the decisions of the local courts which involve federal questions.

This provision has been drafted (a) to assure the reviewability in the Court of Appeals of local actions which are in conflict with the Constitution of the United States, federal statutes, including the Covenant, and the acts of federal officials authorized by federal law and (b) to obviate the contention that every act of the legislative or executive branch of the government of the Northern Mariana Islands raises a federal question because virtually all those acts derive their authority from federal law, in particular the Covenant. See in this context *Taisacan* v. *Camacho*, 660 F.2d 411, 413 (9th Cir. 1981) and *Camacho* v. *Civil Service Commission*, 666 F.2d 1257, 1261-1262 (9th Cir. 1982).

Sec. 904. This section amends § 4 of the Act which deals with the relationship between the courts established by the Constitution or laws of the United States and the local courts of the Northern Mariana Islands by especially referring to the Supreme Court of the United States. This amendment is designed to clarify that, after the expiration of the fifteen year period referred to in the proviso, the Supreme Court of the United States will have jurisdiction to review the decision of the courts of the Northern Mariana Islands in the same manner in which it reviews the decisions of the courts of the several States. *See* 28 U.S.C. § 1258 governing the review of the decisions of the Supreme Court of Puerto Rico by the Supreme Court of the United States.

TITLE X

Section 1001. This section is a correlative to Section 902. It provides in substance that with respect to claims against the Trust Territory Government arising in the Northern Mariana Islands over which the District Court for the Northern Mariana Islands lacks jurisdiction pursuant to Section 902,

the High Court of the Trust Territory shall have such jurisdiction as it possessed on January 8, 1978, *i.e.*, the day on which the constitution of the Northern Mariana Islands became effective.

Section 1002. This section repeals §§ 335, 336 and 402(e) of the Bankruptcy Act of 1978, because they have been incorporated in §§ 703(a), and 801.

Section 1003 provides for the recall to duty of certain territorial judges whose terms have expired. Judges of the United States, as defined in 28 U.S.C. § 451, retain their office after retirement pursuant to 28 U.S.C. § 371(b). Therefore they can be designated and assigned to perform active duty pursuant to 28 U.S.C. § 294. A territorial judge whose term has expired, however, ceases to be a judge. Hence, he cannot be recalled to active duty absent a statutory authorization.

Section 1003 establishes, in analogy to 26 U.S.C. 7447 (Tax Court) and 28 U.S.C. § 797 (United States Claims Court), a procedure pursuant to which a territorial judge who receives or will be eligible to receive retirement pay under 28 U.S.C. 373 may elect to become senior judge. Such senior judge may be recalled to duty by the Chief Judge of the Judicial Circuit in which the judge has served. The recall of a senior judge may obviate the need for assigning a judge from a distant district to a territorial court in the event of the temporary absence of the regular district judge or in order to designate an appellate division.

In order to protect the independence of the judiciary and to prevent conflicts of interest and other improprieties or the appearance thereof, a senior judge will remain subject to the requirements of the Code of Judicial Conduct of United States judges and be precluded from accepting civil office with the Government of the United States, or from practicing law. *Cf.* 26 U.S.C. § 7447(f).

Section 1004. This section has been prompted by the decision in *People of the Territory of Guam* v. *Okada*, 694 F.2d 565 (9th Cir. 1983) which held that the government of a territory may not appeal to a federal court in a criminal case from a ruling—even that of an appellate court—in the favor of the defendant, in the absence of a federal statutory authorization. Section 1004 sets forth the circumstances in which such appeals are authorized. This section is based in part on 18 U.S.C. 3731.

Section 1005. This section makes applicable to sitting judges the extension of the term for district court judges from eight to ten years provided in sections 706(a), 802(a) and 901(a). At present, the judges' term does not automatically end after eight years but as a practical matter they continue to serve until their successors are chosen and qualified. The effect of the amendment is simply to delay and appointment of a successor so that the judges, if they so choose, may continue to serve and become eligible for retirement benefits which accrue only after ten years of service.

Section 1006. This section provides that the proposed legislation in titles VII, VIII, IX and X will become effective on the ninetieth day following its enactment. In view of the many changes in the jurisdiction of courts contained in this legislation, its effectiveness should be delayed by at least ninety days following its enactment.

Mr. DE LUGO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Further reserving the right to object, I yield to the gentleman from the Virgin Islands (Mr. DE LUGO).

Mr. DE LUGO. Mr. Speaker, I rise in support of H.R. 5561 as amended by the Senate, and as further proposed for amendment here today. The bill contains important items for all of the U.S. possessions, and has bipartisan support in this body and in the Senate.

I commend my colleague, TONY WON PAT, chairman of the Insular Affairs Subcommittee, for his leadership in developing this legislation and orchestrating the consensus it reflects.

I also commend the ranking minority member of the subcommittee, BOB LAGOMARSINO, for his continued interest and attention to the concerns and needs of the territories. I sincerely appreciate that through the efforts of both of these gentlemen, we have before us today a bill having firm bipartisan support.

There are several provisions in the bill of particular importance to the Virgin Islands, and I just want to take a moment to highlight a few of those provisions.

The bill makes funding available for the extension of the St. Croix Airport by adding this project to the authority already existing under Public Law 97-357 for water and power. The budget impact, therefore, is neutral. Additionally, $600,000 is authorized for design of the project.

This makes a total of $9.6 million available for the St. Croix Airport extension project, the estimated cost of which is $10 million. The St. Croix Airport is the only airport in the Virgin Islands capable of being extended to accommodate commercial aircraft loaded for long-distance flight. The importance of such capability is what has led the United States to complete the airport on Grenada. Grenada has to have access to the European, South American, the Western and Midwestern U.S. tourist markets as well as the closer U.S. east coast market, it is to survive economically. This country has recognized that tourism is the essence of Grenada's economic future, and has committed to helping the island nation. The Virgin Islands is also primarily a tourist economy and needs the same access to long-distance markets to be competitive.

The Virgin Islands proposes to extend the existing 7,000-foot runway on St. Croix to 10,000 feet. This extension will allow the Virgin Islands to accommodate the large commercial jets, such as the 727, 757, 767, DC-10, and L-1011, when loaded for long-distance flight. Our inability to handle such departures effectively cuts us out of the important tourist markets noted in reference to Grenada.

The bill also provides for the transfer of Government House on St. Croix to the people of the Virgin Islands. The transfer of ownership is an extension of Congress' earlier decision to transfer ownership of the St. Thomas Government House to the people of the Virgin Islands. As the center of local government activities on St. Croix, it is appropriate to tranfer ownership of Government House to the territory. This historic building was constructed during the Danish colonial rule in the Virgin Islands. It is currently maintained by the local government, and is viewed by island residents as properly their own.

The bill as passed by the House also clarifies the industrial development bond authority for the Virgin Islands and American Samoa, as provided in the Deficit Reduction Act of 1984. Additionally, the bill removes the arbitrary 3-year limitation placed on these two territories' ability to issue IDB's.

There is still work to be done regarding equitable access to IDB authority for the U.S. territories. The Deficit Reduction Act places a minimum IDB cap for the States at $200 million. The territories are limited to a strict per capita cap. Thus, the Virgin Islands and Guam face a $15 million IDB cap, to be reduced to $10 million after 1986. American Samoa is currently capped at $4.8 million, and the Northern Marianas Islands can only issue $2.4 million in IDB's.

An example of the problem this raises is the Virgin Islands' attempt to privitize its solid waste treatment.

The administration has consistently discussed its intention to help the territories privitize such activities. But, no private firm can reasonably finance the solid waste treatment plants needed without IDB's. The cost of the solid waste treatment plants is approximately $40 million. Under the current IDB limitations, the Virgin Islands would have to generate three separate bond issues over a 3-year period. The debt service and protracted time period would raise the overall cost of the project. Furthermore, this would be the territory's only IDB issue, since the authority is limited to 3 years. This type of problem was recognized in extending a minimum cap of $200 million to the States.

I do not suggest that each territory should have a $200 million cap. This would be a windfall. But the territories have tried to work for meaningful IDB authority. While we have not been successful in reaching the necessary consensus on this matter in the context of H.R. 5561, I ask my colleagues to lend their support to a more meaningful cap in the future.

The Senate has amended H.R. 5561 to provide needed changes in the court systems in the territories. Significantly, the diversity jurisdiction of Federal district courts in the territories is clarified. The review of the local court decisions is brought more in line with

the standard of appellate review in the rest of the Nation by a separate appellate division within the district court of the Virgin Islands consisting of a three-judge panel. This changes the procedure existing only in the Virgin Islands court system wherein one judge has the authority to reverse the decisions made by another. However, the right of direct appeal to the third circuit is not affected by this provision.

This Senate amendment also grants to the Virgin Islands the authority, similar to that existing in the States, to create its own system of appellate review. Such authority must come from Congress, given its jurisdiction over the territories. The provision is yet another grant of autonomy for the territory, bringing the Virgin Islands closer to the standing of other members of the American family. However, the provision leaves to the people of the Virgin Islands the decision as to when they are ready to undertake this responsibility. This is consistent with Congress' earlier grant of jurisdictional authority for local courts which allowed the people of the Virgin Islands to expand, as they see fit.

The jurisidiction of their local courts, provided this jurisdiction does not infringe on the standard jurisdiction of the Federal Courts. The Virgin Islands has approached this wide authority slowly. The current appellate provisions allow the territory the same capability of determining the need to broaden its judicial responsibility.

Also significant for the Virgin Islands is the exemption from up to $200,000 in local matching funds for Federal programs provided in section 601 of this bill. This provision responds to the developmental pressures faced by the Virgin Islands and the other territories, effectively cutting them out of needed Federal programs.

Additionally, the bill provides $2 million in technical assistance to aid economic development in the Virgin Islands and other territories. This provision responds to the special difficulty of attracting business to the insular territories.

This is a good bill. The items for the Virgin Islands and the other territories provide needed changes in Federal law, and include funding for programs which address the special developmental concerns of the U.S. offshore possessions. I, therefore, urge your support for passage of H.R. 5561 as presented by my able colleague, Chairman WON PAT.

Mr. SUNIA. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Further reserving the right to object, I yield to the gentleman from American Samoa [Mr. SUNIA].

Mr. SUNIA. Mr. Speaker, I rise also in support of this particular legislation and to echo the sentiments of the gentleman from the Virgin Islands in his commendation of the chairman of this subcommittee, as well as the ranking minority member for consistency in their support of the territories.

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As you know, Mr. Speaker, I am the only delegate who is not a member of the Territorial Affairs Subcommittee. However, I would like to state my sincere appreciation for the courtesy extended to me by the chairman [Mr. WON PAT] and the ranking minority member [Mr. LAGOMARSINO] for their consideration of the omnibus bill this year.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I want to thank all those who have spoken their kind words about me. I want to add my congratulations and commendations to all of them for their work on this bill. My only regret about this at all is that other committees of the Congress are not able or not willing to follow the same kind of procedure and have the same kind of bipartisan results that we do.

Mr. Speaker, I rise in support of H.R. 5561 with committee amendments.

This bill is a bipartisan effort to facilitate economic development in the U.S. territories. These territories are members of our American political and economic family. As such, they are entitled to the same economic encouragements that we give our citizens in the 50 States.

In short, the bill permits refinancing of Guam Power Authority; enables the citizens of the U.S. Pacific Territories and the Northern Mariana Islands to develop very promising fisheries resources; provides infrastructure assistance for water problems in Guam and the Northern Mariana Islands and transportation needs in the Virgin Islands; modernizes the judicial systems in the Virgin Islands, Guam, and the Northern Marianas; corrects oversights in the extension of Federal programs to all the U.S. territories; and, most importantly, encourages badly needed local investment projects through technical assistance funding and bonding authority with the stipulation that the Department of Interior report to the Congress on the efforts and progress being made in developing private enterprise projects in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

Mr. Speaker, the Interior Committee has held two hearings on this bill and has conducted two field investigations. Moreover, the Interior Committee has worked many hours with the Committees on Merchant Marine and Fisheries, Ways and Means, Government Operations and Budget, as well as counterpart committees of the other body in order to arrive at a consensus. Similarly, the territorial governments and the Office of Territorial and International Affairs of the Department of the Interior were all frequently consulted, playing a crucial role in the development of this bill.

Mr. Speaker, I would like to address a few specific provisions of this bill. First, section 203 authorizes the Secretary of the Interior to enter into negotiations with the Government of Guam in order to arrive at an agreement to refinance Guam Power Authority. If the Government of Guam consents to this agreement—preconditioned on the establishment of an independent ratemaking authority—severe penalties may be imposed if violations of the agreement subsequently occur, including: First, the dismissal of the board of directors or the general management of the Guam Power Authority; second, assumption of management under contract by the Secretary; or three, outright sale of the facilities by the Secretary, subject to congressional approval.

Second, sections 401(a) and 401(d) authorize the development and construction of badly needed water improvement projects in Guam and the Northern Mariana Islands. Countless studies, prepared over the years, document the urgent necessity for water improvement in these two insular areas and the need for Federal assistance. Moreover, site-specific recommendations have been, in most cases, already identified. Both the Corps of Engineers and the Bureau of Reclamation have been involved in the development of these findings. Accordingly, I urge the Secretary of the Interior to scrutinize the prior efforts of both agencies, to coordinate their future activities and to allocate project construction in accordance with best capabilities. These authorizations are designed for construction—not for further study.

Last, upon request of the leaders of the U.S. Virgin Islands, section 502 conveys title of Government House on St. Croix to the Government of the Virgin Islands. I wish to point out that this structure is of great historical importance, not only to the Virgin Islands, but also to the United States as a whole. It is a reminder of the early years of one of America's staunchest patriots—Alexander Hamilton. Therefore, the Government of the Virgin Islands assumes with title this sacred trust. In the transfer of title, the citizens of the United States look to the Government of the Virgin Islands to carry out encumbent responsibilities in the maintenance and upkeep of this historical landmark.

Mr. Speaker, our responsibilities in the U.S. insular areas necessitate passage of this legislation. The provisions of H.R. 5561 as amended are prudent yet responsive to the current needs of the territories. I, therefore, urge my

colleagues for their unanimous support and approval of the amendments.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. LUJAN. Mr. Speaker, I rise in support of H.R. 5561 with committee amendments.

I want to commend and thank Chairman WON PAT and the ranking Republican member on the Insular Affairs Subcommittee, Mr. LAGOMARSINO, for their hard work in facilitating agreement on a bill which helps to fulfill our responsibility to members of the American family in both the Pacific and Caribbean region. The bill has the support of Members on both sides of the aisle. H.R. 5561 is the product of many hours of hearings within the Interior Committee, as well as consultations with the Committees on Merchant Marine and Fisheries, Ways and Means, Government Operations, and Budget.

H.R. 5561 encourages investment in the territories' private sectors; grants industrial revenue bonding authority to the Virgin Islands and American Samoa; grants an exception to vessel documentation, manning and fisheries laws that impede development of local fisheries industries in the Pacific islands; provides authorization for technical assistance and construction to alleviate very serious water supply and distribution problems in Guam and the Northern Mariana Islands; and provides for a more viable judicial system in the U.S. Virgin Islands and Guam.

Mr. Speaker, the provisions of H.R. 5561 are necessary, yet frugal. The insular areas need our support in order to meet the growing needs of their developing communities. I urge unanimous approval and ask my colleagues for their support.●

● Mr. UDALL. Mr. Speaker, I want to thank the representative of Guam, TONY WON PAT, for his kind recognition of my role in developing this 1984 omnibus insular areas assistance bill.

However, we all know that it is his fine work as chairman of the subcommittee with jurisdiction over all territories' bills that will really make enactment of these proposals possible.

Chairman WON PAT has skillfully developed H.R. 5561 not only here in the House but in tough negotiations with the Senate and in necessary compromises with the administration.

The result is essential legislation deserving of the unanimous support he seeks. It has as its primary purposes enabling the territories to develop economically; but it also contains provisions critical to their social and political development.

As Chairman WON PAT proposes to amend it, H.R. 5561 is one of the most important territorial bills to come before the House in years. As I have explained, this is because of his leadership on territorial issues.

I urge the House to approve the request of our leader on territorial issues for approval of this omnibus territories bill.●

● Mrs. BURTON of California. Mr. Speaker, I am honored to support what we all hope will be final passage of H.R. 5561, the 1984 omnibus insular areas assistance bill.

I am even more honored that the distinguished chairman of the subcommittee, TONY WON PAT, noted my work on it in asking for the House's approval of this bill.

The tradition of combining most legislative proposals regarding the territories into an annual omnibus territories bill such as this one was begun by my husband, Phillip Burton, who preceded the representative of Guam as chairman of the subcommittee.

This omnibus territories bill contains several provisions that Phillip believed should become law.

One would provide Guam and the Virgin Islands with a limited waiver of matching fund requirements for their participation in any Federal grant program.

Another would refinance the Guam Power Authority's Federal loan that Phillip helped Chairman WON PAT obtain in 1976.

A third would upgrade the local judicial authority of Guam and the Virgin Islands, following the earlier upgrading of their local legislative and executive authority.

A final one would relax restrictions on the transfer of former Federal property to Guam needed for port development.

Thus, I know that Phillip, too, would have been honored to support this legislation.

He would have recognized that it carries on the legislative tradition he began. And he would have recognized that TONY WON PAT is carrying on the leadership on territorial legislation that he sought to provide.

All of our 3.5 million fellow Americans of the territories—not just those of Guam—benefit as a result.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam [Mr. WON PAT]?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Guam?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WON PAT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5297, CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the managers may have until 3 p.m. today to file the conference report on the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOW TO REALLY BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. I thank the Speaker.

Mr. Speaker, I am going to talk today about a topic in a special order entitled "How to Really Balance the Budget."

You know, the deficit has become a very hot topic. How to balance the budget has become a very hot topic.

Partisan charges, ideological assertions back and forth have dominated much of the news.

The Wall Street Journal said this morning and I quote:

> On the evidence of what much of the financial and political community is talking about, the Federal deficit is now the front running campaign issue.

Budgets do matter. Unlike some of our colleagues, I believe that it is important in the long run that a society spend as much as it raises and no more and that in peace time a society pays off its national debt over time.

Indeed, in a recent book called Window of Opportunity I argued and I quote:

> For 50 years conservatives have made balancing the budget a key part of their political platform. They have preached that red ink and big deficits are bad for America. They have reminded the public that we can't run our family budgets with a constant deficit and neither can the country. They have been right.

I went on, though, to admit our current dilemma by saying:

> Now the Republicans are in power in the White House and share power in the Senate. They are finding it remarkably difficult to live up to 50 years of preaching.

Ronald Reagan who spent 20 years attacking the big spending Federal government, is now presiding over the fastest increase in the federal debt in American history.

Why is there such a contradiction between intentions and reality? The basic reason that the Federal deficit is uncontrollable is that Federal spending is uncontrollable. Washington is a city dedicated to picking the pockets of the average American taxpayers. Every special interest group in Washington gains power and influence by raising spending. Washington is an increasingly imperial city which considers it the duty of the rest of the country to pay tribute so that Washington can raise spending. This attitude is shared by lobbyists at cocktail parties, reporters in the press galleries, committee staffers and bureaucracies in the executive branch. Special interest groups work closely with congressional committees which provide money for their interests with special interest media which report appropriations and with the executive branch agency which will then disburse the money. The result is an iron triangle of special interests. Anything that threatens the increased expenditure of public funds is, by the interest groups' definition, bad. Since the various partisan interests mix at one another's parties, they share a general mind set which begins with the premise that "nothing can be done about spending." Given that presumption, the national corollary is that "we will simply have to raise taxes."

If this were a liberal country, being presided over by liberal capital, then that equation would be correct. However, the fact is that Americans are a conservative people who are increasingly angry that their taxes have gone up without curing the deficit problem.

Personally I am convinced that we will never balance the budget until we pass a constitutional amendment to require a balanced budget. But I am also convinced that by itself passing a balanced budget amendment is not enough. I think that we are going to have to look at a serious opportunity society program to get to a balanced budget and that is what I want to talk about today.

But let me make the first point that every liberal Democrat who talks about deficits and refuses to pass a balanced budget amendment to the Constitution to require balanced budgets should be questioned closely because the fact is this House and this Congress are organized today in a manner which increases the pressure for spending and you are only going to, in the long run, be able to control that pressure by invoking a constitutional requirement.

Since deficits have been a hot topic almost everyone seems to have come up with a plan and there are two key characteristics of virtually every plan, and you can check them and this is almost universally true. First, let's cut someone else's spending. And second, let's raise someone else's taxes.

□ 1200

Heavy industry is working on plan. Magnates of finance in New York are working on a plan. What is their plan? One, freeze or cut social spending, which they do not get. Two, cut defense spending, which they do not get. Three, raise consumption taxes, which they will essentially not pay. It is a perfect plan for a cocktail party in lower Manhattan. It will never pass in the U.S. Congress.

Second, on the other side. Walter Mondale and the liberal Democrats have a plan: First, increase Government spending for the allies; second, cut defense spending; third, tax people who earn above $60,000; and fourth, tax businesses. That plan is not going to pass either. In fact, if we were to offer that plan next week, as some of us think we might, I think you would find the Democrats in the House of Representatives would reject that plan. They are not about to go home having passed a massive tax increase and they are not about to strip America so it is defenseless.

Furthermore, there is built into the Mondale liberal Democratic plan an economic fantasy. Everything we have learned over the years is that taxing business kills jobs, taxing people kills jobs. There is clear proof and I might quote from Richard Rahn, vice president of the U.S. Chamber of Commerce, who said, "No tax increase ever resulted in a balanced budget." Dr. Rahn went on to say, "Four thousand years of human history shows tax increases slow economic growth."

So, it is clear that if you are committed to jobs and you are committed to growth you are not going to get that by going through the process of raising taxes. So, in fact, the Mondale liberal Democratic tax increase plan would actually kill jobs, put people back on unemployment and welfare, lower the amount of money people were paying in taxes since they would not be working and raise the amount of money the Government would be spending and therefore, increase the deficit.

We already went through that for 4 years under the Carter-Mondale administration and it would seem that people would eventually learn.

The other example is the Black Caucus Budget, which GERALDINE FERRARO voted for. It crippled defense with tremendous cuts, almost $200 billion over the next few years. It had a massive increase in Government/domestic spending. It then dramatically and awesomely increased taxes on working Americans. That budget got almost no votes and, again, is not likely to pass.

Now, faced with rightwing traditional budgets that are not going to pass, leftwing budgets that are not going to pass, politicians have been reduced to playing games. The Speaker, the liberal Democratic leader, sought to score political points by saying, "Why if Ronald Reagan would only send up a balanced budget we would bring it to the floor within 48 hours." Which might lead those who are concerned about a balanced budget to ask the question: Since every Budget Committee chairman since the founding of the Budget Committee has been a Democrat, why do not the Democrats write a balanced budget? One might even ask: Since today is the date we are supposed to have passed the second concurrent budget resolution and we have still not passed the first concurrent budget resolution, and we are now something like 5 months behind in this year's budget—that is a little bit, for those of us who have shorter time frames, if you have a monthly budget for your family, this is a little bit like being into the third week and you have not paid the bills that were due on the first. There is no prospect at all that this Congress will ever pass a budget resolution because the whole budget process is broken down.

The fact is that even though liberal Democrats next week will seek to embarass President Reagan with some trivial and minor gimmicks that are designed to embarass him, the reality is that there is no liberal Democratic plan for balancing the budget, nor, frankly, at the present moment, is there any other plan for balancing the budget.

There is a sound reason. The simple fact is that it is politically and economically impossible to balance the budget in 1 year. That is why those of us who favor a constitutional amendment to require a balanced budget have a 6-year process of phasing it in, that is why we recognize that while that is the goal we want that that goal has to be reached in a mature, responsible, adult manner. All of the current gobbledegook from liberal Democrats about, "Well, why would you vote for a balanced budget amendment when you cannot even balance the budget," is nonsense.

We are saying you have to vote for a constitutional amendment precisely because the mess is now so bad that there is no quick way to get there.

I want to point out and remind my friends again, when you talk about the mess in Washington, when we talk about the terrible tax loopholes that Walter Mondale is running commercials against, when we talk about the huge deficit, the House of Representatives has been controlled by the Democrats since I was 11 years old. You can tell by my gray hair that has been a while. For 30 years every tax bill was passed out of a Democratic Ways and Means Committee and passed by a Democratic controlled House. Every dollar spent by the U.S. Government for 30 years has been dollars appropriated by Democrats in this House. You legally under the Constitution cannot spend money the House does not approve.

So the next time a liberal Democrat gets up and says, "Why do you Republicans talk about a balanced budget?" the first answer is because after 30 years of you and your party running the House we have a really big mess and it is going to take a while to solve it.

If we were to try in 1 year to balance the budget, we would face economic chaos just as a patient who went through shock therapy and tried to get up out of bed too quickly might collapse.

Furthermore, it is politically impossible. I want to quote again from today's Wall Street Journal editorial because I think they put it correctly.

In 1974, the year Congress passed the Budget Control Act, Federal spending has been out of control ever since. In short, we find ourselves getting just a little impatient with these periodic mantras that go up from the business community in which the Federal spending problem and its solution are solemnly described in terms of simple arithmetic. Subtract from these categories, hold the growth in those categories to this percentage, add x level of new revenues, and the result will be sweet clover and whooping and hollering down Wall Street.

We realize these proposals are meant to be constructive, but there is hardly a Member on either side of the aisle in Congress who does not understand the spending problem. The Halls of Congress are awash with spending control plans. The problem is not economic, it is entirely political.

As it now stands, you simply cannot put together a coalition of 51 Senators and 218 Representatives who will support anyone's spending control proposals. The only effective spending control strategy we have seen in recent memory was the House coalition Ronald Reagan assembled in the first term of his Presidency.

Bill Simon, part of the five-Member bipartisan budget coalition correctly identified the spending problem on these pages as the Gang of 535.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Idaho.

Mr. CRAIG. I thank the gentleman for yielding.

Let me compliment my friend from Georgia for bringing up what is an issue that I think a large majority of the American public are terribly frustrated over at this moment.

Why cannot this Congress control its spending habits? And I think the gentleman is absolutely correct that the growing No. 1 issue in this Nation is the mounting deficit and a concern on the part of the citizens of this country as to what that deficit will lead us to somewhere down the road, with potentially uncontrollable inflation and interest rates that could bring us back to the kind of economic chaos this country was in in the late seventies and early eighties.

I have to compliment my colleague from Georgia for bringing the analysis that I for some time have agreed with, that until you control spending in this Congress, you will be unable to control deficits. I think the Wall Street Journal is absolutely correct, that until we can devise a mechanism that controls the ability of this Congress to spend in an uncontrollable fashion, at least certainly one that is not in balance with the flow of revenue coming to this Government, that we will have those kinds of deficits.

I have for some time been a leader of a group here in this Congress called CLUBB, Congressional Leaders United for a Balanced Budget. Our effort has been twofold: One, recognizing that the Congress itself was uncontrollable, to go to those States to encourage State legislatures to use the second part of article 5 of the Constitution to bring some fiscal sense to this body by forcing them toward the balanced budget amendment.

□ 1210

To highlight what you are saying and a lack of understanding and, therefore, a frustration on the part of the American taxpayer as to why this body cannot control itself came in a phone conversation that I had with a State representative from Michigan just day before yesterday, when that most important issue was before a house committee in the Michigan Legislature, that issue of being a petition to Congress.

She said:

Why can't you just bring in a balanced budget down in Washington? You know, Congressman, it is really your responsibility to bring in that balanced budget, and why can't you just simply do that? You know, we here in Michigan have to do that.

Of course, I reminded her that Michigan is one of those States whose constitution required a balanced budget.

My colleague from Georgia, I think, is absolutely correct in his analysis. The environment in which we operate, the laws that govern this body and have propelled us into a perpetual state of spending without recognizing the fiscal responsibility that is necessary brings us to the deficit.

No matter whether Walter Mondale wants to tax us out, unless he is willing to control his appetite for spending and this body's appetite for spending, taxes will not bring us to a balanced budget.

The chamber of commerce is absolutely correct. There is not a time in the history of this body that a tax increase brought the budget under control. More money simply perpetuates the mechanism of the system in which we operate, and that system is to spend more money, to try to offer up solutions to whatever problem we are addressing.

I think it is important for the American people to understand that there is a system, there is a plan that we can devise that will be long term in nature but that is fixed in its course of action that brings us toward a balanced budget.

I am anxious that my colleague today is setting forth that plan, that we can in a period of time, if we follow a course of action, bring this Nation to a balanced budget. We cannot balance the budget in 1985 without massive tax increases or massive spending reductions. I think it is important that the American people understand that.

I think it is also important for them to understand that they ought not be listening to politicians in 1984 who are saying that it is irresponsible to talk of a balanced budget amendment requirement because we cannot balance the budget in 1 year.

I think it is important to understand that it will take a dedicated course of action on the part of this House and our colleagues across the way that in a 4- to 5-year period, if we are willing and able to hold our spending growth at a moderate level and allow the economy of this country to expand and grow as it currently is, that we can accomplish that.

I am anxious to hear my colleague address those key issues in the next few minutes.

I thank the gentleman.

Mr. GINGRICH. I appreciate very much the contribution of my colleague, the gentleman from Idaho [Mr. CRAIG], because he has been a real leader in a nationwide effort to get a constitutional amendment to require a balanced budget. And frankly, it has been in reaction to your efforts that various liberals have said, "Ah, but how would you balance the budget?" Then we began to work on the material and the program I am going to outline today, because it seemed to me that we did have an obligation to come back in a serious and responsible manner and lay out a plan.

In order to understand that plan, I think it is very important that we first start with an analysis of the four things that are wrong with our current to budget process. And remember, I am talking today on the date when we were supposed to be passing the second concurrent budget resolution, at a time when we have not even passed the first concurrent budget resolution. It is a sad commentary on Congress that we move the fiscal year back from July to October to be able to have time to do our job and so we have now failed to do our job even by October. Presumptively, if we were to skip a year, giving us an entire year to catch up with the year, we think we might get our job done. But I do not think so. Because the problems are not problems of time. The problems are problems of political will, of structure, and of the way in which we approach the budget.

There are four basic problems:

First, the timeframe is wrong; second, the economic numbers are wrong; third, the current process of budget development is focused on the wrong questions; and fourth, we have allowed micromanagement to dominate the entire process of budgeting.

Let me walk through these in some detail.

First, the timeframe for budgets is wrong. Annual budgets are doomed to fail. An annual budget maximizes the pain you are going to impose on any specific interest group by trying to change how much they get that year, maximizes the reward you get by giving them more and minimizes the time necessary to invest in the long run.

An apple orchard that is on an annual budget could never plant trees because they do not grow fast enough to give you apples that year. Any kind of corporation that wanted to build a serious large factory could never operate on a purely annual budget because it would never get a return on that investment. It would be pure loss. We would never build our highways on an annual basis because you would never be able to get the concrete or the asphalt down to have cars riding on the entire highway.

The very concept of an annual budget is basically wrong, and a final example is the Defense Department. You cannot build aircraft carriers, buy airplanes, or buy tanks from an efficient assembly line or an efficient shipyard on an annual basis. We need to go toward a 2-year budget; we need to go toward a process of looking, frankly, further down the road on multiyear contracts, not just in defense but in a number of areas, and we need to get to a point where we distinguish between the kinds of changes that take time to pay off and the kinds of irrational shortsighted steps that we all too often take.

Benjamin Franklin once warned us against being penny-wise and dollar-foolish. And he was right. The fact is that we are all too often very wise with this year's budget's pennies in ways that cost us next year's dollars.

Second, the economic numbers are very often simply wrong. I want to quote from a nationally famous economist, who said—quoting now from Dr. John Albertine of the American Business Conference: "We may as well consult fortune tellers or astrologers rather than listen to economists about what the economy will be like in '88 or '89."

Dr. Albertine, an economist himself, said: "Economists didn't predict the recession of '82, or its severity, or the recovery of '83-'84, or the strength of the recovery. They're 0 for 4!" Econometric data isn't worth the paper it is written on, stated Dr. Albertine.

Now, the reason that concept is important is because if you were forced to think in phony numbers by a phony computer program in order to make phony projections, you get into a phony debate. We have had three or four of these in the last couple years.

As long as the economic numbers drive everything else and the economic numbers are wrong, it is little wonder that we in this House are wrong. It is like going to a doctor who says, "Your temperature is 211." Now, since human beings die long before they get to a temperature of 211, you would know that either his machine was wrong or he was crazy. But it is improbable you had a temperature of 211. You would probably find a second doctor.

Now, our problem is that we keep listening to economists who are simply giving us data that is wrong while listening to econometric projections that are wrong.

Third, the current process of budget development is simply focused on the wrong questions. This body and the Office of Management and Budget and the Congressional Budget Office are all being driven by numbers, as though the numbers had meaning. They are saying. "Well, you have to have more or less."

The question in American politics, despite Walter Mondale and the liberal Democrats, is not more or less. More or less what? Would you like more alcoholism or less alcoholism? I would rather have less alcoholism. Would you rather have more automobile deaths or fewer automobile deaths? I would rather have fewer automobile deaths. Would you rather have more waste in government or less waste in government?

Let me give you a further example: We need to shift the whole debate from more versus less, which is a liberal welfare state argument, to two new terms, better or worse, and future or past. Do you want better government or worse government? Better government may even be less government some weeks. There may be less health care. Would you rather we gave you a modern microsurgery technique that allows you to have your knee operated on and never go to a hospital, or would you rather go to the hospital and have an older fashion technique that would keep you laid up for 2 weeks? That is better or worse, not more or less.

The other term is future or past. Do we want a Government that moves us into the future or do we want a Government that holds us in the past? It was this commitment to better and future that led President Reagan recently to say that GOP now stands for Great Opportunities Party.

Budgets should reflect the vision of society and Government rather than having society and Government reflect the budgets. We have to start with our vision of where we want America to go and what kind of government we need for America to get there and then write the budget. The current budget committee process, the current Office of Management and Budget process, and the current Congressional Budget Office process are all exactly upside down. They could not be more wrong if we had worked at it.

The current annual cycle is so swamped in silly rules, technical procedures, and phony deadlines that it is self-defeating by its very nature. It guarantees that we will talk much about the budget without ever really budgeting and that we will talk much about numbers without ever really changing them.

□ 1220

Fourth and finally, we have allowed micromanagement to dominate the entire process. We have a tyranny of subcommittees, staffs, interest groups, and specialized media. There is an "iron triangle" of committee staff, executive branch agent and interest groups, and that iron triangle of self-protection looks in the budget only from the question: "What are you going to do to me?" Their only argument is, "How can I get more?" Only once in recent years have we broken the pressure for spending. As the Wall Street Journal said this morning: "The only effective spending control strategy we have seen in recent memory was the House coalition Ronald Reagan assembled in the first term of his Presidency."

Let me make this central point: That coalition was on the House floor led by the President nationally, backed and forced onto Congress by the American people. All of the interest groups, all of the subcommittees, all of the staffs, all of the specialized media were on one side of the fight, and it was the general interest, the general public, the general media, the President, and the floor membership as a general body which forced spending control. That is the kind of structural change we are going to need.

To summarize this first layer, I would say that means we need a longer timeframe first. We need to look at economics seriously as a process. Second, we need a process of developing our vision of society and Government before we put in numbers. Third, we need to focus on general change on the House floor rather than the tyranny of subcommittees.

I yield to the gentleman from Ohio.

Mr. KASICH. I really appreciate what the gentleman has to say about the argument of more or less, because I think that somewhere in the overall argument, and everybody here who is participating in this special order is a supporter of the balanced budget amendment because we recognize that a mechanism must be imposed upon

the Congress to force the Congress to start to live within a budget.

We all recognize the fact that in the future we are going to have to pick and choose, and we are going to have to slow the growth of Federal programs. Let me say this to the gentleman, in accord with the debate on the balanced budget amendment, in accord with the debate on the budget process itself, we cannot fail to take into account the issue of proper monetary policy in this country. The issue, to a large degree, is more or less. There are those out there who, in the late seventies and early eighties, said the way in which we solve our problems in America is for Americans to expect less.

The Carter administration was dominated by people who were advocates of less for Americans. Where we ought to be headed is pursuing a policy that will bring as much economic growth, noninflationary economic growth, as is possible in America. That has to take into account the actions of the Federal Reserve System and, of course, the subsequent reaction on interest rates.

Now remember this, when Americans are working, America is healthy. So the bottom line is as every 1 percent of America goes back to work, that means a reduction in Federal deficits of somewhere in the vicinity of $30 billion. In America, as we have continued to see month after month activity that represents low inflation, whether we look at gold, silver, commodities, the strength of the dollar around the world, we recognize that there is not any evidence that we are going to see any new spurts of inflation in this country. In fact, we have got the lowest inflation in several decades. Yet, we continue to see activities on behalf of the Federal Reserve System that tightens credit in increasing amounts, driving up interest rates, and of course, the Federal funds rate—we are going to be debating this hopefully the next couple of weeks—has gone from 8 to almost 12 percent. It has moved down a little bit in recent days, but consistently has been higher, and I think as the gentleman from Georgia will agree, as interest rates get higher, there is less economic activity. As interest rates are lower, in accord with noninflationary growth, then revenues are higher. People go back to work and you begin to reduce your budget deficits by creating more in America. By telling Americans that they do not have to expect less.

What we want to do is to tell Americans there can be greater economic activity. That a 7-, or a 6-, or a 5-percent level of unemployment is nowhere near being acceptable as a level of unemployment. Our goal ought to be zero unemployment. As we put people back to work, we reduce deficits.

So in accord with the arguments that we are talking about today that focus on the budget process, and as we move from that and we discuss the balanced budget amendment, which is necessary to impose a mechanism on the Congress to control the growth in Federal spending, we cannot ignore the process of economic growth in America. That is what increasingly this party represents: Hope for people.

You know, my father and mother, both of whom have been long-term Democrats, always believed that it was the Democratic Party that provided the greatest opportunity for them. But as the Democratic Party has moved to the left, and as the Democratic leadership has talked about less, my parents have been left behind. It is these new ideas and this new philosophy that this party can represent that argues that let us get interest rates down. Let us put Americans back to work; let us bring more for America. America is the land that represents the greatest opportunity for the individual.

As those people go back to work, we reduce deficits, we move in the direction of balance our budgets by having the best possible thing happen in America: Creation of opportunity for every American that lives in this Nation.

Mr. GINGRICH. I want to thank the gentleman because I think he is raising exactly the point I want to drive at for just a minute. That is that like the gentleman from Ohio, who has been a real leader in looking at the Federal Reserve System, and of monetary policy, President Reagan, after 4 years in Washington, intuitively knows, first, that the economists are wrong. Second, that the special interests are wrong, and third, that the subcommittee-dominated legislative process in its current form is wrong.

In that sense, I think President Reagan is a little bit like a patient who is faced with two obsolete doctors. One obsolete doctor wants to cut off the right leg, the other obsolete doctor wants to cut off the left leg, and the President intuitively knows that we need a more modern medicine, a better way to keep America healthy. That somehow, whether you cut off the right leg by cutting spending, or you cut off the left leg by raising taxes, you are not going to have a whole patient that is healthy.

I think in that sense, what President Reagan is seeking from people like the gentleman from Ohio, is newer and better medicine and newer and better doctors. I think that the steps we are taking, and as I will get to it in a few minutes, on monetary policy, on budget proposals, on a program for growth, that kind of plan represents a new model of thought and budget, a shift from the welfare state to the opportunity society, and allows us to begin to develop the kind of program that the gentleman from Ohio is talking about.

I yield briefly to the gentleman from Ohio.

Mr. KASICH. You know, we have to snuff out the idea, and I think the gentleman from Georgia would agree, and you hear it all the time, when you read a newspaper, when you watch television, you think about this: Have you not heard it said that, No. 1, America is growing too fast. That somehow that the idea that too many Americans are going back to work is somehow bad. We have got to snuff out this idea that when America grows too fast it is bad.

I maintain that when America grows fast, it creates greater opportunity for everybody, and helps us to solve some of our fundamental problems such as crime. It helps us to bring in additional revenues to fund those Federal programs that we need because when people have jobs, I mean, that is really what people want: They want to work. They want to have an opportunity to go out there and earn an income so that tomorrow is better. So they can leave something for their children. So their children can have a better life. The bottom line is opportunity.

This attitude about America's growing too fast, that it creates inflation, that is hogwash. Americans going back to work is inherently good. It is something we ought to strive for. It is really the foundation of what our group ought to be all about: Creating additional opportunity for people.

I am going to tell you, you cannot do it when you have got a Federal Reserve policy that drives interest rates through the ceiling and does not recognize that we must walk that very delicate tightrope of noninflationary growth. We have got to discard those old ideas. You know, I agree with that one candidate for President on the Democratic side, we need new ideas, and we need to snuff those old, dangerous ideas out, and carry forward with programs that are going to mean more hope for people.

Mr. GINGRICH. Let me, if I might, say that I think that the concept of noninflationary growth, if we can explain it well enough, if we can show a systematic program for it, if we can develop it in a way that people understand, the old ideas will disappear of their own accord.

□ 1230

If we can develop an opportunity society vision, if we can genuinely turn the Republican Party into the great opportunity party, then I think that our vision of America and our vision of American Government will gradually supersede the welfare state.

Mr. LEWIS of California. Mr. Speaker, I wonder if the gentleman would yield.

Mr. GINGRICH. I will yield to my good friend from California [Mr.

LEWIS] who has been a leader in this area.

Mr. LEWIS of California. I appreciate my colleague yielding to me.

Mr. Speaker, I did not come to the floor to discuss my interests in monetary policy, but rather Mr. GINGRICH might be interested in knowing that this morning my responsibility on the Appropriations Committee, I sat through a rather extended session in which we passed what is known as a continuing resolution, a process whereby we fund the whole realm of Government through one committee, leaving out all the rest of the House in terms of participating in what ought to be an informative and hopefully a helpful debate for the American people.

I returned from that committee to my office to complete some of that work and I could not help but be fascinated by your discussion. I must tell you that I am disappointed that often in special orders Members have to go back to their offices and they listen to the debate on television and go gather a lot of information from that, but in this case the dialog was such that I was stimulated to come back over here to attempt to make your point at least for me and my constituents in a different sort of way.

One of my jobs in the Appropriations Committee is to serve as a member of the Subcommittee on Housing and Urban Development as well as some independent agencies such as NASA. And it struck me that the point that you are making is so clearly demonstrated day in and day out in the work of that subcommittee.

It only spends each year approximately $30 billion of the people's money within housing programs and a number of other programs—$38 billion.

One of the things that really needs to be communicated when you talk about better or worse versus more or less or the past versus whether we will be looking to a new horizon that is our future, that question, that line of discussion, the point is made so very well in our subcommittee work and let me try to illustrate it by pointing at two programs.

Within our budget this year we will be spending in excess of $11 billion of taxpayers' money on housing programs. We have been spending at that level for many a year in the past. We do not read in the newspapers about the reality that we have another deficit way beyond the one the leadership around here wants to talk about.

That deficit is some trillion dollars of obligation that American taxpayers have because of housing programs we obligated them to in the past.

Well, intriguingly enough, it is clear that President Reagan, working with a number of responsible Democrats on the other side of the aisle, has attempted to reduce, on the one hand the rate of growth of those programs but clearly he has not cut the heart out of such programs when you think about our spending $11 billion more in the next budget.

What we really are talking about is not more or less in our committee. We are attempting to get the leadership to begin to discuss, Let's do something better with the money we are going to spend, rather than that which we have done in the past.

Anybody who will but look knows that we do have in many urban centers in this country housing needs that are American needs that our taxpayers, if they are reasonable, are willing to support.

But the reality is, while we have been spending over $1 trillion in the past, we have failed to deliver real service desperately needed by many Americans. Many of those programs have been a failure and yet they have become sacred cows, so nobody is asking the question, How can we spend the money better, and where we need to help people; where there are people who need our assistance, why don't we see if we can reevaluate that past and improve the way we serve all Americans, Democrat and Republican alike.

At another level, talking about the past or the future, our NASA funding is fascinating. What are we going to do in the future in terms of space. We spend a good deal of money in that whole subject area. Our debate is not whether we will totally eliminate those programs or increase them by huge amounts, but rather are we on the verge of tapping a new horizon that is the next frontier that makes up the future for our children and our grandchildren.

Can we do the job better and in the process not only create hope and opportunity but indeed in that process establish a new foundation for peace for all of mankind.

Clearly, you have made the point time and time again. Our problem, and I hope the American public understands this as we repeat it. Our problem is that the leadership in this House is totally out of touch with the American people, Democrat and Republican alike.

The party of the leadership has gone in one direction and I think the American people including many of my friends on the other side of the aisle have gone in another direction. They want to say, "Look, we have spent trillions and yet we still have many who have not been served." Taxpayers have had it up to here. Many are not willing to support more spending.

Should we then not reevaluate how we have spent their dollars in the past? Cannot we do a better job for people while we strengthen America and while we strengthen opportunity for our children and our future?

I appreciate my colleague giving me this time. I think the point that you are making today is critical for the future of our country. I appreciate the contribution you are making.

Mr. GINGRICH. I appreciate your making this point because I think as a member of the Committee on Appropriations, you see it firsthand the way the rest of us do not exactly what goes on on a weekly basis in this body and why it is so difficult in a normal process to get the budget under control because all of the normal processes are for noncontrol. They are for, in fact, continued increases.

So I would bring us back to this framework and say if we are ever going to get it under control what would an opportunity society plan in an American Government be like, because I think ultimately the appropriations ought to flow from our vision rather than having our vision flowing from the budget and the appropriations. What would an opportunity society plan for a balanced budget be?

I think the first step to understand that is to recognize that there are three principles of an economic revolution that is underway. There is an opportunity society information age revolution underway. We are shifting from the welfare state industrial age approach to an opportunity society information age approach.

Let me make one distinction here. There are going to be automobile plants in the information age. There are going to be a lot more roboticized as we are already seeing with Chrysler, and Ford, and General Motors. They are going to be a lot more productive. The workers are going to earn a great deal of money.

There are going to be steel mills in the information age. Just as there is farming in the industrial age, there will be industry in the information age, but the driving force of that age is going to be the process of producing new ideas.

Not just the computers but particularly the revolutions in computers and space and biology are driving this change, what Alvin Toffler calls "The Third Wave" and John Naisbitt write in "Megatrends."

There are three major principles in this economic revolution. First, the rise of a new era. Second, the shift from mathematical economics to human economics. Third, the shift from a national economy to a global economy.

Let me start first with the dramatic rise of a new age. I am going to try to use this chart for just a second and I am going to draw three relatively flat S's; one on top of the other. They represent the S-curve of technological change.

S-curves, which is an idea very familiar to anyone who has worked in high technology, is the idea that you start developing a new industry or a new idea very slowly and then it accelerates very, very fast up the flat side of the curve and then, after you get to a mature industry it slows down and levels off at the top.

Take the Wright brothers. It is hard to believe, but only 71 years ago the first powered flight took off and landed in a space short enough to be on the wingspan of a Boeing 747. Airplanes developed very slowly for many years. Then as the technology advanced, there is a sudden explosion of opportunity and possibility first with propellers and later with jet aircraft, so that today you have a relatively mature aircraft industry which may, by the way in the 1990's enter a whole new era, a whole new S-curve in technology and a whole new set of opportunities.

If you view this at a level of macrohistory, these three curves, the bottom one is the agricultural revolution. The middle one is the industrial revolution and the top one is the information age.

To give you some sense of scale how radical the change is you have to recognize, and you might put this in the context of the recent World Bank study of population on the planet. In the Neolithic period in Egypt, there were only 40,000 hunter-gatherers in the whole country. By the end of this first period of growth, the end of the agricultural era in pharonic Egypt when the pharos built pyramids, there were 6 million people.

There were 40,000 here and 6 million up here. If the liberal economists had been available at the World Bank at the beginning of farming, they would have said clearly the 40,000 can never grow to be 6 million, because it takes about four elephants a year to feed a person in hunting-gathering, and that would be 24 million elephants, and you could never have 24 million elephants in Egypt, so obviously you cannot ever have this population grow to here.

□ 1240

You think that sounds exaggerated, and if that resembles the World Bank projections, let me show you two clear examples of exactly that kind of thinking.

First, at the beginning of the industrial era, Malthus, an English clergyman studying the first era, what Toffler called the first vave, the rise of agriculture, proved conclusively that you could never have more than 5 million people live in Britain or they would have a famine. Today there are 60 million people living in Britain. Obviously, Malthus was wrong.

But the important thing to recognize is that his wrongheadedness has carried right through to here, the beginning of the information age, when the Club of Rome wrote the limits to growth. They basically applied Malthusian concepts to the world and proved once again we cannot have another increase in population and wealth and productivity.

They are wrong, too, but the Western left, liberals in America and Britain, love looking back at the past and clinging to doom and despair. If Chicken Little were alive, he would love liberal Democrats. The fact is, they are just wrong.

At the same time, there was somebody looking forward. Writing at about the same time, but slightly before Malthus, Adam Smith wrote "The Wealth of Nations." Adam Smith was not a philosopher. Adam Smith, in fact, was a man who, while he had studied philosophy, looked at reality, and said what is really happening. What was happening was that England was leaving the agricultural revolution and entering the industrial age, and in "The Wealth of Nations" Adam Smith codified the rules, the principles, the ideas that would allow the modern era to develop. That is why he is basically right, Malthus was basically wrong, the entire Western left followed Malthus, the entire Western right tends to follow Adam Smith.

Here we are today, at the beginning of the information era. Let me put one fact up here. From 1962 to 1984, the amount of computing power you can buy per dollar has gone up by a factor of 4 million; that is, for a dollar you can buy 4 million times as much computer today as you could buy in 1962. That is a 99-percent-per-year real growth rate.

Let me go through this for a second, because it sounds impossible. All the little gimmicks we have today, the cars that talk and tell you that you left your door open or that you ran out of gas, the very fancy watches you can buy for $11 or $19, the desk watch they now give you if you subscribe to Time magazine by television, all of the different capabilities, the powerful capabilities of the space shuttle in computing, amounts to a revolution that has been going on at the rate of 99 percent a year real growth.

It is important to recognize this because, in fact, there is not a single mathematical model of the economy which takes into account the revolution we are living through. What we need today are the pediatricians of the information age, people who will help us rise in ability. What we have in most of our national economic experts are the gerontologists of the industrial age. So we need a dramatic change. We need people who are looking at the future, developing the future, planning for the future.

Second, we must move from mathematical economics to human economics. We must recognize that old-fashioned input-output models just do not work. You cannot explain the Dallas Cowboys without explaining Tom Landry. You cannot explain the qualities of Korean immigrants who come to America without looking at their background. You cannot explain Thomas Edison or Henry Ford without looking at their background.

There have been a number of recent examples. The book "In Search of Excellence" by Peters and Waterman is probably the best study of the fact that human beings can do dramatically better under the right circumstances and that those circumstances are not just a matter of numbers. Yet, one of the major failings of Washington today and of the whole process of looking at the budget and the economy is that we focus too much on mathematics and too little on human beings.

Third, we have to move from a national to a global perspective on the economy. There are two examples of this. First, when interest rates went up, it brought money in from overseas. That means more money was available in America than the economists had planned for. That meant all of their models, which are national models, are basically obsolete. It would be like planning for a horse-and-buggy economy in the age of the automobile and having no rules that said you could go 50 or 60 miles an hour, so I came to you and said, "I have to travel a hundred miles," and you said, "Well, with a horse and buggy, that is 2 days," and I said, "Well, I think I will make it in 90 minutes." You could not understand that because the whole model is wrong.

Similarly, today we have left the national economy and we are emerging into a global economy. This is a very, very important concept because it explains more than any other thing why we have a global imperative for growth. There is an inherent contradiction when people like Jesse Jackson and liberal Democrats claim they want to help the poor, when liberals claim they really want to create jobs. The contradiction is that liberal desires are destroyed by liberal policies. While liberals claim they want growth in raising living standards and growth in jobs, in fact they tend to hate the very people and ideas most likely to create growth and jobs. In effect, they are like doctors who love health but hate medicine.

It is a very, very deep problem. Liberals will come to the floor of the House who honestly want to create jobs and pass a tax bill which destroys the very entrepreneurs who are likely to create jobs. Liberals will come to the floor of the House and talk about the need for jobs, and then they will vote for a new redtape bill which is going to strangle entrepreneurs.

It is interesting. In today's Wall Street Journal there is an article by Peter Drucker entitled "Europe's High-Tech Delusion." I would suggest that you could read this article and substitute "liberal welfare state" every single place he talks about Europeans, or substitute "Mondale" or substitute "liberal Democrats" and it would be exactly correct, because he makes the point:

So far, however, European governments are still hostile to entrepreneurs other than in high-tech areas (in France contemptuous to boot). European tax law, for instance, penalize them and restrict their access to capital and credit. But European society also discourages people, and especially the educated young, from doing anything so uncouth as going to work in anything but a government agency or a big, established company. Unless this changes—and so far there are few signs of this—the infatuation with high-tech entrepreneurship will neither revive the ailing European economics nor even provide much high-tech. It must end the way an earlier European high-tech infatuation, the Concorde, ended: avery little gloire, an ocean of red ink, but neither jobs nor techological leadership.

I would suggest that you can substitute "liberal" and "liberal Democrat" and "Walter Mondale" in that paragraph for every single reference to Europe and you will understand the dilemma of the modern left. The fact is that America without Ronald Reagan and without a Great Opportunity Party Republican effort, and without an opportunity society approach, that America would resemble Europe.

If you love jobs, you have to help job creators. You have to help the entrepreneurs, the Ed Zschaus, the Roy Richards, the Eddie Richenbachers, the people who go out and create the future.

If you look at the case study of the capital gains tax, you will discover that when we cut the tax rate, more and more people invested money in capital gains and, in fact, the Treasury gained revenue. If you look at the fact that in May 1984 we were able to create more jobs than the entire European Common Market nations together created in the last 7 years, in 1 month we created more jobs, you can understand that there are lessons to be learned and there is a future that we ought to work at.

But while this growth is good, it is not enough. If we are going to help Bangladesh and Chad raise their standard of living, if we are going to help the people of the Third World export enough that they can pay off their bank debt, if we are going to help our European allies grow enough that the Western Alliance survives, the United States must have an absolute, total commitment to economic growth and growth in jobs and standard of living and shifting into this high technology third wave information society if we are going to be able to lead the planet.

□ 1250

The opportunity-society concept, the shift from the welfare state to the opportunity society, is the key to all of this. It is vital that we create an alternative for young people in the Third World, an alternative to communism, an alternative to terrorism. It is vital that young people grow up understanding that if they want to improve the standard of living of their family, whether they are blacks in the ghetto, Hispanics in areas who have just moved to America, people who live still in Chad, or Bangladesh, or Western Europeans who want to improve their country, the opportunity-society concept offers hope and practical medicine to improve the future.

The opportunity-society concept has to give direction and hope to young people, and in that sense the great opportunity party concept has to be a concept for all the people of the world, not just America.

This is vital because we have become one electronic neighborhood. Just as the Olympics were seen by 140 nations over TV, everyone today is beginning to be wired together, and by satellite we are having broadcasts to bring all of us into one room.

But there are immediate practical reasons to emphasize growth in jobs, in standard of living, and in wealth. First, the domestic economy will not stand stagnation. Drucker himself makes the point in today's article that as the European economy stagnates, the pressure builds to prop up the old economy. If you have tremendous growth, if there are lots of new jobs, if there is a lot of new wealth, then the old economy grows along with the new economy and you do not have a fight over what our policies will be. But if we have a severe recession, then the old industries, automobile, steel, and the industries of the Industrial Age, will use their political clout to protect themselves. Only by having domestic growth on a tremendous scale can you manage the transition without conflict.

Second, the foreign trade pressures will build dramatically without growth. As we begin to protect our economy by cutting off European steel, Europeans will begin to protect their economy by cutting off American computers. The Western Alliance will literally come in danger.

Third, the Third World will never be able to pay off its bank debt if it does not have a growing American economy that it can export to. If we go into a severe recession, Brazil, Mexico, and Argentina are going to face the prospect of going bankrupt because they will literally not be able to take care of everything they need. Therefore, idealism requires economic growth and jobs and an improved standard of living, the Third World requires economic growth and jobs and a better standard of living, the Western Alliance requires jobs and economic growth and an improved standard of living, and the future of the United States requires rapid growth in jobs, wealth, and standard of living.

Then how do we balance the budget? We have a seven-point plan. It starts with the understanding, as Richard Rahn of the U.S. Chamber said, that if we simply had 5.5-percent real growth a year for the next 4 years and we had relative restraint in spending, we would automatically balance the budget by the sheer increase in wealth in the United States. So many more people would have jobs and there would be so much more wealth being created that we would have caught up in revenue with our spending. But there are seven steps that can move us in the direction of a balanced budget over the next few years:

First, we need an omnibus growth bill;

Second, we need a 2-year budget and 2-year appropriations;

Third, we need a new-ideas bill to change the way we run the U.S. Government and the way we deliver goods and services;

Fourth, we need to develop genuine frugality in Washington in the tradition of Walpole, and Gladstone, and Coolidge;

Fifth, we need a simplified tax bill to draw people in from the underground economy and to lower the rates and have people shift their investments from tax shelters into real economic development—something like the Kemp-Kasten plan;

Sixth, we need to change the way we handle interest on the debt because the third largest item of expenditure in the U.S. Government, which is interest on the debt, is not really handled in a way that minimizes its cost, and there are potentially billions to be saved by changing the way we pay the interest on the debt; and

Seventh, we need monetary reform to have some guarantee that the inflation rate will stay at no more than 3 percent or so a year in order to allow us to move into a period of relative stability and tying the dollar either to gold or to a monetary basket based on commodities, some method of signaling the world and signaling investors that the dollar will be honest and the dollar will be stable.

Some kind of monetary reform has to be the seventh key component in developing a healthy economy and balancing the budget by 1989.

The SPEAKER pro tempore. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

Mr. GINGRICH. I thank the Chair, and I will next week take up in detail those seven principles.

CONFERENCE REPORT ON H.R. 5297

Mr. MINETA submitted the following conference report and statement on the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 90-1025)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

AMENDMENT OF FEDERAL AVIATION ACT OF 1958

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.).

TERMINATION AND TRANSFER OF FUNCTIONS UNDER THE FEDERAL AVIATION ACT OF 1958

SEC. 3. (a) Section 1601(b)(1)(C) is amended by striking out "Justice" and inserting in lieu thereof "Transportation".

(b) Section 1601(a)(3) is amended by inserting after "Act" the following: "(other than section 204)".

(c) Section 1601(a) is amended by adding at the end thereof the following:

"(4) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:

"(A) Sections 401 (l) and (m) 405 (b), (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are with the State of Alaska).

"(B) Section 403 of this Act.

"(C) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

"(5) The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:

"(A) Sections 407 (b) and (c) of this Act.

"(B) Section 410 of this Act.

"(C) Section 417 of this Act.

"(D) Sections 1002(d), (e), (g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

"(6) Sections 412(a) and (b) of this Act (to the extent such sections relate to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412(a) and (b) with respect to interstate and overseas air transportation) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

"(7) Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

"(8) Sections 401(l) and (m) and 405(b), (c), and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1989.".

(d) Section 1601(b)(1)(D) is amended by inserting after "transportation" the following: "(other than for the carriage of mails between any two points both of which are within the State of Alaska)".

(e) Section 1601(b)(1) is amended by adding at the end thereof the following:

"(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation.".

(f) Section 1601(b) is amended by adding at the end thereof the following:

"(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1989.".

TRANSFERS OF FUNCTIONS UNDER OTHER LAWS

SEC. 4. (a) There are hereby transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Civil Aeronautics Board under the following provisions of law:

(1) The International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b).

(2) The Internatiopnal Aviation Facilities Act (49 U.S.C. 1151-1160).

(3) The Animal Welfare Act (7 U.S.C. 2131 et seq.).

(4) Section 11 of the Clayton Act (15 U.S.C. 21).

(5) Sections 108(a)(4), 621(b)(5), 704(a)(5), and 814(b)(5) of the Consumer Credit Protection Act (15 U.S.C. 1607(a)(4), 1681s(b)(5), 1691c(a)(5), and 16921(b)(5)).

(6) Section 382 of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6362).

(7) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451).

(8) Section 5402 of title 39, United States Code (to the extent such section relates to foreign air transportation and to air transportation between any two points both of which are within the State of Alaska).

(9) Sections 4746 and 9746 of title 10, United States Code.

(10) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b).

(b) The transfer of any authority under subsection (a) of this section shall take effect on January 1, 1985.

(c) The authority of the Secretary of Transportation under section 5402 of title 39, United States Code, with respect to air transportation between any two points both of which are within the State of Alaska shall cease to be in effect on January 1, 1989.

COLLECTION OF DATA

SEC. 5. (a) Section 329(b)(1) of title 49, United States Code, is amended to read as follows:

"(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)) including, at a minimum, information on (A) the origin and destination of passengers in interstate and overseas air transportation (as those terms are used in such Act), and (B) the number of passengers traveling by air between any two points in interstate and overseas air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate or overseas air transportation and are not used for providing essential air transportation under section 419 of the Federal Aviation Act of 1958;".

(b) The amendment made by this section shall take effect on January 1, 1985.

REPORTS

SEC. 6. (a) The Secretary of Transportation shall submit a report to the appropriate committees of Congress not later than July 1, 1987, listing (1) transactions submitted to the Secretary for approval under section 408 of the Federal Aviation Act of 1958, (2) interlocking relations submitted to the Secretary for approval under section 409 of such Act, and (3) the types of agreements filed with the Secretary of Transportation under section 412 of such Act, and, with respect to such transactions, interlocking relationships, and agreements, those that have been exempted from the operation of the antitrust laws under section 414 of such Act. The Secretary shall recommend whether the authority under such sections 408, 409, 412, and 414 should be retained or repealed with respect to interstate and overseas air transportation and with respect to foreign air transportation.

(b) The Secretary of Transportation and the Postmaster General shall each submit a report to the appropriate committees of Congress not later than July 1, 1987, describing how the Secretary and the Postmaster General have administered their respective authorities to establish rates for the air transportation of mail and setting forth the recommendations of the Secretary and the Postmaster General as to whether the authority to establish rates for the transportation of mail between points within the State of Alaska should continue to be carried out by the Secretary by regulatory ratemaking or by the Postal Service through negotiations or competitive bidding.

INCORPORATION BY REFERENCE

SEC. 7. (a) Section 411 of the Federal Aviation Act of 1958 is amended by inserting "(a)" after "SEC. 411." and by adding at the end thereof the following new subsection:

"INCORPORATION BY REFERENCE

"(b) Any air carrier may incorporate by reference in any ticket or other written instrument any of the terms of the contract of carriage in interstate and overseas air transportation, to the extent such incorporation by reference is in accordance with regulations isued by the Board.".

(b) Section 411 of the Federal Aviation Act of 1958 is amended by inserting before subsection (a) (as designated by subsection (a) of this section) the following subsection heading:

"INVESTIGATIONS"

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 411. Methods of competition."

and inserting in lieu thereof

"Sec. 411. Methods of competition."

"(a) Investigations.

"(b) Incorporation by reference.".

REFERENCES TO CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 8. Any reference in any law to a certificate of public convenience and necessity, or to a certificate of convenience and necessity, issued by the Civil Aeronautics Board shall be deemed to refer to a certificate issued under section 401 or 418 of the Federal Aviation Act of 1958.

MISCELLANEOUS AMENDMENTS

SEC. 9. (a)(1) Section 101(11) is amended to read as follows:

"(11) 'All-cargo air service' means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both.".

(2) Section 418(b)(3) is repealed.

(b) Section 1307(a) is amended by striking out ", after consultation with the Civil Aeronautics Board,".

(c) Section 11 of the International Aviation Facilities Act (49 U.S.C. 1159a) is amended in the second sentence by striking out "and the Civil Aeronautics Board" and by striking out "in collaboration with the Civil Aeronautics Board" and inserting in lieu thereof "in collaboration with the Secretary of Transporation".

(d) Section 2 of the International Air Transportation Fire Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by—

(1) striking out "the Civil Aeronautics Board," in subsection (a);

(2) striking out "Civil Aeronautics Board" and "Board" each time they appear in subsecton (b) and the first sentence of subsection (d) and inserting in lieu thereof "Secretary of Transportation" and "Secretary", respectively;

(3) Striking out "and the Department of Transportation" in subsection (b)(2); and

(4) Striking out the last sentence in subsection (d) and inserting in lieu thereof the following: "the Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this subsection.".

(e) Section 5314 of title 5, United States Code, is amended by striking out "Chairman, Civil Aeronautics Board.". Section 5315 of title 5, United States Code, is amended by striking out "Members, Civil Aeronautics Board.".

(f) Section 3726(b)(1) of title 31, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)".

(g)(1) Sections 3401(b) and (c) of title 39, United States Code, are each amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(2) Section 5005(b)(3) of title 39, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section 101 of the Federal Aviation Act of 1958)".

(3) Section 5401(b) of title 39, United States Code, is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(4) Section 5402 of title 39, United States Code, is amended—

(A) by striking out "Civil Aeronautics Board" each place it appears and inserting in lieu thereof "Secretary of Transportation";

(B) in the first sentence of subsection (a), by inserting "in foreign air transportation" after "points";

(C) in the second sentence of subsection (a), by striking out "10 percent of the domestic mail transported under any such contract or";

(D) in the first sentence of subsection (b), by inserting "in foreign air transportation" after "points";

(E) in the first sentence of subsection (c), by inserting "in foreign air transportation" after "points"; and

(F) by adding at the end thereof the following new subsections:

"(d) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate and overseas air transportation either through negotiations or competitive bidding.

"(e) For purposes of this section, the terms 'air carrier', 'interstate air transportation', 'overseas air transportation', and 'foreign air transportation' have the meanings given such terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

"(f) During the period beginning January 1, 1985, and ending January 1, 1989, the authority of the Secretary of Transportation and the Postal Service under subsections (a), (b), and (c) of this section shall also apply, and the authority of the Postal Service under subsection (d) shall not apply, to the transportation of mail by aircraft between any two points both of which are within the State of Alaska and between which the air carrier is authorized by the Secretary to engage in the transportation of mail.".

(h) Section 3502(10) of title 44, United States Code, is amended by striking out "the Civil Aeronautics Board,".

(i) Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking out "the Civil Aeronautics Board" and inserting in lieu thereof "the Secretary of Transportation".

(j) Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking out "the Civil Aeronautics Board".

(k) Sections 4746 and 9746 of title 10, United States Code, are each amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(l) Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the final paragraph by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" and by striking out "Commission, Secretary, or Board" and inserting in lieu thereof "Commission or Secretary".

(m) Section 11 of the Clayton Act (15 U.S.C. 21) is amended—

(1) in subsection (a), by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" and by striking out "Civil Aeronautics Act of 1938" and inserting in lieu thereof "Federal Aviation Act of 1958";

(2) in subsection (b), by striking out "Commission or Board" each place it appears and inserting in lieu thereof "Commission, Board, or Secretary"; and

(3) by striking out "commission or board" each place it appears in such section and inserting in lieu thereof "commission, board, or Secretary".

(n) The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation" each place it appears in section 108(a)(4) (15 U.S.C. 1607(a)(4)), section 621(b)(5) (15 U.S.C. 1681s(b)(5)), section 704(a)(5) (15 U.S.C. 1691c(a)(5)), and section 814(b)(5) (15 U.S.C. 1692l(b)(5)).

(o) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b; 54 Stat. 773), is amended by striking out "the Civil Aeronautics Authority,".

(p) Section 47(a)(7)(C) of the Internal Revenue Code of 1954 is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(q) Section 7701(a)(33)(E) of the Internal Revenue Code of 1954 is amended by striking out "Civil Aeronautics Board" and inserting in lieu thereof "Secretary of Transportation".

(r) Section 419(c)(1) is amended by striking out "416(b)(3)" and inserting in lieu thereof "416(b)(4)".

(s) Section 412(c)(2) is amended by striking out "subsection (c) of this section" and inserting in lieu thereof "subsection (a) of this section".

(t) Section 407(e) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board shall have access to all lands, buildings, and equipment of any air carrier or foreign air carrier when necessary for a determination under section 401, 402, 418, or 419 of this title that such carrier is fit, willing, and able. The Board shall at all times have access to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents. The Board may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection.".

(u) Section 105(a)(1) is amended by striking out "interstate air transportation" and inserting in lieu thereof "air transportation".

(v) The amendments made by this section shall take effect on January 1, 1985.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 10. (a) The personnel (including members of the Senior Executive Service) employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with, any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the head of the agency to which such function is transferred for appropriate allocation. Personnel employed in connection with functions so transferred, or transferred in accordance with any other lawful authority, shall be transferred in accordance with any applicable laws and regulations relating to transfer of functions. Unexpended funds transferred pursuant to this subsection shall only be used for the purpose for which the funds were originally authorized and appropriated.

(b) In order to facilitate the transfers made by section 1610(b) of the Federal Aviation Act of 1958 and section 4 of this Act, the Director of the Office of Management and Budget is authorized and directed, in consultation with the Civil Aeronautics Board and the heads of the agencies to which functions are so transferred, to make such determinations as may be necessary with regard to the functions so transferred, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with, such functions, as may be necessary to resolve disputes between the Civil Aeronautics Board and the agencies to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

(c) The Chairman of the Civil Aeronautics Board and the Secretary of Transportation shall, beginning as soon as practicable after the date of enactment of this Act, jointly plan for the orderly transfer of functions and personnel pursuant to section 1610(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

EFFECT ON PERSONNEL

SEC. 11. (a) Employees covered by the merit pay system under chapter 54 of title 5, United States Code, who are transferred under section 10 of this Act to another agency shall have their rate of basic pay adjusted in accordance with section 5402 of such title. With respect to the evaluation period during which such an employee is transferred, merit pay determinations for that employee shall be based on the factors in section 5402(b)(2) of such title as appraised in performance appraisals administered by the Civil Aeronautics Board in accordance with chapter 43 of title 5, United States Code, in addition to those administered by the agency to which the employee is transferred.

(b) With the consent of the Civil Aeronautics Board, the head of each agency to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act is authorized to use the services of such officers, employees, and other personnel of the Board for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

SAVINGS PROVISIONS

SEC. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act from the Civil Aeronautics Board to another agency, and

(2) which are in effect on December 31, 1984,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the head of the agency to which such function is transferred, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The transfers of functions made by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time such transfers take effect before the Civil Aeronautics Board; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if such sections 1601(b) and 4 had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such sections 1601(b) and 4 had not been enacted.

(c) Except as provided in subsection (e)—

(1) the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act shall not affect any suit relating to such function which is commenced prior to the date the transfer takes effect, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Civil Aeronautics Board shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act. No cause of action by or against the Civil Aeronautics Board, or by or against any officer thereof in his official capacity shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act.

(e) If, before January 1, 1985, the Civil Aeronautics Board, or officer thereof in his official capacity, is a party to a suit relating to a function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, then such suit shall be continued with the head of the Federal agency to which the function is transferred.

(f) With respect to any function transferred to another agency by section 1601(b) of the Federal Aviation Act of 1958 or by section 4 of this Act and exercised after the effective date of such transfer, reference in any Federal law (other than title XVI of the Federal Aviation Act of 1958) to the Civil Aeronautics Board or the Board (insofar as such term refers to the Civil Aeronautics Board), or to any officer or office of the Civil Aeronautics Board, shall be deemed to refer to that agency, or other official or component of the agency, in which such function vests.

(g) In the exercise of any function transferred under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall have the same authority as that vested in the Civil Aeronautics Board with respect to such function, immediately preceeding its transfer, and actions of the head of such agency in exercising such function shall the same force and effect as when exercised by the Civil Aeronautics Board.

(h) In exercising any function transferred by section 1601(b) of the Federal Avaiation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall give full consideration to the need for operational continuity of the function transferred.

DEFINITIONS

SEC. 13. For purposes of this Act—

(1) the term "agency" has the same meaning such term has in section 551(1) of title 5, United States Code; and

(2) the term "function" means a function, power, or duty.

ACCESS FOR HANDICAPPED PERSONS

SEC. 14. Section 104 is amended by adding at the end thereof the following new sentence: "In the futherance of such right, the Board or the Secretary, as the case may be, shall consult with the Architectual and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973, prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped person.".

STUDY OF TRANSPORTATION TO AND FROM WASHINGTON DULLES AIRPORT

SEC. 15. (a) The Secretary of Transportation shall study the feasibility of constructing a rail rapid transit line between the West Falls Church, Virginia, station of the Washington, D.C. metrorail system and Dulles International Airport in Virginia. The study shall include, but need not be limited to, a study of the feasibility of heavy rail, light rail, monorail, magnetic levitation systems, and any other appropriate transportation systems. The Secretary shall study the feasibility of each such system with and without intermediate stops.

(b) The Secretary shall complete the study required by subsection (a) and transmit the results thereof to Congress not later than one year after the date of enactment of this Act.

AIR SERVICE IN THE STATE OF ALASKA

SEC. 16. (a)(1) Notwithstanding any other provision of law, with respect to air transportation to each of the points in Alaska listed in paragraph (4), essential air transportation for purposes of section 419 of the Federal Aviation Act of 1958 shall neither be specified at a level of service nor operated with aircraft of lesser seating and cargo capacity than provided for in CAB Order 80-1-

167 and its Appendices unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska, after consultation with the community affected. This paragraph shall cease to be in effect on January 1, 1987.

(2) Notwithstanding any other provision of law, the total amount of compensation which may be paid under section 419 of the Federal Aviation Act of 1958 with respect to the points in Alaska listed in paragraph (4) shall not exceed $3,572,778 for each of the fiscal years 1985 and 1986 and shall not exceed $893,195 for service provided during the period beginning October 1, 1986, and ending at the close of December 31, 1986.

(3) The Secretary of Transportation shall study the feasibility of providing essential air transportation to each of the points in Alaska listed in paragraph (4) with aircraft having a smaller capacity than that required by paragraph (1), the level of compensation which would be required under section 419 of the Federal Aviation Act of 1958 for such transportation, and the impact of using such aircraft on the air transportation system in Alaska. The Secretary shall complete such study and submit a report of the results of such study to Congress not later than January 1, 1986.

(4) The points in Alaska referred to in paragraphs (1), (2), and (3) are Cordova, Yakutak, Gustavus, Petersberg, and Wrangell.

(b) Notwithstanding any other provision of law, no part of the order of the Civil Aeronautics Board in CAB docket number 38961 (CAB Order 84-6-77) shall enter into effect until after December 31, 1984.

And the Senate agree to the same.

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ROBERT A. ROE,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
BARRY GOLDWATER,
NANCY LANDON KASSEBAUM,
ERNEST F. HOLLINGS,
J. JAMES EXON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

Section 1 provides that the Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

CROSS REFERENCE

House bill

Section 2 of the House bill provides that unless otherwise expressly stated, all references to provisions of law in this legislation shall be considered to be references to the Federal Aviation Act of 1958.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

TERMINATION AND TRANSFER OF FUNCTIONS UNDER THE FEDERAL AVIATION ACT OF 1958

House bill

Section 3 of the House bill provides for the termination and transfer of the authority of the Civil Aeronautics Board under the Federal Aviation Act, as follows:

(a) Amends the Federal Aviation Act of 1958 to provide that after the sunset of the Civil Aeronautics Board (CAB) on December 31, 1984, CAB's authority under Sections 408 (consolidation, merger, and acquisition of control), 409 (interlocking relationships), and Section 412 (pooling and other agreements), and CAB's related authority under Section 414 (antitrust exemption) will be administered by the Department of Transportation (DOT).

(b) Amends the Federal Aviation Act to provide that there will be no termination of the authority of the Civil Aeronautics Board under Section 204 of the Act, which includes CAB's rulemaking authority. CAB's authority under Section 204 will be transferred to the Department of Transportation on January 1, 1985.

(c) Provides that specified provisions of the Federal Aviation Act will cease to be in effect on January 1, 1985. Many of these provisions have already ceased to be effective by operation of the Deregulation Act of 1978 for interstate or overseas transportation or persons and by operation of CAB regulation for intersate and overseas transportation of property.

The following provisions of the Federal Aviation Act will cease to be in effect for interstate and overseas air transportation after January 1, 1985; Sections 401 (1) and (m) which require certificated air carriers to carry mail; Sections 405 (b), (c) and (d) which give the Postal Service and CAB various authority to require the carriage of mail; Section 403, which requires air carriers to provide reasonable through service and joint fares and prohibits unjust discrimination (this section continues in effect insofar as it requires air carriers to provide safe adequate service).

The following provisions of the Federal Aviation Act will cease to be in effect for any transportation after January 1, 1985: Sections 407 (b) and (c), which impose reporting requirements relating to stock ownership of air carriers and stock ownership by air carrier officers and directors; Section 41, which gives CAB authority over applications for loans and financial aid from the U.S. Government; Section 417, which authorizes CAB to allow charter air carriers to provide scheduled service in specified circumstances; and Sections 1002 (d), (e), (g), (h), and (i) (except insofar as such sections relate to foreign air transportation) which give CAB rdgulatory authority over air carrier rates and fares.

This section further provides that Sections 412 of the Federal Aviation Act, insofar as it relates to interstate and overseas air transportation, and Sections 408 and 409 of the Federal Aviation Act, and related authority under Section 414 to award antitrust immunity, shall cease to be in effect on January 1, 1989.

(d) Amends the ADA provision transferring to the Postal Service CAB's authority to set the rates for domestic mail. The amendment excludes the carriage of mail within Alaska from this transfer. Under subsection (e), below, CAB's authority to set rates for the transportation of mail within Alaska is transferred to the Department of Transportation. As discussed in Section (f) below, the bill establishes a sunset date for the transfer of Alaskan mail authority to DOT.

(e) Provides that all authority of CAB which this Act does not terminate on January 1, 1985, and which is not otherwise terminated or transferred, will be transferred to the Department of Transportation on January 1, 1985. The authority transferrred to DOT under this section includes the CAB's authority under Section 404 of the Act, to ensure safe and adequate service; the CAB's authority under Section 411 of the Act, to prevent unfair or deceptive practices or unfair methods of competition in air transportation; and the CAB's responsibilities under Section 401 of the Act, to ensure that carriers providing interstate or overseas air transportation are fit, willing, and able to perform the transportation proposed in their application and to conform to the requirements of the Federal Aviation Act and regulations adopted thereunder. Existing law transfers to the Department of Transportation CAB's authority with respect to foreign air Transportation and CAB's authority under Section 419 of the Act to establish a program for smail community air service. Existing law also transfers to the U.S. Postal Service CAB's authority to dewtermine rates for the carriage of mail in interstate and overseas air transportation. The Postal Service is to exercise this authority through negotiations or competitive bidding. Section 3 of this bill transfers to DOT, CAB's authority under Sections 408, 409, 412 and 414 of the Federal Aviation Act.

(f) Establishes a sunset date of January 1, 1989 for the transfer to DOT of CAB's authority to set rates for the carriage of mail between points in Alaska. This will permit Congress to consider at that time whether Alaskan mail rates should continue to be set by regulatory decision or whether the rates for Alaskan mail should be determined by negotiation and competitive bidding, the methods used for other domestic mail.

Senate amendment

Same as the House bill except that transfers to the Department of Justice rather than the Department of Transportation CAB's authority under Sections 408, 409, 412, and related authority under Section 414, after sunset of the CAB.

Conference substitute

Same as House bill. The Conference Substitute modifies existing law to preserve the status quo for the transportation of mail in Alaska. Under the current system, mail in

Alaska is transported by scheduled certificated air carriers at rates established by the CAB, and in some limited cases by carriers operating under contracts with the Postal Service. The governing statutes give the Postal Service some discretion to develop policies for selecting the carriers with which it will contract and to develop policies to ensure that mail is tendered to certificated carriers on an equitable basis. The Conferees intend that in exercising this discretion the Postal Service will use only carriers that have been operating in the State of Alaska for 90 days, or more, or in the case of a carrier inaugurating service, if the Postal Service reasonably concludes, and the carrier certifies, that it will provide year-round service. The rationale for this policy is that it will encourage carriers to operate in Alaska on a year-round basis rather than only during the peak summer season. This 90-day policy should not be followed if it would result in insufficient capacity for the Postal Service to move the mail in accordance with its deadline. The Conferees further intend that carriers designated to provide essential air service under Section 419 be eligible to carry mail immediately upon designation.

TRANSFERS OF FUNCTIONS UNDER OTHER LAWS

House bill

Section 4 of the House bill transfers to the Department of Transportation the authority of CAB under specified laws other than the Federal Aviation Act.

Senate amendment

Same as House bill.

Conference substitute

Same House bill.

COLLECTION OF DATA

House bill

Section 5 of the House bill amends the authority of the Department of Transportation to collect information on civil aeronautics to require that after January 1, 1985, the Department will, at a minimum, continue to collect information on the origin and destination of passengers in interstate and overseas transportation and information on the number of passengers traveling between points in interstate and overseas transportation. However, the Department will not be permitted to require carriers to submit this data on a flight-by-flight basis. The traffic data will be collected on a summary basis by carrier, by market.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

REPORTS

House bill

Section 6 of the House bill requires the Secretary of Transportation to submit a report to the appropriate Committees of Congress not later than July 1, 1987, on the administration of Sections 408 and 409, 412 and 414 of the Federal Aviation Act and recommendations as to whether these authorities shall be continued. This section also requires the Secretary and the Postmaster General to submit a similar report on authority to establish rates for the carriage of mail between points in the State of Alaska.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

INCORPORATION BY REFERENCE

House bill

Section 7 of the House bill amends Section 411 of the Federal Aviation Act to clarify CAB's authority to issue regulations establishing unform requirements governing notice to passengers of the terms of the contract between the airline and its passengers which are incorporated by reference in a ticket.

The Section provides that air carriers may incorporate contractual terms by reference in accordance with regulations issued by the Board establishing uniform notice requirements concerning such incorporation by reference.

Senate amendment

Same as House bill, except requires that incorporation by reference must comply with all applicable regulations issued by the Board (not only regulations establishing uniform notice requirements).

Conference substitute

Same as Senate Amendment.

REFERENCE TO CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

House bill

Section 8 of the House bill provides that any reference in any law to a certificate of public convenience and necessity shall be deemed to refer to a certificate issued under Section 401 or Section 418 of the Federal Aviation Act.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

MISCELLANEOUS AMENDMENTS

House bill

Section 9 of the House bill makes amendments to conform the regulatory format in the Federal Aviation Act for interstate and overseas cargo transportation with the regulatory format governing interstate and overseas passenger transportation. Conforming changes are also made in a number of other statutes to reflect the termination of the CAB and the transfer of CAB authority to the Department of Transportation after January 1, 1985. The CAB's right of access to the lands, buildings and equipment of air carriers under Section 407(e) of the Federal Aviation Act is limited to access necessary for a determination under Sections 401, 402, 418, or 419 that an air carrier is fit, willing and able. This amendment does not change the CAB's right of access to accounts, records, and memorandums kept by air carriers, foreign air carriers, or ticket agents.

Under this Section the Postal Service's contracting authority in title 39 of the U.S. Code is modified to conform to the provisions in the Deregulation Act authorizing the Postal Service to use competitive bidding or negotiations in the place of CAB ratemaking for interstate or overseas mail transportation (other than transportation between points in the State of Alaska).

The Section provides that between January 1, 1985 and January 1, 1989 the Postal Service will continue to have authority to contract for the transportation of mail between points in Alaska under 54 USC Section 5402(a), (b), and (c). In contracts under Section 5402(a) not more than 10 percent of the domestic mail transportation shall consist of letter mail.

Senate amendment

Same as House bill, except that with respect to contracts under 54 USC Section 5402(a) for the transportation of mail between points in Alaska, the Amendment eliminates the requirement that not more than 10 percent of the mail transported under such contracts shall consist of letter mail.

Conference substitute

Same as Senate Amendment.

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

House bill

Section 10 governs the transfer and allocation of appropriations and personnel from the CAB to the agencies to which CAB functions are transferred.

The Section provides that the personnel (including members of the Senior Executive Service) employed in connection with any function transferred by section 1601(b) of the Federal Aviation Act or Section 4 of the House bill shall be transferred to the agency to which such function is transferred. Personnel employed in connection with functions so transferred shall be transferred in accordance with any applicable laws and regulations to transfer of functions.

Senate amendment

Same as House bill except clarifies that CAB employees transferred to other agencies by operation of any law, shall be transferred in accordance with any applicable laws and regulations relating to the transfer of functions.

Conference substitute

Same as Senate amendment. The intent of the Conference substitute is that all employees, including Senior Executive Service employees, employed in connection with any function transferred by Section 1601(b) of the Federal Aviation Act or Section 4 of the Conference substitute shall have the right to be transferred to the agency to which such function is transferred, even if there are no other laws or regulations governing such transfers.

EFFECT ON PERSONNEL

House bill

Section 11 of the House bill provides that transferred employees are entitled to have the CAB's evaluations used in determining merit pay, in addition to the evaluations of the new agency.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

SAVINGS PROVISIONS

House bill

Section 12 of the House bill provides for the continuation of all effective CAB orders and proceedings after termination of the Board. The Section further provides that with respect to functions transferred to other agencies, references in Federal laws to CAB shall be deemed to refer to the agency obtaining the function, and that with respect to any function transferred, the head of the agency receiving the function shall have the same authority as CAB.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

DEFINITIONS

House bill

Section 13 of the House bill defines "agency" and "function."

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ACCESS FOR HANDICAPPED PERSONS

House bill

No comparable provision.

Senate amendment

Section 14 of the Senate amendment requires the Board or the Secretary to consult with the Architectural and Transportation Barriers Compliance Board prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped persons.

Conference substitute

Same as Senate amendment.

Futherance of the Public Interest of Air Transportation

House bill

No comparable provision.

Senate amendment

Section 15 of the Senate amendment provides that the Board may upon its own initiative or the reasonable petition of any person directly affected undertake such studies as may be necessary to determine the extent to which any aspect of air transportation furthers or hinders the public interest as set forth in the policy statement of the Federal Aviation Act. Such studies shall be concluded within 120 days of receipt of a petition and the result shall be forwarded to the appropriate Committee of the Congress.

Conference substitute

Same as House bill. The Conferees note that under Section 204(a) of the Federal Aviation Act the CAB has authority to conduct such investigations as it shall deem necessary to carry out the provisions of, and to exercise and perform its duties under, all provisions of the Federal Aviation Act. By Section 3 of the Conference Substitute, the CAB's authority under Section 204 will be continued and transferred to the Department of Transportation on January 1, 1985.

STUDY OF TRANSPORTATION TO AND FROM WASHINGTON DULLES AIRPORT

House bill

No comparable provision.

Senate amendment

Section 16 of the Senate amendment requires the Secretary of Transportation to study the feasibility of constructing a rapid rail transit line between the West Falls Church, Virginia station of the Washington, D.C. Metrorail System and Dulles International Airport. The Secretary shall complete this study and transmit the results to Congress not later than one year after the date of enactment of this Act.

Conference substitute

Same as Senate amendment.

ESSENTIAL AIR SERVICE IN THE STATE OF ALASKA

House bill

No comparable provision.

Senate amendment

Section 17 of the Senate bill provides that essential air transportation in the State of Alaska shall be operated with the size aircraft provided for in CAB Order 80-1-167 unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska.

Conference substitute

Provides that until January 1, 1987, essential air service at Cordova, Yakutat, Gustavus, Petersburg, and Wrangell, Alaska shall be operated with the size aircraft provided for in CAB Order 80-1-167 unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska. During this period, the compensation paid for essential air service at these five cities shall not exceed $3,572,778 in each of fiscal years 1985 and 1986, and $893,195 for the period October 1, 1986 to January 1, 1987. No later than January 1, 1986 the Secretary of Transportation shall prepare and submit to the Congress a report on the feasibility of providing essential air transportation to the foregoing five cities with aircraft having a smaller capacity than the aircraft listed in CAB Order 80-1-167, the level of compensation which would be required for such transportation, and the impact of using such aircraft on the air transportation system in Alaska, taking into consideration the service from those five cities to Anchorage and Juneau, Alaska, and Seattle, Washington.

RATES FOR THE CARRIAGE OF MAIL IN THE STATE OF ALASKA

House bill

No comparable provision.

Senate amendment

Section 17 of the Senate amendment provides that no part of the order of the Civil Aeronautics Board, Docket 38961 (CAB Order 84-6-77) shall enter into effect until after December 31, 1984.

Conference substitute

Same as Senate amendment.

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ROBERT A. ROE,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
BARRY GOLDWATER,
NANCY LANDON KASSEBAUM,
ERNEST F. HOLLINGS,
J. JAMES EXON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 38

Mr. HAWKINS submitted the following conference report and statement on the bill (S. 38) entitled the "Longshoremen's and Harbor Workers' Compensation Act":

CONFERENCE REPORT (H. Rept. 98-1027)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 38) entitled the "Longshoremen's and Harbor Workers' Compensation Act", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) this Act may be cited as the "Longshore and Harbor Workers' Compensation Act Amendments of 1984".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Longshoremen's and Harbor Workers' Compensation Act.

DEFINITIONS

SEC. 2. (a) Section 2(3) is amended to read as follows:

"(3) The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include—

"(A) individuals employed exclusively to perform office clerical, secretarial, security, or data processing work;

"(B) individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet;

"(C) individuals employed by a marina and who are not engaged in construction, replacement, or expansion of such marina (except for routine maintenance);

"(D) individuals who (i) are employed by suppliers, transporters, or vendors, (ii) are temporarily doing business on the premises of an employer described in paragraph (4), and (iii) are not engaged in work normally performed by employees of that employer under this Act;

"(E) aquaculture workers;

"(F) individuals employed to build, repair, or dismantle any recreational vessel under sixty-five feet in length;

"(G) a master or member of a crew of any vessel; or

"(H) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;

if individuals described in clauses (A) through (F) are subject to coverage under a State workers' compensation law.".

(b) Section 2(10) is amended by inserting before the period at the end thereof the following: "; but such term shall mean permanent impairment, determined (to the extent covered thereby) under the guides to the evaluation of permanent impairment promulgated and modified from time to time by the American Medical Association, in the case of an individual whose claim is described in section 10(d)(2)".

(c) Section 2(13) is amended to read as follows:

"(13) The term 'wages' means the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for purposes of any withholding of tax under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes). The term wages does not include fringe benefits, including (but not limited to) employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit plan for the employee's or dependent's benefit, or any other employee's dependent entitlement.".

COVERAGE

SEC. 3. (a) Section 3 is amended to read as follows:

"COVERAGE

"SEC. 3. (a) Except as otherwise provided in this section, compensation shall be pay-

able under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel).

"(b) No compensation shall be payable in respect of the disability or death of an officer or employee of the United States, or any agency thereof, or of any State or foreign government, or any subdivision thereof.

"(c) No compensation shall be payable if the injury was occasioned solely by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another.

"(d)(1) No compensation shall be payable to an employee employed at a facility of an employer if, as certified by the Secretary, the facility is engaged in the business of building, repairing, or dismantling exclusively small vessels (as defined in paragraph (3) of this subsection), unless the injury occurs while upon the navigable waters of the United States or while upon any adjoining pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels.

"(2) Notwithstanding paragraph (1), compensation shall be payable to an employee—

"(A) who is employed at a facility which is used in the business of building, repairing, or dismantling small vessels if such facility receives Federal maritime subsidies; or

"(B) if the employee is not subject to coverage under a State workers' compensation law.

"(3) For purposes of this subsection, a small vessel means—

"(A) a commercial barge which is under 900 lightship displacement tons; or

"(B) a commercial tugboat, towboat, crew boat, supply boat, fishing vessel, or other work vessel which is under 1,600 tons gross.".

(b) Section 3 is further amended by adding at the end thereof the following:

"(e) Notwithstanding any other provision of law, any amounts paid to an employee for the same injury, disability, or death for which benefits are claimed under this Act pursuant to any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen) shall be credited against any liability imposed by this Act.".

LIABILITY FOR COMPENSATION

SEC. 4. (a) Section 4(a) is amended to read as follows:

"SEC. 4. (a) Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 7, 8, and 9. In the case of an employer who is a subcontractor, only if such subcontractor fails to secure the payment of compensation shall the contractor be liable for and be required to secure the payment of compensation. A subcontractor shall not be deemed to have failed to secure the payment of compensation if the contractor has provided insurance for such compensation for the benefit of the subcontractor.".

(b) Section 5(a) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, a contractor shall be deemed the employer of a subcontractor's employees only if the subcontractor fails to secure the payment of compensation as required by section 4.".

THIRD PARTY LIABILITY

SEC. 5. (a)(1) The third sentence of section 5(b) is amended to read as follows: "If such person was employed to provide shipbuilding, repairing, or breaking services and such person's employer was the owner, owner pro hac vice, agent, operator, or charterer of the vessel, no such action shall be permitted, in whole or in part or directly or indirectly, against the injured person's employer (in any capacity, including as the vessel's owner, owner pro hac vice, agent, operator, or charterer) or against the employees of the employer.".

(2) Section 2(21) is amended by striking out "The" and inserting in lieu thereof "Unless the context requires otherwise, the".

(b) Section 5 is amended by adding at the end thereof the following new subsection:

"(c) In the event that the negligence of a vessel causes injury to a person entitled to receive benefits under this Act by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333), then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel in accordance with the provisions of subsection (b) of this section. Nothing contained in subsection (b) of this section shall preclude the enforcement according to its terms of any reciprocal indemnity provision whereby the employer of a person entitled to receive benefits under this Act by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333) and the vessel agree to defend and indemnify the other for cost of defense and loss or liability for damages arising out of or resulting from death or bodily injury to their employees.".

COMPENSATION

SEC. 6. (a) Section 6(b)(1) is amended to read as follows:

"(b)(1) Compensation for disability or death (other than compensation for death required by this Act to be paid in a lump sum) shall not exceed an amount equal to 200 per centum of the applicable national average weekly wage, as determined by the Secretary under paragraph (3).".

(b) Section 6 is amended—

(1) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(2) by striking out "under this subsection" in subsection (c) (as redesignated) and inserting in lieu thereof "under subsection (b)(3)".

MEDICAL SERVICES AND SUPPLIES

SEC. 7. (a) The third sentence of section 7(b) is amended by inserting before the period the following: "or where the charges exceed those prevailing within the community for the same or similar services or exceed the provider's customary charges".

(b) Section 7(c) is amended to read as follows:

"(c)(1)(A) The Secretary shall annually prepare a list of physicians and health care providers in each compensation district who are not authorized to render medical care or provide medical services under this Act. The names of physicians and health care providers contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting and in such other forms as the Secretary may prescribe.

"(B) Physicians and health care providers shall be included on the list of those not authorized to provide medical care and medical services pursuant to subparagraph (A) when the Secretary determines under this section, in accordance with the procedures provided in subsection (j), that such physician or health care provider—

"(i) has knowingly and willfully made, or caused to be made, any false statement or misrepresentation of a material fact for use in a claim for compensation or claim for reimbursement of medical expenses under this Act;

"(ii) has knowingly and willfully submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Secretary finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community or in excess of the provider's customary charges, unless the Secretary finds there is good cause for the bill or request containing the charge;

"(iii) has knowingly and willfully furnished a service, appliance, or supply which is determined by the Secretary to be substantially in excess of the need of the recipient thereof or to be of a quality which substantially fails to meet professionally recognized standards;

"(iv) has been convicted under any criminal statute (without regard to pending appeal thereof) for fraudulent activities in connection with any Federal or State program for which payments are made to physicians or providers of similar services, appliances, or supplies; or

"(v) has otherwise been excluded from participation in such program.

"(C) Medical services provided by physicians or health care providers who are named on the list published by the Secretary pursuant to subparagraph (A) of this section shall not be reimbursable under this Act; except that the Secretary shall direct the reimbursement of medical claims for services rendered by such physicians or health care providers in cases where the services were rendered in an emergency.

"(D) A determination under subparagraph (B) shall remain in effect for a period of not less than three years and until the Secretary finds and gives notice to the public that there is reasonable assurance that the basis for the determination will not reoccur.

"(E) A provider of a service, appliance, or supply shall provide to the Secretary such information and certification as the Secretary may require to assure that this subsection is enforced.

"(2) Whenever the employer or carrier acquires knowledge of the employee's injury, through written notice or otherwise as prescribed by the Act, the employer or carrier shall forthwith authorize medical treatment and care from a physician selected by an employee pursuant to subsection (b). An employee may not select a physician who is on the list required by paragraph (1) of this subsection. An employee may not change physicians after his initial choice unless the employer, carrier, or deputy commissioner has given prior consent for such change. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.".

(c) Section 7(d) is amended to read as follows:

"(d)(1) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless—

"(A) the employer shall have refused or neglected a request to furnish such services and the employee has complied with subsections (b) and (c) and the applicable regulations; or

"(B) the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same.

"(2) No claim for medical or surgical treatment shall be valid and enforceable against such employer unless, within ten days following the first treatment, the physician giving such treatment furnishes to the employer and the deputy commissioner a report of such injury or treatment, on a form prescribed by the Secretary. The Secretary may excuse the failure to furnish such report within the ten-day period whenever he finds it to be in the interest of justice to do so.

"(3) The Secretary may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee.

"(4) If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary or administrative law judge may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.".

(d) Section 7 is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall have the authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this Act, which are necessary or appropriate to carry out the provisions of subsection (c), including the nature and extent of the proof and evidence necessary for actions under this section and the methods of taking and furnishing such proof and evidence.

"(2) Any decision to take action with respect to a physician or health care provider under this section shall be based on specific findings of fact by the Secretary. The Secretary shall provide notice of these findings and an opportunity for a hearing pursuant to section 556 of title 5, United States Code, for a provider who would be affected by a decision under this section. A request for a hearing must be filed with the Secretary within thirty days after notice of the findings is received by the provider making such request. If a hearing is held, the Secretary shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse the findings of fact and proposed action under this section.

"(3) For the purpose of any hearing, investigation, or other proceeding authorized or directed under this section, the provisions of section 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act (15 U.S.C. 49, 50) shall apply to the jurisdiction, powers, and duties of the Secretary or any officer designated by him.

"(4) Any physician or health care provider, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision, but the pendency of such review shall not operate as a stay upon the effect of such decision. Such action shall be brought in the court of appeals of the United States for the judicial circuit in which the plaintiff resides or has his principal place of business, or the Court of Appeals for the District of Columbia. As part of his answer, the Secretary shall file a certified copy of the transcript of the record of the hearing, including all evidence submitted in connection therewith. The findings of fact of the Secretary, if based on substantial evidence in the record as a whole, shall be conclusive.".

(e) Section 7 is further amended by adding at the end thereof the following new subsection:

"(k)(1) Nothing in this Act prevents an employee whose injury or disability has been established under this Act from relying in good faith on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and on nursing services rendered in accordance with such tenets and practice, without suffering loss or diminution of the compensation or benefits under this Act. Nothing in this subsection shall be construed to except an employee from all physical examinations required by this Act.

"(2) If an employee refuses to submit to medical or surgical services solely because, in adherence to the tenets and practice of a recognized church or religious denomination, the employee relies upon prayer or spiritual means alone for healing, such employee shall not be considered to have unreasonably refused medical or surgical treatment under subsection (d).".

COMPENSATION FOR DISABILITY

SEC. 8. (a) Section 8(c)(13) is amended to read as follows:

"(13) Loss of hearing:

"(A) Compensation for loss of hearing in one ear, fifty-two weeks.

"(B) Compensation for loss of hearing in both ears, two-hundred weeks.

"(C) An audiogram shall be presumptive evidence of the amount of hearing loss sustained as of the date thereof, only if (i) such audiogram was administered by a licensed or certified audiologist or a physician who is certified in otolaryngology, (ii) such audiogram, with the report thereon, was provided to the employee at the time it was administered, and (iii) no contrary audiogram made at that time is produced.

"(D) The time for filing a notice of injury, under section 12 of this Act, or a claim for compensation, under section 13 of this Act, shall not begin to run in connection with any claim for loss of hearing under this section, until the employee has received an audiogram, with the accompanying report thereon, which indicates that the employee has suffered a loss of hearing.

"(E) Determinations of loss of hearing shall be made in accordance with the guides for the evaluation of permanent impairment as promulgated and modified from time to time by the American Medical Association.".

(b) Section 8(c)(20) is amended by striking out "$3,500" and inserting in lieu thereof "$7,500".

(c)(1) Section 8(c)(21) is amended to read as follows:

"(21) Other cases: In all other cases in the class of disability, the compensation shall be 66 2/3 per centum of the difference between the average weekly wages of the employee and the employee's wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of partial disability.".

(2) Section 8(c) is further amended by adding at the end thereof the following new paragraph:

"(23) Notwithstanding paragraphs (1) through (22), with respect to a claim for permanent partial disability for which the average weekly wages are determined under section 10(d)(2), the compensation shall be 66 2/3 per centum of such average weekly wages multiplied by the percentage of permanent impairment, as determined under the guides referred to in section 2(10), payable during the continuance of such impairment.".

(d) Section 8(d) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) Section 8(f) is amended—

(1) by inserting before the period at the end of the second and fourth sentences of paragraph (1) the following: ", except that, in the case of an injury falling within the provisions of section 8(c)(13), the employer shall provide compensation for the lesser of such periods";

(2) by inserting "(A)" after "(2)" in paragraph (2);

(3) by inserting before the period at the end of such paragraph the following: ", except that the special fund shall not assume responsibility with respect to such benefits (and such payments shall not be subject to cessation) in the case of any employer who fails to comply with section 32(a)";

(4) by adding at the end of paragraph (2) the following new subparagraph:

"(B) After cessation of payments for the period of weeks provided for in this subsection, the employer or carrier responsible for payment of compensation shall remain a party to the claim, retain access to all records relating to the claim, and in all other respects retain all rights granted under this Act prior to cessation of such payments."; and

(5) by adding at the end thereof the following new paragraph:

"(3) Any request, filed after the date of enactment of the Longshore and Harbor Workers' Compensation Amendments of 1984, for apportionment of liability to the special fund established under section 44 of this Act for the payment of compensation benefits, and a statement of the grounds therefore, shall be presented to the deputy commissioner prior to the consideration of the claim by the deputy commissioner. Failure to present such request prior to such consideration shall be an absolute defense to the special fund's liability for the payment of any benefits in connection with such claim, unless the employer could not have reasonably anticipated the liability of the special fund prior to the issuance of a compensation order.".

(f) Subsection (i) of section 8 is amended to read as follows:

"(i)(1) Whenever the parties to any claim for compensation under this Act, including survivors benefits, agree to a settlement, the deputy commissioner or administrative law judge shall approve the settlement within thirty days unless it is found to be inadequate or procured by duress. Such settlement may include future medical benefits if the parties so agree. No liability of any employer, carrier, or both for medical, disability, or death benefits shall be discharged unless the application for settlement is approved by the deputy commissioner or administrative law judge. If the parties to the

settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

"(2) If the deputy commissioner disapproves an application for settlement under paragraph (1), the deputy commissioner shall issue a written statement within thirty days containing the reasons for disapproval. Any party to the settlement may request a hearing before an administrative law judge in the manner prescribed by this Act. Following such hearing, the administrative law judge shall enter an order approving or rejecting the settlement.

"(3) A settlement approved under this section shall discharge the liability of the employer or carrier, or both. Settlements may be agreed upon at any stage of the proceeding including after entry of a final compensation order.".

(g) Such subsection (i) is further amended by adding at the end thereof the following new paragraph:

"(4) The special fund shall not be liable for reimbursement of any sums paid or payable to an employee or any beneficiary under such settlement, or otherwise voluntarily paid prior to such settlement by the employer or carrier, or both.".

(h) Section 8 is amended by adding at the end thereof the following new subsection:

"(j)(1) The employer may inform a disabled employee of his obligation to report to the employer not less than semiannually any earnings from employment or self-employment, on such forms as the Secretary shall specify in regulations.

"(2) An employee who—

"(A) fails to report the employee's earnings under paragraph (1) when requested, or

"(B) knowingly and willfully omits or understates any part of such earnings,

and who is determined by the deputy commissioner to have violated clause (A) or (B) of this paragraph, forfeits his right to compensation with respect to any period during which the employee was required to file such report.

"(3) Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee in any amount and on such schedule as determined by the deputy commissioner.".

COMPENSATION FOR DEATH

SEC. 9. (a) The matter preceding subsection (a) of section 9 is amended to read as follows:

"SEC. 9. If the injury causes death, the compensation therefore shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:".

(b) Section 9(a) is amended by striking out "$1,000" and inserting in lieu thereof "$3,000".

(c) Section 9(e) is amended to read as follows:

"(e) In computing death benefits, the average weekly wages of the deceased shall not be less than the national average weekly wage as prescribed in section 6(b), but—

"(1) the total weekly benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefit which the deceased employee would have been eligible to receive under section 6(b)(1); and

"(2) in the case of a claim based on death due to an occupational disease for which the time of injury (as determined under section 10(i)) occurs after the employee has retired, the total weekly benefits shall not exceed one fifty-second part of the employee's average annual earnings during the 52-week period preceding retirement.".

DETERMINATION OF PAY

SEC. 10. (a)(1) Section 10(d) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2) Notwithstanding paragraph (1), with respect to any claim based on a death or disability due to an occupational disease for which the time of injury (as determined under subsection (i)) occurs—

"(A) within the first year after the employee has retired, the average weekly wages shall be one fifty-second part of his average annual earnings during the 52-week period preceding retirement; or

"(B) more than one year after the employee has retired, the average weekly wage shall be deemed to be the national average weekly wage (as determined by the Secretary pursuant to section 6(b)) applicable at the time of the injury.".

(2) Section 10 is further amended by adding at the end thereof the following new subsection:

"(i) For purposes of this section with respect to a claim for compensation for death or disability due to an occupational disease which does not immediately result in death or disability, the time of injury shall be deemed to be the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability.".

(b) Section 10(f) is amended to read as follows:

"(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries subject to this Act shall be increased by the lesser of—

"(1) a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1; or

"(2) 5 per centum.".

NOTICE OF INJURY OR DEATH

SEC. 11. (a) Section 12(a) is amended to read as follows:

"SEC. 12. (a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of a relationship between the injury or death and the employment, except that in the case of an occupational disease which does not immediately result in a disability or death, such notice shall be given within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability. Notice shall be given (1) to the deputy commissioner in the compensation district in which the injury or death occurred, and (2) to the employer.".

(b) Section 12(c) is amended by adding at the end thereof the following: "Each employer shall designate those agents or other responsible officials to receive such notice, except that the employer shall designate as its representatives individuals among first line supervisors, local plant management, and personnel office officials. Such designations shall be made in accordance with regulations prescribed by the Secretary and the employer shall notify his employees and the Secretary of such designation in a manner prescribed by the Secretary in regulations.".

(c) Section 12(d) is amended—

(1) by striking out "(or his agent in charge of the business in the place where the injury occurred)" and inserting in lieu thereof the following: "(or his agent or agents or other responsible official or officials designated by the employer pursuant to subsection (c))";

(2) by striking out "injury or death and" and inserting in lieu thereof "injury or death, (2)";

(3) by striking out "or (2)" and inserting in lieu thereof "or (3)"; and

(4) by inserting after "the ground that" in the clause redesignated as clause (3) (by paragraph (3) of this subsection) the following: "(i) notice, while not given to a responsible official designated by the employer pursuant to subsection (c) of this section, was given to an official of the employer or the employer's insurance carrier, and that the employer or carrier was not prejudiced due to the failure to provide notice to a responsible official designated by the employer pursuant to subsection (c), or (ii)".

TIME FOR FILING CLAIM BASED ON OCCUPATIONAL DISEASE

SEC. 12. Section 13(b) is amended by inserting "(1)" after "(b)" and adding at the end thereof the following:

"(2) Notwithstanding the provisions of subsection (a), a claim for compensation for death or disability due to an occupational disease which does not immediately result in such death or disability shall be timely if filed within two years after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability, or within one year of the date of the last payment of compensation, whichever is later.".

PAYMENT OF COMPENSATION

SEC. 13. (a) Section 14(b) is amended by striking out "employer" and inserting in lieu thereof "employer has been notified pursuant to section 12, or the employer".

(b) Section 14 is amended by striking out subsection (j) and by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

LIENS ON COMPENSATION

SEC. 14. Section 17 is amended—

(1) by striking out "(b)";

(2) by striking out "entitled to compensation under this Act" and inserting in lieu thereof "covered under this Act"; and

(3) by striking out "this Act, the Secretary may authorize" and inserting in lieu thereof "this Act or under a settlement, the Secretary shall authorize".

REVIEW OF COMPENSATION ORDER

SEC. 15. Section 21(b) is amended—

(1) by striking out "three" in paragraph (1) and inserting in lieu thereof "five";

(2) by adding the following sentence at the end of paragraph (1): "The Chairman shall have the authority, as delegated by the Secretary, to exercise all administrative functions necessary to operate the Board.";

(3) by striking out "two" each place it appears in paragraph (2) and inserting in lieu thereof "three"; and

(4) by adding the following new paragraph at the end thereof:

"(5) Notwithstanding paragraphs (1) through (4), upon application of the Chair-

man of the Board, the Secretary may designate up to four Department of Labor administrative law judges to serve on the Board temporarily, for not more than one year. The Board is authorized to delegate to panels of three members any or all of the powers which the Board may exercise. Each such panel shall have no more than one temporary member. Two members shall constitute a quorum of a panel. Official adjudicative action may be taken only on the affirmative vote of at least two members of a panel. Any party aggrieved by a decision of a panel of the Board may, within thirty days after the date of entry of the decision, petition the entire permanent Board for review of the panel's decision. Upon affirmative vote of the majority of the permanent members of the Board, the petition shall be granted. The Board shall amend its Rules of Practice to conform with this paragraph. Temporary members, while serving as members of the Board, shall be compensated at the same rate of compensation as regular members.".

MODIFICATIONS OF AWARDS

SEC. 16. Section 22 is amended—

(1) by inserting "(including an employer or carrier which has been granted relief under section 8(f))" after "party in interest";

(2) by inserting "(including a case under which payments are made pursuant to section 44(i))" after "review a compensation case"; and

(3) by adding at the end thereof the following new sentence: "This section does not authorize the modification of settlements.".

FEES FOR SERVICES

SEC. 17. Section 28(e) is amended to read as follows:

"(e) A person who receives a fee, gratuity, or other consideration on account of services rendered as a representative of a claimant, unless the consideration is approved by the deputy commissioner, administrative law judge, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself, with respect to a claim or award for compensation under this Act, shall, upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or be imprisoned for not more than one year, or both.".

REPORTS

SEC. 18. (a) Section 30(a) is amended—

(1) by inserting after "injury" the first place it appears a comma and the following: "which causes loss of one or more shifts of work,"; and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the requirements of this subsection, each employer shall keep a record of each and every injury regardless of whether such injury results in the loss of one or more shifts of work.".

(b) Section 30(e) is amended to read as follows:

"(e) Any employer, insurance carrier, or self-insured employer who knowingly and willfully fails or refuses to send any report required by this section or knowingly or willfully makes a false statement or misrepresentation in any such report shall be subject to a civil penalty not to exceed $10,000 for each such failure, refusal, false statement, or misrepresentation.".

PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

SEC. 19. Section 31 is amended to read as follows:

"PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

"SEC. 31. (a)(1) Any claimant or representative of a claimant who knowingly and willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under this Act shall be guilty of a felony, and on conviction thereof shall be punished by a fine not to exceed $10,000, by imprisonment not to exceed five years, or by both.

"(2) The United States attorney for the district in which the injury is alleged to have occurred shall make every reasonable effort to promptly investigate each complaint made under this subsection.

"(b)(1) No representation fee of a claimant's representative shall be approved by the deputy commissioner, an administrative law judge, the Board, or a court pursuant to section 28 of this Act, if the claimant's representative is on the list of individuals who are disqualified from representing claimants under this Act maintained by the Secretary pursuant to paragraph (2) of this subsection.

"(2)(A) The Secretary shall annually prepare a list of those individuals in each compensation district who have represented claimants for a fee in cases under this Act and who are not authorized to represent claimants. The names of individuals contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting and in such other forms as the Secretary may prescribe.

"(B) Individuals shall be included on the list of those not authorized to represent claimants under this Act if the Secretary determines under this section, in accordance with the procedure provided in subsection (j) of section 7 of this Act, that such individual—

"(i) has been convicted (without regard to pending appeal) of any crime in connection with the representation of a claimant under this Act or any workers' compensation statute;

"(ii) has engaged in fraud in connection with the presentation of a claim under this or any workers' compensation statute, including, but not limited to, knowingly making false representations, concealing or attempting to conceal material facts with respect to a claim, or soliciting or otherwise procuring false testimony;

"(iii) has been prohibited from representing claimants before any other workers' compensation agency for reasons of professional misconduct which are similar in nature to those which would be grounds for disqualification under this paragraph; or

"(iv) has accepted fees for representing claimants under this Act which were not approved, or which were in excess of the amount approved pursuant to section 28.

"(C) Notwithstanding subparagraph (B), no individual who is on the list required to be maintained by the Secretary pursuant to this section shall be prohibited from presenting his or her own claim or from representing without fee, a claimant who is a spouse, mother, father, sister, brother, or child of such individual.

"(D) A determination under subparagraph (A) shall remain in effect for a period of not less than three years and until the Secretary finds and gives notice to the public that there is reasonable assurance that the basis for the determination will not reoccur.

"(3) No employee shall be liable to pay a representation fee to any representative whose fee has been disallowed by reason of the operation of this paragraph.

"(4) The Secretary shall issue such rules and regulations as are necessary to carry out this section.

"(c) A person including, but not limited to, an employer, his duly authorized agent, or an employee of an insurance carrier who knowingly and willfully makes a false statement or representation for the purpose of reducing, denying, or terminating benefits to an injured employee, or his dependents pursuant to section 9 if the injury results in death, shall be punished by a fine not to exceed $10,000, by imprisonment not to exceed five years, or by both.".

SECURITY FOR COMPENSATION

SEC. 20. Section 32(a)(2) is amended by inserting "based on the employer's financial condition, the employer's previous record of payments, and other relevant factors," after "in an amount determined by the commission,".

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

SEC. 21. (a) Section 33(b) is amended to read as follows:

"(b) Acceptance of compensation under an award in a compensation order filed by the deputy commissioner, an administrative law judge, or the Board shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such acceptance. If the employer fails to commence an action against such third person within ninety days after the cause of action is assigned under this section, the right to bring such action shall revert to the person entitled to compensation. For the purpose of this subsection, the term 'award' with respect to a compensation order means a formal order issued by the deputy commissioner, an administrative law judge, or Board.".

(b) Section 33(e)(2) is amended by striking out ", less one-fifth of such excess which shall belong to the employer".

(c) Section 33(f) is amended—

(1) by inserting "net" before "amount recovered"; and

(2) by adding at the end thereof the following: "Such net amount shall be equal to the actual amount recovered less the expenses reasonably incurred by such person in respect to such proceedings (including reasonable attorneys' fees).".

(d) Section 33(g) is amended to read as follows:

"(g)(1) If the person entitled to compensation (or the person's representative) enters into a settlement with a third person referred to in subsection (a) for an amount less than the compensation to which the person (or the person's representative) would be entitled under this Act, the employer shall be liable for compensation as determined under subsection (f) only if written approval of the settlement is obtained from the employer and the employer's carrier, before the settlement is executed, and by the person entitled to compensation (or the person's representative). The approval shall be made on a form provided by the Secretary and shall be filed in the office of the deputy commissioner within thirty days after the settlement is entered into.

"(2) If no written approval of the settlement is obtained and filed as required by paragraph (1), or if the employee fails to notify the employer of any settlement obtained from or judgment rendered against a third person, all rights to compensation and medical benefits under this Act shall be terminated, regardless of whether the employer or the employer's insurer has made pay-

ments or acknowledged entitlement to benefits under this Act.

"(3) Any payments by the special fund established under section 44 shall be a lien upon the proceeds of any settlement obtained from or judgment rendered against a third person referred to under subsection (a). Notwithstanding any other provision of law, such lien shall be enforceable against such proceeds, regardless of whether the Secretary on behalf of the special fund has agreed to or has received actual notice of the settlement or judgment.

"(4) Any payments by a trust fund described in section 17 shall be a lien upon the proceeds of any settlement obtained from or judgment recorded against a third person referred to under subsection (a). Such lien shall have priority over a lien under paragraph (3) of this subsection.".

PENALTY FOR FAILURE TO SECURE PAYMENT

SEC. 22. Section 38 is amended by striking out "$1,000" each place it appears in subsections (a) and (b) and inserting in lieu thereof "$10,000".

ANNUAL REPORT

SEC. 23. The Act is amended by inserting the following new section after section 41:

"ANNUAL REPORT

"SEC. 42. The Secretary shall make to Congress at the beginning of each regular session, commencing at the beginning of the second regular session after the enactment of the Longshore and Harbor Workers' Compensation Act Amendments of 1984, a report of the administration of this Act for the preceding fisal year, including a detailed statement of receipts of and expenditures from the fund established in section 44, together with such recommendations as the Secretary deems advisable.".

SPECIAL FUND

SEC. 24. (a) Section 44(c)(2) is amended to read as follows:

"(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and the amount of payments required (and the schedule therefor) to maintain adequate reserves in the fund. Each carrier and self-insurer shall make payments into the fund on a prorated assessment by the Secretary determined by—

"(A) computing the ratio (expressed as a percent) of (i) the carrier's or self-insured's workers' compensation payments under this Act during the preceding calendar year, to (ii) the total of such payments by all carriers and self-insureds under this Act during such year;

"(B) computing the ratio (expressed as a percent) of (i) the payments under section 8(f) of this Act during the preceding calendar year which are attributable to the carrier or self-insured, to (ii) the total of such payments during such year attributable to all carriers and self-insureds;

"(C) dividing the sum of the percentages computed under subparagraphs (A) and (B) for the carrier or self-insured by two; and

"(D) multiplying the percent computed under subparagraph (C) by such probable expenses of the fund (as determined under the first sentence of this paragraph).".

(b) Section 44 is further amended by striking out subsection (e) and by redesignating subsections (f) through (k) as subsections (e) through (j), respectively.

(c) Section 44(h) (as redesignated pursuant to subsection (b)) is amended by inserting "and unpaid assessments" after "civil penalties".

(d) Section 44(i) (as redesignated pursuant to subsection (b)) is amended—

(1) in paragraph (1), by striking out "and 11", by inserting "certain" before "initial", and by striking out "which occurred prior to the effective date of this subsection"; and

(2) in paragraph (4), by inserting "(e)" after "section 7".

(e) Section 44(j) (as redesignated pursuant to subsection (b)) is amended to read as follows:

"(j) The fund shall be audited annually and the results of such audit shall be included in the annual report required by section 42.".

REPEALS

SEC. 25. Sections 45, 46, and 47 are repealed.

DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

SEC. 26. (a) Section 49 is amended by inserting after the first sentence the following new sentence: "The discharge or refusal to employ a person who has been adjudicated to have filed a fraudulent claim for compensation is not a violation of this section.".

(b) The second sentence of section 49 is amended—

(1) by striking out "$100" and inserting in lieu thereof "$1,000"; and

(2) by striking out "$1,000" and inserting in lieu thereof "$5,000".

CONFORMING AMENDMENTS

SEC. 27. (a) The Longshoremen's and Harbor Workers' Compensation Act is further amended—

(1) striking out paragraph (6) of section 2 and inserting in lieu thereof the following:

"(6) The term 'Secretary' means the Secretary of Labor.";

(2) by striking out "commission" each place it appears and inserting in lieu thereof "Secretary"; and

(3) by striking out "commission's" and inserting in lieu thereof "Secretary's".

(b) Section 18(b) is amended by striking out ", including the right of lien and priority provided for by section 17 of this Act,".

(c) Section 39(a) is amended by striking out "United States Employees' Compensation Commission" and inserting in lieu thereof "Secretary".

(d)(1) Section 1 is amended by striking out "Longshoremen's" and inserting in lieu thereof "Longshore".

(2) Reference in any other statute, regulation, order, or other document to the Longshoremen's and Harbor Workers' Compensation Act shall be deemed to refer to the Longshore and Harbor Workers' Compensation Act.

EFFECTIVE DATE

SEC. 28. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective on the date of enactment of this Act and shall apply both with respect to claims filed after such date and to claims pending on such date.

(b) The amendments made by sections 7(a), 7(e), 8(f), 11(b), 11(c), and 13 shall be effective 90 days after the date of enactment of this Act and shall apply both with respect to claims filed after such 90th day and to claims pending on such 90th day.

(c) The amendments made by sections 2(a), 3(a), 5, and 8(b) shall apply with respect to any injury after the date of enactment of this Act.

(d) The amendments made by sections 6(a), 8(d), and 9 shall apply with respect to any death after the date of enactment of this Act.

(e)(1) The amendments made by sections 2(c), 8(c)(1), 8(e)(4), 8(e)(5), 8(g), 10(b), 15 through 20, and 22 through 27 shall be effective on the date of enactment of this Act.

(2) The amendments made by sections 7(b), 7(c), 7(d), and 8(h) shall be effective 90 days after the date of enactment of this Act.

(f) The amendments made by section 6(b) shall apply with respect to any injury, disability, or death after the date of enactment of this Act.

(g) For the purpose of this section—

(1) in the case of an occupational disease which does not immediately result in a disability or death, an injury shall be deemed to arise on the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the disease; and

(2) the term "disability" has the meaning given such term by section 2(10) of the Act as amended by this Act.

(h)(1) The amendments made by section 7 of this Act shall not apply to claims filed under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

(2) Section 422(a) of the Black Lung Benefits Act is amended by striking out "During" and inserting in lieu thereof "Subject to section 28(h)(1) of the Longshore and Harbor Workers' Compensation Act Amendments of 1984, during".

And the House agree to the same.

Amend the title so as to read: "An Act entitled the 'Longshore and Harbor Workers' Compensation Act Amendments of 1984'.".

GUS HAWKINS,
WILLIAM CLAY,
GEORGE MILLER,
DALE KILDEE,
MATTHEW G. MARTINEZ,
MAJOR OWENS,
FRANK HARRISON,
SALA BURTON,
JOHN N. ERLENBORN,
THOMAS E. PETRI,
RON PACKARD,
JOHN MCCAIN,
Managers on the Part of the House.

ORRIN G. HATCH,
DON NICKLES,
EDWARD M. KENNEDY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 38) entitled the "Longshoremen's and Harbor Workers' Compensation Act" submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF MANAGERS

JURISDICTION

Senate bill

The Senate bill adds to the current express exemptions contained in section 2 of the Act the following: (1) Employees exclusively performing office clerical, secretarial, security, or data processing work; (2) club, camp, restaurant, museum, retail outlet and marina personnel; (3) personnel of suppliers, transporters or vendors temporarily doing business with covered employers; (4) aquaculture workers; (5) certain personnel employed in specified grain elevator loading operations; and (6) persons engaged in the construction or repair of recreational vessels under 65 feet in length and certain shipbuilding and ship repairmen building specified barges and vessels.

These exemptions are conditioned upon an employee being subject to coverage under a State workers' compensation law.

Also, the bill specifically exempts the following employers: (1) clubs, camps, restaurants, museums, retail outlets, and marinas; (2) aquaculture farms; and (3) builders or repairers of certain small vessels.

House amendment

The House amendment generally follows the Senate bill, but provides further qualifications. Individuals employed by a restaurant, museum, retail outlet, or marina are exempt if they do not engage in construction, replacement, or expansion of such facilities (with an exception being made for routine maintenance work). With respect to personnel of suppliers, transporters, or vendors temporarily doing business on the premises of covered employers, the House amendment restricts the exemption to personnel performing work not normally done by the covered employer. The exemption for individuals who build or repair recreational boats under 65 feet is subject to qualifications where the employer is working on both exempt and non-exempt boats.

The House amendment does not contain an exemption for certain grain elevator operations. Nor does the amendment contain the exemption for individuals building or repairing certain small vessels.

The House amendment prescribes rules for granting limited exemption to individuals performing land-based fabrication of offshore oil production platforms.

Conference substitute

The Conference substitute exempts the following individuals from coverage under the Act (by excluding them from the definition of employee in section 2(3)): (1) individuals employed exclusively to perform office clerical, secretarial, security, or data processing work; (2) individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet; (3) individuals employed by a marina and who are not engaged in construction, replacement, or expansion of such marina (except for routine maintenance); (4) individuals who (a) are employed by suppliers, transporters or vendors, (b) are temporarily doing business on the premises of a covered employer, and (c) are not engaged in work normally performed by employees of that employer under this Act; (5) aquaculture workers; and (6) individuals employed to build, repair, or dismantle any recreational vessel under sixty-five feet in length.

These exemptions are conditioned upon an individual being subject to coverage under a State workers' compensation law. Thus, if a State law exempts from coverage an individual who otherwise falls within any of the above exemptions of the Longshore Act, the Longshore exemption would not apply. It is noted that the Conference substitute incorporates the exemptions contained in the current statute (for a master or member of a crew of any vessel, and for any person engaged by a master to load or unload or repair any small vessel under 18 tons net); these exemptions are, of course, not conditioned upon coverage under a State workers' compensation law.

In developing the Conference substitute, the conferees reached certain understandings regarding the new exemptions.

The Senate bill and the House amendment contain indentical language for exempting individuals employed exclusively to perform office clerical, secretarial, security or data processing work. As noted in both the accompanyting Senate and House reports, this exemption reflects that these individuals are land-based workers otherwise covered under a State workers' compensation law, and their duties are performed in an office. However, the conferees expressly adopt a qualification contained in both reports: The Conference substitute does not exempt employees classified as longshore cargo checkers and clerks. Therefore, cargo checkers and clerks remain fully within Longshore Act jurisdiction.

With respect to club employees, the report accompanying the House amendment (House Report 98-570, 98th Cong., 1st Session, at 4 (1983)) drew a distinction between profit and nonprofit clubs, suggesting that the exemption applies only to the latter. Neither the Senate bill nor the language of the House amendment recognize such a distinction. Nor is it the intention of the Conference substitute to limit the exemption to nonprofit clubs.

The Senate report (Senate Report 98-81, 98th Cong., 1st Session, at 29 (1983)) describes what activities are included within the meaning of aquaculture operations. The conferees understand that, to date, the definition of maritime employment has never been intrepreted to mean the cleaning, processing, or canning of fish and fish products. But to foreclose any future problem of interpretation, the term "aquaculture operations" should be understood as including such activities.

The Conference substitute also incorporates an exemption from coverage (through an amendment to section 3 of the Act) for employees employed by facilities engaged in the business of building, repairing, or dismantling exclusively small vessels. The substitute defines what is meant by "small vessels", and also specifies the circumstances where the exemption would not apply.

EXCLUSIVENESS OF REMEDY AND THIRD PARTY LIABILITY

Senate bill

The Senate bill addresses seveal issues growing out of the liability of employers and third parties for damages or compensation. First, it provides that an employer's liability for compensation or benefits under the Longshore Act would preclude liability under any other workers' compensation law or the Jones Act. Second, the bill deals with what has not been exclusive liability for shipbuilders under current law: Section 5(b) of the Act now allows maritime negligence actions against shipbuilders, in addition to compensation otherwise available under the Act. The Senate bill removes that dual liability in two respects. It bars the maritime tort action, thus respecting the principle of workers' compensation being an exclusive remedy. Further, the bill, anticipating that a shipbuilder may be indirectly exposed to liability above compensation through actions by third parties grounded on theories of contractual or tort indemnity or contribution, bars those actions as well.

Finally, the Senate bill provides an exemption to the Longshore Act's current proscription of indemnity agreements under Section 5(b) of the Act. That section is made applicable currently to situations on the Outer Continental Shelf by virtue of Section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. § 1333). The bill would legalize those indemnity agreements insofar as they apply to the Outer Continental Shelf and would further preempt the application of state laws prohibiting such indemnity agreements.

House amendment

The House amendment incorporates the exclusive liability rule for shipbuilders enunciated in the Senate bill. But the amendment did not address the other issues in the Senate bill.

Conference substitute

The Conference substitute deals with the issues of overlapping and indirect liability and of exclusive remedy as follows:

First, the substitute adopts, without change, the rule of exclusive liability for shipbuilders proposed in the Senate bill.

Second, the substitute removes the current proscription with respect to mutual indemnity agreements between employers and vessels as applied to the Outer Continental Shelf by virtue of the Outer Continental Shelf Lands Act.

Third, the substitute addresses that issue of immunity in the situation where an employee of a subcontractor brings a third party action against the contractor for a work-related injury. The Supreme Court in *Washington Metropolitan Area Transit Authority* v. *Johnson*, 104 S. Ct. 2827 (1984), changed key components of what had widely been regarded as the proper rules governing contractor and subcontractor liability and immunity under the Longshoremen's and Harbor Workers' Compensation Act.

The Conference substitute, in disapproving *WMATA* v. *Johnson*, achieves the following: First, the obligation of the contractor to secure compensation for the employee of the subcontractor is a contingent one, which is triggered only upon the failure of the subcontractor to secure compensation for its own employees. Second, the contractor remains amendable to suit by its subcontractors' employees in those instances where the subcontractor-employer has fulfilled its statutory obligation to secure compensation for its employees. Third, however, where the subcontractor defaults in securing compensation, thus triggering the contractor's obligation, and the latter fulfills that obligation, the contractor is deemed an "employer" for purposes of section 5(a) and therefore entitled to immunity from suit by the subcontractor's employees. Fourth, if the contractor utilizes a "wrap-up" insurance policy to provide insurance coverage for the benefit for satisfying the subcontractor's primary obligation to secure compensation, the contractor still remains amenable to suit by employees of the subcontractor; the contractor does not enjoy the immunity afforded by Section 5(a) of the Act.

The Conference substitute also provides a special effective date, so that these amendments apply to pending suits. This will avoid the dismissal, under *WMATA*, of third-

party suits which were pending or on appeal on the date of enactment. (Any suit which has gone to final judgment from which no appeal lies as of date of enactment would not be subject to the amendments). *WMATA*, the conferees believe, does not comport with the legislative intent of the Act nor its interpretation from 1927 through 1983. The case should not have any precedential effect.

MEDICAL SERVICES AND SUPPLIES

(a) Change of Physicians.

Senate bill

The Senate bill authorizes the Secretary to order a change in physicians or hospitals if charges exceed those prevailing in the community.

House amendment

No provision.

Conference substitute

The House recedes but adds that the doctor cannot charge more for Longshore clients than for other patients.

(b) Debarment of Medical Providers.

(1) Senate bill

The Senate bill mandates the Secretary to prepare a list of medical providers not authorized to render medical care or provide services under the Act.

House amendment

The House amendment contains similar language.

Conference substitute

The Senate recedes.

(2) Senate bill

The Senate bill sets out criteria under which the Secretary is required or permitted to refuse to authorize a physician to render medical care under the Act.

House amendment

The House amendment contains criteria under which physicians and health care providers shall be excluded from providing medical care when the Secretary makes certain determinations.

Conference substitute

The Senate recedes. The conferees do not intend to bar the use of fee schedules by the Secretary.

(3) *Senate Bill*

No provision.

House amendment

The House amendment provides specifically for reimbursement of employee's medical expenses rendered by a non-qualified physician or provider in an emergency.

Conference substitute

The Senate recedes.

(4) Senate bill and House amendment

The Senate bill and the House Amendment both prohibit employees from selecting a physician on the Secretary's list and restrict an employee's selection of a subsequent physician, where the initial choice was a specialist. Furthermore, both delete the requirement in the Act for an injured employee to request permission from the employer prior to seeking medical treatment and lengthen from 10 days to 21 days the period within which a treating physician must provide an employer with the report of injury or treatment.

Conference substitute

The Conference agreement makes two technical amendments. One is to make explicit the current requirement that the employee must *request* the employer to provide medical services in order to be entitled to reimbursement. The other is to retain the current law requirement that a treating physician provide an employer with the report of injury or treatment within 10 days. This is to conform with the current law requirements in § 14(b) and (d) for the employer to begin payments or controvert a claim.

(5) Senate bill

The Senate bill lists in subsections (j)(1) and (2) the mandatory and permissive grounds to debar physicians under Longshore.

House amendment

The House amendment incorporates these in an earlier provision.

Conference substitute

Senate recedes.

(6) Senate bill

The Senate bill requires certain providers to furnish the Secretary such data as is needed to enforce debarment.

House amendment

No provision.

Conference substitute

House recedes.

(7) Senate bill

The Senate bill provides authority for the Secretary subsequently to review a decision debarring a medical provider for possible reinstatement. The Senate bill also provides the basis for a determination to remain in effect.

House amendment

No provision.

Conference substitute

House recedes, but the conferees provide for a minimum debarment period of three years.

(8) Senate bill

The Senate bill grants the Secretary authority to make rules and regulations necessary to carry out the debarment procedures.

House amendment

The House amendment grants the same right but with changes. The House would require certain procedures, including hearings on the record pursuant to section 556 of title 5, United States Code, and appeal of Secretarial determination to the U.S. circuit court of appeals.

Conference substitute

The Senate recedes but the Conference agreement would add that the physician or health care provider would be debarred after the Secretary's decision, pending appeal.

(c) Justifiable Refusal.

Senate bill

The Senate bill clarifies the grounds for justifiable refusal to submit to medical or surgical treatment. The Senate bill states that religious tenets may excuse refusal to undergo vocational rehabilitation.

House amendment

The House amendment states that such grounds may excuse refusal to undergo physical rehabilitation.

Conference substitute

Senate recedes, and references to either vocational or physical rehabilitation are deleted.

HEARING LOSS CLAIMS

(a) apportionment of Liability.

Senate bill

The Senate bill specifically authorizes apportionment of hearing loss liability between or among employers.

House amendment

The House amendment makes no specific reference to apportionment authority.

Conference substitute

The Senate recedes, maintaining current law, whereby an employer can apportion its liability through the special fund. However, the conferees correct what the Benefits Review Board in *Primc* v. *Todd Shipyards Corporation*, 12 BRBS 190, 195 (1980), views as ". . . a gap in the statutory scheme . . ." of section 8(f). Currently, if an employee's aggravation of a pre-existing permanent partial disability results in a subsequent permanent partial or permanent total disability compensable under section 8(c)(1)–(20), "[t]he employer shall provide compensation for the applicable period of weeks provided for in that section for the subsequent injury or for one hundred and four weeks, whichever is the greater" with the balance assumed by the special fund.

This statutory scheme produces an inequity where the employer's liability for the subsequent injury translates into less than 104 weeks, in that the employer is still obligated to provide benefits for 104 weeks before special fund relief commences.

For this reason, the conferees amend section 8(f) by substituting "less" for "greater" in hearing loss cases compensated under section 8(c)(13). Thus, where the subsequent injury results in either a permanent partial disability or a permanent total disability for which the employer is responsible for less than 104 weeks' compensation, the employer will be obligated to pay only for the number of weeks attributable to the subsequent injury. If the subsequent injury translates into more than 104 weeks' compensation, the employer will pay only 104 weeks.

The conferees emphasize that in retaining current law with respect to apportionment of liability, the Conference substitute does not disturb the liability allocation and insurance coverage rules articulated by *Travelers Insurance Company* v. *Cardillo*, 225 F.2d 137 (2nd cir.), cert. denied, 350 U.S. 913 (1955), and the acceptance of any theory of injury aggravation by which an entire injury may be compensable.

(b) Audiograms.

Senate bill

The Senate bill and the House amendment both afford audiograms special status. The Senate bill states they are conclusive evidence of hearing loss.

House amendment

The House amendment affords audiograms presumptive weight if a three-part test is met and provides that the time period for filing a claim does not begin running until an employee is given a copy of the audiogram.

Conference substitute

The Senate recedes to the House. In requiring audiograms to be administered by certified audiologists or otolaryngologists, the conferees wish to assure that audiogram results are certified by competent medical personnel. In promulgating regulations under this section the conferees expect that the Department of Labor will incorporate audiometric testing procedures consistent with those required by hearing conservation

programs pursuant to the Occupational Safety and Health Act.

(c) AMA Guides.

The Senate bill, the House amendment, and the Conference substitute all require determinations of hearing loss in accordance with the Guides to the Evaluation of Permanent Impairment as promulgated and modified from time to time by the American Medical Association. The conferees view the AMA Guides to be the most widely accepted medical standards and wish to assure that determinations will always be in accordance with the most recently revised edition.

CAP ON DEATH BENEFITS

The Senate bill, House amendment, and Conference substitute impose a cap on death benefits of 200% of the national average weekly wage, the same maximum applicable to disability cases. The conferees intend that the national average weekly wage subjected to the cap shall be the national average weekly wage applicable on the date of death.

COMPENSATION OF OCCUPATIONAL DISEASE

Senate bill

The Senate bill did not specifically address the issue of occupational disease.

House amendment

The House amendment amended the current law in numerous instances with respect to claims related to occupational diseases.

Conference substitute

The Conference substitute provides that:

DEFINITIONS

Section 2. The conferees agree to a definition of "disability" in section 2(10) with respect to a case in which an occupational disease manifests itself subsequent to the claimant's date of retirement. In all such cases, the term "disability" shall mean permanent impairment, as determined by the *Guides to the Evaluation of Permanent Impairment* as periodically published by the American Medical Association. If those *Guides* do not evaluate the impairment, the conferees intend that other professionally recognized standards be utilized in the determination of impairment.

COMPENSATION FOR DEATH

Section 9(e). In the case of a death benefit for an individual whose occupational disease did not manifest itself prior to one year following retirement, the conferees intend that the death benefit shall be the lesser of (a) the applicable percentage of the national average weekly wage on the date of death, or (b) the last average annual earnings of the deceased prior to retirement.

DETERMINATION OF PAY

Section 10. The House amendment establishes that the time of injury in the case of a claim due to occupational diseases shall be the date of the onset of the disabling condition. The House amendment additionally establishes that in cases where the claimant was not employed, or not employed on a full-time basis, prior to onset of the disabling condition, the average weekly wage shall be established in accordance with subsections (a) through (d) of section 10, but in no case less than the current national average weekly wage.

The Senate has no comparable provision.

The Senate recedes, with a clarification that the "time of injury" for cases involving an occupational disease shall be the time when the claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware of the relationship between the employment, the disease, and the death or disability. The conferees specifically reject the date of last exposure to the injurious substance as the time of injury for determination of pay purposes. None of the amendments to sections 9, 10, 12, and 13 relating to an occupational disease disturb interpretations of existing insurance contracts.

The conferees note, however, that a claimant may have suffered a wage loss attributable to an occupational disease prior to recognizing its relationship to employment. In such case, the conferees intend that the phrase of section 10(c), "other employment of such employee", shall be interpreted so that compensation shall be based upon the claimant's wages prior to any reduction attributable to the disability.

In a case in which the claimant retired one year or less prior to the time of injury, the conferees intend that the claimant's last wage serve as the basis for determining compensation, in accordance with subsections (a) through (d)(1) of section 10, as amended. In cases where the time of injury occurs more than one year after retirement, the national average weekly wage at the time of injury shall be used for determining the level of benefits.

In adopting this section, the conferees specifically reject the holdings of the Benefits Review Board in *Dunn* v. *Todd Shipyards*, 13 BRBS 647 (1981), and *Aduddell* v. *Owens-Corning Fiberglass*, 16 BRBS 131 (1984).

NOTICE OF INJURY OF DEATH

Section. 12. The Senate bill deletes "reasonable diligence" as a basis for triggering the running of the 30-day notice period and adds in lieu thereof the communication of medical advice.

The House amendment retains the "reasonable diligence" basis while adding the "medical advice" basis, but states that no notice is required for occupational disease cases.

The conference substitute requires that, in the case of a disability resulting from an occupational disease, an employee or beneficiary shall provide notice of the injury to the employer within one year after the employee or the beneficiary was aware, or by exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the disability or death.

Time for Filing Claim Based on Occupational Disease

Section 13. The House amendment clarifies when the one year period for filing a claim begins to run in a occupational disease case.

The Senate has no comparable provision.

The Senate recedes, with an amendment providing the claimant two years to file a claim after the claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability.

SPECIAL FUND

(a) Retention Period.

Senate bill

The Senate bill increases an employer's retention period on section 8(f) special fund cases to four years.

House amendment

The House amendment increases the period to six years.

Conference substitute

The conferees retain the current two-year retention period, but in order to address more comprehensively the fund liability problem, the conferees adopt a new fund assessment formula, amending section 44(c).

(b) Unauthorized Insurers.

The conferees further amend section 8(f) by barring an uninsured employer or a carrier not authorized to write Longshore Act coverage, in violation of section 32(a), from special fund relief and, thereby, preclude such employer or carrier from realizing a benefit by avoiding the insurability requirements of the Act. This change does not alter the employer/carrier's underlying obligation to pay compensation or the Secretary's right to seek relief under section 18(b).

(c) Fund Liability Issue.

Senate bill

The Senate bill requires an employer to raise any section 8(f) special fund issues prior to consideration by an administrative law judge.

House substitute

The House amendment requires notification prior to the deputy commissioner's consideration, but affords the Secretary discretion in excusing notice where an employer could not reasonably have known of its basis for special fund relief.

Conference substitute

The Senate recedes to the House.

The conferees intend by this provision to encourage employers to raise the special fund issue early in the claims adjudication process, in order to assure the deputy commissioner and the Director of OWCP the opportunity to examine the validity of the employer's basis for seeking special fund relief.

(d) Technical Amendments.

Senate bill

No provisions.

House amendment

The House amendment makes several technical and conforming changes to payments under the special fund.

Conference substitute

The Senate recedes to the House with further technical amendments and clarifies that the results of the annual fund audit will be incorporated into the annual report required in new section 42.

(e) Conservator.

Senate bill

The Senate bill repeals existing section 45 and in lieu thereof adds new language creating a conservation committee, appointed by the Secretary, with the authority to protect the assets of the special fund. The committee would appoint a conservator who would be a party in every case in which the liability of the fund is raised and in every case for which the fund has already begun payment. The conservator would be empowered to order medical examinations and seek modification of benefit payments.

House amendment

No comparable House provision.

Conference substitute

The Senate recedes, with the conferees adopting amendments to sections 8(f) and 22 granting an employer/carrier continuing status as a party in interest in special fund disability and death cases attributable to them for the life of the claim. This authority would apply to all current fund cases. The conferees believe this provision to be

necessary to address an inability by the Labor Department to monitor the existing fund case load and is consistent with employers' greater direct liability stemming from the amended assessment formula.

By permitting an employer or carrier to remain a party in a special fund case, the conferees do not intend to expand or contract the rights of an employer or carrier beyond those prevailing in a non-special fund case. The conferees note that under existing procedures, no benefits may be reduced or terminated without the employer or carrier incurring a potential penalty.

SETTLEMENTS

Senate bill

The Senate bill provides a means to expedite settlements by requiring the deputy commissioner or administrative law judge to approve a settlement within 30 days, absent inadequacy or duress. If the deputy commissioner disapproves a settlement, a written statement containing the reasons for such disapproval must be issued within 30 days after submission. If the parties are represented by counsel, the agreements shall be deemed approved unless specifically disapproved within 30 days after submission. Settlements of death benefits and future medical benefits are permitted, and a settlement is a complete discharge of the employer's obligation.

House amendment

The House amendment is technical in deleting a specific provision granting automatic approval unless a settlement is specifically disapproved within 30 days after submission.

Conference substitute

The Senate recedes. Further, the conferees would prohibit an employer/carrier, after reaching a settlement with a claimant in a case which would otherwise be assigned to the special fund, from subsequently seeking relief from the special fund. A settlement shall operate as a release from further liability as the employer and carrier. The fund, furthermore, shall not be liable for the reimbursement of the costs of any settlement or for the costs of any voluntary payments of compensation made by the employer prior to a settlement. This provision is intended specifically to overturn the administrative law judge's decision in *Brady* v. *J. Young & Company*, 16 BRBS 31, (ALJ) (1983).

Finally, settlements are specifically not subject to modification under section 22.

EMPLOYEE WAGE STATEMENTS

Both the Senate bill and the House amendment included identical language authorizing employers to require employees receiving compensation to submit a statement of earnings not more frequently than semi-annually. An employee who fails to report earnings when requested, or omits or understates such earnings forfeits the compensation to which he was entitled during the period of non-compliance.

The conferees retain this language unamended but clarify that where compensation already has been paid, necessitating a credit in payments of future benefits, the deputy commissioner may use discretion in scheduling repayments of forfeited amounts so as to avoid burdening the employee with repayment of the full amount over an unduly brief period.

PRESUMPTION

Senate bill

The Senate bill codifies the Supreme Court's decision in *U.S. Industries/Federal Sheet Metal, Inc.* v. *Director, OWCP*, 455 U.S. 608 (1982), that the mere existence of a physical impairment is insufficient to raise the presumption of coverage.

House amendment

The House amendment is silent.

Conference substitute

The Senate recedes to the House. Senate language originally proposed was prior to the Supreme Court's reversal of the appeals court decision holding that an impairment itself would trigger the presumption. With the Supreme Court's decision the conferees agree the issue need not be addressed by the statute.

BENEFITS REVIEW BOARD

Senate bill

The Senate bill grants the Secretary authority to appoint up to four administrative law judges temporarily to the Benefits Review Board.

House amendment

The House amendment expands the Board's permanent membership from three to five, authorizes appointment of up to three administrative law judges for 18-month terms when the case backlog exceeds 1,000, requires a study of Board operations, and grants the Chairman of the Board authority over all administrative functions of the Board, as delegated by the Secretary.

Conference substitute

The confereees agree to expand the Board's membership to nine, combining the House's addition of two permanent members with the Senate's authority providing for discretionary appointment of up to four administrative law judges as temporary members upon recommendation of the Chairman of the Board.

However, given the Board's current backlog, the conferees expect the Secretary expeditiously to appoint four temporary and two permanent judges, and to provide the Board with the necessary support staff.

The conferees also accept the House's language granting the Chairman the authority to exercise all administrative functions necessary for the Board's operation, authorizing the Board to sit in panels of three (such panels constituting two permanent members) designating two members as a panel quorum and three permanent members as a Board quorum, and authorizing discretionary review of panel decisions but requiring any such vote to be taken by permanent members only.

Eliminated are the House's case-backlog threshold necessary for triggering appointment of temporary members and authority to conduct a study of Board operations.

Last, temporary members' terms are limited to one-year, the maximum permitted by the Office of Personnel Management.

REPORTS

Senate bill

The Senate bill imposes a civil penalty of up to $25,000 if an employer "willfully fails or refuses to send any report."

House amendment

The House amendment reduces this to $10,000 and utilizes a test of "knowingly and willfully."

Conference substitute

The Senate recedes with an amendment extending the penalty to the falsification or misrepresentation of information submitted in reports required by the Secretary.

PENALTY FOR MISREPRESENTATION-PRESENTATION OF CLAIMS

Senate bill

The Senate bill raises the penalty for misrepresentation from a misdemeanor to a felony and imposes a $25,000 fine/3 years imprisonment.

House amendment

The House amendment raises the penalty to a felony but imposes $10,000 fine/5 years imprisonment.

Conference substitute

Senate recedes.

Senate bill

The Senate bill provides that a United States Attorney shall make every reasonable effort to investigate promptly each complaint under this subsection.

House amendment

No provision.

Conference substitute

House recedes.

Senate bill

The Senate bill seeks to restrict the claimant's representatives who may represent employees in obtaining a benefit under the Act. Grounds for disqualifying representation activities are provided. The Secretary is required to license claimant representatives.

House amendment

The House amendment requires the Secretary to publish a list of individuals not authorized to represent claims based on Their falling within one of the grounds stated for disqualification. The House amendment conforms this debarment procedure to that afforded medical providers.

Conference substitute

Senate recedes.

Senate bill

The Senate bill penalizes an employer or carrier for false statements or representations in denying or terminating benefits. The Senate bill imposes $25,000 fine/3 years imprisonment.

House amendment

The House amendment retains the penalties but imposes $10,000/5 years imprisonment.

Conference substitute

Senate recedes.

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

Senate bill and House amendment

the Senate bill and the House amendment both provide for a reversion to the employee of a right to file an action against a third person. The Senate bill affords this right following a "reasonable time" after such right passes initially from the employee to the employer without the employer filing such action. The House amendment requires ruling within 90 days.

The Senate bill and the House amendment also address when the 6-month period, within which period the employee has an initial right to file an action against a third party, begins to run. The Senate bill states that this period begins running at the issuance of a formal compensation order. The House amendment states that the period begins running either on issuance of a formal order or on payment to compensation voluntarily by an employer.

The Senate bill and the House amendment both alter the priority for distribution of proceeds in a recovery by judgment or

settlement where the employee brings an action against a third party. The Senate bill gives priority to the employer's lien on compensation and medical benefits paid, with the employee retaining any excess first for payment of attorney fees and costs. In a recovery by judgment only, the House amendment guarantees the employee 15 percent of any recovery remaining after reduction for attorney fees and costs, before exercise by the employer of its subrogation lien rights.

Conference substitute

The Conference substitute provides that the 6-month period within which a person entitled to compensation can file a third party suit commences only upon the entry of a formal order awarding compensation. This is in accord with the decision in *Pallas Shipping Agency* v. *Duris*, 103 S. Ct. 1991 (1983). The conferees expect that an employer who does make voluntary payments will be able to obtain without delay the necessary compensation order constituting the formal award, so that the 6-month period may commence. Once the assignment occurs, the employer has 90 days within which to file suit; otherwise, the right to sue reverts back.

The Conference substitute establishes the following priority for distribution of proceeds in a recovery by an employee: First, the litigation expenses, including reasonable attorney fees, are satisfied. This may require that the court exercise its discretion to adjust the attorney fee to assure equity for both the employee and his attorney. The compensation lien on the net recovery remains inviolable, consistent with *Bloomer* v. *Liberty Mutual Insurance, Co.*, 445 U.S. 74 (1980).

Senate bill

The Senate bill terminates the employer's liability for payment of compensation and medical benefits if the employee fails to notify the employer of any settlement obtained from a judgment rendered against a third party. In a case in which the special fund will be liable for payments, the fund has a lien on the proceeds of any settlement or judgment.

House amendment

The House amendment makes a technical amendment to change "Conservator" notice to "Secretary" since the provisions establishing such a Conservator are not contained in the House amendment.

Conference substitute

The Senate recedes with an amendment making the fund's lien subject to a priority lien which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. § 186(c)).

GUS HAWKINS,
WILLIAM CLAY,
GEORGE MILLER,
DALE KILDEE,
MATTHEW G. MARTINEZ,
MAJOR OWENS,
FRANK HARRISON,
SALA BURTON,
JOHN N. ERLENBORN,
THOMAS E. PETRI,
RON PACKARD,
JOHN MCCAIN,
Managers on the Part of the House.

ORRIN G. HATCH,
DON NICKLES,
EDWARD M. KENNEDY,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MIKULSKI (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LENT) to revise and extend their remarks and include extraneous material:)

Mr. CRAIG, for 60 minutes, on September 19.

(The following Members (at the request of Mr. DE LUGO) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VENTO, to revise and extend prior to passage of H.R. 4567.

(The following Members (at the request of Mr. LENT) and to include extreanous matter:)

Mr. BILIRAKIS.
Mr. BADHAM.

(The following Members (at the request of Mr. DE LUGO) and to include extraneous matter:)

Mr. STARK in two instances.
Mr. COLEMAN of Texas.
Mr. HAWKINS.
Mr. FRANK.
Mr. LEVITAS.
Mr. RANGEL.
Mr. MCCLOSKEY.
Mr. ACKERMAN.
Mrs. BURTON of California.
Mr. VENTO.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 55 minutes p.m.) under its previous order, the House adjourned until Monday, September 17, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4038. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications, transmitting notification of the proposed decision to convert to contractor performance the base supply function at Vandenburg Air Force Base, CA, pursuant to 10 U.S.C. 2304 at (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

4039. A letter from the Comptroller General of the United States, transmitting a report on his review of the U.S. Capitol Historical Society's financial statements for the years ended January 31, 1983 and 1982 (GAO/AFMD-84-66), pursuant to 40 U.S.C. 193m-1; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on the District of Columbia. Supplemental report on H.R. 6223, (Rept. No. 98-1022, Pt. II). Ordered to be printed.

Mr. DELLUMS: Committee on the District of Columbia. Supplemental report on H.R. 4994 (Rept. No. 98-1023, Pt. II). Ordered to be printed.

Mr. DELLUMS: Committee on the District of Columbia. Supplemental report on H.R. 6224 (Rept. No. 98-1024, Pt. II). Ordered to be printed.

Mr. MINETA: Committee of conference. Conference report on H.R. 5297 (Rept. No. 98-1025). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6206. A bill amending the Act of July 28, 1978 (Public Law 95-238), relating to the water rights of the Ak-Chin Indian Community, and for other purposes; with amendment (Rept. No. 98-1026). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee of conference. Conference report on S. 38 (Rept. No. 98-1027). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 6252. A bill entitled "The Milk Protein Act of 1984"; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 6253. A bill to amend the Internal Revenue Code of 1954 to permit individual retirement accounts and individually directed accounts to acquire and dispose of tangible investment assets in transactions with persons other than interested persons; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 6254. A bill to amend the Internal Revenue Code of 1954 to make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Ways and Means.

By Mr. NATCHER (for himself, Mr. SNYDER, Mr. MAZZOLI, Mr. HUBBARD, Mr. HOPKINS, and Mr. ROGERS):

H.R. 6255. A bill to designate the Federal building and U.S. courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse"; to the

Committee on Public Works and Transportation.

By Mr. SHUMWAY (for himself and Mr. HUBBARD):

H.R. 6256. A bill to provide that certain allowances provided to certain employees of the Panama Canal Commission will be exempt from Federal taxation; to the Committee on Ways and Means.

By Mr. LEVITAS (for himself, Mr. CONTE, and Mr. DARDEN):

H.J. Res. 647. Joint resolution designating the week of January 7 through January 13, 1985, as "National Productivity Improvement Week"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2996: Mr. BORSKI.

H.R. 3024: Mrs. VUCANOVICH.

H.R. 4731: Mr. BRYANT, Mr. OBEY, Mr. WIRTH, Mr. HALL of Ohio, Mr. BOSCO, Mr. DE LA GARZA, Mr. SMITH of Iowa, Mr. YATES, Mr. TRAXLER, Mr. WOLPE, and Mr. FLORIO.

H.R. 4923: Mr. SCHEUER and Mr. MARKEY.

H.R. 5307: Mr. MOODY.

H.R. 5593: Mr. WILLIAMS of Ohio and Mr. MARTINEZ.

H.R. 5745: Mr. GILMAN.

H.R. 5944: Mr. RUSSO, Mr. HOWARD, Mr. LEVINE of California, Mr. LIPINSKI, and Mr. DONNELLY.

H.R. 5995: Mr. BERMAN and Mr. BORSKI.

H.R. 6054: Mr. COURTER, Mr. SEIBERLING, Mr. CRAIG, and Mr. BOEHLERT.

H.R. 6066: Mr. BRITT.

H.R. 6093: Mr. COURTER, Mr. CONTE, Mr. LOTT, Mr. ROBERTS, Mr. DENNY SMITH, Mr. SOLOMON, Mr. SWIFT, Mr. THOMAS of California, Mr. WINN, Mr. LUJAN, Mr. WHITEHURST, Mr. ALBOSTA, Mr. BARNES, Mr. MACK, Mr. LIPINSKI, Mr. SMITH of New Jersey, Mr. PURSELL, Mr. EDWARDS of Oklahoma, Mr. SILJANDER, Mr. CARNEY, Mr. ROSTENKOWSKI, Mr. LOEFFLER, Mr. HARTNETT, Mr. SENSENBRENNER, Mr. SNYDER, Mr. TAYLOR, Mr. WALKER, Mr. HAMMERSCHMIDT, Mr. LEWIS of California, Ms. FIEDLER, Mr. STAGGERS, Mr. GREGG, Mr. QUILLEN, Mr. CAMPBELL, Mr. WOLF, Mr. PARRIS, Mr. DREIER of California, Mr. RIDGE, Mr. GOODLING, Mr. BROOMFIELD, Mr. MICHEL, Mr. MCDADE, Mr. KASICH, Mr. BLILEY, Mr. STARK, Mr. LEACH of Iowa, Mr. DEWINE, Mr. DICKS, Mr. RUDD, Mr. UDALL, Mr. PRICE, Mr. MILLER of Ohio, Mr. SHUMWAY, Mr. SUNDQUIST, Mr. DELLUMS, Mr. MOLINARI, Mr. LUNGREN, Mr. WINN, Mr. HANSEN of Idaho, Mr. YOUNG of Alaska, Mr. YATES, and Mr. MARTIN of New York.

H.R. 6117: Mr. ANDREWS of Texas, Mr. BATES, Mr. BORSKI, Mrs. BOXER, Mrs. BURTON of California, Mr. CORRADA, Mr. DURBIN, Mr. ECKART, Mr. EVANS of Illinois, Mr. FEIGHAN, Mr. MCKINNEY, Mr. ORTIZ, Mr. OTTINGER, Mr. SCHEUER, Mrs. SCHROEDER, Mr. TORRES, Mr. TOWNS, Mr. UDALL, and Mr. WALGREN.

H.R. 6163: Mr. DE LA GARZA.

H.R. 6164: Mr. THOMAS of Georgia.

H.R. 6172: Mr. MARTINEZ, Mr. PATMAN, Mr. MAVROULES, Mr. BRITT, Mr. WHITTAKER, Mr. ECKART, Mr. PACKARD, Mr. TORRES, and Mr. DYMALLY.

H.J. Res 243: Mr. VOLKMER.

H.J. Res. 486: Mr. PRITCHARD, Mr. CLARKE, Mr. MOODY, Mr. BROYHILL, Mr. HEFNER, Mr. ST GERMAIN, Mr. LOWRY of Washington, Mr. MARTIN of North Carolina, Mrs. SCHNEIDER, Mr. AKAKA, Mr. FORD of Michigan, Mr. SISISKY, Mr. CHANDLER, Mr. HALL of Ohio, Mr. BONER of Tennessee, Mr. DENNY SMITH, Mr. RATCHFORD, Mr. HEFTEL of Hawaii, Mr. KEMP, Mr. BATEMAN, Mr. ROBERT F. SMITH, Mr. HILER, Mr. NOWAK, Mr. WYDEN, Mr. BRITT, and Mr. EARLY.

H.J. Res. 547: Mr. BATEMAN, Mr. RAHALL, Mr. COOPER, Mr. UDALL, and Mr. NICHOLS.

H.J. Res. 580: Mr. DASCHLE, Mr. DELLUMS, Mr. LANTOS, Mr. THOMAS of Georgia, Mr. MARKEY, and Mr. UDALL.

H.J. Res. 608: Mr. ANDERSON, Mr. ARCHER, Mr. BADHAM, Mr. BEDELL, Mr. BOEHLERT, Mr. BRITT, Mr. BROYHILL, Mr. CARPER, Mr. COYNE, Mr. DASCHLE, Mr. DERRICK, Mr. DIXON, Mr. DUNCAN, Mr. EDWARDS of Alabama, Mr. FISH, Mr. FLIPPO, Mr. FROST, Mr. HAMILTON, Mr. HANSEN of Utah, Mr. HAWKINS, Mr. HUTTO, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. LELAND, Mr. LEWIS of Florida, Mr. LOWERY of California, Mr. LOWRY of Washington, Mr. LUJAN, Mr. MADIGAN, Mr. MARRIOTT, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mrs. MARTIN of Illinois, Mr. MOODY, Mr. NELSON of Florida, Mr. NOWAK, Mr. PORTER, Mr. PRITCHARD, Mr. ROE, Mr. SABO, Mr. SAWYER, Mr. SCHEUER, Mr. SHARP, Mr. SIKORSKI, Mr. SIMON, Mr. SNYDER, Mr. SOLARZ, Mr. WHEAT, Mr. YATRON, Mr. YOUNG of Florida, Mr. BONER of Tennessee, Mr. CHANDLER, Mr. COUGHLIN, Mr. DANIEL, Mr. BERMAN, Mr. ENGLISH, Mr. GRAMM, Mr. KOSTMAYER, Mr. LANTOS, Mr. MCEWEN, Mr. MORRISON of Washington, Mr. RODINO, Mr. TALLON, Mr. WILSON, Mr. ALBOSTA, Mr. ANDREWS of North Carolina, Mr. ANDREWS of Texas, Mr. BARTLETT, Mr. BIAGGI, Mrs. BOGGS, Mr. BROOMFIELD, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BRYANT, Mr. CARNEY, Mr. CHAPPELL, Mr. CHAPPIE, Mrs. COLLINS, Mr. DELLUMS, Mr. SMITH of Florida, Mr. NICHOLS, Mr. AUCOIN, Mr. LEVIN of Michigan, Mr. WOLPE, Mr. HARKIN, Mr. MURTHA, Mr. YOUNG of Missouri, Mr. TRAXLER, Mr. WYDEN, Mr. PETRI, Mr. MCKINNEY, Mr. SAM B. HALL, JR., Mr. NEAL, Mr. EDGAR, Mr. BILIRAKIS, Mr. BARNES, Mr. PENNY, Mr. PASHAYAN, Mr. GEPHARDT, Mr. KILDEE, Mr. WEISS, Mr. DOWNEY of New York, Mr. FASCELL, Ms. FIEDLER, Mr. CROCKETT, Mr. ANNUNZIO, Mr. MOORHEAD, Mr. GEKAS, Mr. EMERSON, Mr. TAUZIN, Mr. SHELBY, Mr. FOLEY, Mr. GEJDENSON, Mr. GINGRICH, Mr. HALL of Ohio, Mr. HARTNETT, Mr. HAYES, Mr. HILLIS, Mr. HOPKINS, Mr. HUNTER, Mr. HYDE, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. LEVITAS, Mr. LONG of Maryland, Mr. MCKERNAN, Mr. MARKEY, Mr. MARTINEZ, Mr. MAVROULES, Mr. MOLLOHAN, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OLIN, Mr. OXLEY, Mr. PANETTA, Mr. PATTERSON, Mr. PAUL, Mr. RICHARDSON, Mr. ROEMER, Mr. SAVAGE, Mr. SHAW, Mr. SILJANDER, Mr. SKEEN, Mr. ROBERT F. SMITH, Mr. DENNY SMITH, Ms. SNOWE, Mr. STANGELAND, Mr. STRATTON, Mr. SYNAR, Mr. TORRICELLI, Mr. TORRES, Mr. VANDER JAGT, Mr. WALKER, Mr. WINN, Mr. WYLIE, and Mr. YOUNG of Alaska.

H.J. Res. 611: Mr. TALLON, Mr. PASHAYAN, Mr. CARR, Mr. ROBERTS, Mr. JONES of North Carolina, Mr. BONER of Tennessee, Mr. COOPER, Mr. ACKERMAN, Mr. MARKEY, Mrs. ROUKEMA, Mr. WYLIE, Mr. DELLUMS, Mr. ROSE, Mr. MADIGAN, Mr. STOKES, Mr. SAWYER, Mr. WORTLEY, Mr. LOWERY of California, and Mr. LEWIS of California.

H.J. Res. 615: Mr. BIAGGI, Mr. BONER of Tennessee, Mr. BROWN of California, Mr. BURTON of Indiana, Mr. CONYERS, Mr. COURTER, Mr. CROCKETT, Mr. FISH, Mr. FRANK, Mr. FROST, Mr. GREEN, Mr. HERTEL of Michigan, Mr. HOYER, Mr. HUGHES, Mr. LELAND, Mr. MARTIN of North Carolina, Mr. MCGRATH, Mr. OWENS, Mr. RATCHFORD, Mr. RICHARDSON, Mr. SCHAEFER, Mr. SMITH of Florida, Mr. SNYDER, Mr. TORRICELLI, and Mr. WEISS.

H. Con. Res. 311: Mr. BURTON of Indiana, Mr. GREGG, and Mr. PATMAN.

H. Con. Res. 322: Mr. MOLINARI.

H. Con. Res. 355: Mr. BOEHLERT, Mr. PORTER, Mr. WORTLEY, Mr. MCNULTY, Mr. SMITH of Florida, Mr. BRYANT, and Mr. LANTOS.

H. Res. 171: Mr. VANDER JAGT, Ms. SNOWE, Mr. MOORE, Mr. PETRI, Mr. TAUZIN, Mr. SMITH of Florida, and Mrs. BURTON of California.

EXTENSIONS OF REMARKS

GOVERNOR CUOMO ADDRESS ON APPLYING MORAL PRINCIPLES IN A DEMOCRATIC SOCIETY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. OBEY. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD today the excerpts printed in the New York Times of the address by New York Governor Mario Cuomo last evening at the University of Notre Dame, on his perspective concerning the obligations of a Catholic in public life. That speech, I believe, is the best single statement I have seen on the subject, and I commend it to anyone who has a true desire to apply moral principles to public decisions while at the same time meeting our obligation to protect religious liberties and the individual freedoms guaranteed by the Constitution.

[From the New York Times, Sept. 14, 1984]

EXCERPTS FROM ADDRESS BY CUOMO AT NOTRE DAME

(Following are excerpts from the text of an address by Governor Cuomo prepared for delivery last night at the University of Notre Dame, South Bend, Ind., on "Religious Belief and Public Morality: A Catholic Governor's Perspective".)

Must politics and religion in America divide our loyalties? Does the "separation between church and state" imply separation between religion and politics. Between morality and government? Are these different propositions? Even more specifically, what is the relationship of my catholicism to my politics? Where does the one end and other begin? Or are the two divided at all? And if they're not, should they be?

Hard questions.

In the end, I'm convinced we will all benefit if suspicion is replaced by discussion, innuendo by dialogue; if the emphasis in our debate turns from a search for talismanic criteria and neat but simplistic answers to an honest—more intelligent—attempt at describing the role religion has in our public affairs, and the limits placed on that role.

I believe the recent discussion in my own state has already produced some clearer definition. In early summer, an impression was created in some quarters that official church spokespeople would ask Catholics to vote for or against specific candidates on the basis of their political position on the abortion issue. I was one of those given that impression. Thanks to the dialogue that ensured over the summer—only partially reported by the media—we learned that the impression was not accurate.

I do not speak as a theologian; I do not have that competence. I do not speak as a philosopher; to suggest that I could, would be to set a new record for false pride. I don't presume to speak as a "good" person except in the ontological sense of that word. My principal credential is that I serve in a position that forces me to wrestle with the problems you've come here to study and debate.

POLITICIAN AND CATHOLIC

I speak here as a politician. And also as a Catholic, a lay person baptized and raised in the pre-Vatican II church, educated in Catholic schools, attached to the church first by birth, then by choice, now by love, an old-fashioned Catholic who sins, regrets, struggles, worries, gets confused and most of the time feels better after confession.

In addition to all the weaknesses, dilemmas and temptations that impede every Pilgrim's progress, the Catholic who holds political office in a pluralistic democracy—who is elected to serve Jews and Muslims, atheists and Protestants, as well as Catholics—bears special responsibility. He or she undertakes to help create conditions under which all can live with a maximum of dignity and with a reasonable degree of freedom; where everyone who chooses may hold beliefs different from specifically Catholic ones—sometimes contradictory to them; where the laws protect people's right to divorce, to use birth control and even to choose abortion.

In fact, Catholic public officials take an oath to preserve the Constitution that guarantees this freedom. And they do so gladly, not because they love what others do with their freedom, but because they realize that in guaranteeing freedom for all, they guarantee our right to be Catholics; our right to pray, to use the sacraments, to refuse birth control devices, to reject abortion, not to divorce and remarry if we believe it to be wrong.

I protect my right to be a Catholic by preserving your right to believe as a Jew, a Protestant or nonbeliever, or as anything else you choose.

PRICE OF FORCING BELIEFS

We know that the price of seeking to force our beliefs on others is that they might some day force theirs on us.

This freedom is the fundamental strength of our unique experiment in government. In the complex interplay of forces and considerations that go into the making of our laws and policies, its preservation must be a pervasive and dominant concern.

As a Catholic, I respect the teaching authority of the bishops.

But must I agree with the bishops on their pastoral letter on peace and fight to include it in party platforms?

Must I, having heard the Pope renew the church's ban on birth control devices, veto the funding of contraceptive programs for non-Catholics or disbelieving Catholics in my state?

I accept the church's teaching on abortion. Must I insist you do? By law? By denying you Medicaid funding? By a constitutional amendment? If so, which one? Would that be the best way to avoid abortions or to prevent them?

The arguments start when religious values are used to support positions which would impose on other people restrictions they find unacceptable. Some people do object to Catholic demands for an end to abortion, seeing it as a violation of the separation of church and state. And some others, while they have no compunction about invoking the authority of the Catholic bishops in regard to birth control and abortion, might reject out of hand their teaching on war and peace and social policy.

OUR PUBLIC MORALITY

Ultimately, therefore, the question "whether or not we admit religious values into our public affairs" is too broad to yield a single answer. "Yes," we create our public morality through consensus and in this country that consensus reflects to some extent the religious values of a great majority of Americans. But "no," all religiously based values don't have an a priori place in our public morality.

The right answers to these questions can be elusive. Some of the wrong answers, on the other hand, are quite clear. For example, there are those who say there is a simple answer to all these questions; they say that by history and practice of our people we were intened to be—and should be—a Christian country in law.

But where would that leave the nonbelievers? And whose Christianity would be law, yours or mine?

This "Christian nation" argument should concern—even frighten—two groups: non-Christians and thinking Christians.

The American people need no course in philosophy or political science or church history to know that God should not be made into a celestial party chairman.

As a Catholic, I have accepted certain answers as the right ones for myself and my family, and because I have, they have influenced me in special ways, as Matilda's husband, as a father of five children, as a son who stood next to his own father's death bed trying to decide if the tubes and needles no longer served a purpose.

DEFINING OTHER PEOPLE'S RIGHTS

As a Governor, however, I am involved in defining policies that determine other people's rights in these same areas of life and death. Abortion is one of these issues, and while it is one issue among many, it is one of the most controversial and affects me in a special way as a Catholic public official.

I should start, I believe, by noting that the Catholic Church's actions with respect to the interplay of religious values and public policy make clear that there is no inflexible moral principle which determines what our political conduct should be. For example, on divorce and birth control, without changing its moral teaching, the church abides the civil law as it now stands, thereby accepting—without making much of a point of it—that in our pluralistic society we are not required to insist that all our religious values be the law of the land.

Abortion is treated differently.

Of course there are differences both in degree and quality between abortion and some of the other religious positions the church takes: abortion is a "matter of life and death," and degree counts. But the differences in approach reveal a truth, I think,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that is not well enough perceived by Catholics and therefore still further complicates the process for us. That is, while we always owe our bishops' words respectful attention and careful consideration, the question whether to engage the political system in a struggle to have it adopt certain articles of our belief as part of public morality, is not a matter of doctrine: it is a matter of prudential political judgment.

PERSONAL ATTITUDE

As Catholics, my wife and I were enjoined never to use abortion to destroy the life we created, and we never have. We thought church doctrine was clear on this, and—more than that—both of us felt it in full agreement with what our hearts and our consciences told us.

For me life or fetal life in the womb should be protected, even if five of nine Justices of the Supreme Court and my neighbor disagree with me. A fetus is different from an appendix or a set of tonsils. At the very least, even if the argument is made by some scientists or some theologians that in the early stages of fetal development we can't discern human life, the full potential of human life is indisputably there. That—to my less subtle mind—by itself should demand respect, caution, indeed reverence.

But not everyone in our society agrees with me and Matilda.

And those who don't—those who endorse legalized abortions—aren't a ruthless, callous alliance of anti-Christians determined to overthrow our moral standards. In many cases, the proponents of legal abortion are the very people who have worked with Catholics to realize the goals of social justice set out in Papal Encyclicals. The American Lutheran Church, the Central Conference of American Rabbis, the Presbyterian Church in the United States, B'nai B'rith Women, the women of the Episcopal Church, the Southern Baptist Convention. These are just a few of the religious organizations that don't share the church's position on abortion.

CATHOLIC RESPONSE TO WRONGS

The parallel I want to draw here is not between or among what we Catholics believe to be moral wrongs. It is in the Catholic response to those wrongs. Church teaching on slavery and abortion is clear. But in the application of those teachings—the exact way we translate them into action, the specific laws we propose, the exact legal sanctions we seek—there was and is no one, clear, absolute route that the church says, as a matter of doctrine, we must follow.

The bishops' pastoral letter, "The Challenge of Peace," speaks directly to this point. "We recognize," the bishops wrote, "that the church's teaching authority does not carry the same force when it deals with technical solutions involving particular means as it does when it speaks of principles or ends. People may agree in abhorring an injustice, for instance, yet sincerely disagree as to what practical approach will achieve justice. Religious groups are entitled as others to their opinion in such cases, but they should not claim that their opinions are the only ones that people of good will may hold."

With regard to abortion, the American bishops have had to weigh Catholic moral teaching against the fact of a pluralistic country where our view is in the minority, acknowledging that what is ideally desirable isn't always feasible, that there can be different political approaches to abortion besides unyielding adherence to an absolute prohibition.

This is in the American-Catholic tradition of political realism. In supporting or opposing specific legislation the church in this country has never retreated into a moral fundamentalism that will settle for nothing less than total acceptance of its views.

BISHOPS AND ABORTION BAN

Indeed, the bishops have already confronted the fact that an absolute ban on abortion doesn't have the support necessary to be placed in our Constitution. In 1981, they abandoned earlier efforts to describe a law they could accept and get passed, and supported the Hatch amendment instead.

Some Catholics felt the bishops had gone too far with that action, some not far enough. Such judgments were not a rejection of the bishops' teaching authority: the bishops even disagreed among themselves. Catholics are allowed to disagree on these technical political questions without having to confess.

Respectfully, and after careful consideration of the position and arguments of the bishops, I have concluded that the approach of a constitutional amendment is not the best way for us to seek to deal with abortion.

I believe that legal interdicting of abortion by either the Federal Government or the individual states is not a plausible possibility and even if it could be obtained, it wouldn't work. Given present attitudes, it would be "Prohibition" revisited, legislating what couldn't be enforced and in the process creating a disrespect for law in general. And as much as I admire the bishop's hope that a constitutional amendment against abortion would be the basis for a full, new Bill of Rights for mothers and children, I disagree that this would be the result.

I believe that, more likely, a constitutional prohibition would allow people to ignore the cause of many abortions instead of addressing them, much the way the death penalty is used to escape dealing more fundamentally and more rationally with the problem of violent crime.

INEFFECTIVE LEGAL OPTIONS

Other legal options that have been proposed are, in my view, equally ineffective. The Hatch amendment, by returning the question of abortion to the states, would have given us a checkerboard of permissive and restrictive jurisdictions. In some cases people might have been forced to go elsewhere to have abortions and that might have eased a few consciences but it wouldn't have done what the church wants to do—it wouldn't have created a deep-seated respect for life. Abortions would have gone on, millions of them.

Nor would a denial of Medicaid funding for abortion achieve our objectives. Given Roe v. Wade, it would be nothing more than an attempt to do indirectly what the law says cannot be done directly; worse, it would do it in a way that would burden only the already disadvantaged. Removing funding from the Medicaid program would not prevent the rich and middle classes from having abortions. It would not even assure that the disadvantaged wouldn't have them; it would only impose financial burdens on poor women who want abortions.

The Supreme Court has established a woman's constitutional right to abortion. The Congress has decided the Federal Government should not provide Federal funding in the Medicaid program for abortion. That, of course, does not bind states in the allocation of their own state funds. Under the law, the individual states need not follow the Federal lead, and in New York I believe we cannot follow that lead.

HARD TRUTH ABOUT ABORTION

The hard truth is that abortion isn't a failure of government. No agency or department of government forces women to have abortions, but abortion goes on. Catholics, the statistics show, support the right to abortion in equal proportion to the rest of the population. Despite the teaching in our homes and schools and pulpits, despite the sermons and pleadings of parents and priests and prelates, despite all the effort at defining our opposition to the sin of abortion, collectively we Catholics apparently believe—and perhaps act—little differently from those who don't share our commitment.

We seem to be in the position of asking government to make criminal what we believe to be sinful because we ourselves can't stop committing the sin.

The failure here is not Caesar's. This failure is our failure, the failure of the entire people of God.

We must work to find ways to avoid needing abortions without otherwise violating our faith. We should provide funds and opportunity for young women to bring their child to term, knowing both of them will be taken care of if that is necessary.

Without lessening their insistence on a woman's right to an abortion, the people who call themselves "prochoice" can support the development of government programs that present an impoverished mother with the full range of support she needs to bear and raise her children, to have a real choice. Without dropping their campaign to ban abortion, those who gather under the banner of "pro-life" can join in developing and enacting a legislative bill of rights for mothers and childen, as the bishops have already proposed.

A REGARD FOR LIFE

While we argue over abortion, the United States' infant mortality rate places us 16th among the nations of the world. Thousands of infants die each year because of inadequate medical care. Some are born with birth defects that, with proper treatment, could be prevented. Some are stunted in their physical and mental growth because of improper nutrition.

If we want to prove our regard for life in the womb, for the helpless infant—if we care about women having real choices in their lives and not being driven to abortions by a sense of helplessness and despair about the future of their child—then there is work enough for all of us. Lifetimes of it.

Approval or rejection of legal restrictions on abortion should not be the exclusive litmus test of Catholic loyalty. We should understand that whether abortion is outlawed or not, our work has barely begun: The work of creating a society where the right to life doesn't end at the moment of birth; where an infant isn't helped into a world that doesn't care if it's fed properly, housed decently, educated adequately; where the blind or retarded child isn't condemned to exist rather than empowered to live.

Or we can remember where we come from, the journey of two millennia, clinging to our personal faith, to its insistence on constancy and service and on hope. We can live and practice the morality Christ gave us, maintaining His truth in this world, struggling to embody His love, practicing it especially where that love is most needed, among the poor and the weak and the dispossessed. Not

just by trying to make laws for others to live by, but by living the laws already written for us by God, in our hearts and our minds.

We can be fully Catholic; cleanly, proudly, totally at ease with ourselves, a people in the world, transforming it, a light to this nation. Appealing to the best in our people not the worst. Persuading not coercing. Leading people to truth by love. And still, all the while, respecting and enjoying our unique pluralistic democracy. And we can do it even as politicians.●

TRIBUTE TO S. DILLON RIPLEY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. GARCIA. Mr. Speaker, this Monday the Secretary of the Smithsonian Institution will retire. As head of the Smithsonian, Mr. S. Dillon Ripley, has made the world's culture, art, and history accessible to all Americans.

Under his guidance and because of his vision, the Smithsonian has become the greatest museum in the world. It is also much more than a museum. It is a dynamic organization that reaches out to the public.

John Kennedy said that—

. . . art established the basic human truths which must serve as the touchstone of our judgment.

Through his work at the Smithsonian, Mr. Ripley has brought to life President Kennedy's message. He has provided us with a place to enhance our knowledge of art, and hence to better our judgment.

I am submitting for the RECORD a brief tribute to Mr. Ripley taken from the September 13 edition of the New York Times.

The tribute follows:

TREASURES

He's called "Mr. Secretary," but S. Dillion Ripley is not in charge of any Cabinet department. Instead, he has for 20 years presided over the Smithsonian Institution, which now encompasses 13 museums (including the Cooper-Hewitt in New York), 6 research organizations and the National Zoo. On Monday he steps down.

Mr. Ripley, an ornithologist and scion of a wealthy New York family, used charm and political savvy to popularize the musty Smithsonian, created by Congress in 1846. He brought the Festival of American Folklife—and a carousel—to Washington's Mall every summer. Seven museums either opened or re-opened during his tenure. One, the National Air and Space Museum, claims to be the world's most popular museum with 10 million visitors a year.

All of that would certainly have pleased James Smithson, a wealthy English scientist who bequeathed his entire estate to the United States for the purpose of founding "an establishment for the increase and diffusion of knowledge among men."

For many years, however, that establishment was known somewhat disparagingly as the "nation's attic." Mr. Ripley deserves the gratitude of all Americans for helping transform it into a national treasure.●

THE "WHAT AMERICA MEANS TO ME" CONTEST

HON. DONALD PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. PEASE. Mr. Speaker, the following essays were selected as winners in the "What Americanism Means to Me" contest sponsored by the Americanism Foundation of Norwalk, OH. I would like to take this opportunity to share them with you and with my colleages. The essays are certainly inspiring in their up-beat tone—I am proud of the positive attitudes of my young constituents.

Americanism Weds Talent, Pride and Love

(By Julie Mese, Norwalk High School)

Americanism, defined as loyalty and devotion to America, has helped to make this country great. It extends beyond loyalty and devotion, though. Pride, freedom, and love have greatly contributed to the success of this country.

Loyalty to America is easy to understand if this country has been home all your life. A person becomes accustomed to the culture and customs of our land; most of which are enjoyable and taken for granted. Not often do people stop and think about the clothes they wear, or the food they eat. It is just a way of life for Americans to wear Levi's and eat pizza. For entertainment Americans do not go to see an ancient Indian dance; they go to a move and go bowling or roller skating. Today and other holidays are "free days" citizens enjoy and look forward to every year.

Devotion to America can be seen practically everywhere. Most people's devotion can be seen through their homes and communities. Litter-free, beautiful—but not fancy—homes show Americans' dedication to making their environments the best they can be, keeping in mind they can only do as much as their economic status allows. Keeping up nearby parks or yards adds to the beauty of our country.

Job devotion is important to the economy of America. Each person plays a role in some way of making America great. The dedication of some has produced thousands of inventions, which has enabled the world to take big steps in technology.

Another form of job devotion is, of course, the armed forces . . . men and women who feel their country is more important than their own personal safety. They are working to preserve everyone's welfare and security.

Pride is evident everywhere in the land. People take pride in themselves, their families, and their homes. A common bond between all Americans is pride in their homeland. For example: the renovation of the Statue of Liberty. The multi-million dollar project is worth it to Americans because it symbolizes the freedom shared by all.

Freedom is taken for granted here. Although our government has its share of problems, debts, and major catastrophes, it is without a doubt a more compassionate form of government than Communism or Dictatorship. Most Americans would not know what to do if their lives were censured.

Freedom and love go hand in hand on the subject of America. The love of America is due to the freedom. Nowhere else in the world are people as fortunate in all phases of happiness. That is the reason Americans love their country with all their hearts. Love means looking out for others.

Americanism is simply a combination of many human qualities bonded together by a few thousand miles of many kinds of people. Americanism is each person donating his skills and talents to making his homeland the best in the world.

WHY I HONOR AMERICA

(By Aimee Alge, St. Paul School, Norwalk)

It is a great privilege to live in America. In fact, I feel fortunate to live here. I would not want to live anywhere else. I honor America because of the freedom that I, as an American, can enjoy. Freedom in America means becoming whatever you want to be, unlike some other countries where you have no choice in the matter. Here, I can set my goals high. If I work hard there is nothing to stop me from reaching my goals. I can do almost anything I want as long as it's not against the law. I can live where I want, and go to whatever school I want. I can say what I want, write what I want, and worship freely. People can vote in America. It is a democracy . . . and it's free!

We are free to choose our own religion. We are able to go to the church we want without being told where to go. We are also permitted to pray in public. We have the freedom of speech, and of the press, which can bring us information rather than the government having to tell us. We have the right to have assemblies or gather for a cause without being taken to jail. We have the right to bear arms. In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial.

There is a sense of strong pride in living in America. This goes all the way back to our ancestors, who fought so bravely during the revolution, and all the way up to the conflict in Lebanon. Freedom means having a close-knit country. Without freedom we should have no pride. Freedom is a combination of good ideas, good goals, good leadership, and above all, good people. Freedom in America means an end to discouragement for so many people. America provides a fresh start for so many people. Above all, it provides happiness in the American home. And that's what freedom in America is all about.

WHAT AMERICANISM MEANS TO ME

(By Jennifer Paterson, Edison High School)

The word American has a special connotation all its own. The root of this connotation lies in the history of the American nation, and in the people who make her what she is. To me, Americanism has two facets. First, it is a particular life style that is distinctly American. Second, it is an attitude in dealing with other nations.

America's government, people, and society have molded a distinctively American culture. There is more to America than baseball, hot dogs, and apple pie, but at the bottom of Americanism is this special life of each American. The freedoms that we enjoy have laid the groundwork for the self-determining life each American leads. These freedoms, in turn, have lead to fast food, movies and many other factors that make our culture what it is. Americanism, to me, finds its roots in this separate culture that we have developed.

Throughout the history of the United States, those who love her have always had a special feeling about their country that

can only be described as American. This means a fierce pride in their nation and a willingness to sacrifice for her benefit. The same could be said for almost any nation, but somehow there is something intangible and almost brash in an American's attitude. It is something that enables him to stand up for what he thinks is right, and to challenge the world on behalf of America. This attitude held her people together through a war for independence, a struggle for recognition and respect, a bloody civil war, two world wars, and economic, as well as literal, feast and famine. In recent history it has even withstood unpopular wars and dissatisfaction with America's position. This spirit is easy to understand in times of success, in the hoisting of a flag on Iwo Jima or the ecstatic homecoming of the hostages. These are the times when every American's heart wells up with pride in their country. However, a truer indication of Americanism comes in a Vietnam or a hopeless situation in Lebanon. These are the times when an American simply becomes determined to do his best and protect his country's honor. Even in what would seem to be disgrace, Americans are still Americans and they realize the true greatness of their nation.

Americanism is very abstract, and it is hard to state in words. I believe that it is founded in American culture, and shows in every American's attitude. Perhaps it can best be described as the tightness felt in one's throat when watching an American Olympic Champion being honored, and watching their reaction to hearing the Star Spangled Banner being played.●

BLUE-COLLAR TROUBADOUR

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. HOWARD. Mr. Speaker, the Third Congressional District of New Jersey, which I am proud to represent, has many treasures. The foremost of these is the shore with its beautiful ocean, beaches, and boardwalks. A product of this area has also become a national treasure in his own right. He is a world-renowned poet, writer, musician, and entertainer. His name is Bruce Springsteen.

My first association with the work of Bruce Springsteen came through my youngest daughter Marie. Although his style of music does not ordinarily appeal to members of my generation, it is easy for anyone to recognize the many talents of this man. Bruce writes of the workingman, his dreams, his struggles, and his hopes.

Mr. Springsteen and members of the E. Street Band are currently in the middle of an exhaustive 18-month international tour, following the release of a seventh album, "Born in the U.S.A." Although he could demand top dollar for tickets, he has kept the price at a reasonable amount, so those who are touched by his music can afford to see his show. Those fortunate enough to obtain tickets to the standard sold-out performances are treated to 4 hours of pure energy as Mr. Springsteen paints a portrait of the common man in America and affirms the values which have made this country great.

I would like to reprint a column by George Will which appeared in Thursday's Washington Post pointing out that Bruce Springsteen is indeed a national treasure. I might add it is one that will always be cherished in a special way by people of the Jersey shore.

[From the Washington Post, Sept. 13, 1984]

BRUCE SPRINGSTEEN'S U.S.A.

(By George F. Will)

What I did on my summer vacation:

My friend Bruce Springsteen . . .

Okay, he's only my acquaintance, but my children now think I am a serious person. I met him because his colleague Max Weinberg and Max's wife Rebecca invited me to enjoy Max's work, which I did. He plays drums for Springsteen, who plays rock and roll for purists, of whom there are lots. For 10 shows in New Jersey, he recently sold 16,000 $16 tickets in the first hour, all 202,000 in a day. His albums can sell 1 million copies on the first day of release.

There is not a smidgen of androgyny in Springsteen, who, rocketing around the stage in a T-shirt and headband, resembles Robert DeNiro in the combat scenes of "The Deerhunter." This is rock for the United Steelworkers, accompanied by the opening barrage of the battle of the Somme. The saintly Rebecca met me with a small pouch of cotton—for my ears, she explained. She thinks I am a poor specimen, I thought. I made it three beats into the first number before packing my ears.

I may be the only 43-year-old American so out of the swim that I do not even know what marijuana smoke smells like. Perhaps at the concert I was surrounded by controlled substances. Certainly I was surrounded by orderly young adults earnestly—and correctly—insisting that Springsteen is a wholesome cultural portent.

For the uninitiated, the sensory blitzkrieg of a Springsteen concert is stunning. For the initiated, which included most of the 20,000 the night I experienced him, the lyrics, believe it or not, are most important.

Today, "values" are all the rage, with political candidates claiming to have backpacks stuffed full of them. Springsteen's fans say his message affirms the right values. Certainly his manner does.

Many of his fans regarded me as exotic fauna at the concert (a bow tie and double-breasted blazer is not the dress code) and undertook to instruct me. A typical tutorial went like this:

Me: "What do you like about him?"

Male fan: "He sings about faith and traditional values."

Male fan's female friend, dryly: "And cars and girls."

Male fan: "No, no, it's about community and roots and perseverance and family."

She: "And cars and girls."

Let's not quibble. Cars and girls are American values, and this lyric surely expresses some elemental American sentiment: "Now mister the day my number comes in I ain't never gonna ride in no used car again."

Springsteen, a product of industrial New Jersey, is called the "blue-collar troubadour." But if this is the class struggle, its anthem—its "Internationale"—is the song that provides the title for his 18-month, world-wide tour: "Born in the U.S.A."

I have not got a clue about Springsteen's politics, if any, but flags get waved at his concerts while he sings songs about hard times. He is no whiner, and the recitation of closed factories and other problems always seems punctuated by a grand, cheerful affirmation: "Born in the U.S.A.!"

His songs, and the engaging homilies with which he introduces them, tell listeners to "downsize" their expectations—his phrase, borrowed from the auto industry, naturally.

It is music for saying good-bye to Peter Pan: Life is real, life is earnest, life is a lot of work, but . . .

"Friday night's pay night, guys fresh out of work/Talking about the weekend, scrubbing off the dirt . . ./In my head I keep a picture of a pretty little miss/Someday mister I'm gonna lead a better life than this."

An evening with Springsteen—an evening tends to wash over into the a.m., the concerts lasting four hours—is vivid proof that the work ethic is alive and well. Backstage there hovers the odor of Ben-Gay: Springsteen is an athlete draining himself for every audience.

But, then, consider Max Weinberg's bandaged fingers. The rigors of drumming have led to five tendinitis operations. He soaks his hands in hot water before a concert, in ice afterward, and sleeps with tight gloves on. Yes, of course, the whole E Street Bank is making enough money to ease the pain. But they are not charging as much as they could, and the customers are happy. How many American businesses can say that?

If all Americans—in labor and management, who make steel or cars or shoes or textiles—made their products with as much energy and confidence as Springsteen and his merry band make music, there would be no need for Congress to be thinking about protectionism. No "domestic content" legislation is needed in the music industry. The British and other invasions have been met and matched.

In an age of lackadaisical effort and slipshod products, anyone who does anything—anything legal—conspicuously well and with zest is a national asset. Springsteen's tour is hard, honest work and evidence of the astonishing vitality of America's regions and generations. They produce distinctive tones of voice that other regions and generations embrace. There still is nothing quite like being born in the U.S.A.●

FOOD AND AGRICULTURE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. DE LA GARZA. Mr. Speaker, there is growing interest around the country and in the House in an issue which will be one of the most important matters Congress must deal with next year. That is the development of a sound, workable long-range food and agriculture bill.

Recently, I was interviewed on this subject by the Food Marketing Institute, a trade association for members of the retail food industry. The results were published last month in the institute's Issues Bulletin.

Today I want to share with my colleagues some of the thoughts and opinions I expressed in that interview by including in these remarks a condensed version of my comments in response to the FMI's questions:

Question. What do you view as the most important issue that the House Agriculture Committee will face during the 1985 Farm Bill debate?

Answer. Most important is whether we can put together a workable program to protect farm income while at the same time holding down government costs and promoting free-flowing markets for agricultural commodities. The entire agricultural industry and, to a great extent, the national economy as well, depend on the foundation provided by a stable and healthy farm sector. If we cannot find a way to provide stability for farm and ranch producers, there will be very serious problems for all other Americans in the long run.

Question. Do you think the traditional agriculture community will be cohesive during the 1985 Farm Bill debate or will it become fragmented as in 1981?

Answer. I can't answer that question with any certainty yet. Of course, I hope the answer will be "yes," and I think there are some hopeful signs pointing to at least the possibility that farm and commodity groups will be reasonably united during the development of the Farm Bill. I am urging every such group to consider the importance of working cooperatively with the others.

Question. There has been a lot of activity among organizations that historically have not taken an active role during previous farm bill debates. Why do you think so many new groups have decided to become involved this year?

Answer. There are several reasons. To some extent, it can be attributed to the massive land retirement under the Payment in Kind program last year which dramatized the way many farm-related industries depend on the level of agricultural production.

But the growth in the number of groups which want to take part in agricultural policy is not a totally new feature. We have been seeing the number of such groups expand steadily during the past 10 years or so as more and more interests—consumers, businessmen, environmentalists and many others—come to realize that their vital interests are directly affected by what happens in agricultural policy.

Personally I welcome the growing participation of many groups in farm policy development. This trend doesn't make development of new farm legislation easier, but it does lead toward a situation in which we could have broadened support for a sound farm policy because of the broadened base from which it was drafted.

Question. With the critical budget deficit issues facing Congress next year, will parts of the '85 Farm Bill be decided by the budget committees rather than the Agriculture Committees?

Answer. I hope not. I believe that if we can build a reasonable consensus between all the interested forces, we can avoid a situation in which agricultural policy is dictated by an enforced budget ruling.

Of course, I think everyone involved in this Farm Bill effort must realize that whatever we do has to take account of the reality of the national budget deficit. We are not going to have an unlimited amount of federal funding to use for the next Farm Bill.

If we are going to get legislation through the House in 1985, it will have to be designed to hold spending levels that urban Members will accept—and that probably means some reduction from the levels of the past few years. But I want to underline one other very important point. While farm program costs rose dramatically in 1983 because of huge surpluses and the PIK program, they have since come down substantially. When you compare the current cost of farm programs with the total federal budget, the numbers are not dramatic, unreasonable, or unfair to other segments of the economy.

Farmers want the federal deficit down because they, perhaps more than most groups in our society, are being victimized by some of the results of the deficit including high interest rates. So, farmers are willing to join other groups in making a contribution to a reduced deficit.

We have already made major cuts. We have reduced the cost of the dairy program, for instance, and we have repealed some scheduled increases in target prices for grains. But I strongly resist any suggestion that we have to gut farm programs or throw farmers into bankruptcy in order to manage the deficit.

Question. Do you think a stable supply of food is possible in the United States with minimum government intervention?

Answer. I suppose that depends on what you mean by 'minimum government intervention.' I am very much in favor of keeping government activity in agriculture to the lowest level consistent with maintaining a sound and stable food supply.

Where some federal activity is needed to help stabilize the economy—or give farmers tools like marketing orders or voluntary acreage programs which can promote stability—then I think the federal government has a proper role to play.

One of the best definitions of a proper role is Lincoln's comment. He said, in effect, that the government can properly help people by doing things that they need but that cannot be done effectively by individuals acting alone. In this case, the people of the country benefit when we have a stable agriculture, and if we need some government activity to help reach that goal, then the activity is proper.●

A TRIBUTE TO ELIAS KARMON—ONE OF THE BRONX'S BEST

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. GARCIA. Mr. Speaker, On September 20, there will be a "Grande Celebration" for one of the Bronx's finest citizens, Mr. Elias Karmon: The occasion is the 75th birthday of this grand gentleman.

Elias Karmon has served the Bronx all of his life. His contributions to our community are almost endless. He has been a developer, a businessman, a friend to the community, and a religious leader, but most of all he has been a humanitarian. Eli is a selfless person dedicated to his community—our community.

Eli's achievements are too numerous to list, but I would, nonetheless, like to mention a few. He is a member and past president of the Bronx Chamber of Commerce. He is chairman of the Advisory Committee of the Bronx Venture Corp., a nonprofit, local, development corporation. He was president of the Bronx Rotary, the Bronx Council of the Albert Einstein College of Medicine, as well as vice president of the Bronx Division of the American Jewish Committee. He was chairman of the executive committee of the Bronx Boys Club, and a founder and board member of the Ponce de Leon Federal Savings & Loan Federation. He is still on the board of the Bronx YMCA, the South Bronx Mental Health Council, and the Bronx Dance Theater.

During Eli's tenure as chairman of the lay Advisory Board of the Lincoln Hospital, he worked to obtain a commitment for the building of the new Lincoln Hospital Center. He has received awards and recogniton from the Red Cross, the American Legion, the National Conference of Christians and Jews, as well as numerous other organizations.

His retail clothing store in the Bronx has been an institution for over 30 years. I have only touched on the many accomplishments of Elias Karmon. As I said his list of service to the Bronx is endless. I am proud to know Eli, and I hope that he lives for another 75 years. Because if he does he will continue to make the Bronx a great place to live.●

ADVERSE CONSEQUENCES OF ADMINISTRATION'S SDI AND ASAT POLICIES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. FASCELL. Mr. Speaker, arms control in outer space is taking on particular importance these days due to the fact that the militarization of space is becoming a more and more likely prospect under the current administration policy.

We are fast approaching the point of no return in the arena of space arms control. Limiting, if not eliminating, the proliferation of weapons in space will become more not less difficult to achieve unless we do something soon to stop it.

Because of my concern, I have conducted a series of hearings on the matter in my capacity as chairman of the House Foreign Affairs Subcommittee on International Security and Scientific Affairs. Particular attention was paid in the hearings to the administration's strategic defense initiative [SDI] and its antisatellite [ASAT] weapons policy.

Such careful scrutiny by the subcommittee will continue and thus far has led to the release of a subcommittee "Interim Report on the Administration's Space Arms Control and Defense Policy" which can be found on pages 12971, 12972, and 12973 of the CONGRESSIONAL RECORD of May 18.

Pursuit of a strategic defense system is prohibitively expensive. The administration proposes spending $26 billion over the next 5 years to research ballistic missile defense [BMD] technologies including space-based BMD technologies. However, some estimates of SDI research, development, and deployment reach into the trillions of dollars.

The technical feasibility of such a system is also in serious question. Countermeasures can be developed to counteract any defensive system. Proponents of the SDI proclaim that the miracles of technology will enable us to develop these technologies and employ them in a workable system. Yet these same miracles of technology can work for the development of countermeasures. No one has a monopoly on technology for very long; time seems to even the score.

The administration describes the SDI as a research program only. No one opposes research, but we should not, in fact, be defeating the thrust of the ABM Treaty. If the U.S. program goes beyond the level of research the ABM Treaty permits as a hedge against Soviet breakout, the administration would be raising SDI research to a level of prominence whereby we create the perception that we are preparing to break out of the ABM Treaty. This gives credence to the argument that we have, in effect, abandoned the ABM Treaty. Administration statements regarding possible abrogation of ABM serve to emphasize the conclusion that the United States has already done so.

The ABM Treaty was designed to prevent the very kind of nationwide defense that this administration envisions. By building such a defensive system, we, in effect, are sanctioning a dual arms race. This could lead to an effort on the part of both the United States and the Soviet Union to increase the quantity and quality of their offensive missiles to penetrate an upgraded defensive system and it could lead to a new arms race in defensive technologies to defend against the upgraded offensive systems. It is difficult to envision a way out of this scenario. It would not be in our interest to abrogate this treaty, one of the most successful arms control agreements to date.

Moreover, the effect of the SDI on our allies cannot be ignored. The SDI will pose extraordinary problems for the Alliance and could well lead to the decoupling of Europe from the U.S. strategic nuclear umbrella. The thrust of the SDI is to someday make the transition from offensive to defensive forces. When or how we would ever be in a position to make this transition is not clear. Without a U.S. strategic offensive force, however, the United States could no longer provide a credible deterrent for Europe—this does not bode well for improving relations with our allies. The allies view the SDI as presenting the Soviets with another opportunity to drive a wedge between the United States and its allies. The fact that the SDI debate will continue for some time to come just aggravates the division and ironically serves one of the Soviet Union's primary foreign policy objectives: to create discord and dissension within the Western Alliance.

The United States and the Soviet Union came close to beginning talks on the subject of antisatellite (ASAT) weapons and related space arms control issues. It is imperative that we keep up the momentum and not abandon efforts to make these talks a reality.

The Soviets have a crude ASAT system. The United States is in the process of completing flight testing of its F-15 launched ASAT system. The U.S. system is a better, faster system. Here again we face the prospect of a vicious circle of one-upmanship: each side trying to outdo the other. It is highly likely that if we go ahead with our F-15 ASAT, the Soviets will proceed to develop a similar air-launched system. This is why negotiations are so important, to stop the back and forth competition which gets us nowhere.

We cannot allow these programs to go through the congressional process unquestioned and without consideration of their impact on arms control and on our relations with the Soviet Union. For this reason, the Subcommittee on International Security and Scientific Affairs will continue its oversight of the administration's SDI and ASAT policy and their related arms control implications.●

THE IMMIGRATION REFORM AND CONTROL ACT

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. BADHAM. Mr. Speaker, of the many issues the House of Representatives will be addressing during these last few legislative days of the 98th session of Congress, one of particular prominence is the Immigration Reform and Control Act. While we all deliberate this legislation designed to regain control of our borders, we must also consider the needs of the immigrants already in our country and how to integrate those who will immigrate in the future into American society.

I, therefore, commend to your reading the following article written by my good friend and colleague NORM SHUMWAY. "E Pluribus Unum" was published in the Christian Science Monitor on August 14 and provides an excellent dissertation on the diverse cultures in the United States, the English language and the important role these two ingredients play in making our country strong.

[From the Christian Science Monitor, Aug. 14, 1984]

E PLURIBUS UNUM—AND ENGLISH

(By Norman D. Shumway)

The issue of immigration has risen to the top of the national agenda as the United States has witnessed an unprecedented flood of immigrants in recent years. This explosion has created pressure on the Congress to enact comprehensive reform of our immigration laws. Yet while the national attention is focused on the need to regain control of our borders, the challenge to effectively integrate the vast number of immigrants already in the U.S. to the mainstream of American society must be met.

Mastery of English is indispensable to the integration of America's newcomers into our English-speaking society; proficiency in English is essential to educational, professional, and social opportunities for all Americans.

While few would deny that English is the bridge to full participation in America, official policies, such as those which recognize other languages as the accepted language of the ballot box and as a legitimate medium of instruction, may actually impede the learning of English. These government programs—multilingual ballots and bilingual education—foster continued dependence on native languages, thus serving as linguistic barriers which also impede the process of assimilation.

Our nation's naturalization laws, for example, require competency in English as a condition of U.S. citizenship. However, federal law since 1975 has required that limited-English-proficient (LEP) individuals who vote, and thus who exercise the highest privilege of US citizenship, be provided with ballots in their native language.

Certainly there are difficulties in providing adequate instruction to those of limited English proficiency, and special programs may be needed; the education of those with limited English ability is a challenge which must take into account a variety of unique linguistic, educational, and social factors.

However, despite the diversity of LEP students throughout America, for almost a decade we have highlighted bilingual education as the method for increasing LEP students' proficiency in English. This situation is largely the result of federal regulations developed in 1975 which basically require school districts to provide instructions for LEP students in their native language as a condition of eligibility for federal funds, affecting over 400 school districts in the U.S. However, although bilingual education has been the teaching strategy utilized to the virtual exclusion of alternative instructional approaches, little conclusive evidence has been produced which supports the effectiveness of and exclusive reliance on bilingual education.

Not only does it make little sense to continue expending scarce federal dollars on this one unproven method, but I have serious reservations about the federal government prescribing to school districts a specific approach to remedy the problem of educating America's LEP students. Clearly, local school districts are in a stronger position than the federal government to identify and meet the unique needs of students.

Because of my concern with the trend toward the quasiofficial recognition of languages other than English in America and with the growing number of government-sponsored programs that may in fact be impeding the learning of English, I have introduced a constitutional amendment which would designate English as the official language of the U.S. This amendment, commonly known as the English Language Amendment, would eliminate the use of multilingual election materials. Also, while it would not eliminate the use of bilingual education, it would place emphasis on its use as a transitional instructional method and would encourage the use of a broader range of instructional approaches to assist LEP students in becoming proficient in English. Moreover, and perhaps most important, the amendment makes it clear to immigrant parents and children that mastery of the English language is indispensable for becoming a full member of American society.

The ELA should by no means be construed as a betrayal of the diverse cultures that make up our great Nation. America has been immeasurably enriched by the ethnic, religious, and cultural diversity of our society, and thus it is vital that this varied cultural tradition be preserved. I would submit, though, that our common language has been a powerful factor in forging strength and unity from such diversity and that its primacy must be preserved as well. The ELA is an important step in reaffirming the unifying role English has played in our complex and diverse country and reemphasizing that proficiency in English is essential to full participation in American society.●

IRA INVESTMENT PROPOSAL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. MATSUI. Mr. Speaker, today I am introducing a bill to reinstate the ability of an Individual Retirement Account [IRA] and certain other individually-directed retirement plans to invest in tangible investment assets, which some call "collectibles." It became clear that certain abuses had taken place prior to the 1981 ban on these investments. Congress overreacted in 1981 by passing a total ban on such transactions. My proposal removes this total ban by specifically addressing these problems and setting up practical procedures which can easily be checked for compliance by the IRS which will prevent these types of abuses.

An additional reason for the ban in 1981 was a general feeling that the banks and savings and loans were encountering significant problems because of disintermediation and other reasons. That problem has clearly been eliminated in the last few years. In fact, a large number of financial institutions are now offering precious metals and numismatic programs, for instance, sales or loans to the public.

Mr. Speaker, I believe that Americans should have the freedom to choose between different types of investment options. We, in Congress, should not try to force this choice upon them. My proposal returns this basic financial freedom to Americans. Thus, if coins will provide a better return than stock, their IRA can invest in coins. And when stock provides the better investment their IRA can switch to stock. The present ban has the unfortunate result of reducing the earning potential of IRA's by not allowing a choice between all types of investments, thus reducing the retirement funds of the elderly. Mr. Speaker, I do not think this should be done if we can address the problems in a reasonable manner. My proposal does this.

I would hope that the Committee on Ways and Means will quickly approve my proposal to allow IRA's and other individually-directed retirement plans to acquire tangible investment assets.

The specifics of my proposal follow:

THE PROPOSAL

The uncomplicated proposal is to substitute for the total ban of present section 408(m) of the tax law, the following set of rules:

The acquisition, whether by contribution or otherwise, of a tangible investment asset by an IRA or other covered account from the individual, or his beneficiaries, for whose benefit the account has been created is barred.

The transfer, whether by distribution, loan, use, or otherwise, of a tangible investment asset by an IRA or other covered account to the individual, or his beneficiaries, for whose benefit the account has been created is barred.

Under the proposal an IRA may invest in tangible investment assets by purchasing at arm's length in the market place, hold for appreciation, and sell in the market place at arm's length.

ACCOMMODATION TO TAX LAW CONCERNS

The supporters of the total ban imposed by section 408(m) were reacting to the following potentials for abuse. Each is eliminated under the proposal.

First. Acquisition value.—A potential for abuse might have arisen where the taxpayer contributes from his own collection to his IRA a stamp, rare coin, antique, work of art, or other tangible investment asset and the contributed property is aggressively valued. The available audit resources of the Internal Revenue Service do not permit adequate policing.

The proposal avoids the potential abuse as effectively as does present section 408(m). Under both regimes the taxpayer cannot transfer a tangible investment asset to the IRA. There is, of course, no valuation issue in a purchase by the IRA on the market.

Second. Distribution value.—Another potential abuse might have arisen where the IRA distributes a tangible investment asset to the taxpayer or his beneficiary if, at the time of distribution, the property is conservatively valued and, more than a year later the recipient sells the tangible investment asset at a higher price. the available audit resources of the Internal Revenue Service do not permit adequate policing.

Again, the proposal avoids the potential abuse as effectively as does present section 408(m). Under both regimes the IRA cannot transfer a tangible investment asset to the taxpayer or his beneficiary. There is no valuation issue in a sale by the IRA on the market.

Third. Consumption value.—Another potential abuse might have arisen where there is a purported transfer out of his personal collection and into an IRA of a work of art, rug, antique, or other tangible investment asset that carries a consumption value, but the taxpayer, in fact, continues to enjoy that benefit through retained possession or use. Once again, the available audit resources of the Internal Revenue Service do not permit adequate policing.

The proposal avoids the potential abuse as effectively as does present section 408(m). The IRA custodian can only acquire a tangible investment asset directly from a seller on the market and can only dispose of a collectible to a buyer on the market. It can never be loaned to him. He can never use it. It is never in his hands or on his wall or floor. The asset's consumption value is not retained or enjoyed by the taxpayer. Thus, without increasing the audit burden the proposal effectuates the prohibition in ERISA against the taxpayer's use of IRA assets before the taxpayer retires.●

MENUDO: AMBASSADORS OF HOPE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. GARCIA. Mr. Speaker, on September 23 a young musical group from Puerto Rico, Menudo will perform at a benefit concert for UNICEF projects in Latin America.

Not only is Menudo a highly talented group of musicians, they also serve as youth ambassadors for UNICEF. They represent what is best about the

young people in the Hispanic community and across our Nation.

Their music has a message: To help children throughout the hemisphere. Their talent has a purpose: To serve as an example for all young people. Too often the youth of our Nation, particularly in the barrios and ghettoes, don't have positive examples to emulate. They aren't always able to look to the future with hope, but Menudo through their music offers them hope. Their example is one of giving so that others can benefit from their good fortune.

I am submitting a press release from UNICEF on Menudo and their concert so that my colleagues can know more about this wonderfully gifted group of young people and their contributions to the youth in this hemisphere.

MENUDO TO PLAY BENEFIT CONCERT AT WASHINGTON, DC'S CONSTITUTION HALL

NEW YORK, Sept. 4, 1984.—UNICEF (United Nations Children's Fund) and RCA Records jointly announced today a benefit concert by teen recording sensations Menudo to be held at D.A.R. Constitution Hall in Washington, D.C. on Sunday, September 23.

The event in the nation's capital will aid UNICEF projects in Latin America and marks Menudo's first benefit concert for UNICEF since they were appointed the organization's first Youth Ambassadors last February 23. The group expressed its commitment to spread UNICEF's message about the rights of children to its millions of young fans.

As Youth Ambassadors for UNICEF, Menudo supports UNICEF's efforts in developing countries through the promotion of various UNICEF programs aimed at improving the quality of life for children.

Menudo's first interest as Youth Ambassadors has been to learn about the situation of children in developing countries and to see UNICEF-assisted projects in action. While in Brazil in July, the group toured the Rio de Janeiro UNICEF projects at the favellas, severely depressed poverty areas.

Based on Puerto Rico, Menudo has captured the attention and admiration of millions of young fans throughout the world. Founded in 1977 by Edgardo Diaz, the group has become a symbol of international success based on their youthful talent and contagious excitement. Menudo's image emphasizes the human values of family life, respect for elders, the importance of academic achievement and clean, honest living.

Menudo has appeared before hundreds of thousands of fans in sold-out performances in Central and South America and the United States. The Constitution Hall benefit, presented by Westwood One, kicks off Menudo's latest U.S. tour in support of their new RCA Spanish-language LP, "Evolucion." The concert is presented in association with the Resident Commissioner of Puerto Rico and the Puerto Rico Federal Affairs Administration in Washington, D.C. The event will receive promotional support from local radio stations 97 WASH-FM and WMDO-AM.

The U.S. tour will include performances at New York's Radio City Music Hall, and venues in Los Angeles, Chicago, Miami, Houston, Boston, Philadelphia, Phoenix, Tuscon, and El Paso, among others.

In celebration of the unique association with UNICEF, RCA Records has pledged to UNICEF 5¢ from the U.S. sale of each copy of Menudo's RCA debut album, "A Todo Rock". RCA has so far presented $15,000 to the U.S. Committee for UNICEF, representing sales of 300,000 LPs.

UNICEF currently supports health care, nutrition, clean water and education programs in 115 developing countries. Recognized as one of the most effective and cost-efficient social development agencies in the world, UNICEF was awarded the Nobel Peace Prize in 1965.●

THE NEED FOR PRODUCTIVITY—NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. LEVITAS. Mr. Speaker, we are continuing to emerge from the worst recession since the 1930's. But the problems will not come to an end unless some basic fundamental changes are made.

At the top of the list, there is a weapon in our economic arsenal that has been too long overlooked, and it is a weapon that most of us can agree on. What is more, it is a weapon which individual citizens, business enterprises, and governments—local, State, and Federal—can pick up and use. This unheralded weapon is productivity improvement.

Productivity is a comparison—comparing the values of what is produced with what is needed to produce it. In other words, productivity is input compared with output. Productivity encompasses the contributions of all resources of productions: Technology, capital, energy, and the human effort and skills needed to manage them. A nation or an industry advances by using less of these resources to turn out more products and services.

This has been true throughout American history, our ability to produce more in less time and with fewer resources has helped raise our standard of living.

This natural yielding of more benefits from improved use of resources works well when allowed to function. The problem comes when increases in productive output or quality fail to cover increases in the cost of labor or other resources used. This creates inflationary prices because when productivity falters while a producer's costs go up, there is often no other choice—the producer must charge more for its goods or services in order to stay in business.

Thus at least one major remedy for inflationary ills is to increase American productivity, which for the past entire decade has lagged sadly behind increases of other industrial nations.

Since World War II, America has watched other countries close the gap on its productivity leadership. In 1950, for instance, one U.S. worker produced as much as seven workers in Japan and as much as three in Germany. By 1977, it took fewer than 3 Japanese or 1.3 Germans to match 1 American. And by early in 1979 the productivity path of America not only sputtered, but showed a downward turn.

There are several things we can do to improve productivity over the long run—tax incentive and fewer governmental restrictions to encourage more research, development, and capital investment and better training of workers to give some examples—but there is one thing that we can do to get the ball rolling and that is to stress the relationship of productivity to inflation by bringing it to the attention of the American people.

Last year, we were successful in enacting a House joint resolution declaring October 3 to 9, 1983, as "National Productivity Improvement Week." The purpose of the resolution was to stress the need for productivity growth and to encourage the development of methods to improve individual and collective productivity in the public and private sectors.

The American Institute of Industrial Engineers is again sponsoring the National Productivity Week, to focus more attention on this vital subject. AIIE chapters all over the Nation are participating in this event. The National Association of Broadcasters are also joining in this effort through their Broadcasting Industry Council to Improve American Productivity. The theme is "Productivity and Quality Work Together," and posters extolling this fact will be on bulletin boards throughout hundreds of communities. The media will also be helping to explain the importance of productivity improvement and help turn this around for America.

Today I am joined by Congressman CONTE and Congressman DARDEN in introducing a House joint resolution to proclaim January 7 through 13, 1985, as "National Productivity Improvement Week" and we invite each of you to join us in this effort.

The Joint Economic Committee in a report on productivity and inflation said:

A rising rate of productivity growth can reduce inflation over time and will generate greater incentives to capital formation and productivity growth.

* * * * *

The time has come to end the long neglect of lagging productivity growth in the analysis of economic events—not only in the analysis of real growth over the longer run, but the dynamic process of accelerating inflation.

We urge each of you to join in this effort.●

MANSFIELD PUBLIC LIBRARY CENTENNIAL CELEBRATION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. FRANK. Mr. Speaker, on Saturday, September 8, I was privileged to attend the centennial celebration of the public library of the town of Mansfield, MA. The celebration was New England at its best. On a lovely late summer day, citizens of the town of Mansfield gathered to have fun, spend the day with each other, and celebrate a significant community effort—the establishment and maintenance of an impressive public library serving the residents of the town. The library trustee, selectment, and other officials of Mansfield deserve congratulations for the diligence with which they have supported this important public institution. Those who arranged this celebration deserve praise for choosing to commemorate the importance of public libraries in our cultural and educational life.

One highlight of the day's events was a history of the Mansfield Public Library compiled by the centennial history committee, headed by Ronald Hornung. And the day's events included an award presented to former librarian Margaret "Peg" Bradner whose dedicated service to the library meant a great deal to the town.

Mr. Speaker, because the pride which the people of Mansfield feel in their library is well earned, and because the example they set in celebrating the importance of libraries to us all is so important, I ask that the RECORD include here the program of the day's celebration and excerpts from the history of the library prepared by the centennial committee.

MANSFIELD PUBLIC LIBRARY CENTENNIAL CELEBRATION, SEPTEMBER 8, 1984

10 a.m. to 4 p.m.: games, contests, picnic, exhibits, entertainment and sing-a-long.

10 a.m. Decorated Bicycle and Doll Carriage Parade.

11 a.m. Mansfield High School Band Concert, National Anthem.

11:30 a.m. Centennial Celebration Ceremony.

Master of Ceremonies—Alexander Salachi, Chairperson, Library Board of Trustees.

Salute to the Flag.

Invocation: Rev. Margaret B. Hess, Pastor First Baptist Church of Mansfield.

Speakers: Congressman Barney Frank; State Representative William Vernon; Chairperson, Mansfield Board of Selectmen, James Wills; Town Manager Chad Maurer; Chairperson of Centennial History Committee, Ronald Hornung.

Introductions of Special Guests: Librarians, Margaret Bradner and Dinah Amsden; Trustees and former trustees; Visiting Librarians; Town Officials and Industrial Representatives.

Band Concert.

Dedication of the Margaret Bradner Reference Room in the Library immediately following the ceremony.

THE CENTENNIAL HISTORY OF THE MANSFIELD PUBLIC LIBRARY

The Free Public Library of Mansfield opened its doors to the public on August 2, 1884. Its first home was located in the Selectmen's Room of the Old Town Hall. On opening day the Library's catalog contained a listing of 1,319 books.

During the first year the book circulation to Mansfield residents, then totalling near 3,000, reached an amazing level of 13,138.

Rev. Ide presented the project to the Annual Town Meeting on March 17, 1884. The proposition was favorably entertained and accepted. The Ordinance establishing the Free Public Library was adopted and a sum of $500 was appropriated at that time.

The Town Meeting also elected a Board of Trustees to preside over the Library. The initial Board consisted of Messrs. Wm. Robinson, Alfred V. Rogerson, Isaac W. Lucas, Wm. A. Copeland, Jacob Ide, and Chas. T. Borden. This Board met on March 24, 1884 and selected Rev. Ide as President, Mr. Lucas as Secretary, and Mr. Rogerson as Treasurer. They also appointed Miss Alice W. Hallett as the Library's first Librarian.

With the Ordinance and the organization set, the Board, with help from some young people of the Town, began furnishing and arranging the Selectmen's Room and selecting the book inventory. This provisioning took all spring and most of the summer to complete. The Library was officially opened to the impatient public on August 2, 1884.

The initial success of the Library was quite remarkable. The community's pride in the new Library is eloquently demonstrated in the closing paragraphs of the Library Trustee's 1885 Annual Report to the Town.

During the next several years the Library continued to grow, and the public popularity remained strong. New books were constantly added, and the circulation reached an amazing level of 16,424 in 1885. In October of that year Miss Hallett resigned, and Miss Hattie M. Sheppard was appointed as Librarian. Miss Sheppard would fill this position for the next six years.

By 1888 the Library had grown too large for the Selectmen's Room and expanded into a second room of the Old Town Hall. In 1895 a second catalog was required to list the more than 2,200 books in inventory.

The rules and regulations in effect then were quite strict. Some of these rules will be recognized as having been carried forward in today's Library policies.

By the mid 1890s it was becoming apparent that the Library's days in the Old Town Hall were numbered. If the growth rate of the first ten years was to continue the Library had to have a home of its own.

Around this same time public sentiment was beginning to mount for a monument to honor the soldiers who went from the Town to serve in the War of the Rebellion (Civil War). At the annual Town Meeting in March, 1893, Rev. C. E. Beals, pastor of the local Methodist church presented a motion to form a committee to see about securing some kind of monument to honor these soldiers. The motion carried and the committee, consisting of Rev. Ide, Mr. William White, and Mr. Alson W. Cobb was formed.

There was apparently little action by this committee until March, 1897, when Mr. H. H. Fairbanks was chosen to replace Mr. Cobb who had died, and three ladies, Mrs. Abbie N. DeWolf, Mrs. Peddie S. Reed, and Mrs. H. E. Sherman were added to the committee. After a series of meetings it was decided that; 1) a building would be desirable rather than any other form of Memorial, 2) it should be of substantial material, either brick or stone, and 3) it should be made a popular movement by asking every man, woman and child in the town to assist in raising money for a building fund and that all natives of the Town and former residents whose present homes were elsewhere should be asked to contribute.

The Memorial Building activities were truly a popular project and well supported by the Town residents. The Building Fund began to grow, and school children pledged ten cents each in support of the effort. The greatest offer came on January 18, 1898. Mrs. Elizabeth F. Noble, an elderly lady who had recently moved to Mansfield, offered to give a valuable lot on the corner of Union Street and Park Row for the site of the building. Mrs. Noble would later donate $2,500 to the expenses of the building thus becoming by far the largest contributor to the project.

Mrs. Noble's offer was the turning point in the effort to build a Memorial. However, her offer carried several stipulations: the first floor was to be used for a public library and reading room, the exterior was to be made of stone, and the building was to be started within two years.

On February 9, 1898, the Soldier's Memorial Association was formed to pursue the project. Mr. Frank L. Cady was elected President; Rev. Jacob Ide, 1st Vice-President; Mrs. Abbie N. DeWolf, Secretary and Mr. Henry H. Fairbanks, Treasurer. The Association membership was open to the public with a dues fee of one dollar. Three hundred and twenty-five names were entered on the membership rolls.

On March 21, 1898, at the Annual Town Meeting, the Town voted to accept Mrs. Noble's offer and erect the Soldier's Memorial Library on the site. A building committee was elected consisting of Messrs. Alfred V. Rogerson, David E. Harding, Doliver S. Spaulding, Chas. S. Newcomb, and Frank L. Cady. To the surprise of the Association, who had planned to fund the building project entirely by subscription, the Town also voted to appropriate $8,000 towards its erection.

In October action began. Mrs. Noble selected an architect and paid for his services. The architect, Peabody & Stearns of Boston, was well known.

At the 1899 Annual Town Meeting Mrs. Noble presented the building design which was readily adopted. It soon became apparent that additional funds would be required to complete construction. These funds were acquired at a Special Town Meeting in August of that year when Mr. Frank L. Cady, Chairman of the Building Committee and one of the Town's wealthier citizen, pledged $500 if the Town would appropriate an additional $1,500. The measure passed. In September 1899, a construction contract was signed with Fales and Son of Framingham; the groundbreaking quickly followed and the cornerstone was laid on October 21, 1899.

Even though Mrs. Noble's gift determined the location of the Memorial Building and much, if not all, of the final design, the building was the result of a collaborative community effort. Housewives, school children, businessmen, town officials, and all property taxpayers contributed their money and efforts. An important result of that community participation was the decision to make extensive use of ordinary fieldstone.

As reported in the Mansfield News, October 21, 1898, people were relieved to know that Mrs. Noble was willing to use fieldstone rather than more expensive rough cut stone.

The construction of the Memorial Building was completed, and the dedication ceremony was held on June 17, 1901. The keynote speaker chose to interpret the rugged construction symbolically. In praise of the audience he said, "You have wisely chosen the rugged fieldstone to build this temple of honor. Each stone represents a gallant son of the soil and is typical of the plain people who are the bone and sinew of our land."

The building design can be described as Victorian Gothic. The two exterior wall fabrics, stone for the first floor and shingle for the second, clearly distinguishes the separate purposes of the two floors: the library on the first floor and the Grand Army of the Republic's function room on the second.

One of the most notable aspects of the exterior design is the rhythm and balance achieved through the repetition of tripartite elements and of Gothic windows set inside scalloped hoods. The entire building is composed of three parts: a two and one half story projecting pavilion at the front, the central two and one half story rectangle, and a one story five-sided projection at the back.

Three kinds of windows are used at the front on either side of the projections; the first story pair of windows, as well as the pair of second story oriole windows are divided into three parts. Above the stone arched entrance is a second larger arch composed of three Gothic windows, each with a trefoil at the top. The gable end of this projection has a heavy, shingled vergeboard consisting of four cusps on either side with a center top opening. Heavy brackets with pendants support the vergeboard. The two front dormer windows each repeat the design with a gable roof which flares at the bottom, heavy brackets, and a Gothic window set into the gable.

At the rear of the building is a one story, five-sided projection with a tent roof. The shape of the projection is best described as about five-eighths of an octagon. Set into the three middle sides are gabled dormers, each with cinquefoil, shingled vergeboards. Each dormer has a single Gothic window. The arches, dormers, and pavillion design at the back of the building repeat important features of the front. Heavy wood brackets used to support the vergeboard both front and back, but unlike the front, no wooden pendants are used at the rear; instead there are six well-matched fieldstones.

Located at the rear side of the lot is a simple fieldstone "gas house" with a pyramidal roof and a rusting vent at the peak. This structure housed an acetylene gas generator, manufactured by Bliss Company once located in Mansfield. The acetylene gas was used for lighting inside the the Library.

The interior design features included a grand staircase, high ceilings, and ample use of wood. A large fire place dominated the west wall of the first floor reading room. A heavy, triple plated, glass partition was located behind the Librarian's desk to safeguard the book shelf area. The second floor included a Grand Army of the Republic meeting area, a large Soldiers' Hall function room with open ceiling and a small stage, a small kitchen, and storage areas.

The basis design features of the Soldiers' Memorial Public Library have remained essentially unchanged since the dedication ceremony. The functional use of the building has changed to accommodate the growing needs of the Library.

Since the Library opened in 1901 the book inventory increased from 3500 to over 35,000 volumes and the circulation has increased from 12,000 books in 1901 to over 80,000 books in 1983. Major changes that occurred include:

The book catalog was replaced by a card catalog and open shelf system was instituted resulting in a doubling of the use of nonfiction books (1906).

Trustees delegated the review and selection of new books to the Librarians (1918).

Mansfield adopted the Town Manager form of government—Trustees became appointed instead of elected officials; Town Treasurer began to handle Library funds (1920).

Built in bookshelves were added to West room for a reference area; a children's library was established in the East room; Library rules were revised resulting in a 60 percent increase in weekly circulation (1922).

The basement of the building was renovated and furnished for the children's library (1954).

The Library was expanded to the second floor, Grand Army of the Republic's dining room and a room for the history and genealogy collection was established—now the John Certuse Memorial Room (1962).

The Friends of the Library raised funds for a new Young Adult Room (1969).

The Library began to use the Soldiers' Hall as meeting room and Young Adult Library (1970).

The Reference Library was moved to Soldiers' Hall (1980).

The Mansfield Historical Commission filed nomination papers to have the Memorial Library Building listed in the National Register of Historic Places (1981).

Through the years the Library has served as not only a repository for books, but also as the cultural center of the Town. Since the early nineteen hundreds, the Library has presented exhibits, displays, demonstrations, lectures, book reviews, and arm-chair travelogues. It even served as the practice home of the High School band in 1951.

The use of the Memorial Library by the Grand Army of the Republic has diminished with time. The memorial to the Civil War soldiers has been expanded to honor all Mansfield's servicemen by providing informational, educational and recreational services for residents of all ages.

Today this "monument in the form of a Public Library" has achieved a third significance. It is a memorial to the spirit and wisdom of the citizens of Mansfield who created a public institution which so admirably serves its people a century later.

MEMBERS OF THE MANSFIELD BOARD OF TRUSTEES

	First year elected	Number of terms
Rev. Jacob Ide	1884	5
Chas. T. Borden	1884	3
William A. Copeland	1884	13
Isaac Lucas	1884	4
William Robinson	1884	1
A. V. Rogerson	1884	4
William L. Robinson	1885	12
James O. Hodges	1889	4
S. Emmons Scholes	1896	1
David E. Harding	1897	1
Pierpont M. Edwards	1897	2
Frank L. Cady	1899	7
Rev. H. F. Swartz	1900	1
William C. Fuller	1901	7
William C. Mills	1902	2

MEMBERS OF THE MANSFIELD BOARD OF TRUSTEES—Continued

	First year elected	Number of terms
Charles R. Comey	1902	6
Rev. William McNair	1903	2
John W. Rathbun	1908	3
Frank L. McCool	1915	1
Jennie Copeland	1917	13
Annie A. Horton	1918	10
Fred W. Day	1920	6
Everett W. Robinson	1920	8
Frank H. Dunbar	1921	1
Kenneth C. Sherman	1923	4
Beulah E. Jay	1932	4
Leslie B. Allen	1934	2
Francis J. Fox	1934	2
Leo M. Bannon	1939	3
Charlotte B. Allen	1944	1
Dean K. Howerton	1946	3
Wallia Reisman	1947	3
Mildred F. Morse	1948	3
Emma P. Hall	1948	4
Cynthia Seifert	1960	[1] 9
Marie Willis	1962	[1] 8
Marion Horton	1975	[1] 4
Alexander W. Salachi, Jr	1982	[1]
Jeremiah F. Long	1982	[1]

[1] Indicates present Board members.

LIBRARIANS 1884–1984

Miss Alice W. Hallett, March 1884 to October 1885.

Miss Hattie M. Shepard, October 1885 to October 1892.

Miss Grace M. Cobb, October 1892 to November 1901.

Miss Ida F. Hodges, November 1901 to March 1921.

Miss Ethel F. Woods, July 1921 to October 1949.

Miss Doris Lunn, October 1949 to July 1964.

Mrs. Mary Colpas, July 1964 to April 1974.

Mrs. Peg Bradner, October 1974 to June 1984.

Mrs. Dinah Amsden, June 1984 to present.

MANSFIELD PUBLIC LIBRARY TRUSTEES

Alexander Salachi, Chairperson, Marion Horton, Jeremiah Long, Cynthia Seifert, and Marie Willis.

CENTENNIAL CELEBRATION COMMITTEE

Kathleen Fasoli and Elinor Vernon, Co-Chairpersons.

Committee Chairpersons: Catherine Hayner, Ronald Hornung, Theda Hornung, Barbara Paulsen, Carol Sarro, Jean Stewart, Helena White, Doreen Tighe, and Marie Willis.

Librarians: Margaret E. Bradner and Dinah S. Amsden.

Cover Photo by Carla Broman.●

THE NOTCH PROBLEM—IOWA HEARING

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. HARKIN. Mr. Speaker, I am pleased to announce that Congressman EDWARD ROYBAL of California, chairman of the Select Committee on Aging, has agreed to hold a hearing on the Social Security notch in Indianola, IA, on Saturday, September 29, 1984.

Because of the notch, older Iowans born in 1917 or after are being penalized by receiving lower benefits than those born prior to 1917. That is

a serious problem for many of our older citizens—but fortunately we now have a solution.

The solution is H.R. 4093, a bill introduced by Congressman ROYBAL which I have cosponsored. It is a practical, well thought out plan to correct this inequity. It gives us a strong substantive base for serious legislation.

Let me explain how we got into this mess. It is a story of good intentions, boggled economic projections and the influence of a Dear Abby column.

In 1972, Congress tried to protect Social Security beneficiaries from inflation by building in automatic cost-of-living adjustments. Unfortunately, Congress went overboard by increasing the future benefits of current workers twice: once through cost-of-living adjustments [COLA's] in the Social Security benefit table and once again through inflation-based increases in wages upon which benefits are determined. Had that mistake continued, retirement benefits would have been greater than wages by the end of the century and the Social Security system may have gone broke even with a doubling of Social Security tax rates.

In 1977, Congress passed legislation which corrects the long-term error by stabilizing future benefits as a percentage of preretirement earnings. However, it has failed miserably over the short run by reducing benefits precipitously for people reaching age 65 since 1981 and throughout the remainder of this decade. People who retire at age 65 next year will receive new benefits which average about 21 percent less than the current benefits of people who retired at age 65 in 1981. Even in 1990, new retirees will receive less than people who retired in 1980 despite an additional 10 years of tax payments. Clearly this is an inequity which should be redressed.

The 1977 law divides recipients into three categories: those born before 1917; those born between 1917 and 1921—the notch years; and those born after 1921. Under the 1977 law, people in the first category continue to receive benefits under the 1972 law and those born after 1921 receive benefits based on the new formula. Congress created the notch years category to phase in the new formula by guaranteeing that persons approaching retirement would receive benefits more comparable to those expected under the old formula.

In theory, there was a 5-year transition period—the House of Representatives wanted a 10-year transition, the Senate wanted a 5-year transition—which was supposed to protect the notch year babies. During the 5-year transition benefits were expected to be 5 to 7 percent less than those projected to be paid under the 1972 law. In fact, because of unforseen economic developments, this smooth transition turned into a precipitous drop. The 5- to 7-percent drop was only true for notch babies who retired at age 62 in 1979. For those who waited until 65 to retire, the drop could be as great as 10 percent in 1 year primarily because they have not been given any work credits for working past age 61. In fact, everyone turning 65 between 1982 and 1992 will receive from 10- to 21-percent lower benefits than those who retired at age 65 under the 1972 law at the beginning of the decade. These benefits are actually as much as 30-percent below the levels which would have occurred under the 1972 law.

Few people realized or understood the extent of the problem until the Dear Abby columns brought it to light. After these columns appeared, Members of Congress received a barrage of letters asking them to do something about it.

A number of proposals were put forward, all of which I carefully considered. Of these, Mr. ROYBAL's bill is clearly the best way yet devised to reduce the tremendous disparity in Social Security benefits during the 1980's and 1990's while maintaining the long-term goals of the 1977 amendments. It does this by providing a fairer transition from the 1972 indexing law to the current system by phasing in the new Social Security benefit formula over 20 to 30 years rather than 2 or 3 years.

I have heard from many Iowans on the notch problem, and I understand why they are so concerned. This is a problem which has been brought to Congress' attention through grassroots lobbying. And it has been quite effective.

Many of my constituents have organized around this issue. An ad hoc notch group is now active in Iowa, under the leadership of Arlene Sheeley, Vera Daniel, and Daryl Cooper of Council Bluffs, IA. Chairman ROYBAL tells me that this is one of the most active such groups in the country. They have worked tirelessly, on a bipartisan basis, to let their friends and neighbors know about the notch problem. The group has held over 20 meetings in Council Bluffs, Creston, Red Oak, Sydney, Harlan, and many other places in Iowa. My district staff have attended almost every one of these meetings and have reported that there were between 50 and 300 at each. Clearly the message of the notch is being taken across my State and across the country.

Last month Congressman ROYBAL held a hearing on the notch in Los Angeles, CA which documented the impact and the inequity of the notch. He brought to light the case of Mrs. Florence Kinkella, a mother of three, a wife and homemaker, and a full-time employee who returned to work 17 years ago to supplement her husband's retirement benefits. When Mrs. Kinkella's husband had to retire early due to failing health, Mrs. Kinkella continued to work even after age 65 to maintain their income. You can imagine how distressed she was to learn that her full Social Security benefits are 23-percent less than her husband's despite the fact that she had actually earned more and paid more taxes than he had.

Congressman ROYBAL also presented the case of Kaye Bixby of Los Angeles, who, together with her employer, paid $8,360 in Social Security taxes during her last 2 years of work. For these contributions, she will receive only a $8 month increase in Social Security benefits. As she stated at the hearing:

> It will take me until I am 151 years old in the year 2071 to recoup the Social Security taxes I paid for the work I did after age 61. This kind of treatment is not fair. It undercuts all our efforts to encourage older people to stay in the workforce for the good of themselves and their country.

I hope that we will find additional examples of inequities to demonstrate the need for passage of the notch bill. I believe that we must listen to the people in the notch as they tell their stories because these are the people who know what has really happened. We need to correct the unforeseen results of the notch. I look forward to continuing the fight on the notch with Chairman ROYBAL to achieve justice for our older citizens. They deserve no less.●

NATIONAL POLICY FOR THE HOMELESS MENTALLY ILL MUST BE IMPROVED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. GUARINI. Mr. Speaker, while the warm weather of summer is still with us, it may be difficult to remember the problems faced by the many Americans who have no home. However, cold weather will soon arrive, so we must act quickly while there is time to remedy this national tragedy.

In response to the large number of Americans who remain homeless despite the well-publicized economic recovery, Congressman CHARLES RANGEL and I introduced legislation calling for a White House Conference on the Homeless and the Hungry. Sixty-six of our colleagues have joined us in this effort. What we seek are answers and action so that homelessness and hunger in America can be reduced.

It has been estimated that up to half of all American homeless may be mentally ill. Considering these estimates, until we can convene this White House Conference, I think it is most appropriate that we turn to the august American Psychiatric Association for its suggestions.

On Wednesday, the APA released its task force report on the homeless mentally ill. While the picture it paints is bleak, the task force report offers advice on remedying this problem which is wise and attainable. I would like to share with you the speech submitted by Dr. John A. Talbott, the president of the American Psychiatric Association, which outlines the task force's report and its recommendations.

APA TASK FORCE REPORT

(By John A. Talbott, M.D., President, American Psychiatric Association, Professor of Psychiatry, Cornell University Medical College, Associate Medical Director of the Payne Whitney Psychiatric Clinic)

Good morning. We're glad you're able to join us today as we announce the American Psychiatric Association's recommendations for aiding the homeless mentally ill. The APA Task Force on the Homeless Mentally Ill has spent a year studying what we think is one of today's most complex social problems and has, in my judgment, produced a very worthwhile report, a copy of which you have.

When we look at the homeless mentally ill, we are really dealing with two problems: homelessness and chronic mental illness. Each by itself is a formidable challenge to resolve. Combined, they create a problem of unprecedented magnitude and complexity. But its solution is not beyond our abilities or our means.

The homeless mentally ill have become our society's "untouchables," unable to advocate for themselves, unable to protect themselves from harm, unable to acquire the bare necessities for living.

They are a frightening specter of what could become of anyone, because mental illness is truly democratic. It knows no economic class, no ethnic or racial background, no gender. Its devastating effects can drain family financial resources and destroy family cohesion. Disoriented by their disease, the mentally ill struggle with internal forces that send them away from their homes, from treatment, from the very elements that could help in remission or recovery.

Society shuns the homeless mentally ill not only out of fear, but also out of failure. We have failed the mentally ill in the institutions of the past. We have failed them in the present through the process of deinstitutionalization. As a public policy, deinstitutionalization itself is not flawed; its implementation is. As you will see from examples in the task force report, community based care can work. But too often, communities have not provided the full range of services required by the chronically mentally ill individual. The reasons are many: financial resources have been scarce; laws such as property tax statutes, which are unrelated to mental health, contribute to lack of low-income housing; statutes governing involuntary commitment effectively prohibit hospitalization of those who fail to meet standards of dangerousness to others or self.

But also responsible for our failure is the fact that we think of the homeless mentally ill as a homogeneous group. That's simply not the case, as our Task Force has found. Some of this population suffer substance abuse disorders while others refuse all medication; some have no family while others once lived a few blocks from the grates on which they sleep; some haunt the same alleys month after month while others wander from city to city. Until we recognize the heterogeneity of this population, we cannot develop services to meet their needs.

Our knowledge of the homeless mentally ill has improved dramatically in recent years. But these people still elude us in many ways. For that reason, the Task Force on the Homeless Mentally Ill recommends continued research into the causes and treatment of mental illness and homelessness.

But in the meantime, we must act. The task force is calling for a number of actions.

We must recognize that the homeless mentally ill, because of their helpless state, have a right to food, shelter and clothing. We must ensure that these people receive these basic necessities in an ongoing system of care. We can't expect an individual to work on treating his mental illness if we won't work on eliminating his hunger or providing housing that ranges from emergency shelters to halfway houses to independent living situations.

Likewise, we must provide medical care that will reduce the incidence of serious and often chronic physical diseases that either grow from or contribute to the patient's psychopathology.

The Task Force also recommends providing direct psychiatric and rehabilitative services in an assertive way. That means going into the streets and seeking out these people, meeting them on their own terms, and following them through the system. The services offered must be comprehensive and tailored to each patient's needs.

The Task Force has called for a care system that ensures that each patient has one person responsible for his or her care. That person would guide the patient through the maze of social, medical, financial, and psychiatric programs that can meet his needs.

If those needs include long-term hospitalization, the law should allow it. The Task Force recommends alterations in commitment laws that recognize the right to treatment as well as the right to the least restrictive environment. We must acknowledge the fact that a small minority of mentally ill individuals simply cannot function in the community.

All of these recommendations will require money—lots of it. The Task Force recognizes that health and mental health expenditures have increased. But it is equally clear that the homeless mentally ill have not been the beneficiaries of those increases. It's time they were.

The homeless mentally ill are society's responsibility. Their problems were created by many forces. But their tragedy need not continue. We know what to do to make deinstitutionalization work to the benefit of the patient, but we need strong public support to do it. The solution is not to blame the homeless mentally ill for their condition and then ignore the issue rather than change the way the system works. Let's not abandon the mentally ill; let's not lose compassion as a base for action. Instead, let's change what is wrong and preserve what's right.●

WOMEN SHOULD HAVE FULL PARTICIPATION IN THE ARMS CONTROL DEBATE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. DYMALLY. Mr. Speaker, it is well-known that as GERALDINE FERRARO makes her rounds on the campaign circuit she is followed closely by a number of people who oppose abortions in all circumstances. The press has asked itself why GERALDINE FERRARO has been singled out for this treatment since there are many people running for elective office who hold views similar to hers. The answer of those in the press to their own question seems to be that she is one of the few candidates running who is capable of talking about what she personally would do if she were faced with the question of having an abortion. When a male candidate talks about his views on abortion, everyone knows he will never be faced with making the actual choice. The people who follow GERALDINE FERRARO on the campaign circuit have prompted me to think about how often we segregate issues unnecessarily and unfairly.

Representative FERRARO has shown by her own ordeal how our Federal election laws were written as though women would never run for high political office. The laws were written as though it were assumed women would always be the dependents of their husbands, not independent earners. Now there are those who are saying we should reexamine laws with an eye toward correcting their sexist bias.

There is another extremely important area where GERALDINE FERRARO has shown herself to be at the forefront in confronting the sexist bias in American politics. That is the area of arms control. For the entire history of our country, it has been the unspoken assumption that the making and use of armaments is the domain of men. Perhaps in those times when men killed mainly other men in war, armaments were a male domain. It is still true that men make the majority of decisions regarding the making and use of armaments. What has changed is that from now on women and their children will be as much the victims of war as men. GERALDINE FERRARO knows that, and she has made the issue of arms control central to her campaign. She has set an example for all women. It is time that women take full part in the arms control debate. It is time that their views be heard in every forum where arms control is an issue. It is time that decisions regarding the making and use of armaments be made as often by female as by male decision makers. I am pleased to take note of

the fact that PAT SCHROEDER, BEVERLY BYRON, MARILYN LLOYD, and MARJORIE HOLT serve on the Armed Services Committee of the House. I hope that soon women will also serve on the Defense Appropriations Subcommittee.

From the list of those pioneering women who now serve in a defense policy making capacity it is clear that women represent as many different points of view on the issue as do men. Diversity is healthy. It is good for our thinking because it insures that our positions are ones that have been tempered in the fire of debate. When we fail to test our policy options against the full range of arguments for and against, we have built weakness into the policy. By limiting past debate to men alone, we built a weakness into defense policy that we now have an opportunity to correct. I hope that the representation of women in the arms control debate is the beginning of a trend that will someday soon see these decisions which affect all men and all women made with the equal participation of female and male policy makers.●

LAW-RELATED EDUCATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. HAWKINS. Mr. Speaker, I would like to rise in support of the effort to amend H.R. 2175, the Juvenile Justice and Delinquency Prevention Act with substitute language in behalf of law-related education. The substitute amendment includes language providing for the continuation and further development of the successful delinquency prevention program which fosters civic responsibility among elementary and secondary students.

The amendment would make it possible to continue this national, coordinated law-related education program next year and will allow it to be greater integrated throughout the Nation.

Undoubtedly there are a number of other strategies which we must use to responsibly address the problem of juvenile delinquency. Law-related education programs, however, can effectively assist young persons to gain a firm understanding of citizenship skills and other legal issues which they may encounter in future years.●

A VISION OF LEADERSHIP

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. ACKERMAN. Mr. Speaker, I would like to commend to the attention of my colleagues a speech given by Ms. Margaret Joyner to the Pilot Club of New York. I believe her address will provide valuable insight into the dynamics of service organizations and the means by which they accomplish their important goals.

The New York chapter's president, Mary Duane Hoffman, and vice president, Donna McCrohan, both of Forest Hills, Queens County, deserve special recognition for their part in the club's involvement in charitable and community projects. The club, a nonprofit organization for professional women that provides a vital and vast array of services to New York communities, is also represented on the board of CARE and a division of the United Nations.

Mr. Speaker, the Pilot Club's emphasis on cooperation and service and Ms. Joyner's comments on the qualities of leadership, as well as her volunteer work with homeless women and the elderly, clearly reveal what can be accomplished when caring citizens work together in organizations such as the Pilot Club. The speech follows:

When a leader is elected or appointed the result is, implicitly or explicitly, a contract. That contract is, simply, that the leader leads, the followers follow. That is not to imply that there is a blindness in either leading or following. The leader is, by and large, leading for a relatively short time and must be acknowledged successful by reelection or reappointment. So leaders are chosen, they don't simply appear and take over.

The chosen leader can have advisers—chairpersons, committee members—but they are advisers and consequently, by definition, are followers, because someone ultimately must be in charge—bearing not only the responsibility but also any blame.

What makes a good leader? Energy, brains, a sense of fairness, a sense of humor, the ability to listen and weigh suggestions, and a well-defined goal with realistic plans for implementing it.

What makes a good follower? What, for that matter, is followership? A follower, be she a committee person, a member or a guest, has two things to offer a leader besides good will—fact and opinion. In the planning stages, both can be entertained and should be respected. After the discussion, when a consensus has been reached by vote or agreement, a follower's obligation to the contract is to be willing to be led—to carry our assigned responsibilities and, above all, to defer to the judgment of the leader, who is there, in fact, to lead; to make decisions and implement plans—not to mediate, to have to unnecessarily explain, or to argue. If she doesn't know all the facts, ask yourself, does she really need to know? If there is an opinion that could be voiced, must it? Is it really going to make a difference to the all-over success of the goal or event? And if the opinion is voiced and perhaps not considered relevant or germaine, accept the leader's judgment—that's why we have leaders and that is why, for the good of the goal, we need followers with as much energy, brains, humor, good sense, fairness, and goal-orientation as the leader. Respect for this leader-follower contract breeds respect. Disregard for the contract can lead to confusion, contradictory goals, hard feelings and a stress on the fabric of the Pilot creed.●

ADMINISTRATION KEEPS ACID RAIN STUDY SECRET

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. VENTO. Mr. Speaker, I would like to bring to the attention of my colleagues a recent editorial from the St. Paul Pioneer Press which outlines the administration's failure to release the results of a recent acid rain study it requested. The study, conducted by a panel of scientists appointed by the Reagan administration, is believed to contain information signifying that acid rain is a national problem and that immediate action should be taken to reduce sulfur dioxide emissions.

Perhaps the administration is embarrassed and disappointed that the study proves what we have known all along that acid rain is a very real problem that causes irreversible damage to our health and environment.

Mr. Speaker, the scientific panel has done its job. Now it's time for the administration to stop keeping secrets and reveal the study results to the American public. They have a right to know.

Following is the editorial from the St. Paul Pioneer Press:

[From the St. Paul Pioneer Press, Sept. 5, 1984]

REAGAN'S DILATORY ACID RAIN TACTICS

Even though the circumstantial evidence keeps pouring in from various sources, the Environmental Protection Agency (EPA) and the Reagan administration remain steadfast in their refusal to recognize that acid rain is a national threat that demands immediate action.

Earlier this year, several states, including New York, filed a petition requesting that the EPA attack the nation's acid rain problem by using provisions of the Clean Air Act to curb emissions from coal-fired generating plants in the industrial Midwest. Last week, the agency refused, claiming that it cannot take such steps without definitive proof of harm.

Proof? How much proof is needed to convince the Reagan administration to change its four-year opposition to acid rain control legislation?

About 27 million tons of sulfur dioxide and 21 million tons of nitrogen oxides are pumped into the atmosphere annually, mostly from coal-fired generating plants in the aging industrial Midwest.

While science has not solved every facet in this complex mystery, many believe that the pollutants are carried great distances by air currents, mix with water, and return to earth as acid rain. Since soils in some parts of the nation are rapidly losing their capacity to neutralize this massive acidic fallout, the damage grows even if the emission outflow remains constant.

What effect does acid rain have on the environment? Again, conclusive proof remains elusive. But the circumstantial evidence is alarming. Fish and plant life have been wiped out in hundreds of lakes and streams in the Northeast. Some 200 lakes in northern Minnesota are at high risk. Forests along the East Coast, from Alabama to Maine, are showing signs of serious damage—the same type of damage that is devastating forests in Germany. There is also evidence of similar damage in Colorado forests.

In 1981, the National Academy of Sciences reviewed the mounting ecological damage and advocated a "prompt tightening of restrictions" on emissions from coal-fired plants that contribute to acid rain. Instead of accepting that recommendation, the administration called for more studies.

One of those studies was completed last March by a group of scientists commissioned by the White House. Their report has never been released. Nevertheless, EPA chief William Ruckelshaus, appearing recently on David Brinkley's TV show, castigated the panel for going beyond its mandate of assessing the risks and instead recommending immediate federal action to reduce sulfur dioxide emissions.

Mr. Ruckelshaus' unwarranted criticism of a scientific panel that appears to have performed as ordered only serves to underscore the administration's unwillingness to address the acid rain threat.

Congress is wrestling with legislation that would force utilities to clean up their older, dirtier generating plants. That cleanup is both necessary and affordable (from $3 billion to $6 billion a year). The Reagan administration should stop dragging its feet and join the effort.

Passage of a national acid rain control bill is one of seven goals of the Pioneer Press and Dispatch editorial board in 1984.●

MEXICAN INDEPENDENCE DAY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. COLEMAN of Texas. Mr. Speaker, during this week of national importance for our neighbors to the south, I invite you to share with me and my constituents the commemoration of Mexican Independence Day.

One hundred and seventy-four years ago, on September 16, 1810, Mexico declared its independence from Spain when the parish priest, Miguel Hidalgo, have the "grito de independencia"—cry for independence—determined to obtain absolute independence and autonomy from the mother country. Representing revolutionary thought, he began a campaign of liberation followed by an improvised and impoverished army of his Indian parishioners, growing in size as it advanced. This revolt quickly became an uprising of the oppressed masses, unleashing passions that for so long had been hybernating in the hearts of the populace. After many victories, Hidalgo was captured and executed on July 30, 1811, but the movement for freedom that he had begun fiercely continued.

It took 10 more years of intense fighting at the cost of many valiant lives before the Spanish were defeated in 1821. This was the beginning of a new era, but not the end of the fight for freedom. The struggle spanned more generations—in the interim there were some 30 changes of chief executives between 1824 and 1848; the Mexican-American War resulting in the Treaty of Guadalupe Hidalgo; the defeat of the French and Maximillian's execution; the overthrow of the Porfirio Diaz dictatorship; the Mexican Revolution; and the postrevolutionary governments that followed.

Even though Mexico has had relative stability for the past 50 years, it is now facing an economic crisis of major proportions due to the peso devaluation. However, in spite of these problems, the "Dia de Independencia"—Independence Day—still represents the spirit of freedom that enabled the country to become economically, socially, and politically autonomous.

The constituents in my district share in this celebration reaffirming our cultural heritage in the many festivities held around the area. There is great pride in the knowledge and awareness of the contributions that throughout the years have been made by Americans of Mexican ancestry, social and economic contributions which encompass the arts, education, music, sports, literature, politics, and the sciences.

This date not only signifies the spirit of freedom, but also the extension of human rights and privileges to the people of Mexico. It signifies hope and human liberty, the strength that the Mexican Republic exhibited in its struggle for autonomy and independence. Above all, there is great pride in the knowledge that Mexico is achieving success in its industrial and technological development.

So let us salute Mexico, as well as all Mexican-Americans in this country—"Viva la Independencia!"●

A TRIBUTE TO GERMAN AMERICANS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. BILIRAKIS. Mr. Speaker, 301 years ago next month, the first group of German settlers came to America to build a new life for themselves, and in doing so, began a tradition of helping to build a new America for all of us. As we look back on this year's German-American Tricentennial, I want to take this opportunity to pay tribute to a group of Americans whose contributions to this Nation's growth and development have been among the greatest of any people's.

On October 6, 1683, following a 75-day voyage aboard the vessel *Concord*, a group of 13 Germans, led by a young lawyer from Franconia named Franz Daniel Pastorius, settled at what is now called Germantown in Philadelphia. They were part of William Penn's "Holy Experiment," which was designed to attract European settlers who had been subject to religious persecution to Pennsylvania.

Within 1 year after their arrival, these first German-Americans had harvested their first crop of flax, built looms, set up their spinning wheels and held their first sale in Philadelphia. This indefatigable industry, expert craftsmanship and a keen intellectual and cultural tradition have remained trademarks of the German-American population throughout its 300-year history.

Many men and women of German descent are among the famous and influential people who have shaped this country and contributed to our industrial, scientific and literary prowess. Names like Levi Strauss, the inventor of blue jeans, Thomas Mann, prizewinning novelist, Albert Einstein, the "pope of physics," Marlene Dietrich, film actress, Babe Ruth, baseball idol, H.L. Mencken, writer and editor, Henry Kissinger, foreign relations expert and so many others are well known to virtually all Americans for their part in shaping the world in which we live.

It is also worth noting that, as partners in NATO, the United States and West Germany have a closer relationship today than ever before, and German-Americans must be credited with furthering the understanding between the two countries. German and American culture are intertwined, and are pieces in the larger mosaic of Western culture.

As the representative of a district with a large and active German-American community, I know first hand of the many civic, cultural, scientific and business contributions of this special

group of Americans. German-Americans are making the Ninth Congressional District and the Nation a better place to live, as they have been for the past 300 years, and I am pleased to have this opportunity to pay tribute to this tradition of service.●

COMMUNITY ORGANIZER EFFIE HETRICK RECOGNIZED

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. DYMALLY. Mr. Speaker, there are few people in my congressional district with the energy and organizational drive of Effie Hetrick. When she decides to get behind an issue, she becomes a formidable force, a person to be reckoned with. Most recently, Effie became interested in what we all know as the Social Security "notch effect." I have to admit that before Effie Hetrick called me early one morning last year, I had never heard of the "notch effect." Now, thanks to her, I know quite a bit about it.

Not only did Effie call my office, she learned from my office that I was about to hold a town hall meeting in the district, and she came to that meeting to let me know in no uncertain terms that she wanted me to be responsive to the Social Security concerns of my constituents. I told her at that time that I was not the only one who needed to become more informed about the changes in Social Security, and that perhaps Effie would like to participate in that consciousness raising process.

To put it mildly, Effie Hetrick took the suggestion to heart. She began a districtwide drive to organize citizens behind efforts to remove inequities in the Social Security benefit payment system. It was not long before Congressmen ROYBAL, LEVINE, BERMAN, PEPPER, and I received petitions from 20,000 of our constituents demanding that we do something about the "notch effect."

But that was only the beginning. Not only did 20,000 people sign her petition, but she also convinced all the mayors and all the city councils in all the cities in my district to pass official resolutions condemning inequities in Social Security payments. Not only did all the mayors and all the councils inform me of their position, but I also heard from the State legislators whose districts overlap mine.

By now you will not be surprised to hear that a few days ago a committee of Congress held hearings on the "notch effect." Effie was there. She testified. And I think the Congress now knows that Social Security recipients are not happy with the method chosen by Congress to transition the Social Security system into a new way of computing Social Security payments.

We talk about the need for citizens to become involved in the governmental process. Effie is a lot more than talk. She gets out there and gets the job done. She is a valuable asset to my district. She is a valuable asset to the citizens of my district. And she sets an example for all of us to emulate. When she sees a need for effort, she does not look around for others to shoulder the burden. She takes it up herself. I am proud to say that Effie Hetrick is one of my constituents.●

TREASURY WINS SCHIZOPHRENIA AWARD FOR ADMINISTRATION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. STARK. Mr. Speaker, would you believe that the taxpayers of this country have been paying for seven Treasury officials to travel to Japan to make it easier for the Japanese to sell products in the United States and harder for the United States to export to Japan?

We are running a trade deficit of $300 million a day. And the Treasury Department is in Japan exploring ways to make that deficit higher.

How? They are explaining to the Japanese how to buy U.S. bonds—and the simple economics of how you do that is, you sell yen to buy the dollars. When you do that, the value of the yen goes down, and the value of the dollar goes up. When that happens, it is cheaper for Americans to buy Japanese products and more expensive for the Japanese consumer to buy American products.

The autoworkers, steelmakers, clothing workers, and radio and TV workers of American will all be hurt by this taxpayer-financed trip.

Treasury should be trying to help America correct its trade deficits, instead of peddling its potential tax loophole bonds around the world.

Treasury's policy is a form of economic hara-kiri.●

A TRIBUTE TO ST. MARY'S ROMAN CATHOLIC CHURCH, MAURICE, SIOUX COUNTY, IA, ON THE OCCASION OF ITS 100TH ANNIVERSARY

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 14, 1984

● Mr. BEDELL. Mr. Speaker, on August 19, 1984, I had the honor of attending a highly significant occasion for the community of Maurice in Sioux County, IA—the 100th anniversary of St. Mary's Catholic Church.

Before the church was built, Catholic families were scattered in Sioux County. The Reverend John O'Reilly of Sheldon celebrated mass in the families' homes and later in schools. He traveled between communities on horseback and later by a small one-passenger car.

On February 23, 1884, land for St. Mary's Church was purchased from Henry and Hendrika Hospers for $250. The 36-by-50-foot church built for $2,500 that year is to this day St. Mary's Roman Catholic Church. The first mass was celebrated on August 15, 1884, even though St. Mary's was not completed until November 10 that year. About 30 families were in the parish.

Although parish registers from 1884 to 1897 were destroyed by fire, it is believed that Julia Esther O'Hare was the first to receive baptism, Michael Hannon and Mary Ellen LaVelle were the first to be married, and Patrick Glynn was the first for whom funeral mass was said and the first to be buried in the church cemetery.

A court of Catholic Order Foresters was established in 1898 and existed until April 12, 1913, when all records and equipment were destroyed by fire. Members of the court then affiliated themselves with neighboring courts. The Altar Society was organized January 9, 1909.

A rectory was built in 1899. The priests who resided there were the Reverends Peter Connelly (unitl 1902), M.M. Grady (1902-04), Herman Dries (1904), Edward McNally (1904-13), Joseph Fisch (1913-14), and Clarence Conway (1914-17).

St. Joseph's Church in nearby Struble was built in 1903 and was the mission church until 1917 when a rectory was built there. Since then, priests have lived in Struble. The rectory in Maurice was used by caretakers for several years. It was finally torn down and the lot sold.

St. Mary's Church was remodeled in 1957. A new altar, communion rails and side altars were built and the choir loft removed. The tin-covered walls and ceiling were replaced with paneling, and the floor was tiled. The cemetery was improved in 1979, and the church was carpeted in 1983. St. Mary's hall was constructed in Struble in 1983.

St. Mary's joined the Gehlen Catholic Schools Corp. in LeMars in 1971. The pastor now is the Reverend John McGuirk.

As you can see, Mr. Speaker, the people of Maurice have good reason to be proud of the past contributions and future promise of St. Mary's Church.●

HOUSE OF REPRESENTATIVES—*Monday, September 17, 1984*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC.,
September 14, 1984.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on Monday, September 17, 1984.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The Lord sits enthroned as King for ever. May the Lord give strength to His people! May the Lord bless His people with peace!—Psalm 29:10, 11.

Of all Your many blessings to us, O gracious God, we are grateful for Your gift of strength. We pray not for a strength to control or dominate or manipulate others, but an inner strength that frees us to be the men and women You would have us be. Give us, O God, the strength to serve others less fortunate, the strength to bear the burdens and concerns of life, the strength to work for justice and peace. We pray this in Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 111. Concurrent resolution to commemorate the Ukrainian famine of 1933.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2166. An act to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes;

S. 2517. An act to amend the Disaster Relief Act of 1974, and for other purposes;

S. 2650. An act to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children;

S. Con. Res. 94. Concurrent resolution expressing the sense of Congress that the President of Syria should permit Jewish emigration; and

S. Con. Res. 119. Concurrent resolution expressing the sense of the Congress concerning infringements of religious freedom by the governments of the Warsaw Pact states.

CONSENT CALENDAR

The SPEAKER pro tempore. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

ALLOWING VARIABLE INTEREST RATES FOR INDIAN FUNDS HELD IN TRUST BY THE UNITED STATES

The Clerk called the Senate bill (S. 2000) to allow variable interest rates for Indian funds held in trust by the United States.

There being no objection, the Clerk read the Senate bill as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of February 12, 1929 (25 U.S.C. 161a) is amended to read as follows: "That all funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of Indian tribes shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities: *Provided*, That such interest shall be paid at the average of the highest rates payable on short term marketable obligations of the United States during the term that any funds, both principal and interest, upon which interest is not otherwise authorized by law, carried on the books of the United States and are carried on the books of the United States Treasury to the credit of Indian tribes under the provisions of this Act.".

With the following committee amendment:

Page 1, line 3, strike all after the enacting clause and insert the following in lieu thereof:

That the first section of the Act of February 12, 1929 (25 U.S.C. 161a) is amended as follows: "That all funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of Indian tribes shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR USE AND DISTRIBUTION OF CERTAIN JUDGMENT FUNDS RELATING TO THE LAKE SUPERIOR AND MISSISSIPPI BANDS OF CHIPPEWA INDIANS

The Clerk called the bill (H.R. 5733) to provide for the use and distribution of the Lake Superior and Mississippi Bands of Chippewa Indians judgment funds in docket 18–S and the Lake Superior Band of Chippewa Indians judgment funds in docket 18–U, before the Indian Claims Commission, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 5733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other law, the funds appropriated by the Act of March 7, 1978 (31 U.S.C. 724a, as amended), in satisfaction of a judgment awarded to the Lake Superior and Mississippi Bands of Chippewa Indians in the State of Minnesota in docket 18–S, and in satisfaction of a judgment awarded to the Lake Superior Band of Chippewa Indians in the State of Minnesota in docket 18–U, of the Indian Claims Commission, less attorney fees and litigation expenses, but including all interest and investment income, shall be used and distributed as provided in this Act.

SECTION 1. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall divide docket 18–S funds as follows—

(a) two-thirds among the Lake Superior Band of Chippewa Indians, and

(b) one-third among the Mississippi Band of Chippewa Indians.

SEC. 2. The Secretary shall divide the funds referred to in sections 1 and 4 on the basis of the population and reservation community groups as reflected in the census and annuity rolls for the period 1937-1941 and as specified in this Act.

SEC. 3. (a) Of the funds referred to in section 1(a), the respective shares of the Lake Superior Band of Chippewa Indians enrolled in the Minnesota Chippewa Tribe, by reservation affiliation, are as follows—

(1) Fond du Lac Reservation, 1346/8,437;

(2) Grand Portage Reservation, 387/8,437;

(3) Nett Lake Reservation, including Vermillion Lake and Deer Creek (Bois Forte Band), 704/8,437; and

(4) White Earth Reservation, 148/8,437.

(b) Of the funds referred to in section 1(b), the respective shares of the Mississippi Band of Chippewa Indians enrolled in the Minnesota Chippewa Tribe, by reservation affiliation, are as follows—

(1) Mille Lacs Reservation, 569/7,624;

(2) White Earth Reservation, 6431/7,624; and

(3) Leech Lake Reservation, 624/7,624.

SEC. 4. The Secretary shall divide docket 18-U funds among the Lake Superior Band of Chippewa Indians enrolled in the Minnesota Chippewa Tribe, according to reservation affiliation, as follows—

(a) Fond du Lac Reservation, 1346/8437;

(b) Grand Portage Reservation, 387/8437;

(c) Nett Lake Reservation, including Vermillion Lake and Deer Creek (Bois Forte Band), 704/8437; and

(d) White Earth Reservation, 148/8437.

SEC. 5. Twenty per centum of the funds apportion under sections 3 and 4 of this Act shall be made available to the respective groups for program purposes within sixty days of this Act: *Provided*, That each group has submitted a plan for such use, and said plan has been approved by the Secretary.

SEC. 6. Eighty per centum of the funds apportioned under sections 3 and 4 shall be held and administered by the Secretary for per capita distribution and such sums and the interest and investment income accruing thereon shall be distributed and used as follows—

(a) from the funds apportioned under sections 3(a) and 4, per capita distributions shall be made on a sum as nearly equal as possible to each enrollee of the Minnesota Chippewa Tribe who is designated as a member of the Lake Superior Band of Chippewas and affiliated with the Fond du Lac, Grand Portage, Nett Lake (including Vermillion Lake and Deer Creek) or White Earth reservations, and who was born on or prior to and living on the date of enactment of this Act; and

(b) from the funds apportioned under section 3(b), per capita distributions shall be made in a sum as nearly equal as possible to each enrollee of the Minnesota Chippewa Tribe who is designated as a member of the Mississippi Band of Chippewas and affiliated with the Mille Lacs, White Earth or Leech Lake reservations, and who was born on or prior to and living on the date of enactment of this Act.

SEC. 7. No person shall be entitled to more than one capital share of the funds apportioned under sections 3 or 4, but a person may be entitled to one capital share of each of the funds apportioned under those sections.

SEC. 8. The per capita shares of living competent adults shall be paid directly to them. The per capita shares of minors shall be handled pursuant to 25 CFR 60.10 (a) and (b)(1) and 104.4. The per capita shares of legal incompetents shall be handled under 25 CFR 104.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, part 4, subpart D.

SEC. 9. None of the funds distributed per capita or held in trust shall be subject to Federal or State income taxes or be considered as income or resources in determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

SEC. 10. The Lake Superior and Mississippi Band rolls of the Minnesota Chippewa Tribe shall be brought current under procedures enacted by the tribe and approved by the Secretary.

SEC. 11. Nothing in this Act shall affect the use or distribution of that share of the judgment funds in docket 18-S and docket 18-U to which members of the Lake Superior or Mississippi Bands of Chippewa Indians who are not enrollees of the Minnesota Chippewa Tribe are entitled.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALEXANDER PIRNIE FEDERAL BUILDING

The Clerk called the bill (H.R. 5402) to designate the U.S. Federal Building in Utica, NY, as the "Alexander Pirnie Federal Building."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. WEISS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Consent Calendar.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, September 11, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted by the Committee on Public Works and Transportation on August 8, 1984. These resolutions authorize studies of potential water resources projects by the Corps of Engineers in accordance with the provisions of Section 4 of the Act of March 4, 1913, as amended.

Every best wish.

Sincerely,

JAMES J. HOWARD,
Chairman.

There was no objection.

SEXUAL ABUSE AT FEDERALLY FUNDED DAY-CARE CENTERS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, earlier today I testified at a joint hearing of the House Ways and Means Committee and Select Committee on Children on the latest American scandal involving children—sexual abuse at federally funded day-care centers.

We realize this is a growing national problem. In New York City alone there have been 77 reported cases of abuse against children in the 377 day-care centers in the city—just in the first 7 months of the year.

One major culprit in my eyes is the total abdication of Federal responsibility of social service block grant funds used for day care. In New York City, some 60 percent of the $165 million spent on day care is Federal money.

At today's hearing I focused on H.R. 6207, a bill I authored on September 10 to condition future Federal day-care funds on States developing programs to license all day-care centers, screen employees to ensure those with child abuse records are not hired, and set up a national toll-free hotline to report cases of abuse in day-care centers.

Right now all levels of government seem to be running away from the problem. It is time for the Congress to exert leadership and nip this travesty before it spreads.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each question of passing bills and on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after legislative business on Tuesday, September 18, 1984.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of September 6, 1984, this is District of Columbia day. The Chair recognizes the gentleman from California [Mr. DELLUMS], chairman of the Committee on the District of Columbia.

AMENDING THE ACT PROVIDING FOR THE INCORPORATION OF CERTAIN PERSONS AS GROUP HOSPITALIZATION, INC.

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia I call up the bill (H.R. 6223) to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc., and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (hereinafter in this act referred to as "the Act"), is amended by striking out "Group Hospitalization, Inc." and inserting in lieu thereof "Group Hospitalization and Medical Services, Inc.".

SEC. 2. Section 2 of the Act is amended—

(1) in subsection (a) by inserting "and medical care" after "hospitalization";

(2) in subsection (b)—

(A) by inserting "and other providers" after "hospitals"; and

(B) by striking out "and" after "certificates;"; and

(3) in subsection (c)—

(A) by striking out "groups" and inserting in lieu thereof "individuals, groups,"; and

(B) by striking out the period at the end of such subsection and inserting in lieu thereof "; and (d) to engage in any lawful business that is incidental to or supportive of the business and affairs of this corporation.".

SEC. 3. Section 3 of the Act is amended by striking out all after the second sentence and inserting in lieu thereof the following: "The number of trustees, their terms of office, and the manner in which they may be elected shall be fixed by the bylaws.".

SEC. 4. Section 8 of the Act is amended by inserting "and unemployment compensation" after "real estate".

SEC. 5. The title of the Act is amended to read as follows: "An Act providing for the incorporation of certain persons as Group Hospitalization and Medical Services, Inc.".

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill amends the Federal charter granted in 1939 to Group Hospitalization, Inc., which is the Blue Cross agency for the Washington metropolitan area. It combines Group Hospitalization, Inc. with Medical Services, Inc., a Blue Shield agency, so that the Blue Cross and Blue Shield for this area will be one corporation instead of two.

Over 100,000 Federal employees in the Washington area are protected by Blue Cross/Blue Shield and will benefit from this legislation because of lower administrative costs for the combined system.

There is no cost to the Government from this bill. City officials have agreed that congressional action is preferred in this case because it is unclear that the city has the authority to act.

I urge support for H.R. 6223.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield for a question?

Mr. DELLUMS. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

I understand this is a Federal charter that was originally granted about 1939; is that correct?

Mr. DELLUMS. That is correct.

Mr. KINDNESS. And the Subcommittee on Administration Law of the Committee on the Judiciary has had a concern for some time about Federal charters and whether it is a good idea for us to continue the practice that we have had. This is one that has been in existence, of course. But, as I understand it, there is a regular charter under the DC law, too, and it is in good standing in the District of Columbia?

Mr. DELLUMS. That is correct.

Mr. KINDNESS. So this is kind of an extra thing like these Federal charters are. I just raise the question whether the Committee on the District of Columbia might have considered whether it is necessary to have such a charter continuing at all. Could the gentleman tell me whether in this case this does something for the corporation that is not done under the DC law already?

Mr. DELLUMS. I am not sure. That is certainly not a question that this subcommittee has jurisdiction over. This is a much broader question.

The only concern that this legislation addresses is trying to combine the two programs into one. We did not explore the question of whether or not we ought to have a Federal charter in this situation or not. We simply amended the charter to allow this economy to take place in order to allow services to be provided to several thousand people at a much cheaper cost by virtue of reducing the overhead with the combined approach rather than the two separate agencies.

The gentleman raises a good question. It may be something that we can look at at some future date and it certainly was not an issue that we looked at at this particular point.

Mr. KINDNESS. I thank the gentleman for yielding, and if the gentleman would yield further I would certainly urge that the Committee on the District of Columbia might take a look at that in the future, as well as the Committee on the Judiciary, because this is pretty much a commercial type of enterprise as contrasted to the way this move started in 1939. It was a community based effort to get these services together. I am convinced that it is much more a commercial type of enterprise today.

So I would just question whether we ought to look into that and the existence of Federal charters altogether.

Mr. DELLUMS. If I may reclaim my time, the gentleman makes a very good point. I will see to it that the gentleman's concerns are communicated to the appropriate subcommittee chairperson, and we will explore this matter.

Mr. KINDNESS. I thank the gentleman very much.

Mr. DELLUMS. I thank the gentleman and yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1210

EXEMPTING FROM TAXATION BY THE DISTRICT OF COLUMBIA CERTAIN PROPERTY OF THE JEWISH WAR VETERANS, U.S.A. NATIONAL MEMORIAL, INC.

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 4994) to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Inc., and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the property situated in the city of Washington, District of Columbia, at 1811 R Street, NW., described as lot 175 in square 133, is hereby exempt from taxation by the District of Columbia as long as such property is owned and occupied by the Jewish War Veterans, U.S.A. National Memorial, Incorporated,

and is not used for commercial purposes. The provisions of sections 2, 3, and 5 of the Act entitled "An Act to define the real property exempt from taxation in the District of Columbia", approved December 24, 1942 (56 Stat. 1091; D.C. Code secs. 47-1005, 1007, 1009), shall apply to the property made exempt from taxation by this Act.

SEC. 2. The first section of this Act shall apply on and after the date on which the Jewish War Veterans, U.S.A. National Memorial, Incorporated, owns the property described in the first section of this Act.

● Mr. McKINNEY. Mr. Speaker, the purpose of H.R. 4994 is to transfer a congressional-granted District of Columbia tax exemption provided to the Jewish War Veterans, U.S.A. National Memorial, Inc., from one piece of property to another. The original exemption, which was granted in 1955, was site specific to what was then the headquarters building of the organization. That property has now been sold, and the organization has acquired a new headquarters building nearby.

Although it should be clear, I would stress that this bill does not add another piece of property to the existing exemption, nor does it create a separate, new exemption. Instead it repeals the reference to the original headquarters building in the original exemption, and substitutes a description of the new building. If this measure is enacted, which I sincerely hope will be the case, the former headquarters building will be returned to the District of Columbia tax rolls, as it has been sold to a private entity, and the new building will be exempted from taxes as long as it is owned and occupied by the organization.

In light of the existence of home rule for the District of Columbia, it is legitimate to question why the Congress, and not the local council, is taking this action. There are two very legitimate reasons. First, the organization has made a good faith effort to have this matter resolved at the local level. An application was filed with the District of Columbia Department of Finance and Revenue seeking a tax exemption for the new property. That request has been denied. That denial can only be assumed to reflect the position of the local executive branch of government. Since the original exemption was granted by Congress, and since the Congress maintains its constitutional authority to act as legislature for the District of Columbia on any and all matters, it is within the power of Congress to act. Although it would be my personal preference that the city take the necessary action to grant this exemption, the indications received thus far point to that not happening.

There are further problems, even if the city did enact local legislation approving the exemption. All District of Columbia laws must undergo a period of congressional review before taking effect. With the sine die adjournment date rapidly approaching, that review could not be completed in this Congress. Thus, any local legislation dealing with this problem would need to be resubmitted in the next Congress for review. The bottom line is that it would be sometime in the spring of 1985 before the local law could become finalized. A delay of that long is simply unacceptable, since the organization would be forced to pay the tax levied until an exemption were finalized, and then seek reimbursement. That would clearly not be consistent with the intent of Congress in granting the original exemption.

There are more severe problems with a reliance on local government action. The Supreme Court decision in INS against Chadha declared legislative vetoes unconstitutional. That decision applied to the review procedures contained in the Home Rule Act—Public Law 93-198, as amended—pertaining to finalization of local laws. Thus, any local legislation on this, or really any other matter will become and remain legally questionable pursuant to the Supreme Court decision. it is for this very reason that the city, although they have the authority to issue bonds, has not done so and will not do so unless the overriding legality of any local legislation is resolved.

Mr. Speaker, for these reasons it is proper and prudent for Congress to take the action suggested in H.R. 4994. It is not an erosion of the principle of home rule, and should not be viewed as such. It is a reaffirmation of the intent of Congress structured in the only manner possible to insure its continued and uninterrupted validity.●

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill continues in effect a property tax exemption granted by Congress to the Jewish War Veterans in 1955. The organization has moved its headquarters a few blocks to another building in downtown Washington, DC. The old site will return to the city's tax rolls. This bill will continue the intent of Congress expressed in 1955 and make the new location tax exempt from city property taxes.

Mr. Speaker, this is a very straightforward piece of legislation.

I urge support for the legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO POSTPONE CONSIDERATION OF H.R. 6224, ST. ELIZABETH'S HOSPITAL AND DISTRICT OF COLUMBIA MENTAL HEALTH SERVICES ACT

Mr. DELLUMS. Mr. Speaker, there is a third piece of legislation that we had intended to call up at this time.

Mr. Speaker, I would ask unanimous consent that this next piece of legislation, the bill H.R. 6224, be considered later in the proceedings after the suspensions.

The SPEAKER pro tempore. That request is not necessary. The bill that the gentleman refers to, H.R. 6224, will be in order at the end of the suspensions today as District of Columbia Committee business.

ANNOUNCEMENT RELATIVE TO CONFERENCE DELIBERATIONS ON THE SOCIAL SECURITY DISABILITY REFORM ACT OF 1984

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I am pleased to announce on behalf of myself, Senator DOLE, Chairman ROSTENKOWSKI, and other Senate and House conferees that after long and diligent effort we have reached agreement on the provisions of H.R. 3755, the Social Security Disability Reform Act of 1984.

Because our Social Security Disability Insurance Program has experienced such turmoil in recent years, the conferees have been exceedingly careful and cautions in their deliberations. It has been our intent to fashion this legislation so that all working Americans and their families will have the protection of a uniform national disability insurance program, a program which is fairly, equitably and humanely administered in accordance with the provisions of law enacted by Congress.

I believe that the amendments contained in this legislation will ensure that such a disability program can be provided. I hope that the administration will work with these amendments to accomplish this mandate.

This legislation should allow all those throughout the Nation who administer and benefit from this program to look to the future with confidence. It reaffirms our national commitment to provide financial security to all those who, because of their physical or mental disabilities, cannot work to earn a living.

It is our hope that we might have the conference report brought to the floor by the end of this week.

AUTHORITIES OF THE U.S. SECRET SERVICE

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5189) to amend section 3056 of title 18, United States Code, to update the authorities of the U.S. Secret Service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3056 of title 18, United States Code, is amended to read as follows:

"§ 3056. Powers, authorities, and duties of United States Secret Service

"(a) Under the direction of the Secretary of the Treasury, the United States Secret Service is authorized to protect the following persons:

"(1) The President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, and the Vice President-elect.

"(2) The immediate families of those individuals listed in paragraph (1).

"(3) Former Presidents and their spouses for their lifetimes, except that protection of a spouse shall terminate in the event of remarriage.

"(4) Children of a former President who are under 16 years of age.

"(5) Visiting heads of states or foreign governments.

"(6) Other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad when the President directs that such protection be provided.

"(7) Major Presidential and Vice Presidential candidates and, within 120 days of the general Presidential election, the spouses of such candidates. As used in this paragraph, the term 'major Presidential and Vice Presidential candidates' means those individuals identified as such by the Secretary of the Treasury after consultation with an advisory committee consisting of the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority and minority leaders of the Senate, and one additional member selected by the other members of the committee.

The protection authorized in paragraphs (2) through (7) may be declined.

"(b) Under the direction of the Secretary of the Treasury, the Secret Service is authorized to detect and arrest any person who violates—

"(1) section 508, 509, 510, 871, or 879 of this title or, with respect to the Federal Deposit Insurance Corporation, Federal land banks, and Federal land bank associations, section 213, 216, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, or 1909 of this title;

"(2) any of the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; or

"(3) any of the laws of the United States relating to electronic fund transfer frauds, credit and debit card frauds, and false identification documents or devices; except that the authority conferred by this paragraph shall be exercised subject to the agreement of the Attorney General and the Secretary of the Treasury and shall not affect the authority of any other Federal law enforcement agency with respect to those laws.

"(c)(1) Under the direction of the Secretary of the Treasury, officers and agents of the Secret Service are authorized to—

"(A) execute warrants issued under the laws of the United States;

"(B) carry firearms;

"(C) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony;

"(D) offer and pay rewards for services and information leading to the apprehension of persons involved in the violation or potential violation of those provisions of law which the Secret Service is authorized to enforce;

"(E) pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on the Secretary's certificate; and

"(F) perform such other functions and duties as are authorized by law.

"(2) Funds expended from appropriations available to the Secret Service for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriations available to the Secret Service at the time of the reimbursement.

"(d) Whoever knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged in the performance of the protective functions authorized by this section or by section 1752 of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.".

(b) That table of contents of chapter 203 of title 18, United States Code, is amended by striking out the item relating to section 3056 and inserting in lieu thereof the following:

"3056. Powers, authorities, and duties of United States Secret Service.".

SEC. 2. The joint resolution entitled "Joint resolution to authorize the United States Secret Service to furnish protection to major presidential or vice presidential candidates", approved June 6, 1968 (18 U.S.C. 3056 note), is repealed.

SEC. 3. (a) Section 879(b)(2) of title 18, United States Code, is amended by striking out "the first section of the joint resolution entitled 'Joint resolution to authorize the United States Secret Service to furnish protection to major Presidential or Vice Presidential candidates', approved June 6, 1968 (18 U.S.C. 3056 note)" and inserting in lieu thereof "subsection (a)(7) of section 3056 of this title".

(b) Section 1752(f) of title 18, United States Code, is amended to read as follows:

"(f) As used in this section, the term 'other person protected by the Secret Service' means any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. SAM B. HALL, JR.] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SAM B. HALL, JR.].

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 5189, restates the existing provisions of section 3056 of title 18. This is the section of the code which sets out the powers, authorities, and duties of the U.S. Secret Service. The revised language sets out the provisions of the existing law in a clearer and more readable form. Present section 3056 has been modified on numerous occasions since its codification over 30 years ago by the insertion of additional language and by the passage of supplementary uncodified provisions. These changes have resulted in an extremely unwieldly statement of Secret Service authority and responsibilities. This situation is remedied by restating the same provisions in a clear and readable form. The new section would carefully preserve the contents of the current section and would in no way modify the protective duties of the Secret Service.

The revised bill restates the existing Secret Service responsibility for protecting Presidential candidates as a part of section 3056. This authority was originally established by Public Law 90-331. That law, enacted 1 day after the assassination of Robert F. Kennedy in 1968, has been carried in the United States Code as a footnote under section 3056. Of the original three subsections in which Public Law 90-331 was divided, only one remains current at this time. H.R. 5189 clarified this situation by incorporating into the body of revised section 3056 that portion of the language of Public Law 90-331 which specifies how candidates are identified for purposes of providing Secret Service protection. This proposal would, for the first time, consolidate the "list" of Secret Service protectees in one easily identifiable portion of the United States Code. This revised language removes the gender specific terminology.

The bill modifies the criminal investigative jurisdiction of the U.S. Secret Service in order to keep pace with current criminal activity. Electronic fund transfer mechanisms are well on the way to becoming the primary conduit for the payment of Government obligations, replacing the traditional Treasury check. In order to meet the challenge of criminal activity in this area, the Treasury Department has taken the action necessary to be certain that the Secret Service can act fully to protect the assets of the United States. In order to effectuate this effort, the section provides that the Secret Service is authorized to conduct criminal investigations of,

make arrests in, and present for prosecutorial consideration, cases relating to electronic fund transfer frauds.

This authority was recommended by the Treasury Department to meet the problems presently encounted by the Service. The history of Secret Service investigations demonstrates that individuals engaging in crimes relating to Government obligations and securities routinely require false identification documents to complete their misdeeds. Further, and again not surprisingly, their criminal activity extends into aligned areas of financial crime such as credit and debit card fraud. The bill addresses this situation by providing the necessary authority for the Secret Service to target the full range of crimes known to impact adversely on Treasury interests. The bill, with the subcommittee amendment, makes it clear that this authority is not exclusive. This point was clarified at the subcommittee hearing, when the witness appearing in behalf of the Treasury Department advised the Members that the Justice Department and the Treasury Department, with the approval of the Office of Management and Budget, have agreed that the authority of the Secret Service as to investigations and arrests relating to electronic fund transfer funds, credit and debit card frauds, and false identification documents and devices, is to be exercised subject to the agreement of the Attorney General and the Secretary of the Treasury. This is expressly provided for in the committee amendment. Therefore, the law enforcement agencies of both Departments which engage in these aspects of enforcement will determine in a cooperative fashion how to obtain optimum results from their available resources to combat this type of criminal action.

The committee recommends that the amended bill be considered favorably.

□ 1220

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also urge support of H.R. 5189, a bill to recodify and update the operating authority of the Secret Service. In a day and age where we too often read of the increasing sophistication of organized crime, it is important for us in the Congress to provide our law enforcement agencies with the tools necessary to combat this cancer upon our society.

Mr. Speaker, H.R. 5189 would extend the Secret Service's authority to "detect and arrest" violators of Federal law relating to electronic funds transfer, credit and debit card fraud and false identification devices. This bill would allow the Secret Service, in cooperation and coordination with the Department of Justice, to maximize Federal prosecution of crimes which are the descendants of the Secret Service's traditional concern with counterfeit money. Indeed, the proposed updating of Secret Service authority is a direct result of the fact that credit card fraud, debit card fraud and electronic fund transfer fraud is increasing in corresponding volume to the growing use of credit cards and electronic funds transfer in our society as a whole. As these technologies continue to replace cash, Government checks and other traditional financial instruments, the need for effective criminal prosecution will grow. This bill, Mr. Speaker, will help provide the authority necessary.

Mr. SAM B. HALL, JR. Mr. Speaker, I would at this time like to commend the gentleman from Ohio [Mr. KINDNESS] who is very active on this committee, the ranking minority member, for his hard work and untiring efforts in getting this bill to where it is today. We could not have done it without an effort that was very cordial on both sides of the aisle. We appreciate him very much for what he has done.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SAM B. HALL, JR.] that the House suspend the rules and pass the bill, H.R. 5189, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REAPPOINTMENT OF ANNE LEGENDRE ARMSTRONG AS A CITIZEN REGENT OF THE SMITHSONIAN INSTITUTION

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 551) to provide for the reappointment of Anne Legendre Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution, as amended.

The Clerk read as follows:

H.J. RES. 551

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Anne Legendre Armstrong of Texas, is filled by reappointment of the incumbent for a term of six years, effective May 10, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Mrs. Armstrong, former U.S. Ambassador to Great Britain, has served as citizen regent for the past 6 years.

Anne Armstrong has had a distinguished career in both public and private service and her background in education, government, cultural, civic, and corporate affairs should provide added dimension to the policy and planning arm of the Smithsonian Institution.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I concur in the description of the bill given by the distinguished chairman of the committee, the gentleman from Illinois [Mr. ANNUNZIO].

This bill was passed unanimously from our committee. Insofar as anyone is aware, there is no opposition to it.

Anne Armstrong has rendered distinguished service to her country in many endeavors beginning with a Cabinet position as Counselor to President Nixon, and including the job of being Ambassador to the Court of St. James.

She has served with no less distinction on the Board of the Smithsonian Institution, and, in my judgment, and in the judgment of the minority on the committee, has richly earned her reappointment.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the joint resolution, House Joint Resolution 551, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The title of the joint resolution was amended so as to read: "Joint resolution providing for reappointment of Anne Legendre Armstrong as a citizen

regent of the Smithsonian Institution."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 551, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REAPPOINTMENT OF A. LEON HIGGINBOTHAM, JR., AS A CITIZEN REGENT OF THE SMITHSONIAN INSTITUTION

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 552) to provide for the reappointment of A. Leon Higginbotham, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution, as amended.

The Clerk read as follows:

H.J. RES. 552

Resolved by the Senate and House of Representatives of the United States of Ameica in Congress assembled, That the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expirtion of the term of A. Leon Higginbotham, Junior, of Pennsylvania, is filled by reappointment of the incumbent for a term of six years, effective May 11, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

□ 1230

Mr. Speaker, Leon Higginbotham currently serves as circuit judge, U.S. Court of Appeals for the Third Circuit in Pennsylvania. He was initially appointed to the Board of Regents in 1972 and was unanimously nominated for reappointment.

Judge Higginbotham has been a distinguished member of the Board of Regents and his continued service can only be of benefit to the Smithsonian Institution and the newly elected secretary who will take office this month.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Again, Mr. Speaker, I concur in the statement given by the committee's distinguished chairman, the gentleman from Illinois.

Judge Higginbotham is a 12-year veteran of the Smithsonian Board. He has had a distinguished career in law and as a jurist. Again, in the opinion of the entire committee, including its minority, he has richly deserved reappointment to the Smithsonian Board.

● Mr. FAUNTROY. Mr. Speaker, I rise in support of House Joint Resolution 552 which provides for the reappointment of A. Leon Higginbotham, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

Mr. Higginbotham currently serves as circuit judge, U.S. Court of Appeals for the Third Circuit in Pennsylvania. He is a graduate of Antioch College and Yale Law School.

Judge Higginbotham serves as both an adjunct professor and lecturer-in-law at the University of Pennsylvania. He has published more than 40 articles in major scholarly journals, a book, and has received more than 50 local, regional, and national honors.

Judge Higginbotham was first elected to the Board in 1972 and his most recent term expired on May 10, 1984. I urge my colleagues to support his reappointment by approving House Joint Resolution 552.●

Mr. FRENZEL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the joint resolution, House Joint Resolution 552, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The title of the joint resolution was amended so as to read: "Joint resolution providing for reappointment of A. Leon Higginbotham, Junior, as a citizen regent of the Smithsonian Institution."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 552, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ELEVENTH AIRBORNE DIVISION MEMORIAL

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5611) to authorize the Eleventh Airborne Division Association to establish a memorial in the District of Columbia, as amended.

The Clerk read as follows:

H.R. 5611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) The Eleventh Airborne Division Association is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor the Eleventh Airborne Division, United States Army, popularly known as the "Angels of Liberation".

(b) In carrying out subsection (a), the Association shall be responsible for preparation of the design and plans for the memorial, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

SEC. 2. The Secretary of the Interior—

(1) with the approval of the Commission of Fine Arts and the National Capital Planning Commission, shall select a site for the memorial;

(2) shall not permit construction of the memorial to being unless the Secretary determines that sufficient amounts are available for completion of the memorial in accordance with the approved design and plans; and

(3) shall be responsible for maintenance and care of the memorial after completion of construction.

SEC. 3. The United States shall not pay any expense of the establishment of the memorial.

SEC. 4. The authority to establish the memorial under the first section of this Act shall expire at the end of the five-year period beginning on the date of the enactment of this Act, unless construction of the memorial begins during that period.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the 11th Airborne Division of the U.S. Army has distinguished itself in many significant ways and the establishment of a memorial would both honor and pay tribute to those American soldiers who served our country so valiantly. Most importantly it would recognize their involvement in a daring, but little known, raid of the Los Banos prisoner-of-war camp on the Island of Luzon in the Philippines which resulted in the freeing of more than 2,000 internees on February 23, 1945, with only 2 casualties. It was due to their heroic role, in this successful mission, that the division was

nicknamed, the "Angels of Liberation."

The statue, a 7-foot bronze soldier, is complete and paid for in full from private donations to the 11th Airborne Division Association.

Congressional approval of this legislation is both appropriate and timely as the average age of the original 11th Airborne member is 62 and their commanding general is now 90.

We on House Administration are proud to expedite the passage of this resolution for my distinguished colleague, Mr. CONABLE, as one of his last legislative endeavors of his career here in the House of Representatives during which he has made many beneficial contributions.

Mr. FRENZEL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, again I concur in the description of the bill and the commentary upon it which has been given to this House by the distinguished chairman of the House Administration Committee.

This is a bill that was introduced by the gentleman from New York [Mr. CONABLE] and the gentleman from Maryland [Mr. DYSON]. It provides that a memorial may be erected on what we have considered as our own Federal campus. The memorial here is to be wholly paid for by private means, none of it Federal money.

The placement of the memorial will be done in connection with the approval of a group, all of whom must agree to the placing of the statue. They are the Secretary of the Interior, the National Capital Planning Commission and the Commission on Fine Arts.

When the statue has been erected, the National Park Service will, of course, be responsible for its maintenance, which is a modest amount, probably reflecting an occasional cleanup and some grass clipping, perhaps.

The 11th Airborne Division is a fabled unit of our military service. The committee report details many of its accomplishments, but obviously in a very small report, such as our committee normally gives, we cannot tell all of the good things that this unit has performed. We simply can sketch briefly those achievements which seem to be, to us, the most outstanding.

The committee again on this bill was unanimous. We are nervous about establishing a precedent by which a large number of groups may erect memorials within what we have come to think is our domain here. Nevertheless, we believe that the 11th Airborne has earned its place in the Nation's Capital as being one of our most distinguished military units.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I take this opportunity to commend the ranking minority member of the Committee on House Administration for his diligence and cooperation, and for his expeditious handling of this legislation.

Mr. CONABLE. Mr. Speaker, I am strongly in support of this measure, and wish to note that it would not involve expense to the Government since the group seeking the memorial has agreed not only to pay for the memorial but to pay for its maintenance as well.

This was the basis on which this provision has been permitted to proceed to the House Administration Committee. It is a worthy measure, and I am grateful that the House is considering it.

Mr. Speaker, as one of the primary sponsors of H.R. 5611, I am here to reiterate my support for this measure which would authorize the 11th Airborne Division to establish a memorial in the District of Columbia.

The 11th Airborne Division was involved in a daring—but little known—raid of the Los Banos prisoner-of-war camp in Luzon, Philippines which resulted in the freeing of some 2,147, mostly civilian, internees on February 23, 1945.

The Los Banos Camp was made up of men, women, and children ages 6 to 70 from many countries—Canada, Britain, Holland, Australia, Poland, Norway, Italy, and France. However, a majority of the prisoners—1,589—were Americans. Many of the internees had been incarcerated for 3 long years and were near death: As the war was going increasingly badly for the Japanese, the internees were given less and less food. The American forces were nearing Manila and rumors spread that the Japanese would kill the prisoners rather than allow them to be rescued.

Members of the 11th Airborne Division, under the command of Maj. Gen. Joseph M. Swing, were given the task of rescuing the internees and they performed magnificently. The surprise combined parachute assault/amphibious landing took place 25 miles behind enemy lines at 7 a.m. while many of the unarmed Japanese guards were doing their daily calisthenics. The entire raid and evacuation of prisoners took less than 10 hours with only two casualities—and this to the support forces not the raiders.

Unfortunately, this heroic rescue never received the attention it deserved because it occurred on February 23, 1945, while the battle for Iwo Jima being in the balance.

The 11th Airborne Division has distinguished itself in other ways:

It participated in combat missions in the South Pacific during the Second World War and the Korean war.

It was the first U.S. troops to set foot on conquered Japan 3 days before the peace treaty, August 30, 1945.

It was the first tactical troops to experience the actual blast of an atomic bomb at close range in 1951.

It was the first airborne division to develop the air assault techniques.

It was the first airborne division activated by all draftee volunteers.

The 11th Airborne Division was a national group raised by conscription. Unlike other military units, it has no State affiliation or locus, and I think it is fitting that they be honored with a memorial in our Nation's Capital.

Time is running out if we are to honor these heroic men in their lifetimes. The average age of the original 11th Airborne member is 62 years and their commanding general is 90 years old.

Mr. Speaker, I ask for favorable consideration of H.R. 5611.

● Mr. BIAGGI. Mr. Speaker, I rise in support of this bill which would authorize the 11th Airborne Division Association to establish a memorial in the District of Columbia. As one who has long recognized the important and vital contributions veterans have made to this country, I am a proud cosponsor of this measure which will honor the memory of one of the most distinguished divisions in U.S. military history.

The 11th Airborne Division, through the heroism and bravery of so many of its members, has made an indelible mark on the history of this country. Because of the limitless courage of the men in this division, the United States was able to persevere in the struggle against the Axis powers in World War II. The 11th Airborne first distinguished itself by serving in countless combat missions over the South Pacific during World War II. Indicative of the heroism and bravery of these outstanding men was their successful airborne rescue of 2,147 prisoners of war in the Los Banos Prison Camp—25 miles behind Japanese lines—on the island of Luzon in the Philippines on February 23, 1945. This daring rescue mission was the first successful airborne rescue in military history.

The 11th Airborne Division was among the first U.S. troops to set foot on conquered Japan 3 days before the peace treaty was signed on August 30, 1945. It was also the first airborne division to serve both in the Far East and Europe. As one of the crack outfits in our military, the 11th Airborne was the first airborne division to develop air assault techniques.

Mr. Speaker, I can't think of a better way for this country to say thank you to the living original members of the 11th Airborne and to honor those in the division who gave their lives in the name of freedom, than to authorize the establishment of a memorial to

the 11th Airborne Division. Such a memorial would not only pay tribute to the courage and dedication of the men of the 11th Airborne, it would also be a living testament of this country's gratitude and indebtedness to these brave men for their efforts to protect and preserve the freedoms all Americans enjoy today. I urge all of my colleagues to lend their support to this measure.●

Mr. DYSON. Mr. Speaker, I rise in strong support today of H.R. 5611, a bill to authorize the Eleventh Airborne Division Association to establish a memorial in the District of Columbia.

I introduced this legislation earlier this year with Congressman CONABLE to give recognition to one of the most courageous divisions of our Armed Forces that the Nation has ever known, the 11th Airborne.

As a member of the House Armed Services Committee, I am proud of the role that American citizens have played in defending our Nation and believe each of them deserves commendation and recognition for their actions. The 11th Airborne, however, has played such an important role in protecting freedom, that I believe a memorial in the District of Columbia in their honor is justified.

During World War II, the 11th Airborne played a particularly critical and decisive role in the South Pacific. Their efforts were instrumental in achieving an allied victory there. They are perhaps best known for their successful efforts in liberating more than 2,000 American and European prisoners from the Japanese internment camp at Los Banos on February 23, 1945.

H.R. 5611 would authorize the Eleventh Airborne Division Association to establish a memorial in the District of Columbia so that our Nation can have a lasting symbol by which this fighting unit can be remembered. The association, which includes members of the original fighting unit, has already raised funds which have gone for the construction of a statue, demonstrating the organization's willingness to make this a memorial which will not burden American taxpayers.

Given the remarkable history of the 11th Airborne, and the commitment of the Eleventh Airborne Association to preserve the units legacy, I believe that the passage of H.R. 5611 is both timely and appropriate.

I want to thank the newly elected chairman of the Committee on House Administration, Congressman FRANK ANNUNZIO, and the other members of that committee, for their support and interest in this legislation.

In a year when our Nation has found renewed pride in committing itself to preserving freedom and democracy, I urge my colleagues to support this legislation commemorating some of America's bravest heroes in the Second World War.

Thank you.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 5611, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Eleventh Airborne Division Association to establish a memorial in the District of Columbia or its environs."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5611, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING LAND CONVEYANCE FROM DEPARTMENT OF AGRICULTURE TO PAYSON, AZ

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 598) to authorize a land conveyance from the Department of Agriculture to Payson, AZ, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized to transfer, without consideration, to the town of Payson, Arizona, the following described parcel:

A parcel of land entirely within the south half of the southeast quarter of the southeast quarter of the southeast quarter, of section 5, township 10 north, range 10 east, Gila and Salt River base meridian,

Payson, Gila County, Arizona, more particularly described as follows: commencing at the common corner of sections 4, 5, 8, and 9, township 10 north, range 10 east, Gila and Salt River base and meridian;

thence north 89 degrees 56 minutes west, along the south line of section 5, a distance of 164.47 feet to the true point of beginning;

thence continuing north 89 degrees 56 minutes west, along the south line of section 5, a distance of 337.13 feet;

thence north 13 degrees 33 minutes 08 seconds east, a distance of 223.16 feet, to a point on the south right-of-way line of West Main Street;

thence south 74 degrees 10 minutes 23 seconds east, along the south right-of-way line of West Main Street, a distance of 145.02 feet;

thence south 43 degrees 09 minutes east, along the south right-of-way line of West Main Street, a distance of 243,72 feet;

thence north 89 degrees 56 minutes west, along the south right-of-way line of West Main Street, a distance of 21.36 feet, to the true point of beginning.

The above described parcel of land contains 1.10 acres, more or less.

SEC. 2. (a) The property described in the first section shall be used for the preservation and display of articles of historical significance. If the property is not used for historical purposes, title to such property shall revert to the United States

(b) Subject to the use restrictions provided in subsection (a), the town of Payson, Arizona, may provide for the administration of the property by the Northern Gila County Historical Society.

Mr. SEIBERLING. Mr. Speaker, this Senate-passed bill is identical to a bill (H.R. 3940) introduced by the gentleman from Arizona, Mr. RUDD, on which the Subcommittee on Public Lands and National Parks held a hearing on March 22 of this year.

The bill provides for the conveyance to Payson, AZ, of a parcel of national forest land amounting to about 1.1 acre. It is the site of the former Payson Ranger Station, built by the Forest Service in 1908, but now replaced by a new ranger station on the other side of town.

Once conveyed to the town, the site would be utilized by the Northern Gila County Historical Society as a museum to preserve and display artifacts indigenous to the area, including a famous Indian collection, ranger equipment, and pioneer farming materials.

At our hearing, the administration testified that the proposed use of the site as a museum to be administered by the Northern Gila County Historical Society would be appropriate. However, they said that the President's direction was that all conveyances of Federal lands should be at fair market value, and urged that the subcommittee amend the bill to require payment of the fair market value of the land.

However, since the old ranger station has not been actively used for years, it is in need of serious renovations, and the historical society, relying totally on private individual contributions, cannot afford to undertake both the purchase of the land and the renovation of the site. The historical society is now engaged in fundraising for the renovation of the site, if acquired.

Mr. Speaker, given the historical and educational purposes which the town of Payson and the Northern Gila County Historical Society propose for this land, and given the fact that the bill provides that the property cannot be used for other purposes (on penalty of the reversion of the property to Federal ownership), I believe the town should not be required to pay for the transfer. So, I urge the passage of the Senate bill.

● Mr. RUDD. Mr. Speaker, I strongly support this legislation to convey 1.1 acres of national forest land to the town of Payson, AZ, which falls within my congressional district.

The legislation specifically conveys Payson's first ranger station and resident, built back in 1908, to the town which, in turn, would lease the site to the Northern Gila County Historical Society for use as a museum.

A new ranger station and residence have already been built to the east of the town, so this would not require the construction of new ranger facilities. In fact, the old ranger station has not been in use for some time.

When completed, the museum would represent a tremendous asset for all the citizens of Payson and the many visitors to the town each year. It is a wise investment in the community, and I urge my colleagues' full support.●

● Mr. UDALL. Mr. Speaker, I am pleased to support S. 598 which would transfer 1 acre of land on the Tonto National Forest to the community of Payson, AZ.

I am generally skeptical about public land transfers without payment of fair market value, but this is an exception that calls for flexibility on our part. The amount of land is very small and is currently the site of an old ranger station that is in a state of considerable disrepair. It would cost the Forest Service more money than it is willing to spend to upgrade the building and make it useful. The town of Payson, however, will allow the Northern Gila County Historical Society to use the building as a museum after the society has raised through private donations the funds necessary to repair it. The museum will house many valuable artifacts of local Indian and pioneer history that I think will be of real interest and service to the community.

Mr. Speaker, I think this transaction is fair and will benefit everyone involved and I am pleased to ask for its approval.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UTAH WILDERNESS ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2155) to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, and for other purposes.

The Clerk read the Senate bill, as follows:

S. 2155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utah Wilderness Act of 1984".

TITLE I—FINDINGS, PURPOSES, AND WILDERNESS DESIGNATION

SEC. 101. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Utah possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system of Utah have identified those areas which, on the basis of their land-form, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Utah have also identified those areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process, other applicable laws and the provisions of the Act.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in Utah as components of the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primite recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people; and

(2) insure that certain other national forest system lands in the State of Utah be available for nonwilderness multiple uses.

SEC. 102. (a) In furtherance of the purpose of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Utah are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Wasatch-Cache National Forest which comprise approximately forty-four thousand three hundred and fifty acres, as generally depicted on a map entitled, "Mt. Naomi Wilderness—Proposed", dated June 1984, and which shall be known as the Mount Naomi Wilderness;

(2) certain lands in the Wasatch-Cache National Forest which comprise approximately twenty-three thousand eight hundred and fifty acres as generally depicted on a map entitled "Wellsville Mountain Wilderness—Proposed", dated November 1983, and which shall be known as the Wellsville Mountain Wilderness;

(3) certain lands in the Wasatch-Cache National Forest which comprise approximately sixteen thousand four hundred and fifty acres as generally depicted on a map entitled "Mt. Olympus Wilderness—Proposed", dated November 1983, and which shall be known as the Mount Olympus Wilderness;

(4) certain lands in the Wasatch-Cache National Forest which comprise approximately thirteen thousand one hundred acres as generally depicted on a map entitled "Twin Peaks Wilderness—Proposed", dated June 1984, and which shall be known as the Twin Peaks Wilderness;

(5) certain lands in the the Wasatch-Cache and Ashley National Forests which comprise approximately four hundred and sixty thousand acres as generally depicted on a map entitled "High Uintas Wilderness—Proposed", dated June 1984, and which shall be known as the High Uintas Wilderness;

(6) certain lands in the Uinta National Forest which comprise approximately ten thousand seven hundred and fifty acres as generally depicted on a map entitled "Mt. Timpanogos Wilderness—Proposed", dated November 1983, and which shall be known as the Mount Timpanogos Wilderness;

(7) certain lands in the Uinta National Forest which comprise approximately twenty-eight thousand acres as generally depicted on a map entitled "Mt. Nebo Wilderness—Proposed", dated June 1984, and which shall be known as the Mount Nebo Wilderness;

(8) certain lands in the Manti-LaSal National Forest which comprise approximately forty-five thousand acres as generally depicted on a map entitled "Dark Canyon Wilderness—Proposed", dated November 1983, and which shall be known as the Dark Canyon Wilderness;

(9) certain lands in the Dixie National Forest which comprise approximately seven thousand acres as generally depicted on a map entitled "Ashdown Gorge Wilderness—Proposed", dated November 1983, and which shall be known as the Ashdown Gorge Wilderness;

(10) certain lands in the Dixie National Forest which comprise approximately twenty-six thousand acres as generally depicted on a map entitled "Box-Death Hollow Wilderness—Proposed", dated June 1984, and which shall be known as the Box-Death Hollow Wilderness;

(11) certain lands in the Dixie National Forest which comprise approximately fifty thousand acres as generally depicted on a map entitled "Pine Valley Mountain Wilderness—Proposed", dated June 1984, and which shall be known as the Pine Valley Mountain Wilderness; and

(12) certain lands in the Wasatch National Forest which comprise approximately twenty-five thousand five hundred acres as generally depicted on a map entitled "Deseret Peak Wilderness—Proposed", dated June 1984, and which shall be known as the Deseret Peak Wilderness.

(b) The previous classifications are hereby abolished: the Mount Timpanogos Scenic Area and the High Uintas Primitive Area.

SEC. 103. (a) As soon as practicable after the enactment of this Act, the Secretary of Agriculture shall file the maps referred to in this Act and a legal description of each wilderness area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each

such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

TITLE II—RELEASE OF LANDS FOR NONWILDERNESS USES

SEC. 201. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Utah and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Utah, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Utah;

(2) with respect to the national forest system lands in the State of Utah which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) areas in the State of Utah reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plan;

(4) in the event that revised land management plans in the State of Utah are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Utah for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those national forest system roadless areas in the State of Utah which were evaluated in any unit plan or which are being managed pursuant to a multiple use plan; and

(2) national forest system roadless lands in the State of Utah which are less than five thousand acres in size.

TITLE III—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 301. (a) Grazing of livestock in wilderness areas established by this Act, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and section 108 of Public Law 96-560.

(b) The Secretary is directed to review all policies, practicies, and regulations of the Department of Agriculture regarding livestock grazing in national forest system wilderness areas in Utah in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) Not later than one year after the date of the enactment of this Act, and at least every five years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report detailing the progress made by the Forest Service in carrying out the provisions of paragraphs (a) and (b) of this section.

STATE WATER ALLOCATION AUTHORITY

SEC. 302. (a) As provided in section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to the exemption from Utah water laws.

(b) Within the Mount Naomi, Wellsville Mountain, Mount Olympus, Twin Peaks, High Uintas, Mount Nebo, Pine Valley Mountain, Deseret Peak, and Ashdown Gorge Wilderness areas as designated by this Act, the Forest Service is directed to utilize whatever sanitary facilities are necessary, including but not limited to vault toilets which may require service by helicopter, to insure the continued health and safety of the communities serviced by the watersheds in such wilderness areas in the State of Utah; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist or which may be necessary in the future to prevent the degradation of the water supply in such wilderness areas within the State of Utah, subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(c) As provided in section 4(d)(8) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to wildlife and fish in the national forests in Utah.

PROHIBITION ON BUFFER ZONES

SEC. 303. Congress does not intend that designation of wilderness areas in the State of Utah lead to the creation of protective perimeters or buffer zones around any wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINERAL RESOURCES

SEC. 304. In furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to make assessments of the mineral potential of national forest wilderness areas in the State of Utah, on a recurring basis, consistent with the concept of wilderness preservation, in order to expand the data base with respect to the mineral potential of such lands.

SEC. 305. Within the Mount Naomi, Wellsville Mountain, Mount Olympus, Mount Nebo, Twin Peaks, High Uintas, Pine Valley Mountain and Deseret Peak Wilderness areas as designated by this Act the provisions of the Wilderness Act shall not be construed to prevent the installation and maintenance of hydrologic, meteorologic, climatological, or telecommunications facilities, or any combination of the foregoing, or limited motorized access to such facilities when nonmotorized access means are not reasonably available or when time is of the essence, subject to such conditions as the Secretary of Agriculture and the Secretary of the Interior deem desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

SEC. 306. (a) Certain lands adjacent to the Box-Death Hollow Wilderness as designated in section 102 of this Act, and generally depicted as the "Antone Bench Area" and areas 2, 3, 4, and 5 on a map entitled "Box-Death Hollow Wilderness—Proposed", dated June 1984, shall, subject to valid existing rights and until Congress determines otherwise, be managed in accordance with the following provisions:

(1) all lands within the areas are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto, except that the Secretary of the Interior is hereby authorized to issue competitive leases for carbon dioxide within the

areas for a period of five years from the date of enactment of this Act;

(2) a lease issued for carbon dioxide in the area shall be for a period of ten years and for so long thereafter as carbon dioxide is produced annually in commercial quantities from that lease: *Provided*, That an area covered by a lease shall be withdrawn from further carbon dioxide leasing or lease extension in the event production in commercial quantities from the lease is not occurring within ten years of the date of issuance of the lease; and

(3) exploration in the Antone Bench area shall be permitted only by helicopter or other methods which do not involve road construction or other significant surface disturbance.

(b) In the event development of a lease within the Antone Bench area is proposed, the following provisions shall apply:

(1) road construction shall be limited to the minimum standards necessary for proper development of the carbon dioxide resource consistent with safety requirements;

(2) roads, pipelines, electric lines, buildings, compressor stations and other facilities shall, to the maximum extent practicable consistent with economic extraction of the carbon dioxide resource, be camouflaged, constructed and located in a manner that will minimize visual, noise or other intrusions in the area and in the surrounding wilderness area;

(3) fill material, gravel and other material used for road and facility construction shall be obtained from outside the wilderness area;

(4) road or facility construction shall be limited, to the maximum extent practicable, to seasons or periods where there will be minimum impacts on recreation or wildlife uses;

(5) roads shall be used only in conjunction with carbon dioxide development operations and shall be closed to all other vehicular use, but shall be open for foot or horse travel;

(6) all roads or other facilities within the area shall, when no longer needed for carbon dioxide production, be removed and reclaimed to a condition of being substantially unnoticeable;

(7) all waste, debris or other by-products associated with road construction, carbon dioxide production, or other development activities shall be disposed of outside the Antone Bench area and the Box-Death Hollow Wilerness; and

(8) consistent with State and Federal law no activities shall be allowed within the area which could significantly impair water quality or quantity in the Box-Death Hollow Wilderness and adjacent wilderness or wilderness study areas.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2155, the Utah Wilderness Act of 1984. As passed by the Senate and reported by the committee, the bill designates approximately 749,500 acres of national forest land in 12 separate areas in Utah as components of the national wilderness preservation system. At the same time, some 2.2 million acres of roadless lands not designated as wilderness by the bill will be released for nonwilderness uses.

Mr. Speaker, I am especially gratified to bring this bill before the House today, because it represents the product of countless hours of field inspections, public hearings and tough negotiations covering some very controversial areas and issues. That process included two separate field inspection trips to Utah in August 1981 and November 1982 to view most of the wilderness proposals contained in the bill as well as to discuss areas and boundaries with local groups and experts. And one of the things we found was that the lands proposed for wilderness by S. 2155, and especially the High Uintas and Box-Death Hollow proposals, comprise some of the most scenic and spectacular wild areas in the Nation. In the interest of time, I will not attempt to describe each of the wilderness proposals of S. 2155. Rather, I will briefly touch on a few key areas which I believe merit special discussion. The first is the High Uintas.

I must profess that I have mixed feelngs about the 460,000 High Uintas proposal. On the one hand, I am delighted that the bill protects the core of the only major east-west trending mountain range in the lower 48 States and covers the most spectacular area of mountain peaks, V-shaped valleys and clusters of lakes. The wilderness proposal also protects a great deal of the wild habitat on the north slope and other areas of the Uintas which supports the largest moose, elk, and other big game populations in Utah. This is important, because scientific research is indicating more and more that many big game species are heavily, if not almost completely, dependent on roadless habitat for their survival and propagation. In this regard, we have worked with the Utah delegation to insure that all or portions of the critical wildlife habitat in areas such as Bull Park, Henry's Fork, Mansfield Meadows, and the Middle Fork of Beaver Creek are included in wilderness.

I must note, however, that the current roadless acreage in the High Uintas and adjacent lakes (RARE II area No. 4-751) roadless areas currently totals approximately 900,000 acres, and that S. 2155 protects only about half of that total. For reasons ranging from oil and gas potential, to timber harvest, to opposition from local government officials, significant roadless lands have been excluded from the wilderness lands which generally possess wildlife, scenic and recreational values that are equal to those in the proposed wilderness.

So I mention these lands to illustrate that the bill represents a hard fought compromise, and, also, to urge the Forest Service to be extremely sensitive to wildlife and other values in planning for use of the nonwilderness lands. And I observe that if these lands are not properly administered, or if oil and gas potential proves to be low, Congress may wish to consider significant additions to the High Uintas Wilderness in the future.

My second area of concern relates to the Box-Death Hollow area. This area is of special significance because it comprises the headwaters of the famed Escalante Canyon system, and represents the northern extension of a several-hundred-thousand-acre roadless complex surrounding the Escalante River and running some miles from Box-Death Hollows southeast to the shores of Lake Powell. Many outdoor enthusiasts, and especially residents of Utah and neighboring States, rate the Escalante Canyon complex as one of the finest wilderness experiences available anywhere. Based on my visit to the area in November 1982, I would agree with the assessment.

Given the wilderness values of the area, it was disappointing to learn earlier this year that the oil and gas industry believes Box-Death is underlain by large quantities of commercially valuable carbon dioxide, and that the industry wanted the area excluded from wilderness. After a series of meetings and negotiations with all concerned parties, we have agreed to a proposal which will place the highly scenic Box and Death Canyons themselves in wilderness, but which will allow carbon dioxide leasing and development on portions of the relatively flat upland ridges which lie above the canyons. Special stipulations have also been included to ensure that CO_2 exploration and development will be conducted in a manner that will minimize disruption in the adjacent wilderness lands. I believe this agreement will adequately protect the key values of the Box-Death area and note that, under other provisions of law, CO_2 exploration and development will not be permitted in adjacent BLM wilderness study areas. So the wilderness potential of surrounding BLM areas will not be impaired before Congress has a chance to consider their suitability for wilderness designation. I am thus satisfied that the overall wilderness values of the Escalante Canyon system are adequately protected by S. 2155.

In addition to the High Uintas and Box-Death Hollow areas, S. 2155 affords protection to several other areas of outstanding beauty which also have important wildlife and watershed values. The proximity of many of these areas to either Salt Lake City,

Provo, and Logan will ensure that residents of those major Utah population centers will have the opportunity to permanently enjoy a wilderness experience.

In summary, Mr. Speaker, I believe S. 2155 is meritorious legislation which will protect some of Utah's finest wild lands. The bill is supported by the entire Utah delegation and Gov. Scott Matheson, as well as numerous State and national conservation groups, I, therefore urge my colleagues' support of the legislation. In so doing, I would like to personally thank our colleague JIM HANSEN for his fine efforts to keep this legislation moving forward, and for his openmindedness and willingness to listen and suggest reasonable compromise. It has been a pleasure to work with him. Congressmen HOWARD NIELSON and DAN MARRIOTT and Senator GARN are deserving of especial thanks and commendation for their strenuous efforts to work out the compromise that made this result possible. I would additonally like to thank Gov. Scott Matheson for the countless hours of work that he and his staff have put into getting the RARE II issue resolved. And finally, I would make special mention of the fine staff work by Andy Wiessner of my subcommittee staff, Mr. Bob Weidner from Senator GARN's office, Mr. Ted Stuart of Mr. HANSEN's staff, and Mr. Chip Yost of Congressman NIELSON's staff. Their assistance has been invaluable in crafting this compromise legislation.

□ 1240

Mr. HANSEN of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree wholeheartedly with what the distinguished chairman of the committee, Mr. SEIBERLING of Ohio, just said in regards to the Utah bill. This is a bill that is many, many hours of hard negotiation. This thing actually started in 1981. We have spent hundreds of hours in Utah, both traveling the area, talking to people, and trying to come up with something that would be a good piece of legislation.

Literally hundreds of organizations are interested in this particular piece of legislation and I think we have followed the 1964 wilderness bill. I have been somewhat concerned that sometimes we had a habit of putting things in that was not really meritorious or fit that particular piece of legislation. No one could accuse us of that in this bill. If fits the criteria that is given as what actually designates wilderness.

The thing that bothers me about most Americans today is that they all talk wilderness and it is close to their hearts, and they get tears in their eyes when they talk wilderness, but very few people honestly realize the legal definition of the 1964 wilderness bill.

I agree with the distinguished chairman from Ohio that Gov. Scott Matheson did a yeoman's job in helping us on this. Senator GARN, members of our delegation and many others. I have said somewhat tongue-in-cheek that this is a good piece of legislation because nobody likes it. The environmentalists do not think they got enough; the developers think we gave away too much, therefore, I think we came out with a fairly good piece of legislation.

This bill features 750,000 acres that will now go into wilderness. It releases about 3 million acres to multiuse. As we got close to the conclusion of this, Mr. Speaker, we found ourselves in the situation where lo and behold we found one of the largest deposits of CO_2 in the Box-Death Hollow. Due to the good work of many people, we were able to resolve this so that the depressed economy of Garfield County can now experience some growth with CO_2.

Also on the north slope of the Uintas we became involved in an oil and gas issue which with the good work of HOWARD NIELSON we were able to resolve. This contains special language for a no buffer zone; limited motorized access for grazing and water measuring devices, Watershed protection, and it protects 12 areas in the State. I have to, somewhat in a boasting way, and I do not mean it this way, say that there is not a State in the Union that has the diversity of Utah, and I think most people will agree with that who have seen it. I think we have wisely taken that area that will be preserved in a wilderness situation for RARE II and tied it up for ourselves and for others yet to come.

Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the Utah wilderness bill. Since over two-thirds of the acreage of this bill is in my district, and since the main negotiations were in the High Uintas, which is in my district, I was very much involved in the process and enjoyed working with Congressman SEIBERLING, Congressman HANSEN, and Congressman MARRIOTT on this particular bill.

In 1982, just 6 days after I was elected to Congress, Congressman SEIBERLING and Congressman HANSEN asked me to go with them on a congressional tour of the proposed wilderness areas in southern Utah. I was not yet a Congressman at that time, but I thoroughly enjoyed that particular visit. It gave me a perspective that I did not have prior to that visit, even though I had spent much time in the national parks and other areas in southern Utah.

I found that the compromises that were made among industry, agriculture and the environmentalists were excellent. They were made in a spirit of trying to work together. We asked the environmentalists concerning the High Uinta basin, to rank the areas they would like to have included in order which they would be willing to give up if we cannot recommend the total acreage? We ask the county commissioners, agricultural and energy people, that if we were to go beyond the point that the Governor's commission recommended, in which order would you add them? We found almost exact correspondence, and by good cooperation among Utah's Congressmen and Senators and Governor Matheson, we were able to come up with an accommodation which we could all support.

We did have some problems as mentioned by Representative HANSEN about Box-Death Hollow. I am sorry that we cannot develop that area for oil and gas in case they happen to be found on the way to getting the carbon dioxide. I am sorry about that; I wished it had been possible in the bill. But that was not negotiable. The environmental interests were, in their view, already giving up more than they could possibly afford to give up just to allow the searching for the carbon dioxide. So, it is not what I would have liked in that particular area.

Representative HANSEN has done a very good job of putting this bill although he was very generous in adding considerable acreage in the High Uintas, in my district, in order to preserve the Box-Death Hollow carbon dioxide in his area. I appreciate his generosity in that, but I am sure it was necessary in this particular case to preserve a good resource; a source of carbon dioxide that is one of the richest in the country and one which can have an important role in developing an aquatrain to transport Utah's coal to various parts of the country. I am happy to make that exchange, even though it was very difficult and the negotiations were very, very tricky. The gentleman from Utah [Mr. HANSEN] is to be commended for his good work throughout.

I would also like to say that I think Congressman SEIBERLING has been a gentleman throughout these proceedings, and though he is a tough negotiator, it has been a pleasure working with him on this matter since I met him that Monday after the election of 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the Senate bill, S. 2155.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

DIRECTING THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 2155, UTAH WILDERNESS ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 358) directing the Secretary of the Senate to make corrections in the enrollment of S. 2155.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

□ 1250

Mr. HANSEN of Utah. Mr. Speaker, reserving the right to object, is this the resolution to make certain technical corrections in the bill just passed?

Mr. SEIBERLING. Mr. Speaker, if the gentleman would yield, yes it is. In fact, the resolution would make certain technical corrections in the enrollment of the bill as just approved, and this is the resolution provided earlier to the minority.

Mr. HANSEN of Utah. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 358

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 2155) to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, and for other purposes, the Secretary of the Senate shall make the following corrections:

Page 4, line 5, strike the words "four hundred and fifty".

Page 4, line 7, change "November 1983" to "August 1984".

Page 12, line 5, after "Deseret Peak," insert "Mountain Timpanogos,".

Page 13, line 21, after "Pine Valley Mountain," insert "Mountain Timpanogos,".

Page 14 on lines 11, 15, 21, and 23, change "areas" to "Areas" at each place it appears.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on S. 2155 and also on S. 598, which was considered just prior thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WATER RIGHTS OF THE AK-CHIN INDIAN COMMUNITY

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6206) amending the act of July 28, 1978 (Public Law 95-238), relating to the water rights of the Ak-Chin Indian Community, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress hereby finds and declares that—

(1) the Department of the Interior and the Ak-Chin Indian Community executed on September 23, 1983, an agreement entitled, "Agreement in Principle for Revised Ak-Chin Water Settlement", wherein the parties agreed to revisions of the Act of July 28, 1978 (P.L. 95-328; 92 Stat. 409);

(2) the main purpose of the Agreement in Principle is to accomplish a prompt and economical fulfillment of the intent of that Act;

(3) section 3 of that Act requires that the Secretary of the Interior (hereinafter referred to as the "Secretary") as soon as possible but not later than 25 years after the date of the enactment of that Act, deliver to the Ak-Chin Indian Reservation a permanent supply of water to fulfill the Ak-Chin Indian Community's entitlement to 85,000 acre-feet of water;

(4) section 2 of the Act requires that the Secretary deliver an interim supply of water until the permanent supply is acquired and delivered to the Reservation;

(5) the Secretary proposed to the Community, subject to the approval of Congress, to deliver the permanent supply not later than January 1, 1988, except that the Community, as a consideration, agree to certain modifications in the quantities of water to be delivered as the permanent supply and to release him from his obligation to deliver an interim supply;

(6) in order to establish January 1, 1988, as the date certain for the delivery of a permanent supply, the Community agreed to—

(A) the reduced deliveries of the permanent supply under certain conditions;

(B) the Secretary's proposals regarding the interim supply; and

(C) certain other proposals of the Secretary; and executed the Agreement in Principle; and

(7) the provisions contained in this Act conform to the purposes of that Agreement and the consideration embodied in it.

SEC. 2. (a) As soon as possible but not later than January 1, 1988, the Secretary shall deliver annually a permanent water supply from the main project works of the Central Arizona Project to the southeast corner of the Ak-Chin Indian Reservation of not less than 75,000 acre-feet of surface water suitable for agricultural use except as otherwise provided under subsections (b) and (c).

(b) In any year in which sufficient surface water is available, the Secretary shall deliver such additional quantity of water as is requested by the Community not to exceed 10,000 acre-feet. The Secretary shall be required to carry out the obligation referred to in this subsection only if he determines that there is sufficient capacity available in the main project works of the Central Arizona Project to deliver such additional quantity.

(c) In time of shortage, if the aggregate supply of water referred to in subsection (f) is not sufficient to deliver 75,000 acre-feet, the Secretary may deliver a lesser quantity but in no event less than 72,000 acre-feet. For the purposes of this Act, the term "time of shortage" means a calendar year for which the Secretary determines that a shortage exists pursuant to section 301(b) of the Colorado River Basin Project Act of September 30, 1968 (P.L. 90-537) such that there is not sufficient Central Arizona Project water in that year to supply up to a limit of 309,828 acre-feet of water for Indian uses, and up to a limit of 510,000 acre-feet of water for non-Indian municipal and industrial uses.

(d) The Secretary shall be deemed to have satisfied his obligation to deliver water under this section only if such water is delivered at flow rates which meet the seasonal requirements for agricultural use on the Reservation. Such rates shall not exceed 300 cubic feet per second.

(e) To meet the obligations of the Secretary to deliver water under this Act, the Secretary shall design, construct, operate, maintain, and replace, at no cost to the community, such facilities, including any aqueduct and appurtenant pumping facilities, powerplants and electric power transmission facilities, which may be necessary.

(f) The water supply referred to in subsections (a) and (c) shall consist of the aggregate of the following—

(1) First, a permanent supply of no more or less than 50,000 acre-feet of surface water per annum to be diverted from the Colorado River of the 300,000 acre-feet of water heretofore authorized by the Act of July 30, 1947 (61 Stat. 628), for beneficial consumptive use on lands of the Yuma Mesa Division of the Gila Project. Water referred to in this paragraph and in subsection (g)(1) shall have equal priority. Furthermore, these provisions shall not affect the relative priorities among themselves of water users in Arizona, Nevada, and California which are senior to diversions for the Centeral Arizona Project as fully set out in section 301(b) of Public Law 90-537.

(2) Such Central Arizona Project water allocated to the Community and referred to in the "Notice of Final Water Allocations to Indians and non-Indian Water Users and Related Decisions" (48 FR 12446, March 24, 1983) as is necessary to fulfill the Secretary's water delivery obligations. Delivery of such Central Arizona Project water shall be as provided in the December 11, 1980, Central Arizona Project water delivery contract between the United States and the Ak-Chin Indian Community, except as otherwise provided by this Act and any contract executed pursuant to this Act.

Notwithstanding any other provision of this Act, nothing in paragraph (1) of this subsection shall enlarge or diminish the authority of the Secretary under existing law. Nothing in section 4 or any other provision of this Act shall reduce the Secretary's obligation to deliver to the Ak-Chin Reservation a permanent supply of 50,000 acre-feet of surface water per annum as well as the water referred to in paragraph (2) of this subsection.

(g)(1) The limitation in the first section of the Act of July 30, 1947 (61 Stat. 628) on the annual beneficial consumptive use in the Yuma Mesa Division of the Gila Project of no more than 300,000 acre-feet of Colorado River water shall be deemed to be a limitation of no more than 250,000 acre-feet, effective as provided in section 4 of this Act.

(2) Such 250,000 acre-feet of water shall not be used to irrigate more than 40,000 acres of land in the Yuma Mesa Division, specifically: 6,587 acres in the North Gila Valley Irrigation District; 10,600 acres in the Yuma Irrigation District; and 22,813 acres in the Yuma Mesa Irrigation and Drainage District. Additional land not to exceed 2,187 acres in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than 40,000 acres being irrigated in the Yuma Mesa Division.

(3) Pursuant to appropriations, the Secretary shall pay—

(A) $5,400,000 to the Yuma Mesa Irrigation and Drainage District for the purpose of replacement, rehabilitation, and repair of the water delivery system within the Yuma Mesa Irrigation and Drainage District, including water pumping facilities; and

(B) $2,000,000 to the Yuma Mesa Irrigation and Drainage District, $1,000,000 to the Yuma Irrigation District, and $1,000,000 to the North Gila Valley Irrigation District, for the purpose of on-farm and district water conservation and drainage measures.

Such funds shall not be used as non-Federal contributions in connection with any other Federal programs requiring cost-sharing. None of the payments to be made by the Secretary to said districts under this subsection shall be treated as supplemental or additional benefits or reimbursable to the United States.

(4) The Secretary is authorized and directed to amend the repayment contracts, as amended, between the United States and said districts to conform to the provisions of this Act and to provide that all remaining repayment obligations owing to the United States on the date of the enactment of this Act are discharged. The Secretary is authorized at the request of the districts or any one of them to issue a certificate acknowledging that the lands in the requesting district are free of the ownership and full cost pricing provisions of Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of Yuma County, Arizona. Amendments to the districts' contracts relating to items other than those covered by this Act shall not be made without the consent of the irrigation districts.

(5) The Secretary shall be required to carry out his obligations in paragraphs (3) and (4) only if the Yuma Mesa Irrigation and Drainage District, the North Gila Valley Irrigation District, and the Yuma Irrigation District execute amendatory contracts necessary to carry out the provisions of this subsection, including specifically a wiaver and release of any and all claims to the annual beneficial consumptive use of Colorado River water in excess of 250,000 acre-feet as provided in paragraph (1) of this subsection.

(h)(1) If the facilities required to deliver water to the Ak-Chin Reservation as provided in this section are not completed by January 1, 1988, the Secretary shall pay damages measured by the replacement cost of water not delivered in that calendar year up to a limit of 35,000 acre-feet. In addition and to mitigate the effects occasioned by the failure to deliver said water, the Secretary shall pay all operation, maintenance and replacement costs of on-reservation wells to produce up to 40,000 acre-feet of water in that year for use by the Community.

(2) Commencing January 1, 1989, the Secretary shall pay damages measured by the replacement cost of water not delivered under subsection (a) or (c) as appropriate, up to a limit of 75,000 or 72,000 acre-feet of water, irrespective of whether the facilities to deliver water to the Ak-Chin Reservation have been completed.

(i) In any year in which the Ak-Chin Indian Community requests additional water under subsection (b) and such water and associated canal capacity are available, if the Secretary fails to deliver that quantity of additional water, in addition to any damages which he is required to pay under subsection (h), he shall pay damages in an amount measured by the agricultural water service operation, maintenance, and replacement costs for the Central Arizona Project in effect during that year, plus 20 per centum, of such additional quantity of water as is not delivered.

(j) The Ak-Chin Indian Community shall have the right to devote the permanent water supply provided for by this Act to any use, including but not limited to agricultural, municipal, industrial, commercial, mining or recreational use.

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community. Whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall have the authority to contract, on an interim basis, for the allocation of any of the water referred to in subsection (f)(2) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

SEC. 3. (a) The obligation of the Secretary to acquire and deliver to the Community an interim water supply from 1984 through 1987 under section 2 of the Act of July 28, 1978 (Public Law 95-328) shall be deemed to be fully discharged once—

(1) within 60 days of enactment of appropriations, the Secretary pays to the Community $1,400,000 in a lump sum grant for economic development in fiscal year 1986;

(2) the Secretary of the Treasury, within 30 days after the date of enactment of this Act, has paid to the Community $15,000,000 for general community purposes as provided in Public Law 98-396;

(3) within 60 days after the date of enactment of this Act the Secretary has provided to the Community grants for economic development purposes of $2,000,000 from funds provided in Public Law 98-396 for the permanent water supply; and

(4) the Secretary has amended those repayment contracts between the United States and the Community to provide that all repayment obligations owing to the United States are discharged.

The Secretary is hereby authorized and directed to take such actions needed to amend the contracts referred to in paragraph (4).

(b) To carry out the purposes of this section the Ak-Chin Indian Community shall have the complete discretion to use and expend the funds referred to in this section.

SEC. 4. The provisions of sections 2(f)(1) and (g) of this Act shall not take effect until—

(1) the amendatory contracts authorized by section 2(g) of this Act have been duly ratified and approved by each of the districts and executed by the United States; and

(2) the funds authorized to be paid to the districts by section 2(g)(3) of this Act have been appropriated and transferred to the districts.

SEC. 5. (a) The obligations of the Secretary under section 3 of the Act of July 28, 1978 (92 Stat. 409; P.L. 95-328), shall terminate upon the enactment of this Act. If the Secretary fails to acquire the water supply referred to in section 2(f)(1) of this Act by January 1, 1988, the Secretary shall be obligated—

(1) to deliver annually to the southeast corner of the Ak-Chin Indian Reservation 85,000 acre-feet of water suitable for irrigation beginning January 1, 1988; and

(2) to provide as soon as possible, but not later than January 1, 2003, for the permanent delivery of such water.

(b) Failure to deliver water as specified in this section shall render the United States liable for damages measured by the replacement cost of water not delivered.

SEC. 6. The Secretary shall establish a water management plan for the Ak-Chin Indian Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as any management plan developed under Arizona law.

SEC. 7. Nothing in this Act shall be construed to enlarge or diminish the authority of the Secretary with regard to the Colorado River.

SEC. 8. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1985.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is kind of a happy day for most of us here. We can save some Federal dollars and keep faith with an Indian tribe with whom we made a settlement 6 years ago and we can celebrate a bipartisan approach to a very difficult problem.

The Ak-Chin Reservation is about 21,000 acres, located 30 miles south and west of Phoenix, AZ. It was established back in 1912. The Ak-Chin Indians have formed this reservation based entirely on ground water because there was no surface supply.

In 1962, the community established itself as an incorporated entity known as Ak-Chin Farms. There was ground water pumping by non-Indians adjacent to the reservation. This became somewhat difficult because the ground water level dropped and there was fear that we were pumping out an adjoining Indian reservation as well as some of the privately owned facilities.

Secretary Clark, in the Interior Department after the 1978 settlement was made, began negotiations with the Indian tribes and others interested entities to get a resolution.

Happily, a few weeks ago, the Department of Interior was able to negotiate with the Indian tribe and with the people in the Yuma Irrigation District a settlement by which 50,000 acre-feet of water would be saved by linking canals and making other improvements and that 50,000 acre-feet would be transferred to the Ak-Chin Indian Reservation to firm up their water supply.

This has no impact on people or water interests outside of Arizona. It is a settlement that has received the approval of myself, Senator GOLDWATER, Congressman MCCAIN, who was going to be here today but could not and asked me to indicate his strong support.

The Governor would like to do a renegotiation of some features of the settlement and that may happen between now and the time the bill is considered in the other body.

But I ask my colleagues to pass the bill at this time here in the House. I think we can settle this very serious problem and keep faith with our Indian friends in the Ak-Chin Tribe.

The Ak-Chin Reservation, 21,000 acres, is located approximately 30 miles south of Phoenix, AZ, was established by Executive order dated May 12, 1912.

The Ak-Chin have farmed their reservation since the early 1940's. Since there is no available supply of surface water, the tribe is dependent on ground water for irrigation and domestic supply.

In the 1940's, the ground water table below reservation lands was at a depth of about 40 to 50 feet. In 1962, the Ak-Chin community established Ak-Chin Farms as a community owned farm enterprise, and at its peak, the community had 11,000 acres under cultivation. The farming program has been very successful, and the Ak-Chin community is almost completely self-sufficient.

Since the forties, however, ground water pumping by non-Indian irrigators has dramatically altered the shape of the ground water basin and has drastically dropped the water table. Intensive pumping by off reservation interests has changed the flow pattern of the ground water aquifer underlying the reservation: water that once flowed from south to north now flows from north to south, into a giant cone-like depression that has been created by the non-Indian agricultural activities. The ground water under the reservation now lies some 400 feet under the surface. Only 5,000 acres are now irrigated.

In 1978, Congress enacted legislation to resolve the water rights claims of the Ak-Chin community. That legislation was supported by the Ak-Chin community, the State of Arizona, the Department of the Interior, and the local water users. The settlement provided that, in exchange for receiving an interim water supply by 1984, and a permanent water supply by 2003, the Ak-Chin community would waive all claims against all parties in the area, the State of Arizona and the United States.

To satisfy those water supply obligations, the Secretary of the Interior began design and engineering studies for the development of a well field on nearby Federal lands. Congress authorized $43 million to be appropriated for the purpose. As the studies progressed, however, several problems arose: The Department of the Interior discovered that costs of the wellfield had skyrocketed beyond the authorization, they also decided that the proposed well field would affect the water supply of another Arizona Indian tribe: the Papagos. And they decided that the supply of water intended for the reservation was not permanent enough to satisfy the Secretary's obligations under the Settlement Act.

Accordingly, the Secretary, in 1983, entered into negotiations with the Ak-Chin community to revise the settlement. In exchange for agreeing to reduce its entitlement from 85,000 acre-feet to 75,000 acre-feet in normal years and to 72,000 acre-feet in dry years, the Ak-Chin insisted on an earlier delivery date for its permanent water supply. In a document entitled "Agreement-in-Principle for Revised Ak-Chin Water Settlement," dated September 23, 1983, the Secretary and the Ak-Chin community negotiated new terms for the settlement.

The Secretary then sought sources of water for the permanent supply for the Ak-Chin. On September 5, 1984, the Secretary entered into an agreement with three irrigation districts in the Yuma Mesa division of the Gila project, to reallocate 50,000 acre-feet of the districts' Colorado River water to the Ak-Chin. In exchange for giving up 50,000 acre-feet of water, the districts will receive $9.4 million in funds to improve the water delivery system, and to install onfarm conservation measures to achieve greater efficiency. The districts will also be relieved of 2.3 million in repayment obligations still outstanding on the Gila project.

The terms of this new settlement are relatively inexpensive. The costs of the originally proposed wellfield had increased from $43 to $100 million. Failure to deliver water under that original settlement would have resulted in tens of millions of dollars of liability over the course of the settlement, because the act required the Secretary to pay damages if he was unable to deliver water.

CBO puts the cost of this revised settlement at 16 million. That includes money for the rehabilitation of the Yuma Mesa water delivery system, and the onfarm measures, a grant to the Ak-Chin for agricultural development, including purchase of farm machinery, and discharge of the outstanding loan repayment obligations.

The bill as introduced permitted the Ak-Chin community to use its water for any purpose on or off the reservation. This permitted the tribe to lease water for use by non-Indians off reservation, but did not allow the alienation of the water right.

This provision has caused some concern among other Western States. They are concerned that such an off reservation sale provision might be construed to imply that Congress intends reserved rights to be sold for use off reservation. Although it is my strong belief that this provision was limited only to settlement water, and that nothing in this bill affects reserved water rights, I have agreed to amend the bill to delete the provision that permits off reservation sale. The bill at the desk reflects this change.

AK-CHIN INDIAN COMMUNITY COUNCIL—RESOLUTION NO. A-30-84

Whereas, Congress enacted the Act of July 28, 1978, P.L. 95-328 (92 Stat. 409) which provided for settlement of the Community's claims to water for its Reservation in Central Arizona; and

Whereas, a water delivery contract mandated by the Act was executed by the Secretary on behalf of the United States and by the Council for the Community on May 20, 1980; and

Whereas, both the Act and the contract obligate the Secretary to deliver annually an interim supply of 85,000 acre-feet of ground water from nearby Federal land to the southeast corner of the Reservation commencing in January 1984 and to acquire a permanent supply of 85,000 acre-feet of water annually as soon as possible but not later than twenty-five years after enactment of the Act; and

Whereas, the Secretary's failure to implement the Act and contract in 1983 created a situation whereby the Government was in imminent danger of breaching the Act and contract; and

Whereas, intense negotiations led to the execution of an Agreement-in-Principle executed by the Secretary and the Community on September 23, 1983, which required amending the Act of July 28, 1978, P.L. 95-328; and

Whereas, identical measures, H.R. 6206 and S. 2976, were introduced in the U.S. House of Representatives and U.S. Senate, respectively, on September 10, 1984, to accomplish the desired amendments to P.L. 95-328; and

Whereas, H.R. 6206 was amended and favorably reported by the full Committee on Interior and Insular Affairs, U.S. House of Representatives, on September 12, 1984; and

Whereas, the Council has reviewed and discussed H.R. 6206, as amended, and has determined that it will be in the best interest of the Community if such amended version of H.R. 6206 is enacted into law: Now, therefore, be it

Resolved, That the Council does hereby approve H.R. 6206, as amended, and hereby authorizes the Chairman, Vice Chairman and Secretary to do everything possible to expedite its enactment into law; and be it further

Resolved, That the Council in order to insure enactment of H.R. 6206, as amended, is prepared to accept further amendment embodying a reserved water rights disclaimer and/or deletion of the off-Reservation sale of water provision.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill we are presently considering.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6206.

This legislation amends the 1978 act which settled the water claims of the Ak-Chin Indian community in central Arizona.

Because certain assumptions in the 1978 act proved incorrect, this legislation is needed to authorize and ratify the terms of a revised agreement between the Ak-Chin, the Department of the Interior, and other water users in Arizona.

The new agreement will provide for a final settlement of the tribe's claims, a permanent supply of water for Ak-Chin, and funds for their water development.

It will fulfill the congressional intent of the 1978 act at nearly two-thirds less cost to the United States than the original settlement. It will also make up to 33,000 acre-feet of water available to water users in central Arizona that would otherwise not be available to them.

The new management has the full support of the administration. Secretary William Clark, in a letter to the Interior Committee chairman, urged prompt action to finally fulfill the promises made to Ak-Chin 6 years ago.

H.R. 6206 represents the administration's commitment to resolve outstanding Indian water claims via negotiated settlements that are equitable to Indians and non-Indians alike.

I urge its adoption by the House.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 6206, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "An Act relating to the water rights of Ak-Chin Indian Community.".

A motion to reconsider was laid on the table.

CONTROL OF WILDFIRES ON FEDERAL LANDS

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 3726, to amend the act of May 27, 1955, to increase the effectiveness of domestic firefighting forces and ensure prompt and effective control of wildfires on Federal lands by permitting the use of firefighting forces of foreign nations and the reimbursement of such forces for costs incurred in fighting wildfires throughout the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of May 27, 1955, entitled "An Act to authorize the execution of agreements between agencies of the United States and other agencies and instrumentalities for mutual aid in fire protection, and for other purposes" (42 U.S.C. 1856-1856d; 69 Stat. 66), is amended—

(1) by striking out "in the vicinity of any installation of the United States" in subsection (c) of the first section;

(2) by striking out "in the vicinity of such property" in section 2(a); and

(3) by striking out ", within the vicinity of any place at which such agency maintains fire-protection facilities," in section 3.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FUQUA] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3726 amends the act of May 27, 1955, by expanding the authority for the use and reimbursement of foreign and domestic firefighting forces for fighting fires on U.S Government property. Such authority is currently permitted only in instances in which such organizations are located in the vicinity of U.S. Government property, facilities and installations. As a consequence, in the event of a wildfire involving Federal Government property in an area of the country far from organized firefighting organizations, Government employees must be used. When all regional Federal and State firefighters are committed, Federal or State firefighters must be brought in from other regions of the United States to participate in the firefighting activities. At such times it may be more cost-effective and logistically superior to request the services of firefighting units located closer to the fire, including those units of foreign countries. Catastrophic wildfires occurred in the Pacific Northwest and Northern Rocky Mountain States in 1973 and in California in 1977. In these situations Canadian Forces could have been effectively used to supplement and back up domestic firefighters. H.R. 3726 would allow such units to be used and would permit their reimbursement.

Mr. KINDNESS. Mr. Speaker, I join in support of H.R. 3726, a bill to permit the use of foreign firefighting resources on Federal land and to improve the wildfire fighting capability of the Federal Government.

Wildfires, as has been pointed out, especially in the Western States, have caused millions of dollars of damage in the last decade. Recently, the fires in Montana raged out of control and burned thousands of acres of forest and range land as well as residential and commercial property and this needless destruction must be deterred or stopped to the best of our ability.

H.R. 3726 will increase our ability to fight such fires by permitting the use of firefighting organizations of foreign lands including those of foreign corporations and associations, in fighting wildfires anywhere on Federal land in the United States.

These foreign firefighters would provide much-needed assistance in manpower and equipment to our domestic forces. The Department of Agriculture stated that Canadian forces would be especially helpful in controlling fires in the Pacific Northwest and Rocky Mountain States.

In addition, the Department has ascertained that in certain situations it is more cost-effective to reimburse foreign forces rather than to transport Federal or State forces from more distant locations.

So, Mr. Speaker, H.R. 3726 was proposed by the administration. It represents a logical and necessary step in increasing the fire protection of our Federal land. I strongly urge support of H.R. 3726 and recommend its approval, and yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I was unaware of this bill, and the gentleman may wonder why I am a little concerned right now, but you are talking about Federal lands and it is cheaper, apparently the administration says it is cheaper to hire foreign-

ers to be fighting our fires on our Federal lands.

Now, are we speaking it is cheaper because of the salaries being paid or because of transportation capabilities?

Mr. KINDNESS. Mr. Speaker, the concern is that uppermost is transporting equipment and personnel over greater distances. For example, in the gentleman's State of Alaska, it is a potential problem to have backup personnel and equipment coming from down in the Western States; a greater distance while fires might rage.

Mr. YOUNG of Alaska. What I am concerned here with, we have a very valid group of firefighters available in the State of Alaska primarily as Alaskan Indians. We just passed a bill a few moments ago concerning waters.

I would be deeply disturbed if I happened to look out and see a bunch of Canadians working in my Federal lands which is now owned because of efforts of some people in this Congress approximately 74 percent by the Federal Government, but seeing Alaskans deprived of one of the major sources of income from the more remote areas, fighting fires on Federal lands.

□ 1300

Mr. KINDNESS. Mr. Speaker, I would hasten to assure the gentleman from Alaska that what is intended here is strictly the emergency supplemental use of personnel from outside of the area that would be affected by the fire, and only where there are no domestic personnel and resources readily available to get there.

But as the gentleman would concede, there could be occasions in which it would be more costly and more time-consuming to move people and equipment from, let us say, Wyoming to a fire in Alaska than it would be to get some help from our neighbors across the border.

Mr. YOUNG of Alaska. I have no argument with that. I just want to make sure that those in Montana, if the firefighters are available, they would have been hired first; or if it is in Wyoming or Utah or California or the State of Washington or Oregon, the timber States, and Alaska, that because of the proximity of the Canadian work force, that they are not available or they are not used when there are available forces near.

I would like to ask the chairman of the committee about that.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Alaska brings up a very legitimate question, and that is not the intent of the legislation, to deny that. It is really to assist in logistics operations, like in the recent fire in Montana. We brought firefighters from all over the United States, which would have strained the system if we had fires develop in other places, and it was very close in proximity to where Canadians could help.

Under the present law, we could not reimburse them, had they come in. This is not hiring the Canadians; it would be on a reimbursement basis in case of emergency, so that the system would not be strained.

Mr. YOUNG of Alaska. I want to thank both of the gentlemen for this colloquy. I think it has set the record straight that the areas that we are concerned with would be protected, and also that the residents there will have access to, very frankly, a source of employment whenever those things occur.

Mr. KINDNESS. I thank the gentleman for his contribution in making the record clear on that point.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. FUQUA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3726, to amend the act of May 27, 1955, to increase the effectiveness of domestic firefighting forces and ensure prompt and effective control of wildfires on Federal lands by permitting the use of firefighting forces of foreign nations and the reimbursement of such forces for costs incurred in fighting wildfires throughout the United States, and for other purposes.

H.R. 3726 was jointly referred to the Committees on Government Operations and Foreign Affairs. Government Operations conducted a hearing and markup of this noncontroversial legislation. The bill was introduced by the Honorable JACK BROOKS, the distinguished chairman of the Government Operations Committee, at the request of the Department of Agriculture.

The bill's intent is to permit the use of firefighters of other nations, especially Canada, to combat wildfires in the United States. Current provisions of law do not enable compensation to non-U.S. personnel, agencies or organizations in order to fight fires in this country. In some instances, use of foreign firefighting forces is more cost-effective and more efficient, involving less transportation of personnel and equipment. Use of this authority would be granted when feasibility and proximity to conflagrations dictate.

The Foreign Affairs Committee did not formally consider the bill, but agrees with the purposes and intent of the legislation. In recognition of the committee's jurisdictional prerogatives and responsibilities, I wrote a letter to Chairman BROOKS which appears in the Government Operations Committee's report on H.R. 3726. I would like to include a copy of that letter in the RECORD, as originally transmitted to the committee.

Mr. Speaker, I urge the adoption of H.R. 3726.

The letter follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1984.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding H.R. 3726, to amend the Act of May 27, 1955, to increase the effectiveness of domestic firefighting forces and ensure prompt and effective control of wildfires on Federal lands by permitting the use of firefighting forces of foreign nations and the reimbursement of such forces for costs incurred in fighting wildfires throughout the United States, and for other purposes, which was jointly referred to the Committees on Foreign Affairs and Government Operations.

The Foreign Affairs Committee supports the intent of the legislation which would enhance firefighting capacity in the United States. Granting authority to use and reimburse foreign firefighting organizations in some instances seems a prudent precaution. The use of foreign firefighters, either to supplement US firefighting forces or when proximity to a fire justifies their use, would enable fires to be combatted more effectively and more cheaply. The bill poses no problems from a foreign affairs perspective. The Committee understands that use of such foreign firefighters is an extraordinary measure which would be used infrequently, as circumstances warrant.

Without prejudice to its jurisdiction, the Committee on Foreign Affairs has no objection to H.R. 3726, as reported by the Committee on Government Operations, and will support its passage on the House Floor. I would appreciate your including a copy of this letter in your Committee's report on the bill.

With best wishes, I am
Sincerely yours,

DANTE,
Chairman.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend rules and pass the bill, H.R. 3726, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CENTRAL INTELLIGENCE AGENCY INFORMATION ACT

Mr. BOLAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5164) to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes, as amended by the Committee on Government Operations.

The Clerk read as follows:

H.R. 5164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Information Act".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

"EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE

"SEC. 701. (a) Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5, United States Code (Freedom of Information Act), which require publication or disclosure, or search or review in connection therewith.

"(b) For the purposes of this title the term 'operational files' means—

"(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

"(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

"(3) files of the Office of Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

"(c) Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5, United States Code (Freedom of Information Act), or section 552a of title 5 United States Code (Privacy Act of 1974);

"(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act); or

"(3) the specific subject matter of an investigation by the intelligence committees of the Congress, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

"(d)(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

"(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

"(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

"(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that—

"(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

"(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

"(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

"(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

"(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidences;

"(5) in proceeding under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that request for admission may be made pursuant to rules 26 and 36;

"(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

"(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES

"SEC. 702. (a) Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 701 of this Act to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

"(b) The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(c) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.".

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

"Sec. 701. Exemption of certain operational files from search, review, publication, or disclosure.

"Sec. 702. Decennial review of exempted operational files.".

(c) Subsection (q) of section 552a of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(q)"; and

(2) by adding at the end thereof the following:

"(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.".

SEC. 3. (a) The Director of Central Intelligence, in consultation with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist, shall prepare and submit by June 1, 1985, a report on the feasibility of conducting systematic review for declassification

and release of Central Intelligence Agency information of historical value.

(b)(1) The Director shall, once each six months, prepare and submit an unclassified report which includes—

(A) a description of the specific measures established by the Director to improve the processing of requests under section 552 of title 5, United States Code;

(B) the current budgetary and personnel allocations for such processing;

(C) the number of such requests (i) received and processed during the preceding six months, and (ii) pending at the tme of submission of such report; and

(D) an estimate of the current average response time for completing the processing of such requests.

(2) The first report required by paragraph (1) shall be submitted by a date which is six months after the date of enactment of this Act. The requirements of such paragraph shall cease to apply after the submission of the fourth such report.

(c) Each of the reports required by subsections (a) and (b) shall be submitted to the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 4. The amendments made by subsections (a) and (b) of section 2 shall be effective upon enactment of this Act and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. BOLAND] will be recognized for 20 minutes and the gentleman from Virginia [Mr. WHITEHURST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise in strong support of H.R. 5164, the Central Intelligence Agency Information Act.

This bill represents an important convergence of necessary protection for true national security secrets and preservation of the public's right of timely access to Government information.

H.R. 5164's synthesis of these sometimes conflicting principles is a tribute to the hard work of the gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on Legislation, and the gentleman from Virginia [Mr. WHITEHURST], the ranking minority member of the subcommittee. Mr. MAZZOLI was unable to be present to manage the bill today because he had to attend an immigration bill conference committee meeting, perhaps one of the most important conferences this year.

As always, the contributions of the gentleman from Virginia [Mr. ROBINSON], the ranking minority member of the committee, were quintessentially demonstrated by the unanimous support H.R. 5164 received from the Permanent Select Committee on Intelligence.

The bill thereafter was considered—and improved—by the Committee on Government Operations, where it was shepherded through by the gentleman from Oklahoma [Mr. ENGLISH], the chairman of the Subcommittee on Government Information, Justice, and Agriculture, and by the gentleman from Ohio [Mr. KINDNESS], the ranking minority member of the subcommittee.

The result of all these efforts, Mr. Speaker, is a bill unanimously endorsed by the Intelligence Committee and by all but one member of the Committee on Government Operations.

The administration supports the bill.

It has the firm support of the Central Intelligence Agency and the American Civil Liberties Union.

The CIA can of course be expected to be in favor of this legislation.

The reason why the ACLU's endorsement is especially significant, however, is because that organization cannot be expected to endorse a bill that will result in less information being available to the public than is presently the case.

Such is indeed the policy of the ACLU.

Its endorsement is premised on the firm expectation—shared by the two committees which have worked on H.R. 5164—that the flow of properly releasable information to the public will be expedited by this bill.

It will, they believe, eliminate those requests from the queue that never result in the release of information but do consume many man-hours of search and review.

Yet, while faster CIA response to Freedom of Information Act requests was the reason the ACLU supported legislation of this type, the issue that convinced the ACLU leadership to endorse H.R. 5164 was its judicial review provisions.

Judicial review will de novo, as it is under the FOIA today.

The key point, however, is that judicial review will be no less restrictive than current litigation practices.

In effect, the bill codifies current FOIA reality for CIA cases.

This is because litigants simply have not prevailed in seeking access to the kind of information to be found in purely operational files. And, it is the judgment of your committees that such information ought not to be made public.

The ACLU has accepted the legitimacy of the bill's definition of operational files. That acceptance follows 10 years of actual, practical litigation experience that confirms that courts agree with the CIA on withholding such information from the public.

Mr. Speaker, that situation won't change, but neither will CIA's backlog until some relief is provided.

More money and personnel won't deplete the growing queue of FOIA requests since only experienced CIA operations officers are qualified to properly review material from operational files.

These people are unique because of their experience and special knowledge. They have other important tasks to do. If they can be freed from the laborious review of files that never are released, other requests will be handled more quickly.

At the same time, no less information will be released to the public than if a search has been made.

Mr. Speaker, it has been suggested that those who contest by lawsuit CIA practices under this bill must prove CIA activities violate its provisions before they can seek to raise such issues.

"A real catch-22," the critics claim, and they add that regular discovery isn't available to assist such litigants.

That is simply wrong. Plaintiffs don't have to prove their case before they file it, but they must show some support for their allegations. After all, the object of the bill is to release the CIA from the obligation to search its operational files.

If mere allegation will force a search to prove that a search isn't required, that is a catch-22 of real proportions.

Further, discovery in FOIA suits under this bill will be limited only with respect to two new types of allegations—allegations which this legislation makes it possible for plaintiffs to raise when suing CIA.

Questions involving all other complaints are subject to existing discovery rules and case law.

Mr. Speaker, it is true that under this bill, FOIA litigants likely will be unable to reach documents in CIA operational files. Their chances under present law are no better.

What is preserved is the essence of effective judicial review now applied in national security FOIA cases.

If a plaintiff can offer some evidence that documents have been improperly filed in operational files, or files have been improperly designated as operational files, then the court must consider those issues.

That review will be a de novo review under the existing FOIA judicial review provisions. And what the plaintiff cannot see, the judge can if he believes he needs to see it to decide the case.

Although the bill encourages the resolution of such suits on the basis of written submissions, the court always has the power—as in any FOIA case—to see any document, examine any file.

"Judicial Discovery," if you will, and de novo judicial review are the corner-

stone of FOIA review today, and they will remain the bedrock of review under H.R. 5164.

Mr. Speaker, there are other concerns that have been raised about this legislation. I include at the end of my statement a response to these allegations. These responses show, I believe, that the bill before the House has carefully covered the important right to information of the American people.

It protects that right. It also protects intelligence information that should not be—and has not been—revealed publicly.

The balance struck between these two concerns has stood the test of intense scrutiny. Most importantly, it is a balance that will survive the test of time, because it advances the public interest of the Nation.

It deserves the support of this House.

ATTACHMENT

Allegation: H.R. 5164 would effectively bar public access to almost all of the CIA's operational files. Had this law been part of the original FOIA legislation, it is likely that the American people would never have learned of the numerous illegal undertakings by the agency, at home and abroad, that have come to light in recent years.

Response: There never has been any public access to CIA operational files. No meaningful information from such files has ever been released pursuant to any FOIA request. The revelations of CIA illegalities and improprieties, with one exception, came from the Rockefeller Commission, the Pike Committee, the Church Committee, and through leaks to investigate reporters, not through FOIA. The one exception, additional information concerning CIA drug experiment programs which was obtained through an FOIA request, would still be accessible because the issue has been the subject of both CIA and congressional investigations and because, in any case, the files from which the drug experiment information was obtained do not meet H.R. 5164's definition of operational files. This issue was specifically examined by the Intelligence Committee and the Government Operations Committee. At the Committee's request, CIA examined a very long series of examples of previous FOIA released documents relating to past CIA illegalities and improprieties. The review showed that the same material would still be released under H.R. 5164. This review is publicly available in the published hearings on H.R. 5164.

Allegation: The most alarming provisions of H.R. 5164 are those relating to the all-important judicial review. If the CIA were to improperly withhold information from disclosure, the ability of the person filing the FOIA request and of the courts to compel disclosure are so restricted by H.R. 5164 as to be rendered meaningless. For example, the bill would establish a Catch 22 whereby a requester could not use the FOIA to secure most relevant CIA documents unless he or she could convince an oversight agency or committee to investigate the specific subject of the request.

Response: The ACLU fully supports the bill and the judicial review provision. This support was reaffirmed as recently as Friday, September 14, by ACLU Executive Director Ira Glasser. Further, the "Catch-22" is no catch at all because the "investigations" section was only added as an extra precaution: in most cases, information searchable because of the investigations exemption would also be searchable because of the first person request exemption and because such information would be duplicated in non-operational files. Moreover, as the Intelligence Committee report notes, individuals can, in appropriate circumstances, trigger internal CIA investigation of illegalities or improprieties; thus, related records would become open to search under the investigations exemption.

Allegation: Moreover, in prohibiting the plaintiff's use of depositions and interrogatories, H.R. 5164 would severely limit the gathering of information by "discovery," even under close court supervision to protect sensitive information. The bill would also: alter normal rules of federal evidence law in unprecedented ways; eliminate, in almost all cases, the ability of the courts to review contested information; and, even if the court were to find the CIA had willfully violated the law, remove the courts' power to impose legal sanctions on the agency.

Response: The bill only prohibits use of depositions and interrogatories when the legal dispute concerns the two narrowly focused issues of whether a document has been improperly filed or a file has been improperly designated as operational, two new issues which can arise in CIA FOIA cases due to H.R. 5164. Even as to these issues, the Court may compel the production of testimony or documents to aid it in deciding the case, and the plaintiff, as noted in the House Intelligence Committee Report, is free to make recommendations to the court on what the court should seek. It is important to note as a practical matter that, in existing CIA FOIA cases in which plaintiffs seek discovery from the CIA, the CIA seeks, and almost invariably obtains, protective orders severely restricting or prohibiting discovery from CIA.

As to alleged alteration of "normal rules of federal evidence law" the Intelligence Committee Report on page 33 very clearly states: "Nothing in H.R. 5164 in any way affects the law of evidence," and nothing in the bill addresses any rules of evidence. The bill only addresses the standard of review, which is *de novo*, and a few special procedural rules, but does not change existing rules concerning what is relevant, probative, or admissible to prove any proposition in a lawsuit. Existing rules of evidence will continue to apply.

Finally, as to the Court's alleged inability to review the information sought by the FOIA requester, the Intelligence Committee Report, on page 33, states:

"Thus, when necessary to decision, the court may go beyond sworn written submission to require the Agency to produce additional information, such as live testimony, or the court may examine the contents of operational files. As an example, if the propriety of the exemption of an operational file is properly drawn into question under paragraph 701(f)(4), and the court concludes after considering the various sworn written submissions of the parties that it is necessary to decision that the court examine the content of the operational file, the court may do so.".

Mr. Speaker, I reserve the balance of my time.

Mr. WHITEHURST. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Virginia [Mr. ROBINSON].

Mr. ROBINSON. I thank the gentleman for yielding time to me.

Mr. Speaker, it is with a great deal of pleasure that I rise in support of H.R. 5164, the Central Intelligence Agency Information Act. The Permanent Select Committee on Intelligence and the Committee on Government Operations have drawn this bill carefully to accommodate both the informational needs of the public and the operational security needs of the Central Intelligence Agency. The bill will contribute to the achievement of two important goals—an informed citizenry and an effective foreign intelligence agency.

The legislation has been designed to achieve three important objectives.

First, the bill will relieve the CIA from an unproductive FOIA requirement to search and review certain CIA operational files consisting of records, which, after line-by-line security review, almost invariably prove not to be releasable under the FOIA.

Second, the bill will improve the CIA's ability to respond to FOIA requests in a timely and efficient manner, while preserving undiminished the amount of meaningful information releasable to the public under the FOIA.

Third, the bill will provide additional assurances of confidentiality to individuals who cooperate with the United States as CIA sources.

The House owes a debt of gratitude to the leaders of the committees and subcommittees whose painstaking work had enabled this legislation to come to the House floor. I would like to acknowledge the leadership and contributions of:

Chairman BOLAND of the Permanent Select Committee on Intelligence;

Chairman MAZZOLI and ranking member WHITEHURST of the Intelligence Subcommittee on Legislation;

Chairman BROOKS and ranking member HORTON of the Committee on Government Operations; and

Chairman ENGLISH and ranking member KINDNESS of the Government Operations Subcommittee on Government Information.

These distinguished Members of the House forged a strong, bipartisan consensus of support for H.R. 5164. It is a testimony to their wisdom, patience, and legislative skill that they have developed a bill strongly supported by a diverse group of organizations which includes both the Central Intelligence Agency and the American Civil Liberties Union.

Mr. Speaker, this bill carefully protects the existing rights of the public to obtain information from the CIA under the Freedom of Information Act and at the same time relieves the CIA of unproductive administrative processing burdens that contribute nothing to the FOIA goal of an informed

citizenry. I urge my colleagues to vote to suspend the rules and pass H.R. 5164.

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Mr. BOLAND. Mr. Speaker, I yield such time as he might require to the gentleman from Oklahoma [Mr. ENGLISH], who is chairman of the Subcommittee on Government Information, Justice, and Agriculture.

Mr. ENGLISH. Mr. Speaker, I rise in support of H.R. 5164.

The Central Intelligence Agency Information Act exempts specifically defined CIA operational files from the search and review requirements of the Freedom of Information Act. These files document intelligence sources and methods, and, because of the sensitivity of the information, little has ever been made public.

Although H.R. 5164 provides the CIA with a limited exemption from the FOIA, the legislation does not make any change in the basic policy on which the FOIA is based. In fact, the bill reaffirms that the principles of freedom of information are applicable to the CIA.

The bill leaves the CIA subject to the FOIA. It confirms that the CIA maintains information about which the public may legitimately inquire. It recognizes that access to information is important in maintaining the public's faith in Government agencies, including the CIA.

H.R. 5164 is consistent with the purposes of the FOIA because it will not interfere with the processing of requests for major categories of CIA information. The only CIA records that will be subject to withholding under H.R. 5164 are those records that are currently exempt today.

Because the amount and type of information that must be disclosed will not change, H.R. 5164 is essentially a procedural reform of the CIA's freedom of information responsibilities. The bill will make it less burdensome for the CIA to deny access to files that are already exempt. Instead of reviewing records in operational files on a page-by-page, line-by-line basis, the CIA will be able to deny most requests for operational files in a categorical fashion.

The result will be more efficient handling of FOIA requests by the CIA. For those seeking CIA records, increased efficiency will mean faster processing, and a substantial reduction of response time has been promised by the CIA. This will restore the usefulness of the FOIA without any meaningful limitations on the amount of information that will be released.

In short, H.R. 5164 will make things better not only for the CIA but also for those who use the FOIA to obtain records from the CIA.

The Government Operations Committee made only two amendments to the bill as reported by the Permanent Select Committee on Intelligence. One amendment requires the CIA to file an unclassified report on FOIA processing every 6 months for the 2 years following enactment. This report will permit the public and the Congress to determine whether the CIA is living up to its commitment to improve the speed of its FOIA operations.

The second amendment clarifies the relationship between the Freedom of Information Act and the Privacy Act of 1974. There has been unnecessary confusion lately about how these two laws fit together. The committee amendment clarifies the original congressional intent and restores the interpretation that had been in place ever since enactment of the Privacy Act in 1974.

This clarification is necessary because H.R. 5164 relies on the continued ability of individuals to use the FOIA to seek access to CIA records about themselves. Without the Privacy Act amendment, the right of access contemplated by H.R. 5164 would be unenforceable in court.

The Privacy Act amendment included in H.R. 5164 is the text of H.R. 4696, a bill that I introduced along with Representatives BROOKS, HORTON, KINDNESS, and ERLENBORN. The amendment makes it crystal clear that the exemptions of the Privacy Act do not authorize the withholding of information that would otherwise be available if requested under the FOIA by the subject of the record. The effect of the amendment is to codify the holding of the D.C. Circuit Court of Appeals in *Greentree* v. *U.S. Customs Service*, 674 F.2d 74 (1982), and to reject recent amendments to the Department of Justice FOI and Privacy Act regulations and to the OMB Privacy Act Guidelines. The holding in Greentree and the original OMB Privacy Act guidelines reflect the intent of Congress when the Privacy Act 1974 was passed.

The clarification of the relationship between the Privacy Act and the FOIA will not only affect access requests made at the CIA but will have an identical effect on requests made at all other agencies subject to the FOI and Privacy Acts. In removing any ambiguity that may surround the relationship of the Privacy Act to the FOIA, we are specifically taking steps to apply a uniform interpretation to the records of all Federal agencies. To do otherwise would only increase uncertainty, confusion, and litigation.

With the amendment to the Privacy Act made by H.R. 5164, individuals will continue to be able to make requests for records about themselves using the procedures in either the Privacy Act, the FOIA, or both. Agencies will be obliged to continue to process requests under either or both laws. Agencies that had made it a practice to treat a request made under either law as if the request were made under both laws should continue to do so.

H.R. 5164 is the product of several years of effort by the CIA, House and Senate Intelligence Committee, and others, including the American Civil Liberties Union. It was hard work, and everyone associated with the bill deserves to be congratulated. I especially want to commend Representative MAZZOLI and Chairman BOLAND and the other members of the Intelligence Committee for their careful drafting and excellent legislative report.

I think that some lessons regarding the FOIA in general can be drawn from the consideration of H.R. 5164. First, although the bill is drafted as an amendment to the National Security Act, it was jointly referred to the Government Operations Committee as well as the Intelligence Committee. This was appropriate because the bill has a direct impact on the FOIA. Both committees held public hearings, and all interested parties had an opportunity to comment.

For these reasons, H.R. 5164 should be a model for the consideration of legislation that affects the availability of information under FOIA without amending the FOIA itself. The prompt action taken by the Government Operations Committee demonstrates a willingness to consider carefully written and narrowly drawn proposals that increase the efficiency of the FOIA process without interfering unduly with public access to information.

I urge the adoption of H.R. 5164.

Mr. WHITEHURST. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I rise to urge my colleagues to support H.R. 5164, the CIA Information Act, to protect the operational secrecy of CIA human intelligence activities.

Several of the Members have emphasized that CIA responses to FOIA requests will be faster and more efficient when H.R. 5164 is implemented, and that no meaningful CIA information will cease to be available to the public under FOIA because of enactment of H.R. 5164. This is, of course, true, and these are important reasons to support the bill. But I believe there is an even more important reason for supporting the bill. We must reassure CIA sources abroad who cooperate with the CIA that the United States can keep secrets. This bill will send a message to CIA sources that they are safe in trusting the United States.

To carry out its intelligence activities, the CIA depends upon sources, including both individual agents and intelligence services of cooperating nations, for information and operational assistance. CIA human sources, the re-

cruited agents, are a vital part of the Nation's intelligence program, in part because they can often provide the key pieces of information U.S. intelligence agencies need on the intentions of foreign powers.

To secure the cooperation of a well-placed individual who can provide information or operational assistance, the Central Intelligence Agency officer who will work with that individual must establish with him a secret relationship of great trust. The source places his life and his livelihood in the hands of the CIA when he agrees to serve as a source of information or operational assistance for the U.S. Government. If the fact of the source's cooperation with the CIA becomes known, the United States loses a source of great value in ensuring the security of our Nation. The source loses his freedom, and in many parts of the world, his life. The critical element in establishing and maintaining the cooperation of a source is the source's perception that he can safely cooperate with the CIA because the CIA can protect the secrecy of the relationship.

The CIA establishes similar relationships based on trust with the intelligence and security services of cooperating foreign nations. These services share intelligence with the CIA and assist the CIA in the conduct of its intelligence activities worldwide. These services will cooperate only if the United States protects the secrecy of the liaison relationship. These services will not share information with the CIA if such sharing places their sources at risk. Moreover, it is in the nature of relations among nations that they do not publicly acknowledge cooperation with other nations in the conduct of intelligence activities. Thus, even those nations whose intelligence services are widely presumed to engage in some form of cooperation with the CIA abroad would remain quite sensitive to any U.S. acknowledgment of the existence of such a relationship

In the decade since the 1974 amendments to the Freedom of Information Act, the CIA has experienced difficulty traceable in part to that act in recruiting sources. The CIA has testified repeatedly that potential sources of great value have declined to cooperate with the CIA from fear that our Government cannot protect the secrecy of their relationship to the CIA from disclosure under the FOIA. The CIA also testified that existing sources terminated cooperation from the same fear, and that intelligence services of other nations have expressed concern about cooperating with the United States due to the application of the Freedom of Information Act to the CIA.

The perception of these CIA sources of information and operational assistance is not unfounded. Errors can occur, and have occurred, in the processing of FOIA requests. The risk of disclosure is not as great as they may perceive it to be since FOIA exemptions exist for source-revealing information. It is, however, the source's perception, and not the actual state of affairs, which governs the willingness of the source to cooperate with the CIA.

H.R. 5164 contributes substantially to resolving the problem of the perception by CIA sources that the CIA may not be able to protect the secrecy of their relationship from FOIA disclosure. The bill withdraws CIA files which directly concern intelligence sources and methods from the FOIA process. The risk of accidental or unknowing disclosure or source-revealing information will be largely eliminated, because the sensitive CIA operational files documenting the operational activities of sources will no longer be part of the FOIA process. With enactment of H.R. 5164, those who cooperate with the Central Intelligence Agency in the conduct of intelligence activities can rest assured that the CIA can maintain inviolate the confidentiality of their relationsip to the U.S. Government.

Mr. Speaker, I urge my colleagues to vote in favor of passage of H.R. 5164.

□ 1320

Mr. BOLAND. Mr. Speaker, I yield such time as he may require to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I want to express my appreciation to my distinguished colleague for his courtesy.

Mr. Speaker, I rise in strong opposition to H.R. 5164, the Central Intelligence Agency Information Act.

This legislation would dangerously intrude on the power of the courts to review the actions of the Central Intelligence Agency and would likely limit legitimate public access to CIA documents. It would place excessive trust in an agency that only a few months ago was caught withholding vital information from Congressional Intelligence Committees.

Had this legislation been part of the original Freedom of Information Act, it is possible the American people never would have learned of the agency's numerous illegal undertakings, at home and abroad, that have come to light in recent years.

For example, we first learned that the agency spied on civil rights leader Martin Luther King, Jr., from documents obtained through FOIA. The same is true of the CIA's recruitment of American blacks in the late 60s and early 70s to spy on Black Panthers in this country and in Africa.

Author Stephen Schlesinger, seeking material on the CIA-backed coup in Guatemala in 1954, after being told by the CIA that 165 pages of material comprised the entire file, learned of the existence of 180,000 pages of information that the CIA was withholding, only after filing a FOIA suit.

And the National Student Association learned through the FOIA that the CIA may have continued its covert relationship with the association years after the two had signed a separation agreement.

Enactment of H.R. 5164 will make future discoveries of this nature more difficult—if not impossible—to uncover.

Most alarming are the unique provisions in this bill that would essentially prevent both the plaintiff and the courts from forcing the CIA to disclose improperly withheld information.

I am aware of no other law on the books that bars virtually all "discovery"—the pretrial gathering of evidence—by a litigant in a suit against a Government agency, thereby requiring a plaintiff to prove his case on the basis of personal knowledge or other admissible evidence already in his possession; or that bars a Federal court from imposing penalties on a Government agency if it finds the agency guilty of illegally withholding information. Sections 701f3 and 701f6 of this bill would.

The court's ability to conduct an independent review of the contested documents would be curtailed by section 701f4A, which permits the CIA to substitute a written statement in lieu of the actual documents. The court may not even require the CIA staff to go back and review the documents itself in preparation of the written statement (section 701f4B).

If the House is of the mind to restrict the public's access to information, we should do it directly, without tying the hands of the courts to enforce the laws we enact.

It is not difficult to see why groups like the Society for Professional Journalists, American Historical Association, Radio-Television News Directors Association, Newspaper Guild, and Reporters Committee for Freedom of the Press are opposing this bill.

The CIA's record of responding to requests under the Freedom of Information Act has been appalling. The 2- to 3-year backlog that this bill seeks to erase is among the worst records in the Federal bureaucracy. Individuals filing FOIA requests commonly face a host of tactics that delay and impede legitimate access to information. The agency has consistently ignored the mandate of the Congress to submit, except in limited circumstances, to the scrutiny of public review.

Moreover, the necessity for increased secrecy has not been justified. The Freedom of Information Act already adequately protects properly classified foreign intelligence information. In those cases in which the CIA

refused an individual's request for information, the individual may ask for a judicial review that includes a closed session inspection of the documents in question. In the entire history of FOIA, judicial review has never resulted in the improper release of sensitive information.

The bill does retain access to operational files in three narrow categories—those containing subject matter under investigation by a congressional or agency oversight panel, for example. But that provision forces a requester to somehow trigger an investigation before gaining access to the information. Some scholars believe this provision to be unconstitutional.

One last concern: While H.R. 5164 would instruct the CIA Director to review the status of exempted materials every 10 years, there is no requirement that any of the documents be released at that time—or ever. Without a time limit on exemptions, the American public may forever be denied the change to fully evaluate the CIA's role in our Government and history.

Few would dispute that a legitimate need exists to protect some CIA information from public release. But restricting public access should be the exception, not the norm.

The American public would be better served by enacting legislation clarifying the limited circumstances under which information could be withheld by the CIA. This was, in fact, proposed by former Federal district court judge and our former colleague Congressman Richardson Preyer in 1980. He advocated exempting from disclosure, information provided to the CIA in confidence by a secret intelligence source or a foreign intelligence service. Sensibly, his bill would not have tampered with judicial review.

I believe the CIA requires even closer oversight by the Congress, the courts, and the American people. Given its past record, it is no wonder the CIA is so eager to limit review of its actions.

I urge my colleagues to join me in voting against this unnecessary increase in secrecy.

Mr. WHITEHURST. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. KINDNESS].

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Virginia for yielding this time.

Mr. Speaker, I want to express my support of H.R. 5164.

I will not reiterate what has already been said about the provisions of this bill. It is a bill which has undergone careful scrutiny and drafting by the Intelligence Committees of the Senate and House and your Committee on Government Operations here in the House.

This bill is the product of a consensus which developed after some 9 years of experience in litigating Freedom of Information Act lawsuits arising from requests for information directed to the Central Intelligence Agency. During those years of litigating, a pattern became clear, and that was that certain operational files of the CIA could not be opened to public scrutiny.

Meanwhile, other requests for information which, to some extent, could be released were caught in the long lineup of those requests for access to information in operational files.

While the pattern became clear some years ago, I took some time for a consensus to develop on the means of speeding up access to CIA files without jeopardizing either the current degree of access or the agency's essential functions.

The experience of the Agency and of those who have sought to obtain information from the Agency under the Freedom of Information Act has been a great teacher. Four years ago, at the time our Government Operations Subcommittee on Government Information held hearings on legislation similar in concept and structure to H.R. 5164, I do not believe that any of us, either we in the Congress or the CIA or the ACLU and others who request information, knew quite how to adjust the CIA's obligation under FOIA.

At the time of those hearings, judicial review was a critical issue. The questions raised at that time about the extent of judicial reviewability of CIA compliance with the FOIA and the authority granted in this legislation have been dealt with fully, and I believe, fairly in this bill.

Section 701(f) provides for de novo judicial review pursuant to the provisions of the Freedom of Information Act with very limited exceptions. Those exceptions are fair, they are limited, they are clearly stated in the language of the bill as well as being clearly explained in the report of the Permanent Select Committee on Intelligence. I recommend particularly that all who are interested in obtaining information from the CIA pursuant to the Freedom of Information or Privacy Acts to read the bill and the accompanying reports.

I would also like to comment, Mr. Speaker, specifically about the amendment added to the bill by your Committee on Government Operations intended to clarify the relationship between the Freedom of Information Act and the Privacy Act.

It was unfortunate that a couple of circuit courts of appeals took it upon themselves to raise the issue of the relationship between the two acts and resolve it in a way not intended by the Congress. It was even more unfortunate that after 9 years of adherence to a policy consistent with congressional intent both the Department of Justice and the Office of Management and Budget last March decided to follow those misguided courts of appeals and reversed their regulations and policy guidance.

I think it is appropriate that we in the Congress act to clarify the relationship between the Freedom of Information Act and the Privacy Act and that this legislation is an appropriate vehicle in which to do that.

As one who has been involved in efforts to amend the Administrative Procedure Act over recent years, efforts which have been referred to as "regulatory reform," I am particularly troubled by agencies reversing longstanding regulations or policy guidance where there has been no change in the underlying statute by the Congress or no change in the circumstances. And, if some courts do not interpret the statutes as we in the Congress intended, I believe it is incumbent upon the Congress to clarify the law, removing any ambiguity which may exist.

This bill is an appropriate vehicle in which to make this clarification. The issue is clearly raised by this legislation. And one need not harbour feelings of mistrust toward the CIA in order to see the issue as it is raised in section 701(c)(1), the exception designed to preserve an individual's access to information maintained about him- or herself.

I understand that there is a Supreme Court case pending to resolve differences between several circuit courts of appeals on this issue of statutory interpretation. We in the Congress should save the Court the trouble and clarify the law on this point.

I urge my colleagues to support this bill and hope that it will be cleared quickly by the other body for the President's signature.

There are some points that ought to be clarified for those who might have some concern about points that have been raised in the discussion by the gentleman from New York. It was pointed out that the bill would in the opinion of the gentleman dangerously intrude upon the power of the courts to review CIA activity, paraphrasing the gentleman's expression of that point, but I would point out to my colleagues that it is clear in section 701(c)(3) of the bill before us that there is not such an intrusion. Opinions might differ, but at least the clear wording of the bill points out that nothing would preclude or prohibit the inquiry by the court into the subject matter that is the subject for search and review if that is a specific subject matter of an investigation by the Intelligence Committees of the Congress, the Intelligence Committee's Oversight Board, the Department of Justice, the Office of General Council of the Central Intelligence Agency, the Office of Inspector General of the

CIA or the Office of the Director of the CIA, for any impropriety or violation of law or Executive order or Presidential directive in the conduct of an intelligence activity, and further, that material would be subject to review if it involves any special activity, the existence of which is not exempt from disclosure under the provisions of section 552 of title V of the code, the Freedom of Information Act.

Therefore, I feel as others do, that all of the cases that could be cited as potential areas of abuse have been covered by these exceptions that are made in section 701(c).

There are other points that have been raised that I think I might clarify for the record.

□ 1330

There has been criticism of section 701(f), various parts of it, but particularly subsection 4(B) pointing out that the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of that same section, unless the complainants dispute the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

In other words, this is really a codification of the existing case law. The court is not under present practice going to review the content of an exempted operational file unless someone has something substantial to indicate that there is, in fact, reason to do so.

I think on balance the bill before us has not only done an excellent job of creating the situation that will reduce the caseload or the burden, the backlog, and thus allow more Freedom of Information Act requests to be dealt with promptly, but it has protected the necessary elements and I think indeed, as the gentleman from Florida has pointed out, improved the ability to protect that which needs to be protected for the purposes of being able to carry out our intelligence activities, and that is the integrity of the operational files of the CIA.

I think we have an excellent bill with an unusual history of agreement and consensus about two committees that are most deeply concerned with the matter, the Freedom of Information Act and the Intelligence Information Act activities.

I would hope that all of our colleagues would join in support of H.R. 5164, and I yield back the balance of my time.

Mr. BOLAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITEHURST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5164, the CIA Information Act. This bill has achieved wide support in the Congress because it was drafted carefully to address successfully the concerns of all who are interested in the legislation. Even on the thorniest issue, that of the nature of judicial review of CIA action to implement the legislation, a balanced position has been achieved. The bill has been drawn carefully to ensure that the operational security needs of the CIA are met and that the current statutory right of individuals to obtain information under the FOIA from the CIA is preserved. The administration supports enactment of this bill.

The issue of judicial review of CIA implementation of the bill provides a good example of the extraordinary good faith efforts of all concerned to develop legislation to which everyone can give full support. Initially, the positions of the three organizations which expressed particular interest in the judicial review provisions were far apart:

The Central Intelligence Agency initially believed that any judicial review was inappropriate and that congressional oversight alone would provide the mechanism for ensuring faithful CIA implementation of the bill.

The American Bar Association believed that judicial review was appropriate, but that it should be limited to determining that the action of the Director of the Central Intelligence is not frivolous, a very deferential standard of judicial review.

The American Civil Liberties Union believed that judicial review was essential, and that such review must take place under the existing FOIA substantive judicial review provisions requiring de novo judicial review.

The committee concluded without difficulty that judicial review of CIA implementation of H.R. 5164 was important to ensure public confidence in that implementation. Precisely defining the nature of that review took considerably greater time and effort.

After a great deal of discussion, it became clear that the primary concern of the CIA with the judicial review provisions was procedural, while the primary concern of the American Civil Liberties Union was substantive. The CIA feared that the judicial review requirements would ultimately undo the benefits the legislation was designed to achieve by requiring CIA upon a mere, unsupported allegation of CIA error by a disappointed FOIA requester to conduct FOIA searches of exempt operational files and line-by-line reviews of exempt records in order to explain the CIA's actions to judges. The ACLU, on the other hand, was concerned that specifying a deferential standard of review, which would require courts to uphold CIA action upon determining that such action was merely "nonfrivolous" or "not arbitrary or capricious," would signal the courts to conduct very little review at all, since the courts have interpreted the existing de novo FOIA substantive review standard to involve a significant amount of deference.

These two positions, which initially appeared to be incompatible, were in fact reconcilable, and resulted in section 701(f) of H.R. 5164. Section 701(f) provides that judicial review of CIA action to implement section 701 of the bill will be conducted under the existing judicial review provision of the FOIA; that is, under the FOIA de novo substantive standard of judicial review. Section 701(f) also, however, contains several special procedural requirements which ensure that the process of judicial review will not undo the benefits which the bill is designed to produce of reducing an inappropriate FOIA processing burden on the CIA.

This type of reconcilation of positions of interested parties was the hallmark of development of H.R. 5164. I believe this bill reflects the legislative process at its best.

H.R. 5164 ensures that existing public access to CIA records under the FOIA is not impaired, while improving CIA operational security and CIA responsiveness to FOIA requests.

I urge my colleagues to support enactment of H.R. 5164.

● Mr. CONYERS. Mr. Speaker, I rise in strong opposition to H.R. 5164, the Central Intelligence Agency Informatioin Act. This act would grant the Central Intelligence Agency an unprecedented exemption from the application of the Freedom of Information requests for its "operational" files.

The advocates of H.R. 5164 are using a political tactic which has become quite popular during this administration. It is a rather facile strategy: when you want to make major changes in public policy but recognize that they will not go unchallenged by the American people, simply offer your proposals under the guise of mere procedural reform. This gambit has been used many times in the past 4 years. When the President did not like the proposals of the Commission on Civil Rights, he did not publicly announce his disagreements with the Commission and offer any kind of justification for his positions; rather, he simply tried to change the method with which appointments are made to the Commission—conveniently changing their recommendations at the same time. Similarly, when the President wanted to make major cuts in spending for health and education, he hid the cuts in his New Federalism program of block grants, hoping that a change in the method of disbursing funds would detract from the substan-

tial change in the amount of funds disbursed. This administration has persuaded the Supreme Court to overturn its own precedents regarding the exclusionary rule by obtaining exceptions when mistakes—that is, violations—are made in "good faith." In each of these examples, the pattern is the same. A major shift in policy was cloaked in a "technical" change. It is left to the opponents of the proposed change to spell out its actual effects.

In this case, the self-anointed target of bureaucratic efficiency is the Central Intelligence Agency. The CIA asserts that H.R. 5164 is warranted by the backlog of Freedom of Information requests at the Central Intelligence Agency, the interminable delay in the processing of such requests, and the rarity with which meaningful information is actually disseminated in accordance with these requests. The Agency is modestly offering a proposal to improve this situation: a request that its operational files simply be exempted from the Freedom of Information Act. Essentially, the CIA is asking us to respond to its current intransigence to and phobia of releasing information by enshrining it into law.

Why does the CIA consider the passage of this bill such a high priority? The Agency makes no claims that sensitive information is being released under current rules. The existing provisions of the FOIA make adequate provisions for national security. Not once in the history of the act has judicial review resulted in the improper release of sensitive information. The CIA instead asserts that an exemption is needed to remove a bottleneck of paperwork caused by the act. It is not concerned by the fact that such an argument would be absurd if used by most agencies. If the Social Security Administration was to claim that it was too overworked to process FOIA requests, Congress would properly seek a means to expedite the processing on a long-term basis. It would not offer reduced responsibility through an exemption from fundamental accountability as a solution. The CIA claims that it is unique because useful information is released so infrequently from operational files in response to FOIA requests. This cost-benefit analysis is simply not legitimate. In fact, the scarcity of information released by the Agency only makes that information all the more valuable. Moreover, our constitutional values will not allow us to place the elimination of some redtape in an Agency office above the right of citizens to even attempt to discover the activities of their own Government.

H.R. 5164 would have several chilling effects which belie the ostensibly innocuous goals claimed by its proponents. New obstacles to the release of information would be erected in the paths of FOIA requesters. Under this legislation, the Freedom of Information Act could be used to obtain CIA documents only after the applicant has persuaded an oversight agency or committee, on the basis of alleged illegality or impropriety on the part of the Agency, to investigate the specific subject addressed by the documents. As the CIA must realize, documents from the Agency are often the very information needed to establish the criteria for an investigation. In effect, the CIA would not even be required to consider releasing documents unless its activities in a certain area have already been established by a different source of information. Even if an investigative body has been persuaded to initiate an inquiry into a certain subject, requests for CIA documents would be limited to those relevant to the "specific subject matter" of the investigation. Needless to say, the CIA would be very selective in determining what constitutes the "specific subject matter."

Finally, this bill would create another deterrent to citizen-initiated FOIA requests. There is no provision which would mandate the CIA to provide attorney's fees for a litigant who forces the Agency to comply with this legislation. This omission makes a challenge to the Agency by the vast majority of citizens in the United States financially impossible. The FOIA itself was rarely used before attorney's fees became the responsibility of any violator of the act.

The CIA argues that H.R. 5164 would not have an adverse effect upon the flow of information because few documents are released by the Agency under present regulations. This reasoning ignores the value of simply knowing that such documents exist. Under current law, the CIA must answer each FOIA request, if not by actually releasing materials, then by listing all existing documents and providing a justification for the withholding of these documents. The knowledge of the existence of such documents is by itself valuable to researchers and other FOIA applicants. Yet H.R. 5164 would remove this requirement, and with it, the ability of a citizen to even determine that he is the subject of files at the Agency.

H.R. 5164 would set a highly questionable precedent of self-regulation by an agency regarding compliance with the FOIA. In hearings before the Senate, representatives from the CIA testified that the Director of Central Intelligence alone would have the authority to designate files as being "operational" and thus subject to exemption from the FOIA. If such a designation was disputed in court, the CIA would need only submit a written statement reiterating its decision to the court, and would not be required to submit the disputed documents themselves for judicial review. In other words, the Director of the CIA would be answerable to no one for such a decision. The CIA has failed to demonstrate to Congress and to the American people that it can be entrusted with such a power. The recent mining of Nicaraguan harbors, as well as past activities directed against the Reverend Martin Luther King, Jr., and others in the civil rights movement prove that the CIA cannot be left to its own judgment concerning the propriety of its activities. If we grant the CIA this power of self-regulation, not only will we be granting the CIA a carte-blanche unwarranted by it's previous activities, we also will be inviting other law-enforcement agencies to seek this same exemption. Thus, we would be introducing a new and dangerous trend of curbing judicial review over executive agencies.

Proponents of H.R. 5164 claim wide support for their measure, but the support is shallow. The American Civil Liberties Union, whose support was crucial to the bill's success up to now, is now reconsidering its decision. H.R. 5164 is opposed by such groups as the Newspaper Guild, the Society of Professional Journalists, the Reporters Committee for Freedom of the Press, the Radio-Television News Directors Association, the American Historical Association, and the National Committee Against Repressive Legislation. The fact that this measure is being considered under suspension of rules is an indication that its backers realize that careful consideration of the bill would not be to its benefit.

By now, the actual motives behind this bill should be clear. The CIA feels that it is an opportune time to push through a bill which would not stand up to real scrutiny. I urge my colleagues to judge this bill on its actual merits, not on the desire for clean desks claimed by its proponents. H.R. 5164 represents an attempt to roll back the rights of information which have been obtained so recently, and the bill should be judged as such.●

● Mr. STUMP. Mr. Speaker, H.R. 5164, the Central Intelligence Agency Information Act is the culmination of years of congressional effort to grapple with the problems the Freedom of Information Act poses for the Nation's primary foreign intelligence agency. Since 1977, subcommittees of the House and Senate Intelligence Committees, and of the House Government Operations Committee and the Senate Judiciary Committee, have held a number of hearings on these problems. These committees have all reached the conclusion that legislation to modify the application of the Freedom of Information Act to the CIA is required. Bills to make the necessary modifications have been under consideration in the Congress since 1980. The many views presented to the Con-

gress concerning the legislation have all been considered at great length. H.R. 5164 is the carefully crafted result of these years of congressional deliberation.

The bill modifies the application of the FOIA to the CIA by removing specifically defined CIA operational files from the FOIA process. These files hold the CIA's most sensitive secrets, such as the names of CIA sources abroad or the high technology methods for overhead reconnaissance of the military installations of hostile nations. The secrets contained in these operational files are, of course, kept secret under the current exemptions in the FOIA for classified information and information relating to intelligence sources and methods. That is precisely the point of H.R. 5164—it makes no sense to continue to require CIA personnel to conduct FOIA security reviews of these records on a line-by-line basis in response to FOIA requests, since experience has shown that nothing meaningful can ever be released to the public from these operational files anyway. The substantial amount of time currently required by statute to be wasted in conducting the line-by-line review of these records which can't be released, produces a big FOIA backlog at CIA which prevents CIA from processing in a timely fashion FOIA requests for material which can be released.

H.R. 5164 will take care of the problem. As a result of H.R. 5164:

Taxpayers' money will no longer be wasted by requiring CIA officers to spend their time conducting FOIA reviews of sensitive operational records that cannot be released to the public under the FOIA.

CIA sources abroad will be reassured that the United States can keep secret the fact of their cooperation with the CIA.

Skilled CIA operations officers who are now diverted away from their operational duties to conduct FOIA reviews will devote themselves full-time to the intelligence work they are hired, paid, and trained to do.

The risk of accidental or unknowing disclosure under the FOIA of sensitive operational information will be reduced.

CIA backlogs in FOIA processing will be reduced, improving the timeliness of CIA responses to FOIA requests from the public.

H.R. 5164 has been drawn carefully to ensure that these goals will be achieved without diminishing the amount of meaningful information currently available to the public under the FOIA. The bill meets the Nation's needs for both an effective intelligence agency and an informed citizenry.

I urge my colleagues to vote to suspend the rules and pass H.R. 5164.●

● Mr. HORTON. Mr. Speaker, I rise in support of H.R. 5164, the Central Intelligence Agency Information Act.

H.R. 5164 provides a limited exemption from the Freedom of Information Act [FOIA] for specifically defined operational files maintained by the Central Intelligence Agency. The bill will relieve the CIA from the requirement under the FOIA to search and review records in these operational files that, after line-by-line review, almost invariably prove to be exempt from disclosure under the FOIA. The bill will thereby improve the ability of the CIA to respond to FOIA requests from the public in a more timely and efficient manner, without reducing the amount of meaningful information releasable to the public.

The bill contains several exemptions which will assure that requests for certain types of information will be fulfilled, notwithstanding the fact that those records are maintained in operational files. Those exemptions are for: First, information concerning U.S. citizens and permanent resident aliens requested by such individuals about themselves; second, information regarding covert activities the existence of which is no longer classified; and third, information concerning any CIA intelligence activity that was improper or illegal and that was the subject of an investigation for alleged illegality or impropriety.

The Committee on Government Operations amended the bill to provide an additional means of overseeing the CIA's compliance with FOIA during the first 2 years of implementation of this legislation. The committee also added an amendment that guarantees the effectiveness of the exemption mentioned above for information requested by individuals about themselves. This amendment, contained in section 2(c) of the bill, clarifies the relationship between the Freedom of Information Act and the Privacy Act to state explicity in the law that no agency can use the Privacy Act as a basis for denying an individual access pursuant to the Freedom of Information Act to information in Government files about him or herself. This was the understanding of the Congress when the Privacy Act and the 1974 amendments to the Freedom of Information Act were enacted. But that interpretation has been called into question recently by a couple of circuit court of appeals decisions, and by a change in policy guidance from OMB and regulations by the Department of Justice. By this amendment, we are simply maintaining the status quo which existed before the Justice Department and OMB issued their unwise reversals of policy.

I am glad to support this bill and urge my colleagues to do likewise. I hope that this bill in its current form can be quickly cleared for the President's signature.●

● Mr. MAZZOLI. Mr. Speaker, H.R. 5164 is a narrowly focused measure which provides the CIA with limited, but important, relief from Freedom of Information Act processing requirements, while preserving undiminished the amount of meaningful information now releasable by the CIA to FOIA requesters.

H.R 5164 has been favorably reported by both the Intelligence Committee and the Committee on Government Operations, and is supported by both the CIA and the ACLU. A similar measure passed the other body last November.

This measure does not exempt the CIA from the Freedom of Information Act. In the past the CIA had sought to convince the Congress and the Intelligence Committees of the need for such a total exemption—but could not make its case. We are here today because the CIA now recognizes that it is neither feasible nor desirable for it to be totally excluded from FOIA coverage. We are also here because some of the Agency's outside critics have agreed that it is reasonable and prudent to afford the CIA some FOIA relief, and have made significant contributions to the drafting process. And, we are here today because the legislative effort on this measure has been characterized by a nonpartisan, cooperative spirit from the beginning.

The Freedom of Information Act currently applies to the Central Intelligence Agency in precisely the same manner that it applies to other Federal agencies. Thus, in response to a request for reasonably described records, the CIA must: First, search its records systems for records responsive to the FOIA request; second, review the responsive records retrieved from its files to determine which records fall within FOIA exemptions and need not be disclosed; and third, disclose all reasonably segregable portions of the responsive records which do not fall within one or more of the nine FOIA disclosure exemptions.

A decade of experience has shown that most CIA operational files—those which contain the most sensitive information directly relating to intelligence sources and methods—contain few, if any, items which need to be disclosed to requesters under the FOIA. The records contained in these operational files fall within the FOIA exemptions protecting classifed information and information relating to intelligence sources and methods.

Nevertheless, the CIA must search and review these records in response to FOIA requests on a line-by-line, page-by-page basis.

This process of searching and reviewing CIA operational records systems costs money and absorbs a sub-

stantial amount of time of experienced CIA operational personnel. This considerable expenditure of time and money usually contributes nothing to the goal of the FOIA of an informed citizenry since routinely almost no records are released to the public after this detailed search.

In fact, these search procedures actually hinder achievement of that goal because the time-consuming process of reviewing sensitive CIA operational records creates 2 to 3 year delays in the Agency's ability to respond to FOIA requests for information which is releasable.

H.R. 5164 would permit the Director of Central Intelligence to exempt operational files from the search and review process of the FOIA.

Operational files are defined in the bill as: First, files in the Directorate of Operations "which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services"; second, files in the Directorate for Science and Technology "which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems"; and third files, in the Office of Security "which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources."

Files within these three components which do not meet the statutory definitions will not be eligible for exemption from search and review. Furthermore, records in all other parts of the CIA, including information which orginated in the operational components, will continue to be subject to search and review. For example, all documents which go to the Director of Central Intelligence, even if they concern the most intimate details of an operation, will be subject to search and review. Furthermore, all intelligence collected through human and technical means will continue to be covered by the FOIA because the operational components forward such information to the analytic components of the Agency. What will be exempt from search and review is information about how intelligence is collected—for example, how a source was spotted and recruited, how much he is paid, and the details of his meetings with his case officer. Such information is invariably exempt from disclosure under the FOIA and will continue to be exempt under any conceivable standard for classification.

In some instances, collected intelligence is so sensitive that it is disseminated to analysts and policymakers on an eyes only basis and then returned to the operational component for storage. To cover these situations and to guard against the possibility of an expansion of this practice to circumvent the intent of this legislation, the bill also includes a proviso that files maintained within operational components as the sole repository of disseminated intelligence cannot be exempt from search and review.

The new exemption would not apply—I repeat, would not apply—to: First, requests by American citizens for any information pertaining to themselves; second, requests for information concerning a covert action the existence of which is not classified; third, requests for information concerning the specific subject matter of an investigation by the two Intelligence Committees, the Department of Justice, the CIA, or the Intelligence Oversight Board into improper or illegal intelligence activities.

These three exceptions are crucial in ensuring that the new statute does not dilute the force of the principles upon which the Freedom of Information Act is based. They preserve a citizen's access to whatever files the CIA may keep on him, preserve access to information of importance to informed public debate, and preserve access to information which may illuminate or reveal past or present intelligence abuses.

Actions taken by the CIA pursuant to this legislation will be subject to the de novo judicial review provisions currently applicable to all FOIA requests. However, procedural safeguards have been added to H.R. 5164 which insure that the judicial review process does not permit the courts to reimpose the search and review burdens on the Agency which the bill is intended to eliminate.

Other provisions of H.R. 5164: First, require the Director of Central Intelligence to review, at least once every 10 years, the exemptions of operational files in force to determine whether the exemptions may be lifted from any files or portions of files; second, require the Director of Central Intelligence to report by June 1, 1985, to the Intelligence Committees on the feasibility of conducting a program of systematic review for declassification and release of classified CIA information of historical value; and third, apply the measure retroactively to all pending FOIA requests, and to all civil actions to enforce FOIA access to CIA records which were not filed prior to February 7, 1984.

H.R. 5164 contains an important section which was added by the Committee on Government Operations and which I fully support. The provision, which the gentleman from Oklahoma will explain in more detail, amends the Privacy Act to make clear that the Privacy Act is not a withholding statute for purposes of FOIA exemption (b)(3).

I urge my colleagues to support the changes in the FOIA contained in H.R. 5164. They are reasonable changes designed to eliminate waste, improve the efficiency of FOIA processing, and provide increased protection to intelligence sources and methods.

In testimony before the Senate Intelligence Committee, Deputy Director McMahon pledged that no further relief from the FOIA for the intelligence community beyond what is contained in this measure will be sought by the administration.

H.R. 5164 does not represent a chipping away of the FOIA as it applies to CIA. It is not the camel's nose under the tent. Rather, by ensuring more timely responses to requests and preserving access to currently releasable information, H.R. 5164 recognizes the continuing vitality and importance of FOIA as it relates to the Central Intelligence Agency.●

● Mr. ERLENBORN. Mr. Speaker, H.R. 5164 is the product of deliberations over several Congresses on how to balance the needs of the CIA to keep certain information secret and the needs of the public in our free society to be appropriately informed on the activities of the CIA.

Two Congresses ago, while I was serving on the Government Operations Subcommittee on Government Information, we considered legislation similar in concept to that which is before the House today. At that time there was no consensus on the issues of the nature and extent of the burden imposed on the CIA by being subject to the Freedom of Information Act. Nevertheless, those hearings raised the issues—particularly judicial review—which would have to be resolved before this legislation could be enacted.

In my judgment, those issues have now been resolved. This legislation has been carefully crafted. It includes provisions which will provide the Congress with the oversight mechanisms needed to monitor the balance we have reached.

I would also like to express my particular appreciation for the amendment added by our Committee on Government Operations to clarify the relationship between the Freedom of Information Act and the Privacy Act. As one of the authors of the Privacy Act and the 1974 amendments to the Freedom of Information Act. I have been troubled to see that a couple of circuit courts of appeals have rendered decisions which are contrary to the goals of those two acts.

Even more troubling was the decision of the Justice Department and the Office of Management and Budget last March to reverse the policy guidance and regulations which have been in effect since the Privacy Act took

effect in 1975. This reversal of policy has the effect of restricting an individual's access to Government files containing records about him or herself in a way not contemplated by the Congress in 1974.

The amendment contained in section 2(c) of the bill restores the relationship between the two laws which Congress intended in 1974, and which the executive branch has honored for all but 6 months of the time since.

All parties that have been involved in bringing this legislation to this point are to be congratulated for their efforts. It is a good bill and is deserving of our support. I hope that we will pass the bill and that the other body will quickly ratify our work and send this legislation to the President for his signature.●

● Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5164, the Central Intelligence Agency Information Act. We in the Intelligence Committee like to adhere to the principle of open government as much as we possible can, but much of our work takes place out of public view because we have not found a magic way to keep the American people informed about U.S. intelligence activities without letting hostile foreign nations know the same things. Even some of the public work of our committee, such as the annual Intelligence authorization bill, has secret aspects to it. That authorization bill is public, but it doesn't contain the actual budgeted amounts which other authorization bills contain.

It is thus a great pleasure to the members of our committee to be able to deal, as we have in considering H.R. 5164, with an issue of great importance in the same public and deliberative fashion as most other legislation in the Congress is considered.

The Intelligence Committee and the Committee on Government Operations have fully vetted this legislation. The concerns of all have been considered carefully and, indeed, have been favorably addressed by the legislation. I note that it is somewhat of a monument to the legislative process that we have produced a bill on the question of public access to governmental information that is fully supported by both the Central Intelligence Agency and the American Civil Liberties Union.

The bill ensures that the pubic will continue to have access to meaningful CIA information under the FOIA to the full extent that they do today. While preserving such access, the bill rationalizes the FOIA administrative process at CIA so that the CIA is not required to spend time and taxpayers' money reviewing and justifying the withholding of its most sensitive operational records that everybody agrees are properly classified and must remain secret. The taxpayers' resources allocated to CIA-FOIA activities will instead be employed productively in reviewing CIA records which may contain information which can be released to the public. This is a good government bill—it should save some money for the taxpayers, speed up service to the members of the public who make FOIA requests, and improve operational security in U.S. intelligence activities, all while preserving undiminished the amount of meaningful CIA information available to the public under the FOIA.

Mr. Speaker, I will vote for H.R. 5164 and I ask my colleagues to join me.●

● Mr. OTTINGER. Mr. Speaker, I rise to commend the efforts of my friend and colleague from New York, Mr. WEISS, to inject some necessary clarity into the debate on exempting the CIA from certain Freedom of Information Act reviews. I join him in opposing passage of H.R. 5164.

Clearly, in the interests of national security, some CIA information should not be automatically available for public consumption. The committee makes that point in its report. However, over the past several years there has been an accelerating trend away from public scrutiny and toward Government secrecy in cases of CIA involvement where security interests are not demonstrated, a trend I believe threatens the public's right to know. Classification of CIA documents has become the norm, rather than the exception. Such actions should not be encouraged by legislating indiscriminate protection of classified files.

Most dangerous, this bill seeks to limit scrutiny of even the decision to classify by curtailing the rights of citizens to judicial review of a CIA decision to withhold classified information from release under the FOIA. Why is this necessary? Proponents of the bill claim it will facilitate response to other FOIA requests, ones that do not involve classified operational files, by eliminating the 2-year backlog of requests for classified information. But if judicial review is eliminated, what is to prevent greater and greater amounts of information from being placed in these protected files?

Under current law, the CIA is allowed to protect classified information from FOIA review. But should the requester suspect that some information has been unnecessarily or unjustly classified, a judge may order and conduct a private—in camera—review of the material to determine its sensitivity. As Representative WEISS pointed out, the courts have almost always ruled in favor of the agency in such cases, and there has never been an unauthorized release of documents under this procedure. What can we expect if this right of review is curtailed?

Rather than speeding the FOIA process, we would be sanctioning the classification of materials that in the past have been crucial to the discovery of numerous illegal operations of the CIA, from the domestic surveillance of activists to the mining of foreign ports. It is possible to adjust requirements for access to sensitive material without legislating blanket exemption to an already recalcitrant agency to proceed without public checks. It is an abdication of our responsibility to uphold the practice of open Government to allow greater secrecy for an agency that has repeatedly betrayed the public in its undertakings.

I urge my colleagues to vote "no" on H.R. 5164.●

Mr. WHITEHURST. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND], that the House suspend the rules and pass the bill, H.R. 5164, as amended by the Committee on Government Operations.

The question was taken.

Mr. WEISS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5164.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION TO CONSIDER DISTRICT OF COLUMBIA BUSINESS ON MONDAY, SEPTEMBER 24, 1984

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that District of Columbia business be in order on Monday, September 24, 1984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMON CARRIERS BY WATER IN FOREIGN COMMERCE

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1511) to provide for jurisdiction over common carriers by water engaging in foreign commerce to and from the United States utilizing ports in na-

tions contiguous to the United States, as amended.

The Clerk read as follows:

H.R. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707) is amended by adding the following new subsection:

"(g)(1) For purposes of this section and section 10(b)(1), (2), (3), (4), (8), and (10) of this Act, the term 'common carrier' includes a person that holds itself out to the general public to provide ocean transportation of cargo originating in or destined for a United States point by way of a port in a nation contiguous to the United States and that—

"(A) advertises, solicits, or arranges, directly or through an agent, within the United States, for that transportation; and

"(B) engages, directly or through an agent, in the transportation of that cargo between a point within the United States and a port in a nation contiguous to the United States.

"(2) This Act does not require any person described in paragraph (1) to reveal any information with respect to transportation of any cargo between a point of origin or final destination in the United States and a United States port or a port in a nation contiguous to the United States, except insofar as the costs of that transportation comprise an undifferentiated portion of the whole amount of any tariff required to be filed under this section.

"(3) This Act does not extend to the Federal Maritime Commission any jurisdiction or authority to regulate rail or motor carriers, when they are engaging in activities subject to the jurisdiction of the Interstate Commerce Commission."

SEC. 2. The Federal Maritime Commission shall submit a report to the Congress within eighteen months after the effective date of this Act. The report shall include—

(1) an assessment of whether this Act has caused increased transportation and related costs that have resulted in noncompetitive pricing by export shippers, taking into account the comparative value of United States and foreign currencies;

(2) an assessment of whether this Act has resulted in a diversion of cargo from one United States port to another United States port;

(3) an assessment of whether the additional regulatory burden imposed by this Act has resulted in conditions contrary to the intent of the Shipping Act of 1984 (46 App. U.S.C. 1701 et. seq.), including an increase in litigation involving tariff challenges; and

(4) an assessment of whether this Act has resulted in the creation of trade or transportation barriers by foreign nations.

SEC. 3. This Act shall become effective ninety days after the date of its enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. BIAGGI] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

The motion to suspend includes minor clarifying amendments added to the bill after it was reported by the committee. These amendments were requested by the distinguished chairman of the Committee on Energy and Commerce. Their purpose is to make it clear that neither the bill, nor the Shipping Act, as amended by the bill, affects matters within the jurisdiction of that committee. Further, the amendments also make it clear that the Federal Maritime Commission does not, under the Shipping Act, as amended by this bill, have any jurisdiction or authority to regulate those activities of rail and motor carriers that are subject to the jurisdiction of the Interstate Commerce Commission. That jurisdiction remains with the Interstate Commerce Commission.

Before explaining the bill, let me express my appreciation to the gentleman from Michigan for his cooperation in working out these amendments.

I rise in support of H.R. 1511. This bill addresses the longstanding problem of Canadian cargo diversion. Since the mid-1970's, there has been a steady increase in the amount of cargo being diverted from U.S. east coast and gulf ports and transported instead through Montreal. The result has been a loss of business for American ports and a loss of jobs for American workers.

While H.R. 1511 may not stop this pattern of diversion, it will, at least, require certain ocean carriers operating out of Canadian ports to play by the same rules as carriers operating out of American ports. The affected carriers would have to file their tariffs with the Federal Maritime Commission. They would be required to make their rates available to all similarly situated shippers, and they would be prohibited from engaging in certain activities such as rebating.

To clarify what this bill would do, let me tell you what it will not do.

H.R. 1511 will not affect any cost advantages now enjoyed by a carrier diverting cargo through Canada;

It will not increase shipping charges for American shippers or force any ocean carrier to raise its rates; and

It will not restrict the movement of cargo or diminish a shipper's freedom of choice.

Simply put, H.R. 1511 would eliminate the dual standard that favors foreign-flag carriers operating out of Canadian ports over carriers operating out of our ports here at home.

The opponents of the bill say we are overstepping our bounds. They say we are attempting to exercise extraterritorial jurisdiction over the foreign commerce of Canada. I do not agree. The bill applies only to a specific group of carriers—those that engage in the ocean transportation of cargo originating in or destined for the United States, if that ocean carrier advertises or solicits the transportation within the United States and transports the cargo between the United States and a port in a contiguous nation for shipment abroad.

Under general principles of international law, a national government has jurisdiction over conduct within its boundaries. Consider the following facts:

The cargo that would be covered by this bill originates in or is destined for the United States;

It is shipped in containers that are loaded or unloaded in the United States;

In the case of export cargo, the invoices and bills of lading are issued in the United States;

The foreign carriers servicing Canadian ports maintain offices in the United States;

They advertise and solicit business in the United States;

They quote rates for the shipment of cargo from the Unites States to overseas points in the United States; and

They provide overland transportation service in the United States.

I do not think that requiring such carriers to file their tariffs can realistically be termed the exercise of extraterritorial jurisdiction over Canadian foreign commerce.

This legislation has been considered in several previous Congresses. Hearings have been held before three House and Senate committees. It is time we enact this bill. It would impose no undue burden on the affected foreign-flag carriers. Rather, it would assure that those carriers that choose to patronize American ports are not penalized for doing so.

□ 1340

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. SAWYER].

Mr. SAWYER. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this bill. This bill is a prime example of trying to go against what has been sort of the current trend. We have been trying continuously to relieve different segments of our economy from unnecessary regulations. In this case, in this bill, we go further in the opposite direction, we attempt to subject some foreign operations to our regulations.

Now this bill purports to require carriers by sea, or ships out of Canadian ports, to come under the regulations and file tariffs with our Federal Maritime Commission if they are going to hold any cargo that originated in the

United States or is destined for the United States.

All three of the principal branches of Government, the executive branch, are opposed to this bill. The State Department has a letter to the committee in opposition to the bill because it extraterritorially extends American regulations contrary to the standard policy in dealing with foreign countries.

The Justice Department separately voted a protest to this legislation because it would enable the setting up of anticompetitive operations and reduce competition with the east coast ports. And the Commerce Department also wrote in opposition in that it deprives the American producers of goods and services that is not duplicatable, not available anywhere else; namely, door-to-door service.

CAST, which is the principal operation in this traffic flow, will arrange transportation of goods from the door of the manufacturer, be it in the Midwest, both by train or by truck overland to the Port of Montreal and from Montreal over to Antwerp in Europe so that it is a single shot, hands-off thing from the time you turn it over to CAST to transport.

This bill has been kicking around since 1977, and to my knowledge this is the first time anyone has had the courage to bring it to the floor.

Even if it were to go through it is liable to result in retaliation from Canada.

The Canadians ship via our west coast ports almost the same amount of containerized traffic that we ship out through the east coast of Canadian ports and almost all of the inbound and outbound coming to Canada in the West and from the Far East comes through the Port of Seattle.

Now that would be placed in clear jeopardy if we attempt to inject our regulations into shipments leaving Canadian ports bound for European ports.

We have no business there, as the State Department points out. The Commerce Department points out also, and if anything, it will result in retaliation and the loss of a very effective, very economic service for Midwest manufacturers and producers of goods.

In many cases, CAST will transport to European ports from the factory at two-thirds the cost those manufacturers would have to pay if they shipped out of east coast ports.

Now if the east coast ports want to compete, they certainly can. They can discover what the rates are, there is no trick to that.

The trouble is they want to maintain exorbitant rates and focus all of the Midwest industrial and agricultural traffic out through their ports and free themselves of competition from the Canadian port shipments.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, you can tell that the 98th Congress is drawing to a close. Strange legislative creatures are starting to emerge from the deepest shadows of our various committees. They are sneaking furtively toward the House floor, hoping against hope that they will be whisked into law while no one is looking in the crush of closing business. Amid this pantheon, the bill before us is a typically horrible apparition.

Though couched in general terms, the bill applies only to a single firm, CAST North America, which runs a containerized ocean shipping route between Montreal, Canada, and Antwerp, Belgium, with subcontracted transshipment by land to various points on the North American and European Continents. Though some shipments originate and end in the United States, the ocean portion of this business is clearly part of the foreign commerce of Canada. This bill attempts to place obstacles in the path of that commerce by subjecting it to U.S. maritime law, including tariff filings with the Federal Maritime Commission. The legality of this action under international law has been strongly challenged, to say the least. The Government of Canada is vehemently opposed to it and has hinted at retaliation. The Departments of State, Justice, Commerce, and Transporation also oppose it.

In fact the only people who support this bill are certain east coast port interests. They are trying to hinder an efficient competitor rather than competing directly. On the other hand, the bill will harm thousands of companies and their customers, throughout our Nation, which are using this efficient shipping alternative.

Mr. Speaker, this bill is far too controversial to be considered under suspension of the rules. The same measure was reported from committee in the 97th Congress under a more normal schedule toward the middle of that Congress, and it aroused such a storm of opposition that it was never even considered on the House floor. Now, in the waning light of the 98th Congress, its backers are reduced to sneaking it onto a crowded suspension calendar with little warning in a clear attempt to deny the opposition time to organize.

Well, I say to my colleagues there are those of us who are not prepared to stand for this kind of legislating. This bill is blatant special interest legislation without a shred of merit. For all Members, the choice should be clear. If you represent the few east coast port interests behind this little creature, vote for it. But if you represent shippers everywhere else in the Nation, or have any respect for international law, please oppose it.

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I regretfully rise to respond to the previous two speakers.

I understand their position, but I also take issue.

Let us deal with some of the arguments in due course. One, to begin with, I would hardly characterize this legislation as strange legislation. And to suggest that it is coming out at the end of the session for some other than honorable purpose is, I would think, clearly out of order. If you think this is strange, then next week when we deal with the continuing resolution, I do not know how you would characterize that.

But let us deal with the facts. The gentleman says that the only people who are supporting this legislation are the people on the east coast.

Fact: The east coast, the west coast, people from the gulf, even Seattle, which had formerly opposed it, no longer opposes it. Lobbyists from the port industry that actively opposed it at one time, no longer oppose, are not actively engaged in opposing it.

Why it was not presented before? The implication is that it was not presented because it did not have merit.

Mr. Speaker, the fact is that we passed this through our committee several times. Why it was not taken to the floor? Because we decided to go with the Shipping Act of 1984 to deal with the tariff filing issue, which was critical in that legislation. But for the inclusion of the requirement to file tariffs, that bill would have never come to the floor.

The committee was adamant in its position. The administration, which had initially advocated the elimination of tariff filing, reversed its position, and because of that reversal we were able to have enacted into law the Shipping Act of 1984, which redounds to the benefit of the entire industry. And even the major shippers said that since that Shipping Act of 1984 many of the concerns they have had seemed to be ameliorated.

□ 1350

So clearly that is hardly the issue.

Cost. We have said clearly it will not impose any additional cost. The people in the Canadian ports have an advantage anyway, notwithstanding tariff filing, simply because of the working conditions in the Canadian ports and a lesser number of employees required to work on those ports as compared to those in the United States.

Another argument that was made that I think has to be responded to is competition. It would seem to me that the preceding speakers, or anyone in

the House, would be concerned about an equitable amount of operation.

What this bill does is subject the foreign carriers to the same rules that the American carriers are required to operate under. And to oppose it is to be advocating support for the foreign carriers.

Why do we require tariff filing in the first place? Some people have short-lived memories or have not researched the problem.

Before we had tariff filing we had scandals throughout the entire industry. The scandal of covert rebating practices clearly scandalizes the Nation and the entire industry. In order to deal with that we had tariff filing that developed. That is what is required here in the United States, the filing of tariffs. So why not compel those who deal with the cargo and the intermodal services to whom we address ourselves in this bill to file tariffs? We know they have a distinct advantage. We predicted that one company CAST, which is dealing in Canada, would be the forerunner of other companies into being. We predicted that 7 years ago. People poopooed that notion.

The fact is other companies have developed. It is a better mousetrap, so to speak. If you are in business and the business is yours, clearly it is a good way to go. But our business is to protect our people, American carriers. The people in the Gulf ports are concerned and the people on the west coast are concerned because they are having cargo diversion without requiring the filing of tariffs in those areas and the foreign carriers are enjoying a distinct advantage.

This bill would correct that. In substance, in capsule form what does it do? It really compels the foreign carriers to operate under the same rules that the American carriers operate under, no less, no more. No one is given an advantage over the other, Americans over the foreigners.

The fact is the foreigners still have an advantage because they ship out of foreign ports, clearly a distinct advantage. We cannot change that. That is not within our jurisdiction. But they should not be in a position to participate in the scandalous practice of rebating that this country experienced in early history and which we have dealt with effectively. The Shipping Act includes that requisite for tariff filing.

Mr. Speaker, I think that sums it up and addresses the arguments offered by the two preceding speakers.

I respect them and they are both good friends, but I really have to deal with the issues as they are and as the hearings revealed.

I urge my colleagues to vote for this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, H.R. 1511, known as the Canadian diversion bill, is a controversial bill which has no business being considered on the Suspension Calendar.

It is clearly a special interest bill against the interests of employees and shippers in the United States and for the interests of a certain number of ports and people who handle cargo in those ports. It requires that shipping of goods originating from the United States or ultimately entering the United States via Mexican or Canadian ports will be bound to the tariff filing requirements of the Shipping Act of 1984.

In other words, the United States is again extending its territorial reach in an effort to regulate foreign shipping from Mexican and Canadian ports.

The distinguished chairman recently told us that the bill compels Canadians to operate under the same rules as the United States ports. Clearly, the Congress has no authority to compel other countries to operate under whatever rules we choose to impose upon ourselves.

This kind of activity should not be permitted under our law, although it is, and clearly we should not pass this bill today.

Three administration witnesses from three separate agencies were unanimously opposed to the bill. Obviously, one person is in charge of vetoes in this city and I cannot threaten one, but it would seem to me that the strong language in the committee report would give us a clue as to what should happen to this bill should it, in fact, ever be passed, which I trust it will not be.

Here is what the Department of Justice said:

H.R. 1511 raises serious issues of international law and foreign policy, which we understand are being addressed by the Department of State. The Justice Department shares the State Department's concerns about these issues. In addition, we find this bill objectionable because it may enable carriers operating solely through Canadian and Mexico ports to obtain antitrust immunity under the Shipping Act for the purpose of curtailing competition between themselves and carriers serving United States ports. Such a restraint on competition would upset the delicate balance between competition and the regulatory scheme that comprises the heart of the Shipping Act of 1984 and would deny shippers the benefits of gateway competition between United States and foreign ports.

Now that is from Robert A. McConnell, Assistant Attorney General.

Gordon Brown, Director of the Office of Maritime and Land Transport of the Department of State gives as testimony his opposition to the bill. He believes that it would, "amount to an assertion that the United States has jurisdiction over the carriage of certain goods between Canadian ports and third countries."

And obviously they do not like that.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I will take only a moment. I think the gentleman is making a significant and an important and a trenchant statement. I would like to express my strong support of the position the gentleman is taking.

Mr. FRENZEL. I thank the gentleman for his support.

The last of the administration witnesses that I want to quote is Jeffrey N. Shane, Assistant Secretary for Policy and International Affairs, Department of Transportation. He says:

This Administration supports a free and competitive regime for international trade in both goods and services. This two-way trade in container transportation movement represents services used and desired by both consumers and shippers in both countries. The United States is currently running a very high deficit in its balance of trade. The role of exports is crucial to reducing our trade deficit and makes us keenly aware of the need to be export competitive and to preserve export related jobs in all sectors of our economy.

That is not very high praise for this kind of bill from three separate agencies of the administration, all finding different things wrong with the bill.

I think that we ought to give U.S. exporters the lowest cost shipping rates possible. The fact that they can move through a Canadian port cheaper is simply a sad commentary on the protective state of our maritime industry which has caused it to be overpriced and therefore not competitive.

This protection which it has given us, which is provided in this bill, is going to be at the expense of the American shipper. Now that means that the American exports are going to be less competitive. Not only will they have to fight the Export Administration Act, not only will they have to fight higher labor costs at home, not only will they have to fight the higher cost to the dollar, but they will have to pay higher shipping costs.

Now if we want to consign ourselves to an endless and infinite balance of trade deficits, simply pass this bill. If you think we ought to expand exports, kill it, and I am certainly going to vote to do so.

Finally, I would say that this is the wrong kind of industrial policy because it means the United States will be less competitive in the world today. And I do not think we want to adopt that kind of export policy, nor do we want to reduce exports.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I will yield to the gentleman from New York, if I may get some more time along the way.

Mr. BIAGGI. I thank the gentleman for yielding.

The gentleman said that it would cost the exporters more. Can the gentleman tell me how it would do that? This bill does not deal with that. Can the gentleman please tell me how it would cost them more?

Mr. FRENZEL. Sure.

□ 1400

The SPEAKER pro tempore. The time of the gentleman from Minnesota [Mr. FRENZEL] has expired.

Mr. BIAGGI. Mr. Speaker, I will be happy to yield the gentleman sufficient time to respond to the question.

Mr. FRENZEL. I will be glad to respond to the question.

As I understand it, the merchandise moves now by unregulated carriage to ports in Canada, specifically, Montreal, and then to Antwerp.

Now, if we were obliged to file tariffs, you simply add an extra regulatory burden and cause everybody to spend more money, and you cause pressure to be made on these shippers to use other ports, and there will be pressure to try to conform the Canadian tariffs to our tariffs. I think that that is the wrong way to operate. I would prefer that we continue the current deregulated competitive state which allows U.S. shippers to pick the best form of competition they can.

I thank the gentleman for yielding.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, contrary to the previous speakers, there is strong support for this legislation from the committee on which I serve, the Merchant Marine and Fisheries Committee. In fact, it passed out of the subcommittee and full committee with unanimous support.

Now, if we believe in the committee process and the hearings which were held, then you have to follow the process of the committee work. The work was done with the chairman of the subcommittee and the full committee.

There have been statements, Mr. Speaker, that this is an added burden to the carriers. I would suggest, respectfully, all this bill does is require CAST, and future companies which may be organized, to file a tariff, just as our carriers have to do today.

Now, in layman's terms, and for the listening audience, it just might be that what is occurring today, the shipper can go as CAST and solicit a shipping cost for a product, where the American carrier has already published his tariff. The American carrier cannot bid nor can he offer rebates, or he breaks our shipping laws.

The Canadian carrier, CAST, can deal with the shipper or shippers and make a deal by offering a rebate. But under our law, our transportation companies cannot do it because they file a tariff.

I am suggesting that if you believe in free competition and the free enterprise system, as all of the speakers have mentioned, then we do one of two things: We pass this law so everybody is treated the same; or we repeal all tariff requirements for all carriers.

Now, some people do not agree with me on this, but I suggest, respectfully, right now—again I want to stress the committee supported this unanimously—we have the possibility of an additional threat to our shipping capability being created in Mexico. I would suggest that this could be the death knell for the maritime fleet, which we must have, if we do not pass this legislation today.

Now, as far as being late bringing the bill forth at this time of the year, we went through the hearing process. And, yes, we did hear from the administration. The Justice Department's letter absolutely does not carry any weight. They responded to the first bill that was introduced. They have not addressed the new bill, nor have we had a letter from the retracting their position, but everything they objected to has been remedied in the present bill we are discussing today.

Of course, we have the State Department against us. The State Department is against anything that might hurt somebody's feelings in a foreign country. They have never ever thought about the American worker, the investments made, and other laws that have been passed by this Congress. That impedes our ability to compete worldwide.

So I am suggesting, as far as the Justice Department and the State Department, that they are misleading this Congress and tried to mislead the committee; and the committee saw fit not to listen to their suggestions.

Then we get to the Transportation Department. And if you look at the Transportation Department's witness, I believe he represented the international aspect of transportation with the United States. So he was really singing the same song and dance of the State Department.

I am going to suggest respectfully that if you believe in fair competition you disregard the statements of this administration and listen to what really is happening to our American ships and our carriers. They are faced with unfair competition by regulations and laws passed by this Congress. Again I want to state that either we give everybody a fair shake and they have to do the same thing—by the way the Canadian Government has a law providing for carriers to file tariffs also. It is permissive, yes; but it is there. The Canadian Government subsidizes their shipping fleet. They finance their oil at a lower rate. They in fact have cabotage laws which far exceed ours, which we have very little of, which requires a certain amount of their products to be shipped, and there is not any fair competition.

Those are the things that we are faced with today. So I am going to suggest that this bill is the bill that should have the support of this Congress if you believe in fairness, if you believe that everybody should have to do the same thing, if you believe that our laws against rebates—many other countries, in fact most all other countries, believe in that system; we do not. But it puts our carriers at a very noncompetitive level.

But, my friends, contrary to what was said before, this bill does have strong bipartisan support in the committee. Again, I do not believe there was one vote against it after the amendment of the gentleman from Michigan [Mr. HERTEL] was adopted. There was no opposition to it. If you believe in the committee process, then we should pass the legislation.

I will be glad to yield to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I would like to ask the gentleman two questions. I appreciate his generosity in yielding me time before, and I do not intend to make a rebuttal. But the first question is: I understand that all of the shipper witnesses were opposed to this bill. Can the gentleman tell me if there are any shippers in favor of it?

The second question is, the gentleman suggested that there were two charges, two ways that we could remedy the situation, either put everybody as a tariff filer, or repeal all of the tariffs. Can the gentleman tell me why he did not go to the second choice? It seems to me that tariffs are seldom filed in favor of the shipper or the consumer.

Mr. YOUNG of Alaska. I cannot answer the question as to why we did not go all the way. I suggested before that was a solution. I could only answer with my statement that if we are going to have it one way for one group, then it should fit everybody or it should be eliminated totally, so there can be the opportunity to be competitive.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New York.

Mr. BIAGGI. I would like to respond to the gentleman from Minnesota with relation to the shippers testifying.

There was not a shipper testifying at the hearing. So clearly they were not terribly disturbed.

The SPEAKER pro tempore. All time of the gentleman from Alaska [Mr. YOUNG] has expired.

Mr. BIAGGI. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman from New York [Mr. BIAGGI] has 8 minutes remaining.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield for a moment?

Mr. BIAGGI. I will be glad to yield to the gentleman.

Mr. YOUNG of Alaska. Mr. Speaker, to answer the question of the gentleman from Minnesota, the CAST company that has created this unfairness for the rest of our maritime people was invited to testify, and they declined to testify, nor did they make any attempt to testify.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, can the gentleman tell me if the National Industrial Traffic League, which is the largest organization of shippers in the United States, is opposed to the bill?

Mr. BIAGGI. Yes; they are.

Mr. FRENZEL. I thank the gentleman.

Mr. BIAGGI. But, Mr. Speaker, I must comment on the statements made by the gentleman from Minnesota.

To begin with, the gentleman from Alaska [Mr. YOUNG] addressed himself to the letter from the Department of Justice. The Department of Justice clearly was not responding to the bill under consideration today. There is nothing in the bill that provides antitrust immunity. Nothing whatsoever. They were responding to the initial bill. That is not this bill. This bill has been clearly altered and does not provide any antitrust immunity whatsoever.

Second, I posed the question to the gentleman from Minnesota and asked him how it would increase the cost to the consumer. And he says because of regulations and the filing requirements, it would be costly. I appreciate the response, but I hardly think it sustains the gentleman's contention that it would increase the cost to the shipper. Clearly it does not. That is the impression that is being conveyed, that there is going to be an inordinate increase in the cost of the shipper. That is not true. I will tell you what it does: It takes away from the shipper the right to engage in an unlawful practice in this country, the practice of rebating covertly. That is what it takes away.

We do not have the right to rebate in this country because of the required tariff filing as a result of the bitter experience we had in this country with unlawful rebating practices. This country responded by placing that responsibility on the shippers. That is the fact of the matter.

Yet the shipper still has the advantage of lower cost in foreign ports. What he does not want to do is file so that he would be in an equal position to the American shipper, to the American shipping industry that is required to file the tariff.

□ 1410

Let us have it hang out there so everyone can see. That is not what they want, because they know what they are doing, and in this country it would be unlawful. Because it is Canada or Mexico, it is not. This is the policy of this country. We want to put our people in the same position as the ports in the other countries are in.

Clearly, what is the net result? A clear, negative impact on the maritime industry. A loss of jobs; a loss of shipping. We are talking about building up a maritime industry, how do you build it? By taking business away on the one hand? Here we are in the Congress talking about cargo preference. What is the purpose of cargo preference? To give cargo to the shipper, to the American shipping industry. We talk about that on the one hand, and we cry with crocodile tears about the need for a maritime industry or for a merchant fleet to help us in a time of national defense on one hand, and then we cut the arterial vein and permit the cargo to flow out into the other area.

All we are asking for is fair play. Fair play; simple as that. It is a narrow issue, it is a simple issue. You know, I have said it before and I will say it again, especially with the automobile industry, which has settled down by the way, because they are very happy with the Shipping Act of 1984. There are many benefits that flow to them. But they talk about buying American. They want us to place quotas on the Japanese cars. They say buy American, but it is OK to ship foreign.

Mr. Speaker, I urge the passage of this bill.

● Mr. FIELDS. Mr. Speaker, as a cosponsor of H.R. 1511, I am pleased that the House is meeting today to consider this important legislation.

Since coming to Congress in 1981, I have consistently supported this vital effort to eliminate the diversion of our cargo and the loss of thousands of U.S. port-related jobs.

A am confident that this year we will finally be successful in closing this glaring loophole in our shipping laws which has caused an unjustifiable imbalance between those carriers who are regulated and those who are not.

Despite the assertions of our State Department, there is no legitimate reason why any foreign-based company, whether working through Canada or Mexico, should not be subjected to the same rules regulations as U.S. citizens with whom they compete.

Mr. Speaker, the tragic diversion of U.S. cargo and port jobs has existed for far too long. As we have debated this issue year after year, the problem has not gone away but tragically, in fact, continues to grow at an alarming rate.

According to testimony presented to the House Merchant Marine and Fisheries Committee by the port authority of New York and New Jersey, this diversion of cargo has caused the following negative impacts at their port facility alone.

U.S. oceanborne export cargo, diverted via Canada rose 81 percent to 1,064,054 tons between 1976 and 1981.

U.S. oceanborne import cargo, diverted via Canadian ports rose 56.1 percent to 1,273,552 tons between 1976 and 1981.

New York general export cargo, diverted in 1981 were estimated at 300,494 tons, up 128.6 percent from an estimated 131,451 tons in 1976.

New York's general import cargo, diverted in 1981 were estimated at 285,686 tons, up 42.8 percent from an estimated 200,085 tons in 1976.

Total export/import tonnages diverted from the ports of New York/New Jersey in 1981 are equal to 33,496 containers, up 3,854 containers since 1979.

Between 3,000 and 4,000 port related jobs at the ports of New York and New Jersey have been lost directly as a result of this unfair diversion of U.S. cargo.

Mr. Speaker, these facts clearly indicate the extent of this long unresolved problem. It is obvious that we can no longer allow this rapidly escalating diversion and this contempt of our shipping law to continue unabated.

While H.R. 1511 may not be a perfect bill, it will save American jobs and American cargo not by discriminating against any foreign nation but by simply requiring that those carriers of goods between a point in the United States and a port in a nation contiguous to the United States satisfy the same requirements as carriers currently using U.S. ports.

I believe it is also important to note that the Federal Maritime Commission has testified that there is nothing in this bill which would mandate increased rates for U.S. shippers. The FMC has concluded that the filing of tariffs will have little or no effect on shipping rates.

In addition, the FMC has testified that this bill will not alter cargo routing patterns, will not result in an appreciable regulatory burden on them and it will not require any additional funding to carry out the purposes of this legislation.

Mr. Speaker, in my mind, this issue is one of fairness and equity. Mr. John Bowers, the executive vice-president of the International Longshoremen's Association, best summarized the overriding need for this legislation when he inquired during his recent committee testimony "Just how much longer

is our Government and this Congress going to permit the American economy to be drained away piecemeal by foreign interests and competitors? More and greater ports and facilities will be developed over the border which will expand at our members' and employers' expense if this is permitted to go on without control or challenge. Our ports and employers, beset by so many diversions, are even more vulnerable to the effects of further bleeding of their liveblood commerce."

Mr. Speaker, we can do something positive to end this tragic loss of U.S. cargo and U.S. jobs by enacting this legislation today and by encouraging the other body to schedule this bill for consideration this year.

I urge my colleagues to vote aye on H.R. 1511.●

● Mr. SNYDER. Mr. Speaker, I rise in support of H.R. 1511, a bill designed to put ocean common carriers who serve U.S. ports on a more competitive footing with certain carriers who serve ports in nations contiguous to the United States, primarily Canada.

The issue of Canadian diversion, as the subject of this legislation has come to be called, concerns whether and to what extent the carriage of U.S.-origin or—destined cargoes through Canadian ports should be subject to tariff filing with the Federal Maritime Commission, when the carrier solicits those cargoes within the United States and arranges intermodal service between points in this country and foreign destinations. Proponents of the legislation cite the diversion of cargoes from U.S. east coast/North Atlantic ports and the inability of ocean common carriers serving those ports to compete with unpublished, unknown tariff schedules as reasons to require tariff filing by the carriers subject to this legislation. Opponents cite the contrasting experience on the U.S. west coast, where Canadian cargoes are shipped through U.S. ports, the possibility of increased costs to U.S. shippers, and the questionable extra-territorial extension of U.S. law and regulation as reasons not to enact the legislation.

On balance, I support the solution to the diversion problem which is embodied in H.R. 1511. Although I still have reservations about the need to perpetuate tariff filings, in general, it strikes me as reasonable and fair to require the carriers covered by this bill to file tariffs in the same fashion as their counterparts serving U.S. ports are required to do under the recently enacted Shipping Act of 1984. Further, the provisions authored by the gentleman from Michigan [Mr. HERTEL], and adopted at committee markup, which require the study of the impact of this legislation on the diversion issue, generally, and shippers' costs, specifically, significantly improve the bill.

Mr. Speaker, H.R. 1511 is a narrowly drawn piece of legislation, designed to improve the competitive positions of U.S. ports and the ocean common carriers serving them. I urge the Members' support.●

● Ms. MIKULSKI. Mr. Speaker, I strongly support H.R. 1511. This is a "jobs bill" that comes at a time when economic stress and job loss is foremost in our minds. For too long our ports have had to compete with Canadian ports with one hand tied behind their back. This legislation frees our ports to compete on equal footing with those Canadian ports that have benefited through loopholes in our current law. Over the last 5 years, my own Port of Baltimore and its sister ports in the North Atlantic range have suffered serious container cargo losses due to Canadian cargo diversion.

The problem that H.R. 1511 attacks is that jobs in our ports are being trucked to Canada, driven straight through a loophole in the 1936 Shipping Act. American carriers are required to file their tariffs with the Federal Maritime Commission. These filing requirements do not apply to companies that truck American cargo to Canadian ports for shipment overseas. The nonfiling companies can learn the American shipping prices and undercut them. H.R. 1511 provides a simple solution. It proposes that any company seeking cargo in this country for shipment overseas file their rates with the Federal Maritime Commission, so that they are open to inspection and competition.

This legislation is important to my own Port of Baltimore, because the American carriers that use our port are losing cargo to the Canadian ports. Loss of cargo in the Port of Baltimore means the loss of jobs in the Port of Baltimore. H.R. 1511 is, above all else, a jobs bill. It will provide the Port of Baltimore 750–1,000 new jobs. This bill will add 1 million tons of cargo, along with 400 new vessel calls a year to the Port of Baltimore.

This legislation simply states, that if you're going to do business in America, you will have to go by the same rules of the game as everyone else. We do not fear competition. Competition has made this country great. But, competition, according to its defintion, says that everyone is in the same game, playing by the same rules. Many North Atlantic ports have suffered great losses of freight movements. The time has come for Congress to act. Please join me in support of H.R. 1511.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. BIAGGI] that the House suspend the rules and pass the bill, H.R. 1511, as amended.

The question was taken, and on a division (demanded by Mr. PETRI) there were—yeas 4, nays 6.

Mr. YOUNG of Alaska. Mr. Speaker, I object to the vote on the ground that a quorun is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MEDICAL COMPUTER CRIME

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5831) to penalize unauthorized direct access to or alteration of individual medical records through a telecommunications device.

The Clerk read as follows:

H.R. 5831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever knowingly uses a telecommunications device—

(1) with the intent to obtain direct access to a medical record, relating to an individual and maintained by (or for the benefit of) a provider of health care services, without the consent of the individual or the authorization of the provider shall be fined not more than $5,000, or imprisoned not more than one year, or both, or

(2) with the intent to alter information in a medical record, relating to an individual and maintained by (or for the benefit of) a provider of health care services, without the consent of the individual or the authorization of the provider shall be fined not more than $25,000, or imprisoned not more than five years, or both.

SEC. 2. As used in this Act:

(1) The term "medical record" means recorded information that—

(A) is maintained by, or for the benefit of, any provider of health care services,

(B) relates to the health, examination, care, or treatment of an individual, and

(C)(i) contains the individual's name, or an identifying number, symbol, or other identifying particular assigned to the individual, or (ii) is in a form enabling the individual to be identified.

(2) The term "telecommunications device" means any device that can be used to affect communication by wire or by radio (as defined in section 3 of the Communications Act of 1934), including a telephone, telegraph, or microwave transmitter or receiver.

(3) The term "direct access" means access directly to the information recorded in a

medical record and does not include access obtained as a result of intervention of another person.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Utah [Mr. NELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us would deal with unauthorized access to and alternation of computerized medical records. In hearings before the Subcommittee on Health and Environment this spring, witnesses from the American Hospital Association and the American Medical Records Association testified about the large and growing problem of outsiders gaining access to hospital records.

H.R. 5831 provides criminal penalties for intentional unauthorized access to or tampering with computerized medical records. Under the terms of the legislation, unauthorized direct access to computerized individual information is punishable by a fine of up to $5,000 or a prison term of up to 1 year. Unauthorized alteration of computerized individual information would be made punishable by a fine of up to $25,000 or a prison term of up to 5 years.

The bill was reported from the full Energy and Commerce Committee by voice vote. I urge my colleagues to support it today.

Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Oregon [Mr. WYDEN] who is the primary sponsor of this legislation, who has done all the work in working out the various problems that have come up in presenting this legislation to us today.

Mr. WYDEN. I thank the gentleman for yielding me this time.

Mr. Speaker, last summer, with just a few taps of a computer keyboard, a group of adolescents put at risk the health of thousands of cancer patients at Memorial Sloan-Kettering Cancer Center in New York.

These youngsters achieved this dubious goal by using a home computer to break nto the radiation treatment computer at the center. In doing so, they gained access to the radiation treatment records for 6,000 past and present patients and had at their fingertips the ability to control the radiation levels that every patient received.

Luckily, no one was hurt—this time.

This kind of computer hacking has become a popular pastime among thousands of people in this country—young and old alike. Many of these people take pride in their ability to break into computer files, to beat the odds, and to break the code. For them it's a game.

But, particularly when the well-being of medical patients is involved, it's not a game. It's serious business. And it should be a crime.

What's particularly frustrating is that some of our brightests young people, who would never think of knocking an elderly woman down in the street and stealing her purse, seem to think there is nothing fundamentally wrong about playing with a few keys on a computer terminal, altering a hospital patient's medical file and possible causing irreparable physical harm.

There's an enormous gap in our laws in this area. There are no Federal laws, and few State laws, that specifically penalize unauthorized computer access to and tampering with medical records.

H.R. 5831, which has bipartisan support, would close this gap in our laws before serious harm is done.

This bill will give patients who are harmed by computer abuse of medical records and hospitals who have their computerized records broken into some legal recourse, as well as providing an effective deterrent to the dangerous game of computer hacking.

The bill establishes a two-tier penalty system for persons who gain unauthorized access to computerized patient files: one set of penalties for intent to obtain direct unauthorized access to medical records and one set for unauthorized access with intent to tamper.

H.R. 5831 would require no additional funding, and would not set up any restrictive Federal rules or regulations for hospitals and record administrators. It simply makes unauthorized access to medical records a crime based on the potential for physical injury.

In developing this legislation, we consulted with representatives of the medical community, including members of the American Hospital Association, the American Medical Records Association, the Oregon Hospital Association, and the American College of Hospital Administrators. These groups, along with the minority, all expressed a need for this type of legislation and worked closely with us in finding a way to solve this problem.

Even in the Sloan-Kettering case, the only penalty given for the most severe and dangerous medical record break-in that we know of was a simple 2 years probation. A slap on the wrist, Mr. Speaker, for putting so many vulnerable patients at great risk.

We need a strong legal deterrent to unauthorized access to computerized medical records. And that's where this bill comes in. Rather than using a broad-brush approach, this bill helps bring our laws up-to-date with the level of technology in our country.

Although H.R. 5831 is certainly not the complete answer to stopping computer abuse of medical records, it ensures that the Federal Government has the tools to take strong action to deter wrongdoing. Clearly, there is much more left to do. I believe that every computer course taught in this country should include a segment on ethical use of computers. It is also incumbent on every medical facility that uses computerized medical records to ensure that the level of safety for those medical records is as high as it can be.

Although this bill won't single-handedly solve the problem of unauthorized access to computer files, it is an important first step toward establishing an effective deterrent to this destructive "game-playing."

I believe that the problem of computer tampering with medical records is a disaster waiting to happen. The key issue is: Do we want to wait for the first disaster before we make computer abuse and tampering with medical records a crime?

Mr. Speaker, we need to get this problem under control and to send a clear message to computer hackers that computer abuse of medical records will not be tolerated. This bill, H.R. 5831, provides just this message and will go a long way to helping us get this growing problem of computer abuse under control.

□ 1420

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wholeheartedly support the intent of H.R. 5831. Medical records contain some of the most sensitive information kept about individuals. Guarding the sanctity of these records should be a very high priority of those institutions and individuals responsible for maintaining them.

While I believe that the intent of this legislation is meritorious, I think that the scope of H.R. 5831 may be too narrow in some respects and too broad in others H.R. 5831 addresses only the access to computerized medical records. I find it unfortunate that we have to legislate to protect only one type of computer record on a piecemeal basis. On the other hand, the basis for Federal jurisdiction in H.R. 5831 is very broad. This bill would assert Federal jurisdiction over any unauthorized direct acccess to a medical record by the use of a "telecommunications device" which is defined to include a telephone. Therefore, any unauthorized telephone hook-up to a computer terminal containing medical records maintained by or for the benefit of any provider of health care services would be a Federal crime. Health

care provider is not defined in the bill but presumably would include at least all physicians, dentists, hospitals and clinics. This would make for a broad expansion of current Federal criminal jurisdiction

In my view it would be preferable if legislation affecting computer crimes could cover other sensitive records. I also hope that the role of the Federal Government and the State governments in regulating and prosecuting computer related crimes be more clearly delineated in the near future.

I hope that the Congress can pass at an early date the administration's proposal entitled "Federal Computer Systems Protection Act of 1984," which is in the Judiciary Committee. This legislation is broader and more thorough in its scope, and would incorporate the desirable features of this bill.

I would like to commend Representative WYDEN because he also agrees we need more broad coverage and more areas need to be taken care of and I hope we will be able to work together to accomplish these in future legislatures.

Mr. Speaker, I yield back the balance of my time, and I have no requests for time.

Mr. WAXMAN. Mr. Speaker, we have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5831.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REPORT ON HOUSE JOINT RESOLUTION 648, CONTINUING APPROPRIATIONS, 1985

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 98-1030) on House Joint Resolution 648, continuing appropriations, 1985, which was referred to the Union Calendar and ordered to be printed.

BUBBLE BURSTS FOR BABY BOOMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, for many Americans, the long-held expectation that they would be better off than their parents is proving itself cruelly false. People born during the 1950-64 baby boom are worse off than people their age were 20 years ago, and they are lagging further behind. The current administration's economic policies and its refusal to deal with the consequences of those policies have turned the American dream of homeownership into a nightmare of soaring interest rates and plummeting incomes.

Of those born in this baby boom, people aged 25 to 34 are hardest hit by current economic conditions. The young, upwardly mobile professionals, or "yuppies" we hear so much about, account for only one-third of this age group. Meanwhile, the other two-thirds are either struggling to arrange financing a home, or they have abandoned the dream of homeownership altogether. Homeownership by young families has dropped from 66.8 percent in 1979 to 60.9 percent in 1983.

These young families must confront several obstacles when trying to buy a home. First, high interest rates of over 14 percent make mortgages difficult to afford. Second, incomes of family households in the 25 to 34 age group are actually declining. The decline is partly due to the 10 percent disparity between the inflation rate of 4 percent and mortgage rates of 14 percent, which is causing a decline in purchasing power. Earnings (in 1983 dollars) have dropped 14 percent in 4 years, from $26,568 in 1979 to $22,776 in 1983.

Another reason for the decline is more competition for fewer jobs. Recent Government figures indicate a dramatic slowdown in the creation of new jobs. This, plus the large pool of 25- to 34-year-olds, lowers salaries.

The combination of lower incomes and higher down payment and mortgage costs, forces more people to rent. Consequently, the increased demand in the rental market results in steeper rents. Whereas people recently paid 25 percent of their income toward their rent, they now pay 30 to 35 percent of their diminishing income toward rent.

Obviously, the economic conditions this age group face are harsh ones. Yet, the President continues to ignore the results of his failed economic policy. He continues to ignore the problems of these 25- to 34-year-olds—problems which he helped create.

Since the current administration took office, total Federal spending has increased by 11.2 percent. The Congressional Budget Office estimates that the 1989 Federal deficit will be a staggering $236 billion. As the debt increases, the Government needs more and more money to make the interest payments on the debt. The projected interest payment on the national debt for 1985 is $116 billion, 12 percent of the fiscal budget for the year.

Who pays for this administration's disastrous economic policies? Those who are struggling and can least afford to pay. They pay when big corporations and their millionaire executives pay little or no taxes. They pay when interest rates rise because the Government competes with them to borrow more money for interest payments on skyrocketing deficits. They pay when the President announces that no new policy is needed to reduce the deficits.

The President's ideology seems to address all citizens when he proudly speaks of America's destiny, progress, the promise of the future, and such values as family and rugged American individualism. But what kind of future do his policies create for young people who value family but can't afford a home? Or for those who find that they are working harder than ever but that the dream is receding further away?

Mr. Speaker, I, too, am deeply committed to family, and to individualism. And I, too, believe in America's destiny. But I believe that this destiny should hold promise for every American. This administration is mortgaging the future. The legacy it will leave is not "the shining city on the hill" but an ever-mounting, unpaid bill. The President is an excellent communicator, but for all of his rhetoric, his economic policies lower the boom on the future of the baby boom generation.●

THE RELATIONSHIP BETWEEN POLITICS AND RELIGION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 15 minutes.

Mr. PAUL. Mr. Speaker, the recent furor over politics and religion raises very deep philosophical questions. A lot of confusion exists as to what is the proper relationship between the two. No one has ever suggested we not write laws against stealing because it is a religious principle not to steal.

Everyone knows that laws against violent acts like theft and murder are justified and are also based on a moral code. It is not because of a narrow religious belief, be it Jewish, Christian, Catholic or Baptist. So why the confusion now over the role of religion in legislative matters?

Mainly it is because laws today are passed for political reasons, not moral reasons. We find liberal Catholics who endorse abortion with convoluted justification and conservative Baptists wanting to outlaw drinking and gambling.

These legislative decisions reflect political and religious prejudices and entirely ignores the moral basis of law. Religious prejudice and moral law are two entirely different things. It is true we cannot legislate morality. We can neither make society better. That is the liberal approach. Nor individuals better; that is the conservative approach bypassing laws.

But we can ask that all laws be based on moral principles of nonviolence and seek to protect life and liberty equally

for everyone since all persons have a natural right to live and be free.

This principle may be found in many religions, but more importantly it is the key to a civilized society and political stability.

Protecting the unborn in the political and legislative sense should not be done because it is Catholic doctrine just as outlawing theft is not done because it is Jewish doctrine, but rather because it follows the moral principle of law.

Individuals can reject murder for religious reasons. Politically it is rejected because it is an act of violence. Individuals can reject alcohol, gambling, and birth control for religious reasons, but restrictions of these acts cannot be imposed on others because they are nonviolent acts, not harming others.

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The politician whose religion teaches abortion is wrong, and yet supports proabortion legislation for pragmatic reasons, justifying it by twisted logic, sells out twice. He sells out his religious beliefs and he sells out the principle of equal rights and nonviolence.

Theft, murder, rape, fraud, are all illegal because they violate the moral principle of nonviolence and equal rights. Today, though, our laws are all jumbled up, encouraging and financing the killings of the unborn, permitting Government violence and theft in redistributing wealth in a welfare State, and prohibiting nonviolent victimless acts.

Today we do not accept an overriding moral principle of nonviolence and equal rights to guide our legislative process, and those frustrated with this will do us no favor by substituting for it a narrow, religious doctrine telling each of us how we should live.

The Founding Fathers talked of life, liberty, and the right to pursue our own interests, not of wealth confiscation and redistribution, and making people conform to a religious behavioral code. Religious interference cannot be condemned on the one hand when it talks of protecting the unborn, and praised on the other hand when it preaches to freeze treaties, welfarism and subsidies to Third World radicals; nor can others condemn religious interference when it pushes for a socialist agenda and praise it when it supports armed intervention for fascist states. Both groups are inconsistent and hypocritical.

The dilemma can only be solved by accepting a natural rights philosophy guaranteeing life and liberty consistently for everyone, and rejecting all forms of violence—direct, indirect, individual, and government.

Mr. Speaker, I include in the RECORD at this point an article written a few years ago by myself dealing with this subject.

The article follows:

LEGISLATING MORALITY

(By Congressman Ron Paul)

How many times have you heard it said: "Government should not legislate morality." When the liberal pushes laws mandating quota systems, integration of privately owned property, welfare aid, medical care for the poor, foreign aid to third world nations or minimum wage laws, they do it in the name of morality, claiming the nation as a whole has a moral obligation to fulfill the needs of others. The conservatives quickly retort: "Government shouldn't be legislating morality," claiming it's impossible to force people to be generous, fair and tolerant. In attempting to "legislate morality," the economic and social conditions that were to be improved by the legislation usually get worse. For instance, integration by busing causes white flight and growth of private schools, creating more black ghettos today than existed prior to the mandate for the integration nearly thirty years ago. The attempt, in the name of morality, to wipe out poverty, destroys incentives and causes economic conditions to deteriorate. Minimum wage laws lead to unemployment and third world subsidies turn out to be nothing more than bail-outs for New York banks and foreign dictators. It's obvious: "legislating morality," as the conservatives claim, is a total failure and should be rejected. The liberal "do-gooders," although well motivated, create more problems than they solve and all in the name of a moral obligation to care for the less fortunate of society. They don't ask why are some less fortunate than others, and never question whether or not previous government interference may have been the cause and therefore cannot be the solution, no matter how well motivated the intentions of the do-gooders.

For many decades, the political activism of liberal church groups has reflected this belief in legislating morality. They were and still are to a large degree "outfront" on many economic and social issues, requesting and lobbying for social legislation from Medicaid to busing; from foreign aid to food stamps. Promoting these programs in the name of the church and morality carries with it a tone of condescension and righteousness. It attacks at the very roots of the conservative conviction that free enterprise and the profit motive are sacred institutions. The conservative, angry and frustrated since they lack a consistent defense, respond only with the cliche, "government shouldn't legislate morality." The conservatives anger exists because the liberals attacked the sacred notion of a competitive free market and the frustration occurs because deep down inside they know that there indeed is a relationship between morality and the law. It is understanding this relationship that has been elusive, causing consternation in many sincere liberals and conservatives.

Liberals just as often, and recently more often, as conservatives throw up their hands and condemn positions taken by conservatives by repeating the old cliche themselves: "You have no right to legislate morality." Conservatives in general have advocated laws prohibiting gambling, pornography, drinking and certain sexual activities such as homosexuality and prostitution. The desire—and one not to be criticized—is of course to improve individual morality. They rarely question that if we can't legislate morality and improve society by forcing integration, how can we make an individual a better person by making him an outlaw if he desires to gamble or drink. The conclusion is if legislation attempts to improve personal conduct it's okay, but if the aim is to improve economic and social relationships then it is not.

The failure of those efforts is obvious. Prohibition in the 1920's did little to curtail drinking, but did wonders for the growth of the underworld. It also made "criminals" of many of the American people. The comparison to the problem we face today with marijuana is not without merit. Personal morality does not seem to improve with interventionist legislation. Laws prohibiting gambling don't reduce gambling; they just move it into the hands of the underworld figures, limiting it to the bold who break laws, and denying it from the law abiders who use it as a form of entertainment.

The strongest criticism directed toward the Moral Majority today comes from the pious liberals who condemn it and like-minded church groups for getting involved in politics and "for legislating morality" on issues involving printed matter, personal sex habits and drugs. And yet that's exactly what they have been doing themselves for decades. But when the shoe is on the other foot they resort to the same cliche. Certainly both liberals and conservative religious groups have a right to be involved in politics. How can it be argued otherwise? It seems as soon as someone promotes a viewpoint contrary to another's beliefs it's condemned as "legislating morality." Yet every piece of legislation promoted in Washington is done with a moral overtone and done in the name of "moral obligation" to either help certain groups socially and economically or to make others better persons.

Yet if it's true that all good law is based on moral principles how can this impass occur? Shall we arbitrarily choose when to use "morality" in legislation, based on our own subjective feelings and personal biases? I believe that's exactly what we've been doing for fifty to sixty years and it has led us to the predicament we face today with most constitutional restraints on government power being removed. It is indeed critical to have a proper understanding of the relationship of morality and the law. Liberals and conservatives can't both be right and it could hardly be argued that morality is unrelated to the legislative process. Could it be that they are both wrong and both right?

The case is easily made that good law is law based on morality. Is it not obviously immoral to kill, to steal, to assault another, or to defraud? Is it not clearly a moral right to speak one's thoughts, to write and to practice one's religion, while recognizing slander, libel, breaking of contracts, inciting to riot and using force to compel one to follow a certain religious belief to be immoral and thus within the scope of the law? If this be the case, that all worthwhile law is clearly based on a moral code, how can it be correct that liberals should not "legislate morality" and use government to feed the poor and compel intolerant people to reject prejudice and bigotry, as sincere conservatives claim? Likewise how can the liberals be correct when they chastise the conservative moralists for legislating morality when it comes to personal conduct like gambling, drinking, pornography, and sexual behavior?

Indeed all law, if decent and just, is moral. Morality must guide legislation or it has no meaning whatsoever. Immoral law is law written by dictators, detractors of freedom, and disciples of ignorance. All good law is based on the moral principle of God-given

rights; that our life and liberty are natural and endowed to us by our Creator. All law must be written to protect against any adversary of life and liberty and can never assume that life and liberty somehow has been granted out of graciousness from the state. If this rule is followed all law will have a correct relationship to morality. This precludes the use of violence or force or the threat of such by individuals, groups or governments to implement change or to correct less than perfect conditions as perceived subjectively by some. Moral law is law that protects freedom and the right to retain the fruits of one's labor and punishes those who commit violent acts against life or property.

COMMENTS ON MORAL LAW

(1) Moral law deals with interpersonal behavior, providing the prohibitions against acts of violence and the protection of one's life, liberty and property. It never compels relationships, it only works to prevent and punish those who abuse the absolute and natural rights of others. Laws against murder, theft, assault, and fraud are clear examples of these prohibitions and are obviously based on morality.

(2) Moral law should not be used to legislate a moral code of personal behavior with the intent of making someone a "better" person. Legislation cannot alter habits and personal preferences if these preferences are not violating someone else's life, liberty or property. Personal conduct should not be controlled by law if this conduct affects no one else. This is not to say that personal habits and conduct are not moral or immoral, just that moral law is neutral as to regulating this activity, even if it is self-destructive, i.e. drinking, smoking or eating oneself to death. Moral philosphers and theologians can preach, dictate, and discuss proper personal moral actions but moral law cannot. If legislation does, it violates the fundamental principle of moral law—the absolute right of the individual to life, liberty, and property. Legislation should not be used to improve personal moral behavior, nor can it be used to improve social and economic conditions. Using force, no matter how well intended is never justified in a free society. Yes this means an individual has the right to be selfish, the right to self-indulgence, and the right to freely choose all associations. Government, through legislation, cannot protect the person from himself or herself and should limit its activities to preventing injuries to others and punish those who violate the rights of others.

(3) Violence, or the threat of violence by compelling certain actions, cannot be used to improve interpersonal relationships or social conditions. The use of the political process to redistribute wealth or "improve" social conditions, as perceived by a government planner, must of necessity make use of government threats—taxation and imprisonment—and this cannot be done without violating the moral right of another to his life—the fundamental principle of moral law. All material improvement and a higher standard of living must result from the incentive system and profit motive. The victims of tragedies beyond anyone's control must be cared for by voluntary means.

The important point to remember is that in a free society, productivity is maximized, poverty is minimized and the increased wealth available for voluntary distribution assures the least amount of suffering. Under an immoral legal system where force is used for redistribution, even if for well intended goals, production drops and charity flounders. Clinging to a subsistence level of existence then occupies the time of the majority of people. Where the liberal uses government force in trying to improve social condititions, the conservative uses government force in trying to improve personal conduct. Both are based on the same principle but neither can be successful, because both sincerely motivated attempts backfire and produce opposite results—one leading to hunger and the other to censorship. Massive numbers of citizens eventually get involved in "criminal" activity by being forced into the underground economy and the secret practice of non-sanctioned activities, such as gambling and drug usage.

(4) When personal habits—those construed as immoral, but permitted under a legal moral system, such as drinking, gambling, and prostitution—disturb the peace, they can under these circumstances be curtailed and should be curtailed by the law. Not because the law judges the personal actions as immoral in the religious sense or makes the acts themselves illegal, but because the acts become immoral when they violate another's rights of another's privacy. Under these conditions drinking is legal, drunk driving is not; prostitution is legal, but disrupting a neighborhood is not; pornography in private is legal, but public display of the same is not.

(5) Intimidating children and forcing adult decisions on them cannot be an accepted practice. Free choice can hardly be construed to permit an adult to subject a 12 year old to a high pressure sales pitch for alcohol, drugs, or cigarettes. It happens that this is more likely to occur with illegal items, such as drugs, than the legal ones. Pushers are more likely to push illegal marijuana than they are to push legal alcohol, due to the artificial profits that accompany dealing with illegal drugs. The use of children in child pornography obviously violates the right of the innocent child, with his immaturity in making an adult choice, and deserves protection of the state by prohibiting such acts.

(6) If poverty or social suffering comes from fraud, coerced labor, or acts of force of any sort, the state's role is to punish and remove the obstacles to free associations. If poverty arises from laziness or tragedy the state cannot "correct" the problem by becoming a problem—i.e. a participant in the use of force.

(7) The government's role in general should be to restrain those committing violent acts and not to compel citizens to act in any prescribed way. Using government tax collecting powers to "promote the family" as some conservatives desire makes no more sense than the redistributive process of the welfare system promoted by the liberals. The error in understanding moral law is the same, the results are different only because the subjective personal preferences of the groups are different. Both liberals and conservatives violate the strict definition of moral law when they attempt to "legislate morality" as they see it.

(8) Frequently, social problems are made worse than they need to be. Liberals who honestly want to help, make the problems worse by using the law perversely, i.e., committing government to violent acts of compulsion and redistribution. Efforts should be made to repeal laws that force on us acts of bigotry. Free market solutions, such as the voluntary boycott, deserve absolute protection of the law since it was and is a non-violent, voluntary act available to effect constructive change. Usually the need for government intervention arises from the previous overuse or misuse of government power. Prohibition of alcohol did little to improve individual character and reduce drinking but did promote criminality, making many citizens criminals who otherwise would not have been and encouraging the growth of the mob who controlled illegal products.

(9) "Legislating morality" in social, economic, and personal affairs is completely different from making law conform to moral principles. Liberals and conservatives are both right when they say the other should not "legislate morality." Both are wrong when they each ignore that law should be based on an overriding moral principle.

Some who agree with this moral principle of law claim it's unimportant to be concerned about individual morality and social problems. This is not so. What is important is that the moral principle on which the law rests should not be violated in effecting change. If force is used in an attempt to make people in society moral, it destroys the law. Restraining those who initiate force makes the law moral. Making people moral or society better can only come about by persuasion and not compulsion and should be a concern of all decent people. Any attempt by liberals and conservatives to make people and society moral through coercion destroys moral law.

(10) It might be asked why a limited use of government to improve the individual and society might not be acceptable, i.e. prohibit gambling and drinking and use government force to feed and care for only the truly needy. Many Americans assume this is possible—regulate gambling and drinking but not eating habits; feed the poor but not the lazy. In theory, if human nature is ignored, it could occur. When we allow the seeds of government intervention to be sown they grow and spread as bad weeds do in an unattended garden, destroying the useful crop. Once this authority is granted, even if intended to be of limited scope, it eats away at the roots of natural rights and at the principle of sovereignty of the people. Even a small concession leads to an ultimate attack on all individual rights for there is no logical or consistent argument to oppose the expansion of government power. The process may proceed slowly at first but eventually the entire system will crumble due to the inevitable "root rot" that will develop. That is what we are seeing today.

MORAL LAW OR LEGISLATED MORALITY?

It's correct to say: "We cannot legislate morality." But it is also correct to say: "All good legislation is based on a strict moral principle." Laws can never make people better or compel people to be socially responsible. Good legislation, however, is consistent with the moral principle of the natural and God-given right to our lives, our liberty and our property. Conservatives and liberals misuse the law when they attempt to use it to improve people or society at the expense of the moral commitment to individual God-given rights.

The Founding Fathers understood this and presented us with the most unique political document ever known in history—our Constitution. This set of laws demonstrated a moral commitment to liberty and was principally written to establish once and for all a new concept—that sovereignty shall be placed in the hands of the people—not in the power of the state. For this reason, the Constitution's entire theme was the limitation of government power—prohibiting the government and the law from being a social and economic planner or individual moralist.

The Founding Fathers did not advocate "legislating morality" but they did outline a legal framework based on a deep moral commitment to the principle that the life and liberty of everyone are gifts of a creator and not a grant from the state. The purpose of the law to them was to protect life and liberty from the foreign invader, the gangster, the embezzler, the bureaucrat and the politically ambitious. This concept of morality and law could serve us well but the conflict between those "legislating morality" for various reasons—such as those who want to improve social and economic conditions and those who want to make people better—will end in social upheaval and the total destruction of the moral foundation on which a free society is built.

The two, moral law and "legislating morality," cannot exist together. One must ultimately replace the other. Today we are in a transition and the battle is becoming more vicious as social and economic conditions and personal morality worsen. Each side blames the other, but each compounds the error by responding with more bold and enthusiastic attempts at "moral legislation." Although our experience with a Constitution that was committed to moral law was unique and successful, many leaders pursue and continue to drag us down the path toward a tyrannical state. The battle to determine the final outcome between these opposing forces is now in process. The odds of us losing the concept of moral law and the "legislators of morality" winning are great. For throughout history, the tyrants—those who know what's best for everybody else, whether it's social or personal—have generally been in charge. I believe though, with the correct efforts being made and with commitment and understanding, our Constitution and our country can survive intact. The 1980's should tell us this.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NIELSON of Utah) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, on September 18.

Mr. DANNEMEYER, for 60 minutes, on September 19.

Mr. HANSEN of Utah, for 60 minutes, on September 19.

Mr. PAUL, for 15 minutes, today.

(The following Members (at the request of Mr. WYDEN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONABLE, immediately prior to vote on H.R. 5611.

(The following Members (at the request of Mr. NIELSON of Utah) and to include extraneous matter:)

Mr. WINN.

Mr. CONTE.

Mr. GOODLING.

Mr. STUMP.

(The following Members (at the request of Mr. WYDEN) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. MARTINEZ.

Mrs. LLOYD.

Mr. PEPPER.

Ms. MIKULSKI.

Mr. HOWARD.

Mr. BEILENSON.

Mrs. KENNELLY.

Mr. BOLAND.

Mr. FORD of Michigan.

Mr. CONYERS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2517. An act to amend the Disaster Relief Act of 1974, and for other purposes; to the Committee on Public Works and Transportation.

ADJOURNMENT

Mr. WYDEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 33 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 18, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4040. A letter from the Secretary of State, transmitting a report on the situation in El Salvador, along with the required determination to make available supplemental military assistance for El Salvador, pursuant to Public Laws 98-332 and 98-396; to the Committee on Appropriations.

4041. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Revenue Report for July 1984," pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

4042. A letter from the Chairperson, Retirement Trust, Navy Resale and Services Support Office, Department of the Navy, transmitting the 1983 annual pension plan report for the Navy Resale and Services Support Office, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5693. A bill to amend the Securities and Exchange Act of 1934; with amendments (Rept. No. 98-1028). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5492. A bill to provide for the conservation and management of Atlantic striped bass, and for other purposes; with amendments (Rept. No. 98-1029). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 648. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes (Rept. No. 98-1030). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WIRTH (for himself, Mr. DINGELL, Mr. RINALDO, and Mr. GREEN):

H.R. 6257. A bill to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicle thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes; jointly, to the Committees on Energy and Commerce, Foreign Affairs, the Judiciary, and Ways and Means.

By Mr. CONTE:

H.R. 6258. A bill to amend the National Labor Relations Act to make decisions concerning plant closings a mandatory subject of collective bargaining, and for other purposes; to the Committee on Education and Labor.

By Mr. WHITTEN:

H.J. Res. 648. Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

By Mr. SEIBERLING:

H. Con. Res. 358. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2155; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2053: Mr. NELSON of Florida.

H.R. 2568: Mr. GUARINI, Mr. SAWYER, Mr. COLEMAN of Missouri, Mr. STOKES, Mr. LAFALCE, Mr. MCCLOSKEY, Mr. SEIBERLING, and Mr. ST GERMAIN.

H.R. 4966: Mr. STUMP.

H.R. 5361: Mr. BONIOR of Michigan, Mr. BONER of Tennessee, Mr. MATSUI, Mr. BOEHLERT, Mr. LELAND, Mr. STOKES, Mr. WON PAT,

Mr. GARCIA, Mr. MCNULTY, Mr. GREEN, Mr. MOAKLEY, Mr. FORD of Tennessee, Mr. AUCOIN, Mr. DUNCAN, Mr. JEFFORDS, Mr. BERMAN, and Mr. CROCKETT.

H.R. 5396: Mr. SILJANDER.

H.R. 5791: Mr. MARTINEZ and Mr. DYSON.

H.R. 6100: Mr. MATSUI, Mr. PENNY, Mr. LAGOMARSINO, Mr. DORGAN, Mr. WALGREN, Mr. CLARKE, Mr. LEATH of Texas, Mr. MCKINNEY, Mr. WORTLEY, Mr. LEVINE of California, Mr. SMITH of New Jersey, Mr. MITCHELL, Mrs. BOXER, Mr. STOKES, Mr. GILMAN, Mr. SMITH of Florida, Mr. EDGAR, Mr. MCNULTY, Mr. KINDNESS, Mr. CONTE, Mr. EVANS of Illinois, Mr. LANTOS, Mr. MCCURDY, Mr. APPLEGATE, Mrs. KENNELLY, Mr. KLECZKA, Mr. ACKERMAN, and Mrs. BYRON.

H.R. 6210: Mr. AUCOIN and Mr. HARKIN.

H.R. 6231: Mr. MATSUI, Mr. NELSON of Florida, Mr. RANGEL, Mr. ARCHER, Mr. SWIFT, Mr. MARTIN of North Carolina, Mr. PHILIP CRANE, Mr. LOTT, Mr. PRITCHARD, and Mr. DUNCAN.

H.R. 6243: Mrs. LLOYD.

H.J. Res. 472: Mr. SWIFT.

H.J. Res. 522: Mr. SISISKY.

H.J. Res. 580: Mr. VANDER JAGT.

H.J. Res. 623: Mr. YOUNG of Florida, Mr. HAMILTON, Mr. STUDDS, Mr. SMITH of Florida, and Mr. DONNELLY.

H.J. Res. 631: Mr. RITTER, Mr. STOKES, Mr. PATMAN, Mr. HOWARD, Mr. PICKLE, Mr. EARLY, Ms. SNOWE, Mr. ECKART, Mrs. HOLT, Mr. MORRISON of Connecticut, Mr. DORGAN, Mr. CHANDLER, and Mr. GRADISON.

H. Con. Res. 284: Mr. PATMAN.

H. Con. Res. 285: Mr. PATMAN.

H. Con. Res. 306: Mr. BURTON of Indiana, Mr. YOUNG of Florida, Mr. CRAIG, Mr. EVANS of Iowa, Mr. LEWIS of California, and Mr. LUJAN.

PETITIONS, ETC.

Under clause 1 of rule XXII,

412. The SPEAKER presented a petition of Andrew C. Garza, et al., of Arizona, relative to Social Security cost-of-living increases; which was referred to the Committee on Ways and Means.

SENATE—*Monday, September 17, 1984*

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Almighty God, sovereign Lord of history, receive our gratitude today for another strong and effective public servant who will be leaving the Senate at the end of the 98th Congress. We thank You for Senator PAUL TSONGAS, for his considerable influence and contribution in the Senate, on committees and in debate. We thank You for his incisive intellect—his courage—his integrity. But most of all, we thank You for his inspiration and challenge concerning the priority of home and family. May that inspiration strengthen all of us in an environment where spouse and children can be so easily sacrificed. As he reenters the private sphere, we pray for him and his family good health and the richest of divine blessing. In Jesus name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, the Senate convenes today pursuant to an order which provides that the reading of the Journal will be dispensed with, as well as the call of the calendar, and that no resolutions will come over under the rule. The morning hour, by unanimous consent, is deemed to have expired.

After the two leaders are recognized under the standing order, there will be one special order, to be followed by time for the transaction of routine morning business until 12:30.

After that, by unanimous consent, there will be 2 hours of debate on the motion to proceed to consideration of the TV in the Senate resolution. Senators should be reminded that time for debate is provided by unanimous consent, because the motion itself is not pending, having expired with the adjournment of the Senate on Friday. However, since a cloture motion was filed pursuant to rule XXII, a vote will occur on cloture in respect to debate on the motion to proceed on tomorrow, Tuesday.

If that vote succeeds, the motion itself will then be pending, under the provisions of the rule, for debate after cloture.

Mr. President, I hope cloture will be invoked tomorrow; but in the event it is not, it is anticipated by the leadership on this side that a second cloture motion will be filed today, either by remaking the motion or by unanimous consent, a matter which I have not discussed with the minority leader, but I will do so.

There is a possibility that the trade bill will come up after the first 2 hours of debate on the TV in the Senate matter. That would be at approximately 2:30 p.m.

I anticipate that the Senate will be in session for normal hours today.

Mr. President, as I did last Monday, I believe it would be a good idea to review the agenda that is still before us and the absolutely essential items that must be dealt with before Congress can adjourn sine die. They are the debt limit, which must be done by September 28, I am advised by the Secretary of the Treasury; a continuing resolution making appropriations for the agencies and departments of Government as they may not have been provided for by regular appropriation bills. Those may include MilCon, Labor-HHS, Interior-Transportation. If conference reports are not completed on other appropriation bills, they may be included, as well.

In addition to the debt limit and continuing resolution and appropriation bills, these are on the list of things that the leadership on this side would like to do: TV in the Senate, which I have already discussed; the civil rights bill, the so-called Grove City bill; the highway bill, including an interstate construction estimate; a trade bill, which I announced for today; a clean water bill; product liability; water resources; nominations as they may be available, and conference reports as they become available.

That is a considerable list, and I am not sure how far we will get. But it is the intention of the leadership, both here and in the House of Representatives, I believe, to try to meet an October 4 adjournment date. The 5th of October had been announced previously, but because of a religious holiday that begins on the 5th, it is the hope of the leadership that we can adjourn sine die on October 4. I have discussed this with the Speaker, who has indicated a similar desire.

Mr. President, I will continue to outline the agenda for the remaining 3 weeks of this session as it appears to me, and I will make every effort to keep the Senate advised and up to date.

OFFICIAL SENATE PICTURE TO BE TAKEN TUESDAY, SEPTEMBER 25, 1984

Mr. BAKER. Mr. President, I wish to announce that there will be an official picture of the Senate taken in the Senate Chamber by the National Geographic Society pursuant to a resolution which will be offered to the Senate for adoption on Tuesday, a week from tomorrow, at 2 p.m., and I urge Senators to take account of that and to make arrangements to be present without fail and at their desk at 2 p.m. on Tuesday, September 25. Once again, Tuesday, September 25, at 2 p.m. the official picture of the Senate in the Chamber will be taken by the National Geographic Society.

Mr. BYRD. I thank the distinguished majority leader.

That gives my wife time to have my other suit drycleaned in preparation for that picture.

SENATOR GORTON RECEIVES GOLDEN GAVEL AWARD

Mr. BAKER. Mr. President, on Thursday, September 13, Senator GORTON logged his 100th hour of Chair duty, making him eligible, once again, for the Golden Gavel Award. Senator GORTON has been a consistent and willing Presiding Officer, and has often filled in when scheduling difficulties have occurred. Senator GORTON received his first award during the 97th Congress.

Mr. President, if I have time remaining, I am prepared to yield it to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. ABDNOR). The minority leader is recognized.

SENATE SCHEDULE

Mr. BYRD. I thank the distinguished majority leader. I commend him upon laying out the schedule again today, as he did last Monday. We all understand the reasons why he cannot be more precise than he has been. He cannot forsee every item that will be ready to come up in the Senate, but what he has said, helps us all to understand what we have to do with respect to the remaining work prior to the adjournment.

I ask the distinguished majority leader if he has anything additionally that he can say with respect to the disability legislation and perhaps the child nutrition legislation.

Mr. BAKER. Mr. President, I am advised by staff that the nutrition bill is cleared on our side for adoption by unanimous consent, but with no amendments in order. The disability bill is still in committee. I will make further inquiry on that.

Mr. BYRD. Very well.

I thank the distinguished majority leader.

There are various conference reports that some of us on both sides of the aisle I am sure would be hopeful could be resolved before adjournment. For instance, I have in mind the immigration reform legislation.

I am sure that the distinguished majority leader cannot comment on the prospects on all of the items that are in conference, but there are some very important pieces of legislation in conference, and I am sure I share with him the desire that we be able to resolve those matters and get the measures on the way to the President's desk.

Mr. BAKER. Mr. President, if the Senator will yield, I share that view. I wish to see the budget conference done, and the defense authorization, and a number of others.

But I include in the things I wish to see us do any of the bills that are now in conference or may go to conference.

THE SENATE'S RECORD VOTERS

Mr. BYRD. Mr. President, on last Thursday evening, it was observed by the distinguished majority leader that the final vote on the passage of the banking bill would constitute the 10,000th rollcall the distinguished Senator from South Carolina [Mr. THURMOND] would cast. Immediately thereafter, Mr. THURMOND cast that 10,000th rollcall vote. Mr. THURMOND was appropriately commended by the distinguished majority leader. I indicated at that time that I would have something to say for the RECORD today on the matter.

I join the distinguished majority leader in his having called attention to the fact that Mr. THURMOND was casting his 10,000th rollcall vote. I compliment the Senator from South Carolina highly. It takes a long time and it takes very diligent attention to one's answering rollcalls for a Senator to cast 10,000 rollcall votes. It is an achievement that has not come to many Members of the Senate and it is an achievement which will not be easily reached in the future, just as it has not been easily reached in the past.

Some time ago, attention was called to the fact that both Senator RANDOLPH, my senior colleague, and I have cast over 10,000 rollcall votes—Senate and House rollcall votes combined. Mr. RANDOLPH was in the House of Representatives, I believe, 14 years, and I was in the House of Representatives 6 years. Both Senator RANDOLPH and I will have served 26 years together in the Senate when this Congress comes to a close.

There were not as many rollcall votes cast annually in the years in which my colleague [Mr. RANDOLPH] and I served in the House as are being cast there today. The number of rollcall votes cast in the Senate in recent years has increased considerably over the early years, when my colleague and I first came to the Senate.

I call attention to the fact that Mr. THURMOND has joined a group of Senators who have achieved this laudable number of rollcall votes—that number being 10,000. For example, the late Senator Henry M. Jackson, during his House service and his Senate service, achieved an envious record. He cast a combined total of 11,059 rollcall votes—not counting quorum calls.

I called attention to this rollcall vote record by Mr. Jackson, I believe, at the time he reached the 11,000th rollcall vote, but I am not sure of that. In any event, I did have some comment to make for the CONGRESSIONAL RECORD at the time, calling attention to the fact that Mr. Jackson had cast over 11,000 rollcall votes during his combined service in the House and later in the Senate. In the Senate alone, he had cast 10,063 votes.

From the standpoint of Senate rollcall votes only—not counting quorum calls—it should be noted that Mr. Jackson had cast 10,063 rollcall votes and that Mr. PROXMIRE, indeed, leads us all insofar as Senate rollcall votes only are concerned. Mr. PROXMIRE did not have previous service in the House of Representatives, but he has cast 10,540 rollcall votes in the Senate. So the record, as far as we have been able to determine, indicates that Mr. PROXMIRE leads everyone in the total number of rollcall votes cast in the U.S. Senate.

Senator JOHN STENNIS, who has the longest seniority of anyone in the Senate today, has cast 10,399 rollcall votes in this body. Senator RUSSELL LONG, who is second only, I believe, to Senator STENNIS in the number of years served here by any Member presently sitting, has cast 10,059 rollcall votes here, in the Senate.

Mr. President, I appreciate the distinguished majority leader's having brought to our attention the matter of Mr. THURMOND's commendable rollcall vote record. It allows us, I think, to pay tribute to our colleagues who have so ably represented the people of their States and who have contributed so importantly to this body and to the Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD, a table provided by the Democratic Policy Committee showing Senators casting 10,000 votes during service in the House and the Senate, as of the close of business on Thursday, September 13, 1984.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATORS CASTING 10,000 VOTES DURING SERVICE IN HOUSE AND SENATE

Senator	Senate votes cast	House votes cast	Combined votes cast
Robert C. Byrd, 1953–84	10,159	432	10,591
Henry M. Jackson (deceased), 1941–83	10,063	996	11,059
Russell Long, 1948–84	10,059	—	10,059
William Proxmire, 1957–84	10,540	—	10,540
Jennings Randolph, 1933–46, 1959–84	9,645	1,050	10,695
John Stennis, 1947–84	10,399	—	10,399
Strom Thurmond, 1956–84	10,000	—	10,000

Note: All vote totals may be increased by 1 vote, if the secret Vote No. 303 is included for 1979.

Source: 1973–84 voting information has been obtained from the Senate computer from the position supplied by the bill clerk in the Office of the Secretary of the Senate. All of these positions have been proofed at least twice. Senate voting positions, prior to 1973, are from records scrupulously maintained by staff of the Democratic Policy Committee. House voting information regarding Senators Jackson and Byrd was supplied by the Clerk of the House. House voting information regarding Senator Randolph was provided by Ned Massee of Senator Randolph's staff from information he received from the House Clerk on rollcalls answered during his House tenure.

MEETINGS WITH SOVIET FOREIGN MINISTER ANDREI GROMYKO

Mr. BYRD. Mr. President, I join with the Democratic Presidential nominee, Walter Mondale, in supporting President Reagan in his scheduled September 28 meeting with Soviet Foreign Minister Andrei Gromyko.

Significant importance is being attached to this meeting and rightly so. The President has not met previously with his Soviet counterpart nor has he met with Foreign Minister Gromyko thus far during his tenure in office.

As a result, the administration has raised the stakes associated with this meeting, coming as it does just some 5 weeks before our own Presidential election.

I share Mr. Mondale's view that millions of Americans want the Reagan-Gromyko talks to produce concrete results.

I agree that most Americans want United States-Soviet arms-control negotiations to resume. I also believe that most Americans will certainly not expect us to give the store away in any of these meetings. I feel that the American people hope that the talks at the highest levels will continue after this meeting.

Yesterday, Mr. Mondale announced that he will be meeting with Foreign Minister Gromyko on September 27, the day before the meeting of Mr. Gromyko and the President. The purpose of the former Vice President's meeting with Gromyko has been made perfectly clear. As Mr. Mondale stated,

he will tell the Soviet Foreign Minister three things:

First, America has only one President at a time, and when Mr. Reagan speaks to Mr. Gromyko on the 28th he will speak for all Americans.

Second, the Soviet Union has nothing to gain from delay. Mr. Mondale makes that very clear. He has said that he will drive a tough bargain if he is elected President, and that he would not sign any agreement as President that fails to protect American security.

Third, Mr. Mondale said that world survival demands true progress on arms control. He said that we must set aside rancor and blame, and then we must launch serious businesslike negotiations.

I commend Mr. Mondale for taking advantage of this opportunity to meet with Foreign Minister Gromyko to ensure that the Soviets receive a consistent message from the leaders of both our parties. As Mr. Mondale pointed out in his announcement yesterday:

> The heat of our political contests can create an awkward context for international relations. Other nations sometimes misread the meaning of our boisterous campaigns. Hearing the issues that divide us in an election season, they may wrongly infer that we are divided on all things.

Mr. Mondale went on to say:

> We are not. We are united in our commitment to strong defense. We agree on the urgency of avoiding war. We refuse to make the possibility of peace a casualty of this or any other political campaign.

It is on this basis that the Democratic Party's nominee for President agreed to the meeting with Soviet Foreign Minister Gromyko.

Mr. Gromyko is tough, Mr. President, and we should have no doubts or illusions with respect to that fact, and he speaks from the standpoint of many years of experience in dealing with foreign matters and with respect to the relationships between our own Government and the Soviet Government.

I think that Mr. Mondale has laid out a frame of reference for discussions and has indicated in advance that he would hope that we can continue to have meetings with the Soviets.

We have indicated an interest in talking with the Soviets, and they have up to this point not indicated an equal interest in carrying on discussions with the United States in regard to arms control.

I think the American people want to see our two countries talk, want to see our two countries come to agreement in the interest of the peace and safety of mankind. At the same time our people do not expect our leaders in either party to make concessions that are not in the national security interest. Of course, Mr. Mondale has indicated he will not do that.

I have no doubt that the American people as a whole want arms-control discussions to go forward and hope that there can be some agreements with respect to arms control. I think that there is a great majority in this country who would not advocate unilateral actions on the part of this Government with respect to arms control but they expect any agreements to be mutual and bilateral and verifiable insofar as cutting back on the arms race is concerned.

Mr. Mondale is rendering this country a great service by ensuring that the Soviet leadership hears a consistent message, and that it will not hear one message from our Democratic leader and another message from the President of the United States insofar as our desire to enter into meaningful negotiations is concerned, and that the results of any negotiations must be in the national security interests of our own country as I am sure the Soviets would insist on the outcome of any such discussions being in the national-security interests of their own country.

The American people are united, as Mr. Mondale has said, in support of a strong defense and the urgency of avoiding war. I believe that Mr. Mondale's meeting with Foreign Minister Gromyko will be a significant help in setting the stage for President Reagan's meeting.

I compliment Mr. Mondale on the statement that he made on yesterday with reference to his upcoming meeting with Mr. Gromyko.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

WORLD'S PHYSICIANS PRESCRIBE THE NUCLEAR FREEZE FOR THE WORLD'S MOST SERIOUS HEALTH THREAT

Mr. PROXMIRE. Mr. President, few professions are as politically conservative as the medical profession. The American Medical Association has won a reputation as one of the most conservative organizations in America. This country's medical doctors do a magnificent job. After all, what can compare in anyone's value system with saving lives and restoring good health to ailing people? Our doctors are doing this better now than ever before. Again and again doctors have earned the esteem of all Americans. Virtually every poll of the status of various occupations and professionals rates medical doctors consistently at the top. Why are doctors conservative? Well, for good reason. They have plenty to conserve. The average American doctor today earns about $100,000 per year.

So, Mr. President, when the doctors of this world speak out for a view usually considered as liberal as the nuclear freeze, the rest of us should sit up and take notice. On June 10, the New York Times reported that 350 physicians, representing 53 countries including the United States and the Soviet Union, met directly in Helsinki, Finland, at the Fourth Congress of the International Physicians for the Prevention of Nuclear War. Ever since these physicians started the organization in 1980, they have stressed the impossibility of doctors coping with the immense devastation of even a limited nuclear war. They have called the arms race the greatest health threat to humanity.

These physicians have put the case in a way many of us can easily understand. In a letter to President Reagan and Soviet Leader Chernenko, they wrote:

> As individual physicians we must at times tell families that the condition of a patient is 'critical'. After careful study of the acceleration of the nuclear arms race over the past year, we must collectively issue the warning that it is now not a single human life but all human life that is in critical condition.

Get that, Mr. President, all human life is in critical condition. So what does this organization of physicians propose we do about this? The physicians call for three separate policies to stop the arms race:

First, they call for a mutual, verifiable freeze on the testing, production and deployment of nuclear weapons.

Second, they ask both the United States and the Soviet Union to renounce any first use of nuclear weapons.

Third, they ask the superpowers to take independent initiatives to reverse the arms race and not to wait for mutual progress to be made in negotiations.

President Reagan wrote the organization expressing support for arms control; so did Walter Mondale, the Democratic Presidential nominee, Pope John Paul also expressed support.

Consider the irony of all this. The physicians undoubtedly express the opinions of most Americans if you can believe the evidence of votes in statewide referenda and the consistent showing by professional pollsters who have conducted many polls both in this country and throughout the world on the subject of ending the arms race. World leaders applaud the sentiments expressed. Why then does nothing happen? Has arms control moved ahead? Arms control has never stalled so long. Indeed, if there is any move-

ment, we are going backwards. The administration's strategic defense initiative or "Star Wars" would abolish one of the most important arms control treaties, the Anti-Ballistic Missile Treaty, which the Senate ratified by a vote of 88 to 2, 10 years ago. It would also nullify the treaty banning the extension of nuclear weapons in outer space. The other superpower, the Soviet Union, has been worse. The Russians have walked away from the bargaining table on both of the only nuclear arms negotiations that were proceeding: the START Talks and the INF negotiations. Do the Soviets give any sign of a willingness to return? None.

The physician organization suggests an answer to all this. It calls on the two superpowers to go ahead individually and not wait for negotiations. On this point, the physicians are wasting their time. Can anyone really imagine either the Soviet Union or the United States engaging in what the physicians clearly are calling for: unilateral arms reduction? Forget it. This Senator has been pleading for nuclear arms control negotiations for years. He recognizes how tragic and dangerous the nuclear arms race has become. I think the leaders of each of the superpowers also recognize our appalling danger. Why then do they not act? The answer: There is one single, sure and always consistent quality of the modern sovereign state. It will never voluntarily surrender an iota of its power, particularly the military power it enjoys on the cheap. And dollar per pound of explosive power, there is no military power that is cheaper than nuclear power.

It is easy to understand the physicians' impatience. We live in the most dangerous period of human history entirely because of the nuclear arms race. Only effective arms control negotiations can reduce the terrible risk of nuclear war. But who can be optimistic about arms control negotiations? Arms control negotiations are going nowhere. The immediate prospect for such negotiations is dismal. So what can an organization for the prevention of nuclear war do? In the absence of such negotiations, the physicians' propose unilateral action to slow down the arms race by each of the superpowers. Such action may make sense but only as a negotiation element. That is, the United States can unilaterally and temporarily suspend testing or production or deployment for a certain strictly limited period of time and challenge Russia to do the same. If the Soviet Union follows suit, we have the basis for effective arms control. That has been used. This was the technique used by President Kennedy in securing agreement to the limited test ban treaty which was signed in 1963. Obviously it depends on mutual cooperation that is dual action in the given period of time.

Both nations have so much to gain by negotiations. Both have everything to lose by a continued arms race. One way or another the superpowers must return to the peace table and soon. The survival of civilization depends on it.

Mr. President, I ask unanimous consent that an article from the New York Times of Sunday, June 10, by Peter Kerr, headlined "Physicians Urge End to Arms Race" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PHYSICIANS URGE END TO ARMS RACE—GROUP MEETING IN FINLAND ASKS THE UNITED STATES AND THE SOVIET UNION TO TAKE STEPS TO EASE THREAT

(By Peter Kerr)

An international conference of more than 350 physicians in Helsinki this week called on President Reagan and Konstantin U. Chernenko, the Soviet leader, to take independent actions to stem the nuclear arms race.

The physicians' message included a call for a freeze on weapon testing, production and deployment, and a renunciation of the first use of nuclear arms.

The appeal was issued by the fourth congress of the International Physicians for the Prevention of Nuclear War, a group representing medical doctors from 53 countries, including the United States and the Soviet Union. A copy of the appeal was received in Manhattan from a physician who attended the conference, Dr. James E. Muller, an associate professor of cardiology at the Harvard School of Medicine who is one of the founders of the group.

Since its founding in 1980, the group has argued that it would be impossible for physicians to cope with the devastation of even a limited nuclear war, and that the arms race is the greatest health threat to humanity.

WORLD IN "CRITICAL CONDITION"

"As individual physicians we must at times tell families that the condition of a patient is 'critical,'" the congress wrote in the letter to the two leaders. "After careful study of the acceleration of the nuclear arms race over the past year, we must collectively issue the warning that it is now not a single human life but all human life that is in critical condition."

The association was founded by prominent American and Soviet medical doctors, including Dr. Bernard Lown, a Harvard cardiologist, and Yevgeny I. Chazov, a leading Soviet cardiologist. It describes itself as independent of any government, political party or ideological viewpoint. Its work has received support from the governments of many nations, including the leadership of the Soviet Union and Eastern bloc countries.

The conference echoed many of the messages of its past meetings, including descriptions of the hundreds of millions of dead and untreatable wounded that would result from a nuclear conflict. But this year the group emphasized what it saw as the increased potential for nuclear conflict in the last 12 months as a result of new American and Soviet missile deployments and the breakdown of Soviet-American arms negotiations.

APPEAL TO TWO LEADERS

In a written appeal to Mr. Reagan and Mr. Chernenko, which was approved by the congress Thursday, the physicians said the reduction to minutes of the time it takes a nuclear missile to reach its target had greatly increase the likelihood of an accidental nuclear war. In addition, the message said, new research indicates that a "nuclear winter," in which radioactive dust thrown up by explosions in a nuclear war would block out the sun and might destroy all human life.

The conference called on the two super powers to take independent initiatives to reverse the arms race and not wait for mutual progress to be made in negotiations. It also asked that the two nations institute a "sufficiently verifiable freeze," on the production, testing and deployment of the weapons and to renounce any defense policy that calls for the first use of nuclear arms.

"We cannot resolve our differences by fire and sword as did our ancestors," the statement said. "The unbridled use of force today would be a sure path to general destruction."

REAGAN SENDS A MESSAGE

President Reagan sent a message of support for nuclear arms control, but in the letter admonished the Soviet Union for increasing tensions and resisting American proposals for arms agreements.

The conference also received letters of support from Pope John Paul II, Indira Gandhi, leaders of East Germany, Czechoslovakia and the American Presidential candidates Gary Hart and Walter F. Mondale.

At the meeting the physicians heard addresses from Andreas Papandreou, the Prime Minister of Greeze; Kalevi Sorsa, the Prime Minister of Finland, which helped fund the gathering, and A. Garcia Robles, the former Foreign Minister of Mexico and winner of the 1982 Nobel Peace Prize. All of the speakers called for greater efforts on the part of the superpowers to reduce their nuclear stockpiles.

"As long as the present situation exists," Mr. Garcia Robles said, "mankind will remain confronted with only one choice: achieve the elimination of nuclear weapons or face annihilation."

THE PLIGHT OF THE SAKHAROVS

Mr. PROXMIRE. Mr. President, on another subject, the efforts of Andrei Sakharov and his wife, Yelena Bonner, to advance human rights have cost them a great deal. Both Soviet dissidents have been outspoken despite the dangers. The Washington Post on September 12, 1984, provided us with an update of their situation.

Andrei Sakharov has now been in internal exile for nearly 4 years. He is still denied access to regular facilities for physics research. According to the Post report:

> The (Soviet) authorities have succeeded in isolating Sakharov and his wife from their friends . . . and from western correspondents.

Those who know the couple remain concerned about their health. Yelena Bonner suffers from heart and eye ail-

ments. Andrei Sakharov's health is a focus of concern because of his hunger strike aimed at pressuring the Soviets into letting Bonner secure medical treatment abroad. She continues to be denied the care she seeks.

The imposed isolation of the Sakharovs again displays the Soviets' poor record on human rights. It again displays the Soviets' disregard for the ideals of the Helsinki accords which include freedom of movement and access to information.

The United States has demanded that independent observers be allowed to contact both Sakharov and Bonner. We must use all possible means to speak out against this and all other violations of human rights—and we must do so as loudly and effectively as possible.

That is why, Mr. President, ratification of the Genocide Convention would make our statements regarding basic rights more effective. One retort human rights violators have used against us would be eliminated as our actions would back up our words.

This is precisely what President Reagan said when he supported the Genocide Convention's ratification a couple of weeks ago.

Moreover, ratification would unite us more strongly with those individuals, such as Andrei Sakharov and Yelena Bonner, who have advocated positive change at a great personal cost.

TRUTH-IN-BUDGETING

Mr. PROXMIRE. Mr. President, on another subject, on Sunday, September 2, the New York Times run a most perceptive article about our off-budget Federal credit programs. The article points out that in fiscal year 1982 alone, off-budget credit programs consumed more than 21 percent of all funds raised in the Nation's credit markets. This is not counting the official budget deficit, which brings the Federal share to well over half of private credit resources in this country.

One of the keystone agencies in this off-budget scam is the Federal Financing Bank. The Federal Financing Bank is one of the best kept secrets in Government. It has no windows, no tellers, no pillars, and yet in just 10 years, it has become the largest bank in the United States.

I think a lot of people would be surprised to hear that National City Bank in New York is not the biggest bank. The Federal Financing Bank is the biggest bank.

It is the principal source of financing for many of the off-budget Federal guarantee programs. The Federal Financing Bank converts these guarantees into direct Federal loans. Under ordinary circumstances, a direct loan would show up in the Federal budget and increase the size of the deficit. But by law, the outlays of the Federal Financing Bank are not counted in the budget. As a result the real size of the Federal deficit is understated by well over $10 billion a year.

I have introduced legislation with Senator TRIBLE to include the Federal Financing Bank in the budget and thus provide a more honest picture of our fiscal affairs. Unfortunately, the legislation is bottled up in both the House and Senate where it is strongly opposed by those special interests who have benefited from the off-budget loans made by the Financing Bank. Hopefully, the Times article will stimulate a renewed interest in the legislation. Mr. President, I ask unanimous consent that the article be inserted in the RECORD at the end of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 2, 1984]

THE DANGERS OF OFF-BUDGET ANTICS

(By Stephen Berger)

One of the best-kept secrets in the Federal budget—a secret because few understand or care about it—is the phenomenal growth of off-budget government lending that does not show up in the numbers.

While most budget watchers are aware of this explosive growth in Federal loans and guarantees, most taxpayers have no idea of the extent to which the Government is dominating the credit markets—even apart from the borrowing it must do to finance the national debt—and putting upward pressure on interest rates. In the fiscal year 1982 alone, off-budget Federal credit programs consumed more than 21 percent of the $408.7 billion of total funds raised in the nation's credit markets.

Little is being done to change the system because it is so advantageous to its beneficiaries—home buyers, farmers, students, veterans. At the same time, politicans would be embarrassed to vote for such expensive subsidies if they showed up as "spending." Thus, it is much easier to "cook the books." But is it essentially dishonest, and a disservice to nonbeneficiaries—consumers and taxpayers—who pay higher taxes and higher interest rates as a result.

The following is an example of how the system works:

The Farmers Home Administration makes a loan to Farmer Jones at below the market rate. The agency then "bundles" the loan with others and "sells" them to the Federal Financing Bank, a bank created by Congress in 1973 ostensibly to "coordinate" all Federal financing. The transaction is recorded as a sale by the agency, wiping the loans off its books and placing them in the off-budget accounts of the financing bank.

The bundle of loans has become an "off-budget" item, but the fiscal reality is that Farmer Jones has received a generous Government subsidy. Of course, to get the funds for Farmer Jones, the Farmers Home Administration has to borrow in the market, creating more demand for credit and pushing rates up. And this does not begin to address the effects of widespread delinquent loans in many of these programs.

In 1982, the loan sales to the Federal Financing Bank by the Farmers Home Administration reduced its on-budget outlays by 70 percent for rural housing, 42 percent for agricultural credit and 73 percent for rural development.

I do not mean to single out this one agency loan program as an unworthy one. The trouble is that the distorted budget does not give us a clear picture of the true costs and benefits of a host of Federal programs. Indeed, the Federal Government's total involvement in lending programs has literally exploded in recent years. Net credit from the wide array of Government activities has soared fourfold in the past decade, to $87.6 billion last year. In addition to farming, major off-budget programs include housing (the biggest program), rural electric loans, guaranteed student loans, the Tennessee Valley Authority and the Export-Import Bank.

Most of the credit programs have been created for good reason. But they have gotten out of hand. The trend to off-budget treatment increasinly obscures the impact of government spending and credit commitments on the economy. Requiring all credit financing to be put "on-budget" would at least reveal to everyone the total effect of Federal financing on the marketplace. It would also force policy makers to re-evaluate regularly the merit of the various credit programs.

To be sure, there has been some progress in the past few years in making credit programs and their disguised low-interest-rate subsidies more visible in the budget, such as several truth-in-budgeting acts now being considered by Congress. But more needs to be done to make the nation's books as honest as they can be.

If the purpose of a loan or a guarantee is to subsidize certain borrowers, why not do it on budget? For instance, suppose the socially desirable objective is to lower mortgage costs for a first-time home buyer. It would be simple enough to require the borrower to certify that this is his or her first home purchase and the lender to certify the standard lending rate. Then the bank, or lender, could be paid directly a sum equal to the present value of, say, a 2-percent reduction in the mortgage interest rate. The Federal Government's intervention into the credit markets would thus be minimized.

Off-budget lending also continued to be inflated because agencies are in the habit of automotically relending funds as they are repaid by borrowers. This practice needs to be examined again.

Some of the largest credit programs, notably in housing, are meant to provide improved access to credit for a broad class of borrowers on a more or less permanent basis. For these programs, it is reasonable to use the repayments as a supplement to new lending authority because it is almost certain that Congress will provide additional new lending authority when needed. Moreover, most of these programs will not experience the kind of runaway growth that might give Congress second thoughts about being permissive.

Other credit programs aimed at specific borrowers should be restricted to the specifically authorized amount, with repayments going back to the Treasury. Some are new credit programs that might be drasticaly revised, curtailed or even eliminated on the basis of experience. Others are explicitly designed to deal with temporary problems, such as first-time home buyers during a credit crunch. Some of the foreign aid programs can be expected to undergo signficant revisions at frequent intervals. To permit automatic relending of repayments gives

these programs unwarranted permanence and may misallocate scarce resources.

Finally, a much better job could also be done by the Government in collecting bad debts. With tens of billions of dollars in delinquent debts outstanding, the Government is a notoriously poor credit collection agency; witness the unpaid student loans, often owed by people who have gone on to become successful professionals.

After default occurs, the Government should immediately sell the paper, necessarily at a steep discount, to a private debt collector. Private collection agencies should be invited periodically to bid on bundles of defaulted paper. While the immediate objective would be to improve actual collections, the more important long-term goal would be to let borrowers know that collection efforts will be aggressive, thereby deterring them from casually defaulting in the expectation that no one else will ever come after them.

These suggestions merely illustrate the kinds of questions that need to be answered to insure that the available credit in the economy is not misallocated through huge government loan and loan guarantee programs that grow year after year. In some cases if sharp-eyed members of Congress would simply look at the budget numbers and ask what they really mean, it could be enough to slow or even reverse this unbridled growth and save the taxpayer some money.

(Stephen Berger, an investment banker with Odyssey Partners in New York, served as Executive Director of New York State's Emergency Financial Control Board from 1976 to 1977, and is chairman of the finance committee of the Metropolitan Transportation Authority.)

Mr. PROXMIRE. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 12:30 p.m. with statements therein limited to 5 minutes each.

BILL PLACED ON CALENDAR—H.R. 3979

CIGARETTE LABELING REQUIREMENT

Mr. BAKER. Mr. President, morning business is to close at 12:30 p.m. The schedule announced was for the Senate to have 2 hours of debate on the Senate television resolution.

However, there is one bill that is on page 49 of the calendar which I would like to call up under the provisions of rule XIV. For the convenience of all Senators, I ask unanimous consent that it may be in order, notwithstanding morning business has not ended, for the Chair to call for second reading of that bill at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read for the second time the bill that had its first reading on the previous legislative day.

The legislative clerk read as follows:

A bill (H.R. 3979) to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigaretts, and for other purposes.

Mr. PACKWOOD. Mr. President, I object to further consideration of the bill at this time.

The PRESIDING OFFICER. Objection having been heard to further consideration of the bill after the second reading, pursuant to rule XIV, paragraph 4, the bill will be placed on the calendar.

Mr. BAKER. I thank the Chair, the minority leader, and the Senator from Oregon. To clarify that to Members who may be listening in their offices, rule XIV provides for this procedure and is often used. The effect is to place H.R. 3979 on the Calendar of General Orders.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, morning business is still open and will continue until 12:30 p.m. in the event Members may wish to come to the floor and make a statement. At 12:30 p.m. the Senate will have 2 hours of debate on the television in the Senate resolution.

DC METRO EMPLOYEES REPORTED USING DRUGS

Mrs. HAWKINS. Mr. President, an article recently appeared in the Washington Times which reveals the disturbing results of the testing of Washington, DC, Metro employees for use of illegal drugs or alcohol.

DC transit officials report that these substances were found in nearly one-quarter of Metro employees undergoing blood and urine tests. From July 1983 to April 1984, it was discovered that 87 of 377 employees had drugs, alcohol, or both in their systems, and that average, unfortunately, seems to be "holding steady."

Mr. President, it is always disturbing news when it is found that illicit drugs are present in the workplace, but when those who are entrusted with the well-being of the riding public, it is doubly disturbing. The physical and psychological effects of any illegal narcotic, whether it is marijuana, cocaine, or PCP, are by nature of such unpredictability that a Metro employee does not have full control, thereby jeopardizing his or her passengers' lives. It is for this reason that Metro officials have taken a hard line on the drug tests: any employee who tests positive is fired immediately.

The 19-month-old policy developed by Metro officials requires such testing after any accident. This "post-incident medical exam" was later expanded to allow supervisors to order drug and alcohol tests at their discretion, and the tests have been incorporated into the preemployment medical examinations.

Mr. President, Metro employees claim that these tests are inaccurate, and humiliating. But I think that the results, as reported in this article, indicate that they are necessary. The effects of such use of illegal drugs are felt by the riding public, and until this form of drug abuse is stopped by such methods as these tests, our safety is in jeopardy. I wish to applaud, therefore, DC Metro officials for their decision to implement this testing program for its employees, and hope its usage will be sustained.

I ask unanimous consent that the article entitled "One-Fourth of Metro Workers Tested for Drugs Fail," dated July 23, 1984, in the Washington Times, be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 23, 1984]

ONE-FOURTH OF METRO WORKERS TESTED FOR DRUGS FAIL

(By Mary E. Chollet)

Illegal drugs or alcohol are being found in nearly one-quarter of Metro employees undergoing blood and urine tests, transit officials say.

From July 1983 to April 1984, 87 of 377 employees tested were found to have drugs, alcohol or both in their systems. That average is holding steady, said Richard A. Silas, acting director of human resources.

"Do I think that's a lot? Well, any strikes me as a lot because we're concerned about the safety of the riding public," said Mr. Silas. "One would be too many. So, yes, that's too many."

Most of the employees who tested positive were bus drivers, Metro official said, but they would not disclose how many or who the others were.

Employees are tested under a controversial 19-month-old policy that requires drug and alcohol testing after any accident. Metro officials refused to say how many accidents are found to be related to drug or alcohol use by their employees.

Last fall, the policy was expanded to allow supervisors to order such tests at their discretion. The tests also have been incorporated into the pre-employment medical examinations. The so-called "Post-Incident Medical Exams" alone cost Metro about $65,000 a year.

Metro officials have taken a hard line on the drug tests: Any employee who tests positive is fired immediately.

But an equally hard response has come from Amalgamated Transit Union Local 689, which represents 5,500 of Metro's 7,800 employees. In January 1983, union local president James M. Thomas began negotiations with Metro to get the policy softened.

Employees complained that the tests sometimes are ordered arbitrarily by a vindictive supervisor and that they are humiliating, because the employee is required to urinate in front of a supervisor.

The accuracy of the tests can vary from 50 to 100 percent, experts have said.

In addition, the tests can detect drugs—not alcohol—taken days or weeks before, which some employees have called an invasion of privacy. Finally, the test does not—and cannot—measure intoxication, said a

spokeswomam for Syva Co. of Palo Alto, which manufactures the test Metro uses.

Mr. Thomas said the union wants less emphasis placed on punishment and more emphasis on rehabilitating employees with drug or alcohol problems.

"Drug abuse is an illness," he said. "We don't think you cure that illness with termination. But we don't condone it, either. And as large as this property [Metro] is, they don't have any drug-assistance program."

The union would like something similar to a program used by the Chicago Transit Authority, he said.

CTA terminates only those employees caught using drugs or alcohol on the property, he said. Others are put through a medical treatment program and may be given a "safe" job, such as sweeping floors, if one is available.

Another person knowledgeable about the current negotiations said the union wants Metro "not to make such a big deal about marijuana."

Of the 87 employees fired during the recent 10-month period, 48 were found positive for marijuana only. The rest were "marijuana and something else," an official said, but those cases were not detailed.

Marijuana testing is an especially tricky problem, because marijuana can be detected as long as 30 days after it enters the system. In some cases, a person who does not use marijuana may test positively after being in a closed area with heavy marijuana smoke, the manufacturer says.

Scores of employees fired since the program began in December 1982 have filed grievances with ATU, said Mr. Silas of Metro. More than 100 cases have gone to, or are now in, arbitration—an expensive and lengthy process that can keep employees in limbo for more than a year.

"If we can just get people talking together, we can get rid of a lot of this arbitration," one observer said. Most of the cases now pending are not likely to be affected by a new drug policy.

After 18 months, the negotiations are picking up steam. "Significant progress" was reported by both sides last week and final word may come next month.

"We're trying to come up with program that takes into consideration, first and foremost, the safety of riding public," said Mr. Silas. "Secondly, we want to take a reasonable posture with people who come forward with a substance-abuse problem." Some agreement on discipline also is needed, he said.

Metro officials have said they will examine the practice of selling imported beer and wine in the company cafeteria at 600 Fifth St. NW, but it is not clear whether that issue is part of the current negotiations.

THE SOCIAL SECURITY DISABILITY BILL

Mr. BURDICK. Mr. President, I rise to add my voice to the others who have spoken on the floor about the pressing need to finish work on the Social Security disability bill, which was sent to conference with the House some 3 months ago.

I understand an agreement has finally been reached in the conference committee, and I hope this can be formalized, passed by both Houses, and signed into law by the President without further delay. It would be a tragedy if we allowed Congress to adjourn without resolving the terrible problems that have plagued the disability program for the last 3 years.

Since 1981, the benefits of 900,000 disabled persons have been reviewed by the Social Security Administration. Almost half of those people were sent initial termination notices. Of those 470,000, about 190,000 have been removed from the rolls after exhausting appeals, 160,000 have been restored on appeal, and 120,000 are still pending or still have the right to appeal. In addition, the Federal courts are becoming clogged with disability cases in which the disabled have exhausted administrative remedies and have turned to the Federal courts for relief. According to the New York Times, about 100 cases were filed each working day last year, and the rate is even higher this year.

I believe the review process makes sense in the abstract, but the reality has been chaos—a painful and often tragic experience for thousands of disabled people. This has been especially true for the mentally disabled, who represent a disproportionate share of those terminated.

I commend the conferees for their efforts on this bill, and I urge that work on it be completed and that the bill signed into law by the President promptly.

FIFTIETH ANNIVERSARY OF SALVE REGINA COLLEGE, NEWPORT, RI

Mr. PELL. Mr. President, it is with a great deal of personal pride that I rise to honor Salve Regina College of Newport, RI, which this week celebrates its golden anniversary.

Originally chartered by the Rhode Island General Assembly in 1934, Salve Regina did not formally open its doors until 1947. It has grown from an institution with an initial class of 58 students to a liberal arts college that, today, has a student body of approximately 2,000 young men and women.

One cannot, however, talk about Salve Regina College without understanding what took place during the intervening 13 years between the time the college was chartered and when it actually opened its doors. For it was during that time that a small group of dedicated and determined Catholic nuns from the Sisters of Mercy labored tirelessly to establish the firm foundation for the distinguished institution that prevails today. They trained members of their own order to become faculty members; they collected books for a college library; they planned and dreamed of the day they would have the institution they set out to establish.

It was a gift of Ochre Court, a 50-room oceanfront French chateau built in 1888 by New York financier Ogden Goelet, that actually enabled the institution to come into being in 1947. Since then, Salve Regina College, named for Mary, the Queen of Heaven, has undergone considerable change. Instead of one building, the campus is now a 65-acre complex. Instead of a women's college, it is now a coeducational institution where two-thirds of the students are women and one-third is men.

In addition, for the past 12 years, Salve Regina has been exceptionally fortunate to have had the strong, energetic and capable leadership of Sister Lucille McKillop as its president. She and her colleagues have managed to accomplish what many would have thought impossible. Through difficult periods in our Nation's history, they have been able to nurture and and sustain a small liberal arts college and simultaneously expand and strengthen its academic offerings and physical plant. The result is an institution where it is an exciting, vibrant and challenging place to learn.

As Salve Regina College begins its second half century, I join my fellow Newporters and Rhode Islanders not only in saluting the record of past accomplishments but, even more important, in looking forward to achievements that I am confident will be equally as solid and praiseworthy in the years ahead.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Senator for yielding.

(Mrs. KASSEBAUM assumed the chair.)

A CLEAN WATER BILL FOR ALASKA

Mr. MURKOWSKI. Madam President, I take this opportunity to express again Alaska's desire for a clean water bill this session. I also reiterate my commitment to work with the Senate Committee on Environment and Public Works to make that desire a reality.

Madam President, I have said before that the problem facing the southeast Alaska pulp mills is of grave concern to Alaska. At the risk of being redundant, I am going to keep on saying it until someone responds.

Madam President, in 1978, with the installation of a secondary treatment system, the Sitka pulp mill completed its water pollution control program. In 1980, the Ketchikan mill similarly completed the final phase of its water pollution control program.

These programs brought both mills into compliance with various State and Federal permit requirements which had been set for the mills up to that time. Those requirements included the "best practicable treatment" or "BPT" levels set by EPA in the mills' 1974 permits using EPA's best engineering judgment. It is important to note that this level was different from that required of the "lower-48" mills. EPA justified this difference on the basis of the "* * * peculiar land, energy, and logistics constraints" associated with the Alaska mills' operations.

In 1977, after the issuance of the permits, EPA published effluent limitation guidelines for the dissolving sulfite pulp industry. In 1980, EPA notified the companies that a revised discharge permit would be issued, requiring a further reduction in effluent discharge to meet the 1977 regulations.

EPA's proposed new permits required removal of an additional 28 pounds of BOD per ton of pulp produced. The controls already in place at the Ketchikan and Sitka mills removed 93 percent of the total mill BOD which would exist without the controls. The EPA proposal increased the percentage of BOD required 3 percentage points, from 93 percent to 96 percent. The companies objected to the proposed 1980 permits and requested that EPA use its authority to grant a variance from the new requirements.

EPA's regulations establish two grounds for a variance based upon fundamentally different factors. EPA has identified six factors which may be considered fundamentally different for the purpose of a variance request.

One ground for a variance is a "nonwater quality environmental impact—including energy requirements—fundamentally more adverse than the impacts considered during the development of the optional limits." The second is a removal cost wholly out of proportion to that considered by the Agency. The Alaska mills believed and, continue to believe, that a variance should be granted on each ground.

The rationale for the companies' variance request is similar to that upon which the special Alaska discharge limits were set by EPA using its best engineering judgment in 1974. As I have noted previously, that determination was based on the "peculiar land, energy and logistics constraints" on the Alaska mills.

However, the Alaska mills now have actual operating experience with their control and treatment facilities which has allowed them to evaluate both the energy and nonwater quality environmental impacts which have resulted from meeting the 1974 permit requirements and the further impacts which would result from attaining the guidelines level. These impacts are far more severe than either company anticipated when each began the last phases of its water pollution program. Neither mill is yet aware of the full range of these impacts.

Therefore, in 1980, the mills submitted variance requests to EPA. On December 28, 1981, the regional EPA Administrator made a tentative decision to grant the variances. On January 11, 1982, the Acting Assistant Administrator for Water requested Washington office staff to assist region X in preparing the tentative decision granting the variances. The Washington office prepared a draft approval of that decision in February 1982. The draft approval prepared by the Washington office staff in response to the request of the Acting Assistant Administrator for Water summarized the rationale for granting the variance as follows:

> Each mill is different because of a combination of factors related to its plant location and the impact of location on land availability for solid waste disposal, energy requirements and costs of attaining BPT effluent limitations. Individually, any one of these factors may not be sufficient to justify a "fundamentally different factors" variance. However, taken collectively, I find that these factors, which exist at both facilities, are fundamentally different than factors considered in development of BPT guidelines.

The draft approval prepared by Washington office staff was accompanied by a staff memorandum to the Acting Assistant Administrator, recommending that if relief was to be granted the Alaska mills, it should be in a form other than a variance. The staff's rationale was as follows:

> As long as variances remain the exception rather than the rule, the resource implications will remain manageable. EPA action on variance requests is highly resource intensive, and a significant increase in the number of variances would serve to upset permitting priorities and our ability to reduce the backlog of expired industrial permits. The Office of Water Enforcements and Permits estimates that consideration of a major industrial facility variance requires 65 work days per permit. Together with the time needed to draft the initial permit, this would triple the resource requirements of each permit.

However, the EPA Chief of Staff disagreed with staff in a memorandum to the Acting Assistant Administrator dated February 16, 1982. He concluded the memorandum by instructing the Acting Assistant Administrator to publish the favorable tentative decision.

By May 1982, the directive of the EPA Chief of Staff had not been complied with. Thus, the region 10 Administrator wrote to the Washington office requesting a reason for the delay and suggesting alternative relief for the Alaska mills if the variance approach was unsatisfactory. During the week of May 22, 1982, the Alaska congressional staff met with the EPA Administrator to determine the reason for EPA's delay in responding to the Alaska mills' request for administrative relief.

On May 26, 1982, there was a meeting between the EPA senior staff and representatives of the mills as well as representatives of the Alaska congressional delegation. During that meeting, the mills were advised that if they could show that they had spent as much in attaining their permit limits as the model mill had spent in meeting the effluent limitations specified in the regulation, that the variances would issue.

In order to make the cost analysis, EPA provided the Alaska mills with a detailed questionnaire in June 1982. The mills provided the information requested by EPA in September of that year. That information clearly showed that each mill had spent approximately twice as much as a model mill in achieving the effluent limitations of the regulations.

Madam President, nothing was heard from EPA until September 1983, more than 1 year after the mills had responded to EPA's request for additional information!

The interim year was a time of great change within EPA. The Administrator and, the Administrator of region 10 both resigned. But, more importantly for Alaska, a tentative denial of the Alaska mills' variance was issued replacing all of the reasoning that had been applied consistently throughout the administrative process with new standards.

Madam President, it is clear, on the basis of the facts I have enunciated, that EPA has never established an objective policy for evaluating variance requests. In the absence of policy, the staff has developed a philosophic and highly subjective resistance to variances based, in part, on a fear of the administrative burden of acting on variance requests and, in part, on the view that issuance of a variance suggests an infirmity in the underlying regulation. Neither fear is a good reason for threatening the mills economic existence.

Madam President, the record is clear. If the EPA staff had simply done what they had been told to do by the Administrator and the chief of staff, the Alaska mills would today be operating on variances.

Madam President, I submit to you that the history I have described today shows Federal administrative behavior at its worst. It is pitiful to think that misfeasance on the part of mid-level bureaucrats is the cause for the problem facing the Alaska mills today and the possible economic demise of the communities in which they are located.

Again, I stress my desire for a clean water bill this session. A clean water bill that rectifies this injustice done to

my State by government employees who believe that they and not this Congress can dictate what and how the law should be applied and administered based on their own convenience.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABE PLOUGH

Mr. BAKER. Madam President, it is my sad duty to announce to the Senate that Mr. Abe Plough, one of the Nation's great industrialists and philanthropists, died in Memphis this past Friday.

Mr. Plough was like a second father to me. He encouraged me in my political career. He was a wise and astute counselor. And he probably did more for Tennessee—especially for the city of Memphis—than any other private citizen and most public servants in the history of our State.

He was an enormously successful businessman who founded Plough, Inc., in the early years of this century and guided its growth into a multibillion-dollar pharmaceutical corporation now known as Shering-Plough, Inc.

But as good as he was at making money, he was better at giving it away. Everyone in Memphis knows how active he was in support of that city's charities.

It is typical of Abe Plough, however, that he went to great lengths to remain a private citizen and to avoid publicity with respect to how much money he really gave to philanthropies and particularly to the city of Memphis.

This is only one mark of a clearly remarkable man, for despite his great wealth and in addition to his great works of public philanthropy, Mr. Plough made a positive difference in hundreds of lives one person at a time.

I am proud and fortunate to have been one such person, and I know my colleagues in the Senate join me today in celebrating the long and constructive life of Mr. Abe Plough and in expressing our deepest sympathies to his fine family.

At this time, I ask unanimous consent to have printed in the RECORD an article which appeared in the Memphis Commercial Appeal of September 15, expressing appreciation of Mr. Plough, as an example and an inspiration to us all.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Memphis (TN) Commercial Appeal, Sept. 15, 1984]

CITY MOURNS ABE PLOUGH'S DEATH—SUCCESS, SHARING MARKED HIS 92 YEARS

(By William Thomas)

Flags were lowered, wreaths were raised, tributes were spoken and Memphis went into mourning for philanthropist Abe Plough who died at 4:33 a.m. yesterday in Baptist Hospital Medical Center after a 37-day illness.

Mr. Plough, 92, had been in good health until shortly before he entered the hospital for 5½ hours of surgery on Aug. 9 to remove a blood clot near his brain. He was released briefly on Sept. 5, but readmitted the next day with bleeding ulcers.

Since then the family had asked hospital officials not to discuss his condition. However, it was understood that Mr. Plough had been sitting in bed talking as late as Thursday. A hospital spokesman attributed his death to a gastrointestinal disorder.

The news sent a "shock wave of grief" through the Schering-Plough Co., the beginnings of which Plough founded in 1908 and proceeded to build into one of the world's largest pharmaceutical corporations.

Wreaths appeared at all entrances to the Memphis plant at 3030 Jackson where 2,200 people are employed. Simultaneously, word of the founder's death went out to the more than 25,000 people who are employed by the corporation that did $1.8 billion worth of business in more than 100 countries last year.

R. Lee Jenkins, executive vice president under Schering-Plough, gave insight into Mr. Plough's last days: "The fact that he went down fighting the age and the illness that would have stopped many men long before was typical of Mr. Plough. He was the toughest and the best . . ."

As city and county flags were lowered, Swift-Treadwell & Canale Funeral Directors announced visitation hours for Mr. Plough's family and friends would be at the funeral home, 2700 Union Extended, from 7:30 to 9 p.m. today.

Memorial services will be at 3 p.m. tomorrow at Temple Israel Synagogue, 1376 East Massey Road.

Although Mr. Plough retired from business in 1976, he had continued to work six days a week at offices at 4646 Poplar where he managed the philanthrophies that earned him the reputation as this city's most generous man. Although he wanted to be known as "Mr. Anonymous," he came closer to being "Mr. Memphis."

Mr. Plough was a multimillionaire, a philanthropist, a visionary, a celebrated luminary and a larger-than-life presence in this city where he repeatedly made the impossible possible by sharing the bounty of his remarkable career.

And what a career it was. Starting from scratch, he turned out to be an old-fashioned, hard-working, do-it-yourself tycoon who not only went to the top of the ladder—he built the ladder he climbed.

His business acumen was such that Forbes Magazine called him "as shrewd a horse trader as Tennessee ever turned out." But the man, himself, gave credit to something as innocent as luck.

"It's better to have luck than brains," he liked to say. But for most of his 92 years and nine months, Mr. Plough had both. Luck and brains he used to parlay a $125 loan into an incredible empire that earned him some of the top honors in the nation, among them election to the National Business Hall of Fame.

Mr. Plough's climb would have made Horatio Alger dizzy as well as jealous. But he never looked upon it as work. "While I have spent most of my time working, I never thought of it as anything but doing what I wanted to do," he said. "There's romance in business like there's romance in your life, if you love what you're doing, you can't fail."

And Mr. Plough loved it from an early age.

Born (with a silver spiel in his mouth, said Forbes Magazine) in Tupelo, Miss., Dec, 27, 1892, Mr. Plough was one of eight children. Within a year after his birth, the family moved to Memphis where his father ran a clothing and furnishing store. Young Plough attended Market Street School, where he later recalled how a teacher, Lorena Banks, taught him "mental arithmetic." That's what he called the ability to add, subtract, multiply and divide without pencil or paper.

At a ceremony dedicating a plaque to his old school at Third and Market, Mr. Plough recalled how well that lesson had served him. "I happened to acquire 30 companies for over $1 billion for the Schering-Plough Corp., and at no time did I ever use a pencil. I figured it in my head."

Mr. Plough, who was one of the best arguments for dropping out of school, went to work as a drugstore soda clerk at 16. Although he earned no money, he learned everything he could about the drug business. After three months he asked the druggist what his chances were of drawing a salary of about $3 a week. The druggist told him if he brought it up again he would be dismissed.

Soon after that—in 1908—Mr. Plough started his business career with a $125 loan from his father. He spent the money on linseed oil, camphor, carbolic acid and a wagon. In a small room over the store he mixed the stuff together, bottled it and peddled it door-to-door in a horse and buggy. He called it Plough's Antiseptic Healing Oil, "a sure cure for any ill of man or beast."

Eventually he added a companion product—a relief for rheumatics mysteriously called C-2223. Within two years he was selling 7,500 packages a year. After four years he was up to 150,000 packages.

Mr. Plough's genius, however, was not medicine but money. One of his favorite stories, the one about the tombstones, indicates he could have sold just about anything, from London Bridge on down. Here's how he told it:

"I had a little place over my father's store. The Illinois Central Railroad was shipping all its lost, strayed or delayed freight to Memphis. We were handling anything the railroad couldn't deliver, including a lot of drugs. One day, my father handed me a letter from the railroad and said, 'Son, I think you're going to be out of the medicine business. We've got 60 tombstones with other people's names on them that were lost in transit. Unless we sell them in 60 days, the railroad is going to stop sending its freight here.'

"I went down and watched some tombstones being made. Six men were shaving big hunks of rock on each side, front and back, top and bottom. Six shavings in all. I told the man in charge I had a tombstone he'd only have to shave on one side; he'd save all that labor. I drove him in a wagon to see them. The only side that needed to be shaved was the front, where the names were inscribed. He said, 'I'll take 'em.' I sold them for $10 apiece, $600 for the lot."

In 1915 Mr. Plough borrowed money on his father's life insurance policies and became a dealer in patent medicines. It was at a time when Louisiana and Texas laborers were suffering what was known in the South as "chills 'n fever." Elsewhere it was called malaria.

With his borrowed money Mr. Plough bought out the inventory of a bankrupt drug company. The stock included a huge supply of oxidine chill tonic. The "chills 'n fever" had cleared up here. So Mr. Plough peddled it in the hinter-lands where the demand was still strong and made a profit of $34,000. He later told The New York Times that this was his shrewdest buy.

When he paid his father back for the loan, his future was clear.

"I well remember the day I was able to go to my father and hand back those insurance policies," he said. "I asked him: 'Now, can I go out and do what I want?' He assured me he was fully satisfied. This was important since I'd shown no interest in going into his clothing and furnishing stores. However, some of his friends warned him, 'That boy will never be any good; he'll never make anything out of himself.' "

It didn't take Mr. Plough long to prove that that theory was as daffy as a Hollywood duck. In a matter of months he had branched out into cosmetics. In 1920 he added aspirin to his line. At first he met with only minor success. But when he learned that a Chattanooga firm, the St. Joseph Co., was for sale he took his first step on the road to the big time.

"We bought the St. Joseph company," he said, "even though we had no money to pay for it. We agreed instead to pay the owners $4,000 a year over eight years with no interest charges. St. Joseph made something called St. Joseph over regulator, which had been on the market 50 years." Originally, the liver regulator was the hot stuff.

"With every dozen bottles of regulator, we gave purchasers two boxes of aspirin free. Suddenly, everyone wanted the aspirin. So then we began giving the regulator away free with every aspirin order. Soon, we were selling a carload of aspirin a week."

When Plough Chemical Co. went into the aspirin business, Mr. Plough decided it was time to advertise nationally. At the time competitive brands were selling 12 tablets for 25 cents. Mr. Plough decided to sell 12 tablets for 10 cents. His national ad campaign consisted of seven lines of copy in 400 newspapers that said: "The largest selling aspirin in the world for 10 cents."

One day people in Latin American would come to believe that the river that runs through Memphis was the St. Joseph River. For there were St. Joseph plants in Mexico City, Caracas, Venezuela, and Colombia.

By 1929 Mr. Plough was known as "the multimillionaire drug store clerk" because he continued to help with the trade on Saturday nights at his three Memphis drug stores. At the time his plants were turning out 75 million aspirin tablets a year and he was running a $1.2 million payroll.

That was the year of the stock market crash. By then Mr. Plough already had proved himself beyond panic. When the American Savings Bank closed and left 6,000 Christmas-savings customers facing a dismal holiday, Mr. Plough came on like Santa Claus. He put up almost $235,000 and made it possible for the bank customers to cash their Christmas savings checks.

As the Great Depression deepened Mr. Plough helped President Roosevelt's recovery program by raising salaries and hiring an additional 100 employees at his drug stores and plants. But he drew no salary at all for himself, saying the company needed it more then he did. And at the rate the company was growing it probably did. In 1944 Mr. Plough bought radio stations WMPS and WJJD, a Marshall Field station. (Plough's original radio station will play an hour-long tribute to him at 3 p.m. tomorrow while the memorial service is going on.)

During the early '30s Mr. Plough, a widower at the time of his death, headed not only a business but also a family. He lived at 261 South Belvedere with his wife, Jocelynn; and three children. Mr. Plough later moved into The Peabody where he lived in one of the Romeo and Juliet suites for nearly 40 years. His routine was legend:

At 7:57 a.m. he would get into the elevator. Simultaneously, Mrs Ola Mae Philgreen, a waitress, would call out an order for a large glass of fresh orange juice. This was always set at the same place at the same table every morning. On the stroke of 8 Mr. Plough would enter the restaurant wearing a dark business suit and carrying a briefcase and a copy of The Commercial Appeal. At 8:30 he would sign the breakfast check, leave the lobby and climb into a station wagon with Plough Inc. on the door and driven by Louis Hall, the chauffeur.

Mr. Plough, who had put in "the drug store of tomorrow" at The Peabody—it was copied after the pharmacy at the New York World's Fair and it had a fountain made of Verdi antique marble—moved in 1972 to a high rise on South Highland.

In 1947 Mr. Plough introduced St. Joseph's Aspirin for Children. The children liked the aspirin so much, however, the company developed a safety cap for the bottle. In 1983 Mr. Plough received the first award ever given an individual by the U.S. Consumer Product Safety Commission, which cited Mr. Plough's pioneering efforts in safety for children's products.

In 1949 Plough Inc., by then manufacturing drug and cosmetic products distributed in the United States and 60 other countries, acquired the site for its "dream plant" at 3022 Jackson. The plant was build in 1951 at a cost of $2 million. Plough-land covered six acres. Jack Benny came to town to open it. How much did Benny cost? Said Mr. Plough, "He didn't do it for nothing."

No matter, Mr. Plough could afford a class act like Benny. By 1956 his company was reporting net sales of about $24.5 million. By 1962 the figure had doubled. Mr. Plough, always looking for the lucky sign under which he was born, pointed out that a hot summer had helped to sell such Plough products as Coppertone, Solarcaine, Q.T. by Coppertone and Mexsana.

In 1971 Plough Inc. merged with the Schering Corp. of Bloomfield, N.J. Primarily Schering was a manufacturer of prescription pharmaceuticals. Mr. Plough was chairman of the boards of Plough Inc. and Schering-Plough. Five years later he announced his retirement to devote the remainder of his time and energy to philanthropy. By then he was known as Santa Claus and his honors were literally innumerable.

As far back as 1960 he'd been given the Memphis Newspaper Guild's Citizenship Award. In 1964 he'd been presented the National Human Relations Award by the National Conference of Christians and Jews. He'd been recognized as the first Master of Free Enterprise at Memphis State University where he declared, "There is no such thing as a self-made man; what I have accomplished was due to the help of others."

The University of South Carolina honored him with a doctor of science degree, and the University of Tennessee's College of Pharmacy gave him the dean's award for "extraordinary contributions to the profession of pharmacy." In 1976 and 1979 he was recognized by the Tennessee House for outstanding contributions to the state. His name was also given to Plough Towers, a complex for the elderly; to Plough Boulevard and to Plough Library at Christian Brothers College.

Mr. Plough helped political causes as well as humanitarian ones. In 1973, for example, it was learned that he had contributed $38,279 to Richard Nixon's campaign. Yet he was best known for contributing millions of dollars to organizations and charities such as the March of Dimes, the Goodfellows, the United Way, Memphis Area Chamber of Commerce, Boys Town, Salvation Army, Memphis Arts Council, Memphis Zoo and to several colleges and universities.

In 1973 an Abe Plough gift of $3 million changed the name of the Memphis Community Foundation to Memphis-Plough Community Foundation, which supports broad community philanthropies.

He was a member of the board of trustees of Boys Town and the Toledo Museum of Art; honorary chairman of the Board of Life of United Way of Greater Memphis; a Shriner and a 33rd-degree Mason.

He was a member and honorary president of Temple Israel where Rabbi James Wax and Rabbi Harry Danziger will jointly conduct services tommorow.

Mr. Plough leaves two daughters, Mrs. Jocelyn Rudner and Mrs. Harriet Solmson, and a sister, Mrs. Julia P. Wurtzburger, all of Memphis, six grandchildren and 10 great-grandchildren.

Mr. Plough, who "challenged" others to donate to worthy casuses, maintained a philosophy of generosity that went like this.

"Over the period of my lifetime I have tried to help my fellow man. When you help the greatest number of people, you do the most good. I have no interest in having my name carved out in brick and mortar and stone on buildings. I'd like to touch the hearts and minds of people to help them make a life."

Then, in 1975, when the Memphis Area Chamber of Commerce honored him as "Mr. Believe in Memphis," he said it all:

"I hope when they throw the dirt over me, they'll say, 'Poor Abe. We thought he had a lot of money, but he's broke. He gave it all away.' "

ORDER OF PROCEDURE

Mr. BAKER. Madam President, the order previously entered provided for time for transaction of routine morning business until 12:30 p.m., but it would appear to me that we have now exhausted the requirement for time for Senators to speak in morning business and I ask that the Chair inquire if there is further morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TELEVISION AND RADIO COVERAGE OF THE SENATE

Mr. BAKER. Madam President, under the order entered I believe the 2 hours for debate on the motion to proceed to the consideration of the Senate resolution dealing with television in the Senate was to begin at 12:30 p.m.

I ask unanimous consent that that order be changed so that it begins at the conclusion of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, I yield myself such time as I may on behalf of the distinguished chairman of the Rules Committee who has control of the time and who is not here. I yield myself such time as I may require.

Madam President, we are considering today an issue which, as my colleagues know, is one I count among the most important of my Senate service.

The issue is the televising of Senate floor proceedings. My days in this Chamber are numbered now, and the number is getting lower, but after nearly 18 years here I am more convinced than ever that the televising of the Senate is an idea whose time has long since come.

We have talked about this before. The Senate has voted on it before. This is likely to be my last opportunity to plead the case for televising the Senate before I leave this body which I have loved and served so long.

I have made this case on many occasions and in many forums, from this desk to the pages of TV Guide. I make it again today, and I hope that it will at last be persuasive.

The fact that we are still not televising the proceedings of the U.S. Senate, four decades into the television age, is nothing short of tragic. We are short-changing history, the American people, and the Senate itself.

In 1850, what has been called "the greatest debate in congressional history" raged for 9 months in the Senate. The issue was the extension of slavery into the American West, and the debaters were such political and oratorical giants as Henry Clay, John C. Calhoun, and Daniel Webster. At the end of the debate, a compromise was reached which averted civil war for a decade.

Here was the Senate at its best—an assembly of strong, talented, often brilliant politicians who gloried in the battle of ideas, who debated public policy in what was truly the world's greatest deliberative body, and whose collective importance in public affairs overshadowed that of the President of the United States himself.

The words of that great debate were dutifully recorded in the Congressional Globe, a forerunner of today's CONGRESSIONAL RECORD, and these words have been preserved as eloquent reminders of that earlier time.

But what would we give today to see what a privileged few witnesses saw then from the public galleries above the Senate Chamber—the passion, the verbal thunder, the intellectual lightning, the stresses and strains and majesty of men caught up in the most important issue of their time?

All of this is lost to us. So are the great debates over America's entry into World War I and World War II. So are the debates over civil rights and States rights and dozens of other issues of surpassing national importance. And more such historical and political treasures are being lost every day in the Senate as the Senate forswears the merits of modern communication.

As the late Hubert Humphrey said: "A 20th century Congress cannot be content with employing 18th or 19th century technology."

I wonder if public reaction would have been different if the debate on the Panama Canal Treaties had been viewed, as well as heard, by the American people.

I wonder if the sight of a hundred Senators dissecting the treaties, working out amendments to safeguard our interests, might have changed opinions about this controversial legislation.

Would there have been a better understanding of the need for a change in direction of our economic ship if the public had been able to see the lengthy debate on the first Reagan budget in 1981?

And looking to the future, might it be that nothing would serve this country so well as a televised Senate debate on the reform of entitlement programs—Social Security, medicare, and the rest—so that Americans can understand in detail not only what will happen if we change these programs but what will happen if in some cases we do not?

If we are ever to reach a national consensus on these and other contentious issues, it can only come from a better understanding of these issues among the American people—an understanding born of education, an education in which television could play an immensely useful role.

The cynic might say that the Senate is not quite so interesting or important as it was in the last century, that Clays and Calhouns and Websters are in short supply in Washington today.

But I would suggest that a Senate debate involving PAT MOYNIHAN, JESSE HELMS, TED KENNEDY, BOB DOLE, FRITZ HOLLINGS, and LOWELL WEICKER—to name but a few of the Senate's most prominent protagonists—would rival the verbal duels of earlier days and make most Presidential debates of recent memory seem comatose by comparison.

But in a way, the cynic would be right. The Senate is not what it used to be or ought to be. Since the 1920's, when Senators were first popularly elected rather than chosen by State legislatures, the Senate has become more and more like the House of Representatives.

The only difference that most people can see is that Senators represent States rather than districts and serve 6-year rather than 2-year terms.

And that has become the only difference. The Senate must give its advice and consent to the ratification of treaties and the appointment of major Federal officials, but aside from that, the work of the Senate and the House has become practically identical.

But that is not the way it is supposed to be. The founders of our Government intended that the House of Representatives should be the "people's House," where the majority always rules and the weight of current public opinion always prevails.

The Senate was supposed to be different. Its rules, first written by Thomas Jefferson, encouraged extensive debate of public issues and gave the rights of the minority the greatest protection and the fullest and fairest hearing in the history of governments.

These are the characteristics which made the Senate the world's greatest deliberative body to begin with: the insistence that ideas matter, that one person who is right should prevail over a majority that is wrong, that vigorous and well-informed debate of major issues is vital to our system of self-government.

Too often today, that debate is stilted, truncated, ritualized, canned and read into the RECORD with all the conviction of a talking computer.

The actual creation of public policy has passed from the Senate Chamber to the committee rooms and leadership offices, and we file into the Chamber only to ratify in public what we have decided in private.

Television could help change that. Any honest Senator will concede that when the television lights are on in our committee hearing rooms, attendance is high and political competition is keen.

Televising the proceedings on the Senate floor would have a similar energizing effect—and it is an effect the American people seem to appreciate.

The public's highest opinion of Congress in recent years was registered in 1974, during the House Judiciary Committee's televised impeachment proceeding against President Nixon.

Day after day, the television camera was relentlessly trained on that committee as it worked its way through one of the most difficult issues of our time.

The public—and even the committee members' congressional colleagues—

saw people they were not quite prepared to see: earnest, able, meticulous, eloquent men and women who had a terrible job to do and did it well,

Anyone caught showboating in such circumstances would surely have seemed out of place and unworthy of the company of these remarkable Representatives. Television did not make them remarkable, but it did not make them foolish, either.

Five years later, in 1979, the House decided to allow television coverage of its floor proceeding as well as its committee coverage of its floor proceedings as well as its committee hearings. The evening news now regularly features film of the "people's House" doing the people's business with dignity and zeal.

Presidents, of course, have long since recognized the value of television as an instrument of education and persuasion, and their domination of the airwaves is crucial to their domination of public policy debate.

Even the courts have opened their doors to television cameras. Decorum has not been lost, and a better understanding of our system of justice has been gained by the American people.

The Senate, by contrast, remains cloaked in mystery. Our images are reduced to the artist's caricature, our words to the reporter's paraphrase.

We stand in danger of surrendering our special place in American Government by technological default at the very time when the American people's interest in public affairs is at its peak.

"Sixty Minutes" is routinely among the highest rated programs on television, and the Cable News Network feeds millions of news junkies 24 hours a day.

But as their interest in public policy quickens, Americans are also quick to realize that they have an incomplete understanding of how their elected representatives function in their name.

Television can change that with the flick of a switch. It should not be necessary for an American citizen to make an expensive pilgrimage to Washington to see the Senate in action when technology can make him an eyewitness to history in his own home.

I see television coverage as nothing more or less than an electronic extension of the public galleries that have graced the Senate since 1792. If we cannot go beyond the conventions of the 18th century, we may well find that we have lost our relevance in the 21st.

I do not think that is what the Senate wants, and it is most certainly not what the country needs.

I implore my colleagues, as I prepare to leave this institution, to give new life and light to its old and honorable purposes, to let the people in and let them see their stewards in their talented and faithful service.

Mr. FORD. Madam President, the distinguished majority leader and I have an understanding that if I ask for a quorum in his absence, since he has to attend a meeting, that the time of the quorum call would be equally divided between the two sides. So I wanted that as a matter of record so that it would be understood that we had that agreement before he left, and I assured him nothing would happen in his absence.

Madam President, it is difficult to match the eloquence of the distinguished and outstanding majority leader. This poor, humble soul from Kentucky will do his utmost to equal that eloquence and attempt to explain his side of the question and his reasoning for the opposition to Senate Resolution 66, as it relates to televising the proceedings in the Senate.

Madam President, Senate Resolution 66 is a measure to authorize gavel-to-gavel radio and television coverage of Senate proceedings. It is no overstatement to say that this measure has been and still is highly controversial.

Many of us are concerned about the wisdom of spending scarce public dollars at this time to enable Senate proceedings to be televised live and on tape. Madam President, when it is put on tape, it may be shown at 2 a.m. in the morning, and I wonder how much of a viewing audience would be available at that time.

That concern began in 1981 when the Federal deficit was $58 billion. Understandably, it has not diminished now when we are facing actual deficits almost three times that amount.

Some of us are troubled about the ultimate issue of the suitability of television in relation to the performance of our legislative duties.

We are persuaded that the desirable objectives of expanding the Senate's public galleries can be better achieved by radio coverage. Since all are agreed that the purpose is to let more people have access to the information contained in Senate debate, the advantages of radio seem to us compelling.

The cost of radio is minimal. Radio is available almost literally to everyone—and at no charge.

People can listen to radio while they work, while they drive, and for those with unusual powers of concentration, even while they read. To watch television demands the virtual exclusive attention of eyes and ears—if not mind—and other activities are precluded.

When Senate Resolution 66 was the subject of Rules Committee hearings, the majority leader, Mr. BAKER, testified and placed in the RECORD a thoughtful and eloquent statement of his reasons for sponsoring this measure. It will be useful, I think, to examine some of the arguments he made during those hearings, and those same statements made at the hearings which the distinguished leader made in his opening statement today.

At the outset, the majority leader said what we often hear—that "television is nothing more than an extension of [our public] galleries."

Is this really true? Is not television a major electronic intrusion into the actual legislative process, as compared with a small, silent audience seated in the galleries? Is it not a thrust on the consciousness of the Senator who wishes to engage in serious debate with a colleague or two, but not engage in an entertainment performance? Is it not a deceptive communication medium that causes the viewer to believe he is seeing and hearing all that is being said and done on a legislative issue?

Will not television do more than just be a window on events? Will not it, in fact, shape those events of the Senate.

Let me repeat that. Will not television do more than just be a window on events? Will not it, in fact, shape those events of the Senate.

I raise the important question of whether television in the Senate will not result in making our operations a massive and emotionally responsive national town-hall type of legislative body? Can we really make hard decisions in that kind of environment, decisions which truly best serve the public interest?

Unlike the House of Representatives, the Senate was conceived by the Founding Fathers as a cooling-off body, a slower, deliberative body, more insulated from the vacillating pressures of public opinion. Television in the Chamber would destroy that insulation and that fundamental concept of our Founding Fathers.

Later in his testimony, the majority leader observed that the "President of the United States has no hesitation about using television to sell his programs to the American people, and rightfully so."

Does not this comment really mislead us, and at the same time prove too much?

The President does indeed use television very effectively, I might add. But he does not televise his deliberations and meetings, with his advisors and Cabinet members. He does not televise the making of public policy decisions in the executive branch. Rather, he announces and explains them after the fact, which is quite different from the impression the majority leader intended to leave with his colleagues.

Still later the majority leader said:

> Even our courts have opened their doors to television cameras with no loss of dignity—he made this statement a moment ago—and with a great gain in the Nation's understanding of our system of justice.

The majority leader concluded with the statement that "the Supreme

Court is considering allowing television coverage."

While some State courts have experimented with television, I believe the ultimate decision has not been made. The jury—if I can use that term—is very much still out on television in our courts. In the 1983 June-July issue of Judicature it was reported that the Supreme Court has turned down the request to televise its proceedings. I also understand that the lower Federal courts have not yet acted on a later request submitted to them by the networks after the Supreme Court's denial.

The distinction between the suitability of television as a news reporting medium, or, as a blow-by-blow reflector of ongoing activities, is important and elusive. No one questions the usefulness and importance of TV news. Many of us do question the suitability of television as an extension of a live public audience, where the risk is so great that television will become a participant in the events, influence and shape them, and not be a neutral reporter of what has transpired.

Another argument made by the majority leader troubles me. He quite correctly said:

> I do not believe there is a person in the Senate at one time or the other who has not utilized television to gain election to the Senate.

Then Mr. BAKER went on to say:

> I find it passing strange that we will depend on television to get elected, but will not trust television to record our activities in the Senate.

Madam President, I find that neither fair nor fully accurate. It is not that we depend on television to get elected—we have no choice. For better or worse television has taken on an almost decisive role in our electoral process.

More important we do not shun television in our activities as Senators. The cameras have full access to our committee proceedings, where many think our most difficult and important legislative work is done. And, Madam President, I make the point here that basically the committee bill that is reported out for all practical purposes stays intact.

All of us, moreover, use television to communicate with our constituents. We are always available to reporters for comments on or explanations of bills and our specific votes.

Cameras in the Senate Chamber, filming gavel to gavel is a very different matter.

I believe that in that activity, radio can better serve our informing purposes. The risk of radio shaping the events, like its comparative cost, is minimal.

I might say, Madam President, that at an appropriate time, if Senate Resolution 66 should be brought up, I may offer an amendment to authorize radio only coverage of the Senate proceedings.

Madam President, I could continue to discuss both the pros and cons of radio and television, but there are others who will want to say a few words. I am sure that we will have an hour or so today to debate it and then at least a couple of hours tomorrow before the vote on cloture on the motion to proceed.

Madam President, I yield the floor to the Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I support the move to permit the televising of proceedings of the Senate because I think that it would be enormously useful to the public at large, and I believe that ultimately it would be enormously useful to the Senate as an institution, although I do concede that there will be inevitable growing pains.

The issue as to whether the Senate should be open for television is hotly contested at the moment because it is something new to the Senate in terms of established traditions in this body. My own sense is that the public has unquestionably a right to know what happens in the Senate proceedings, and inferentially that right to know extends to electronic reporting as well as to newspaper reporting.

Certainly, the tradition is well established that the public may gain access to the Senate proceedings, as people are present in the galleries today. Certainly, the precedent has been established that the newspaper reporters have a right to be present in the galleries, just as the public does, to report to the people of the United States and the people of the world what goes on in this body.

If, as, and when television cameras gain access to the U.S. Senate, there will soon be the tradition, and I would assert a right, of the television cameras, the electronic media, to be present.

The right to know is an evolving concept which turns on a need to know, on the advantage of knowing. Certainly, for the American people and the people of the world to see what actually happens in this Senate Chamber would be an enormous benefit.

When the distinguished Senator from Kentucky [Senator FORD] raises a question about television becoming a participant in the event, I think Senator FORD is really raising a question as to our responding to what the viewer is seeing. To that extent, it is my view that it would be highly desirable for the viewer to become a participant in what is happening in the Senate and that we would be on guard, and we would be required to respond, in order to justify precisely what goes on on the Senate floor. And I think we could.

At 12:55 on a Monday if is not inexplicable as to why there are only a few Senators on the floor of the U.S. Senate, or why only a few Senators are present at any specific time because of the press of other business. But to the extent that we Senators are on view and to the extent that the U.S. Senate is on view, it seems to me that it is a very healthy consequence.

When the issue is raised about the jury being out on televising judicial proceedings, I would submit that the experience shows that it is highly desirable to have judicial proceedings televised, although there have to be safeguards there.

Earlier this year, there was a celebrated television trial of a New Bedford, MA, rape case. There was an enormous public interest and public concern in that rape trial. That rape trial did a great deal to inform the American people about the problems of rape as a crime, about the problems of violent crime, and about the necessity for public support to deal with the problems of violent crime.

That New Bedford, MA, rape case did point out certain problems about the identification of the victim in the rape trial. There are now ways where, with a certain delay and with certain precautions to be taken, the identity of the rape victim can be kept from the public, that the public need not know the identity of that victim. The right of the victim to have her identity confidential can be protected, but the important part of the proceedings will be known to the public. The public drew that knowledge and participated in the process to improve the criminal justice system.

Similarly, with the activities of the U.S. Senate, if the public were to hear what happens in this Chamber as we debate the importance of the deficit there would be a greater public awareness of that problem and a greater public insistence that the U.S. Senate come to grips with the problem of the deficit and act on it.

So, too, as the numerous problems come into focus in the Chamber of the U.S. Senate. With public attention and public awareness, we would have public support and public debate, and we would move toward better answers to the problems of protection of the environment, ways to stimulate American industry, the importance of defense, the importance of arms reduction talks, and the myriad of issues which come before the U.S. Senate.

Public exposure is something which would be very definitely a matter which is highly desirable.

Another consideration, Madam President, which is of great weight in my judgment, is that the U.S. Senate will soon become the subordinate leg-

islative body, and a distinctively subordinate legislative body, if the Senate is not televised and the House continues to be televised. I have heard that issue discussed and debated. But a very persuasive argument was made to me about a year ago when a friend visited me from Pennsylvania with her 10-year-old son and said, "I would like to see Speaker TIP O'NEILL." I said, "Well, that is very interesting. Why do you want to see Speaker TIP O'NEILL instead of Majority Leader HOWARD BAKER?" I had always thought that Majority Leader HOWARD BAKER was at least of equal importance.

The reply was, "Because I see O'NEILL on television all the time."

When that 10-year-old son made his first request upon entering my office that he wanted to see Mr. O'NEILL, the thought crossed my mind that if Senator BAKER and Senator FORD would not soon be on television, Senator STENNIS, and perhaps even Senator SPECTER—I mention the Senators on the floor at the moment, and there are three of us, let the RECORD show—unless the Senators were to be as visible as Members of the House of Representatives, this body would soon sink into secondary status, and decisively secondary status.

I compliment the majority leader for bringing this issue to the floor. I think it is long overdue that we should focus on it. I do believe, as Senator FORD has pointed out, that we must all deal with television as one of the practical facts of life in running for elective office. It may be that there are some benefits to incumbency and one of them may be the possibility of having television coverage of the U.S. Senate.

But I do believe that the broader issues are the public interest in seeing what goes on on the floor of the U.S. Senate, and I believe that the public has an enormous interest in knowing what is going on here.

I believe that we can fashion the rules to protect the important parts of the workings of the Senate. I do not believe that we are suddenly going to have any undue efforts by U.S. Senators to hog the limelight, or to hog the spotlight, or to hog the television camera. To the extent that there could be such an inclination, I think the disadvantages would be visited very promptly on those who try to utilize television for those purposes. The best way to have the best kind of conduct is to have the bright sunlight, and an indispensable factor in the bright sunlight is to have the bright klieg lights of the television coverage. Therefore, I urge my colleagues to support a set of rules which would open up our Senate to television coverage.

I thank the Chair and I yield the floor.

Mr. FORD. Madam President, will the distinguished Senator yield for one question?

Mr. SPECTER. I am happy to yield.

Mr. FORD. The Senator's last statement was that he is in favor of changing the rules. How many rules is he in favor of changing in order to install TV in the Senate?

Mr. SPECTER. I am in favor of changing whatever number of rules is necessary to provide television coverage. I think it would have to be on a rule-by-rule analysis as to what factors are of concern and what factors are relevant to institutions of the Senate, and which would have to be waived as we consider the practicalities of television.

(Mr. HECHT assumed the chair.)

Mr. FORD. Mr. President, I say to my distinguished friend that the rules of the Senate are very important to me, as I think they are to him. I wish he would, in his very fine way with his high intelligence and ability, start going through the rules in his mind as he sees television in the Senate, and see how many of those rules would have to be changed. There may be several places under a rule that might have to be changed. Let us see if he can come up with how many rules possibly would have to be voted on afterward if, I say if, by some stretch of the imagination, TV is permitted in the Senate.

Mr. SPECTER. I should be pleased to do that, Mr. President, I think the question is not so much the number of rules but the import of the rules on the way we conduct our business. I think the Senate has to be concerned about the traditions and the orderly operation of our business. I believe that we could find an accommodation, just as there have been accommodations to television and televising procedures in the courtroom.

I thank the Chair. I yield the floor.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, it is hardly possible for me to realize that we are just a few hours from voting on a change or a plan of the U.S. Senate whereby we could, with one stroke of the pen, destroy a great deal of the customs, habits, and traditions, and the wisdom source that has always gone with this great parliamentary body. I want to be certain that I make clear that I have such a high regard for the Senator from Tennessee [Mr. BAKER], whose leadership here has been extraordinarily good and fine. So has that of Senator BYRD, the minority leader; that is, the leader for the minority. I have no compliant, I have no difference with them. The opposite is that I am grateful and I want the American people to be grateful for their splendid service, but on this matter, Mr. President, I feel very deeply—very deeply—that we are playing with something here that we cannot right afterwards if we do make a mistake about it. The Senate will never be the same again.

In fact, it has lost much in the way of ability to debate and be heard, transmit ideas to other leaders and thereby produce conclusions. We have lost much of that since I came here. I am not blaming anybody else. I shall assume my part of the blame there. But I do have a chance to make comparisons between conditions that I think existed, where the Senate was far more influential in my time of service here than we are now.

Mr. President, I have no feeling against televison. If I did have, I would be wise enough not to admit it. But say what you please, Mr. President, television, to a degree, is show business. You just watch what happens before the television screens in the course of but a few hours in our American life. So I warn now that the show business part would gradually come to dominate.

I want to make this point in the very beginning, Mr. President: If we are going to televise what the speaker is doing and saying, the one who has the floor, let us be totally honest with the American people; let us let the same picture show what is going on, in addition to the speech, on the floor of the Senate at the time. We cannot be honest if we are just going to give the American people the direct benefit of a part of what is happening and say that is the Senate in session, that is Senator X making a speech. I am referring to all these vacant chairs and absenteeism that is prevalent here today. Today is Monday. That is not the best attendance day. But it was here last Tuesday and Wednesday and Thursday.

Something very elusive has gotten away from us. We do not listen to each other as much as we should. We do not have a proper chance to talk to each other. We go to a committee meeting and so far as talking with the membership and exchanging ideas with them during the hearing or session, you have to resort to an extraordinary procedure before you can close the door and have a confidential, honest-to-goodness exchange of thought and opinion on the welfare of your country with your colleagues, who are acting under the same oath and the same promises to their people that we are acting under toward ourselves. That has been lost; I do not know exactly where, but lost. It is not here anymore.

I am not just making a lot of complaint. I do not want to be given to that. But when we are here, we have not perfected the rules of order enough to be able to hear what is being said with any regularity. About the best time we have to confer with each other—I have said this before jokingly, but I say it now seriously—is

down here when we have a rollcall vote.

That ought to be against the rules, to assemble down there the way we do. But that is about the only way we have to find out how Senator so-and-so believes or what the factors are in his mind, to do down there and find him and have a little talk with him. That being true is the reason I have not objected to it more.

My thought is not to downgrade the Senate. I want to elevate the Senate. But I have no doubt whatsoever that a television camera placed on the speaker alone and on those who might interrupt him or ask him a question or make some brief comment will not carry the story nor tell really what is going on that day to the great audience out there that might be interested in listening. We would have to start and change a number of other rules. To tell you frankly, the burden of work for the Senate has become so great and so large, work of a type that should not be transferred merely to staff members, as much as I do think of them and respect the ones that I have been fortunate enough to have.

What the system needs is opinion, judgment, the realities of the facts as they relate to a problem as may be reflected in a Senator's mind and exchange with his fellow Senators. We used to have a better chance to really know what Senators think, what is their judgment and opinion operating, as I said, under the same circumstances of being elected by the same people generally.

So I hope that we will take a second look, Mr. President. We are flirting with the very spirit of the Constitution and our system of government, this body being not a court of appeals in any way as it is sometimes referred to, not a higher body than the House of Representatives; it is not. It is not any more important, the membership is not any more important than the House membership, for whom I have such a very high regard and who turn out a tremendous amount of fine work. It is a body chosen differently, representing areas of the country differently, with different responsibilitys—in the field of State affairs, having to pass on all nominations in the Foreign Service, State Department, pass on all nominations in the military and every other department of the Government, having to carry the responsibility of getting the facts about the person nominated, otherwise they are not permitted to serve, and a host of other responsibilities that have been augmented, since I came here, almost beyond belief.

Let me give one illustration, Mr. President. They were talking the other night about rollcall votes, how many different Senators had voted 10,000 times or more. The first calendar year I was in the Senate the RECORD shows that we had 73 recorded rollcall votes. By July 4, we had already adjourned sine die, gone home, and attended the respective conventions and were back in session under a call of President Truman on a matter that had arisen—73 rollcall votes. A year or 2 ago, the RECORD shows that we had 720 rollcall votes—10 times as many.

Now, that is not the score by which you count volume of work, but it is one of the indicators of the massive amount of highly important items whereby we had to take the time out and give attention to the calling of that many rollcall votes.

I do not see where we are going to find time now to put in the rest of a program that is going to allow free television, where Senators get on television for nothing, and get almost unlimited time maybe, or something more than just a few minutes, and unless some magic wand is found and used, no one here to hear them; they are tied up in other meetings and other affairs whereby they expect to come to the floor with firm, solid, sound recommendations in hundreds, and hundreds, and hundreds of fields of activity of the Federal Government so as to help each other make wise judgments.

Let me point out something, Mr. President. I am not complaining about this. We have never had finer men as heads of our committees, but the rules of the Senate say that Congress shall pass a budget resolution covering the whole budget, estimates for the forthcoming fiscal year, that to be done by May 15. Well, that is an early date, but the law has been in effect over 10 years, and until this year we have been able to pass a budget resolution.

That is the law of the Senate. We wrote that law ourselves. We left the President out. He cannot stop us. He cannot veto it. We left him out entirely because it was to have been Senate business, what the Senate budget was going to be. We have not done that this year, the first time since the law was passed.

The same law provides that there shall be no sine die adjournment until that budget resolution is passed. We have always met that in some way in these previous years, but that is what we have to meet in some way. We have not even passed the resolution itself in the ordinary way.

The Constitution of the United States says that the Congress shall provide for the national defense. I am not trumping up the idea of getting more money for the Department of Defense. I think certainly this year they have enough. But that is a mandatory injunction on the Congress of the United States. The President does not have anything to do with that except he can veto it if he sees fit. But the initiation, the positive duty is right here in each House of the Congress, and that applies to the authorization bill. This year we have not done that, although we have worked on it. And they have done a good job with the authorization bill for all the military programs that we have.

And by the way, it is the biggest, most expensive program we have ever had in the history of our Nation—not even excluding the high year of World War II. The appropriation bill that follows along with it is the largest appropriation bill that we have ever undertaken to pass in the history of the Nation. They are both lying dormant. A lot of the work has been done, adjustments have been made, agreements have been had. And I am not trying to lay blame at anyone's door any more than my own, but we have not filled the bill. We have not fulfilled an obligation that is clear as crystal. Some of it has been there in the law 200 years, no dispute about that. Instead, we are trumping up more ways to put out before the people what we Members advocate, what we are going to speak on. They are more interested in what we do. That is the only test of our tenure. That is the only reason we were elected, say what you want, because they thought we would do the best we could to fulfill all the responsibilities of our country.

Now, as I emphasize again, I have no grievance. I have set this out. It has gotten to where we do not have those fine debates of which we are capable. Once in a while we do. I usually comment; when we have a good debate, I make a point about it. But we do not have the exchange that we once had. We have gone off now in a tangent talking about a way to get more audience with the people. Maybe they already know as much as they want to know. What they deserve and I think what they want is results. This will make it more troublesome. This will block some of the ways that are still left open.

I would not want to make changes, necessarily, but I think we should just say to the committee:

> No. We think you made the wrong recommendation. Go back and study this problem again. See if you can come in here with a change in the rules, if they have to be changed some way, to give us a chance to have real debate, real exposure of the facts, opinions, conclusions, judgments, and recommendations, molded into law the best we can, for the general welfare of the people.

I believe that is our need, and I am going to continue to do what I can to keep us from adopting another course which, with all due deference to the course itself and those engaged in presenting it—television—will not help us get results where results are needed.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has used 19 minutes.

Mr. STENNIS. I thank the Chair.

Mr. FORD. Mr. President, how much time has this side used?

The PRESIDING OFFICER. A total of 35 minutes.

Mr. FORD. And we have an hour?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Mr. President, I yield the floor.

Mr. FORD. Mr. President, we have talked about the great debates we may miss from not having the proceedings on tape. We may be missing the eloquence and sincerity and background and experience of the distinguished Senator from Mississippi. I do not think anyone would say that the distinguished Senator from Mississippi would oppose anything that he thought would elevate and improve the functioning of this body. I think his long and untarnished service not ony to his State but also to this Nation indicates that we should listen to the experience and the suggestions of the distinguished Senator from Mississippi.

Basically, I am for testing the waters as its relates—as we refer to it—to expanding the gallery of the U.S. Senate, and that is by the use of radio. There would be so much difference in the cost between radio and television that you would think they would be giving you the radio, it is so minimal.

Most of us who serve in the Senate had the opportunity to observe how little intrusion into the Senate was radio during the debate on the Panama Canal treaties. It did not bother any of us. Some may have tried to make a little different statement, but there were no pastel blue or yellow shirts and orange ties here to look good on television.

Mr. President, an important question we must ask ourselves is, what changes are likely to occur in the Senate if we televise proceedings? A while ago, I asked the distinguished Senator from Pennsylvania [Mr. SPECTER]—a very talented and learned legal tactician—if he would go through the rules of the Senate and see what needed to be changed in order to accomplish what he thought television in the Senate ought to be. I would speculate that there would be a lot more changes in the rules than he anticipates.

Of course, the answers to this question are admittedly speculative, but I think it is nonetheless important that we try to provide them and carefully consider them, or at least frame the questions so that we can address the questions that inevitably will be asked.

Bringing cameras into the Chamber has been likened to merely enlarging the present galleries. But we all know, those who have observed this place, that this cannot be so. Bringing cameras into the Chamber cannot be the same as an individual sitting in the galleries now. The person sitting in the galleries now, in the worst seat, can at all times cast his eyes on probably a minimum of 60 percent of the Senate floor. A television viewer will see only a narrow slice of the floor. He will see a speaker, or a portion of him, and what one camera can project.

In the Senate, we speak from our desk. The House is somewhat different. They go to the front of the Chamber, to the well, and speak at one camera, and this is all you see: Distinguished, handsome, beautiful people who are sitting there doing their work for the day, and a speaker. Not so in the Senate. You speak from your desk.

So one camera cannot cover the Senate Chamber. We have to have several cameras. We have to have them scattered all over. We will be eliminating some people from being able to sit in the galleries and observing us because we are going to take away their seats in order to put in a camera. Not so with radio.

A gallery occupant can watch an animated discussion, meaningful to an informed observer, even though not heard, which may be going on in the Chamber, off camera.

The permanent tape which will go into the archives will also miss these frequently highly important meetings. Only the speaker, the actor on stage, will be on the tape.

Only the speaker will be seen, live, or on a delayed broadcast at 2 or 3 o'clock in the morning, and I might say there is going to be only a small percentage of households that such broadcasts will be able to go into. The RECORD will show how many homes have the so-called cable, C-SPAN, and thus able to see it, and I wonder how many are doing to stay up when they are doing the House of Representatives with the Senate delayed, or doing the Senate with the House delayed, and all of us will be on tape, when radio can be everywhere at the same time.

Why, you can even jog and listen to what is going on in the Senate with radio. Put those little puffs in your ears and go ahead and jog and listen to what is going on in the Senate.

When we only see the speaker or the delayed tape, how long, then, before a public clamor arises to direct that the cameras pan the Chamber at regular intervals, to broaden the view and make television watching more like sitting in the gallery? Or will the public insist that the cameras be under the control of the private media to lift any sort of image of suspicion of Senate censorship?

When will the public, and when will some of our Senators, insist that the President's meetings with his Cabinet be televised? That is the next step. When they televise the Chamber they are going to move down Pennsylvania Avenue and they will want that camera with that little red light on looking at everything they are doing. When any foreign dignitary comes in they want the camera in there. They want to know what is going on.

Oh, that will never happen. They said that television in the Senate would never happen and it may not, at least in the foreseeable, near future.

How will the inability to copyright or otherwise effectively control the subsequent use of video tapes, in political campaigns or otherwise, when you are going to have that used in political compaigns, how will that affect the willingness of Members to debate freely and openly on sensitive issues? Will the prospect of potential demagogic abuse of such tape put a serious chill on debating and voting in the Senate?

Will competition between televised committee hearings and floor proceedings cause the public to demand separate days for each of this type of session? This might be a beneficial change, as has already been suggested by our distinguished Senator from West Virginia, Senator RANDOLPH, and others. On the other hand, such a rule could result in serious loss of flexibility to the party leaders and the committee chairmen.

While reducing the willingness of Members to debate freely and to speak their convictions freely, will television increase the desire to make long speeches aimed not at Senators in this Chamber, aimed not a trying to convince our colleagues, but a speech made to the viewing audience?

Indeed, would filibusters—I cannot imagine this—would filibusters become as popular entertainment with the public as soap operas? If that happens, will there be public pressure to make it more difficult to vote cloture, or will the force be in the other direction to cause the Senate to create a television stage in the well of the Senate and to adopt rules severely limiting debate by each Member?

I think the situation cries out for caution and a very deliberate pace in moving toward broadcast expansion of the Senate gallery.

Haste can cause waste and unknown severe damage. A slower step-by-step policy I personally feel and sincerely feel can avoid such consequences and without in any way reducing the public access to Senate debate information.

Mr. President, I think it comes down to the basic question: Why go to television in the Senate at this time?

Why, when it is not necessary, when radio can do it as well if not better? Why should we spend millions of dollars of taxpayers' money for television and increase the deficit?

Why, when it is still uncertain precisely what the intrusive impact on the work of the Senate will be? Why, when we know from experience that radio has minimal intrusive impact, if any, on the Senate and where the cost of radio in the Senate as compared to television is so small it would not even pay the interest on the money that we are going to borrow to put in the cameras. It would not even be the cost of the interest, about $7,000 a year to maintain radio in the Senate compared to probably millions a year to maintain television—compared to what it would cost, the millions it would cost to install the cameras, and it does one thing that I believe is important. We will test the waters then to see how effective radio is.

Somehow when you are listening and you are not viewing the actors, you absorb the content of what they are saying much better. I have heard so many people ask, "What did you think of that television program?" "Oh, it was fine. I thought the actors were very nice looking."

Or "How did you think my TV commercial was?"

"Oh, it was fine."

"What did I say?"

"I don't remember, but you looked good."

Maybe if they have radio to listen to they will listen to the debate rather than try to see the actors.

So, Mr. President, I do not know whether anyone else has anything to say. I do not care to go into my third, fourth, and fifth speech which I intend to use at some time.

In accordance with the agreement with the majority leader that we divide equally the time for a quorum call, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, it has been nearly 4 years since the distinguished majority leader introduced a resolution to initiate television and radio broadcasting of Senate proceedings.

Since then, we have debated at length both the technical and the political consequences of the majority leaders's resolution. We have discussed the requirements for installing lights and cameras, the rules for editing and camera placement, and even archival storage of Senate proceedings for historical purposes.

We have also heard debate about the influence cameras will bring to bear on the Senate floor. Critics contend that we will be prompted to play to the camera instead of attending to official business. While this cannot be avoided, I believe that any grandstanding will be tempered just as we strive to avoid partisan remarks.

In all of these arguments—pro and con—the focus of debate has centered primarily on the repercussions television would have on the Senate as an institution. There is great concern that cameras might somehow change the very nature of the Senate from a legislative body to a production studio.

While discussion on this matter is of necessity a part the debate, of overriding importance, I believe, are the far reaching effects television coverage will bring to the American people.

The U.S. Senate is often referred to as the "greatest deliberative body in the world." Yet, the proceedings of this body are, for all practical purposes, closed to the American people.

As I look up at the press gallery, I can see assorted newspaper and broadcast journalists. Their jobs is to communicate nationwide what occurs daily in the Senate. This is no easy task because of the complexity and variety of the issues we discuss.

The debate currently taking place on the floor, for instance, may or may not be brought to the attention of the public. We all understand that. Practically speaking, it's impossible for the media to write or talk about everything that occurs in the Senate. At best, only one or maybe two national stories, and assorted regional stories, are broadcast nationwide on any given day.

These news stories are understandable abbreviated and condensed. While I believe the media should be commended for their hard work and dedication, more often than not, many debates and issues are never fully communicated to the public.

I do not fault the media for not covering every jot and tittle of the Senate proceedings. Obviously, this is not possible. Not everything on the Senate floor is worth writing about. There are also practical considerations of time and money limiting the amount of material that can be written or transmitted from the press gallery.

While I understand these limitations, nevertheless, I believe the American people have been shortchanged.

The Senate provides a complete record of its actions for all to see, but then limits the distribution of the CONGRESSIONAL RECORD. Ironically, we want the public to be informed, but then we do not make it possible for them to know everything we are doing in a timely fashion.

I have often said in the past that we should never underestimate the intelligence of the American people; but we should also never overestimate the information upon which they base their views.

I am reminded of a poll that appeared in the Washington Post a year or so ago. It is titled "El Salvador Is Not In Louisiana." The short article is a compilation of responses by the public to questions from national polling firms.

Let me highlight a couple of the responses. An ABC News/Washington Post poll asked Americans if they knew which political party held the majority in the Senate. The results are staggering. Only one quarter of the population knew the Republicans held the majority in the Senate.

Another question posed to the public reads as follows: "Of these two nations, the United States or the Soviet Union, which is a member of what is known as the NATO alliance?" The results: only 47 percent of the population knew that the United States was a member of NATO.

I mention these polls not to show that the public does not understand these issues, but to point out that their access to information—and our ability to attract their interest about national policies—is an uphill battle. The more information—and the better the information that is provided to the public—the better informed they will be on issues.

I believe the debates on the Senate floor more thoroughly deliberate issues of national importance than any other single forum. We are a great deliberative body, and as such we must reach out to the public.

I say to my colleagues in the Senate, our responsibility is not to ourselves, but to the American people, to reach out by whatever means possible to guarantee that they have full access to their Government.

One of the best means by which we can accomplish this goal is by allowing unedited gavel-to-gavel television and radio coverage of Senate deliberations.

Interest in the proceedings of the House of Represenatatives has been growing and will continue to grow since they began gavel-to-gavel broadcasts in 1979. The system works. The time has now come for the Senate to also reach out.

Allowing television and radio coverage of the Senate will greatly assist the media in their ability to follow and understand the actions on the floor. News programs will be able to utilize coverage of the Senate in their daily broadcasts, and it will lead to more news stories about national issues and more thorough reporting of the issues.

The media overwhelmingly support television and radio broadcasting of the Senate proceedings. The American people support television and radio broadcasting of the Senate as a way to see and experience the historical drama of their Government. I strongly support opening up the Senate as a way to help communicate and inform

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the pubic about the issues of the day. I urge my colleagues to support Senate Resolution 66.

I am reminded of a statement by Teddy Roosevelt. In his seventh annual message to Congress in 1907, he said, "There must be public opinion in back of the laws, or these laws themselves will be of no avail."

Today, public opinion plays a larger role in forming policy than at any time in the history of this country. Just as we see and understand the value of debating national and foreign policy issues, the public must also have the opportunity to see and hear debates on issues in order to formulate their opinions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

Mr. BAKER. Mr. President, I have discussed this matter with the distinguished minority leader, who is on the floor, and the two managers are here as well. I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 559, H.R. 3398.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

(Earlier proceedings relating to this matter are printed in the RECORD of March 2, 1984, at page 4254.)

Mr. BAKER. Mr. President, it is my understanding that the distinguished Senator from Missouri will manage on this side on behalf of the Finance Committee.

As I indicated earlier, I do not expect that we will run past the usual adjournment time tonight. I expect that we will be on this bill tomorrow with the exception of a time provided for by unanimous consent for debate on the motion to proceed to the consideration of the TV in the Senate resolution.

On tomorrow, a vote will occur on cloture in respect to that motion.

But between now and then and with that single exception the Senate will be on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

COMMITTEE AMENDMENT NO. 4244

Mr. DANFORTH. Mr. President, I send a committee amendment to the desk and ask unanimous consent that it be considered as original text and that it be agreed to.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri?

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BENTSEN. Mr. President, may I ask, is that amendable in the second degree?

Mr. DANFORTH. Yes.

Mr. BENTSEN. Will the Chair respond to that?

The PRESIDING OFFICER. The Chair did not hear.

Mr. BENTSEN. Is it amendable in the second degree?

The PRESIDING OFFICER. The Chair did not hear the question.

Mr. BENTSEN. Mr. President, I wish to understand that it is amendable in the second degree.

The PRESIDING OFFICER. If the request of the Senator from Missouri is granted, the amendment that he has sent up would be amendable in two degrees.

Mr. BENTSEN. I have no problem.

Under those conditions, I have no objection.

Mr. BYRD. Mr. President, I remove my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

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TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Coated textile fabrics.
Sec. 112. Warp knitting machines.
Sec. 113. Certain gloves.
Sec. 114. Pet toys.
Sec. 115. Water chestnuts and bamboo shoots.
Sec. 116. Gut for use in manufacture of sterile surgical sutures.
Sec. 117. Orange juice products.
Sec. 118. Reimportation of certain articles originally imported duty free.
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Sec. 120. Scrolls or tablets imported for use in religious observances.
Sec. 121. Naphtha.
Sec. 122. Steel pipes and tubes used in lampposts.
Sec. 123. Wearing apparel.
Sec. 124. Recently developed dairy products.
Sec. 125. Technical amendment.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 141. Crude feathers and down.
Sec. 142. Canned corned beef.
Sec. 143. Hovercraft skirts.
Sec. 144. MXDA.
Sec. 145. 4,4'-Bis(alpha,alpha-Dimethylbenzyl) diphenylamine.
Sec. 146. Flecainide acetate.
Sec. 147. Caffeine.
Sec. 148. Watch crystals.
Sec. 149. Unwrought lead.
Sec. 150. Flat knitting machines.
Sec. 151. Certain menthol feedstocks.
Sec. 152. 2-Methyl, 4-Chlorophenol.
Sec. 153. Unwrought alloys of cobalt.
Sec. 154. Certain intermediates for the production of dyes.
Sec. 155. Certain sulfa compounds.
Sec. 156. Certain parts for spindle motors.
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Sec. 159. Certain clock radios.
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Sec. 168. Lactulose.
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Sec. 173. Narrow fabric looms.
Sec. 174. Nicotine resin complex.
Sec. 175. Tartaric acid and certain tartaric chemicals.
Sec. 176. Magnesium chloride and magnesium nitrate.
Sec. 177. Potassium mixtures.
Sec. 178. Certain benzenoid chemicals.
Sec. 179. Lace-braiding machines.
Sec. 180. Yttrium.
Sec. 181. Natural graphite.
Sec. 182. Acetylsulfaguanidine.
Sec. 183. Tetra amino biphenyl.
Sec. 184. Certain chemical intermediate.
Sec. 185. Certain magnetron tubes.

Subtitle D—Effective Dates

Sec. 199. Effective dates.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

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Sec. 201. Packaging materials for merchandise entitled to same condition drawback.
Sec. 202. Public disclosure of certain manifest information.
Sec. 203. Virgin Islands excursion vessels.
Sec. 204. Unlawful importation or exportation of certain vehicles.
Sec. 205. Increase in amount of informal entry of goods.
Sec. 206. Certain country of origin marking requirements.
Sec. 207. Equipments and repairs of certain vessels exempt from duties.
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Sec. 209. Drawback for certain bulk articles.
Sec. 210. Investigations of countervailing duties and antidumping duties.

Subtitle B—Miscellaneous Provisions

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Sec. 242. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
Sec. 243. Enforcement arrangement on European community export of pipes and tubes.

Sec. 244. No state or local tax on inventory located in foreign trade zones.
Sec. 245. Denial of deduction for certain foreign advertising expenses.
Sec. 246. Certain relics and curios.
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Sec. 306. Provisions relating to international trade in services.
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Sec. 401. Negotiation of trade agreements to reduce trade barriers.
Sec. 402. Joint commission to resolve economic disputes between the United States and Canada.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Sec. 501. Short title; statement of purpose.
Sec. 502. 10-year extension of the generalized system of preferences.
Sec. 503. Consideration of a beneficiary developing country's competitiveness in extending preferences.
Sec. 504. Amendments relating to the beneficiary developing country designation criteria and the provision of protection for intellectual property.
Sec. 505. Articles which may not be designated as eligible articles.
Sec. 506. Limitations on preferential treatment.
Sec. 507. Effective date.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

"670.20	Warp knitting machines	Free		40% ad val.
670.21	Other	5.6% ad val.	4.7% ad val.	4% ad val.".

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of pararaph (b) and inserting "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials	8.5% ad val.	80% ad val.".

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "8.1% ad val." in column 1 and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	If imported for use in the manufacture of sterile surgical sutures	5.4% ad val.	3.5% ad val.	42% ad val.
792.26	Other	11.2% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate od duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.20.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

"165.27	Orange:		
	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degrees).	22¢ per gal.	72¢ per gal.
165.29	Other	35¢ per gal.	70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 821.20 is amended by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act of title V of the Trade Act of 1974" after "previous importation".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item that has the same indentation as "Exhibition" in item 802.10:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources.	Free	.....	Free".

SEC. 120. SCROLLS OR TABLETS IMPORTED FOR USE IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as gohonzon, imported for use in public or private religious observances, whether or not imported for the use of a religious institution.	Free	.....	Free".

SEC. 121. NAPHTHAS.

(a) Headnote 1 for part 10 of schedule 4 is amended by inserting "naphthas (whether or not catalytic naphthas) provided for in item 475.35, motor fuel blending stock," after "except".

(b)(1) Headnote 2 for part 10 of schedule 4 is amended—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subdivision:

"(c) Motor fuel blending stock (item 475.27) is any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas which (whether or not containing additives) is chiefly used for direct blending in the manufacture of motor fuel.".

(2) Part 10 of schedule 4 is amended by inserting in numerical sequence the following new item:

"475.27	Motor fuel blending stock.	1.25¢ per gal.	.....	2.5¢ per gal.".

(3) Item 475.30 is amended by inserting "or motor fuel blending stock" after "motor fuel".

SEC. 122. STEEL PIPES AND TUBES USED IN LAMPPOSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 653.37:

"653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles.	11.9% ad val.	7.6% ad val.	45% ad val.".

(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 123. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if 2 or more garments are imported together and designed to be sold together at retail.

"(b) The provisions of (a) of this headnote shall not apply to—

"(i) suits,

"(ii) pajamas and other nightwear,

"(iii) playsuits, washsuits, and similar apparel,

"(iv) judo, karate, and other oriental martial arts uniforms,

"(v) swimwear, and

"(vi) infants' sets for children who are not over 2 years of age.".

SEC. 124. RECENTLY DEVELOPED DAIRY PRODUCTS.

(a) Subpart D of part 4 of schedule 1 is amended—

(1) by adding at the end thereof the following new items with the same indentation as "Malted milk" in item 118.30:

"118.35	Whey protein concentrate.	Lb.	10% ad val.	20% ad val.
118.40	Lactalbumin	Lb.	Free	Free
118.45	Milk protein concentrate	Lb.	0.2¢ per lb.	5.5¢ per lb.";

and

(2) by inserting after the heading of such subpart the following:

"Subpart D headnote:

"1. For purposes of item 118.45, the term 'milk protein concentrate' means any milk protein concentrate that is 40 percent or more protein by weight.".

(b)(1) Part 3 of the Appendix to the Tariff Schedules of the United States is amended—

(A) by striking out "and dried whey" in the superior heading to item 950.01 and inserting in lieu thereof ", dried whey, whey protein concentrate, lactalbumin, and milk protein concentrate",

(B) by striking out "items 115.45 and 118.05" in item 950.01 and inserting in lieu thereof "item 115.45, 118.05, 118.35, or 118.40", and

(C) by inserting "or 118.45" after "115.50" in item 950.02.

(2) Any article described in item 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which is entered before the date which is 15 days after the date of enactment of this Act shall not be taken into account in applying items 950.01 and 950.02 of such Schedules.

(c) The superior heading for item 493.12 of the Tariff Schedules of the United States is amended by inserting "(other than a product described in item 118.45)" after "value thereof".

SEC. 125. TECHNICAL AMENDMENT.

Head note 3(a)(1) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of schedule 7".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 141. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 142. CANNED CORNED BEEF.

Subpart 3 of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.48, part 2B, schedule 1).	3% ad val.	No change	On or before 12/31/89".

SEC. 143. HOVERCRAFT SKIRTS.

Item 905.42 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 144. XXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.02	m-Xylenediamine (MXDA) (provided for in item 404.38, part 1B, schedule 4).	Free	No change	On or before 6/30/87
907.04	1,3-Bisiamino-methylicyclo-hexane (1,3–BAC) (provided for in item 407.05, part 1B, schedule 4).	Free	No change	On or before 6/30/87"

SEC. 145. 4,4'-BIS(ALPHA,ALPHA-DIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.95	4,4'-Bis(alpha, alpha-dimethyl-benzyl)di-phenylamine (provided for in item 404.88, part 1B, schedule 4).	Free	No change	On or before 6/30/87"

SEC. 146. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4).	Free	No change	On or before 6/30/87"

SEC. 147. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 148. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5).	6.2% ad val.	4.9% ad val.	No change.	On or before 12/31/87".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each date:

Date:	Rate of duty:
January 1, 1985	5.9% ad val.
January 1, 1986	5.6% ad val.
January 1, 1987	5.2% ad val.

SEC. 149. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1986".

SEC. 150. FLAT KNITTING MACHINES.

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

SEC. 151. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	Mixtures containing not less than 90 percent by weight of stereoisomers of 2-iso-propyl-5-methylcyclo-hexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1B, schedule 4).	Free	No change	On or before 6/30/87".

SEC. 152. 2-METHYL, 4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"926.97	2-Methyl, 4-chlorophencl (provided for in item 403.56, part 1B, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 153. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6'30'83" and inserting in lieu thereof "6/30/95".

SEC. 154. CERTAIN INTERMEDIATES FOR THE PRODUCTION OF DYES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.31	Beta-Naphthol (provided for in item 403.29, part 1B, schedule 4)	Free	No change	On or before 12/31/86
907.34	6-Amino-1-napnthol-3-sulronic acid (provided for in item 405.00, part 1B, schedule 4)	Free	No change	On or before 12/31/86
907.35	2-(4-Amino-phenyl)-6-methylbenzo-thiazole-7-sulronic acid (provided for in item 406.40, part 1B, schedule 4).	Free	No change	On or before 12/31/86".

SEC. 155. CERTAIN SULFA COMPOUNDS.

(a) Item 907.19 of the Appendix is amended—

(1) by striking out "13.3% ad val." and inserting in lieu thereof "Free";

(2) by striking out "7 per lb. + 80% ad val." and inserting in lieu thereof "Free"; and

(3) by striking out "12/31/83" and inserting in lieu thereof "12/31/86".

(b) Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new items:

"907.33	Acetylsulfaguanidine (CAS No. 19077-97-5, provided for in item 406.56, part 1B, schedule 4).	Free	Free	On or before 12/31/87
907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.38	Sulfaquinoxaline (provided for in item 411.81, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.39	Sulfanilamide (provided for in item 411.81, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 156. CERTAIN PARTS FOR SPINDLE MOTORS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.03	Parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than 1/10 horsepower (provided for in items 682.55, 682.60, and 685.90, part 5, schedule 6).	Free	No change	On or before 12/31/85".

SEC. 157. MELAMINE.

(a) Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.25	Melamine (provided for in item 425.10, part 2D, schedule 4).	5.1% ad val.	Free	On or before 12/31/86".

(b) Effective with respect to articles provided for in item 901.25 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1986, column 1 for such item is amended by striking out "5.1% ad val." and inserting in lieu thereof "5.3% ad val.".

SEC. 158. 4-CHLORO-3-METHYLPHENOL.

Item 987.06 of subpart B of part 1 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "6/30/87".

SEC. 159. CERTAIN CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/85".

SEC. 160. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 3B, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 161. MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.56	Mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 162. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 163. DIPHENYL GUANIDINE AND DI-ORTHO-TOLYL GUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine, and di-ortho-tolyl guanidine (provided for in item 425.52, part 1B, schedule 4).	Free	No change	On or before 6/30/87".

SEC. 164. CONTINUATION OF SUSPENSION OF DUTY ON CERTAIN FORMS OF ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 165. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4).	Free	No change	On or before 6/30/86".

SEC. 166. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4).	Free	No change	On or before 6/30/86".

SEC. 167. DICYCLOMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride (provided for in item 412.02, part 1C, schedule 4).	Free	No change	On or before 6/30/86".

SEC. 168. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 439.50, part 3C, schedule 4).	Free	No change	On or before 6/30/86".

SEC. 169. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 1C, schedule 4).	Free	No change	On or before 6/30/86".

SEC. 170. CIRCULAR KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items with a superior heading that has the same indentation as "Powerdriven" in item 912.13:

"912.17	Circular knitting machines: Cylinder and dial machines designed for sweater strip or garment length knitting (provided for in item 670.17, part 4E, schedule 6).	Free	No change	On or before 12/31/89

912.18	Double cylinder machines for sweater strip or garment length knitting (provided for in item 670.17 part 4E, schedule 6).	Free	No change	On or before 12/31/89".

SEC. 171. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/86".

SEC. 172. o-BENZYL-p-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	o-Benzyl-p-chlorophenol (provided for in item 408.16, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 173. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6), not including parts thereof (provided for in item 670.74, part 4E, schedule 6).	Free	No change	On or before 6/30/87".

(b) The headnotes for subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"(7) Parts of power driven weaving machines for weaving fabrics not over 12 inches in width which are excluded from item 912.04 are classifiable under item 670.74 and are dutiable at the rate that would apply to the machines of which they are parts in the absence of the duty suspension provided for in item 912.04.".

SEC. 174. NICOTINE RESIN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"927.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free	No Change	On or before 6/30/87".

SEC. 175. TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 176. MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4).	Free	No change	On or before 6/30/87".

SEC. 177. POTASSIUM MIXTURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	Mixtures of potassium 1-(p-chloro-phenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4).	Free	No change	On or before 6/30/87".

SEC. 178. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"906.30	Trichlorosalicylic acid (provided for in item 404.46, part 1B, schedule 4).	Free	Free	On or before 6/30/86
906.32	m-Aminophenol (provided for in item 424.92, part 1B, schedule 4).	Free	Free	On or before 6/30/86
906.36	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 425.00, part 1B, schedule 4).	Free	Free	On or before 6/30/86
906.38	4-Acetaminobenzene-sulfonyl chloride (provided for in item 405.33, part 1B, schedule 4).	Free	Free	On or before 6/30/86".

SEC. 179. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the Jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6).	Free	No change	On or before 6/30/87".

SEC. 180. YTTRIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing ores, materials, and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in item 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6).	Free	No change	On or before 6/30/89".

SEC. 181. NATURAL GRAPHITE.

Item 909.01 of subpart B of part 1 of the Tariff Schedules of the United States is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 182. TETRAAMINO BIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	Tetraamino biphenyl (provided for in item 424.90, subpart 1C, schedule 4).	Free	No change	On or before 6/30/88".

SEC. 183. CERTAIN CHEMICAL INTERMEDIATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-[(R)-2-Amino-2-phenyl-acetamidol-3-methyl-8-oxo-5-thia-1-azabicyclo [4.2.0] oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4).	Free	No change	On or before 12/31/86".

SEC. 184. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHZ and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts (provided for in item 684.28, part 5, schedule 6).	Free	No change	On or before 12/31/86".

Subtitle D—Effective Dates

SEC. 199. EFFECTIVE DATES.

(a) As used in this section, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(b) Except as provided in subsections (c) and (d), the amendments made by subtitles B and C shall apply with respect to articles entered on or after the fifteenth day after the date of the enactment of this Act.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2) In the case of the application of the amendment made by sections 112, 115, 118, 141, 142, 143, 147, 149, 150, 153, 155(a), 158, 159, and 164 to any entry—

(A) which was made after the applicable date and before the fifteenth day after the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

(3) For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of sections 112, 115, 143, 149, 150, and 153, June 30, 1983;

(B) in the case of section 118, June 1, 1982;

(C) in the case of section 147 and 155(a), December 31, 1983;

(D) in the case of sections 141, 158, and 164, June 30, 1984; and

(E) in the case of section 159, September 30, 1984.

(d)(1) The amendments made by section 117 of this Act shall apply to articles entered after March 31, 1985.

(2) The amendment made by section 142 of this Act shall apply with respect to articles entered on or after October 30, 1983.

(3) The amendments made by section 137 shall apply with respect to articles entered after December 31, 1984.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. PACKAGING MATERIALS FOR MERCHANDISE ENTITLED TO SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is important for use in packaging or repackaging imported merchandise to which paragraph (1) applies shall be eligible under the same conditions provided in such paragraph for refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 202. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 203. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: *Provided*, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: *Provided further*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 204. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel or aircraft; or

"(B) any self-propelled vehicle or part of self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchase; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 205. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

(a) Paragraph (1) of section 498 of the Tariff act of 1930 (19 U.S.C. 1498) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,000"; and

(2) by striking before the semicolon at the end there of: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

(A) schedule 3,

(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act.

SEC. 206. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

(a) Section 304 of the Tariff Act of 1930 (1 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "section (c)" in subsection (g) (as so redesignated) and inserting lieu thereof "subsection (f)".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act;

except for such of those articles that, on or before such fifteenth day, had been taken on board for transit to the customs territory of the United States.

SEC. 207. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the fifteenth day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the fifteenth day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before the fifteenth day after the date of the enactment of this Act but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(C) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

SEC. 208. FUNGIBLE MERCHANDISE ENTITLED SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise which is fungible to imported merchandise on which was paid any duty, tax, or fee because of its importation, or an aggregate of such imported merchandise and fungible merchandise (either of which has been imported by a person prior to the subsequent exportation by the same person of such commercially identical merchandise) is—

"(A) before the close of a three-year period beginning on the date of importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under Customs supervision.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of enactment of this Act.

SEC. 209. DRAWBACK FOR CERTAIN BULK ARTICLES.

(a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by redesignation subsections (k) and (l) as subsections (l) and (m), respectively, and

(2) by inserting after subsection (j) the following new subsection:

"(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

SEC. 210. INVESTIGATIONS OF COUNTERVAILING DUTIES AND ANTIDUMPING DUTIES.

(a)(1) Subsection (a) of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 of the Tariff Act of 1930 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

Subtitle B—Miscellaneous Provisions

SEC. 241. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ that was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 242. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 243. ENFORCEMENT ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) The Secretary of Commerce is directed to enter into consultations immediately, if such consultations have not already been initiated, with the European Communities pursuant to the arrangement on European Communities Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities. The Secretary shall promptly report the results of the consultations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(b) If after a period of sixty days after such consultations begin, consultations undertaken pursuant to subsection (a) have not resulted in an agreement the Secretary of Commerce determines will result in—

(1) an annual level of exports of pipes and tubes to the United States from the European Communities not exceeding the 1979-1981 average share of annual United States apparent consumption, and

(2) a pattern of United States-European Communities trade within the pipe and tube sector that is not distorted,

the Secretary is authorized to request the Secretary of the Treasury to take action pursuant to subsection (c). For purposes of this subsection, the Secretary of Commerce shall determine whether distortion is occurring in the pipe and tube sector by reference to product categories developed by the Secretary and by the average share of annual United States apparent consumption accounted for by European Communities articles within each category during the historical period specified in paragraph (1) of this subsection. Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more specific categories of pipe and tube products with respect to which action under subsection (c) is requested.

(c) At the request of the Secretary of Commerce pursuant to subsection (b), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States during the remainder of the term of the Arrangement, are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection.

SEC. 244. NO STATE OR LOCAL TAX ON INVENTORY LOCATED IN FOREIGN TRADE ZONES.

(a) Section 15 of the Act of June 18, 1934 (48 Stat. 1002; 19 U.S.C. 810), commonly known as the Foreign Trade Zones Act, is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in

a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1983.

SEC. 245. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' inludes (but is not limited to) radio and television stations.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 246. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

"(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921 (a)(13), and

"(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921 (a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

SEC. 247. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft of October 6, 1983, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.92	708.03
660.85	680.95	708.05
660.97	681.01	708.07
661.06	681.15	708.09
661.10	681.18	708.21
661.15	681.21	708.23
661.20	681.24	708.25
661.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.98
		712.49

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under the first section of this Act shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 248. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury shall reliquidate the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the Docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively).

SEC. 249. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph (1)(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

SEC. 250. STUDY ON HONEY IMPORTS.

(a) The Congress finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Congress that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

SEC. 251. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO.

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).".

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962:

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortion of—

"(i) United States exports of goods (including agricultural commodities) or services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees estabished pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(3) without regard to whether or not such goods or sector were involved in the act, policy or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is ameneded—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and (3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least ninety days before the implementing bill is submitted.".

(c)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigations" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e)(1) Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determine that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICS AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104a. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States neogtiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artifical or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which impair access to domestic markets for key commodity products; and

"(D) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial par-

ticipation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b)(1) The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector. For purposes of the collection and analysis required by this subsection, and for the purpose of any reporting the Department of Commerce makes to the Congress of the United States, such collection and reporting shall distinguish between income from investment and income from noninvestment services;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c)(1) It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-Federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) THE PRESIDENT—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

(E) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).."; and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3)(A) Section 124(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objective under section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128 MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties, as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 687.70, part 5, schedule 6).

"(2) Diodes and recitifiers (provided for in item 687.72, part 5 schedule 6).

"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

"(5) Other components (provided for in item 687.81, part 5, schedule 6).

"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

"(7) Parts of automatic data-processing machines and units thereof (provided for in

item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

TITLE IV—TRADE WITH ISRAEL AND CANADA

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out "Whenever" and inserting in lieu thereof "(1) Whenever", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel or Canada.

"(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel or Canada under a trade agreement entered into under paragraph (1) with Israel or Canada.

"(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel or Canada if—

"(i) such country requested the negotiation of such an agreement, and

"(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

"(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

"(II) consults with such committees regarding the negotiation of such agreement.

"(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

"(i) such implementing bill contains a provision approving of any trade agreement which—

"(I) is entered into under this section with any country other than Israel or Canada, and

"(II) provides for the elimination or reduction of any duty imposed by the United States, and

"(ii) either—

"(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

"(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

"(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.".

(b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:

"(1) the term 'barrier' includes—

"(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

"(B) any duty or other import restriction;".

(c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "Nontariff" in the heading.

(2) The table of contents of the Trade Act of 1974 is amended by striking out "Nontariff" in the item relating to section 102.

SEC. 402. JOINT COMMISSION TO RESOLVE ECONOMIC DISPUTES BETWEEN THE UNITED STATES AND CANADA.

Subsection (b) of section 612 of the Trade Act of 1974 (19 U.S.C. 2486(b)) is amended to read as follows:

"(b) The President is authorized to seek (through an agreement) establishment of a joint commission to resolve trade and other economic issues between the United States and Canada.".

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries to eliminate or to reduce significant barriers to trade in goods and services and to investment, and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. 10-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT.

"No duty-free treatment provided under this title shall remain in effect after January 3, 1995.".

(b) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment.".

SEC. 503. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 504. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA AND THE PROVISION OF PROTECTION FOR INTELLECTUAL PROPERTY.

(a) Paragraph (4) of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by inserting ", including patents, trademarks, or copyrights," after "control of property" in subparagraphs (A) and (B), and

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in subparagraph (C).

(b) Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights; and

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements).".

SEC. 505. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES

Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(3) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible aritcles for purposes of this title on April 1, 1984,".

SEC. 506. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President", and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), with particular emphasis on)—

"(A) the extent to which beneficiary developing countries have—

"(i) assured the United States that such countries will provide equitable and reasonable access to the markets and basic commodity resources of such countries,

"(ii) provided adequate and effective means for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and

"(iii) taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and

"(B) the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in clause (i).".

(b) Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974, or

"(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year,

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in sections 501 or 502 (c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in section 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not inlcude an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

SEC. 507. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

Mr. DANFORTH. Mr. President, it is my understanding that the amendment has been agreed to and that it will be considered as original text.

The PRESIDING OFFICER. The Senator from Missouri is correct.

Mr. DANFORTH. Mr. President, today the Senate returns to consideration of H.R. 3398, an omnibus tariff, customs and trade bill. A great many Senators have an interest in this legislation—some 65 Members have sponsored or cosponsored provisions contained in it—and I am pleased the Senate is again ready to consider it.

H.R. 3398 was initially reported by the Finance Committee on November 10, 1983. At that time, it contained a number of miscellaneous customs and tariff provisions, along with the substance of the International Trade and Investment Act, formerly S. 144. The Senate began consideration of H.R. 3398 on March 2 of this year, and added several additional noncontroversial tariff and customs amendments.

Since March 2, the Committee on Finance has completed a great deal of work in the trade area, and the amendment which has just been agreed to and will now be treated as original text brings to the Senate not only the original bill but also the various provisions adopted by the Finance Committee since March 2.

I would like to go through the five titles of the bill very briefly to describe what is in them for the Senate.

Title I contains over 60 miscellaneous tariff measures, primarily tariff suspension or elimination provisions. Of these, more than a dozen are extensions of existing duty suspensions which expired in 1983 and 1984.

Title II contains some 20 amendments to customs and trade laws, half of which relate to entry requirements. Included in this title are provisions which authorize the President to retaliate against discriminatory Canadian tax practices involving border broadcasting; provide enforcement au-

thority for the United States-European Community arrangement on steel pipe and tube; and expand U.S. participation in the GATT agreement on trade in civil aircraft.

Between titles I and II, 46 Senators—representing both sides of the aisle—are sponsors or cosponsors of measures contained in H.R. 3398.

Title III contains the substance of the International Trade and Investment Act, the so-called reciprocity bill. It provides for an annual accounting of major foreign barriers to U.S. exports of goods, services and investment; broadens and strengthens section 301 of the Trade Act of 1974; and provides negotiating mandates and authority for trade agreements in services, investment, and high technology. Previously S. 144, this measure has received Finance Committee approval half a dozen times since 1982, and was passed by the Senate twice in 1983. Some 46 Senators are on record supporting this measure, which has the support of over 40 business and agriculture groups.

Title IV provides authority to the President to negotiate reciprocal trade agreements with Israel and Canada to eliminate tariff and nontariff barriers. Any agreements negotiated under this provision must be submitted to the Congress for approval under the procedures set out in sections 102 and 151 of the 1974 Trade Act. Initially proposed by the Israelis, the negotiation of a free trade area [FTA] with Israel has been the subject of discussion between our two governments for some months now. It holds great promise for United States and Israeli exporters alike.

Title V would reauthorize the Generalized System of Preferences [GSP] Program—which expires on January 3, 1985—for another 10 years. Key changes in the program have been incorporated in the Finance Committee bill which are designed to improve its graduation mechanism and enable the United States to use the program to enhance our export objectives in GSP-beneficiary countries. Among the changes are provisions which would require consideration of a beneficiary country's treatment of U.S. exports, intellectual property rights, and investment in determining country and product eligibility, and authority to reduce by half the current competitive need limits on GSP benefits—based on a country's competitiveness.

There is no question that H.R. 3398 is a significant piece of trade legislation that is in the national interest of the United States.

I hope that the Senate will approve the bill at the earliest possible time.

Mr. BENTSEN. Mr. President, today the Senate takes up a committee amendment to H.R. 3398. The committee amendment consists of four basic elements, as follows: First, it consists of around 60 miscellaneous tariff bills. Some of these bills have been previously reported to the Senate in November 1983 on H.R. 3398; some of these amendments were adopted when the Senate considered H.R. 3398 on March 3, 1984; and finally another group of about 40 amendments was added to the committee amendment on July 31, 1984. For ease of reference, the committee has drafted the committee amendment to include all pending favorably reported miscellaneous tariff bills, regardless of whether they were previously included on H.R. 3398 or have since been adopted by the Senate or reported favorably by the Finance Committee.

Second, the committee amendment includes the administration's program for renewing the generalized system of preferences [GSP], as modified by the Finance Committee.

Third, the bill includes the administration's program for negotiating arrangements leading to bilateral free trade arrangements with Israel and Canada. And finally, the bill includes the Danforth-Bentsen International Trade and Investment Act.

TRADE AND INVESTMENT ACT

I have previously addressed the Senate on the benefits of the International Trade and Investment Act. Therefore, I will not belabor that provision of the committee amendment, which is now contained in title III of the committee amendment.

MISCELLANEOUS TARIFF AMENDMENTS

The miscellaneous tariff amendments, 80 different provisions, have all been subject to either hearings or a period for written comment in the Finance Committee. Many of these miscellaneous tariff provisions extend existing suspensions of law, upon which American industries have come to depend. A few involve well justified new provisions of U.S. customs and tariff laws. While a few of these provisions may be controversial and worthy of discussion in the course of the Senate debate on this bill, in general the miscellaneous provisions represent a best effort at the minor amendments that must occasionally be undertaken of our 12,000-item tariff schedules.

ISRAEL AND CANADA FREE TRADE

Third, the committee amendment includes the administration's proposal for a free trade arrangement with Israel and Canada. The heart of this arrangement is that the administration would be authorized to reduce rates of duty to zero on all products from Canada and Israel subject to congressional approval and implementation under the fast track procedures used in the Trade Agreements Act of 1979.

EXTENSION OF GSP

Finally, the committee amendment includes the administration's program for the extension of GSP. This is a program first enacted in the Trade Act of 1974. The program expires by operation of law on January 3, 1985. The basic question proposed by the administration bill, which was introduced as S. 1718, is whether the program should be renewed. A subsidiary question is: On what basis should the program be renewed? In general, testimony held before the Finance Committee on two occasions indicated that the program should be renewed, but that there was controversy about the basis on which it should be renewed and in particular whether the process of graduation was occurring fast enough.

Graduation refers to the process by which developing countries lose the GSP benefit and assume the status of full-fledged industrialized countries. Since five of the major beneficiaries of GSP now export goods that constitute 60 percent by value of the imported goods that qualify for GSP treatment, there is considerable controversy about the evenhandedness of the program previously enacted. The administration's proposals make some effort to correct this imbalance, after a period of 2 years for consideration. This aspect of the GSP bill may be controversial, but the basic idea that the United States must continue with some form of GSP is, I believe, noncontroversial and should be enacted no matter what the outcome of the graduation debate.

SPECIAL COMMENT ON GSP

Trade is obviously becoming a much more important part of economic life in the United States. Whereas U.S. exports as a percentage of GNP grew slowly between 1960 and 1970, from 4.1 to 4.4 percent, by 1980 the share of total output accounted for by exports had nearly doubled to 8.2 percent. During the same period, U.S. imports also more than doubled rising from 4.1 to 9.3 percent of GNP.

A major result of U.S. trade policies during the 1970's and early 1980's has been a shift in U.S. trade patterns from virtually sole reliance on traditional markets in industrialized countries to emerging markets in developing countries. Imports from those countries have grown from 29 percent of U.S. exports in 1970 to 37 percent of U.S. exports in 1980. The total absolute amount of exports has now fallen, due probably mainly to the strength of the U.S. dollar; the percentage has probably fallen as well, due in part to the related problem of high U.S. interest rates. But it still cannot be gainsaid that exports to developing countries is an important future market.

Therefore, one of the most important provisions in this bill in economic terms is the proposed extension of the GSP. Our economic relationship with developing countries affects every exporting and importing interest in the United States. Forty percent of our ag-

ricultural exports were consumed by developing countries in 1982, and 45 percent of our manufacturing exports were consumed by developing countries in 1982.

However, I would hasten to add that GSP is a relatively small percentage of the problem now experienced in trade between the United States and the world as a whole. The important statistic for Senators to look at is not total imports from these countries or even total imports that enter this country duty free. The important statistic to look at is the percentage of trade that enters the United States duty-free by reason of GSP. What this phrase means is that in evaluating the effect of GSP, Senators should discard products that enter the United States duty free, because all countries get this benefit, not just developing countries. Second, Senators should discard figures which concern products eligible for GSP, since many products which are eligible for the benefits are eventually disqualified under current law by reason of provisions of the statute that limit the benefit any single country can receive under the program.

What you are left with when you discard the total trade with developing countries; trade that is duty free by reason of most-favored-nation concessions; and eligible GSP exports, is trade that is duty free by reason of GSP.

This represented 3 percent or less of U.S. imports in 1983.

I submit to the Senate that this is a relatively small concession to be making to developing countries in return for the good will and long-term benefits derived from the program.

While I will not gainsay any Senator's concern that the benefits of the program are unbalanced as between the five most active beneficiaries and the rest, it must be said that even given its unbalanced operation, GSP constitutes a relatively low-cost program for improving relations and increasing economic ties with the developing world.

I look forward to working with my colleagues to produce a fair and effective trade bill this year.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I am pleased and wish to express my appreciation to the majority leader for agreeing to proceed to consideration of H.R. 3398, an omnibus tariff, customs, and trade bill in which so many Senators have an interest. We in the Finance Committee have put together a package of largely noncontroversial measures that have particular significance to individual members and as a group represent, in my view, one of the most important tasks for the Congress to address prior to adjournment.

H.R. 3398 was originally reported by the Finance Committee on November 10, 1983. The Senate debated the bill for a single day last March 2, and approved several noncontroversial tariff and customs amendments. That is the bill we will start with today.

The committee, however, has completed a great deal of work since March 2 in the trade area, and it is our intention to propose several new items for inclusion in this package. Besides additional miscellaneous tariff items, the committee seeks Senate approval of two extremely important matters: An extension of the Generalized System of Preferences and approval of authority for the President to negotiate trade agreements with Israel and Canada. The GSP expires January 3, 1985, and negotiations with Israel are at an advanced stage; it is therefore essential to enact these authorities before the Congress adjourns.

THE COMMITTEE AMENDMENT

On August 10, I filed on behalf of the Committee on Finance a committee amendment to H.R. 3398 that was approved by the committee last July 31. The amendment incorporates all of these additional items. It is my intention to offer the amendment at the appropriate time as the Senate considers H.R. 3398.

The committee amendment is drafted in the nature of a substitute for H.R. 3398. It incorporates all of the provisions currently set forth in that bill, as reported and as amended by the committee in November 1983, and as amended during Senate debate on March 2, 1984. One exception is a tariff provision relating to the Olympic games that has since been enacted into law; the substitute committee amendment does not incorporate that provision of H.R. 3398.

Besides repeating the current provisions of H.R. 3398, the committee amendment includes several new provisions. First, it contains 35 new miscellaneous tariff and customs matters. These are in titles I and II of the committee amendment. Title III of the committee amendment contains the provisions of the International Trade and Investment Act, which currently comprises title III of H.R. 3398. Title IV of the committee amendment contains the substance of S. 2746, a bill to authorize the negotiation of trade agreements with Israel and Canada. This bill was approved and ordered favorably reported by the committee without objection on June 12, 1984. Finally, title V of the committee amendment contains the substance of S. 1718, a bill to authorize the renewal of the Generalized System of Preferences for another 10 years, as amended. This bill also was approved and ordered favorably reported by the committee in May.

In order to assist members in understanding the new provisions of the committee amendment, the committee prepared a committee print (Senate Print 98-219) that is drafted as if it were a committee report on the bill. It was printed, along with the amendment, in the CONGRESSIONAL RECORD of August 10, 1984. In an effort to reduce unnecessary cost, the committee print does not repeat information on matters contained in the committee amendment that are the subject of other committee reports. The committee print, however, specifies in which reports this information may be found (Senate reports 98-485 and 98-510).

I will not dwell at this time on the substance of all the provisions of the committee amendment; however, I wish to point out to the members that the purpose for packaging this committee amendment was to ensure that there will be an opportunity for the Senate to consider several matters of utmost importance in the short time the Congress will have to debate a trade bill. In particular, I again refer to the need to authorize the President to negotiate a free-trade agreement with Israel. This proposal, initiated by Israel, but holding great opportunity for U.S. exporters, has been the subject of discussions between our two Governments for several months now. Ambassador Brock believes that negotiations could move forward quickly once the Congress has granted the authority to the President to conclude the agreement. I must emphasize that this bill simply authorizes the President to negotiate an agreement within the existing framework of U.S. trade negotiating objectives; compliance with the requirements of the Trade Act of 1974 requires the President to submit the agreement for expedited consideration by the Congress. But the bottom line is that the Congress will have final say over approval of the agreement, and I am confident that this will ensure that any agreement that is completed will be in the best interest of the United States.

In addition, it is essential that the Congress renew the Generalized System of Preferences, the authority for which expires January 3, 1985. This trade preference program for developing countries has proven to be a good development tool for the poorer nations of the world, without creating any threat of injury to U.S. industries competing with GSP-eligible imports. The authority to renew the program contains some amendments which will strengthen its effect in encouraging developing countries to assume greater responsibilities in the world trading system. In particular, the authority would contain signficant incentives for such countries to develop adequate and effective means of recognizing U.S. intellectual property rights. Thus

those interested in the fight against counterfeiting are strong supporters of the program's renewal.

Mr. President, at least 64 Senators—nearly equally divided on both sides of the aisle—have sponsored or cosponsored various provisions of the committee amendment. Approval of the vast majority of these provisions has incurred no opposition whatsoever, and our committee reported the package and its individual parts without objection. I am proud of the job our committee performed in maintaining our goal of seeking a consensus on the substance of a noncontroversial bill and on the form of its individual components. I know that several Members may have amendments, and we will be pleased to work with them in seeking a way to satisfy their concerns. But I hope we might first approve the committee amendment and proceed from there in completing this important business.

Mr. President, I will take only a few more moments. We would like to wrap this bill up this afternoon. There is a chance of doing that. That may be an understatement, or an overstatement, depending on your point of view. But I do believe—as the distinguished Senator from Texas just indicated, and as the chairman of the subcommittee, Senator DANFORTH, indicated—this is a very important piece of legislation. Everyone knows that the clock is running in the Congress. If we do not act very quickly on some of these provisions, we will not have an opportunity to do so.

First of all, I want to thank the majority leader for scheduling this very important legislation. There are many important features that are not controversial. They are bipartisan. They are nonpartisan. They ought to be passed. But it is also a vehicle to which every Senator can offer amendments they have not been able to get rid of in the past several months. We probably will have only today and until 4 o'clock tomorrow to complete action on this bill, and I hope that those Senators who have amendments would understand that, if certain amendments are offered, this bill is not going anywhere. If a Senator should offer the Grove City amendment, for example, this bill is going nowhere. If a Senator should offer some other complicated amendment, it is fair to say this bill is going nowhere.

But it is very important legislation. It has been considered at length in the Senate Finance Committee. We put together a package we believe is largely noncontroversial. That is why I hope that those who agree with us will let us go ahead and pass this legislation.

I assume there are tariff measures in this bill that probably affect at least half the Senators. I do not know how many provisions there are, but I would guess 40 to 50. There are constituent groups for which each one of these little tariff provisions is very important. They are not special interest bills; they are very important, very objective amendments. They have been agreed upon. We have tried to avoid getting into other areas of controversy.

We originally reported this bill, H.R. 3398, on November 10, 1983. We debated the bill for a single day last March 2, and approved several noncontroversial tariff and customs amendments. This is the bill we will start with today. It has been around a long time. There should not be anyone who has not heard of it, nor should anyone be surprised by its provisions. Further we have done a great deal of work since March 2 in the trade area. It is our intention to propose several new items for inclusion in the package. That has already been done through the committee amendment that was adopted previously.

On August 10, I filed on behalf of the Committee on Finance the committee amendment to H.R. 3398 adopted today. It was approved by the committee last July 31. The amendment incorporates all of the items that have been mentioned. I will not go through them. But they include the authority for the free-trade zone negotiations with Israel, and other matters that I think have widespread support. The committee amendment is drafted in the nature of a substitute, but it incorporates all of the provisions already on H.R. 3398. I do wish to point out to the Members that the purpose of packaging this committee amendment was to ensure that there will be an opportunity for the Senate to consider several matters of utmost importance in the short time we have left to debate the trade bill.

In particular, I again refer to the need to authorize the President to negotiate a free-trade agreement with Israel. This proposal was initiated by Israel, but it holds great opportunity for U.S. exporters. It has been the subject of discussions between our two Governments for several months now. Ambassador Brock believes the negotiations will move forward quickly once the Congress has granted authority to the President to conclude the agreement. I must emphasize that this bill simply authorizes the President to negotiate an agreement within the existing framework of U.S. trade negotiating objectives. In order to comply with the requirements of the Trade Act of 1974, the President must submit the agreement for expedited consideration by the Congress. But the bottom line is that Congress will have final say over the approval of the agreement, and I am confident that will ensure that any agreement which is completed will be in the best interests of the United States.

In addition, as just mentioned by the distinguished Senator from Texas, it is essential to renew the so-called "GSP," Generalized Systems of Preferences. The authority expires for that program on January 3, 1985. There is no way, unless there is a lameduck session, that we would be able to act to renew that program early enough next year.

I now have the figure on sponsorship of provisions in the committee's package. At least 64 Senators, nearly equally divided on both sides of the aisle, have cosponsored various provisions in the committee amendment. So there are 64 Senators who want to pass this bill. Of course, there may be another 64 who want to add something else.

The distinguished Senator from Missouri is a very capable manager of the bill. I do not need to give the Senator any direction. But it is my hope, if the amendments are legitimate—I do not assume any of them are; and if they have merit, and certainly every amendment that is offered in this body has merit—and if they are not controversial, perhaps it might be wise to accept the amendments where possible to avoid time-consuming rollcalls and debate, the theory being we can work out some of the differences in conference. But again I indicate to my colleagues who may be listening, or members of their staffs, that we have a very small opening, a window of opportunity here that is soon going to expire; I would guess tomorrow at about 4 o'clock. If there is a cloture vote and cloture is invoked, it is going to take this bill down.

So hopefully, those who feel the urge to offer some controversial amendment would reconsider or, if not, try to modify the amendment, work it out with the managers of the bill, Senator DANFORTH and Senator BENTSEN, and others, and let us move this very important legislation because we are in the last 3 weeks of the session. The last full week will be spent on the debt ceiling, and I understand that next week we are going to be considering the continuing resolution. Time is of the essence.

AMENDMENT NO. 4245 TO AMENDMENT NO. 4244

(Purpose: To amend the Trade Act of 1974 to clarify the scope of certain determinations by the International Trade Commission under title II of such Act)

Mr. COHEN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] for himself, Mr. PRYOR, Mr. BUMPERS, and Mr. SASSER, proposes an amendment numbered 4245 to amendment No. 4244.

Mr. COHEN. Mr. President, I ask unanimous consent that further read-

ing of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, between lines 18 and 19, insert the following:

SEC. 252. CLARIFICATION OF THE SCOPE OF INVESTIGATIONS UNDER SECTION 201 OF THE TRADE ACT OF 1974.

Subsection (b) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by inserting "any significant increase in the volume or share of total imports attributable to domestic producers in the industry," after "profit," in paragraph (2)(A),

(2) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) with respect to threat of serious injury—

"(i) a decline in sales of the article like or directly competitive with the imported article,

"(ii) a higher or growing inventory (whether maintained by domestic producers, importers, or retailers),

"(iii) an upward trend in imports or sales for importation (either actual or relative to apparent domestic consumption),

"(iv) an upward trend in the volume or share of total imports, or sales for importation, attributable to domestic producers, and

"(v) a downward trend in production, profits, wages or employment (or increasing underemployment) in the domestic industry concerned; and",

(3) by inserting "regardless of whether the imports are attributable to domestic producers in the industry" after "production" in paragraph (2)(C),

(4) by striking out "may" in paragraph (3)(A) and inserting in lieu thereof "shall", and

(5) by adding at the end thereof the following new paragraphs:

"(7) For purposes of this section, the term 'significant idling of productive facilities' means a decline in domestic production (either actual or relative to apparent domestic consumption), the closing of plants, or the underutilization of production capacity.

"(8) Notwithstanding the authority under paragraph (2) to take into account all economic factors in making a determination under paragraph (1), the Commission shall not take into account any consideration described in paragraph (3), (4), (5), or (6) of section 202(c) in making such a determination.

"(9) A finding by the Commission—

"(A) that a significant number of firms in the domestic industry operate at a reasonable level of profit, or

"(B) that the profits of the domestic industry are not in a downward trend,

shall not preclude a determination by the Commission under paragraph (1) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to domestic industry.

"(10) For purposes of this subsection, the importation of any articles by domestic producers in an industry shall not be considered to be a positive effort to compete but shall be a factor supporting the existence of serious injury, or the threat of serious injury, to such industry.

"(11) In making its determination under paragraph (1), the Commission shall take full account of the effect of plant closings on the production, employment, capacity, capacity utilization and profits of a domestic industry.".

Mr. COHEN. Mr. President, notwithstanding the words of my good friend and colleague from Kansas admonishing about the need not to offer amendments to this bill if we have any hope to have it passed, I take the floor to offer an amendment concerning a problem that has reached critical proportions in my State and that of many others.

Mr. President, I will cite a headline from the Bangor Daily News dated August 8, 1984, which says, "Bass Shoe Company Lays Off 75 Workers in Bangor, Cancelling Their Operation."

Sunday, August 26, Lewiston Sunday paper, "Shoe Industry Continues Its Downhill Trend."

Again, the Bangor Daily News, September 6, "Pittsfield Shoe Plant To Close."

September 11, another story, "Shoe Workers, the Laid-Off Employees of Bangor Company."

Last week, September 12, "Etonic Lays Off 135 Employees."

Bangor Daily News: "Spot-Bilt, Another 75 Shoe Workers Face Layoffs."

This morning's Washington Post: "Cannon Shoe Lays Off 160 Employees at Hagerstown."

The list goes on.

Mr. President, I would like to give a statistical overview of what has happened this year to the domestic shoe industry in this country.

Shoe factories that have been closed in 1984 in my State include Bass Shoe Co. shut down in Jay, ME, 250 jobs lost; Bass Shoe Co., in Rumford, 270 lost jobs; Moose River Moccasin, in Skowhegan, 75 jobs lost; Stride-Rite, in Presque Isle, 50 jobs lost, and Stride-Rite, in Pittsfield, 125 jobs lost, for a total of 770 jobs this year alone.

In terms of shoe factory layoffs in 1984, the Bass Shoe Co. in Bangor, 75; Spot-Bilt in Bangor, another 75; Etonic in Auburn, 135, for a total of 285 jobs lost this year.

Approximately 10,000 jobs were lost in Maine between 1975 and 1984 due to factory closings. In Lewiston-Auburn alone, 1,300 jobs were lost since 1979.

As of July on a nationwide basis, imports accounted for over 71 percent of the entire U.S. market. Nationwide, 49 factories have closed; 8 have announced closing. That is greater than one a week. This is only the first 8 months of 1984. The employment in the industry is down to 126,000 from 130,500 in 1983.

It is because of the desperate situation that I take this floor today to offer this amendment.

The purpose of the amendment will make the necessary change in the so-called escape clause procedures under section 201 of the Trade Reform Act of 1974.

As my colleagues know, I have stood on this floor on a number of occasions in the past year as the chairman of the Senate Footwear Caucus to discuss the worsening plight of the industry. The statistics of the industry due to imports such as the massive import penetration levels I have cited, the high unemployment and extensive plant closings, present, in my view, classic case of an industry that is unable to survive the onslaught of foreign imports. It is a perfect example of the type of case that ought to prevail under our trade laws.

But despite the clear showing that was made to the ITC of injury by reason of imports earlier this summer, the ITC denied the footwear industry's petition for relief under section 201.

In my opinion, that decision was without foundation in either fact, logic, or fairness.

The initial statements of the Commissioners indicate that the ITC has ignored the true condition of the domestic footwear industry.

First, the Commission's decision that no injury has occurred underestimates the massive surge of imports that has flooded the domestic market. Since 1968 when tariffs were lowered, imports have increased by 232 percent. In 1983, they accounted for 64 percent of the market and over 6 percent of the entire U.S. trade deficit. Today, imported footwear comprises over 70 percent of the entire retail market. This import penetration level is well over twice the import levels in the steel and copper industries. And yet, the ITC said no injury.

They have had a crippling effect upon the footwear industry and its labor force. Unemployment in the industry now exceeds 18 percent, double the national average. In 1982, 41,000 American shoe workers were unemployed due to factory closings. Already in 1984, as I have indicated, approximately 49 more factories have been closed. In my own State of Maine, the largest footwear manufacturing State in the country, over 2,000 jobs have been lost just since 1981 when the orderly marketing agreements were terminated.

Just a brief reflection upon history: In 1981, just 3 short years ago, the ITC ruled unanimously that there was injury threatening the domestic footwear industry, and they recommended relief. The administration turned down that recommendation. At that time, just 3 years ago, the domestic footwear industry had approximately 50 percent of the market. Since that time, in just 3 short years, we now have less than 30 percent of the market, and we are seeing a factory a week close throughout this country. Again, no injury found by the ITC.

I would invite the International Trade Commission members to come to Maine and explain to the unemployed shoe workers, especially to those workers in rural areas where they have no other source of employment, that the footwear industry is not hurting due to imports. Oddly enough, the ITC has not taken into account any of the factories that have been closed. They did not even take that into account in assessing whether there has been injury or threatened injury to the industry.

The Commission's statement that no injury exists because some of the shoe companies are making a profit I think is equally astounding. It happens to ignore the fact that profit margins are limited to only the large companies. The majority of firms that comprise the domestic industry are small firms that have been hit hard by imports. Also, Mr. President, I want to point out that just because some companies made a profit it does not mean that the industry is not being injured.

All you have to do is start laying off workers, start shutting down your factories, and it is easy to make a profit. Or move your operations offshores.

One member of the ITC recently expressed some surprise to me. He went into the Bass Shoe Co. in Maine, and he discovered that all the women's models were being made in Brazil and stamped with the Bass Shoe label. What is so shocking about that? The companies have found that they cannot survive, and they have come to the conclusion that if they cannot beat them it is time to join them. So they are laying off Maine workers, U.S. employees, and they are moving their operations to Brazil, they are moving their operations to Korea, they are moving their operations to Taiwan where, in those countries, they only have to pay 74 or 88 cents an hour. Yes; they are then able to make a profit because they are firing all the U.S. employees.

And yet the ITC found no injury.

The fact that the industry has had to resort to these profitmaking techniques due to massive uncontrolled imports I think is crystal clear. Only the survivors in this ravaged industry have managed to turn a profit, and the number of survivors is dropping fast.

Mr. President, the ITC's decision in the footwear case brings me to the inescapable conclusion that our trade laws are not working as Congress has intended. If this classic case of injury where foreign competitors now own more than 70 percent of the market does not reflect injury to the domestic industry, then either the ITC is misinterpreting the law or the current law is simply inadequate and must be clarified.

It is my firm belief that this case should have won under the current escape clause provisions. In order to avoid another case of the ITC turning the rule of law on its head, however, it is crucial that the Congress amend the section 201 process so that relief will be granted in meritorious cases such as these that have been filed.

The amendment that I am introducing today would clarify the law in several areas. First, it makes clear that the ITC must consider increases in imports by domestic producers as a factor in finding serious injury or the threat of serious injury, rather than treating such increases as positive efforts to adjust.

As a matter of fact, it was explained to me that all those factories that are shutting their doors are simply using the ITC decision as an excuse to otherwise make a prudent business decision. What an outrageous conclusion to have reached, that now all these factories are shutting down simply as a good, sound business judgment. They are shutting down because they cannot compete against this floodtide of cheap imports that are coming in. That is exactly what 201 was designed to prevent. This amendment is designed to make sure that the ITC does in fact take into account the fact that factories have been forced to close their doors or open them to foreign workers.

This change will make the ITC recognize that domestic producers are often forced to go offshore as a last resort in order to survive the flood of imports.

Second, the amendment makes clear that a domestic industry's loss of market share is positive evidence of injury under section 201.

As I have mentioned, since 1981, when the administration refused to accept the unanimous decision of the ITC, we have lost nearly another quarter of the market. We have gone from 50 percent down to less than 30 percent. Yet the ITC has found no injury. The amendment would make clear that loss of market share is a positive factor. It is positive evidence of injury under 201.

In the footwear decision, the ITC indicated that the domestic footwear industry is not being injured, despite its total failure to participate in the tremendous growth in the market in 1982 and 1983. Making this change in the law will ensure that the loss of market share is not disregarded as it has been by the ITC.

Third, the amendment makes clear that the aggregate profitability of an industry alone does not preclude the ITC from finding serious injury or the threat of serious injury when the production and employment criteria of the statute are met. Mr. President, I believe that the trade reforms embodied in my amendment are necessary to ensure that the travesty of justice we have witnessed in the footwear case and others will not be repeated. It is only fair that the Congress amend our trade laws so that relief will be granted to industries that are being sorely injured by imports.

Finally, Mr. President, I wish to call the attention of my colleagues to a very moving story that was done by the "CBS Morning News" program yesterday, the Charles Kuralt program, in which they devoted some 10 or 15 minutes to the plight of the shoe industry in Maine and focused in particular on two women, Jean Herbert and Diane Walker, who are fighting to save an industry. They used a phrase which remains with me—it is burned in my own memory—of the planned obsolescence of U.S. workers. What we are witnessing through the administration's indifference, through the ITC's misapprehension or miscalculation of the meaning of the law, is the systematic, planned obsolescence of people in the shoe industry.

I think Government has a role to play, not to engage in protectionism but not to allow people who are over the age of 50—and most of the people in the shoe industry are over 50 to slip indifferently into the category of the obsolete. Two-thirds of our shoe workers are women. They are located in rural areas and many times the only source of employment is that shoe factory. The Government simply cannot be in the position of saying, "It is too bad. We are moving into the information age, into the age of the computer; grab your shoes, if you have some shoes, and walk to Silicon Valley and go into some retaining programs." If that is the attitude of our Government, it seems to me it is a gross violation of our responsibility.

Yes, we have to anticipate the future and yes, we have to move into the computer age, and yes, we have to train the young people coming into the work force to prepare for these new industries. But we cannot just shut off thousands upon thousands of people who have no other source of employment and no other hope for employment and say, "We are sorry, you are obsolete. The shoe industry is out business, we can do it cheaper overseas. We can let the foreign imports come in." That cannot be the role of Government. The Government has an obligation to ameliorate the impact upon people who have no other source of opportunity. It is to soften the blow, to help people move into the future, but not shut them off as this ITC decision does, as this administration does.

I must say, Mr. President, I had a much stronger amendment to offer, one that would have put us back to 1981 where we belong, that would have basically put us in the place the ITC in 1983 sought to put the shoe industry. That is to protect the up to 50 percent of the existing market at that

time, to have an orderly marketing agreement, which was turned down by the administration. I had given very serious consideration to offering it to this bill.

I am also aware that my colleagues, Senator DANFORTH, Senator BENTSEN, and Senator DOLE, have suggested that if such an amendment were offered and were to pass, it might very well jeopardize passage of the total bill or indeed invite a veto. What I am seeking to do is not make a political statement but, rather, find some constructive solution to what is an outrageous predicament that we have inflicted upon our own people.

Mr. President, I hope my colleagues will join in this effort to amend section 201 to say what we believe it already says, but to reinforce it, to use this 2 by 4 if necessary to get the attention of those who pass judgment upon legislation, that this is our intent: Yes, the volume of imports coming into this country is a factor to be taken into account to determine whether there is injury; and yes, loss of market share is a definite factor that must be considered; and yes, the closing of factories has to be taken into account; and yes, if our domestic factories go offshore and hire foreign workers because they cannot afford to compete any longer by hiring U.S. workers, that is a factor; and not simply look at whether or not a few companies in large urban areas have made a profit and decide therefore there is no injury.

I hope my colleagues will join in this effort and at some time this afternoon, I shall seek to obtain a vote. In the interim, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Senator for yielding. The Senator from Maine has just stated he has not made a political statement and he is absolutely correct about that. What he has done is accurately and precisely describe a serious situation. We have roughly the same problem in North Carolina that the Senator from Maine experiences in his State and it is unfortunate for the workers involved. I am a cosponsor of the amendment and I commend the Senator for offering it.

This amendment is important, Mr. President, because it effectively opens the door for a reconsideration by the ITC of the footwear industry's petition for relief under section 201 of the Trade Act of 1974. Like so many of my colleagues and virtually everyone I know in the footwear business, I was shocked by the ITC's recent denial of much-needed and in my view well-deserved import relief for the domestic footwear industry.

Imports now account for roughly 70 percent of the domestic footwear market, and the percentage is growing. A number of shoe factories have had to shut down, including several in my State. Countless Americans are out of work, yet no relief has been forthcoming.

Critics of import relief for footwear charge that such relief would be protectionist. They self-righteously proclaim the virtues of free trade. But, Mr. President, they obviously do not understand the unfair advantages many foreign shoe manufacturers enjoy, from protection for their own industries to outright subsidies. And they do not understand that trade can never be free unless it is also fair.

Again, Mr. President, I commend my friend from Maine for his amendment, and I pledge to him and all others concerned about the future of the domestic footwear industry my continued support.

I thank the Chair. I thank the Senator from Maine.

Mr. KASTEN. Mr. President, time is running out for the American footwear industry. In just this year alone, over 40 footwear factories have closed and thousands of Americans have lost their jobs. This is on top of the 400 plant closings and the 100,000 footwear job losses we have seen in the past 15 years. All this is primarily the result of dramatic increases in shoe imports.

We in Congress have an obligation to the thousands of American workers who are being pounded by an unchecked flow of cheap shoe imports. I have long argued for free trade, and I take a back seat to no one in insisting that international trade benefits us and everyone else in the community of nations. But I have just as strongly insisted that it be fair trade. When one of the oldest American industries virtually disappears in the blink of an eye, due to imports, something is drastically wrong.

That is why on June 6, when the International Trade Commission ruled that the domestic footwear industry was not threatended by imports and did not need trade relief, I was shocked. How, I wondered, could the ITC not find injury when the facts were so clear-cut?

Upon closer examination of the ruling, I have come to understand a possible explanation for it. The ITC Commissioners, in considering the footwear industry's petition, did not allow for increasing import penetration or the continuing pattern of domestic plant closing in making its determination. Nor did the ITC look at the plight of individual manufacturers. It instead looked at the industry as a whole. Doing that, the ITC found that some shoe manufacturers have indeed profited during these difficult times, mainly by becoming net shoe importers themselves.

But the prosperity of these few firms skewed the figures for the entire industry, and the fact that they were forced to import shoes in order to survive was ignored. As a result, the ITC found a rosy picture in a domestic industry that could well be breathing its last under the weight of massive imports.

I think the footwear industry has a strong case that supports trade relief. But the ITC consideration of its case was flawed because of the limitations I have just mentioned. In fact, the ITC's inability or unwillingness to consider present-day economic realities during its investigations can affect industries other than footwear. It is necessary for Congress to clarify the Trade Act of 1974 so as to prevent this kind of travesty from occurring again.

That is why I have cosponsored the language now before us. It would permit, indeed require, the ITC to consider other factors in making import injury determinations, such as import market share and past effects of imports on an industry. Such changes would produce a more realistic view of the health of our domestic industries when they are forced to petition for relief.

Mr. President, time is running out. American industries are fully capable of meeting the competition from imports, but only if everyone plays by the same rules. If an industry is getting clobbered by cheap imports and asks for help, we have an obligation to respond and give it the chance to fight back. This amendment will give American industries a fairer chance to obtain in the assistance they need.

For the sake of tens of thousands of our hardworking citizens, who ask only for a fair chance, I urge my colleagues to join us in adopting the language before us today.

Mr. DANFORTH. Mr. President, I congratulate the Senator from Maine for his initiative in regard to the problems of the shoe industry and his approach in offering this amendment. I have to say that I was as shocked as the Senator from Maine at the decision of the ITC. If there was one thing that I was certain about in Government, it was that the International Trade Commission would find injury to the shoe industry as a result of imports. In fact, if you look at the legislative history of section 201 of the Trade Act, it was clear the shoe industry was one of those industries specifically referred to during the debate on the floor of the Senate on section 201 of the Trade Act.

Now, Senator COHEN, Senator MITCHELL, and others who have been working so hard in this area really had a choice in offering an amendment. One was to offer a quota amendment. They decided instead to offer an amendment which generically changes section 201 of the Trade Act. I think they made the right decision for two reasons. First, it is clear to me that if we were to agree on the floor of the

Senate to a quota amendment, that would tend to be an invitation for a veto. I think it would be a dry run. If anything, it would kill the whole bill. As Senator DOLE pointed out, there are a lot of things which could be added to this bill which would kill it.

Second, and I think at least as important, Senator COHEN has pointed out that the ITC's ruling of no injury in the shoe case has pointed out something even broader than the problem of the shoe industry. That is that there is a problem with section 201 of the Trade Act. If section 201 is interpreted in such a way as to find no injury from shoe imports, despite the fact that 70 percent of the U.S. market is now dominated by imports and despite the fact that 111 plus factors have been closed, then something is clearly wrong with section 201 as it is now being interpreted.

So Senator COHEN has gone after the problem of section 201, and he has already outlined the changes he proposes. I believe if we can agree to this amendment to section 201, we would then be in a position where either the Senate Finance Committee or the Ways and Means Committee of the House could ask the International Trade Commission to reopen the case. I think they would reopen the case and that they would have an entirely different basis for reaching the conclusion as to whether or not the shoe industry is being injured by imports.

Mr. COHEN. Will the Senator yield?

Mr. DANFORTH. I think this amendment will help solve the problem of the shoe industry; that it will do so very effectively; that it will do so without jeopardizing the present system for taking care of import-sensitive industries, and that it will fix a problem which is clear in the operation of section 201 of the Trade Act.

Mr. COHEN. If the Senator will yield, and I thank him for his comments, I also want to make it perfectly clear that I do not believe there is a problem with 201 as it is currently written. I believe the problem lies with the ITC in interpreting that particular decision, and so it is frustrating for me to have to come to the floor to restate the obvious. How in the world can any Commission find no injury, as the Senator has indicated, with a 70 percent market penetration or ignore the closing of the factories or, because some factories are making a profit, ignore the fact that they have laid off workers, they have fired workers, they have hired foreign workers and moved their operations offshore. It seems to me they have taken the law and turned it on its head to reach what I can only conclude was an ideological conclusion, free trade. How many times do we hear that wonderful phrase "free trade" invoked. I support free trade, but there has to be an element of fairness involved in free trade and that is something I have not begun to talk about today.

First, we have had an unmitigated floodtide of imports coming into these shores. There is no other country in the world that leaves its borders as unprotected as we do. Second, we are unable to market our shoes abroad. Every other nation has some sort of restriction. They have a quota system, and then once you reach the quota they have a tariff. I can quote you Brazil or any other country in the world. To give you the most extreme example, Panama. It is a poor country, but they have a global quota, 12 pairs of shoes can be sold to Panama. I will not begin to talk about Brazil or Italy or Japan.

I had a case in Lewiston, ME, Acorn Shoe—they make the slippers that the astronauts wear in space—had an order for 30,000 pairs one time last year from a company in Japan and suddenly the Government said, "Oh, no, it comes under the quota." By the time I had complained to Ambassador Brock, it took 6 months after the complaint to the Japanese Government to finally make some headway, but by then the order had been canceled. Time after time domestic firms are running into the problem. They cannot sell their product elsewhere. So we are being flooded with imports by other countries and we cannot market our products because of tariff and nontariff barriers.

Mr. President, we talk about free trade. Whatever happened to fair trade? Whatever happened to reciprocity? Why is it that other countries are allowed to have these surtaxes or embargoes of quotas but nothing is allowed for our industry? I can only conclude that there has been a determination made at some level of our Government that these industries in the Northeast, along the sea coast, or the industrial North, are doomed to obsolescence or, "Let them go; let's just turn a deaf ear; a blind eye; let them go and let's look to the future; let's look out West and let's see where the expanding horizons take us in the way of technology and those folks will just have to fend for themselves."

I can only come to this conclusion because that is the attitude which has been reflected: "Vote with your feet, move to silicon valley." There are no other jobs available for these people. They cannot go any other place. They are in rural areas. It is the only plan available. There is no retraining.

We cannot allow this to continue, Mr. President. For that reason alone I offer this amendment, to do what I believe is already the law, to make what is clear perfectly clear. I do so with some regret that I do not move forward with a more serious and far-reaching establishment of a quota because it would be vetoed; we would make no progress; it would be a nice political statement but no result achieved.

Mr. President, I appreciate the remarks of the Senator from Missouri. He has been most helpful. And I might point to my colleague, Senator MITCHELL, who also serves on the Finance Committee, who has worked with me hand in hand in trying to bring this matter to the attention of the ITC, to do so in a professional, responsible way. I know that he shared with me the shock at the outrageous decision made by the ITC. I welcome his effort as a chief cosponsor of this legislation to see if we cannot put some equity and responsibility and justice back into the system, because if we do not do something then the laws have no meaning.

On television yesterday they had occasion to focus upon my statement made before the Finance Committee where I quoted from "Oliver Twist," in which it was said, "If the law says that, Mr. Bumble, the law is an ass, an idiot." I believe that to be the case. If the law under section 201 says there is no injury, then "the law is an ass, an idiot," in the words of Oliver Twist. We cannot allow that to continue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The junior Senator from Maine is recognized.

Mr. MITCHELL. I am pleased to join Senator COHEN in offering this amendment. Amending section 201 of the Trade Act of 1974 is an important part of the effort to provide import relief for the U.S. footwear industry.

The amendment is necessary because of the International Trade Commission's rejection of the domestic shoe industry's request for a 5-year period of import relief. I continue to believe that the ITC failed to follow the intent of the law in failing to find injury in this case, and that shoe workers of America will suffer the consequences of this mistake.

The footwear industry is exactly the type of industry that deserves import relief under section 201 of the Trade Act of 1974. In fact, the chairman of the Senate Finance Committee at the time that bill was drafted, Senator LONG, stated that, in his opinion, the footwear industry would win 90 out of 100 cases brought under the new section 201.

Circumstances have not changed very much since 1974. If anything the condition of shoe workers and the communities in which they live has deteriorated. Since the orderly marketing agreements were terminated by President Reagan in 1981, imports have surged from 50 percent of the market top almost 75 percent. Accompanying this import surge have been declines in production and employment in the U.S. industry. Several efforts that the industry is prepared to

undertake to improve its competitiveness have been thwarted by the unprecedented level of import penetration. Temporary import quotas would give the industry the breathing space to adjust to import competition that is intended in section 201.

Incredibly, the ITC found no serious injury from foreign imports. Thus, changes in section 201 are necessary. It is important to note that these changes do not alter the congressional intent behind section 201, they merely clarify congressional intent.

For example, the ITC apparently relied heavily on the profitability of a few large domestic producers in its finding of no injury. The amendment clarifies that the Commission should consider not just profits but other indicators of injury as well. Also, the ITC apparently felt that the significant number of foreign shoes imported by domestic manufacturers argued against a finding of injury. The amendment recognizes that imports by domestic producers can be a significant cause of injury. Furthermore, the amendment requires the ITC to take full account of the impact of plant closings on the standard indicators of injury.

These and the other changes made by the amendment would not guarantee import relief for the footwear industry. The industry would still have to file a petition and prove its case before the ITC. But the bill would clarify the conditions under which Congress expects the ITC to find injury.

There are, of course, a number of ways in which those of us who desire further ITC action can accomplish our objective. Today, for instance, I have written to Senator DOLE, the chairman of the Senate Committee on Finance. In my letter I requested that the Finance Committee consider, at the earliest opportunity a resolution, under section 202(b)(1) of the Trade Act, requesting the ITC to initiate a new investigation of the circumstances addressed by the industry's petition. Such a resolution, under section 201(e) of the act could, in addition, cite the existence of good cause for a new investigation.

I am prepared to provide evidence of such good cause. It is my sincere hope that I will have the opportunity to do so; and that Finance Committee action, complied with the passage of today's amendment, will clarify the intent of Congress and leave the ITC with no misunderstanding whatsoever that the U.S. shoe industry deserves substantial relief.

If the ITC then refuses to act, Congress will have no choice but to more promptly enact S. 2731, the American Footwear Act, which was introduced by Senator COHEN and myself. That bill would impose quotas on imported shoes for a 5-year period. The quotas would limit imports to 50 percent of the market, the level that imports had when the OMA's were lifted in 1981.

Mr. President, as a principal cosponsor of this legislation, I commend Senator COHEN and Senator DANFORTH for their efforts.

This amendment, Mr. President, arises out of the decision in June of this year by the International Trade Commission that no serious injury exists in the domestic footwear industry as a result of the large quantity of shoes produced in other countries, introduced into our market and sold in the United States. It was, as Senator COHEN has already made clear in other terms, an incredible decision, one which I believe to have been inconsistent with the facts presented to the Commission and the law under which the Commission operates. It was especially incredible in light of the fact that just a few years earlier, in another case, the ITC found that the domestic industry was seriously injured when the level of imports stood at 41 percent.

Later, in still another case brought before the Commission, the ITC found that the domestic footwear industry had suffered serious industry when imports stood at 50 percent.

From 1977 to 1981, there was in place a modest, orderly marketing agreement arrangement which, when enforced—and that was only during the last 2 years of its existence—served to stabilize the level of imports at just about 50 percent. But unfortunately, in July 1981, the President rejected the advice of the ITC and refused to extend that arrangement.

The dramatic surge in imports that commenced with the implementation of tariff reductions first negotiated in the Kennedy round of tariff discussions then resumed, until this year imports reached the incredible level of 70 percent, and they are still rising, probably now at a level closer to 75 percent.

Everything in life is relative, and this week we will have from the President a major decision on steel. That industry has pressed vigorously for import relief because it argues that the current level of imports, which is on average somewhat below 25 percent, threatens the existence of the industry.

Three years ago, the automobile industry sought and obtained administration assistance in subjecting the Japanese to a so-called voluntary restraint on their automobile exports when imports in that industry threatened to reach 25 percent. Yet, here we have an industry where imports are now between 70 and 75 percent, and the International Trade Commission sees no injury, even though the same Commission found injury in the same industry when imports were at 50 percent and when imports were at 41 percent. Whatever else anyone may say of the ITC, no one can ever accuse them of consistency.

The heart of this amendment is contained in section IX, which provides that a finding by the Commission that a significant number of firms in the domestic industry operate at a reasonable level of profit, or that the profits of the domestic industry are not in a downward trend, shall not preclude a determination by the Commission that serious injury exists. That is because the Commission, in its finding in the shoe industry case, based it apparently on its conclusion that because some firms in the domestic industry still operated at reasonable profits, there could not be serious injury to the industry as a whole. That conclusion flies in the face of commonsense.

I will not, in these extemporaneous remarks, get into that subject in detail, but will simply conclude by saying that this is an important and necessary change in the law to permit the Commission to look realistically at the economic situation in which an industry finds itself, particularly in a circumstance such as that of the shoe industry, where, when you have companies going out of business on a regular basis, plants closing almost daily, thousands of workers being thrown out of work, and the remainder of the industry, shrunken as it is, is profitable, to disregard the circumstances of those that have gone out of business is simply to look at the situation with blinkers and to ignore economic reality.

So I urge the approval of this amendment. I hope there will be no opposition to it. If there is, I look forward to debate with those who oppose it, because I think it is important for the shoe industry and for all American industries which may find themselves in similar circumstances.

Mr. COHEN. Mr. President, I inquire of the chairman of the subcommittee whether or not, if this amendment is adopted, he will request a reconsideration of the ITC decision on shoes.

Mr. DANFORTH. That would be my intention, yes. The Finance Committee or the Ways and Means Committee or the President can always request ITC reconsideration of a case if changed circumstances are evident.

Right now, there is very little basis for the ITC to come out with a different decision. I think that if we were to adopt this amendment, it would give the ITC the basis to come out with a different decision, and it would be my intention to try to persuade the Finance Committee to make such a request. I would not anticipate any problem in doing so.

Mr. COHEN. I thank the Senator.

Mr. MITCHELL. Mr. President, if the Senator will yield, in view of this

subject having arisen, I inform my colleagues that I have today written to the chairman of the Senate Finance Committee, Senator DOLE, requesting that a new invetigation be instituted, that the Finance Committee instruct the ITC, and we will be supplying information that I believe justifies it, primarily the dramatic and continuing increase in imports that has occurred in just the few months since the last ITC decision.

I appreciate the support of the chairman of the subcommittee in that regard. I hope all of us working together will be able to get that kind of approval by the Finance Committee.

Mr. PRYOR. Mr. President, I rise today to again express my concern about the future of the domestic nonrubber footwear industry. I would much prefer to discuss some other pressing problem—as I have spoken on the Senate floor on this subject many times—but the plight of our Nation's footwear workers compels me to again focus the Senate's attention on this crucial matter.

Today, as we consider a revision in our Nation's trade laws, it is essential that we deal specifically with the increasing flood of imports which are drowning the American footwear worker. This consideration, as my colleagues are well aware, would not be necessary had the International Trade Commission [ITC] only applied the trade laws as Congress intended. Had it done so, in June it would have found that the domestic industry has been "injured" by imports. Instead, it circumvented the purpose of section 201 of the Trade Act by ruling that despite an over 70-percent level of import penetration, the domestic industry is not suffering "injury" as a result of imports. In all my years in government, I have never been more amazed at an administrative decision than this one.

All of us who are members of the footwear caucus are entrusted by our constituents with the duty to do all we can to see that this proud but struggling industry survives. My hope is that Senators from other States will realize the disturbing implications which a total loss of this industry would have on their States, as well as the products which are crafted within their State borders. If we will stand helplessly by while this important industry grasps for a shread of fairness from its own Government, what does that bode for the future?

I will do all I can to see that the hundreds of shoeworkers in Arkansas are given a fair chance to wake up in the morning, go to work and make a product of which they can be proud. I sincerely urge my colleagues to join me in this important effort.

Mr. SASSER. Mr. President, I am pleased to join today with my good friend, the Senator from Maine, in offering this amendment.

Those of us who represent States with a significant shoe industry have been concerned, indeed dismayed, over the continuing injury being suffered by the nonrubber footwear industry. Further, the inability of the International Trade Commission to accurately analyze the industry's plight and to correctly apply our trade laws makes the situation that much more frustrating.

The amendment before us today represents a response to the decision of the International Trade Commission on June 6 of this year concerning the footwear industry's section 201 case. The Commission ruled, in effect, that the domestic footwear industry is not sustaining injury from shoe imports because shoe companies have made a profit. This is tantamount to saying that no injury has occurred because the remaining firms have not yet been driven out of business.

I find this decision incomprehensible. Imports of nonrubber footwear now account for 74 percent of the U.S. market. Since 1981, 27,000 American shoe workers have lost their jobs due to factory closings. Unemployment in the industry exceeds 15 percent, almost doubling the overall unemployment rate in the U.S. manufacturing sector.

The ITC also neglected to consider the hundreds of companies that have gone out of business, and reviewed only the survivors. It is my understanding from reading the Trade Act of 1974 that it was the intent of Congress that the trade laws were established to ensure some stability in our employment and industrial base. In spite of the overwhelming statistics about the decline of footwear production it would appear that the ITC deemed this industry as stable.

Well, Mr. President, the industry is not stable. It is not stable in my State of Tennessee. It is not stable in the State of Maine, or in Arkansas, or in Missouri, or in any of the other States with a shoe industry, or what's left of it.

If the International Trade Commission has any doubts of the injury the shoe industry is facing, they should have been with me at a town meeting I held on August 13 in Humboldt, TN. This meeting could have been held in six other cities in Tennessee: Cookeville, Selmer, Tullahoma, Chattanooga, Mountain City, or Lawrenceburg. In these towns, shoe workers are already out of work or will be put out of work in the near future due to plant closings. I talked to individuals who had lost their jobs in the communities where they have lived and worked for years. They face the future with no prospects of new jobs. There are at least 50 other communities across the Nation who have, or will share, this devastating experience in the next few months.

My own State of Tennessee is the fourth most important footwear producing State in the United States. The industry employs about 10,600 workers in over 30 factories and generated in excess of $130 million in payroll dollars last year. We simply must preserve these businesses and these jobs for our citizens.

The footwear industry is the leading employer in 6 counties in Tennessee and is among the top three employers in another 14 counties. It is a significant industry in 29 counties. Twenty-five of these twenty-nine counties have populations under 50,000. Sixteen of them have populations under 25,000. These areas can ill-afford the continued disregard of their plight by our trade agencies.

These figures are more than mere statistics. They represent real people and real jobs. The closing of a shoe factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few comparable jobs to which workers may transfer their skills. Many people are prevented by family obligations and ties from moving to a new area—especially when there is no guarantee that they will not face the same situation sometime down the road.

Mr. President, when the International Trade Commission can look at an industry where imports have increased 232 percent since 1968, where 402 plants have closed and over 100,000 employees have lost their jobs, where production has dropped by 301 million pairs to only 53 percent of the 1968 levels and find no injury it leads to one of two conclusions: Either the ITC cannot interpret the law, or something is wrong with the law.

In either case, the amendment that I, and my colleagues are offering will clarify the intent of Congress and strengthen our trade laws regarding section 201 cases. It would accomplish this by doing the following:

First, the amendment would require the ITC to take imports by domestic producers into account when determining injury, rather than treating such increases as part of domestic production. The amendment would include such imports as a factor to be taken into account when determining injury.

The recent footwear decision of the International Trade Commission stands logic on its head. By their reasoning, if U.S. manufacturers closed down all domestic production and relied strictly on imports, it would be evidence of a healthy U.S. shoe industry. What the International Trade Commission is supposed to be judging is the condition of a domestic industry, not whether some companies are managing to survive.

Second, one amendment would require the Commission to take into account an increase in imports in determining whether an industry has been injured. This appears to be only reasonable. However, if the International Trade Commission can find no injury in an industry where import penetration has reached 70 percent, then we must reemphasize that increased imports are one factor the Commission must consider in determining injury.

Third, current law requires the ITC to consider a number of factors in determining injury, including whether an industry is making a profit. The ITC has often used such profits to preclude a finding of injury. Our amendment clarifies the Trade Act so that evidence of profit would be but one factor to be considered and would not prevent a finding of injury.

The fourth provision of the amendment concerns the portion of the ITC's decision I found most confounding. The Commission confined its investigation to companies presently operating. They totally ignored the fact that hundreds of companies had already been driven out of business by imports. To say that being driven out of business is not evidence of injury is a line of reasoning which escapes me. To correct this flaw in the enforcement of our trade laws, our amendment would require the ITC to consider plant closings and declines in production relative to domestic consumption in making its injury determination.

Finally, the bill prohibits the Commission from considering factors relating to the desirability of granting relief in its determination of the impact of imports on an industry. Whether it is in the Nation's interest to grant relief is a decision which should be made by the President.

Mr. President, my colleagues and I who are offering this amendment believe that it corrects serious problems with current International Trade Commission implementation of section 201 of the Trade Act.

I urge passage of this amendment.

FOOTWEAR

Mr. COCHRAN. Mr. President, I support the amendment offered by my colleagues to clarify congressional intent regarding the escape clause provisions of the Trade Act of 1974. The need for this legislation was dramatically demonstrated recently by the International Trade Commission's decision to deny import relief to the nonrubber footwear industry.

I am very concerned about the critical condition of the footwear industry nationwide, and especially in Mississippi where there are five shoe plants employing 2,025 workers in the northeastern part of the State. But, just recently, the Brown Shoe Co. in Booneville, MS, announced it will be closing its doors, laying off about 400 workers, many of whom have never worked anywhere else.

The domestic footwear industry is beseiged by foreign imports which now account for over 70 percent of the domestic nonrubber footwear market. The U.S. shoe industry lost 110,000 jobs in the past 15 years and domestic production has declined by 50 percent. Hundreds of factories have closed, and the unemployment rate in this industry is twice the national average. Yet the International Trade Commission refused to find that the industry is being seriously injured or is being threat-ened with serious injury by reason of increased imports.

The amendment proposed would require the ITC to review all criteria of the Trade Act's escape clause provisions, and not deny import relief because an impacted industry may fail to meet one of the indicators of injury.

This legislation is important to the footwear industry and to other domestic industries that have been adversely affected by the surge of foreign imports.

I support the amendment offered by Senator COHEN and others and urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4245) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4246

(Purpose: To continue duty-free treatment for Meta-toluic acid (MTA))

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 4246.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 9 and 10, add the following:

SEC. 126. CONTINUATION OF DUTY-FREE TREATMENT FOR META-TOLUIC ACID (MTA).

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 404.28 and inserting in lieu thereof the following:

"404.27	Products provided for in the Chemical Appendix to the Tariff Schedules: Meta-toluic acid (MTA)	Free	7¢ per lb. + 57% ad val.	
404.29	Other	1.7¢ per lb. + 17.9% ad val.	7¢ per lb. + 57% ad val.".	

On page 24, between lines 32 and 33, insert the following:

(4) The amendment made by section 126 shall apply with respect to articles entered after June 30, 1985.

Mr. HELMS. Mr. President, I understand that this amendment has been cleared on both sides, so I will be brief. This amendment is simple and, so far as I know, noncontroversial. It would extend duty-free treatment to Meta-toluic acid [MTA].

I offer this amendment at the behest of Mr. Gary F. Taft, president of Morflex Chemical Co. in Greensboro, NC. I ask unanimous consent that Mr. Taft's letter to me explaining why this amendment is necessary be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MORFLEX CHEMICAL CO., INC.,
Greensboro, NC, February 6, 1984.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: I have had the opportunity of meeting you several times over the past few years in Washington due to my participation in the Greensboro Chamber of Commerce. An important event occurred for the employees at Pfizer's Greensboro Plant in December of this past year. Pfizer sold this business to the employees and as of December 1, 1983, Morflex Chemical Company has been in existence. The business was purchased from Pfizer under an Employee Stock Ownership Plan (ESOP). All the employees, eighty-eight in number, will participate in the ownership of the business.

Our product line consist of the manufacture and sale from Greensboro of specialty organic chemicals. We make organic intermediates for the textile, adhesive, food film, cosmetic, and insect repellent industries.

As you may be aware, Catherine Bennett of Pfizer's Washington Office recently met with Scott Wilson of your staff to discuss a tariff problem on our behalf. This discussion focused upon our interest in the introduction of legislation regarding the U.S. import tariff on meta-toluic acid, an important raw material to our production at Morflex. Mr. Wilson suggested that we provide you directly with the following background information which explains why we believe a suspension of the current duty on meta-toluic acid is justified.

1. Meta-toluic acid is reacted with diethylamine to form N'N-diethyl M-toluamide (DEET) which is widely known as an insect repellant.

2. The only country we have imported from in the past five years is Japan. The substance is also produced in Germany. We have not been made aware of any imports into the U.S. However, we are aware of DEET being shipped to the U.S. at a lower tariff than that of meta-toluic.

3. The import tariff on meta-toluic acid is 1.7 cents per pound plus 17.9% ad valorem. The import tariff on the finished product, DEET, is 1.5 cents per pound plus 12.5% ad valorem. The resulting price differential in the finished product has led some U.S. firms to purchase DEET from Germany rather

than from the domestic producers. Apparently, Morflex and Virginia Chemicals (Norfolk, Virginia) are the only U.S. producers of DEET, and we both import the raw material, meta-toluic acid.

4. Volume over the past five years (in pounds): 1983—estimated is 1,300,000; 1982—1,031,765; 1981—912,719; 1980—753,822; 1979—595,255; and 1978—357,151.

5. Meta-toluic is currently produced in the U.S. by Argus (Division of Witco) located in Brooklyn, N.Y. Their quality is not acceptable for use in Greensboro. Previously, product was produced by Cowles Chemical in Skaneateles Falls, N.Y. The plant was closed in 1972 due to EPA restrictions. Stauffer later purchased the plant. Mobil produced meta-toluic in their Beaumont, Texas plant until 1974. They ceased production due to a lack of process technology and availability of raw materials. Velsicol purchased this plant in 1977.

Legislation providing the relief we seek was introduced in the U.S. House of Representatives last fall by Representative Robin Britt, who represents Greensboro. This bill is enclosed for your information. It is our sincere hope that you conclude that a duty suspension on meta-toluic acid is justifiable and agree to introduce companion legislation in the U.S. Senate as soon as practicable.

Sincerely,

GARY F. TAFT,
President.

Mr. HELMS. Mr. President, in the interest of time, I will not go into a detailed explanation of this matter, but let me emphasize one or two points.

First of all, Morflex is an interesting and unique company. The previous owner of the company, Pfizer, sold it to its employees under an employee stock ownership plan. So the employees of the company own it.

The company makes specialty organic chemicals, and meta-toluic acid is an essential ingredient. Only one U.S. plant still manufactures MTA, and according to Mr. Taft the quality of its product is not acceptable for Morflex's use. MTA is combined with diethylamine to form N'N-diethyl m-tolumide (DEET), an insect repellant.

The import tariff on MTA is 1.7 cents per pound plus 17.9 percent ad valorem. The import tariff on DEET is 1.5 cents per pound plus 12.5 percent ad valorem. As a result of the price differential, some companies are purchasing DEET from German manufacturers rather than from domestic manufacturers such as Morflex.

This amendment would simply eliminate the duty on MTA, restoring a fair and proper balance between the price of the ingredient and the price of the finished product.

Mr. President, I inquire of the distinguished managers of the bill if they would accept this amendment.

Mr. DANFORTH. Mr. President, I think this is a good amendment. I am delighted to accept it.

It is my understanding that the administration has no objection to it.

Mr. BENTSEN. Mr. President, let me say that we had a period for comment for this and we had no comment or objections to it. I frankly do not see any reason why we should not accept it. We are delighted to do so on the minority side.

Mr. HELMS. I thank the able managers of the bill.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 4246) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I have had numerous calls today as to whether or not it was the intention of the sponsors of the Civil Rights Act of 1984 to offer it to the trade bill.

Needless to say, my good friend from Missouri, Senator DANFORTH, has talked with me about this and said, "Please, please, not on my bill."

The problem is there are only two, three or four bills remaining to which this bill can be offered for debate, and all of those bills are supported by close friends of mine who say, "Please, not on this bill."

I say to my colleagues that it has to be on some bill, and this issue is going to be debated before we are done with this session, whether it is on this bill or the highway bill or some other bill that may come along in the next day or two, or hopefully not the debt ceiling, but at some stage in the proceedings.

Right now negotiations are going on between the administration and representatives of the leadership conference on civil rights in the hope that an agreed compromise can be reached.

As I am talking today that compromise has not as yet been reached, although there are only one or two points of major difference between the parties, and I think they are all negotiating in good faith.

Whether or not a compromise will be reached I cannot say, and that is the reason I am at least putting the Senate on notice that it will be the intention of the principal sponsors of this bill to add it to some bill starting tomorrow. The reason I say tomorrow is that the other principal cosponsor on the Democratic side, Senator KENNEDY, is in Massachusetts. It is their primary tomorrow. He will be voting tomorrow morning and then will be returning to the Senate at midday. And from midday forth I hope the Senate would be on notice that on some bill and possibly this bill, if it is still the pending business, we will offer the Civil Rights Act of 1984.

We will be proposing a package that will address the much exaggerated criticism that this bill is overly broad. That package will insure that the intentions are met which is nothing more than return the law to the State in which it existed prior to the Grove City case.

To that end, the package will simply strike the terms "program or activity" from each of the statutes involved, and those are the words that the Supreme Court interpreted so narrowly, and instead we will substitute the word "recipient" for those words, but delete from our definition of recipient as it currently exists in the statutory language as originally proposed by the sponsors of this bill. Instead we would insert a grandfather clause grandfathering the applicable law and regulations on the day before Grove City was decided.

I would hope that this would remove all criticism regarding the content of the definition and its breadth regarding any new or different recipients of financial assistance.

Let me say once more to my colleagues I have no desire to cloud the future of the trade bill or the highway bill or any of the other very meritorious bill that may be brought before the Senate in the next 3 weeks. But more important than any of those bills are the rights of all American citizens in how the Federal Government is going to act to protect those rights.

The Supreme Court in the Grove City case made an interpretation very narrowly defining the words "program or activity." It was a definition that surprised most, not all, but most people who have dealth with title 9, which is the title that the Grove City case was involved with, or other civil rights statutes. Almost all of the previous Attorneys General, almost all of the previous Assistant Attorneys General in charge of the Civil Rights Division, Republican or Democratic, have assumed that the words "program or activity" meant something more than just a specific program or activity.

That assumed that it meant as far as education is concerned that if your English department received a Federal grant your athletic department could not discriminate against women whether or not it received a Federal grant. It turns out that the Supreme Court has said no, program or activity, means specific program or activity, so that if your English department gets a Federal grant, you are still free to discriminate against women in the French department or the athletic department. And we are already seeing a decision by the Department of Justice to withdraw further investigations in a number of potential suits.

In addition, all of the other fundamental civil rights statutes of this country, the 1964 Civil Rights Act, the act relating to the handicapped, the act relating to older Americans, all used the words "program or activity," and the administration indicated after the Grove City case that they intended to enforce the other civil rights statutes in conformance with the Supreme Court decision in Grove City, meaning that henceforth they would be enforced on what is called a program specific or very narrow basis.

Mr. President, I indicated that almost all of the previous Attorneys General and the Assistant Attorneys General in charge of the Civil Rights Division, Republican and Democratic, thought the term "program or activity" should be interpreted more broadly than the Court interpreted them in Grove City.

Clearly there were some who did not think the interpretation would be that broad or you never would have had the case brought at all or the administration joining in the brief in the suit.

I emphasize once more what our amendment will be when we offer it so that no one is unaware. The package will strike the terms "program or activity" from each of the four statutes and substitute "recipient" for those words. But we will delete our definition of recipient from our statutory language as originally proposed and instead insert a grandfather clause, grandfathering the applicable law and regulations on the day before Grove City was decided.

In a nutshell, Mr. President, that means as follows:

One, we will reverse Grove City and return to what everyone thought was the law prior to Grove City; namely, institutional wide coverage.

Two, we will leave every litigant and every program other than education, which we are changing statutorily, in exactly the same situation it was prior to the day that Grove City was decided, and we will statutorily adopt the definition of recipient as it existed in the law and regulations on that date.

Hopefully that means that the law will be exactly where it was prior to the date the Grove City case was decided.

That means that if you were covered under the civil rights statutes of this country prior to Grove City, you will be covered after these amendments are adopted. If you were not covered under the civil rights statutes of this country prior to Grove City, you will not be covered, and if the law was murky, if there was litigation, if there was a question as to whether or not you were covered under the old statutes that will remain because we are not attempting with the Civil Rights Act of 1984 to do anything other than return the status of the law, clear or murky, to what it was prior to Grove City.

Once more, let me apologize—although I do not feel any apology is necessary for fighting for the civil rights of the citizens of this country—let me apologize to whichever of my friends' bills this amendment happens to be attached to. I mean you no harm or violence, nor do I mean to do in your bill.

But if I were to wait until the appropriate vehicle—and I put that term in quotes—the appropriate vehicle comes along, there is not a single Member in this Senate who wants his or her piece of legislation cluttered up. We have heard the argument before: "All I want is a clean bill," whether it is a tax bill or debt ceiling or whether it is a continuing resolution. Every chairman and every Member handling the bill wants a clean bill. Would that we could have that.

But I now see, with the 2 weeks remaining—3 weeks, but with 2 weeks of practical legislation left—no alternative but to offer it to some bill that will be on this floor. And everyone should be on notice that from about noon on tomorrow any bill could be the vehicle to which we attach the Civil Rights Act of 1984.

Mr. HATCH. Will the Senator yield on that point?

Mr. PACKWOOD. Yes.

Mr. HATCH. Mr. President, I think a better way to proceed, and I have always felt it was a better way to proceed, would be to have the appropriate committee mark the bill up and send a bill to the floor.

Now, as chairman of the Labor and Human Resources Committee, which is the committee to which this matter was assigned, I have called seven—now eight, since one is scheduled Wednesday—committee markups. I have indicated that we are prepared, after a reasonable period of debate and opportunity to amend, to bring the debate to a close and have a vote up or down on the bill. I have indicated that I myself would help the quorum and that I would encourage other Senators, even though they were opposed to the bill, to make the quorum, as well. Out of the seven committee markups which we have called, we have never had more than three of the proponents of this bill appear at those markups. Now, there are allegedly 10 proponents on the committee out of the 18, and we have waited for a significant period of time for each one of them. So the committee system has not been allowed to work.

I submit to the distinguished Senator from Oregon that perhaps there were a number of reasons for proponents not showing up in the committee to debate even with the assurances that I gave. But I suspect one of the main reasons they did not show up to debate this matter in committee was because, in order of priority on the committee, was the nomination of Rosemary Collyer to be general counsel for the National Labor Relations Board, one of the highest women appointments in the history of this country, in a position that is critical in this country's legal management and, I might add, at a time when everybody admits we need that position filled by a formally appointed and confirmed nominee.

I find it somewhat ironic that, in the name of civil rights, the proponents of this bill were unwilling to come and resolve Rosemary Collyer's nomination along with addressing the Grove City issue. Especially since the proponents of the bill know the difficulties that I personally and many others in this Senate have had with this particular bill.

I also suggest to my dear friend from Oregon that we have made every effort to try and resolve this matter and we will continue to make efforts to try to resolve this, outside of the committee, in good faith and I think with good conscience.

The issues involved are monumental issues. Not only civil rights, which I think most everybody in the Senate would want to advance, but the issues of separation of powers, federalism, and governmental power and authority. I have to confess that the way the bill was originally written with the definition of recipient written so broadly that the transfer of power to the Federal Government would be excessive of anything we have ever known in the history of this country.

I do not want to debate the bill or the suggestions the good Senator from Oregon has made today on what he intends to do. I just want to say that I believe there are many defects and problems with the bill proposed as the vehicle to resolve the problems caused by the Grove City decision.

But I would like to say this much: That I personally do not know of any Senator in the Senate—there may be a few, but very few—who does not want title IX implemented so as to continue to encourage women throughout America to develop into Olympic athletes, to develop in educational activities or in any other way within our schools of higher education.

I do believe the vast majority of all Senators, including this Senator, are willing to overrule the Grove City case and, in that instance, because of the efficacy of title IX, apply title IX institutionwide. But there are some problems even with that, such as the tendency by some proponents of title IX in the past to require colleges or universities such as Notre Dame or Brigham Young or any number of colleges or universities which have student health clinics, just to give one il-

lustration, to treat abortion the same as any other medical procedure.

Mr. PACKWOOD. Mr. President, I yielded for a question, I believe.

(Mr. EVANS assumed the chair.)

Mr. HATCH. Let me properly propound my question. If the Senator would just let me finish my thought.

I bring that to the attention of the Senator, even though I have a desire, as he does, to resolve the title IX issue. I think it is important for women and important for the country.

But there are some issues that are also important, such as constitutional issues of State and local power versus Federal Government power. And we will have to look into that as we debate this matter.

I would have preferred, though, to get back to my original position, that the proponents do what all of us have always had to do in the past—work through the committee process. There would have been some obstacles, but with the help of the committee chairman—even though he is against the bill—it would have ultimately been reported to the Senate floor by whatever vote it may have been.

Now, I have a committee markup scheduled for Wednesday. It may be too late, and I understand that. But I do not see why this bill has to have this kind of fast track treatment when we have so many other issues that we cannot consider at this time that are absolutely crucial to some of the rest of us in the U.S. Senate. When everybody that I know of is willing to overrule Grove City and solve that problem there is simply no need to go into a myriad of other scare tactics or problems that may or may not be able to be resolved at this particular time.

If I recall correctly, the statement of the Senator from Oregon was that he believes—and I know he is sincere; he is my friend; we have debated this issue several times; we feel good toward each other, at least I feel good toward the Senator. I know the Senator is trying to solve the problem and take us to a reversal of Grove City, but I submit that the bill proposed goes far beyond what prior law was with regard to the power structure between the Federal and State and local governments.

Mr. PACKWOOD addressed the Chair.

Mr. HATCH. I thank the Senator for giving me this time. I am sorry I did not ask him a question.

Mr. PACKWOOD. Let me make just one answer and then conclude. Title IV today, with or without Grove City, as it is written, does not require Notre Dame or Brigham Young University to do abortions, period. It did not before Grove City and it does not now. This bill does not change that. That was a straw man set up and knocked down and is irrelevant.

Mr. President, I would like to go through the committee structure. I am a committee chairman. I know the problem of getting quorums. We all have problems getting quorums. We talk about reform, and cutting down membership on committees. We talk about scheduling so that we can get quorums. But this is one Senator that is not going to go home, and when somebody says, "Why wasn't there a vote on the most important civil rights act before this Congress this year," the answer has to be because we cannot get a quorum in committee. If we cannot get a quorum in committee, then we are going to have a quorum on this floor. We are going to vote on this floor. We may win, or we may lose. But Senators are going to go on record, and there is going to be a quorum.

Mr. HATCH. Mr. President, would the Senator yield on that point?

The fact is there could have been a quorum because those who were opposed to the way this bill was written were willing to make the quorum on at least two or three of those occasions. My suggestion is that there is a little bit more to this than what the distinguished Senator is saying. This has been on a pretty fast track. It could have been on a lot faster track, had we been willing to solve just the title IX problem right off the bat, which all of us were willing to do.

We would have had unanimity in this body on the civil rights issue on this bill, but what the distinguished Senator from Oregon has written—and even the suggestions he has made today—go far beyond the status quo ante, and we get more into that, of course, when we debate on the floor.

Mr. PACKWOOD. We did debate on the fast track maybe by the Senator's definition. The Grove City case was last February. The House voted 375 to 32. That is hardly a close vote. It was hardly a liberal-conservative vote. It was hardly a Democratic-Republican vote. They passed this bill months ago. There have been hours, days, and weeks of negotiations, during the day time and night time, trying to resolve the differences.

I do not want to accuse anyone of bad faith. I do not think there was. But it appears that the differences have not been resolved, and now because they have not been resolved—and because there have been no quorums in committees for whatever reason—we are going to bring this issue, which is the major civil liberties issue in this Congress to the floor of the Senate. We will debate it here, and let the Senate work its will.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I want to apologize to my colleagues for asking them to indulge me just a couple more minutes. I think it is all well and good to say that this is not a fast track. But we have tried to get the Hobb Act to the floor now for 7 years; the balanced budget amendment now for well over a year. And that is the number 1 issue that the President suggests we address I could go on and on about crucial, important issues in this body that I think are at least as important as this issue, and I think this is an important issue. Let's talk about what was done in the House. If we treat that 375 to 32 vote like it is some sort of a rubber-stamp sanction of this bill, I have to take some issue.

First of all, as usual in these matters in the House, there was a pretty one-sided hearing. Second, there were 10 minutes spent debating this bill in the committee, and only 1 day on the floor. And a partial day at that.

When I talk about a fast track, I mean a fast track. I do not think we should fast track anything more than the simple overruling of the Grove City case, and returning to the status quo ante. It could be simply done. I filed a bill that would simply done that. I understand the distinguished Senator from Oregon is concerned about the program or activity language with regard to the Civil Rights Act of 1964; the Rehabilitation Act, section 504 and the Aging Discrimination Act, but the fact of the matter is there are extremely important considerations involved before you start changing the major terms of those acts. They involve considerations that basically involve the most important separation of powers matter that the Constitution speaks of.

Our complaint on this particular bill has not been that we do not want civil rights to be implemented and enforced in the best way possible. Our complaint is, among other things, is that it is a power grab to transfer more power to the Federal Government.

Be that as it may, I have taken enough time today. We will be happy to debate it tomorrow. But I do believe that there is much to be said for the efforts of our committee to exercise democratic principles and give this bill the opportunity to be debated in committee before coming to this floor. And that could have been done 3 months ago. The proponents have not even shown up at the last two markups with a minimum number of proponents who could have voted proxies to have tried to vote this bill out, even when I helped provide enough Senators to try and make a quorum.

All the groups that have raised questions have done so only after the Senate has taken the time to look at the bill. I can understand why it has to be allowed to be publicly debated and scrutinized because the bill speaks for itself, and it goes far beyond the title IX problem—and even far beyond

civil rights. It goes right to the very heart of our constitutional form of Government, and we cannot ignore that. I am not going to ignore it.

I do sympathize with the managers of this important bill. It is a shame that it has to be brought up on this bill. But if it has to be, we are prepared to meet it head on, I suspect that there will be extensive educational dialog on the matter. We will have to look closely at it.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I think that it is fair to say that the trade bill has not been on a fast track. It has been on about as slow a track as you can get on in the Senate. This bill was last on the floor on March 2. Then it was set aside for the school prayer debate. Then it was set aside for the budget resolution. I do not know what else it was set aside for. But since that time, the Finance Committee has been busily at work, and we have about 80 items on this bill—tariff items, customs items, and we have the section 201 amendment which was just adopted this afternoon. We have matters that are very important to Members of the Senate, and very important to the country. The Israel-Canada free-trade area provision is very important to our country, and it is an issue that a lot of the Members of the Senate feel very strongly about. The extension of the generalized system of preferences is very important to our way of doing business with the developing world. The so-called reciprocity bill is very important to making sure that free trade is fair trade. The reduction of tariffs for the semiconductor industry is something that is very important to the semiconductor industry, and very important to America's ability to develop its high-tech industries.

The trade bill has some significant items on it. We have been on a slow track, and the track is running out. We are coming to the end of the track. We have 3 more weeks to go in this Congress. The last week is going to be taken up with the debt ceiling extension and the continuing resolution. So, in effect, we have maybe 2 weeks. Senator BAKER is not going to give us all that much time on the trade bill.

A lot of people have wonderful things they want to add to this bill. The copper people, the steel people, and a lot of other people may have some wonderful ideas. Some Senators have whole procedural rewrites of the trade bill that they would like to have. I am sure that these are worthy of consideration. They deserve careful attention. The fact of the matter is we do not have much time. We have only hours to consider a trade bill. We have just heard about a half an hour of debate on a civil rights matter.

I do not see, looking around the floor now, any Senators who are here on the floor wanting to add amendments except the Senator from Texas. I am delighted to have somebody accept the offer. But my hope is that Senators who have serious amendments, hopefully amendments that do not take very much time, will come to the floor, will offer their amendments, will get them on the bill, and that other Senators will exercise restraint, that we will not try to solve all the problems of the world with this bill, and we will just try to pass the bill, and do so as quickly as possible.

The bill has a lot on it. It has a lot of different items. We will have to go to conference with the House. The conference will clearly take quite a while. My hope is that we can get on with it, and that Senators who are listening on the boxes in their offices will come to the floor of the Senate, and we can do as much as we possibly can this afternoon. I am concerned that tomorrow we will bog down, and Senator BAKER will reach the conclusion that there is no future in a trade bill, and that will be it.

I understand the Senator from Texas has an amendment. I hope we can progress.

Mr. BENTSEN. Mr. President, I say to my distinguished colleague, the manager of the bill, that at the moment our staffs are conferring to see if we can work out some details of that particular amendment. But I share very much his concern.

I get deeply concerned by the effectiveness of this institution, about it being able to operate, about it being able to consider the major pieces of legislation and bring them to fruition and completion. I get concerned about the rules of this Senate, the fact that we can discuss any subject we want to at any time regardless of the germaneness of that particular issue. I wish we had some of the rules from the House of Representatives over here, as I see that happening.

I think this is my third time to make a speech on this bill, as I recall each time, and, as the Senator said, we have been shunted aside. We have been shunted aside when we see the trade deficit of this country reaching the figure of $120 billion. And yet the Senator from Missouri and I and other Members have been trying to develop answers to make it fair trade among the nations of the world, free trade but fair trade. We think some of those answers are in this piece of legislation and it deserves consideration.

We look at the problem of GSP and what it means to lesser developed countries. We look at what it means to the financial markets and institutions of this country. A lot of those lesser developed countries are having an exceedingly difficult time in meeting their loans which have been financed by our own institutions here. And yet we know that that trade has to be developed between those countries and this country if we are ever going to see those kinds of commitments made on those financial notes in which they are engaged. This bill addresses that.

If we do not move on this bill, GSP expires the end of this year with all the things it would do in the way of affecting our relations with those countries. And yet those countries take an incredible amount of our manufactured products and agricultural products. So it is important that we proceed. Time is running out for us. I would hope that those Senators who do have amendments would come to the Chamber and present them on the floor of the Senate at this time. Otherwise, we are going to have problems tomorrow and we are going to see this thing finally shunted aside.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2768

(Purpose: To allow the duty-free entry of certain research equipment for North Dakota State University, Fargo, North Dakota)

Mr. ANDREWS. Mr. President, I have an amendment numbered 2768 at the desk. I ask that it be called up and immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. ANDREWS] proposes an amendment numbered 2768.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, after line 18 of Amdt. No. 4244, insert the following new section:

SEC. 216. DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

Mr. ANDREWS. Mr. President, this amendment is a very simple amendment. It has to do with a very technical piece of cereal research equipment imported for the State university.

North Dakota State University was unaware that it needed to obtain U.S. Customs approval before ordering the machine and thus did not satisfy Customs protocol. The machine was not available domestically at all.

The equipment will be used by the university's cereal chemistry and technololy department to do research on noodles, using U.S. grown wheat, in an attempt to stimulate the export of U.S. produced products to Asia. If they are successful, and I have no doubt that they will be, increased argricultural exports will improve our overall U.S. balance-of-trade account.

In conclusion, this amendment simply allows North Dakota State University to recoup some $859 that was paid in customs duty on the import of this piece of research machinery.

I hope the Senate will favor the amendment. It has been cleared, I understand, by the managers of the bill on both sides of the aisle.

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. BENTSEN. Mr. President, the minority has no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2768) was agreed to.

Mr. ANDREWS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4247

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 4247 to the amendment (No. 4244) by Mr. DANFORTH.

At the end of the matter proposed to be inserted, add the following:

TITLE VI—SMALL BUSINESS TRADE REMEDIES

SEC. 601. SHORT TITLE; REFERENCES.

(a) This title may be cited as the "Small Business Trade Remedies Act of 1984".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 602. ESTABLISHMENT OF SMALL BUSINESS TRADE ASSISTANCE OFFICE.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by inserting after section 338 the following new section:

"SEC. 339. SMALL BUSINESS TRADE ASSISTANCE OFFICE.

"(a) There is established within the Department of Commerce a Small Business Trade Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) for the remedies and benefits that may be available under such law.

"(c) For purposes of this section—

"(1)(A) The term 'eligible small business' means any business concern which, in the agency's judgment, due to the small size of such concern, has neither the adequate internal resources nor financial ability necessary to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits available under the trade laws.

"(B) In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration and shall consult with any other agency that has provided assistance under subsection (b) to that business concern.

"(C) An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' includes, but is not limited to—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).".

SEC. 603. JUDICIAL REVIEW OF CERTAIN ACTIONS BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

(a) Paragraphs (1)(A), (1)(B), and (2)(A) of section 516A(a) (19 U.S.C. 1561a(a)) are each mentioned by striking out all that follows "in which the matter arises" and inserting in lieu thereof "may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(b)(1) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) by striking out subsection (a)(3),

(B) by striking out "United States Court of International Trade, or of the Court of Appeals for the Federal Circuit" in subsection (c)(1) and inserting in lieu thereof "Court of Appeals for the Federal Circuit",

(C) by striking out "the United States Court of International Trade" each place it appears in subsections (c)(2) and (d) and inserting in lieu thereof "the Court of Appeals for the Federal Circuit",

(D) by striking out "action" each place it appears in subsection (d) and inserting in lieu thereof "appeal", and

(E) by striking out "of the United States Court of International Trade or" in subsection (e).

(2) Each of the following provisions of title 28, United States Code, and any references to any such provision, are repealed:

(A) Section 1581(c).

(B) Section 2631(c).

(C) Section 2632(c).

(D) Section 2635(b).

(E) Section 2636(c).

(F) Section 2636(d).

(G) Section 2640(b).

(3) Section 1295(a) of title 28, United States Code, is amended by—

(A) striking out "and" at the end of paragraph (9);

(B) strikng out the period at the end of paragraph (10) and inserting in lieu thereof "; and";

(C) adding at the end thereof the following:

"(11) of appeals described in section 516A of the Tariff Act of 1930.

For purposes of paragraph (11), the provisions of section 516A of the Tariff Act of 1930 shall apply to such appeal and, except to the extent it is inconsistent with such section, the Court of Appeals for the Federal Circuit may take such action on appeal as may be taken pursuant to this title.".

(4) Section 2631(j)(1) of title 28, United States Code, is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out subparagraph (B), and

(C) by redesignating subparagraph (C) as suparagraph (B).

(5) Section 2639(a)(1) of title 28, United States Code, is amended by striking out ", 516, or 516A" and inserting in lieu thereof "or 516".

(6) Section 2647 of title 28, United States Code, is amended to read as follows:

"§ 2647. PRECEDENCE OF CASES

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 of the Tariff Act of 1930.".

(c) The amendments made by this section shall apply to agency determinations made on or after the date of the enactment of this Act.

SEC. 604. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Paragraph (1) of section 516A(a) (19 U.S.C. 1516a(a)(1)), as amended by section 603, is further amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under section 303, 702(c), or 732(c), not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b), not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 303, 703(a), or 733(a), as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(b) Subparagraph (A) of section 516A(a)(2), as amended by section 603, is further amended to read as follows:

"(A) IN GENERAL.—Within 30 days after—

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(c) Subparagraph (B) of section 516A(a)(2) is amended to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 303, 705, or 735, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 303, 705, or 735, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751.

"(iv) A determination by the administering authority, under section 303, 704, or 734, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated at the time the suspension agreement was concluded.

"(vi) An injurious effect determination by the Commission under section 303, 704(h), or 734(h).

"(vi) A determination under section 303, 705, 735, 751, or any other ruling during administration of the countervailing or antidumping duty order by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(d) Subsection (a) of section 516A, as amended by section 603, is further amended by adding at the end thereof the following new paragraph:

"(3) Exception.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 303, 705, or 735 may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 303, 705, or 735 which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

SEC. 605. INDUSTRY-LABOR COALITIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1655) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 606. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 607. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)";

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(3) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 608. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under sections 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 609. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

"(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following: "Sec. 777A. Sampling and averaging.".

SEC. 610. WAIVER OF VERIFICATION.

Subsection (b) of section 703 (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATIONS.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expeditied basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 611. TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.

Sections 704 and 734 are each amended by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

SEC. 612. COMMENTS ON SUSPENSION AGREEMENTS.

Sections 704(e)(3) and 734(e)(3) are each amended by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)".

SEC. 613. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Paragraph (2) of section 705(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Subsection (c) of section 705 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 705(c)(3) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Paragraph (3) of section 735(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.".

(2) Subsection (c) of section 735 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determination by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 735(c)(3) is amended by inserting "paragraph (4) or" after "under".

SEC. 614. WAIVER OF DEPOSIT OF ESTIMATED ANTIDUMPING DUTIES.

Paragraph (1) of section 736(c) is amended by inserting "and was sold to any person that is not related to such manufacturer, producer, or exporter" after "for consumption".

SEC. 615. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 708. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

"(a) IN GENERAL.—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to a countervailing duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirement of subsection (b) and deposits with the appropriate customs officer an estimated countervailing duty in an amount determined by the administering authority.

"(b) IMPORTER REQUIREMENTS.—In order to meet the requirements of this subsection, a person shall—

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

"(2) maintain and furnish to the customs officer such records concerning such merchandise as the administering authority, by regulation, requires, and

"(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on thae merchandise.".

SEC. 616. DRAWBACKS.

Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 780. DRAWBACKS.

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

SEC. 617. DUTIES OF CUSTOMS OFFICERS.

Subtitle B of title VII is amended by striking out section 739.

SEC. 618. RELATED PARTIES.

Subtitle D of title VII is amended—

(1) by striking out "any interest in" in subparagraphs (B) and (C) of section 771(13) and inserting in lieu thereof "20 percent or more of", and

(2) by striking out "5 percent" in section 773(e)(3)(E) and inserting in lieu thereof "20 percent".

SEC. 619. COMMERCIAL QUANTITIES OF MERCHANDISE.

(a) Section 771(17) and paragraphs (1)(A) and (4)(A) of section 773(a) are each amended by striking out "wholesale quantities" each place it appears in the heading and the test and inserting in lieu thereof "commercial quantities".

(b) Paragraph (14) of section 771 is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

SEC. 620. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Subsection (b) of section 772 is amended by inserting "a reseller or" after "date of importation, from".

SEC. 621. FOREIGN MARKET VALUE.

(a) Paragraph (1) of section 773(a) (19 U.S.C. 1677b(a)) is amended by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3)) with respect to such person".

(b) Section 773 (19 U.S.C. 1677b) is amended by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.".

(c) Subparagraph (B) of section 773(a)(1) is amended to read as follows:

"(B) if not so sold or offered for sale for home consumption, or if the administering authority determines that the sales for home consumption in the country from which the merchandise is exported are so small in relation to the sum of such sales for home consumption and the sales for exportation to all other countries (including the United States) as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States,".

SEC. 622. SUBSIDIES DISCOVERED DURING PROCEEDING.

Section 775 is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 623. RECORDS OF EX PARTE MEETINGS.

Paragraph (3) of section 777(a) (19 U.S.C. 1677f(a)(3)) is amended to read as follows:

"(3) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

"(A) interested parties or other persons providing factual information in connection with a proceeding, and

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.".

SEC. 624. CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f), as amended by section 605, is further amended—

(1) by striking out "confidential information" each place it appears in the text and headings of subsections (a)(4)(A) and (c) and in the heading of subsection (b) and inserting in lieu thereof "proprietary business information",

(2) by striking out "confidential" each place it appears in subsections (a)(4)(3) and (b) and inserting in lieu thereof "proprietary business information",

(3) by striking out "nonconfidential summary" in subsection (b)(1)(A)(i) and inserting in lieu thereof "summary that is not to be treated as proprietary business information which is", and

(4) by striking out "nonconfidential submissions" in the heading for paragraph (4) of subsection (a) and inserting in lieu thereof "submissions that are not proprietary business information".

SEC. 625. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 626. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 605 and 609 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after the date of enactment of this Act.

(2) The amendments made by section 603 shall apply with respect to determinations made under section 303 or title VII of the Trade Act of 1930 after the date of enactment of this Act.

(3) The amendments made by section 604 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

Mr. COHEN. Mr. President, the amendment I have offered is designed to assist small businesses seeking relief under present U.S. trade laws. I thank Senator DANFORTH, the distinguished manager and chairman of the Finance Subcommittee on International Trade, for his cooperation and assistance in developing this legislation.

Time and time again, I have watched small businesses which have been harmed by imports attempt to pursue the frustrating process of obtaining trade relief, only to be confounded by the maze of bureaucratic procedures, complex statutory requirements, and staggering expenses.

For the most part, Mr. President, the people who have petitioned under our existing laws have found the remedies that are currently in our laws to be complex, to be costly, and ultimately to be illusory. As a result of this, this frustration that has been building within the small business community, I developed this legislation in early 1982, after chairing a Governmental Affairs Subcommittee hearing on the trade problems affecting U.S. industries along the Canadian border. The testimony at that hearing convinced me that many of our Nation's small businesses are precluded from receiving trade relief under our current system. I believe that the language I am offering today is a first step toward providing access to that relief for this country's thousands of small businesses.

In recent years, the potato, fishing, and lumber industries, as well as many others in my own State of Maine, have confronted insurmountable problems while attempting to seek trade relief. I believe that this language represents a step forward in facilitating access to our trade relief laws for many small businesses which are currently unable to avail themselves of these remedies.

My amendment would establish an Office of Small Business Trade Assistance within the Department of Commerce to provide guidance and technical assistance to small businesses seeking relief under U.S. trade laws. In addition, my amendment would also reduce the cost of pursuing antidumping or countervailing duty relief by eliminating a layer of judicial review. It would do this by sending appeals directly to the Court of Appeals for the Federal Circuit rather than first to the U.S. Court of International Trade.

Finally, my amendment would make a number of technical corrections to the countervailing duty and antidumping laws which will clarify ambiguities, correct mistakes, and streamline the administration of current law. These changes, which should reduce costs, data requirements, and time consuming technical mandates now imposed on small businesses under current law, are supported, I understand, by both the administration and the Finance Committee.

I urge my colleagues to support this amendment.

● Mr. CHAFEE. Mr. President, I am pleased to join my colleague, Senator COHEN, today in support of this amendment to help small business. Based on a bill of which I am an original cosponsor, S. 2963, this amendment will simplify and expedite the procedures for import relief under the antidumping and countervailing duty laws. Nearly all these provisions will be available to all domestic businesses, but their benefit should be most help-

ful to small- and medium-size businesses in particular.

I am deeply concerned about the difficulty and expense associated with import remedies. Frequently, it is the smallest industries in the manufacturing sector that are in greatest need of the relief provided under our antidumping and countervailing duty laws. Unfortunately, these small industries are least able to afford to avail themselves of the remedies provided under these laws. The legal costs associated with the filing and prosecution of an antidumping case, for example, can be as high as $1 million.

One important feature of this amendment is the elimination of the Court of International Trade (CIT) review of antidumping and countervailing decisions.

Under current law, countervailing duty and antidumping determinations are appealed first to the Court of International Trade, and then may be appealed to the Court of Appeals for the Federal Circuit. This procedure is unusual, as most administrative appeals are taken directly to the Court of Appeals. It is also redundant, because only the final appeal can be binding. And, of course, such repetition is almost by definition time-consuming and costly.

But cutting out the CIT appeals, this amendment brings appeals of countervailing duty and antidumping cases into line with most administrative appeals and cuts the time and expense associated with the interim appeal process.

Another provision, directly exclusively at small businesses, is the creation of a Small Business Trade Assistance Office located in the Department of Commerce. This office would provide technical assistance to small business in preparing and filing petitions and applications for remedies and benefits.

Foreign competition poses a real challenge to U.S. businesses. I believe our businesses can meet that challenge if that competition is fair competition. When that competition is unfair, affected industries should not be burdened with the additional unfairness of unnecessary cost and delay in the relief process. The efficient procedures this bill establishes should benefit all parties. Particularly for smaller businesses for whom time and cost may be the critical factors in determining whether to process import legislation at all, this amendment can provide access to import relief remedies that as a practical matter have been unavailable to them.

Mr. President, the amendment which Senator COHEN is introducing today is a needed response to a number of shortcomings in our existing trade remedy procedures. I joined Senator COHEN as an original cosponsor of S. 2963, the Small Business Trade Remedies Act of 1984, and wholeheartedly urge adoption of this amendment.●

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment is something that has been worked on over a considerable amount of time by Members of both the House and the Senate. It includes a number of proposals that have been made by Representative SAM GIBBONS, chairman of the Subcommittee on Trade of the House Ways and Means Committee. It incorporates a number of provisions that have been worked on by Senator MITCHELL over a considerable period of time. He as well as Senator COHEN has shown great leadership in putting this package together. I know the administration has been a part of these negotiations, as has the staff of the Trade Subcommittee.

I think that this amendment is a very big step forward, Mr. President, not only for small business, because it does help small business in making trade remedies more accessible to it, but in streamlining the whole process of trade remedies for all business that attempts to avail itself of it. All of us who have had any passing activity in the trade field know that there are considerable complaints that are made by those who want to use the trade laws because they feel that the trade laws are cumbersome, they are complex, and they are hard to understand. This is a subject which Senator COHEN, Senator MITCHELL, and others have addressed themselves to. I think that this amendment which is the fruit of that effort is very useful and a very positive step forward. Therefore, as far as the majority of the Finance Committee is concerned, the amendment is acceptable.

Mr. BENTSEN. Mr. President, Senator MITCHELL introduced this as I recall a year or so ago, and I was a cosponsor. Senator COHEN is a strong supporter, I acknowledge that, and I am sympathetic to it. I know, Mr. President, that there are at least a couple of other Senators—MITCHELL and SASSER—who would like to comment on this particular amendment before going to passage.

Mr. COHEN. If the Senator will yield, I believe that Senator MITCHELL is on his way to the floor with an amendment to this particular measure so I did not want to proceed further.

Mr. BENTSEN. What I would like to do, if the Senator will not object, is to get unanimous consent of the Senate to temporarily set this aside and proceed with an amendment that I think is agreeable to the majority and the managers of this bill.

I ask unanimous consent that we temporarily set aside the amendment of the Senator from Maine and that it be the first order of business after we complete the discussion on the amendment that I hereby submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4248

(Purpose: To provide a tariff-rate quota on imported catalytic naphtha.)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 4248.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on p. 8 of amendment numbered 4244, substitute for section 121 of the Committee amendment the following:

"SEC. 121. NAPHTHAS.

Part 10 to schedule 4 is amended—

(a) by striking the language 'item 475.35' from headnote 1 (as amended by section 121 of H.R. 3398) and inserting the language 'items 475.36, 475.37, and 475.38' in lieu thereof; and

(b) by striking out item 475.35 and inserting the following in lieu thereof:

Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel):

Containing by weight over 5 percent and not over 25 percent of any product described in part 1 of this schedule:

475.36	For not over 190,000,000 pounds entered during the 12-month period beginning January 1 in any year.	0.25¢ per gal..	0.5¢ per gal
475.37	Other	1.7¢ per lb. +13.6% ad val., but not less than the highest rate applicable to any component material.	7¢ per lb. +43.5% ad val., but not less than the highest rate applicable to any component material.
475.38	Other	0.25¢ per gal.	0.5¢ per gal."

Mr. BENTSEN. Mr. President, what this amendment does is to narrow the scope of section 121 of the committee amendment. The committee amendment gives a relatively low rate of duty to naphtha-based chemical mixtures that contain 5 to 25 percent benzenoid compounds. The purpose of the committee amendment which I originally introduced and which has been acted on favorably in the House was to give relief to gasoline-blending companies. Prior to 1983, these companies

imported these benzenoid naphthas from GSP-eligible countries, but in 1983 the products became ineligible for GSP because of statutory limits that you have on GSP. As a result, duties jumped from zero in 1982 to over 40 percent ad valorem in 1983.

Now, there were no comments adverse to the bill when it was considered by the Finance Committee. It was adopted by a voice vote. However, it has recently come to my attention that the provision as currently drafted opens U.S. independent refiners to a very substantial increase in imports of gasoline blending stock and thereby may impair this country's ability to meet its basic energy needs.

In light of this concern, I propose to amend this provision so as to limit the benefit it provides to a quantity of benzenoid naphtha no greater than was imported duty free in 1982, the last year the GSP was available. Now, that will limit the benefit and prevent harm to the independent refiners.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. I had understood there were no objections.

Mr. DANFORTH. The amendment is acceptable, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 4248) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4249

(Purpose: To express the sense of the Congress concerning copyright protection of computer software)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 4249.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared by the Senate (the House of Representatives concurring), That is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection of computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (a) disserve the goal of promoting continuing development and innovation in computer software; (b) undermine the international consensus that computer software is a work of authorship protected by copyright; (c) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (d) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

Mr. LAUTENBERG. Mr. President, the amendment I offer expresses the sense of the Congress in support of preserving the international consensus on the copyright protection of computer software. The amendment incorporates the text of Senate Concurrent Resolution 117, which is cosponsored by 19 of my colleagues: Senators DANFORTH, MATHIAS, TSONGAS, RIEGLE, WILSON, LEAHY, GORTON, FORD, CRANSTON, MOYNIHAN, ROTH, D'AMATO, GRASSLEY, HEINZ, BRADLEY, BINGAMAN, DIXON, CHAFEE, and TOWER.

Mr. BENTSEN. Mr. President, will the Senator add my name as a cosponsor?

Mr. LAUTENBERG. I will be pleased to do so.

Mr. President, I ask unanimous consent that the name of the Senator from Texas [Mr. BENTSEN] be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. LAUTENBERG. Mr. President, America's economic future depends, in large part, on its ability to continue to lead the world in information age industries—computers, computing services, telecommunications, and software. America's preeminence depends on its ability to innovate, and on the preservation of an international order that protects those innovations, and reserves to the inventor the rewards of his or her creativity.

Other nations have been quick to realize the role that information-based industries will play. They are promoting them, targeting government support, and devising a number of strategies intended to challenge America's leadership. Unfortunately, one of these strategies would undermine the international framework of intellectual property right protection.

This amendment specifically addresses a proposal by Japan's Ministry of International Trade and Industry (MITI) to strip computer software of copyright protection. The proposal would provide a new form of protection. The term reserved to the author would be substantially cut, from the life of the author plus 25 years or more, to 15 years. The proposal calls for the compulsory licensing of software.

Mr. President, the MITI proposal, unveiled last year, met with the united opposition of American industry, the Department of Commerce and the U.S. Trade Representative. In light of this opposition, but also due to internal disagreements within the Government of Japan, the proposal was not introduced in the most recent session of the Japanese Diet. But, the proposal is by no means dead.

This week, the United States-Japan Trade Committee is meeting in Washington. I am told that the software issue is the No. 1 item on the U.S. agenda. Reports are that the Japanese will proceed to the matter at the next session of the Diet, in the context of broader measures on a high technology. It is important that the Congress join in expressing its opposition now

to a proposal that so threatens the growth of information-based industry.

Since 1964, the United States has considered computer software a work of authorship, protected by copyright. There is abundant evidence that this form of protection has fostered software development. Copyright provides a recognized, familiar, and expeditious means of protection. It provides protection for a term of years that suits the long commercial life of software products. Those who invest time and money developing software should enjoy the fruits of their labor.

The United States has welcomed the building of international consensus on this issue. Other nations recognizing the copyright of software include: France, the Netherlands, the Federal Republic of Germany, the United Kingdom, South Africa, and Australia. Indeed, even Japan's courts have recognized the copyright of software.

The MITI proposal would undermine this international consensus. Moreover, it would encourage similar measures by other nations. Brazil, for one, has already moved ahead on a broad range of protectionist measures in the computer field.

Adoption of the MITI proposal would surely strain our trade relations with Japan. And it would justify retaliation by the United States, including, but not limited to, the steps authorized by the Universal Copyright Convention, to which the United States is a signatory.

Mr. President, the MITI proposal and similar proposals may well provide nations with the means to acquire technology, in the short term. However, in the long term, they will hinder both the acquisition and the enjoyment of new technology. The United States, and other nations harmed by such proposals, would likely move to reduce intellectual property rights protection. Particularly Japan, which has designs to expand its exports of software, should be wary of such a development. The markets it intends to enter may be less than receptive.

The protection of intellectual property rights is key to preserving free and fair trade. Increasingly, a nation's comparative advantage will be its innovations. We cannot have fair competition in the world marketplace unless we have a fair system to protect the creations of innovators.

By this amendment, the Senate would express itself clearly in opposition to proposals to deny such protection to innovators in computer software.

I urge my colleagues to support the amendment.

Mr. President, I have spoken to the managers of the bill. I understand that they are willing to accept the amendment. I thank them for their cooperation.

Mr. DANFORTH. Mr. President, the amendment is acceptable to this side.

I congratulate the Senator from New Jersey who has made such a consistent contribution to the Senate in matters relating to high technology, and this is very much in keeping with the tradition he has established.

Mr. BENTSEN. Mr. President, as manager of the minority of the bill, I congratulate the Senator from New Jersey. With his vast experience and background in this business, he is particularly suited to be the author of this amendment. I think it is helpful, and I am delighted to support it. There are no objections from the minority side.

Mr. LAUTENBERG. I thank the managers.

The PRESIDING OFFICER (Mr. DURENBERGER). If there be no further debate, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (4249) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4250

(Purpose: To provide further protections of intellectual property rights)

Mr. LAUTENBERG. Mr. President, I have another amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 4250.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, strike out lines 30 through 32, and insert in lieu thereof the following:

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

On page 50, line 8, insert "and effective" after "adequate".

On page 53, strike out lines 17 through 20 and insert in lieu thereof the following:

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products; and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;

Mr. LAUTENBERG. Mr. President, the amendment I am offering is aimed at one of the most important threats to American economic interests in the world today—the theft of American products, ideas, and technology by foreign nations. All too often, this new form of piracy is aided and abetted by foreign governments that refuse to take effective measures for the protection and enforcement of intellectual property rights.

Now, "intellectual property rights," Mr. President, sounds like a pretty dry subject. Maybe it is in some respects. Patents, copyrights, and trademarks are not usually the object of great passion—political or otherwise. But let there be no mistake. The principles they incorporate are absolutely critical to our position in the global trading system.

We are entering a new era in world economic history. No longer will national economic destiny be determined by the accidents of nature or history. Economic progress—and economic and political power—will be less and less a simple function of the physical resources that happen to fall within a State's territorial boundaries. To be sure, differences in geography, climate, and natural resources can never be totally irrelevant. But they will matter much less than they have before. In an age when production is increasingly dominated by technology and information, the key assets will increasingly be brainpower, creativity, and scientific progress.

The United States has for most of its history been a world leader in scientific and technological development. We retain that edge today. But we are in danger of losing it unless we move now to insist that our trading partners institute measures to curtail the theft of U.S. ideas and products.

The bill before us, contains provisions that address this issue. It explicitly establishes intellectual property rights as one of the major priorities in U.S. trade negotiations and provides additional tools to strengthen our position. The distinguished Senator from Missouri, Mr. DANFORTH, and the Senate Finance Committee are to be commended for their hard work on this problem

The amendment I offer today is designed to clarify, strengthen, and expand the mechanisms the bill would put in place to promote better protection of intellectual property in world trade. The changes I propose will, I believe, advance our mutual objectives in this area. They are based in large part on legislation I introduced along with Senators WILSON, INOUYE, LEAHY, DIXON, RIEGLE, GORTON, and HEFLIN—the Intellectual Property Protection and Fair Trade Act of 1984, S. 2549.

The core provisions of S. 2549 would require the President to undertake a

comprehensive review of the problem of intellectual property in the context of our trade relations and would condition eligibility for the Generalized System of Preferences on a country's performance with respect to intellectual property rights protection. My bill, in fact, would flatly prohibit the designation of any country that fails to take appropriate measures in this regard. The bill before us contains the GSP amendment originally reported in S. 1718. These provisions would require the President to consider intellectual property rights protection as a factor in the designation of countries as GSP beneficiaries and in reviewing their eligibility for continued participation in the program with respect to particular articles and products.

I would have preferred the tougher, more mandatory language in my bill. But I am willing to support the approach taken in this bill with the understanding that the administration will use its provision to keep the pressure on for improvements in intellectual property protection. I know that the distinguished managers share that view and hope that they will confirm this understanding in their comments on this point. In any case, the amendment I am offering today will serve our common purposes.

The first part of my amendment would ensure that, in preparing the National Trade Estimates required under section 303 of the bill, the U.S. Trade Representatives will include a careful analysis of the status of protection for intellectual property in other countries. This analysis will determine the extent to which failure to provide adequate and effective protection for intellectual property constitutes a barrier to expanding U.S. exports. This will enable the United States to compile the information upon which an effective strategy for dealing with the problems depends. My amendment makes clear that we must give greater attention to the export of goods and services which rely on trademark, patent and copyright protection. Further, the amendment clarifies that the President should consider barriers not only to the export of tangible products like books, sound recordings, motion pictures, computer software, chemicals, and the like—but also to barriers to the licensing of rights in foreign countries as well.

The second part of my amendment deals with the definition of "unreasonable" in the Trade Act of 1974 as amended by this bill. For the first time, the failure to provide adequate and effective protection to intellectual property is given explicit, rather then implicit, reference. By insisting on effective protection, we make it absolutely clear that barring a law on the books is not good enough. We insist that our trading partners effectively enforce those laws. This is often a key problem for our industries in attempting to do business abroad.

The final part of my amendment would specifically incorporate intellectual property protections as a key negotiating objective of the U.S. Government in eliminating barriers to trade in high technology products. The export of our high technology will be one of our most important trade assets in the future and therefore special care should be taken to ensure fair trade practices in this sector.

The language used is that which now appears in the Caribbean Basin Economic Recovery Act and also, I understand, in the Senator DANFORTH's bill to renew the Generalized System of Preference Program, S. 1718, the substance of which has been incorporated in title V. My amendment would ensure as well that, even though a particular country provides national treatment to protected workers of U.S. Nationals as an abstract matter, satisfying the criterion in the pertinent sections of the bill, "adequate and effective" protection as meant here includes realistic enforcement and substantial penalties as a practical matter.

The effect of this amendment, in combination with the other provisions in this bill, will be to remove any doubt as to the importance the U.S. Government attaches to this issue. It will make it crystal clear to our trading partners that we do not intend to condone the theft, whether under the color of law or not, of the ideas and innovations on which our economic security depends. And it would provide the administration with an unequivocal mandate to take the measure that are necesssary to begin dealing more effectively with the problem. It is my understanding that this amendment is acceptable to the managers of the bill and I urge its adoption.

Mr. DANFORTH. Mr. President, again this is an area in which Senator LAUTENBERG has shown a great interest and provided real leadership. The question of the violation of intellectual property rights is one that has been getting much-needed attention recently. We had some months ago the large room on the first floor of the Dirksen Building filled with a variety of different products—the real products and then the copies. It really was a remarkable display because all kinds of things which have been invented by people in the United States, produced by people in the United States, are now being copied abroad and copied to the economic detriment of our own people.

It is not just a question of invading our markets, but it is a question of counterfeit goods being sold throughout the world in competition in the U.S. exports. To look at them, at least externally, some of those products are indistinguishable visually from the real thing. Many of them, however, are very shoddy merchandise. One of the disturbing things that we have learned is that such items as airplane parts and helicopter parts can look like the real thing but be counterfeit and, in fact, be defective.

We have in the bill elsewhere addressed the problem of violations of intellectual property rights in providing for a conditioning of GSP treatment on countries getting serious about cracking down on these violations. In fact, one of the strong arguments for extending GSP is that, under the bill as it is now before us, it does provide us with that kind of handle on this very serious problem.

Senator LAUTENBERG has improved on the bill considerably by the amendment which he now offers and has provided additional tools for dealing with it.

We in the United States, Mr. President, pride ourselves on being as innovative and as original as any country in the world. We produce new products. We have very bright people, highly educated people in the United States who are able to come up with state-of-the-art products. We provide patent, copyright and trademark protection within the United States for what we produce. But all that can be for naught if in other parts of the world the same thing is being produced or copies of the same thing are being produced and flooding markets throughout the world.

Again, this is an excellent amendment that is being offered by Senator LAUTENBERG. It is acceptable to the majority and I urge the Senate to agree to it.

Mr. BENTSEN. Mr. President, I congratulate the Senator from New Jersey on his amendment. One of the problems you have is a great deal of money is being spent on research and development to bring out these new products, and a fantastic amount of money is being spent on advertising to get general acceptance by the public. Then you have someone come in with none of those kinds of capital costs and obviously, not having that kind of cost per item, being able to undercut them and make the consuming public think they are getting the same product.

So, adding that to the reciprocity section of the bill in the study, I think, is a good addition. As the manager for the minority, I congratulate the Senator. We have no objection.

Mr. LAUTENBERG. I thank the managers of the bill. I am pleased to have their acceptance of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey [Mr. LAUTENBERG].

The amendment (No. 4250) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRADE AGREEMENTS WITH ISRAEL AND CANADA

Mr. COCHRAN. Mr. President, I previously brought to the attention of my colleagues my support for legislation that will authorize the negotiation of free trade area agreements with Israel and Canada.

I consider this legislation to be very important to our goal of promoting international free trade. The nations of Israel and Canada are two of our most important allies, and bilateral trade agreements will enhance our friendly relations and offer expanded opportunities for U.S. exporters. The authorization of negotiations will be another positive expression of our commitment to opening and expanding trade opportunities, promoting economic growth, and strengthening our international trading system.

I believe the benefits will be significant for U.S. producers and manufacturers. In his testimony before the Senate Finance Committee, Ambassador Bill Brock outlined the projected gains from such an agreement with Israel. The United States has a trade surplus with Israel even though 90 percent of U.S. imports from Israel enter duty free. Under a free trade agreement, we would essentially eliminate duties on the remaining 10 percent of our imports from Israel. In exchange, the 40 to 45 percent of our exports that are now subject to duties averaging about 10.3 percent would also become duty free. Demand for U.S. products in Israel has suffered since the European Community and Israel negotiated a free trade area agreement in 1977. A free trade area agreement between the United States and Israel would place our exports on par with those from the EC. Additionally, agricultural exports, such as grains and soybeans, could increase significantly.

The administration further proposes to negotiate the elimination of nontariff barriers which hinder U.S. exports to Israel and address the issue of Israeli subsidy practices. Rules of origin and safeguards for import sensitive products will be discussed. Finally, the administration plans to consult with private sector advisors and conduct extensive research on the economic effects of eliminating duties on products now dutiable.

The United States and Canada are each other's largest trading partner now. A free trade agreement, even though product limited, will enhance our existing trade relationship.

Mr. President, the Senate is considering this important measure in conjunction with H.R. 3398, the miscellaneous trade bill. This bill also contains other important trade initiatives such as the additional authority for the President to seek reciprocity in our trading relations.

I urge my colleagues to consider this legislation favorably as soon as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am advised by the two managers that there is nothing further that can be done today on this bill. We will be on the bill tomorrow.

Mr. President, I ask unanimous consent, however, that at this time there be an additional period for the transaction of routine morning business until 6 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there will be no record votes today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF SECRETARY S. DILLON RIPLEY

Mr. MOYNIHAN. Mr. President, at noon today, the 17th of September 1984, in an auspicious golden sunlight which bathed the Mall he so greatly helped to create, S. Dillon Ripley stepped down as the eighth Secretary of the Smithsonian Institution. He therefore assumed the title of "Director Emeritus."

Mr. President, it was an altogether pleasing and appropriate ceremony. The Chief Justice presided in his role as Chancellor of the Smithsonian Institution. The distinguished members of the Board, the regents, were there. I noted in particular our colleagues, Senator SASSER and Senator GARN, both regents, and others of the Senate and House who were on hand for the occasion.

Mr. Robert McCormick Adams succeeds Mr. Ripley, and of him there will be many gracious things to be said in the years ahead.

I would like for the moment to comment on the extraordinary 20-year career of Dillon Ripley.

An old adage from the classical role says of Augustus that he found Rome made of brick and left it marble. Many years later in the period of the Regency in England, it was said of King George's architect John Nash, in a little couplet which appeared, that London, too, had met its master who found it brick and left it plaster.

One wonders about such transforming geniuses. They are rare, and when they do arrive, they are rarely forgotten.

It might be said of Dillon Ripley that, prompted by a private omen found it Attic, left it Roman.

The Smithsonian was indeed a venerable but musty Institution when he came to this town in 1964. "The Nation's attic" was a term of endearment, but also rather alarmingly descriptive and accurate. The Mall was unsettled, undeveloped; Pennsylvania Avenue was derelict. The center of Washington was seeking to float out Wisconsin or Massachusetts Avenue, in the tradition of present-day cities, where developers look for large plots in new neighborhoods.

The prospect of the Capitol becoming isolated, surrounded by rundown properities of no interest to anyone, was reminsicent of an earlier age rather than of what is required by the almost constitutional manner in which the city of Washington is laid out—with the Capitol as its center, the great avenues radiating from it, and that most particular one, Pennsylvania Avenue, moving from here to the President's House, as it was called in L'Enfant's plan—this being the Congress' house. That was all in jeopardy, and much else. Dillon set to work with an energy, a vision, and a capacity for joy that has not been equaled in this century in this city. It is hard to think of the differences in the city which he first came to and the one which he does not so much leave behind, but has transformed. Then there was no Anacostia Museum, no Hirshhorn Museum and Sculpture Garden, no U.S. Air and Space Museum. The Patent Office, that great sculpture of the early Republic, was about to be

torn down but is now the Museum Collection of Fine Arts. The Renwick Building, across from the White House, was equally in disrepair and disuse. It is now a vibrant museum. He also added to the Center for African, Near Eastern, and Asian Cultures.

Throughout the Nation—in Anacostia, in Manhattan, and other parts of the country—new and vibrant scientific and cultural institutions thrived and thrived to a spirit that is singular.

In the setting this afternoon, on the Mall, the presiding personage other than the Chief Justice himself was that large bronze statue of Joseph Henry, the first Secretary of the Smithsonian, a scientist of the greatest importance in the history of science of world class. It is to be noted that he was looking down on this ceremony out onto the Mall, for one of the first things that Dillon Ripley did when he became Secretary of the Smithsonian was to turn that statue around. It had been placed facing into the castle, Renwick's great building, as a sort of symbol of the closed-in nature of the institution. He wanted it opened up. He turned Joseph Henry around, and he turned the Mall on.

The other most conspicuous sight, not far from the setting in which this ceremony took place, was the carousel which he put on the Mall. And why not? What more of the spirit of fun in the life of America than to have a carousel in front of the building, the new Renwick castle, which he turned over in an extraordinary act of generosity to the Woodrow Wilson Center for International Scholars—the first time in our history that the United States has decided, as a memorial to a President, to create a living Institution of learning that has already made its impression around the world.

Dillon Ripley spoke on this occasion. He spoke as you would expect him to do. He said, "It is a fun thing to be an American and to have fun in the educational process." And nothing is more characteristic of him than this sense of the sheer joy of it all and of the romp of it all.

The Washington Post, in a fine and sensitive editorial this morning, remarked that "He in fact believes fiercely in the pleasure principle in knowledge, the notion that learning must be enjoyable and that the human personality can be engaged and fulfilled in many playful, serendipitous ways."

I think it is a well-known quality, Mr. President, with persons of the very highest intelligence that you most commonly encounter this sense of playfulness that Dillon Ripley brought to Washington with such a measure of genius and geniality.

It is an extraordinary institution, the Smithsonian, and this body, as it goes from one decision to another, may consider that it once almost turned down the gift of Sir James Smithson from Britain to establish the institution. The debate took place at some length in the House of Representatives. John Quincy Adams was arguing the case for accepting the gift. A gentleman from South Carolina was saying that there was nothing in the Constitution which provided for the Smithsonian. Adams responded that if he could find something in the Constitution that provided for the annexation of Texas, he would accept the gentleman's point. In the end, good sense and fortune prevailed and the Smithsonian was on its way.

It has had only eight Directors in almost a century and a half—many of these men were extraordinary, and their longevity and their creativity no less extraordinary. Dillon Ripley, in conversation this afternoon, mentioned that it was the fifth Secretary, Mr. Charles Greeley Abbott, who had been a young researcher at the Smithsonian at a time when his predecessor once removed, Samuel Pierpoint Langley, began his experiments in heavier-than-air flight out on the Potomac. Abbott sat in a little room in the tower of the Smithsonian with a wireless set, waiting to report to the world the first successful flight that Langley was able to perform. That very Abbott who watched Langley's tiny little planes, which now can be seen in the Air and Space Museum, that very Abbott, 74 years later, was present at a dinner at the Smithsonian at which the first Apollo team presented Moon rocks brought back from the Moon itself.

This is such a wonderful bit of American history, that is now so much larger and richer because of Dillon Ripley. We have him to thank not just for the Mall, not just for the Smithsonian, but for that particular sense of the importance of this building as being the center of this city, a constitutional principle embodied in architectural design.

I think it is perhaps a bit of serendipity that the most recent issue of the Smithsonian magazine, which he founded, has a picture of him with arms full of Canadian goslings. This suggests to me the importance of the fact that our friends from Canada have chosen the Mall, a sight which we are able to see at any moment we stand on the terraces of the Capitol, for the new Embassy of Canada.

In all, Mr. President, it has been an extraordinary gift to the Nation of a man of extraordinary ability, who might have remained a scientist. He is an ornothologist of worldwide distinction. He might have given himself to private pursuits. He chose, instead, the Nation.

I said at the outset that there was some instinct in him that led him to his particular passion to bring the city alive and celebratory. I think we see it about us. Dillon Ripley arrived in Washington in 1964. It might have seemed a placid time. It was not. A President had just been assassinated, a war was just beginning. The United States was, in fact, going into one of the most troubled times it has known since the middle of the 19th century.

In that situation, which got worse, not better, as the years went by, Dillon Ripley had a steady understanding that what this Nation needed was a center in Washington where it would celebrate its past and its future, where it would know its roots and have wings; indeed would see them in that most spectacular of all museums, the Air and Space Museum. If 20 years later we begin to see some of that return in the confidence and buoyancy which we like to think is associated with a young Nation, it is in no small measure due to this extraordinary man. I have known him in all of those years, admired him, been counseled by him, and vastly and repeatedly entertained by him.

Mr. President, he does not depart. He simply moves over to his own laboratory, which he does again after two decades of only intermittent scholarship, but it would be inappropriate to let this day pass without acknowledging his stepping down from 20 glorious years, where his devoted associates came to think of him, and call him in private, "Le Roi Soleil," the Sun King. And the Sun shone on him with great and appropriate ember effervescence this afternoon.

Mr. President, I ask unanimous consent at this point that I might have printed in the RECORD the editorial of the Washington Post entitled "Dillon Ripley's Washington."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DILLON RIPLEY'S WASHINGTON

S. Dillon Ripley steps down today after 20 years as head of the Smithsonian Institution, and what a productive 20 years they have been. Mr. Ripley has been the promoter, builder and/or expander of most of the great museums on the Mall and of a host of other facilities (the National Zoo) elsewhere in the city and outside the city. No single man has done more in his time to bring pleasure in learning to Washington's residents and its millions of visitors alike.

He in fact believes fiercely in the pleasure principle in knowledge, the notion that learning must be enjoyable and that the human personality can be engaged and fulfilled in many playful, serendipitous ways. Hence his placement of a carrousel by the Smithsonian castle, his sponsorship of the summer folk festivals and other special events, his hospitality to a profusion of activities that reach, on the Mall, a critical mass. To measure the public's taste for all this, try counting the Smithsonian Associates stickers on the cars you see.

Less visible but no less central to his stewardship has been his vision of the wholeness of knowledge, the interdependence of the sciences and the humanities, the single universe of the scholarly life and the public

life. The Woodrow Wilson International Center for Scholars, the Smithsonian's seminars and research and its outreach to countries around the globe, and its publications, including the nationally popular Smithsonian Magazine and the Wilson Quarterly, are among the fruits.

For his vast construction program—some important parts of which remain for his successor, Robert McC. Adams, to oversee—Mr. Ripley gained a reputation as a master builder. He also gained a certain reputation as an empire builder who went by his own rules. In a sense that particular rap may be seen as a tribute to the diligence and skill with which Dillon Ripley wove the strands of private money and public power into the institutional web of the Smithsonian.

He looked after the Hill and he kept in touch with presidents. He gave them good ideas and they gave him support. This is a political city, and nothing important gets done in it that does not require a political touch. The Smithsonian is, after all, devoted to the diffusion of knowledge.

Mr. BAKER. Mr. President, I thank the Senator from New York for bringing to our attention this very special occasion today. I join him, and I am sure I speak for all Members, in offering my congratulations to Dillon Ripley for a career that will stand out for many years as Director of the Smithsonian. I, too, have known Dillon Ripley for some years now. I have grown to respect him, indeed to envy him, for he is a unique and very special man whose curiosity, whose vibrant personality, and whose dedication to the institution he serves is virtually without parallel. I offer my best wishes to Dillon Ripley in his future undertakings; I am sure there will be many, and I wish him only the greatest success for the remainder of his distinguished career.

Mr. MOYNIHAN. I thank the majority leader for his gracious remarks. I know he would join me in extending those wishes to Mrs. Ripley, Mary, who has entertained us all in so many marvelous ways over these years. I particularly thank the majority leader for taking time from his affairs to join in these remarks.

Mr. BAKER. I thank the Senator from New York for giving us the opportunity.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 6:15 p.m. and that the limitation on time to speak not apply against the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:11 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5798) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1985, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 6, 7, 11, 13, 14, 15, 20, 25, 27, 28, 37, 46, 49, 51, 70, and 72 to the said bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 23, 34, 35, 52, 57, 80, 81, and 89 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendments of the Senate numbered 24, 26, 66, and 92 to the bill.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HAWKINS, Mr. FORD of Michigan, Mr. BIAGGI, Mr. ANDREWS of North Carolina, Mr. MILLER of California, Mr. CORRADA, Mr. KILDEE, Mr. WILLIAMS of Montana, Mr. BOUCHER, Mr. ACKERMAN, Mrs. BURTON of California, Mr. HAYES, Mr. ERLENBORN, Mr. GOODLING, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. BARTLETT, Mr. PACKARD, Mr. NIELSON of Utah, and Mr. CHANDLER as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 32. An act to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings; and

S. 2418. An act to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2040. An act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal Home Loan Mortgage Corporation, and for other purposes.

The message further announced that the House has agreed to the amendments of the Senate to the following bills.

H.R. 9. An act to designate components of the National Wilderness Preservation System in the State of Florida;

H.R. 1250. An act to improve access for handicapped and elderly individuals to registration and polling facilities for Federal elections; and

H.R. 1437. An act entitled the "California Wilderness Act of 1983."

The message also announced that the House has passed the following bill and joint resolutions, without amendment:

S. 1735. An act entitled the "Shoalwater Bay Indian Tribe-Dexter by the Sea Claim Settlement Act;

S.J. Res. 227. Joint resolution designating the week beginning November 11, 1984, as "National Women Veterans Recognition Week";

S.J. Res. 254. Joint resolution to designate the month of October 1984 as "National Down's Syndrome Month";

S.J. Res. 275. Joint resolution to designate the month of October 1984, as "National Spina Bifida Month";

S.J. Res. 334. Joint resolution to provide for the designation of the month of November 1984, as "National Hospice Month";

S.J. Res. 335. Joint resolution to designate the week beginning on May 19, 1985, as "National Tourism Week"; and

S.J. Res. 336. Joint resolution to proclaim October 23, 1984, as "A Time of Remembrance" for all victims of terrorism throughout the world.

The message further announced that the Speaker appoints Mr. HAWKINS as a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 38) entitled "Entitled the 'Longshoremen's and Harbor Workers' Compensation Act'," vice Mr. Perkins, deceased.

The message also announced that the Speaker appoints Mr. SEIBERLING as a conferee in the conference on the disagreeing votes of the two houses on the amendment of the House to the bill (S. 529) entitled "An act to revise

and reform the Immigration and Nationality Act, and for other purposes," vice Mr. CROCKETT, resigned.

The message further announced that the Speaker appoints Mr. HAWKINS as a conferee in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2496) entitled "An act to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes," vice Mr. Perkins, deceased.

The message also announced that the Speaker appoints Mr. HAWKINS as a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1904) entitled "An act to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978," vice Mr. Perkins, deceased.

The message further announced that the Speaker appoints Mr. HAWKINS as a conferee in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5167) entitled "An act to authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes," vice Mr. Perkins, deceased.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4028. An act to establish an Office of Drug Enforcement Coordination to coordinate Federal efforts to combat illicit drug production and trafficking, and for other purposes;

H.R. 4901. An act to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes;

H.R. 5464. An act to establish the Connecticut Coastal National Wildlife Refuge, and for other purposes;

H.R. 5479. An act to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes;

H.R. 5644. An act to provide greater discretion to the Supreme Court in selecting the cases it will review;

H.R. 5645. An act to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes;

H.R. 5755. An act to amend the Fish and Wildlife Coordination Act;

H.J. Res. 136. Joint resolution calling for a wildlife preserve for humpback whales in the West Indies;

H.J. Res. 392. Joint resolution to designate December 7, 1984 as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

H.J. Res. 545. Joint resolution designating the week of September 16 through 22, 1984, as "Emergency Medicine Week"; and

H.J. Res. 605. Joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 107. Concurrent resolution expressing the grave concern of the Congress regarding the plight of Ethiopian Jews; and

H. Con. Res. 356. Concurrent resolution to correct a technical error in the enrollment of the bill H.R. 1437.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 806. An act to provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore;

S. 1546. An act to amend the Deepwater Port Act of 1974, and for other purposes;

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania; and

S.J. Res. 25. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 2614. An act to amend the Indian Financing Act of 1974; and

S. 2819. An act to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 141. A concurrent resolution to correct technical errors in the enrollment of the bill S. 1538.

The message further announced that pursuant to the provisions of section 4(a), Public Law 98-399, the Speaker appoints as members of the Martin Luther King, Jr., Federal Holiday Commission, the following Members on the part of the House: Mr. GRAY, Mrs. HALL of Indiana, Mr. REGULA, and Mr. COURTER.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6071. An act to amend title 18 of the United States Code to strengthen the laws against counterfeiting trademarks, and for other purposes.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4028. An act to establish an Office of Drug Enforcement Coordination to coordinate Federal efforts to combat illicit drug production and trafficking, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5464. An act to establish the Connecticut Coastal National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5755. An act to amend the Fish and Wildlife Coordination Act; to the Committee on Environment and Public Works.

H.J. Res. 136. Joint resolution calling for a wildlife preserve for humpback whales in the West Indies; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 107. A concurrent resolution expressing the grave concern of the Congress regarding the plight of Ethiopian Jews; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

H.R. 3979. An act to establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the requirements for cigarettes, and for other purposes.

The following bills and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4901. An act to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1980 to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes.

H.R. 5479. An act to amend section 504 of title 5, United States Code, and section 2413 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes.

H.R. 6071. An act to amend title 18 of the United States Code to strengthen the laws against counterfeiting trademarks, and for other purposes.

H.J. Res. 605. Joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

MEASURES HELD AT THE DESK

The following joint resolution was held at the desk by unanimous consent:

H.J. Res. 392. Joint resolution to designate December 7, 1984, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

The following joint resolution was ordered held at the desk until the close of business on September 18, 1984, by unanimous consent:

H.J. Res. 545. Joint resolution designating the week of September 16 through 22, 1984, as "Emergency Medicine Week".

ENROLLED BILLS PRESENTED

The Secretary announced that on today, September 17, 1984, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 806. An act to provide for a plan to reimburse the Okefenoke Rural Electic Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore;

S. 1546. An act to amend the Deepwater Port Act of 1974, and for other purposes; and

S.J. Res. 25. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2583. A bill to authorize United States participation in the "Office International de la Vigne et du Vin" (the International Office of the Vine and Wine) (Rept. No. 98-602).

S. 2764. A bill to authorize United States participation in the International Jute Organization (Rept. No. 98-603).

By Mr. SIMPSON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2736. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes (Rept. No. 98-604).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 435. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5147; referred to the Committee on the Budget.

By Mr. SIMPSON, from the Committee on Veterans' Affairs, without amendment:

S. Res. 441. Resolution providing for the waiver of section 303(a) of the Congressional Budget Act of 1974 with respect to S. 2736 as reported by the Senate Committee on Veterans' Affairs.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment, and with an amendment to the preamble:

S.J. Res. 320. Joint resolution regarding the implementation of the policy of the United States Government in opposition to the practice of torture by any foreign government.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 139. Concurrent resolution condemning South Africa's arrests and detentions of political opponents.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 2997. A bill to amend the Packers and Stockyards Act, 1921, to require the prompt payment of live poultry growers by live poultry processors; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE:

S. 2998. A bill to provide for a program for the education of gifted and talented children; to the Committee on Labor and Human Resources.

By Mr. DECONCINI (for himself and Mr. BAUCUS):

S. 2999. A bill to impose quotas on the importation of certain copper articles for 5 years; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON from the Committee on Veterans' Affairs:

S. Res. 441. A resolution providing for the waiver of section 303(a) of the Congressional Budget Act of 1974 with respect to S. 2736 as reported by the Senate Committee on Veterans' Affairs; to the Committee on the Budget.

By Mr. BAKER:

S. Res. 442. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate on Tuesday, September 25, 1984, at 2:00 p.m.; considered and agreed to.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 443. A resolution to direct the Senate Legal Counsel to represent John F. Sopko in *Thomas Sinito* v. *Unnamed F.B.I. Agents, et al.*, Civil Action No. C84-2844; considered and agreed to.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 444. A resolution to direct the Senate Legal Counsel to intervene in In re George I. Benny and Alexandra Benny; considered and agreed to.

By Mr. DECONCINI (for himself and Mr. BAUCUS):

S. Con. Res. 143. A concurrent resolution disapproving the action of the President under title II of the Trade Act of 1974 with respect to import relief for unwrought copper; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2997. A bill to amend the Packers and Stockyards Act, 1921, to require the prompt payment of live poultry growers by live poultry processors; to the Committee on Agriculture, Nutrition, and Forestry.

CONTRACT CHICKEN GROWERS PROTECTION AMENDMENT

Mr. SPECTER. Mr. President, I am introducing a bill today that will extend some of the provisions of the Packers and Stockyards Act of 1921 to poultry growers who contract their services to integrated poultry processing plants. Current law only protects the interests of parties who sell or buy poultry. It does not cover persons who, under contract, raise young chicks loaned to them by the processors to maturity.

My bill corrects the major problem of the contract poultry grower: late payment for delivered chicks. Processors are often delinquent in making payments to growers. Growers in my State inform me that checks are sometimes 6 months late. It is not uncommon for payment to be 30 or 60 days late.

The time from when the grower receives the baby chicks to the time they are ready for processing is only 8 weeks. The grower is, therefore, forced to raise new flocks, incurring the costs of feed and electricity while waiting for payments to be made on past flocks.

Poultry production is a very important industry to America and to Pennsylvania in particular. The United States produces over 383 million chickens each year. This represents a total value of over $724 million. We produce far more poultry than any other country in the world, in excess of 7 million tons of meat. Russia, the second largest producer of poultry meat, has only 2.25 million tons. Pennsylvania is the fifth largest poultry producing State. Pennsylvania produces 21.6 million chickens each year for a total value of approximately $36.7 million.

The financial hardship caused by late payments is very difficult for the average grower to bear. Processors do not pay interest on their use of the grower's money from the time the chickens are delivered to the time payment is finally made. It is not equitable for payment to be delayed.

An amendment to the Packers and Stockyards Act could solve these problems with a minimum of market disruption. My bill requires processors to pay the grower within 7 days of receiving the chickens. However, the grower and the processor can agree to a different payment schedule. This system gives the grower prompt and sure payment for his services. At the same time, the processor is afforded the flexibility to negotiate a schedule that best matches his ability to satisfy obligations to the grower. The Secretary of Agriculture has the authority to enforce this requirement through existing provisions of the Packers and Stockyards Act.

Mr. President, I look forward to working with the distinguished chairman of the Agriculture Committee Senator JESSE HELMS, on this legislation. This bill is needed by growers in many State and I hope that it can receive swift consideration.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Chicken Growers Protection Amendment of 1983."

SEC. 2. Title V of the Packers and Stockyards Act, 1921 (7 U.S.C. 218 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 506. (a) As used in this section—

"(1) the term 'live poultry grower' means a person engaged in the business of raising poultry that is the property of a live poultry processor; and

"(2) the term 'live poultry processor' means a person engaged in the business of slaughtering and processing poultry that is raised by a live poultry grower.

"(b) Except as provided in subsections (c) and (d), a live poultry processor shall, before the close of the seventh day following the transfer of possession of live poultry from a live poultry grower to the processor, pay the grower the full amount the processor owes the grower for raising the poultry.

"(c)(1) Subject to paragraph (2) and such other terms and conditions as the Secretary may prescribe, a live poultry processor and live poultry grower may expressly agree in writing, before the grower begins to raise the flock of poultry for the processor, to effect payment in a manner other than that required under subsection (b).

"(2) An agreement described in paragraph (1) may not permit the processor to deliver the complete payment of the amount the processor owes the grower for raising live poultry later than the close of the thirtieth day following the day of the transfer of possession of the poultry from the grower to the processor.

"(3) A copy of an agreement described in paragraph (1) entered into between a live poultry processor and a live poultry grower shall be included in the records of the processor and the grower and shall be referred to in accounts and other documents of the processor relating to the agreement.

"(d) This section shall not apply to poultry raised by a live poultry processor for the use of such processor.".

SEC. 3. Sections 401, 402, 403, and 404 of the Packers and Stockyards Act, 1921, are amended by adding the words "or any live poultry processor" after the words "live poultry dealer or handler" whenever it occurs in the said sections.

By Mr. INOUYE:

S. 2998. A bill to provide for a program for the education of gifted and talented children; to the Committee on Labor and Human Resources.

GIFTED AND TALENTED CHILDREN'S EDUCATION ACT

● Mr. INOUYE. Mr. President, today I am introducing legislation which would again establish within the U.S. Department of Education, statutory authority for Federal presence in addressing the unique needs of our Nation's gifted and talented children.

In 1982, the administration closed the Office of Gifted and Talented within the Department, primarily because of the provisions of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), in which we consolidated a number of categorical programs, including the gifted and talented, into the block grant approach. Although the Department of Education has informed me that under the block grant approach, the various States, which retained statutory authority to utilize chapter 2 funds for the gifted and talented, are spending approximately $6 million on this target population, I personally feel that the time has come to once again establish a clear Federal presence.

It is my understanding that approximately 1.5 to 2.5 million children in our country can be considered "truly gifted" and, further, that a recent study completed by the National Advisory Panel for the former U.S. Office of Education and Talented ascertained that approximately half of the gifted and talented students in our Nation are receiving no special education at the present time. I further understand that reputable sources have indicated that the additional expenditures at the State and local levels per gifted student is far lower than that for any other major category of exceptional child except those with speech impairments.

Mr. President, even though the plight of our Nation's gifted and talented have been highlighted in a number of national educational policy reports, such as "A Nation At Risk" and that released by the education commissioners of the States entitled "Action for Excellence: A Comprehensive Plan To Improve Our Nation's Schools," I am afraid that many in our Nation feel that there is a fundamental conflict between "excellence" and "equity." It is, perhaps, easy to suggest that there is not real need for a Federal presence in this area, because those who are gifted and talented have more than their fair share of resources to succeed on their own; however, educational experts have assured me that this simply is not the case. Instead, these individuals, and their families and siblings, have many truly unique needs.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Elementary and Secondary Education Act of 1965 is amended by inserting at the appropriate place in the Act the following:

"TITLE IX—ADDITIONAL PROGRAMS

"PART A—GIFTED AND TALENTED CHILDREN

"SHORT TITLE; PURPOSE

"SEC. 901. (a) This part may be cited as the 'Gifted and Talented Children's Education Act'.

"(b) The Congress finds and declares that—

"(1) the Nation's greatest resource for solving critical national problems in areas of national concern is its gifted and talented children,

"(2) unless the special abilities of gifted and talented children are developed during their elementary and secondary school years, their special potentials for assisting the Nation may be lost, and

"(3) gifted and talented children from economically disadvantaged families and areas often are not afforded the opportunity to fulfill their special and valuable potentials, due to inadequate or inappropriate educational services.

"(c) It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to assist such agencies, institutions and organizations to plan, develop, operate, and improve programs designed to meet the special educational needs of gifted and talented children.

"DEFINITION

"SEC. 902. For the purposes of this part, the term 'gifted and talented children' means children and, whenever applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability, or in the performing and visual arts, and who by reason thereof, require services or activities not ordinarily provided by the school.

"AUTHORIZATION OF APPROPRIATIONS; APPORTIONMENT OF APPROPRIATIONS

"SEC. 903. (a) For the purpose of carrying out this part, there are authorized to be appropriated $40,000,000 for the fiscal year 1985 and for each of the succeeding four fiscal years.

"(b)(1) From the amounts appropriated under subsection (a) for each fiscal year, the Secretary shall reserve $3,000,000 or 15 percent whichever is larger for carrying out the provisions of section 905, relating to discretionary programs.

"(2) The remainder of the sums appropriated under subsection (a) for each fiscal year shall be available to carry out the provisions of section 904, relating to State programs.

"STATE PROGRAMS

"SEC. 904. (a) From the amounts available in any fiscal year under section 903(b)(2), the Secretary shall make grants to State educational agencies for the Federal share of the cost of planning and carrying out programs designed to meet the educational needs of gifted and talented children at the preschool, elementary, and secondary levels. Such programs may include—

"(1) inservice training of personnel to teach such children;

"(2) demonstration programs designed to develop special techniques for teaching such

children, together with assessments of the programs; and

"(3) State leadership programs to assist in extending programs for such children throughout the State.

"(b) The Secretary shall, in each fiscal year, allot the amounts appropriated pursuant to section 903(a) and available under section 903(b)(2) in accordance with the provisions of section 906.

"(c) Each State educational agency desiring to receive a grant under this section shall submit an application at such time, in such manner and containing such information as is necessary for the purposes of this section. Each such application shall contain assurances that—

"(1) funds paid to the State educational agency will be expended solely to programs and projects which—

"(A) are designed to identify the educational needs of gifted and talented children, especially programs described in clauses (1) through (3) of subsection (a),

"(B) are of sufficient size, scope, and quality to hold reasonable promise of making substantial progress toward meeting such needs, and

"(C) give appropriate consideration to the particular educational needs of disadvantaged gifted and talented children;

"(2)(A) the State educational agency will reserve from funds made available under this section in each fiscal year not more than 10 per centum of such funds for the purpose of administration, technical assistance, coordination, and statewide planning related to programs and projects designed to meet the needs of gifted and talented children;

"(B) the State educational agency will distribute, on a competitive basis, not less than 90 per centum of the funds made available under this section for payments to local educational agencies within the State which apply to the State educational agency, with due regard for the quality of activities proposed in the application of the local educational agencies;

"(3) the State educational agency will use at least 50 per centum of the funds made available under this section for programs and projects which include a component for the identification and education of disadvantaged gifted and talented children from low-income families;

"(4) the State educational agency and the local educational agencies within the State may use funds made available under this section to acquire instructional equipment only if such equipment will enhance the program or project for which such funds are furnished;

"(5)(A) the requirements of section 557 of the Education Consolidation and Improvement Act of 1981 (relating to participation of pupils and teachers in private elementary and secondary schools) are met unless such requirements cannot legally be met in the State (as determined by the State educational agency);

"(B) the State educational agency will not approve the application of a local educational agency within the State for assistance under this section unless the State educational agency determines that in designing the proposal subject to the application the needs of children in nonprofit private elementary and secondary schools have been taken into account through the consultation with private school officials and by other appropriate means; and

"(6) the State educational agency will provide to local educational agencies within the State, which are unable to compete due to smaller size or lack of financial resources, technical assistance in preparing proposals and in planning, developing, and operating programs under this section.

"(d) The Secretary shall approve any application which meets the requirements of subsection (c) and not disapprove any such application without first affording an opportunity for a hearing.

"DISCRETIONARY PROGRAMS

"SEC. 905. (a) From the amounts available in any fiscal year under section 903(b)(1) the Secretary may—

"(1) make grants to State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies and organizations, to assist them, to provide leadership training of personnel engaged in the education of gifted and talented children;

"(2) make grants to, or enter into contracts with, public agencies, private organizations or institutions which together or singly constitute a clearinghouse to disseminate information about programs, services, resources, research, methodology, and media materials for the education of gifted and talented children;

"(3) conduct, either directly or by grant or contract, a program of research, evaluation, and related activities pertaining to the education of gifted and talented children, to pay the Federal share of the cost of such grants or contracts.

"(b)(1) No grant may be made and no contract may be entered into under this section unless an application is submitted to the Secretary in such form, in such manner, and containing such information, as is necessary for the purposes of this section.

"(2) The requirements of section 557 of the Education Consolidation and Improvement Act of 1981 (relating to the participation of pupils and teachers in private, elementary and secondary schools) shall apply to programs and projects under this section unless such requirements cannot legally be met in the State (as determined by the State educational agency of the State in which the applicant for funds under this section is located).

"STATE ALLOTMENTS

"SEC. 906. (a)(1) In each fiscal year the Secretary shall allot, from amounts available under section 903(b)(2), not more than 1 per centum among—

"(A) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

"(B) programs for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and

"(C) programs authorized for children and teachers in overseas dependent schools of the Department of Defense,

in accordance with their respective needs.

"(2) From the remainder of such sums in any such fiscal year, the Secretary shall allot to each State which has an application meeting the requirements of section 904—

"(A) $50,000, plus,

"(B) an amount which bears the same ratio to such remainder as the number of children in the State aged 5 to 17 years, inclusive, bears to the number of children in all States.

"(3) For the purpose of this subsection, the term 'State' means the several States, the Commonwealth of Puerto Rico, and the District of Columbia.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated under section 903 shall be deemed part of its allotment under section (a) for such year.

"ADMINISTRATION

"SEC. 907. (a) The Secretary shall designate an administrative unit within the Department of Education to administer the programs and projects authorized by this part and to coordinate all programs for gifted and talented children and youth administered by the Department of Education.

"(b) Notwithstanding any other provision of law, any Indian tribe or Hawaiian organization certified by the Governor which operates schools for its children shall be deemed to be a local educational agency for the purposes of this part.

"FEDERAL SHARE

"Sec. 908. The Federal share for any fiscal year shall be 90 per centum, except that the Federal share for programs and projects involving the participation of students in nonprofit private elementary and secondary schools shall be 100 per centum.".

Sec. 2. (a) Section 561(a)(1) of the Education Consolidation and Improvement Act of 1981 is amended by striking out "part C" and inserting in lieu thereof "parts A and C".

(b) Section 581 of such Act is amended by striking out "part C" and inserting in lieu thereof "parts A and C" and by striking out "gifted and talented children".

(c) Section 582 of such Act is amended—

(1) by striking out subclause (A) of clause (3) of such section; and

(2) by redesignating subclauses (A), (B), (C), (D), and (E) as subclauses (A), (B), (C), and (D), respectively.

(d) Section 587(a)(1) of such Act is amended by striking out "part C" and inserting in lieu thereof "parts A and C".

(e) Section 1001(i) of the Elementary and Secondary Education Act is amended to read as follows:

"(i) The term 'Secretary' means the Secretary of Education.".●

By Mr. DECONCINI:

S. 2999. A bill to impose quotas on the importation of certain copper articles for 5 years; to the Committee on Finance.

5-YEAR COPPER IMPORT QUOTA

Mr. DECONCINI. On June 27, the International Trade Commission unanimously agreed that the American copper industry has been seriously injured by foreign imports. In recommending remedies for this injury, two of the Commissioners recommend the imposition of quotas and two recommended the imposition of tariffs.

On September 6, President Reagan rejected the ITC decision. In doing so, he turned his back on the 29,000 men and women currently in the copper mining labor force and on those thousands of Americans who have already lost their jobs with the closing of three-fourths of America's largest copper mines. Furthermore, President Reagan's decision has put into deep jeopardy our Nation's ability to supply itself with this strategic metal during a national emergency, leaving us, instead, to depend on unstable Third World nations, such as Zambia, Chile, and Zaire.

Our copper industry's foreign competitors, many of which are Government-subsidized and benefit from U.S. foreign-aid dollars, are not responsive to the free-market system. Only the privately owned producers in the United States and Canada have responded to recent decreases in world demand for copper with decreased production. Most other foreign producers have responsed to decreased demand for copper by either maintaining or increasing their production. Rather than responding to market forces, these producers are motivated by their Government's need to generate foreign exchange, maintain domestic employment, and service massive international-debt obligations. These are the conclusions which led the International Trade Commission to recommend import relief.

The legislation, which I am introducing today, is designed to stop the serious injury to the copper industry which the ITC unanimously found to exist. It incorporates the proposals of the two ITC Commissioners who recommend that import relief be provided through the imposition of quotas. Both of these Commissioners proposed that the President impose quantitative restrictions on for a 5-year period in an aggregate amount of 425,000 short tons per year on imports of black copper, blister copper, and anode copper, provided for in item 612.03 of the TSUS, and unwrought copper, other than alloyed, provided for in item 612,06 of the TSUS, as follows: 375,000 short tons annually for unwrought copper, other than alloyed, provided for in item 612.06 of the TSUS, which tonnage shall include a spearate allocation of 25,000 short tons for wire bar; and 50,000 short tons annually for black copper, blister copper, and anode copper, provided for in item 612.03 of the TSUS. These quotas would be administered on a country-by-country basis in a manner to be determined by the President, and no more than 25 percent of a country's annual allocation would be permitted to enter in any calendar quarter.

This legislation is necessary to promote and expand the economic viability of the U.S. copper industry and to prevent further declines in its work force, production, and market position. The relief provided by this bill will provide sales volume and price relief for copper producers and will enhance the industry's ability to be truly competitive in the long term. The increased market share that will be obtained by domestic producers will allow them to achieve reductions in stocks, increase their utilization of domestic copper mining and smelting facilities, and continue their efforts to enhance efficiency and competitiveness.

Mr. President, I strongly believe that the copper industry must take full advantage of the relief this bill would give them by investing in copper facilities, reducing costs, and striving for greater efficiency. In fact, many copper producers in this country have already made a substantial commitment to pursue these means of insuring long-term viability. Much of the industry has taken steps to modernize equipment, develop and utilize technological innovation, institute extensive cost-saving programs, and increase productivity.

Unfortunately, the massive losses suffered by our Nation's copper industry in recent years have led to deferrals or cancellations of many of these needed improvements. Significant capital investment in technology and facilities is virtually impossible under current conditions in the copper industry. A continuation of high levels of imported copper jeopardizes the overall effort of the industry to modernize and enhance competitiveness. Stabilization of import levels is needed to allow reinvestment and continued gains in productivity. During the temporary period of relief proposed in this bill, the copper industry would have the opportunity, and the obligation, to make real strides in investment and cost saving. With this opportunity, however, the copper producers of this country can be competitive and viable over the long term.

Mr. President, the copper industry of the United States is critical to the maintenance of a strong industrial economy and to the national defense. The effect on this industry of unfair production and exports by foreign copper producers has been devastating as the International Trade Commission has recognized. It is time that we stopped allowing the United States to be used as a repository for the overproduction of copper by producers who are unaffected by the world supply and demand. This bill will do that, and will be one step toward restoring the true competitive position of the U.S. industry.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD. I urge my colleagues to study the bill and give it their support.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For purposes of this Act—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, within the customs territory of the United States.

(2) The term "Secretary" means the Secretary of the Treasury.

SEC. 2. QUANTITATIVE RESTRICTIONS.

(a) BLACK COPPER, COPPER BLISTER AND ANODE COPPER.—The aggregate quantity of—

(1) black copper,

(2) blister copper, and

(3) anode copper,

provided for an item 612.03 of the Tariff Schedules of the United States (19 U.S.C. 1202) that may be entered during any year within the 5-year period beginning on the date of enactment of this Act shall not exceed 50,000 short tons.

(b) UNWROUGHT COPPER.—

(1) NOT WIRE BAR.—The aggregate quantity of unwrought copper (other than alloys of copper) provided for in item 612.06 of the Tariff Schedules of the United States which is not in the form of wire bar that may be entered during any year within the 5-year period beginning on the date of enactment of this Act shall not exceed 350,000 short tons.

(2) WIRE BAR.—The aggregate quantity of unwrought copper (other than alloys of copper) provided for in item 612.06 of the Tariff Schedules of the United States which is in the form of wire bar that may be entered during any year within the 5-year period beginning on the date of enactment of this Act shall not exceed 25,000 short tons.

(c) QUARTERLY RESTRICTIONS.—No more than 25 percent of any quantity of imports allocated to a foreign country under section 3(c) for any year may be entered during any quarter within such year.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that the aggregate quantity of copper articles described in section 2 which may be entered during any year does not exceed the quantitative limitation established for that year under section 2.

(b) REGULATION.—

(1) IN GENERAL.—The Secretary is authorized to prescribe such regulations as may be necessary or appropriate to affect the purposes of this Act and to enforce its provisions.

(2) CONSULTATION.—Before issuing any such regulations under paragraph (1), the Secretary shall consult with domestic copper producers and importers, afford an opportunity for comments from interested parties, and shall consider all such comments before prescribing final regulations.

(c) ALLOCATION.—The Secretary shall equitably allocate among foreign countries the aggregate quantity of each copper article described in section 2 which may be entered during any year within the 5-year period beginning on the date of enactment of this Act, and in doing so shall be guided by—

(1) the relative increases of imports into the United States by each foreign exporting country since 1979;

(2) findings of unfair trade practices by each foreign country with respect to such copper articles;

(3) the extent to which copper production and export policies of producers in each exporting country do not reflect or are not responsive to supply and demand conditions in the world copper market; and

(4) such other considerations as the Secretary may deem appropriate.

ADDITIONAL COSPONSORS

S. 2082

At the request of Mr. MOYNIHAN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2082, a bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes.

S. 2353

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2353, a bill to amend the Internal Revenue Code of 1954 to provide that one-half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction.

S. 2736

At the request of Mr. SIMPSON, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Vermont [Mr. STAFFORD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alabama [Mr. DENTON], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arizona [Mr. DECONCINI], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2736, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

S. 2770

At the request of Mr. MELCHER, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2770, a bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes.

S. 2894

At the request of Mr. MELCHER, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponsor of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business.

S. 2927

As the request of Mr. GRASSLEY, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Alabama [Mr. DENTON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 2927, a bill to amend title 5 of the United States Code regarding the authority of the Special Counsel.

S. 2930

At the request of Mr. SYMMS, the name of the Senator from Arizona [Mr. GOLDWATER] was added as a cosponsor of S. 2930, a bill to repeal the changes made by the Tax Reform Act of 1984 with respect to the tax treatment of debt instruments issued for property.

S. 2958

At the request of Mr. BINGAMAN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2958, a bill to amend the Public Works and Economic Development Act of 1965 to authorize appropriations for additional fiscal years.

S. 2973

At the request of Mr. D'AMATO, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponsor of S. 2973, a bill to promote the safety of children receiving day care services by establishing a national program for the licensing of child day care providers, establishing a clearinghouse for information with respect to criminal records of employees of day care centers, and establishing a hotline for reporting of abuse of children receiving day care services, and for other purposes.

SENATE JOINT RESOLUTION 201

At the request of Mr. HATFIELD, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of Senate Joint Resolution 201, a joint resolution to provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week."

SENATE JOINT RESOLUTION 304

At the request of Mr. HELMS, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Missouri [Mr. DANFORTH], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 304, a joint resolution to designate the month of October 1984 as "National Quality Month."

SENATE JOINT RESOLUTION 320

At the request of Mr. PERCY, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. STAFFORD], the Senator from Oregon [Mr. HATFIELD], and the Senator from Colorado [Mr. HART] were added as cosponsors of Senate Joint Resolution 320, a joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

SENATE JOINT RESOLUTION 339

At the request of Mr. HOLLINGS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Georgia [Mr. NUNN], the Senator from Connecticut [Mr. WEICKER], the Senator from Utah [Mr. GARN], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 339, a joint resolution designating March 1985 as "National Mental Retardation Awareness Month."

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the names of the Senator from Washington [Mr. GORTON] and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

SENATE CONCURRENT RESOLUTION 139

At the request of Mr. PERCY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Concurrent Resolution 139, a concurrent resolution condemning South Africa's arrests and detentions of political opponents.

SENATE RESOLUTION 439

At the request of Mr. PRESSLER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Resolution 439, a resolution to express the sense of the Senate that the Continental Scientific Drilling Program is an important national scientific endeavor, benefitting the commerce of the Nation, which should be vigorously pursued by government and the private sector.

AMENDMENT NO. 3592

At the request of Mr. BOSCHWITZ, the name of the Senator from Michigan [Mr. LEVIN] was added as a consponsor of amendment no. 3592 intended to be proposed to S. 2722, an original bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to reauthorize certain child nutrition programs for fiscal years 1985 and 1986.

AMENDMENT NO. 3938

At the request of Mr. GORTON, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of amendment No. 3938 proposed to S. 2851, an original bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe

and sound operation of depository institutions, and for other purposes.

SENATE CONCURRENT RESOLUTION 143—DISAPPROVING PRESIDENTIAL ACTION WITH RESPECT TO IMPORT RELIEF FOR UNWROUGHT COPPER

Mr. DECONCINI (for himself and Mr. BAUCUS) submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. CON. RES. 143

Resolved by the Senate (the House of Representatives concurring), That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on 9-6-84.

Mr. DECONCINI. Mr. President, on September 6, President Reagan rejected the unanimous decision of the International Trade Commission that the American copper industry has been seriously injured by foreign imports. In doing so he turned his back on the 29,000 men and women currently in the copper mining labor force and on those thousands of Americans who have already lost theirs with the closing of three-fourths of America's largest copper mines. Furthermore, President Reagan's decision has put into deep jeopardy our Nation's ability to supply itself with this strategic metal during a national emergency, leaving us, instead, to depend on unstable Third World nations, such as Zambia, Chile, and Zaire.

Our copper industry's foreign competitiors, many of which are government-subsidized and benefit from U.S. foreign aid dollars, are not responsive to the free market system. Only the privately owned producers in the United States and Canada have responded to recent decreases in world demand for copper with decreased production. Most other foreign producers have responded to decreased demand for copper by either maintaining or increasing their production. Rather than responding to market forces, these producers are motivated by their governments' need to generate foreign exchange, maintain domestic employment, and service massive international debt obligations. These are the conclusions which led the International Trade Commission to recommend import relief.

Today I am submitting a concurrent resolution, which, if passed by the Congress, would disapprove the President's rejection of the ITC recommendation to provide import relief for the U.S. copper industry and would require him to implement this recommendation, according to the provision of the Trade Act of 1974. I urge my colleagues to join with Senator BAUCUS and me in this effort to correct this disastrous decision for the American copper industry.

SENATE RESOLUTION 441—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. SIMPSON, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 441

Whereas the provisions of S. 2736 as reported, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984", would make cost-of-living adjustments, effective December 1, 1984, in the rates of Veterans' Administration compensation for service-connected-disabled veterans and dependency and indemnity compensation for survivors of veterans who have died from service-connected causes and, effective October 1, 1984, in the rates of GI Bill educational assistance and Veterans' Administration rehabilitation subsistence allowances; and

Whereas, since Senate consideration of S. 2736 at the present time, before a first concurrent resolution for fiscal year 1985 has been adopted, would violate section 303(a) of the Congressional Budget Act of 1974 in that the bill would provide new spending authority described in section 401(c)(2)(C) of that Act to become effective in fiscal year 1985, a waiver of section 303(a) of that Act is necessary to provide for the timely consideration of S. 2736: Now, therefore, be it

Resolved by the Senate, That, pursuant to section 303(c) of the Congressional Budget Act of 1974, section 303(a) of that Act be waived with respect to S. 2736 as reported.

AMENDMENTS SUBMITTED

STUDENT LOANS UNDER TITLE IV OF THE HIGHER EDUCATION ACT

COCHRAN (AND JEPSEN) AMENDMENT NO. 4243

(Ordered to lie on the table.)

Mr. COCHRAN (for himself and Mr. JEPSEN) submitted an amendment intended to be proposed by them to the bill (S. 2491) to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1956, and for other purposes; as follows:

On page 19, between lines 18 and 19, insert the following:

TITLE I—STUDENT LOAN CONSOLIDATION

On page 35, after line 18, insert the following:

TITLE II—GUARANTEED STUDENT LOAN DOLLAR LIMITATIONS INCREASES IN DOLLAR LIMITATIONS FOR LOANS

SEC. 201. (a) Section 425(a) of the Higher Education Act of 1965 (hereafter in this title referred to as "the Act") is amended—

(1) by striking out "$2,500" each place it appears in paragraph (1) inserting in lieu thereof "$3,000";

(2) by striking out "$5,000" in such paragraph and inserting in lieu thereof "$6,000";

(3) by striking out "$12,500" in paragraph (2) and inserting in lieu thereof "$17,500"; and

(4) by striking out "$25,000" in such paragraph and inserting in lieu thereof "$28,000".

(b) Section 428(b)(1) of the Act is amended—

(1) by striking out "$2,500" each place it appears in subparagraph (A) and inserting in lieu thereof "$3,000";

(2) by striking out "$5,000" in such subparagraph and inserting in lieu thereof "$6,000";

(3) by striking out "$12,500" in subparagraph (B) and inserting in lieu thereof "$17,500"; and

(4) by striking out "$25,000" in such subparagraph and inserting in lieu thereof "$28,000".

(c) Section 428A (a) of the Act is amended—

(1) by striking out "$2,500" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "$3,000";

(2) by striking out "$5,000" in each place it appears in such paragraphs and inserting in lieu thereof "$6,000";

(3) by striking out "$12,500" in each place it appears in such paragraphs and inserting in lieu thereof "$17,500"; and

(4) by striking out "$25,000" in each place it appears in such paragraphs and inserting in lieu thereof "$28,000".

(d)(1) Except as provided by paragraph (2), the amendments made by this section shall take effect for loans made and outstanding after the date of enactment of this Act.

(2) The amendments made by subsections (a)(1), (b)(1), and (c)(1) shall be effective for loans made for use in the academic year 1984-1985, only.

FURTHER INITIAL YEAR LOAN INCREASE

SEC. 202. (a) Section 425(a) of the Higher Education Act of 1965 (hereafter in this Act referred to as "the Act") is amended by striking out "$2,500" each place it appears in paragraph (1) and inserting in lieu thereof "$3,500".

(b) Section 428(b)(1) of the Act is amended by striking out "$2,500" each place it appears in subparagraph (A) and inserting in lieu thereof "$3,500".

(c) Section 428A(a) of the Act is amended by striking out "$2,500" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "$3,500".

(d) The amendments made by this section shall take effect on July 1, 1985.

TARIFF TREATMENT OF CERTAIN ARTICLES

DANFORTH AMENDMENT NO. 4244

Mr. DANFORTH proposed an amendment to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

[The text of the amendment appears earlier in today's Senate proceedings.]

COHEN (AND OTHERS) NO. 4245

Mr. COHEN (for himself, Mr. PRYOR, Mr. BUMPERS, Mr. SASSER) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 41, between lines 18 and 19, insert the following:

SEC. 252. CLARIFICATION OF THE SCOPE OF INVESTIGATIONS UNDER SECTION 201 OF THE TRADE ACT OF 1974.

Subsection (b) of section 210 of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by inserting "any significant increase in the volume or share of total imports attributable to domestic producers in the industry," after "profit," in paragraph (2)(A),

(2) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) with respect to threat of serious injury—

"(i) a decline in sales of the article like or directly competitive with the imported article,

"(ii) a higher or growing inventory (whether maintained by domestic producers, importers, or retailers),

"(iii) an upward trend in imports or sales for importation (either actual or relative to apparent domestic consumption),

"(iv) an upward trend in the volume or share of total imports, or sales for importation, attributable to domestic producers, and

"(v) a downward trend in production, profits, wages or employment (or increasing underemployment) in the domestic industry concerned; and",

(3) by inserting "regardless of whether the imports are attributable to domestic producers in the industry" after "production" in paragraph (2)(C),

(4) by striking out "may" in paragraph (3)(A) and inserting in lieu thereof "shall", and

(5) by adding at the end thereof the following new paragraphs:

"(7) For purposes of this section, the term 'significant idling of productive facilities' means a decline in domestic production (either actual or relative to apparent domestic consumption), the closing of plants, or the underutilization of production capacity.

"(8) Notwithstanding the authority under paragraph (2) to take into account all economic factors in making a determination under paragraph (1), the Commission shall not take into account any consideration described in paragraph (3), (4), (5), or (6) of section 202(c) in making such a determination.

"(9) A finding by the Commission—

"(A) that a significant number of firms in the domestic industry operate at a reasonable level of profit, or

"(B) that the profits of the domestic industry are not in a downward trend,

shall not preclude a determination by the Commission under paragraph (1) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to such domestic industry.

"(10) For purposes of this subsection, the importation of any articles by domestic producers in an industry shall not be considered to be a positive effort to compete but shall be a factor supporting the existence of serious injury, or the threat of serious injury, to such industry.

"(11) In making its determination under paragraph (1), the Commission shall take full account of the effect of plant closings on the production, employment, capacity, capacity utilization and profits of a domestic industry.".

HELMS AMENDMENT NO. 4246

Mr. HELMS proposed an amendment to the bill H.R. 3398, supra; as follows:

On page 11, between lines 9 and 10, add the following:

SEC. 126. CONTINUATION OF DUTY-FREE TREATMENT FOR META-TOLUIC ACID (MTA).

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 404.28 and inserting in lieu thereof the following:

"404.27	Products provided for in the Chemical Appendix to the Tariff Schedules: Meta-toluic acid (MTA)	Free	7¢ per lb. + 57% ad val.
404.29	Other	1.7¢ per lb. + 17.9% ad val.	7¢ per lb. + 57% ad val.".

On page 24, between lines 32 and 33, insert the following:

(4) The amendment made by section 126 shall apply with respect to articles entered after June 30, 1985.

COHEN AMENDMENT NO. 4247

Mr. COHEN proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of the matter proposed to be inserted, add the following:

TITLE VI—SMALL BUSINESS TRADE REMEDIES

SEC. 601. SHORT TITLE; REFERENCES.

(a) This title may be cited as the "Small Business Trade Remedies Act of 1984".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 602. ESTABLISHMENT OF SMALL BUSINESS TRADE ASSISTANCE OFFICE.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by inserting after section 338 the following new section:

"SEC. 339. SMALL BUSINESS TRADE ASSISTANCE OFFICE.

"(a) There is established within the Department of Commerce a Small Business Trade Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) for the remedies and benefits that may be available under such law.

"(c) For purposes of this section—

"(1)(A) The term 'eligible small business' means any business concern which, in the agency's judgment, due to the small size of such concern, has neither the adequate internal resources nor financial ability necessary to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits available under the trade laws.

"(B) In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration and shall consult with any other agency that has provided assistance under subsection (b) to that business concern.

"(C) An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' includes, but is not limited to—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).".

SEC. 603. JUDICIAL REVIEW OF CERTAIN ACTIONS BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

(a) Paragraphs (1)(A), (1)(B), and (2)(A) of section 516A(a) (19 U.S.C. 1561a(a)) are each amended by striking out all that follows "in which the matter arises" and inserting in lieu thereof "may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based."

(b)(1) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) by striking out subsection (a)(3),

(B) by striking out "United States Court of International Trade, or of the Court of Appeals for the Federal Circuit" in subsection (c)(1) and inserting in lieu thereof "Court of Appeals for the Federal Circuit",

(C) by striking out "the United States Court of International Trade" each place it appears in subsections (c)(2) and (d) and inserting in lieu thereof "the Court of Appeals for the Federal Circuit",

(D) by striking out "action" each place it appears in subsection (d) and inserting in lieu thereof "appeal", and

(E) by striking out "of the United States Court of International Trade or" in subsection (e).

(2) Each of the following provisions of title 28, United States Code, and any references to any such provision, are repealed:

(A) Section 1581(c).

(B) Section 2631(c).

(C) Section 2632(c).

(D) Section 2635(b).

(E) Section 2636(c).

(F) Section 2636(d).

(G) Section 2640(b).

(3) Section 1295(a) of title 28, United States Code, is amended by—

(A) striking out "and" at the end of paragraph (9);

(B) striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following:

"(11) of appeals described in section 516A of the Tariff Act of 1930.

For purposes of paragraph (11), the provisions of section 516A of the Tariff Act of 1930 shall apply to such appeal and, except to the extent it is inconsistent with such section, the Court of Appeals for the Federal Circuit may take such action on appeal as may be taken pursuant to this title.".

(4) Section 2631(j)(1) of title 28, United States Code, is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out subparagraph (B), and

(C) by redesignating subparagraph (C) as subparagraph (B).

(5) Section 2639(a)(1) of title 28, United States Code, is amended by striking out ", 516, or 516A" and inserting in lieu thereof "or 516".

(6) Section 2647 of title 28, United States Code, is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 of the Tariff Act of 1930.".

(c) The amendments made by this section shall apply to agency determinations made on or after the date of the enactment of this Act.

SEC. 604. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Paragraph (1) of section 516A(a) (19 U.S.C. 1516a(a)(1)), as amended by section 603, is further amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under section 303, 702(c), or 732(c), not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b), not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 303, 703(a), or 733(a), as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(b) Subparagraph (A) of section 516A(a)(2), as amended by section 603, is further amended to read as follows:

"(A) IN GENERAL.—Within 30 days after—

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(c) Subparagraph (B) of section 516A(a)(2) is amended to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 303, 705, or 735, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 303, 705, or 735, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751.

"(iv) A determination by the administering authority, under section 303, 704, or 734, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 303, 704(h), or 734(h).

"(vi) A determination under section 303, 705, 735, 751, or any ruling during administration of the countervailing or antidumping duty order by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(d) Subsection (a) of section 516A, as amended by section 603, is further amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 303, 705, or 735 may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 303, 705, or 735 which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

SEC. 605. INDUSTRY-LABOR COALITIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1655) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 606. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 607. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)",

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(3) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 608. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 609. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

* * * * *

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 610. WAIVER OF VERIFICATION.

Subsection (b) of section 703 (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph.

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all over information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of sectrion 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 611. TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.

Sections 704 and 734 are each amended by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

SEC. 612. COMMENTS ON SUSPENSION AGREEMENTS.

Section 704(e)(3) and 734(e)(3) are each amended by striking out "all parties to the investigatgion" and inserting in lieu thereof "all interested parties described in section 771(9)".

SEC. 613. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Paragraph (2) of section 705(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Subsection (c) of section 705 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply the unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from a warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 705(c)(3) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Paragraph (3) of section 735(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.".

(2) Subsection (c) of section 735 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from a warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 735(c)(3) is amended by inserting "paragraph (4) or" after "under".

SEC. 614. WAIVER OF DEPOSIT OF ESTIMATED ANTIDUMPING DUTIES.

Paragraph (1) of section 736(c) is amended by inserting "and was sold to any person that is not related to such manufacturer, producer, or exporter" after "for consumption".

SEC. 615. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 708. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

"(a) IN GENERAL.—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to a countervailing duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirement of subsection (b) and deposits with the appropriate customs officer an estimated countervailing duty in an amount determined by the administering authority.

"(b) IMPORTER REQUIREMENTS.—In order to meet the requirements of this subsection, a person shall—

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

"(2) maintain and furnish to the customs officer such records concerning such merchandise as the administering authority, by regulation, requires, and

"(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.".

SEC. 616. DRAWBACKS.

Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 780. DRAWBACKS.

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

SEC. 617. DUTIES OF CUSTOMS OFFICERS.

Subtitle B of title VII is amended by striking out section 739.

SEC. 618. RELATED PARTIES.

Subtitle D of title VII is amended—

(1) by striking out "any interest in" in subparagraphs (B) and (C) of section 771(13) and inserting in lieu thereof "20 percent or more of", and

(2) by striking out "5 percent" in section 773(e)(3)(E) and inserting in lieu thereof "20 percent".

SEC. 619. COMMERCIAL QUANTITIES OF MERCHANDISE.

(a) Section 771(17) and paragraphs (1)(A) and (4)(A) of section 773(a) are each amended by striking out "wholesale quantities" each place it appears in the heading and the test and inserting in lieu thereof "commercial quantities".

(b) Paragraph (14) of section 771 is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

SEC. 620. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Subsection (b) of section 772 is amended by inserting "a reseller or" after "date of importation, from".

SEC. 621. FOREIGN MARKET VALUE.

(a) Paragraph (1) of section 773(a) (19 U.S.C. 1677b(a)) is amended by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3)) with respect to such person".

(b) Section 773 (19 U.S.C. 1677b) is amended by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.".

(c) Subparagraph (B) of section 773(a)(1) is amended to read as follows:

"(B) if not so sold or offered for sale for home consumption, or if the administering authority determines that the sales for home consumption in the country from which the merchandise is exported are so small in relation to the sum of such sales for home consumption and the sales for exportation to all other countries (including the United States) as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States,".

SEC. 622. SUBSIDIES DISCOVERED DURING PROCEEDING.

Section 775 is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 623. RECORDS OF EX PARTE MEETINGS.

Paragraph (3) of section 777(a) (19 U.S.C. 1677f(a)(3)) is amended to read as follows:

"(3) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

"(A) interested parties or other persons providing factual information in connection with a proceeding, and

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.".

SEC. 624. CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f), as amended by section 605, is further amended—

(1) by striking out "confidential information" each place it appears in the text and headings of subsections (a)(4)(A) and (c) and in the heading of subsection (b) and inserting in lieu thereof "proprietary business information",

(2) by striking out "confidential" each place it appears in subsections (a)(4)(B) and (b) and inserting in lieu thereof "proprietary business information",

(3) by striking out "nonconfidential summary" in subsection (b)(1)(A)(i) and inserting in lieu thereof "summary that is not to be treated as proprietary business information which is", and

(4) by striking out "nonconfidential submissions" in the heading for paragraph (4) of subsection (a) and inserting in lieu thereof "submissions that are not proprietary business information".

SEC. 625. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

"SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 626. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 605 and 609 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after the date of enactment of this Act.

(2) The amendments made by section 603 shall apply with respect to determinations made under section 303 or title VII of the Trade Act of 1930 after the date of enactment of this Act.

(3) The amendments made by section 604 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

BENTSEN AMENDMENT NO. 4248

Mr. BENTSEN proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

Beginning on page 8 of amendment No. 4244: Substitute for section 121 of the Committee amendment the following:

"SEC. 121. NAPHTHAS.

"Part 10 to schedule 4 is amended—

"(a) by striking the language 'item 475.35' from headnote 1 (as amended by section 121 of H.R. 3398) and inserting the language 'items 475.36, 475.37, and 475.38' in lieu thereof; and

"(b) by striking out item 475.35 and inserting the following in lieu thereof:

	"Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel): Containing by weight over 5 percent and not over 25 percent of any product described in part 1 of this schedule:		
475.36	For not over 190,000,000 pounds entered during the 12-month period beginning January 1 in any year.	0.25¢ per gal.	0.5¢ per gal.
475.37	Other	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material
475.38	Other	0.25¢ per gal.	0.5¢ per gal."

LAUTENBERG (AND OTHERS) AMENDMENT NO. 4249

Mr. LAUTENBERG (for himself, Mr. DANFORTH, Mr. MATHIAS, Mr. CRANSTON, Mr. TSONGAS, Mr. RIEGLE, Mr. ROTH, Mr. DIXON, Mr. WILSON, Mr. MOYNIHAN, and Mr. LEAHY) proposed an amendment to the bill H.R. 3398, supra; as follows:

At the end of the bill, insert the following:

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights; Now, therefore, be it

Declared by the Senate (the House of Representatives concurring), That is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (a) disserve the goal of promoting continuing development and innovation in computer software; (b) undermine the international consensus that computer software is a work of authorship protected by copyright.

LAUTENBERG AMENDMENT NO. 4250

Mr. LAUTENBERG proposed an amendment to amend amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 42, strike out lines 30 through 32, and insert in lieu thereof the following:

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and".

On page 50, line 8, insert "and effective" after "adequate".

On page 53, strike out lines 17 through 20 and insert in lieu thereof the following:

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products: and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;".

AUTHORIZATION OF CERTAIN CONSTRUCTION PROJECTS ON RIVERS AND HARBORS

ABDNOR (AND OTHERS) AMENDMENT NO. 4251

(Ordered to lie on the table.)

Mr. ABDNOR (for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill (S. 1739) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

On Page 56, beginning on line 15 strike all through line 7 on page 185 and insert in lieu thereof the following:

That this Act may be cited as the "Water Resources Development Act of 1984".

"TITLE I

"Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers (hereinafter in this Act referred to as the "Secretary"), shall, from funds appropriated, obligate no sums in excess of the sums specified in this title for the combined purpose of the "Construction, General" account and the "Flood Control, Mississippi River and Tributaries" account:

"(1) For the fiscal year ending September 30, 1986, the sum of $1.4 billion.

"(2) For the fiscal year ending September 30, 1987, the sum of $1.4 billion.

"(3) For the fiscal year ending September 30, 1988, the sum of $1.5 billion.

"(4) For the fiscal year ending September 30, 1989, the sum of $1.5 billion.

"(5) For the fiscal year ending September 30, 1990, the sum of $1.6 billion.

"Nothing contained herein limits or otherwise amends authority conferred under section 10 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 621). Any amounts obligated against funds furnished or reimbursed by Federal or non-Federal interests shall not be counted against the limitation on obligations provided for in this Act.

"TITLE II—GENERAL PROVISIONS

"SEC. 201. (a) Prior to initiating construction of any water resources project authorized prior to this Act, in this Act, or subsequent to the Act, which is under the jurisdiction of the Secretary and which can be anticipated to provide flood control benefits, more than 10 per centum of which are produced by an increase in anticipated land values to a land owner, the Secretary shall enter into an agreement with such owner or owners that provides that such owner or owners will repay to the Secretary, for deposit in the Treasury, either prior to construction or when such benefits are realized, 50 per centum of that portion of the project's costs allocated to the owner's benefits.

"(b) For any study initiated by the Secretary subsequent to the enactment of this Act, the Secretary shall, if appropriate, include information in such study report on the likelihood that the requirements of subsection (a) of this section are applicable.

"SEC. 202. Any report describing a project having recreation benefits that is submitted subsequent to the enactment of this Act to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or by the Secretary of Agriculture under authority of Public Law 83-566, as amended, shall describe the usage of other, similar public recreational facilities within the general area of the project, and the anticipated impact of the proposed project on the usage of such existing recreational facilities.

"SEC. 203. (a) Any project, or separable element thereof, that is under the responsibility of the Secretary, and for which construction has not commenced within ten years following the date of the authorization of such project, shall no longer be authorized after such ten-year period unless the Secretary, after consultation with the affected State or States, notifies the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives that continued authorization of such project, or separable element thereof, remains needed and justified.

"(b) Any project, or separable element thereof, qualifying for deauthorization under the terms of this section upon enactment of this Act or which will qualify within one year of enactment of this Act, shall not be deauthorized until such one year period has elapsed.

"SEC. 204. Any feasibility survey authorized by any resolution of a committee or Act of Congress to be undertaken by the Secretary is automatically rescinded and is no longer authorized if no funds are appropriated for such survey within five full fiscal years following its approval.

"SEC. 205. The second sentence of the definition of "works of improvement", contained in section 2 of Public Law 83-566, as amended, is further amended by adding after $250,000" the following: "but not more than $10,000,000, for any projects submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives: Provided, That any such project with an anticipated Federal cost exceeding $10,000,000 must be authorized by Act of Congress.".

"SEC. 206. Section 2 of Public Law 83-566, as amended, is further amended by deleting the period and inserting a colon at the conclusion of the proviso, and adding the following: "And provided further, That each such project submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives must contain benefits directly related to agriculture that account for at least 20 per centum of the total benefits of the project.".

"SEC. 207. The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives by April 1, 1986, on the feasibility, the desirability, and the public interest involved in

requiring that full public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to Public Law 83-566, as amended.

"SEC. 208. Subsection (a) of section 134 of Public Law 94-587 is amended to read as follows:

"(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed within ninety days after enactment of the Water Resources Development Act of 1984 to institute a procedure enabling the engineer officer in charge of each district under the direction of the Chief of Engineers to certify, at the request of local interests, that particular local improvements for flood control can reasonably be expected to be compatible with a specific, potential project then under study or other form of consideration. Such certification shall be interpreted to assure interests that they may go forward to construct such compatible improvements at local expense with the understanding that such improvements can be reasonably expected to be included within the scope of the Federal project, if later authorized, both for the purposes of analyzing the cost and benefits of the project and assessing the local participation in the costs of such project.".

"SEC. 209. (a) The Secretary shall undertake a program of research for control of river ice, and to assist communities in breaking up such ice, which otherwise is likely to cause or aggravate flood damage or severe streambank erosion.

"(b) The Secretary is further authorized to provide technical assistance to local units of government to implement local plans to control or break up river ice. As part of such authority, the Secretary shall acquire necessary ice-control or ice-breaking equipment, which shall be loaned to local units of government together with operating assistance, where appropriate.

"(c) For the purposes of subsections (a) and (b) of this section, the sum of $5,000,000 is authorized to be appropriated to the Secretary in each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

"(d) To implement further the purposes of this section, the Secretary, in consultation and cooperation with local officials, is authorized and directed to undertake a demonstration program for the control of river ice at Hardwick, Vermont. The work authorized by this subsection shall be designed to minimize the danger of flooding due to ice problems in the vicinity of such community. In the design, construction, and location of ice-control structures for this project, full consideration will be given to the recreational, scenic, and environmental values of the reach of river affected by the project, in order to minimize project impacts on these values. Full opportunity shall be given to interested environmental and recreational organizations to participate in such planning. For the purposes of this subsection, the sum of $900,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sum to remain available until expended.

"(e) No later than March 1, 1988, the Secretary shall report to the Congress on activities under this section.

"SEC. 210. (a) The Secretary shall, upon the request of local public officials, survey the potential and methods for rehabilitating former industrial sites, millraces, and similar types of facilities already constructed for use as hydroelectric facilities. The Secretary shall, upon request, provide technical assistance to local public agencies, including electric cooperatives, in designing projects to rehabilitate sites that have been surveyed, or are qualified for survey, under this section.

"(b) There is authorized to be appropriated to the Secretary, to implement this section, the sum of $5,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

"SEC. 211. Section 221(b) of the Flood Control Act of 1970 (Public Law 91-611) is amended by deleting the period at the end thereof, inserting a colon, and adding the following: "Provided, That where the non-Federal interest is the State itself, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with State constitutional limitations.".

"SEC. 212. Notwithstanding any other provision of law, construction on any project, or separate element thereof, authorized in this Act and under the responsibility of the Secretary shall not commence until the project has been studied by the Chief of Engineers and reported favorably thereon.

"SEC. 213. Subject to the provisions and requirements of title VI of this Act, the sums to be obligated for any project authorized by this Act shall not exceed the sum listed in this Act for the specific project, as of the month and year listed for such project (or, if no date is listed, the cost shall be considered to be as of the date of the enactment of this Act), plus such amounts, if any, as may be justified solely by reason of increases in construction costs, as determined by engineering cost indices applicable to the type of construction involved, and by reason of increases in land costs.

"SEC. 214. The Secretary shall not require, under section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889), and the Federal Water Project Recreation Act, non-Federal interests to assume operation and maintenance of any recreational facility operated by the Secretary at any water resources project as a condition to the construction of new recreational facilities at such project or any other water resources project.

"SEC. 215. (a) The Secretary may enter into a contract providing for the recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall include the power to collect a portion of the transfer price from any transaction involving the sale, transfer, or change in beneficial ownership of lands and improvements within the district boundaries.

"(b) Cost recovery pursuant to the provisions of this section shall be deemed to meet cost recovery requirements of other provisions of Federal law if the economic study required by subsection (c) of this section demonstrates that income to the Federal Government equals or exceeds that required over the term of repayment required by that cost recovery provision.

"(c) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

"SEC. 216. Section 202 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to all projects authorized by this Act.

"SEC. 217. It is the sense of the Congress that the parties to various lawsuits that have been filed concerning the issuance of Federal permits necessary for the construction of a coal slurry pipeline development which would use Missouri River water, should work to conclude such suits as expeditiously as possible consistent with the rights and interests of all the parties, and that all parties to such suits should act in a fair and reasonable manner.

"SEC. 218. (a) Notwithstanding any other provision of law, the Secretary shall not initiate the construction of any water resources project, or separable element thereof, if such project has been modified to increase any of the following project parameters by more than 25 per centum:

"(1) acreage of land acquisition;

"(2) linear miles of stream channel inundated;

"(3) width or depth of any navigation channel;

"(4) displacement of dwelling units;

"(5) hydroelectric generating capacity; or

"(6) linear miles of stream channelization.

"(b) Not later than one hundred and eighty days after a water resources project is proposed by the Secretary to be modified in excess of the limitation described in subsection (a) of this section, the Secretary shall prepare and transmit to Congress a report identifying such project and describing the extent of the proposed modification, together with his recommendations thereon, accompanied by the views of other appropriate Federal and non-Federal agencies.

"SEC. 219. (a) The Congress finds that—

"(1) the Ogallala aquifer lies beneath, and provides needed water supplies to, the six States of the High Plains Region: Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas;

"(2) the High Plains region has become an important source of agricultural commodities and livestock for domestic and international markets, providing 15 per centum of the Nation's supply of wheat, corn, feed grains, sorghum, and cotton, plus 38 per centum of the value of livestock raised in the United States; and

"(3) annual precipitation in the High Plains region ranges from fifteen to twenty-two inches, providing inadequate supplies of surface water and recharging of the Ogallala aquifer needed to sustain the agricultural productivity and economic vitality of the High Plains region.

"(b) It is therefore, the purpose of this section to establish a comprehensive research and development program to assist those portions of the High Plains region dependent on water from the Ogallala aquifer to—

"(1) plan for the development of an adequate supply of water in the region;

"(2) develop and provide information and technical assistance concerning water-con-

servation management practices to agricultural producers in the region;

"(3) examine alternatives for the development of an adequate supply of water for the region; and

"(4) develop water-conservation management practices which are efficient for agricultural producers in the region.

"(c) The Water Resources Research Act (Public Law 98-242) is amended by adding at the end thereof the following new title:

"'TITLE III—OGALLALA AQUIFER RESEARCH AND DEVELOPMENT

"'SEC. 301. (a) There is hereby established the High Plains Study Council composed of—

"'(1) the Governor of each State of the High Plains region (defined for the purposes of this title as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas, and referred to hereinafter in this title as the 'High Plains region'), or a designee of the Governor;

"'(2) a representative of the Department of Agriculture; and

"'(3) a representative of the Secretary.

"'(b) The Council established pursuant to this section shall—

"'(1) review research work being performed by each State committee established under section 302 of this Act; and

"'(2) coordinate such research efforts to avoid duplication of research and to assist in the development of research plans within each state of the High Plains region that will benefit the research needs of the entire region.

"'SEC. 302. (a) The Secretary shall establish within each State of the High Plains region an Ogallala aquifer technical advisory committee (hereinafter in this title referred to as the 'State committee'). Each State committee shall be composed of no more than seven members, including—

"'(1) a representative of the United States Department of Agriculture;

"'(2) a representative of the Secretary; and

"'(3) at the appointment of the Governor of the State, five representatives from agencies of that State having jurisdiction over water resources, the agricultural community, the State Water Research Institute (as designated under this Act), and others with a special interest or expertise in water resources.

"'(b) The State committee established pursuant to subsection (a) of this section shall—

"'(1) review existing State laws and institutions concerning water management and, where appropriate, recommend changes to improve State or local management capabilities and more efficiently use the waters of such State, if such a review is not already being undertaken by the State;

"'(2) establish, in coordination with other State committees, State priorities for research and demonstration projects involving water resources; and

"'(3) provide public information, education, extension, and technical assistance on the need for water conservation and information on proven and cost-effective water management.

"'(c) Each State committee established pursuant to this section shall elect a chairman, and shall meet at least once every three months at the call of the chairman, unless the chairman determines, after consultation with a majority of the members of the committee, that such a meeting is not necessary to achieve the purposes of this section.

"'SEC. 303. The Secretary shall annually allocate among the States of the High Plains region funds authorize to be appropriated for this section for research in—

"'(1) water-use efficiency;

"'(2) cultural methods;

"'(3) irrigation technologies;

"'(4) water-efficient crops; and

"'(5) water and soil conservation.

Funds distributed under this section shall be allocated to each State committee for use by institutions of higher education within each state. To qualify for funds under this section an institution of higher education shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"'SEC. 304. The Secretary shall annually divide funds authorized to be appropriated under this section among the States of the High Plains region for research into—

"'(1) precipitation management;

"'(2) weather modification;

"'(3) aquifer recharge opportunities;

"'(4) saline water uses;

"'(5) desalinization technologies;

"'(6) salt tolerant crops; and

"'(7) ground water recovery.

Funds distributed under this section shall be allocated by the Secretary to the State committee for distribution to institutions of higher education within such State. To qualify for a grant under this section, an institution of higher education shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"'SEC. 305. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated under this section for grants to farmers for demonstration projects for—

"'(1) water-efficient irrigation technologies and practices;

"'2) soil and water conservation management systems; and

"'(3) the growing and marketing of more water-efficient crops.

Grants under this section shall be made by each State committee in amounts not to exceed 85 per centum of the cost of each demonstration project. To qualify for a grant under this section, a farmer shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed project. Proposals shall be selected by the State committee on the basis of merit. Each State committee shall monitor each demonstration project to assure proper implementation and make the results of the project available to other State committees.

"'SEC. 306. The Secretary, acting through the United States Geological Survey and in cooperation with the States of the High Plains region, is authorized and directed to monitor the levels of the Ogallala aquifer, and report annually to Congress.

"'SEC. 307. Not later than one year after the date of enactment of this title, and at intervals of one year thereafter, the Secretary shall prepare and transmit to the Congress a report on activities undertaken under this title.

"'SEC. 308. (a) For each of the fiscal years ending September 30, 1986, through September 30, 1990, the following sums are authorized to be appropriated to the Secretary to implement the following sections of this title, and such sums shall remain available until expended:

"'(1) $500,000 for the purposes of section 302:

"'(2) $6,000,000 for the purposes of section 303;

"'(3) $2,000,000 for the purposes of section 304;

"'(4) $2,000,000 for the purposes of section 305; and

"'(5) $500,000 for the purposes of section 306.

"'(b) Funds made available under this title for distribution to the States of the High Plains region shall be distributed equally among the States.'.

"SEC. 220. (a) The Secretary is authorized to make grants to States for the establishment and operation of programs to promote water conservation and nonstructural flood control alternatives. To qualify to receive such a grant, a State shall establish or augment an office and program to—

"(1) publicize the range of nonstructural flood control methods, including, but not limited to, flood-proofing of structures, flood plain management, greenbelts along rivers and streams, protection of upstream wet land or recharge areas, relocation of structures out of the flood plain, and flood warning systems; and

"(2) promote increased efficiency of water-use in the municipal, industrial, and agricultural sectors by publicizing the range of methods which help save water such as water-saving plumbing fixtures, revised rate structures, plumbing code alterations, outdoor water-use plans, innovative landscaping, recycling techniques, and other measures.

"(b) Funds provided under this section shall not be used to develop or implement plans for dams, stream channelization or dredging, or any other structural measures for river control.

"(c)(1) For the purposes of this section, the word "States" includes Puerto Rico and the District of Columbia.

"(2) For the purposes of this section, there is authorized to be appropriated to the Secretary, for distribution equally among the States, the sum of $50,000,000 for each of the fiscal years ending September 30, 1986, through the fiscal year ending September 30, 1990.

"(d) The Secretary, not later than October 1, 1988, shall report to the Congress on activities undertaken under this section.

"SEC. 221. (a) The Congress finds that increasing scientific evidence indicates the level of the oceans will rise significantly over the next seventy-five years.

"(b) The Secretary, in cooperation with the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, and other appropriate Federal, State, and local agencies and the private sector, is authorized to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the prospect for long-term increases in the levels of the ocean. Such study shall include, but is not limited to—

"(1) an assessment of the probability and the extent of coastal flooding and erosion;

"(2) an appraisal of various strategies for managing relocation, disinvestment, and reinvestment in coastal communities exposed to coastal flooding and erosion;

"(3) a summary of the legal and institutional impact of rising sea level on riparian lands; and,

"(4) recommendations for new or additional criteria for Federal participation in shoreline protection projects.

"(c) Within three years after the date of enactment of this Act, the Secretary shall transmit the study prepared pursuant to subsection (b) of this section, together with supporting documentation and the recommendations of the Secretary on such study, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

"(d) For the purposes of this section, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

"SEC. 222. During the design of each water resources project which has a cost in excess of $10,000,000 and which was authorized prior to, in, or subsequent to this Act and undertaken by the Secretary, on which construction has not been initiated as of the date of enactment of this Act, the Secretary shall require a review of the cost effectiveness of such design. The review shall employ cost control techniques which will ensure that such project is designed in the most cost-effective way for the life of the project.

"SEC. 223. (a) In the case of any water resources preauthorization study undertaken by the Secretary, the Secretary shall prepare a feasibility report. Such feasibility report shall describe, for each alternative analyzed, the national economic development benefits and costs, the environmental quality impacts, and other impacts of concern to Federal, State, local, and international entities, including appropriate levels of non-Federal financing and the ability of non-Federal interests to contribute such levels. The feasibility report shall also include the views of other Federal agencies and non-Federal agencies with regard to the recommended plan. This subsection shall not apply to any study with respect to which a report has been submitted to Congress before the date of enactment of this Act, or for a study related to any project authorized in this Act.

"(b) Before initiating any feasibility study under subsection (a) of this section, if such study had not been initiated prior to enactment of this Act, the Secretary shall first perform, at Federal expense, a reconnaissance of the water resources problem in order to identify potential solutions to such problem in sufficient detail to enable the Secretary to determine whether or not planning to develop a project should proceed to the preparation of a feasibility report. Such reconnaissance shall include a preliminary analysis of the Federal interest, costs, benefits, environmental impacts of such project, and an estimate of the costs of preparing the feasibility report. The duration of a reconnaissance shall normally be no more than twelve months, but in all cases is to be limited to eighteen months.

"(c)(1) The Secretary shall not initiate any feasibility study after the date of enactment of this Act until appropriate non-Federal interests agree, by contract, to contribute 50 per centum of the cost for such study during the period of such study. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies or other in-kind services necessary to prepare the feasibility report.

"(2) This subsection shall not apply to any water resources study primarily designed for the purposes of navigational improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

"SEC. 224. (a)(1) In the case of any water resources project authorized to be constructed by the Secretary in this Act, or authorized to be constructed by the Secretary prior or subsequent to the date of enactment of this Act, construction of which has not commenced as of the date of enactment of this Act, and which necessitates the mitigation of fish and wildlife losses, including the acquisition of lands or interests in lands to mitigate losses to fish and wildlife, as a result of such project, such mitigation, including acquisition of the lands or interests, (1) shall be undertaken or acquired before any construction of the project (other than such acquisition) commences, or (2) shall be undertaken or acquired concurrently with lands and interests in lands for project purposes (other than mitigation of fish and wildlife losses), whichever the Secretary determines is appropriate.

"(2) For the purposes of this subsection, any project on which more than 50 per centum of the land needed for the project, exclusive of mitigation lands, has been acquired shall be deemed to have commenced construction under this subsection.

"(b)(1) After consultation with appropriate Federal and non-Federal agencies, the Secretary is authorized to mitigate damages to fish and wildlife resulting from any water resources project under his jurisdiction, whether completed, under construction, or to be constructed, to the extent that such mitigation features cost no more than $7,500,000 per project. Such mitigation may include the acquisition of lands, or interests therein, provided that acquisition under this paragraph shall not be by condemnation in the case of projects completed as of the date of enactment of this Act or on which at least 10 per centum of the physical construction on the project has been completed as of the date of enactment of this Act: *Provided*, That acquisition of water, or interests therein under this paragraph, shall not be by condemnation. The Secretary, shall, under the terms of this paragraph, obligate no more than $40 million in any fiscal year.

"(2) Whenever after his review the Secretary determines that such mitigation features under this subsection are anticipated to cost more than $7,500,000 per project or costs less than $7,500,000 per project and are likely to require condemnation under the proviso in paragraph (1) of this subsection, the Secretary shall transmit to Congress a report on such proposed modification, together with his recommendations.

"(c) Costs incurred to mitigate damages to fish and wildlife under the terms of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures, and shall be subject to cost-sharing or reimbursement to the same extent as such other project costs are shared or reimbursed: *Provided, however*, That when such costs are covered by contracts entered into prior to the date of enactment of this Act, such costs shall not be recovered without the consent of the non-Federal interests or until such contracts are complied with or renegotiated.

"(d) After the date of enactment of this Act, the Secretary shall not submit any proposal for the authorization of any water resources project to the Congress unless such report contains (1) a recommendation with a specific plan to mitigate fish and wildlife losses created by such project, or (2) a determination by the Secretary that such project will have negligible adverse impact on fish and wildlife. In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.

"(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the costs of such enhancement shall be a Federal cost when such enhancement provides benefits that are determined to be national, including benefits to species that are identified by the National Marine Fisheries Service as of national economic importance, species that are subject to treaties or international convention to which the United States is a party, anadromous fish, or when such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of the Interior under the terms of the Endangered Species Act, as amended (16 U.S.C. 1531, et seq.). When benefits of enhancement do not qualify under the preceding sentence, 25 per centum of such enhancement costs shall be provided by non-Federal interests under a schedule of reimbursement determined by the Secretary, except that when benefits are limited to a single State, such non-Federal interests shall provide 33⅓ per centum of such costs.

"(f) The provisions of subsections (a), (b), and (d) shall be deemed to supplement the responsibility and authority of the Secretary pursuant to the Fish and Wildlife Coordination Act, and nothing herein is intended to affect that Act.

"SEC. 225. (a) The Secretary is authorized to plan, design, and construct streambank erosion control projects not specifically authorized by Congress when, in the opinion of the Secretary, such work is economically feasible and environmentally acceptable. Prior to construction of any projects for this purpose, non-Federal interests shall agree to provide, without cost to the United States, all lands, easements, and rights-of-way necessary for construction and subsequent operation of the project; hold and save the United States free from damages due to construction, operation, and maintenance of the project except damages due to the fault or negligence of the United States or its contractors; and operate and maintain the project upon completion.

"(b) For the purposes of this section, the sum of $15,000,000 is authorized to be appropriated to the Secretary for each of the fiscal years beginning with the fiscal year ending September 30, 1986. Not more than $2,000,000 shall be allotted for the construction of a project under this section at any single locality and such amount shall be sufficient to complete Federal participation in the project.

"SEC. 226. (a) The Congress finds that it is necessary and cost-effective to encourage as many bidders as possible for contracts to be let by the Secretary, and it is therefore the policy of Congress to direct the Secretary to prepare any proposal for the construction of a civil works project in a manner that assures, to the greatest extent possible, that no potential bidder shall be precluded from competing fairly for such contract because of the size of such bidder.

"(b) The Secretary is further directed not to require that contractors on civil works construction projects under his direction be required to perform recordkeeping that is, by law or regulations, the responsibility of the Secretary.

"TITLE III—PROJECT PROVISIONS

"SEC. 301. (a) The Secretary is authorized and directed to take such action as may be necessary at a cost of $4,118,000, and substantially in accordance with the study directed by the District Engineer and dated July 20, 1981, to correct erosion problems along the banks of the Warrior River in order to protect Mound State Park, near Moundville, Alabama.

"(b) The Secretary is authorized to preserve and protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama, by instituting bank stabilization measures, in accordance with Alternative B contained in the District Engineer's Design Supplement Report entitled "Jones Bluff Reservoir, Alabama River, Alabama, Fort Toulouse, Design Report, National Historic landmark," dated July 1975, at a cost of $15,400,000 (October 1982).

"(c) The Secretary in order to protect the cultural, economic, environmental, and historical resources of Tangier Island, Virginia, located in Chesapeake Bay, is authorized and directed to design and construct a structure approximately eight thousand two hundred feet in length on the western shore of Tangier Island, adequate to protect such island from further erosion at a cost of $5,400,000.

"(d) Prior to any construction under this section, non-Federal interests shall provide without cost to the United States all necessary lands, easements, rights-of-way, and relocations, agree to operate and maintain the structures after construction, and hold and save the United States free from damages due to the construction works.

"(e) Notwithstanding the provisions of this section, the Secretary shall give priority in the allocation of funds for design and construction of projects for the purposes of erosion control to projects authorized prior to the enactment of this act.

"SEC. 302. The project for hurricane-flood protection and beach erosion control along the Delaware Coast from Cape Henlopen to Fenwick Island at the Delaware-Maryland State Line, authorized by Section 203 of the Flood Control Act of 1968 (Public Law 90-483), is hereby modified by deleting hurricane-flood protection and authorizing the construction of sand bypass facilities and stone revetment erosion control measures at Indian River Inlet, Delaware, as described in the reevaluation report of the Philadelphia District Engineer, dated January 1984, at a Federal cost for such additional facilities of $4,000,000 (October 1983): *Provided, however,* That project costs shall be allocated under the terms of Section 111 of Public Law 90-483, if that is determined by the Secretary of the Army, acting through the Chief of Engineers, to be appropriate.

"SEC. 303. (a) The Secretary is authorized to construct, at Federal expense, a set of emergency gates in the conduit of the Abiquiu Dam, New Mexico, to increase safety and enhance flood and sediment control: *Provided,* That such feature, which was eliminated during original construction due to cost constraints, shall be considered as completing the original design concept for the project.

"(b) For purposes of this section, the sum of $2,500,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sums to remain available until expended.

"SEC. 304. The Secretary shall promptly transfer to the responsibility of the Corps of Engineers district engineer in Albuquerque, New Mexico, those portions of the State of New Mexico that, as of the date of enactment of this Act, are under the responsibility of the district engineers in Sacramento, California, and Los Angeles, California.

"SEC. 305. The Waterbury, Vermont, project in the Winooski River Basin, authorized for modification in section 10 of the 1944 Flood Control Act, approved as Public Law 78-534 of December 22, 1944, is hereby further modified to provide that any major rehabilitation of such project to terminate abnormal seepage through or under the dam and to restore the concrete work on such dam shall be undertaken by the Secretary. Nothing in this section shall be construed as altering the conditions established in the Federal Power Commission license numbered 2090, issued on September 16, 1954.

"SEC. 306. The city waterway navigation channel project, Tacoma Harbor, Washington, authorized by the first section of the River and Harbor Act of June 13, 1902 (32 Stat. 347), is hereby modified to direct the Secretary to redefine the boundaries of such project in accordance with the recommendations contained in appendix B of the feasibility report of the Seattle District Engineer, dated November 1981.

"SEC. 307. (a) The Secretary, in cooperation with the government of the Trust Territory of the Pacific Islands, is hereby authorized and directed to study and draft plans for development, utilization, and conservation of water and related land resources of such territory.

"(b) The study authorized by this section shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreational facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental improvement and economic and human resources development. Such studies shall also be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

"(c) There is authorized to be appropriate to the Secretary for the fiscal year ending September 30, 1986, or thereafter, a sum of $500,000 to carry out the provisions of this section.

"SEC. 308. The second paragraph under the center heading "BRAZOS RIVER BASIN" in Section 10 of the Flood Control Act of 1946 (60 Stat. 641) is amended by inserting "or water supply" after "irrigation".

"SEC. 309. The Pick-Sloan Missouri Basin Program shall be prosecuted, as authorized and in accordance with applicable laws including the requirements for economic feasibility, to its ultimate development on an equitable basis as rapidly as may be practicable, within the limits of available funds and the cost recovery and repayment principles established by Senate Report Numbered 470 and House of Representatives Report Numbered 282, Eighty-ninth Congress, first session.

"SEC. 310. The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbors Act of 1950 (Public Law 81-516), is hereby modified to provide that the operation and maintenance of the project, and additions and modifications thereto constructed by non-Federal interests, shall be the responsibility of the Secretary: *Provided,* That non-Federal interests shall pay the initial $35,000 in cash or materials, of any such cost expended in any one year.

"SEC. 311. The project for flood protection for the Rio Grande Floodway, Truth or Consequences Unit, New Mexico, authorized by the Flood Control Acts of 1948 and 1950, is hereby modified to provide that the Secretary is authorized to construct a flood control dam on Cuchillo Negro Creek, a tributary of the Rio Grande, in lieu of the authorized floodway.

"SEC. 312. (a)(1) The Congress finds that the irrigation ditch systems in New Mexico, known as the Acequia Systems, date from the eighteenth century, and that these early engineering works have significance in the settlement and development of the western portion of the United States.

"(2) The Congress, therefore, declares that the restoration and preservation of the Acequia Systems has cultural and historic values, as well as economic values, to the region.

"(b) The Secretary is authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore the river diversion structures and associated canals attendant to the operations of the community ditch and Acequia Systems in New Mexico that are declared to be a political subdivision of the State of New Mexico: *Provided,* That the State of New Mexico, or other non-Federal interests, shall pay 20 per centum of the cost of any work undertaken under this section.

"(c) For the fiscal year ending September 30, 1986, and thereafter, the sum of $40,000,000 is authorized to be appropriated for the purposes of subsection (b) of this section, such sums to remain available until expended.

"(d) The Secretary is further authorized and directed to consider the historic Acequia Systems (community ditches) of the Southwestern United States as public entities, if these systems are chartered by the respective State laws as political subdivisions of that State. This public entity status will allow the officials of these Acequia Systems to enter into agreements and serve as local sponsors of water-related projects of the Secretary.

"SEC. 313. (a) The Secretary is authorized to implement a program of research in order to demonstrate the cropland irrigation and conservation techniques described in the report issued by the New England Division Engineer, dated May 1980 for the Saint John River Basin, Maine.

"(b) For the purposes of this section, there is authorized to be appropriated to the Secretary the sums of $1,825,000 in the fiscal year ending September 30, 1986, $820,000 in the fiscal year ending September 30, 1987, and $785,000 for the fiscal year ending September 30, 1988, such sums to remain available until expended.

"SEC. 314. (a) Bank protection activities conducted under the Rio Grande Bank protection project pursuant to the Act of April 25, 1945 (59 Stat. 89), may be undertaken in Starr County, Texas, notwithstanding any provision of such Act establishing the counties in which such bank protection activities may be undertaken.

"(b) Any bank protection activity undertaken in Starr County, Texas, pursuant to subsection (a) of this section shall be—

"(1) in accordance with such specifications as may be prepared for such purpose by the

International Boundary and Water Commission, United States and Mexico; and

"(2) except as provided in subsection (a) of this section, subject to the terms and conditions generally applicable to activities conducted under the Rio Grande Bank protection project.

"SEC. 315. (a) The Secretary, upon completion of any necessary recordation of the survey and/or plat of each townsite specified under this section, is authorized to—

"(1) sell those lands and improvements in each townsite which are suitable for residential, commercial, or industrial use, all in accordance with the provisions of subsection (b) of this section.

"(2) transfer, without cost, municipal facilities to the appropriate local government entity or entities; and

"(3) transfer, without cost, all school buildings, facilities, related equipment, and land used for educational purposes to the appropriate school district.

"(b)(1) All property authorized to be sold, at fair market value, under this section shall be offered for sale in accordance with the following:

"(A) First preference shall be given to residents of improved residential properties within a townsite or to an operator of a commercial concession within a townsite for a period of thirty days to purchase the property in which they so reside or operate.

"(B) In lieu thereof, said resident or operator shall have the preference, denoted as the second preference, to purchase another available improved residential or commercial lot, or an unimproved residential or commercial lot, in the same townsite for a period of thirty days which may, in the discretion of the Secretary, run concurrently with that in (A) above.

"(C) Thereafter, for a period of thirty days, a preference, denoted the third preference, to purchase an available residential lot, improved or unimproved, shall be given, without difference or distinction, to project-connected employees who are eligible to be tenants of Federal housing in a townsite, to any public employees who work in a townsite, and to retired employees or their surviving spouses who, during their years of employment, lived in one of the townsites.

"(D) Subsequent thereto, for an additional thirty-day period, a preference, denoted the fourth preference, to purchase improved residential property in a townsite shall be given to any person, corporation or agency agreeing to lease said property to a person or persons who has elected not to exercise a preference to purchase property under (A) or (B) above.

"(E) After all preference rights have expired, the remaining property which, in the judgment of the Secretary, is suitable for development, shall be offered for sale to the public.

"(F) The Secretary is further authorized to transfer, without cost, to a local government entity or entities any property not purchased under the preference rights set forth in subparagraphs (A) through (E) of this paragraph and any other remaining property within the townsite boundaries.

"(2) The purchase of property pursuant to the first, second, or third preference right under subsection (b)(1) of this section shall render the purchaser and his/her spouse ineligible to purchase any other property under such preferences.

"(c) When financing for purchasers of residential property under subsections (b)(1)(A) through (b)(1)(E) cannot reasonably be obtained from other sources, the Secretary may accept, in partial payment of the purchase price of the residential property, notes secured by mortgages on the property, subject to such terms and conditions as he determines appropriate: *Provided*, That the interest rate charged to the purchasers will not be more favorable than that then being charged by the Farmers Home Administration for its single family rural housing loan program. The Secretary may sell such notes and transfer, assign, or convey the mortgages securing such notes on terms that he deems appropriate.

"(d) The Secretary is further authorized to provide temporary financial assistance to the appropriate local government entity or entities for the townsites specified in this section for a period of five years, in amounts equal to the following percentages of the entity's budget for operating expenses:

"First year—100 per centum;

"Second year—80 per centum;

"Third year—60 per centum;

"Fourth year—40 per centum; and

"Fifth year—20 per centum.

"(e) The Secretary is hereby authorized to perform those acts necessary to delegate authority, to prescribe such rules and regulations, and to establish such terms and conditions as he may deem appropriate for the purpose of carrying out the provisions and objectives of this section.

"(f)(1) For the purposes of this section "townsite" means:

"(A) The area referred to as Riverdale, North Dakota, containing eight hundred and ninety-two acres, more or less, as depicted on drawing numbered MGR160-2E1, dated November 10, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska.

"(B) The area referred to as Pickstown, South Dakota, containing three hundred and ninety-three acres, more or less, as depicted on drawing numbered MR315-2E1, dated November 3, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska.

"(2) For the purposes of this section, the terms:

"(A) "Local government entity" shall mean any public or quasi-public organization, including an incorporated municipality, that in the judgment of the Secretary would be able to provide any or all of those public facilities or services essential to the operation of the townsite.

"(B) "Municipal facilities" shall include fire and police protection systems, waste treatment plants, water treatment and distribution facilities, parks, streets and roads, cemeteries, power distribution systems, municipal government buildings, and other property suitable for use for local purposes, together with underlying lands, easements, and rights-of-way, as well as equipment, materials, and supplies therefor.

"SEC. 316. (a)(1) To improve water quality and fulfill the goals of the clean lakes program established in section 314 of the Clean Water Act, the Secretary is authorized to initiate a demonstration program to remove excess silt from Lake Herman, Lake County, South Dakota.

"(2) For the purpose of this subsection, there is authorized to be appropriated to the secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $5,000,000, such sum to remain available until expended.

"(b) The Secretary is authorized and directed to undertake a demonstration project for the removal of silt and equatic growth, in Lake Worth, Tarrant County, Texas, to construct silt traps and to provide other devices or equipment to prevent and abate the further deposit of sediment in Lake Worth, and to use the dredged material in the reclamation of despoiled land, and other actions necessary to the success of the demonstration, all at full Federal expense and at a cost of $1,750,000 (October 1983).

"(c) The Secretary is authorized and directed to conduct mitigation activities recommended in the 1982 Environmental Protection Agency Diagnostic Feasibility Study for Gorton's Pond in Warwick, Rhode Island. Activities will include the installation of retention basins, the dredging of inlets and outlets in recommended areas and the disposal of dredge material, and weed harvesting and nutrient inactivation. For purposes of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $730,000, such sum to remain available until expended.

"SEC. 317. (a) The Secretary, after consultation with the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the United States Fish and Wildlife Service, and other appropriate governmental agencies, and the National Research Council of the National Academy of Sciences, is authorized and directed to undertake studies to identify the impacts on the United States of potential Canadian tidal power development in the Bay of Fundy, and submit such studies to the appropriate committees of the Congress.

"(b) The Secretary shall conduct the studies authorized in subsection (a) of this section in two phases:

"(1) Studies to be completed not later than October 1, 1986, to (A) identify effects of any such projects on tidal ranges and resulting impacts to beaches and estuarine areas, and (B) identify further studies which would be needed to meet the requirements of paragraph (2) of this subsection; and

"(2) Studies to be completed not later than October 1, 1989, to (A) determine further environmental, social, economic, and institutional impacts of such tidal power development, and (B) determine what measures could be taken in Canada and the United States to offset or minimize any adverse impacts of such development on the United States.

"(c) In the fiscal year ending September 30, 1986, or in any fiscal year thereafter, there is authorized to be appropriated to the Secretary the sum of $1,100,000 for the purposes of subsection (b)(1) of this section, and the sum of $8,900,000 for the purposes of subsection (b)(2) of this section, such sums to remain available until expended.

"SEC. 318. (a)(1) Downstream recreation on the Gauley River is declared to be an additional project purpose of the Summerville Lake project, West Virginia, under the direction of the Secretary. Releases at times and levels (minimum two thousand four hundred cubic feet per second) suitable for such recreation shall commence on the first weekend after Labor Day of each year and continue during each weekend thereafter (and during such weekday periods as the Secretary finds appropriate) for approximately five weeks.

"(2) Releases shall also be made at other times during the year as appropriate: *Provided*, That such releases are not injurious to other purposes of the Summerville Lake project. The Secretary shall schedule such

releases as early as practical and provide adequate advance public notice of such whitewater release.

"(b) The secretary may temporarily suspend (for such period as may be necessary) or modify any release required under subsection (a)(1) of ths section or scheduled under subsection (a)(2) of this section when necessary for purposes of flood control or any other project purpose, or for reasons of public health and safety.

"SEC. 319. The three flood water control structures on the Johns Creek tributary and the program of land treatment for erosion and sediment control in the Nonconnah Creek Basin, Tennessee, are authorized to be constructed in accordance with the recommendations contained in the joint report of the district engineer and the State conservationist contained in Senate Document 95-96, at a Federal cost of $16,663,300 (June, 1981).

"SEC. 320. Subject to the provisions of section 212 of this Act, the Secretary is authorized to participate with appropriate non-Federal sponsors in a project to demonstrate, on an expedited basis, the feasibility of non-Federal cost sharing for rural flood protection under the provisions of sections 208 and 215 and title VI of this Act. Such project shall consist of channel restoration and improvements on the James River in South Dakota, and may include consideration of offstream storage, small impoundments on tributaries, and other features identified by the Secretary to alleviate flood damage and to regulate flows on such river, at a Federal cost not to exceed $20,000,000: *Provided*, That the Secretary shall report to Congress no later than September 30, 1987, on the extent to which additional features may be required to alleviate flood damage and regulate flows on such river.

"SEC. 321. The last sentence under the center heading "ARKANSAS-RED RIVER BASIN" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall be initiated in the Red River Basin in accordance with the recommendations regarding General Design Memorandum numbered 25 by the Director of Civil Works on behalf of the Chief of Engineers dated August 8, 1977.".

"SEC. 322. The project on Milk River for local flood protection at Havre, Montana, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 897), is hereby modified to authorized the Secretary to reconstruct or replace, whichever he determines necessary and appropriate, the water supply intake weir of the city of Havre, Montana, at a cost of $1,400,000.

"SEC. 323. The Secretary is authorized and directed to improve public access to, and lessen a health and safety hazard, at Pearson-Skubitz Big Hill Lake, Kansas, by upgrading existing roads to the extent feasible and acquiring additional rights-of-way and constructing new roads as required, at a cost of $1,800,000 (October 1983).

"SEC. 324. That portion of the Hudson River in the New York Bay lying within the area described in Senate Report 98-340 for Section 326 is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States, except for the purposes of the Federal Water Pollution Control Act.

"SEC. 325. (a) The portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1189) which is to be located on the Sangamon River, Illinois, about one mile upstream from Decatur, Illinois, and which is known as the William L. Springer Lake project is not authorized after the date of enactment of this Act.

"(b) Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, before any lands acquired by the United States for the William L. Springer Lake project referred to in subsection (a) of this section are sold or otherwise disposed of or used for any purpose other than to carry out such project, such lands shall first be made available for purchase by the city of Decatur, Illinois, at the price at which such lands were acquired by the United States: *Provided*, That such lands remain in public ownership for use for public purposes, and that if any of such lands are not so owned or used, then such lands shall revest in the United States.

"SEC. 326. The Big South Fork National River and Recreation Area, Tennessee and Kentucky, established pursuant to section 108 of the Water Resources Development Act of 1974 (Public Law 93-251), as amended, shall hereafter be known and designated as the "John Sherman Cooper National Recreation Area." Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such area as the "John Sherman Cooper National Recreation Area."

"SEC. 327. For purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (33 U.S.C. 551 et seq.), the Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge for all purposes of such Act. The Secretary of Transportation is authorized to reimburse the bridge owner for work done prior to the date of enactment of this section which work, under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), would be the responsibility of the United States if performed after the date of enactment of this section: *Provided*, That any reimbursement under this section shall not exceed $450,000.

"SEC. 328. (a) The Secretary is authorized to undertake the following reconnaissance studies in the State of Utah in order to determine if improvements for the purposes of flood control and related purposes are economically and environmentally justified, then report on such studies to Congress:

"(1) the Provo River, from the mouth of Provo Canyon to Utah Lake;

"(2) the existing levees along Utah Lake from the Provo River south along Interstate Highway 15;

"(3) Interstate Highway 15, adjacent to Utah Lake;

"(4) Rock, Little Rock, and Slate Canyons in the city of Provo;

"(5) the Bear River, its tributaries and outlets;

"(6) the Weber River, its tributaries and outlets; and

"(7) the Sevier River, its tributaries and outlets.

"(b) For the purposes of this section, the sum of $1,600,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter.

"SEC. 329. Upon the request of the State of Illinois, the Secretary shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply as is consistent with the Water Supply Act of 1958 (Public Law 85-500), until such time and in such proportion as the storage is used for water supply purposes.

"SEC. 330. In addition to amounts authorized to be appropriated to carry out agreements entered into by the Secretary with the State of Illinois pursuant to Section 110 of the River and Harbor Act of 1958 relating to the repair and modification of the Illinois and Mississippi Canal (Hennepin Canal), there is authorized to be appropriated to the Secretary not to exceed $15,000,000 to carry out such agreements.

"SEC. 331. The Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, shall hereafter be known and designated as the "Jim Rampey Recreation Area". Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such areas as the "Jim Rampey Recreation Area".

"SEC. 332. (a) The Secretary is authorized, and upon the request of any appropriate State or local authority in the Washington metropolitan area in Maryland, to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at any other point on such water system, to any such appropriate State of local authority. All of the expenses of installing a connection or connections and appurtenances thereto, and any subsequent changes therein, as may be necessary to make such delivery of water, shall be paid by the requesting entity, which shall also pay those charges for the use of such water as may be determined from time to time, in advance, by the Secretary. Payments shall be made at such time any under such regulations as the Secretary may prescribe. The Secretary may revoke at any time any permit for the use of water which may have been granted.

"(b) The Secretary, is authorized to purchase water from any appropriate State or local authority in the Washington metropolitan area in Maryland which has completed a connection with the District of Columbia water system. The Secretary is authorized to pay charges as may be agreed upon, for the use of such water by the Secretary.

"SEC. 333. Section 44 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12) is amended by striking subsection (b)(2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section, including the Olson 2nd addition, shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreation purposes: *Provided*, That the park commission may designate a portion of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and be-

come the property of, the United States which shall have the right of immediate entry thereof. The Secretary of the Army is authorized to execute and file an amended deed to reflect the provisions of this Act."

"SEC. 334. The authorization for the Lake Brownwood modification project, Pecan Bayou, Texas, contained in the Flood Control Act of 1968 (Public Law 90-483), is hereby terminated.

"SEC. 335. Section 56 of Public Law 93-251 is amended to read as follows: "The project for Libby Dam (Lake Loocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate the drainage districts and owners of leveed and unleveed tracts, in Kootenai Flats, Boundry County, Idaho, for modification to facilities, including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows or water fluctuations during drawdown and power generation operations at Libby Dam, and shall compensate landowners in Kootenai Flats for erosion of their property which has occurred since commencement of the drawdown and power generation operations at Libby Dam and as a result of those operations without regard to historic patterns of erosion, maintenance of existing levees, erosion that might otherwise have occurred without the construction of the dam; or any special and direct benefits to the lands within the project area as a result of the construction of Libby Dam, and shall control erosion caused by the duration of higher flows of water fluctuation during the drawdown and power generation operations at Libby Dam, except that the total of all such erosion compensation shall not exceed $1,500,000."

"TITLE IV—DAM SAFETY

"SEC. 401. (a) Section 1 of Public Law 92-367 (86 Stat. 506) is amended by replacing the final period with a comma and inserting the following after the comma: "Unless such barrier, due to its location or other physical characteristics, is likely to pose a significant threat to human life or property in the event of its failure.".

"(b) Public Law 92-367 is further amended by inserting after section 6 the following sections:

" "SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereafter in this Act referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990. Sums appropriated under this section shall be distributed annually among those States on the following basis: One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost of implementing an approved dam safety program in such State.

" "SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

" "(1) a procedure, whereby, prior to any construction the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

" "(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been constructed and will be operated in a safe and reasonable manner;

" "(3) a procedure to inspect every dam within such State at least once every five years, except that such inspections shall be required at least every three years for any dam the failure of which is likely to result in the loss of human life;

" "(4) a procedure for more detailed and frequent safety inspections, when warranted;

" "(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

" "(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

" "(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

" "(8) the State has or can be expected to have authority and necessary emergency funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

" "(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

" "(c) Utilizing the expertise of the Board established under section 10 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

" "SEC. 9. Not later than eighteen months after enactment of the Dam Safety Act of 1984, the Director of the Federal Emergency Management Agency shall report to the Congress on the need for and possible effects of a Federally sponsored program of reinsurance or guarantees of insurance for owners of dams. This report shall include information on a variety of possible Federal reinsurance or guarantees programs and their cost, possible effects such a program or programs might have on the private reinsurance business, and the number of dam owners possibly affected by such a program.

" "SEC. 10. (a) There is authorized to be established a Federal Dam Safety Review Board (hereinafter in this Act referred to as the 'Board'), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Board is authorized to hire necessary staff and shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section. There is authorized to be appropriated to the Board such sums as may be necessary to carry out this section.

" "(b) The Board shall also study the need for a Federal loan program to assist the owners of non-Federal dams in rehabilitating such structures for safety deficiencies. This study shall include a quantitative assessment of the availability of funds from existing federal programs and all other sources for dam rehabilitation, a quantitative assessment of the need for such funds, and an analysis of any impediments which are found to the utilization of existing Federal sources of funds for this purpose.

" "(c) The Board shall consist of nine members selected for their expertise in dam safety, including one representative each from the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, the Federal Emergency Management Agency, and the Department of Agriculture, plus four members, appointed by the President for periods of four years, on a rotating basis, who are not employees of the United States. At least two members of the Board shall be employees of the States having an approve program under section 8 of this Act. The Chairman of the Board shall be selected from among those members who are not employees of the United States.

" "SEC. 11. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

" "SEC. 12. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1986, and $500,000 during each of fiscal years ending September 30, 1987, through September 30, 1990.

" "SEC. 13. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States and the Congress of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

" "SEC. 14. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act. For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary $500,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.".

"SEC. 402. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility.

"SEC. 403. This title shall be known as the "Dam Safety Act of 1984".

"TITLE V—INLAND NAVIGATION

"SEC. 501. (a) Any sums deposited in the Inland Waterway Trust Fund, established pursuant to Public Law 95-502, shall be available for obligation by the Secretary, upon his request, to be utilized for the construction of any lock and/or dam project for the purposes of commercial navigation on the inland waterways of the United States, if such construction was initiated after June 20, 1984: *Provided, however,* That such Trust Fund shall be the sole source of Federal funding for the commercial navigational features and components of all such projects constructed or maintained by the Secretary.

"(b) For the purpose of this section, the term:

"(1) 'inland waterways of the United States' means those waterways and harbors authorized to be constructed or maintained by the Secretary to depths of fourteen feet or less and utilized for the purposes of commercial navigation, provided that such definition includes the Columbia River, Oregon and Washington, from Lewiston, Idaho, to the downstream side of Bonneville Lock and Dam; and

"(2) 'commercial navigational features and components' means those portions of a lock/or dam project on the inland waterways of the United States that is designated and utilized primarily for the purposes of commercial navigation.

"SEC. 502. The following works of improvement to the inland waterways of the United States are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the figures listed in this title shall be subject to the limitations provided under section 212 and 213 of this Act.

"(1) Helena Harbor, Phillips County, Arkansas: Report of the Chief of Engineers dated October 17, 1980, at a Federal cost of $42,000,000 (October 1982);

"(2) White River Navigation to Batesville, Arkansas: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $20,500,000 (October 1982);

"(3) Lake Pontchartrain, North Shore, Louisiana: Report of the Chief of Engineers dated February 14, 1979, at a Federal cost of $850,000 (October 1982);

"(4) Greenville Harbor, Mississippi: Reports of the Chief of Engineers dated November 15, 1977, and February 22,1982, at a Federal cost of $27,700,000 (October 1982);

"(5) Vicksburg Harbor, Mississippi: Report of the Chief of Engineers dated August 13, 1979, at a Federal cost of $54,700,000 (October 1982);

"(6) Atlantic Intracoastal Waterway Bridges, North Carolina: Report of the Chief of Engineers dated October 1, 1975, at a Federal cost of $8,000,000 (October 1982);

"(7) Olcott Harbor, New York: Report of the Chief of Engineers dated June 11, 1980, at a Federal cost of $5,320,000 (October 1982);

"(8) Bonneville Lock and Dam, Oregon and Washington-Columbia River and Tributaries Interim Report: Reports of the Chief of Engineers dated March 14, 1980, and February 10, 1981, at a Federal cost of $177,000,000 (October 1982);

"(9) Memphis Harbor, Memphis, Tennessee: Report of the Chief of Engineers dated February 25, 1981, at a Federal cost of $43,000,000 (October 1982);

"(10) Gallipolis Locks and Dam Replacement, Ohio River, Ohio and West Virginia: Report of the Chief of Engineers dated April 8, 1982, at a Federal cost of $313,000,000 (October 1982);

"(11) Lock and Dam 7 Replacement, Monongahela River, Pennsylvania: Report of the Board of Engineers for Rivers and Harbors, dated March 21, 1984, at a Federal cost of $95,000,000 (October, 1983);

"(12) Lock and Dam 8 Replacement, Monongahela River, Pennsylvania: Report of the Board of Engineers, for Rivers and Harbors, dated March 21, 1984, at a Federal cost of $70,750,000 (October, 1983); and

"(13) St. Louis Harbor, Missouri and Illinois: Report of the Chief of Engineers dated April 30, 1984, at a Federal cost of $11,050,000 (October 1983).

"SEC. 503. (a) The Secretary is authorized to reimburse the State of New York for 50 per centum of the cost of operating, maintaining, and rehabilitating the New York State Barge Canal: *Provided, however,* That control and operation of the canal shall continue to reside with the State of New York.

"(b) For the purposes of this section, the "New York State Barge Canal" is defined to be—

"(1) the Erie Canal, which connects the Hudson River at Waterford with the Niagara River at Tonawanda;

"(2) the Oswego Canal, which connects the Erie Canal at Three Rivers with Lake Ontario at Oswego;

"(3) the Champlain Canal, which connects the easterly end of the Erie Canal at Waterford with Lake Champlain at Whitehall; and

"(4) the Cayuga and Seneca, Canals, which connect the Erie Canal at a point near Montezuma with Cayuga and Seneca Lakes and through Cayuga Lake and Ithaca and through Seneca Lake with Montour Falls.

"SEC. 504. (a) To ensure the coordinated development and enhancement of the Upper Mississippi River System, the Congress declares that the purpose of this section is to recognize such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that such System provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

"(b) For purposes of this section—

"(1) the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this Act referred to as the "Act of October 21, 1978"; and

"(2) the terms "Upper Mississippi River System" and "System" mean those river reaches having commercial navigation channels on the following rivers: the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; the Black River, Wisconsin; the Saint Croix River, Minnesota and Wisconsin; the Illinois River and Waterway, Illinois; and the Kaskaskia River, Illinois.

"(c)(1) The Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

"(2) Section 101 of the Act of October 21, 1978 is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

"(d)(1) The Congress hereby gives its consent to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements.

"(2) Each officer or employee of the United States responsible for management of any part of the System is authorized in accordance with such officer's or employee's legal authority to assist and participate, when requested by any agency established under paragraph (1) of this subsection, in programs or deliberations of such agency.

"(e)(1) Notwithstanding the provisions of Section 212 of this Act, the Secretary is authorized to provide for the engineering, design, and construction, at a Federal cost of $245,000,000 (October 1983), of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri. Such second lock shall be 110 feet by 600 feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(f)(1) The Secretary, acting in consultation with the Secretary of Transportation and the States in the System, shall monitor traffic movements on the System for the

purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluations so as to verify the need for future capacity expansion of the System as well as the future need for river rehabilitation and environmental enhancement.

"(2) There are authorized to be appropriated to the Secretary for the first fiscal year beginning after the date of enactment of this Act, and for each of nine fiscal years following thereafter, such sums as may be necessary to carry out paragraph (1) of this subsection.

"(g)(1) The Secretary of the Interior, in concert with any appropriate State agency, is authorized to undertake with respect to the Upper Mississippi River System, substantially in accordance with the recommendations of the Master Plan—

"(A) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enhance, or rehabilitate acquatic and terrestrial habitats lost or threatened as a result of man-induced activities or natural factors;

"(B) the implementation of a long-term resource monitoring program; and

"(C) the implementation of a computerized inventory and analysis system.

"(2) For the purposes of carrying out subparagraph (g)(1)(A) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $8,200,000 for the first fiscal year beginning after the date of enactment of this Act, not to exceed $12,400,000 for the second fiscal year beginning after the date of enactment of this Act, and not to exceed $13,000,000 for each of the succeeding eight fiscal years.

"(3) For purposes of carrying out subparagraph (g)(1)(B) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $7,680,000 for the first fiscal year beginning after the date of enactment of this Act and not to exceed $5,080,000 for each of the succeeding nine fiscal years.

"(4) For the purposes of carrying out subparagraph (g)(1)(C) of this subsection, there are authorized to be appropriated to the Secretary of the Interior—

"(A) not to exceed $40,000 for the first fiscal year beginning after the date of enactment of this Act;

"(B) not the exceed $280,000 for the second fiscal year beginning after the date of enactment of this Act;

"(C) not to exceed $1,220,000 for the third fiscal year beginning after the date of enactment of this Act; and

"(D) not to exceed $775,000 for each of the succeeding seven fiscal years.

"(h)(1) The Secretary of the Interior, in consultation with the Secretary and working through an agency, if any, established by the States for management of the System under subsection (d) of this section, is authorized to implement a program of recreational projects for the System and to conduct an assessment of the economic benefits generated by recreational activities in the System.

"(2) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $300,000 for the first and second fiscal years and $150,000 for the third fiscal year beginning after the computerized inventory and analysis system implemented pursuant to subsection (g)(1)(C) of this section is fully functional.

"(i) None of the funds appropriated pursuant to the authorization contained in subsections (g) and (h) of this section shall be considered to be attributable to commercial navigation.

"(j) This section may be cited as the "Upper Mississippi River System Management Act of 1984".

"TITLE VI—COST SHARING

"SEC. 601. (a) The construction of any water resource project or related land resources project authorized to be constructed by the Secretary in this Act or authorized to be constructed by the Secretary after the date of enactment of this Act, excluding any project for the purposes of navigation, shall; except as otherwise provided in this title, be initiated only after the appropriate Federal agency has entered into an agreement with a non-Federal project sponsor to share the costs of construction in accordance with the following guidelines, and agrees to pay, upon completion of project construction, 100 per centum of operation, maintenance, and rehabilitation costs:

"(1) hydroelectric power: construction shall not be initiated until the appropriate Power Marketing Administrator designated pursuant to section 302 of the Department of Energy Organization Act (Public Law 95-91) determines that the hydroelectric power expected to be generated and not required in the operation of the project can, under the applicable Federal power marketing law, be marketed so that, in addition to 100 per centum of operation, maintenance and replacement costs, 100 per centum of the capital investment allocated to the purpose of hydroelectric power (with interest at rates established pursuant to or prescribed by applicable law) and any other costs assigned in accordance with law for return from power revenues can be returned within the period or periods established for the return of such costs by or pursuant to such applicable Federal power marketing law: *Provided*, That contracts for the sale of power by the appropriate Power Marketing Administrator may provide for an advance of funds by the purchaser for transfer to the Federal agency constructing the project, and such advances shall be available for construction of the project;

"(2) municipal and industrial water: 100 per centum;

"(3) recreation: 50 per centum of joint and separable costs;

"(4) beach erosion control: not less than 50 per centum for publicly owned shores and not less than 100 per centum for privately owned shores within project limits; and

"(5) urban and rural flood protection, rural drainage, or agricultural water supplies: not less than 35 per centum, or, for projects covered by section 3 of the Flood Control Act of 1936, as amended, the value of lands, easements, right-of-way and relocations required for project construction, whichever is greater, subject to an ability to pay determination under section 603 of this title: *Provided*, That, in the case of projects authorized to be constructed in Reclamation States which provide for agricultural water supplies, such projects shall also be subject to Federal reclamation law as amended.

"(b) Any cost-sharing agreement for the construction of any water or related land resources project involving two or more purposes may provide for an allocation of costs to each purpose which is greater or lesser than the actual costs associated with each purpose, but the total non-Federal contribution for any such multipurpose project shall equal the amount determined by adding together the cost-sharing and repayment requirements calculated under this section for each purpose separately.

"SEC. 602. (a) Payment in kind may be accepted for any non-Federal contribution under this Act, except that, notwithstanding any other provision of this Act, 5 per centum of the cost of any project (other than a project or component of a project for commercial navigation, agricultural water supply, or hydroelectric power generation) undertaken by the Secretary on which construction is initiated after the date of enactment of this Act shall be paid in cash by the non-Federal project sponsor during construction of such project.

"(b) To the extent that urban and rural flood protection benefits are provided by nonstructural measures, a cash contribution shall not be required of non-Federal project sponsors.

"(c) Except as otherwise provided in this title or existing law, the appropriate Federal agency may permit the full non-Federal contribution to be made, without interest, during construction of the project or, with interest, over a period of not less than thirty years nor more than fifty years from the date of project completion.

"(d) Any repayment by any non-Federal sponsor under this section shall include—

"(1) the applicable rate of interest, if any, authorized by law for the project, or

"(2) when no other rate is provided by law, the rate of interest determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds for the construction of the project are first disbursed.

"(e) At the request of any non-Federal private or public sponsor the appropriate Federal agency may permit such non-Federal sponsor to delay the initial payment of any non-Federal contribution under this Act for up to one year after the date when construction is begun on the project for which such contribution is to be made.

"(f) At the request of any non-Federal public sponsor, the appropriate Federal agency shall consider a non-Federal contribution of 25 per centum, including not less than 5 per centum in cash, made during construction of the project, to be in fulfillment of section 601(a)(5) of this title.

"(g) At the request of any non-Federal public sponsor, the appropriate Federal agency shall consider the cost of work undertaken in accordance with section 134(a) of Public Law 94-587, as amended, by a non-Federal sponsor to be in satisfaction or partial satisfaction of the requirements of subsection (a) of this section if—

"(1) the work undertaken has been previously approved by the Division Engineer of the Corps of Engineers; and

"(2) the credit sought is only for non-Federal funds expended for such work.

"SEC. 603. Any cost-sharing agreement under this Act with a non-Federal private or public sponsor of an urban and rural flood protection, rural drainage, or agricultural water supply project shall be subject to the ability of any such non-Federal sponsor to pay. The ability of any non-Federal sponsor to pay shall be determined by the appropriate Federal agency in accordance with any applicable law or, in the absence of applicable law, under procedure to be determined by the appropriate agency.

"SEC. 604. No additional cost sharing or repayment shall be required from any non-Federal sponsor for any water or related land resources project authorized prior to the date of enactment of this Act beyond any applicable cost-sharing and repayment requirements of existing law, but construction shall be not be initiated prior to the fiscal year ending September 30, 1995, on any such project or separable element thereof unless—

"(a) a non-Federal sponsor agrees to pay any cost-sharing and repayment requirements associated with such project under existing law and 50 per centum of any additional cost-sharing or repayment contributions associated with such project under sections 601 and 602 of this title;

"(b) such project is an uncompleted unit (or reformulation of such unit) of a comprehensive river basin program of development to be located in a State in which large acreages of land or volumes of water have been dedicated to such program for the benefit of citizens in other States and thereby denied to the use of the citizens of such State, or

"(c) such project is a separable element for which construction funds were appropriated prior to January 1, 1983.

In determining priorities for development among projects authorized for development prior to the date of enactment of this Act, the appripriate Federal agencies shall consult with the States in which such projects are to be located and shall consider any priorities established by any State for the development of such projects.

"TITLE VII

"SEC. 701. Subject to the provisions of sections 212 and 213 and title VI of this Act, the following works of improvement of rivers and harbors and others waterways for flood control and other purposes are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated:

"(a) Flood Control.—

"(1) Village Creek, Jefferson County, Alabama: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $20,700,000 (October 1982);

"(2) Eight Mile Creek, Paragould, Arkansas: Report of the Chief of Engineers dated August 10, 1979, at a Federal cost of $14,500,00 (October 1982);

"(3) Fourche Bayou Basin, Little Rock, Arkansas: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $19,700,000 (October 1982);

"(4) Helena and vicinity, Arkansas: Report of the Chief of Engineers dated June 23, 1983, at a Federal cost of $11,600,000 (October 1982);

"(5) Little Colorado River at Holbrook, Arizona: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $7,730,000 (October 1982);

"(6) Cache Creek Basin, California: Report of the Chief of Engineers dated April 27, 1981, at a Federal cost of $21,100,000 (October 1982), provided the Secretary acts in coordination with the State of California to assure that such project poses no danger to any component of its State park system;

"(7) Redbank and Fancher Creeks, California: Report of the Chief of Engineers dated May 7, 1981, at a Federal cost of $57,200,000 (October 1982);

"(8) Santa Ana River Mainstream, including Santiago Creek, California: Report of the Chief of Engineers dated January 15, 1982, at a Federal cost of $1,211,000,000 (October 1983): *Provided*, That construction is restricted to the following elements of the project: improvements at Prado Dam which limit the reservoir taking line to no greater than an elevation of 566 feet; Santa Ana River Channel improvements in Orange County; improvements along Santiago Creek; improvements of the Oak Street Drain; and improvement of the Mill Creek levees; features for mitigation of project effects and preservation of endangered species, and recreation features identified in the Chief of Engineers' Report for these project elements;

"(9) Fountain Creek, Pueblo, Colorado, Phase I GDM: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $6,600,000 (October 1982);

"(10) Metropolitan Denver and South Platte River and Tributaries, Colorado, Wyoming, and Nebraska: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $9,080,000 (October 1982);

"(11) Oates Creek, Georgia: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $8,360,000 (October 1982);

"(12) Agana River, Guam: Report of the Chief of Engineers dated March 14, 1977, at a Federal cost of $5,820,000 (October 1982);

"(13) Alenaio Stream, Hawaii: Report of the Chief of Engineers dated August 15, 1983, at a Federal cost of $4,579,000 (October 1982);

"(14) Big Wood River and Tributaries, Idaho, Interim Report—Little Wood River, Vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers dated November 2, 1977, at a Federal cost of $3,750,000 (October 1982);

"(15) North Branch of Chicago River, Illinois: Report of the Board of Engineers for Rivers and Harbors dated January 3, 1984, at a Federal cost of $11,800,000 (October 1983);

"(16) Rock River at Rockford and Vicinity, Illinois, Loves Park Interim: Report of the Chief of Engineers dated September 15, 1980, at a Federal cost of $22,800,000 (October 1982);

"(17) The project for flood control, Little Calumet River, Indiana: In accordance with plan 3A contained in the Report of the Board of Engineers for Rivers and Harbors dated November 14, 1983, at a Federal Cost of $57,700,000 (October 1983), with the additional provision that the Secretary is directed to include levees and other necessary structural measures in the Gary, Indiana, portion of such project from Cline Avenue to the eastern boundary of the project;

"(18) Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers dated July 22, 1977, at a Federal cost of $11,200,000;

"(19) Mississippi River, Coon Rapids Dam to Ohio River Green Bay Levee and Drainage District No. 2, Iowa: Report of the Chief of Engineers dated October 21, 1981, at a Federal cost of $5,480,000;

"(20) Interim Report on Perry Creek, Iowa: Report of the Chief of Engineers dated February 4, 1982, at a Federal cost of $20,900,000;

"(21) Halstead, Kansas: Report of the Chief of Engineers dated May 8, 1979, at a Federal cost of $6,130,000 (October 1982);

"(22) Atchafalaya Basin Floodway system, Louisiana: Report of the Chief of Engineers dated February 28, 1983, at a Federal cost of $195,000,000 (October 1982);

"(23) Bushley Bayou, Louisiana, Phase I GDM: Reports of the Chief of Engineers dated April 30, 1980, and August 12, 1982, at a Federal cost of $42,800,000 (October 1982);

"(24) Louisiana State Penitentiary Levee, Mississippi River: Report of the Chief of Engineers dated December 10, 1982, at a Federal cost of $20,500,000 (October 1982);

"(25) Quincy Coastal Streams, Massachusetts, Town Brook Interim: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $25,100,000 (October 1982);

"(26) Mississippi River at St. Paul, Minnesota: Report of the Chief of Engineers dated June 16, 1983, at a Federal cost of $7,200,000 (October 1982);

"(27) Redwood River at Marshall, Minnesota: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $3,130,000 (October 1982);

"(28) Root River Basin, Minnesota: Report of the Chief of Engineers dated May 13, 1977, at a Federal cost of $8,150,000 (October 1982);

"(29) South Fork Zumbro River Watershed at Rochester, Minnesota: Report of the Chief of Engineers dated February 23, 1979, at a Federal cost of $77,800,000 (October 1982);

"(30) Horn Lake Creek and Tributaries, Including Cow Pen Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated January 4, 1983, at a Federal cost of $2,450,000 (October 1982);

"(31) Sowashee Creek, Mississippi: Report of the Board of Engineers for Rivers and Harbors, dated June 15, 1984, at a Federal cost of $10,910,000 (October 1983);

"(32) Brush Creek and Tributaries, Missouri and Kansas: Report of the Chief of Engineers dated January 3, 1983, at a Federal cost of $12,100,000;

"(33) Maline Creek, Missouri: Report of the Chief of Engineers dated November 2, 1982, at a Federal cost of $37,200,000;

"(34) St. Johns Bayou and New Madrid Floodway, Missouri Phase I GDM: Report of the Chief of Engineers dated January 4, 1983, at a Federal cost of $69,000,000;

"(35) Robinson's Branch of the Rahway River at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers dated October 10, 1975, at a Federal cost of $13,500,000 (October 1982);

"(36) Rahway River and Van Winkles Brook at Springfield, New Jersey; Report of the Chief of Engineers dated October 24, 1975, at a Federal cost of $12,300,000 (October 1982);

"(37) Green Brook Subbasin, Raritan River Basin, New Jersey: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $72,900,000 (October 1982);

"(38) Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico: Report of the Chief of Engineers dated June 23, 1981, at a Federal cost of $39,200,000 (October 1982): *Provided*, That the Secretary is authorized also to increase

flood protection through the dredging of the bed of the Rio Grande in the vicinity of Albuquerque, New Mexico, to an elevation lower than existed on the date of enactment of this Act;

"(39) Puerco River and Tributaries, Gallup, New Mexico: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $3,220,000 (October 1982);

"(40) Cazenovia Creek Watershed, New York: Report of the Chief of Engineers dated September 8, 1977, at a Federal cost of $1,803,000 (October 1982);

"(41) Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Conneticut: Report of the Chief of Engineers dated April 4, 1979, at a Federal cost of $44,100,000 (October 1982);

"(42) Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers dated June 23, 1978, at a Federal cost of $6,244,000 for Logan and $6,757,000 for Nelsonville (October 1982);

"(43) Miami River, Fairfield, Ohio: Report of the Chief of Engineers dated June 23, 1980, at a Federal cost of $9,180,000 (October 1982);

"(44) Miami River, Little Miami River, Interim Report Number Two, West Carrollton, Holes Creek, Ohio: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $5,950,000 (October 1982);

"(45) Muskingum River Basin, Ohio (Mansfield): Report of the Chief of Engineers dated February 3, 1978, at a Federal cost of $3,500,000 (October 1982);

"(46) Scioto River at North Chillicothe, Ohio: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $9,070,000 (October 1982);

"(47) Fry Creeks, Oklahoma: Report of the Chief of Engineers dated September 7, 1983, at a Federal cost of $8,500,000 (October 1982);

"(48) Mingo Creek, Tulsa, Oklahoma: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $87,800,000 (October 1982);

"(49) Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Chief of Engineers dated May 30, 1980, at a Federal cost of $40,200,000 (October 1982);

"(50) Harrisburg, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated May 16, 1979, at a Federal cost of $102,000,000 (October 1982);

"(51) Lock Haven, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $65,500,000 (October 1982);

"(52) Saw Mill Run, Pittsburgh, Pennsylvania: Report of the Chief of Engineers dated January 30, 1978, at a Federal cost of $7,020,000 (October 1982);

"(53) Wyoming Valley, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated October 19, 1983, at a Federal cost of $212,900,000 (October 1982);

"(54) Big River Reservoir, Rhode Island: Report of the Chief of Engineers dated March 9, 1983, at a Federal cost of $40,900,000 (October 1982);

"(55) Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $19,200,000 (October 1982);

"(56) Buffalo Bayou and Tributaries, Texas: Report of the Chief of Engineers dated June 13, 1978, at a Federal cost of $75,000,000 (October 1982);

"(57) Boggy Creek, Austin, Texas: Report of the Chief of Engineers dated January 19, 1981, at a Federal cost of $13,800,000 (October 1982);

"(58) Lake Wichita, Holliday Creek, Texas: Report of the Chief of Engineers dated July 9, 1979, at a Federal cost of $14,900,000 (October 1982);

"(59) Lower Rio Grande, Texas: The project for flood control, Lower Grande Basin, Texas: Report of the Board of Engineers for Rivers and Harbors, dated April 29, 1983, at a Federal cost of $114,400,000 (October 1983);

"(60) James River Basin, Richmond, Virginia, Phase I GDM: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $79,600,000 (October 1982);

"(61) Sims Bayou, Texas: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $104,200,000 (October 1983);

"(62) Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers dated February 8, 1977, at a Federal cost of $19,300,000 (October 1982);

"(63) Yakima Union Gap, Washington: Report of the Chief of Engineers dated May 7, 1980, at a Federal cost of $8,640,000 (October 1983);

"(64) Threemile Creek, Mobile, Alabama: Report of the Chief of Engineers dated April 20, 1984, at a Federal cost of $8,900,000 (October 1983);

"(65) Upper Little Arkansas River Watershed, Kansas: Report of the Chief of Engineers dated December 15, 1983, at a Federal cost of $9,950,000 (October 1983);

"(66) South Quincy Drainage and Levee District, Illinois: Report of the Chief of Engineers dated January 24, 1984, at a Federal cost of $11,100,000 (October 1983);

"(67) Tonawanda Creek Watershed, New York: Report of the Chief of Engineers dated July 2, 1984, at a Federal cost of $30,900,000 (October 1983);

"(68) Park River, at Grafton, North Dakota: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $126,000,000 (October 1983); and

"(69) Centralia, Chelahis River and Tributaries, Washington: Report of the Chief of Engineers dated June 20, 1984, at a Federal cost of $18,600,000 (October 1983).

"(b) HYDROPOWER DEVELOPMENT.—

"(1) Scammon Bay, Alaska (Hydropower): Report of the Chief of Engineers dated August 9, 1983, at a Federal cost of $1,483,000 (October 1982);

"(2) South Central Railbelt Area, Alaska, Hydroelectric Power, Valdez and Copper River Basin: Report of the Chief of Engineers dated October 29, 1982, at a Federal cost of $40,500,000 (October 1982);

"(3) Murray Lock and Dam, Hydropower, Arkansas: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $92,900,000 (October 1982);

"(4) Arkansas River and Tributaries, Arkansas and Oklahoma, Hydropower, Locks and Dams Nos. 13 and 9 and Toad Suck Ferry Lock and Dam (No. 8): Report of the Chief of Engineers dated September 1, 1983, at a Federal cost of $260,300,000 (October 1982);

"(5) Metropolitan Atlanta Area Water Resources Management Study, Georgia: Report of the Chief of Engineers Dated June 1, 1982, at a Federal cost of $24,500,000 (October 1982);

"(6) W. D. Mayo Lock and Dam 14, Hydropower, Oklahoma: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $112,100,000 (October 1982);

"(7) Blue River Lake, Hydroelectric Power, Willamette River Basin, Oregon: Report of the Chief of Engineers dated August 9, 1983, at a Federal cost of $28,600,000 (October 1982);

"(8) McNary Lock and Dam Second Powerhouse, Columbia River, Oregon and Washington, Phase I GDM: Report of the Chief of Engineers dated June 24, 1981, at a Federal cost of $600,000,000 (October 1982); and

"(9) Gregory County Hydroelectric Pumped Storage Facility, Stages I and II, South Dakota: Report of the Chief of Engineers dated April 26, 1983, together with such additional associated multipurpose water supply and irrigation features as are generally described in the final feasibility report of the District Engineer, at a Federal cost of $1,280,000,000, not to exceed $100,000,000 of which may be used to construct such associated water supply and irrigation features: *Provided*, That the additional associated multipurpose water supply and irrigation features shall be undertaken concurrently by the Secretary of the Interior in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto), as a unit of the Pick-Sloan Missouri River Basin program: *Provided further*, That the Secretary of the Interior is authorized to undertake a feasibility study of the additional associated multipurpose water supply and irrigation features of the Gregory County Hydroelectric Pumped Storage Facility and that construction of the Gregory County Hydroelectric Pumped Storage Facility and such additional associated multipurpose water supply and irrigation features shall not be undertaken until the Secretary of the Interior has completed the feasibility report on such additional features and submitted such report to the Congress along with his certification that, in his judgment, the benefits of such features will exceed the costs and that such additional features are physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof.

"(c)(1) SHORELINE PROTECTION.—

"(A) Charlotte County, Florida: Report of the Chief of Engineers dated April 2, 1982, at a Federal cost of $1,440,000 (October 1982);

"(B) Indian River County, Florida: Report of the Chief of Engineers dated December 21, 1981, at a Federal cost of $2,300,000 (October 1982);

"(C) Panama City Beaches, Florida: Report of the Chief of Engineers dated July 8, 1977, at a Federal cost of $26,200,000 (October 1982);

"(D) Saint Johns County, Florida: Report of the Chief of Engineers dated February 26, 1980, at a Federal cost of $7,660,000 (October 1982);

"(E) Jekyll Island, Georgia: Report of the Chief of Engineers dated March 3, 1976, at a Federal cost of $5,870,000 (October 1982);

"(F) Casino Beach, Illinois Shoreline, Illinois: Report of the Board of Engineers for Rivers and Harbors dated December 1, 1983, at a Federal cost of $3,290,000 (October 1983);

"(G) Atlantic Coast of Maryland and Assateague Island, Virginia: Report of the Chief of Engineers dated September 29, 1981, at a Federal cost of $21,000,000 (October 1982);

"(H) Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York: Report of the Chief of Engineers dated August 18, 1976, at a Federal cost of $3,300,000 (October 1982);

"(I) The project for shoreline protection for the southeast shore of Maumee Bay, Lake Erie, Ohio, from Cedar Point National Wildlife Refuge to West Bay Shore Road,

Oregon, Ohio: Report of the Chief of Engineers, dated July 9, 1984, at a Federal cost of $8,140,000. *Provided*, That the Secretary is further authorized to contract with the State of Ohio on the items of local cooperation for such project, which are to be assumed by the State, notwithstanding that the State may elect to make its performance of any obligation contingent upon the State legislature making the necessary appropriations and funds being allocated for the same or subject to the availability of funds on the part of the State;

"(J) Presque Isle Peninsula, Erie, Pennsylvania: Report of the Chief of Engineers dated October 2, 1981, at a Federal cost of $18,550,000 (October 1982);

"(K) Folly Beach, South Carolina: Report of the Chief of Engineers dated March 17, 1981, at a Federal cost of $1,110,000 (October 1982);

"(L) Dade County, North of Haulover Beach Park, Florida: Report of the Chief of Engineers dated December 27, 1983, at a Federal cost of $4,256,000 (October 1983);

"(M) Monroe County, Florida: Report of the Chief of Engineers dated April 27, 1984, at a Federal cost of $1,549,000 (October 1983);

"(N) Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers dated November 18, 1983, at a Federal cost of $7,760,000 (October 1983);

"(O) Wrightsville Beach, North Carolina: Report of the Chief of Engineers dated December 19, 1983, to extend the period of Federal participation in the periodic nourishment of the existing project;

"(P) Willoughby Spit and Vicinity, Norfolk, Virginia: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $1,835,000 (October 1983); and

"(Q) Cape May Point, New Jersey: Report of the Chief of Engineers, for beach erosion control and storm protection, dated September 30, 1975, at a Federal cost of $5,000,000 (October 1982); subject to the completion of Phase I Advanced Engineering and Design.

"(2) Construction of the projects authorized in this subsection shall be subject to determinations of the Secretary, after consultation with the Secretary of the Interior, that the construction will be in compliance with the Coastal Barrier Resources Act (Public Law 97-348).

"(d) MITIGATION.—

"(1) Fish and Wildlife Program for the Sacramento River Bank Protection Project, California, First Phase: Report of the Chief of Engineers dated September 1, 1981, at a Federal cost of $832,000 (October 1982);

"(2) Richard B. Russell Dam and Lake, Savannah River, Georgia and South Carolina, Fish and Wildlife Mitigation Report: Report of the Chief of Engineers dated May 11, 1982, at a Federal cost of $18,700,000 (October 1982);

"(3) Davenport, Iowa Local Protection Project-Fish and Wildlife Mitigation Plan: Report of the Chief of Engineers dated July 9, 1979, at a Federal cost of $387,000;

"(4) West Kentucky Tributaries Projects, Fish and Wildlife Mitigation Plan, Obion Creek, Kentucky: Report of the Chief of Engineers Dated September 16, 1980, at a Federal cost of $3,980,000 (October 1982);

"(5) Downstream Measures at Harry S. Truman Dam and Reservoir, Missouri: Report of the Chief of Engineers dated December 21, 1981, at a Federal cost of $2,000,000;

"(6) Smithville Lake, Little Platte River, Missouri-Plan for Replacement of the Trimble Wildlife Area: Report of the Chief of Engineers dated September 22, 1977, at a Federal cost of $7,770,000;

"(7) Cape May Inlet to Lower Township, New Jersey, Phase I GDM: Report of the Chief of Engineers dated December 23, 1981, including construction of measures at Lower Township to mitigate for the erosion attributed to the existing navigation project generally in accordance with mitigation features for Lower Township of Plan B of the Phase I General Design Memorandum, titled: "Cape May Inlet to Lower Township, New Jersey," dated August 1980, at a Federal cost of $17,000,000 (October 1982);

"(8) Cooper Lake and Channels Project, Texas, Report on Fish and Wildlife Mitigation: Report of the Chief of Engineers dated May 21, 1982, at a Federal cost of $7,570,000 (October 1982);

"(9) Missouri River, Fish and Wildlife Mitigation; Iowa, Nebraska, Kansas, and Missouri: Report of the Chief of Engineers dated April 24, 1984, at a Federal cost of $49,400,000 (October 1983); and

"(10) Yazoo Backwater Project, Mississippi—Fish and Wildlife Mitigation Report: Report of the Chief of Engineers dated July 12, 1984, af a Federal Cost of $4,993,000 (October 1983).

"(e) BANK STABILIZATION.—

"(1) Bethel, Alaska: Report of the Chief of Engineers dated July 30, 1983, at a Federal cost of $13,780,000 (October 1982).

"(f) DEMONSTRATION.—

"(1) Cabin Creek, West Virginia, Demonstration Reclamation Project: Report of the Chief of Engineers dated March 1, 1979, at a Federal cost of $32,800,000 (October 1982); and

"(2) Lava Flow Control, Island of Hawaii, Hawaii: Report of the Chief of Engineers dated July 21, 1981, at a Federal cost of $3,950,000 (October 1982).

"TITLE VIII—WATER SUPPLY LOANS

"SEC. 801. (a) The Congress hereby finds that—

"(1) many water supply systems are in deterioration and that adequate Federal authority does not exist to address the problems of existing municipal and industrial water supply systems;

"(2) certain regions of the Nation are facing serious water supply problems and large quantities of water are being wasted as a result of aging and deteriorating water supply and distribution facilities;

"(3) modernizing existing water supply systems is an important part of any effort to rejuvenate the Nation's cities and remove impediments to economic growth;

"(4) many water supply systems have experienced difficulty in obtaining capital necessary to accomplish repairs, rehabilitations, expansions, and improvements required for efficient and reliable operations;

"(5) in light of historic and continuing Federal involvement in meeting many other water supply problems, there is a national need to rehabilitate and upgrade existing water supply systems;

"(6) in all regions of the country and in all circumstances in which the Federal Government is involved in providing water supply, it is essential to promote water conservation; and

"(7) encouraging the use of low-flow devices in new construction, improving metering and rate schedules and leak detection programs, and adopting other water conservation methods saves water and energy.

"(b) The Congress hereby declares that—

"(1) the Federal Government shall provide financial assistance in the form of loans to water supply system operators;

"(2) such assistance shall be directed especially to systems without alternative financing sources and systems with severe drinking water quality problems; and

"(3) such assistance shall be used for, among other purposes, improved water conservation.

"SEC. 802. (a) Subject to the provisions of this title, the Secretary may make loans to—

"(1) any department, agency, or instrumentality of one or more State or local governments which operates a water supply system, and

"(2) any person who operates a water supply system the rates and services of which are subject to regulation by a department, agency, or instrumentality of a State government, for the purpose of repair, rehabilitation, or expansion, of such system.

"(b) The Secretary shall allocate—

"(1) one-half of the funds to be loaned in each fiscal year among the States in proportion to each State's population, or such lesser figure if the total amount of loans for which eligible water supply operators in a State apply is less than the sums allocated to such State; and

"(2) the remainder of the funds at the discretion of the Secretary.

"(c) No loan may be made under this title for any purpose not related to water supply or water conservation.

"(d) No loan may be made under this title for the purpose of acquisition by an operator of a water supply system of another such system.

"SEC. 803. (a) Any operator of a water supply system seeking a loan under this title shall submit an application to the Secretary for such loan in such form and manner as the Secretary may require by regulation. Applications for loans in the following fiscal year shall be submitted to the Secretary not later than March 1, 1985, and annually thereafter. Not later than September 1, 1985, and annually thereafter, the Secretary shall approve or disapprove such applications.

"(b) Any application for a loan under this title shall include, among other things:

"(1) a detailed plan and estimated cost of the project for which the loan is applied;

"(2) a showing (A) that the applicant holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by the Secretary) and rights to the use of water pursuant to applicable State law necessary for the successful completion, operation, and maintenance of the project, and (B) that the applicant is ready, willing, and able to finance the portion of the cost of the project which will not be covered by the loan; and

"(3) an assessment of the improvements the proposed project will make in supplying water for domestic, commercial, and industrial purposes, as well as public purposes including fire protection and recreation.

"(c) The Secretary may only make loans under this title with respect to projects which the Secretary determines are technically feasible and which constitute a reasonable financial risk.

"(d) In making loans under this title, the Secretary shall give priority—

"(1) to water supply systems otherwise unable to obtain financial assistance; and

"(2) to water supply systems that will use the proceeds of such loans to pay the costs of installing a new system or improving an

existing system to achieve compliance with the provisions of the Safe Drinking Water Act of 1974 (42 U.S.C. 300f et seq.) and regulations promulated thereunder.

"SEC. 804. (a) The Governor of any State may submit by April 1, 1985, and annually thereafter, a priority list of water supply projects in such State to be financed by loans under this title. Such list shall include the name of each project for which loan applications have been submitted to the Secretary, the priority ranking of such project, and the recommended level of financing from loans under this title.

"(b) The Secretary may take into account the priority lists submitted pursuant to subsection (a) of this section in allocating funds among the candidate projects in such State.

"SEC. 805. (a) The Secretary may only make loans under this title to an operator of a water supply system if the Secretary determines that, before completion of the proposed project, the operator will, to the best of the operator's ability, implement a model water conservation program or a water conservative program, suitable to local conditions, which is equivalent to a model water conservation program.

"(b) For purposes of this section, the term "model water conservation program" includes the following:

"(1) encouraging each community served by the water supply system to establish plumbing codes which promote water conservation in new construction;

"(2) to the extent feasible and appropriate, utilizing water meters which promote water conservation;

"(3) establishing water rate schedules which encourage water conservation;

"(4) providing a comprehensive leak detection and repair program for water supply systems;

"(5) making public information available on home and business water conservation techniques and benefits; and

"(6) developing a drought contingency plan.

"SEC. 806. (a) The Secretary shall enter into an agreement with each person to whom a loan is to be made under this title. Such agreements shall include the following terms, among others—

"(1) the maximum amount of the loan to be made and the time and method of making funds available under the loan;

"(2) an interest rate determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds are first disbursed;

"(3) a repayment period, not to exceed thirty years, and a plan of repayment of the sums lent, plus interest; and

"(4) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest, including a provision that the operator of the water supply system shall maintain adequate rates in order to be expected to meet its obligations under the agreement and to maintain, repair, and rehabilitate the project for which the loan is made.

"(b) The Secretary may agree to an interest rate and plan of repayment in accordance with section 301(b) of the Water Supply Act of 1958 (72 Stat. 319; Public Law 85-500), if the Secretary determines that terms in accordance with subsection (a) of this section would represent a severe economic burden on the recipient of the loan.

"SEC. 807. Amounts of loans (including interest accruing on such loans) repaid under this title shall be deposited in the general fund of the Treasury.

"SEC. 808. The Secretary shall issue such regulations and carry out such actions as may be necessary to carry out the objectives of this title.

"SEC. 809. There is authorized to be appropriated to the Secretary for the purposes of this title, the sum of $200,000,000 for the fiscal year ending September 30, 1986, $400,000,000 for the fiscal year ending September 30, 1987, $600,000,000 for the fiscal year ending September 30, 1988, $700,000,000 for the fiscal year ending September 30, 1989, and $800,000,000 for the fiscal year ending September 30, 1990, such sums to remain available until expended.

"SEC. 810. (a) The Secretary shall submit to Congress, no later than September 30, 1989, a report on—

"(1) the characteristics of applicants for and approved recipients of loans extended under this title with respect to regional distribution, size, ownership, and other parameters;

"(2) the purposes for which such loans have been used;

"(3) water conservation measures that have been implemented by the recipients of such loans;

"(4) the impact of such loans on the financial health of the recipients of such loans;

"(5) the extent to which the needs of water supply systems, as indicated by the applications for loans under this title received by the Secretary and by other factors, are met by such loans;

"(6) the contribution of State priority lists to the process of selecting projects;

"(7) recommendations on the need for a continuation of the loan program established by this title after September 30, 1990, the appropriate levels of funding for subsequent fiscal years, and needed changes in the eligibility criteria, allocation of funds, or other aspects of the program; and

"(8) recommendations on additional mechanisms for financing the rehabilitation and expansion of water supply systems.

"(b) For the purpose of this section, there is authorized to be appropriated to the Secretary the sum of $2,000,000 for the fiscal year ending September 30, 1986, or any fiscal year thereafter, such sum to remain available until expended.

"SEC. 811. Notwithstanding any other provision of law, the development, expansion, and rehabilitation of municipal and industrial water supply and distribution systems, either alone or as part of a multiple purpose project authorized in this Act or subsequent to this Act, is hereby declared to be a legitimate Federal purpose.

"SEC. 812. For purposes of this title—

"(1) the term "expansion", as used with respect to a water supply system, means the installation of water supply facilities necessary to increase the service capability or capacity of the water supply system;

"(2) the term "rehabilitation", as used with respect to a water supply system, means the repair or replacement of components or facilities required to restore service reliability or efficiency of the water supply system;

"(3) the term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

"(4) the term "water supply system" means the facilities used in the production and pumping of water for consumption (including, but not limited to, water storage, desalination, and other collection and purification techniques), water treatment facilities (other than sewage treatment facilities), and the water distribution and conveyance facilities used to provide water for municipal and industrial purposes.

"SEC. 813. This title may be cited as the "Water Supply Rehabilitation and Conservation Act of 1984".

"TITLE IX—WATER RESOURCE PLANNING

"SEC. 901. (a) There is hereby established a National Board of Water Policy (hereinafter in this title referred to as the "Board"), to be composed of the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and a chairman chosen by the President, with the advice and consent of the Senate. The Chairman shall be compensated at the rate for level II of the Executive Schedule under section 5313 of title 5, United States Code. Actions of the Board shall be majority vote.

"(b) The Board shall meet at least six times annually to: (1) advise the President and Congress on matters relating to water resources policy, (2) identify inconsistencies in such policy and programs and to recommend to the President and Congress changes in law or procedures that will emphasize the cost-effective conservation, development, and use of the water resources of the United States, (3) establish and issue rules and procedures designed to assure the implementation of a national water resources policy and program, pursuant to law, with attention to coordination among departments and agencies of the United States, (4) recommend to appropriate Federal agencies goals and priorities for programs within their jurisdiction, including studies and research, where needed, and the development of plans for river basins that have been identified by the Board, to assure the wise management and development of the waters of the United States, and (5) prepare periodic assessments of national water needs, including studies of the adequacy of supplies of water needed to meet national, regional, and State requirements.

"(c) The Board shall, as necessary, utilize the expertise that is available in departments and agencies of the United States.

"(d) The Board shall be deemed an 'agency' for the purposes of the open meeting provisions of section 552b of title 5, United States Code, known as the Government in the Sunshine Act.

"SEC. 902. (a) The Board shall establish by rule, after such consultation with other interested entities, both Federal and non-Federal, as the Board may find appropriate, principles, standards, and procedures for Federal participation in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources management and development plans. The quality of the total environment (including its protection and improvement) and national economic development shall be the objectives to be included in each such plans, and the benefits and costs attributable to such objectives, both quantifiable and unquantifiable, shall be included in the evaluation of the benefits and costs of each such plan or project. Such principles, standards, and pro-

cedures shall require that every report relating to any such water or related land resources project include specific information on the benefits and costs attributable to each of such objectives. Such principles, standards, and procedures shall also define water conservation as including projects, programs, or features thereof, designed to (1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water including by storage), or (3) improve land management practices to conserve water.

"(b) The Board shall establish separate principles, standards, and procedures as described in subsection (a) of this section for small Federal water or related land resources planning administered by the United States Department of Agriculture.

"SEC. 903. For the purposes of sections 901 and 902 of this title, there is authorized to be appropriated to the Board the sum of $5,000,000 in each of the fiscal years ending September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, such sums to remain available until expended.

"SEC. 904. (a) To assist the work of the Board, there is hereby established a State Advisory Committee (hereinafter in this title referred to as the "State Committee"), which shall be composed of five members.

"(b)(1) The chairman of the State Committee shall be appointed by the Board from persons recommended by the governing body of the National Governors Association on the basis of his or her understanding of the Nation's water resources needs and shall participate in all meetings of the Board to assure that it is informed of the position of the States on all issues before it.

"(2) The remaining members of the State Committee shall be selected jointly by the Board and the Chairman of the State Committee from persons recommended by the governing body of the National Governors Association in order to provide for a broad national and regional representation in water resources management.

"(c) The State Committee shall meet at least six times a year to review actions and proposals made by the Board, and to offer its analysis of such actions and proposals, including recommendations for changes. Any such analysis shall accompany any report submitted by the Board to the President and Congress.

"(d) The sum of $100,000 is authorized to be appropriated to the Board to reimburse the members of the State Committee for necessary expenditures for each of the fiscal years ending September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, such sums to remain available until expended.

"SEC. 905. The agencies authorized to be established by sections 901 and 903 of this Act are authorized to hire necessary staff and to contract for studies to carry out their authorized functions, within available sums.

"SEC. 906. Nothing in this title shall be construed to alter existing law with respect to the ownership and control of water.

"TITLE X—HARBORS

"SEC. 1001. (a) There is authorized to be established a National Commission on Harbor Maintenance (hereinafter in this title referred to as the "Commission"), which shall report to the President and the Congress no later than two years after the date of enactment of this Act on the annual and long-term costs of maintaining the Nation's harbors, and make such recommendations as it finds appropriate on what portion of the costs of such maintenance, if any, should be assumed by non-Federal interests. In the event the Commission makes recommendations for the non-Federal assumption of a portion of harbor maintenance costs, consideration shall be given without prejudice to the recovery of such costs through ad valorem based vessel charges, uniform national tonnage fees, port-specific fees, and any other method of collection which the Commission may choose to consider.

"(b) The Commission shall be composed of the Secretary of the Army, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and a chairman to be appointed by the President.

"(c) The Commission shall weigh the interests of the port authorities, navigation districts, and similar organizations, as well as shippers and carriers of the United States and the impact on U.S. trade and the economy in making its recommendations, and shall include in its report an assessment of the impact of its recommendations on each of these interests.

"(d) To assist the Commission in its work, there is authorized to be established a Shipping Advisory Board to be composed of eleven members, selected by the Commission Chairman, to provide representation for the United States port interests from various coasts and the Great Lakes, both large and small United States ports, United States shippers of bulk and general cargoes, and United States carriers of both bulk and general cargoes.

"(e) To carry out the purposes of this section, there is authorized to be appropriated to the Commission for the fiscal year ending September 30, 1986, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

"(f) Until such time as the report of the Commission is submitted to the Congress, and Congress acts by law to adopt, reject, or modify the recommendations, if any, of the Commission, the Secretary shall obligate from sums appropriated no more than $420,000,000 in any single fiscal year for the purpose of operating and maintaining the harbors of the United States.

"(g) Nothing in this section shall be construed to prohibit or otherwise interfere with the authority of the Secretary or other Federal agency to operate or maintain any harbor of the United States for emergency purposes or for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"(h) Beginning on October 1, 1984, the Secretary shall undertake no construction work on any harbor except under the terms of section 1003, 1004, 1005, or 1011 of this Title.

"SEC. 1002. (a) The appropriate non-Federal interests shall be responsible for 50 per centum of the costs incurred by the Secretary for surveying, planning, designing, and engineering that may be necessary prior to the construction of any harbor.

"(b)(1) A non-Federal interest may undertake a feasibility study for improvements to any harbor, and submit such study to the secretary. To assist non-federal interests, the Secretary shall, as soon as practicable, promulgate guidelines for harbor feasibility studies in order to provide sufficient information for the formulation of a plan of study.

"(2)(A) The Secretary shall review each feasibility study submitted by non-federal interests for any harbor submitted under paragraph (b)(1) of this section for the purpose of determining whether or not such study was prosecuted in accordance with the guidelines promulgated under such paragraph and was developed in compliance with Federal laws and regulations applicable to navigation projects for harbors.

"(B) Not later than one hundred and eighty days after receiving any feasibility study under paragraphs (b)(1) of this section, the Secretary shall transmit to the Congress, in writing, the results of such study and any recommendations the Secretary may have concerning the project described in such study.

"(3) The costs of studies made under this subsection shall be borne by the non-Federal interest, except that whenever a study results in the construction of project by the Secretary, 50 percentum of the cost of such study shall be credited toward the non-Federal interest's cost-sharing requirement under this Title.

"SEC. 1003. (a)(1) The non-Federal share of the cost of construction of general cargo harbors on which construction has not been commenced as of October 1, 1984, shall be 30 per centum, *Provided, however,* That the Federal share of the cost of projects constructed to depths no deeper than 20 feet below mean low water shall be 100 per centum.

"(2) For purposes of this section, a project shall be deemed to have commenced construction if the non-Federal interest has entered into a written contract as of December 31, 1983, with the Secretary to provide local cooperation required pursuant to the project authorization, including where applicable, an agreement under section 221 of Public Law 91-611, as amended.

"(b) Prior to Federal initiation of construction of a project approved pursuant to this section, or a general cargo harbor previously authorized by the Congress for which construction has not commenced under the terms of subsection (a)(2) of this section, the Secretary and the non-Federal interest shall enter into a cooperative agreement according to procedures set forth in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501). The non-Federal interest shall agree to:

"(1) provide to the Federal Government lands, easements, and rights-of-way, required for construction, operation, and maintenance of such project;

"(2) hold and save the United States free from damages due to the construction or operation and maintenance of such project except for damages due to the fault or negligence of the United States or its constructors; and

"(3) provide to the Federal Government the non-Federal share of all other costs of construction of such project; *Provided, however,* That the value and costs of providing lands, easements, and rights-of-way, shall be credited toward the non-Federal share of the cost of construction. Any cost differential needed to fulfill the non-Federal share shall be provided to the Federal Government on a pro rata basis during the period of construction, beginning not later than one year after construction is initiated.

"SEC. 1004. (a) Any non-Federal interest is authorized to undertake navigational improvements in deep-draft harbors of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

"(b) The Secretary is authorized to complete and transmit to the appropriate non-Federal interest any study for improvements to deep-draft harbors of the United States which were initiated prior to the date of enactment of this Act, or, upon the request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest. Studies under this subsection shall be completed without regard to the requirement of subsection (c) of this section.

"(c) When requested by an appropriate non-Federal interest, the Secretary is authorized to undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) of this section, and assist in obtaining all necessary permits: *Provided*, That the non-Federal interest contracts with the Secretary to reimburse the United States for the cost of such studies and engineering during the period that they are conducted.

"(d) The Secretary is authorized to complete deep-draft harbor construction projects for which construction was initiated by the Secretary prior to the date of enactment of this Act: *Provided*, That for projects in which the appropriate non-Federal interest has not entered into a written contract as of December 31, 1983, with the Secretary to provide the local cooperation required pursuant to the project authorizations, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended, such non-Federal interest shall be required to contract with the Secretary to repay, within thirty years of the date of enactment of this Act, the cost of all such work undertaken after September 30, 1984, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the Treasury, in determining such rate of interest, shall consider the average market yields during the month preceding the fiscal year in which each advance is made on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the reimbursement period of the project.

"(e) Whenever a non-Federal interest constructs improvements to any harbors, the Secretary shall be responsible for maintenance to forty-five feet below mean low water, and 50 per centum of the costs of incremental maintenance below forty-five feet below mean low water: *Provided*, That the Secretary certifies that the project is constructed in accordance with appropriate engineering and design standards.

"(f) Pursuant to subsection (a) of this section, the non-Federal interest shall provide 50 per centum of the costs expended on any relocation and alteration of existing pipelines, cables, and related facilities (but not to include any cost for upgrading or improvements to such pipelines, cables, and related facilities necessary for the construction of deep-draft harbors).

"(g) Notwithstanding any other provision of this Act and in order to be consistent with the provisions and requirements of section 604 of this Act, the non-Federal sponsor of any deep-draft harbor, if such authorization occurred prior to January 1, 1972, shall be required to contribute 12½ per centum of the cost of construction of any such project on a periodic basis during the period of construction, plus an additional 12½ per centum of the cost of construction over a thirty year period commencing once the project is available for use by vessels having drafts greater than forty-five feet, together with interest on the unpaid balance at a rate determined by the Secretary of the Treasury under the terms of section 1011(b)(1) of this title: *Provided*, That the value and the costs of construction of dredged disposal sites shall be a non-Federal responsibility, and shall not be considered a part of the cost of such project when the appropriate level of cost sharing is calculated.

"SEC. 1005. (a) Nothing in this title shall be construed to prohibit or otherwise interfere with the Secretary or other Federal authority to operate, maintain, or improve any harbor for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"(b) Any project authorized under the provisions of this section may include additional improvements requested by the appropriate non-Federal interest: *Provided*, That prior to the commencement of such improvements, the appropriate non-Federal interest enters into a contract with the Secretary or other Federal authority to pay, during the period of construction, that portion of the project's cost which the Secretary or other Federal authority determines to be allocable to non-defense-related needs, if such project is a deep-draft harbor, or 30 per centum of the cost during the period of construction, if such project is a general cargo harbor. If such non-Federal interest fails to so participate, the Secretary or other Federal authority shall design such project solely to meet national defense requirements.

"(c) If non-Federal interests undertake a project under the terms of section 1004 of this title which can be expected to provide direct benefits to the national defense requirements of the United States, the Secretary of other Federal authority is authorized prior to the commencement of construction to contract with such non-Federal interests, subject to appropriations Acts, to pay, during the period of construction, that portion of the project costs directly attributable to national defense requirements, as defined in subsection (a) of this section.

"(d) Whenever the Secretary undertakes improvements to a general cargo harbor, the Secretary is authorized to reduce the percentage share of commitment required by the non-Federal interest on a proportional basis related to that portion of the traffic that provides direct benefits to the national defense requirements of the United States.

"SEC. 1006. (a) Notwithstanding any other provision of law, any appropriate non-Federal interest, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for construction under the terms of Sections 1003, 1004, 1005, or 1011 of this title, together with its costs for incremental maintenance work undertaken pursuant to section 1004 or 1011 of this title, including associated administrative expenditures, by the collection of fees for the use of such projects by vessels in commercial waterway transportation. Such fees shall be established after a public hearing held pursuant to State law and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

"(b) Fees collected by a non-Federal interest pursuant to the authority of this Section shall be used only for the purpose of paying for the non-Federal share of the cost of construction and incremental maintenance work on harbors, or any obligations undertaken for that purpose.

"(c) Fees authorized by this section shall not be imposed on:

"(1) vessels owned and operated by the United States or any other nation or any political subdivision thereof and not engaged in commercial service;

"(2) vessels used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision and not engaged in commercial service;

"(3) vessels in intraport movements; and

"(4) vessels with design drafts of 14 feet or less.

"SEC. 1007. (a) Upon the application of the appropriate non-Federal interest, the Secretary is authorized to guarantee, and to enter into commitments to guarantee, the payment of the interest on, and the unpaid balance of the principal of, up to 90 percentum of any obligation issued by a non-Federal interest to finance the non-Federal portion of the cost of a general cargo harbor or a deep-draft harbor undertaken under the terms of section 1004 of this title.

"(b) An obligation guaranteed under this section shall have a maturity date not to exceed 30 years or the useful life of the project, whichever is less.

"(c) The costs that shall be financed by a guaranteed obligation shall include the associated costs of the project including environmental mitigation, the acquisition and preparation of dredge spoil disposal sites, easements, rights of way, and similarly related costs.

"(d)(1) The non-Federal interest shall convey to the Secretary such security interest in the project as the Secretary may reasonably require to protect the interests of the United States.

"(2) The non-Federal interest shall not be required to convey a security interest in any asset other than those which are a part of the project, nor to provide any additional collateral or guarantees to the Secretary.

"(3) The security interest in the project conveyed to the Secretary shall be subordinant to any lender's security interest covering funds provided to the non-Federal interest for the project, but not covered by the guarantee of the Secretary.

"(e) The full faith and credit of the United States is pledged to the payment of any guarantee made under this section with respect to both principal and interest, including interest as provided for in the guarantee occurring between date of default on a guaranteed obligation and the payment in full of the amount guaranteed.

"(f) Any guarantee or commitment to guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for that guarantee, and the validity of any commitment to guarantee so made shall be incontestable.

"(g) The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any loss shall not exceed $2,000,000,000. No additional limitations may be imposed on commitments to guarantee obligations for any fiscal year, except in such amounts as those established in advance in authorization Acts.

"(h) The Secretary shall assess a guarantee fee of not less than one-quarter of one per centum per annum, nor more than one per centum per annum of the average principal amount of a guaranteed obligation outstanding. All monies received by the Sec-

retary shall be deposited in general fund of the Treasury.

"(i)(1) In the event of a default, which has continued for 30 days, in any payment of the non-Federal interest of principal or interest due under an obligation guaranteed under this section, the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of that default, payment by the Secretary of the unpaid principal amount of that obligation and of the unpaid interest thereon to the date of payment. Within such a period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of that demand, the Secretary shall promptly pay the obligee or his agent the unpaid principal amount of that obligation and unpaid interest to the date of payment. The Secretary shall not be required to make that payment if, prior to the expiration of that period, he shall find that there was no default by the obligor in the payment of principal or interest or that the default has been remedied prior to any such demand.

"(2) Any amount required to be paid by the Secretary under this section shall be paid in cash.

"(3) In the event of any default under any quaranteed obligation or any related agreement, the Secretary shall take such action against the non-Federal interest or any other parties liable thereunder that, in the Secretary's discretion, may be required to protect the interests of the United States. A suit may be brought in the name of the United States or in the name of the obligee, and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. At this discretion, the Secretary shall accept a conveyance of title to a possession of property from the non-Federal interest or other parties liable to the Secretary, and may purchase the property for an amount not to exceed the unpaid principal amount of the obligation and interest thereon. In the event the Secretary shall receive, through the sale of property, an amount of cash in excess of any payment made to an obligee under this section and the expenses of collection of those amounts, the Secretary shall pay that excess to the non-Federal interest.

"(4) The Secretary may not issue a guarantee when the interest is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1954.

"(5) To make any payments required under any guarantee under this section, there is authorized to be appropriated to the Secretary such sums as may be necessary.

"SEC. 1008. (a) The Secretary, upon receipt from an appropriate non-Federal interest of a written notice of intent to construct improvements, shall initiate procedures to establish a schedule of compliance for the purpose of joint processing of all Federal permits required prior to initiation of such construction activities.

"(b)(1) Within fifteen days of the receipt of correspondence under the terms of subsection (a) of this section, the Secretary shall publish such notice in the FEDERAL REGISTER. The Secretary shall also notify in writing all State and local agencies that may be required to issue permits for construction of such improvements and related activities that such construction is proposed. The Secretary shall solicit the cooperation of such agencies and request that they also become parties to a memorandum of agreement (hereinafter in this Act referred to as the "agreement"). If within thirty days following publication of notice in the FEDERAL REGISTER any such agency advises the Secretary in writing of its willingness to become a signatory to the agreement, the Secretary shall include such agency in the agreement.

"(2) Within ninety days of the Secretary's receipt of the correspondence described in subsection (a) of this section, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any State or local agencies which have notified the Secretary in writing shall enter into the agreement with the Secretary to establish a schedule of compliance with the necessary Federal permits required for undertaking such improvements. The schedule of compliance shall not exceed two years from the date of the agreement.

"(c)(1) The agreement shall, to the extend possible, consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting process with data collection and analysis associated with the feasibility study conducted by the non-Federal interest. The agreement will also detail the non-Federal interest's responsibilities with respect to data development, and information necessary to process each permit, including a schedule of dates when such information and data will be provided to the appropriate Federal, State, or local agency.

"(2) Such agreement shall also include a scheduled date by which the Secretary, taking into consideration the views of all of the affected Federal agencies, shall determine whether there is a reasonable likelihood the necessary permit or permits will not be issued, in which case the Secretary shall so notify the appropriate non-Federal interest. The Secretary may revise the agreement only once to extend the schedule of compliance for a period not to exceed one hundred and twenty days for the purpose of allowing the non-Federal interest to revise the original application to meet the objections of the Federal agencies.

"(d) Six months prior to the final day of the schedule the Secretary shall provide to Congress a written progress report. The report shall be transmitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Public Works and Transportation of the United States House of Representatives. The report will summarize all work completed in accordance with the agreement and shall include a detailed work plan which shall assure completion of all remaining work in accordance with the agreement.

"(e) Not later than the final day of the compliance schedule, the Secretary shall notify the non-Federal interest as to whether the permit or permits are issued.

"(f) Not later than March 1, 1986, the Secretary shall prepare and transmit to the Congress a report describing the amount of time required to issue Federal environmental permits related to construction of harbor improvements. The Secretary shall include in such report recommendations for reducing the amount of time required to issue such permits, including any proposed changes in existing law.

"SEC. 1009. For the purposes of this Title, the terms—

"(1) 'harbors' means the channels and harbors of the United States with a depth authorized by law of fourteen feet or greater and a width authorized by law, or to the depths and widths the construction of which was initiated by non-Federal interests after July 1, 1970, and prior to January 1, 1981, or to the depths and widths that may be constructed under the terms of this title: *Provided*, That such term does not mean local access or berthing channels: And provided further, That such terms shall be considered for the Columbia River, Oregon and Washington, to include the channels only up to the downstream side of Bonneville Lock and Dam, Oregon and Washington;

"(2) 'general cargo harbor' means a harbor which is constructed to a depth no greater than forty-five feet;

"(3) the term 'deep-draft harbor' means a harbor which is constructed to a depth of greater than forty-five feet; and

"(4) the term 'non-Federal interests' has the meaning such term has under section 221 of Public Law 91-611, as amended.

"SEC. 1010. Subject to the provisions of Section 212 of this Act, the following works for improvement of general cargo harbors are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided*, That the figures listed in this title shall be subject to the limitations provided under section 213 of this Act and this title:

"(1) Kodiak Harbor, Alaska: Report of the Chief of Engineers dated September 7, 1976, at a Federal cost of $13,400,000 (October 1982);

"(2) Oakland Outer Harbor, California: Report of the Chief of Engineers dated January 7, 1980, at a Federal cost of $36,040,000 (October 1982);

"(3) Richmond Harbor, California: Report of the Chief of Engineers dated August 8, 1982, at a Federal cost of $48,400,000 (October 1982);

"(4) Sacramento River, Deepwater Ship Channel, California: Report of the Chief of Engineers dated November 20, 1981, at a Federal cost of $77,000,000 (October 1982);

"(5) New Haven Harbor, Connecticut: Report of the Chief of Engineers dated July 26, 1982, at a Federal cost of $23,000,000 (October 1982);

"(6) Jacksonville Harbor, Mill Cove, Florida: Report of the Chief of Engineers dated February 12, 1982, at a Federal cost of $5,700,000 (October 1982);

"(7) Manatee Harbor, Florida: Report of the Chief of Engineers dated May 12, 1980, at a Federal cost of $10,600,000 (October 1982);

"(8) Tampa Harbor, East Bay Channel, Florida: Report of the Chief of Engineers dated January 25, 1979, to assume maintenance (October 1982);

"(9) Savannah Harbor, widening, Georgia: Report of the Chief of Engineers dated December 19, 1978, at a Federal cost of $11,700,000 (October 1982);

"(10) Grand Haven Harbor, Michigan: Report of the Chief of Engineers dated October 9, 1979, at a Federal cost of $12,900,000 (October 1982);

"(11) Monroe Harbor, Michigan: Report of the Chief of Engineers dated November 25, 1981, at a Federal cost of $68,700,000 (October 1982);

"(12) Gulfport Harbor, Mississippi: Report of the Chief of Engineers dated January 16, 1978, except that the Chief of Engineers is authorized to construct the project in the most cost effective and environmentally

sound manner at a Federal cost not to exceed $73,700,000 (October 1982);

"(13) Wilmington Harbor, Northeast Cape Fear River, North Carolina: Report of the Chief of Engineers dated September 16, 1980, at a Federal cost of $7,740,000 (October 1982);

"(14) Portsmouth Harbor and the Piscataqua River Basin, Maine and New Hampshire: Report of the Board of Engineers for Rivers and Harbors dated March 21, 1984, at a Federal cost of $21,300,000 (October 1983);

"(15) Gowanus Creek, Channel, New York: Report of the Chief of Engineers dated September 14, 1982, at a Federal cost of $2,000,000 (October 1982);

"(16) Kill Van Kull and Newark Bay Channels, New York and New Jersey: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $178,000,000 (October 1982);

"(17) San Juan Harbor, Puerto Rico, Phase I GDM: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $72,800,000 (October 1982);

"(18) Charleston Harbor, South Carolina: Report of the Chief of Engineers dated August 27, 1981, at a Federal cost of $76,100,000 (October 1982);

"(19) Brazos Island Harbor, Texas, Brownsville Channel: Report of the Chief of Engineers dated December 20, 1979, at a Federal cost of $26,700,000 (October 1982);

"(20) Crown Bay Channel-Saint Thomas Harbor, Virgin Islands: Report of the Chief of Engineers dated April 9, 1982, at a Federal cost of $3,500,000 (October 1982);

"(21) Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers dated February 8, 1977, at a Federal cost of $30,000,000 (October 1982);

"(22) Grays Harbor, Washington: Report of the Board of Engineers for Rivers and Harbors, dated January 17, 1983, at a Federal cost of $77,850,000 (October 1983);

"(23) Hampton Roads and Vicinity, Virginia (Drift Removal): Report of the Chief of Engineers dated October 19, 1983, at a Federal cost of $2,170,000 (October 1983);

"(24) Barnegat Inlet, New Jersey, Phase I GDM: Report of the Chief of Engineers dated January 20, 1983, as modified by the Supplemental Chief of Engineers Report dated May 21, 1984, at a Federal cost of $20,802,000 (October 1983);

"(25) St. Paul Island Harbor, Alaska: Report of the Chief of Engineers dated August 10, 1983, at a Federal cost of $11,900,000 (October 1983); and

"(26) Duluth-Superior Harbor, Minnesota and Wisconsin: Report of the Chief of Engineers dated August 16, 1984, at a Federal cost of $8,500,000 (October 1983).

"SEC. 1011. (a) Notwithstanding any other provision of this Title, the following works for improvement of deep-draft harbors are hereby authorized to be prosecuted by the Secretary under the terms of this section and in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: Provided, That the figures listed in this section shall be subject to the limitations provided under a section 213 of this Act, and Provided further that any such work shall be subject to the conditions described in subsection (b) of this section; and Provided still further that the terms of this section shall apply to any deep-draft harbor authorized for construction subsequent to the enactment of this Act:

"(1) Norfolk Harbor and Channels, Virginia: Report of the Chief of Engineers dated November 20, 1981, at a cost of $514,000,000 (October 1983); and

"(2) Mobile Harbor, Alabama: Report of the Chief of Engineers dated November 18, 1981, at a cost of $468,900,000 (October 1983); and

"(3) Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana: Report of the Chief of Engineers dated April 9, 1983, at a cost of $525,000,000 (October 1983).

"(b)(1) No construction on any project authorized pursuant to this section shall be undertaken by the Secretary until the non-Federal sponsor agrees in writing, and shows evidence satisfactory to the Secretary that such sponsor possesses the legal and financial capability of raising the funds necessary, to pay 25 per centum of the cost of such project on a periodic basis during the construction of such project, then pay an additional 25 per centum of the cost of such project over a 30-year period commencing once the project is available for use by vessels having drafts greater than 45 feet, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the Treasury, in determining such rate of interest, shall consider the average market yields on Federal Securities of similar maturity during the 12 months preceding the date of the Secretary of Treasury's determination.

"(2) The authority for any project undertaken pursuant to this section shall expire at the end of the fifth full fiscal year following the date on which such project was authorized, unless 10 per centum of the funds necessary for the construction of such project, or separable element thereof approved jointly by the Secretary and the non-Federal interest, shall have been obligated jointly by Federal and non-Federal interests.

"(3) Any increment of construction under the terms of this section to a depth of forty-five feet shall, for the purposes of cost-sharing by non-Federal interests, be treated as a general cargo harbor.

"(c) No projects undertaken under the authority of this section shall be eligible for any guarantee under the terms of section 1007 of this Title.

"SEC. 1012. This title may be cited as the "National Harbors Improvement Act of 1984".".

Mr. ABDNOR. Mr. President, Senators STAFFORD, RANDOLPH, MOYNIHAN, and I are submitting today an amendment to S. 1739, the Water Resources Development Act, in the nature of a substitute. This measure is being presented today in order to provide every Senator a reasonable opportunity to review the measure in anticipation of floor action in the very near future. I believe that this measure can be passed in the time remaining in this session of Congress unless some Members of this body are unwilling to enter into a time agreement for consideration of the bill.

This substitute addresses the major water resource development issues in a responsible way and is legislation which I believe can be signed into law. I am firmly convinced, Mr. President, that if we water down the cost-sharing provisions of this legislation, or add excessive numbers of projects to this legislation, that prospects of obtaining the President's approval of the measure will be severely reduced.

We have incorporated many of the views of the Committees on Energy and Natural Resources and Finance into the substitute. We have incorporated Senator STAFFORD's proposal on inland navigation which was first presented on these pages August 9. We have added only those new projects which have completed corps planning since S. 1739 was reported by the Committee on Environment and Public Works last November. We have maintained the integrity of this legislation, Mr. President, and we will oppose any amendment to water down the cost-sharing provisions of this bill or to add projects to this bill indiscriminately.

Mr. President, we have adopted this postion in order to achieve passage and enactment of a water bill for the first time in nearly a decade. We have adopted this position to facilitate the long overdue debate on cost sharing and prove to our colleagues that the provisions of this measure are indeed fair, equitable, and balance the views of those who oppose cost sharing at any level, and the views of those who would have Congress accept only complete cost recovery for all projects.

I urge my colleagues to review this legislation carefully and to advise the leadership of their desire to see this measure brought up expeditiously.

Mr. President, I ask unanimous consent that a copy of an outline describing the changes to S. 1739 the substitute incorporates, be inserted at this point in the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

OUTLINE OF GENERAL CHANGES TO S. 1739 AS REPORTED

Generally, throughout the bill specific authorization dates and dates for the completion of studies or other actions have been set back 1 year.

In addition, the date of the short title of this bill has been changed to 1984, as have the dates in those sections or subsections which give short titles to certain provisions of this bill, (e.g., Section 403 which designates Title IV as the "Dam Safety Act of 1983").

In Titles V, VII, and X, certain project authorization language has been updated to reflect latest planning stage of the Corps of Engineers. Project costs have also been updated where necessary to reflect the latest information from the Corps of Engineers.

A total of eighteen projects which have received the approval of the Chief of Engineers since the bill was reported have been added to Sections V, VII and X and numbering within those titles have been changed accordingly. These projects are listed below under the appropriate section heading:

TITLE V: ST. LOUIS HARBOR, MISSOURI AND ILLINOIS

Location—Vicinity of the Port of Metropolitan St. Louis and along the main stem of the Mississippi River.

Purpose—Navigation, recreation.

Problem—The area is experiencing long-term economic losses resulting from inadequate depth at docks in two areas of the Harbor.

Recommended plan—Construction of an "L" dike or similar structure on the Missouri bank of the Mississippi River in the vicinity of River Mile 182.

Environmental impact statement.—Final statement filed with the Environmental Protection Agency in June 1983.

Total project cost—$29,740,000.

Federal first cost—$11,050,000.

Benefit/cost ratio—1.4 to 1 at a discount rate of 8⅛ percent.

TITLE VII: THREEMILE CREEK, MOBILE, AL

Location—Threemile Creek originates in the western part of Mobile, Alabama, and flows easterly through the City for about 14 miles to enter the Mobile River.

Purpose—Flood control, recreation.

Problem—Inadequate channel capacity of Threemile Creek results in major flood damage to the urbanized area of the City of Mobile, Alabama.

Recommended plan—Enlargement of Threemile Creek for a distance of 5.6 miles and recreational facilities that are compatible with floodplain use.

Environmental impact statement—The final statement filed with the Environmental Protection Agency in November 1983.

Total project cost—$17,780,000.

Federal first cost—$8,900,000.

Benefit/cost ratio—1.4 to 1 at a discount rate of 8⅛ percent.

UPPER LITTLE ARKANSAS RIVER WATERSHED, KANSAS

Location—The Upper Little Arkansas River Watershed is in central Kansas about 15 miles north of Hutchinson, Kansas.

Purpose—Flood Control.

Problem—Extensive overbank flooding of highly developed agricultural areas.

Recommended plan—Eighteen small dams which would contain the 25-year flood with a reserve for 100 years of sediment accumulation and acquisition of 100 acres for mitigation of wildlife habitat losses and fee acquisition for project lands.

Environmental impact statement—Final statement filed with the Environmental Protection Agency in March 1983.

Total project cost—$11,920,000.

Federal first cost—$9,950,000.

Benefit/cost ratio—1.4 to 1 at a discount rate of 8⅛ percent.

SOUTH QUINCY DRAINAGE AND LEVEE DISTRICT, ILLINOIS

Location—Along the Mississippi river immediately downstream from the City of Quincy, Illinois.

Purpose—Flood control

Problem—Residual flood damages to commercial/industrial facilities and agricultural activities. The most recent major flood occurred in 1973 and caused damages of $1.2 million within the District.

Recommended plan—Raise existing levees about 3.5 feet.

Environmental impact statement—Final statement filed with the Environmental Protection Agency on July 8, 1983.

Total project cost—$11,400,000.

Federal first cost—$11,100,000.

Benefit/cost ratio—4.1 to 1 at a discount rate of 8⅛ percent.

TONAWANDA CREEK WATERSHED, NY

Location. On Tonawanda Creek, just upstream of the city of Batavia, New York.

Purpose. Flood control.

Problem. Recurrent flooding of Tonawanda Creek causing both urban and agricultural flood damages averaging over $2½ million annually.

Recommended plan. Construction of two low earth dams with outlet works and emergency spillway, and four stream training dikes.

Environmental impact statement. Final statement filed with the Environmental Protection Agency on February 24, 1984.

Total project cost. $30,900,000.

Federal first cost. $30,900,000.

Benefit/cost ratio. 1.2 to 1 at a discount rate of 8⅛ percent.

PARK RIVER, AT GRAFTON, ND

Location. On the Park River at Grafton in northeastern North Dakota.

Purpose. Flood control.

Problem. Recurrent flooding along the South Branch and main stem Park River causes significant flood problems at Grafton.

Recommended plan. Construction of a 3.75-mile long flood bypass channel and a levee.

Environmental impact statement. Final supplement to the final EIS was filed with the Environmental Protection Agency on December 9, 1983.

Total project cost. $18,450,000.

Federal first cost. $16,000,000.

Benefit/cost ratio. 1.2 to 1 at a discount rate of 8⅛ percent.

CENTRALIA, CHEHALIS RIVER AND TRIBUTARIES, WA

Location. Southwestern Washington State in the vicinity of the city of Centralia, Washington.

Purpose. Flood control.

Problem Recurrent flood damages in the Skookumchuck River Valley averaging almost $3 million annually.

Recommend plan. Modification of existing, private, water supply dam on the Skookumchuck River to provide flood control storage.

Environmental impact. Final statement was filed with the Environmental Protection Agency on January 18, 1984.

Total project cost. $18,600,000.

Federal first cost. $18,600,000.

Benefit/cost ratio. 1.5 to 1 at a discount rate of 8⅛ percent.

DADE COUNTY, NORTH OF HAULOVER BEACH PARK, FL

Location. Dade County is on the southeast tip of the Florida Peninsula. Miami is the principal city in the county.

Purpose. Shoreline protection, recreation.

Problem. Beach erosion control for 2.5 miles of ocean shore north of Haulover Beach Park.

Recommended plan. Extend protective beach of the existing Dade County Beach Erosion Control and Hurricane Protection Project 2.5 miles north of Haulover Beach Park and periodic nourishment of new and existing project.

Environmental impact statement. Final supplement filed with the Environmental Protection Agency in March 1983.

Total project cost. $8,847,000.

Federal first cost. $4,256,000.

Benefit/cost ratio. 2.9 to 1 at a discount rate of 8⅛ percent.

MONROE COUNTY, FL

Location. Southwest Florida Keys and south shore of Key West.

Purpose. Shoreline protection, recreation.

Problem. Major transportation artery and recreation are threatened by eroding shoreline.

Recommended plan. Construction and periodic nourishment of 8,770 feet of shoreline.

Environmental impact statement. Final statement filed with the Environmental Protection Agency in October 1983.

Total project cost. $3,117,000.

Federal first cost. $1,549,000.

Benefit/cost ratio. 7.9 to 1 at a discount rate of 8⅛ percent.

INDIANA SHORELINE EROSION, INDIANA

Location. Southern tip of Lake Michigan just west of Michigan City Harbor, Indiana.

Purpose. Beach erosion control.

Problem. Serious shore erosion problem immediately downdrift of Michigan City Harbor at the Indiana Dunes National Lakeshore area.

Recommended plan. Construction of a sand beach berm along 2 miles of beach and periodic beach nourishment of the restored area.

Environmental impact statement. Final statement filed with the Environmental Protection Agency on March 25, 1983.

Total project cost. $7,760,000.

Federal first cost. $7,760,000.

Benefit/cost ratio. 1.1 to 1 at a discount rate of 8⅛ percent.

WRIGHTSVILLE BEACH, NC

Location. Wrightsville Beach is located in New Hanover County in Southeastern North Carolina. Wilmington is the principal city in the county.

Purpose. Shoreline protection, recreation.

Problem. Significant threat to life and property by continued shoreline erosion.

Recommended plan. Modification of existing shore and hurricane wave protection project to extend period of Federal participation in the periodic nourishment.

Environmental impact statement. Finding of no significant impact in the Chief of Engineers report dated December 19, 1983.

Total project cost. N/A.

Federal first cost. N/A.

Benefit/cost ratio. 1.3 to 1 at a discount rate of 8⅛ percent.

Comments. Extends Federal participation in the periodic shoreline nourishment of the existing project at an estimated annual total cost of $717,000 and a Federal cost of $334,000.

WILLOUGHBY SPIT AND VICINITY, NORFOLK, VA

Location. Southern shore of the Chesapeake Bay in Norfolk, Virginia.

Purpose. Beach erosion control.

Problem. Storm damages to property and erosion of the shoreline.

Recommended Plan. Restoration of 7.3 miles of shoreline and subsequent periodic nourishment of the restored protective beach.

Environmental impact statement. Final statement was filed with the Environmental Protection Agency on October 21, 1983.

Total project cost. $3,410,000.

Federal first cost. $1,835,000.

Benefit/cost ratio. 1.6 to 1 at discount rate of 8⅛ percent.

MISSOURI RIVER, FISH AND WILDLIFE MITIGATION; IOWA, NEBRASKA, KANSAS, AND MISSOURI

Location. Missouri River between Sioux City, Iowa, and St. Louis, Missouri.

Purpose. Fish and wildlife mitigation.

Problem. Construction the bank stabilization and navigation project could result in the loss of 100,000 acres of aquatic habitat and change in 422,000 acres of terrestrial habitat by year 2003 without action.

Recommended plan. Restore and preserve 2,500 and 700 acres respectively of aquatic areas and 28,000 acres of timber-brush habitat, and develop 16,900 acres of public land.

Environmental impact statement. Final statement filed with the Environmental Protection Agency in December 1982.

Total project cost. $49,400,000.

Federal first cost. $49,400,000.

Benefit/cost ratio. N/A.

YAZOO BACKWATER PROJECT, MISSISSIPPI—FISH AND WILDLIFE MITIGATION REPORT

Location. Backwater area is in west-central Mississippi between the east bank Mississippi River levee on the west and the hills east of the Yazoo River. Generally from Vicksburg to vicinity of Greenville.

Purpose. Fish and wildlife mitigation.

Problem. Intensification of agricultural activities associated with reduced flood hazard by Yazoo Area Pump Project would result in clearing of productive bottom-land forests.

Recommended plan. Purchase of 11,300 acres of woodlands in perpetual land use easements or any other combination of easements and fee title that would provide the same level of mitigation.

Environmental impact statement. Final statement filed with the Environmental Protection Agency in April 1983.

Total project cost. $4,993,000.

Federal first cost. $4,993,000.

Benefit/cost ratio. N/A.

HAMPTON ROADS AND VICINITY, VIRGINIA (DRIFT REMOVAL)

TITLE X

Location. Hampton Roads including the Harbors of Norfolk and Newport News, Virginia.

Purpose. Drift and debris removal.

Problem. The presence of floating debris originating from deteriorating waterfront structures, abandoned vessels, and loose shoreline debris impedes navigation efficiency and poses a significant safety risk.

Recommended plan. A combination of structural and non-structural measures to include: (1) clearing the harbor area of floating debris, (2) removing sources of debris such as dilapidated piers, (3) landfilling the drift and debris at a disposal facility, and (4) preventing the creation of future sources of drift and debris.

Environmental impact statement. Final statement filed with the Environmental Protection Agency on March 4, 1983.

Total project cost. $6,560,000.

Federal first cost. $2,170,000.

Benefit/cost ratio. 1.1 to 1 at a discount rate of 8⅛ percent.

BARNEGAT INLET, NEW JERSEY, PHASE I GDM

Location. Barnegat Inlet is located on the Atlantic Coast of New Jersey approximately 32 miles northeast of Atlantic City.

Purpose. Navigation.

Problem. Existing project failed to stabilize and resulted in an unsafe navigation channel for commercial and recreational craft.

Recommended plan. Realign south jetty, deepen and widen navigation channel, remove shoal material, and construct fishing facilities.

Environmental impact statement. Final supplemental filed with the Environmental Protection Agency in July 1982.

Total project cost. $32,276,000.

Federal first cost. $20,802,000

Benefit/cost ratio. 2.0 to 1 at a discount rate of 8⅛ percent.

ST. PAUL ISLAND HARBOR, ALASKA

Location. Southern tip of St. Paul Island, approximately 800 miles west-southwest of Anchorage, Alaska.

Purpose. Commercial navigation.

Problem. Need for a harbor of refuge and other navigation improvements to reduce navigation hazards and economic inefficiencies of harvesting fish.

Recommended plan. Construction of a 1,800-foot-long breakwater and an entrance channel and maneuvering area 960 feet long, 180 feet wide, and 18 feet deep.

Environmental impact statement. Final statement filed with the Environmental Protection Agency on June 6, 1983.

Total project cost. $23,100,000.

Federal first cost. $11,900,000.

Benefit/cost ratio. 1.4 to 1 at a discount rate a 8⅛ percent.

DULUTH-SUPERIOR HARBOR, MINNESOTA AND WISCONSIN

Location. Southwestern tip of Lake Superior within the cities of Duluth, Minnesota, and Superior, Wisconsin.

Purpose. Deep draft navigation.

Problem. The westerly portions of the North and South Channels, the Upper Channel and the Minnesota Channel, all of which vary from 21 to 23-foot depths, resulting in the existing fleet to operate inefficiently.

Recommended plan. Deepening the channels to 27 feet, providing a turning basin of 1,500 feet, and constructing an upland confined disposal facility.

Environmental impact statement. Final statement filed with the Environmental Protection Agency on July 15, 1983.

Total project cost, $11,900,000.

Federal first cost. $8,500,000

Benefit/cost ratio. 1.7 to 1 at a discount rate of 8⅛ percent.

In addition to these, one project which has a Chief's report is being authorized subject to completion of phase I advanced engineering and design studies. Cape May Point, NJ—shoreline erosion.

OUTLINE OF SPECIFIC CHANGES TO S. 1739 AS REPORTED

TITLE I

Dates have been set back a year and each dollar figure has been reduced by $100,000,000.

TITLE II

Section 201 has been technically changed and clarified.

Section 202 has been clarified.

Section 203 has been clarified.

Section 204—the word "expended" has been changed to "appropriated".

Section 209(d) has been clarified and cost figures have been modified to reflect the most recent cost estimation.

Section 217 has been altered to reflect the proposed amendment of the Committee on Energy and Natural Resources.

Section 219—title and section numbers have been changed to conform with recent enactment of P.L. 98-242, the Water Resources Research Act of 1984.

Section 223(a) has been clarified to reflect the need for feasibility studies to describe appropriate levels of non-Federal financing and the ability of non-Federal interests to contribute such levels.

Section 223 has been clarified.

Section 224—the following changes have been made:

1. Authority for the Secretary to condemn water rights has been deleted.

2. A $40 million annual Federal obligations ceiling has been placed on fish and wildlife mitigation work performed pursuant to this section.

Section 225 has been technically corrected to reflect new subsection designations.

A new Section 226 has been added. This section declares that it is the sense of the Congress that the Corps should insure that contract bidding for their projects is as competitive as possible and that the Corps perform adequate record keeping as required by law during project construction.

TITLE III

Section 301(a) has been clarified and the cost figure updated.

Section 301(b) has been clarified.

Section 302—original section deleted and replaced with a project modification for the Delaware Coast. This change results in a net savings to the Federal Government.

Section 304 has been clarified.

Section 305—this section became P.L. 98-243 since the bill was reported and has consequently been deleted.

Section 306 has been renumbered to Section 305.

Section 307 has been renumbered to Section 306.

Section 308 has been renumbered to Section 307 and authority for studies of Commonwealth of Northern Mariana Islands has been deleted (this authority is now contained in P.L. 98-213).

Section 309 has been renumbered to Section 308.

Section 310 has been renumbered to Section 309.

Section 311 has been renumbered to Section 310.

Section 312 has been renumbered to Section 311.

Section 313 has been renumbered to Section 312.

Section 314 has been renumbered to Section 313.

Section 315 has been renumbered to Section 314.

Section 316 has been renumbered to Section 315 and the Ft. Peck, Montana site eliminated from the provisions of this section.

Section 317 has been renumbered to Section 316.

Section 318 has been renumbered to Section 317.

Section 319 has been renumbered to Section 318.

Section 320 has been renumbered to Section 319.

Section 321 has been renumbered to Section 320.

Section 322 has been renumbered to Section 321.

Section 323 has been renumbered to Section 322 and the language has been clarified to insure that the portion of the Hudson River described is not exempt from requirements of the Clean Water Act.

Section 324—this section has become P.L. 98-181 since the bill was reported and has therefore been deleted.

Section 325 has been renumbered to Section 323.

Section 326 has been renumbered to 324 and the language clarified.

Section 327 has renumbered to Section 325.

Section 328 has renumbered to Section 326.

Section 329 has renumbered to Section 327.

Section 330 has renumbered to Section 328 and the language of subsection (b) clarified.

Section 331 has renumbered to Section 329.

Section 332 has renumbered to Section 330.

Section 333 has renumbered to Section 331.

A new Section 332 has been added to allow water supply exchanges and interconnections between the District of Columbia and portions of Maryland in the Washington metropolitan area.

A new Section 333 has been added. This section amends an existing authority to allow the Mountrail County Park Commission in North Dakota more flexibility in use of Federal lands conveyed to them under the Water Resources Development Act of 1974.

A new Section 334 has been added to deauthorize the Lake Brownwood modification project at Pecan Bayou, Texas.

A new Section 335 has been added to authorize the Secretary to compensate certain drainage districts and landowners for work they have had to perform to correct damage done by the operation of the Libby Dam in Montana.

TITLE IV

Only date changes as described above have been made.

TITLE V

Sections 501-504 has been replaced with technically corrected text of August 9th Stafford, Randolph, Abdnor, and Moynihan amendment

Section 505 has been renumbered to Section 502 and technically corrected.

Section 506 has been renumbered to Section 503 and language corrected.

Section 507 has been renumbered to Section 504 and technically corrected.

One new project has been added—see "General Changes" above.

TITLE VI

Section 601(a) has been changed to reflect the proposed amendment of the Committee on Energy and Natural Resources.

Section 601(a)(5) has been changed to reflect the proposed amendment of the Committee on Energy and Natural Resources.

Section 602(a) has been changed to reflect the proposed amendment of the Committee on Energy and Natural Resources.

Section 602(f) has been technically corrected.

Section 603 has been changed to reflect the proposed amendment of the Committee on Energy and Natural Resources.

TITLE VII

Section 701 has been technically corrected and the language clarified.

Section 701(a)(45)—The Killbuck increment of Mansfield River Basin, Ohio project has been removed because it has become uneconomical since the bill was originally reported.

Section 701(b)(6)—The authorization for Lucky Peak Dam and Lake, Idaho, has been removed and subsequent sections have been renumbered.

Section 701(b)(10) has been changed to reflect the proposed amendment of the Committee on Energy and Natural Resources.

Thirteen new projects have been added—see "General Changes" above. One new project with Chief's report has been added subject to completion of Phase I advanced engineering and design studies (Cape May Point; New Jersey $5,000,000 (October 1983)).

TITLE VIII

Section 809—the fiscal year 1986 and 1987 authorization levels have been lowered to $200,000,000 and $400,000,000 respectively.

TITLE IX

Section 902(c)—removed and remaining subsections redesignated.

TITLE X

Text replaced with corrected text of August 9th Stafford, Randolph, Abdnor, Moynihan amendment.

Four new projects have been added—see "General Changes" above.

● Mr. STAFFORD. Mr. President, I am pleased to join with my distinguished colleague from South Dakota [Mr. ABDNOR], as well as the distinguished former chairman of the Committee on Environment and Public Works [Mr. RANDOLPH], and my good friend from New York [Mr. MOYNIHAN] in sponsoring this amendment.

Our amendment is designed as a substitute, primarily to clean up a number of changes and technical items that are needed since the bill was reported last November.

This amendment seeks to accommodate many of the questions raised by the Committees on Energy and Finance, to which portions of the bill were referred earlier this year.

Our goal must be a clear one. It is to obtain legislation that will be signed by the President.

It is apparent to me that the President will not sign a bill that is close to the one passed by the House.

Conversations with administration officials will confirm that view for any of my colleagues. Nor should the President sign such a bill, which contains high costs and no significant innovations in attracting new money into the Water Resources Program.

To obtain legislation that can be signed, we in the Senate must pass a bill offering the conferees considerable flexibility to develop a signable bill. This will force the Senate into the unenviable role of playing Scrooge. But the alternative is to have no new law, and to delay further work on many important projects.

We must pass a bill that is close in dollar costs to the one reported by our committee, and, I must stress, with changes in titles 5 and 10 no more severe than the provisions we are recommending today.

The issue isn't whether the Nation needs sound water resources development. The real issue before the Senate is this: Where is the money going to come from?

I believe we are kidding ourselves—and the American people—if we think there will be any major increase in Federal spending to take care of water resources needs in the coming years. If that assumption is correct, then any major increases in spending must come from non-Federal sources, including beneficiaries, the users and shippers, or there will be no increase in development.

This amendment contains more than $10 billion in new Federal work. The House-passed bill, I am told, contains something like $18 billion in new Federal investment.

Our current level of Federal spending in Corps of Engineers construction is well under $1 billion a year. The Congress actually appropriated $890,000,000 for corps construction work in the fiscal year 1985 appropriations bill.

Do we really believe that the Federal Government will increase, after eliminating the effects of inflation, that figure significantly over the next several years? Aren't we struggling to reduce Federal spending, to reduce the deficit?

And if we don't increase that spending level significantly above that $1 billion-a-year figure, our bill alone will carry us through the year 1994. The House bill would carry us through the year 2002.

And that is assuming we spend not a dime of Federal money on ongoing projects, or make any effort to eat into the backlog of authorized corps work, which now approaches $35 billion.

We must show restraint. The American public expect it.

We must show restraint in order to avoid making empty promises to many communities across this land.

We must also show restraint so that we can send to the President a bill he will sign, and one that will not require new taxes or aggravate the deficit.

Two of the major changes in this amendment from the reported version involve titles 5 and 10. I believe it would be helpful to discuss those briefly. Title 5 involves inland navigation. The arguments against the committee-reported version of title 5 involve the charge that title 5 unconstitutionally delegates taxing authority and that it left too many uncertainties over what the level of use charges might be, even though users themselves would set those charges.

Our proposal in title 5 meets this argument. Specifically, we release every penny in that inland waterway trust fund, and dedicate it to finance the full cost of constructing any locks and dam projects, those not now under construction.

I must emphasize that this would affect only new projects. Thus, as one

example, the Red River Waterway, and any other project under construction, would be completed using general revenues. The now-authorized component of lock and dam 26 in the Mississippi would be completed from general revenues.

Ancillary portions of a new commercial inland project, such as a hydropower component, would also be financed from general revenues.

Thus our amendment meets the stated objections of the waterway interests. It contains no new taxes. It contains no new taxing or fee authority. It establishes no new boards.

It simply allocates money already collected—and money to be collected under existing law—for the purpose for which that money was intended when the trust fund was established in 1978.

I have put together a chart, based on figures provided by the Corps of Engineers, to show what would happen if spending on the new projects occurred at an optimum pace. If the pace were slower, as is likely, less money would be needed from the trust fund. The corps believes it is unlikely that construction would begin on all of these projects as quickly as the chart assumes. If that turns out to be true, spending would be less, with an increase in the carryover funds.

Two of the seven projects involved in the table are not included in this bill for authorization, as they have not yet reached the desk of the Chief of Engineers for consideration.

Further, the table reflects the full cost, with inflation included, of each of the seven projects, not the commercial navigation feature and component of the project.

Mr. President, I ask unanimous consent that this table be printed at the conclusion of my remarks. As my colleagues will note, this approach would obviate the need for any new fee or tax during the remainder of this decade.

Title 5, as contained in this amendment, would provide the Congress, the executive branch, and outside interests the remainder of this decade to address the issue of how best to increase future revenues to pay for additional projects.

It appears to me to be a sound, responsible approach, one designed to assure that we will tackle the tough issues in the years ahead.

Mr. President, I believe we have also developed a responsible and reasonable approach on title 10, the deep-draft navigation provisions. We have created a proposal that treats existing authorizations and new authorizations with fairness.

Mr. President, this a responsible alternative. We need to develop a bill that not only will get through the Congress but will also be signed by the President. For that reason, I would hope that an alternative such as this one might meet the needs of the administration for responsible cost control, yet get us started on needed work.

I urge my colleagues to supposed it without amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EXPECTED DOLLAR IMPACT OF PROGRAM TO CONSTRUCT NEW LOCK AND DAM PROJECTS USING THE EXISTING INLAND WATERWAY TRUST FUND

[In million of dollars]

	Income to trust fund during year	Spending from the trust fund during year on new construction	Balance in waterway trust fund at end of fiscal year
Fiscal year:			
1984			140
1985	55	7	188
1986	70	23	235
1987	75	50	260
1988	80	100	240
1989	85	170	155
1990	95	200	50

Assumptions: Construction on seven new lock and dam projects financed entirely from the trust fund, with projects to begin as follows:
Fiscal year 1985—Gallipolis, Bonneville, Oliver, and the second chamber of lock and dam 26.
Fiscal year 1986—Monongahela locks 7 and 8.
Fiscal year 1987—Winfield.●

● Mr. WARNER. Mr. President, I commend Senator STAFFORD, Senator ABDNOR, Senator MOYNIHAN, and Senator RANDOLPH for today introducing a substitute water resources bill which provides the framework for crucial improvements in our national port system as well as facilitating the development of other important water resources projects.

While the bill does not include all the modifications that I recommended, it is a major improvement over the one originally proposed by the committee leadership, and I will support the legislation, while reserving the option to offer possible amendments on the floor.

Throughout the lengthy deliberations on ports legislation during the past 5 years, my office has consulted closely with the office of the Governor of Virginia, the Virginia Port Authority, and the Hampton Roads Maritime Association.

The committee leadership accepted a significant change which I advocated to give ports flexibility in the construction of their projects so that improvements can be built in segments as economic conditions allow.

For example, the Port of Hampton Roads could choose to initially construct a 50-foot outbound channel to accommodate outgoing supercolliers, and the option would remain available to construct the full 55-foot project at a later time.

This flexibility is critically important to our Nation's coal industry and the coal buyers of the world.

The compromise also acknowledges the importance of deep draft ports by allowing 50-percent Federal funding for those harbor improvements deeper than 45 feet.

The availability of Federal funding corrects a major flaw in the original bill which provided no Federal dollars for deep draft improvements.

Additionally, the compromise removes the rigid standards imposed on ports for the setting of user fees.

I had strongly objected to these restrictions when I testified before the Senate Water Resources Subcommittee in January of this year.

All fees collected may be used only for harbor improvements at the port where they are collected, and the fees must reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

The original legislation had required that 80 percent of the fees must be collected from those directly beneficial from the deeper channel.

In addition to the $515 million, 55-foot channel project at Hampton Roads, four other Virginia projects are authorized in the legislation. They are the $5.4 million seawall to prevent erosion of Tangier Island, the $94 million James River basin flood control project in Richmond, the $2 million Willoughby Spit shoreline protection project, and the $2 million Hampton Roads debris removal.

Under the legislation, two options are available to fund the construction of the Hampton Roads channel improvement project. The first is 50-percent Federal funding.

Half of the 50 percent non-Federal share would be paid during project construction, and half during the next 30 years.

A second option is also available for ports to build projects with non-Federal dollars while still being eligible for low cost Federal loan guarantees for up to 90 percent of the project cost.

Federal funds will remain available as long as at least 10 percent of the project funds or portions thereof have been obligated by Federal and non-Federal sources by the end of 5 fiscal years.

Current operation and maintenance would continue to be 100 percent federally funded.

However, operation and maintenance incurred by deepening beyond 45 feet would be split 50-50 between Federal and non-Federal interests.

Because Baltimore Harbor improvements have been authorized for 14 years, the new compromise grandfathers Baltimore in the same way as all other previously authorized projects.

Baltimore will have to pay one-half of the new cost sharing requirements or wait for 10 more years to again be eligible for full Federal funding.

Additionally, Baltimore would have to contribute 25 percent of the cost of their new project. Baltimore would

not get credit toward their local share for the $60 million they have expended on the Hart-Miller dredged disposal site.

According to statistics supplied by the Army Corps of Engineers, the 50-foot harbor improvement project at Baltimore will cost $358.2 million with the non-Federal share being approximately $100.5 million.

By contrast, the 50-foot harbor improvement project at Hampton Roads is now estimated to cost approximately $163.5 million with a non-Federal cost of about $72 million.

Under the terms of the compromise, harbor improvements of less than 45 feet are eligible for 70 percent Federal funding.

Federal loan guarantees of up to 90 percent are also available to finance the non-Federal cost of projects less than 45 feet.

Regrettably, major public works legislation like that being proposed today has not been approved by the Senate since 1976.

It is long overdue.

This new compromise would be a precedent in changing the tradtional funding patterns for navigation improvement projects.

Accordingly, I urge the Senate leadership to bring this vital legislation to the floor so that it can be passed before the October 5 adjournment date of the Senate.

Mr. President, I ask unanimous consent that a letter from Jack W. Mace, executive vice president of the Hampton Roads Maritime Association regarding this new compromise legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HAMPTON ROADS
MARITIME ASSOCIATION,
Norfolk, VA, September 14, 1984.

Hon. JOHN W. WARNER, Jr.,
U.S. Senator,
Washington, DC.

DEAR JOHN: This will confirm the telephone conversation this morning with Susan McGill when she outlined a substitute ports bill to be introduced on Monday, September 17, 1984.

Features of this substitute bill are:

(1) A port may not be required to undertake construction of an entire authorized project, but rather segmented construction of it when justified.

(2) The Port of Hampton Roads would be eligible for 50 percent funding by the Federal government for the 55-foot channel project.

(3) The Port of Baltimore would be eligible for 75 percent Federal funding for its 50-foot channel project, but would not receive credit for the $53 million spent for the Hart-Miller disposal site.

The Hampton Roads Maritime Association finds that the above features of a substitute ports bill are acceptable and we fully support your efforts in this matter.

Hopefully, this substitute bill will snowball and passage by Congress prior to October 5th will be possible. As in the past, we appreciate your office keeping us advised on developments.

Best wishes,
Sincerely,

JACK W. MACE,
Executive Vice President.●

SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT AMENDMENTS

WEICKER AMENDMENT NO. 4252

Mr. BAKER (for Mr. WEICKER) proposed an amendment to the bill (H.R. 6013) to amend the Small Business Act and the Small Business Investment Act of 1958; as follows:

On page 2, strike lines 4 through 18 and insert in lieu thereof the following: "SEC. 2. This Act does not authorize the appropriation of funds."

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABLIZATION OF PRICES

Mr. COCHRAN. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices has scheduled a hearing on Thursday, September 20, 1984 in room SR 328-A at 10 a.m.

The hearing is on S. 2781, a bill to amend the Packers and Stockyards Act, 1921 to remove processed poultry marketings from the coverage of such Act.

Anyone wishing further information please contact the Agriculture Committee staff at 224-0014 or 224-0017.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on Tuesday, September 18, 1984, at 2 p.m. in room SR 328-A.

The hearing is on S. 2857, the Honey Research, Promotion, and Consumer Information Act.

Anyone wishing further imformation please contact the Agriculture Committee staff at 224-0014 or 224-0017.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a markup on Wednesday, September 19, at 3:30 p.m. in S205 of the Capitol. The items on the agenda will include:

H.R. 6007. District of Columbia Retired Judge Service Act.

NOMINATION OF SEVEN JUDGES TO THE DISTRICT OF COLUMBIA SUPERIOR COURT

S. 2115. To Amend Provisions Regarding the Executive Exchange Program.

S. 2721. To Confirm Conveyance of Certain Real Property by the Southern Pacific Transportation Company to Ernest and Dianna Pritchett.

S. Con. Res. 120. Expresses Sense of Congress that the Legislatures of the States Should Develop and Enact Legislation Designed to Provide Child Victims of Sexual Assault with Protection and Assistance During Administrative and Judicial Proceedings.

For further information on H.R. 6007, Senate Concurrent Resolution 120 and the Nomination of the Seven Judges, please contact Mr. Link Hoewing at 44751. For further information on S. 2115 and S. 2721, please contact Ms. Mary Lewis at 44751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on Monday, September 17, at 4 p.m., to hold a hearing to consider the nominations of William Eagleton to be Ambassador to the Syrian Arab Republic, and William Arthur Rugh, to be Ambassador to the Yemen Arab Republic.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RATIFY THE GENOCIDE CONVENTION NOW

● Mr. KENNEDY. Mr. President, on Wednesday the Senate Foreign Relations Committee is scheduled to take up the Convention on the Prevention and Punishment of the Crime of Genocide. The time is long overdue for the Senate to go firmly and emphatically on record in support of this vital statement of the world's abhorrence of the ultimate crime of genocide. It is therefore essential that the full Senate have an opportunity act on the convention prior to our recess in October. We—and the peoples of the world—have waited 35 years. We cannot afford to wait any longer.

Yesterday's Boston Herald contained a powerful and persuasive editorial in support of ratification of the Genocide Convention. I ask that the text of the editorial appear in full in the RECORD.

The editorial follows:

[From the Boston Herald, Sept. 16, 1984]

A MATTER OF NATIONAL SHAME

It is a matter of national shame that after some 85 years of trying, the Senate of these United States has still not managed to ratify an international treaty to outlaw genocide.

The Convention on the Prevention and Punishment of the Crime of Genocide is a statement of the repugnance with which most of the civilized world views attempts to wipe out entire groups of people on the basis of race, religion or nationality.

It was first submitted to the Senate in 1949, just four years after the world discovered the horror of the Nazi holocaust which took the lives of six million Jews. The treaty defines genocide as an international crime and calls for sanctions against governments which practice it.

Time and time again it has been brought before the Senate Foreign Relations Committee. Five times it was actually approved by committee, but only once—in 1974—did it reach the full Senate, when it was blocked by a conservative fillibuster.

The treaty has been signed by 95 other nations.

This year it won the support of President Reagan, following an extensive study by his administration of conservative charges that it posed a threat to U.S. sovereignty. It found those charges groundless.

Assistant Secretary of State Elliott Abrams noted that the treaty was "born from the ashes of the holocaust." He said that by not ratifying it the United State was in "the embarrassing position" of having failed to formally express "our staunch opposition to the heinous crime of genocide."

All that—the support of 95 nations, the support of a conservative president, and of his State Department—was not enough for one man who is singlehandedly holding up action on the treaty.

It seems Sen. Jesse Helms, R-NC, is still worried. He has already held up action in the Senate Foreign Relations Committee for another week. Helms says he might just want some riders attached to it—two "understandings"—and if he doesn't get what he wants, he might just hold things up until Congress adjourns in early October.

True, the treaty is more an expression of principle than a document that could literally prevent the abhorrent crime it outlaws.

After all, who raised a finger to save the estimated two million Cambodians who died at the hands of a revolutinary government in the mid '70s?

But still and all it is an expression of national sentiment—an expression that already comes 55 years too late.

Helm's conduct is a disgrace, and it must not be allowed to delay progress of the treaty any longer.

Ratification of the treaty is the finest memorial we can offer victims of the Nazi holocaust and those which followed.●

EIGHTIETH ANNIVERSARY OF THE FEDERATION OF INDEPENDENT ILLINOIS COLLEGES AND UNIVERSITIES

● Mr. DIXON. Mr. President, I wish to call to the attention of my colleagues the 80th anniversary of the Federation of Independent Illinois Colleges and Universities, and thereby to acknowledge the cause of independent higher education in Illinois.

It is a privilege to salute the 49 private universities and colleges in my home State, which comprise the federation, founded in 1904.

The federation works for the collective benefit of all independent higher education in Illinois, which serves approximately 150,000 students.

Included are research universities, comprehensive liberal arts colleges, specialized schools and 2-year colleges.

Twenty-five percent of all Illinois college and university students are enrolled in independent institutions.

Minority students are well represented both in terms of undergraduates and in terms of degrees conferred.

The cultural and social services activities provided at these schools are especially crucial to Illinois' smaller towns and rural communities which would be unable to support such costly programs on their own were it not for the presence of these institutions.

It is also important to look at the economic impact of the independent institutions. Based on total annual outlays by institutions, their students and faculty, the economic impact on Illinois is $5.2 billion annually.

These institutions, for example, are major employers, providing more than 31,000 jobs. Out of State and foreign students, ineligible to receive the benefits of Illinois' monetary awards, nevertheless contribute $172.6 million annually in expenditures.

With limited Government support, these independent institutions educate about one-fourth of all Illinois college students, while awarding 39 percent of all bachelor's degrees and 52 percent of all graduate and professional degrees, a record of which to be proud.

According to the National Science Foundation, Illinois ranks third in the Nation in R&D expenditures, totaling $525 million, and about 75 percent of that is conducted by the independent colleges and universities.

Mr. President, I think it appropriate to propose the congratulations of the U.S. Senate to the individual institutions which form the Federation:

Bradley University.
DePaul University.
Illinois Institute of Technology.
Illinois Wesleyan University.
Lewis University.
Loyola University.
Millikin University.
Northwestern University.
Roosevelt University.
University of Chicago.
Augustana College.
Aurora College.
Barat College.
Blackburn College.
College of St. Francis.
Columbia College.
Concordia College.
Elmhurst College.
Eureka College.
Felician College.
George Williams College.
Greenville College.
Illinois Benedictine College.
Illinois College.
Judson College.
Kendall College.
Knox College.
Lake Forest College.
MacCormac College.
MacMurray College.
Mallinckrodt College.
McKendree College.
Midwest College of Engineering.
Monmouth College.
Mundelein College.
National College of Education.
North Central College.
North Park College.
Olivet Nazarene College.
Parks College of Saint Louis University.
Principia College.
Quincy College.
Rockford College.
Rosary College.
Saint Xavier College.
Schools of the Art Institute.
Shimer College.
Springfield College.
Wheaton College.

While we in Illinois are proud of our public universities and college system, it is important to note that the future of higher education in Illinois, as well as elsewhere around the Nation, must have a healthy blend of public and private higher education.●

SIDLE COMMISSION REPORT

● Mr. RIEGLE. Mr. President, one of the most disturbing aspects of the U.S. military action in Grenada last October was the banning of the press from covering the operation. At that time, the Senate expressed its concern by overwhelmingly endorsing a resolution calling for lifting of the unreasonable restrictions imposed upon press coverage in Grenada.

In response to the controversy arising over press censorship in that case, the Chairman of the Joint Chiefs of Staff, Gen. John W. Vessey, Jr., convened a panel of experts to make recommendations on how to conduct military operations in a manner that safeguards the lives of our military and protects the security of the operation, while keeping the American public informed through the media.

On August 23, 1984, the Pentagon-appointed panel on media-military relations, chaired by Maj. Gen. Winant Sidle, released its final report.

Mr. President, I believe that the Sidle commission's work, recommending procedures to be followed to enhance and improve relations between the media and the military, is of great value, and I commend the report to the attention of my colleagues.

I ask that the text of the commission's report along with the cover letter from General Sidle to General Vessey, be printed in the RECORD.

The material follows:

Gen. JOHN W. VESSEY, Jr.,
Chairman, Joint Chiefs of Staff, The Pentagon, Washington, DC.

DEAR GENERAL VESSEY: As you requested, enclosed are the final report and recommendations of the Sidle Panel, together with pertinent enclosures. The panel is unanimous in its strong belief that implementation of the recommendations, both in fact and in spirit, by the appropriate military authorities will set the stage for arriving at workable solutions for media-military relations in future military operations. We also believe that these solutions will be satisfactory to reasonable members of both the media and the military.

The report has three sections: an introduction, a recommendations section, and a comment section. We adopted this format because, while we were unanimous on the recommendations, there were some differences of opinion on some points in the comments. However, we all agreed that the comments were necessary to help explain the recommendations and that even the points on which we were not unanimous were worthy of consideration as suggestions and background for those who will implement the recommendations, should they be implemented. In any case, the entire panel has formally endorsed the recommendations, while I signed the comments. I should add that, where appropriate, I have mentioned the panel's degree of support in the comments.

The panel asked that I put three points in this letter that were not exactly germane to the report but required some comments on our part.

First, the matter of so-called First Amendment rights. This is an extremely gray area and the panel felt that it was a matter for the legal profession and the courts and that we were not qualified to provide a judgment. We felt justified in setting aside the issue, as we unanimously agreed at the outset that the U.S. media should cover U.S. military operations to the maximum degree possible consistent with mission security and the safety of U.S. forces.

Second, Grenada. We realize that Grenada had shown the need to review media-military relations in connection with military operations, but you did not request our assessment of media handling at Grenada and we will not provide it. However, we do feel that had our recommendations been "in place" and fully considered at the time of Grenada, there might have been no need to create our panel.

Finally, the matter of responsibility of the media. Although this is touched on in the report, and there is no doubt that the news organization representatives who appeared before us fully recognized their responsibilities, we feel we should state emphatically that reporters and editors alike must exercise responsibility in covering military operations. As one of the senior editors who appeared before us said, "The media must cover military operations comprehensively, intelligently, and objectively." The American people deserve news coverage of this quality and nothing less. It goes without saying, of course, that the military also has a concurrent responsibility, that of making it possible for the media to provide such coverage.

The members of the panel have also asked me to express their appreciation for being asked to participate in this important study and their hope that our work will be of value to the military, the media, and to the American people.

Finally, the panel considers this covering letter an integral part of our report.

Sincerely,

WINANT SIDLE,
Major General, USA (Retired), Chairman.

Enclosure and report.

INTRODUCTION

The Chairman of the Joint Chiefs of Staff (CJCS) Media-Military Relations Panel (known as the Sidle Panel) was created at the request of the Chairman, General John W. Vessey, Jr., who asked that I convene a panel of experts to make recommendations to him on, "How do we conduct military operations in a manner that safeguards the lives of our military and protects the security of the operation while keeping the American public informed through the media?"

Major General Winant Sidle, USA, Retired, was selected as chairman of this project and asked to assemble a panel composed of media representatives, public affairs elements of the four Military Services, the Office of the Assistant Secretary of Defense (Public Affairs) (OASD(PA)), and operations spokesman from the Organization of the Joint Chiefs of Staff (OJCS).

The initial plan, concurred in by CJCS and ASD(PA), was to invite major umbrella media organizations and the Department of Defense organizations to provide members of this panel. The umbrella organizations, such as the American Newspaper Publishers Association (ANPA), the American Society of Newspaper Editors (ASNE), the National Association of Broadcasters (NAB), and the Radio Television News Directors Association (RTNDA), and their individual member news organizations decided that they would cooperate fully with the panel but would not provide members. The general reason given was that it was inappropriate for media members to serve on a government panel.

This decision, unanimous among the major news media organizations, resulted in a revised plan calling for the non-military membership of the panel to be composed of experienced retired media personnel and representatives of schools of journalism who were experts in military-media relations. The Department of Defense organzations involved agreed to provide members from the outset. Final panel membership is at Enclosure 1.

To provide initial input to the panel for use as a basis for discussion when the panel met, a questionnaire was devised with the concurrence of CJCS and ASD(PA) and mailed to all participants. It was also sent to a number of additional organizations and individuals who had expressed interest and to some who had not but were considered to be experts in the matter. As the result of these mailings, the panel had available 24 written inputs to study prior to meeting. Of these, 16 were from major news organizations or umbrella groups. All inputs are at Enclosure 2. The panel regretted that all who indicated interest could not appear before it, but time did not permit.

Although the news organizations involved did not agree to provide panel members, they all agreed to provide qualified personnel to make oral presentations to the panel. The only exception was an individual news organization which felt that its umbrella group should represent it.

The panel met from 6 February through 10 February 1984 at the National Defense University, Fort McNair, Washington, D.C. The meetings included three days for media and military presentations in open session and two days for panel study and deliberation in closed session. The presentations included those by 25 senior media representatives speaking for 19 news organizations, including umbrella organizations. The chiefs/directors of Public Affairs for the Army, Navy, and Air Force also made major presentations during the open sessions with the USMC, OJCS, and ASD(PA) panel members making informal comments during the closed sessions. The open sessions were covered by about 70 reporters representing nearly 30 news organizations. The schedule of presentations is at Enclosure 3.

The attached panel report is composed of two sections.

1. The Recommendations section, concurred and signed by all panel members.

2. The Comment section, explaining the recommendations and including comments, when appropriate, made by all concerned, to include both written and oral inputs to the committee and by the panel itself. This section is signed by the chairman but was approved unless otherwise indicated by the members of the panel. It is made available to explain the recommendations and to assist, via suggestions, in their implementation.

The panel recommends approval and implementation both in fact and in spirit of the recommendations made in Section I of this report.

REPORT BY CJCS MEDIA-MILITARY RELATIONS PANEL—SIDLE PANEL

SECTION I: RECOMMENDATIONS

STATEMENT OF PRINCIPLE

The American people must be informed about United States military operations and this information can best be provided through both the news media and the Government. Therefore, the panel believes it is essential that the U.S. news media cover U.S. military operations to the maximum degree possible consistent with mission security and the safety of U.S. forces.

This principle extends the major "Principle of Information" promulgated by the Secretary of Defense on 1 December 1983, which said:

"It is the policy of the Department of Defense to make available timely and accurate information so that the public, Congress, and members representing the press, radio and television may assess and understand the facts about national security and defense strategy. Requests for information from organizations and private citizens will be answered responsively and as rapidly as possible. . . " (Copy at Enclosure 4)

It should be noted that the above statement is in consonance with similar policies publicly stated by most former secretaries of defense.

The panel's statement of principle is also generally consistent with the first two paragraphs contained in "A Statement of Principle on Press Access to Military Operatons" issued on 10 January 1984 by 10 major news organizations (copy at Enclosure 5). These were:

"First, the highest civilian and military officers of the government should reaffirm the historic principle that American journalists, print and broadcast, with their professional equipment, should be present at U.S. military operations. And the news media should reaffirm their recognition of the importance of U.S. military mission security and troop safety. When essential, both groups can agree on coverage conditions which satisfy safety and security imperatives while, in keeping with the spirit of the First Amendment, permitting independent reporting to the citizens of our free and open society to whom our government is ultimately accountable.

"Second, the highest civilian and military officers of the U.S. government should reaffirm that military plans should include planning for press access, in keeping with past traditions. The expertise of government public affairs officers during the planning of recent Grenada military operations could have met the interests of both the military and the press, to everyone's benefit."

Application of the panel's principle should be adopted both in substance and in spirit. This will make it possible better to meet the needs of both the military and the media

during future military operations. The following recommendations by the panel are designed to help make this happen. They are primarily general in nature in view of the almost endless number of variations in military operations that could occur. However, the panel believes that they provide the necessary flexibility and broad guidance to cover almost all situations.

Recommendation 1: That public affairs planning for military operations be conducted concurrently with operational planning. This can be assured in the great majority of cases by implementing the following:

a. Review all joint planning documents to assure that JCS guidance in public affairs matters is adequate.

b. When sending implementing orders to Commanders in Chief in the field, direct CINC planners to include consideration of public information aspects.

c. Inform the Assistant Secretary of Defense (Public Affairs) of an impending military operation at the earliest possible time. This information should appropriately come from the Secretary of Defense.

d. Complete the plan, currently being studies, to include a public affairs planning cell in OJCS to help ensure adequate public affairs review of CINC plans.

e. Insofar as possible and appropriate, institutionalize these steps in written guidance or policy.

Recommendation 2: When it becomes apparent during military operational planning that news media pooling provides the only feasible means of furnishing the media with early access to an operation, planning should provide for the largest possible press pool that is practical and minimize the length of time the pool will be necessary before "full coverage" is feasible.

Recommendation 3: That, in connection with the use of pools, the Joint Chiefs of Staff recommend to the Secretary of Defense that he study the matter of whether to use a pre-established and constantly updated accreditation or notification list of correspondents in case of a military operation for which a pool is required or the establishment of a news agency list for use in the same circumstances.

Recommendation 4: That a basic tenet governing media access to military operations should be voluntary compliance by the media with security guidelines or ground rules established and issued by the military. These rules should be as few as possible and should be worked out during the planning process for each operation. Violations would mean exclusion of the correspondent(s) concerned from further coverage of the operation.

Recommendation 5: Public Affairs planning for military operation should include sufficient equipment and qualified military personnel whose function is to assist correspondents in covering the operation adequately.

Recommendation 6: Planners should carefully consider media communications requirements to assure the earliest feasible availability. However, these communications must not interfere with combat and combat support operations. If necessary and feasible, plans should include communications facilities dedicated to the news media.

Recommendation 7: Planning factors should include provision for intra- and inter-theatre transportation support of the media.

Recommendation 8: To improve media-military understanding and cooperation:

a. CJCS should recommend to the Secretary of Defense that a program be undertaken by ASD(PA) for top military public affairs representatives to meet with news organization leadership, to include meetings with individual news organizations, on a reasonably regular basis to discuss mutual problems, including relationship with the media during military operations and exercises. This program should begin as soon as possible.

b. Enlarge programs already underway to improve military understanding of the media via public affairs instruction in service schools, to include media participation when possible.

c. Seek improved media understanding of the military through more visits by commanders and line officers to news organizations.

d. CJCS should recommend that the Secretary of Defense host at an early date a working meeting with representatives of the broadcast news media to explore the special problems of ensuring military security when and if there is real-time or near real-time news media audiovisual coverage of a battlefield and, if special problems exist, how they can best be dealt with consistent with the basic principle set forth at the beginning of this section of the report.

The Panel members fully support the statement of principle and the supporting recommendations listed above and so indicate by their signatures below:

Winant Sidle, Major General, USA, Retired Chairman; Brent Baker, Captain, USN; Keyes Beech; Scott M. Cutlip; John T. Halbert; Billy Hunt; George Kirschenbauer, Colonel, USA; A.J. Langguth; Fred C. Lash, Major, USMC; James Major, Captain, USN; Wendell S. Merick; Robert O'Brien, Colonel, USAF, Deputy Assistant Secretary of Defense (Public Affairs); Richard S. Salant; Barry Zorthian.

SECTION II

Recommendation 1: That public affairs planning for military operations be conducted concurrently with operational planning. This can be assured in the great majority of cases by implementing the following:

a. Review all joint planning documents to assure that JCS guidance in public affairs matters is adequate.

b. When sending implementing orders to Commanders in Chief in the field, direct that the CINC planners include consideration of public information aspects.

c. Inform the Assistant Secretary of Defense (Public Affairs) of an impending military operation at the earliest possible time. This information should appropriately come from the Secretary of Defense.

d. Complete the plan, currently being studied, to include a public affairs planning cell in OJCS to help ensure adequate public affairs review of CINC plans.

e. Insofar as possible and appropriate, institutionalize these steps in written guidance or policy.

COMMENTS

1. Under the current system of planning for military operations, provisions exist to include public affairs planning but it is neither mandatory nor certain that current joint planning documents are adequate from a public affairs standpoint. The basic purpose of this recommendation is to help assure that public affairs aspects are considered as soon as possible in the planning cycle for any appropriate military operation and that the public affairs planning guidance is adequate.

2. The panel was unanimous in feeling that every step should be taken to ensure public affairs participation in planning and/or review at every appropriate level. Recommendations 1a, b, and d are designed to assist in implementing this consideration.

3. Panel discussions indicated that it is difficult to determine in advance in all cases when public affairs planning should be included. The panel felt that the best procedure would be to include such planning, if there were even a remote chance it would be needed. For example, a strictly covert operation, such as the Son Tay raid in North Vietnam, still requires addressing public affairs considerations if only to be sure that after action coverage adequately fulfills the obligation to inform the American people. Very small, routine operations might be exceptions.

4. Recommendation 1c is self-explanatory. The ASD (PA), as the principal public affairs advisor to both the Secretary of Defense and the Chairman, JCS, must be brought into the planning process as soon as possible. In view of the DOD organization, the panel felt that this should be the responsibility of the Secretary of Defense.

5. We received indications that some commanders take the position that telling something to his public affairs officer is tantamount to telling it to the media. All members of the panel, including its public affairs officers decried this tendency and pointed out that a public affairs specialist is the least likely to release material prematurely to the media. Although the panel did not consider the matter officially, there is no doubt that public affairs officers are just as dedicated to maintaining military security as are operations officers and must know what is going on in a command if they are to do their job!

Recommendation 2: When it becomes apparent during military operational planning that news media pooling provides the only feasible means of furnishing the media with early access to an operation, planning should support the largest possible press pool that is practical and minimize the length of time the pool will be necessary.

COMMENTS

1. Media representatives appearing before the panel were unanimous in being opposed to pools in general. However, they all also agreed that they would cooperate in pooling agreements if that were necessary for them to obtain early access to an operation.

2. The media representatives generally felt that DOD should select the organizations to participate in pools, and the organizations should select the individual reporters. (See Recommendation 3.)

3. The media were unanimous in requesting the pools be terminated as soon as possible and "full coverage" allowed. "Full coverage" appeared to be a relative term, and some agreed that even this might be limited in cases where security, logistics, and the size of the operation created limitations that would not permit any and all bona fide reporters to cover an event. The panel felt that any limitations would have to be decided on a case-by-case basis but agreed that maximum possible coverage should be permitted.

4. The media agreed that prior notification of a pooling organization should be as close to H-Hour as possible to minimize the possibility of a story breaking too soon, especially if speculative stories about the operation should appear in media not in the pool or be initiated by one of their reporters not privy to the pool. This would require a pool media decision as to whether to break

the story early, despite the embargo on such a break that is inherent in early notification for pooling purposes. The media representatives were not in agreement on this matter but did agree generally that they should not release aspects of the story that they had been made aware of during DoD early notification and which did not appear in the stories already out or in preparation; nor should this privy information be used to confirm speculation concerning an operation.

5. In this connection, the media generally did not agree with a view voiced by some members of the panel that, absolutely to guarantee security, pool notification would not be made until the first military personnel had hit the beach or airhead even though advance military preparation could speed the poolers to the site in the least time possible. The panel did not take a position on this, but some felt that carefully planned pool transportation could meet the media's objections in many, possibly most, cases. For example, in remote areas the pool could be assembled in a location close to the operation using overseas correspondent who would not have to travel from the United States. This is a subject worthy of detailed discussion in the military-media meetings proposed in Recommendation 8a.

6. In this connection, the panel recognized that in many areas of the world an established press presence would be encountered by U.S. forces irrespective of a decision as to whether or not a pool would be used. This consideration would have to be included in initial public affairs planning.

7. There was no unanimity among the media representatives as to whether correspondents, pooled or otherwise, should be in the "first wave" or any other precise point in the operation. All did agree that media presence should be as soon as possible and feasible. The panel believes that such timing has to be decided on a case-by-case basis.

8. Neither the media nor the panel agreed on use in a pool of full-time media employees who are not U.S. citizens. The media tended to agree that, if the parent organization considered such employees reliable, they should be allowed to be pool members. Based on public affairs experience in Vietnam, there were many cases where such employees proved entirely reliable; however, some did not. The panel suggests that this has to be another case-by-case situation.

9. There was also a divergence of opinion among the media as to what news organizations should make up a pool, although all agreed that the most important criterion was probably which organizations cover the widest American audience. Several media representatives suggested specific media pools, but, unfortunately, they varied widely. The panel was not in full agreement on this subject either, but did agree that the following types of news organizations should have top priority. The panel further agreed that DoD should take the factors discussed in this paragraph into account when designating news organizations to participate in a pool.

a. Wire services. AP and UPI to have priority. A reporter from each and a photographer from either one should be adequate. In a crash situation where inadequate planning time has been available, a reporter from one wire service and a photographer from the other could provide a two-person pool.

b. Television. A two-person TV pool (one correspondent, one film/sound man) can do the job for a brief time although perhaps minimally. All TV representatives agreed that a three-person team is better and can do more. A panel suggestion that a six-person team (one cameraman, one sound man, and one reporter each from ABC, CBS, NBC, and CNN) seemed agreeable to the four networks although the load on the two technicians would be difficult to handle. The panel has no suggestion on this except that TV pool representatives must have high priority with two representatives as the minimum and augmentation to depend on space available. This should be a matter of discussion at the meetings suggested in recommendation 8a. The question of radio participation in pools must also be resolved.

c. News magazines. One reporter and one color photographer.

d. Daily newspapers. At least one reporter. The panel agreed with newpaper representatives that, although newspapers do use wire service copy and photos, at least one newspaper pooler is needed for the special aspects of newspaper coverage not provided by the wire services. Criteria suggested for use when deciding which newspaper(s) to include in a pool included: Circulation, whether the newspaper has a news service, does the newspaper specialize in military and foreign affairs, and does it cover the Pentagon regularly. There was some agreement among the media representatives that there are probably not more than 8-10 newspapers which should be considered for pooling under these criteria.

10. In addition to the type of embargo necessary when a pooling news agency is notified in advance about a military operation (i.e., nothing to be said about it until it begins) there is another type applicable to some military operations. This second type was used with great success in Vietnam and restricts media accompanying the forces from filing or releasing any information about the progress of the operation until the on-scene commander determines that such release will not impair his security by informing the opposing commander about his objectives. Normally, this is not a problem as general objectives quickly become apparent. In the case of a special objective, there might be some delay in authorizing stories until either the objective is attained or it is obvious the enemy commander knows what it is. In any case, this type of embargo is an option to planners that the media would almost certainly accept as opposed to not having correspondents with the forces from the outset or close to it. The panel did not have a consensus on this matter.

11. Media representatives emphasized the readiness of correspondents to accept, as in the past, the physical dangers inherent in military operations and agreed that the personal security of correspondents should not be a factor in planning media participation in military operations.

Recommendation 3: In connection with the use of pools, the Joint Chiefs of Staff recommend to the Secretary of Defense that he study the matter of whether to use a pre-established and constantly updated accreditation or notification list of correspondents in case of a military operation for which a pool is required or just the establishment of a news agency list for use in the same circumstances.

COMMENTS

1. The panel envisions that in either case the agency would select the individual(s) to be its representatives in the pool. In the case of the accreditation/notification list, there would presumably be several names from each news agency/organization to provide the necessary flexibility. The agency would have provided the names in advance to DoD. In the case of the news agency/organization list, DoD would decide which agencies would be in the pool and the agencies would pick the person(s) desired without reference to a list. There was no agreement as to whether DoD should have approval authority of the individuals named to be pool members. The media representatives were unanimously against such approval as were some members of the panel. However, other panel members believed that in the case of an extremely sensitive operation, DoD should have such authority.

2. There was no agreement among either those who appeared before the panel or among the panel itself on this matter. More in both groups seemed to favor simply establishing a news agency list including wire services, television, news magazines and newspapers from which to pick when DoD establishes a pool.

3. This particular problem is one that should be resolved in advance of a military operation and should be a subject of discussion in connection with the military-media meetings suggested in Recommendation 8a.

4. This recommendation does not concern the accreditation that would have to be given each correspondent covering an operation, either at first or later, by the senior on-site commander. Traditionally, this accreditation is limited to establishing that the individual is a bona fide reporter (represents an actual media organization).

Recommendation 4: That a basic tenet governing media access to military operations should be voluntary compliance by the media with security guidelines or ground rules established and issued by the military. These rules should be as few as possible and should be worked out during the planning process for each operation. Violations would mean exclusion of the correspondent(s) concerned from further coverage of the operation.

COMMENTS

1. The media were in support of this concept as opposed to formal censorship of any type, and all media representatives agreed that their organizations would abide by these ground rules. This arrangement would place a heavy responsibility on the news media to exercise care so as not to inadvertently jeopardize mission security or troop safety.

2. The guidelines/ground rules are envisioned to be similar to those used in Vietnam (a copy at Enclosure 6). Recognizing that each situation will be different, public affairs planners could use the Vietnam rules as a starting point, as they were worked out empirically during Vietnam by public affairs and security personnel and, for the most part, in cooperation with news media on the scene. All media representatives who addressed the issue agreed that the ground rules worked out satisfactorily in Vietnam.

Recommendation 5: Public affairs planning for military operations should include sufficient equipment and qualified military personnel whose function is to assist correspondents in covering the operation adequately.

COMMENTS

1. The military personnel referred to in this recommendation are normally called escorts; however, this term has developed some unfortunate connotations as far as the media are concerned. In any case, the panel's recommendation is designed to pro-

vide personnel who, acting as agents of the on-scene commander, will perform such functions as keep the correspondents abreast of the situation; arrange for interviews and briefings; arrange for their transportation to appropriate locations; ensure they are fed and housed, if necessary; and be as helpful as possible consistent with security and troop safety.

2. Almost all of the media representatives agreed that such escorts are desirable, especially at the beginning of an operation, to assist in media coverage. As the operation progresses and the reporters become familiar with what is going on, the media representatives were generally less enthusiastic about this type of assistance.

3. All the media were against escorts if their goal was to try to direct, censor, or slant coverage. However, most agreed that pointing out possible ground rule violations and security problems would be part of the escort's responsibility.

4. The point was made to the panel and the media representatives that escorts were often required in Vietnam, especially after about mid-1968, without many problems arising. One of the major advantages of escorts was making sure the reporters had a full and accurate understanding of the operation being covered.

5. The senior on-scene commander will decide how long escorting should continue after an operation begins.

Recommendation 6: Planners should carefully consider media communications requirements to assure the earliest feasible availability. However, these communications must not interfere with combat and combat support operations. If necessary and feasible, plans should include communicative facilities dedicated to the news media.

COMMENTS

1. Media representatives were unanimous in preferring provision for use of their own communications or using local civilian communications when possible. They were also unanimous, however, in the need for access to military communications if nothing else were available, especially in the opening stages of an operation.

2. Permitting media coverage without providing some sort of filing capability does not make sense unless an embargo is in force.

3. Although not discussed in depth during the panel meetings, communications availability is an obvious factor in determining press pool size. Planners should consider the varying deadlines of the different types of media. For example, news magazine reporters usually have more time to file thus permitting courier service as a possible satisfactory solution from their standpoint.

4. There was considerable discussion of the possibility of media-provided satellite uplinks being a future threat to security if technology permits real-time or near real-time copy and film/tape processing. The media representatives felt that such a possibility was not imminent; however, the discussions resulted in Recommendation 8d being included in the report. One panel member made the point that such real-time or near real-time capability has long existed for radio news including the Murrow reporting during World War II.

Recommendation 7: Planning factors should include provision for intra- and inter-theater transportation support of the media. There was no Panel comment on this matter.

Recommendation 8: To improve media-military understanding and cooperation:

a. CJCS should recommend to the Secretary of Defense that a program be undertaken by ASD(PA) for top military public affairs representatives to meet with news organization leadership, to include meetings with individual news organizations, on a reasonably regular basis to discuss mutual problems, including relationships with the media during military operations and exercises. This program should begin as soon as possible.

b. Enlarge programs already underway to improve military understanding of the media via public affairs instruction in service schools and colleges, to include media participation when possible.

c. Seek improved media understanding of the military through more visits by commanders and line officers to news organizations.

d. CJCS should recommend that the Secretary of Defense host at an early date a working meeting with representatives of the broadcast news media to explore the special problems of ensuring military security when and if there is real-time news media audio-visual coverage of a battlefield and, if special problems exist, how they can best be dealt with consistent with the basic principle set forth at the beginning of this section of the report.

COMMENTS

1. The panel became convinced during its meetings with both media and military representatives that any current actual or perceived lack of mutual understanding and cooperation could be largely eliminated through the time-tested vehicle of having reasonable people sit down with reasonable people and discuss their problems. Although some of this has occurred from time to time through the years, there has not been enough, especially in recent years. The panel envisages that these meetings would be between ASD(PA) and/or his representatives and the senior leadership of both media umbrella organizations and individual major news organizations. A number of media representatives appearing before the panel said that they thought the media would be happy to participate in such a program. The program should include use of the Chiefs/Directors of Public Affairs of the Services, some of whom are already doing this.

2. Such meetings would provide an excellent opportunity to discuss problems or potential problems involving future military operations/exercises such as pooling, security and troop safety, accreditation, logistic support, and, most importantly, improving mutual respect, trust, understanding, and cooperation in general.

3. The panel does not exclude any news organizations in this recommendation, but practicality will lead to emphasis on meetings with major organizations. It would be equally useful for commanders in the field and their public affairs officers to conduct similar meetings with local and regional media in their areas, some of which are also underway at this time.

4. Both the panel and the media representatives lauded the efforts underway today to reinsert meaningful public affairs instruction in service schools and colleges. Many officers are sheltered from becoming involved with the news media until they are promoted to certain assignments where they suddenly come face-to-face with the media. If they have not been adequately informed in advance of the mutual with each other, they sometimes tend to make inadequate decisions concerning media matters. In this connection, several media representatives told the panel they would be, and in some cases have already been, delighted to cooperate in this process by talking to classes and seminars.

5. Several media representatives also were enthusiastic about undertaking an effort to inform their employees about the military, primarily through visits to commanders and other appropriate personnel to their headquarters or elsewhere in their organizations. It was also apparent that some media are concerned with this problem to the point that they are taking an introspective look at their relations not only with the military but other institutions.

General comments:

1. The panel agreed that public affairs planning for military operations involving allied forces should also consider making plans flexible enough to cover allied media participation, even in pools in some cases.

2. It was pointed out to the panel and should be noted that planners may also have to consider the desires of U.S. Ambassadors and their country teams when operations take place in friendly foreign countries. Some of these problems can, of course, be handled by the commanders and senior public affairs personnel on the scene, but they should be alerted to them in advance.

3. The media representatives all agreed that U.S. media should have first priority in covering U.S. military operations. The Panel generally agreed that this must be handled on a case-by-case basis, especially when allied forces are involved.

Final comment:

An adversarial—perhaps politely critical would be a better term—relationship between the media and the government, including the military, is healthy and helps guarantee that both institutions do a good job. However, this relationship must not become antagonistic—an "us versus them" relationship. The appropriate media role in relation to the government has been summarized aptly as being neither that of a lap dog nor an attack dog but, rather, a watch dog. Mutual antagonism and distrust are not in the best interests of the media, the military, or the American people.

In the final analysis, no statement of principles, policies, or procedures, no matter how carefully crafted, can guarantee the desired results because they have to be carried out by people—the people in the military and the people in the media. So, it is the good will of the people involved, their spirit, their genuine efforts to do the job for the benefit of the United States, on which a civil and fruitful relationship hinges.

The panel believes that, if its recommendations are adopted, and the people involved are infused with the proper spirits, the twin imperatives of genuine mission security/troop safety on the one hand and a free flow of information to the American public on the other will be achieved.

In other words, the optimum solution to ensure proper media coverage of military operations will be to have the military—represented by competent, professional public affairs personnel and commanders who understand media problems—working with the media—represented by competent, professional reporters and editors who understand military problems—in a nonantagonistic atmosphere. The panel urges both institutions to adopt this philosophy and make it work.●

SMOKING PREVENTION HEALTH AND EDUCATION ACT OF 1983

● Mr. DECONCINI. Mr. President, I would like to express my strong support for the Smoking Prevention Health and Education Act of 1983, S. 772, and to urge the Senate leadership to schedule floor consideration of this measure or the House-passed counterpart, H.R. 3979, prior to the adjournment of the 98th Congress.

Cigarette smoking is the single most preventable cause of premature death and illness in the United States. More than 340,000 premature deaths and 10 million health-related disabilities can be attributed to smoking each year. In terms of financial costs, health care expenditures related to smoking amount to $16 billion a year with an additional $25 billion attributed to lost economic productivity. These statistics are startling, and I believe a responsible Government has the obligation to educate the public on the health risks associated with cigarette smoking.

While the provisions of S. 772 and H.R. 3979 may appear symbolic to some, this Senator believes that a coordinated educational campaign to alert smokers to the health dangers associated with this habit is both warranted and necessary. Under this legislation, the educational campaign would be carried out by a newly created Interagency Committee on Smoking and Health. This campaign will be particularly important for the Nation's teenagers, more than 40 percent of whom do not believe there is a great health risk associated with smoking. I find it tragic that almost 3.5 million adolescents between ages 12 and 18 are regular smokers. It is equally important to educate pregnant women to the dangers of smoking, nearly 50 percent of whom are unaware that smoking during pregnancy increases the risk of stillbirths and miscarriages. Finally, the smoking public must be made more aware of the epidemic increases in lung cancer resulting from smoking. The medical community warns that by the mid-1980's, lung cancer will replace breast cancer as the leading cause of cancer deaths among American women and this information must be effectively transmitted to consumers.

Both the House and Senate bills also require a change in current warning labels on cigarettes. The dangers of smoking were first brought to public attention in 1964 when the Surgeon General announced that: "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant remedial action." The following year Congress enacted legislation requiring a caution label to be placed on cigarette packages on the possible dangers to health associated with smoking. That label was revised in 1970 to require a warning label stating that: "The Surgeon-General has Determined that Smoking is Dangerous to Your Health." Despite the mounting body of medical evidence inextricably linking smoking to cancer, emphysema, serious heart disease, and complications of pregnancy, the warning label has not been updated since 1970.

Both the Senate and House measures require stronger warning label requirements on cigarette packages and in nonbillboard advertisements. The Senate versions contains a single label requirement stating: "WARNING: Cigarette smoking causes CANCER, EMPHYSEMA, and HEART DISEASE; may complicate PREGNANCY; and is ADDICTIVE."

The House-passed bill requires four different warning labels to be rotated on a quarterly basis in alternating sequence. The warnings concern: the diseases and risks associated with smoking; the advantages of quitting; the dangers associated with smoking by pregnant women; and the warning that cigarette smoke contains carbon monoxide. While I prefer the House approach relative to the warning label requirements, I will be happy with the adoption of any improved warning labels alerting the public to the health-related dangers of smoking.

Finally, both the House and Senate bills would require that each manufacturer, packager, or distributor of cigarettes to annually provide the Secretary of the Department of Health and Human Services with a list, in confidence, of each chemical additive used in the manufacture of cigarettes and the relative quantity of such additives. While it is widely suspected that a number of the chemicals added to cigarettes are harmful when burned, no governmental agency currently has access to complete information on cigarette additives.

While many smokers may be aware of the health hazards associated with their habit, the habit is addictive and extremely difficult to break. I am hopeful that enactment of this legislation will provide additional impetus and motivation to smokers to kick the habit. Even the most minimal advancement on this front will have enormous impact on the health of our citizens and national health care costs. This legislation is an investment opportunity we cannot afford to miss.

Again, I urge the Senate leadership to schedule floor action on this measure prior to the adjournment of the 98th Congress.●

CREDIT ASSISTANCE FOR FARMERS

● Mr. HUDDLESTON. Mr. President, we all realize that many farmers, today, are in a desperate financial bind because of high interest rates, stagnant farm prices, rising production costs, and an erosion in the value of farm equity.

As a result of economic conditions, it has been estimated that perhaps as many as 125,000 farmers are experiencing severe financial problems and could be forced out of business in the coming year. That level of farm liquidations would be far above the level of liquidations considered normal.

This grim situation has led to the development of a number of legislative proposals to assist farmers deal with their credit problems. Certainly, any responsible proposal that provides credit relief should be seriously considered.

However, it is my belief that the Secretary of Agriculture already has authority to take effective steps to ensure that adequate credit assistance is provided to farmers. Further, the cost of providing assistance through existing programs will be much less than the cost of some of the legislative remedies that have been proposed.

For that reason, several of my colleagues have joined me in sending a letter to the President urging him to direct the Secretary of Agriculture to use the authorities and programs already provided by Congress to make available credit assistance to our Nation's hard-pressed farmers.

In our letter, we pointed out that, under current law, the Farmers Home Administration has broad discretionary authority to lower the interest rates for farm loans made through its major loan programs, provide loan guarantees to commercial and cooperative lenders, restructure existing debt, carry out a policy of forbearance, and work with local farm credit and management experts to resolve individual credit problems.

INTEREST RATE REDUCTION PLAN

One immediate action that is needed is a reduction in interest rates. Although market rates currently show no sign of abating, the Farmers Home Administration could, if it chose to, use its existing authorities to lower the effective cost of credit to many farmers. This can be accomplished by the Farmers Home Administration using its direct loan and loan guarantee programs in participation with other agricultural lenders.

For example, a farmer who has obtained his operating credit in past years from a commercial lender may find that—because of successive years of farmland value decreases and low commodity prices under this administration's economic policies—he no longer has the equity or repayment ability needed to obtain a $200,000 loan at the going rate of 14 percent interest.

Under current law, the Farmers Home Administration could participate with other lenders to meet that farmer's credit needs. FmHA could

extend the farmer a loan for $80,000 at 5 percent interest. A commercial or cooperative lender would provide the remaining $120,000 at the market rate of 14 percent. FmHA could also guarantee up to 90 percent of the credit provided by the commercial or cooperative lender. The blended rate of interest in this example would be 10.4 percent on the entire $200,000, which would save the farmer about $7,200 in annual interest expenses.

Under this program, the Farmers Home Administration would not have to assume all servicing responsibility or liability for the entire debt—appears to be the case under other proposals that have been introduced. Another advantage fo the program I just outlined would be that borrowers would not be abandoned by their commercial or cooperative lenders. This would facilitate the borrowers' return to their normal sources of credit as conditions in the farm economy improve.

LOCAL CREDIT COMMITTEES A USEFUL IDEA

It is my recommendation that, to assist in carrying out the interest reduction plan, the Farmers Home Administration cooperate with local credit and farm management experts to determine, on a case-by-case basis, the amount of funds that the Farmers Home Administration would provide and the interest rate for those funds.

Working with local leaders is not a new idea. Dr. Don Paarlberg, a respected agricultural economist, has noted that local committees were established during the Great Depression to help farmers address their credit problems. Dr. Paarlberg has suggested that economic conditions in rural areas once again warrant the creation of such committees.

Further, Secretary of Agriculture John Block announced a similar initiative on October 9, 1983. In a statement issued by the Department of Agriculture last year on this "grassroots initiative," Secretary Block ordered every Farmers Home Administration county supervisor to meet with local bankers, production credit association officials, and other private lenders to discuss credit needs and to work out local solutions to farm credit problems.

I support the county committee idea. But, by themselves, such committees simply cannot provide enough assistance to turn back the rising tide of farm liquidations. For that reason, I am proposing the interest rate reduction program. It will provide the short-term assistance that our Nation's farmers need right now.

PRESIDENTIAL TASK FORCE WOULD PROVIDE LONG-TERM SOLUTIONS

When considering a comprehensive solution to agricultural credit problems, Congress and the administration need to look beyond those proposals, important though they are, that provide only immediate relief. I believe that a key element in a comprehensive plan for addressing farm credit problems is a proposal I have sponsored, Senate Resolution 287, to develop long-term solutions.

The resolution calls on the President to appoint a special task force to study agricultural credit problems and make recommendations on the most effective ways of addressing the problems. The Senate approved Senate Resolution 287 on May 2, 1984. However, the administration has failed to appoint the task force.

As a result of this inaction, I suspect that next year administration policymakers will still be debating the best way to assist farmers, while, in the meantime, our farmers will continue to go out of business in unprecedented numbers.

Almost 1 year ago, when the idea of a Presidential task force and other farm credit proposals were being discussed, I predicted that unless steps were taken immediately to resolve the credit crisis that threatened many individual farmers, these problems would lead to difficulties for agricultural lenders and farm-related businesses. Unfortunately, the administration failed to heed that warning and my fears are now being realized.

TROUBLED FARM ECONOMY AFFECTS AGRICULTURAL LENDERS

We are all familiar with the numerous reports in the media describing the pressure being put on agricultural lenders. Already this year, 56 banks have failed. That is the largest number of bank failures in any year since the Great Depression.

To assist farmers and their commercial lenders, I introduced Senate Concurrent Resolution 99 on March 21, 1984. The legislation is designed to relieve some of the stress being felt by agricultural lenders in today's troubled economy. It would curb the number of farm loans being classified as problem loans by Federal bank examiners.

The adverse classification of farm loans is a serious problem for banks and farmers. This is so because bank examiners take a dim view of any lender who carries too many classified loans even though, in the long run, the loans may be sound. A policy of adverse classification of farm loans could lead to a wave of loan foreclosures that would further depress farmland values and the value of other farm assets.

I am pleased to report that Federal bank regulatory agencies have responded to the concern that has been expressed on this matter.

For example, Paul Volcker, Chairman of the Board of Governors of the Federal Reserve System, in testimony before Congress on July 25, 1984, stated that the Federal Reserve System has "introduced supervisory procedures to assure that examiners refrain from criticizing banks for exercising forbearance on agricultural credits when consistent with safety and soundness."

In addition, C.T. Conover, Comptroller of the Currency, in a letter responding to the concern I expressed to him about the classification of agricultural loans, stated that "we have encouraged examiners to support well-reasoned workout plans. We recognize that in these situations bankers must decide how to handle such loans based upon their experience and knowledge of specific circumstances."

Further, William Isaac, Chairman of the Federal Deposit Insurance Corporation, has shared with me a memorandum sent to all bank examiners regarding analysis of agricultural loans. The memorandum states that "in these periods of stress, it is especially important that examiners be realistic, fair, and objective in the analysis of agricultural credits."

CONCLUSION

The private sector agricultural lenders, and even their regulatory agencies, understand the serious problems in the agricultural economy. It is only prudent that the administration take immediate action to address some of those problems.

For that reason, I strongly urge the administration to recognize the plight of our Nation's farmers and provide short-term relief by fully using existing authorities to make available essential credit assistance for our Nation's farmers through the Farmers Home Administration.

Further, I strongly urge the President to take an important step toward developing long-term solutions by acting on Senate Resolution 287 and immediately appointing the special task force on agricultural credit.

I ask that the text of the letter to the President relating to providing credit assistance under existing authorities be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, September 13, 1984.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We urge you to direct the Secretary of Agriculture to take action to use the authorities and programs already provided by Congress to provide credit assistance to our Nation's hard-pressed farmers. Under current law, the Farmers Home Administration has broad discretionary authority to lower the interest rates for farm loans made through its major loan programs, provide loan guarantees to commercial and cooperative lenders, restructure existing debt, carry out a policy of forbearance, and work with local farm credit and management experts to resolve individual credit problems.

A great many farmers in this country are in a desperate financial bind because of high interest rates, stagnant farm prices, rising production costs, and an erosion in the value of farm equity. This critical situa-

tion has led to the development of a number of proposals for legislation to assist farmers with their credit problems.

While remedial legislation is one possible alternative, we believe that the Secretary of Agriculture already has authority to take effective steps to ensure that adequate credit assistance is provided to farmers. Further, the cost of providing assistance through existing programs will be much less than the cost of the legislative remedies that have been proposed.

One immediate action that is needed is a reduction in interest rates. Although market rates currently show no sign of abating, the Farmers Home Administration could, if it chose to, use its existing authorities to lower the effective cost of credit to many farmers. This can be accomplished by the Farmers Home Administration using its direct loan and loan guarantee programs in participation with other agricultural lenders.

For example, a farmer who has obtained his operating credit in past years from a commercial lender may find that—because of successive years of farmland value decreases and low commodity prices—he no longer has the equity or repayment ability needed to obtain a $200,000 loan at the going interest rate of 14 percent.

The Farmers Home Administration could extend that farmer a loan for $80,000 at 5 percent interest. A commercial or cooperative lender would provide the remaining $120,000 at the market rate of 14 percent. The Farmers Home Administration could also guarantee up to 90 percent of the credit provided by the commercial or cooperative lender. The blended rate of interest in this example would be 10.4 percent, which would save the farmer about $7,200 annually in interest expenses.

If the Farmers Home Administration carried out such a plan, the existing FmHA county committees could make recommendations on a case-by-case basis, as to the amount of funds that Farmers Home Administration would provide and the interest rate for those funds.

Another advantage of such a program is that borrowers would not be abandoned by their commercial or cooperative lenders. This would facilitate the borrowers' return to their normal sources of credit as conditions in the farm economy improve.

The program we have outlined does not require any new authorizing or appropriations legislation. The Secretary of Agriculture now has discretionary authority to provide for beneficial interest rates on Farmer Home Administration direct loans, and loan guarantees to commercial and cooperatives lenders, under the operating, real estate, and natural disaster emergency loan programs.

We strongly urge you to recognize the plight of our Nation's farmers and instruct the Secretary of Agriculture to fully use existing authorities to provide this essential credit assistance for our Nation's farmers.

Sincerely,

Walter D. Huddleston, David L. Boren, John Melcher, John C. Stennis, Edward Zorinsky, Thomas F. Eagleton, Jim Sasser, Max Baucus, Wendell H. Ford, Lloyd Bentsen, Alan J. Dixon, David Pryor, Patrick J. Leahy, Sam Nunn, J. James Exon.●

HERBERT KAISER RETIRES

● Mr. SASSER. Mr. President, I rise to congratulate Herbert Kaiser on his 32 years as principal of the St. Elmo School in Chattanooga, TN. His tenure there has enriched the lives of thousands of students who were educated at the school over the years. He has shared with them his love of art, music, and literature in addition to the normal educational curriculum.

This summer, Herbert Kaiser retired as the chief administrator of the St. Elmo School. I know he will continue to make his contribution to the community through his many civic and church-related activities. But his influence on the education of the children of St. Elmo will be sorely missed.

With unanimous consent, I request that articles from the Chattanooga Times and the Chattanooga News Free-Press highlighting Herbert Kaiser's career be published in the CONGRESSIONAL RECORD.

The articles follow:

[From the Chattanooga (TN) News-Free Press, Aug. 5, 1984]

HERBERT KAISER RETIRES AFTER 32 YEARS AT ST. ELMO SCHOOL—LONGEST-SERVING PRINCIPAL IN CITY SYSTEM

(By Pete Austin)

Herbert Kaiser likes to write and type with green ink, but he certainly is no greenhorn when it comes to education administration.

"I write in green and use a green typewriter ribbon," he said, and adds, "It is hard to find green typewriter ribbon."

The 32-year principal of St. Elmo School has devoted his life to the betterment of education in the Chattanooga area. He retired July 31 of this year.

"It says in Ecclesiastes that 'there is a time for planting', and I guess it is time for me to leave," he said.

At 66, he was the longest-serving, and perhaps the most innovative educator around.

With a bachelor's degree in French history from Tulane University and a master's degree from Columbia University, the New Orleans native never neglected the underprivileged in society.

He came to Chattanooga from Castle Heights Military Academy in Lebanon, Tenn., on Sept. 17, 1949. As a social worker, he aided the parents of underprivileged youth in half of Chattanooga, he said.

"Chattanooga has been very good to me," he said, and he has been good to Chattanooga also, as colleagues and others can attest.

In 1951 he became principal of Jefferson Street School, and a year later he joined St. Elmo School in the same office.

Although he has been intimately involved with the education of youth, he has never been a public school teacher. "I have always been in administration," he said.

The St. Elmo School was founded in 1906 on land donated in 1891 by Col. Abraham M. Johnson. In 1915 the second building was added to the growing school, and in 1956 the auditorium and cafeteria completed the present grounds.

The school's motto is "Without Vision the People Perish," and its principal obviously has not lacked vision.

He pioneered in the areas of art and music at the school, taking the students on field trips to the symphony and holding year-end art shows featuring students' works.

His students have attended Harvard, Yale and Northwestern universities, he said.

He also placed an emphasis on philosophy. "I started out with a lot of philosophies, but now I do not have any," he said with a laugh.

The 250-member school, ranging from grades four to six, includes an enrollment of 80 percent black students and 20 percent white students, he said. He has been through "integration, busing, and everything. As a white principal that is quite an achievement," he said.

The school was featured in *Life* magazine in January 1960 for playing hopscotch on special floor layouts during indoor recess. Last year St. Elmo School was placed on the National Register of Historic Places, sponsored by the St. Elmo American Legion.

The school boasts several displays highlighting the history and noting the nostalgia of both the nation and the school. Three historical maps from Oxford, Cambridge and Stratford, England grace the walls of the Nannie Gothard Conference Room.

The school museum shows a column from the House of Flavius of ancient Rome as well as two bricks, one from the old Metropolitan Opera House in New York, and the other from the Martin Luther King Center in Tuskegee, Ala.

Augusta Evans Wilson's book "Saint Elmo" is on display in the library, and a flag collection hangs on the walls. One of the flags is an American flag that was unfurled from the U.S. Capitol in 1976, the year of the Bicentennial. That flag was presented to the school by Congresswoman Marilyn Lloyd.

Mr. Kaiser is a communicant of St. Paul's Episcopal Church, where he recently served on a committee that chose artists for the installation of new stained glass windows. He and his wife, Margaret Crimmins Kaiser, are members of the Hunter Museum of Art, Chattanooga Symphony and Opera Association, and other cultural organizations here.

They have a 22-year-old daughter, Mary Ann, attending the University of Tennessee at Knoxville, and a 19-year-old son, Bert, who attends the University of Tennessee at Chattanooga.

[From the Chattanooga (TN) Times, Aug. 8, 1984]

PRINCIPAL AT ST. ELMO RETIRES, BUT HIS INFLUENCE STAYS BEHIND

(By Emily McDonald)

Herbert W. Kaiser retired a week ago after 32 years as principal of St. Elmo School. He has been through the best of times and the worst of times. "I have been through desegregation, but we never had one violent act at the School; I never had to call the police," Kaiser said. "I had a Yankee mother. I was way ahead of people when it came to integration."

His mother, the late Esther Louise Heim Kaiser, was from Weehawken, N.J., and she took Kaiser on many trips to New York and Boston. He had no problems accepting blacks, and he shepherded St. Elmo School through the transition from a 100 percent white school to an 80 percent black school.

Kaiser has also seen the school population go from 450 students to 220 and the school program change from K through 6th grade to 4th through the 6th grade.

Kaiser never had serious discipline problems at the school, despite troubled times.

"I haven't spanked anybody in years. I've spanked one boy in 25 years. I don't believe in corporal punishment. But I'll tell you what I do believe in: kicking them out."

One of his real tests as a principal came during the St. Patrick's Day flood 10 years ago.

St. Elmo School was a hospice for everybody in South Chattanooga, and the school housed 800 people one night; I slept right here with them, Kaiser said.

The best of times have undoubtedly come when Kaiser was introducing his students to the things he loves best: history and the arts.

"Nothing was too good for St. Elmo School. I believe in culture: music, art, ballet, opera and symphony."

Kaiser served on the boards of the Chattanooga Opera Association, the Chattanooga Symphony Association and the Hunter Museum of Art, and he arranged performances at the school by nationally known performers. One of the symphony's first Tiny Tots concerts was at the school.

The principal took students to Metropolitan Opera performances in Atlanta, and he took a group of 60 to Atlanta to see the first road show of "My Fair Lady." Whenever he transported students to a performance, he would always go backstage and show the students what it was like behind the scenes.

"I have filled this school with art," Kaiser said. "Since 1974 when they started busing I have tried to change some of the art pictures to black art."

Copies of paintings of famous blacks hang on the walls, and charming portraits of black children are showcased. Also on the walls are pictures of ships and pictures of European cathedrals. A mural behind the principal's desk was painted by Margaret Parsons in 1954 and donated to the school. For the past 31 years the school has sponsored an annual art show.

Kaiser's interest in history led to his interest in the history of St. Elmo School, and he was involved in the move to get the school's name placed on the National Register of Historic Places. Placement occurred on Dec. 8, 1983, and a plaque is prominently hung in the hall. The school was built in 1906 on land given by Col. Abraham Malone Johnson, and a second building was added in 1915. An auditorium and cafeteria were added in 1956 during Kasier's tenure as principal.

Kaiser's patriotism is evident in the cafeteria-auditorium wing. Several flags stand on the stage. Included are school, state, national, United Nations and Christian flags. The school flag carries the motto: "Without vision, the people perish," which comes from Proverbs. The U.S. flag few over the U.S. Capitol on Oct. 12, 1976, and was presented to the school by Rep. Marilyn Lloyd.

St. Elmo School gained national prominence in 1959 when Life and other magazines published photographs and texts about the game designs painted in a central hall.

"I wanted something for the students to do at recess," Kaiser said, and he asked Bob Matusek to come up with an idea. The result was hopscotch designs on the floor. Then Kaiser came up with the idea of adding a 17th century game known as "snail." The snail game is also painted on the floor, and its purpose is to help youngsters learn numbers.

Kaiser said: "I'm nuts on landscaping. When I came here there wasn't anything but big trees. The place was nothing but a chert pile."

Kaiser obtained donations of money and material to have the school grounds landscaped.

"We didn't buy anything," he said with pride.

Boy Scouts planted dogwoods and pine trees, and the Garden Club of St. Elmo helped with landscaping projects.

St. Elmo is among several elementary schools participating in Chattanooga Excel, and Kaiser is an enthusiastic supporter of Excel, a plan that encourages students to excel in studies.

"Mr. Kaiser has been most cooperative with the Excel program, and he has even contributed to the program financially," said Malcolm Walker, Excel director.

Walker also commented on Kaiser's interest in the welfare of his students. "If there is a problem, he will go to the child's home and sit down and talk with the parents, wherever they live." Kaiser has also helped with children's personal needs, such as providing shoes and clothes so they can come to school.

Kaiser became principal in September 1952. He took the job after one year as principal at Jefferson Street Elementary School and two years as a school social worker. Friends suggested him for the St. Elmo post, and, Kaiser said, "I liked the neighborhood because it was old. I am interested in preservation and antiques."

Kaiser grew up in an atmosphere that fostered his interest in old things.

"I come from an old New Orleans family, but they have all died out. All my family are buried in the city of New Orleans, and I will be buried there, too."

He often jokingly says he is a visitor in Chattanooga, although he has lived in the city 35 years.

Kaiser received a bachelor's degree from Tulane University and a master's degree from Columbia University, both in European history. His Columbia diploma bears the signature of Dwight D. Eisenhower, then president of the university. Kaiser was a cheerleader at Tulane, and he was a member of Pi Kappa Alpha Fraternity. His father, the late Herbert Walter Kaiser, was also a Tulane graduate and a member of Pi Kappa Alpha.

His first teaching job was at Chamberlain Hunt Academy in Port Gibson, Miss. He taught English and history and served as librarian for a salary of $100 a month.

"In 1944 one of my former students talked me into giving up teaching and going into the grocery business in Laurel, Miss. I was a salesman for a summer, but then I changed my mind and went to Castle Heights."

Kaiser taught at Castle Heights, a military school in Lebanon, Tenn., for the next few years, and he earned $195 a month.

Kaiser's major professor at Columbia told him: "You'll never get anywhere in private schools. The future is a public education."

Kaiser put out the word that he was looking for another job, and he was contacted by Lawrence Derthick, then superintendent of the Chattanooga city schools.

Kaiser was hired to cover half of the city as a social worker, and he was the youngest principal in the system when he was elevated to the principal's job at Jefferson Street.

During each summer hiatus from school, Kaiser traveled.

"We weren't getting paid to stay here," he said.

Kaiser often contributed travel articles to The Times, and naturally, he brought home many experiences that were turned into enrichment activities for his students.

Kaiser has given many hours to his church, St. Paul's Episcopal. Every Sunday Kaiser helps to deliver altar flowers to shutins, and he is considered a fount of knowledge on the church's stained glass windows.

He is married to the former Margaret Crimmins, and the couple have two children, Mary Anne, a student at the University of Tennessee at Knoxville and Herbert "Bert" Kaiser III, a student at UTC.

Kaiser and his future wife were members of a square dance group that danced at Ashland Farm, home of the Z. Cartter Pattens. Patten was a member of the Tennessee General Assembly at the time, and legislators came to the farm for a dance.

One of the legislators said: "Why don't you marry that girl?"

Kaiser decided that was a good idea and the two married in July 1961.

Asked his plan for his retirement years, Kaiser said, "I want to really put my life in order and do the things I want to do." Among those things are reading and pursuing his hobbies of antiques, fine art and music. And he would like to do voluntary work at St. Paul's Church. One thing is certain Herbert Kaiser will never be idle. He has too many interests to ever be bored. One more thing: His influence at St. Elmo School is likely to endure.●

HEAD START PROVES WORTHY

● Mr. RIEGLE. Mr. President, on September 14, 1984, the High/Scope Education Research Foundation released new findings from a 22-year study on the lifetime impact of preschool education. The study, the "Ypsilanti Perry Preschool Project", shows clear evidence that high quality preschool education, and in this case the Head Start Program, has a major positive impact on the life course of participants.

I bring this study to the attention of my colleagues not only to highlight the importance of preschool education, but also because this study focused on the Head Start Program and legislation reauthorizing the program, which expires at the end of this month, has passed the House, yet has failed to be considered by the full Senate. I strongly support this legislation, S. 2565, and urge that my colleagues allow for the bill's consideration free of debilitating amendments.

Mr. President, I ask that the summary release of the "Ypsilanti Perry Preschool Project" study be included in the RECORD.

The release follows:

HIGH/SCOPE EDUCATIONAL RESEARCH FOUNDATION

WASHINGTON, September 14.—New findings from an authoritative long-term study of the lifetime impact of preschool education offer the strongest evidence to date that preschool education pays off, for participants and for society. The results, presented by High/Scope Educational Research Foundation today to the U.S. Department of Health and Human Services, show that preschool pays off for participants in better academic performance, lower rates of crime and delinquency, and better earnings prospects. They also show that preschool pays off for society in dollars and cents, not only because participants increased their earning power, but also because preschool resulted in reduced costs for

special education, welfare, and the criminal justice system.

The study, the Ypsilanti Perry Preschool Project, has been conducted for the past 22 years by the High/Scope Educational Research Foundation of Ypsilanti, Michigan. It follows the lives of 123 disadvantaged children from preschool age to the present, comparing the subsequent performance and experience of children who had a high quality preschool program and children who had no preschool. The study has been supported by various government agencies and private foundations. The High/Scope Foundation is conducting the study with the assistance of neighboring school systems, employers, police departments, courts, and social welfare agencies.

On a wide range of measures of school and life success, the study shows that by age 19, the latest age for which complete evidence is available, young people who had attended a quality preschool program on average significantly out-performed youngsters who had not. Major findings are that:

Two out of three of the young people in the preschool group graduated from high school (67%), while only one of two in the no-preschool group graduated (49%).

On a test of functional competence at age 19, 61% of the preschool group scored average or above average, while only 38% of the no-preschool group did this well.

The 38% rate of enrollment in post-secondary education for the preschool group was nearly double the 21% rate of the no-preschool group.

Only 15% of the preschool group were classified at some time during their school years as mentally retarded, while 35% of the no-preschool group required them for 3 years and 6 months.

The detention and arrest rate for the preschool group was 31%, as compared to a 51% rate for the no-preschool group.

The teenage pregnancy rate for women in the preschool group was 64 per 100 women, only about half as great as the rate of 117 per 100 for women in the preschool group.

At age 19, 50% of the preschool group were employed, while 32% of the no-preschool group were employed.

Only 18% of the preschool group reported that they were currently receiving welfare assistance, as compared to 32% of the no-preschool group.

A cost-benefit analysis of the program and its results indicated that investment in the preschool group was a good investment for society:

The return on the initial investment was equal to three-and-a-half times the cost of two years of preschool group and seven times the cost of one year of preschool.

The economic benefits obtained by the end of high school were sufficient to justify public investment in one year of preschool education for disadvantaged children.

Major benefits were reduced costs of education and increased earnings, both actual and predicted. Other benefits included decreased costs for crime and welfare assistance.

These findings are more fully described in the newly published monograph Changed Lives: The Effects of the Perry Preschool Program on Youths Through Age 19 (High/Scope Press, 600 N. River Street, Ypsilanti, Michigan 48197, $15.00 prepaid).

Project directors David P. Weikart and Lawrence J. Schweinhart say they hope these research results will "add to the growing public interest in early childhood education as a good way to invest in the futures of children." They note, "Taxpayers already spend a great deal of money trying to remedy these problems after they occur; preschool can partially prevent these problems from occurring, at a fraction of the cost of remediation."

Dorcas R. Hardy, Assistant Secretary for Human Development Services, said, "The Perry Preschool Project is an outstanding example of what good early childhood programs can accomplish. Based on over two decades of work, the findings of this careful study present clear evidence that quality early childhood education programs will help poor children overcome later problems." Noting that her agency has recently overseen a major expansion of these services through National Head Start, Miss Hardy added, "These preschool programs like Head Start do make a crucial difference in the lives of the children they serve."

The Perry Preschool Project shows that quality preschool education helps children do better not only in school, but also in the community and the workplace. In this way it has extended the findings of half a dozen other studies that have shown that early educational intervention helps to other studies that have shown that early educational intervention helps to prevent unnecessary placements in special education and retentions in grade. The Perry Preschool Project is the only one of these studies that includes a benefit-cost analysis of investment in preschool and assessments of criminal behavior and employment. As such, it may be expected to influence budget-minded policy-makers who demand hard evidence that social programs work.

The Perry Preschool study began in Ypsilanti, Michigan in 1962 as an examination of the lives of 123 black children born in poor families and apparently destined for school failure. Half of the families in the study received welfare assistance; 47 percent were single-parent families. Only 21 percent of the mothers and 11 percent of the fathers had graduated from high school.

Children in the study were randomly assigned either to an experimental group who attended preschool or a control group who did not attend. The children and families in these two groups had similar characteristics. For these reasons, any subsequent differences in the groups may be attributed to the preschool program.

Children in the experimental group attended a high quality program in a preschool classroom for two-and-a-half hours five mornings a week, either for one school year at age four or two school years at ages three and four. The program emphasized active learning, problem-solving, and a high degree of interaction between adults and children and among the children themselves. In addition, the teachers visited each mother and child at home for 90 minutes a week, to arouse the parent's interest in, and attention to, her child's curiously for learning.

These young people have participated in the study continuously for over two decades. The next phase, now being planned, will assess preschool effects on young adults in their mid-20's.

What made the difference? The research team postulates a "chain of cause and effect," in which preschool improved the intellectual and social competence of participants as they started school. Beginning from this improved position, the children who attended preschool required less special educational and subsequently demonstrated higher scholastic achievement. Because they were doing better scholastically, they were more likely to graduate from high school, less likely to engage in crime and be arrested, and more likely to be employed in early adulthood.

Funding for the recent phases of the research has come from the U.S. Department of Health and Human Services and the U.S. Department of Education. The economic analysis received funding from the Levi-Strauss Foundation and the Rosenberg Foundation of San Francisco. Major support for the study over the years has come from Carnegie Corporation of New York. Early support for the project came from the Spencer Foundation, the State of Michigan, and the Ypsilanti Public Schools.●

THE FINANCIAL SERVICES COMPETITIVE EQUITY ACT, S. 2851

● Mr. MOYNIHAN. Mr. President, I rise today to reiterate my deep concerns about certain provisions of the banking bill passed by the Senate last Thursday. First and foremost among my concerns is title X of that bill, the Financial Services Competitive Equity Act, S. 2851. Title X would authorize States to form interstate banking compacts that could exclude the banks of selected States from competing in banking within the States included in such compacts. Title X is an attempt to win congressional endorsement of faulty State legislation authorizing the formation of regional banking compacts. The U.S. Constitution, I would mention, forbids compacts among the States without such congressional approval. Already two New England States, Connecticut and Massachusetts, have enacted laws providing reciprocal interstate banking privileges to New England banks, but excluding banks based in other States, including my own State of New York. Title X would implicitly ratify the New England compact. I strongly oppose such discriminatory banking compacts, and I sincerely hope that title X is removed from any banking legislation adopted by Congress, this year or ever.

REGIONAL BANKING COMPACTS HURT CONSUMERS

Regional banking compacts are anti-consumer and anticompetitive. They permit banks within a region of the country to merge or acquire one another, while barring banks from outside the region from participating in the bidding. Obviously, this limits the number of potential bids to acquire a bank, denying the stockholders the best possible price for their stock. Permitting banks from outside the region to enter and compete would inject new vigor into the market for banking services.

Like other forms of protectionism, regional banking compacts also ultimately hurt the American consumer, by denying the lowest price for services or, in the case of deposits, by denying the highest rates for deposits. According to a February 13, 1984, Op

Ed in the Wall Street Journal by Bob Douglas, executive vice president of Chase Manhattan Bank, the Bank Rate Monitor weekly newsletter reports that interest rates on money-market accounts offered by major New York banks and thrifts are 15 to 34 basis points above the average for other markets. Moreover, 6-month certificates of deposit run 23 to 36 basis points higher in New York than elsewhere. If rates in New York are more favorable, why shouldn't consumers everywhere be able to take advantage of them? Regional compacts would mean that consumers in States from Georgia to California, from Texas to Florida, would continue to receive artificially low interest rates.

THE REGIONAL BANKING COMPACTS ARE DIVISIVE AND CONTRARY TO THE BEST INTERESTS OF THE COUNTRY

Not all interstate agreements are bad. For instance, the courts have recognized that interstate compacts in areas such as taxation, criminal law, joint transportation facilities, and the like foster harmony and efficiency among the participating States. A good example of one successful cooperative venture among the States is the Port Authority of New York and New Jersey, which provides transportation services for millions of people.

The principal differences between such cooperative regional compacts and regional banking compacts is that the former are nondiscriminatory, while the latter are exclusive and work to the detriment of the excluded States. For example, while the New England regional banking compact allows the banks in New England to expand beyond State lines within New England, the banks in the other 44 States of the Union are prevented from competing within New England. Bankers around the country, who want to exclude their competitors from other regions, have persuaded legislators in no fewer than 15 State legislatures to consider proposals creating exclusive regional banking systems in virtually every part of the country.

It was to ensure against this type of internecine warfare that the framers of the U.S. Constitution adopted the commerce and compact clauses as they replaced the old Articles of Confederation. If States can form regional banking compacts to exclude banks from other States today, where will it end? Will there be compacts keeping Wisconsin cheese out of other dairy States, or keeping California wine out of New York? Such is the precedent that will be established if we sanction regional banking compacts.

REGIONAL BANKING COMPACTS ARE OF DOUBTFUL CONSTITUTIONAL VALIDITY

I believe that regional banking compacts like the New England regional banking compact violate the compact clause, the interstate commerce clause, and the equal protection clause of the Constitution.

The compact clause, article 1, section 10, clause 3 of the U.S. Constitution, prohibits interstate compacts between two or more States without congressional authorization. There is little doubt but that Congress has neither expressly nor impliedly consented to any regional banking compacts—nor should it. The compact clause expresses the wise policy that States not be allowed to band together against other States. The framers saw that allowing States to freely band together in confederations would destroy the Union. That policy remains important. We cannot allow States to band together against other States without jeopardizing the Union. This lesson, despite a civil war, must be relearned each generation. We must reject every proposal that would push a wedge between the States.

The commerce clause, article 1, section 8, clause 3 of the U.S. Constitution, prohibits discrimination against companies engaged in interstate commerce. The New England banking compact, and those based on similar design, blatantly discriminate against nonregional banks and so substantially interfere with the conduct of interstate commerce. Thus, regional interstate banking compacts violate the commerce clause.

The equal protection clause of the 14th amendment to the U.S. Constitution provides that "no state shall * * * deny to any person within its jurisdiction the equal protection of the laws."

By allowing only some banks to compete in New England, the New England regional banking compact discriminates against non-New England banks in violation of the equal protection clause. Other regional banking compacts also would violate the equal protection clause.

Not since the sorry days of the American Confederation, before the ratification of our present Constitution, have States sought to erect such barriers to commerce from other States. And for good reason. The state of commerce under the Articles of Confederation was, "a national embarrassment," according to James Madison, and, "an imbecility," at that. In the period of American history following the American Revolution and before the ratification of the U.S. Constitution in 1789, the States retained the right to impose tariffs and imposts on goods and services from other States and foreign countries. A rather chaotic system of interstate commerce was the result. My own home State of New York, for instance, was regrettably one of the worst offenders when it came to restricting trade from other States: New York taxed firewood from Connecticut and vegetables from New Jersey, in order to protect local producers.

Protectionism was rampant during the Confederation, worse even than the current state of affairs in international trade. So bad was the situation for producers in two States that James Madison jotted in his notes at the Constitutional Convention in 1787 that, "New Jersey, placed between Philadelphia and New York was likened to a cask tapped at both ends; and North Carolina between Virginia and South Carolina to a patient bleeding from both arms." This protectionism and discrimination against trade from other States had grown so severe by 1786, that six States sent delegates to Annapolis, MD, to seek an end to what the delegates called, "the embarrassments which characterise the present state of our national affairs."

My colleagues will recall that the Annapolis Convention called upon the States to send delegates to Philadelphia to "render the Constitution of the Federal Government adequate to the exigencies of the Union." Thus, the Constitutional Convention of 1787 was prompted by the resolution of six States frustrated by barriers to interstate trade. Such was the understanding of the distinguished Supreme Court Justice Robert H. Jackson when he wrote for the majority in the case, *Hood and Sons* v. *Du Mond*, 336 U.S. 525, 533 (1949):

> The sole purpose for which Virginia initiated the movement which ultimately produced the Constitution was "to take into consideration the trade of the United States; to examine the relative situations and trade of said states; and to consider how far a uniform system in their commercial regulations may be necessary to their common interest and permanent harmony." Documents, *Foundation of the Union*, H.R. Doc. No. 398, 12 H. Docs., 69th Cong., 1st Sess., p. 38.

Indeed, Mr. President, the records of the Constitutional Convention and the writings of its framers provide irrefutable evidence that the Constitution sought to prevent precisely the kind of State interference with interstate commerce that title X of the Financial Services Competitive Equity Act prescribes. Alexander Hamilton, the well-respected delegate to the Constitutional Convention from my home State of New York, made the Founders' intentions perfectly clear when he wrote in Federalist Paper No. 22:

> The interfering and unneighborly regulations of some states, contrary to the true spirit of union, have, in different instances, given just cause of umbrage and complaint to others, and it is to be feared that examples of this nature, if not restrained by national control, would be multiplied and extended till they became not less serious sources of animosity and discord than injurious impediments to the intercourse between the different parts of the Confederacy.

In Federalist Paper No. 11, Hamilton argued for a unified Government with "unrestrained intercourse between the

states." As a result of freeing up the trade barriers, "the veins of commerce [will] be replenished and will acquire additional motion and vigor from a free circulation of the commodities of every part. . . . A unity of commercial, as well as political interests, can only result from a unity of government."

Learning their lessons from the experience of interstate commerce under the Articles of Confederation, the authors of the Constitution gave Congress the power to regulate interstate commerce, thus ending arbitrary and discriminatory State barriers to interstate trade. "Those laws dropped lifeless from their statute books for want of the sustaining power, that had been relinquished to Congress," wrote Chief Justice Marshall in the landmark 1824 Supreme Court case of Gibbons against Ogden. Plaintiff's attorney in that historic case was the distinguished former Senator from New Hampshire, Daniel Webster. He declared that the "people of New York have a right to be protected" against discriminatory regulations. "It is one of the objects for which they agreed to this Constitution, that they would stand on an equality in commercial regulations."

Mr. President, the people of New York ratified the Constitution in 1788, and they continue to support it today—in part because it specifically guarantees the equal treatment of all States in interstate commerce. Daniel Webster put it well: "The commerce of the states was to be a unit; and the system by which it was to exist and be governed, must necessarily be complete, entire and uniform. Its character was to be described in the flag which waved over it, *E Pluribus Unum.*" (Literally—out of the many, one.) And of course, Abraham Lincoln echoed these thoughts in 1858 when he paraphrased the Book of Mark and said, "A house divided against itself cannot stand."

This lesson must be learned anew with each generation: The economic strength of the United States flows in part from the wise and successful policy of prohibiting barriers to interstate commerce and trade. Yet title X ostensibly would grant congressional approval to such barriers between the States. I believe that the policy behind title X is contrary to the very foundations of our federal system, and it should be stricken or modified to conform with the concept of our grand Federal Union.

PENDING LITIGATION

As many of you know, there is litigation pending as to the validity of regional interstate banking compacts. On March 26 of this year, the Board of Governors of the Federal Reserve System approved an application of the Bank of New England, a Boston, MA, bank holding company, to merge with a Connecticut bank holding company called CBT Corp.

The merger application was challenged by a number of banks from Connecticut and New York. They challenged the constitutionality of the Massachusetts and Connecticut statutes that explicitly provided for limited interstate banking on a regional basis only within New England. The protesters argued that the State laws violated the compact clause, the commerce clause, and the equal protection clause of the U.S. Constitution.

Although the Federal Reserve approved the merger application, it acknowledged in its decision that the regional banking system developing in New England raised "unique and fundamental constitutional issues." However, since there were no judicial decisions that test the constitutionality of State regulatory arrangements that discriminate in favor of residents of select regional geographical areas and exclude the residents of other States, the Federal Reserve was unwilling to deny the merger application.

The Federal Reserve decision allowing the merger was promptly appealed to the U.S. Court of Appeals for the Second Circuit. The court of appeals affirmed the Federal Reserve's approval of the merger; however, the parties to the lawsuit have appealed this question of first impression to the U.S. Supreme Court. Indeed, the State of New York has filed a brief in support of that petition for relief with the Supreme Court.

Mr. President, this matter is of such importance that, it seems to me, Congress should await the decision of the Supreme Court before taking action to ratify the right of States to enter into regional compacts that would discriminate against their neighbors. Unlike many issues considered by the Congress, there is no compelling need to act on this issue at this time. In fact, there is every reason for Congress to defer action on this issue until the Supreme Court has resolved the pending litigation.

Let me cite what the Supreme Court has previously said about the dangers of balkanization that can result from barriers against interstate commerce imposed by the States:

> The material success that has come to inhabitants of the states which make up the Federal free trade unit has been the most impressive in the history of commerce, but the established interdependence of the states only emphasizes the necessity of protecting interstate movement of goods against local burdens and repressions. We need only consider the consequences if each of the few states that produce copper, lead, high-grade iron ore, timber, cotton, oil or gas should decree that industries located in that state shall have priority. What fantastic rivalries and dislocations and reprisals would ensue if such practices were begun!
>
> Our system, fostered by the commerce clause, is that every farmer and every craftsman shall be encouraged to produce by the certainty that he will have free access to every market in the nation, that no home embargoes will withhold his exports, and no foreign state will by custom duties or regulations exclude them. Likewise, every consumer may look to the free competition from every producing area in the nation to protect him from exploitation by any. Such was the vision of the founders; such has been the doctrine of this Court which has given it reality. *Hughs* v. *Oklahoma*, 441 U.S. 322, 325-326 (1978).

Mr. President, I believe that title X of the banking bill is anticonsumer, anticompetitive, and unconstitutional. I strongly oppose title X, and I sincerely hope it is removed from any banking legislation adopted by Congress this year. I have questions and concerns about other provisions as well, but I do hope that as a matter of true constitutional import, my colleagues in the House of Representatives and the conferees from this body will work together to strike or substantially modify these unfortunate regional banking compact provisions.●

DISTRIBUTION LICENSE REGULATIONS MERIT CLOSE SCRUTINY

● Mr. GARN. Mr. President, the Office of Export Administration of the Department of Commerce issued in January proposed regulations that were designed to address major abuses of one of our export control programs. This program is the distribution license system, that authorizes companies to make multiple shipments of sensitive goods and technology abroad. This is an important licensing mechanism; when closely monitored it allows our exporters to conduct their export business with a minimum of red tape, yet without jeopardizing our national security.

Unfortunately, until very recently the Commerce Department had not undertaken a single audit of distribution licenses in several years, not since a review had disclosed over 100 violations of distribution license rules by one company alone.

One year ago, events forced the Commerce Department's hand. The celebrated detention of more than 30 tons of sensitive U.S.-origin goods and technology—including a VAX 11/782 computer—on its way to the Soviet Union, revealed that the Commerce Department's neglect had taken its toll. Along with the advanced computer were found thousands of dollars of sensitive items that had been exported from the United States under distribution licenses.

In the last few days the Digital Equipment Corp., a company that had hitherto prided itself on its own internal system of controls over where its products go, was fined $1.5 million for violations of the distribution license. This is the largest penalty that the

Commerce Department has ever assigned to a violator of the Export Administration Act.

Apparently, however, the Commerce Department has already forgotten this experience. Early this month the Commerce Department issued a revised set of distribution license regulations. Instead of addressing the abuses that have existed, these new regulations reverse all of the progress achieved in the January regulations and returned to a policy that is little more than an honor system. If as reputable a company as Digital has been fined $1.5 million for violations of distribution license regulations what can we expect from a less scrupulous company?

Mr. President, several of my colleagues and I have frequently pointed to the conflict of interest inherent in giving the Commerce Department responsibility for both controlling exports and promoting exports. The Senate passed a bill this spring that contained several provisions that would tend to reduce this inherent protrade bias in the Commerce Department's administration of export controls.

The recently announced distribution license regulations have once again demonstrated how strong that bias is at the Commerce Department. After the Commerce Department was forced by events to issue tough regulations in January there was a storm of protest from the business community. In the regulations just issued, Commerce has bowed to the business objections in almost every respect. It is also interesting to note, Mr. President, that these new regulations were never submitted to the Department of Defense for their review and comment prior to publication. The Department of Defense is our national security agency, and it is specifically given the role of advising the Commerce Department on the national security aspects of our export controls. Yet the Commerce Department issued new regulations that will have a major debilitating effect on our efforts to keep sensitive goods and technology out of the hands of the Soviet bloc, without even showing them to the Defense Department prior to their publication. This is unacceptable.

Mr. President, the House and Senate are currently in conference on legislation to amend and renew the Export Administration Act of 1979. Notwithstanding that fact, I believe that it is necessary for the Congress to take a close look at these new regulations and the way in which they were promulgated. I have instructed staff of the Senate Banking Committee to prepare a set of hearings to review these new regulations in depth. These regulations should not go into effect until we can be sure that the national security will not be undermined in any way by regulations that appear, at least upon first review, to be leaving the effectiveness of our export control system to the unchecked or uncheckable behavior of exporters, scrupulous or not.●

SOCIAL SECURITY DISABILITY AGREEMENT

● Mr. DOLE. Mr. President, I am pleased to announce that House and Senate conferees have reached final agreement on H.R. 3755, the Social Security Disability Amendments of 1984. This is a major accomplishment, and one that should provide a new sense of confidence to the disabled population in the disability review process. The agreement reached today, which has broad bipartisan support, will make major changes in the way disability reviews are conducted. For the first time, a clear standard of review will be spelled out in the law. A finding of medical improvement or some other change in the beneficiary's condition will be required in order to terminate benefits. In addition, clear standards of rulemaking will be spelled out for the Social Security Administration with the hope of reducing some of the confusion surrounding the criteria being used by the State agencies, administrative law judges and the Federal courts.

Over the past 3½ years, hundreds of thousands of disability beneficiaries have been reviewed and found ineligible for benefits. Much to our regret, the Federal rules of eligibility were not always being applied on a uniform, nationwide basis. For good reason, real concerns were raised about the accuracy and fairness of the eligibility review process. If we are successful in this legislation, we should be able to restore some order to the Disability Insurance Program.

For over 2 years, the Congress has been working to develop a bipartisan approach to disability reform and to forge a bill that could protect the interests of the disabled population without prompting the runaway growth the program experienced in the 1970's. With the cooperation of the administration, I believe we have a piece of legislation that meets these objectives. The basic eligibility criteria for disability benefits have not been changed, only clarified and made more explicit. This should allow the reviews, which were suspended by the administration last spring, to be resumed in an orderly way.

I would like to remind my colleagues that the legislation mandating a review of Social Security's 2.7 million disabled workers every 3 years was passed by Congress in 1980 and signed by President Carter. It is unfortunate that the Congress did not anticipate the problems that would result by requiring that such a massive review be conducted in such a short period of time.

Mr. President, a summary of the conference agreement will be available tomorrow and I expect the conference report to be filed tomorrow evening. Hopefully, the Senate will be able to consider the conference report later this week.

In closing, Mr. President, I should like to note that what made this possible was the willingness of Representative PICKLE, chairman of the House Social Security Subcommittee, and the House conferees to cooperate with the Senate conferees in developing a bipartisan agreement. I would also like to express my appreciation to my colleagues who served as conferees for the Senate—Senators PACKWOOD, ROTH, DANFORTH, LONG, BENTSEN, and MOYNIHAN—and the others who have worked to help resolve the disability reform issue, including Senators COHEN, HEINZ, and LEVIN.●

INTERNATIONAL SEARCH AND RESCUE SATELLITE PROGRAM [COSPAS/SARSAT]

● Mr. GORTON. Mr. President, today I come before the Senate to notify my colleagues about an issue of international importance. I am referring to the international search and rescue program known as COSPAS/SARSAT. I should like to describe the history of this program and recent events that have jeopardized its future.

COSPAS/SARSAT has been a shining example of international cooperation and peaceful utilization of outer space technologies since its creation in 1979. In accordance with the COSPAS/SARSAT agreement, United States and Soviet satellites have been equipped to detect and locate distress signals from emergency transmitters carried on boats and planes. The satellites relay approximate locations of the signals to ground stations and rescue units can be dispatched to areas in which the signals originate. This program has saved 278 lives since 1982, when the first satellite with search and rescue capability was launched.

The 1979 COSPAS/SARSAT agreement was signed by the United States, the Soviet Union, Canada, and France. The United States and Soviet Union each agreed to participate on a demonstration basis with two satellites; France and Canada provided the search and rescue instruments.

The U.S. satellites designated for COSPAS/SARSAT were the National Oceanic and Atmospheric Administration [NOAA] polar-orbiting environmental satellites. NOAA operates two such satellites which are our only civilian source of daily, worldwide meteorological data. The frequent orbit of these satellites makes them ideally

suited for search and rescue operations.

In February 1984, the four original COSPAS/SARSAT participants plus the United Kingdom and Norway agreed in principle to proceed with an operational search and rescue system. A draft agreement for an operational program provides for a continued four-satellite system using two Soviet COSPAS satellites and two U.S. polar-orbiters. The agreement is scheduled to be finalized in Leningrad during the first week of October.

Recently, however, our commitment to COSPAS/SARSAT has become uncertain. Due to the budgetary concerns of the Office of Management and Budget [OMB], our administration intends to negotiate in Leningrad under the assumption that we intend to operate only one polar-orbiting satellite in the future. This position threatens the future of COSPAS/SARSAT.

Each of the past 3 years, the administration has proposed cutting back to one polar-orbiting satellite. Each year the Congress has appropriated funds above levels requested by the President in order to continue the two-satellite system. In my view, these satellites are critically important as our only civilian source of global weather data, supplementing the data gathered by our geostationary [GOES] satellites, which observe only the continental United States and surrounding ocean areas. The polar-orbiter data are particularly useful in monitoring weather systems in the extreme North, where the Earth's curvature obscures GOES imagery. Much of the severe weather affecting my home State of Washington and many other Northern States is monitored largely by use of polar-orbiting satellites.

The importance of these satellites was highlighted this year when one of our two GOES satellites suddenly failed, leaving us with marginal coverage of the continental United States and minimal coverage of surrounding waters. Since our next GOES satellite will not be launched until 1986, our reliance upon the polar-orbiters for weather forecasting has increased significantly.

This, however, is not the time to debate the importance of the two-polar-orbiter system for weather forecasting. Today, I urge my colleagues to join me in calling upon the administration to sign the Leningrad agreement on the basis of two polar-orbiting satellites. I also want my colleagues to understand that there is no reason for the administration, notwithstanding its intent to cut back to one polar-orbiter, to base the negotiations in Leningrad on its current position.

I respect the administration's efforts to reduce Federal spending and I understand the reluctance of the Director of OMB to commit the Nation to any programs outside of the administration's budgetary objectives. The Soviets and other COSPAS/SARSAT participants also understand that our administration cannot make budgetary promises because the Congress, not the administration, has the final say on budgetary matters. For this reason, the COSPAS/SARSAT agreement specifies that nations' participation is subject to availability of funds.

In other words, Mr. President, we can sign the COSPAS/SARSAT agreement as drafted and if, unexpectedly, the Congress votes in the future to cut back to one polar-orbiting satellite, we can reduce our commitment to COSPAS/SARSAT legitimately. Given this fact, there is no reason to negotiate in Leningrad under the assumption that we will cut back our commitment.

As I have mentioned, our current position threatens the future of the COSPAS/SARSAT program. We cannot expect the Soviets to support the lion's share of this program, particularly since none of the 278 persons rescued to date have been Soviet citizens. Most rescues involve private boats and planes, of which there are few in the Soviet Union.

In fact, the vast majority of rescues have occurred in North America. I recall an incident that was related to me last year at a hearing of the Science, Technology, and Space Subcommittee, which I chair. On January 31, 1983, two University of Washington students crashed in a small plane in the mountains west of Winthrop, WA. A COSPAS satellite picked up their distress signal and they were rescued by helicopter the next day, cold but unharmed. Mr. President, this and many similar incidents make it impossible to assign a value to the COSPAS/SARSAT program.

I urge my colleagues to join me in my effort to reaffirm our commitment to this cooperative and peaceful application of outer space technologies. Both Senators HOLLINGS and LAUTENBERG have already joined me in this effort, and I thank them for their foresight. While we cannot make budgetary promises for years into the future, we are not being asked to do so by the other COSPAS/SARSAT participants. Current law—Public Law 98-411, signed by President Reagan on August 30, 1984—specifically provides funding for NOAA to continue operating two polar-orbiting satellites. We should negotiate in Leningrad on that basis, rather than risk squandering this unique, invaluable program.●

SHARLENE WELLS, MISS AMERICA

● Mr. GARN. Mr. President, today it is my privilige to congratulate a fellow Utahn, Miss Sharlene Wells, for her success in the Miss American Beauty Pageant which was held in Atlantic City, NJ, last Saturday night.

Miss Wells, who was crowned Miss America for 1985, is the second Utahn to have been awarded this title since the pageant began in 1920. She is the daughter of Mr. and Mrs. Robert E. Wells, a member of the first quorum of the 70 of the Church of Jesus Christ of Latter-day Saints.

Miss Wells is currently a junior at Brigham Young University where she is majoring in broadcast journalism and plans to pursue a graduate degree in international business.

Her many talents include singing, playing the harp, composing music, crocheting, and sports. For the pageant's talent performance, Miss Wells played the Paraguayan harp and sang Paraguayan folk songs in Spanish while dressed in that country's native costume. She was born in South America and lived there with her family for 11 years.

Miss Wells has earned several other honors, such as Miss BYU, Miss Holiday Bowl, and a national talent award. She also maintains a 3.8 grade point average in school.

It is with pleasure that I commend Miss Wells on her success. I am proud that she has been chosen to represent our country, its values, and high ideals. I have no doubt that she will perform her duties and responsibilities as Miss America in a manner that will make all Americans proud.

My colleagues from Utah and I have extended an invitation to her to visit us in Washington and hope that she will be able to join us here and allow us to introduce her to the Members of Congress.●

TRIBUTE TO TARAS SHEVCHENKO

● Mr. LAUTENBERG. Mr. President, on Sunday, Ukrainians from across the United States gathered here in Washington, DC, to pay tribute to a symbol of Ukraine's 19th century renaissance—Taras Shevchenko. This year also marks the 20th anniversary of the Taras Shevchenko Monument's unveiling by President Dwight D. Eisenhower.

An artist and a poet, Taras Shevchenko gave the Ukrainian nation a strong and clear political awareness. Mr. Shevchenko has been an inspiration and a symbol for generations of Ukrainians who, as he did, continue their brave struggle for the liberation of their nation from the cruel and oppressive grasp of the Soviet Union.

I join with the Ukrainian community from my State and around the Nation, in support of their tribute to Taras Shevchenko. Their demonstration serves as a protest against both Russification and continued subjuga-

tion of the Ukraine by the Soviet Union.

The unification of the Ukrainian community demonstrates their unbreakable and common goal that is deeply shared by all people of the United States: That is the goal of freedom. Mr. President, I join in saluting the Ukrainian people's fervent desire to break the oppressive shackles of the Soviet Union.●

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have a considerable amount of wrapup to do today, both legislative business and, I would hope, executive business as well. Before I go much further, let me ask the minority leader if he would be in a position to consider all or a part of today's Executive Calendar at this time.

Mr. BYRD. Mr. President, on this side, calendar orders numbered 953, 955, 956, 958, and 959 are cleared, together with those nominations placed on the Secretary's desk in the Foreign Service, appearing on page 7 of the Executive Calendar.

Mr. BAKER. Mr. President, I thank the minority leader. I have checked my marked calendar as the distinguished minority leader has read these items, and all except No. 959 are cleared on this side as well.

Therefore, I ask unanimous consent that the Senate go into executive session for the purpose of considering those nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Charles A. Legge, of California, to be U.S. district judge for the northern district of California.

Marcel Livaudais, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Anthony J. Scirica, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

DEPARTMENT OF STATE

Robert D. Stuart, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Calvin C. Berlin, and ending George Mu, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1984.

Foreign Service nominations beginning William Joseph Ackerman, and ending James Daniel Singletary, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1984.

Foreign Service nominations beginning Malcolm Heaton Butler, and ending Daniel E. Harris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1984.

Foreign Service nominations beginning David F. Lent, and ending Todd N. Thurwachter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1984.

NOMINATION OF ROBERT D. STUART TO BE AMBASSADOR TO NORWAY

Mr. DIXON. Mr. President, it is my great pleasure to support the nomination of Mr. Robert D. Stuart to be the U.S. Ambassador to Norway.

I have known Mr. Stuart personally for many years, and can attest to his many fine qualities. He is a hard-working, highly intelligent businessman, who is well-respected in Illinois and throughout the Nation. He is a devoted individual, as his 37 years with the Quaker Oats Co. shows.

During those 37 years, he has risen from a sales trainee in 1947, to a member of the board of directors of the company in 1953, to president and chief executive officer in 1966, to chairman of the board of directors in 1976.

Currently, Mr. Stuart is chairman of the Finance Committee of Quaker Oats.

As for his background, Mr. Stuart received his bachelors's degree from Princeton University in 1937, served in the U.S. Army during World War II, and then attended Yale Law School, where he received his J.D. in 1946.

Mr. Stuart is married to the former Barbara Edwards, and they have four children.

I strongly recommend Mr. Stuart for the position to which he has been nominated. He will be a credit to our foreign service, our country, and our fellow citizens. I urge Senate approval of Mr. Stuart to be U.S. Ambassador to Norway.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. BAKER. Mr. President, I have a list of items on the Calendar of General Orders that are cleared on this side, as follows: No. 665, Senate Joint Resolution 201; No. 1169, Senate Joint Resolution 304; No. 1170, Senate Joint Resolution 321; No. 1171, House Joint Resolutions 153, and No. 1172, House Joint Resolution 505.

I inquire of the minority leader if he is prepared to consider all or any part of those items by unanimous consent at this time.

Mr. BYRD. Mr. President, all those items have been cleared on this side of the aisle.

Mr. BAKER. I thank the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL EPIDERMOLYSIS BULLOSA AWARENESS WEEK

The joint resolution (S.J. Res. 201) to provide for the designation of the Week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

S.J. RES. 201

Whereas the incidence and prevalence of epidermolysis bullosa present a significant health problem in the United States;

Whereas epidermolysis bullosa is an inherited disorder showing widespread blistering and skin erosions which result in pain, scarring, deformity, contractures, malnutrition, anemia, gastrointestinal problems, dental problems, corneal erosions, and carcinoma;

Whereas an estimated ten to fifteen thousand Americans of both sexes are afflicted with the disease, and another twenty to thirty thousand Americans may be carriers of this disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of epidermolysis bullosa;

Whereas it is appropriate to focus the Nation's attention upon the plight of epidermolysis bullosa sufferers and upon the continuing peril epidermolysis bullosa poses to humanity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 25 through December 1, 1984, is designated "National Epidermolysis Bullosa Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay motion on the table was agreed to.

NATIONAL QUALITY MONTH

The joint resolution (S.J. Res. 304) to designate the month of October 1984 as "National Quality Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 304

Whereas the United States has been preeminent in quality technology development since the Industrial Revolution;

Whereas the performance and spirit that typified early American craftsmen was based on individual interest in quality of goods and service;

Whereas the pride of workmanship that once prevailed must be reinforced through a renewed commitment to quality and knowledge of quality technology in more complex contemporary industrial, commercial, and governmental organizations;

Whereas American goods and services represent the highest standards of excellence in quality;

Whereas the strength of the Nation relies on the ability of industry to produce quality goods and services;

Whereas the United States must produce high quality goods and services to maintain a position of leadership in the world marketplace;

Whereas the commitment to quality involves recognition and implementation of a consistent quality policy, the use of quality technology, and utilization of talents throughout an organization toward quality improvement;

Whereas the emphasis on quality in manufacturing and service will increase productivity through emphasis on defect prevention, waste reduction, and improved reliability of products and services;

Whereas the White House Conference on Productivity Report of the Preparatory Conference on Private Sector Initiatives recommended that a quality awareness campaign be implemented at the national level and within the private sector to demonstrate that rapid improvement in quality and productivity is essential to the survival of the national economy;

Whereas the American Society for Quality Control has been a leader in the development, promotion and application of quality and quality related technology since 1946;

Whereas the American Society for Quality Control is engaged in a campaign to convince officials in government and industry that increased productivity, reduced costs, and consumer satisfaction will result from commitment to improved quality standards;

Whereas the American Society for Quality Control will sponsor activities to observe National Quality Week; and

Whereas the theme of National Quality Week will be "Quality First" to emphasize that quality is an integral part of the processes that produce goods and services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1984, is designated as "National Quality Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HOUSING WEEK

The joint resolution (S.J. Res. 321) to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 321

Whereas the opportunity to own a home and live in decent housing is the foundation for family life and a source of national economic, social, and political strength;

Whereas the housing industry has led the Nation to economic recovery following every recession since World War II by creating millions of productive jobs for the unemployed, generating billions of dollars worth of tax revenue, and creating demand for goods and services;

Whereas the housing industry in 1983, although accounting for only 3.4 per centum of the real gross national product, was responsible for 30 per centum of the total economic growth, a $15,000,000,000 real increase in gross national product during the year;

Whereas a sustained and strong housing recovery is essential for a long-term economic recovery;

Whereas it is appropriate to reaffirm the national historic commitment to housing and homeownership and to recognize the economic opportunities created by the present housing recovery; and

Whereas the housing industry epitomizes the principle of free enterprise in the economic system of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 14, 1984, through October 21, 1984, is designated as "National Housing Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHILDREN'S WEEK

The joint resolution (H.J. Res. 153) to designate the week beginning October 7, 1984, as "National Children's Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ADULT DAY CARE CENTER WEEK

The joint resolution (H.J. Res. 505) designating the week beginning September 23, 1984, as "National Adult Day Care Center Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICIAL PHOTOGRAPH OF THE SENATE

Mr. BAKER. Mr. President, I announced earlier today that an official photograph of the Senate in this session of Congress would be taken, which has not yet been done. I send to the desk a resolution to authorize that, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 442) authorizing the taking of a photograph in the Chamber of the United States Senate on Tuesday, September 25, 1984, at 2 p.m.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 442

Resolved, That rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the National Geographic Society to photograph the United States Senate in actual session on Tuesday, September 25, 1984, at the hour of 2:00 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

Mr. BAKER. Mr. President, I move to reconsider that vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD HOUSE JOINT RESOLUTION 392 AT THE DESK

Mr. BAKER. Mr. President, I now ask unanimous consent that once the Senate recedes from the House Joint Resolution 392, designating December 7, 1984, as National Pearl Harbor Remembrance Day, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe all these items have been cleared by the minority leader, but let me state them now for his consideration and that of the Senate.

ORDER FOR STAR PRINT—S. 919, REPORT NO. 98-586

Mr. BAKER. Mr. President, next I ask unanimous consent that the report to accompany S. 919, Report No. 98-586 be star printed to reflect the following changes, which I send to the desk on behalf of Senator THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH-TECH WEEK

Mr. BAKER Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 453 entitled "High-Tech Week."

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 453) designating the week of September 30 through October 6, 1984, as National High-Tech Week.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 453) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD HOUSE JOINT RESOLUTION 545 AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House Joint Resolution 545 designating the week of September 16 through 22, 1984, as Emergency Medicine Week, that it be held at the desk until the close of business on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLMENT CORRECTION IN H.R. 1437

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 356, correcting the enrollment of H.R. 1437.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 356) to correct a technical error in the enrollment of the bill H.R. 1437.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

There being no objection, the concurrent resolution was considered and agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSTRUCTION OF THE LIBRARY OF CONGRESS MASS BOOK DEACIDIFICATION FACILITY

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2418.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2418) entitled "An Act to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That the Librarian of Congress is authorized and directed, subject to the supervision and construction authority of a Federal, civilian or military agency, to construct the Library of Congress Mass Book Deacidification Facility in accordance with the general design developed by the Library of Congress and reviewed by the Architect of the Capitol, as set forth in the document entitled "Library of Congress Mass Book Deacidification Facility, Engineering, Design, and Cost Estimate and Drawings", dated December 1983. Such facility shall be constructed on Federal property within seventy-five miles of the United States Capitol Building.

SEC. 2. Notwithstanding any other provision of law, the Librarian of Congress shall equip, furnish, operate, and maintain the Library of Congress Mass Book Deacidification Facility.

SEC. 3. There are authorized to be appropriated for fiscal years beginning after September 30, 1983, sums not to exceed $11,500,000 to carry out the provisions of this Act.

Mr. BAKER. Mr. President, deacidification, for the edification of those who were not familiar with the term, is a process by which books that were manufactured after the age of linen paper and once it began the manufacture out of acid paper are preserved for the future because otherwise the paper will crumble and disappear.

As I understand it, the Library of Congress has built and is planning to put in operation very large autoclaves, that is pressure chambers, in which these books can be put and they can leach the acid from the paper and preserve them for hundreds of years into the future.

I have thought about that many times, and I wish I could designate some of the pages that would not be deacidified so they would disappear very quickly.

Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

LEGAL REPRESENTATION OF CERTAIN PARTIES

Mr. BAKER. Mr. President, I have a resolution for myself and the distinguished minority leader and I send it to the desk for immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 443) to direct the Senate Legal Counsel to represent John F. Sopko in *Thomas Sinito* v. *Unnamed F.B.I. Agents, et al.*, Civil Action No. C84-2844.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, I send to the desk a resolution relating to the authority of the Senate legal counsel, and ask for its immediate consideration.

A civil lawsuit has been filed in the U.S. District Court for the Northern District of Ohio against unnamed FBI and other unnamed law enforcement agents, and against John F. Sopko, as-

sistant counsel to the minority of the Permanent Subcommittee on Investigations. At hearings on organized crime held by the subcommittee in January of this year, Mr. Sopko testified about the results of a staff investigation. The plaintiff in this case, who is presently incarcerated following conviction of income tax evasion and loansharking charges, claims that Mr. Sopko's testimony before the subcommittee and the attendant publicity have deprived him of receiving a fair trial in pending State and Federal prosecutions and have jeopardized his chances for parole under his current sentence. The plaintiff seeks $1 million in damages against the defendants.

This case against Mr. Sopko arises directly out of his responsibilities and testimony as an assistant counsel to the subcommittee. Under these circumstances, it is appropriate for the Senate legal counsel to represent Mr. Sopko in this litigation. The following resolution will authorize and direct the Senate legal counsel to undertake that representation.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 443) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 443

Whereas, the case of *Thomas Sinito v. Unnamed F.B.I. Agents, et al.,* Civil Action No. C84-2844, is pending in the United States District Court for the Northern District of Ohio and John F. Sopko, a member of the staff of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, is named as a party defendant;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1982), the Senate may direct its counsel to defend employees of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent John F. Sopko in the case of *Thomas Sinito v. Unnamed F.B.I. Agents, et al.*

Mr. BAKER. Mr. President, I thank the Chair and move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRECTING THE SENATE LEGAL COUNSEL TO INTERVENE IN CERTAIN LEGAL MATTERS

Mr. BAKER. Mr. President, I now send to the desk another resolution for myself and the distinguished minority leader and ask unanimous consent that the Senate turn to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 444) to direct the Senate Legal Counsel to intervene in In re George I. Benny and Alexandra Benny.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, the Department of Justice has challenged the constitutionality of several provisions of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law No. 98-353, in a bankruptcy proceeding in the northern district of California. The questioned sections provide for the limited extension of the terms of bankruptcy judges who had been appointed prior to the 1984 act. The focus of the Department of Justice challenge is on the short gap between June 27, when the terms of these bankruptcy judges arguably lapsed, and July 10, when the President signed the 1984 act. The Department contends that the retroactive extension of the terms of bankruptcy judges violates the Appointments Clause of the Constitution.

In providing for the extension of these terms, the Congress had not sought to abridge the appointment powers of either of its coordinate branches by choosing among individual bankruptcy judges. The extension provisions of the act apply to all sitting bankruptcy judges, each of whom was appointed by the district courts and each of whom is removable by the courts of appeals. The Congress enacted these provisions to avoid disruptions in the bankruptcy system during its transition under the new act.

This resolution directs the Senate Legal Counsel to intervene in the name of the Senate to defend the constitutionality of these provisions. This is the accepted procedure when the Department of Justice joins in a challenge to the constitutionality of an act of Congress. Because the adjournment of the Congress is approaching and the appointments issue may arise in other bankruptcy proceedings, section two of the resolution permits an appearance by the Senate Legal Counsel in similar cases during the adjournment, with the approval of the Joint Leadership Group.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 444) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 444

Whereas, in the case of in re George I. Benny and Alexandra Benny, Civ. 84-120 Misc. RHS, pending in the United States District Court for the Northern District of California, the constitutionality of sections 106 and 121 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law No. 98-353, has been placed in issue;

Whereas, the Department of Justice has filed a brief in that case which asserts that these sections of the Bankruptcy Amendments and Federal Judgeship Act, which provide for limited extension of the terms of bankruptcy judges appointed prior to the Act, violate the Appointments Clause, Article II, Section 2, Clause 2 of the Constitution;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978 (2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1982)), the Senate may direct its Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it.

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of In re George I. Benny and Alexandra Benny;

SEC. 2. That during the adjournment of the Congress the Senate Legal Counsel is authorized to intervene or to appear as amicus curiae in the name of the Senate in other cases in which the constitutionality of sections 106 and 121 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law No. 98-353, is placed in issue: *Provided,* that the Joint Leadership Group authorizes the Senate Legal Counsel to intervene or to appear as amicus curiae in such cases.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958 AMENDMENT

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate turn to the consideration of H.R. 6013, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6013) to amend the Small Business Act and Small Business Investment Act of 1958.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, I rise in support of H.R. 6013, legislation passed by the House to amend the Small Business Act to establish 1984 authorization levels for certain Small Business Administration [SBA] programs in 1984, so that these program levels coincide with the fiscal year 1984 appropriations for these programs.

Mr. President, this bill would increase the 1984 program levels for three SBA programs. First, it increases from $15 to $20 million the SBA Handicapped Loan Program which assists organizations employing handicapped individuals and small businesses owned by the handicapped. Second, it increases from $35 to $41 million the program level for minority enterprise small business investment companies [MESBIC's] which provide needed financing and venture capital to small businesses owned by socially or economically disadvantaged individuals. Lastly, it increases from $160 to $250 million the guaranty program level for small business investment companies [SBIC's] which provide venture capital to small businesses.

Mr. President, I want to make very clear that these increased program levels do not exceed the appropriated program levels for these programs in the 1984 appropriations bill for these programs adopted by the Congress and signed into law by the President (Public Law 98-166). This bill would simply raise the authorization level for these programs to coincide with the current appropriations for these programs.

Mr. President, this action is necessary because of a recent opinion of the Comptroller General dated July 10, 1984. He held that although the report language in Public Law 98-166 clearly sets forth program levels for these three programs which are greater than current authorization levels in the Small Business Act. Since Public Law 98-166 did not specifically change the statutory levels for these programs or statutorily appropriate a stated sum of money for direct or guaranteed loans, the statutory language in the Small Business Act containing the smaller program levels is controlling. As a result of this decision, SBA has been directed by OMB to allocate funds at the lower program levels. With regard to the Handicapped Loan Program, this means that no more funds are available through the end of this fiscal year unless Congress acts to adopt H.R. 6013. Also, much needed funding to SBIC's and MESBIC's will be seriously curtailed.

Mr. President, my colleagues will recall that higher program levels for the handicapped, SBIC's and MESBIC's identical to the program levels in H.R. 6013 were adopted by the Senate when it passed S. 1323, the SBA authorization bill. Unfortunately, this measure is currently stalemated in conference with the House for reasons totally unrelated to these authorization levels. Thus, the Senate has already approved these higher program levels in its action on both authorization and appropriation bills.

Mr. President, I would simply like to remind my colleagues that handicapped loans assist the most disadvantaged segments of our society and help them to become self sufficient. The SBA Handicapped Loan Program serves the essential purpose of enabling the disabled and handicapped to lead full and productive lives. Without the much needed assistance of this program which is currently without funds, many businesses that serve the handicapped and which are operated by the handicapped would simply not survive, with the resulting loss of jobs for the disabled and significant higher costs for the taxpayers.

SBIC's and MESBIC's are SBA licensed companies which through a private and public sector partnership provide equity capital, long-term loans and management assistance to small businesses and to small businesses owned by socially or economically disadvantaged persons. The SBA Administrator has called the benefits of these programs impressive and has testified that these innovative programs have succeeded in providing unique and much needed assistance to small businesses. These programs produce jobs, economic gains, and tax revenues far exceeding the Government's cost of operating the program.

Mr. President, I again want to emphasize that since the conference report of the 1984 appropriations bill has already approved these higher program levels, no additional appropriations are needed or sought. Nor does the Budget Committee oppose this action. These higher program levels are consistent with the action taken by the Senate in passing S. 1323, and unless the Senate acts quickly to adopt this measure valuable assistance to these programs will either be shut off or seriously curtailed.

I urge my colleagues to adopt this important measure which will require no additional appropriations.

● Mr. BUMPERS. Mr. President, today the Senate is considering a House-passed bill, H.R. 6013. This bill would provide modest increases in the current authorization levels for three programs at the Small Business Administration: The direct loan program for the handicapped (an increase of $5 million); the direct loan level for the purchase of debentures for the Minority Enterprise Small Business Investment Company [MESBIC] Program (an increase of $6 million); and authority for SBA to guarantee debentures issued under the Small Business Investment Company [SBIC] Program (an increase of $90 million). A fourth element of this House bill would make certain programmatic changes to the SBA Pollution Control Bond Guarantee Program. No additional appropriations will be required or anticipated because of the enactment of this legislation, as my statement will make clear.

Mr. President, the current fiscal year 1984 authorizations for the Small Business Administration were enacted in 1981. Last year the Senate approved legislation (S. 1323) that would provide for an increase in these authorization levels. The House had also previously approved legislation that increased the 1984 authorizations, as well, but dropped those increases when it approved legislation providing for fiscal year 1985 authorization levels for the Small Business Administration (H.R. 3020). Earlier this year, we agreed to go to conference on these two bills. Regrettably, intractable difference that have arisen between the administration and the House over the consideration of disaster provisions that the administration signed into law in April make the prospects for an agreement on S. 1323 highly unlikely.

Nevertheless, in the interim, both the House and Senate appropriations bills followed the recommendations of their authorizing committees and included sufficient funds in the appropriations accounts for SBA to accommodate these increased authorization levels. However, since the current authorization levels have not been increased by statute, and in light of a July 13, 1984, General Accounting Office opinion (B-214172) that spending in excess of the statutory authorization levels would cause the agency to overobligate or overexpend amounts legally available, SBA has already shut down loanmaking for the handicapped, and halted requests for new leveraging in the SBIC Program. The MESBIC Program also faces the prospect of being denied access to additional funding before the end of the current fiscal year. While SBA has appealed that July GAO decision, the agency is still abiding by the substance of the GAO opinion.

In order to ensure that these three important loan programs can continue for the balance of the current fiscal year with minimal interruption, this legislation is necessary. As is clear from the specific language of section 3 of the House-passed bill, this legislative change does not authorize the appropriation of any additional funds. Furthermore, since the appropriations bill already enacted into law contains sufficient funds for the Small Business Administration to operate these three loan programs at the higher authorization levels permitted in this bill, no additional appropriations will be required.

Finally, Mr. President, section 2 of the House bill amends certain provisions of the pollution control bond guarantee program authorized by the Small Business Investment Act of 1958. This program was enacted in 1976. The Small Business Administration, in cooperation with commercial banks and State agencies is able to assist small businesses obtain financing for pollution control facilities that

are mandatorily imposed on the business by Federal or State agencies. SBA is authorized to guarantee the payment of rentals or other amounts due under qualified contracts with respect to the planning, design, financing, or installation of such pollution control equipment.

The Senate Small Business Committee has frequently reviewed this program, and consistently found that it fills a vital gap in meeting the financing needs of small business for this equipment. Until 1981, this program operated without any difficulty, and without a loss to the Government on its guarantee.

However, on December 31, 1981, at OMB's direction, SBA announced that it was reversing 5 years of program operation and would no longer approve guarantees for contracts which involve projects the proceeds of which were derived in whole or in part with tax-exempt industrial development bonds. Under the leadership of Senator LEVIN and others on the Senate Small Business Committee, last year our committee reported legislation (S. 499) that would have restored the Pollution Control Bond Guarantee Program to the pre-December 1981 status. That bill was referred to the Senate Finance Committee to review the implications for the Federal guarantee of tax-exempt industrial development bonds.

As part of the Deficit Reduction Act of 1984, signed into law by the President on July 18 (Public Law 98-369), Congress has made it explicitly clear that we will permit qualified SBA-guaranteed pollution control contracts to continue to be financed with tax-exempt industrial development bonds. The changes made in this bill to that program are designed to statutorily bring the SBA program into line with the recent congressional decisions of the tax bill.

Mr. President, in its current form the bill is important to the continued operation of four programs at the Small Business Administration. I urge my colleagues to support the measure, concur in the House bill, and clear this measure for the President.●

AMENDMENT NO. 4252

(Purpose: To delete Section 2 of H.R. 6013)

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from Connecticut, Senator WEICKER, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], on behalf of Mr. WEICKER, proposes an amendment numbered 4252.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 4 through 18 and insert in lieu thereof the following: "SEC. 2. This Act does not authorize the appropriation of funds."

Mr. WEICKER. Mr. President, this is an amendment to H.R. 6013, a bill to raise the program levels for certain SBA programs to coincide with the program levels already adopted by Congress in the 1984 appropriations bill covering these programs. My amendment would strike section 2 of this bill which deals with the SBA Pollution Control Contract Guaranty Program. Section 2 of H.R. 6013 contains a provision similar to legislation previously adopted by the Senate Small Business Committee in S. 499, which was referred to, and has not yet been acted upon, by the Senate Finance Committee. Last Friday, staff of the Finance Committee informed my staff that Senator DOLE, the chairman of the Finance Committee, would oppose adoption of this provision of the bill because it would mandate that SBA guarantee contracts when pollution facilities are purchased with the proceeds of tax exempt industrial development bonds, rather than simply permit SBA to do so. In other words, this provision, if adopted, would expressly prohibit SBA from denying guaranteeing tax exempt financed projects. I am informed that the administration strongly opposes this provision of the bill as well.

Mr. President, I want the record to be very clear that I am not offering to delete the pollution control section of H.R. 6013 because I oppose it substantively. Indeed, as I have stated in the past, I strongly favor this provision. I voted for a similar provision during markup of S. 499 in the Small Business Committee and have long urged the adoption of legislation to ensure the use of tax-exempt financing in the program. I am hopeful that at some time in the future my colleagues in the Senate and the House can adopt a provision permitting tax-exempt financing for the financing of pollution control facilities which will not be opposed by the administration. However, now is not the time to again fight this battle.

Mr. President, I am offering this amendment simply to delete a controversial provision of H.R. 6013 which, given the opposition of the Senate Finance Committee and the administration, would seriously delay and prevent any action on this bill. It is urgent, in my judgment, that the Senate act quickly to resolve the serious funding problems for the other programs covered by section 1 of H.R. 6013, particularly the SBA Handicapped Loan Program which currently has no more funds available for loans to the handicapped through the end of this fiscal year unless this bill is passed. Therefore, I am reluctantly offering this amendment to delete section 2 of H.R. 6013, the pollution control tax exempt financing provision of this bill, in anticipation that my colleagues will agree to the urgency of immediately implementing the other provisions of this bill which are consistent with 1984 appropriations.

I urge the adoption of this amendment, and after its adoption, will urge the immediate adoption of the remaining provisions in H.R. 6013.

● Mr. BUMPERS. Mr. President, I will support the amendment offered by Senator WEICKER, the chairman of the Senate Small Business Committee, to strip from the House-passed bill the provisions amending the Small Business Investment Act of 1958 relating to the SBA pollution control bond program. I fully support the underlying legislative proposal regarding the pollution control bond guarantee program, as I know the chairman and other members of our committee do. Unfortunately, it appears that any insistence on the substantive changes to the pollution program at this time may prevent the enactment of the other program changes for fiscal year 1984. That result, I am now convinced, does not serve the best interests of the small business men and women who could be expected to benefit from the enactment of this legislation before the expiration of fiscal year 1984.

I recognize that the administration opposes the pollution provision. On August 27 I wrote to SBA Administrator Sanders requesting the agency's views on this legislation. His response regarding the pollution program was clear:

With respect to the second section of H.R. 6013, SBA must oppose its enactment. It is our position that the pollution control bond program is not to be conducted in conjunction with tax-exempt financings under any circumstances. The amendments to the tax code made by the Deficit Reduction Act of 1984 had no practical effect on the operation of the SBA pollution control bond program since they merely dealt with the tax status of industrial development bonds which *might* be used in connection with the program. Since it is our position that this usage will not occur, those amendments will have no prospective effect. (Emphasis in original.)

The Administrator's statement is exactly why legislation like the House-passed bill specifically prohibiting the agency's denial of guarantees in these circumstances is necessary.

Mr. President, while I support the amendment at this time, I intend to pursue enactment of these pollution control bond progam amendments at the earliest possible opportunity. Both the Senate and House Small Business Committees have reviewed this program, including the appropriate use of tax-exempt bonds in conjunction with this program. Congress has consistent-

ly supported the use of tax-exempt bonds in this program in particular, as evidenced by the clear and unambiguous action taken by Congress in the Deficit Reduction Act—Public Law 98-369, July 18, 1984—specifically sanctioning the tax-exempt status of certain industrial development bonds used in connection with this program. The small business community has asked for and should be permitted to take advantage of this excellent program.●

● Mr. LEVIN. Mr. President, I urge Senate passage of this legislation. It would make the authorized level approved by the Congress several years ago for the handicap direct loan program, MESBIC's, and SBIC's consistent with the appropriated levels. As a result, these programs would be allowed to operate at the higher levels intended by the Congress when it approved the fiscal year 1984 appropriation bill for the remainder of this fiscal year.

I also have no intention to object to the amendment removing from this legislation a provision approved by the House relating to the SBA's Pollution Control Financing Guarantee Program. A similar provision has been twice approved by the Senate Small Business Committee. Specifically, the provision would direct that SBA could not decline to issue a guarantee for a loan, to be used by an eligible small business for the purchase of pollution control equipment, that is derived from the proceeds of a tax-exempt industrial development bond. Its practical effect would be to reverse an OMB decision that prohibits the SBA from issuing guarantees under the program in conjunction with tax-exempt financing—a practice specifically intended by Congress.

I do not intend to object to this amendment for several reasons. First, I do not want to prevent passage of this legislation by insisting that the pollution control provision be considered in the context of this legislation. I support the other provisions of the bill as well and feel they should be approved as soon as possible.

Second, the pollution control provision of this legislation is not necessary. It is unnecessary because Congress has specifically provided in law that SBA could guarantee loans made with the proceeds of tax-exempt bonds under the pollution control program. Section 404(b)(1) of the Small Business Investment Act of 1958 states:

Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property may be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax.

This section remains unchanged.

In light of this section of law, it is clear that the OMB is acting in an unlawful manner by prohibiting the SBA from operating the pollution control program as authorized and intended by Congress. This is not just my opinion. It is also the conclusion of a report prepared at my request by Morton Rosenberg, specialist in American public law at the Congressional Research Service. The report concluded that:

There appears to be no firm legal basis for OMB's authority to order the termination of the program. From this we conclude that it would not be unlikely for a court to find SBA's termination of the program to be unlawful . . . and in violation of the Fifth Amendment for its failure to afford adequate notice of the agency's action to members of the public who were meant to be benefited by the program and who had justifiably relied on its continuation to their material detriment.

Mr. President, I ask that the full text of this report be printed in the RECORD at the end of my statement.

In order that the OMB know of the resolve of the Small Business Committee to see that the pollution control program is operated as authorized in law and Congress intended, the distinguished chairman and ranking member of the committee, as well as Senator RUDMAN and myself, have written David Stockman to request that he reverse this unlawful decision.

Before I close, I want to commend the chairman and ranking member of the Small Business Committee, and extend to them my appreciation for for their cooperation on this matter. It is clear that there is no disagreement on the substance of the pollution control provision included in this legislation. I look forward to working with them to ensure that this program can again be operated by SBA as authorized in law and Congress intended, without interference from the OMB.

The report follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, April 22, 1983.

To: Honorable Carl Levin. Attn.: Jim Callow.

From: American Law Division.

Subject: Authority of OMB to Suspend SBA's Pollution Control Equipment Loan Guarantee Program for Tax-Exempt Issuances.

At the direction of the Office of Management and Budget (OMB), the Small Business Administration (SBA) has ceased, since December 1981, its processing of applications for loan guarantees for contracts to purchase or lease pollution control equipment which are to be financed from the proceeds of tax-exempt bonds issued by public bodies. You have inquired whether this action by OMB is lawful. We conclude that serious legal questions may be raised as to OMB's authority to effectively suspend such a congressionally mandated program. In view of the sensitivity of this conclusion our analysis will be somewhat extended and proceed as follows: First, the statutory basis and nature of the program will be set forth and then the events which led to current cessation of the program will be detailed. Next, the legal issues raised will be identified and the relevant legal principles and case law will be analyzed to determine their applicability to the instant situation. Finally, the validity of OMB's action will be assessed in light of the circumstances and pertinent legal principles.

I. STATUTORY AND ADMINISTRATIVE BACKGROUND

Responding to the perceived needs of small businesses which were unable to procure low cost financing to meet the requirements of federal pollution laws, Congress in 1976 amended section 404 of the Small Business Investment Act of 1958[1] to authorize the Administrator of the Small Business Administration (SBA) to issue loan guarantees to insure payments by small businesses under purchase or lease contracts that secure pollution control bonds. The proceeds of such bonds may be either taxable or non-taxable to the holder.[2] The relevant portion of the statute provides:

"(b) The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), guarantee the payment of rentals or other amounts due under qualified contracts. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

"(1) Notwithstanding any other law, rules, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property may be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax."

The Act was further amended in 1977 to establish a revolving fund for the program which would enable it to be self-sustaining, i.e., not to require congressional appropriations.[3] All monies received by the Administrator in the administration of the program are paid into the fund which is maintained in the U.S. Treasury and is available for purposes of the guarantee program without fiscal year limitation. All expenses and payments for the program (excluding administrative expenses) are paid from the fund. Available funds may be invested. The fund was initially capitalized by a $15,000,000 appropriation but has neither required nor received any further appropriations. The fund presently is capitalized at $53,943,838.[4]

SBA moved to implement its authority by initiating a notice and comment rulemaking proceeding[5] pursuant to section 553 of the Administrative Procedure Act (APA).[6] Following a 60-day public comment period, the agency issued its final rules[7] which establishes as the policy of the agency the provision of guarantees for pollution control equipment acquired by use of the proceeds from tax-exempt industrial revenue bonds whenever possible.[8] The regulation prescribes the substantive requisites for eligibil-

Footnotes at end.

ity which include requirements that the small business applicant must be independently owned and operated, not dominant in its field, eligible under general SBA policy, have been in operation for at least five years, and have a history of profitable operations during any three of the five years preceding the date of application.[9] The regulation also sets forth the procedure for application,[10] the terms of the guarantee and fees required, and the guarantee limit ($5 million).[11] The regulation became effective on July 31, 1978, and to date has not been revoked or modified pursuant to the APA's informal rulemaking processes.

From the inception of the program, and consistent with the policy enunciated in its 1978 regulation, SBA has exclusively guaranteed contracts which were financed by the proceeds of tax-exempt state or local governmental bond issues. The effect of this policy was to open avenues of financing in money markets previously unavailable to small businesses. This was so because in the past, small businesses, because of their limited size and lack of investor recognition, could not obtain tax-exempt financing, a problem that is exacerbated by the non-productive nature of the pollution control equipment to be financed. The SBA guarantee of the contract between the small business and the issuer provided that recognition and opened the way for municipal bond market financing in the same way as large corporations. Briefly, the process works as follows: A public entity issues tax-exempt pollution control revenue bonds. The term of repayment of the bond is typically 20 to 25 years. The business enters into a contract with the issuer of the bonds stipulating that periodic payments in sufficient amounts to cover the interest payments to the bondholders, and to redeem the bonds as they mature, will be made by the small business. The ability of the small business to comply with the terms of the contract is guaranteed by SBA. The effect of this scheme is to make the bonds highly competitive on the bond market (they are rated AAA by Moody's). It also allows the small business to receive the necessary capital at low interest rates which lessens its often severe cash-flow problems. The interest rate differential, particularly in times of high rates, between taxable and tax-exempt bond has in practice made taxable bonds a non-viable financing alternative (assuming marketing problems are overcome).

Between 1976 and 1981, SBA assisted 213 companies by guaranteeing $256 million in loans. During that period the program experienced only two defaults which resulted in payments of some $66,000 from the revolving fund. By means of workout agreements with the companies, however, SBA experienced no actual losses.

Since 1981, however, SBA has effectively ceased issuing guarantees in conjunction with tax-exempt financing. The actions which resulted in the cessation of its guarantee activity may be summarized as follows. The Carter Administration's budget submission for FY1982 requested $125 million in guarantee authority to operate the SBA program, an increase of $15 million over the previous FY. In March 1981 the Reagan Administration modified that request by asking for $95 million for FY1982. Congress, in the Omnibus Budget Reconciliation Act of 1981,[12] rejected the request and increased SBA's authorized ceiling for guarantees for FY's 1982-1984 by providing:

"For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250 million.[13]"

Thereafter, SBA made a revised budget request for the pollution control equipment program for FY's 1982 and 1983 of $250 million in each year. On November 5, 1981, the Office of Management and Budget (OMB) transmitted a credit control memorandum to SBA which directed SBA to expend no more than $50 million in guarantee authority on the pollution control program in FY1982. SBA protested and as a compromise OMB agreed to permit SBA to utilize $150 million of guarantee authority in both FY's 1982 and 1983 for the program. But SBA was directed not to use any of its guarantee authority in conjunction with tax-exempt financing after December 31, 1981.[14]

During this period Congress responded by directing SBA to maintain the program to at least the $175 million level for FY1982.[15] Subsequently, Senate and House appropriations and oversight hearings have been held which have criticized OMB's actions.[16]

On February 1, 1983, the President submitted, pursuant to section 1013 of the Impoundment Control Act of 1974,[17] a proposal to defer $1 million from the Pollution Control Equipment Guarantees Revolving Fund.[18] A resolution of disapproval (H. Res. 76) was favorably reported out of the House Appropriations Committee[19] and passed by voice vote on March 10, 1983.[20] The practical effect of these actions and counteractions by the Congress and the Reagan Administration is that some $129 million of pollution control guarantee applications from 120 applicants have been frozen at various stages of that process.

Finally, in a variety of forums, congressional and administrative, SBA officials have made it expressly clear that but for OMB directives, the agency would have continued issuing guarantees for tax-exempt issues.[21] OMB, together with the Treasury Department, on the other hand, have made it equally clear, in the same forums, that the injunction against the SBA guarantee program is the product of the Executive Branch's overall policy of containing budget deficits by stemming the loss of tax revenues which are said to result from the allowance of tax-exempt financing.[22]

II. LEGAL ISSUES THAT MAY BE RAISED

SBA's enabling legislation makes it clear that it was vested with the discretion to determine whether or not to guarantee pollution equipment control contracts which would be funded through the proceeds of tax-exempt bonds. The legislative history of the provisions is wholly in accord such a reading, and is, in fact, encouraging of the agency's utilization of the tax-exempt route even in the face of opposition by the Ford Administration. In this regard the House report accompanying H.R. 9056 states:

"The Administration has voted opposition to this Title based upon its general opposition to tax exempt industrial bonds. Your Committee neither endorses nor rejects the concept of such bonds. But the fact is that such bonds are now a legal reality; they have been and are being issued, but only large firms are benefiting from them.

"Your Committee's position is that as long as tax exempt industrial bonds are a reality, small business as well a big business should be allowed access to their benefits. Title III provides such access through an SBA guarantee program, which is designed to be self-sustaining.

"Title III would enable small businesses to participate in the financing of pollution control equipment by issuance of industrial bonds as do big business. It is your Committee's opinion that a SBA insured tax exempt revenue bond program for small businesses is clearly the cheapest and most efficient method to provide pollution control financing needs. Creditworthiness, and a prime investment rating, would be assured. Rates, accordingly, would be low. Issue size, for liquidity purposes, would be large. Equity, in terms of major corporations, would be restored. And with a promise of a receptive institutional market for the bonds, the necessry incentive to invest bankers to assemble such issues would be fully and effectively provided."[23]

Similarly, the Senate report accompanying S. 2498 makes it clear that it contemplated utilization of tax-exempt financing in connection with the pollution control program being established:

"Under Section 404(b), commercial banks and investment dealers, functioning as originators of these financings, would identify those small businesses having difficulty obtaining financing for their pollution control expenditures. This identification would be done in cooperation with pollution control financing authorities, local enforcement agencies, trade associations, and local financing institutions. The originator would evaluate the creditworthiness of these small businesses for the purposes of screening out those firms which lack the resources necessary to meet the financial obligations of the program. Those firms not meeting the requirements of this first evaluation would be referred to other sources for financial assistance. The individual financial needs of those firms which meet the SBA's credit criteria, would be grouped together in a single bond issue. This grouping would be done on the basis of either a common geographical or industrial relationship . . .

"Section 404 would enable small businesses to obtain the necessary long-term, low-cost financing because: 1) industrial revenue bonds have an established institutional market; 2) the SBA lease insurance would make the bond's investment grade quality; 3) the tax exempt status of the bond offerings reduces the interest cost; and 4) the longer term bond scheduled provides for lower annual debt service."[24]

The congressional predilection in this regard may be seen as having even greater weight in light of the fact it marked a rare exception to the long-standing general statutory policy against exempting bond proceeds from federal taxation.[25]

Administrative regulations and practice confirm that the agency itself believes it has a choice of which financing mechanism to guarantee and had, until 1981, in fact preferred tax-exempt guarantees. Thus, SBA's 1978 regulations adopted to implement the pollution control program plainly indicate that the utilization of tax exempt financing is contemplated as a normal feature of administration of the program.

"§ 111.2 Policy.

"It is the intent of Congress to assist existing Small Concerns including solid or liquid waste disposal concerns, which are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control Facilities, or the obtaining of financing therefor, by authorizing SBA to guarantee fully (100 percent), directly or in cooperation with

* * * * *

others, the periodic payments due in connection with the purchase or lease of such Facilities unde a Qualified contract. The guarantee shall be a full faith and credit obligation of the United States, and may be issued notwithstanding that the pollution control Facility is acquired by the use of proceeds from tax-exempt industrial revenue bonds. In those instances where revenue bond financing is uneconomic or is not practicable (e.g., for small amounts), or when the project may not qualify for tax-exemption, the Small Concern may seek financing assistance under SBA's pollution control (Small Business Investment Act, Sec. 404, 15 U.S.C. 694-1), Air Pollution (Small Business Act, sec. 7(b)(5), 15 U.S.C 636), or Water Pollution (Small Business Act, sec. 7(g)(1), 15 U.S.C. 636(g)(1)) Loan Programs."

Indeed, prior to 1982 SBA never guaranteed a contract [26] which was supported by taxable financing.

In view of this, three substantial questions arise: (1) Has OMB displaced SBA's discretionary authority in the area with its own? (2) If so, by what authority has it done so? (3) Assuming an authority in either OMB or SBA to alter the nature or direction of the program, has it been accomplished in accordance with the requirements of the Administrative Procedure Act or the principles of due process? We address each of these questions in turn.

A. *Has OMB Displaced SBA's Discretionary Authority?* In *United States ex rel. Accardi* v. *Shaughnessy*,[27] the the Supreme Court held that when a federal officer is legally vested with discretionary authority, he may not be directed in the use of that discretion by a superior officer. The Court stated that "If the word 'discretion' means anything in a statutory or administrative grant of power, it means that the recipient must exercise his authority according to his own understanding and conscience." [28] Arguably, SBA's statutory freedom of choice of decision [29] was absent in the instant circumstances. In testimony before congressional committees SBA officials conceded that OMB had taken the policy decision out of their hands. Thus during questioning by the chairman of the House Subcommittee on Energy, Environment and Safety Issues as to why there had been no appreciable growth in loan guarantee issued between FY's 1980 and 1981, the following colloquy with Acting Assoicate Administrator Edwin T. Holloway, Vincent A. Fragnito, Chief, Pollution Control Financing Division, and Peter F. McNeish, Deputy Associate Administrator for Investment, took place.

"Mr. HOLLOWAY. The final figure that would be available as a program level was not really nailed down until late in the year. There was additional demand. There were additional requests in the pipeline that would have resulted in a higher program level had that been authorized.

"Mr. BEDELL. You mean it was not authorized by the Congress?

"Mr. HOLLOWAY. Authorized and apportioned by the OMB.

"Mr. BEDELL. So the reason there was not very much of an increase in 1981 over 1980 was because OMB did not permit you to make those guarantees.

"Mr. HOLLOWAY. That is correct.

"Mr. FRAGNITO. Mr. Chairman, the total amount authorized for fiscal year 1981 was $180 million. That is approved, committed transactions.

"Mr. BEDELL. By the Congress?

"Mr. FRAGNITO. By us. We had applications totaling $180 million that we could have used for fiscal year 1981.

"Mr. BEDELL. And OMB would not let you do it?

"Mr. FRAGNITO. We had authority allocated by OMB at the $100 million level.

* * * * *

"Mr. BEDELL. We are talking about two different things. The Congress has authorized and the President has signed, if I understand it correctly, legislation authorizing $250 million. Apparently you did not think that was the case.

"Mr. HOLLOWAY. I do not believe that the complete process of apportionment of that authority to us from the OMB has been completed.

"Mr. BEDELL. That is a different story, what OMB is doing.

"We have the legislative branch and the executive branch. The legislative branch, if I understand correctly, has authorized $250 million for this program. The President has signed such authorization.

"Mr. HOLLOWAY. That is correct.

"Mr. MCNEISH. Your statement is correct, Mr. Chairman, in terms of the authorization by the Congress. It has been signed into law by the President. The blockage point at this point in time in terms of effective apportionment or usage of those funds is in discussions at the level of OMB and the White House, and the question of their posture on Federal credit programs generally, which you alluded to in your opening statement, and the question of what approach the administration will take in recommending reduced levels in terms of budget cuts on a number of Federal credit programs, including this one.

"In this interim period, we have only an authorized level, as Mr. Fragnito indicated, from OMB to utilize funds at this juncture to the extent of $40 million for the first quarter of this fiscal year.

"Mr. BEDELL. So the reality of the situation is that Congress has passed and the President has signed legislation authorizing $250 million; that you have requests outstanding of slightly over $* * * million that you were unable to fill last year, $77.8 * * * additional applications, and a survey indicates there is $21 * * * also in the pipeline, for a total of $379 million, which sig * * * exceeds the $250 million authorization; and that even tho * * * gress passed it and the President signed it, OMB has told * * * you cannot guarantee over $40 million of that.

"Mr. MCNEISH. You are missing one fact, Mr. Chairman; * * * the administration has also submitted to the Congress reco * * * dations for budget cuts in this program reducing the progr * * * the $95 million.

"Mr. BEDELL. Sorry. I did not mean to leave anything out. B * * * things stand, the President signed such legislation and OMB has told you you cannot spend it, even though the President signed the bill.

"Mr. MCNEISH. In light of the President's recommendation to reduce the program levels, that is correct. It would seem foolhardy to manage a program at a $250 million level if the President intends to reduce the program to $95 million.

"Mr. BEDELL. You have complete freedom. If OMB had not said that, you could go right ahead and issue loan guarantees.

"Mr. MCNEISH. The SBA does not have complete freedom on budget matters without OMB. It is a decision by this administration.

"Mr. BEDELL. They signed the bill.

"Mr. MCNEISH. They have subsequently made a recommendation to reduce the program level through budget reductions to the level of $95 million.

"Mr. BEDELL. I guess we really get to the real issue of who it is that makes the determinations about where money is to be spent. At least most people think that Congress makes that determination, with the approval of the President, and the President had signed and agreed to this.

"Mr. MCNEISH. Obviously, but that is everchanging and not locked into stone. The President certainly did take that action. He has subsequently taken additional action. He has come to the Congress and asked them to reconsider the position.[30]"

Mr. Holloway's testimony before the Senate Small Business Committee is even more straight forward:

"Senator LEVIN. I am reading your regulations.

"Mr. HOLLOWAY. Senator, as you may recall from the last hearings, it was made a matter of record at that time when I believe Senator D'Amato entered into the record a memorandum from the Office of Management and Budget that permitted us to continue the funding of the program, provided that we did not——

"Senator LEVIN. Mr. Holloway, I am reading to you from what I consider to be the laws of the land. I am familiar with that OMB memo.

"Mr. HOLLOWAY. Right.

"Senator LEVIN. Regulations are the laws of the land, and that law of the land is—this was a regulation made pursuant to law, I presume, wasn't it?

"Mr. HOLLOWAY. I believe it was, Senator.

"Senator LEVIN. You did not act lawlessly when you adopted this regulation, did you?

"Mr. HOLLOWAY. No, sir.

"Senator LEVIN. You wouldn't do a thing like that. Your regulation, made pursuant to the laws of the land and therefore part of the laws of the land, says that loans made with the proceeds of 503 debentures may be subordinated to such obligations. Now you are telling me that a memo from the OMB is now superior to this?

"Mr. HOLLOWAY. I am only telling you, Senator, that to commit the funds of the United States, I have to have an apportionment to do it from the Office of Management and Budget and to comply with all the terms and conditions of that apportionment.

"Senator LEVIN. Do you take your directives from the Congress or the OMB?

"Mr. HOLLOWAY. As far as the executive branch of the Government, my directives come from the White House.

"Senator LEVIN. Therefore, if the OMB tells you you may not do something which the Congress says you may do, you follow the directive from the White House?

"Mr. HOLLOWAY. I do not obligate money that is not apportioned to me by the OMB.

"Senator LEVIN. If the law of the land says that you may do something and OMB says you may not, you take the OMB?

"Mr. HOLLOWAY. They are a higher authority in the executive branch than I am, Senator, and I do—

"Senator LEVIN. Have you received a legal opinion as to whether you are now acting lawfully or lawlessly? Has your lawyer advised you on this issue?

"Mr. HOLLOWAY. I don't have an opinion on that specific, narrow point, Senator. However, it is clear that I have no authority to commit the United States beyond the funding level that I am given apportion-

ment, apportioned from the OMB and according to the terms and conditions of the apportionment.

"Senator LEVIN. But for that directive by the OMB, I presume you would follow your own regulations?

"Mr. HOLLOWAY. Yes, sir.

"Senator LEVIN. You have not changed that regulation, have you?

"Mr. HOLLOWAY. We have a proposal that is pending at OMB to change——

"Senator LEVIN. However, you have not yet changed that regulation?

"Mr. HOLLOWAY. It is not changed final, no, sir.

"Senator LEVIN. It is not even changed proposed, is it?

"Mr. HOLLOWAY. Yes, sir. It is pending at OMB. It is not in the Federal Register yet.

"Senator LEVIN. No, I am talking about publishing a proposed regulation.

"Mr. HOLLOWAY. It is not in the Federal Register yet.

"Senator LEVIN. Now the Small Business Investment Act of 1958 says, "Notwithstanding any other law, rule or regulation, or fiscal policy to the contrary, a guarantee authorized in the case of pollution control facilities or property may be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax." Are you familiar with that section?

"Mr. HOLLOWAY. Yes, sir, I am familiar, Senator.

"Senator LEVIN. That specifically says that you may issue such guarantees even though the interest is exempt from Federal income tax. Is that right?

"Mr. HOLLOWAY. Yes, sir.

"Senator LEVIN. OMB has told you that you may not.

"Mr. HOLLOWAY. The apportionment that I have does not permit me to obligate the funds of the United States on that basis, sir.

"Senator LEVIN. The OMB has told you you may not.

"Mr. HOLLOWAY. Senator, does not permit me to do that.

"Senator LEVIN. OMB wrote that apportionment.

"Mr. HOLLOWAY. That is correct. They approved it.

"Senator LEVIN. OMB told you you may not do something which Congress told you you may do. Isn't that what it really comes down to?

"Mr. HOLLOWAY. Senator, I can see that interpretation.

"Senator LEVIN. Can you see any other interpretation?

"Mr. HOLLOWAY. Yes, sir. I can see the interpretation that as an official of the United States, I will not commit the funds of the United States outside the authority that I have.

"Senator LEVIN. Of course, of course. I am saying, do you see any other interpretation than OMB has told you you may not do something which the Congress has told you you may do?

"Mr. HOLLOWAY. That is a fair interpretation, and I am in the executive branch.

"Senator LEVIN. I appreciate that, and I know at the moment you appreciate that. [Laughter.]

"Senator LEVIN. I want to ask you a question. It is just a common-sense, direct question.

"Mr. HOLLOWAY. Sure.

"Senator LEVIN. Is it not clear that the OMB has in effect told you you may not do something which the Congress has told you you may do?

"Mr. HOLLOWAY. That is correct."

On April 29, 1982, the Administrator of SBA appealed OMB's [31] decision to deny it guarantee authority for tax-exempt pollution control financings. The Administrator noted the hardship that applicants for tax-exempt guarantees were suffering as a consequence of delay in processing caused by OMB's injunction against such guarantees as well as the general detriment the entire program would suffer in changing its nature. He also expressed the view the OMB's directive had forced it to act "in apparent violation of the authorizing legislation and its own regulations concerning this program", citing an opinion of the agency's General Counsel. In the Administrator's opinion it was Congress' intent that "[t]he program was designed to allow small businesses to obtain access to the tax-exempt municipal bond markets." He concluded with a plea to be allowed to continue the program as before or, at a minimum, to complete processing or pending applicants who had not received "proper notice" of the termination of tax-exempt guarantee financing.[32] Thus, SBA's disposition was plainly to continue the program as it was prior to OMB's freeze and would have done so in the absence of the OMB directive. On May 26, 1982 OMB denied SBA's appeal, citing the Reagan Administration's overall policy against tax-exempt revenue financing and its view that some states "do not see a prohibition to their issuing taxable IRB's." OMB also denied permission to the agency to complete processing of pending applications since "the letter of the statute is permissive and the regulations do not interfere with the Administration's prerogative to exclude tax-exempt financing from the program." [33]

On the basis of the foregoing, it would appear fair to conclude that OMB has substituted its judgment for that of the officials in whom Congress has expressly vested administrative discretion. It might be argued that all that has occurred in this situation is that OMB has expressed a strong policy judgment in the matter but has not taken the administrative machinery out of the agency official's hands and itself effected the final decision. Thus, it may be contended, as long as the agency itself has the last word or action, its discretion can be said to be preserved. However, this would seem to leave little substance to the Supreme Court's view of the nature of administrative discretion, which it saw as consisting of an official's exercise of "his authority according to his own understanding and conscience," or the common understanding of the term. Moreover, Administrator Sanders' letter of April 29 belies that he acted with any such volition; and the failure of the agency to repeal its own regulation reflecting a contrary policy after almost a year and a half is substantial evidence that SBA has not acted on its own.

B. *Does OMB Have Independent Authority to Act In The Matter?*

Demonstrating that OMB has substituted its judgment for that of SBA does not conclude the matter if OMB can show it has an independent source of authority to so act. Three possible sources might be pointed to support such a position: First, the general governmental policy against federal agency support of tax-exempt issuances; second, the Antideficiency Act; and third, the authority of the President to supervise and coordinate the executive agencies of government to assure that the laws are faithfully and consistently administered.

1. *Governmental Policy Disfavoring Guarantees of Tax-Exempt Financing.* OMB's denial letter of May 26, 1982 states that its position "is consistent with the [Reagan] Administration's efforts to preclude tax-exempt revenue financing especially in conjunction with an indirect Federal guarantee, as in this SBA program." That policy finds its source in a 1941 law [34] and is currently being invoked by the Treasury Department, as chief spokesman of the Administration in this area, to justify its efforts to reduce budget deficits through control of the government's credit policy.[35] That general statutory policy, however, finds an express exception in section 404(b) of the Small Business Investment Act of 1958.[36] A Treasury Department official dealt with this apparent statutory conflict as follows:

"Mr. BEDELL. All I've got to do is repeat that exact statement to my audiences if I want to just absolutely prove my point, Mr. Chapoton.

"Well, all the chairman knows at this time is to plead with you to realize what is happening. I think the other thing that disturbed me somewhat is that you testified that allowing SBA guarantees for tax-exempt pollution control obligations is directly contrary to the policies expressed by Congress in those enactments, You're talking about a 1941 law—and in 1976, Congress passed legislation that clearly stated otherwise. Are you aware of that?

"Mr. CHAPOTON. Yes, I'm aware of that. There have been a number of acts, I think.

"Mr. BEDELL. If you're aware of that, why would you put in testimony only about the 1941 law and not put in what is the most recent legislation which clearly indicates that Congress does want this the other way? Why would you do that?

"Mr. CHAPOTON. I think the 1941 law was the starting point of a long standing Federal credit policy, and that policy has been reflected in numerous pieces of legislation since then, and I understand the argument that it conflicts with the SBA program that was adopted in the midseventies.

"Mr. BEDELL. Which would you think we should go by? The last law passed or the first law passed?

"Mr. CHAPOTON. From our policy standpoint, we start cutting back in these areas of Federal credit guarantees. We certainly would look to, and OMB did look to, a long standing administration and, indeed, Government policy on Federal guarantee of tax exempts. Now, that obviously is in conflict now, but that is the policy that we followed and it is consistent with the policy that we followed all along." [37]

At best, the Treasury/OMB position appears to be that the general statutory policy is preferable and that statutory exceptions will be ignored. A better argument might be that since the 1976 provisions is an exception to the general policy, it is to be narrowly construed. The Administration's positions, however, leaves no area for possible action by SBA in the tax-exempt financing field. In that case, it is unlikely that a court called upon to rule with respect to the statutory conflict would deny the validity and continued efficacy of the 1976 exception.

2. *The Antideficiency Act.*

It would appear that the technical mechanism by which OMB has prevented SBA from fully utilizing its loan guarantee authority is the issuance of an Apportionment and Reapportionment Schedule pursuant to its authority under the Antideficiency Act.[38]

Under that Act the Director of OMB has been assigned the task of apportioning and

reapportioning appropriations of the Executive Branch. In order to assess the validity of OMB's exercise of this authority, it is necessary to understand the nature, purpose, and scope of the Act.

The Antideficiency Act is the linchpin of a complex of legislative solutions to deal with the problem of irresponsibility on the part of government officials entrusted with the duty of spending public monies properly and is intended to protect and preserve the congressional power of the purse.[40] It evolved in response to a history of executive agency disregard of congressional spending limitations,[41] which included making obligations in excess or in advance of appropriations; commingling funds which had different purposes; spending for unauthorized purposes; and spending appropriated funds in the first months of the fiscal year and effectively coercing deficiency or supplemental appropriations out of the Congress. In its present form, the underlying principle of the Act is that government should be a "pay as you go" operation. Officials are enjoined by its provisions not to make payments, or to commit the United States to make payments at some future time, for goods and services unless there is an available appropriation. The Comptroller General has summarized its purpose as follows:

"These statutes evidence a plain intent on the part of the Congress to prohibit executive officers, unless otherwise authorized by law, from making contracts involving the Government in obligations for expenditures of liabilities beyond those contemplated and authorized for the period of availability of and within the amount of the appropriation under which they are made; to keep all the departments of the Government, in the matter of incurring obligations for expenditures, within the limits and purposes of appropriations annually provided for conducting their lawful functions, and to prohibit any officer or employee of the Government from involving the Government in any contract or other obligation for the payment of money for any purpose, in advance of appropriations made for such purpose; and to restrict the use of annual appropriations to expenditures required for the service of the particular fiscal year for which they are made." [42]

Under section 665(c)(1) and (d)(2) of the Act, all appropriations are required to be administratively apportioned by the Director of OMB so as to ensure their expenditure at a controlled rate which will prevent deficiencies from arising at the end of a fiscal year. Apportionment is also required to ensure that there is no curtailment of the activity for which the appropriation is made.[43] That is, the apportionment requirement is designed to prevent an agency from spending its entire appropriation before the end of the fiscal year and then putting Congress in a position in which it must either grant an additional appropriation or allow the entire activity to come to a halt. The goal of the process, in the words of the statute, is "to achieve the most effective and economical use" of appropriated monies.[44]

OMB's apportionment authority, however, is not unlimited. It is bounded by the narrow and specific purposes of the Act of curbing agency fiscal irresponsibility and achieving the most economical and efficient use of appropriated monies. It is not meant to be a vehicle for direct or indirect alteration of the substantive ends for which Congress made the appropriations. In this regard, for example, the Comptroller General found that OMB had abused its apportionment authority when it attempted to prevent the Securities Exchange Commission from hiring personnel which had been authorized by the Congress. In condemning such a use of the apportionment power the Comptroller General stated:

"[T]he apportionment power may not lawfully be used as a form of executive control or influence over agency functions. Rather, it may only be exercised by OMB in the manner and for the purposes prescribed in 31 U.S.C § 665—*i.e.*, to prevent obligation or expenditure in a manner which would give rise to a need for deficiency or supplemental appropriations, to achieve the most effective and economical use of appropriations and to establish reserves either to provide for contingencies or to effect savings which are in furtherance of or at least consistent with, the purposes of an appropriation.

"As thus limited, the apportionment process serves a necessary purpose—the promotion of economy and efficiency in the use of appropriations." [45]

Thus, while the appropriations of executive departments and agencies, including independent regulatory agencies, are subject to apportionment by OMB, OMB may not lawfully use its apportionment power to compromise the independence of those agencies to pursue goals and carry out tasks clearly committed to them by the Congress.

In view of the foregoing two questions arise: Is SBA's loan guarantee authority subject to the apportionment process at all? Assuming it is, has OMB lawfully exercised that power?

The Antideficiency Act's apportionment process is specifically limited to "appropriations, funds, and authorizations to create obligations by contract in advance of appropriations." The process therefore is concerned with the allocation of *budget authority*, a term that is statutorily defined to *exclude* loan guarantees: "The term 'budget authority' means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to ensure or guarantee the repayment of indebtedness incurred by another person or Government."[46] It is well recognized that loan guarantees are contingent liabilities, a conditional commitment that may become an actual liability because of a future event beyond the control of government. Thus when a loan is guaranteed, no obligation of funds occurs until the Federal government becomes legally required to honor its guarantee, if ever, upon the default of the borrower. Then, a liquidating appropriation is made, if necessary. This is in contrast with contract authority, where the contract authority itself counts as budget authority whereas the liquidating appropriation that must be subsequently made does not.[47] The General Accounting Office has succinctly explained the nature of loan guarantees as follows:

"The making of a loan guarantee does not involve an actual expenditure of Federal funds. The expenditure is made if and when the agency is required to pay on the guarantee, *i.e.*, when the borrower defaults, at which time the agency must seek a liquidating appropriation. Congress has little choice but to appropriate the necessary funds since the guarantee is generally backed by the full faith and credit of the United States. This is an example of so-called "backdoor spending"—expenditures which are effectively beyond the control of the appropriations process.

"When the original guarantee is made, the extent to which a liquidating appropriation may be needed cannot be known. Therefore, the making of the guarantee does not create budget authority. Budget authority is created by the liquidating appropriation. The Congressional Budget Act of 1974 recognizes this concept in the definition of "budget authority" by providing that the term "does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or Government." 31 U.S.C. § 1302(a)(2). Thus, most Federal loan guarantee programs lie outside the Federal budget." [48]

Thus loan guarantees do not appear to be encompassed with the apportionment authority of OMB. Indeed, a closely similar question was presented to the Comptroller General regarding the practice of the Economic Development Administration, which had statutory authority to guarantee certain loans, of obligating amounts equal to 25 percent of the total loans it guaranteed each year to serve as a contingency reserve against possible losses. The question presented was whether the practice violated the Antideficiency Act if the face amount of the loans exceeded available appropriations. The Comptroller found no violation even though it was possible that in the future a deficiency appropriation might be needed since there was specific statutory authority for the loan guarantee program and Congress had acquiesced in this funding method.[49] In sum, the General Accounting Office has concluded that "Generally, loan guarantees do not present Antideficiency Act problems as the statutory authority to guarantee loans is viewed as authority to incur obligations in advance of appropriations." [50]

In light of these established principles and precedents, a serious question may be raised whether OMB's exercise of its apportionment power to restrict SBA to utilization of only $150 million of its $250 million loan guarantee authorization level is lawful since it does not involve appropriated monies.

Even assuming loan guarantee levels may be viewed as falling within scope of OMB's authority, it may be questioned whether the particular exercise here was proper. As may be recalled, OMB's apportionment action not only diminished the guarantee limit from $250 to $150 million, it also restricted the remaining authority to guarantees of taxable bond issues, the effect of which has been to bring the program to a halt.[51] As has been previously indicated, OMB's sole rationale for this action is effectuate the Reagan Administration's overall policy of cutting back on this credit mechanism throughout the government as a means of enhancing tax revenues to offset budget deficits. The action is therefore plainly intended to achieve a substantive change in the program that is at apparent odds with Congress' expressed intentions, and contrary to the limited purposes of the Antideficiency Act of achieving economy and efficiency through controlled use of appropriated funds.[52]

3. *Presidential Authority to Supervise and Coordinate the Execution of Policy of Subordinate Officials.*

It may be contended that OMB's authority derives directly from its position as chief managerial agent for the President and that as a consequence it can, when properly authorized by the Chief Executive, exercise the President's constitutional authority to "supervise and guide" subordinate executive

officers in carrying out their statutory duties. The argument might run as follows. Article II of the Constitution reposes all executive power in a single Chief Executive,[53] and charges him to "take Care that the Laws be faithfully executed." [54] It also provides the means for executive control of administration. By vesting the entire "executive power" in the one federal officer with a national constituency, the framers accommodated the twin notions of accountability and efficiency. The sparse but important provisions that follow develop lines of authority reflecting the competing claims of administrative necessity and separation of powers. The President can appoint executive officers [55] and require them to report to him so that he can determine whether the laws are being "faithfully executed.[56] The ability to require reports necessarily implies the right to confer with those officers. The President in turn must periodically report to Congress concerning the progress of the administrative operation and may suggest further legislative action. This scheme implies operational oversight and management of the administrative process, if not some degree of substantive control, and suggests a line of authority that runs from Congress to the President rather than from Congress to subordinate executive officers.

Substantial support for the foregoing conception of executive power over administration may be said to derive from the Supreme Court's landmark decision in *Myers* v. *United States.*[57] The "take Care" clause, as construed in *Myers* may be seen to authorize the President, as head of the Executive Branch, to "supervise and guide" executive officers in carrying out the statutes under which they act so that there can be some measure of uniformity in the interpretation and execution of the diverse laws enacted by the Congress. A denial of such guidance from the sole officer vested with executive power under the Constitution could result in confusion and inconsistency amongst government agencies. While it may be conceded that Congress may so delimit a delegation of authority to a subordinate official as to preclude presidential supervision of decisionmaking, such cases are rare, and it must be presumed that when Congress delegates broad decisionmaking authority to heads of non-independent agencies, it is aware that they are removable at the will of the President and thus it would be anomalous to believe that Congress would make such delegations with a lack of understanding of the existence of that control relationship. From these premises, then, it could be concluded that the standard to be applied for determining the permissible extent of presidential guidance and supervision is to be based on the degree of displacement of subordinate officer discretion. In an analogous situation, involving the assertion of presidential control of agency rulemaking by means of executive order, the Justice Department's Office of Legal Counsel formulated the applicable standard as follows: "[S]upervision is more readily justified when it does not purport wholly to displace, but only to guide and limit, discretion which Congress has allocated to a particular subordinate official. A wholesale displacement might be held inconsistent with the statute vesting authority in the relevant official." [58]

Close analysis of the foregoing argument, however, reveals that the inferences drawn from the constitutional text are neither so compelling nor clear as they first appear, nor does it comport with actual historical practice or authoritative constitutional interpretations spanning almost two centuries. It is well understood that, notwithstanding their experience under the Articles of Confederation, the framers did not intend the presidency to be an institutional competitor to the Congress. Arguably, they did not conceive of the President as an administrative manager with a general power to control the acts of executive officers.[59] This view also draws support from the language of article II. The vesting of "executive power" in the President may locate the situs of power but it does not define its content; the "take Care" clause does not say that the President will execute the laws; and the ability to require written reports from department leads on their activities does not naturally lead to an inference of power to direct the activities of those who report. The wording may thus suggest oversight of execution by others rather than direct execution by the President. The idea that power over administrative decisionmaking derives from the President's role as head of the executive branch or inheres in the concept "executive power", moreover, is inconsistent with a written constitution establishing divided, balanced, limited government.

A brief review of historical and legal practice and precedent underlines the preeminent role Congress was meant to play in the determination of domestic policy. According to the prevailing view, the framers intended the constitutional role of the Chief Executive, at least in domestic affairs, to be ancillary to that of the legislature. They believed that the President would be a managerial agent for the legislature rather than an independent source of domestic policy.[60] This view is evidenced by a number of contemporaneous sources. Statutes enacted by the earliest Congresses, for example, reveal an assumption that Congress, not the President, should direct the operation of domestic agencies, and that presidential control over the execution of domestic laws was purely a matter of legislative authorization. In establishing the Departments of Foreign affairs,[61] War,[62] and the Navy,[63] Congress recognized that the President should have full control over those officers who would perform highly sensitive and political functions that the Constitution explicitly vests in the Chief Executive—such as the conduct of foreign affairs and the command of the military. The statutes creating those departments explicitly empowered the President to direct and control their activities. Provision for presidential direction, however, was conspicuously absent in the statutes creating domestic departments such as the Treasury,[64] the Post Office,[65] and the Interior Department.[66] The Treasury Department statute, for example, did not even mention the President; it required the Secretary to report to Congress "and generally perform all such services relative to the finances, as he shall be directed to perform." [67] Such direction, the context makes clear, was to come from Congress, not the President. Indeed, for a significant period in our early history, the President did not see departmental budget estimates before the Treasury Department transferred them to Congress, and the Secretary recommended tax policy directly to Congress.[68] Similarly, the Postmaster General was given detailed discretionary duties with no suggestion that he was to be under other than congressional direction in performing these tasks.[69]

The opinions of Attorneys General throughout the nineteenth century echo the view that the "take Care" clause does not authorize the President to control subordinate officials in the exercise of their statutory discretion. For example, when pensioners tried to appeal the Comptroller's decision regarding the level of veterans' pensions directly to the President, Attorney General Wirt advised that the Comptroller's statutory authority was exclusive:

"If the laws, then, require a particular officer by name to perform a duty, not only is that officer bound to perform it; but no other officer can perform it without a violation of the law; and were the President to perform it, he would not only be taking care that the laws were faithfully executed, but he would be violating them himself." [70]

In the same vein, Attorney General Mason concluded in 1846 that the President's power to ensure that his subordinates "faithfully" execute their statutory duties does not confer on him "the power of correcting, by his own official action, the errors of judgment of incompetent or unfaithful subordinates." [71] Other Attorneys General applied this rule to a wide variety of situations where a subordinate was directly vested with authority by Congress,[72] so that, by 1884, Attorney General Brewster could inform the President of a "well settled" general rule: "it has repeatedly been held that the observance of your constitutional duty of taking care that the laws be faithfully executed does not of itself warrant your taking part in the discharge of duties developed by law upon an executive officer." [73]

The original view of the limited nature of presidential control over the discretionary actions is confirmed by contemporaneous judicial precedent as well. The first of these, *Gilchrist* v. *Collector of Charleston,*[74] was heard in May 1808 by Supreme Court Justice Johnson, sitting on circuit in the District of South Carolina. The case involved section 11 of the Act of April 25, 1808 which had vested in customs collectors the authority "to detain any vessel ostensibly bound with a cargo to some other port of the United States, whenever in their opinions the intention is to violate or evade any of the provisions of the acts laying an embargo, until the decision of the President of the United States be had thereupon." President Jefferson interpreted this authority very broadly and ordered the Secretary of the Treasury "to recommend to every collector to consider every shipment of provisions, lumber, flaxseed, tar, cotton, tobacco, etc., enumerating the articles, as sufficiently suspicious for detention and reference here." Shortly, in accordance with Jefferson's criteria, a vessel was detained in Charleston, despite the personal belief of the collector that its destination was as stated and that the owners did not intend to break the embargo. The shipowner applied for a writ of mandamus to compel issuance of a clearance. Justice Johnson granted the writ, holding that the discretionary authority vested in collectors by the legislation could not legally be altered by an instruction of higher executive officials. "[T]he act of Congress does not authorize the detention of this vessel." [75] Without the sanction of law, Johnson opined, "the collector is not justified by the instructions of the executive, in increasing restraints upon commerce.* * *" [76]

Next, in *Kendall* v. *United States,*[77] a statute directed the Postmaster General to pay a group of individuals who had delivered the mail for a number of years an amount determined by the Solicitor. The Postmaster General, apparently at the express direction of the President, refused to pay the full amount that the Solicitor had found owing.

The Supreme Court, viewing the Postmaster General's duty to pay the full amount as ministerial rather than discretionary, held that the President had no authority to direct the Postmaster General's performance of his statutory duty. Despite the *Kendall* Court's narrow holding, key passages in the opinion reflect the nineteenth-century notion that the President may not direct the manner in which executive officers carry out their discretionary functions. Where Congress has imposed upon an executive officer a valid duty, the *Kendall* Court declared, "the duty and responsibility grow out of and are subject to the control of the law, and not to the direction of the President." [78] Underlying the Court's rejection of the contention that the "take Care" clause carries with it the power to control executive officials was a strong desire to avoid "clothing the President with the power entirely to control the legislation of Congress." [79] Other early cases, like *Kendall*, also reflect the primacy of Congress in domestic affairs.[80] Congressional enactments, legal opinions of the various Attorneys General, and early judicial precedent thus establish that the President's role in the scheme of government established by the Constitution for more than a century of our nation's existence was that of a managerial agent for the legislature.[81] This prevailing view was premised on the assumption that presidential power was not essentially constitutionally based, but emanated from the legislative will, an assumption that traced its roots to the reasons for founding the Republic.[82] This view, moreover, carries with it the concomitant notion that presidential efforts to control the administrative actions of subordinate officers must find their bases in explicit constitutional provisions, express statutory enactments, or the clearest of implications from a congressional mandate or course of practice. The lack of congressional prohibition is, under this view, insufficient in itself to support executive power to control administrative discretion, even indirectly.

While the President's authority directly to control his subordinates' performance of specific statutory duties occupied the attention of legal scholars and the courts in the nineteenth century, twentieth-century judicial precedents address a more indirect means of influence: the President's power to remove subordinate officials. *Myers* v. *United States,*[83] the leading case, held unconstitutional a statute providing that postmasters appointed by the President with the Senate's consent shall hold office for four years unless "removed by the President by and with the advice and consent of the Senate.[84] The President's responsibility to "take Care that the Laws be faithfully executed," the Court reasoned, demands that he have qualified authority to remove as well as to appoint subordinate officials.[85] Chief Justice Taft's majority opinion has been read as discerning broad supervisory power vested in the President by article II: The President, he concluded, must have the authority to "supervise and guide" at least some decisions of subordinate officers "to secure that unitary and uniform execution of the laws which Article II * * * evidently contemplated in vesting general executive power in the President alone." [86]

Reliance an *Myers* in the instant situation would be misplaced. The indirect power of removal differs significantly from OMB's action divesting SBA of its authority to issue guarantees for tax-free financing, and the Court's opinion nowhere goes so far as to hold that the President may direct the outcome of all decisions specifically committed by statute to a subordinate. The Court carefully distinguished the "ordinary duties of officers prescribed by statute" from those duties "so peculiarly and specifically committed to the discretion of a particular officer as to raise a question whether the President may overrule or revise the officer's interpretation of his statutory duty in a particular instance.[87] Because the former duties "come under the general administrative control of the President," he may properly "supervise and guide" their performance.[88] But Taft's opinion makes clear that the Chief Executive's power to "supervise and guide" his subordinates in the conduct of "ordinary duties" [89] prescribed by statute does not extend to the decisionmaking functions committed by law to his subordinates' discretion. The President may remove a subordinate for negligent or inefficient use of that discretion; he may not, however, exercise his removal power before the subordinate has exercised the personally committed discretion.[90]

This requirement is not an empty procedural nicety. Although the President may remove an officer for a particularly offensive decision, he obviously cannot use the removal power to exert control over all administrative decisionmaking. The threat of removal, of course, gives the President great influence, but the decision that prompted the removal remains unaltered, and perhaps unalterable,[91] until a new appointee reverses the offensive action.[92] After-the-fact removal, moreover, gives Congress notice of the dispute and an opportunity to clarify its intent on the matter or to refuse to confirm a new nominee to an advice and consent position. Limiting the President to after-the-fact removal thus partially prevents secret or undue Executive influence in an area committed to a particular subordinate's discretion.

Reliance on *Myers* is misplaced for a second reason as well: More recent cases have greatly limited the removal power that the Court once recognized. Distinguishing between purely executive officials such as the postmaster in *Myers* and officials who, while titularly within the executive branch, perform quasi-judicial or quasi-legislative functions, the Court has held that the President may not remove the latter type of official without cause. In *Humphrey's Executor* v. *United States,*[93] the President had removed a member of the Federal Trade Commission without cause despite a statutory provision that precluded removal except for "inefficiency, neglect of duty, or malfeasance in office." In rejecting the idea of an illimitable presidential removal power, the Court emphasized the distinction between officials who performed purely executive tasks and those who carried out rulemaking and adjudication. "[A]n administrative body created by Congress to carry into effect legislative policies," the Court declared, "cannot in any proper sense be characterized as an arm or eye of the executive." [94]

The most recent removal case, *Wiener* v. *United States,*[95] reiterated the *Humphrey's* Court's distinction between purely executive and other types of administrative officials. The *Wiener* Court held that the President lacked the authority to remove a member of the War Claims Commission even though the Commission's founding statute had no removal provision. Because the official performed adjudicative tasks more closely allied to the judicial than the executive power, the Court reasoned that Congress intended to deny the President the power of removal. *Humphrey's* and *Wiener* thus teach that the scope of presidential authority depends on the agency function that the President seeks to control. Where that function is legislative or judicial in nature, authority for presidential control cannot be implied from the Constitution.

Two post-*Myers* and *Humphrey's* Supreme Court rulings also confirm the ability of Congress to protect the discretion of subordinate officers from presidential interference. In *United States ex rel. Accardi* v. *Shaughnessy* [96] the Court held that when a federal officer is legally vested with discretionary authority, he may not be directed in the use of that discretion by a superior officer. The Court stated that "If the word 'discretion' means anything in a statutory or administrative grant of power, it means that the recipient must exercise his authority according to his own understanding and conscience." [97] The Court then held that the Attorney General could not direct the use of a subordinate's discretion, even where the Attorney General had himself granted the discretion to the subordinate and retained ultimate review of the decision for himself.

Accardi was subsequently relied on by the Court in *United States* v. *Nixon.*[98] There the Court held that the Watergate Special Prosecutor could sue the President under a regulation issued by the Attorney General which defined the Special Prosecutor's authority and specifically gave him authority to contest the assertion of executive privilege. The Court stated:

"Here, as in *Accardi,* it is theoretically possible for the Attorney General to amend or revoke the regulation defining the Special Prosecutor's authority. But he has not done so. So long as this regulation remains in force the Executive Branch is bound by it, and indeed the United States as the sovereign composed of the three branches is bound to respect and enforce it. Moreover, the delegation of authority to the Special Prosecutor in this case is not an ordinary delegation by the Attorney General to a subordinate officer; with the authorization of the President, the Acting Attorney General provided in the regulations that the Special Prosecutor was not to be removed without the "consenus" [sic] of eight designated leaders of Congress." [99]

In sum, it is apparent that Supreme Court rulings in the context of the exigencies of twentieth century governance have not diluted to any significant extent the historic limitations on the exercise of Executive power over administrative decisionmaking. Thus it appears clear that there is neither express nor implied constitutional authority in the President or his delegate, OMB, to displace the discretion vested by Congress in SBA. The legal theory necessarily underlying that action would encompass and envelop all official discretion not specifically excepted by statute. This appears to plainly ignore the intent of the framers and the teachings of the Supreme Court.

c. *Has SBA Complied With the Requirements of the Administrative Procedure Act and Principles of Due Process?*

The Administrative Procedure Act (APA) [100] exempts from its notice and comment requirements rulemakings which involve "a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." [101] While this exemption would clearly cover the SBA activities here under examination, the agency unequivocally waived its privi-

lege in 1971.[102] The waiver is now codified at 13 C.F.R. 101.9 (1982) and provides as follows:

"§ 101.9 Public participation in rulemaking.

"SBA is governed as a matter of policy by the public participation provisions of the Administrative Procedure Act, 5 U.S.C. 553, notwithstanding the exemptions given by such section 553 for matters relating to agency management or personnel, or to public property, loans, grants, benefits, or contracts. Where, as provided by 5 U.S.C. 553, it is determined that such public participation procedures would be impracticable, unnecessary, or contrary to the public interest, a specific finding to this effect shall be published with the rules or regulations in question. Such exceptions from public participation procedures are not to be favored and will be used sparingly, as for example, in emergencies and in instances where public participation would be useless or wasteful because proposed regulations, or amendments thereto, cover minor technical matters. In connection with any notice of proposed rulemaking, written material or suggestions submitted will be available for public inspection during regular business hours at the office indicated in such notice."

On December 8, 1977, SBA initiated a notice and comment rulemaking proceeding to implement its mandate with respect to the pollution control facilities loan guarantee program.[103] Following 60 days of public comment SBA issued its final rules which reflected substantive modifications of its original proposal as a consequence of the comments and its experience with several pilot projects.[104] It declared it to be the policy of the agency to issue loan guarantees "notwithstanding that the pollution control facility is acquired by the use of proceeds from tax-exempt industrial revenue bonds,"[105] and established the substantive requirements that applicants must meet and the procedures for application.[106] The consistent and exclusive practice of SAB from the inception of the program until December 1981 was to guarantee only contracts which received proceeds from tax-exempt bond issues. In December 1981, OMB enjoined SBA from issuing such guarantees. SBA complied. At no time prior to the termination of this aspect of the program did SBA give public notice that it was considering a change in its stated policy nor has the agency to date initiated a rulemaking proceeding pursuant to the requirements of the APA to revoke its established policy.

As a consequence of OMB's directive that SBA cease issuing such guarantees after December 31, 1981, 120 applications for $129 million in guarantees were stalled and have never been issued.[107] No new applications have been considered. Old applicants have been given the choice of having their applications considered on a taxable financing basis. Some have accepted this alternative, others have withdrawn their applications. Most have not responded.[108] Testimony has been given that taxable financing is not a feasible alternative for most small businesses.[109] The SBA itself has indicated that because it now only has the option of offering guarantees for taxable financing, the program has come to a standstill because of the higher cost of money and fees under taxable financing to the small concerns which they cannot bear, and the lack of interest in such instruments in the money markets. Moreover, SBA has noted that the sudden termination has caused hardship to applicants caught in the freeze. Some were under severe time constraints imposed by regulatory authorities. Others, acting in reliance on past agency policy and practice, had incurred engineering and other preconstruction expenses. Finally, it is SBA's assessment that the change in the nature of program has caused it substantial detriment.[110]

Based upon the foregoing circumstances, a substantial case may be made that SBA has violated its obligations under the APA and impinged upon the Fifth Amendment due process rights of applicants for guarantees.

It is very well established that an administrative agency's failure to follow its own duly promulgated rules is a violation of due process.[111] SBA would appear to have violated this principle in two respects: by its failure to follow its own rule that it would adhere to APA rulemaking requirements; and by failing to process pending applications and to receive and process new ones in accordance with the policy and procedures established by its own rules which have never been revoked. The manner in which the courts have dealt with these issues is illustrated by the following cases which, among some of their common factual and legal issues, involve agencies like SBA which waived their exempt status under 5 U.S.C. 553(a)(2).

In *Berends* v. *Butz*[112] the Secretary of Agriculture had declared several counties in Minnesota disaster areas and in accordance with applicable statutes, affected farmers were entitled to apply for emergency relief loans. Interested farmers were informed that applications would be accepted and processed through June 30, 1973, that farmers should not apply until after their harvest was in so as to account for all losses, and that an abundant supply of funds was available in the program. For these and administrative reasons farmers were encouraged not to file applications until after January 1973. On December 27, 1972, without prior notice, the Secretary ordered the cessation of acceptance of emergency loan applications. The court held that the Secretary's action violated applicable statutes, agency regulations and due process of law. The court reasoned that the regulations involved gave the Secretary discretion whether or not to designate an area eligible for emergency relief, but that once he had exercised his discretion he had a duty to process those applications until the designations were duly revoked. "The language in the regulations is mandatory and the Secretary is directed to consider applications for emergency loans in designated areas. The refusal to consider applications for emergency loans in designated areas is a violation of the Department's regulations."[113] The unilateral termination without notice was also held to "offend all traditional notions of fair play."[114] The court further held that the unilateral termination without notice violated the agency's regulation voluntarily subjecting itself to APA rulemaking procedures which, in turn, meant it had violated the applicable procedures of the APA that it had ignored.[115]

In *Arlington Oil Mills, Inc.* v. *Knebel*,[115a] the Court of Appeals for the Fifth Circuit held that a July 6, 1967 press release by the Department of Agriculture amending a March 19, 1976 determination concerning peanut price support levels was void for failing to comply with APA rulemaking procedures. The same waiver involved in *Berends* v. *Butz* was still in effect and the price support levels previously had consistently been set through notice and comment proceedings, including the March 19 determination. The July 6 revocation was without any prior notice or public proceedings. The Department argued that its July 19 announcement was simply a reconsideration of its March 19 announcement and thus those interested had already had adequate notice prior to the March 19 announcement. In rejecting this contention, the court stated:

"When the Department issued its March 19 press release concerning peanut differentials for the 1976 crop year, it had made a determination which was 'final and conclusive' under 7 U.S.C. § 1429. Any further consideration by the Department of whether to alter this final decision fell within the APA's definition of rulemaking an 'agency process for formulating, amending, or repealing a rule,' 5 U.S.C. § 551(5), and the rulemaking procedures of the APA fully applied to the Department's determination of its July 6 announcement.

"U.S.C. § 553. Accordingly, the duties imposed upon the Department under the APA in relation to the July 6 announcement were not complied with merely because the Secretary had fulfilled his APA obligations in relation to the March 19 announcement. The district court correctly concluded that the Secretary was required to provide adequate notice that reconsideration was underway and to give all interested persons a reasonable opportunity to participate and present their views before he arrived at the July 6 announcement. 5 U.S.C. § 553 (b), (c)."[115]

The court also rejected a contention that since the March 19 rulemaking was defective in that it had not been published in the Federal Register, it should not be obligated to rescind in conformity with APA requirements. The court's answer was that where the original rule was promulgated in substantial conformity with the APA, its repeal must be effected in the same manner:

"The defendant-intervenors argue that the district court's treatment of the Department's two announcements is inconsistent and that either both must stand or both must fall as all parties had actual notice and an opportunity to participate in the rulemaking process in both instances. This argument has merit only if the procedures utilized by the Department in reaching its decision to make the reconsidered announcement were substantially similar to those involved in reaching its initial decision. It would be meaningless to require notice and a reasonable opportunity to participate in rulemaking, if after announcement of a rule, the agency could closet its intent to reconsider and completely undo the rule first made.

"Our recitation of the events preceeding the Department's two announcements, however, clearly demonstrates that we are not confronted with choosing between Tweedledee and Tweedledum. The simple answer to the defendant-intervenors argument is that the March 19 announcement was determined in conformity with the APA with all interested parties having adequate notice and a full, fair opportunity to submit information and assert their views while the July 6 announcement was not."[116]

The essentiality of conforming to APA requirements when revoking a rule as well as during the promulgation process was underlined in *Consumer Energy Council of America* v. *FERC*.[117] There, FERC had promulgated a rule pursuant to informal rulemaking procedures which was subjected to subsequent legislative review and veto by the Congress. After the veto, CECA petitioned FERC for a rehearing on the rulemaking to eliminate a provision in it conditioning its

effectiveness on its survival of the congressional review process. FERC, however, instead revoked the rule to prevent it from taking effect should the veto be declared unconstitutional, and before the appeals court argued that the revocation was valid since it was issued as a result of a petition for reconsideration of the original rule and thus was effectively a continuation of the original proceeding which was properly conducted. The court disagreed, holding that such reasoning would defeat the rationale underlying notice and comment rulemaking:

"Section 553 (b) and (c) set forth notice and comment requirements for "rule making," [72] which is defined in section 551(5) to mean "agency process for formulating, amending, or repealing a rule." [73] Thus, the APA expressly contemplates that notice and an opportunity to comment will be provided prior to agency decisions to repeal a rule. If the notice and comment provided prior to a rule's promulgation were meant to be sufficient to encompass any later repeal of the rule, simply because there was always a possibility that no rule would be adopted, the statute never would have included repeal of a rule within the definition of rulemaking.[74]

The value of notice and comment prior to repeal of a final rule is that it ensures that an agency will not undo all that it accomplished through its rulemaking without giving all parties an opportunity to comment on the wisdom of repeal. Such an opportunity was lacking here. The Commission consistently stated that it had no choice but to issue a broad Phase II rule.[75] The Commission issued a final rule, and petitioners sought to amend the provision making the rule's effectiveness contingent on legislative review. Although the petition for rehearing said nothing about repealing the rule, and no other party requested such action, the Commission went ahead and rescinded it. The specific concerns that motivated this decision—the constitutionality of the legislative veto and the results that might follow from a judicial decision to stike down the veto—were different from those raised during the original rulemaking. All of these factors demonstrate that notice and comment would have been useful prior to repeal, and thus buttress further our conclusion that the Commission was required to follow section 553.[76] [118]

Finally, a recent ruling of the Court of Appeals for the Third Circuit in *National Resources Defense Council, Inc.* v. *EPA* [119] appears pertinent here. In that case EPA postponed indefinitely the effective date of final amendments to certain regulations dealing with the discharge of toxic pollutants into publicly owned treatment works. It was argued that the indefinite postponement was not a rule and therefore was not subject to the APA. The court concluded that a indefinite postponement was a covered rule for if it were not subject to the APA it would cloak surreptitious repeals.

If the effective date were not "part of an agency statement" such that material alterations in that date would be subject to the rulemaking provisions of the APA, it would means that an agency could guide a future rule through the rulemaking process, promulgate a final rule, and then effectively repeal it, simply by indefinitely postponing its operative date. The APA specifically provides that the repeal of a rule is rulemaking subject to rulemaking procedures. 5 U.S.C. § 551(5). Thus, a holding that EPA's action here was not a rule subject to the rulemaking procedure of the APA would create a contradiction in the statue where there need be no contradiction: the statue would provide that the repeal of a rule requires a rulemaking proceeding, but the agency could (albeit indirectly) repeal a rule simply by eliminating (or indefinitely postponing) its effective date, thereby, accomplishing without rulemaking something for which the statute requires a rulemaking proceeding. By treating the indefinite postponement of the effective date as a rule for APA purposes, it is possible to avoid such an anomalings results.[120] *A fortiori*, SBA could not assert that the suspension involved here is some sort of postponement and not final action that would require a public rulemaking proceeding.

It might be argued by SBA that although it has waived its exemption under 5 U.S.C. 553(a)(2), it has not waived the exception it would have for "interpretative rules and general statements of policy" [121] which would allow it to bypass the public notice and comment requirements applicable to agency regulations. It would then further argue that 13 C.F.R. Part III is either an interpretative rule which is meant "to advise the public of the agency's construction of the statute which it is administering" or a general statement of policy which it has issued "to advise the public prospectively of the manner in which the agency proposes to exercise its discretionary power,[122] thereby obviating the necessity for compliance with the informal rulemaking requirements of the APA.

The courts have consistently held that rules, whatever they are labelled by an agency, are substantive or legislative and subject to APA procedure if they have the effect of creating or altering substantive obligations or rights of persons outside the agency.[123] Under the instant circumstances it would appear difficult for SBA to sustain a position of non-applicability under the impact test. By its own assessment applicants have relied to their detriment on the agency's longstanding policy and practice.[124] Morever, the rules themselves detail substantive requirements for eligibility which, until December 1981, if met would have assured an applicant of a guarantee.

But irrespective of the nature of the rule involved, the cessation of the pollution control equipment loan guarantee program for tax exempt issuances is the type of abrupt change of policy which the courts of late have subjected to intense judicial scrutiny. In one case, involving the rescission of a rule, the court held that "sudden and profound alterations in an agency's policy constitute 'danger signals' that the will of Congress is being ignored."[125] In such circumstances, a lengthy line of judicial precedent requires that "an agency changing course must supply a reasoned analysis" [126] of the factors justifying the change. In this regard the Supreme Court pointed out in *Atchison, Topeka & Santa Fe Railway Co.* v. *Wichita Board of Trade*, that a "settled course of behavior embodies the agency's informed judgment that, by pursuing that course, it will carry out the policies committed to it by Congress. *There is, then, at least a presumption that those policies will be carried out best if the settled* rule is adhered to." [127] Further, where an agency rescinds a regulation which was at one time presumed to be in furtherance of an agency's mandate, it has been held that it should make a showing that past rationale underlying and supporting the regulation is not being "casually ignored." [128] It also has been held that where an agency has sharply changed its substantive policy, "it makes sense to scrutinize the procedures employed by the agency all the more closely where the agency has acted, within a compressed time frame, to reverse itself by the procedure under challenge." [129] Underlying these holdings is the realization that only by holding up the reasons for agency decisionmaking to public scrutiny can the public be assured that the agency is acting rationally and can the courts effectively perform their task of review under the APA. In the words of the Court of Appeals for the District of Columbia:

"Even absent special circumstances, it is vital that an agency justify a departure from its prior determinations. First, the requirement of reasons imposes a measure of discipline on the agency, discouraging arbitrary or capricious action by demanding a rational and considered discussion of the need for a new agency standard, The process of providing a rationale that can withstand public and judicial scrutiny compels the agency to take rule changes seriously. The agency will be less likely to make changes that are not supported by the relevant law and facts." [130]

Finally, apart from the potential irregularities stemming from SBA's failure to adhere to the APA's statutory requirements, a further problem of constitutional dimensions may be raised. While procedural due process has never been a term of fixed or invariable content, at its core it dictates that before a person may be deprived of life, liberty, or property by governmental action, he must be given notice of this fact (that is, he must be given notice of the proceedings that may affect him), he must be given an opportunity to defend himself against the deprivation, and the problem of the propriety of the deprivation, under the particular circumstances presented, must be resolved in a manner consistent with essential fairness.[131] Under the circumstances heretofor detailed, a plausible constitutional challenge based upon the lack of notice to, and the consequent impact upon, affected members of the public might be successfully advanced.

In sum, then, SBA has offered neither notice of nor public explanation for its sudden change in policy. In view of the prevailing case law, there is a strong likelihood that a court reviewing the instant circumstances would find the cessation of the program unlawful on statutory or constitutional grounds, or both.

III. CONCLUSION

SBA's termination of its pollution control equipment loan guarantee program with respect to tax-exempt issuances at the direction of OMB raises substantial questions of legal propriety. The termination was effected without public notice or comment in spite of the fact that the longstanding policy and procedure governing the operation of the program was established by the informal rulemaking procedures of the APA. No formal explanation of the agency's reasons for its action has been given. There is evidence that members of the public whose applications have not been processed as a consequence of the termination have suffered material hardship because of their reliance on the continued viability of the program. SBA also concedes that the change in the nature and direction of the program is contrary to the original intentions of the Congress and has caused substantial detriment to the efficacy of the program. It has stated that but for OMB's di-

rective it would have continued to administer the program in the manner it had been historically committed. There appears to be no firm legal basis for OMB's authority to order the termination of the program. From this we conclude that it would not be unlikely for a court to find SBA's termination of the program to be unlawful for its failure to effect that action in accordance with the requirements of the Administrative Procedure Act and in violation of the Fifth Amendment for its failure to afford adequate notice of the agency's action to members of the public who were meant to be benefited by the program and who had justifiably relied on its continuation to their material detriment.

MORTON ROSENBERG,
Specialist in American Public Law.

FOOTNOTES

[1] Pub. L. 85-699, 85th Cong., 2d Sess. (1958).

[2] Pub. L. 94-305, sec. 102., 94th Cong., 2d Sess. (1976), 15 U.S.C. 694-1(b) (1976).

[3] Pub. L. 95-89, 95th Cong., 1st Sess. (1977), 15 U.S.C. 694-2 (Suppl. IV, 1980).

[4] H. Rept. No. 98-21, 98th Cong., 1st Sess. 2 (1983), accompanying H. Res. 76, a resolution disapproving deferral of budget authority of the fund.

[5] 42 *F.R.* 62012 (1977).

[6] 5 U.S.C. 553 (1976). SBA has expressly waived any exemption that might have been available to it under 5 U.S.C. 553(a)(2). 13 C.F.R. 101.9 (1982).

[7] 43 *F.R.* 33231 (1978), 13 C.F.R. Part 111 (1982).

[8] 13 C.F.R. 111.2 (1982).

[9] 13 C.F.R. 111.4 (1982).

[10] 13 C.F.R. 111.5 (1982).

[11] 13 C.F.R. 111.7 (1982).

[12] Pub. L. 97-35, 97th Cong., 1st Sess. (1981).

[13] *Id.* at sec. 1905.

[14] Such directives are contained in OMB documents entitled "Apportionment and Reapportionment Schedule", which are issued quarterly. The initial was contained in an apportionment document dated December 31, 1981. OMB argues that its authority to direct such program curtailments derives from its power to apportion an agency's appropriations under the Anti-Deficiency Act, 31 U.S.C. 665(c) & (d) (1976). The validity of this assertion is discussed in detail *infra* at pp. 22-27.

[15] See House SBA Hearings, *infra*, note 16, pp. 9, 76.

[16] See, e.g., Hearings Before the House Subcommittee on Energy, Environment, and Safety Issues Affecting Small Businesses of the Committee on Small Business, 97th Cong., 1st Sess. (Part I, November 4, 1981); 97th Cong. 2d Sess. (Part II, March 10 and 31, 1982) (hereinafter House SBA Hearings); Hearing on S. 499, A Bill to Require the SBA to Permit the Use of Tax-Exempt IRB Financing in Conjunction With the 503 Program, Senate Small Business Committee, 98th Cong., 1st Sess. (February 17, 1983) (hereinafter Senate SBA Hearing).

[17] 31 U.S.C. 1403 (1976).

[18] H. Doc. 98-15 accompanying deferral No. 86-64.

[19] H. Rept. No. 98-21, 98th Cong., 1st Sess. (1983).

[20] 129 *Cong. Rec.* H1123-24 (daily ed. Mar. 10, 1983).

[21] See House SBA Hearings, Part I, pp. 25-28; House SBA Hearings Part II, pp. 13-15; Senate SBA Hearing, pp. 31-39; Letter from James C. Sanders, Administrator, SBA to David Stockman, Director, OMB dated April 29, 1982 (requesting permission to issue guarantees in conjunction with tax-exempt bonds.)

[22] See House SBA Hearings, Part II, pp. 51-67 (Testimony of John E. Chapoton, Assistant Secretary for Tax Policy, Treasury Department), 78 Letter from David Stockman to Chairman Bedell); from Joseph R. Wright, Jr., Deputy Director, OMB to James C. Sanders, Administrator, SBA dated May 26, 1982 (denying permission to issue guarantees in conjunction with tax-exempt bonds.)

[23] H. Rept. No. 94-519, 94th Cong., 1st Sess. 12, 13 (1975).

[24] S. Rept. No. 94-420, 94th Cong., 1st Sess. 5-6 (1975). See also H. Rept. No. 94-1115, 94th Cong., 2d Sess. 5 (1976) (Conference Report also indicating approval of guarantees of tax exempt financing).

[25] See, e.g., 31 U.S.C. 742a (1976).

[26] 13 C.F.R. 11.2 (1982).

[27] 347 U.S. 260 (1954).

[28] *Id.*, at 266-67. In that case the Court held that the Attorney General could not direct the use of a subordinate's discretion, even where the Attorney General had himself granted the discretion to the subordinate and retained ultimate review of the decision for himself. See also *United States* v. *Nixon*, 418 U.S. 683, 696 (1974) citing *Shaughnessy* with approval.

[29] Standard dictionaries define discretion as ". . . 3a: individual choice or judgment b: power of free decision or latitude of choice within certain legal bounds." Webster's Seventh New Collegiate Dictionary (1970); ". . . 2 freedom to judge or choose." World Book Dictionary (1977).

[30] House SBA Hearings, Part I, pp. 25, 26-8.

[31] Senate SBA Hearing, pp. 32-37.

[32] Letter from James C. Sanders, Administrator, SBA to David A. Stockman, Director, OMB, dated April 20, 1982.

[33] Letter to James Sanders, Administrator, SBA from Joseph R. Wright, Jr., Deputy Director, OMB, dated May 26, 1982.

[34] 31 U.S.C. 742a (1976).

[35] House SBA Hearings, Part II, pp. 37-67 (Testimony of John E. Chapoton, Assistant Secretary for Tax Policy, Treasury Department), 78 (letter from David Stockman, Director OMB, to Chairman Bedell).

[36] 15 U.S.C. 694-1(b)(1) (1976).

[37] House SBA Hearings, Part II, p. 62.

[38] 31 U.S.C. 665 (1976).

[39] 31 U.S.C. 665(d)(2) (1976).

[40] "No money shall be drawn from the Treasury but in consequence of appropriations made by law" U.S. Const., art. I, sec. 9.

[41] See generally, "Principles of Federal Appropriations Law," U.S. General Accounting Office, chap. 5 (1982) (hereinafter Appropriations Treatise). See also, Fisher, Presidential Spending Power, 154-57, 229-38 (1975).

[42] 52 Comp. Gen. 272, 275 (1962).

[43] 36 Comp. Gen. 699 (1952). See also 38 Comp. Gen. 501 (1959).

[44] 5 U.S.C. 665(c)(1) (1976).

[45] B-163628, January 4, 1974.

[46] 31 U.S.C. 1302(a)(2) (1976); see also Appropriations Treatise at 2-2, 4-4.

[47] Appropriations Treatise, 2-3.

[48] *Ibid.*, at 14-4 (footnote omitted).

[49] B-133170-O.M., December 22, 1977.

[50] Appropriations Treatise, 5-18. SBA's situation would appear considerably stronger than EDA's since the establishment of the revolving fund in 1977 erases any doubt about its authority to use its current method of funding.

[51] See House SBA Hearings, Part II, pp. 10-11.

[52] A further, related question may be raised as to the use of the deferral process of the Impoundment Control Act to achieve the $100 million reduction in the congressionally authorized loan guarantee level. As was related in the text, *supra* p. 7, on February 1, 1983, the President proposed deferral of $1 million which, he stated, "represents the provision for anticipated losses that is associated with a reduction in pollution control guarantees of $100 million." The theory seems to be that since the revolving fund received an initial $15 million appropriation, and since experience has shown that each $1 million in reserve will cover the possible losses that might be incurred in each $100 million of guarantees, an impoundment of that amount should be deemed a deauthorization of $100 million in authority. Several problems seem to be raised by this theory. First, for the same reason that loan guarantees are not by the Antideficiency Act, they are not covered by the Impoundment Control Act—they are not budget authority. The fact that some appropriated funds are in the revolving fund ignores the fact that Congress contemplated that the fund would grow larger with non-appropriated funds which would provide a cushion for further guarantees, which has in fact occurred. Thus deferral of a portion of the original appropriation should not in itself affect the level of the current authorization, particularly in view of the fact that the fund is now almost four times greater than its original capitalization. Moreover, it would be a backdoor way of getting at the substance of guarantee programs, which clearly was not intended by the Congress. On the other hand, if such a deferral is viewed as an effective and lawful method of achieving a reduction of the guarantee level, by the same token a congressional disapproval of the deferral should have the effect of restoring the originally authorized level. OMB, arguably, cannot have it both ways. The deferral proposal was disapproved by the House on March 10, 1983. We are not aware if SBA's guarantee level has been restored as a consequence.

[53] U.S. Constit., art. II, sec. 1.

[54] U.S. Constit., art. II, sec. 3.

[55] U.S. Constit., art. II, sec. 2, cl. 2.

[56] U.S. Constit., art. II, sec. 2.

[57] 272 U.S. 52 (1926).

[58] House Committee on Energy and Commerce, "Presidential Control of Agency Rulemaking: An Analysis of Constitutional Issues That May Be Raised by E.O. 12291", 81 (Committee Print 97-0, June 15, 1981).

[59] "[I]t was undoubtedly intended that the President should be little more than a political chief; that is to say, one whose function should, in the main, consist in the performance of those political duties which are not subject to judicial control. It is quite clear that it was intended that he should not, except as to these political matters, be the administrative head of the Government with general power of directing and controlling the acts of subordinate Federal administrative agents." 3 W. Willoughby, The Constitutional Law of the United States 1479-80 (2d ed. 1929). *See* F. Goodnow, Comparative Administrative Law 51-54 (1893); Corwin, *The Steel Seizure Case: A Judicial Brick Without Straw*, 53 Colum. L. Rev. 53 (1953); Jaffee, *Invective and Investigation in Administrative Law*, 52 Harv. L. Rev. 1201, 1203, 1238 (1939); Karl, *Executive Reorganization and Presidential Power*, 1977 Sup. Ct. Rev. 1, 10-11 ("Nor did [the framers] conceive of the presidency as an institutionalized representation of popular will distinct from, let alone capable of opposition to, the will expressed by the legislature."); Zamir, *Administrative Control of Administrative Action*, 57 Calif. L. Rev. 866, 869-70 (1969); Rosenberg, Beyond the Limits of Executive Power: Presidential Control of Agency Rulemaking Under E.O. 12,291, 80 *Mich. L. Rev.* 193, 202-209 (1981) (hereinafter "Beyond the Limits").

[60] *See* note 59 *supra* and accompanying text.

[61] Act of July 27, 1789, ch. 4, § 1, 1 Stat. 28.

[62] Act of Aug. 7, 1789, ch. 7, § 1, 1 Stat. 49.

[63] Act of Apr. 30, 1789, ch. 35, § 1, 1 Stat. 553.

[64] Act of Sept. 2, 1789, ch. 12, § 2, 1 Stat. 65, 66.

[65] Act of May 8, 1794, ch. 23, § 3, 1 Stat. 357.

[66] Act of Mar. 3, 1849, ch. 108, § 1, 9 Stat. 395.

[67] Act of Sept. 2, 1789, ch. 12, § 2, 1 Stat. 65, 66.

[68] L. White, The Jacksonians 78 (1954); L. White, The Federalists 326 (1948).

[69] W. Willoughby, *supra* note 59, at 1480. Professor Goodnow remarked about this unusual administrative organization as follows:

"In the United States, the original conception of the head of department was that of an officer stationed at the center of the government who might have, it is true, in many cases the power of appointment and removal, but who was not supposed to direct the actions of the subordinates of his department. . . . The conception of a hierarchy of subordinate and superior officers was very dim if it existed at all. F. Goodnow, *supra* note 59, at 136-37."

[70] 1 Op. Atty. Gen. 624, 625-26 (1823).

"The Constitution of the United States requires that the laws be faithfully executed; that is, it places the officers engaged in the execution of the laws under his general superintendence; . . . But it never could have been the intention of the Constitution, in assigning this general power to the President . . . that he should in person execute the laws himself. . . . The Constitution assigns to Congress the power of designating the duties of particular officers: the President is only required to take care that they execute them faithfully. . . . He is not to perform the duty, but to see that the officer assigned by law performs his duty *faithfully*—that is, *honestly*: not with perfect correctness of judgment, but *honestly*." *Id.* at 625-26 (emphasis in original).

[71] 4 Op. Atty. Gen. 515, 516 (1846).

[72] For example, the President was told that he could not interfere with a patent decision, 13 Op. Atty. Gen 28 (1869), and that he had no authority to review a department head's decision concerning the lowest bidder on a contract, 6 Op. Atty. Gen. 226 (1853).

[73] 18 Op. Atty. Gen. 31, 33 (1884). *See* 1 Op. Atty. Gen. 624 (1823); 1 Op. Atty. Gen. 705 (1825); 2 Op. Atty. Gen. 480, 481 (1831); 2 Op. Atty. Gen. 507, 508 (1832) (Comptroller's decision "is conclusive upon the executive branch of government"); 2 Op. Atty. Gen. 544 (1832); 5 Op. Atty. Gen. 630, 635 (1852) (presidential interference "would be a usurpation on the part of the President, which the accounting officers would not be bound to respect" unless Congress expressly ordered them to do so); 11 Op. Atty. Gen. 14 (1864); 13 Op. Atty. Gen. 28 (1869); 15 Op. Atty. Gen. 94, 101-02 (1876). The opinions are not unanimous, however. *See* 7 Op. Atty. Gen. 453, 469-

70 (1855). In Attorney General Cushing's view, a denial of the power of presidential direction would allow Congress to "so divide and transfer the executive power as utterly to subvert Government." The opinion was called "extreme" by a prominent early commentator, F. Goodnow, The Principles of Administrative Law of the United States 81 (1905).

[74] 10 F. Cas. 355 (C.C.D. S.C. 1808) (No. 5,420).

[75] *Ibid.*, at 357.

[76] *Ibid.*

[77] 37 U.S. (12 Pet.) 524 (1838).

[78] 37 U.S. (12 Pet.) at 610.

[79] 37 U.S. (12 Pet.) at 613.

[80] *See United States* v. *Grimaud*, 220 U.S. 506 516 (1911) (holding Secretary of Agriculture to be an agent of Congress in promulgating "administrative" rules); *United States* v. *Perkins*, 116 U.S. 483 (1886) (holding that where Congress vests the power of appointment in some official other than the President, it can regulate and restrict the manner of removing that appointee); *Ex Parte* Merryman, 17 F. Cas. 144, 149 (C.C.D. Md. 1861) (No. 9487) (Taney, C.J.) ("The only power . . . which the President possesses, where the 'life, liberty or property' of a private citizen are concerned, is the power and duty . . . 'that he shall take care that the laws shall be faithfully executed.' He is not authorized to execute them himself, or through agents or officers, civil or military, appointed by himself, or through agents or officers, civil or military, appointed by himself, but he is to take care that they be faithfully carried into execution."). The continuing validity of *Perkins* was affirmed in *Myers* v. *United States*, 272 U.S. 52, 127 (1926).

[81] As late as 1885, Woodrow Wilson could suggest in his *Congressional Government* that the presidency was at best a ceremonial and symbolic office in need of executive and administrative support from a reorganized Congress. *See* Zamir, *Supra* note 59, at 871-73.

[82] *See* Karl, *supra* note 59, at 11.

[83] 272 U.S. 52 (1926).

[84] 272 U.S. at 107 (quoting Act of July 12, 1876, ch. 179, § 6, 19 Stat. 80, 81).

[85] 272 U.S. at 117.

[86] 272 U.S. at 135.

[87] 272 U.S. at 135.

[88] 272 U.S. at 135.

[89] The structure of this critical paragraph supports an argument that by "ordinary duties" Taft meant ministerial tasks or purely administrative duties not involving substantive decision-making since that passage is immediately followed by passages that clearly set apart rulemaking and adjudicatory functions. If so, the power to "supervise and guide" is of minimal substance.

[90] "Of course there may be duties so perculiarly and specifically committed to the discretion of a particular office as to raise a question whether the President may overrule or revise the officer's interpretation of his statutory duty in a particular instance. Then there may be duties of a quasi-judicial character imposed on executive officers and members of executive tribunals whose decisions after hearing affect interests of individuals, the discharge of which the President cannot in a particular case properly influence or control. But even in such a case he may consider the decision after its rendition as a reason for removing the officer, on the ground that the discretion regularly entrusted to that officer by statute has not been on the whole intelligently or wisely exercised." 272 U.S. at 135.

[91] Due process, for example, may prevent the withdrawal of a property right granted.

[92] The difficulties that may be encountered, and the occasional inefficacy of the use of the removal power to alter the course of discretionary decision-making, was dramatized in the aftermath of the Saturday Night Massacre. *See Nader* v. *Bork*, 366 F. Supp. 104 (D.D.C. 1973) (holding that Acting Attorney General Bork had illegally dismissed the Watergate prosecutor).

[93] 295 U.S. 602 (1935).

[94] 295 U.S. at 628.

[95] 357 U.S. 349 (1958).

[96] 347 U.S. 260 (1954).

[97] *Ibid.*, at 266-67.

[98] 418 U.S. 683 (1974).

[99] *Ibid.*, at 696 (footnotes omitted).

[100] 5 U.S.C. 551 *et seq.* (1976).

[101] 5 U.S.C. 553(a)(2) (1976).

[102] 36 *F.R.* 16716-17 (1971).

[103] 42 F.R. 62012 (1977).

[104] 43 *F.R.* 33231-33 (1978), codified at 13 C.F.R. Part 111 (1982).

[105] 13 C.F.R. 111.2 (1982).

[106] See text, *supra* pp 3.

[107] House SBA Hearings, Part II, p. 11.

[108] *Ibid.*

[109] House SBA Hearings, Part I, 31, 33-69, Part II, 15-34, 51-67.

[110] Letter of James C. Sanders, Administrator, SBA to David A. Stockman, Director, OMB, dated April 29, 1982.

[111] See, e.g., *United States ex rel. Accardi* v. *Shaughnessy*, 347 U.S. 347 (1954); *Service* v. *Dulles*, 354 U.S. 763 (1959); *Vitarelli* v. *Seaton*, 359 U.S. 535 (1959); *United States* v. *Nixon*, 418 U.S. 687 (1974); *Berends* v. *Butz* 357 F. Supp. 143 (D. Minn. 1973); *Nader* v. *Bork*, 366 F. Supp. 104 (D.D.C. 1973). See also *Gardner* v. *FCC*, 530 F.2d 1086 (D.C. Cir. 1976) (FCC action invalidated for its failure to adhere to long established procedures even though they had not been formalized in regulations.)

[112] 357 F. Supp. 143 (D. Minn. 1973).

[113] 357 F. Supp. at 152.

[114] *Ibid.*

[115] 357 F. Supp. at 153-54. The waiver is essentially the same as that made by SBA.

[115a] 543 F.2d 1092 (5th Cir. 1976).

[115b] 543 F. 2d at 1099.

[116] 543 F. 2d at 1100.

[117] 673 F.2d 425 (D.C. Cir. 1982).

[118] 673 F.2d at 446 (footnotes omitted).

[119] 683 F.2d 752 (3rd Cir. 1982).,

[120] 683 F.2d 762. See also, *Council of Southern Mountains* v. *Donovan*, 653 F.2d 573 (D.C. Cir. 1981).

[121] 5 U.S.C. 553(b)(A) (1976).

[122] XXX

[123] See, e.g., *Lewis-Mota* v. *Secretary of Labor*, 469 F.2d 478, 482 (2d Cir. 1972); *Texaco, Inc.* v. *FPC*, 412 F.2d 740, 744 (3rd Cir. 1969); *Pharmaceutical Manufacturers' Ass'n* v. *Finch*, 307 F. Supp. 858, 864 (D. Del. 1970) *National Motor Freight Traffic Ass'n* v. *United States*, 268 F. Supp. 90, 95-6 (D.D.C. 1967), aff'd 393 U.S. 18 (1968).

[124] See, *supra* note 110 and accompanying text.

[125] *State Farm Mutual Automobile Ins. Co.* v. *Dept. of Transportation*, 680 F.2d 206, 221 (D.C. Cir. 1982), *cert. granted*, 103 S. Ct. 340 (1982). See also, *Natural Resources Defense Council, Inc.* v. *EPA*, 683 F.2d 752, 760 (3rd Cir. 1982); *Building & Construction Trades Dept., AFL-CIO*, v. *Donovan*, 543 F. Supp. 1282, 1289-90 (D.D.C. 1982); *Center for Science in the Public Interest* v. *Department of the Treasury*, Civil Action No. 82-610, D.D.C. Feb. 8, 1983 (Pratt, J.), Slip Op. at 10-11.

[126] *Greater Boston Television Corp.* v. *FCC*, 444 F.2d 841, 852 (D.C. Cir. 1971).

[127] 412 U.S. 800, 807-8 (1978) (emphsis added).

[128] *Greater Boston Television Corp.* v. *FCC*, *supra* note 126, 444 F.2d at 852.

[129] *Natural Resources Defense Council, Inc.* v. *EPA*, 683 F.2d 752, 760 (3rd Cir. 1982).

[130] *Baltimore & Annapolis Railroad Co.* v. *Washington Area Transit Commission*, 642 F.2d 1365, 1370 (D.C. Cir. 1980). See also, *NAACP* v. *FCC*, 682 F.2d 993, 998 (D.C. Cir. 1982) (". . . where policy has been altered, the court should be satisfied both that the agency was aware it was changing its views and has articulated permissible reasons for that change, and also that the new position is consistent with the law."); *Food Marketing Institutes* v. *ICC*, 587 F.2d 1285 (D.C. Cir. 1978) (". . . [I]t is a least incumbent upon the agency carefully to spell out the basis of its decision when departing from prior norms."); *Columbia Broadcasting System* v. *FCC*, 454 F.2d 1018 (D.C. Cir. 1971).

[131] See, e.g., *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15 (1950) *Morgan* v. *U.S.* 704 U.S. 1 (1938); *Consolidated Edison Co.* v. *NLRB*, 305 U.S. 197 (1938).●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4252) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 6013) was passed, as amended.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I send to the desk an amendment to the title and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title to read as follows: "An act to amend the Small Business Act."

The PRESIDING OFFICER. The question is on agreeing to the amendment to amend the title.

The amendment was agreed to.

Mr. BAKER. I thank the Chair and I thank the minority leader.

TELEVISION AND RADIO COVERAGE OF THE SENATE

Mr. BAKER. Mr. President, tomorrow we will have a vote on cloture on the motion to proceed to the consideration of Senate Resolution 66, which is the TV in the Senate resolution. It is my fervent hope we will obtain cloture on that motion tomorrow. If we do, then, of course, the Senate will remain on the motion until the motion is disposed of.

I am almost too superstitious to do what I am about to do next because I do hope that we get cloture on that motion. But, Mr. President, just in case we do not, I wonder if the minority leader would mind if I ask unanimous consent that it be in order to file a second cloture motion against further debate on the motion to proceed to Senate Resolution 66.

Mr. BYRD. Mr. President, I have no objection. May I state for the RECORD that if there were objection to this unanimous-consent request, the distinguished majority leader has all the tools at his disposal by which he could move to take up the TV in the Senate resolution right at this point and offer his cloture motion. He has the tools with which he may dispose of that motion and retain or leave the Senate in the same position that it is at the present moment with the trade bill pending before us.

Mr. BAKER. I thank the minority leader. I prefer to do it by unanimous consent, and I am grateful to the minority leader because there is no objection under those circumstances.

CLOTURE MOTION

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order at this time to file a cloture petition to bring to a close the debate on the motion to proceed to Senate Resolution 66.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of Senate Resolution 66, a resolution to establish regulations to implement television and radio coverage of the Senate.

Howard Baker, Ted Stevens, Strom Thurmond, Mark Andrews, Slade Gorton, Orrin G. Hatch, Steve Symms, Daniel J. Evans, Lowell Weicker, Dan Quayle, Pete Wilson, Paul Trible, Richard G. Lugar, Jake Garn, Larry Pressler, and Gordon Humphrey.

Mr. BYRD. Mr. President, in referring to the legislative business that is presently before the Senate, I overlooked the fact that the Senate is now in morning business. What I had reference to was the business before the Senate when we go back out of morning business, and back into the legislative business.

Mr. BAKER. I thank the minority leader.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business, that it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I further ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, that two Senators be recognized on special orders, for not to exceed 15 minutes, as follows, and in this order: Senator LUGAR and Senator PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders tomorrow, a period for transaction of routine morning business be provided, until the hour of 12 noon in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12 NOON UNTIL 2 P.M.

Mr. BAKER. Mr. President, I further ask unanimous consent that on tomorrow, being Tuesday, and the day for caucuses by Senators of each party away from the floor of the Senate, that the Senate stand in recess from the hour of 12 noon until the hour of 2 p.m. Mr. President, that is the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order, and the execution of two special orders, there will be a period for the transaction of routine morning business until 12 noon, at which time the Senate will stand in recess until the hour of 2 p.m. At 2 p.m., the Senate will resume consideration of the pending business which is H.R. 3398, the trade bill.

By previous unanimous-consent order, at 4 p.m. on tomorrow, the Senate will begin 2 hours of debate on the Baker motion to proceed to Senate Joint Resolution 66. The time will be equally divided between the distinguished chairman of the Rules Committee, Senator MATHIAS, and the distinguished ranking minority member, Senator LONG, or their designees.

Mr. President, at the hour of 6 p.m., by unanimous-consent order previously entered, the Senate will proceed to vote on cloture on that motion pursuant to the provisions of rule XXII with the mandatory quorum being waived. It is possible, Mr. President, that if cloture is invoked, the Senate will continue to debate the motion to proceed in the postcloture arrangement until it is disposed of. After the motion is disposed of, Mr. President, the Senate will then be on the TV in the Senate resolution. Under those circumstances, if cloture is not invoked, the Senate will resume consideration of the trade bill.

Senators should be on notice of the possibility, although not certain, of a recess or adjournment past the regular hour.

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. BAKER. Mr. President, I have nothing further. The minority leader has indicated that he has nothing further. I see no Senator seeking recognition. Therefore, I move that the Senate stand in recess, in accordance with the order previously entered, until the hour of 11 a.m. tomorrow.

The motion was agreed to; and the Senate, at 6:14 p.m. recessed until Tuesday, September 18, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1984:

THE JUDICIARY

Edith H. Jones, of Texas, to be U.S. circuit judge for the fifth circuit vice a new position created by Public Law 98-353, approved July 10, 1984.

Joseph H. Rodriquez, of New Jersey, to be U.S. district judge for the district of New Jersey vice a new position created by Public Law 98-353, approved July 10, 1984.

Herman J. Weber, of Ohio, to be U.S. district judge for the southern district of Ohio vice a new position created by Public Law 98-353, approved July 10, 1984.

NAVY AND AIR FORCE

The following-named officers for promotion to the grade indicated under the provisions of of article II, section 2, clause 2 of the Constitution of the United States of America:

IN THE NAVY

To be captain

Cdr. Michael L. Coats, [redacted]

IN THE AIR FORCE

To be colonel

Lt. Col. Richard M. Mullane, [redacted]

IN THE AIR FORCE

The following person for appointment as Reserve of the Air Force, in the Grade indicated under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform duties indicated.

MEDICAL CORPS

To be colonel

Hiram B. Curry, [redacted]

IN THE AIR FORCE

The following Air National Guard of the United States Officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Fred M. Bastion, Jr., [redacted]
Maj. Claud E. Dutro, [redacted]
Maj. David V. Gardner, [redacted]
Maj. Rhoderick M. Holliday, [redacted]
Maj. Lee M. Honeycutt II, [redacted]
Maj. Glen A. Knable, [redacted]
Maj. Jude R. Krejci, [redacted]
Maj. Robert M. Kuhnert, [redacted]
Maj. Wayne E. Morley, [redacted]
Maj. Duane F. Mrosla, [redacted]
Maj. Theodore F. Napolitano, [redacted]
Maj. Larry A. Olson, [redacted]
Maj. Stanley S. Ong, [redacted]
Maj. Robert H. Rice, [redacted]
Maj. Gary L. Sayler, [redacted]
Maj. Miles B. Scribner, [redacted]
Maj. Jon A. Sims, [redacted]
Maj. Earle W. Stewart, [redacted]
Maj. Mason C. Whitney, [redacted]
Maj. Larry E. Wilkins, [redacted]

LEGAL

To be lieutenant colonel

Maj. Harry A. Sieben, [redacted]

CHAPLAIN

To be lieutenant colonel

Maj. Richard E. Heinlen, [redacted]

MEDICAL CORPS

To be lieutenant colonel

Maj. Peter J. Eidenberg III, [redacted]

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force under the provisions of sections 593, 8366 and 8372, title 10, United States Code.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Adams, Robert D., xxx-xx-xxxx
Allred, Joseph N., xxx-xx-xxxx
Altman, Etsel W., xxx-xx-xxxx
Anderson, Delmar E., xxx-xx-xxxx
Anderson, James E., xxx-xx-xxxx
Anderson, Peter J., xxx-xx-xxxx
Appetta, Jake K., xxx-xx-xxxx
Arbes, Richard J., xxx-xx-xxxx
Arnold, Charles J., xxx-xx-xxxx
Austin, Bobby L., xxx-xx-xxxx
Backman, Beau B., xxx-xx-xxxx
Baham, George E., xxx-xx-xxxx
Bailey, John E., xxx-xx-xxxx
Bailey, Lowery K., xxx-xx-xxxx
Baker, Herbert H., xxx-xx-xxxx
Baker, Reeves W., xxx-xx-xxxx
Baker, Ronald L., xxx-xx-xxxx
Baker, William H., xxx-xx-xxxx
Baker, William R., xxx-xx-xxxx
Balinski, Daniel V., xxx-xx-xxxx
Ball, Gerald D., xxx-xx-xxxx
Bandich, Steven M., xxx-xx-xxxx
Bankers, James D., xxx-xx-xxxx
Banks, Burte J., Jr., xxx-xx-xxxx
Barker, Charles J., xxx-xx-xxxx
Barnson, William G., xxx-xx-xxxx
Bartareau, Gerald S., xxx-xx-xxxx
Barton, Stanley H., xxx-xx-xxxx
Batbie, John J., Jr., xxx-xx-xxxx
Baty, John W., xxx-xx-xxxx
Beach, Thomas E., xxx-xx-xxxx
Beadle, Leigh P., xxx-xx-xxxx
Becka, John C., Jr., xxx-xx-xxxx
Bell, John M., xxx-xx-xxxx
Bell, Victor J., Jr., xxx-xx-xxxx
Belval, Richard C., xxx-xx-xxxx
Bemrose, Richard L., xxx-xx-xxxx
Bennett, Richard S., xxx-xx-xxxx
Bennett, Robert T., xxx-xx-xxxx
Bennett, Wesley M., xxx-xx-xxxx
Benson, Richard E., xxx-xx-xxxx
Benzie, Bruce J., xxx-xx-xxxx
Berberick, James A., xxx-xx-xxxx
Berge, Charles F., xxx-xx-xxxx
Berger, Paul S., xxx-xx-xxxx
Berkley, Howard D.I., xxx-xx-xxxx
Berra, Louis M., xxx-xx-xxxx
Berwager, Steven L., xxx-xx-xxxx
Betts, James E., xxx-xx-xxxx
Betts, John A., xxx-xx-xxxx
Bevens, Stanley W., xxx-xx-xxxx
Beveridge, John W., xxx-xx-xxxx
Billmyer, Ronald L., xxx-xx-xxxx
Bird, William J., xxx-xx-xxxx
Bishop, Leo K., xxx-xx-xxxx
Bittenbinder, David, xxx-xx-xxxx
Blackard, Jean P., xxx-xx-xxxx
Blackmar, John C., xxx-xx-xxxx
Blamble, Eugene E., xxx-xx-xxxx
Blome, Quentin W., xxx-xx-xxxx
Bloy, Howard J., Jr., xxx-xx-xxxx
Boecker, Thomas E., xxx-xx-xxxx
Boling, William C.J., xxx-xx-xxxx
Borowski, Joseph D., xxx-xx-xxxx
Bourn, Frank D., xxx-xx-xxxx
Bourque, George J.I., xxx-xx-xxxx
Bovill, Joseph K., xxx-xx-xxxx
Boyce, John W., xxx-xx-xxxx
Brackin, William B., xxx-xx-xxxx
Bradley, John A., xxx-xx-xxxx
Brandt, Bruce A., xxx-xx-xxxx
Brazil, Thomas E., xxx-xx-xxxx
Brazy, Joseph P., xxx-xx-xxxx
Breeden, Franklin J., xxx-xx-xxxx
Breitenfeld, Robert, xxx-xx-xxxx
Brenneman, David W., xxx-xx-xxxx
Bresnahan, Patrick, xxx-xx-xxxx
Brewster, Dennis G., xxx-xx-xxxx
Bronowski, James P., xxx-xx-xxxx
Brooks, Mason R., xxx-xx-xxxx
Brougham, Geoffrey, xxx-xx-xxxx
Brown, Alan L., xxx-xx-xxxx
Brown, Gary N., xxx-xx-xxxx
Brown, Jack H., xxx-xx-xxxx
Brundrett, Donald P., xxx-xx-xxxx
Brynn, Edward P., xxx-xx-xxxx
Buchanan, Bruce F., xxx-xx-xxxx
Bumgarner, Ronald E., xxx-xx-xxxx
Bunch, John H., Jr., xxx-xx-xxxx
Burdge, Robert E., xxx-xx-xxxx
Burgess, Malcolm A., xxx-xx-xxxx
Burgmann, Walter S., xxx-xx-xxxx
Burman, Fredric H., xxx-xx-xxxx
Burnham, Charles E., xxx-xx-xxxx
Burnside, Charles D., xxx-xx-xxxx
Busboom, Richard J., xxx-xx-xxxx
Bush, Jack B., xxx-xx-xxxx
Butler, Joseph E., xxx-xx-xxxx
Buttell, Duane A., Jr., xxx-xx-xxxx
Buxton, James R., xxx-xx-xxxx
Byers, Donald R., xxx-xx-xxxx
Cagle, James R., Jr., xxx-xx-xxxx
Campbell, Jerry R., xxx-xx-xxxx
Cannon, Kirby H., xxx-xx-xxxx
Carey, Rex L., xxx-xx-xxxx
Carlsen, Edward, xxx-xx-xxxx
Carlsen, John S., xxx-xx-xxxx
Carlson, Donald A., xxx-xx-xxxx
Carter, Leonard N.J., xxx-xx-xxxx
Cary, Leo M., xxx-xx-xxxx
Casper, Kenneth, xxx-xx-xxxx
Caylor, Larry R., xxx-xx-xxxx
Chambless, Rubyen M., xxx-xx-xxxx
Cheeseman, Jerry W., xxx-xx-xxxx
Chesterton, Lawrence, xxx-xx-xxxx
Chott, Henry A., xxx-xx-xxxx
Christmas, Stanley, xxx-xx-xxxx
Clark, William D., Jr., xxx-xx-xxxx
Clary, William C., II, xxx-xx-xxxx
Cluse, William T., xxx-xx-xxxx
Cofer, Billie W., xxx-x...
Coffey, Donald J., xxx-xx-xxxx
Cole, Charles D., xxx-xx-xxxx
Cole, Donald E., xxx-xx-xxxx
Cole, Ned M., Jr., xxx-xx-xxxx
Collins, Marshall W., xxx-xx-xxxx
Cone, James A., xxx-xx-xxxx
Connors, William F., xxx-xx-xxxx
Cook, David L., xxx-xx-xxxx
Cooper, David W., xxx-xx-xxxx
Corwin, William H., xxx-xx-xxxx
Coughenour, Richard, xxx-xx-xxxx
Covode, John H., III, xxx-xx-xxxx
Crandall, Richard W., xxx-xx-xxxx
Crane, Pinar, Jr., xxx-xx-xxxx
Crockett, James R., xxx-xx-xxxx
Crowling, James J.J., xxx-xx-xxxx
Cundiff, Ronald A., xxx-xx-xxxx
Curtis, Glenn M., xxx-xx-xxxx
Dahl, Edward, xxx-xx-xxxx
Dahl, Larry A., xxx-xx-xxxx
Dalton, Donald M., xxx-xx-xxxx
Daniels, Harold W., xxx-xx-xxxx
Darden, Robert S., xxx-xx-xxxx
Davidson, Thomas L., xxx-xx-xxxx
Davis, Barry F., xxx-xx-xxxx
Davis, Francis J., Jr., xxx-xx-xxxx
Davis, Jerald M., xxx-xx-xxxx
Davis, Larry L., xxx-xx-xxxx
Davis, Robert C., Jr., xxx-xx-xxxx
Dawson, Charles P., xxx-xx-xxxx
Deamicis, Dominic A., xxx-xx-xxxx
Decamp, Ronald W., xxx-xx-xxxx
Dee, Charles S., xxx-xx-xxxx
Delaney, Richard M., xxx-xx-xxxx
Dell, Walter L., xxx-xx-xxxx
Deluca, Joseph D., xxx-xx-xxxx
Demong, Richard F., xxx-xx-xxxx
Dennis, Darrel L., xxx-xx-xxxx
Derose, James L., Jr., xxx-xx-xxxx
Deuschl, Dennis E., xxx-xx-xxxx
Devore, Gale A., xxx-xx-xxxx
Dibble, Thomas G., xxx-xx-xxxx
Dietz, Michael N., xxx-xx-xxxx
Dilling, Jerome D., xxx-xx-xxxx
Dills, James T., xxx-xx-xxxx
Dobrin, Michael, xxx-xx-xxxx
Dobson, Donald R., xxx-xx-xxxx
Dogliani, Harald O., xxx-xx-xxxx
Donovan, Thomas P., xxx-xx-xxxx
Dontje, Marcia A., xxx-xx-xxxx
Dooher, John C., xxx-xx-xxxx
Dorris, Ronald R., xxx-xx-xxxx
Doty, Gray D., xxx-xx-xxxx
Drane, James N., xxx-xx-xxxx
Dubiel, Robert D., xxx-xx-xxxx
Duplantis, John B., xxx-xx-xxxx
Durand, Bernard A., xxx-xx-xxxx
Ealy, Phillip A., xxx-xx-xxxx
Ebert, Gary P., xxx-xx-xxxx
Edson, Lee A., xxx-xx-xxxx
Edwards, James A., II, xxx-xx-xxxx
Edwards, Paul W., xxx-xx-xxxx
Egan, Terence K., xxx-xx-xxxx
Egide, Kenneth E., xxx-xx-xxxx
Eiler, Gary R., xxx-xx-xxxx
Elbert, Keith R., xxx-xx-xxxx
Elfers, John E., xxx-xx-xxxx
Ellis, Edward W., Jr., xxx-xx-xxxx
Emerick, Donald W.J., xxx-xx-xxxx
Enders, Dennis C., xxx-xx-xxxx
Endres, Robert T., xxx-xx-xxxx
Ennis, Jerry D., xxx-xx-xxxx
Erhardt, Emil W., xxx-xx-xxxx
Ericson, Robert E.J., xxx-xx-xxxx
Essex, Jack G., xxx-xx-xxxx
Estampa, Archie A., xxx-xx-xxxx
Evert, George W., III, xxx-xx-xxxx
Facey, William B., Jr., xxx-xx-xxxx
Faull, James T., xxx-xx-xxxx
Fausey, James O., xxx-xx-xxxx
Favreau, David R., xxx-xx-xxxx
Fendelander, Dennis, xxx-xx-xxxx
Fitzgerald, John W., xxx-xx-xxxx
Fleischhacker, Pete, xxx-xx-xxxx
Fleming, Constance., xxx-xx-xxxx
Fletcher, David F., xxx-xx-...
Flinn, Charles A., Jr., xxx-xx-xxxx
Flower, William E., xxx-xx-xxxx
Flynn, William A., Jr., xxx-xx-xxxx
Forbush, Walter W.J., xxx-xx-xxxx
Foret, Eugene L., xxx-xx-xxxx
Forkenbrock, David, xxx-xx-xxxx
Foster, Henry B., III, xxx-xx-xxxx
Frank, Thomas B., xxx-xx-xxxx
Frederickson, Ronal, xxx-xx-xxxx
French, Daniel P., xxx-xx-xxxx
Fridy, Jere W., xxx-xx-xxxx
Friedrichsen, Kurt, xxx-xx-xxxx
Fritz, Arthur J., xxx-xx-xxxx
Froess, Richard H., xxx-xx-xxxx
Frye, Stanley C., xxx-xx-xxxx
Galbreath, Robert B., xxx-xx-xxxx
Galindez, Peter, xxx-xx-xxxx
Ganoung, Edwin R., xxx-xx-xxxx
Garity, Charles R.J., xxx-xx-xxxx
Garland, Jerry D., xxx-xx-xxxx
Garner, Bruce J., xxx-xx-xxxx
Garner, Charles D., xxx-xx-xxxx
George, John S., xxx-xx-xxxx
Gerardi, Ralph, xxx-xx-xxxx
Giangerelli, Richar, xxx-xx-xxxx
Gibson, Christopher, xxx-xx-xxxx
Gibson, David D., xxx-xx-xxxx
Gilbo, Lawrence J.J., xxx-xx-xxxx
Gilstad, Claire J., xxx-xx-xxxx
Givler, Theodore A., xxx-xx-xxxx
Gleitsmann, Frederi, xxx-xx-xxxx
Glenn, William L., Jr., xxx-xx-xxxx
Gold, Theodore P., xxx-xx-xxxx
Golden, Paul D., xxx-xx-xxxx
Gonzales, Valentino, xxx-xx-xxxx
Goubeaud, Paul A., xxx-xx-xxxx
Graves, Samuel B., xxx-xx-xxxx

Greene, Duff S., xxx-xx-xxxx
Gregorwich, Walter, xxx-xx-xxxx
Groebner, David F., xxx-xx-xxxx
Gross, Charles J., xxx-xx-xxxx
Grun, Alton F., xxx-xx-xxxx
Grynkewich, Nichola, xxx-xx-xxxx
Guerrant, Edward O., xxx-xx-xxxx
Guimbellot, Edward, xxx-xx-xxxx
Gunst, Robert P., xxx-xx-xxxx
Guritz, Donald A., xxx-xx-xxxx
Gurney, Ferdinand J., xxx-xx-xxxx
Gwynnevaughan, Robe, xxx-xx-xxxx
Hales, Sherman R., xxx-xx-xxxx
Hall, Benjamin F., xxx-xx-xxxx
Hall, Philip J., xxx-xx-xxxx
Hall, Truman C., Jr., xxx-xx-xxxx
Hall, William R., xxx-xx-xxxx
Halvorson, Harold A., xxx-xx-xxxx
Ham, Joseph J., xxx-xx-xxxx
Hamilton, Reed A., xxx-xx-xxxx
Hamlin, Mack F., xxx-xx-xxxx
Hansen, Stephen D., xxx-xx-xxxx
Harding, David M., xxx-xx-xxxx
Hards, William C., xxx-xx-xxxx
Hardwich, David A., xxx-xx-xxxx
Harris, George M., xxx-xx-xxxx
Harris, John O., xxx-xx-xxxx
Harris, William I., xxx-xx-xxxx
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Hartmann, Frank G.J., xxx-xx-xxxx
Hartzell, John V., xxx-xx-xxxx
Hatch, David L., xxx-xx-xxxx
Haug, Rudolph, Jr., xxx-xx-xxxx
Hawkins, William W., xxx-xx-xxxx
Heagy, Charles F., Jr., xxx-xx-xxxx
Hedberg, Roger A., xxx-xx-xxxx
Helton, Don V., xxx-xx-xxxx
Henderson, George O., xxx-xx-xxxx
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Henkel, Karl P., xxx-xx-xxxx
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Henrichsen, Don, K.P., xxx-xx-xxxx
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Hess, Howard E., Jr., xxx-xx-xxxx
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Humphery, John H., xxx-xx-xxxx
Hunter, Louis G., Jr., xxx-xx-xxxx
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Hutchins, Ozero H.J., xxx-xx-xxxx
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Iannancone, Richard, xxx-xx-xxxx
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Johnson, Daniel E., xxx-xx-xxxx
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Johnson, Robert C., xxx-xx-xxxx
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Jordan, Edward P., xxx-xx-xxxx
Jorgensen, Dennis M., xxx-xx-xxxx
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Jursnick, John P., xxx-xx-xxxx
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Kramer, Gary D., xxx-xx-xxxx
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Lade, Donald P., xxx-xx-xxxx
Landis, James P., xxx-xx-xxxx
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Leonard, George S.J., xxx-xx-xxxx
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Lippincott, Joseph, xxx-xx-xxxx
Long, Douglas A., xxx-xx-xxxx
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Lucas, David M., xxx-xx-xxxx
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Maloney, David F., xxx-xx-xxxx
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Marks, Henry P., Jr., xxx-xx-xxxx
Martin, David W., xxx-xx-xxxx
Martin, Elmer G., xxx-xx-xxxx
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McCabe, Thomas A., xxx-xx-xxxx
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McDonald, Francis L., xxx-xx-xxxx
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McIlwaine, William., xxx-xx-xxxx
Melton, Donald K., xxx-xx-xxxx
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Mondt, Roger F., xxx-xx-xxxx
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Moore, James B., Jr., xxx-xx-xxxx
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Neilsen, Finn K., xxx-xx-xxxx
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Newbauer, Thomas R., xxx-xx-xxxx
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Nichelini, Robert W., xxx-xx-xxxx
Nicholson, Julius C., xxx-xx-xxxx
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Niemi, Reino R., xxx-xx-xxxx
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Norton, Dermod F., xxx-xx-xxxx
Noyes, Peter M., xxx-xx-xxxx
Nunez, Leopold, IV., xxx-xx-xxxx
Obrien, Donald L., xxx-xx-xxxx
Oda, Harold E., xxx-xx-xxxx
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Olson, Russell T., xxx-xx-xxxx
Oneal, Leslie F., xxx-xx-xxxx
Orlando, James E., xxx-xx-xxxx
Ormsby, Angereau G., xxx-xx-xxxx
Ortiz, Joseph N., xxx-xx-xxxx
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Owens, Gary E., xxx-xx-xxxx
Owens, John W., xxx-xx-xxxx
Owens, Kenneth R., xxx-xx-xxxx
Page, Joseph F., III, xxx-xx-xxxx
Parent, Billy D., xxx-xx-xxxx
Parker, John L., xxx-xx-xxxx
Parker, Robert K., xxx-xx-xxxx
Parmentier, Michael, xxx-xx-xxxx
Parr, William R., Jr., xxx-xx-xxxx
Pasero, David A., xxx-xx-xxxx
Patterson, John L., xxx-xx-xxxx
Pauls, James F., xxx-xx-xxxx
Peacock, Ronald K., xxx-xx-xxxx
Pearson, John T., xxx-xx-xxxx
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Peden, William D., xxx-xx-xxxx
Peeler George E., Jr., xxx-xx-xxxx
Pelton, Peter G., xxx-xx-xxxx
Perry, James C., xxx-xx-xxxx
Peters, James L., xxx-xx-xxxx
Peterson, Douglas J., xxx-xx-xxxx
Pickering, Ralph C., xxx-xx-xxxx
Pilch, George J., xxx-xx-xxxx
Piller, Todd B., xxx-xx-xxxx
Pinder, Robert G., xxx-xx-xxxx
Plain, John R., xxx-xx-xxxx
Plotnicky, John R., xxx-xx-xxxx
Poe, Arthur K., xxx-xx-xxxx
Polityka, Donald E., xxx-xx-xxxx
Polkinghorn, Thomas, xxx-xx-xxxx
Poore, Roger C., xxx-xx-xxxx
Porch, Francis W., xxx-xx-xxxx
Porter, Jimmie, xxx-xx-xxxx
Potter, Harold R., xxx-xx-xxxx
Potucek, John A., II, xxx-xx-xxxx

Powers, Charles H., xxx-xx-xxxx
Prall, Glen F., xxx-xx-xxxx
Pratt, John A., xxx-xx-xxxx
Probst, Peter S., xxx-xx-xxxx
Procinsky, Ihor M., xxx-xx-xxxx
Prystaloski, Donald, xxx-xx-xxxx
Puckett, Richard A., xxx-xx-xxxx
Purdy, Alton J., xxx-xx-xxxx
Pymm, Albert H., xxx-xx-xxxx
Queen, Jimmy B., xxx-xx-xxxx
Rabb, John F., xxx-xx-xxxx
Raia, Alfred J., xxx-xx-xxxx
Raison, William T., xxx-xx-xxxx
Rearick, Daniel G., xxx-xx-xxxx
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Vadakin, Charles E., xxx-xx-xxxx
Veale, William N., Sr., xxx-xx-xxxx
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Verbout, Bernard F., xxx-xx-xxxx
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CHAPLAIN CORPS

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Crone, Jesse E., xxx-xx-xxxx
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Gaylord, Larrie E., xxx-xx-xxxx
Kelley, Laurence E., xxx-xx-xxxx
Mackey, James W., xxx-xx-xxxx
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Began, Thomas J., xxx-xx-xxxx
Harris, John A., xxx-xx-xxxx
Lang, John W., xxx-xx-xxxx
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Clark, Jack L., xxx-xx-xxxx
Davis, Jackson L., II, xxx-xx-xxxx
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NURSE CORPS

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Brickman, Corrine M., xxx-xx-xxxx
Brown, Melva E., xxx-xx-xxxx
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Hanson, Judith F., xxx-xx-xxxx
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Johnson, Deloy F., xxx-xx-xxxx
Joy, Nancy E., xxx-xx-xxxx
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IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, 533:

MEDICAL CORPS

Colonels

Dibenedetto, Margarette D., xxx-xx-xxxx
Durham, James C., xxx-xx-xxxx

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Hill, Robert B., xxx-xx-xxxx
Lasersohn, William B., xxx-xx-xxxx
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Kim, Sok M., xxx-xx-xxxx
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Hale, Douglas A., xxx-xx-xxxx
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French, John M., xxx-xx-xxxx
Gunn, Michael C., xxx-xx-xxxx
Peters, Grover C., xxx-xx-xxxx
Vislosky, Helen M., xxx-xx-xxxx

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Majors

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Smith, Sheila M., xxx-xx-xxxx

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Bice, Wynona B., xxx-xx-xxxx
White, Lowell D., xxx-xx-xxxx

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Fierro, John M., xxx-xx-xxxx

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Loushine, Robert J., xxx-xx-xxxx

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Childers, Darrell W., xxx-xx-xxxx
Lugo, Alberto, xxx-xx-xxxx
Marz, Richard F., xxx-xx-xxxx
Orr, Frank E., xxx-xx-xxxx
Temple, Robert E., xxx-xx-xxxx
Williams, Alvin B., xxx-xx-xxxx
Wilson, Robert L., xxx-xx-xxxx

VETERINARY CORPS

Lieutenant colonels

Pletcher, John M., xxx-xx-xxxx

Majors

Gunnels, Robert D., xxx-xx-xxxx

Captains

Grant, Kenneth J., xxx-xx-xxxx
Lyons, Fred E., xxx-xx-xxxx
Trahan, Creighton J., xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

Majors

Reid, James A., xxx-xx-xxxx

Captains

Sinnott, Melissa W., xxx-xx-xxxx
Warber, John P., xxx-xx-xxxx
Willey, Marc S., xxx-xx-xxxx

IN THE NAVY

The following-named chief warrant officers of the U.S. Navy for permanent promotion to the grades of chief warrant officer W-3 and chief warrant officer W-4, pursuant to title 10, United States Code, section 555, subject to qualifications therefor as provided by law:

Chief warrant officer W-3

Acoba, James David
Acosta, Alfredo Zamora
Adams, John N.
Adcock, Jerry Lee
Allen, Glenn Howard
Altenburg, Carl H., Jr.
Anderson, Gerold Boyd
Aucoin, Dennis George
Augsburger, John Allen
Aymond, Kenneth Charles
Babb, Gary W.
Bachman, Donald W., Jr.
Bachman, Lawrence Jack
Bailey, Anthony R.
Baisey, Kenneth Robert
Baker, Michael Wayne
Balderrama, Jose Art

Balinas, Jose C.
Barba, Thomas Salvatore
Barnhart, John Albert
Barr, Luther Guy
Battaglia, Anthony Paul
Bauman, William Joseph
Beesley, Dennis D.
Benjamin, Herman Murkey
Bennett, Gregor Fordyce
Blossom, Robert D., Jr.
Bogart, Kenneth Daniel
Bogstead, James Robert
Bohannon, Talmadge Wayne
Boley, Gary George
Bondzoi, Donald Joseph
Botteron, Richard E.
Bouck, Worcester NMN, II
Boudreau, Denis R.
Brakhage, Charles Herbert
Brown, Ernest William
Brush, Michael Robert
Brustol, John Leonard
Buckman, John A.
Bulick, James Craig
Butler, Michael Edward
Byrd, Ralph, Jr.
Canino, Lind Antonio
Cannon, John Raymond
Cantrell, Bennie F.
Cantu, Sandra
Carsten, Thomas Earnest
Carter, Lorenza
Casey, Patrick J.
Castillo, Rodolfo R.
Castle, Edwin Hunington, Jr.
Chrisohon, Christopher M.
Cirucci, Edward Joseph
Clark, Joseph Blue
Clayton, Thomas Stanford
Clifton, James Robert
Conder, Howard Everet
Cooper, Henry D.
Copeland, Melvin Eugene
Corder, Fred, Jr., II
Cornelius, Eddie Joe
Cowart, Henry L.
Crews Charles Anthony
Crowl, Peter Elmer
Curley, Jeremiah Mathew
Davis, Herbert H.
Davis, James Ray
Davis, Mars F.
Day, James Lee
Deas, James Dale
Deck, Larry Eugene
Decker, Raymond E.
Demain, Joseph Nelson
Dodson, Jimmie Leon
Domingue, Wilfred Le
Donnelly, Paul G.
Douglas, Robert Michael
Dowler, Gary Owen
Drahos, Daniel David
Drewry, Douglas Leroy
Dulin, Robert Herman
Dunbar, Frederick Charles
Earl, Billy Blake
Eck, Thomas Patrick, Jr.
Edmondson, Jerre L.
Ellis, Robert Allen
Eltringham, Norman Paul
Ethridge, Charles Ronald
Evans, Gary L.
Feazelle, Rufus M.
Fenger, Peter Walker
Fenwick, James Joseph, Jr.
Feyh, William Howard
Finley, Terry R.
Fischer, David Robert
Fletcher, Emory NMN
Ford, Thomas R., Jr.
Forrey, Roderick A.
Fortner, Elton Craig
Fortuna, Leonard James
Fraher, Dennis Eugene
Francis, James Everett
Frantzen, Thomas Alan
Freed, Robert M.
Fudge, Tommie W.
Gac, Jesse James
Gaither, Johnny D.
Galeski, Steven Michael
Gandy, Arthur Dovard
Garland, Fernald T.
Geihl, Robert Francis
Gengler, Kenneth Anthony
George, Clarke Lee
Geres, Hans F.
Giddings, Joseph E., III
Gideon, William Raymond
Goldstein, Dennis Robert
Gough, Jeffrey Lynn
Gray, William J.
Grief, Michael Philip
Gripon, Ronald Gene
Grout, Donald Edgar
Haberman, Leonard R.
Hall, John Henry
Hammond, Rodric G.
Harder, Kenneth E.
Hardin, Larry Gale
Harris, Charles Ray
Hatfield, Gary L.
Heath, Robert David
Helwick, David Laure
Heriford, David Stine
Hill, Donald Wilfred
Hill, Jeffery D.
Hillhouse, David J.
Hinkle, Wilbur Gordon
Hipskind, Larry Gene
Hollar, Ned R.
Hollis, Donald D.
Hopkins, Ronald Dale
Horton, Edward C., Jr.
Hosterman, Larry Dea
Hubner, Jon Roger
Hufford, Robert Caldwell
Huggins, Gary Wayne
Hunst, Eugene F.
Huskey, Ralph E.
Huuki, Arnold Edward
Hyman, Bobby Earl
Ilagan, Cesar O.
Ingram, George T., II
Jaquith, Philip Arthur
Jarrins, Lawrence Andre V.
Jaus, Frederic S.
Jellison, James Avey
Jiles, Elvin, Jr.
Johnson, Clarence O.
Jones, Gilbert Harrison, Jr.
Jones, Phillip Eugene
Jordan, Larry Paul
Kauffman, Robert Hen
Keasler, David H.
Keller, Clyde W., Jr.
Kemp, Thermon Robert, Jr.
Kermon, Robert Henry, Jr.
King, Thomas Moses, Jr.
Kirchberg, Daniel John
Knight, Daniel W., Jr.
Knight, John Robert
Koca, Richard Lee
Kolenda, John Henry
Kopp, Philip Alvin
Krause, Walter Henry, Jr.
Kurz, Dennis L.
Lake, Kenneth Douglas
Lanear, Edward Alexander, Jr.
Lardner, John Morgan
Lederer, Mark Richard
Ley, John L., III
Lord, Frederick R., Jr.
Lutz, Garry D.
Lutz, Robert Edward
Lyon, Percy Fred
Maley, John Thomas
Mandapat, Rolando B.
Marion, Wade Hampton, Jr.
Marrioneaux, Ory Samuel
Marstall, Bernard Louis
Maxey, Jack Edward
Maynard, Paul
McCall, Michael W.
McCallum, David Lee
McCarthy, John Paul, Jr.
McHorney, Benjamin Manning
McKee, Larry James
McMahon, Larry Steve
McMullen, Richard Lee
Meeker, William Henry
Miller, Samuel Troy
Miller, Victor Eugene
Moody, Robert Edward
Moore, Ronald Joseph
Moore, Troy C.
Morris, Daniel Garland
Morse, Stephen F., Jr.
Mucheck, Frank Donald
Mularchuk, Peter
Narlock, Charles R.
Neal, Clifford Brooks
Nelson, Donald Floyd
Niebler, George Henry, Jr.
Nucup, Ernesto Magat
Ogg, Paul R.
Oltman, Carl Fredrick
Oshaughnessy, Larry Ray
Osterfeld, Leroy Alan
Outram, Cloyce W.
Overfield, Norman Michael
Pace, James Ronald
Pacetti, Frank O.
Painter, Dale E.
Palmer, Bruce Elvan
Pashby, Clifford Stanley
Pate, James E.
Pechon, Louis Fel, Jr.
Pemberton, John Albert
Pester, Curtis Ke, Jr.
Peters, Clyde Virgil
Pfau, Edward Alber R.
Piner, Steven Earl
Polley, Apama Kathleen
Powell, Thomas Gayle
Prendergast, Michael Page
Prince, Burton Louis
Pursley, Donald Harrison
Pye, John Thomas
Raesemann, Robert Charles
Ramsey, Floyd D.
Randle, George Pa Eu
Reyes, Raphael O.
Rhatigan, Richard James
Rial, Robert Devoyne
Rohr, Richard L.
Rowley, Alan B.
Ruiz, David Presas
Saine, Paul M.
Sapien, Joe
Sawicki, Gerald S.
Schaeffer, John Peter, III
Schlink, Robert James
Schneider, Jacob Peter
Schuck, Jerry Lee
Schwartz, David Bruce
Scott, Wayman C.
Seagers, Jimmie R.
Segovia, Gustavo
Sellers, Gary Thomas
Shanklin, John Lymond
Shepherd, Danny Kaye
Shepherd, Robert David
Sherman, James Howard
Skinner, William L.
Smith, George R.
Smith, Gordon D.
Smith, John Edward
Smith, Richard Theodore
Smith, William Sherm
Snow, Charles S.

Snyder, Leonard William
Soldo, Terrence L.
Sowers, William Randolph
Speir, Roger Loren
Spellman, Frank Russell, Jr.
Spencer, Ronald Clayton, Jr.
Stone, Michael Douglas
Stringer, Charles Leroy, Jr.
Strong, Richard Lee
Sturgis, Russell
Sumner, Frederick Silvia, Jr.
Taylor, James Glen
Tesnow, Ronald Lewis
Tognazzini, James T.
Trapp, James Earl
Treloar, Alan F.
Truett, Clyde Dewane
Tucker, Gary Dell
Ulp, Richard Brooks
Vanderbrink, Charl G.
Vandewark, Wade Leandrew, Jr.
Vaughn, Donald Ray
Waldron, Patrick J.
Warden, Allan J.
Wasson, Gary Wayne
Wells, Raymond William
Wendling, Phillip Galen
Wernli, Theodore
Werre, Vernon Sherwin
White, Allan F.
White, Johnnie Nmn, Jr.
White, Thomas Ray
Whited, Ronald Michael
Williams, Billy Joe
Williams, James L.
Wilson, A.J.
Wilson, Karen Mirth
Woods, William A.
Ybanez, Jesse Alberto
Yeager, William Patr
Yelken, Robert Leonard
Ziegler, Marion Davis, III
Zink, John W.
Zurschmit, Frankli E.

Chief warrant officer W-4

Asbury, Virgil Wayne
Becker, William Elliott
Beer, Bill Eugene
Boyd, Woody Don
Campbell, John Robert, Jr.
Campbell, Keith
Combs, Charles Richard
Comfort, Terrence Jay
Conger, Cary Alan
Demers, Robert Paul
Eno, James Michael
Ferris, John Arnold
Gaffey, John Anthony Arthur
Good, Steve Harold
Hamler, Walter Earl
Harris, Leslie Alan
Haskell, Brian Stillman
Hatcher, Billy Gene
Horn, William John
Huffman, Ar hur Earl
Hutchins, George Ralph
Johnson, Lester
Kennedy, Robert Lee
Kirby, James Colin, Jr.
Knueppel, Wolfgang Werner
Love, James Joseph
Meeks, John Dennis
Moilanen Thomas Edward
Pratt, George T.
Rohrbacher, Richard Kenneth
Ryan, James Francis
Snyder, Jerry Marvin
Sooy, Richard Allen
Suchland, Everett Burdett, Jr.
Swagert, Lee
Swarner, David Miles
Walden, William Ray
Weckerle, Richard Steven
Welsh, Kenneth Henry
Wilcox, William Lee
Woodbury, John Searles
Woodward, William Cleve

CONFIRMATIONS

Executive nominations confirmed by the Senate September 17, 1984:

Robert D. Stuart, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Charles A. Legge, of California, to be U.S. district judge for the northern district of California.

Marcel Livaudais, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Anthony J. Scirica, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

FOREIGN SERVICE

Foreign Service nominations beginning Calvin C. Berlin, and ending George Mu, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 1984.

Foreign Service nominations beginning William Joseph Ackerman, and ending James Daniel Singletary, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 1984.

Foreign Service nominations beginning Malcolm Heaton Butler, and ending Daniel E. Harris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1984.

Foreign Service nominations beginning David F. Lent, and ending Todd N. Thurwachter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 1984.

EXTENSIONS OF REMARKS

"DIPLOMA OF VOTER STATUS"—AN OUTSTANDING IDEA

HON. MARIO BIAGGI
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. BIAGGI. Mr. Speaker, today is a special day in the life of our Nation. It marks the 197th anniversary of the signing of the Constitution. Appropriately, today is also "Citizenship Day."

It seems only right, then, that nine high school students from Westchester, Putnam, and Rockland Counties, NY, have come to Washington today to be honored for their winning essays discussing the spirit of the Constitution and their suggestions for celebrating its 200th anniversary in 1987. Ceremonies for these outstanding young men and women are being hosted in the Senate by Senators RANDOLPH and HATCH, and in the House by myself. I am pleased to report that the top essay winner was one of my own constituents, Mr. Roger Loria, who attends Roosevelt High School in Yonkers, NY.

Other essay winners being honored today are: Paul Angelilli of St. Eugene School in Yonkers; Kevin Metcalf of Albertus Magnus High School in Bardonia; Karla Haley of Sacred Heart School in Hartsdale; Ilyse Kezsbom of H.C. Crittenden School in Armonk; Patrice Tombline of Brewster High School in Brewster; Pratap Mukherjee of Hommocks School in Mamaroneck; Michael Curtin of Hommocks School in Mamaroneck; Neal Marx of Westlake High School in Thornwood; and Don Uy of Pearl River High School in Pearl River.

The essay contest was sponsored by Convention II, an organization founded by Boris Feinman of New Rochelle, NY, to preserve, protect and promote the Constitution and the participation of Americans in the political process. Gannett Westchester Rockland Newspapers administered the contest and contributed cash prizes for the winners.

I also want to bring to my colleagues' attention a fresh and exciting new concept that is especially pertinent to today's events. I am referring to another very worthwhile creation of Boris Feinman's, entitled "Diploma of Voter Status."

Each year, thousands of high school seniors across the country receive diplomas at their graduation ceremonies. That diploma signifies a very important achievement in their lives, and symbolically serves as a springboard to their adult years, where they are new challenges and added responsibilities.

Yet, while the graduation ceremonies and diploma focus special significance on the completion of high school, another equally important milestone in their life comes and goes with little, if any, fanfare. I am referring to the fact that most high school students turn 18 during their senior year and, thus, become eligible to vote. Recognizing the extreme importance of this coming of age, it seems only appropriate that the event should be somehow highlighted, even if only in symbolic terms, such as the presentation of a "Diploma of Voter Status."

Although the idea is new, it has received considerable support. In fact, today, in Westchester, Putnam, and Rockland Counties, NY, some 12,000 high school seniors will be receiving a "Diploma of Voter Status" in special ceremonies at their individual schools. I should also point out that essay winner Roger Loria will be receiving a "Diploma of Voter Status" today on behalf of all high school seniors across the country.

The diploma, itself, is an impressive document, much like a high school diploma, and includes the signatures of the Federal and local elected representatives of the students. Simply put, the purpose of the diploma is to foster a greater sense of political awareness among young voters and to promote responsible political participation.

The fact that the 18-to-24-year-old age group is the least likely to vote is more than enough evidence to support the need for this vital effort to stimulate political participation among young adults. In fact, it was for this same reason that I authored a bill (H.R. 4207) earlier this Congress to provide Federal funds for voter education programs and voter registration drives in our Nation's schools. This bill seeks to better educate our young people about the political process and why the act of voting is so important, and it would make it as easy as possible for those young people to fulfill their responsibility as voters by bringing the voter registration process into the schools. Among the worthwhile educational activities to be funded by this legislation are mock elections and model congresses. This "investment in democracy" would help to instill the fact that voting is not only our right, but our duty—something too many Americans, especially young Americans, have forgotten.

Mr. Speaker, I have long expressed my deep concern about our Nation's dismal voter turnout rate. The facts tell us that the voter turnout rate has dropped in every Presidential election since 1960, from a high of 62.8 percent in 1960 to a low of 52.6 percent in 1980. In fact, the 1980 voter turnout rate was the lowest in 32 years for a Presidential election. Voter turnout in non-Presidential elections is far worse, with only 38.6 percent of the voting-age population participating in 1982. It should also be noted that the 1980 U.S. voter turnout rate was some 30 points lower than the 82.8-percent median voter turnout rate for the 28 western democracies.

In a further attempt to remedy this dangerous trend, I have long pushed for changing election day to Sunday and allowing 24 hours for people to vote. This bill (H.R. 4618) would make voting far more convenient and, significantly, the ideas contained in this measure have worked successfully in many other western democracies. I have also supported several other important election reform initiatives aimed at increasing voter turnout, including one that would provide incentive grants to States that adopt less complicated voter registration procedures, such as door-to-door canvassing on a nonpartisan basis, same-day registration and postcard registration.

But, while these measures would help, the problem of low voter turnout appears to be deeply rooted in the attitudes of the American electorate. There is considerable apathy when it comes to political participation and we must do all that we can to prevent the act of voting from being taken lightly. There is no better place to start than with the youth of our Nation. That is why I so strongly support the idea of a "Diploma of Voter Status," and I want to commend John Dowling, chairman of the Westchester Federal Savings Bank of New Rochelle NY, and Boris Feinman for the leadership roles they have played in the creation and promotion of this exciting new concept.

At this time, Mr. Speaker, I wish to insert the text of the "Diploma of Voter Status," along with a recent statement made by Boris Feinman discussing the underlying philosophy of this idea:

IN THE CONGRESS OF THE UNITED STATES ON THE 197TH COMMEMORATION OF THE SIGNING OF THE CONSTITUTION OF THE UNITED STATES

We the people who believe that the Constitution of the United States is the most brilliant invention in the History of Govern-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ance, also believe that the blessings of the Constitution can best be secured to ourselves and our posterity if all who have the right to vote will exercise the responsibility to vote,

Therefore we welcome you to the body of responsible and voting citizens of our great democratic republic and with pride and affection look forward to your life as a participating member of a society dedicated to Freedom, Liberty, and Respect for Human Differences, and in token thereof we issue to you this

Diploma of Voter Status, in the 18th year of your birth and on this September 17, 1984.

JUNE 27, 1984.

Meeting of 35 Boards of Education of Westchester, Rockland, Putnam, attended by Andrew O'Rourke, County Executive, Westchester.

Remarks by Boris Feinman, Founder, Convention II, (previously described), and member of Council for the Advancement of Citizenship, (descriptive brochure enclosed), and on behalf of Westchester Federal Savings Bank:

We want to suggest a specific piece of action to beef up your own citizenship education programs.

Let me weave together six separate strands.

First Strand: The Constitution mandates the preparation of the citizen for participatory life in our democratic republic.

Second Strand: There exists a sizable disdain for politics and government and a sizable neglect in exercise of the responsibility to vote.

Third Strand: When Youth reaches 18 the rights and responsibilities of the ballot are achieved. It is a significant time—but by and large there is no uplifting ceremony attending that milestone as in the case of a confirmation or bar mitzvah.

Fourth Strand: September 17 is the anniversary of the signing of the Constitution. That day, by act of Congress, is annually proclaimed by the President as Citizenship Day in recognition of these new voters.

Fifth Strand: If there could be within your schools a single grand event to focus on as the climax of your own courses on law/politics/government/civics, then I suggest that the receptivity of the student and the input of the teacher could translate into more joyous and realistic appreciation of the art of citizenship.

Sixth Strand: With respect to the essay contest by Convention II and the Gannett Press—the participating students almost unanimously suggested setting aside certain days and weeks to mark the bicentennial of the Constitution by 1987.

It certainly seems that the signing of the Constitution represents a high in American Intellectual and Philosophic achievement, and that the birthday of this document of democracy should not be perfunctorily proclaimed and passively celebrated. It should rank with Independence Day as a great national holiday.

Now let me pull these six strands together into a cloth with which to cloak in majesty Youth's coming of age into Voter status.

I propose that in each of your educational jurisdictions, on September 17, the birthday of the Constitution, proclaimed by the President as Citizenship Day, you hold a special assembly, and with appropriate ceremony as seems good to you issue to each Youth a Diploma of Voter Status marking Youth's entry to power.

Here is a sample of such a Diploma. Westchester Federal Savings will undertake to furnish them to you in whatever numbers you require; Council for the Advancement of Citizenship will issue the first Diploma to Roger Luria of Roosevelt High in Yonkers at the 197th birthday commemoration of the Constitution in the Senate on September 17, 1984, and we will ask the bipartisan hosts of the event, Senator Jennings Randolph of West Virginia, and Senator Orrin Hatch of Utah to sign on the Diploma along with our local United States Representatives, Dick Ottinger, Ham Fish, and Ben Gilman, and our County Heads, Andy O'Rourke, Dave Bruenn, Herb Reisman, and Senators Al D'Amato and Dan Moynihan and Representative Mario Biaggi.

That's the pitch. Tie in with the upcoming Bicentennial of the Constitution; give your citizenship education programs a coherence and a high visibility; give your 18 years olds—or entire senior class—a day of status to mark their entry to power; give each one a personal document attesting to the value that we, their mentors, place upon political adulthood and welcoming them to the high rank of responsible, informed and voting American citizen.●

TRIBUTE TO GEORGE TUDAN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mrs. KENNELLY. Mr. Speaker, I would like to take this opportunity to pay tribute to George Tudan, a well respected and admired town official in Windsor, CT. For the past 30 years, Mr. Tudan has served the people of the town of Windsor in his capacity as town clerk. His decision to retire this coming December marks the loss of the most memorable and popular town clerk in Windsor's history.

Over the years, the man and the office have become inseparable. In fact, George was so popular that when town clerk was made an appointed rather than elective position in 1969, the town charter expressly stated that this change would go into effect only after the current town clerk retired.

George Tudan was well-known for his sense of humor, dedication, and genuine friendliness. Couples in love benefited from his annual tradition of granting free marriage licenses each Valentines Day.

Outside of his professional responsibilities, George has always been active in the community. Currently he is serving his second term as president of the Connecticut Town Clerk's Association and as a director of the Windsor Federal Savings and Loan Association. For many years he has been active in the Needle Club, the Boy Scouts, the Elks, and the Veterans of Foreign Wars.

George Tudan was born in Hartford and moved to Windsor in 1938. After serving 3½ years in the Air Force, he married Marie Magistri in 1948. Two years later, he graduated from the University of Hartford with a bachelor's degree in business administration. He switched careers in 1953 to run for town clerk of Windsor and has remained in that position ever since.

I join with the residents in Windsor in wishing George Tudan all the best in years to come, and commend him for his 30 years of excellent service as Windsor town clerk.●

UNITED WAY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Ms. MIKULSKI. Mr. Speaker, I rise today to show gratitude and offer my congratulations to the United Way which kicks off its campaign this month in central Maryland. For so many years, the United Way Organization has provided services and volunteers to noteworthy causes throughout the United States. The United Way in central Maryland is the result of cooperative efforts among social agencies extending as far back as 1908.

The United Way supports more than 100 local agencies through contractual agreements with the American Heart Association, American Cancer Society, American Red Cross, Associated Jewish Charities and the United Way Community Services. These agencies serve to bridge the gap between the public and private sectors. The social benefits that are created from the United Way negate the many social costs that exist in our society.

To the many volunteers that create the backbone of the United Way Organization, at this time, I would like all of my colleagues in the House of Representatives to join me in saying: thanks to you, it works, the United Way.●

WORLD HUNGER

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. LELAND. Mr. Speaker, I would like to share an article by our former colleague, and distinguished professor of law at Georgetown University, Father Robert F. Drinan, on the vital issue of hunger in the world, which was published in the National Catholic Reporter on September 7, 1984:

LIFE: TO DEFEND IT MEANS TO FEED THE HUNGRY . . .

(By Robert F. Drinan, SJ)

The sanctity of all human life was highlighted by Cardinal Joseph Bernardin in his Fordham University address when he stressed that Catholics should be acutely and uniquely sensitive to the taking of life

in abortion, nuclear war and the death penalty.

The link between these three life-related issues is not entirely clear to everyone, because many Catholics who are opposed to abortion are in favor of capital punishment. But the focus on the three interrelated issues dramatizes the sensitivity Catholics should have concerning the injustice of every wrongful taking of human life.

However, another life-related issue also deserves the moral and political attention of Catholics. It is the death of 20 million people each year by starvation. This is an issue on which immediate corrective action could be taken. No controversial laws need be changed and no profound prejudices uprooted in order to stop the death by starvation of 400,000 human beings each week—three-fourths of whom are children.

There is no organized resistance to correcting this situation as there is to altering the laws on abortion, nuclear weapons and the death penalty. The reality of death by starvation is frightening.

More people have died as a consequence of hunger in the past five years (100 million) than have been killed in all the wars in the past 100 years.

The plague of massive death by starvation is not because of the lack of food. Enough grain is grown on the planet to give daily to every man, woman and child two pounds—3,000 calories—approximately the daily consumption of the average American. The problems reside in the distribution of food.

In July 1984 experts from more than 40 nations met in Zimbabwe to devise a strategy to increase food production in Africa. A three-year drought has threatened millions in Africa with starvation. The situation is apparently not improving.

By the year 2000, 2 billion more human beings will be in the global village. Little indication exists that 16 years from now the annual death of 20 million people by starvation will be lessened.

The United States expressed its institutional concern for the hungry of the world by the enactment of Public Law 480 in 1954. The law, designed originally, at least in part, to help farmers by selling their products abroad, was later named the Food for Peace Program. Since its enactment, it has provided about $40 billion in aid; in 1984 it will furnish $1.5 billion. This is .3 percent of the Gross National Product (GNP)—less than half the level of .7 percent of GNP recommended by international hunger interest groups.

Jurists are now trying to demonstrate that the right to food is guaranteed by international law. There is no certainty as yet about that proposition, but the Organization of American States (OAS) charter to which the United States is a party provides, in the InterAmerican Declaration on Human Rights, for a right to adequate nutrition.

There are many sound proposals to cut down on death by starvation. One of the most constructive has been made by James Grant, director of UNICEF, by which, for $6 billion a year the lives of 13,000 could be saved every day.

All the reports on world hunger—including that of the conservative Heritage Foundation—agree that hunger persists from a lack of political will to end it. The information about world hunger that is needed by citizens is available from 20 organizations.

The effectiveness of those groups is evaluated in a 104-page book published in 1984 and titled "A Guide to World Hunger Organizations," by Lewis L. Knowles. Additional information and insights about global hunger is available in a bulletin published nine times a year by the World Hunger Educational Service, 1312 G Street, N.W, Washington, DC 20005.

The U.S. House of Representatives has recently established a new Select Committee on Hunger. Congressman Mickey Leland (D-Texas), a black Catholic, is chairperson.

The attention 50 million Catholics in America are giving to the assault on the sanctity of human life in abortion, nuclear war and capital punishment is bound to have a significant effect. The same attention extended to the 20 million people in 1985 who will die from starvation could bring about a spectacular result.●

ACID RAIN: RESEARCH EFFORTS IN THE UNITED KINGDOM

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mrs. LLOYD. Mr. Speaker, over the past several months, I have expressed my belief that the only way to deal with the uncertainties regarding acid rain is to continue and to accelerate our research efforts on causes and effects. I believe that it is only by this responsible course of action that we will be able to formulate a focused and comprehensive plan to deal with possible future effects of deposition. Acid rain has captured the attention of other countries as well as our own and there are some fairly extensive international programs in progress. I want to highlight one of these programs by summarizing a recent report published in the United Kingdom in June 1984. The report was prepared at the request of the United Kingdom Department of Energy by the Energy Technology Support Unit [ETSU].

The objectives of the study were to compile what is known on the origins, transport, chemical transformations, and deposition of acidity in the environment and its movement through the soil into the waterways. The findings presented in the study were based upon data from the United Kingdom with some additional input from nearby countries.

The report states that for the two main precursors of acid rain, sulfur dioxide [SO_2] and nitrogen oxides [NO_x], 80 percent of the total emissions in Western Europe are manmade. However, in the United Kingdom, emissions of SO_2 have decreased since 1982 due to fuel switching and industrial recession. Their research also shows that there is very little factual information available regarding interactions and deposition of nitrogen compounds in determining the content of acidity in rain. The study concludes that because of the nonlinear quality of emissions and depositions, changes in the quantity of emissions of SO_2 and NO_x are unlikely to lead to a proportional change in the deposition of acidity or unoxidized SO_2 or NO_x at a given location.

Some of the additional findings follow:

Dry Deposition—The report says that computer modeling of deposition processes has shown that dry deposition dominates over wet deposition in remote areas. Dry deposition from domestic and commercial sources contributes about one-third of the total SO_2 emissions and more than one-half of the total NO_x emissions, with motor vehicles being the prime source.

Environmental Effects—Damage is caused to materials primarily from dry deposition of SO_2 reacting with metal or stone in the presence of high humidity. The main factors which determine the corrosion rate are the atmospheric concentration of pollutants and the time during which moisture is present on the surface of the structure.

Vegetation—It is generally accepted (in this report) that increased atmospheric concentrations of pollutants can cause reduced yield and visible foliage damage in crops, but the effects are not quantifiable. Some damage to vegetation appears to be both species- and location-specific, while forest damage which has been attributed to increased SO_2 concentration, may actually be caused by ozone in combination with other atmospheric pollutants.

Aquatic Life—The report finds that calcium in the water may make the presence of acidity and inorganic aluminum concentrations more tolerable.

Human Health—It appears that, to date, acid rain has not caused direct damage to human health.

The ETSU report concludes that while acid deposition may cause damage, it is still difficult to quantify the cause(s) of the damage because of the complexity of chemical and biological systems involved and the lack of background data for unpolluted atmospheres. Research to date has not clarified whether long term or episodic deposition is more important in causing damages; how a reduction in SO_2 and NO_x emissions would effect a reduction in deposition at a given location; or whether and how emission reductions would translate to environmental effects or lack thereof.

These issues and many others are still unresolved. It is instructive to note that the United Kingdom is pursuing their research efforts to clarify not only causes and effects of acid deposition but they are also attempting to determine economic realities of increased emissions controls and possible environmental costs of delaying the implementation of controls.

The key to understanding the global consequences of acid precipitation lies

in our continuing research efforts. I am heartened that other countries are also choosing to accelerate research and monitoring on the processes which cause acid rain before instituting arbitrary control regulations.●

THE PLIGHT OF ALEKSANDR YAKIR

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. BEILENSON. Mr. Speaker, I would like to take a moment to draw my colleagues' attention to the plight of long-time refusenik Aleksandr Yakir and to commend an unprecedented coalition of Jewish leaders and Christian, civil rights, peace and human rights groups for their actions on Mr. Yakir's behalf.

Aleksandr Yakir and his parents have been trying to emigrate from the Soviet Union since October 1973 and for the past 7 years, Aleksandr has been filing for exit permission on his own. Aleksandr has been refused permission on "humanitarian grounds" because the authorities "do not want to split up families." In addition, Aleksandr has been convicted of draft evasion and now faces up to 3 years of imprisonment; it is ironic that Aleksandr refused to be inducted into the military because he did not want to be exposed to "state secrets," thus giving the Soviets further excuse to delay granting him permission to emigrate.

Aleksandr's plight has been given special attention by members of a unique coalition of leaders who have recently sent cables to Soviet officials protesting his arrest, trial, and conviction on charges of draft evasion. The group has also urged the Soviet Government to grant the Yakir family permission to immigrate to Israel.

I am glad that the coalition has added some new voices to the cause of Soviet Jewry, and I urge them, along with all of us in the U.S. Congress, to continue speaking out for the rights of Soviet Jews such as Aleksandr Yakir.●

TRIBUTE TO LINDA THERESA GARCIA

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. MARTINEZ. Mr. Speaker, I rise today to pay tribute to a very special person, Linda Theresa Garcia. Linda Garcia grew up in a military family where she learned early on about the rigors and pains associated with moving every few years. However, her travels also served to enrich her life through new friendships and broader cultural experiences. Linda graduated from high school in Massachusetts in 1976 after having lived and traveled throughout the United States and Puerto Rico.

In 1976, Linda made history when she was 1 of 156 young women to enter with the first class to include women at the U.S. Air Force Academy. Four years later, and with only 88 women remaining, Linda graduated with a bachelor of science degree in political science/international affairs, with a minor in engineering. During her third summer at the Academy, Linda earned her military parachute wings.

After graduation, Captain Garcia attended the Air Force Intelligence School at Lowery Air Force Base, Denver, CO, and was subsequently assigned to the Latin American branch in the Defense Intelligence Agency [DIA] in Washington, DC, from November 1980 to September 1983. As an intelligence research specialist for Latin America, her work involved analysis of the military capabilities of Latin American countries. From the beginning of April through June 1982, Captain Garcia was assigned to the Falkland Islands Intelligence Task Force at the Pentagon as the military analyst for Argentina. In that assignment Captain Garcia personally briefed senior military and civilian personnel in the Department of Defense, including the Secretary of Defense and the Joint Chiefs of Staff. In February 1983, Captain Garcia was awarded the Joint Service Commendation Medal for her work during the Falkland Islands crisis.

In September 1983, Captain Garcia was assigned for 3 months to the Central America Joint Intelligence Team [CAJIT] at the Pentagon, a special DIA task force monitoring the current tactical military situation in Central America.

From December 1983 to June 1984, Captain Garcia worked in the Office of the Secretary of Defense, where she was assigned to the Deputy Assistant Secretary of Defense for Equal Opportunity and Safety Policy. In that office, Captain Garcia liaisoned with the White House on a special nonpartisan project for the Department of Defense.

In mid-June, Captain Garcia returned to the Central America Joint Intelligence Team, where she is now working in the Pentagon.

In addition to her normal duty responsibilities, Captain Garcia is an admissions liaison officer for the USAF Academy and AFROTC. In that capacity she visits high schools throughout the District of Columbia, Maryland, and Virginia, encouraging young men and women to further their education beyond high school. Additionally, Linda is the treasurer for the Pentagon IMAGE Chapter, an organization dedicated to the professional promotion and advancement of Hispanic-American employees in the Department of Defense.

Linda has received numerous awards and honors from the Office of the Secretary of Defense, the Defense Intelligence Agency, and various national Hispanic organizations for her contributions as a pioneer Hispanic woman and as a role model for young men and women. In March 1980, during her senior year at the Academy, Cadet Garcia was named Woman of the Year by the Mexican American Opportunity Foundation in Los Angeles, and in 1981, Linda was honored as Woman of the Year by the National Conference of Puerto Rican Women in Boston. Also, Linda has been named an Outstanding Young Woman of America for 1983.●

TRIBUTE TO TARAS SHEVCHENKO

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. BIAGGI. Mr. Speaker, yesterday Ukrainians from across this country gathered in Washington, DC, to pay tribute to Taras Shevchenko, a 19th century Ukrainian poet and artist who helped to develop Ukrainian nationalism. At this time, Mr. Speaker, I would like to say a few words in honor of this great man and to recognize the symbolic significance of his work in relation to the present day struggle of the Ukrainian people to break free from the yoke of Soviet tyranny.

The deep emotion and nationalistic fervor evoked in Taras Shevchenko's work has given each successive generation of Ukrainians a boundless source of inspiration and hope. At a time when freedom of speech in Ukraine and all other basic human freedoms have been brutally suppressed, this tribute takes on great meaning. By honoring the memory of this great man—who stands as a symbol of Ukrainian nationalism and freedom—we also recognize the sad fact that the Ukrainian people have been forced to live under the brutality and repression of Soviet rule for over 60 years. For over 60 years the Soviet Union has tried to crush the spirit of the Ukrainian people. In 1932 the Soviet Government committed one of the most heinous crimes against humanity ever recorded—as they intentionally starved to death thousands of Ukrainian peasants who resisted collectivization. The Great Famine in the Ukraine of 1932 and 1933 is but one example of the type of repression and inhumanity the Ukrainian people have suffered at the hands of the Soviet Government.

The history of Soviet rule in Ukraine has been a tragic one. But de-

spite this grim legacy of oppression and denial of basic human rights, the Ukrainian people still dream of freedom and self-determination. The works of Taras Shevchenko continue to be a source of great inspiration to those Ukrainians who refuse to succumb to Soviet attempts to annihilate the Ukrainian culture and traditions; and to those Ukrainians who dream of an independent Ukraine—free from the tyranny and the injustice of Communist rule. It was Taras Shevchenko who helped foster the growth of Ukrainian nationalism—a proud sense that the Ukrainian people should be a free and independent nation. In paying tribute to Taras Shevchenko let us also reaffirm our unbending support for and solidarity with those brave freedom fighters in Ukraine and throughout Eastern Europe who seek freedom and self-determination.●

REPRESENTATIVE DINGELL COMMENTS ON ALLEN PARK VA HOSPITAL

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. FORD of Michigan. Mr. Speaker, I would like to share with my colleagues the remarks my friend and colleague, the Honorable JOHN DINGELL, made during a public hearing on the draft environmental impact statement of the Veterans' Administration regarding the VA Medical Center in Allen Park, MI. The issue of the future replacement/renovation of this hospital was the subject of an amendment to H.R. 5713, the "HUD and independent agencies appropriations of 1985." These comments highlight the concerns that both of us share about the potential threat to the quality of health care afforded Detroit area veterans. As is pointed out in this statement, an ill-informed decision on the future of this hospital could lessen the range of services available to both service-connected and non-service-connected veterans in the Allen Park VA service area.

The major argument of those promoting the relocation of the hospital is the opportunity to place the VA hospital adjacent to the Wayne State University School of Medicine. While this argument is not without merit, it has seemingly so prejudiced this decisionmaking process that the outcome has become predetermined at various levels within the Veterans' Administration, and has completely overshadowed many other important and more humanistic considerations. This is truly unfortunate since Allen Park is an existing hospital and not an expensive addition to our national VA hospital system, which a new facility in Detroit would be. Although proximity to a medical school is an important issue, it should be noted that the Allen Park Medical Center is only 9 miles from the Wayne State school, along major expressways, and well within normal medical school affiliation standards. In my district, the Wayne County General Hospital which is now known as the Westland Medical Center, is approximately 25 miles from the University of Michigan Medical School, and has served as a teaching facility to that institution without any inconvenience or difficulty.

Our efforts regarding this project are aimed at insuring that the VA deliberations are balanced and complete, and I believe you will find Representative DINGELL's comments insightful.

[The remarks follow:]

We are all here today because of our concern about the future of veterans health care in the metropolitan Detroit area. I am particularly concerned about the possible loss of vital services, not only for veterans with service-connected disabilities, but also for our veterans who rely on the VA as a health care provider of last resort. The World War II veteran population has reached an average age of 64 years. We, as a group, are just arriving at a time in our lives when we may need the very services that are the subject of this Draft Environmental Impact Statement.

This draft perpetuates some of the same problems that were contained in an earlier study on the relocation of the medical center conducted by Rossetti and Assoc. This document also has some shortcomings of its own that must be addressed. I will attempt to discuss some of the critical issues at this time and submit a more complete written statement before the comment period expires.

The information gathered by the Veterans' Administration to this point in time has been inadequate to make a proper decision on such an important matter. There is a clear indication of prejudice toward one particular outcome evidenced in the background materials prepared within the VA. I have requested the General Accounting Office (GAO) to do an independent review of the entire VA information gathering process to determine the accuracy of their studies and to further provide a complete document for use in making the final determination. This document will not recommend any particular course of action and will not be unduly influenced by me or anyone else.

Since this draft EIS was released, there has been a new priority list of VA projects released as well as a new VA submission for the 1985 budget. Released just last week, it provides a good starting point for a discussion of the future of the Allen Park VA Medical Center. The draft states that five alternatives are being considered. They include a modest renovation, a complete renovation, a total reconstruction except for the original hospital building, a new construction at a Detroit location, or no action.

There are those who would say that we jeopardize Michigan's chances for any new hospital by making a fuss. They would hold that we should take the money to relocate in Detroit and be thankful. Those same people probably feel that once the VA spends $8 million on property acquisition it will insure a new hospital will be built. That is what the veterans of Maryland thought when the VA spent almost $10 million to purchase property and complete design for a new VA hospital in Baltimore. Just a few days ago, the people in Baltimore were surprised to learn that the 1985 budget does not contain construction money for their new hospital, as expected, but $2 million to do a study on modernizing the existing hospitals at Loch Raven and Fort Howard. After all, their hospital had been on the top of the priority list. How could the VA throw away the money already spent and just begin again? Well, they have, at least temporarily. The sad truth is that the time has come for hard economic choices and my interest in this project has always been to insure that the future course of veterans' health care in Michigan will not be unexpectedly detoured.

I know from experience that government projects can be subject to change and modifications on the path to completion. Many times these changes are unavoidable and other times they are the result of bad or incomplete planning. In the case of the replacement of the Allen Park hospital, the planning has been at least incomplete.

The VA budget for 1985 indicates a reduction in the total base construction cost for the Concept "D" proposal of $5.1 million. Concept "D" is the new hospital in the Detroit Medical Center and is, interestingly enough, the only concept which appears in the Budget Display. The reduction is achieved by eliminating 9,500 square feet of hospital space. Since this information was just released, I have been unable to discover what impact this change will have on health care delivery in the Nursing Home Care Unit. This is the unit which is being reduced.

The Veterans Administration projects that the need for VA nursing home beds will increase from 9,125 in 1980 to 19,600 in 1990. There is approximately one bed for every 890 veterans in the primary service area of Allen Park Medical Center. These Detroit area veterans make up half of all the veterans in Michigan, yet it is estimated that the ratio of veterans to beds in this area is almost four times the national average. This is a disgrace. The population of veterans over 65 years of age is expected to rise in this area over the next two decades and yet this draft EIS and the proposals for a replacement hospital do not adequately address that fact. This decision must encompass the entire problem and not neglect the critical need for long term care beds in the very near future.

I have long held that the greatest peril to veterans will come in the form of unanticipated reductions in services which will jeopardize the quality of veterans' health care. Without proper planning, the Detroit area VA hospital may have to be downsized during the construction phase because of cost overruns and budget cuts. We in the Detroit area have already experienced the problems with the People Mover and light rail transit system.

We do not need a surprise like that afforded the veterans of Baltimore recently. We ask you to consider carefully the information presented during this public comment period and the review conducted by the GAO.

A brief list of the problems contained in the Draft EIS would have to include the following:

(A) An accurate legal description of the status of the 39 acres donated by the Ford Family if the hospital is relocated in De-

troit. This would have to include loss of revenue if the land is rededicated for another purpose.

(B) The exact number of parking spaces to be provided at either location and their cost. The draft EIS demonstrates a reliance on public transportation and other alternatives that are not realistic in the Metropolitan Detroit area. It also refers to public transportation that has been severely cut in the past year and includes reference to future transportation systems that are speculative at best.

(C) There has been no effort to determine the intentions of the current skilled staff persons to move with the relocation of the hospital. These people will all face an increase in personal income taxes if the move takes place. A reference is made to potential problems filling nursing and skilled staff positions but no figures are supplied with reference to the experience of other hospitals in the area.

(D) There are currently over 900 regularly scheduled volunteers at the Allen Park Medical Center. This program is the 15th largest out of 172 VA hospitals and provides more than just nursing assistance. The volunteers are the spark of life that makes a period of time spent at the Allen Park VA more pleasant and meaningful. There is a serious question as to whether a program even close to the quality of the present one can be sustained at the relocation site. I do not think it can, and would like to see the issue addressed.

(E) The VA has failed to adequately investigate the location of the veterans within the Allen Park service area in relationship to the proposed hospital locations. An attempt is made to review discharge data and then survey the number of those veterans that live within a 6 mile radius of the Detroit Medical Center location. No such survey was done with regard to the present Allen Park site and no effort was made to project future demographics.

(F) The problem of crime is not properly addressed. The only figures provided for the Detroit Medical Center Complex were 1981 figures. The VA also used 1981 figures for the Allen Park Medical Center when current figures are available. It should also have been noted that much of the crime at the Allen Park Medical Center is committed by the patients or employees, particularly in areas such as assault, rape, and weapons possession. In contrast, the Crane Study indicates that the borders of the Medical Center pose serious security questions after dark. This is mentioned on page 111-25 of the draft EIS regarding an alternative site adjoining the proposed site.

(G) The draft EIS gives the prospect of saved travel time great weight while discussing the merits of moving to Detroit. I would first like to point out that no one from Detroit will ever believe that it takes 2.5 hours to complete a trip from Wayne State Medical School to Allen Park and return. Certainly not in traveling by car. This is just one indication of the excessiveness of the arguments favoring the Detroit proposal. The Allen Park Medical Center also has many professional affiliations other than the Wayne State Medical School but the list of these is strangely incomplete in the draft EIS.

These notes are a very incomplete listing of the problems with this draft EIS. Since cost is not a factor in an Environmental Impact Statement, I have not really discussed that issue, but it certainly raises many significant questions.

In the final resolve, there is not enough information presented here to warrant moving the Allen Park Medical Center nearer to the Medical School. The Detroit area deserves first class medical care for our veterans. They are getting that at the Allen Park location and if the VA wants to improve for the future, as it certainly should, they can accomplish that very nicely on the existing property at Allen Park.●

THOMAS H. BRISCOE, OUTSTANDING COMMUNITY VOLUNTEER

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. MITCHELL. Mr. Speaker, at a time when volunteerism is being strained to take up the slack left by severe cuts in Federal programs, my colleagues in the House of Representatives should know about the impressive volunteer services Thomas H. Briscoe has given to the city of Baltimore, Howard County, MD, and the State of Maryland.

His volunteer services began in 1961.

GENERAL

Thomas H. Briscoe is a native of Baltimore, MD, where he attended the public schools. He received his undergraduate training at Lincoln University in Pennsylvania and at Morgan State University in Baltimore, MD. He attended graduate school at Howard University earning the master of social work degree. He is a veteran of World War II and the Korean conflict. He served a total of 27 years in the Maryland National Guard and the U.S. Army Reserve. He has been employed by the city of Baltimore for over 30 years and is currently director of family services for the Urban Services Agency.

Thomas Briscoe has for many years been involved in performing volunteer services in the communities where he lived and worked. He is known and respected by many for his unselfish devotion in assisting his fellow man. His interest in volunteer service dates back to his early teens, when he acted as assistant to American Red Cross instructors teaching inner-city children to swim. His volunteer service covers a wide range of activities involving the complexities of corporate structures to the delivery of food baskets. His reluctance to turn down an opportunity to serve has resulted in a busy, but rewarding schedule of activities for the past 20 years. He attributes his willingness to help others to the example set by dedicated men and women he knew who offered help and encouragement to those who needed it, particularly young people.

VOLUNTEER SERVICE ACTIVITIES

The following are some of the volunteer service activities in which he has been involved. These services were performed in Howard County and Baltimore City:

HOWARD COUNTY

1. From 1970 to 1973 he served as a member of the Columbia Interfaith Housing Corporation Board of Trustees. He organized the first resident body to represent tenants and was one of the trustees to implement the revolutionary idea of tenant management of five housing sites. He acted as advisor to the resident management staff for one of the five sites.

2. He joined the Columbia Rotary Club, a volunteer service organization in 1971. He initiated club participation in several community service projects. He is the club historian and photographer. He also serves as the photographer and historian for Rotary District 762 which includes 51 Rotary Clubs. He has written the history of the first ten years of the Columbia club and has compiled eleven award winning documents depicting club activities. The Rotary Club meets once a week throughout the year. He has not missed a meeting in twelve years.

3. He served as a member of the Board of Managers of the Howard County Branch of the YMCA from 1974 to 1976 working principally in membership drives and fundraising campaigns.

4. He was a founder and charter member of the Columbia Chapter of Kappa Alpha Psi Fraternity established in 1974. He acted as the community service coordinator. He initiated such chapter projects as assistance to the elderly, volunteer parole and probation counselors, support for the Ride-A-Bike for the Retarded and delivery of food baskets for the Salvation Army. He is the chapter photographer and archivist. He is chairman of the fraternity's Eastern Province History and Traditions Committee.

5. From 1977 to 1979, because of the shortage of regular parole and probation counselors, he worked as a volunteer Parole and Probation Counselor with the Howard County Division of the Maryland Department of Probation and Parole. He organized a team of six volunteers to work with released offenders. Each team member took the required training to qualify as counselors and supervised the adjustment period of five or more released offenders. For this effort the team was awarded the Maryland Volunteer Activist Award presented by the Governor at the State House in 1979.

6. He is a member of the Howard County Branch of the National Association For the Advancement of Colored People (NAACP). He serves as branch photographer and is currently seeking life membership subscribers. He set a personal goal in September 1983 to seek $10,000 in life membership pledges. To date, $11,000 in pledges has been obtained.

7. He served as a member of the Howard County Chapter of the American Red Cross Board of Directors from 1977 to 1981. He participated in fund raising and membership campaigns. He sought and obtained the members possessing skills needed by the chapter such as an attorney and an accountant. He acted as chairman of the chapter's "Services to Military Families and Veterans" unit.

8. He served as a member of the Board of Directors of the Howard County Association For Retarded Citizens from 1977 to 1981. He worked mostly with soliciting or renewing a minimum of 30 memberships a year. He enlisted active and financial support from other organizations for the Association's

Ride-A-Bike-For-The-Retarded fund raiser. His term as a board member was ended by organizational regulations in 1981. Since then he has served on the membership committee and has assisted with the Rid-A-Bike checkpoints.

9. He was an original member of the Howard Community College Education Foundation established in 1981 to raise funds for students in need of assistance. He offered the first time table to be used for Foundation activities.

10. In 1982 he served as a member and secretary of the Howard County Salary Review Commission. The Commission reviewed the salaries of the County Executive and the County Council members, made comparative studies commensurate with their responsibilities and recommended salary revisions.

11. He answered the call in November of 1983 when the Howard County Community Action Council needed assistance in the distribution of government surplus food to eligible residents of Howard County. He delivered food items to senior citizens who were homebound or otherwise unable to manage the food pick up themselves.

BALTIMORE

1. From 1961 to 1966 he participated in the annual membership campaign of the Druid Hill Avenue Branch of the YMCA.

2. In 1969 he served as a training instructor for VISTA (Volunteers In Service To America) personnel. He taught subjects related to human welfare during training sessions at the University of Maryland.

3. He founded and organized the Social Service Workers of East Baltimore (SSWEB) to perfect a coordinated ongoing system of communication and cooperation in order to facilitate the delivery of social services to the citizens of East Baltimore.

4. In 1975 he arranged for cooperative effort between the Department of Housing and Community Development, the National Guard and the U.S. Army Reserve to undertake community services projects in support of Baltimore's improvement programs. As a result, projects such as playground repairs, cleaning of vacant lots, preparation of open space for cultivation, home repairs and others were accomplished.

5. He served as a member of the Allocations Committee for the United Way of Central Maryland, assessing member programs and determining their eligibility to receive funds in 1976 and has been a solicitor since 1970.

6. He has been a member of the Baltimore Regional Chapter American Red Cross Board of Directors and the Executive Committee since 1980.

7. In 1977 and 1978 he collected used but serviceable clothing to stock an elementary school clothing bank established to provide essential items of clothing needed by pupils in order to attend school.

8. For the past five years he has been a volunteer worker for the Baltimore Goodwill Industries Annual Thanksgiving Dinner. He has coordinated the distribution of 500 dinner tickets to needy families and arranged for bus transportation to get to and from the dinner site.

9. He participated in the census recount of 1980. He volunteered to supervise a team of interviewers to insure Baltimore's fair share of federal funds based on population.

10. In 1983, at the request of the Adjutant General of Maryland, he consented to serve on a committee to organize the Maryland State Guard. The State Guard is a volunteer force that is to function during state emergencies in the event the Maryland National Guard is called into federal service.●

THE CHANGE IN LEADERSHIP AT THE SMITHSONIAN INSTITUTION

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. BOLAND. Mr. Speaker, today on the mall an important event occurred in the 138-year life of the Smithsonian Institution. With the passing of the ceremonial bronze key to the castle, Robert McCormick Adams succeeded S. Dillon Ripley as the Smithsonian's Secretary.

I want to join in welcoming Secretary Adams to Washington. A distinguished scholar, he brings to his new office a wealth of ability and enthusiasm which should serve him well in the days ahead. I am confident that under his leadership the Smithsonian will maintain its position as one of the world's preeminent institutions of learning.

As Secretary Emeritus Ripley takes his leave, he can reflect with pride on his two decades as the Smithsonian's driving force. It was fitting that the weather permitted today's installation ceremony to take place on the mall, because it was on the mall that Dillon Ripley focused so much of his attention during the last 20 years. He has changed the face of that magnificent expanse of green and in so doing he has made an indelible mark on the Nation's Capital. The Air and Space Museum, the Hirshhorn Museum and garden, the promise of the quadrangle—are among the concrete manifestations of his imagination and vision. However, the moments of joy, wonder and discovery which daily emanate from the mall and which have been experienced by millions of people throughout the world, are perhaps the more important and enduring testaments to his tenure as Secretary.

The mission of the Institution—the diffusion of knowledge among mankind—has been his guide and he has pursued it with vigor and skill. His efforts transcended national boundaries and have made it possible for the artistic, cultural, historical, and scientific treasuries of the world to be experienced by people in all walks of life. The citizens of the United States, who have most directly benefited from his labors, are in his debt, but that debt is shared by all who believe that in the promotion of understanding among the world's people lies the path to a peaceful resolution of the differences which separate us. Dillon Ripley's contributions toward that end have been profound and will be his enduring legacy.

Mr. Speaker, last evening the Board of Regents of the Smithsonian, on which I am privileged to serve, paid tribute to Secretary Ripley and his wife Mary, by presenting them with the Institution's highest awards—the Order of James Smithson and the Joseph Henry Medal. I would like to insert at this point in the RECORD the remarks made by two of the regents, Mr. Carlisle Humelsine and Mrs. Anne Armstrong at that occasion. In addition, I would like to insert an editorial which appeared in this morning's Washington Post on Dillon Ripley's service as the Smithsonian's Secretary:

REMARKS FOR MR. HUMELSINE, REGENTS DINNER, SEPTEMBER 16, 1984

Thank you, Mr. Chancellor, and good evening Mr. Vice President, fellow Regents, Mr. Secretary, and ladies and gentlemen. It is a great pleasure to bring to your attention this evening the product of a unanimous vote of the Board of Regents that Secretary Ripley be inducted into the Order of James Smithson.

Let me begin by describing the nature of this honor. Establishing the Smithson Order just one year ago, the Regents agreed with the National Board of the Smithsonian Associates that we should have on hand a special honor to recognize and encourage extraordinarily important contributions to the work of the Institution. If I may quote from the Regents' resolution, "the Order of James Smithson [is] to be conferred upon those rare individuals whose contributions to the Smithsonian measurably transcend existing honors for service to the Institution."

The individual we are honoring tonight is indeed rare by any standards. Being one of only eight Secretaries is one form of rarity, but hardly the most significant. Dillon has been called a Renaissance man, and that's certainly a rarity in this day and age. But what about his imagination? Perseverance? Boldness? Extraordinary intellect? He possesses these and other qualities to a rare degree which is all the more remarkable in a—pardon me—man of science, not to mention an administrator of such vast proportions.

In short, we know what a rare man we have had as the eighth Secretary, and, even without knowing the man, a phenomenal number of people have come to appreciate—and even take for granted—his manifold contributions to the vitality and significance of the Smithsonian for American culture. The outward signs of his activities abound: a magazine here, some exhibitions there, a few new museums here and there, and new telescope out there—I could go on. What is so important about Dillon's accomplishments is not their numbers, but their unmistakable quality. Not just any museum, but museums which hold world records for attendance, which open our minds gently to contemporary art, which bring alive the relevance of the past, and more. Not just any magazine, but one which has become perhaps the most respected journal in the land. Not just any new telescope, but one which promises to light a path for future land-based astronomy. Not just another budget-busting science program, but a variety of finite studies, finely tuned, on the cutting edge of ecology and conservation.

Dillon's accomplishments will be all the more remembered in Smithsonian annals

because they so often signified achievements against seemingly insurmountable odds, against the practical-minded (Dillon would say "bureaucratic") naysayers, and against periods of fiscal austerity. It is simply mind-boggling to think of his success in raising support, from the Regents, the Congress, the Administration, and the private sector here and abroad, for some newfangled Quadrangle which he chose to bury, 96% of it, underground—at a time when budgets were being cut left and right. How many foresaw that such a high quality magazine would bring the returns it has? How many others in the sixties would have started a new neighborhood museum in a forlorn section of the city, or would have welcomed the underprivileged, unwashed citizenry in the museums?

I could go on and on, as many of you here tonight could also. But let's face it, it would be virtually impossible even to list his major accomplishments in one sitting. The point is we have had in Dillon a sort of Jolly Green Giant, a personality of simply phenomenal dimensions whose contributions to the Smithsonian and to the nation will keep the historians busy for as long as anyone would want. Moreover I am sure you would all join me in saluting not just Dillion's masterful success, but also his extraordinary style, his exquisite taste, and his inimitable grace.

Dillion and friends, I have attempted to sketch the Regents' thinking (and fear I have run the risk of boring you) when I know that my words cannot adequately express our collective feelings. I have long believed that action speaks louder than words. If you will allow me, Mr. Secretary, on behalf of the Board of Regents I will attempt now to drape this apparatus over your neck and thereby to induct you into this exclusive Order of James Smithson for life, with all our best wishes for a fruitful relationship in the years ahead.

REMARKS BY MRS. ARMSTRONG, REGENTS DINNER, SEPTEMBER 16, 1984

Mr. Chancellor, fellow Regents, Dillon and Mary, Ladies and Gentleman. I am honored to stand before you with the assignment of presenting to Mary Ripley the Joseph Henry Medal on behalf of the Regents.

The Board of Regents has voted unanimously to add Mary's name to only fifteen others who have received the Henry Medal since 1879. As you might suspect, looking into this award I found a special dimension to Mary's honor—put simply, she is the first woman ever to receive this Medal!

Let me assure you that the Regents have not singled her out just because of the age-old cliché "Behind every successful man is a. . . ." Surely she has been that—but moreover, as Dillon himself will testify, she has been beside and even in front of him in numerous activities. In a word, it is her initiative which the Regents have cited in making this presentation.

Practically everyone here can think of at least one instance in which Mary's perseverance, imagination, charm, and wry wit have worked a special magic for the Institution. Her work on behalf of the Orchid Collection will be nothing short of legendary in Smithsonian annals. We could say the same about her dedication to entomology, where on behalf of the Natural History Museum she has collected countless insects from the remotest corners of the world. For many of us her most significant and hopefully most long lasting service to the Smithsonian was in founding the Women's Committee, which since 1965 has contributed to a great variety of urgent and important projects—everything from a garden for the handicapped and Free Film Theater and organizing the annual Christmas Ball and crafts fairs to their constant hospitality for visiting dignitaries.

I could go on and on, but this handsome citation says it best. Mary, would you please come forward while I read it?

To Mary Livingston Ripley in recognition of her outstanding service to the Smithsonian Institution as a nurturer of the orchid collections, collector and taxonomist in entomology, founder of the Women's Committee, Research Associate, photographer and scientific colleague, the Board of Regents respectfully presents the Henry Medal with heartfelt gratitude and affection.

And so, Mary, on behalf of the Board of Regents and with all our love I am pleased to present this highly prized Medal and to wish you all the best for our continuing association.

[From the Washington Post, Sept. 17, 1984]

DILLON RIPLEY'S WASHINGTON

S. Dillon Ripley steps down today after 20 years as head of the Smithsonian Institution, and what a productive 20 years they have been. Mr. Ripley has been the promoter, builder and/or expander of most of the great museums on the Mall and of a host of other facilities (the National Zoo) elsewhere in the city and outside the city. No single man has done more in his time to bring pleasure in learning to Washington's residents and its millions of visitors alike.

He in fact believes fiercely in the pleasure principle in knowledge, the notion that learning must be enjoyable and that the human personality can be engaged and fulfilled in many playful, serendipitous ways. Hence his placement of a carrousel by the Smithsonian castle, his sponsorship of the summer folk festivals and other special events, his hospitality of a profusion of activities that reach, on the Mall, a critical mass. To measure the public's taste for all this, try counting the Smithsonian Associates stickers on the cars you see.

Less visible but no less central to his stewardship has been his vision of the wholeness of knowledge, the interdependence of the sciences and the humanities, the single universe of the scholarly life and the public life. The Woodrow Wilson International Center for Scholars, the Smithsonian's seminars and research and its outreach to countries around the globe, and its publications, including the nationally popular Smithsonian Magazine and the Wilson Quarterly, are among the fruits.

For his vast construction program—some important parts of which remain for his successor, Robert McC. Adams, to oversee—Mr. Ripley gained a reputation as a master builder. He also gained a certain reputation as an empire builder who went by his own rules. In a sense that particular rap may be seen as a tribute to the diligence and skill with which Dillon Ripley wove the strands of private money and public power into the institutional web of the Smithsonian.

He looked after the Hill and he kept in touch with presidents. He gave them good ideals and they gave him support. This is a political city, and nothing important gets done in it that does not require a political touch. The Smithsonian is, after all, devoted to the diffusion of knowledge.●

FLOOD COMMENDATIONS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mrs. KENNELLY. Mr. Speaker, between May 28 and June 2 of this year Connecticut's First Congressional District experienced severe flooding—the worst in almost 30 years. Damage to the communities surrounding Hartford was substantial, with losses totaling more than $5 million. Homes and businesses were affected; public thoroughfares were choked with debris; community and individual activities were disrupted; a state of disaster was declared. Fortunately, there was no loss of life.

As the flood waters receded, the afflicted communities faced the gargantuan task of repairing the damage and restoring services. I would like to take this opportunity to recognize before Congress the exemplary efforts taken by one community in particular, the town of Glastonbury in response to the disaster.

Glastonbury deserves to be publicly commended for its fierce community spirit, perseverance, and unity in the face of disaster. The community is its own profile of courage; a microcosm of the basic American spirit of steadfastness, inventiveness, and optimism.

I witnessed this spirit firsthand when I had the opportunity to tour Glastonbury with our Governor, William A. O'Neill, after the flooding. I saw Main Street of this vibrant township hidden under almost 20 feet of water. Touring the area by helicopter, I saw the extensive damage to the western sections of the town. Sixty homes suffered an estimated $200,000 in damage; 20 businesses faced flood-related losses amounting to more than three-quarters of a million dollars; the estimated cost to repair public facilities were projected at $416,000, including repair of the town's wastewater treatment plant.

In the wake of the disaster the people of Glastonbury showed that they are made of the same proud heritage that settled the town in 1693. There was a tremendous spirit of cooperation between local, State, and Federal offices of civil preparedness. In my own involvement, helping to facilitate the establishment of Federal Disaster Relief Centers to aid victims of the flooding, I was impressed by the cohesiveness of the community leadership and the determination shown by every citizen to pull together to restore the community to its proud condition. This kind of teamwork, this kind of respect for fellow citizens is the glue that holds a community together. The town of Glastonbury has proven its mettle.

I am proud to represent a town such as Glastonbury, and honored to commend all its residents for their impressive response to this natural disaster.●

SOVIET JEWRY

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. WINN. Mr. Speaker, as a participant in the 1984 Congressional Call to Conscience Vigil on behalf of Soviet Jewry, I wish to express my personal interest in and concern over the situation of the Yevgeny Yakir family of Moscow. Of particular concern is the current plight of their only son, Alexander.

The Yakir family first applied to leave the Soviet Union in October 1973. Their initial application, and every subsequent application, has been denied by the Soviet authorities. The proported reason for these refusals is the "secret classification" of Mrs. (Rimma) Yakir's work in computer engineering, a job she has not held since June 1973.

The plight of Alexander is particularly troubling at this time. Alexander is now being held by Soviet authorities on charges of "draft evasion," charges that are of questionable validity. Upon his graduation from the Moscow Technical Institute in 1977 Alexander, then 22 years old, was notified that he would be conscripted into the Soviet army in the fall. Conscription means 2 years of active service followed by 5–10 years of being refused permission to emigrate, on the grounds of being in possession of state secrets. Alexander, who had applied for an emigration visa more than 4 years previously, knew that entering the armed services would forfeit for several years any opportunity to leave the Soviet Union. Faced with this dilemma, Alexander went into hiding in Moscow. Later that year, the Soviet Government began criminal proceedings against Alexander, and continued to harass him and his family while he remained in Moscow.

For several years later, Alexander lived and worked outside of Moscow, believing the Soviet authorities would or could not pursue him elsewhere. He returned to Moscow earlier this year because, at the age of 27, he was too old to be drafted. But in mid-June, Alexander was picked up by the Soviet authorities on the present charge. He remains in prison, and may be sentenced to a long prison term at hard labor.

The case of the Yakir family has received the attention of many concerned Americans, including members of the Jewish community in the Kansas City area. I bring this situation to the attention of my colleagues, for I know they share my concerns over the plight of Soviet Jews. But I also bring the case of the Yakir family again to the attention of Soviet authorities, to show our continued concern over their oppressive and inhumane policies operating against their own citizens.●

THE OVERGROUND RAILROAD MARCHERS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. MITCHELL. Mr. Speaker, the NAACP sponsored an "Overground Railroad March" from Virginia to New York City. The marchers followed the route of the "Underground Railroad" which slaves used as they moved North to freedom.

I first met the marchers in Annapolis, MD, on Wednesday, August 22 at a rally on the steps of the State House. Among the 26 marchers, there was Ron Bivens from Dallas, TX; Donnie Helmes from Dayton OH; Regena Thomas, Louisville, KY; Duane Chapman, Jamaica, NY; and Jon Davis from Detroit, MI. They were brought from the city limits of Annapolis in a bus and cars. These vehicles were parked about a block from the State Capital steps. The Annapolis police did not tell anyone that the vehicles were parked illegally, did not ask anyone to move the vehicles, they simply put parking tickets on the vehicles in an arrogant manner and threatened to have them towed away.

This incident is of importance because of what it symbolizes. There is a growing contempt for black people, and unwillingness to extend even the slightest courtesy to us. It is a part of the larger attitude in America, an attitude heightened by the Reagan administration, an attitude which says "blacks, we no longer need to show you courtesy or respect, the civil rights days are over and your cause is no longer the concern of white America."

The two white women police officers, to show their dominance over black men, even threatened to tow away my car. As you can guess, after a few words from me, my car stayed where it was parked—it was not towed away.

I next met the marchers at Centennial Church in Baltimore on the evening of August 23. The church, showing the kind of concern all of us should show, prepared dinner for the 26 marchers. I talked with Linda S. Sirells, from Queens, NY; Morrie Turner, Oakland, CA; Sheila Williams, New Orleans, LA; Thomas Manor, Atlanta, GA. They were in high spirits, despite the threats that they would be harmed if they attempted to march through Harford and Cecil Counties in Maryland. In movingly simplistic, but eloquent statements, each of them vowed to continue the march.

They were marching to bury black voter apathy. They marched to say that most potent weapon black people have is the vote. They marched, despite the threats, to make the statement that we who are black are not afraid, and will not be turned back, and will not be denied.

Overground marchers, I hope that by your sacrifice and your courage, you have inspired black people to be counted. We can ask no more from you, the marchers, we must ask much, much more from observers.

I commend those 26 marchers who took part in this symbolic trek up the freedom trail. The following should be recognized for their active participation in the "Overground Railroad March" and their names engraved in history": Ron Bivens, Jon Davis, Morris Howard, James Marks, Thomas Anthony Minor, W.C. Patton, James H. Ramsey, Phyllis Ladelle Robinson, Regena Thomas, Patrick O'Neil Washington, Sheila Williams, Aurthina Holmes, Donald Fields, Duane Chapman, Marc Maddox, Jackie Johnson, Donnie Nelms, Gerard Orbro, Donald Ray Wall, Curtis Alman, Linda S. Sivells, Morrie Turner, Guy Williams, Joseph E. Madison, Marla Edison, and E. Burns.●

TRIBUTE TO MSGR. GENO BARONI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 6, 1984

● Mrs. KAPTUR. Mr. Speaker, on August 26, our Nation lost a dedicated priest and great public servant, Msgr. Geno Baroni. Many of us recently paid tribute to Geno during a special order. He touched the lives of so many of us through his activities as civil rights leader, neighborhood leader, Assistant Secretary of HUD, a man of God and man of all the people.

Carla and David Cohen whose friendship with Geno began in the civil rights movement wrote a remembrance, "Monsignor Geno Baroni—Appreciating A Unique Leader" which appeared in the Washington Jewish Week.

I commend to my colleagues this moving, personal tribute which so aptly describes Geno's unique contributions to our society.

[From the Washington Jewish Week, Sept. 6, 1984]

MSGR. GENO BARONI—APPRECIATING A UNIQUE LEADER

(By Carla and David Cohen)

Monsignor Geno Baroni was a unique force in the Washington area for more than 20 years. Everyone called him Geno—never Father or Monsignor. He died last week after a five year fight against a rare form of cancer. He was only 54 years old, but he left us a powerful legacy.

A parish priest at St. Paul and Augustine's Church at 15th and V Sts., during the 1960s, he went to Selma to march with Martin Luther King, and when he returned he helped Walter Fauntroy, Channing Phillips and many other leaders form the Coalition of Conscience.

Using his moral authority as a priest, he became a prophet to white ethnic minorities, working with Italians, Poles, Czechs, Irish and others to help them appreciate their own worth and their valuable tradition. He founded the National Center for Urban Ethnic Affairs and gave birth to the national neighborhood movement. He converted what could have become a nasty reaction against racial equality into a positive statement of pride in ethnic, racial and religious diversity.

Treasuring these differences and sharing other people's celebrations, Geno never missed the Rosh Hashanah eve service at Tifereth Israel when his friend Belleruth Naparstek davened.

He loved politics. He was never afraid to tangle with or confront power in government or in the Church. Nor was he afraid to negotiate with the powerful. He made the vital link between politics, morality and ultimate beliefs. Geno used organizing to build new institutions. His organizations were the farm clubs for city council members, mayors, members of Congress and appointed officials. He was a Hall of Fame organizer and talent scout.

Geno Baroni spoke from inside the Catholic Church as a person deeply imbued in Hebrew as well as Christian scriptures. This was emphasized by his own choice of a biblical passage, Isaiah 61, read at his funeral services:

"The Spirit of the Lord God is upon me, because the Lord has annointed me to bring good tidings to the afflicted. He has sent me to bind up the brokenhearted, to proclaim liberty to the captives. . ."

As Father Brian Hehir said in his funeral sermon, Geno stood at the "ragged edge of the Church and met American society there." He led the Catholic Church to activism. For that purpose he helped to create the Campaign for Human Development. The Catholic Churches, once a year on a specific Sunday, designate collections for the campaign. Millions of dollars raised in this way are given as grants for community organization and community development efforts in both Catholic and non-Catholic neighborhoods. The local diocese participates in the grant making which has brought them in closer touch with poverty and minorities in their communities.

His most remarkable activism was in support of women's rights, especially in the Catholic Church. For the members of Network, a Catholic social action lobby funded by a group of activist nuns at a time of great turmoil in the Church, Geno was their brother, their advisor, their mentor, their support.

We celebrated Geno's life according to his own instructions on Thursday and Friday nights. It was a reunion for the legions who had been touched and changed by him, ranging from a cardinal to a black woman who had been in his first Young Adult Group, who had been married by him and whose tall, strapping sons had been baptized by him. His friends spoke of his personal warmth, his robust earthiness, his passionate commitment to justice on this earth, his deeply felt sense of roots, his boundless energy. And all who knew him talked of his never-flagging spirit.

What Geno stood for is best conveyed by his own words, in his last sermon, on Labor Day, 1983. "Help me to know that our limited charity is not enough. Lord, help me to know that our soup kitchens and second-hand clothes are not enough. Lord help me to know that it is not enough for the Church to be the ambulance service that goes about picking up the broken pieces of humanity for American society. Lord, help us all to know that God's judgment demands justice from us as a rich and powerful nation . . . Let us pray that there will be new voice of justice, new prophets who will hear the words of the Lord."

(Carla Cohen has been an activist in civic and Jewish affairs. David Cohen heads the Professionals Coalition For Nuclear Arms Control and is vice president of the New Israel Fund. Their friendship with Monsignor Baroni began in the Civil Rights movement.)●

TRIBUTE TO JOHN COX

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. ANDERSON. Mr. Speaker, on September 20, a luncheon will be held in honor of John Cox, senior vice president and general manager of Western Cruise Lines, based in San Pedro, CA. John is leaving Western Cruise lines to join the management of the U.S.S. *United States.*

Before assuming shoreside executive responsibilities at Western, John was the captain of the S.S. *Azure Seas,* Western Cruise Lines' 20,000-ton liner that makes 3- and 4-night cruises to Mexico from Los Angeles 50 weeks a year. He served aboard the ship for 1 year before assuming the senior vice president position in 1982.

Captain Cox is a native of San Francisco and served as an officer in the U.S. Navy during the Korean war. He is a graduate of the California Maritime Academy in Vallejo, CA, and also attended the University of Washington and underwent graduate study in internal business and transportation at California State University, San Francisco.

John's life has been dedicated to the seas in one way or another including, in 1973, serving as the relief captain for Eastern Steamship, Inc., aboard the *Emerald Seas* and *Ariadne.* He has also served as deck officer aboard passenger vessels with Matson Pacific, Far Eastern Lines, and American President Lines.

Not content with just serving aboard ships in an executive capacity, John has also done research work as the master of research vessels, and has done a considerable amount of work in this area, including setting up maritime operations—as marine superintendent—for the U.S. Geological Survey, Department of the Interior, Pacific Arctic branch.

John's responsibilities on land have taken in such areas as marine management, marine operations, ship and terminal operations, and ship surveys. Heading his own consulting firm, John has been a consultant for several Federal agencies, steamship companies, attorneys, and labor unions.

John has always been a strong advocate of promoting tourism both within the State of California and other parts of our Nation. Early in 1984, Governor Deukmejian appointed him a member of the prestigious California Travel Industry Association in Sacramento.

My wife, Lee, joins me in wishing John and his wife, Jean, all the best in years to come, and continued success in the cruise industry.●

LAX CONSUMER ENFORCEMENT CRITICIZED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1984

● Mr. FLORIO. Mr. Speaker, the record of the Federal Trade Commission in the last 4 years in protecting consumers and our free market economy is dismal. I am inserting in the RECORD a recent column from Newsweek by Jane Bryant Quinn that catalogs some of the failings of the current FTC.

While lax consumer law enforcement may not be as dramatically obvious as failure to enforce the laws against pollution, for example, the effect is a heavy, disguised tax on the American consumer. I am glad that the press is beginning to get this story to the public, so Americans can decide whether they want to continue paying for the disregard for our consumer laws that currently seems to prevail in Washington.

NEW HANDCUFFS ON THE COPS

(By Jane Bryant Quinn)

Maybe you can't fight city hall. But all together you can fight the steel companies, Listerine and the entire funeral industry if they're fixing prices, telling lies or putting out false business claims. At least that's what the country thought when it invented the Federal Trade Commission to be the cop on the consumer beat. But after a decade of industry-bashing in the 1970s, the Reagan FTC, under chairman James Miller III, is redefining the commission in ways that hurt the broad protection effort.

AD SUBSTANTIATION

Advertisers must have evidence in hand before launching any product claims. But lame-duck FTC Commissioner Michael Pertschuk says that the new FTC has weakened its standards of proof. As an example, take the case of Norelco's Black Pro Shaver, said to spare the user painful razor bumps. The company had agreed to drop that particular claim until two clinical studies were done to see if it were really true. (Two studies are the traditional FTC test of veracity in health-related ads.) But under Miller, the commission voted to consider whether only one medical test would do. Is one test enough? Who's to know for sure? All I know is that the new FTC seems willing to proceed on less evidence than used to be needed. Barbara Opotowsky, head of New York City's Better Business Bureau, says it's getting harder for the BBB to police the marketplace because of business's perception that the FTC has cut back on its advertising-review program. "It sends a signal to advertisers that they can make untruthful claims with minimum penalties," she says.

ANTITRUST

Miller is active against pricefixing combinations of doctors and lawyers. But he sees fewer problems with big-business megamergers than previous FTC's, bringing fewer cases and winning fewer settlements. Nor can he get excited about certain types of price fixing. By a recent FTC analysis, resale-price maintenance (where a product is fixed at a high price by agreement between stores and manufacturer) should sometimes be seen as aiding competition. As it happens, organized price fixing is against the law. Just last March the Supreme Court unanimously ignored an attempt, supported by the Reagan administration, to let Monsanto and its distributors set the market price of one of its products. But Miller says, "We will not file a complaint if the resale-price maintenance isn't harmful to competition." This could encourage some companies, like clothing manufacturers, to try cracking down on the sale of their goods to discounters.

DECEPTION

In one of its most important acts, the FTC has rewritten the definition of "deception" in advertising in such a way as to limit the types of cases brought. Miller argues that the change will merely prevent pointless cases by clarifying current law. But the National Association of Attorneys General, representing state law-enforcement officers, says it will now be harder and costlier to win deceptive-adverising suits.

Under the old rule, the FTC merely had to prove that a bad ad had a tendency to mislead a substantial number of consumers. If it did, it was ipso facto deceptive. But the new standard adds, among other things, that the consumer has to be "acting reasonably under the circumstances." Miller says that as a practical matter the new definition won't make any diffence. But FTC Commissioner Patricia Bailey sharply disagrees. She says that, in everycase, the government's lawyers will now have to prove, through surveys and other data, what a "reasonable" reading of a dubious ad is likely to be. Evidence for Bailey's fears comes from a current case against Pollenex, an air cleaner found by the FTC to be making false claims for its effectiveness. Pollenex has appealed, arguing that a reasonable consumer wouldn't have been misled.

With any luck, the FTC will get the malefactors in the end. But the new definition will likely add to the time it takes to corral the companies that retail misinformation. It gives their lawyers more to argue about.

TARGETS

Only four misleading-advertising cases were brought in the past two years against major corporations (the Amana Radarange, Stihl chainsaws, Brown & Williamson's Barclay cigarettes and Commodore home computers; all four have stopped the challenged ads). The Miller FTC spends relatively more of its time on the smaller fry like baldness cures and diet quacks, where a win helps only a small number of consumers. Not that the quacks ought to get away. But rounding them up is more the job of the state attorneys general, so the FTC can raise bigger questions with national impact. Why not make a federal case out of cigarette advertising aimed at young people? (The FTC says it has "informally" stopped some of the youth-directed advertising, but a public and noisy case might persuade the entire industry to quit trying to get teen-agers to smoke.) Why not challenge the jewelers' practice of advertising gold chains at 40 or 60 percent off the suggested retail price, when no one really sells at that price? (Current FTC theory says that you're probably not injured by industrywide phony discounts as long as the ads also tell the real selling price.)

TRADE RULES

A decade ago a more liberal Congress ordered the FTC to write sweeping rules against unfair or deceptive industry practices. Today a conservative administration is hanging up the broom. The proposed 30-day cooling-off period for hearing-aid buyers (to save them from devices that don't work) was sent back for yet more study. The used-car sales-disclosure rule was watered down. There's not much hope for a tougher rule enforcing warranties on mobile homes. A staff proposal would repeal the rule that forces an optometrist to give you a copy of your prescription automatically, after examining your eyes. This FTC thinks that much of the rule making was misguided, if not downright dumb.

Miller sees the FTC as a tool for promoting economic efficiency, a worthy goal but not what effective cops are all about. "Our strength has been in the perception that the FTC was prepared to move swiftly and *terribly* to enforce the law," Pertschuk says. Private lawyers should be telling their clients. "Don't cut corners or the rotten FTC will make a mess of you." The commission is nicer these days and slower to complain. But in the fight against the tendency of the overblown to overstep, nice guys finish last.

Associate: Virginia Wilson.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 18, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 19

9:00 a.m.
Commerce, Science, and Transportation
To hold hearing on the nomination of Howard D. Gutin, of Texas, and Lloyd Kaiser, of Pennsylvania, each to be a member of the Board of Directors of the Corporation for Public Broadcasting.
SR-232A

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the activities of the National Highway Traffic Safety Administration.
SR-253

*Judiciary
To holding hearings on pending nominations.
SD-226

Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men.
SD-124

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To resume hearings to review activities of the District of Columbia Parole Board.
SD-138

Banking, Housing, and Urban Affairs
To hold hearings on S. 2898, to protect and foster shared automated teller machine (ATM) networks.
SD-538

Finance
To hold hearings on proposals to extend the Superfund hazardous waste cleanup program, focusing on certain tax issues.
SD-215

Foreign Relations
Business meeting, to further discuss and complete consideration of the Convention on the Prevention and Punishment of the Crime of Genocide (Ex O, 81st Cong., 1st sess.), and to consider other pending calendar business.
SD-419

Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To hold hearings on private and public sector management theory.
SD-342

Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings to review Federal agency policy on controls and responsibilities.
SD-628

*Labor and Human Resources
Business meeting, to consider the nomination of Rosemary M. Collyer, of Colorado, to be General Counsel of the National Labor Relations Board, S. 2568, Civil Rights Act of 1984, S. 2878, Pharmaceutical Export Amendments of 1984, and other pending calendar business.
SD-430

2:00 p.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold joint hearings with the Committee on Foreign Relations' Subcommittee on African Affairs on food aid in Africa, focusing on this year's assistance program and prospects for 1985.
SD-419

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2667, to establish a program for the conservation and management of coastal migratory fish and impose a moratorium on fishing for Atlantic striped bass, and to review other fish and wildlife matters.
SD-406

Foreign Relations
African Affairs Subcommittee
To hold joint hearings with the Committee on Agriculture, Nutrition, and Forestry's Subcommittee on Foreign Agricultural Policy on food aid in Africa, focusing on this year's assistance program and prospects for 1985.
SD-419

3:30 p.m.
Governmental Affairs
Business meeting, to consider H.R. 6007, to establish certain procedures regarding the judicial service of retired judges of District of Columbia courts, S. 2115, to exempt participants in the Executive Exchange Program from the Federal criminal code provision prohibiting employees and officers of the executive branch from receiving outside income, S. 2721, to confirm conveyance of certain real property in Oregon by the Southern Pacific Transportation Company to Ernest and Dianna Pritchett, Senate Concurrent Resolution 120, to express sense of Congress that state legislatures should create legislative to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings, and pending nominations.
S-205, Capitol

SEPTEMBER 20

9:00 a.m.
Armed Services
Tactical Warfare Subcommittee
To hold closed hearings on air-land battle 2000.
SR-222

Office of Technology Assessment
To hold a general board meeting.
S-205, Capitol

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 2781, to remove processed poultry products from coverage of the Packers and Stockyards Act of 1921.
SR-328A

Banking, Housing, and Urban Affairs
To continue hearings on S. 2898, to protect and foster shared automated teller machine (ATM) networks.
SD-538

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1981, authorizing additional funds for the development of small reclamation projects.
SD-366

Finance
To resume hearings on flat-rate and other major tax reform proposals.
SD-215

Foreign Relations
International Economic Policy Subcommittee
To hold hearings to explore foreign and domestic policy implications of unitary tax requirements in the United States.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Joint Economic
Trade, Productivity, and Economic Growth Subcommittee
To resume hearings on how to save the international trading system, focusing on agricultural trade.
SD-342

2:00 p.m.
Foreign Relations
To hold hearings on proposed legislation authorizing assistance for agricultural activities in Poland.
SD-419

SEPTEMBER 21

9:00 a.m.
Special Committee on Aging
To hold hearings to examine the cost of caring for the chronically ill.
SD-628

10:00 a.m.
Finance
To resume hearings on proposals to extend the Superfund hazardous waste cleanup program, focusing on certain tax issues.
SD-215

Judiciary
Security and Terrorism Subcommittee
To resume hearings on S. 2771, to protect the internal security of the United States against international terrorism by making it a Federal felony for a foreign diplomat in the United States to use a firearm to commit a felony.
SD-226

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on issues relating to Antarctica, focusing on the proposed Convention on the Conservation of Antarctica Living Marine Resources, U.S. and international research activities therein, and on the proposed Antarctica Minerals Treaty.
SR-253

2:00 p.m.
Judiciary
To hold hearings on S. 2835, to allow certain sellers of agricultural products to bring antitrust actions.
SD-226

SEPTEMBER 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the implementation of the Household Goods Transportation Act (P.L. 96-454), and the Bus Regulatory Reform Act (P.L. 97-261).
SR-253

Judiciary
Juvenile Justice Subcommittee
To resume hearings to review the effects of pornography on women and children.
SD-226

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings to examine the use of recreational drugs in professional and amateur sports.
SD-430

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings on the release into the environment of genetically engineered organisms.
SD-406

SEPTEMBER 26

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 337, to make permanent the deduction for charitable contributions by nonitemizers, and S. 2017, to revise certain IRS regulations relating to deductions for the payment of certain expenses by ministers and members of the uniformed services who receive subsistence and housing allowances.
SD-215

10:00 a.m.
Governmental Affairs
To resume hearings to review the relationship between Congress and the executive in the formulation and implementation of foreign policy.
SD-342

Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To resume hearings on private and public sector management theory.
SD-124

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

2:00 p.m.
*Foreign Relations
African Affairs Subcommittee
To hold hearings on U.S. policy in South Africa.
SD-419

SEPTEMBER 27

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To continue hearings on the release into the environment of genetically engineered organisms.
SD-406

Finance
International Trade Subcommittee
To hold hearings on certain activities of the U.S. copper industry.
SD-215

Labor and Human Resources
Aging Subcommittee
To hold hearings on longevity and the lifestyle of older individuals.
SD-430

SEPTEMBER 28

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 2932, authorizing funds for fiscal years 1985 and 1986 for programs of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.
SR-253

Finance
Health Subcommittee
To resume hearings to examine how to ensure quality health care for low-income persons.
SD-215

OCTOBER 1

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to investigate certain activities of the video gambling industry, focusing on the alleged involvement of organized crime and the potential for public corruption.
SD-342

2:00 p.m.
*Finance
Health Subcommittee
To hold hearings to review the current method of financing medical education costs under the medicare program.
SD-215

OCTOBER 2

10:00 a.m.
Governmental Affairs
To resume hearings on S. 1746, to allow the Federal Government to freely procure certain goods and services from the private sector.
SD-342

SENATE—*Tuesday, September 18, 1984*

(Legislative day of Monday, September 17, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be offered by the Reverend David J. Dean, senior minister of Grace Congregational United Church of Christ, Rutland, VT. He is sponsored by Senator ROBERT STAFFORD, of Vermont.

PRAYER

The Reverend David J. Dean, senior minister, Grace Congregational United Church of Christ, Rutland, VT, offered the following prayer:

Let us pray.

O God, our Creator, we pause before You this day not to inform You, not to guide You, not to direct Your purposes, but to ask that You will guide, direct, sustain and strengthen the Members of the U.S. Senate with the strength they need for the problems confronting them. May the decisions they make this day benefit all humankind and be acceptable in Your sight.

Thank You for the people of the United States of America: the old and the young, the rich and the poor, the laborers, the managers of industry, the artists, the poets, the factory worker and professionally skilled, for all these contribute to our country's good. We thank You for the divergent backgrounds—for peoples of every tradition, from many nations, of many colors, and of many creeds.

We praise You for a land of abundance. For the mountains and plains, for rivers and lakes, for rich soil and rare minerals, we thank You.

But we also thank You for things unseen. Not for conquests of the sword, but for conquests of the spirit, creating a nation where freedom is enjoyed. For those lives who dreamed of this Nation conceived in liberty and dedicated to the proposition that all people are created equal, we thank You.

And so help us in our responsibilities as U.S. Senators; help us to see with compassion, the suffering and the injustices of our world. Help each of us to seek the approving vote of his or her own conscience, a conscience formed by strict study, accurate analyses, able arguments and persistent prayer.

O God, may this Nation continue to be a beacon of hope to a troubled world because these Senators have been instruments of justice and hope, peace and charity, patience and understanding.

God, bless us all and help us all. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

REV. DAVID J. DEAN, GUEST CHAPLAIN

Mr. BAKER. Mr. President, I wish to take this opportunity to congratulate our colleague, Senator STAFFORD, for his invitation to Reverend Dean to be our guest chaplain today. Reverend Dean is another in a long and distinguished series of guest chaplains who have served the Senate by invitation. We are happy to have him with us this morning. We express our gratitude to Senator STAFFORD for inviting him.

Mr. STAFFORD. Will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. STAFFORD. I appreciate what the majority leader has said. I consider it a distinct privilege that Reverend Dean has been able to come to Washington from the church I attend in Rutland, VT. We are grateful to him for his very fine prayer, which we very much need in this body. I express my thanks also.

Mr. LEAHY. Mr. President, will the majority leader yield?

Mr. BAKER. I am happy to yield to the distinguished junior Senator.

Mr. LEAHY. Mr. President, I wish to express my appreciation also to the distinguished Senator from Vermont. His pastor here has to improve the whole climate of the Senate. I would note that the expression of regard for him is shown by the fact that the entire Vermont congressional delegation is here. Our distinguished and admired colleague from the other body, Mr. JEFFORDS, has joined us. I believe this is an example of the way Vermont feels about this distinguished member of our clergy.

Mr. BAKER. Mr. President, I welcome Congressman JEFFORDS to this Chamber. We are happy to have him.

I might say facetiously to Reverend Dean that I do not know whether it is a great tribute to him that the entire delegation is here or whether they wanted to make sure that they heard the prayer he uttered. In any event, we are delighted that our colleague from the House is here and especially thankful that the Reverend Dean honored us with his prayer.

Mr. STAFFORD. Mr. President, if the leader will yield, this shows the bipartisan feeling among the delegation from Vermont with regard to Reverend Dean.

SENATE SCHEDULE

Mr. BAKER. Mr. President, this morning after the two leaders are recognized and the time for routine morning business is concluded, there will be the usual Tuesday recess so that Members may attend their caucuses until 2 o'clock. The Senate will resume consideration of the trade bill at 2 o'clock.

Mr. President, I hope we can finish that trade bill today. I urge Senators to consider that we are in the last days of this session of this Congress. I urge them to be forbearing in their offering of amendments and in their debate so that the managers of this bill can get on with the matter at hand.

I think our objective should be to try to finish the trade bill by 4 o'clock this afternoon. That is a big order, but it is not impossible.

I urge Senators to consider that in the budgeting of time remaining available to us, that that appears to be the very best resolution. So I hope we can finish the trade bill by 4 o'clock.

At 4 o'clock, by previous order, we will resume consideration of the motion to proceed to the consideration of the TV in the Senate resolution. There will be 2 hours of debate on that. At 6 o'clock, we will have a cloture vote.

Mr. President, I hope cloture will be invoked. If cloture is invoked, I hope we can proceed to lay down the TV in the Senate resolution.

Mr. President, after that matter is disposed of, and after the trade bill is disposed of, it presently appears that the most likely next candidate for legislative consideration will be the highway bill. Senators might take note of the possibility that the highway bill will be scheduled yet sometime this week.

Mr. President, I think that is all I can announce for this moment. I am happy to offer my remaining time under the standing order to the distinguished minority leader.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. MATTINGLY). Under the standing order, the minority leader is recognized.

SENATE SCHEDULE

Mr. BYRD. I thank the distinguished majority leader, Mr. President.

Mr. President, could the distinguished majority leader tell us what the situation is with respect to the conference on the military authorization bill and the conference on the budget resolution at present? In doing that, is it still the majority leader's strong feeling that when the Senate and House adjourn for the elections, that will be an adjournment sine die? That means that we would have to crowd a lot of work into the next 2 weeks on matters that are extremely controversial; for example, the debt limit and the continuing resolution.

Mr. BAKER. Mr. President, the minority leader is absolutely right. We have our work cut out for us. We have 2 weeks plus 3 days in order to do a great deal. And we are not getting on with it very fast. But I continue to hope that we can do all or most of the things that I listed on yesterday and the day before and have announced from time to time as the favorite agenda for the Senate between now and October 4. It is the intention of the leadership on this side to make every effort to adjourn sine die on October 4, and it is the full expectation of the leadership on this side that we will do that.

Now, that may mean leaving many things undone. Two things we cannot leave undone, of course, are the ones to which the minority leader has already referred, that is, the debt limit and the continuing resolution. But absent an extraordinary set of circumstances, it is the intention of the leadership on this side to adjourn sine die. I have consulted with the distinguished Speaker on this subject, and I would not presume to speak for him except to say that he and I agree, and do so emphatically, on the idea that the Congress must adjourn on October 4 and do so sine die.

Mr. President, on the matter of the budget resolution conference report and the defense authorization conference report, I have also stated from this place previously that both the Speaker and I agree we should pass the defense authorization conference report and a defense appropriations bill before the Congress adjourns. I have met with the Speaker on more than one occasion to try to assist in the negotiations underway in compromise of those issues. We have not yet reached a solution, but I expect to meet with the Speaker again. I have made an effort to keep the minority leader advised of the progress of those talks. When we reach the place where we can deal with concrete and specific matters in connection with the defense authorization appropriation, I anticipate we will have a meeting with the principals on both sides of the aisle to discuss that.

But the conference report on the budget resolution and the defense authorization bill at this moment appear to be bound up in those ongoing negotiations, and I hope that after today I can make a better report on the status of those things.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I compliment him for attempting to work out some resolution of these problems with the Speaker. It is true that the distinguished majority leader has offered and has been willing to keep me informed as to those deliberations and the progress that is made, but when it comes to the specifics, as the distinguished majority leader will remember, he began telling me the specifics the other day during a telephonic conversation and I suggested that instead of my being informed as to the specifics of A, B, and C, whatever, we have our ranking Democrats attend such a meeting and that they be collectively and directly informed. The majority leader willingly proceeded along those lines, but something happened which prevented the meeting, which the distinguished majority leader had arranged from occurring on yesterday and in connection with which I had proceeded to have Mr. CHILES, Mr. NUNN, and Mr. STENNIS present. That meeting, as I understand it, was not called off except by necessity. The majority leader is not to be criticized for the fact that the meeting did not occur. I think it involved some matters that were beyond his control.

I am saying all of this simply to express the concern, with only 2 weeks remaining after this week, that the Senate and the House will be able to complete our business in time to provide for a sine die adjournment on October 4 or October 5, whatever the day will be.

I am expressing this concern for the record. We will have the debt limit and the continuing resolution coming along at some point, and those are vehicles in connection with which, if we allow ourselves to be guided by the light of experience, several amendments will be offered. I am concerned that we not reach those two items just in the last 2, or 3, or 4 days of the session.

I wonder if the majority leader could tell the Senate when the House expects to send the debt limit matter and the continuing resolution to the Senate.

Mr. BAKER. Mr. President, I thank the minority leader. May I say first in respect to the meeting that was scheduled for yesterday and which was canceled with our principals on both sides—incidentally, I had invited Senators TOWER, STEVENS, and DOMENICI to the same meeting which I believe corresponded to those identified by the minority leader—the reason I canceled the meeting was that the specifics that we were going to discuss became pretty unspecific by that time and it seemed to me not productive to have that meeting until we had something concrete we could discuss. I hope that comes from my meeting with the Speaker today. But that was the reason for the cancellation.

On the matter of House action on the debt limit, I have no idea. I have not been advised as to when the House has scheduled any action. I think the House would greatly prefer us to get a budget resolution out so they never had to send us anything on the debt limit, but presumably they will have a backup of some sort, and I will talk to the Speaker about that.

I have a letter from the Secretary of the Treasury saying that we run out of money on September 28, and I will supply a copy of the letter to the minority leader. But I agree with him that we have a difficult situation in respect to the debt limit.

It is my understanding that the House Appropriations Committee reported a continuing resolution last Friday and that the House will act on it this Friday and send it to us. I do not know in what form, however, but we will have it and it will have to go to committee on this side, so beginning next week I assume we can look for action on the continuing resolution.

Mr. BYRD. I thank the majority leader. So it is my understanding from what the distinguished majority leader has said that the continuing resolution will probably be in the Senate by Friday of this week.

Mr. BAKER. Yes.

Mr. BYRD. And that the continuing resolution will in all likelihood—I am reading this into the majority leader's remarks, and also looking at the time and sequence of events—the continuing resolution will in all likelihood come to the Senate before the debt limit reaches the Senate.

Mr. BAKER. I would not be surprised, Mr. President. The House could surprise us; they often do, but the way it looks, we will have the CR before we have the debt limit.

Mr. BYRD. Is it the majority leader's understanding that there are no conferences going on right now between the two Houses on the military authorization bill and the budget resolution?

Mr. BAKER. That is my understanding, Mr. President.

Mr. BYRD. I also infer from what the majority leader has said—I just

simply want to ascertain for the RECORD—that those conferences between the two Houses on the military authorization bill and the budget resolution are not now going forward and will probably not go forward until the negotiations have resulted in a resolving of the defense appropriation figure, and would I be accurate in saying that the MX is also involved?

Mr. BAKER. It certainly is.

I am not certain, though, Mr. President, that the two conferences might not recommence without an agreement. For example, I can visualize—I hope it does not occur, and I hesitate to mention it—a situation in which either the Speaker or I decided that we no longer had a useful role to play in these negotiations and simply disengaged. If that were to happen—and I hope it does not—I would be inclined to ask the Senate conferees to go forward with both conferences.

I think it would greatly facilitate a conference result if the leadership on both sides, in both Houses, could arrive at a consensus agreement on the defense numbers and on defense considerations.

Mr. BYRD. I thank the distinguished majority leader for his responses to my questions.

I must say that I am encouraged to hear the distinguished majority leader say that if the discussions between the Speaker and the Senate majority leader break down without producing some tangible results, the majority leader in the Senate, on his own, will urge the Senate conferees to move forward with the conferences on the military authorization bill and the budget resolution.

Mr. BAKER. I thank the minority leader.

Mr. BYRD. I thank the distinguished majority leader.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. BAKER. Mr. President, would the minority leader like additional time? I would be glad to restore the full time.

Mr. BYRD. I thank the majority leader. I believe I have sufficient time.

THE TRADE IMBALANCE: OUR OTHER DEFICIT

Mr. BYRD. Mr. President, yesterday, we began discussion of a trade bill. As the Senate debates major issues and legal fine points of that legislation, we need to be mindful of the fact that our discussion takes place at a time of fundamental challenge to America's leadership in the world marketplace.

In July, America experienced its largest 1-month trade deficit in history—a staggering $14.1 billion. This follows the Commerce Department's announcement that the trade shortfall for the first half of this year exceeded $59 billion. By the end of this year, our trade deficit could reach $140 billion—twice the 1983 record of $70 billion. The July deficit alone translates into 350,000 jobs lost or not created. New figures released yesterday indicate that trade in services—a traditional strength for our economy—also is on a sharp decline.

The July deficit is especially disturbing because American exports in July set a 3-year record, totaling $19.4 billion. Notwithstanding this excellent performance by American companies, a record wave of foreign imports of such basic products as steel overwhelmed the gains posted by American products. Steel imports in July captured nearly one-third of the American market, with a record 2.6 million tons of foreign steel being imported. Economists expressed concern that a large number of finished goods such as high-technology equipment and automobiles made up much of the export surge. Nearly $1.4 billion worth of Japanese autos entered the U.S. market in July, bringing our trade shortfall with Japan to an all time 1-month high of $4.7 billion. Why is the greatest trading nation in the world—the United States—losing out in the international market? After years of leading the world in exports, why are we now running the largest trade shortfall of any nation in history? Economists—including the Secretary of Commerce—agree that the artificially overvalued U.S. dollar is making American goods too expensive for our trading partners, and making their products relatively cheaper in the U.S. market. The dollar has become bloated because America's enormous Federal budget deficit and high interest rates attract foreign capital. Foreign investors now hold an estimated 16 percent of all Federal obligations. As the Journal of Commerce recently noted, "The old saying that Americans shouldn't be too concerned about the huge Federal debt because they owe it to themselves is no longer true."

What happens when foreign investors decide that the current administration is living beyond its means? What happens to our economy when the inevitable readjustment in the dollar begins, and foreign investors decide they should take their money elsewhere?

It is currently in vogue to blast the Democratic Party for sounding themes of "gloom and doom." Perhaps my concern about the trade deficit will be regarded by some as an indulgence in "gloom and doom." But I represent a State that ranks third in the Nation in the percentage of its manufactured goods which go to the export market. I am proud of that leadership, and proud of American leadership in the world market. This has been one of the greatest achievements of Democratic and Republican administrations since World War II. I do not wish to see that leadership eroded by policies that have us living beyond our means. This administration has presided over the largest trade shortfall in history, a first-ever trade deficit with the Communist world, and a loss of traditional U.S. trade advantage with Western Europe and our largest trading partner, Canada.

We can run a budget deficit for a while, and we can sustain a trade deficit for a while. But we cannot take progressively larger losses in the international market without threatening the fundamental health of the American economy.

Mr. President, I ask unanimous consent that an article from the Washington Post of August 30, entitled "Trade Deficit at All-Time High," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRADE DEFICIT AT ALL-TIME HIGH

(By Stuart Auerbach)

The U.S. merchandise trade deficit soared to an all-time high of $14.1 billion last month as record imports overwhelmed the economy's best export performance in nearly three years, the Commerce Department reported yesterday.

Commerce Secretary Malcolm Baldrige pointed out that the $73.8 billion deficit for the first seven months of 1984 already exceeds the $69.4 billion total for all of last year.

Baldrige blamed the strong growth of the U.S. economy and the high dollar for the record imports. He said a slowdown in American economic growth, as signaled yesterday by the second straight decrease in the nation's index of leading indicators, "should result in some declines or smaller increases in imports."

But, Jerry Jasinowski, chief economist for the National Association of Manufacturers, called the trade deficit "an economic disaster" and predicted it could reach as high as $140 billion for the year. Government economists agreed the deficit will set a record but forecast that it will end up somewhat lower, between $110 billion and $130 billion.

"The trade deficit is going to stay where it is until the dollar declines, which is not imminent," said Michael Evans, president of Evans Economics, a D.C. firm.

A strong dollar, fed by high interest rates and the budget deficit in the United States, lowers the cost of imports to Americans and increases the price of U.S.-made goods overseas. David Lund, senior international economist in the Commerce Department, said the value of the U.S. dollar rose by 5 percent during the summer, further increasing incentives for importers to buy foreign products.

The record trade deficit comes at a time when the Reagan administration is faced with politically sensitive decisions on requests for trade protection from such key industries as steel, copper and textiles. Congress also will be under pressure in its closing weeks to pass bills protecting the same

industries, as well as autos, wine, tuna fish and footwear.

Trade economists blamed some of the surge in imports on the cries for protection, as foreign suppliers raced to beat any possible restrictions.

Steel imports, for example, reached record levels of 2,656 million tons in July, capturing close to one-third of the American market—more than ever before. That is an increase of 871,000 tons from June, when imports amounted to 21.3 percent of the U.S. market.

The record trade deficit exceeded the previous monthly high of $12.2 billion, set in April, by a hefty $1.9 billion, and ended a period of two months when the trade deficits shrank slightly. All figures are seasonally adjusted.

A wide variety of non-petroleum imports—including telecommunications equipment, clothing, iron and steel products, transistors, semiconductors and cars—flooded into the country last month. Oil imports also increased 6 percent. The import total of $33.5 billion was 12.8 percent higher than the previous record, set in April, of $29.7 billion.

The NAM's Jasinowski said the increasing number of capital machinery and high-technology products imported accentuates the seriousness of the trade deficit.

That surge of imports completely eclipsed America's strongest export showing since September 1981. American manufacturers and farmers sold $19.4 billion worth of products overseas last month, a 10.3 percent jump over June and only $200 million less than the previous record.

Exports of manufactured goods increased for the fourth straight month and included heavy overseas sales of car and tractor parts, electric machinery, aircraft, data processing machinery and cars. There also were large increases in exports of wheat, corn and soybeans, although the traditional trade surplus in agricultural sales shrunk to its lowest level ever, $909 million.

The United States ran its largest trade deficit, $4.7 billion, with Japan, up sharply from the $2.8 billion deficit in June. This was caused largely by sharp increases in auto shipments.

Deficits with other major trading partners also grew, totaling $2.04 billion with Western Europe, $1.3 billion with Taiwan, $770 million with Mexico and $1.5 billion with members of the Organization of Petroleum Exporting Countries (OPEC).

STEEL

Mr. BYRD. Mr. President, the September 18 edition of the Washington Post reports that key administration officials are prepared to advise the President with respect to steel imports. The levels of relief reported to be favored by the administration are inadequate.

Steel is vital to the national security of the United States. A comprehensive, long-term strategy that requires investments in modernizations is needed to prevent the involuntary liquidation of America's steel industry.

The Fair Trade in Steel Act is such a proposal. That legislation, of which I am a cosponsor, would provide for a 15-percent quota over a period of 5 years. Yesterday, former Vice President Mondale proposed a similar meaningful long-term strategy—covering 5 years, I believe—to preserve America's steel industry. Mr. Mondale proposed 17-percent quotas over a 5-year period, as I have indicated, coupled with a strong commitment to modernization on the part of the steel industry.

I commend Mr. Mondale for his proposal. I certainly hope that the administration will go further than has been reported and provide meaningful relief for unfairly damaged domestic steel makers. Meaningful relief for steel will benefit West Virginia and other States by providing jobs for thousands of Americans.

Recently, when Mr. Mondale was on the Hill, I took occasion—and he very kindly gave me the occasion—to speak with him briefly about the problems that the steel industry is having, not only throughout the country, but I spoke with particular reference to the problems that the steel industry is having in West Virginia. Meaningful relief for steel will benefit West Virginians and other States by providing jobs for thousands of Americans.

Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post article to which I have referred, entitled "19% Steel Import Limit Favored," with a subheading, "Key Officials to Advise Reagan."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

19% STEEL IMPORT LIMIT FAVORED—KEY OFFICIALS TO ADVISE REAGAN

(By Stuart Auerbach)

Key administration officials will advise President Reagan today to force foreign steel suppliers to cut back their imports to about 19 percent of the U.S. market, administration and industry sources revealed yesterday.

That option is one of four that will reach the president as a Saturday deadline nears for a decision on one of the most sensitive political and economic issues confronting him this election year: how much trade protection to give American steel makers. The deadline was forced by an International Trade Commission ruling that American steel makers are suffering substantial harm from imports.

Imports averaged 24.2 percent of the U.S. market for the first six months of this year, but surged to a record 33 percent in July.

None of the options presented by the Cabinet-level task force is likely to satisfy the American steel makers, who called an emergency meeting of their trade asssociation executive committee for this morning to intensify their lobbying efforts. (The industry wants comprehensive 15 percent quotas on imported steel.)

A 19 percent limit on steel imports is being pushed by Commerce Secretary Malcolm Baldrige. Other officials, led by Office of Management and Budget Director David A. Stockman, still were arguing yesterday that such a solution would be too protectionist. High-level administration sources said the Stockman group, which includes Deputy Treasury Secretary R. T. McNamar, would prefer to leave imports at about 24 percent.

Stockman and president assistant Richard G. Darman reportedly met over most of yesterday with steel industry officials. Also in those meetings was Deputy U.S. Trade Representative Robert E. Lighthizer.

Underscoring the political nature of the White House decision (Democratic presidential candidate Walter F. Mondale told Cleveland Steelworkers yesterday that he would cut imports back to 17 percent of domestic consumption for five years to give the industry time to become more competitive internationally.)

The industry, allied in the fight for protection from imports with the United Steelworkers of America, has argued that the votes of the middle America "rust belt" are vital to the Reagan reelection campaign. Farmers, on the other hand, fear that restrictions on steel imports could jeopardize their overseas sales.

Although the Commerce Department's plan to limit imports was reported yesterday to have strong support, sources said the strong disagreement within the administration on the eve of today's meeting of the Cabinet Council on Commerce and Trade made the situation "fluid."

The 19 percent limit on imports has been mentioned to foreign governments, according to representatives of overseas suppliers, however. But other limits, ranging as low as 16 percent, also have been mentioned, administration and industry sources said.

The Commerce plan does not go as far as setting a global quota, which the administration has opposed strongly in the past, and any limits are listed as "targets."

The key to the Commerce option lies in negotiations with key exporting nations to force cuts in their steel sales to the United States.

Chief among these suppliers are the newly industrialized Third World nations of Brazil and Korea, whose steel exports have surged over the past years. Other negotiated orderly marketing agreements are likely to be sought with Spain, another new supplier to the United States, and possibly Sweden, administration sources said.

Korean steel amounts to about 11 percent of all U.S. steel imports, while Brazil accounts for 7 percent.

Under this option, the Reagan administration would use the leverage of the ITC decision in its negotiations with Brazil, Korea and any other nation it wants to include in the OMAs.

The administration already has trade restrictions in force with the European Economic Community and is likely to extend those to cover products such as pipe and tubes, where imports have jumped markedly, sources said.

In an attempt to satisfy the industry, the Commerce plan calls for formalizing voluntary restraints that Canada and Japan already have on their sales to the U.S. market. These could include asking for a rollback from Japan, whose imports this year are almost twice what they were in 1983.

The option favored by the Stockman forces would call for looser arrangements with importing nations and would not rely on the ITC decision for leverage in negotiations, administration sources said. There also would be no way the administration could force suppliers to keep to any negotiated limits.

It does, however, force the steel industry to confront the restructuring needed for it to become internationally competitive—a process that already has started with the

closing of outdated mills and the loss of jobs.

The other two options were given little chance of adoption. They are to do nothing, or to accept the ITC recommendation as it was handed down.

Mr. BYRD. Mr. President, I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MATTINGLY). The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Fall Meeting, to be held in Brussels, Belgium, November 11-16, 1984: The Senator from West Virginia [Mr. RANDOLPH], the Senator from Rhode Island [Mr. PELL], the Senator from Alaska [Mr. STEVENS], the Senator from Missouri [Mr. EAGLETON], the Senator from Delaware [Mr. ROTH], the Senator from Texas [Mr. BENTSEN], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maryland [Mr. SARBANES], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from North Dakota [Mr. ANDREWS], and the Senator from Alaska [Mr. MURKOWSKI].

RECOGNITION OF SENATOR LUGAR

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana [Mr. LUGAR] is recognized for not to exceed 15 minutes.

PROPOSED STEEL QUOTA LEGISLATION

Mr. LUGAR. Mr. President, the United Steelworkers and many major steel companies in the United States have called for urgent consideration and passage of S. 2380, the Fair Trade in Steel Act of 1984. This legislation would place a 5-year quota on imports of steel into the United States, with resulting steel company profits to be reinvested in the steel industry for modernization. S. 2380 calls for a 15-percent overall import quota, requiring allocation by country and by product.

Literature circulated to delegates of the 1984 Republican National Convention by the United Steelworkers states that employment in the steel industry has dropped from 453,000 in 1979 to 243,000 in 1983; that capacity utilization in the industry has dropped from 95.1 percent in 1979 to 65.4 percent in 1983; and that the actual price per net ton of shipped steel has dropped from $514.99 in 1981 to $480 in the first half of 1984. Furthermore, imports as a percentage of steel consumption in the United States have increased from 15.2 percent in 1979 to 25.2 percent in the first quarter of 1984. The steel industry claims that imports have exceeded 35 percent in recent months. The industry argues that foreign imports of steel have led to a sharp decline in employment, in utilization of steel facilities, and in depressed steel prices.

Both steelworkers and various steel companies assert that most foreign imports undercut U.S. steel prices because of governmental subsidies used by foreign steel companies to construct modern steel plants. Additionally, charges are made that a substantial percentage of imported steel is dumped on the U.S. market at prices below cost of production.

U.S. law prohibits dumping, but steelworkers and many steel companies allege that enforcement of antidumping provisions has been grossly inadequate and that only mandatory overall quotas can achieve relief in a timely and efficient manner. The steel industry in the United States suffered total losses of $6.7 billion in the 1982-83 period. Modernization to meet competition is obviously difficult in the face of such losses. Furthermore, the U.S. dollar in relation to other foreign currencies has continued to rise to record levels. These foreign exchange ratios are adverse to U.S. exports and helpful to foreign imports into the United States.

A well-organized effort has been made by steelworkers and certain steel companies to press for the 15-percent quota legislation during the Presidential and congressional campaigns of 1984, with the hope of exerting maximum pressure on the Presidential candidates and Members of Congress. Proponents of the legislation argue that the electoral votes of States which have large steel companies are at stake in the Presidential election and that Members of the Senate and the House of Representatives from States which have steel facilities should be expected to cosponsor S. 2380 and its companion bill H.R. 5081 in order to indicate willingness to help both steelworkers and steel companies at a time of great peril.

A strong and competitive steel industry is vital to our country. Our national defense relies upon adequate steel capacity. The prosperity of many States and regions of this country is dependent on revitalization of the steel industry. In recognition of the need for a strong steel industry, I have supported governmental measures which gave a substantial degree of protection to the U.S. steel industry in the past. I support the most strenuous enforcement of antidumping laws and prompt leveling of penalties and remedies when dumping is proved. I have supported the so-called trigger price mechanism which was designed to bring about easier enforcement of antidumping and unfair shipping procedures. I have supported orderly marketing agreements which have been arranged with Western Europe and Japan and which effectively limit imports from those countries on a voluntary basis which maintains our agreement to abide by international treaties and avoids retaliation by other countries.

After receiving many thousands of letters and petitions from constituents who are employed in the steel industry, listening personally to arguments of many labor and management leaders in the industry, reading strong editorials in some northern Indiana newspapers suggesting that the minimum response that a Senator from Indiana could make is to cosponsor vigorously the 15-percent quota legislation, it is very tempting to say "yes" to these calls for S. 2380.

This is especially true given the lack of well-organized opposition to the legislation and the simple fact that most congressional leaders give the legislation no chance of passage during this Congress.

Nevertheless, I will oppose S. 2380 if it should come before the U.S. Senate. The quota legislation is clearly in violation of our trade agreements and would bring strong retaliation against our agricultural exports and against exports of our manufactured goods. In my judgment, farmers in Indiana who have barely recovered from the disasterous U.S. Government embargo on exports of grain to the Soviet Union in 1979 would face retaliation against our exports which would exceed the losses suffered under the Soviet embargo. During the past few months, the U.S. Government attempted additional protectionism in the textile industry and American farmers suffered the results in direct retaliation by the Chinese Government. Canada has already indicated that strong retaliatory measures will be taken if the steel quota legislation is passed.

Because the issue of more jobs for my State of Indiana is so important to me and to my constituents, I have corresponed with leaders in almost every business sector of Indiana about the steel quote legislation. I have researched the extensive literature on the potential future of the steel industry, including the favorable scenarios in which new breakthroughs in technology are adopted much more rapidly than management and workers have acted in the past.

I am convinced that in the short, intermediate, and long term, more jobs will be lost in Indiana than could possibly be gained by adopting the steel quota legislation. The very modernization which could save the companies will result in fewer steelworkers jobs, leaving aside any effects experienced in other industries. A similar decrease

in the overall number of jobs is occurring in the automobile industry. Much of the most intense collective bargaining has been concerned with the pace of job attrition and provision for workers whose jobs will surely be lost if new competitive supply and production procedures are adopted.

Furthermore, the quote legislation is designed to make it possible for many U.S. steel producers to raise prices or to resist price decreases. A portion of the current steel complaint is that excessive foreign imports have lead to weaknesses in steel prices and thus to lower profits or even to losses. To the extent that steel prices go up, the cost of producing automobiles, farm machinery, and other items which require steel will go up. American industry is locked in a grim struggle with world competitors who have reduced their costs. American industry is in the process of doing the same. A general increase in the price of steel will create substantial loss of jobs in industries which must use higher priced steel.

The argument for the 15-percent quota legislation is often made on the basis that tens of thousands of steelworkers would have the opportunity to return to work. Honest and sophisticated advocates of the legislation admit that under the best of circumstances, 40,000 steelworkers might return to work for a while and not the 210,000 who have lost their jobs since 1979. The stark fact remains that even if 40,000 persons were rehired in the steel industry, many more Americans would lose their jobs due to foreign retaliation against our exports and to higher costs which would make many companies less competitive in world markets.

It is probable that increased modernization of the steel industry in this country will lead to fewer jobs whether the quota legislation is passed or not. It is only fair that citizens in the States and districts most vitally affected should know that steel jobs will be fewer, rather than being led to support quotas in the hope of producing jobs which are simply not going to exist under any circumstances.

An even more unfortunate misunderstanding is the assumption that a 15-percent quota for 5 years could be enforced any better than current antidumpting legislation. Advocates of the 15-percent quota have not explained how estimates are to be made for the precise quantities of each category of steel in a target year to be imported from each steel-making country. Annual estimates of steel usage in the United States vary markedly depending upon the vigor of economic activity in our country.

Failure to estimate correctly the need for specific items from specific countries will lead to bottlenecks and inefficiencies in production and to the loss of American jobs due to the self-imposed quotas. The complexities of estimates, measurements of compliance, and ensuing enforcement procedures are mind boggling. A 15-percent quota bill is not self-enforcing. The case for voluntary agreements is that if all nations involved desire to arrange import-export questions, mutual enforcement is possible without recrimination and retaliation and without the endless enforcement hassles which lack of cooperation will produce.

In coming to my conclusion to oppose S. 2380, I have not argued whether the managers of steel companies in the United States have been adequate, whether labor contracts entered into with the United Steel Workers were wise, or whether more astute marketing efforts could have produced greater demand for steel in this country and around the world. It is now apparent that management of many steel companies did not make the best production and marketing choices in the past. It is apparent that some companies and the United Steel Workers entered into wage and benefit contracts that are now difficult, if not impossible, to sustain in the form of more jobs or continuation of present jobs. Manufacturers have substituted less expensive materials. Without strenuous marketing efforts, these substitutions will continue.

The United Steel Workers and various steel companies will have to take extraordinary measures to maintain remaining jobs and solvency of the companies. It is apparent that productive efficiency has increased substantially in recent months. But it is equally apparent that many steel companies have decided not to invest in additional competitive facilities and have chosen to import steel products that assist their marketing strategies. Many steel workers are not prepared to amend labor contracts, recognizing that even major sacrifices will not guarantee either new jobs or retention of existing jobs.

The reactions of both management and union members are understandable. But it is also understandable that the remainder of American industry that uses steel and American agriculture which would feel the brunt of retaliation against American exports should be reluctant to support strongly protectionist legislation which has only very limited prospects for assisting steel workers.

One of the ironies of the debate on quota legislation has been an extraordinary rush by many American companies to import steel in order to beat the potential imposition of quotas. This surge of imports has been accompanied by steel company announcements that additional workers are being laid off.

The denial of quotas to certain specialty steel companies has led to fears that quotas on carbon steel products would lead to other steel imports flowing into unregulated areas. Finally, in the event that quotas on all kinds of steel should be imposed, fabricators of steel products fear that steel will enter the United States in the form of finished products. Congressional debate on quotas to stop imports of all manufactured products would be an endless and self-defeating process.

The U.S. Congress passed tax legislation in 1981 which was very helpful to the steel industry and to most of the rest of American industry. The strong economic recovery could lead to substantial new orders for steel if steel companies furnished the products which the rest of American industry desired at prices which are competitive. These overall economic policies should be coupled with stringent antidumping enforcement, the strengthening of free trade procedures in the world, and targeted assistance to individual steel workers and steel communities to bring about a humane transition from employment of the past to productive employment in the future.

Whatever may be the economic demerits of S. 2380, it comes before us because over 200,000 American steel workers have lost their jobs and have no reasonable prospect of ever seeing those jobs again. But we must be honest: Blatant protectionism will not restore those jobs. And blatant protectionism will not create long term new jobs in the steel industry. The emotional satisfaction of quotas cannot substitute for sound judgment about how to meet the human suffering which the transition in the steel industry has caused. We will need our very best competitive efforts to ensure the future of a vigorous American steel industry and to meet the needs of persons attempting to surmount a large transition in that industry. I pledge to work with President Reagan and congressional leaders to meet those needs.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

LET'S NOT GIVE UP ON ARMS CONTROL AGREEMENTS WITH THE SOVIET UNION

Mr. PROXMIRE. Mr. President, in a Wall Street Journal column on June 15, Suzanne Garment bemoans the lack of quick and indignant reaction in this U.S. Senate to the increasing evidence that an investigation by the Italian state prosecutor concludes that the Bulgarian Communist Govern-

ment hired and controlled the man who shot and tried to kill Pope John Paul. Since the Bulgarian Communist Government has been a consistent and unresisting puppet of the Soviet Union, the clear implication is that the Soviet Union directed the assassination attempt against the Pope. Suzanne Garment says as much. "How," ask Ms. Garment, "do we deal with a regime that no longer fears to commit such a crime?"

Now, Mr. President, the Italian prosecution report makes this charge. What does this reveal that 95 percent of all Americans did not already know and understand about a communist government that through the years has consistently used any means to achieve its ends, and indeed declares to the world that the means—no matter how evil or vicious, violent or destructive—are justified by their end. That end is the international supremacy of the Communist state. Soviet governments have lived by this warped dogma since they first seized power in Russia in 1917. So what is new?

What is new is that Ms. Garment quotes Kenneth Adelman, the Arms control and Disarmament Chief, as finding in the story the basis for beating up on those who advocate arms control agreements with the Soviet Union. Here is the reaction Ms. Garment got from Adelman:

> The Pope's story arouses no self-doubt in true arms controllers. They just keep repeating that we and the Soviets have a common stake in preventing nuclear war. But dialog doesn't moderate Soviet behavior. I've actually made up a chart for the years 1972 through 1979, showing how we keep talking to them and they keep right on doing unpleasant things. We sign SALT I and they ship new weapons to North Vietnam; we sign SALT II they put a brigade in Cuba. Are there any circumstances under which we're finally supposed to say "no"?

If this reaction by the administration arms control chief means anything, it means that as long as Ronald Reagan is President we should write finis to arms control agreements with the Soviet Union.

Mr. President, read and ponder that statement by the man who President Reagan appointed as head of our Arms Control Agency and who still enjoys the President's support as his arms control spokesman, and then tell me that the administration believes in arms control. Oh sure, maybe he believes that we can engage in arms control treaties with Canada or Switzerland.

The Governments of Canada and Switzerland are good and moral and when they make an agreement they live up to it. They are democracies. They are peace loving. They would react in horror to any plot to kill the Pope. But Canada and Switzerland are not nuclear superpowers. There is only one nuclear superpower—other than the United States. And like it or not that nuclear superpower is very possibly the power that is also responsible for shooting and trying to kill the Pope.

Mr. President, this Senator vigorously disagrees with arms control Director Adelman. I say: "yes, indeed." We certainly should try to negotiate arms control with the Soviet Union. We should do so knowing that the Soviets will in the future, as they have in the past, surely violate the agreement any time they get away with it, or even if they cannot get away with it—if the violation is in their interest. Everybody knows we are not dealing with Mother Theresa when we deal with the Soviet Union. So we should never commit the error we committed when we negotiated the biological warfare treaty with the Soviet Union. They are violating that treaty today in Afghanistan. And why do we not do something about it? Because when we negotiated the treaty we failed to provide any verification or any compliance provisions. So why should their violation of such a toothless treaty surprise us? This is like passing a law to reduce the murder and robbery in a crime ridden city but providing for no police, no courts, no penalty for violation, and then wondering why the murders and robberies continue.

Arms Director Adelman complains that "we sign SALT I with the Soviets and they send new weapons to Vietnam. We sign SALT II and they put a brigade in Cuba." Does Adelman simply think that they would not have sent new weapons to Vietnam if we had not signed SALT, or that they would not have put a brigade in Cuba if we had not signed SALT II? Obviously the actions cited by Adelman are totally irrelevant to arms control treaties with the Soviet Union. They have nothing whatsoever to do with it—nothing, Mr. President. The question is whether these treaties on balance have helped keep nuclear peace. If there were violations, were the violations of military significance? If they were of military significance, has this Nation on balance suffered or gained from the treaty? If we have suffered, what can we learn from it? Does it mean that we should refuse to enter any further arms control treaties with the Soviet Union? Or, does it mean that we should only sign these treaties with adequate verification and compliance features, that we should monitor the Soviet Union's compliance painstakingly, that we should call attention publicly and promptly to any violations, and that we should push hard for the violations to cease?

What we need, Mr. President, is arms control that is tough, thorough, and realistic. But we must recognize that the rejection of arms control agreements with the Soviet Union, as Adelman and Garment propose, would place our entire reliance on a nuclear arms race that would sweep out of control and would make nuclear warfare more likely.

Mr. President, I ask unanimous consent that the column by Suzanne Garment from the Wall Street Journal of June 16 to which I have referred be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET CONNECTION: HOW MUCH PROOF DO WE NEED?

(By Suzanne Garment)

"No, I haven't heard anything," said a senator much involved in foreign affairs. "Maybe it's because I've been absorbed in the defense appropriation." An aid to Sen. Claiborne Pell (D., R.I.) allowed, "He hasn't been following this one particularly closely." Stuart Eizenstat, a former high Carter administration official and now a Washington lawyer said, "I've been on the Hill since the story broke. I've been talking to senators and representatives. The staggering thing is that this has not had any major impact."

These local citizens were talking about Washington's reaction to the huge front-page story by free-lance journalist Claire Sterling in last Sunday's New York Times. Ms. Sterling had gotten hold of a still-unreleased report by Italy's state prosecutor concluding that the Bulgarian government had indeed hired and controlled the man who shot the pope.

Her news was a shocker. True, from the day three years ago when a Turkish gunman struck down John Paul II in St. Peter's Square, a few writers and reporters had pursued the "Bulgarian connection." Ms. Sterling was one. So was Marvin Kalb, chief domestic correspondent for NBC News. Mr. Kalb remembers that while he worked, some American intelligence officials undertook "a deliberate, sustained effort to undercut the validity of the story." And the foreigh-policy establishment voiced sophisticated doubt: The Russians would never run such a sloppy operation and risk making a martyr of the pope.

Now, with the prosecutor's report, the Italian judicial system is moving quite deliberately toward confirmation of the worst suspicions about the Bulgarian role. The report leaves little doubt that the Italians also believe the Soviets ultimately pulled the strings. Mind you, this is from Italians—no American hawk paranoids but instead people who live with a new government it seems every 30 days. You simply cannot doubt their word.

For the first time we cannot avoid the full horror of what the Soviets have done. They shot the pope. This was not just stealing an election in some Godforsaken place or jabbing a poor slob in the leg with a poisoned umbrella or slipping a venom cocktail to some miserable Third World leader whom no one would ever miss. This was the actual pope, symbol of God's spirit through time on earth not only in theory but even occasionally in fact. How are we to deal with a regime that no longer fears to commit such a crime?

Washington seems to entertain none of these large worries. Since the report is not yet official the Reagan administration cannot make much of an official response. But as late as this week, Mr. Kalb reports, some American intelligence types were still

saying that the assassin was "controlled" for the purpose of running drugs into Western Europe but shot the pope on his own.

Michael Ledeen, a foreign policy scholar and consultant to the State and Defense departments, is a longtime exponent of the Bulgarian connection. He expressed no surprise this week that parts of our government should resist the implications of the news about the pope. The trouble was not just ideological: Even some hawks had always maintained that the formidable Russians would not run an operation as inept as the one that wounded the pontiff.

For some time, he explained, our government has not been good at gathering the type of information crucial to this case. The shooting was characterized as a domestic matter and investigated by the Italian judicial system, not by an intelligence agency with which our agents have many contacts. Our people did not know enough to be convinced of the Bulgarian plot, and our high government officials are reluctant to challenge the judgment of their own troops. By now our people have developed a stake in their own theories and a typical case of bureaucratic resentment. They've become stubborn customers.

An editor of a national news magazine said he had heard just about nothing in the wake of the Times story and pointed to structural reasons why the press, too, was keeping quiet. There was no conspiracy, but journalists will always denigrate a story they didn't get first. " 'Oh,' they'll say, 'we already knew that.' " There was also an ideological component. The theory of Bulgarian involvement had bloomed mainly in the right-wing press. This devalued the story in the eyes of establishment journalists. "They think it's a version of Redbaiting, and that they're much too sophisticated for such things," the magazine editor said.

Kenneth Adelman, head of the Arms Control and Disarmament Agency, has also come across a lot of silence: "The pope story arouses no self-doubt in true arms controllers. They just keep repeating that we and the Soviets have a common stake in prevent-ing nuclear war. But dialogue doesn't moderate Soviet behavior. I've actually made up a chart for the years 1972 through 1979, showing how we keep talking to them and they keep right on doing unpleasant things. We sign SALT I and they ship new weapons to North Vietnam; we sign SALT II, they put a brigade in Cuba. Are there any circumstances under which we're finally supposed to say 'no'?"

Students of American foreign policy today all read the work by Roberta Wohlstetter telling how America ignored the warning it got about the impending Japanese attack on Pearl Harbor. The information was lost among too many messages and too much clever explaining away. So far, the Bulgarian story here is sinking like a stone, and we can see clearly how our foreign-policy elite's routines and assumptions conspire to keep it at the bottom of the lake.

PRESIDENT REAGAN DISREGARDS DANGERS OF DEFICIT

Mr. PROXMIRE. Mr. President, on another subject, a couple of weeks ago this Senator spoke on the Senate floor about the total eclipse of the Council of Economic Advisers. Since Martin Feldstein, the Chairman of the Council, resigned a couple of months ago, President Reagan has not only failed to nominate a successor, but he has failed to name an Acting Chairman. So the Council must carry on as a nonagency. Obviously, the Council of Economic Advisers has one function. That function is to give economic advice. Only one person can speak with authority for the Council: its Chairman. But what happens when there is no Chairman, and not even an Acting Chairman? No one can speak for the Council. The President had indicated he has no intention of naming a Chairman or even an Acting Chairman until after the election. The President's failure to name an Acting Chairman is virtually without precedent. It means that for all intents and purposes the agency has been abolished. So where does the President go to get his economic advice? The September 24 issue of Newsweek reports that the "closest thing to an economic adviser that President Reagan now has" is Edwin Meese. Now Meese is a lawyer, not an economist. So where does Meese get the economic advice he funnels to the President? Newsweek reports that Meese gets his advice from the so-called supply-side gurus such as Arthur Laffer, Paul Craig Roberts, and Jude Wanniski. And what is the nature of this supply-side guidance? They are telling the President to forget about the views of the bulk of economists. They contend the economy will grow, interest rates will fall, and the deficits will disappear without a tax hike or a spending reduction. Newsweek reports that an administration official says the President is not convinced that anything has to be done about the mammoth deficits.

Let me repeat that. Newsweek reports that an administration official says the President is not convinced that anything has to be done about the mammoth deficits.

Now just stop and think that one over for a long minute. Do you find that as disturbing as I do?

Mr. President, economics is an extraordinarily inexact and unreliable discipline. Even the most accomplished and widely respected economists have often been wrong. Economists cannot predict with any certaintly what will happen to unemployment. prices or interest rates or economic growth next month, next year or 10 years from now. Why is this? Why is it that with all the resources and human intelligence we have concentrated on economics in recent years, with the Nobel Prizes that have been earned by economists, especially American economists, with the impressive adaptation of mathematics to economics, with the vast expansion of statistical knowledge of our economy, with the rush of technology into economics—with computers that can organize and collate infinite relevant data and with worldwide communications that can instantly bring knowledge of economic developments from anywhere in the world to bear on economic problems—why is it that with all this dazzling new advance, modern economists can give us not better predictions on future economic activity and the effect of particular policies on the economy than a gypsy with a crystal ball? And if the best professional economists cannot give us any reliable advice on what effect the policies our Government follows will have on the economy, what difference does it make if the President of the United States gags his professional economists and gets advice from a far-out economic fringe group?

The answer, Mr. President, is that economics is a matter of approximations and probabilities, not of precise determinations and certainties. That means that economists can tell you, as the overwhelming majority of them will, that massive Federal deficits of between $150 billion and $200 billion do matter. They can tell you that as those deficits go on, and the national debt approaches $2 trillion, interest rates will very likely go up—not down. They can tell you that the economy is not self-correcting. They will tell you that no one has repealed the business cycle, and that means we will probably have a recession in the next 2 or 3 years. They can tell you that when that recession comes, the deficit will go to $300 billion or $400 billion, or more. They will tell you that the only reasonable policy to reduce the budget is the painful old-fashioned way: less spending and increased taxes. They will tell you the budget deficit is so severe that we have no choice except to cut spending, raise taxes, and do both in a major and substantial way.

This is what a consensus of competent economists would tell us. Our own common sense would tell us the same thing. All of us know we cannot run a family, a business firm, a city, or a State by spending a great deal more than we take in year after year.

Now, how about that, Mr. President? Here we have the consensus of competent economists agreeing that only the painful, unpopular medicine of both cutting spending and increasing taxes will bring our mammoth Federal deficits under control. We also have our own common sense tempered by all the experience of our lifetime telling us the same thing. Sometimes it seems that this happy coincidence does not occur very often. For once we have the professional economists and our own common sense on the same side.

So whether you believe that professional economists can give useful advice to the President of the United States or whether you believe that common sense is the best guide, President Reagan is making a serious mistake that can have tragic consequences for this country in slapping a

gag on the Council of Economic Advisers and getting his advice from the far-out supply siders.

I ask unanimous consent that the section of the Periscope column from the September 24, 1984, issue of Newsweek, headlined: "A New Portfolio for Meese" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A NEW PORTFOLIO FOR MEESE

Embattled Attorney General-designate Edwin Meese III has quietly become the closest thing to an economic adviser that President Reagan now has. With Reagan pointedly declining to replace deficit-doomsayer Martin Feldstein as chairman of the Council of Economic Advisers, Meese has filled the vacuum on an unofficial basis. He now functions as a back-channel conduit for the recommendations of influential supply-side thinkers such as Jude Wanniski, Arthur Laffer and former Treasury man Paul Craig Roberts. These and other conservative economists are reportedly arguing that all conventional analyses—including those of David Stockman of the Office of Management and Budget—are wrong, and that rapid economic growth and declining interest rates will nearly wipe out the federal deficit by the end of the decade without a tax rise or even spending cuts. Stockman's calculations project a $139 billion deficit by 1989; the Congressional Budget Office foresees $263 billion worth of red ink. "But the president isn't really convinced anything at all has to be done [about the deficit]," says an administration official.

ALLEGED ATROCITIES IN INDONESIA

Mr. PROXMIRE. Mr. President, the August 30 issue of the Washington Post ran an article on alleged atrocities in Indonesia. Included in these allegations are cases of church burning, decapitation, and the raping of nuns.

The Government of Indonesia is allegedly carrying out these horrendous acts in an attempt to discourage dissent in the country. Reprisals by the army are said to have forced over 11,000 people to flee Indonesia and seek refuge in neighboring New Guinea. These alleged acts are some of the most barbarous possible against humanity, and represent a pure, absolute, evil that is unacceptable in any society.

The United States has consistently spoken out against human rights violations throughout the world, and has conscientiously embraced humanitarian values at home. But, it is not enough to simply live up to our ideals. It is time we act positively and back them up with a clear denunciation of crimes against humanity.

The most fundamental and unacceptable of these crimes is genocide, and we in the Senate have an opportunity to take action against this barbaric activity by ratifying the Genocide Treaty.

Genocide is the planned, premeditated, extermination of an entire ethnic, racial, or religious group, such as the killing of 6 million Jews in Europe by Hitler before and during World War II. The purpose of the treaty is to make genocide an international crime.

It is clear, in accordance with the Legal Committee of the United Nations, that Americans still have the right to be tried before American courts if accused of crimes abroad. This right is not threatened by the Genocide Treaty. the only thing that is threatened is the right to commit genocide.

Let us stop being fearful of spurious assumptions and take action to outlaw the act of genocide. Let us allow ourselves to denounce genocide emphatically and without reservations or embarrassment. Let us eliminate the hypocrisy from this area of our foreign policy and join the other developed nations, over 90 in number, who are party to the treaty. Let us outlaw this worst of all crimes and ratify the Genocide Treaty.

WISCONSIN VOTER OPINIONS

Mr. PROXMIRE. Mr. President, each year I send out a questionnaire to over 100,000 Wisconsin residents—inviting them to be the Senator from Wisconsin and take on the difficult questions of the day. On average I receive over 10,000 responses which is a statistically significant return that far overshadows the numerically smaller telephone surveys usually used for national opinion polls.

These questionnaires have shown that attitudes have changed in Wisconsin over the years on several major issues. Take military spending for example. In 1979, 20 percent of the respondents favored increasing defense expenditures while 33 percent wanted a decrease and 47 percent favored holding defense expenditures at the current level. That attitude changed dramatically by 1981 when 67 percent favored an increase compared to 11 percent on the decrease side. Then beginning in 1982 that mood began to shift again. The 67 percent in favor on an increase in 1981 dropped precipitously to 13 percent followed by 9 percent in 1984. Similarly the percentage supporting a decrease in military spending jumped from 11 percent in 1981 to 52 percent in 1982 and 58 percent in 1984.

This message is clear. Many citizens thought that U.S. defenses should be beefed up. But they disapprove of the magnitude of the increase under the Reagan administration and also they do not support the specific types of weapons being funded.

In the August 1984 poll, for example, by margins of about 63 percent to 37 percent, Wisconsin citizens rejected funding for the B–1B bomber, the MX missile and the President's Star Wars ABM plan. They also said we should not sell nuclear reactors or radioactive materials to the Peoples Republic of China nor should we provide them with military equipment.

On the foreign policy front, the proposed economic and military aid package to El Salvador was supported by only 24 percent of the respondents while 34 percent said no assistance should be provided and 38 percent said the President's request was too high. Almost 70 percent opposed the CIA sponsored war against Nicaragua and 64 percent said the intervention in Lebanon was a mistake. But 59 percent, on reflection, thought the intervention in Grenada was a necessary action.

Mr. President, when the Racine Journal-Times editorial board saw this questionnaire, they decided to answer each issue themselves. In almost every case, the Journal-Times responses paralleled the statistical results from the questionnaire.

Mr. President, I ask, unanimously that the questionnaire results and the Racine Journal-Times survey response be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAST MONTH'S QUESTIONNAIRE RESULTS

Don't send U.S. troops to El Salvador! The aid to that country is too high. Charge new fees and raise existing ones for use of federal lands. Don't sell military equipment or nuclear reactors to the People's Republic of China. That's what about 10,000 of you told me loud and clear when I asked you in last month's questionnaire to be the Senator from Wisconsin.

A hefty majority of you opposed the B–1B bomber, the MX missile and the "Star Wars" proposal for a space-based, anti-ballistic missile system. A little over half of you thought that both the Soviet Union and the United States share the blame for the current standstill in arms control negotiations. And a whopping 96 percent think that spending on political campaigns is too high.

Here are the results, item by item, as you saw it.

1. The President has proposed that economic and military assistance to El Salvador be increased to a level of $422 million. Do you think this amount is: Too high, 38%. About Right, 24%. Too Little, 4%. Should provide no assistance, 34%.

2. Do you support the President's policy of conducting a CIA sponsored guerilla war against the Nicaraguan government? Yes, 31%. No, 69%.

3. Should the United States send troops to fight in El Salvador if necessary to keep the government from collapsing there? Yes, 18%. No, 82%.

4. In retrospect, do you believe that sending of U.S. troops to Lebanon was: A mistake, 64%. A necessary action, 36%.

5. In retrospect, do you believe that the sending of U.S. troops to Grenada was: A mistake, 41%. A necessary action, 59%.

6. Arms control negotiations with the Soviet Union seem to be at a standstill. On whom do you primarily place the blame for this? The U.S., 11%. The USSR, 33%. Both, 56%.

7. Do you believe the United States should sell military equipment to the Peoples Republic of China? Yes, 34%. No, 66%.

8. Do you think the United States should sell nuclear reactors and the radioactive materials to run them to the Peoples Republic of China? Yes, 23%. No, 77%.

9. How do you stand on the funding of the following major weapons systems that have been so much in the news lately? B-1B bomber yes, 38%; no, 62%. MX missile yes, 37%; no, 63%. The "Star Wars" plan for a space based ABM yes, 36%; no, 64%.

10. In 1984, those running for political office at the national, state and local level will spend well over $1 billion to pay for their campaign expenses. Based on your experience, do you think that spending on political campaigns is: 96%, too high; 1%, too low; 3%, about right.

11. Would you favor using a small amount of your taxes (about $1) to pay for a part of the cost of Federal political campaigns if, at the same time, Congress set strict limits on the contributions from special interests and on the overall amount of money candidates could spend? Yes, 72%. No, 28%.

12. In order to decrease the budget deficit and increase funds for recreation, the Reagan Administration has proposed charging new fees and raising existing ones for use of federal lands.

Would you favor:

a. Charging entrance fees for wilderness areas, wild and scenic rivers, national recreation areas and national trails? Yes, 59%: no, 41%.

b. Increasing entrance fees for national parks? Yes, 62%: no, 38%.

c. Charging fees for all camping on federal lands? Yes, 73%: no, 27%.

d. Charging entrance fees at national wildlife refuges? Yes, 61%: no, 39%.

13. There are a number of possible approaches to reducing the surplus of dairy products now being stored in government warehouses. Which of the following do you favor?

a. Continuing current law assessing dairy farmers 50 cents per hundred weight and then utilizing the funds derived from the assessments to help pay dairy farmers who voluntarily reduce their marketings? Yes, 33%: no, 67%.

b. Repealing dairy price support laws entirely and letting milk prices fluctuate with the market? Yes, 65%: no, 35%.

c. Eliminating or restricting casein imports as a means of partially reducing our dairy surplus by preventing these imports from displacing our domestic dairy production? Yes, 76%: no, 24%.

d. Restoring the full Special Milk Program (also known as school milk) as a means of partially utilizing our dairy surplus while also contributing to the health and nutrition of our children? Yes, 87%: no, 13%.

[From the Racine Journal-Times, Aug. 26, 1984]

PROXMIRE SEEKS ANSWERS

Wisconsin Sen. William Proxmire's August report to his constituents took the form of a questionnaire, which Proxmire described as offering the voters of Wisconsin an opportunity to "be the senator" and speak out on how they view a number of controversial issues the nation is facing and how they would handle the problems.

Members of the Journal Times Editorial Board, in response to the survey, came up with these observations:

Question: The President has proposed that economic and military assistance to El Salvador be increased to a level of $422 million. Is this too high, about right, too little, or should no assistance be provided?

Response: Too high; the funds apparently would go toward supporting a despotic form of government involving terrorism and death squads aimed at repressing the people.

Question: Do you support the President's policy of conducting a CIA-sponsored guerilla war against the Nicaraguan government?

Response: No; it smacks of depriving citizens of that country of their right to self-determination of government.

Question: Should the United States send troops to fight in El Salvador if necessary to keep the government from collapsing there?

Response: No; the United States should refrain from inflicting its will on other countries, especially if the desires of the U.S. are not the desires of other countries' citizens. We should have learned from Vietnam.

Question: In retrospect, do you believe that sending of U.S. troops to Lebanon was a mistake, or a necssary action?

Response: A mistake; a serious strategic error and, considering the non-stable conditions of that country, the result should not have came as a great surprise.

Question: In retrospect, do you believe that the sending of U.S. troops to Grenada was a mistake, or a necessary action?

Response: Although the idea of sending the troops was not generally favored in light of later revellations of possible infiltration of Grenada by powers unfriendly to the U.S., the military deployment appears to have been a necessary action in order to protect this country's interests.

Question: Arms control negotiations with the Soviet Union seem to be at a standstill. On whom do you primarily place the blame for this—the U.S. the USSR, or both?

Response: Both; neither power appears to be sincerely interested in negotiating this hot potato, which points up an overwhelming lack of trust on the part of both countries.

Question: Do you believe the United States should sell military equipment to the Peoples Republic of China?

Response: No; outside of the money to be reaped, it is not in the best interest of the U.S. in the long run. The Chinese government reflects a tinder keg area; the U.S. should not be responsible for adding to the potential of future military action.

Question: Do you think the United States should sell nuclear reactors and the radioactive materials to run them to the Peoples Republic of China?

Response: No; there is no real guarantee they would be limited to peaceful uses, rather than devoted to constructing nuclear armaments of destruction.

Question: How do you stand on the funding of the major weapons systems—the B1-1B bomber, the MX missile, and the "Star Wars" plan for a space-based AMB—that have been so much in the news lately?

Response: Much further information would be required before an informed and definite stand could be developed.

Question: In 1984, those running for political office at the national, state and local level will spend well over $1 billion to pay for their campaign expenses . . . do you think that spending on political campaigns is too high, too low, or about right?

Response: Too high, because the manner in which the funds are spent is not controllable. An honest presentation of a candidate's qualifications is needed, not hyperbole or rhetoric designed to camouflage the issues and intentions of candidates in an effort to sway the voters.

Question: Would you favor using a small amount of your taxes (about $1) to pay for a part of the cost of Federal political campaigns if, at the same time, Congress set strict limits on the contributions from special interests and on the overall amount of money candidates could spend?

Response: Yes; reducing the influence of special interest groups could only be good in that it would remove the "beholden" aspect of elected officials, making them more responsible to the majority of the citizens they should represent.

Question: In order to decrease the budget deficit and increase funds for recreation, the Reagan Administration has proposed charging new fees and raising existing ones for use of federal lands. Would you favor: 1. Charging entrance fees for wilderness areas, wild and scenic rivers, national recreation areas and national trails? 2. Increasing entrance fees for national parks? 3. Charging fees for all camping on federal lands? 4. Charging entrance fees at national wildlife refuges?

Response: Yes to all four; user fees result in the majority of costs being funded by those persons who actually derive the benefit, rather than saddling all citizens for the benefit of the few.

Question: There are a number of possible approaches to reducing the surplus of dairy products now being stored in government warehouses. Which of these do you favor? 1. Continuing current law assessing dairy farmers 50 cents per hundred weight and then utilizing the funds derived . . . to help pay dairy farmers who voluntarily reduce their marketings. 2. Repealing dairy price support laws entirely and letting milk prices fluctuate with the market. 3. Eliminating or restricting casein imports as a means of partially reducing our dairy surplus by preventing these imports from displacing our domestic dairy production. 4. Restoring the full Special Milk Program (school milk) as a means of partially utilizing our dairy surplus while also contributing to the health and nutrition of our children.

Response: Repeal dairy price support laws. In a free market system the cream should rise to the top: those who can do the job would be determined; those who rely on costly subsidies would be weeded out.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for routine morning business be extended until 12:05 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADULT ILLITERACY

Mr. LEAHY. Mr. President, one matter, little treated by the media in America, is the problem of adult illiteracy. It should be a mark of concern to all of us in the Senate that in the wealthiest, most powerful Nation on Earth we have more than 25 million Americans functionally illiterate.

Because of this, the work of those who tutor adults is extremely important. I am very proud of the work done by Vermont's Adult Basic Education Program, which was recently described in an extensive article in Newsweek magazine.

I know many of those who selflessly put in uncounted hours to work with adults in Vermont and how much our State has gained from that. I am especially aware of the work done by my sister, Mary Leahy, in that program, and a brother's natural pride is constantly increased as I watch her carry out such a vital and useful function in our society.

Mr. President, I ask unanimous consent that the full article from Newsweek be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, July 30, 1984]

ONE-ON-ONE AGAINST ILLITERACY

The moment of truth comes at different times. For Waldo Gilcris, 47, a junior-high-school dropout and construction worker in Vermont, it came three years ago when he was denied a promotion because he couldn't handle some of the forms. Rose Patterson, also of Vermont, realized as a mother of two in her 30s that "children like to have stories read to them and I wasn't much of a reader." Mary Kay, of Brawley, Calif., who did not want to give her last name, faked her way through high school, got married and had children, but had to face the truth when she got it into her head to become a famous romance writer. Even romance writers have to know how to read.

The problem that each of them confronted is both more common and less often recognized than either cocaine abuse or alcoholism. An estimated 26 million American adults, one in five, are functionally illiterate; they are incapable of reading everyday job applications, balancing a checkbook or decoding a newspaper headline. The problem touches New York's wealthy Westchester County just as it does the rural South, and it has a powerful ally in ignorance. "America doesn't know she can't read," says Bette Fenton, national director of a literacy campaign run by B. Dalton, the bookstore chain.

Increasingly, solutions focus on one-to-one tutoring by volunteers or community agencies. It is more time-consuming than adult-education classes but more effective, proponents argue, for reaching people long disillusioned with school. "Opening classrooms to people who grew up hating the classroom is not going to solve the problem," says Mary Leahy of Vermont's Adult Basic Education Program. Some of that program's students, in fact, are dropouts not only from high school but also from adult reading classes. Embarrassment is a factor. Waldo Gilcris has been studying with his tutor one night a week at his kitchen table because he hadn't wanted to announce to the world, or a class of his peers, that he couldn't read. For others, however, once they've declared that they need help, privacy is less important than getting individual attention. "I'm not ashamed of learning how to read," says Emanuel Demickis, 34, who is tutored each week at the White Plains, N.Y., public library. "It's a shame if you don't."

RECIPES

The Vermont program is one of the more effective because it extends into every corner of the relatively small state. And because the population—especially the illiterate adult population—is so rural, tutoring is the only way to reach many of the 58,000 who need help. The state and federally funded program maintains a staff of 38 part-time and 56 full-time paid tutors who earn a starting salary of $11,000 and travel an average of 800 miles each month to reach their charges. For many who are tutored, the ultimate goal is a high-school equivalency diploma, which can take them as long as five or six years to get. Tutors often begin helping students master practical skills, using household materials as tools and incentives for learning. Rose Patterson, for example, has been learning to read medicine labels, recipes, children's books and the Bible.

Vermont's Leahy insists that volunteers alone can't combat illiteracy—that more programs need paid, full-time help. But so far, volunteers seem to be carrying the tutoring load. The largest and oldest volunteer effort is run by Laubach Literacy Action, which boasts 30,000 volunteers in 600 local affiliate programs in 46 states. Each tutor undergoes 10 to 15 hours of training to use Laubach's structured curriculum of reading skills beginning with the names and sounds of letters. Literacy Volunteers of America (LVA), Inc., based in Syracuse, N.Y., as is Laubach, has 200 programs in 31 states and the support of grants from B. Dalton, the Gannett Foundation and the Federal government. Its national spokesman is cookie mogul Wally (Famous) Amos.

DEDICATION

The program relies on thousands of volunteers such as William Walters, for 34 years a bus driver in Chicago. Walters decided that other people needed help when his route was changed and passengers started rushing off the bus as he turned down a different street. "I finally realized that they couldn't read," he says, "and had been catching a driver, not a bus." Despite the dedication of tutors like Walters, Linda Church, director of field services for Laubach, worries that efforts to solve the problem may amount only to kicking sand against the tide. "We're finding that all the agencies are just hitting the tip of the problem," she says. "With students dropping out and some schools still turning out students who are functionally illiterate, the number of illiterate adults tends to remain static."

Both Laubach and LVA are part of the Coalition for Literacy, which draws together 11 national literacy groups under the auspices of the American Library Association. This fall the coalition will launch a nationwide media campaign to educate the public that the public badly needs more educating. Jean Coleman of the coalition contends, however, that the national approach works best only when triggering local action. "Although it is a national problem," she says, "the solution lies in local community resources."

Illiteracy, after all, is an intensely personal problem. The private burden can be heavy for people like California's Mary Kay, who paid classmates to take notes for her in school and tried to kill herself at 15. It is also a family problem with almost hereditary effects: illiterate adults cannot be expected to give much educational support to their children, who in turn are likely to become poor learners. That is one of the reasons that Linda Tallman, who lives in the hills outside Elmore, Vt., decided to seek help. Having dropped out of school pregnant after the eighth grade, she now wants to become a mechanic—and a better mother. "My children aren't going to quit school like I did," she vows, providing a powerful role model by sitting down with a tutor every Thursday as her children look on. The process worked in reverse for Waldo Gilcris; when he decided he needed to learn to read, he approached the tutor he had watched helping his daughters. Now he no longer has to guard the secret that was shared only by his wife, and he often proudly begins sentences with the phrase, "I was reading just the other day * * *"

GROWING CONCERN OVER INCREASED PCP USE

Mrs. HAWKINS. Mr. President, previously on these pages I have spoken of the special problems of the drug known as PCP. Additional information has since been released regarding this dangerous narcotic, and it seems that the situation continues to worsen.

In a recent Washington Times article, it is reported that use of PCP in the District of Columbia has increased to epidemic proportions. There were, for example, 310 arrests in 1982 for PCP sales, in 1983, arrests jumped to 1,040, and so far this year, arrests have increased 30 to 40 percent. Emergency room admissions for PCP abuse nearly doubled in the District of Columbia from 292 in 1982 to 535 in 1983. Prosecution for offenses involving PCP totaled 397 in 1982, 1,293 last year, and in the first 6 months of this year, 967 of these cases have already been brought to court.

This is all the more frightening because recent reported crime statistics in the District indicate a sharp drop in every category of serious crime, with the single exception of narcotics offenses. In this category, U.S. Attorney Joseph di Genova reports, "The news is not good."

The most troublesome figures were found to be those involving PCP offenses. That drug, officials claim, regularly causes "unpredictable actions" and makes users "superstrong and very dangerous." A PCP user's "senses are distorted and the environment becomes a source of aggravation to him." A Drug Enforcement Administration official states that at times "five large police officers are needed" to subdue a person under the influence of this drug.

Mr. President, use of any kind of "recreational" drug is dangerous and destructive, but the narcotic PCP seems to be the worst of all. And its current popularity makes it that much more dangerous. We must continue in our efforts to educate our youth, in large part the users of this drug, to the dangers of PCP, and in our efforts to eliminate its production.

I ask unanimous consent that the article entitled "PCP Use Growing Prob-

lem," in the Washington Times, be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PCP USE GROWING PROBLEM

(By Charles E. Wheeler)

As PCP use increases in the District, police are learning to cope with increasingly violent drug users who are aggravated by harsh lights and loud noises and often require at least five police officers to restrain them.

"It is not an overstatement to say that PCP and drugs in general are at an epidemic level in the District of Columbia," said the District's Assistant Chief of Police Marty Tapscott, a speaker at a workshop yesterday at Catholic University.

Strategies for handling the epidemic-level abuse of deadly PCP were the focus of the meeting attended by about 400 human service and criminal justice professionals.

"There are 200 to 300 young people standing on corners in the District at any one time buying drugs," he said.

Sixteen District residents died with PCP in their systems in 1982, and 64 in 1983, he said.

PCP, which was originally tested as an anesthetic in the late 1950s, causes "unpredictable actions," and makes users "superstrong and very dangerous," said Chief Tapscott.

In 1982, there were 310 arrests for the sale of PCP. In 1983, arrests jumped to 1,040, Chief Tapscott said.

Arrests so far this year already have increased 30 percent to 40 percent, he said.

A PCP user's "senses are distorted and the environment becomes a source of aggravation" to him, said Thomas M. Browne of the Drug Enforcement Administration.

Other aggravation for a PCP user might be a flashlight in the eyes, a loud radio sound in a police car, crowds, flashing lights on a police car, body searches or loud and aggressive questioning, he said.

Anyone who suspects they are dealing with a person high on PCP should "back off and observe from a distance," he said.

Simply covering an agitated PCP user with a blanket "is useful, but if that doesn't work, turn on your heel and run," Mr. Browne said.

"Five large police officers are needed" to subdue a person high on PCP, he said.

"We noticed a new clientele with a different behavior starting in 1975," said James B. Hendricks, of Second Genesis Inc., a drug abuse treatment facility.

"He looks just like a zombie, he's not responding, he belongs on a mental ward," Mr. Hendricks said.

"From a treatment point of view, it is an insidious problem," said Lonnie Mitchell, administrator of the District's Alcohol and Drug Abuse Administration.

While emergency room admissions for heroin overdose dropped from 874 in 1982 to 811 in 1983, admissions for PCP abuse nearly doubled from 292 in 1982 to 535 in 1983, Mr. Mitchell said.

The emergency room can be a dangerous place for medical personnel because uniforms set them off.

THE EXPLODING POPULATION GROWTH IN THIRD WORLD COUNTRIES

Mr. PERCY. Mr. President, the Christian Science Monitor recently featured a series of five excellent articles by David K. Willis about exploding population growth in Third World countries. One cannot read these articles without being impressed by the awesome dimensions of the problem and, one hopes, without gaining an understanding of the urgent need for assistance to countries grappling with this problem.

To illustrate, I cite the following brief excerpts from the series:

The already overcrowded third world—Asia, Africa, and Latin America, where some 3.6 billion people, or three-quarters of the globe live—is still adding so many people at such a dangerous speed that the quality of life there is seriously threatened.

Each year the world as a whole is adding the equivalent of another Mexico (almost 80 million people)—and 73 million of them are in the third world.

Almost half the urban growth in developing countries today comes from millions of villagers and farmers giving up bleak rural life and hoping to find work and opportunity in the nearest glittering big city . . . Instead of rural areas growing fastest, as they were still doing between 1970 and 1980, cities now lead the way. So tremendous pressure is building to provide new services . . . at a time when world trade has been falling and third world debts mounting. Also being heard are calls for family planning services to be expanded.

A decade ago plenty of donor money was available for family planning, but political misgivings were widespread. Today, misgivings are fewer, especially in the third world, but money is also short.

Long-term economic growth must continue to provide jobs and incomes. World population growth rates fell from 2 percent a year to 1.7 percent in the last decade, but much more needs to be done.

Even if economic growth in developing countries were to reach unprecedented levels—5 or 6 percent a year . . . that would still leave more than 600 million people below the poverty line by the end of the century.

Mr. President, I urge the attention of my colleagues to this timely and sobering report, and ask that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Aug. 6, 1984]

PART 1—A TIDAL WAVE OF HUMANITY

(By David K. Willis)

NEW DELHI.—He Li-Lian in Peking knows it. Her daughter has one child, "and if she came to me saying she was to have another," she says flatly, "I would order her not to."

Saroj Bala, a tiny figure in a blue and yellow sari in a New Delhi slum, knows it. Married to a poor picture-framer, she is in her early 20s but has limited her family to two children.

Neneng Nasir in Jakarta, knows it. She has three daughters, "and three is enough," she says.

Yet many people in the affluent Western world still don't know it—or they've heard it so many times that they have tuned out:

The already overcrowded third world—Asia, Africa, and Latin America, where some 3.6 billion people, or three-quarters of the globe live—is still adding so many people at such a dangerous speed that the quality of life there is seriously threatened.

Much has already been done to combine economic development with available family-planning methods and information. Rates of growth for the world as a whole dropped from 2 percent to 1.7 percent a year in the decade to 1984.

Yet that fall was mainly in the Western, developed world and China.

Everywhere else, much, much more remains to be done.

A sheer and growing weight of numbers is combining with other factors to thin out food and water supplies, to swamp schoolrooms, to pour ever more rural illiterates into the teeming shanty-towns of mushrooming cities, to heighten tensions, and to contribute to restlessness and violence.

Each year the world as a whole is adding the equivalent of another Mexico (almost 80 million people)—and 73 million of them are in the third world.

The rate of growth in poorer countries since World War II is unprecedented in history, as the World Bank Development Report for 1984 points out.

By 1990 the globe will be adding another Nigeria (90 million) a year: that means 250,000 daily, or some 10,417 new people every hour.

The population in the third world alone, the World Bank says, is expected to soar to 5 billion by the year 2000 (more than the entire population of the world today) and to 7 billion by 2025.

Already about half of the third world is aged 16 or less. Forty percent (1.4 billion) is under 14. These youngsters will soon be bearing children and looking for jobs.

It took Europe hundreds of years to achieve the kind of growth that is occurring in the third world today. When Europe was building the factories of its industrial revolution, its population was growing at about 1.5 percent a year. It had wide open spaces of land, and those who wanted to emigrate had the world to choose from.

Today, large-scale emigration from the third world is simply not possible: Habitable places in the developed world are crowded too. Fertile land is at a premium.

Nonetheless, the United Nations Fund for Population Activities (UNFPA) in New York is able to point to some encouraging progress since the first World Population Conference in Bucharest, Romania, in 1974:

Millions of women around the world have learned that they can control the size of their families and have done so.

Some 85 countries in the developing world, containing 95 percent of its people, now provide some kind of public support to family planning programs.

China, India, Indonesia, Thailand, Sri Lanka, Tunisia, Mexico, and some other countries have linked economic development, literacy, jobs, and status for women with family-planning programs.

"Yet the distance we have to go is much further than the distance we have come," says an experienced US official.

Excluding China, the third world is still expanding at the rate of 2.4 percent a year: "And if the rate stays at 2.5 percent for the next 100 years, by the year 2100 the third world alone will contain 60 billion people," says Dr. Ansley Coale, Princeton economics professor and demographer.

Ridiculous? US officials point to growth rates already higher than 2.5 percent in key areas today—West and East Africa (above 3

percent a year), Central America (2.8 percent), Mexico (2.6 percent).

Dr. Coale, who is also chairman of the US National Academy of Sciences' Committee on Population and Demography, says that about 800 million people live in areas where family size has not fallen at all: "Bangladesh, Pakistan, Africa, and a belt of Muslim countries."

Some experts see the threat of widespread famine before the end of the century if urgent steps are not taken. Dr. Coale doesn't agree—"but more people will live in poverty," he says, "and there'll be a shameful lack of progress."

Growth rates in the third world excluding China have actually edged up since 1975.

Raphael Salas of the Philippines, the veteran executive director of the UNFPA, hopes that world population might stabilize around the year 2100 at 10.2 billion.

Other, more pessimistic demographers say the world simply won't be able to sustain unchecked growth. Death rates would have to rise, they say, either through famine or wars for resources.

The average family in the Western world has two children. In the third world it has 4.4. Excluding China, it has 5.1. In Kenya, which is growing faster than any other country in the world, the average family has eight children.

"Population" and "family planning" and "development" are abstract nouns that tend to sound remote and dull.

In uncrowded North America, Europe, and Australasia, populations are getting older, not younger. Growth rates are low (0.9 percent in the US , for example).

Yet what is at issue in the third world is far from abstract. The issue is individual lives and decisions.

How many children to have is hardly a dull question.

It involves what people think, and know, about their entire lives—beliefs, values, and traditions as well as health, jobs, and prospects.

Ultimate answers must tackle all these areas, including, but ranging wider than, contraception and health care.

Men and women need access to new information and opportunities before they can decide to have fewer children.

In Africa, tribal families have eight or more children per family because death rates are still high. Fathers want sons to work their land and care for parents in their old age: Female infants are still drowned (in part of China) or starved (in parts of India). In too many countries, the status of women is still low.

Each country has to find its own ways to tell men and women about the benefits of smaller families, and to offer them a choice. There is no single panacea.

On one level, long-term answers must include faster economic development, more schools, more jobs, more housing, higher incomes.

Short-term solutions include expanded, more efficient, and more sustained health and voluntary family planning policies.

On a deeper level, the need is to encourage fundamental changes in thought—the kind of awakenings that lead from ignorance to shifts in the ways rich and poor people alike see their own identities.

The task is finding ways to overcome fear—of illness, of old age, of a seeming lack of virility among men if children are few. In Africa, men fear that women who adopt contraception may be tempted into promiscuity.

Raphael Salas of the UNFPA put it this way in an interview in New York:

"The ultimate decision is in the human mind. We need the type of education that makes citizens of the third world think like people in the developed world . . . the opportunity to have fewer children per family and to treat them like human beings."

"Unless the rate of world population growth slows markedly," says Lester R. Brown of the Worldwatch Institute in Washington, "improving the human condition as a whole will be difficult."

China, (pop.: 1.05 billion), has taken the most radical and controversial step to counter overpopulation so far: enforced limitation of most families in an entire nation to a single child.

"If you Americans had 1 billion people and were growing at the rate of 2 percent a year as we were, you'd do something too," said Mrs. He Li-Lian, a diplomat, defending such drastic measures in an interview in New York.

"Our policy is only for two decades . . . and since 1982 we've got our growth rate down to 1.1 percent. Our people understand . . . my daughter understands . . . individual and national interests must be balanced," she said.

The Chinese method is an extreme example of government control over individual lives. It involves virtual coercion of women, enforced abortions, sometimes in advanced stages of pregnancy, some enforced sterilizations, and tempting incentives.

The Indian program, the oldest in the third world, has been voluntary, except for a brief period in the mid-1970s when overzealous doctors sterilized some 2,000 men against their will.

The main method in India (pop.: 747 million) has been sterilization of women after they have had four or five children. This accounts for about 85 percent of all Indian contraception so far.

But only 26 percent of adults between the ages of 15 and 49 practice contraception. The official goal is 60 percent by the year 2000. (Now India is about to join with the U.S. Agency for International Development to market contraceptives through a semiprivate organization.)

If the goal is to be reached, younger mothers need to use artifical birth control to space their children more widely before considering sterilization.

Saroj Bala, who lives in the hillside Delhi slum of Anand Parbat, is just the kind of woman the Indian government wants to reach—but so far, she is a tiny minority. She and her husband together made the decision to use contraception.

Mrs. Saroj says, "I'm only 22, and I'm using an IUD. I want to be able to educate our children properly and feed them."

Mrs. Neneng, in Jakarta's Tamansari quarter, is part of a successful Indonesian program to change thought about family size. The county now numbers 160 million people and is expected to grow to 204.5 million by 2000 (and to 255.3 million only 25 years later).

Indonesia stresses literacy, out-in-the-village health care centers, nonmonetary incentives including public recognition and medals for long-term family planning users. It also has an innovative, creative government information program firmly supported by President Shuarto himself and carefully designed to include and persuade local Muslin leaders.

Indonesia's growth rate is down to 1.8 percent a year, below the Southeast Asian average of 2.1.

Worrying the experts most is Africa, whose population is already 536.6 million.

"Africa has the fastest growth rate of any continent in history, and the fastest physical deterioration—deserts spreading, forests deunded, land overgrazed," says Lester Brown.

"Asia has had its green revolution in agriculture, but Africa is slowly losing the ability to feed itself."

Overpopulation, tribal rivalries, and widespread polygamy, together with the current drought south of the Sahara, primitive farming methods, and thin soil mean that 22 countries now face starvation, according to the UN Food and Agriculture Organization in Rome.

A powerful group of "pro-life," antiabortion lobbying organizations, however, in the U.S.—the biggest donor of family planning aid in the world—denies that there is a population crisis.

The group sees people as the globe's ultimate asset. It regards coercion and abortion as a sin. It looks to private industry to provide what it calls the best contraceptive of all—economic development based on capitalism.

These views are on the far right of U.S. politics. The group has used its ties to the Reagan White House in an election year—the Mexico City conference is being held just before the Republican Party convention in Dallas—to shape a new U.S. policy that reduces U.S. funds to private groups which finance any programs abroad that include abortion.

The new White House position at Mexico City—stressing economic development over family planning—comes as a dramatic switch after a decade of pressing the third world to tell its people about family planning.

The group lobbied hard (and successfully) for the US delegation to Mexico City to be led by staunch Roman Catholic antiabortionist, James Buckley, former Republican senator from New York.

"It is a disgrace and the US will be a laughing stock," says Dr. Sharon L. Camp, vice-president of the private Population Crisis Committee in Washington.

"We are very pleased," says Judie Brown, president of the American Life Lobby in Virginia, which claims strong support from blue-collar Roman Catholics. "It's a victory for us."

The UNFPA is confident its own contributions from the US will be untouched, but a question mark now hangs over one-quarter of the $60 million annual budget of the International Planned Parenthood Federation in London. The 25 percent is provided by the US Agency for International Development.

Prominent in the Washington lobby group is Prof. Julian L. Simon of the University of Maryland at Baltimore.

"No. I don't see a population crisis at all," he says. "The ultimate resource is the human spirit, which means people." In the short run, he adds, more people are a burden: They need to be fed and clothed. In the long run, however, they are a benefit.

The way to boost food production, Simon argues, is to give people land and information about the latest methods, then "leave them alone." He blames inefficient third-world governments for mismanaging food supplies.

"Who are we to tell other countries what to do?" he asks.

Judie Brown adds. "We should be educating people how to better clothe and feed

their families instead of using US taxpayers' money to eliminate their children. . . ."

In its just-issued World Development Report 1984, the World Bank discerns "important truths" in the views of both population lobbies and Mr. Simon. But it also calls for intensified family-planning programs to ameliorate development problems which it sees arising from rapid population growth.

The Population Crisis Committee says the need for family planning is evident from even brief visits to villages and slums.

Monitor interviews with more than 50 men and women in slums and villages in eight countries indicate that many would have fewer children if they could.

In the vast Mexico City slum of Netzahualcoyotl, where 4 million people exist on unpaved streets amid uncollected garbage, Sofia Salinas Ugalde, mother of two sons, says: "Yes, it bothers me to disagree with the Church. But to see children born unwanted, and growing up suffering, bothers me even more."

Mrs. Ugalde runs a fly-ridden meat stall in a market with her husband. She practices contraception. "Abortion is wrong," she said. "I agree with that. So it's much better to prevent conception in the first place."

[From the Christian Science Monitor, Aug. 7, 1984]

PART 2—THE SUPERCITIES—PEOPLE, PEOPLE, PEOPLE

(By David K. Willis)

MEXICO CITY.—The morning air sparkles over the sunlit Gulf of Mexico but thickens with grayish smog even on a Sunday morning as the jet swings over the long valley where Mexico City lies.

For what seems an age, one flies over the ocean of pale, concrete urban sprawl that is one of the world's biggest cities.

No new water supplies have been found since 1972. Giant pumps must lift supplies over a 3,000-ft. mountain. In one slum. Netzahuacoyotl, 4 million people breath polluted air on polluted streets. The population of the entire city is 17 million.

Every day some 1,100 rural Mexicans trek into slums such as Netza, as it is called, looking for work.

"If the peasants can read, they become domestics," says Gloria Lopez Paz, mother of four, as a daughter hauls rainwater from a grimy well to wash clothes.

"If they can't, they die. There are no jobs. They don't know how to watch out for cars. They don't know where to go for a doctor. They live on the street. They drink. They abandon their children . . ." in the hundreds of thousands. In Brazil (population 132.6 million) the number of abandoned children is said to be 20 million.

Pollution from 2.8 million automobiles and from industry hangs in the thin, high-altitude air. Lead levels are three to four times above safety levels. "Don't jog while you're here," a friend advises.

Cairo, the biggest city in Africa and in the Arab world, pulsates to the blare of car horns. A taxi changes lanes at a fast clip, ignoring the rear-view mirror. Ahead, a red light, a solid phalanx of cars, and a long wait.

As the minutes tick away, the driver of a nearby car is riveted to his mirror, which reflects the flickering image of a portable television set mounted in the rear window.

Cars in central Cairo park nose-to-tail, forming a virtual fence of aluminum which keeps pedestrians from the road. "I can hardly believe how much the traffic has worsened," says an Egyptian United Nations official just back after eight years abroad.

Designed to hold 2.5 million people, Cairo now is a city of 8.5 million, and another 2 million crowd into the city to work every day.

According to the U.N. 10 million people will scramble for a living here by 1990, and 13 million by the year 2000. This would make Cairo the 13th largest city in the world. But Aziz el-Bendari, chairman of the state Family Planning Committee, says Cairo will enter the next century with 16 million people, twice the number it has today. Tens of thousands of squatters already live among the mausoleums in the Necropolis. Cairo's cemetery area.

When Lennie Kangas, a senior US population official, meets Egyptians he tells them he first came to Egypt in 1963—"20 million people ago."

These are just two examples of third-world cities growing faster than their governments and inhabitants can keep pace.

Others include sprawling Bombay (10 million today, 12 million by 1990, and 17 million by 2000, according to UN figures); Jakarta (7.3 million today, 11.4 million by 1990, perhaps 16 million by 2000); and Sao Paulo (almost 19 million now and almost 26 million by 2000).

These and others are the most visible proof of the impact of rapid population growth. Overheated slums throw together the urban poor and newly arrived immigrants from the villages.

Despite a drop in world growth rates in the decade to 1984 (Mexico fell from 3.5 to 2.5 percent a year in the 10 years to 1982), a number of factors have combined to push up absolute numbers of people in the world faster and faster—especially in the cities.

One factor is better health care, which has lowered death rates, while birth rates have stayed high. Another: Almost half the urban growth in developing countries today comes from millions of villagers and farmers giving up bleak rural life and hoping to find work and opportunity in the nearest glittering big city—Mexico, Cairo, Jakarta, Karachi, Sao Paulo, Delhi.

A new era has begun in the third world. Instead of rural areas growing fastest, as they were still doing between 1970 and 1980, cities now lead the way.

So tremendous pressure is building on city officials to provide new services such as housing, water supplies, and schools—at a time when world trade has been falling and third-world debts mounting.

Also being heard are calls for family-planning services to be expanded in urban as well as rural areas, and for efforts to create smaller urban centers to siphon off the flood to the supercities.

In 1800, only 3 percent of the world's population lived in cities. By 1920 the figure had risen to 20 percent. By 1980 it was 41.3 percent. And by the year 2000 one person in every two will live in a city.

Sao Paulo, which could be the second biggest city in the world by the year 2000, was smaller than Manchester, Detroit, and Naples 30 years ago, the World Bank points out. London was the world's second biggest city in 1950; by the end of the century, London won't rank among the top 25.

One out of every four South Koreans lives in Seoul. Baghdad is home to 35 percent of all Iraqis.

The way cities are exploding is best illustrated in Latin America, where seven out of every 10 people are now urban, according to Robert Fox, noted Inter-American Development Bank sociologist and demographer.

The growth looks likely to continue, Mr. Fox says. In Mexico, Central America, and Brazil the countryside offers little hope or money to the peasant, who doesn't own the land he works.

"The middle class moves to the city to look for opportunity but most immigrants are the landless poor, who go to forage and live off their wits," says UN demographer Dr. T. Krishnan. "They don't give to a city. They take."

What are the major problems to be solved? What is being done about them?

HOUSING

In Cairo, rents are as low as five to 10 Egyptian pounds ($7–$13) per month in the older, crumbling apartment houses. Landlords say they can't afford repairs. Janitors and their families live on the roof, under sheets of iron held in place by stones.

In Lagos, dozens of families cram into the same apartment house, sharing a communal bathroom: The city needs at least 2 million new housing units immediately.

At dawn in Bombay, one sees bundles of rags lined up along narrow bridge parapets, high above the water. It is a shock to realize that the bundles are sleeping people. The rags move and the people sit up, rub their eyes, slowly gather dried cow dung for fuel, and light fires in air already thick with the smoke from others.

It is a tragic sight.

Slum dwellers and squatters account for 46 percent of the people in Mexico City, 79 percent of those in Addis Ababa, 60 percent of Cairo, 67 percent of Calcutta (but only 26 percent of Jakarta.)

City officials try to build more housing. In the legendary beauty of Sri Lanka, Prime Minister Ranasinghe Premadasa is pushing ahead with a plan to build 1 million new dwellings by 1987.

The mayor of West Jakarta, H. Eddy Ruchijat Soheh, says housing and land are his biggest problems. Squaters are hard to evict from vacant land.

His region contains 1.3 million people, he says, and is growing at 10 percent a year. Only 28 percent of homes have piped water.

One solution: to build more high-rise housing—if he can obtain the funds.

In Calcutta, city officials are trying to give as many sidewalks dwellers as possible a single room with hard floor, and access to power and water. They feel it is the best they can do.

JOBS

A surge of young people is on the move in Latin America looking for work.

In 1950 the number of workers in Latin America was 55 million. By 1975 it was 97 million. By the year 2000, it will be 197 million, says the Inter-American Bank.

This means the need to find an extra 4 million jobs a year. "And these figures are firm," says Robert Fox. "The people have already been born."

That is way beyond anything achieved so far. The US itself created 2 million jobs a year through the 1970s. The prospects are for higher unemployment in the hemisphere and more underemployment.

Taken together, the combined labor force in Mexico and Central America will more than double from 22.4 million in 1975 to 52.6 million by the year 2000—and quadruple 25 years later, to 89.4 million. About 1.2 million jobs a year need to be created in this region alone—but the area's economy is only 8 percent as big as the US.

Elsewhere, in countries such as Algeria, the Dominican Republic, Jordan, Lebanon,

Malaysia, Morocco, Nigeria, and Syria, the labor force is expected to double between now and the end of the century.

Jobs depend on new industries as well as on government offices and projects. A number of presidential advisers in Washington say that private industry should be given free rein to create jobs. Third-world officials say it isn't that easy.

"Your Reagan administration tells us to develop our industries and not to expect too much foreign aid," Emil Salim, Indonesia's minister for population and environment, says. "So we use our low-salary workforce to get into textiles—and you put such high import duties on our products that we cannot sell them to you.

"We don't have the roads, power, telephones, or schools to attract enough of your private investment, which perfers Europe."

Mr. Salim and many others in the third world see one effective answer to city and development problems: proper family planning. Smaller families would reduce the population growth that is diverting money to welfare services that might otherwise develop economies and per capita income.

"But now it appears some in your White House are saying that family planning is not as important as development," Mr. Salim says with incredulity, referring to the draft statement leaked in June, proposing to reverse US priorities for family-planning aid.

If jobs are not found, the flow of emigrants, legal and illegal, to the US will grow, Western diplomats in Mexico City say.

Estimates of illegal Mexicans now in the US range from 2 million to 10 million. Congress is concerned enough to pass versions of the Simpson-Mazzoli bill making it illegal to hire such aliens.

CRIME

"You see," says Marshall Green, a State Department consultant on population and a former ambassador, "these are not cities like the ones we know.

"Half the people in them are under 16. They are restless and volatile. They don't go to school. They roam in gangs. They can't find jobs and they drift into crime."

Police forces are not coping well enough in Lagos, Cairo, Bombay, Calcutta, or Delhi. The situation is ripe for exploitation: "Extremism as well as crime takes advantage of slum overcrowding." says an adviser to President Hosni Mubarak in Cairo.

Sri Lanka, outwardly serene, sees a rising crime rate that Brig. Dennis Hupugalle attributes largely to immigrants from the countryside.

Jakarta and Rio are both seeing crime rates jump. Citizens in some areas have formed vigilante squads to protect themselves.

FOOD

The so-called green revolution has taken hold in Asia, producing new strains of rice and other crops. Yet Africa, with poorer soil and primitive farming methods, lags behind. By 1980, third-world countries as a whole were spending $19.5 billion a year to import grain.

Cities in northeast Brazil, in the Andes countries of Bolivia, Peru, Chile, and Ecuador, in Central America, India, and the Mideast have all begun to see food supplies dwindle under the weight of numbers and badly managed farming.

Africa represents the most tragic prospect of all, worsened by the current sub-Saharan drought. Food supplies per head of population are falling, and UN figures show 145 million in 22 countries facing starvation.

In a private clinic 90 miles north of Nairobi, Magdalena Njeri worries: "In my village," she says, "people are hungry because of the drought. People like me see the problems of having too many children now."

Mrs. Njeri has had eight children since 1966. She now takes contraceptive injections.

"If world population was increasing at 1 percent a year instead of almost 2 percent, there would still be ample margin for improving diets, as there was from 1950 to 1973," says Lester R. Brown of the Worldwatch Institute in Washington.

But food production is now about level with population growth. In Africa it is lagging behind.

What about food aid? It has been falling: US aid reached 15 million tons in 1965 (enough to feed 90 million people, Mr. Brown says). By 1982, however, it had dropped to 3.8 million tons.

What else can be done?

One answer is to step up information about family planning in urban slums.

Even in India, where 75 percent of people live in the country's 550,000 villages, Krishna Puri, the head of the New Delhi branch of the private Family Planning Association of India, says the aim now is to contact young urban mothers to show them how to space their children more widely.

Another method is to build new cities, or develop smaller ones, all with new jobs, to divert peasants from major cities. But this takes time.

Egypt has begun work on 10 new cities. The first one, called "Tenth of Ramadan" was started in 1977 some 30 miles outside of Cairo. After seven years of construction, progress is slow: only 5,500 people actually live there, according to chief engineer Hassan Rashidi. Most workers for the 80 factories now operating are driven to and from work by bus. Mr. Rashidi expects 150,000 will live in the city by 1988, and 500,000 by the year 2000.

In China, one plan would develop existing market cities of 200,000 people. And to locate more industries close to raw materials.

In India, some private industry is active: The huge Tata Iron and Steel Works in Jamshedpur, northern India, runs competitions between departments to see which can produce fewer children in one year. Program Chief Dhruva Dey says a trophy is to be awarded.

OVERCROWDING: THE IMPACT AND THE RISKS

(By David K. Willis)

Think, for a moment, about this:

Last year the normally quiet and undemonstrative people of Assam, in northern India, suddenly rose up against poor, newly arrived immigrants from teeming Bangladesh to the south. The newcomers came looking for jobs in Assam's oil fields and tea plantations. Five million had come before them but Assamese patience snapped. About 3,000 people were killed.

A few years earlier, Hanoi ordered a mass eviction of Chinese from Vietnam, amid much bitterness and tension.

Not long ago, the government of Africa's most populous country, Nigeria (92 million) summarily ordered out tens of thousands of Ghanaian workers. The rest of the world watched on television as the workers lined up at their own frontier for days before it opened. Mothers and children lugged suitcases and radios. Others tried to bribe their way out on ships.

After an attempted coup in Indonesia in 1965, young Muslims started a rampage against suspected communists. No one knows how many died, but the United States Embassy in Jakarta estimated 300,000, "plus or minus 200,000."

A 1969 World Cup soccer match between El Salvador and Honduras escalated into war.

All these events had one thing in common:

According to on-scene observers, a strong contributing factor was overcrowding—the pressure of too many people jammed together in miserable conditions.

In separate interviews, neither Robert S. McNamara, former World Bank chief and U.S. secretary of defense, nor Dr. Sharon Camp, vice president of the private Population Crisis Committee, argued that overcrowding was entirely to blame.

Both stress that the causes of violence and unrest are complex and varied.

But both—together with other sources—insist that there is a definite link between rapid population growth and tension and violence, both within and between families, communities and countries.

"A very substantial contribution to unrest is made by imbalances between economic and political advances and resources on the one hand, and rates of population growth on the other," is how Mr. McNamara puts it.

"I don't say that over-population is the primary cause of instability, tension, and violence," says Dr. Camp. "I do say that rapid population is an underlying, intensifying cause."

Adds Marshall Green, former US ambassador to Indonesia and currently a population consultant to the State Department: "Excessive population growth combines with other factors to cause instability in a number of ways. Since the US is usually associated with the status quo, the existing order, around the world, it has much to lose. It has major security interests in a string of countries with high growth rates: South Korea, the Philippines, Indonesia, Thailand, India, Pakistan, Egypt, Turkey, Mexico.

"And remember: the George Ball Commission included overcrowding in south Tehran as one of three major factors behind the overthrow of the Shah in 1979. The other two were over-rapid industrialization and corruption."

In Mexico City, Western diplomats think this case is proved by a look at the five small, desperately poor countries in Central America which generate daily headlines about unrest and revolution.

In 1960, Central America held 11.2 million people, and the US virtually ignored it. Today it bulges with 22 million, is growing at the rapid rate of 3 percent a year—and Washington is preoccupied with it.

Central American families have an average of six children each. Death rates have fallen dramatically. Predictions point to 40 or 50 million people locked into tiny areas of arable land by the year 2010. Half the region is under 15 years of age.

Moreover, the most volatile group in the population—the one aged between 15 and 19—is spiraling upward. From 886,000 in 1950 it has leaped to 2.3 million today and is estimated to hit 5 million in 2010 unless growth rates fall.

A quarter of a million young Central Americans look for new jobs each year. But those jobs are scarcer and scarcer as poverty spreads and conflict continues in Nicaragua and El Salvador.

The result, according to the Kissinger Commission, is "a problem of awesome—and explosive—dimensions."

The Futures Group in Washington, DC, studies the impact of population growth on economic and social development. It sees as one result of overcrowding in Central America more and more refugees streaming northward into Mexico and the US. A potential flow of 100,000 a year is a "distinct possibility," the group told the Kissinger Commission.

A veteran Western diplomat in Mexico comments: "Mexico adds 2 million people every year. Brazil adds 3 million. Both countries owe colossal debts. You can't tell me that doesn't add up to a security problem for the US."

Brazil, the diplomat says, added 26 million people in the decade to 1980—equivalent to another Argentina. The chief of staff of the Brazilian armed forces is reported to have named population growth as the biggest threat to Brazil's internal security.

Those who reject the very concept of a world population crisis also disagree with the McNamara, Camp, and Green views.

Prof. Julian L. Simon of the University of Maryland at Baltimore is a leader of the right-to-life lobby in the US and a senior fellow at the Heritage Foundation in Washington. He has written a book called "The Ultimate Resource" which says that the world needs more people, not less. He is also co-editor of a recent Hudson Institute study called "The Resourceful Earth."

"I absolutely reject the idea that overpopulation leads to war," he said in an interview. "I don't think population is a factor. . . . It simply doesn't happen that one group of people has children and sets out to attack another group next door for more space."

Mr. Simon offered no detailed analysis, but dismissed those who link overpopulation and tensions as "doomsayers."

Replies Mr. McNamara: "People who take such [Simon] views cannot have been in Bangladesh, where 89 million people lived in 1980 in an area about the size of Wisconsin. Two-thirds of the country is either flooded or arid, depending on the time of year.

"By the year 2000, 157 million people will live there. By 2025, 40 years from now, the population will be 260 million. Life is hell for 60 to 70 percent of the people there now."

Mr. McNamara illustrated his concern in an article in the current Foreign Affairs quarterly. He mailed out 15,000 copies and arranged to have more distributed at the UN Population Conference in Mexico City.

Among other implications that worry him: "National programs of coercion" such as the current Chinese drive to limit family size to a single child. Rising growth rates, he thinks, are a major contributor to more authoritarian government and to a movement away from "democratic structures."

"Brutal family practices"—increasing rates of abortion and female infanticide which he says even the Chinese press is acknowledging. All this, he says, increases tensions in families and thus sows the seed of wider frictions in societies.

Other authorities who link rapid growth and instability make these points:

Such growth worsens unemployment. It swallows up economic gains. It makes the task of governing harder. It widens the gap between rich and poor wthin and between countries. It balloons illegal migration cross borders. Guatemalans and Salvadoreans emigrating to Southern Mexico, for instances, and millions of Mexicans finding jobs in the U.S.

Over-rapid growth also breeds crime and tension in third-world slums: "The last conversation I had with [the late president] Anwar Sadat was about overcrowding in Cairo," says Ambassador Green.

"The last words he said to me were that the crowding was an 'absolute nightmare.'"

The ambassador sees third-world cities as "the forcing bed of extremism." One of Egypt's leading experts on extremism, Dr. Saad Eddin Ibrahim of the American University in Cairo, says that young Muslim fundamentalists tend to be recent arrivals in slums from rural areas. Rootless and adrift, they are susceptible to extremist ideas.

In Cairo, the police academy recently held a seminar on the links between overpopulation and security. "Communists, Islamic extremists, and sabotage groups all find it easier to work where population density is high," says Dr. Maher Mahran, population adviser to President Hosni Mubarak. In two pockets in Cairo, density is said to be about 130,000 people per square kilometer.

In Jakarta, Emil Salim, an Indonesian Cabinet minister says, "The world will not be safe with such population densities. Look at our own Java: If its population reaches 120 million by the year 2000. People will be forced to leave: to [go] where? Sumatra or Borneo, where languages and religions are different?"

"When the rural poor come to the cities," says Dr. Pramila David of Hyderabad, India, a physician with years of experience in the population field, "they see what is invisible in their villages: great wealth which is out of their reach. This is particularly true when they find work as domestic servants."

To observers such as the Worldwatch Institute's Lester R. Brown, the litmus test is food supplies.

"Look at the food riots in recent years," Mr. Brown says. "Poland. Tunisia. Supermarket looted in the Dominican Republic, in Rio, and in Sao Paulo. Overpopulation is a large factor."

Even before the current drought in sub-Saharan Africa, almost one African in every four was being fed by imported grain: 130 million out of a total population of 536 million.

Now, grain production in Africa has begun to plummet as the continent suffers the fastest population growth rates in history along with a lack of investment in agriculture, and an overexploitation of poor soil.

Between 1970 and 1982, African grain production fell 12 percent. In 1983 alone output fell another 14 percent, and the UN Food and Agriculture Organization in Rome says 22 countries are facing famine.

Meanwhile, the third world as a whole by 1980 was spending more money importing arms ($19.5 billion) than on importng grain ($19.45 billion), the Worldwatch Institute reported.

Where are the answers?

The rich, "have" nations of North America, Europe, and Australasia need to be much more aware of the potential impact of too-rapid population growth in the "have not" nations of the third world experts say.

The U.S. State Department and Agency for International Development (AID) urge continued public and private support and funds for family-planning services linked to maternal and child health care clinics around the third world. Asia and Latin America show some progress at slowing down growth rates, although little progress is apparent in Africa.

On the far right of US politics, Sen. Jesse Helms (R) of North Carolina, Professor Simon, and some Catholic activists say the answer lies in economic development directed by private industry rather than governments.

Controversial White House policy for the Mexico City conference states that family-planning aid should be de-emphasized. Such policies "cannot be a substitute for economic reforms," it says.

State Department and AID sources agree that economic development is vital. But they also insist that third-world families deserve the right to make the same choices on limiting family size that the developed nations have long taken for granted.

Ambassador Green advocates more family-planning incentives, such as bonuses of either one payment of 500 rupees ($46), or 50 rupees ($4.60) a month for life, offered by one Bombay factory to workers who limit their families to two children.

He sees this as not coercive but as an added inducement to a voluntary decision.

The right-to-life lobby in the US however, sees such incentives as tantamount to coercion, and opening the way to enforced abortion and sterilization. The lobby is trying to stop any direct or indirect US funds going to China or any other country using such incentives.

The AID budget for family-planning projects this year is $240 million. Since 1974 no funds are permitted to go directly to any country where family-planning programs include abortion. The White House this year has added that no funds may go indirectly via international voluntary groups.

The Sri Lankan government offers the considerable incentive of 500 rupees ($23) for every man and woman who chooses sterilization. Presidential adviser Dr. Wickrema Weerasooria in Colombo denies this represents coercion. He calls it compensation for the time people lose in having the operation. The government, he says, has to match private tea plantations offering 700 rupees ($32) to each worker.

Incentives are part of China's campaign to limit its population to 1.2 billion by 2000. One-child families receive priority in housing, child and health care. In some communes one-child parents receive bonuses equal to one-third their annual wages, and an extra plot of land.

India is experimenting with similar incentives in some states.

Indonesia on the other hand has rejected monetary incentives as too open to abuse.

Meanwhile, many experts stress that the answers to overcrowding and unrest lie in a range of other fields such as more schools, better health care, and ways to enhance the status of women.

EDUCATION: FACTS FOR THIRD-WORLD WOMEN

(By David K. Willis)

Bright skeins of wool scattered beside them, two village women work intently at a Japanese knitting machine in a small room in the village of Kafr-Tesfa, 30 miles north of Cairo.

Taking shape on the machine is a green dress with red and white trim. Aziza Gamelat and Samia Mustapha hardly glance up as visitors enter.

They are too busy making dresses, sweaters, cardigans, and caps to sell to the rest of the village.

The clanking machine represents far more than clothes, however: It is the first step for both young women out of their traditional,

rural roles as wives and mothers toward modest earning power, and self-respect.

In a shed outside, the first of 2,000 chickens fuss and feed in new wire cages imported from Italy.

Both dresses and chickens are part of a bigger effort throughout the third world to widen women's horizons beyond child-bearing and the collecting and preparing of food.

"As women get out of the home and find jobs," says Nafis Sadiq, assistant executive director of the United Nations Fund for Population Activities in New York, "both infant mortality and fertility [number of children a mother has during her lifetime] fall."

After questioning almost 350,000 women in 42 developing countries between 1972 and 1984, the London-based, US-supported World Fertility Survey concluded that in general, married women who worked outside the home had smaller families than those who did not.

Isolating 20 countries, one study by World Fertility Survey showed a drop in family size from 6.9 children to 4.2 among women with jobs.

The modest knitting and chicken projects in Kafr-Tesfa in the Nile Valley are supported by Egyptian government population planners eager to achieve two goals:

The first is to give rural mothers like Aziza and Samia interests outside the home. The average Egyptian family still has five children.

The second is to make Egypt's Azizas and Samias happier in the village, so they won't join the flood of rural migrants to Cairo, where 8.5 million people already fight for space in an ancient city designed for 2.5 million.

Jobs are not all that is needed, of course. Education is essential—and government planners mix finance for village industries with efforts to provide contraceptive advice and maternal and child health programs. They want more and more women to be able to choose family planning if they want it.

As women such as Aziza and Samia try to earn enough to buy knitting machines of their own, village doctor Ragab el-Kholi explains that village births dropped from 763 in 1978 to 711 in 1983. Now the village needs a bigger pre-school center to care for the small children of women who want to work, Dr. Ragab says.

Across Egypt, the rural jobs program now includes 2,915 separate villages with a population of about 15 million, says it chief, Muhammad Abdel Salam Salem.

Critics, however, say that Egypt lacks the funds to provide enough jobs in enough villages to reduce population growth (now soaring at 100,000 extra people a month). Much more emphasis on family-planning services is needed as well.

"Many women are still scared to speak up," says the UNFPA's Nafis Sadiq. Herself a Muslim, she adds, "Muslim women are even more scared than the others. But they shouldn't be: Islam actually gives women many rights. We must find ways now to encourage all women not only to seek better health care for themselves and their children, but to go out and win new jobs."

Literacy and education are also vital in freeing women from the drudgery of village and slum life.

In Pakistan, as in Egypt, the illiteracy rate among Muslim village women is above 95 percent. Women's status is low, and birthrates are high.

Pakistan's population of 98.9 million will reach 142.5 million by 2000 and 212.8 million 40 years from now, according to UN estimates.

The average family still has six children, and more than half the country is under 14 years of age. Yet the government of President Zia is only beginning to talk about a serious effort to spread the ideas of family planning. At the same time, some scattered signs of progress are visible, especially in Pakistan's cities.

In a former supermarket building in Karachi, some 400 girls who have graduated from high schools clusters in neat uniforms around long tables learning how to repair television sets, build small electric motors, solder circuit boards, draft architectural plans, and use sophisticated surveying equipment.

Aflak uz-Zia, from North Karachi, machines a door bolt. "What I really like is electronic equipment," she says softly, "and that's the field I want to work in."

To enter this government-supported girls' vocational school, she passed an examination in her final year of high school. The training will take three years. Her sister is married, but she herself wants to get a good job first.

School director Shaheena an-Sari says her first class of graduating students should find jobs in April next year, and can expect to earn above-average salaries of 1,500 to 2,000 rupees ($105 to $140) a month.

Other vocational schools are in Lahore, Peshawar, and Faisalabad.

The islands of Indonesia are also Muslim, but present a very different picture. Literacy among women is much higher (about 64 percent) than in Pakistan (under 10 percent in the villages) and in India (25 percent).

One result: 58 percent of couples between the ages of 15 and 49 use contraception in Indonesia (the rate is nearly 70 percent in parts of Java) compared to Pakistan's overall acceptance rate of less than 10 percent.

Indonesian women have also enjoyed higher status than women in Arab nations and the subcontinent. They have long had a large role in selling rice as well as planting and harvesting it. They wield strong influence in homes. One area of west Sumatra is matriarchal, with inheritance descending through the female line.

The family-planning coordination body known as BKKBN after its Indonesian initials has trained women health workers in the villages. In turn, they have gained the confidence of the other village women.

Siti Nurbaya is married to a chauffeur and lives in a slum area of Jakarta. She practices birth control, and her youngest daughter is 14, which now gives her time for outside interests.

"I've joined PKK [a national women's group]," she says, "and I work as leader of a group visiting other families to tell them about family planning as well."

"More educated women tend to marry later, to be employed outside the home, and to practice contraception effectively," according to the findings of the World Fertility Survey.

This is illustrated in Sri Lanka where the literacy rate for women is up around 90 percent.

Young women now marry as late as 24, and men at 28. One result: More than half of all couples aged between 15 and 49 use some form of contraception. And almost half of those who do, prefer traditional, natural methods other than artificial devices.

The average family in Sri Lanka (population 16.1 million, due to rise to 20.8 million by the year 2000) now contains only three children.

For Nalani Sendanayake, sharp and quick in a spotless white sari, full primary and secondary schooling has meant all kinds of benefits in her Sri Lankan village of Bopette, 40 miles east of Colombo.

The village is at the end of a red-earth road in countryside green with rice fields, brilliant with flowers, and shaded by regimented rows of rubber trees. Mrs. Sendanayake's education allows her to work part-time in local branch post office, and to work as a volunteer with the private Family Planning Association.

Assigned to talk to 14 families in the village, she says 10 of them have adopted family planning.

Meanwhile she has helped the village organize to dig a much-needed well, and to construct 10 new latrines.

Mrs. Sendanayake says she has a three-year-old daughter and intends to have only one more child.

"We can't afford more," she says.

Several miles away in another village tucked into a mountainside, Nalini Hettiarachi says she wished she had known about family planning when she was younger. Instead, she begain using pills only after her youngest was born. He is now 18: The other children are 28, 27, 25, and 21.

She is delighted that three of her daughters have limited their own families: Two have two children each and one has one.

UNICEF executive and writer Tarzie Vittachi (himself a Sri Lankan) sums up in New York: "After 15 years of free education, countries are transformed. Girls decide whether, when, and whom to marry."

In Tribal Africa, women are held back by a lack of education which allows tribal lore, polygamy, superstition, and inertia to rule.

The birth rate in Kenya is the highest in the world—more than 4 percent a year. (The U.S. growth rate by comparison is 0.9 percent.)

The government says the literacy rate is almost 50 percent, but Westerners in Nariobi see that figure as more hopeful than accurate.

One women interviewed in Nyeri had a son at age 13. Another, Teresa Wangeci, was 34 years old and had seven children. She dicided to take contraception injections which last for three months at a time.

At a roadside fruit and vegetable stall on Karanja Road on the Edge of Nairobi, Catherine Wanjiru had a sad tale to tell. She had seven children. Her husband, a poor farmer, had taken a second wife, who had one son of 11. Her husband was often drunk, she said. Although her youngest son (aged 13) had won a place in a good secondary school, the husband said he could not pay the fees.

The boy was sitting on the ground in front of the stall, covered in dust kicked up by passing trucks, eating an orange. Friends of the family said later he would either try to find a place in a no-fee school or drop out.

Tribal pressures are strong. In a Nairobi slum, Grace Wachira says that after her sixth child was born in 1971, she began taking contraceptives by injection. Now she has stopped and hopes for another son.

Why? "One of my children died," she says, "It had my brother's name."

Jennifer Mukolwe of the Kenyan Progress for Women Organization, explains: "In such cases the brother keeps nagging his sister to have another child carry on his name. There are so many forces at work in Africa."

Mrs. Mukolwe's group works to encourage women to create jobs for themselves by forming cooperatives to raise pigs, goats,

and poultry, and to obtain bank credit for brickmaking, water, and other projects.

From a small office in New Delhi works a poised, confident symbol of what education, opportunity, and hard work can do for Indian women.

Rami Chabbra is still very much the exception rather than the rule in her country of 747 million, where a mere 1 percent of women complete university.

However, she is combining two fields—journalism and family planning—in an effort to open new horizons for women, particularly in India's 550,000 villages.

"The heartbreak is that India began it all, with the first government family-planning program in the third world, but that we haven't come nearly far enough.

"China has done very well in lowering growth, but I am opposed to using coercion. In India we must use democratic methods," she says.

Twenty-eight percent of Indian couples between the ages of 15 and 49 practice birth control. The government goal is 60 percent by the year 2000.

In densely populated northern areas, Hindu village girls are promised in marriage at 11 or 12, and go to live with their husband's families at age 14 or 15. They may have had two children by the age of 20.

They have no status until they have had at least one son and preferably more. Baby girls are given less to eat in a number of areas, and many die, Mrs. Chabbra says.

"We must move rapidly to spread knowledge of family planning," she says. "Speed is essential. Forty percent of India is under 14 years old. The number of people entering the 15–49 age bracket is three times the number leaving it," she explains.

"Family-planning services must be linked to needs: health, education, education for women.

"You know, we glamorize the village, the graceful water-pot on the heads of swaying women. . . . But I can't go into the villages now without seeing the misery behind that pot."

Meanwhile, one of the biggest obstacles blocking the progress of third-world women is . . . men.

A senior Kenyan government official was heard to remark recently that he would personally refuse to adopt any method of male contraception. "African men fear that if they use birth control, their wives might be promiscuous," says Dr. Revocatus Nyanyi, a Kenyan doctor trained in Uganda and Israel.

African men also want children to look after them when they're old," says a young woman in Nairobi.

Meanwhile machismo lives on in Mexico, according to Dr. Manuel Urbina Fuentes, the head of the family-planning program in Mexico's Ministry of Health.

"Compare sterilization rates for men and women since 1976," Dr. Urbina says, "and you'll see the male rate staying very low but the female rate more than tripled."

Dr. Urbina is looking for ways to draw more men into the Mexican program. "We've made great strides overall" he says. "Our growth rate is down from 3.2 to 2.4 percent a year since 1976. Now we want to go down to 1.9 percent a year by 1988—which means boosting the number of Mexican family-planning acceptors as a whole from 4.2 million in 1982 to 7.6 million . . . quite a task."

A Sea of People—Can the Tide be Stemmed?

(By David K. Willis)

For Juana de Gadillo, wife of a poor farmer in the Mexican state of Tlaxcala, her fourth child was enough. "How can I have more when we can hardly feed ourselves," she asks. Disobeying her church, she now takes contraceptives by injection in a town 10 miles from her village.

Gladys Mumbi, from the Tumutumu area of Kenya, wanted four children but had seven. She learned about family planning from a volunteer health worker who came to her village. Her husband, a laborer, agrees she should use it.

Slim Sri Lankan Karunatilke Gamage will be married in September. He and his wife want only two children. She intends to use the pill.

Durga Devi, who has four children, had to go against her husband's wishes to seek sterilization in a New Delhi slum five years ago. "I waited until he left for work one morning and went to a local clinic," she said. "Now he's happy and I've recommended 10 other women for sterilizations."

These are just some of the individuals in the third world who are taking their own steps toward limiting the size of their families since the first World Conference on Population in Bucharest, Romania in 1974.

A World Population Plan of Action adopted at Bucharest stressed that couples had the right to choose their own family size. While East-bloc and third world countries resisted family planning then, almost all the third world has since come to adopt it as an essential part of development.

What ideas to spread the word on family planning are working best?

Experts agree that, with the world's population of 4.7 billion shooting up in Mexico (around 80 million people) every year the third world needs a steady flow of better ideas for the next 50 years or so at least.

The most controversial approach is direct, unremitting government and social pressure, combined with a range of incentives, used in China. It has drawn strong criticism from anti-abortion groups in Washington. It arouses misgivings in other democratic countries which recognize China's need to grow more slowly but see the extreme methods used as oppressive and unusable elsewhere.

Using local workers instead of strangers. In Madras, India, 60 newly trained slum women have persuaded 3,000 others to adopt family planning.

Using local networks with an interest in keeping villages prosperous. In 12 poor, cotton-growing villages in the Punjab, the area's new milk cooperative has bought a jeep for a local doctor to spread the word on health—and family planning. He works with, village women trained in rudimentary health care.

"Farmers take for granted 24-hour coop care for their livestock," an organizer says. "They are just beginning to realize that they can improve the care for their own children."

Using public praise and recognition. Six hundred villagers from Java, Sumatra, and other parts of Indonesia were agog last July 11 to find themselves visiting Jakarta for the first time. They were even more overwhelmed to meet President Suharto in person.

Many had never been on an airplane before. Two years ago when the first group was brought in some panicked on the tarmac and refused to board. Others drenched expensive hotel rooms as they tried to take baths in the village way by scooping water out and pouring it over themselves.

But the objective was clear: heaping praise, medals, and publicity on people, not for accepting family planning, but for staying with it for five years or more.

Another form of recognition: a card nailed to the doorway of a home where family planning has been used for five years or more. The first lady of Jakarta, the governor's wife, watched as a green card indicated five years' use of an IUD device was nailed to the doorway or Anthony Juanda and his wife, Jenny, in one slum area. They had three children, the youngest age five.

Education through the news media. In Mexico City millions of women still tune in to highly charged television soap operas every day that hammer home the message that fewer children mean a happier, more productive life.

Other forms of drama: In Bihar State in northern India the Tata Iron and Steel Works has produced, in Hindi and in English, a 45-minute musical play that opens with a clean hut and a slovenly one on stage. The neat home houses a family with only a few children. The dirty one contains six children. The death rate in the village rises. A wise man urges everyone to listen to the social workers.

Lines of men and women dance toward spotlighted booths offering sterlization operations. Music booms out and pro-family-planning banners unfurl. "Corny," says family-planning physician Dr. Pramila David. "but effective."

Getting education, health clinics, and family-planning services out where the people are. In Sri Lankan villages, volunteer workers organize into teams to talk to every single household.

On the island of Bali, every family in many villages has its family-planning habits recorded in a book and discussed at village meetings.

Incentives. In China, one-child families receive "glory certificates" which give them access to more living space (where possible), extra rice rations, wage supplements ranging from $2 a month in cities to $25 a month in villages, and more.

"The problem has no single panacea and no easy answers," says Dr. Lessel David, population consultant with the Administrative Staff College in Hyderabad. In dia. "Each country must work out what works best for its own conditions."

In New York, the executive director of the United Nations Fund for Population Activities (UNFPA), Raphael M. Salas of the Philippines, agrees. "Every culture needs its own approach," he says.

The United States is providing $240 million this year to help countries and private international organizations and the UNFPA with family-planning programs.

The US pressed hard in Bucharest for the third world to limit population growth as an essential part of its economic growth. Since then, almost every third-world country in Asia, and most elsewhere, have adopted family-planning programs. About $2 billion are now spent worldwide on family planning, almost half by developing countries themselves.

China, India, Sri Lanka, Singapore, Tunisia, Mexico, South Korea, Japan, Indonesia, Thailand, and other countries have all managed to lower their growth rates.

Methods have varied. India and Sri Lanka have relied heavily on sterilization. Indone-

sia has used the pill and the IUD as well as male contraceptives.

Yet some general lessons do emerge:

Ask villagers to walk to central clinics, and they will probably stay home, as they have done in parts of India. Pakistan, and Bangladesh. Decentralize and you will prosper: Kerala State in India has scored successes by building health clinics and schools out in the country-side where the people are.

Raise literacy and the status of women, and provide jobs for women and you will do well: Sri Lanka, Indonesia, and Kerala State are prime examples.

Mexico has realized the urgent need to reach its villages: In Mexico City, Dr. Manuel Urbina Fuentes, the government's family-planning chief, says that 26.3 million Mexicans—one in every three—lives in a settlement numbering fewer than 2,500. Eleven million live in hamlets of 500 or less.

By 1988, Dr. Urbina wants a rural health worker, equipped with 13 basic medicines and supplies of contraceptives, in every settlement.

Argue with local Muslim leaders and you may have a Pakistan (97 million people, more than six children per average family), growth rate almost 3 percent a year. Take the time to explain to Muslim leaders (better still, have a more liberal school of Muslim taught) and you may end up like Indonesia—birthrate down to 31 per 1,000 and an annual growth rate of 1.8 percent a year.

A nation's leader needs to be committed to population policies. Where he or she is—India, Indonesia, Tunisia, Sri Lanka, Thailand—progress is marked. When he or she is not—Egypt so far, Kenya, Pakistan areas of West Africa—progress is minimal.

The rules don't always apply. In Bangladesh (population: 98.4 million, due to jump to 145 million by the year 2000) political will exists but administrative and social pressures are so overwhelming that only 15 percent of couples practice family planning. The figure is 26 percent in India; almost 60 percent in Taiwan, South Korea, and Thailand; and now above 40 percent in Mexico.

Foreign aid plays a part, but much work is done by private international groups such as the Population Crisis Committee in Washington, one of about 40 such groups in the US which plan and help carry out family-planning programs abroad.

A paradox is also emerging, which Steven W. Sinding, AID population division chief, sees as "sobering":

A decade ago plenty of donor money was available for family planning, but political misgivings were widespread. Today, misgivings are fewer, especially in the third world, but money is also short.

"We now know that family-planning programs can work effectively," Mr. Sinding says. "And we know that aid from the private sector is critically important for starting up programs and bringing in new ideas."

However:

While aid assistance rose from $160.5 million in 1978 to $204 million in 1983, the 1983 figure measured in constant 1978 dollars was a decline—to $140.4 million.

This is happening just as the London-based, US-supported World Fertility Survey 1972-84 found that 52 percent of women in Asia and 53 percent in Latin America wanted no more children. (In Africa the figure was only 16 percent.)

A powerful and vocal anti-abortion lobby in Washington, part of President Reagan's far-right support, has used election-year political muscle to tighten restrictions on US aid and to downgrade family-planning priorities behind economic development based on private industry.

To population groups such as the Population Crisis Committee, the new White House policy is a "disgrace" to the traditional US commitment to family planning.

"In the long run, effective family planning reduces abortion rates—that's been proved in Mexico, Chile, and elsewhere," says a spokesman for the committee.

To the American Life lobby in Virginia, the new White House strategy is a "triumph." The pro-life lobby says the US has no right to tell other nations how to act. But one effect of the policy statement was to tell other countries that if they include abortion activities in their family-planning programs, they will receive no US aid through private organizations.

Asked if this was not contradictory, Judie Brown, president of the American Life lobby, replied, "It means that countries who want US dollars will have to comply with US policy. It's them who come cap in hand to us."

Third-world spokesmen are concerned that the US, the champion of family planning, is changing course in midstream.

"I am upset," says a senior government official in Mexico City. "You Americans have been pushing us for 10 years to increase family planning. Now are you coming to our capital to say we have it wrong?"

UN sources hope the statement is a political concession to the US far right on the eve of the Republican convention in Dallas. They claim that UN programs, and the US contribution to the UNFPA of $38 million this year, will be unaffected. "We fund no abortion programs at all," says spokesman Ed Kerner.

Meanwhile, if the world's population growth rate is to be slowed, the basic need is more than providing contraceptives, or even more food. Good cropland is becoming scarcer and scarcer. The costs of chemical fertilizer are rising. The basic need is nothing less than changing the ways third-world individuals see themselves, their families, their lives, and their futures.

Awareness is growing that two, or even four, children per family allows more progress and health than six or eight children.

The Mexico City conference has had scores of recommendations before it on enhancing family life, new targets for lowering illness and death rates, finding ways to stop cities growing so fast, the status of women, and many more.

In Bucharest 10 years ago the debate was family planning or economic development. In Mexico City the debate is family planning and economic development.

What is new at Mexico City? Raphael Salas of the UNFPA says one novel element today is growing government intervention in individual lives, as in China. A senior US official agrees: To him, balancing individual and state needs is the crucial family-planning question for the rest of the century.

Long-term economic growth must continue to provide jobs and incomes. World population growth rates fell from 2 percent a year to 1.7 percent in the last decade, but much more needs to be done.

Even if the UNFPA goal of stabilizing population growth by the year 2100 is achieved, world population will still be 2½ times as large as it is today, at 10.2 billion.

Adds Mr. Salas: Even if economic growth in developing countries were to reach unprecedented levels—5 or 6 percent a year * * * that would still leave more than 600 million people below the poverty line by the end of the century."

Mr. Salas, who is widely credited with helping to make family planning a respectable, urgent issue around the world in the last decade, says he remains optimistic.

He keeps his eye on the long term:

"The need now is to put reason behind human desires," he says. The aim is to achieve individual security with equal opportunity to develop in unpolluted, nondegraded environments. And the task, he says, has only just begun:

"All these efforts in population in the last 15 years are but a few short steps in a thousand-mile journey."

RUSSELL RULAU, A DISTINGUISHED WISCONSIN JOURNALIST

Mr. KASTEN. Mr. President, a distinguished journalism career is ending. Russell Rulau is retiring as editor-in-chief of World Coin News & Bank Note Reporter.

Russ Rulau is a numismatist, and has been for 45 years. That means he collects coins, medals, and tokens. He also writes about coins, medals, and tokens, and has been doing so ever since he began as assistant editor of the Token & Medal Society Journal in 1962. Since 1974, he has been an editor for Krause Publications in Iola, WI.

Following that first publication in 1962, Russ has authored several thousand articles on every conceivable facet of coin collecting. Included among his publications is the award winning series "Early American Tokens," "Hard Times Tokens," "U.S. Merchant Tokens," and "U.S. Trade Tokens." This series catalogs American store cards and tokens from 1700 through 1889. Russ is presently working on two other publications, one to cover the years 1890 to 1900, and one on medals of George Washington.

During his editorial career, Russell Rulau has lectured and traveled extensively. He has covered many international coin conferences—he reads seven languages—and almost all of the American Numismatic Association conventions since 1963.

As a coin collector, Russ has dabbled in almost all types of coins. His interest in U.S. tokens, however, has never waivered since he first started collecting in 1939. Although considered an expert in coins generally, Russ is an acknowledged authority on U.S. tokens.

Russ Rulau knows just about everyone connected with coin collecting. If they aren't his personal friends, he has interviewed them for one of his publications.

Distinguished journalists are few. Russell Rulau has proved to be one of the best. His long and successful career is one that he, his fellow journalists, and the many numismatists

who read his publications can all be very proud of.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Numismatic News, Aug. 4, 1984]

RULAU RETIRES FROM KRAUSE PUBLICATIONS

Chester L. Krause, president of Krause Publications, announced July 24 the retirement of Russell Rulau from full-time employment at Krause Publications as editor in chief of World Coin News and Bank Note Reporter.

Rulau, 57, will cease his staff association with KP Aug. 31 after 10½ years. He will continue to author KP's series of U.S. token catalogs, which he initiated in 1980, Krause said. The award-winning series—*Early American Tokens, Hard Times Tokens, U.S. Merchant Tokens* and *U.S. Trade Tokens*—catalogs American store cards and tokens from 1700 through 1889.

Future catalogs planned will add tokens of 1890-1900 and also medals of George Washington.

Rulau, a 45-year veteran of numismatics, has been a numismatic editor continuously since 1961. He stated that since his cardiac surgery Oct. 31, 1983, he has "wearied of the constant deadline constraints of coin journalism."

He added that he will not be leaving the numismatic field but will be entering a new career within the field.

"My friends may see more of me in the future, not less," he said. "Quite soon there will be an announcement of my assumption of an executive position with an expanding firm—outside the publishing area. I prefer to let my new associates choose this timing."

Rulau first broke into numismatic prominence in 1960, when he invented the word "exonumist" and helped found the Token and Medal Society. He was appointed assistant editor and then (1962) editor of the TAMS Journal, both non-paid positions.

In December 1962 he elected to leave active military service with the Air Force and was appointed a staff editor for Coin World of Sidney, Ohio. In September 1963, CW owner J. Oliver Amos promoted him to editor of World Coins, a new monthly magazine to be launched in January 1964. In early 1968 he was also installed as editor of Numismatic Scrapbook Magazine, which Amos Press had just purchased from the Hewitt family of Chicago.

In April 1974 Rulau resigned his multiple editorial positions with Amos Press and joined Krause Publications in Iola, Wis.

A frequent lecturer and world traveler, Rulau has authored several thousand articles on every conceivable facet of numismatics. "Most people know me as a token expert or as an authority on modern coins of the world," Rulau said, "but I consider myself a true general collector—dabbling in everything and switching specialties with the years. Only U.S. tokens have held my attention constantly since I started collecting in 1939."

Rulau ends a distinguished numismatic journalism career that has included coverage of the International Numismatic congresses in New York in 1973 and Bern in 1979, the International Association of Professional Numismatists assembly in Athens in 1972, the First Numismatic Study Tour of Russia in 1973, and most of the American Numismatic Association conventions from 1963 on.

He has interviewed U.S. Mint directors Eva B. Adams, Mary Brooks, Stella Hackel and Donna Pope and such renowned figures as Howard Ruff, Frankie Laine, Grand Master Angelo de Mojana of the Order of Malta, Paris Mint Master Pierre Dehaye, U.S. senators Jake Garn, Robert Kasten and Robert Taft Jr., every ANA president from Oscar Dodson through Q. David Bowers, and numismatic authors Eduard Kann, Kurt Jaeger, John S. Davenport, Yaakov Meshorer, I.G. Spasskii, Miguel L. Munoz, Jean de Mey, King O. Mao, George Fuld and many others.

He says he counts among his friends U.S. Mint chief engraver Elizabeth Jones and France-based engraver Paul Vincze, Spink's managing director Douglas G. Liddell, and ANA executive vice president Edward Rochette.

He has visited many of the government and private mints of the world. He reads seven languages, including Russian and German, and recently said that he knew personally every major figure in the world of numismatics in the past 25 years.

THE RECORD RENTAL AMENDMENT OF 1984

Mr. MATHIAS. Mr. President, I am pleased to welcome this important piece of legislation, S. 32, back to the Senate, following its consideration and approval by the other body. This bill will make a needed reform in the copyright law to protect copyrights in sound recordings. Although the House has modified this bill slightly through a substitute draft, S. 32 remains a timely and effective response to a growing threat to our copyright system.

I want to take this opportunity to compliment Representative KASTENMEIER, the chairman of the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice; Representative EDWARDS, the chief sponsor of the companion House bill, H.R. 5938; and Representative RODINO, the chairman of the House Judiciary Committee, for their able work in processing this legislation. Their thoughtful consideration of the issues presented by this bill has been crucial to its forward progress.

Let me briefly review the purpose of this legislation. In April 1983, the Subcommittee on Patents, Copyrights, and Trademarks held a hearing on the commercial rental of copyrighted works. At that hearing, we learned that a number of record rental outlets had opened around the country. We also learned about what sort of business these outlets were in: The business of encouraging customers to take records home, tape them, and return them to the rental outlet. The advertisements of some of these outlets made their appeal explicit. One advertised "Never, ever buy another record!". Another touted its "free blank tape policy."

Under the current Copyright Act, these outlets had an arguable defense: the so-called first sale doctrine. Traditionally, this doctrine has insulated the purchaser of a particular copy of a copyrighted work from any copyright liability when he or she disposes of that copy. Although that principle remains a sound one in most instances, the advent of commercial record rental—with its direct link to copying—calls for a modification of that rule. To deal with the dangers posed by record rentals, S. 32 makes a commonsense reform: It requires that one obtain the permission of the copyright owner before one may commercially rent sound recordings.

In most respects, the version of S. 32 approved in the other body is identical to the bill approved by unanimous consent by the Senate in June 1983. However, I want to mention two significant differences between the House and Senate bills. The first is that the House bill contains a sunset provision, making the bill applicable for only 5 years, and requiring reenactment before that time if it is to remain in force. The Senate bill, by contrast, would make a permanent change in the law in this regard. The House committee report states that the sunset provision is designed to "enable the Committee to review and reconsider the appropriateness and justification for this legislation at a later time."

In an age of rapid technological change, the legislative agenda concerning intellectual property issues is a crowded one. Only if it is sufficiently likely that circumstances will significantly change in the record rental area in the next 5 years, should we divert ourselves from this agenda and devote more time and effort to reenacting this important reform. The Senate did not find that likelihood. Indeed, the consistent trend of the past 25 years is that unauthorized copying has become steadily easier and more of a threat to traditional copyright principles. But this disagreement should not hold up enactment of this bill. I wish to emphasize, however, that sunset provisions are not necessarily appropriate in connection with other copyright reforms, and that each future bill will need to be evaluated on an individual basis in this regard.

The second significant House amendment to this bill is a provision that precludes the application of criminal penalties for the violation of this act. Under the Senate-passed bill, the criminal penalties that have historically been available under the Copyright Act would apply with full force to the most egregious violations of the record rental right. The House chose to eliminate criminal enforcement in this area, on the ground that the definition of prohibited rental practices might be insufficiently precise to support criminal prosecution.

It is important to be clear about what the criminal exemption in the House bill means. As I read that provision, it bars the application of criminal penalties for the mere unauthorized rental or lending of copyrighted sound recordings. The amendment does not, however, confer immunity from criminal penalties for independent violations of the Copyright Act, merely because one's activity involved the rental or lending of sound recordings. Thus, to take a dramatic example, one whose role in a massive record piracy conspiracy consisted of lending records to the operation, knowing that they would be used as masters to create thousands of illegal copies, would not be exempt from criminal liability merely because his or her activity consisted of lending the recordings to his or her confederates.

It should not be inferred from the Senate's acceptance of this House amendment that we believe that any general retreat from criminal remedies for copyright infringement is warranted. The Copyright Act makes criminal penalties applicable only against persons who infringe copyrights "willfully" and "for purposes of commercial advantage or private financial gain." Thus, no innocent infringer could ever be liable for criminal copyright infringement. Nor could any individual who simply infringed copyrights for his or her own personal use. Rather, the criminal provisions of the Copyright Act are carefully targeted at "willful infringement for profit." Given this narrow focus on the most egregious violations of the copyright laws, I believe that criminal penalties should continue to play an important role in deterring the outright theft of the labors of creative artists and writers.

The importance of maintaining a meaningful criminal enforcement system is underscored by the fact that, as many have observed, we live in an age in which intellectual property plays an increasingly vital part both in the domestic U.S. economy and in our international trade. Copyrighted works such as books, films, records, and computer software do more than just supply entertainment and needed information—they also provide jobs to millions of Americans. The export of these same goods is an increasingly important part of our international trade. In addition, the United States is a world leader in the creation and marketing of other forms of intellectual property. In particular, American inventors have enriched the world with patented inventions as familiar as farm machinery and as novel as man-made forms of bacterial life. In view of the increasing importance of intellectual property within both the national and world economy, it would be highly inappropriate to begin weakening the penalties for egregious violations of intellectual property rights.

I wholeheartedly urge Senators to support this legislation, and I hope that it will be promptly enacted into law.

APARTHEID: THE CONTINUING TRAGEDY IN SOUTH AFRICA

Mr. CRANSTON. Mr. President, I call to the attention of my distinguished colleagues a resolution introduced by Senator TSONGAS and Senator ROTH that the Senate Foreign Relations Committee passed unanimously on September 12. This resolution, Senate Concurrent Resolution 139, condemns the Government of South Africa for its arbitrary arrests and indefinite detentions of some 200 men and women for their opposition to that Government's new constitutional measures—measures that continue to ignore the legitimate right of the black majority of that nation's citizens to participate fully in shaping the destiny and policies of their own country. It is obscene when a government denies, on the basis of race alone, 70 percent of its people the right to vote, to choose their place to live, to have equal social and economic opportunity, and to express freely and peacefully their political beliefs.

Sadly, there has been no real indication that South Africa is moving toward any substantive change in its practice of racial discrimination against its black majority. Sporadic bloody rioting in the townships ending in tragic violence and loss of life continues. We cannot be silent as the situation worsens and more lives are lost. Generation after generation of black Africans have lived, suffered, and died under the heinous system of apartheid. Is this to be the fate of its next generation?

As a nation founded on the principles of democracy and justice, the United States cannot fail its moral obligation to condemn South African apartheid and to press for civil and political liberties. We must speak out forcefully against South Africa's racism and make clear to Pretoria that its policies offend Americans and all those who cherish justice and freedom. And we must preserve in our condemnation until Pretoria pursues reforms that will involve the active participation of its black majority in its national political and economic affairs.

As a cosponsor of Senate Concurrent Resolution 139, it is my hope that the full Senate will act expeditiously and pass this important resolution without delay.

I also wish to take this opportunity to applaud the efforts of Senator TSONGAS for his leadership in championing human rights not only in South Africa but in so many other countries. It has been an honor and a pleasure to work with him to further the cause of human rights. An eloquent voice for freedom, a voice that has been strong, compassionate, and reasoned, Senator TSONGAS is an inspiration to us all. We in the Senate owe the Senator from Massachusetts a debt of gratitude. We will miss him greatly.

RELEASE OF FIVE AMERICAN CITIZENS BY RUSSIA

Mr. BAKER. Mr. President, I have one other matter before we recess at 12:05 p.m.

I wish to commend the distinguished Senator from Alaska, Senator STEVENS, for his efforts in obtaining the release of the five Americans taken into custody by the Soviet Union on the day before yesterday.

I know both Senators from Alaska have been greatly concerned with this matter and have worked carefully and closely with the State Department and the White House to obtain the release of these American citizens.

But there is one aspect of the matter that I thought should be brought to the attention of the Senate. It is in no way a diminution of the good efforts by the State Department or others.

Our friend, TED STEVENS, had a very novel and unique diplomatic idea yesterday. That is while negotiations were going on with some difficulty with the Soviet Union, TED STEVENS picked up the telephone and placed a call to a hotel in easternmost Siberia where it was reported by the press these five Americans were being held and, lo and behold, he was connected.

He proceeded to have a conversation with the five Americans, which was dutifully reported to the State Department, and obtained a great deal of information which was of great value.

I am sure it contributed greatly to the release of those prisoners.

I questioned Senator STEVENS after I first congratulated him on his mission. I asked whether or not you could direct dial to Siberia. He answered that you could not, that it still required an operator.

So there is still much to be done in the relationships between our two countries.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:05 p.m. having arrived, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:05 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KASTEN].

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, H.R. 3398, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Cohen amendment No. 4247, to amend the Tariff Act of 1930, to establish a Trade Remedy Assistance Office.

AMENDMENT NO. 4255

(Purpose: To suspend for a 3-year period the duty on certain metal umbrella frames)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Ohio that there is presently an amendment pending.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily laid aside so that the Senator from Ohio may proceed.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Mr. President, may I inquire of the Senator from Missouri as to whether he intends to reach my amendment this afternoon.

Mr. DANFORTH. It is the intention of the Senate from Missouri to reach the amendment of the Senator from Maine hopefully in about 15 minutes and to conclude the bill this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object, I inquire of the Senator from Ohio what period of time he estimates his amendment will consume.

Mr. GLENN. I would suggest just a couple of minutes. If 1 minute would be acceptable, I would agree to that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 4255.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23 of the matter proposed to be inserted, after the matter between lines 6 and 7, insert the following:

SEC. . CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"917.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7)	Free	No change	On or before 6/30/87"

Mr. GLENN. Mr. President, I rise today to add a noncontroversial amendment to the miscellaneous tariff bill currently before the Senate. This amendment is identical to a bill I introduced in August to suspend for a 3-year period the duty on imported rain-umbrella frames. The current 15-percent duty hurts rather than helps domestic manufacturers because hand-held umbrella frames are no longer produced in this country. In fact, with 95 percent of all umbrellas sold in the United States being manufactured overseas, this duty only adds further injury to what remains of an already hardpressed domestic industry.

What does remain, Mr. President, are eight American rain-umbrella manufacturers who rely almost entirely upon frames from Taiwan. In 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports of umbrella frames and its trade exceeded $1.3 million. As a result, a 15-percent duty was imposed on frames imported from Taiwan. Although well intended, this action will have unfortunate consequences for American companies.

If the duty on frames is not suspended, manufacturers will be forced to raise their prices to a point which may well force them out of the business—and this country can ill afford to take that kind of risk. Mr. President, our domestic umbrella manufacturers clearly need our help and this help must come soon.

By suspending the duty on hand-held rain umbrella frames for 3 years, American jobs will be saved and the industry will be given a fighting chance to survive. Mr. President, this is a simple amendment that will offer needed help to a struggling industry. I ask for its immediate consideration and urge my colleagues to join me in supporting this commonsense measure.

FACTSHEET ON UMBRELLA FRAMES

First, 95 percent of all umbrellas sold in the United States are manufactured overseas.

Second, the eight U.S. manufacturers rely almost entirely upon frames from Taiwan.

Third, in 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports and its trade exceeded $1.3 million.

Fourth, consequently, a 15-percent duty was imposed upon frames from Taiwan.

Fifth, the amendment would suspend for a 3-year period the duty on imported rain-umbrella frames.

Sixth, the amendment is noncontroversial and enjoys the support of American manufacturers and their employees, members of the Amalgamated Clothing & Textile Workers Union, AFL-CIO.

Mr. President, this amendment has been discussed with both floor managers of the bill and I believe we have an agreement on this. I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. BENTSEN. Mr. President, the amendment is acceptable to this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4255) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maine.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, will the Senator withhold?

Mr. BENTSEN. I withhold.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wanted to state to the floor managers that I have three amendments with reference to copper. I am trying to work out something with the floor managers and with a number of other Senators who are interested.

I wanted to report that it will take me about 15 or 20 minutes to get back to them. I would like to be protected. I will not take over the amount of time.

AMENDMENT NO. 4256

(Purpose: To amend section 243 of the committee amendment to cover modifications and classifications of the existing United States-European communities pipe and tube agreement)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside temporarily the Cohen amendment?

Mr. BENTSEN. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 4256.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike from page 34, line 27 through page 36, line 8 of Danforth Amendment No. 4244 and insert a new Section 243 as follows:

"SEC. 243. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average shares of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection."

Mr. BENTSEN. Mr. President, as section 243 now reads, it provides for the enforcement of the 1982 arrangement of pipes and tubes. That is a trade agreement between the United States and European Communities.

Under this amendment, the section would cover enforcement of both the 1982 arrangement and "any modification, classification, extension, or successor agreement thereto."

Quite frankly, Mr. President, I am simply concerned about any possible evasion of section 243, and I want to see that it is carried out.

Mr. President, the President has before him a decision under the escape clause in steel. If he decides, as he may, under the current law, to negotiate "orderly marketing agreements" with the EC, he may substitute an OMA for the 1982 agreement. If he does, section 243 ought to cover the new agreement.

That is what this amendment is all about, what it would accomplish. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4256) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to reconsider was laid on the table.

Mr. CHAFEE. Mr. President, let me begin by expressing my gratitude for the work done by the chairman of the Finance Committee and the managers of H.R. 3398. This bill represents the kind of positive measures Congress can take to enhance the American share of world trade. Rather than succumb to protectionist pressures, we can focus in H.R. 3398 on ways to help open foreign markets for U.S. goods, as well as ways to assist the exporter's competitive position. I believe that these goals can be accomplished in ways that are consistent with our international trading obligations under GATT and in ways that do not hurt consumers and workers.

One such effort is the reciprocity bill—title III of H.R. 3398, originally introduced as S. 144—the International Trade and Investment Act. Enactment of this bill this year is vital to improve our ability to negotiate the removal of foreign trade barriers and restrictive practices, and to improve our export trade in services, high technology goods, and trade related investment. Full implementation of both its letter and its spirit can provide significantly improved access to foreign markets for U.S. goods and services.

Another measure in title V of the bill is the reauthorization of the generalized system of preferences which would help us gain freer access to LDC markets. This reauthorization would help developing countries earn dollars with which to buy U.S. products, and help us obtain protection of U.S. patents and copyrights.

As an original cosponsor of the International Trade and Investment Act, title III of the bill now before us, I am delighted that we have the opportunity today to finally adopt this measure that will surely lead to greater exports—a critical and growing part of our economy.

This bill specifically would mean greater exports in our services sector. Although the misconception lingers, ours is no longer the smokestack economy of the past. The fact is that most of our jobs, and the largest portion of GNP, are generated by the service sector. As critical as services are to our economy, there exists no system of international agreement covering services trade. While the United States has expanded its trade exports over the past decade, foreign barriers to our services exports proliferate. These include restrictions on remittance and repatriation of profits, fees, and royalties; restrictions on market access; restrictions on personnel; discriminatory taxes and licensing procedures; Government subsidies to local service firms; excessive duties and prohibitions on importation of services necessities like computer software; and, discriminatory Government procurement.

We must create an international framework to deal with trade in services problems while we still have a trade surplus in that area instead of waiting until we have a deficit. Trade in services is the fastest growing sector of U.S. trade abroad. We must give services an equal billing with goods in our trade policy, and strive to expand multilateral trade agreements to include services.

These service industries, which include insurance, banking, engineering, consulting, and the whole range of high technology and computer services, account for 7 out of every 10 jobs in the United States, two-thirds of the U.S. gross national product.

I welcome a negotiating mandate to strengthen existing international institutions and to expand international agreements to cover services, investment, and high technology.

Market access for high technology goods and services is crucial to our future trade balance. We must make every effort bilaterally and multilaterally to create market opportunities in these sectors worldwide.

One such effort is embodied in section 308 of title III which would authorize the President to negotiate mutual reduction or suspension of tariffs on certain high technology products— semiconductors—microchips—and parts of computers. Section 308 will confirm an agreement already reached with Japan, to suspend U.S. and Japanese tariffs on semiconductors.

This means mutual reduction of barriers in electronics and other technologically driven industries where the United States can continue to be highly competitive.

Let me just stress that in addition to the obvious benefits of greater market

access on both sides, elimination of tariffs will free up substantial sums for research and development and capital investment. U.S. semiconductor firms currently pay $75 million in duties. It is estimated that 80 percent of these duty savings will go into R&D and new capital equipment. The remainder of the savings would be passed on to purchasers of semiconductors in the form of lower prices.

The Office of Technology Assessment recently reported that many of the fastest growing occupational categories in the economy will be found in the electronics and other high technology industries sector. We must do all we can to preserve these future employment opportunities. Section 308 of title III—tariff cutting authority for semiconductors is one way to do that.

Finally, Mr. President, we have in H.R. 3398 an opportunity to enact trade legislation which improves our world trading system and assists American exporters to gain a greater share of that global trade. Protectionist proposals will kill this bill's chances of passage, hurt the American economy and American jobs, while at the same time help dismantle the international rules by which we are all governed.

The world trading system has been under tremendous pressure since the global recession of 1981 and 1982. We certainly face serious problems in our trade relations with others. Our trading partners have trade barriers which are both unfair and frustrating to Americans. I do not believe that our workers and industries must accept the use of unfair practices by foreign competitors in their efforts to penetrate U.S. markets.

The bill we are considering today contains many elements to counteract those unfair practices and to strengthen our hand in the world trading system. We will merely aggravate the problem by giving in to election year pressures to enact protectionist laws. Potential protectionist amendments to this bill will deprive us of this golden opportunity to provide some real help to the American exporting community.

AMENDMENT NO. 4257

(Purpose: To provide for a public hearing at the request of any interested person on a petition filed with the U.S. Trade Representative requesting that the President take action under section 301 (which provides relief from unfair trade practices)

Mr. LEVIN. Mr. President, it is my understanding that the floor manager is prepared to engage in a colloquy on this bill relating to a couple of points. But before we do that, I would again like to thank the Finance Committee and the Senator from Missouri in particular for his efforts in reaching an earlier agreement with respect to section 303 of the bill. This change makes clear that in the report by the U.S. Trade Representative which would identify and analyze significant barriers to U.S. exports, the U.S. Trade Representative would have to give reasons for not taking action to eliminate those barriers, as well as identifying what actions have been taken. This need to explain inaction may provide an added incentive for the U.S. Trade Representative to take action on those barriers or distortions of trade which he has identified. I believe this addition strengthens the bill, and I appreciate the earlier efforts of the floor manager to include it. Now with respect to other portions of the bill, let me ask the floor manager if he has reviewed my proposed amendment to section 302 that would add the phrase "or other interested person" at the end of line 22 on page 53?

Mr. DANFORTH. Yes, I have.

Mr. LEVIN. The intent behind this amendment is to make clear that any interested person could make a timely request for a hearing on a petition filed with the U.S. Trade Representative requesting that the President take action to eliminate trade barriers. Under the bill as it now stands, it is my understanding that only the petitioner could make such a timely request for a hearing. This change would permit all views to be heard and debated publicly and for all ramifications of eliminating such a trade barrier to be explored. Is that the understanding of the floor manager?

Mr. DANFORTH. Yes, it is.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from Maine in order to consider the amendment of the Senator from Michigan?

Mr. BENTSEN. Will the Chair repeat that?

The PRESIDING OFFICER. The Senator from Michigan wishes to submit an amendment. We must set aside the pending amendment, the amendment of the Senator from Maine, in order to do so. Is there objection to setting aside the pending amendment in order to consider the amendment of the Senator from Maine? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4247:

On page 47, line 22, strike "." and add the following: "or by any interested person."

Mr LEVIN. Mr. President, this amendment has been explained. I think it has been cleared on both sides of the aisle, and I have no further debate on it.

The PRESIDING OFFICER. Is there further debate?

If not, the qustion is on agreeing to the amendment.

The amendment (No. 4257) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank my friends.

Mr. President, on another point, under current law, before recommending that the President take action against a foreign trade barrier which is the subject of the petition process we just discussed, the U.S. Trade Representative may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of taking that action. I believe that this procedure is specified in section 304(b)(3) of the Trade Act. Although this request for the views of the ITC is left to the discretion of the U.S. Trade Representative, is it the understanding of the floor manager that the U.S. Trade Representative would be well-advised to make such a request when there is a reasonable possibility that the recommended action could have significant adverse ramifications on U.S. industries or the U.S. economy as a whole.

Mr. DANFORTH. That is my understanding.

Mr. LEVIN. Mr. President, is it required at this point that I make unanimous-consent request to lay aside the amendment of the Senator from Maine so that I can offer additional amendments which I understand have been cleared?

The PRESIDING OFFICER. The Senator is correct. It takes unanimous consent. Is there objection?

Mr. BENTSEN. Will the Senator tell me the nature of the amendment?

Mr. LEVIN. There are two more amendments, which I understand have been cleared on both sides of the aisle.

Mr. BENTSEN. I would have to object.

Mr. LEVIN. I will explain them before I make the unanimous-consent request, and I will withhold the request until later.

Mr. President, pages 60 and 61 list the principal negotiating objectives that should be pursued with respect to trade in services and foreign direct investment. I am concerned that these negotiation objectives focus solely on the reduction or elimination of barriers. I believe that it is important for our negotiators to also take into account with respect to U.S. negotiating objectives other interests, such as protection of legitimate health and safety, essential security, the environment and consumer or employment opportunities and laws related to

them. In this way, U.S. negotiators will keep in mind not only the importance of improving the flow of trade and investment, but will also keep in mind the benefits which our current laws and regulations help to bring about. I have prepared two amendments which speak to this point, one dealing with trade in services and one dealing with foreign direct investment.

I was laboring under the assumption that these amendments have been cleared, and perhaps they have not been.

Mr. BENTSEN. I say to the distinguished Senator from Michigan that I have no objection.

Mr. LEVIN. I thank the Senator from Texas.

Mr. DANFORTH. It is acceptable to this Senator.

AMENDMENT NO. 4258

(Purpose: To provide that in pursuing the negotiating objectives, U.S. negotiators shall take into account legitimate domestic objectives and the laws and regulations related thereto)

Mr. LEVIN. In that case, Mr. President, I ask unanimous consent that the pending amendment be laid aside so that the two amendments I have just identified will be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEVIN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4258.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 19, page 52, add the following: *"Provided*, That in pursuing these objectives, U.S. negotiators shall take into account legitimate U.S. domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto."

Mr. LEVIN. Mr. President, the amendment is as I have just described it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4258) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4259

(Purpose: To provide that in pursuing the negotiating objectives, U.S. negotiations shall take into account legitimate U.S. domestic objectives and the laws and regulations related thereto)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4259.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 32, page 52, add the following: *"Provided*, That in pursuing these objectives including, but not limited to, the protection of legitimate U.S. health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto."

Mr. LEVIN. Mr. President, this amendment is as I have just described it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4259) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank my friends from Missouri and Texas for their help and consideration on these amendments.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO 4260

Mr. DANFORTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4260.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10 of such matter, strike out lines 5 through 20 and insert in lieu thereof the following:

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countrie, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

Mr. DANFORTH. Mr. President, this is a technical amendment to section 124 relating to quotas on various dairy products, including whey. Section 124, as it is written now, cannot be properly administered. This amendment would make it administrable.

Mr. BENTSEN. Mr. President, there is no objection on the side of the minority to this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 4260) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maine.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, as I understand it, the parliamentary situation is that my amendment is now pending. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. Mr. President, I yield to the Senator from Maine who has an amendment that he seeks to offer in the second degree.

AMENDMENT NO. 4261

(Purpose: To establish within the Department of Commerce the Small Business International Advocate Office)

Mr. MITCHELL. Mr. President, I send to the desk an amendment to the amendment of my colleague and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes amendment numbered 4261 to amendment numbered 4247.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Amendment 4247, offered by the Senator from Maine [Mr. COHEN] add the following new section;

"SEC. . SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate an investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation of, or participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to its activities during the preceeding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984."

Mr. MITCHELL. Mr. President, I offer a perfecting amendment to the pending amendment offered by my colleague from Maine [Senator COHEN]. My amendment would have the effect of accomplishing a goal I have long sought—and a goal I know Senator COHEN shares—which is to make our trade remedy laws more readily accessible to the small business men and women of our Nation.

The amendment proposed by Senator COHEN contains two provisions in particular that provide a beginning in help for smaller firms seeking redress under our trade laws.

They are the small business assistance office and the provision to permit appeals of agency actions to bypass the Court of International Trade and be directed immediately to the Court of Patents and Appeals. The character of Patents Court proceedings is more analagous to an appeals court than the quasi-trial character of proceedings before the Court of International Trade and would more closely fulfill the intention of the law, which is to examine agency actions, not to retry petition cases.

A small business bill I introduced in 1982 contained these provisions and they are also part of S. 50, a small business trade bill that Senator COHEN and I jointly sponsored in this Congress.

I am now proposing that the amendment before us be modified to incorporate another provision of that bill, to establish a Small Business Advocate Office in the Commerce Department to provide direct help to smaller companies. Such an advocate office would be a suitable referral point for the Small Business Access Office, which is in the nature of a clearing house office. Companies most in need of help to formulate and present their petitions would have a source of help in the Advocate's Office that goes beyond the informational function of the Small Business Access Office already in the amendment.

Hearings held in the Finance Committee earlier this year made it clear that one of the major obstacles to the use of our trade laws by smaller firms is the cost, length, and complexity of the process. Our smaller firms should not be denied access to laws that are designed to serve all American business simply because they cannot meet the cost and cannot handle the complexity.

Nor should the outcome of petitions rest upon the inability of smaller industries to compile the detailed and sophisticated data in sufficient quantity to overcome every objection.

I emphasize the perfecting amendment I am now offering would not simplify the process. It would not prejudice the outcome of any trade petition brought before the ITC in a dumping or subsidy case. It wold not give smaller businesses an unfair advantage over the importers of competing goods.

What the amendment would do is to redress, however slightly, the balance in the system that is now so heavily tilted against smaller businesses by providing them with an institutional office sympathetic to their concerns and knowledgeable about the trade laws.

Personnel in the agencies which today handle trade cases offer invaluable advice to many firms seeking help in filing petitions. But in some instances, such advice is contradictory. In some instances the advice offered changes over a period of time.

For example, the Maine Potato Council, which brought an unsuccessful petition had the experience of being advised by one government official to file an antidumping case and being advised by another government official to file a countervailing duty case.

The executive vice president of Maine's Potato Council testified in April that she spent 6 years traveling to Washington in an effort to clarify just what kind of petition the industry should file.

She spent 4 months gathering statistics and documentation for a countervailing duty case—not an easy task, because most agricultural commodities sales are made by phone and smaller farmers simply do not maintain elaborate recordkeeping systems or archives.

Economics professors at the University of Maine found that while evidence of injury to domestic producers was clear, documentation of that evidence was both an expensive and time-consuming business.

The Maine potato industry's costs in its search for import relief have been staggering. Travel costs alone have mounted to over $65,000. The total legal costs are expected to be in the vicinity of a quarter of a million dollars. The cost of transcripts of the proceedings was $960.

Such sums may seem small to larger industries which can afford to pursue trade remedies and which can readily accommodate copying costs and travel overhead. But to a group composed of small family farmers, such costs are too high. And what those costs—and the associated time delays—really mean is that our trade laws have become virtually inaccessible to smaller companies, regardless of the merits of their case, regardless of the damage done by unfair foreign competition, and regardless of the jobs lost and the cost to the economy over the long term.

I wish now to conclude with just some brief remarks about the nature of my amendment.

My amendment will create within the Commerce Department and office

whose primary responsibility will be to actively assist smaller firms in seeking relief under our trade laws. The advocate's office would be empowered to intervene on behalf of small firms which are in financial straits and unable to provide adequate representation for themselves.

The advocate's office would have two additional specific functions: First, the advocate would be authorized to self-initiate cases on behalf of small firms. The Department of Commerce has that power now but has rarely used it. My perfecting amendment builds on the existing power within the Commerce Department and simply authorizes the advocate's office to initiate cases for small businesses.

Second, the advocate's office would be authorized to request a limited number of investigations by the International Trade Commission. Such factfinding investigations could be requested in connection with small business undertaking to prepare their cases.

Investigations such as this have been helpful in the past, and this authority will give the advocate's office a valuable tool in making certain that relief from import injury is not denied for lack of adequate documentation.

I hope my colleague from Maine can accept this modification of his amendment. It would be a help, I believe, and I know he believes, to Maine's small firms and to smaller firms and producers throughout the Nation, I believe it would also fulfill the goal of making certain our trade laws are accessible to all American companies, regardless of their size, if they have a legitimate and substantiated complaint against unfair trade competition.

Mr. COHEN. Mr. President, I want to commend the Senator from Maine, my colleague, for offering this amendment to the underlying amendment. I want to join with him in supporting it and just offer a couple of observations.

Over the years, he and I have both witnessed what has taken place when small industries such as those we represent in the State of Maine have been forced to seek relief under our trade laws. As Senator MITCHELL has indicated, many times they find that the cost is too great for them to bear. It is expensive, it is complex and ultimately the remedies have been illusory. They have been illusory primarily because the attitude on the part of the Commerce Department and other agencies over the years, both Republican and Democratic administrations, have primarily reacted as adversaries.

They have primarily had the attitude that here are these small industries coming in complaining they cannot quite make it in the marketplace, and they have had absolutely no help from these administrations. And by the way, they have insisted that these small businesses bring their own documentation and accumulate massive amounts of information which in my judgment the Government should be in the business of accumulating. So there has been adversarial relationships between our own constituents, our own business firms, our own industries, and the Government which we believe has a responsibility of representing the people of this country.

The nature of the amendment the junior Senator from Maine has offered is to primarily shift the emphasis from being an adversary—and I might add over the past 4 years there has been a significant shift from an adversarial relationship to one of advocate—but in this particular amendment to crux of it is that our Government agencies are no longer going to be adversaries to the people of this country but advocates on their behalf. And that in my judgment is the singular and I think praiseworthy merit of this amendment. I want to join him in urging my colleagues to accept it.

Mr. MOYNIHAN. Mr. President, I rise today as a cosponsor of the amendment offered by my distinguished colleague from Pennsylvania [Mr. HEINZ], a proposal that would significantly reform and improve our trade laws.

Mr. President, the amendment offered today is the product of extensive discussions among concerned Senators and with administration officials. It is a good product; a very good one. The amendment contains a series of necessary changes to our trade relief laws. As one of those who worked to write and pass the Trade Act of 1979, I question whether our trade statutes still do provide American workers reasonable means to secure administrative relief from unfairly traded goods.

The amendment has been endorsed by the Trade Reform Action Coalition, a broad-based group of labor and industry representatives from the textile, apparel, steel, leather, chemical, television, and footware industries, and more. These industries employ 4.5 million American workers and produce goods and services valued at almost $270 billion—almost 10 percent of the Nation's GNP.

Mr. President, when we passed the Trade Agreements Act of 1979, we recognized that under certain circumstances, expanded international trade can have temporary adverse effects on certain U.S. industries. To protect our workers from unfair trade practices by other governments, Congress reaffirmed its commitment to American workers and firms in the 1974 and 1979 Trade Acts: American workers and industries would have access to relief.

During the floor debate on the Trade Agreements Act of 1979, I addressed this need to protect American workers from unfair competition. On July 23, 1979, I said, "But I am here to say that I altogether support the (the Trade act of 1979), but I support it on the condition that the pledges made by the administration that American workers' jobs will be protected from unfair and often dishonest dealings will be kept."

Mr. President, the promises made to American workers and industries by Congress and the administration, to enforce our countervailing duty, antidumping, and other trade statutes, have been kept, by and large—as least as best as possible under the authority currently granted to the executive branch by Congress.

In recent years, however, it has become increasingly evident that we are witnessing fundamental changes in the international trading system, without amending our trade laws to account for these changes. It is an undisputed fact that state-directed economies play an increasingly important role in international trade. The emergence of state-directed economies poses serious problems for American workers and industries that compete in the international marketplace. By deliberate choice, we do not employ the same government-directed strategies that other nations do. As the patterns of world trade have changed, so too have the mechanisms pursued by foreign governments to expand their shares of the world market. In this context, it has become clear that our own trade statutes must be amended to take account of the changing nature of world trade in general, and in particular, sophisticated mechanisms used by our trading partners to unfairly claim a greater percentage of international markets at the expense of American workers and industries.

Mr. President, the United States must continue to affirm its commitment to a free and open trading system, reflecting the notions of trade embodied in the General Agreements on Tariffs and Trade and our other international agreements. It is beyond dispute that a free trade system has served this Nation and the world well. But a free trade system requires that Americans have access to relief from unfair trading practices.

I urge my colleagues to adopt the amendment.

Mr. MITCHELL. Mr. President, I thank the Senator for his support. Unless there is further debate, I hope that the amendment would be agreed to.

Mr. BENTSEN. Mr. President, we will accept the amendment on the minority side. We have no objection to the amendment.

I would like to congratulate both the Senators in what they are doing in trying to expedite the matters for small business.

The PRESIDING OFFICER. Is there further debate? If not, the ques-

tion is on agreeing to the amendment of the Senator from Maine [Mr. MITCHELL].

The amendment (No. 4261) was agreed to.

AMENDMENT NO. 4247

The PRESIDING OFFICER. Is there further debate on the amendment offered by the senior Senator from Maine, Senator COHEN? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. COHEN].

The amendment (No. 4247) was agreed to.

Mr. DANFORTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4262

(Purpose: To require the President to initiate negotiations for voluntary restraint agreements with respect to copper production)

Mr. DOMENICI. Mr. President, I have an amendment that I am sending to the desk on behalf of myself, Senator BINGAMAN, Senator MELCHER, Senator DECONCINI, Senator GOLDWATER, Senator GARN, Senator LAXALT, Senator LEVIN, Senator HECHT, Senator BAUCUS, and others. It is a very simple amendment.

I think we all know, either by various hearings that have been held in the Congress or from what we have heard about the International Trade Commission hearings, that the copper industry is in trouble in the United States and that the International Trade Commission unanimously found that they were being hurt by unfair competition.

We have been unable to get any relief through that vehicle even though the process went all the way to the President. What we are doing today is outside of the process of the International Trade Commission and the various authorities contained therein. We are offering an amendment which mandates that the U.S. Trade Representative, on order of the President, immediately take action to initiate negotiations with the governments of the principal foreign copper producting countries to conclude voluntary production restraint agreements with these governments for the purpose of effecting a balanced reduction in the total production by all foreign copper producers for a period of between 3 to 5 years. The amendment also states what our goal and objective is.

It had been my original intention to offer three IMF amendments which address another facet of the problem. Instead I will offer the amendment I just described and only discuss the problem with the IMF as it relates to copper.

Mr. President, I would like to discuss the situation in the international copper market and the problems facing the U.S. copper industry.

There are not many significant copper producing countries. The United States, Canada, Chile, Zambia, Zaire, and Peru account for the vast majority of the world's production and the economic interdependence among these producers is an inescapable reality. Unfortunately, the market has become so distorted that profitability has all but disappeared. U.S. producers have lost $1.055 billion in the last 3 years and 18,000 copper workers have lost their jobs.

During the 1979-83 period, imports increased 140 percent. Faced with the economic imperatives of massive losses and a stunning surge of imports, the U.S. copper producers brought a section 201 case before the International Trade Commission. The Commission ruled 5-0 that the industry had been harmed by imports.

Commissioner Sterm pointed out that there is a global supply and demand problem facing the U.S. copper industry.

While I was disappointed in the final outcome of the section 201 case, I feel that the record created by that proceeding emphasized the chaos in the world copper market.

The amendments I will offer today will address this distorted copper market. My amendments would limit the role the multilateral lending institutions could play in underwriting production and export policies of the Third World copper producers. In the past, these policies have also directly contributed to prolonging both the 1974-78 and the present copper recessions.

My amendments address the perversions in the marketplace that is, nationalization, development bank loans, and irrational production policies on the part of the government-owned foreign producers.

The world copper market is very sensitive to the balance between supply and demand. The price for copper this week hit 55 cents a pound because there is an overabundance of copper being produced by foreign producers; 55 cents is the lowest price for copper, in real terms, this century. To put this in perspective, let me tell you that the average price, in constant terms, during the last 84 years has been $1.15 per pound. The oversupply has driven the price down further and further; 40 percent of the free world's copper is government owned. These producers have no incentive to adhere to the law of supply and demand and as a result are wrecking the international copper market.

Despite an oversupply of copper, these countries continue overproduction to maintain employment. Many government producers mine at full capacity even when the market price falls below their costs. At 55 cents a pound, the United States, Canada, Zambia, Zaire, Peru, the Philippines, and Mexico are all losing money.

At a time when U.S. producers were shutting down or curtailing production to bring the market more into balance, the major foreign producers continued a steadfast policy of maintaining production in spite of falling prices.

Chile, for example, increased production by 15 percent in 1982, while Zambia, Zaire, and Peru maintained their operations at 100 percent of existing capability. The U.S. response was to cut production by 25 percent in 1982.

However, in the case of government-owned producers, the profit incentive vital to free enterprise has been replaced by the need for maximum revenue to service their international debt. Ironically, these countries would earn more hard currency if they produced less and earned a fair price for the copper they did produce.

The current situation could have been avoided had the government-owned foreign producers reduced production and exports to correspond to demand.

During 1982 when U.S. producers were closing down and the foreign producers made their decision to increase production, the IMF passed out over $1 billion under the Compensatory Financing Facility to six LDC, copper producing countries. This is a substantial amount of money in relation to the size of the copper industry. These six countries accounted for almost 50 percent of the production of copper in 1982. Five of these countries voted to maintain and increase production inspite of reduced demand and major U.S. curtailment.

We have given these countries a crutch that cripples. I am referring to the Compensatory Financing Facility with its stated purpose of assisting members when they experience balance of payment problems attributable to temporary shortfalls in merchandise exports.

It is a crutch because it is supposed to help, but it cripples. It cripples because these government-owned producers are encouraged by the IMF to keep on producing, thereby driving the price down further. The countries lose more and more money and they therefore need more and more assistance. They are crippled.

Countries that export large amounts of copper are very dependent on copper. They have been characterized as monoproduct economies because copper is their only significant export. For the period 1970-82 copper exports as a percentage of total exports were 91 percent for Zambia, 59 percent for Chile, 50 percent for Zaire, and 20 percent for Peru. When the price of

copper drops 1 cent it costs Chile $26 million.

As I mentioned, the historical average price for copper this century has been $1.15 per pound. Today's price is 55 cents. For countries depending on copper sales to finance their international debt the 55 cent price means that these countries have to sell twice as much copper to earn the same amout of exchange. This is not a good policy for economic growth for these countries.

These policies of maximizing output and exports have not only caused excessive imports into the United States, doing serious damage to a long-established and efficient industry here, but has also resulted in the exploitation of their own natural resources to their own detriment.

The effect of the compensatory financing facility has been to underwrite excess production of copper and to encourage a self-perpetuating cycle of greater production and lower prices. In fact, the amount of the entitlement to the Compensatory Financing Facility, under its rules, has been enhanced by the low cost of copper. By requiring that a borrowing country demonstrate that their earnings shortfall is beyond their control, the IMF has ruled out production management as a means of optimizing foreign exchange.

A country producing as fast as it can, and selling regardless of price is being very shortsighted. The result has been a windfall from developing countries to the industrialized countries where most of the copper is consumed.

Privately owned companies could not pursue such a course of action. Privately owned companies would go broke.

The production policies followed by these government-owned producers are possible only because of infusion of funds from the IMF. The use of IMF funds by the principal copper exporting countries, Chile, Peru, Zaire, and Zambia, has been very large, totaling nearly $4.4 billion during the period 1975–83. Chile received just under $407 million in compensatory financing facility funds during the 1975–83 period; $315 million of that amount was borrowed in 1983.

The central thrust behind my amendment is to require the United States to insist on reforming the compensatory financing facility so that it would work more like our PIK Program. Under such a reformed CFF, the IMF would be authorized to enter into agreements with cipper producing countries in appropriate cases, to draw from the CFF an amount equivalent to the revenues deemed foregone by not producing a stipulated amount of copper. Such agreements would be formulated on a case-by-case basis. This would be in contrast to the present rules which penalize a member when production is curtailed, because such action is deemed intentional and not beyond the control of the producing country.

Another amendment addresses a longer term issue—the project loans made by the World Bank and other development banks for mines, smelters, and refining plants. The purpose of these loans is to increase the production capacity for surplus commodities like cipper. These are loans to produce more of something the world has too much of already. The availability of this credit stimulates new capacity, contributing to the imbalance that already exists between supply and demand.

In January 1983, the International Finance Corporation, a subsidiary of the World Bank, had under consideration participation in a $400 million loan to expand the Cananena copper mine owned by the Mexican Government.

In May 1983, the Inter-American Development Bank approved a $268 million loan to Chile's Codelco as part of a $670 million plan for the modernization and expansion of two of the lowest cost mines in the world. This loan is at a concessionary rate of interest with a 5-year grace period. Why should the lowest-cost producer receive this type of assistance?

All of this occurred during a year when the market was greatly oversupplied. The copper industry in the United States was in deep distress, and the outlook for growth in consumption was discouraging at best.

1983 was the year 16 of the 25 largest mines in the U.S. industry lost 16 cents, Chile, Peru, Panama, Brazil, and Argentina announced 15 copper projects they would like to open or expand by the end of the century. If they finance these like they have their other projects, it will be with the help of the World Bank and the International Finance Corporation. I don't know who these countries think will need all this new production capability.

Current law requires that Congress be advised once a year of loans pending before the development banks. That reporting requirement is not a timely enough of a requirement to be meaningful. Congress needs this information every 90 days so that we can be aware of what projects are before the banks. The Senate passed a 90-day reporting requirement when we considered the IMF quota increase. It was changed to an annual requirement in conference. I have an amendment that will reinstate the 90-day requirement.

My amendments call attention to the distortions in the world copper marketplace. However, what is really needed is a government-to-government negotiation for some sane production policies in the form of a voluntary produciton restraint agreement. The goal should be an agreement for Chile, Zambia, Zaire, and Peru to agree to reduce production from their current, excessive levels by an amount sufficient to correct the present artificial depression levels. Negotiations should seek to obtain a commitment from these countries to adust their production levels over the next 3 to 5 years to track changes in world copper consumption—thereby reversing the historical trend of merely ignoring cyclical downturns.

If this amendment is accepted I would be willing to withdraw the IMF amendments.

As I said, about 40 percent of the world's copper is being produced by countries, rather than companies and some of the government-owned producers continue to produce while there is a copper glut. In addition they receive financial assistance from the International Monetary Fund for producing more at lower price and bigger losses—all to the detriment of the copper industry.

Most of the copper caucus have cosponsored this amendment. We are actually fearful that we will not have a domestic copper industry left, that soon the remaining workers will be out of work unless something is done. We have only 9 of 25 copper mines that are operative today. The cosponsors of this amendment think that if our country would sit down at the table with the principal foreign producers and just talk plain common sense we think there could be an agreement reached to reduce the world's supply. It would not have to be reduced a lot, only a little bit, to cause the price of copper to go up not a lot just a few percentage points. We think that has a chance of saving this industry and letting our few mines stay alive, and operative and put some of our people back to work.

I will outline the minimum effect of such a compromise between the world producers on American consumers. We have every indication that if there was a 19-percent increase in copper prices that the average automobile would go up $4.30; the average $90,000 house would go up $43; a dishwasher would go up 32 cents.

We think that the effect on our consumers has been completely overstated by the opponents of the copper industry. We would save a vital industry and thousands of jobs. Those who fabricate copper have opposed quotas and tariffs and while I disagree I tend to understand their concern. But they could not oppose a negotiated agreement because it would not cause two prices for copper to exist in the world. It would merely mean that the price of copper would rise slightly for everyone, foreign fabricators and Americans.

We think this is the best approach. We are sorry it did not get worked out pursuant to the International Trade Commission recommendations and order. The President chose otherwise. Now we would like to mandate that our government go to the negotiating table. We think it would work. We think it is the best relief we could get for the copper industry at this time. It has a real chance of success without hurting any other sector of the economy in the United States in the process. So I send the amendment to the desk in behalf of myself and the others that I have mentioned. Before we finish this discussion, I will add several other Senators who have a genuine interest that I am in touch with that I am sure are going to be cosponsors.

Mr. HEINZ. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. HEINZ. What is the pending business of the Senate? Is there an amendment that is pending?

The PRESIDING OFFICER. The amendment has just been delivered to the desk.

Mr. DOMENICI. I say to my friend from Pennsylvania that I gave my few comments before I tendered the amendment, having indicated that I would. The reason for that is that I was completing the list of cosponsors and for that reason it was not at the desk. It is now.

Mr. HEINZ. I understand. My concern is if there was an amendment pending that was laid aside.

The PRESIDING OFFICER. That amendment has been disposed of.

Mr. HEINZ. I thank the Chair. So only the bill is pending?

The PRESIDING OFFICER. For everybody's information the bill is pending, the committee substitute is pending, and the clerk will report the amendment of the Senator from New Mexico.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BINGAMAN, Mr. MELCHER, Mr. DECONCINI, Mr. GOLDWATER, Mr. LAXALT, Mr. GARN, Mr. LEVIN, Mr. HECHT, and Mr. BAUCUS proposes an amendment numbered 4262.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between 3 and 5 years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

Mr. DOMENICI. Mr. President, I have discussed this amendment with the distinguished Senator from Missouri. I believe he is willing to accept it.

Mr. President, I yield the floor at this point.

The PRESIDING OFFICER. Is there further debate on the amendment?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me say a few words in support of this amendment by my colleague from New Mexico. I want to commend my colleague for preparing the amendment, and offering it. I want to indicate my great willingness to cosponsor the effort. Clearly, the situation in the domestic copper industry is extremely serious. We are all, I believe—at least those of us from copper-producing States—disappointed by the decision of the President not to go along with proposals or recommendations made by the International Trade Commission with regard to copper. But clearly, the real solution to the problem lies in the reduction of production worldwide. We have more supply today than we have demand for copper.

Something must be done to bring supply into line with demand. I believe the negotiations which are called for in this amendment would accomplish that. I urge my colleagues to support the amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, the amendment that is before us is the least we could do for the copper industry in this country. The results are the President's decision of a few days ago—a very damaging blow in not following the recommendations, at least one of the recommendations, made by the International Trade Commission.

What we have before us in this country—it is sad to say—is a dying industry. That is pretty tough for a lot of us to take. Those of us who come from areas of the country where copper is produced know what it means in heartaches for those families who no longer have jobs, or whose jobs are made very insecure. But it is extremely important for the United States that we retain the domestic copper industry for the benefit of all of us in this country. We are right at the crossroads of losing the last remnants of the domestic copper industry in our country.

What the amendment suggests is that an effort be made for negotiations between the President through the International Trade Commission, and the individual countries. I do not think it is enough. I do not think any of us who come from copper areas here in the United States believe that it is enough, but it is the least we can do in this particular bill.

I hope it is accepted by the entire Senate. I hope the results of it—after it is passed and enacted into law—are beneficial for us.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, on behalf of the minority, I say that there is no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be granted leave to add additional cosponsors to the original amendment prior to the adoption of the bill by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues in sponsoring this amendment which mandates the Special Trade Representative to enter into negotiations with foreign copper producers to arrive at voluntary restraint agreements. It is regrettable the Senate is forced to take this action. I am disappointed that the President has chosen to ignore the recommendations of the International Trade Commission that relief should be provided to our domestic copper producers. I think the copper industry has made a very convincing case that relief is necessary to revive a very depressed industry. The President's actions are terribly misguided. Allowing foreign nations to dump subsidized copper on our U.S. market is contrary to the best interests of our Nation. As long as our Government continues to ignore the unfair competition from abroad, the long-term outlook for areas such as my home of Grant County, NM, is very bleak.

I will not allow our copper industry to be abandoned. It appears the administration is more interested in showing concern for Chile's debt to American banks than for the Ameri-

can copper workers. This lack of concern makes it imperative that the Congress act swiftly to provide assistance to this very important American industry.

Dramatic changes in the past few years have significantly altered the structure of the world copper industry and led to the current plight of the U.S. industry. The problem in the industry is one of supply and demand. Supply far exceeds demands in the world market. This is primarily due to the fact that 40 percent of the free world's copper mines capacity is under the ownership or effective control of the governments of less developed nations. These governments operate at full production in order to maintain full employment. This over production has forced our domestic producers to curtail their own production, thus leading to the current shutdown and layoffs. This serves to make it impossible for our domestic producers to compete against foreign produced copper here in the United States. What is needed is a reduction in worldwide production. We must achieve this reduction through tough negotiations at the highest levels of our Government. This amendment mandates those negotiations. We must bring supply and demand into line if the domestic copper producers are to have a chance to participate in a fair and competitive marketplace.

The facts are clear with respect to copper. The operating losses in the copper industry nationwide in 1983 were more than $318 million. About 42 percent of its 1979 work force is now unemployed.

Copper production in my State dropped from 164,235 to 67,693 metric tons between 1979 and 1982. Total dollar value in the State during these years fell from $337 million to $97 million. During that 3-year period, employment plummeted by 37 percent, from 3,503 employees to 2,248—a loss of 1,255 jobs. Only 9 of the country's largest 25 mines were operating at the end of 1983. Copper prices have fallen well below the costs of production for all but a handful of mines. Only 5 of 24 smelters are in operation. These statistics demonstrate very clearly the seriousness of the problems facing our domestic copper producers.

It is time to put into law a mechanism by which we can help restore a proper supply—demand relationship to the world copper market. I strongly believe this amendment provides the opportunity for negotiations to begin to accomplish our demand/supply objectives.

Mr. DOMENICI. Mr. President, I thank the managers for their cooperation, and for helping us with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. DOMENICI].

The amendment (No. 4262) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I have an amendment for which I will seek recognition. However, I understand that my colleagues from Hawaii and California have agreed-upon amendments. I am happy to yield briefly to them for that purpose.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENT NO. 4263

(Purpose: To authorize the collection of data on international trade in services)

Mr. INOUYE. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], proposes an amendment numbered 4263.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and", (2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services betwen unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

Mr. INOUYE. Mr. President, today, I would like to offer an amendment to H.R. 3998 that has been cleared on both sides of the aisle, and is supported by the administration.

The amendment would redesignate the International Investment Survey Act of 1976 as the International Investment and Trade in Services Survey Act.

This redesignation would grant the Bureau of Economic Analysis at the Department of Commerce, with the participation of other data-gathering

agencies, mandatory authority to collect data on service transactions between U.S. firms and unaffiliated foreign firms. Under the terms of the 1976 law, they are only required to report on transactions with affiliated foreign firms.

Amending the act will enable the Department of Commerce to collect as complete data as possible on the service sector by extending this authority to nonaffiliated foreign firms.

This will complete our efforts to compile comprehensive data on the service sector, which is comprised of three parts—domestic data, which includes foreign affiliates, and finally unaffiliated foreign entities which conduct transactions with the United States.

I have supported the efforts of our data-gathering agencies in this area on the Appropriations Committee, and I feel strongly that amending the International Investment Survey Act of 1976 to become the International Investment and Trade in Services Survey Act of 1984 is an essential, and noncontroversial means of ensuring that our data-collection efforts on the service sector are as complete and accurate as possible.

I ask the support of my colleagues in supporting my amendment which would simply permit us to do the most thorough and comprehensive data collection possible. Although amending the law will place additional reporting requirements on U.S. firms in the service sector, I believe the benefits to be accrued from correcting what is now a dearth of information on the service sector will far outweigh the costs.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 4263) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4264

Mr. CRANSTON. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], proposes an amendment numbered 4264.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 24, after the word "Canada" strike the period and insert the following, "provided that the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the U.S government under the authority of Section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade."

Mr. CRANSTON. Mr. President, this amendment has been cleared, too, on both sides of the aisle.

Mr. President, the amendment I am offering with my colleague from California would urge the U.S. Trade Representative, in negotiating duty reductions and eliminations on exports and imports between the U.S. and Israel, to take into account those products which benefit from discriminatory preferential trading arrangements between Israel and third countries. This is an issue of particular importance to citrus producers in my State of California as well as the rest of the country because of the longstanding problems that have been presented by one such discriminatory tariff arrangement between the European Economic Community [EC] and Israel.

In 1969 and 1970, the EC extended tariff preferences to Israel and other Mediterranean nations on a range of imports, including citrus and citrus products. As a result, U.S. citrus exports to the EC have been curtailed. In fact, since the introduction of the tariff preferences, EC imports of fresh oranges and lemons from the United States each have dropped by more than 30 percent. These losses prompted our domestic citrus industry to request that the Federal Government initiate proceedings under the General Agreement on Tariffs and Trade [GATT] to eliminate the EC-Israeli preferences. The U.S. Government accepted the petition and has been pursuing the case for over 13 years.

Mr. President, granting duty-free status to Israeli citrus which benefits from discriminatory preferential trading arrangements would undermine ongoing U.S. efforts in the pending GATT case. Moreover, such action would provide a trade benefit in the U.S. market to another country's citrus industry which has caused economic losses to our own citrus industry due to tariff discrimination in the EC market.

The amendment I have just offered addresses this situation. But I want to emphasize that it is narrow in scope and to the best of my knowledge would cover only the citrus and citrus products involved in the U.S. GATT complaint. The limited nature of the amendment assures GATT consistency. Under GATT article XXIV, a free trade area must include the elimination of duties on "substantially all" trade between the countries involved. My amendment would not preclude this requirement from being satisfied.

Mr. President, I urge my colleagues to join me in supporting the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. CRANTSON].

The amendment (No. 4264) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I understand the Senator from Pennsylvania similarly has agreed-upon amendments.

I yield briefly to the Senator for that purpose.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I thank my friend, the Senator from California.

AMENDMENT NO. 4265 TO AMENDMENT NO. 4247

Mr. HEINZ. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4265 to amendment numbered 4247.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In amendment No. 4247:
Strike section 604.
Strike section 618.
Strike section 621(c).
Renumber succeeding sections accordingly.

Mr. HEINZ. Mr. President, this amendment strikes from the Cohen amendment the following sections:

First, section 604, which prohibits interlocutory appeals.

Second, section 618, which changes the standard for related parties from 5 percent to 20 percent.

Third, section 621(c), relating to determination of foreign market value.

Section 604—the elimination of interlocutory appeals—would provide for complete elimination of intermediate appeals in antidumping and countervailing duty proceedings. The chief reason put forth for elimination of interlocutory appeals in trade cases is

cost savings, an important goal in trade-law reform which we support. However, I believe petitioners should have the right to determine whether to incur the additional cost of an intermediate appeal to protect themselves from further injury. Moreover, in view of the availability of interlocutory appeals in other legal proceedings, there is no sound basis for denying parties in international trade actions similar rights. We see value to intermediate review of decisions made during the investigatory process. Such review has been particularly helpful in effectively implementing the intent of Congress regarding the 1979 act.

Section 618—definition of related parties—would change the definition of what is or is not an arm's-length relationship between related parties, by raising the level of permitted equity ownership from 5 to 20 percent in certain instances. I support retention of the 5-percent level as the appropriate level of equity ownership in defining an interest between related parties. In today's economic world, 20 percent is simply too high.

Section 621—foreign market value—seeks, among other things, to clarify the criteria for determining viability of the home market. One of its provisions would require that sales in the home-market be proportionate to sales to the United States in order for the Home-market price to be used to determine fair value. This could be disadvantageous to domestic industries, especially in those cases where foreign plants are built in relatively small countries with output far beyond requirements of local demand. Often in such instances, the United States is the primary sales target, and the amounts of the product sold in the home-market constitute only a small portion of total production. Typically, relatively high prices are used in the protected home-market, but the product is sold both in the United States and in third countries at lower prices. If section 21 is adopted, the normally higher home-market prices could not be used in these circumstances, and instead low-priced sales to third countries would be the basis for fair value. In view of this potential adverse impact, I believe this provision should be deleted and studied further.

Mr. President, a moment ago, we adopted the Cohen amendment No. 4247. This amendment would make certain changes in the Cohen amendment that have been discussed with Senator COHEN, Senator DANFORTH, and all of the parties, and is acceptable to all. I did not, due to some confusion in the parliamentary situation, offer it when the Cohen amendment was up. I would therefore ask unanimous consent that notwithstanding the previous action taken by the Senate, the provisions of this amendment be incorporated into the Cohen amendment.

Mr. BENTSEN. Mr. President, I would have to say to my friend that we have not as yet cleared it.

We would be delighted to take a look at it.

Mr. HEINZ. Mr. President, I withdraw the amendment, and will offer it at a later time.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 4266

(Purpose: to impose U.S. trade laws)

Mr. HEINZ. Mr. President, I send another amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD, proposes amendment numbered 4266.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 6244, add the following new title:

TITLE —TRADE LAW REFORM

SECTION 1. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 2. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following:

"During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 3. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under sections 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under sections 701 or 703 or subject to final orders under sections 706 or 736, as appropriate, if, after reviewing the factors and conditions of trade, the Commission determines that:

(I) the marketing of such imports is reasonably coincident, and

(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 4. THREAT OF MATERIAL INJURY.

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under sections 701 or 731 or to final orders under sections 706 or 736, are also used to produce the merchandise under investigation."

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

SEC. 5. VERIFICATION OF AMOUNT OF NET SUBSIDY.

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 6. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

(2) by adding at the end thereof the following new subsection:

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 7. REVOCATION OF COUNTERVAILING DUTY ORDERS.

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in

whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c).

SEC. 8. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 9. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 10. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or antidumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 11. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved,

the order may provide for differing countervailing duties,".

SEC. 12. SPECIAL RULES REGARDING DOWNSTREAM DUMPING.

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material of component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation."

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677(b)) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that 'downstream dumping,' as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section."

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section."

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 16776) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"Whenever the administering authority has reasonable grounds to believe or suspect that "downstream dumping," as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether "downstream dumping" of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e)."

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression,

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price."

(d) Section 733. The Tariff Act of 1930 (19 U.S.C. 1673(b)) is amended by adding as the and hereof. The following new subsection:

"(f)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

"(2) Whenever the administering concludes, after a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

"(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping;

(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.".

SEC. 13. QUANTITATIVE RESTRICTIONS AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c) of this section, the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.".

SEC. 14. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673c(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

"(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(ii) the novelty of the issues presented, or

"(iii) the number of firms whose activities must be investigated,

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673e(e)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1) should be permitted.".

SEC. 15. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 16. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended (1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) Subsection (a) of sections 703 and 733 (19 U.S.C. 1671b) and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 17. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 18. Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD.

Mr. President, this is a package of small, but necessary, corrections to our antidumping and countervailing duty statutes that we enacted in 1979. They are, in many cases, things that the administration has already endorsed. They are also largely items that we have discussed at one time or another in the Finance Committee. While I would be happy to discuss

them more, they have already been discussed at some length, it is my understanding, with the Trade Subcommittee and its staff. I understand there is no objection to them.

Mr. President, the Congress has not passed significant trade reform legislation since 1979, when we enacted the landmark Trade Agreements Act of 1979 which codified the changes agreed upon in the Multilateral Trade Agreements.

Since that time the agency administering these laws has changed from the Treasury Department to the Commerce Department, largely due to congressional dissatisfaction with the former's lax administration. In addition, the Congress, as well as domestic industries and foreign producers and importers have had 5 years' experience with the statute and 5 years to uncover its flaws.

Regrettably, but not surprisingly, there were flaws. In any law that long mistakes are inevitable. In working with the act during the past 5 years we have discovered some omissions, some provisions that have not worked as smoothly as intended, and some provisions that various parties have been able to exploit to their own narrow advantage, contrary to our intent in enacting the legislation.

These concerns, Mr. President, have led to a thorough review of our current trade laws in the past 2 years and to numerous proposals for change. The most extensive review was in the House, where Congressman GIBBONS, the chairman of the Subcommittee on International Trade, held literally weeks of hearings reviewing the law in great detail. His efforts culminated in House passage of H.R. 4784, on the whole a thoughtful and constructive effort, though there are portions of it that concern me. I regret that the Finance Committee has not yet taken that bill up.

Despite not having reported trade reform legislation, the Finance Committee nevertheless has held some hearings, and a number of us have done considerable work behind the scenes in trying to fashion some amendments to the bill before us today that will address some of the flaws in existing law I have alluded to. One such amendment is the one I am offering today.

My amendment, Mr. President, grows out of S. 2139, the Comprehensive Trade Law Reform Act of 1983, which I introduced, along with Senator MOYNIHAN and Senator MITCHELL, last November. That bill was developed and endorsed by the Trade Reform Action Coalition, known as TRAC, a broad-based labor-industry coalition of companies and associations that have had considerable experience with our trade laws. Mr. President, I ask that a list of TRAC members be printed at this point in the RECORD.

The list follows:

MEMBERS OF THE TRADE REFORM ACTION COALITION (TRAC)

An alliance of U.S. companies, trade associations, unions and workers in the automotive parts, chemicals, coal, color televisions, fiber/textile/apparel, footwear, furniture, leather goods, metalworking, nonferrous metals, and steel industries.

AMERICAN FIBER, TEXTILE, APPAREL COALITION (AFTAC)

AFTAC is a coalition of 18 trade associations and two labor unions representing the fiber/textile/apparel complex of the United States. It evolved for the purpose of representing these industries in issues of international trade.

The coalition is representative of an industry with facilities in 50 states, with employment totaling 2.4 million and sales accounting for $105 billion.

AFTAC members:

Amalgamated Clothing & Textile Workers Union.
American Apparel Manufacturers Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Carpet & Rug Institute.
Clothing Manufacturers Association of America.
International Ladies' Garment Workers' Union.
Knitted Textile Association.
Luggage & Leather Goods Manufacturers of America.
Man-Made Fiber Producers Association, Inc.
National Association of Hosiery Manufacturers.
National Association of Uniform Manufacturers.
National Cotton Council of America.
National Knitwear Manufacturers Association.
National Knitwear & Sportswear Association.
National Wool Growers Association.
Neckwear Association of America.
Northern Textile Association.
Textile Distributors Association, Inc.
Work Glove Manufacturers Association.

AMERICAN FURNITURE MANUFACTURERS ASSOCIATION (AFMA)

The American Furniture Manufacturers Association (AFMA) is the largest furniture industry trade association in the United States.

The Association is representative of home offices and facilities in 40 states, with employment over 225,000 and a total sales of $10 billion.

AMERICAN IRON & STEEL INSTITUTE (AISI)

AISI is the principal trade association representing the United States steel industry. Its 57 domestic member companies produce 86 percent of the raw steel in the United States at facilities in 39 states.

In 1983, with respect to member companies providing financial data, total sales were $52.9 billion and employment was 384,000.

AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION (ASIA)

ASIA represents the automative aftermarket parts industry, including wholesalers/distributors and manufacturers. Member companies total over 8,500 and represent 50 states.

Total sales for 1983 wholesale and distribution were about $8 billion and employment was 57,000.

GROUP OF 33 (AD HOC LABOR INDUSTRY TRADE COALITION)

The Group of 33 is an hoc labor-industry trade coalition formed in 1978 to advocate changes in import trade remedy laws, with particular focus on the Multilateral Trade Negotiations, subsidies code and 1979 Trade Agreement Act.

The 28 industry trade associations and five labor unions that make up the Group of 33 represent a wide diversity of industries which include footwear, leather products, chemicals, lead and zinc, textile machinery, industrial equipment, various textile and apparel products, and agricultural products.

Group of 33 members:

Amalgamated Clothing & Textile Workers Union, AFL-CIO.
American Apparel Manufacturers Association.
American Brush Manufacturers Association.
American Federation of Fishermen.
American Mushroom Institute.
American Pipe Fittings Association.
American Textile Machinery Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Association of Synthetic Yarn Manufacturers.
Bicycle Manufacturers Association of America, Inc.
Cast Iron Soil Pipe Institute.
Clothing Manufacturers Association.
Copper and Brass Fabricators Council, Inc.
Footwear Industries of America, Inc.
International Ladies' Garment Workers' Union, AFL-CIO.
International Leathers Goods, Plastics & Novelty Workers Union, AFL-CIO.
Lead-Zinc Producers Committee.
Luggage & Leather Goods Manufacturers of America, Inc.
Man-Made Fiber Producers Association.
National Association of Chain Manufacturers.
National Association of Hosiery Manufacturers.
National Cotton Council.
National Knitwear & Sportswear Association.
National Knitwear Manufacturers Association.
Northern Textile Association.
Scale Manufacturers Association, Inc.
Synthetic Organic Chemical Manufacturers Association.
Textile Distributors Association.
United Food and Commercial Workers International Union, AFL-CIO.
Valve Manufacturers Association.
Work Glove Manufacturers Association.

METALWORKING FAIR TRADE COALITION (MFTC)

The MFTC is a coalition of 36 trade associations representing the U.S. metal parts industries that joined together in 1982 to seek government cooperation and action to assure fair trade between the United States and its world trading partners.

MFTC members have operations in 43 states with employment totaling 2.02 million and sales of $96.3 billion.

MFTC members:

Alliance of Metalworking Industries.
American Chain Association.
American Cutlery Manufacturers Association.
American Die Casting Institute.

American Gear Manufacturers Association.
American Institute of Steel Construction, Inc.
American Pipe Fitting Association.
American Metal Stamping Association (Washer Div.)
American Wire Producers Association.
Anti-Friction Bearing Manufacturers Association.
Association of Die Shops International.
Brass and Bronze Ingot Institute.
Cast Metals Federation.
Cutting Tool Manufacturers Association.
Expanded Metal Manufacturers Association.
Forging Industry Association.
Hand Tools Institute.
Industrial Fasteners Institute.
Industrial Perforators Association, Inc.
Investment Casting Institute.
Iron Castings Society.
Metal Cutting Tool Institute.
Metal Treating Institute.
National Association of Pattern Manufacturers.
National Screw Machine Products Association.
National Tooling and Machining Association.
National Foundry Association.
National Association of Chain Manufacturers.
Non-Ferrous Founders' Society.
Plumbing Manufacturers Institute.
Steel Founders' Society.
Steel Plate Fabricators Association, Inc.
Tool & Die Institute.
U.S. Fastener Manufacturing Group.
Valve Manufacturers Association.
Welded Steel Tube Institute.

NATIONAL COAL ASSOCIATION (NCA)

The NCA represents 150 companies in the coal industry. Its principle companies represent the nations coal producer and a small number of coal transporters and coal industry suppliers.

The association represents an industry with facilities in 25 states with total employment of 130,000 and total sales of $12-$15 billion.

STEEL SERVICE CENTER INSTITUTE (SSCI)

SSCI is a trade association representing almost 500 North American companies in the steel industry, with 900 service centers in industrial areas. Service centers are divided into three types: industrial steel service centers, merchant products distributors and oil country jobbers. Approximately 124 steel producers are associate members.

With total sales of $20-22 billion, SSCI members employ 120,000 people in 49 states.

Mr. HEINZ. Mr. President, in offering this amendment I would not want to speak further without mentioning my own gratitude and appreciation to TRAC members for all the work they have done, both on the bill and in fashioning this amendment. TRAC has no staff and no office of its own. Its resources are the time and talent that can be contributed by its member staffs outside their normal duties. In that regard, many people too numerous to mention here have devoted literally hundreds of hours to the creation of a competent and effective product—in drafting, in meetings with my staff, with me, and amongst themselves—to identify current trade law problems and to develop equitable remedies for them. This amendment is the culmination of that effort, and I am grateful to TRAC members for their work in producing it.

The original TRAC bill, S. 2139, contained 54 amendments to current trade law, including a major rewrite of sections 201 through 204 of the Trade Act of 1974, the so-called escape clause provisions of law, used recently by the footwear, copper, and steel industries, among others, as well as some major revisions to the section 301 process, which is the U.S. Trade Representative's authority to attack unfair trade practices of other nations in the GATT forum and through direct action in this country.

The amendment I offer today, however, contains only 17 provisions, all of them focusing on antidumping and countervailing duty law changes. This does not, however, imply any lack of interest on my part in the other provisions of S. 2139, and I intend to press them at another time; in one case, perhaps on this bill. I would note in passing, however, that the Senator from Missouri, the chairman of the subcommittee, has his own bill amending section 201, S. 2845, which I support and am cosponsoring. That addresses some of the problems with the 201 process, and I hope Senator DANFORTH will offer that bill as an amendment to the pending legislation. In addition, I have previously proposed S. 849, the Industrial Revitalization Act, which would link the import relief provided through the escape clause process directly to adjustment commitments made by the domestic industry. That is an idea—also reflected in other legislation proposed by Members of this body, notably the Senator from Massachusetts [Mr. KENNEDY]—whose time is rapidly coming but appears not to be quite here yet. The recent parade of 201 cases through the bureaucracy has helped to convince Members of Congress as well as a number of key people in the administration that import relief ought not to be provided in these cases without an appropriate quid pro quo. That can be done without getting into the concept of industrial policy in its most intrusive sense, which I oppose. Nevertheless, we need to do some more educating about this concept, particularly its details, and I have decided not to press forward with it on the pending bill. At a later time, however, it will reappear, and, I am confident, will ultimately be approved.

That brings us, Mr. President, to the 18 sections of my amendment. These provisions are intended to deal with problems with current law that have developed since 1979. In most cases the provisions address specific incidents that have occurred. In discussing these provisions with the administration, they have periodically made the point that the proposed changes correct abuses which occurred in the past but which are not practices of the present administrators of the law. That is largely true, Mr. President, and I want to commend the Commerce Department's Deputy Assistant Secretary for Import Administration, Alan Holmer, for his responsiveness to these concerns. The fact remains, however, that responsive though Mr. Holmer may be, his predecessors were not, and there is no guarantee his successors will be either. Therefore, I reiterate my belief that it is better policy to put into the law some clarifications that will ensure that past practices everyone agrees were abuses will not be repeated by different administrators in the future.

Before describing the provisions in detail, I would also mention that most of them are not controversial and reflect agreements with administration spokesmen. In that regard I am grateful to Mr. Holmer, and to Claud Ginrich, USTR's general counsel, for their efforts on this amendment. While this package by no means contains everything I wanted or TRAC proposed, it is a solid beginning that contains a number of important items. Since the Commerce Department has consistently stated its support for comprehensive trade law review and reform next year, I will be looking forward to working with the admininstration and the committee again at that time to tackle some of the issues that have fallen by the wayside this year.

Now, Mr. President, let me briefly describe the contents of this amendment.

Section 2 (burden of persuasion) would make clear that in seeking revocation of an antidumping duty order, the burden of persuasion of showing that changed circumstances exist that would warrant the revocation is on the party seeking the revocation.

Section 3 (cumulation) would require cumulation of imports from multiple sources when considering injury when the Commission determines that the marketing of the imports in question is coincident, and when imports from each source have contributed to the overall material injury to the industry resulting from the imports. That, of course, is a lower standard than requiring that the imports from each source themselves be causing material injury. This does not go as far as I would like, Mr. President, or as far as the House bill, H.R. 4784, but it is a reasonable beginning on which a good compromise can be constructed in conference.

Section 4 (threat of material injury) would provide specific criteria for ITC Commissioners to consider when determining if a threat of material injury exists. It would not require action by Commissioners, but it would give them some specific guidelines to

consider with respect to threat that are entirely lacking under current law. Section 4 does not contain a number of additional criteria related to threat which are included in S. 2139 (such as those dealing with reference time periods), but it still represents a worthwhile improvement over the existing statute.

Section 5 (verification of amount of net subsidy) would address the serious problem of acceptance of export taxes as offset to a subsidy, when it is difficult to determine whether or not such taxes are fully collected in a timely manner. Particularly when the company in question is owned by the Government, there is a serious concern as to whether such a tax is simply transferring funds from one pocket to another and not offsetting the subsidy in any meaningful way. Requiring that such offsets be verified will give the Commerce Department a better means of determining whether a suspension agreement involving one is actually being implemented as promised.

Section 6 (compromise of outstanding duties owed) would prohibit the compromise of outstanding duties owed, such as occurred in 1980 in a dumping case involving color TV's that was settled on the basis of 10 cents on the dollar. While that took place under a previous administration, I believe that Congress never intended AD or CVD duties to be compromised in this fashion by any administration.

Section 7 (negative CVD injury determinations based on export taxes) would preclude the ITC from reaching negative injury determinations in CVD cases where there were outstanding orders in effect before 1980 (that is, under the old law), and where the foreign government (under the new law) seeks revocation based on a promise to apply an export tax. This occurred in a 1983 ruling involving Brazilian footwear, and resulted in import surges and related injury to the domestic industry. The amendment also precludes revocation of current cases by the Commerce Department for the same reason. Mr. President, this is a modest amendment which, unfortunately, deals with only part of the problem. For example, in two 1982 CVD suspensions involving Brazilian steel, the Commerce Department subsequently discovered that the Brazilian Government failed even to collect the tax for more than 8 months. Mandatory verification of collection would help but, even then, foreign governments could still refunnel money back into the pockets of their subsidized, government-owned firms. That is why S. 2139, the TRAC bill, would preclude the Department of Commerce from suspending CVD investigations or revoking CVD orders based on the export tax. At the very least, the Commerce Department should be prohibited form using the export tax (as an offset, as a settlement device or as a basis for revocation) with respect to foreign government owned or regulated entities. Nevertheless, I am not proposing that reform at this time.

Section 8 (interested parties) would ensure that ad hoc labor/industry coalitions such as Compact (the Committee to Preserve American Color Television) have the opportunity to initiate and participate in AD and CVD proceedings, and would thus correct an oversight in the Trade Agreements Act of 1979. Since Congress never intended to deny standing to ad hoc labor/industry coalitions formed specifically to enforce the rights of companies and workers under the trade laws, this ovesight should now be corrected.

Section 9 (simultaneous investigations) would extend final CVD terminations to the date of final AD determinations for AD and CVD petitions which are filed simultaneously and which involve like imports from the same or other countries. This would not be injurious to petitioners since it would not extend the date for preliminary Commerce Department determinations, and would not be burdensome to the Department of Commerce because it would not shorten AD time lines. Instead, the likely effect of section 9 would be to reduce costs for petitioners, respondents and the Commerce Department in those situations where it would be invoked.

Section 10 (clarification of countervailable subsidies) section 10 would clarify that foreign government-subsidized inputs (that is, upstream subsidies) are countervailable when their effects are passed through to the producers of the end product. This language is taken from Congressman GIBBONS trade bill, H.R. 4784. It would codify what the Commerce Department itself says is present practice, and would ensure that the Department not interpret countervailable subsidies in such a narrow way as to contravene congressional intent. I emphasize, Mr. President, that this is not the so-called natural resources provision in H.R. 4784.

Section 11 (countrywide CVD determinations) would require a presumption of countrywide (rather than company-specific) CVD determinations, except where significant subsidy differentials exist between companies securing benefits or in the case of state-owned companies receiving direct cash infusions. This would allow the Department of Commerce to presume a weighted average subsidy margin with respect to different companies within the same country that export like products under investigation (except where it is clearly unfair to do so), and would hopefully address also the concerns expressed in a pending appeal before the Court of International Trade. In this pending appeal, LTV Steel and other plaintiffs have urged the application of a countrywide CVD margin with respect to three Brazilian steel producers affected by final CVD rulings (with margins ranging from 17 to 62 percent), because the holding company which owns the three companies has announced that it plans to redirect its exports of the affected product to the company with the lowest margin. This provision is intended to ensure against such trade law evasion and also ease the administrative burden on the Commerce Department.

Section 12 (preferential pricing of inputs and constructed value) would direct the Department of Commerce to take preferential pricing of inputs into account in both AD and CVD cases where the price of inputs into the finished product is found to be unreasonable (that is, discounted or below the cost of production). By establishing a definition of downstream dumping to include the full value of costs (rather than the purchase price paid by the importer), section 12 would prevent the kind of trade law evasion which recently occurred when the Department of Commerce found a zero dumping margin in a case involving Italian forged undercarriage components for tractors. In that case, the Department ruled that present law did not allow it to consider whether the steel sold to Italian forgers had been sold at preferential prices, and therefore ruled that the forged undercarriage parts had not been dumped in the U.S. market. This provision would close the loophole which enable foreign producers of inputs to sell their products at preferential prices to exporters of finished goods in the same or third countries without fear of trade law consequences in the U.S. market.

Section 13 (AD suspension agreements by quantitative restriction) would allow the Commerce Department to accept and enforce quantitative restriction [QR] suspension agreements with foreign governments or exporters in AD cases (provided they eliminate the injurious effects of dumping), as is presently allowed for CVD suspensions. In most cases, petitioners would prefer dumping (as well as subsidy) cases to go to term but, in some cases, QR agreements are preferred by foreign respondents and the U.S. Government. This provision would provide the flexibility to act accordingly in such cases. Since foreign government subsidies frequently allow nominally private foreign companies to continue to dump indefinitely, it makes no sense to allow QR suspension agreements in CVD investigations and to deny them in AD cases. Section 13 would correct this anomaly in U.S. law, and merely provide the same option that already exists for other governments (for example, the EC, which frequently settles dumping

cases on the basis of both QR agreements and price undertakings).

Section 14 (the 90-day fast-track review procedure) would add three new criteria for the institution of expedited reviews of antidumping orders, and allow for written comments by interested parties before the decision is made to conduct such a review. By requiring, first, normal AD time lines, second, evidence of a significant anticipated margin differential, and third, representative sales as the basis for review, section 14 would ensure that this procedure does not cause further injury to petitioners. While many would prefer the complete elimination of the 90-day review period (since it has been gravely abused by respondents who have used sham sales and exchange rate manipulation to reduce or eliminate final dumping margins), this amendment represents a good beginning.

Section 15 (steel products trade enforcement) would modify an already existing U.S. law in order to ensure effective monitoring and enforcement of foreign government measures which involve the issuance of steel product export licenses.

Section 16, 17, and 18 (sales for importation, sales for delivery and irrevocable offers) are intended to clarify that likely sales (or irrevocable offers) as well as equivalent-of-sales leasing arrangements are, first, sufficient to proceed with a dumping or subsidy investigation, second, sufficient to find that goods are being dumped or subsidized, and third, sufficient to find injury or the threat thereof. These provisions are intended to resolve the analytical and procedural uncertainty which existed in the 1982 CVD rail car case involving Budd and Bombardier. In that case, there were offers for sale, lost domestic business, but no actual imports.

Mr. BENTSEN. Mr. President, I say to the Senator from Pennsylvania that we also have had an opportunity to examine his first amendment. We have no objection to that amendment, nor do we have any objection to the second one.

Mr. DANFORTH. Mr. President, I have no objection to either amendment.

I want to express my appreciation to Senator HEINZ for his work on the amendment, which is just being offered. I think this is a step forward in the trade area.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. HEINZ].

The amendment (No. 4266) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4265 TO AMENDMENT NO. 4247

Mr. HEINZ. Mr. President, I renew my request that my previous amendment be called up and be incorporated by unanimous consent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is before the Senate. Is there further debate? If not, the question is to agreeing on the amendment.

The amendment (No. 4265) was agreed to.

AMENDMENT NO. 4267

Mr. HEINZ. Mr. President, I send a third and last amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4267.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 4244, add the following new title:

TITLE .—TRADE WITH NONMARKET ECONOMIES

SECTION 1. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exists. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artifical pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 741 and contains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United states at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant ot section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 743. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded.

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the transactions to be investigated, or adjustments to be considered,

"(II) the novelty of the issues presented, or

"(III) the number of firms whose activities must be investigated, and

"(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

"(2) NOTICE OF POSTPONEMENT.—the administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b), if the administering authority intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in the original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to the administering authority at that time, whether there is a reasonable basis to believe or suspect that—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified by the Commission or the administering authority of the determination and of the facts and conclusions of law upon which the determination is based, and such notice of the determination shall be published in the Federal Register.

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICES MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

"(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United

States of the merchandise which is the subject of the investigation.

"(2) CERTAIN ADDITIONAL REQUIREMENTS.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—

"(A) the suppression or undercutting of price levels of domestic products by imports of such merchandise will be prevented, and

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of an investigation into the United States, but the administering authority may not accept such an agreement with exporters.

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraordinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of transactions to be investigated or adjustments to be considered,

"(ii) the issues raised are novel, or

"(iii) the number of firms involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) the administering authority is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination of the artificial pricing or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify the other parties to the investigation and, if appropriate, the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of notification, together with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

"(B) the Commission shall suspend any investigation of the Commission is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF ARTIFICIAL PRICING.—If the agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1).

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and, if appropriate, the Commission, continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an artificial pricing duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) the government of the nonmarket economy country under investigation,

"(2) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

"(3) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

then the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), or (E) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of such determination, the administering authority shall—

"(A) suspend liquidation under section 743(d)(i) of unliquidated entries of the merchandise made on or after the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsection (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and, if appropriate, the Commission of the action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 745. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

"(B) the 45th day after the day on which the administering authority makes the affirmative final determination under section (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the commission shall include findings as to whether—

"(i) there is material injury which will be difficult to repair, and

"(ii) the material injury was by reason of such massive imports of the artificially priced merchandise over a relatively short period.

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artificial pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(2) AND (b)(4)(A).—If the determination of the administering authority or the commission under subsections (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artificial pricing duty order which—

"(1) directs customs officers to assess an artificial pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of

the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption.

"(2) includes a description of the class or kind of merchandise affected, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated artificial pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artificial pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artificial pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artificial pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artificial pricing duties with respect to entries of the merchandise entered, or with drawn from warehouse, for consumption before that date.

"SEC. 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

"(2) refunded or released, to the extent that the cash deposit, bond or other security is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order.

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION; CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPTING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidumping duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 703(d) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty or countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 749. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is

amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the following as well as other factors he may deem appropriate—

(i) the extent to which the country's currency is convertible;

(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (ii).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742."

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum allowable import price' means—

"(A) the trade-weighted average price of eligible market economy foreign producers in arms-length sales to customers in the United States during the investigatory period; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a), at which such or similar merchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are no sales to the United States, other countries.

"(20) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who—

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under sections 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.

(b) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of any artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)" and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

"(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

"(2) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Paragraph (1) of section 516(a) of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

"(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

"(ii) by striking out "or 733(a)" in subparagraph (A)(iii) and inserting in lieu thereof "733(a), or 743(a)",

"(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

"(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

"(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2)) is amended—

"(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

"(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

"(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

"(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

"(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of setion 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.
"Sec. 742. Procedures for initiating an artificial pricing duty investigation.
"Sec. 743. Preliminary determinations.
"Sec. 744. Termination or suspension of investigations.
"Sec. 745. Final determinations.
"Sec. 746. Assessment of duty.
"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing duty order.
"Sec. 748. Treatment of artificial pricing investigations as antidumping

duty or countervailing duty investigations and the treatment of antidumping duty or countervailing investigations as artificial pricing investigations.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, the purpose of this amendment is to provide a new means of dealing with unfair trade practices by socialist countries. Growing trade with the People's Republic of China will make this increasingly important.

PRESENT LAW

First, theoretically one can presently bring a dumping case against a nonmarket economy [NME], except it is hard to establish since prices and costs do not reflect real market values and can be difficult to construct if there are not other comparable producers to extrapolate from—this was the problem in the Polish golf cart case.

Second, section 406 of the Trade Act of 1974 provides for a 201-like process against Communist countries, where the injury test is lower, and the President has somewhat more latitude in the event of a positive ITC funding. There have only been 9 or 10 of these cases, and none really provided satisfactory relief.

S. 1351, on which this amendment is based, is an effort to recognize: First, that an NME does not necessarily have to be a Communist country—in other words that the definition should be economic rather than political; and second, that there should be an unfair practices track for NME's just as there is for market economies.

DETAILS OF BILL

The bill's procedures are designed to parallel those of current unfair trade practice laws. An interested party—as defined in current law—could file a complaint against a nonmarket economy alleging artificial pricing. A nonmarket economy would be defined as those countries appearing on a list published annually by the Secretary of Commerce. Inclusion on the list would be based on a variety of economic criteria specified in the bill. Countries could seek to be removed from the list, but that would be a decision separate from any unfair trade practice complaint. The question of whether or not a country is a nonmarket economy would not be a debatable issue in any unfair trade practice petition. Procedures and time limits for the ensuing investigation are the same as in a countervailing duty investigation under title VII of the Tariff Act of 1930 as amended by the Trade Agreements Act of 1979.

During the course of the investigation, the Commerce Department would consult with the nonmarket economy's Government and solicit from it information that might enable the Department to determine dumping or the presence of a subsidy subject to the standards of current law for free market economies. Such information would probably seek to show that the economy of the industry in question is, in fact, free market oriented. Such information may or may not be adequate, depending on the nature of the economy or the particular industry in question. In the Polish golf cart case, for example, much of the cost and pricing data provided by the Polish exporter could be meaningful in our terms if the Poles also made available the true exchange rate applied to that particular industry's exports.

If, in the Department's judgment, sufficient verifiable information is provided to permit the case to be treated as a normal antidumping or countervailing duty case, then the Department shall do so, moving the investigation to the appropriate track at the same point in time. Of course, the provisions of those statutes permitting suspension of the investigation would also apply, as would all other provisions of current law.

In those cases where the nonmarket economy will not or cannot provide the necessary information, preventing the complaint from being handled in a normal way, a different standard would be employed. In most cases the standard would be the trade weighted average price of foreign market economy producers—excluding those who have been found to be dumping or benefiting from subsidies. U.S. producers are omitted from this average. This is a higher standard than originally proposed in S. 1351. In cases where there are no foreign market producers or where the average price standard cannot be determined, the constructed value and actual sale price of market economy countries provisions of current law, respectively, will apply. Even in this case, however, the petition would be treated pursuant to the time frames and procedures applicable to countervailing duty investigations in existing law.

The injury test would be provided to GATT members or countries under the agreement pursuant to section 701(b) of the Tariff Act of 1930, as amended.

These procedures and standards will provide the greater equity and certainty of administration for both petitioner and respondent. It will facilitate the treatment of nonmarket economies in ways similar to market economies, and it will solve a serious growing problem the Commerce Department has with administration of its current regulations.

Mr. President, this is a modified version of S. 1351, the nonmarket economy bill of the committee which the administration and I and others have been working on for some 5 years. My understanding is that it is acceptable to all Members.

After 5 years, it is possible to achieve all things.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4267) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I want to thank the chairman of the subcommittee and the distinguished ranking member, Senator BENTSEN, for their courtesy and help in this matter.

I might say, Mr. President, that the amendments to the Trade Agreement Act of 1979 will perfect that legislation which we spent so many months working on in 1978 and 1979. It will make it a more effective and more efficient statute. It will be fair to all concerned. I thank my colleagues as well for their cooperation, their suggestions, their ideas, their amendments, in effect, to the nonmarket economy bill, which is very much a joint effort of the Trade Subcommittee, Senator DANFORTH in particular, together with the administration which has been seeking legislation on this subject for 2 years, not as long as the present company but nearly as long as the present company. I thank all my colleagues.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 4268

(Purpose: To equalize tariffs on canned tuna)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Sentator from California [Mr. WILSON] for himself, Mr. CRANSTON, Mr. STEVENS, and Mr. INOUYE, proposes an amendment numbered 4268.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SECTION . (a) Subpart C of part 3 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. § 1202) is amended as follows:

"(1) Immediately following item 112.2400, strike out 'Tuna:' and all that follows up to, but not including, item 112.36;

"(2) In Item 112.3640, insert immediately after 'other', '(not including articles described in item 112.9000)';

"(3) In the heading immediately before item 112.4000, insert immediately after 'oil', 'unless otherwise specified'; and

"(4) In item 112.9000, insert immediately after 'tuna', ', prepared or preserved in any manner, in oil and not in oil'.

"(b) The amendments made by subsection (a) shall apply to articles entered or withdrawn from warehouse for consumption, on or after the date of enactment of this Act."

Mr. WILSON. Mr. President, a few moments ago the two distinguished Senators from Maine collaborated in an effort to secure a remedy that they felt realistic. They are concerned quite rightly with the number of small American businesses which cannot readily avail themselves of statute book remedies. Those processes are not available to them as a practical matter.

The amendment that I bring before us is a similar effort to provide a realistic remedy.

Mr. President, I submit this amendment, along with my colleagues, the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. INOUYE], and my good colleague from California [Mr. CRANSTON]. Together we seek the support of our colleagues in an effort to equalize tariffs on oil and water-packed tuna.

Mr. President, I cannot emphasize too strongly how important this effort is not just to stabilizing the U.S. tuna industry, whose existence is now jeopardized by mounting imports.

Let me say imports have increased 128 percent in 5 years.

The failure to respond to this need will further jeopardize the very existence of the U.S. tuna industry.

As items, let me discuss the following: Despite wage concessions by factory workers in July, there came to be the closing of the Van Camp cannery in San Diego. Its closing in July brought to 5,200 the number of workers laid off in the processing industry. The Star Kist cannery in San Diego has announced that it will close in October, just a few days from now, if tariff relief is not granted. This will mean the loss of 800 more jobs, jobs held for generations by people who really know nothing else.

The San Pedro cannery is also the last major tuna processing facility in the continental United States, and it is not just the cannery workers but it is those who go down to the sea in ships and seek to harvest this crop of tuna who are imperiled by the present anomaly in the tariff law; 27 vessels with a replacement value of between $200 million and $250 million are now tied up. Other vessels are on the brink of bankruptcy.

Why, Mr. President? To understand this problem one must know that the tuna market is divided between two very similar products, tuna packed in oil and tuna packed in water. The sole difference between a can of oil-packed tuna and a can of water-packed tuna is the substance in which the fish is packed, except current American tariff law draws another fundamental distinction and one that imposes a peril on this industry—unfairly—not through any fault of the industry but through a historical anomaly, a negotiation that took place when the industry was not itself represented.

Imports of tuna canned in oil are subject to a duty of 35 percent, while imports of water-packed tuna are subject to a duty of only 6 percent; 35 percent for oil-packed and 6 percent for water-packed.

These different tariff rates are the source of the problem. There is no clear reason for the two tariff levels. The United States is the only country in the world with two levels. The history of the tariff reveals that it is a historical accident resulting from tariffs written before water-packed tuna became a significant item in international trade.

These different tariff rates are not, I repeat, the product of any conscious trade strategy. They reflect historical anomaly. And simply, and I repeat this because it is important to understand this, when the need for a tariff was established, water-packed tuna was not a significant amount of trade. Today, water-packed tuna accounts for 60 percent of the market. The United States receives imports in this category of tuna, clearly indicating that exporters are taking advantage of the disparity in tariffs. They do not send us their oil-packed tuna. Mr. President, imports have been successful in taking 20 percent of all the tuna sales in this country within a very, very brief period of the recent past.

Mr. President, this gigantic influx of imports would not warrant legislation in my mind if the domestic industry were one that was outdated, one unaccustomed to new technology, or one that has been unresponsive to the need for modernization or efficiency.

I can say without equivocation that the United States tuna industry has been the leader, not the follower. It has provided the model. None of the conditions that I spoke of is applicable to our industry. Indeed, the U.S. fishing fleet is a model to all the world for its efficiency and for techniques which it has pioneered. It represents the engine for modernization developing the state of the art technology which other nations have sought to match.

Mr. President, I will conclude by noting that this action will pose no serious problem to our international trade position. More simply stated, it does not risk retaliation that will injure other U.S. exporters, a concern that is a very real one with regard to other efforts to mitigate tariff treatment. The reason, Mr. President, is because U.S. tuna imports come from four principal sources, two of which, Thailand and the Philippines, impose tariffs far in excess of the level at which we seek to equalize U.S. duties. Indeed, once equalized, U.S. tariffs will be far below the tariffs of the principal exporting nations. Thailand imposes a tariff on U.S. products of 50 percent. Taiwan imposes a tariff of 75 percent. The Philippines impose a tariff of 50 percent. Japan, whose duty level on most all imports is a bone of serious contention with the United States, is not a significant player in this drama. Taiwan, which is indeed a serious player, is not a signatory to the General Agreement on Tariffs and Trade, which means that they have no GATT remedy. If that point is of concern, I can address it at further length.

But, Mr. President, in summary there simply is no logical reason for the United States to maintain two distinct tariff classifications. There is no requirement of the GATT that we do so. This artificial distinction yields two duty rates for canned tuna. There is no logical reason for allowing tuna to come in at one-fifth the normal duty because the cannery adds water to the can rather than oil.

Mr. President, the tuna industry is calling for help to correct an anomaly created not by them but by an historical accident caused by Government officials. The cost of our inaction in the wake of this request is not just severe; it is critical. Thousands of jobs, millions of dollars in investment and, most importantly, the entire modern United States tuna industry and fishing fleet is at stake. This loss can be avoided. It must be avoided. I urgently request the conscientious support of each and every Senator for this amendment which will simply equalize tariffs and as such bring an end to that historical anomaly. Equity demands that we rid the tariff laws of this manifestly unjustifiable distinction, this anomaly, this unhappy historical accident. It is no exaggeration, Mr. President, to say that survival of the U.S. tuna industry and all of its employment depends upon this simple change. Delay will be fatal. We must act now because the last of the major canneries will close in less than a month if we are not successful today in bringing about this equity.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Will the Senator withhold that request?

Mr. WILSON. Yes.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The question is withheld. The Senator from California is recognized.

Mr. CRANSTON. I rise in support of the amendment offered by my colleague from California, an amendment that I am pleased to cosponsor along with other Senators. It offers relief to the domestic tuna industry from increasing imports of canned tuna.

Our State of California is the home of the domestic tuna fleet. Historically, more tuna has been canned in California than in any other area of the world. The tuna industry is a vital part of the California economy.

Recently, however, the rapidly increasing level of canned tuna imports has seriously injured our domestic tuna industry. In the key private label and institutional pack markets imports now account for almost 39 percent of all sales. Sales of imported products are made at prices 40 percent below those charged by the domestic industry. As a result the domestic industry sustained heavy losses in 1982 and 1983, including the closing of two major processing facilities, the temporary shutdown of other facilities, wage freezes, and the recently announced shutdown of the Van Camp cannery in San Diego effective July 1.

In addition, much of the industry's modern purse seine fleet is unable to cover operating costs or meet debt service requirements. Some 24 vessels, with a replacement value of between $200 and $250 million, are now tied up. Some are in formal bankruptcy proceedings and others are on the brink of bankruptcy.

Imports of tuna canned in oil are subject to a duty of 35 percent while imports of tuna canned in water are subject to a duty on only 6 percent. This anomalous duty structure was caused by pure accident. When the duty rates were first fixed, no tuna was then packed in water, and all canned products were thus dutiable at the higher rate. With the subsequent development of the water packed market, however, this tariff structure has had the effect of inviting into the United States imports of low-priced tuna packed in water in ever increasing quantities. In the past 5 years, canned tuna imports have jumped 128 percent.

The U.S. tuna industry must have relief from low-priced imports. This is the only way to restore industrywide profitability and to generate sufficient capital from which new products can be introduced and the financial posture of the U.S. tuna fleet can be restructured.

Senator WILSON's amendment would provide for this relief by equalizing the duty rate on imports of canned tuna in water with the rate on imports of canned tuna in oil, 35 percent ad valorem.

Mr. President, this approach is consonant with that of the European Community, which does not differentiate for duty purposes between imports packed in oil and imports packed in water, and which has a duty rate applicable to imports packed in water substantially in excess of the U.S. rate.

Mr. President, for these reasons, I urge support of the Wilson amendment.

(Mr. COHEN assumed the Chair.)

Mr. LAUTENBERG. Mr. President, I rise in opposition to the Wilson/Stevens amendment. The amendment would impose, by legislation, a 35-percent tariff on canned tuna in water. It is an attempt to reverse a recent decision by the International Trade Commission, which found, unanimously, that such a tariff is not in order, is not warranted, and would not be in the public interest.

Mr. President, it is worth taking some time today to understand exactly what this amendment would do and how broad-ranging are its possible consequences.

On July 25, 1984, the ITC rejected a U.S. tuna industry petition to impose a 35-percent tariff on all imports of canned tuna in water. The decision followed an exhaustive 5-month investigation, including a full public hearing, into all relevant aspects of the U.S. and foreign tuna industries.

The ITC denied the petition by a 4-to-1 vote. Even the one dissenting vote rejected the imposition of the tariff, recommending that trade adjustment assistance be made available to displaced boat operations and cannery workers. The Commission, therefore, unanimously denied the tariff sought by certain segments of the U.S. tuna industry.

The Commission found that the basic cause of the U.S. tuna industry's problems is that the fish have moved. The best tuna fishing is now in the eastern Pacific. The explanation is not hard to find. A change in major ocean currents has apparently resulted in a warming of western Pacific waters, and the tuna prefer the cold water.

The U.S. industry, in fact, is responding to this new reality. U.S. processors have been shifting their operations offshore to American Samoa and Puerto Rico where labor, transportation and other costs are lower.

For this and perhaps other reasons, not all the U.S. producers supported the tuna foundation's 201 petition. Van Camp, Bumble Bee, and Caribe, in fact, voted to withdraw it.

This amendment seeks to overturn the Commission's decision and raise the tariff on water-packed tuna from 6 percent to 35 percent.

Mr. President, I know it is not unheard of for the Congress to reverse the decision of an executive agency of our Government. We have done it before, and we will do it again.

However, in this case, it would seem that extra caution would be in order. Before overturning an ITC decision, which was the product of months of investigation, and could have an enormous impact on consumers, other industries, and our national interest in fair and open trade, the arguments should be overwhelmingly against the agency on the merits. I submit that this test is not met with respect to the ITC's decision on tuna tariffs. Before taking this step after a few minutes of debate on the Senate floor, with no hearings, or any consideration by the Finance Committee, we need to stop and look at the possible consequences.

In this case, it appears that the remedy offered in the Wilson/Steven amendment would, at best, marginally slow the process of change in the tuna industry. It will not reverse this process. Much of the American tuna processing capacity has already been transferred to facilities in Puerto Rico and American Samoa.

This reality cannot be ignored. The Wilson/Stevens amendment will not prevent it. But let us look at the impacts the amendment of the Senators from California and Alaska could have, impacts which are adverse for the consumer; for other industries, and for U.S. trade policy.

The direct impact on consumers would be significant. The Federal Trade Commission, in testimony to the ITC opposing the tuna petition, estimated that consumers would pay at least $800 million more over 5 years if the tariff on water-packed tuna were increased to 35 percent. An economic analysis by the ICF Corp., done at the request of the ITC, projected an increase in the price of tuna of over 21 percent. Industry sources have admitted that the tariff would mean at least another 10 cents in the price of a 6½ ounce can of water-packed tuna.

The risks to American workers and firms in other industries are a little harder to predict. But they will not be inconsequential. This is because the existing tariff is GATT-bound. An increase in the tariff would thus entitle the affected countries to "compensation." This means that we would either have to make some offsetting concessions or face the possibility of higher tariffs or other restrictions on our exports to such source countries as Japan and the Philippines.

So the questions is: Who is going to pay for the relief this amendment is intended to provide? Will it be the telecommunications industry which is just now getting a toehold in the Japanese market? Will it be U.S. farmers and ranchers who have worked so hard to get the Japanese to lower their barriers against agricultural commodities? Or will the fallout hit some other industry whose trade with Japan, the Philippines, or Thailand is less visible. The answer is: We do not know for certain. But this is the risk we run if this amendment is accepted.

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. LAUTENBERG. I yield.

Mr. WILSON. Will the Senator from New Jersey tell me precisely what American exports to Thailand and to the Philippines, and at what volume, would suffer retaliation? We are not talking about Taiwan or about the Japanese. We are talking about the Philippines and Thailand. What exports do these two countries have and in what volume?

Mr. LAUTENBERG. The fact is that we do not know exactly. We do know, however, that there are signatories to these tariff agreements.

Mr. WILSON. What exports are presently being made and in what volume?

Mr. LAUTENBERG. If I may finish my presentation, I will be happy to respond to any question the Senator from California has.

I also point out, Mr. President, that there are a number of important and sensitive issues in our trade relations with the nations of the Pacific rim. They range across the spectrum from product counterfeiting to all sorts of tariffs and nontariff barriers. The U.S. position has consistently emphasized the need for trade liberalization and better access to those markets for U.S. exports. The general aim is to encourage the newly industrializing countries of that region—and elsewhere—to assume more responsibility for progress toward a fairer and more open world trading system. This amendment is directly at odds with our objectives in this regard. It will give those who want to continue keeping our business out of their markets a perfect weapon against us.

If the U.S. reneges on its multilateral agreements, why should a developing country or Japan be expected to abide by fairer trading rules?

Not surprisingly, the U.S. Trade Representative [USTR] opposes this amendment. I have here a letter from Ambassador Brock, explaining his objections to the amendment.

The letter reads in part:

I believe that we must avoid trading increased protection for one industry in return for reduced tariff protection or decreased export opportunities for another industry. It is unfair to ask companies and workers in one industry to bear the burden of paying for benefits to firms and workers in a wholly separate industry.

I am also concerned because the proposed amendment would undercut the statutory procedures for import relief investigations contained in section 201 of the Trade Act of 1974 . . . Section 201 was intended by the Congress to be the sole and exclusive procedure for resolving requests for emergency import protection and I oppose any attempt to circumvent this procedure with a legislative solution.

I ask unanimous consent that the letter be printed in the RECORD in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, September 17, 1984.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR FRANK: I'm writing to express my strong opposition to an amendment that would raise the tariff on canned waterpacked tuna from six percent to 35 percent. I understand that this amendment may be offered to H.R. 3398.

As a matter of policy, I must oppose any attempt to increase duties bound under the General Agreement on Tariffs and Trade (GATT) outside the procedures of section 201 of the Trade Act of 1974. Under Article XXVIII of the GATT, a country which raises its duties on a bound item is obliged to pay compensation to trading partners disadvantaged by the tariff increase or face retaliation in the form of higher tariffs on its exports. I believe that we must avoid trading increased protection for one industry in return for reduced tariff protection or decreased export opportunities for another industry. It is unfair to ask companies and workers in one industry to bear the burden of paying for benefits to firms and workers in a wholly separate industry.

I'm also concerned because the proposed amendment would undercut the statutory procedures for import relief investigations contained in section 201 of the Trade Act of 1974. As you know, the domestic tuna industry filed a petition for import relief under section 201. The U.S. International Trade Commission conducted an extensive investigation and on July 25, 1984 determined in a 4 to 1 vote that tuna is not being imported into the United States in such quantities to be a substantial cause of serious injury. Therefore, the petition was dropped. Section 201 was intended by the Congress to be the sole and exclusive procedure for resolving requests for emergency import protection and I oppose any attempt to circumvent this procedure with a legislative solution.

For the above reasons, I urge that the proposed amendment not be included in H.R. 3398.

Very truly yours,

WILLIAM E. BROCK.

Mr. LAUTENBERG. In sum, Mr. President, this amendment is questionable on several grounds. It substitutes a legislative remedy, which has not been examined by the Congress at all, for the decision of the ITC. It will increase prices for consumers. It could well result in retaliation that will penalize workers and firms in other industries. And it jeopardizes important U.S. national trade interests in the rapidly developing markets of East Asia.

I do not believe the Senate should adopt this amendment given the likely consequences imposition of such a tariff would bring.

Mr. President, I urge my colleagues to oppose the amendment of the Senators from California and Alaska.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Kansas.

Mr. DOLE. Mr. President, I just want to indicate to my colleagues that, with the leadership of Senator DANFORTH and Senator BENTSEN, we have made some progress on this bill. In this legislation; there are three or four provisions, or at least a couple, for every Senator. I know everything deserves careful scrutiny and study, but I hope we can reach some judgment on these amendments very soon. I know that the leaders are now discussing whether we might get another hour after 4 o'clock. I understand that some Senators may object to that.

I believe it is in the interest of all of us to complete action on the trade bill and go to conference. I hope we might vote on this amendment very quickly.

The PRESIDING OFFICER (Mr. COHEN). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offerred by the Senator from California. I think it is bad trade policy. It directly overlooks a recent ITC decision. It would cost the American consumer hundreds of millions of dollars.

On July 25, 1984, the ITC soundly rejected a U.S. tuna industry petition to impose a 35-percent tariff on all imports of canned tuna in water. The decision followed an exhaustive 5-month investigation. The ITC ruled against the industry.

Mr. President, the major sponsor behind the petition was Star Kist Foods, which already holds a dominant 40-percent share of the U.S. retail tuna market. Significantly, the next three leading U.S. market tuna companies did not support the tariff petition.

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. BRADLEY. I should like to finish.

The ITC denied the petition by a 4-to-1 vote. Even the one dissenting vote rejected the imposition of the tariff recommending that the trade-adjustment assistance be made available to displaced both operators and cannery workers. The Commission, therefore, unanimously denied the tariff sought by certain segments of the U.S. tuna industry.

The ITC found that the economic difficulities of the industry were not caused by imports but by U.S. tuna fleet overexpansion and the shift of tuna fishing grounds from the eastern to the western Pacific.

The ITC found that imports were not an important cause of injury, noting that import penetration in 1984 was less than 16 percent of the total market.

The amendment offered by the distinguished Senator from California circumvents the Pacific decision in this case and would allow future tariff seekers to bypass the ITC and impose tariffs through a purely political process.

If a tariff is imposed, GATT [the General Agreement on Trade and Tariffs] requires that other tariff concessions be given to affected countries. If those concessions are not accepted, retaliatory action may legally be taken against U.S. exports. Trade in U.S. farm products, for example, and other articles could be substantially disrupted.

Mr. President, the Federal Trade Commission estimates that the imposition of the tariff would cost the American consumer approximately $800 million over the next 5 years. The price of the protected domestic tuna would immediately rise over 20 percent.

Mr. President, this amendment is one of those classic cases where a small segment of an industry loses through the administrative process and then comes to Congress seeking to protect their share of the market by increasing the cost on every consumer in this country.

Mr. President, this is bad policy. If you go to the shopping mall, and you go to the grocery store, and buy a can of tuna as a result of this amendment, you will be paying 25 to 30 percent more for the tuna as will every consumer across this country.

In addition to that, Mr. President, this makes a mockery of the International Trade Commission process, and it invites retaliation. It invites retaliation from countries that are affected. It invites retaliation on farm products, on machine tools, on even capital goods.

So, Mr. President, I think that this is a bad amendment that as usual to protect a very narrow interest will leave the American consumer paying more for every can of tuna that the consumer purchases.

Mr. President, in the Los Angeles Times on June 10 there was an editorial that I think discussed the issue in some detail and I ask unanimous consent that the editorial from the Los Angeles Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A WALL IS NOT IN OUR INTEREST

The American tuna industry is in trouble beset by increased foreign competition and rising costs. Like a lot of other besieged businesses, tuna canners and fishermen have turned to the International Trade Commission seeking increased tariffs to protect them. If they have their way, American consumers will be paying an estimated $178 million a year in increased tuna prices to keep the industry alive.

There is no doubt about the crisis faced by the industry, about the effect that this is already having; particularly in Southern California. Sen. Pete Wilson (R-Calif.) estimates that 5,000 jobs are in jeopardy in this state. Most of the jobs are in the unskilled category, many of them filled by minority workers with limited options for other work.

But the remedy proposed is unreasonable. The multimillion-dollar program of tariff protection might slow the process of decline and change in the American industry, but nothing can reverse what is happening. There is no way that the United States can compete with Taiwan, the Philippines and Thailand, which among them now provide three-quarters of the imports coming into the American market. The labor differential—$3 a day in Thailand, $8 an hour in San Pedro—and the lower cost of tuna in Manila and Bangkok have driven prices to a level that Americans say they can't profitably meet. Imports have increased 128% in the last five years, and now supply about 20% of the domestic market.

The frustration of the American tuna industry is understandable. The world's most modern packing plant faces closure in San Diego. The world's most technologically sophisticated fleet of purse seiners is overwhelmed with bankruptcy, almost one-third of the fleet inactive.

Adjustments have been under way for years, however. Much of the American tuna-processing capacity has been transferred to facilities in Puerto Rico and American Samoa, where labor costs are half what they are in California. This year American Samoa will replace California as the place with the largest American canning production. The capacity of the American industry has fallen an estimated 16% in recent years.

But to deny developing nations the right to compete is to condemn them to deeper poverty and the global insecurity inherent in widening the gap between rich and poor. There will be an increasing number of things that the poor nations can do or make better or more economically than the industrialized societies can. The challenge for Americans is to redirect their economy to areas in which it is best fitted to succeed, to compete, allowing American consumers to benefit from the lower costs inherent in open global competition.

The tuna industry has every right to ask for protection from dumping—the onslaught of imports priced below cost. But that is not an issue in this case. The tuna industry has sought instead the extension of a 35% tariff to all tuna imports, which would add 8 cents to the price of the standard can of water-packed tuna. The industry argues that the increase in imports is a substantial cause of serious injury to it. But that ignores what the President must ultimately decide, and that is whether such a tariff wall would be in the national economic interest. It would not.

Mr. BRADLEY. Mr. President, in my view this comes down to a very clear choice, a choice between protecting the interest of the consumer in this country and the administrative process by which we can rationally judge whether injury has been incurred as a result of foreign imports, or it simply says short circuit everything, bail out the one company or the two companies, and let the American consumer pay for it, and in the process invite all those countries out there that are affected to, under the terms of GATT, respond by placing tariffs on goods that we try to sell to their country.

Mr. President, this amendment does not make sense. I hope that the distinguished Senator from California would withdraw the amendment. The amendment boggles the imagination as to what the rationale is for this, absent a protection for a very small segment of the industry. I understand that the industry has had some problems. I understand that the area where tuna is now fished has moved more to the western Pacific. I understand that there are other problems related to the industry. But these problems are not caused by imports of tuna, and they should not be paid for by the American consumer.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. WILSON. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have not to date sought to enter the debate on this amendment and I do not seek to do so now for what I suspect may be obvious reasons to my colleagues.

Under rule XXXVII, paragraph 4, it states:

No member . . . shall knowingly . . . aid the progress of passage of legislation, a principal purpose of which is to futher . . . the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

Mr. President, in my judgment the amendment of the Senator from California [Mr. WILSON] poses for this Senator a clear case of the conflict of interest envisioned by rule XXXVII.

I happen to believe that the principle behind rule XXXVII is an excellent one that should guide our behavior whether or not we had ever seen fit to include it in the standing rules of the Senate. And I have observed it on previous similar occasions, precedent to its adoption by the Senate.

Accordingly, I will vote "present" on the amendment by the Senator from California [Mr. WILSON].

I thank the Senator for yielding.

Mr. WILSON. Thank you.

Mr. President, this seems to be a case between the Senators from the West and two Senators from New Jersey.

I want to make clear that I have some sympathy for the jobs which they are trying to protect. I understand there is an importer of imported tuna in New Jersey who employs New Jersey residents and I for that reason understand fully their efforts to try to see to it that their jobs are protected.

But let us not get too righteous about protectionism.

I also understand the fact that my good friends were off the floor when I explained the real cause of this import sensitivity. Perhaps being from New Jersey and not being from that part of the United States where the tuna industry is located it is understandable that there are many things about the industry that they do not understand.

First, let me explain to them that tuna are a migratory species. The fact

is that the problem does not exist because they are now being fished in the western Pacific. They had been fished for a long time in the southern Pacific just as far away as the waters in which they are now found. That clearly is not the problem.

The problem is one that is recognized as Senator BRADLEY has said by one major processor, Star Kist, because there is only one major processor left. The others have gotten out of the business. They have been driven out by a succession of things that would beleaguer anyone of lesser strength than the people in this industry. But the fact is that there have been increases of 128 percent in imports over the past 5 years, and why? Are these imports in oil-packed tuna? No. Strangely enough they are exclusively in water-packed tuna, and the reason is that water-packed has a duty at 6 percent while there is a duty of 35 percent upon oil-packed. That is why. It is a very simple, easily understood, distinction. Why that distinction exists is beyond comprehension. It is one of those strange sort of throwaways that occurred about 36 years ago before water-packed tuna was a significant market element.

Now, what I will tell my good friends with respect to all their pleading about GATT is that that is simply not relevant here. First, Taiwan is not a signatory to GATT. Second, Japan is not a player, and I do say with all due respect to both of my friends from New Jersey that I think I have a good deal more credibility worrying about California beef and citrus being accepted in the Japanese market than they do. I spend a great deal of my time worrying about farm exports to the Pacific rim, largely because so many of my constituents have livelihoods depending upon the success of that export traffic. Indeed, I have given far more time to that than we are to the consideration of the survival of this small indeed but justifiably proud and embattled industry.

With respect to the specific arguments made about GATT, let me just say that even for those which are GATT signatories, the policy of the United States quite rightly has been that where a GATT signatory has such an uneven trade barrier against the United States and where the country adversely affected by any increase in our tariff treatment has trade barriers of its own, we quite rightly said U.S. policy is to avoid making compensation.

I repeat, because they were off the floor, that even after this amendment is adopted and we have equalized the tariff treatment for water-packed, bringing it to what is now levied on oil-packed, that will be a 35-percent duty. Do you know what it is in Thailand and the Philippines? It is 50 percent against U.S. products; it is 75 percent in Taiwan.

There is no GATT violation here. We will be a long way—even when we have achieved this equalization—we will be a very long way from having equalized the burden.

Now, what is at stake here is quite simple. It is the survival of an industry. In October, the Star-Kist plant will close as did the Van Camp cannery with some 1,500 jobs in San Diego in June.

Mr. President, if we are interested in equity and if we are concerned about retaliation, I will tell you we do not risk retaliation. They cannot retaliate. We are giving them a free ride at the expense of a generation's old industry that has earned its place, that is not seeking to be subsidized because of its own inefficiency. It is one of the most efficient, it is the most efficient fishing operation in the world. If we are going to lose that let us all understand it will be because this Congress did not have what it took to take action to cure a simple anomaly in the tariff law for which there is no justification.

There are 6,000 jobs at stake here at the very least concerning just cannery workers; many, many more in the fishing fleet and many more in the associated industries.

Finally, ask yourself this question: How much will the price of tuna go up when the American tuna industry no longer exists, when we are entirely dependent upon foreign imports? I suggest that we will face a time when tuna is no longer available to the American housewife except at a cost that we really are going to be unwilling to pay.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, this amendment gives us all difficulty, I know. It is presented by a distinguished Member of this body who has given thoughtful consideration to it and whose native State is home to many of those affected or potentially affected by the absence of such legislation.

However, it does seem to me that we have an ITC, an International Trade Commission, that is set up for a purpose. That is the mechanism ordained by law to look into these matters.

As has been previously mentioned, by a vote—there are five people on the ITC—and by a vote of 4 to 1, the solution sought by this amendment was rejected. Indeed, even the one dissenting vote rejected the imposition of the tariff but instead took another alternative route to solving the problem.

I think it is interesting to note that the ITC found that the economic difficulties of the industry were not caused by imports but by the U.S. tuna fleet's overexpansion and by the fact that the tuna fishing grounds had shifted from the eastern to the western Pacific. The ITC found that imports were not an important cause of injury, noting that the import penetration in the current year is less than 16 percent of the total market.

The amendment, it seems to me, circumvents the specific decision in this case. If we should adopt this amendment, we then run into the problem that everybody who was either rejected by the ITC for its cause, the solution it sought, or did not even bother to go to the ITC feeling they would not prevail there would merely come directly to the Congess and seek a political, in fact it is, a political solution on the floor of the Senate and the House of Representatives.

If a tariff is imposed, I think there are GATT implications, despite that the distinguished Senator from California noted. And the GATT would require that other tariff concessions be given to affected countries. If those concessions are not accepted. For example, trade in U.S. farm products or other articles could be substantially disrupted.

What is the effect on the consumer? I think we have got to look at that. We have had some discussion here this afternoon about the effect on those who work in the canneries and other areas. I think on the other side, we have got to look at the effect on the consumer. FTC estimates that the imposition of the tariff would cost the American consumer approximately $800 million—that is nearly $1 billion—over the next 5 years. The price of the protected domestic tuna would immediately rise over 20 percent. So despite the eloquence of the Senator from California in presenting his amendment and despite the immediate appeal of it—and I can understand the problem he is confronted with—I think it is important that there is another side to this.

Again, let me briefly reiterate, the ITC rejected this by a vote of 4-to-1 and even the one vote in favor did not espouse the cause as sought by the Senator from California.

Second, the retaliatory actions are imminent and could well take place and take place against some of our largest exports to Japan, namely our farm products. And everyone here knows the condition of the farm situation in the United States now and the farm industry.

Finally, the cost to the American consumer of some $800 million nearly $1 billion over the next 5 years.

So based on those reasons, Mr. President, it would be my hope that the amendment of the Senator from California would not be accepted.

Mr. DOLE. Mr. President, again, let me urge my colleagues that we have now been on this amendment over an hour. I think we know the issue. I think we ought to vote on it and try to finish. We are going to sink the entire trade bill if we do not get moving here.

Mr. BRADLEY. Mr. President, I can assure the distinguished chairman of the committee I will be very brief.

I would like to make two further points on the issue before us. One is that this proposed increase in tariff is opposed by our U.S. Trade Representative, Mr. Brock. He has stated in a letter to the Ambassador of Thailand the following statement:

Now that the USITC has made a negative injury determination of the 201 tuna case, I will continue to oppose any legislative effort to raise the tariff on canned tuna in water.

I ask unanimous consent that the letter of Ambassador Brock be printed in the RECORD at this point.

U.S. TRADE REPRESENTATIVE,
Washington, DC, September 4, 1984.

His Excellency KASEM S. KASEMSRI,
Ambassador, Embassy of Thailand, Washington, DC.

DEAR AMBASSADOR KASEMSRI: Thank you for your August 16 letter opposing H.R. 5939, a bill to raise the import duty on canned tuna packed in water.

You may be interested to know that my office opposed similar legislation to raise the tariff on tuna packed in water when it was offered as an amendment to H.R. 3398. At that time I felt that it would, as indicated in your letter, circumvent the 201 import relief petition which was under review by the United States International Trade Commission (USITC). I believe that the statutory procedure contained in Section 201 of the Trade Act of 1974 is the appropriate procedure for determining whether imports are a cause of serious injury to the domestic industry. Now that the USITC has made a negative injury determination on the 201 tuna case, I will continue to oppose any legislative effort to raise the tariff on canned tuna in water.

I appreciated receiving the views of the Government of Thailand on this legislation.

Very truly yours,

WILLIAM E. BROCK.

Mr. BRADLEY. Mr. President, the distinguished Senator from California suggested this was an East-West dispute. This is not an East-West dispute. I would like to quote from the Los Angeles Times, which is clearly not one of the large metropolitan Eastern newspapers. The Los Angeles Times says in its editorial:

The tuna industry has every right to ask for protection from dumping—the onslaught of imports priced below cost. But that is not an issue in this case. The tuna industry has sought instead the extension of 35% tariff to all tuna imports, which would add 8 cents to the price of the standard can of water-packed tuna. The industry argues that the increase in imports is a substantial cause of serious injury to it. But that ignores what the President must ultimately decide, and that is whether such a tariff wall would be in the national economic interest. It would not.

Mr. President, again, this is a clear choice between serving the narrow interest or the general interest—whether we are going to raise the tariff, and at the same time raise the price for every consumer of a can of tuna. I hope the Senate will reject this amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, in respect to the manager of the bill, I, too, will be brief. But I feel that the record ought to be clear in terms of lining up the parties. It is not New Jersey against the rest of the West. Consumers are consumers, wherever they are. I am sure that my distinguished colleague from California knows there are a lot of consumers in California who will be affected if, in fact, the predictions that we see here do come true.

There is all kinds of evidence to suggest that this is, in fact, part of the GATT. We can read from a letter which is from the USTR which I will paraphrase. As a result of concessions granted by the United States in the sixth round of trade negotiations under GATT, the Kennedy round duty rate of 12.5 percent ad valorem on imports of canned tuna were not in excess of 20 percent of the preceding year. The U.S. tax was reduced in five States to 6 percent ad valorem.

So it was obviously part of the negotiation.

I will take the liberty, if I might, to ask the distinguished chairman of the Finance Committee how many tariff amendments were offered to this bill.

Mr. DOLE. Quite a few—about 60.

Mr. LAUTENBERG. How many succeeded, if I may ask?

Mr. DOLE. That is how many succeeded.

Mr. LAUTENBERG. That number succeeded? I should ask how many fell.

Mr. DOLE. I think we voted down two in the committee. I do not suggest they are the same as the one being offered. But there are different variations.

Mr. LAUTENBERG. Should the committee have had an opportunity to hear this, and is this the proper way to legislate? Should the committee have had an opportunity to hear this proposal?

Mr. DOLE. The committee has not had a hearing on this. But I myself have heard from a lot of lobbyists on both sides. I have had my own hearing.

Mr. LAUTENBERG. Is this the proper way to legislate?

Mr. BRADLEY. If I could ask my colleague to yield, as I understand it—the chairman can correct me if I am wrong—I think what we did mostly on the tariff finance committee was cut them. This amendment proposes to raise them.

Mr. DOLE. There are about 30 items that I might say—I am guessing 20 to 30—we objected to. I do not want to leave the impression that everyone came in with an amendment, and we grabbed it and ran. I think two were turned down, and the other 30 were discouraged. Sixty were agreed to.

Mr. LAUTENBERG. Is this one of those that was agreed to?

Mr. DOLE. It was not offered in committee.

Mr. LAUTENBERG. Is this in the judgment of the distinguished chairman—and the chairman's objectivity is unquestioned—a good way to legislate tariff changes?

Mr. DOLE. No, not under normal circumstances. But we are sort of under the gun. I am not getting into the merits of the amendment. We are supposed to go to something else at 4 o'clock. If there is a chance to complete this bill today, we would like to do so. Maybe there is not. I understand there may be an objection to proceeding beyond 4 o'clock. We are in the last stages of the session. It is my hope that we can have a vote on some of these amendments, and then, depending on what happens, we can also have a look at some in conference. But it is not the best way to legislate. But I think you are doing it the correct way. We are going to have a vote in a minute up or down. That will determine it.

Mr. MATTINGLY. Mr. President, I rise today in support of H.R. 3398, a bill dealing with miscellaneous tariff, trade, and customs matters. I will be brief in my remarks Mr. President, as I am aware of the busy schedule before this body.

The United States, more than ever, is faced with an increasingly complicated world trade arena. No longer can the United States sit back and take its perceived competitive advantage for granted. International trade has been complicated by bilateral concerns that conflict with multilateral concerns: by lesser developed nations whose debt problems have shaken the very financial foundations of our international trading system; by economic recessions in countries that have traditionally enjoyed unparalleled economic growth and stability; and by increasingly restrictive trade policies as the world's nations scramble for slices of what seems to be an ever-shrinking world economic pie.

The trade policies of the United States have often been criticized as unreliable or, at best, confusing. The Congress itself has been accused of succumbing to a peculiar form of paralysis due to its inability to formulate and enact legislation that would encourage the establishment of clear cut

trade policies. To my colleagues in the Senate, I point out that you have before you a bill that takes a vital first step toward modernizing U.S. trade policy and that takes positive action toward assuring a more equitable trade climate for U.S. goods and services.

H.R. 3398 contains important tariff changes, many of which I consider vital to several U.S. industries. Among these are domestic honey, citrus, textile, glove, and metal castings producers. Also contained in H.R. 3398 is S. 144, the reciprocity bill. S. 144 would allow the United States to negotiate the elimination of foreign trade barriers to U.S. goods and services. S. 144, or title 3 of the bill currently before you, is crucial in that it attempts to address the problems of the high technology and services industries, areas that have become the newest focus of the international trade scene, in addition to a continued awareness of the problems of the basic industries that have so long been the backbone of the economic strength of this country. I would like to commend S. 144's principal sponsor, the distinguished Senator from Missouri. Senator DANFORTH has consistently sought to astutely address the inadequacies of our world trade order. I thank him for his persistence.

H.R. 3398 also contains two other important provisions. One is a proposal to renew the U.S. generalized system of preferences, a program that provides duty-free treatment for certain imports from eligible developing nations. The renewal of this program is particularly important to those lesser developed nations. Imports under the GSP represent only 3 percent of total U.S. imports yet this program provides participating developing nations with the foreign exchange necessary to service their enormous foreign debt, a large portion of which is owed to the U.S. taxpayer. In addition, GSP benefits can, could, and should be used to negotiate trade concessions for U.S. goods and services. H.R. 3398 contains a provision that would authorize the President to seek expedited congressional consideration of any possible free-trade agreements with Israel and Canada; 90 percent of Israeli exports to the United States already enter duty free.

Currently, the United States enjoys a trade surplus of $465 million with Israel out of a total trade of $3 billion. About 40 percent of U.S. exports to Israel remain subject to tariffs. It is thus apparent that a mutual elimination of remaining tariff barriers by the two nations would greatly benefit U.S. exports while not significantly increasing the scope of Israeli imports that enter the United States duty free. I urge my colleagues to support this provision in its entirety and to refrain from calling for product-specific exclusions from such arrangements.

Mr. President, I conclude my remarks by urging my colleagues to act expeditiously on the legislation now before them in H.R. 3398. I also ask my colleagues to refrain from approaching this bill, which contains the beginnings of trade reform, with a Christmas tree mentality. I, too, have amendments which I would like to offer to this legislation. However, this Congress needs to pass this trade bill. U.S. manufacturers, farmers, and services need a positive signal from the Congress that we are aware of their problems and are willing to put partisan differences aside to enact policies to help keep the United States economically strong by working for a free and fair world trading system.

Mr. INOUYE. Mr. President, the U.S. tuna industry, internationally recognized as one of the most modern and efficient fishing industries in the world, is in the midst of a serious economic crisis. The crisis was caused by an abrupt increase of imported canned tuna products from nations who shelter their markets and subsidize their producers.

The impact of the imports has been increasingly felt during the past 5 years as industry profits have plunged to unprecedented lows. The industry has responded with drastic cost cutting measures including the closure of several tuna processing facilities and the tie-up of $200 million worth of tuna vessels. Nevertheless, during 1982 and 1983, the industry experienced losses of 19.3 percent and 4.6 percent respectively. Approximately 6,000 American jobs have been lost so far, and thousands more are in jeopardy unless something is done to slow the import surge.

The massive import penetration is a result of a tariff loophole contained in a 1943 treaty between the United States and Iceland. This treaty established a 6 to 12½ percent duty rate for fish packed in water. Tuna was not affected by the treaty at the time as it was then packed exclusively in oil and dutied at a much higher rate. Since then, however, the market for tuna packed in water has increased dramatically and tuna exporting nations have shifted almost exclusively to water-packing their exports in order to avoid the 35 percent tariff the United States imposes on tuna packed in oil.

The magnitude of the increase in imports has been dramatic. Since 1979, imports have increased in excess of 128 percent and, in 1983 alone, they increased by 40 percent. The rapid increase of imports threatens to force the domestic industry to relocate outside of the United States, thus causing a loss of between 25,000 and 30,000 American jobs.

To remedy the situation, Senator WILSON is introducing, with my support, this amendment which would place all light meat tuna products into one tariff category—35 percent. This tariff rate is substantially below the rates charged by the major importing countries. These countries, the Philippines, Thailand, and Taiwan, have protective tariffs on canned tuna products ranging from 50 to 70 percent.

I do not believe that this is a free trade versus protectionism issue. It is a fair trade issue which should be dealt with on its own merit. The U.S. tuna industry should be given the opportunity to compete on even terms with foreign tuna industries which receive strong support from their governments. I urge my colleagues to join me in supporting this amendment, and giving our tuna industry that opportunity.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want to support the Senators from California on their amendment, and ask the Senate to give it favorable consideration.

I am quite worried, as a Senator from a State that is very much involved in the fishing industry, about the trend we see in the tuna industry with regard to the way that the Japanese are avoiding—literally evading—our existing tariff structure. We have had a situation where the canned tuna imports have increased 120 percent, and they are now bringing in their tuna in water which is a way to avoid the tariff structure that existed at the time of the last round of negotiations.

If they are successful in destroying the tuna fish canning industry, the next industry that is going to be attacked is ours which has already suffered a great deal.

I do believe that the Senator's amendment is necessary in order to reestablish the tariff rates that were created by the last round in developing the tariff structure that we had before. We have taken action recently to establish duty-free treatment from the Caribbean Basin. I think it is entirely possible that Congress can make changes in these structures without disturbing the intent of the whole process. I believe that the Senators from California are correct—the canning sector of our industry must remain healthy if we are to have a healthy harvesting industry. If we are not capable of canning this tuna, we are going to find the time when the Senators who are complaining about the nonproducing States, the consuming States, are going to find that this tuna is going to go elsewhere in the world as does the product that comes from our shores. Most of it comes back, but more and more is being distributed to meet the needs of the world without regard to the U.S. market.

If we do not take action to prevent this destruction of our canning industry, the time is going to come when we will not have it in the tuna field. If we do not have it very soon, we will not have the tuna fleets to catch the tuna to be packed to bring to our markets.

I do believe that they are on the right track. I hope the Senator succeeds in his goal to bring back an equity situation, as far as tuna, in water in particular.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DANFORTH (when his name was called). Present.

Mr. HEINZ (when his name was called). Present.

Mr. STEVENS. I announced that the Senator from Alabama [Mr. DENTON] is necessarily absent.

Mr. CRANSTON. I announced that the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. RANDOLPH] would vote "nay."

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 22, nays 73, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—22

Cohen	Hollings	Mitchell
Cranston	Inouye	Murkowski
DeConcini	Johnston	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Garn	Long	Wilson
Gorton	Matsunaga	
Hatch	McClure	

NAYS—73

Abdnor	Ford	Nunn
Andrews	Glenn	Packwood
Armstrong	Goldwater	Pell
Baker	Grassley	Percy
Baucus	Hart	Pressler
Bentsen	Hatfield	Proxmire
Biden	Hawkins	Pryor
Bingaman	Hecht	Quayle
Boren	Heflin	Riegle
Boschwitz	Helms	Roth
Bradley	Huddleston	Rudman
Bumpers	Humphrey	Sarbanes
Burdick	Jepsen	Sasser
Byrd	Kassebaum	Simpson
Chafee	Kennedy	Specter
Chiles	Lautenberg	Stafford
Cochran	Leahy	Stennis
D'Amato	Levin	Tower
Dixon	Lugar	Trible
Dodd	Mathias	Wallop
Durenberger	Mattingly	Warner
Eagleton	Melcher	Weicker
East	Metzenbaum	Zorinsky
Evans	Moynihan	
Exon	Nickles	

ANSWERED "PRESENT"—2

Danforth Heinz

NOT VOTING—3

Denton Randolph Tsongas

So the amendment (No. 4268) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. ABDNOR). The Senate will be in order.

FREE TRADE AREA WITH ISRAEL

Mr. CRANSTON. Mr. President, the legislation now before the Senate would authorize the creation of a free-trade area with Israel. Under the General Agreement on Tariffs and Trade [GATT], a free-trade area is created by the reduction or elimination of tariffs on substantially all exports and imports between two countries. A free-trade area with Israel would help to equalize duty-free trade between our two countries. While 90 percent of all products imported by the United States from Israel are duty free, only about 55 percent of those products exported to Israel by the United States enjoy duty-free status. In addition, given the free-trade area already negotiated between the European Economic Community and Israel, a United States-Israeli free-trade area would enable U.S. exports to compete more effectively against EC exports in Israel. I have long supported increased United States-Israeli trade, and I support the creation of a free-trade area with Israel.

At the same time, I am deeply concerned about possible economic harm to import-sensitive California specialty crops posed by a blanket free-trade area.

I would like to see the U.S. Trade Representative in negotiating tariff reductions or eliminations take into account the U.S. International Trade Commission [ITC's] determination that certain U.S. products would suffer significant adverse effects from such tariff reductions or eliminations.

I believe exclusions should be reviewed every 5 years. So long as the ITC determines that a commodity would continue to suffer significant adverse effects, the exclusion should remain in effect. If the ITC at some point determines that an industry would no longer be adversely affected, then the U.S. Trade Representative should have the authority to negotiate the reduction or elimination of the duty.

Mr. President, the ITC has studied the likely economic effects the proposed free-trade area with Israel would have on U.S. businesses and consumers. Although the conclusions drawn by the ITC study are classified "confidential," it is my understanding that a number of U.S. products including several California agricultural commodities, indeed have been found by the ITC to be subject to economic damage from the elimination or reduction of tariffs now in place. I am concerned, however, that the ITC report may not include a complete accounting of those California specialty crops which I am convinced would suffer economically if not exempted from the free-trade area. Specifically I'm concerned about the effect of tariff reductions or eliminations on tomatoes, dehydrated onions, and garlic, fresh-cut roses, artichokes, olives, citrus, and avocados.

TOMATOES

Since Israel currently has a competitive advantage in U.S. markets even with the tariff, I don't see any justification for allowing California tomatoes to be priced further out of the U.S. market. In east coast markets, one case of pizza sauce produced in Israel sells for $12.25—including the current tariff—as compared to $16 per case for California-produced pizza sauce. Since 1978, U.S. imports of tomato products from Israel have increased dramatically—99.3 percent in canned tomatoes, 159.6 percent in tomato sauce and 6,865.1 percent in tomato paste. During this same period, domestic sales have remained static at 7 million tons annually. Of this total, California markets about 6 million tons, far less than the 10 million tons California growers could produce if market conditions warranted. A study of Israel's tomato processing industry indicates that Israel has the potential to expand production and displace 1 out of every 6 tons of tomatoes produced in California; 85 percent of Israel's tomato crop is now marketed in the United States.

DEHYDRATED ONIONS AND GARLIC

The dehydrated onion and garlic industry is a small, highly specialized industry which produces ample supplies for the U.S. market. In fact, the industry has an annual carryover of about 10 percent and claims excess industrial capacity. Although there are virtually no imports by the United States of Israeli-produced dehydrated onions and garlic, a real potential for such imports exists. First, Israel produces twice the amount of onions and garlic it uses and has the capacity to produce a good deal more. Second, Israeli-produced dehydrated onions cost $1.45 per pound, including the present duty. This price would be reduced to $1.19 without the duty. The U.S. product costs between $1.19 and $1.37. Thus, without the duty now in place, the Israeli product could undersell the domestic product. Should it become profitable for Israel to export dehydrated onions and garlic to the United States, domestic producers are concerned that

Israel's processing facilities would also be used to reprocess Egypt's presently low-quality dehydrated products for export to the United States.

FRESH-CUT ROSES

This is another situation where Israel currently can undersell the U.S. commodity and where Israel does not need the additional advantage of a free-trade zone. California is the top rose-producing State in the country. Israel, on the other hand, is a principal source of fresh-cut roses imported by the United States. In 1983, foreign roses captured 25 percent of the domestic market, up from just 8 percent in 1980. This increase occurred despite the 8-percent tariff on all imported roses and the additional 22.5-percent ad valorem countervailing duty which is now assessed to offset the net benefit of subsidies to rose growers in Israel. Upon arrival in the United States, Israeli-grown roses sell for about 14 cents a bloom, including the 22.5-percent ad valorem countervailing duty rate and the 8-percent tariff. The comparable price for California roses is about 40 cents to 44 cents per bloom.

ARTICHOKES

Ninety percent of all artichokes grown in the United States are produced within a 15-mile radius of Castroville, CA, a community of 4,500 people. Castroville is also the location of the three fresh artichoke packing plants and the sole processing plant remaining in the United States. There were six processing plants operating in 1960 but foreign competition helped cause the bankruptcy of the other five. Israel's production though has not been a factor in the domestic marketing of the California crop—Israel has only about 300 acres compared to California's 11,400 acres. Domestic growers and the processor nonetheless are concerned that free trade status will lead to Israel's becoming a clearinghouse for artichokes grown in other countries. Spain, France, and Italy all have artichoke acreage far in excess of California's. Right now only Spain competes in the U.S. market—selling processed artichokes for between $1 and $1.50 less per case than the same California product. France and Italy could also compete if able to market through a duty-free trade area in Israel. Israel's insignificant artichoke production can hardly justify the creation of a free-trade zone in artichokes which could open the door to European artichokes forcing California artichoke growers out of business.

OLIVES

Here again, Israel currently has a competitive edge over the U.S. product and does not need to have the tariff lifted. Olive production in the United States is unique to California. Due to surpluses and foreign competition, however, acreage has decreased from 40,000 to 32,000 acres—down 20 percent from 1980. Despite the current tariffs on imported olives, California growers and processors cannot now compete in east coast or midwest markets. Instead, the U.S. market for domestic olives is confined to the West. In addition, the domestic industry's surplus amounts to about 25 percent of its annual sales or 20,000 tons. Given the forecasted 1984 crop, olive growers and processors may face 1985 with over 1 year's supply of olives on hand—perhaps indicative of the fact that olive consumption in the United States is lower now than it was 5 years ago. Clearly the trend is unfavorable to the California olive industry. I can't see that any purpose is served by giving Israeli olives any additional advantage over the California crop.

CITRUS

Preferential trade agreements on citrus imports between the European Economic Community and Israel as well as other Mediterranean countries have already cost our domestic industry considerable reductions in lost EC sales. EC imports of fresh oranges and lemons from the United States have decreased by over 30 percent since the introduction of the preference schemes in 1969 and 1970. Losses are largely attributable to the EC-tariff preference enjoyed by Israel, one of the leading Mediterranean citrus suppliers to the Community. These preferential-trade arrangements are the subject of the oldest outstanding U.S. trade complaint under section 301 of the Trade Act of 1974, as amended, and the predecessor section, section 252.

The case has been pending for more than 14 years and is now being prosecuted under the dispute settlement provisions of the General Agreement on Tariffs and Trade [GATT]. To now grant duty-free status to Israeli citrus which benefits from discriminatory preferential-trading agreements would undercut the ongoing U.S. efforts in the pending GATT case. Such action would grant a trade benefit in our domestic market to a citrus industry which has caused economic losses to our own citrus industry.

AVOCADOS

U.S. production of avocados has grown enormously in the past 10 years—from 147 million pounds in 1973–74 to 500 million pounds in 1983–84. Add to this domestic production the 3 million pounds of avocados that the Dominican Republic ships into this country annually, and the vast number of avocados that must be marketed principally in the United States becomes apparent. California producers, for instance, cannot compete with Israeli avocados in the European Economic Community and point to the estimated 75-percent ad valorum value at which Israeli production is subsidized as the critical advantage in the delivered price of Israeli avocados. The entire export market for California avocados is less than 5 percent of volume or below unless Israel suffers a complete crop failure. Hence, California producers remain heavily dependent upon the domestic market. Largely as a result of the tremendous domestic supply, the California avocado industry, with 8,500 growers, has not received a profitable return in nearly 5 years. Prices to growers again this season are to be about 15 cents below the level which would return a 15-percent profit. Eliminating Israel from the present 6 cents per pound duty on imported avocados simply would aggravate California avocado growers continuing losses, likely forcing out of business a number of farmers and workers dependent upon avocado production for their livelihood.

I intend to continue my efforts to see that each of these California commodities—especially those which may not be included in the ITC report—is exempted from tariff reductions or eliminations.

Mr. CHAFEE. Mr. President, title IV of H.R. 3398 contains authority for the negotiation of a free trade area with Israel. This authority is timely and quite appropriate for United States-Israel trade. Right now almost 90 percent of goods from Israel enter the United States duty free either because of zero-duty rates or because of the generalized system of preferences. So Israel already enjoys substantial duty free access for its exports into our market.

Despite the healthy trade surplus the United States enjoys with Israel, 40 percent of our exports to Israel are subject to tariffs of 10 percent or more. So a mutual elimination of duties would be a great benefit to U.S. exporters.

I support this grant of authority to negotiate a free trade area. Israel lacks access to its natural markets in the Middle East. A free trade area with the United States, Israel's single largest trading partner, would help assure a market for Israeli exports.

My concern about the free trade area had to do with its impact on the jewelry industry in Rhode Island. But I am assured that the condition of the jewelry industry, and perhaps others identified by the ITC as sensitive, will be taken into careful consideration during these negotiations.

The U.S. Trade Representative has the flexibility to shield very sensitive items from severe market disruption. Those who have concerns about specific industries need not therefore resort to specific exemptions—protection—in the legislation in order to support it.

The International Trade Commission completed its study of the trade impact of the free trade area in May and concluded that a number of prod-

ucts are very sensitive and would be subject to serious market disruption if immediately included in the free trade area with Israel. I believe gold chain was one such item included in the ITC's findings. With this knowledge, the administration can consider various alternatives for phasing in duty free treatment for those sensitive products. I would venture to say that the Government of Israel has some sensitive items also which it will want to phase in over the long term. My support of this negotiating authority is therefore unconditional.

I believe in free trade and I support the negotiation of a free trade agreement with Israel. But as in any such trade negotiation, there are products reserved for special consideration by both parties. I trust that the U.S. Trade Representative in the course of these negotiations will continue to give full recognition to the ITC's findings on gold chain.

Mr. GRASSLEY. Mr. President, at a time when many countries have adopted protectionist policies, it is rare to find a nation that is willing to open its doors to free trade. As we face a burgeoning trade deficit, it is important to seek means of increasing opportunities for U.S. exports.

Although 90 percent of Israeli exports to this country already enter duty-free either because of zero-duty rates or because of the generalized system of preference [GSP], the United States consistently enjoys a trade surplus with Israel, even excluding military shipments. The 1983 surplus was about $465 million out of $3 billion in total trade.

The U.S. exports six times more in agricultural products to Israel than Israel exports to the United States; 70 to 80 percent of U.S. agricultural exports to Israel are in grains: wheat; corn; and sorghum. During a trip to Israel in February, Agricultural Secretary John Block expressed support for this bill and noted that it provides a possibility for increased U.S. grain sales to Israel. The elimination of Israeli duties is sure to result in increased sales for U.S. manufacturers exporting to Israel as well. Another side benefit that I see with this proposal is that it is critical to the viability of the Israeli economy, burdened as it is by the enormous defense requirements; the proposed free-trade area would provide essential opportunities for economic growth that will lessen Israel's need for aid.

We should take advantage of the close relations with Israel and take this opportunity to increase our trade and tighten the close bonds which exist between our two nations. An economically strong Israel is better able to defend itself and thus protect both its own and U.S. interests.

The free trade area with Israel would advance the economic and political goals of both of our countries. It is for that reason that I am pleased to offer my support for the legislation, ask that this body vote favorably upon its consideration, and ask that I be listed as a cosponsor.

Mr. INOUYE. Mr. President, I rise to speak in support of the services provisions of H.R. 3398. In a year in which we are saddled with a huge trade deficit, I think that it is appropriate for the Senate to pass legislation which will enhance the competitiveness of the U.S. service industries.

Mr. President, the service sector is usually overlooked whenever analyses of the American economy are made. In a large part, this indifference is due to the heterogeneous nature of this sector and the public's lack of understanding of how dramatically the U.S. economy has changed within the last few decades. Services now account for fully two-thirds of the GNP and according to the Department of Commerce statistics, 7 out of 10 working Americans are now employed in service industries.

In addition to its crucial significance to our domestic economy, services are a significant component in our international trade. Over the last several years, the service industries have consistently produced a services trade surplus, often offsetting our large and growing merchandise trade deficit. Recently, however, our services trade surplus had diminished. Since 1981 our services trade surplus has shrunk by 25 percent, from an estimated $39 billion in 1981 to an estimated $30 billion last year.

There are many reasons for this decline. At the heart of the matter, however, lie two converging trends. First, increasing foreign competition in services trade is rapidly reducing U.S. market shares. According to the U.S. Trade Representative's office the U.S. share of world trade in services shrank from 25 percent in 1972 to 20 percent in 1981. Increasingly, U.S. service exporters face keen competition in the fields we have traditionally dominated such as telecommunications, finance, construction, engineering, and transportation. The second trend contributing to the decline in our service trade surplus consists of growing foreign protectionism against U.S. services exports. Today increasing numbers of nations seek to protect their emerging service sectors from foreign competition through a myriad of nontariff barriers. Unfortunately, U.S. service firms have little recourse under existing trade law to overcome or reduce these barriers to international trade in services.

I think it is important to point out that a vigorous service sector stimulates a demand for U.S. products and vice versa. There is a natural linkage between tangible production and intangible activities. An American engineering firm working on a project in Saudi Arabia, for example, is likely to order the heavy equipment and supplies it needs from U.S. manufacturers. Thus, one should not ignore the close relationship that exists between the manufacturing sector and the service sector, and the distinctions between the two should not lead us into formulating economic policy in a vacuum without thinking through the ramifications of such policies on other parts of our economy.

Services are for the majority of Americans, including policymakers, still not thought of in terms of advance technology-intensive industries, which many of them are, but rather in terms of labor-intensive and often menial tasks. The sector includes widely divergent industries, ranging from the most technologically progressive industries such as data processing and computer services to more mundane personal services.

The term is generally defined as "invisibles," or industries which do not produce tangible manufactured or processed goods. Much of the concern about the growth of a service-dominated economy has derived from the public's outmoded concept of services as being low-paid industries rather than the modern high-technology services such as communications, insurance, transportation, and banking. Such services are the sinews and nerves of commerce and trade. It is inconceivable, for example, to think of commerce without transportation or telecommunications.

Moreover, these modern service industries are, by their nature, international in their capability and orientation. Satellites connect New York and London just as easily as New York and San Francisco. Vast amounts of capital can be transferred between branches of international banks in a matter of minutes. Tourism, involving transportation, hotels, and finance, is the world's second largest international industry. There is, in short, rarely a neat dichotomy between purely international and domestic service activities.

The absence and comprehensive U.S. Government strategies toward the service sector is seen and felt most acutely in the international trade area. The disastrous attention to international competition which has led to the crippling of many of our manufacturing industries must not be allowed to dissipate our lead in the services trade.

We need an integrated set of national policies toward the service industries which recognizes their economic significance and also actively promotes domestically based service firms and, through them the national welfare. We need a clear set of priorities which accords services the attention they merit. One can be certain that other

industrial countries give their service firms far greater support than does our Government.

In many countries, for example, U.S. insurance firms are prevented from establishing affiliates capable of competing against national companies, or their competitiveness is reduced by other measures such as capital or personnel controls. American banks, transportation companies, and telecommunications firms are also victims of investment and trade curbs in many countries. The barriers to the export of U.S. services and the spread of U.S. investments are multitudinous.

The legislation we are debating takes an important step in the direction of insuring open markets for services trade. The bill charges the President with placing a high priority on, and developing a work program for, negotiations to reduce services trade barriers. In addition, the legislation would clarify and expand the coverage of U.S. trade law to deal more effectively with trade in services problems by ensuring that the President can take action to remedy services trade problems under section 301 of the Trade Act.

The legislation would establish a service sector development program, providing for much-needed collection and analysis of domestic and international services information. Although the United States has undertaken efforts to understand further the role of services in the international economy, more work remains to be done to understand, quantify, and take into account services' full impact on trade and national accounts.

I believe this legislation is crucial in our efforts to expand our export performance in the services sector. It is time we stopped treating services as an afterthought and begin to consider what international rules would best promote free trade in the ever growing service sector.

I would also like to express my support for the high technology tariff negotiating authorization contained in title III, section 308 of the bill.

This section gives the President new authority to negotiate mutual reductions or suspension of tariffs on certain high technology products—semiconductors and parts of computers.

This authority will confirm an agreement that has already been reached with Japan to suspend United States and Japanese tariffs on semiconductors, and is a vital step that must be taken if we are to maintain a competitive international position in electronics and other high technology industries. Due to its status as a fragile, newly emerging industry, other nations, particularly Japan, have protected their high technology endeavors. The United States must promptly respond to such protectionism by negotiating its elimination. We must send a clear signal to Japan that we are committed to obtaining mutual tariff reductions in the high technology industry. The Japanese Cabinet has already issued a directive to its customs service to admit U.S. semiconductors free of duty as soon as the United States has taken reciprocal action. We must do our part in this process by enacting the appropriate legislative authority which is contained in H.R. 3398.

Mr. EXON. Mr. President, I am pleased that the Finance Committee included the substance of S. 2428, a bill affecting the tariff classification of tapered tubes and pipes of steel primarily used in lampposts. This legislation will reduce the risk of future costly litigation regarding the classification of imported lampposts.

This legislation affects over 600 Nebraska workers.

Mr. President, for the purpose of establishing a clear legislative history, I ask unanimous consent that a letter dated September 18, 1984, addressed to me from Robert P. Schaffer, Assistant Commissioner, Department of the Treasury, U.S. Customs Service, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, September 18, 1984.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: Thank you for your letter of August 27, 1984, concerning the revised version of S. 2428 which will be considered by the full Senate as part of the Omnibus Miscellaneous Tariffs bill.

The revised language in S. 2428 for proposed tariff item 653.43 would provide for tapered steel pipes or tubes that are chiefly used as parts of illuminating articles. This language would include supports that are tapered steel pipes or tubes.

"Chief use" is statutorily defined in General Interpretative Rule 19(e)(i), Tariff Schedules of the United States (19 U.S.C. 1202), as that use which exceeds all other uses (if any) combined. Use is determined by the use in the United States, at or immediately prior to the date of importation, of articles of that class or kind to which the imported articles belong.

If we can provide further assistance, please do not hesitate to call us.

Sincerely,

ROBERT P. SCHAFFER,
Assistant Commissioner
(Commercial Operations).

Mr. EXON. Mr. President, I thank the chair and the managers of the bill for their assistance on this matter.

Mr. President, as we consider this major piece of trade legislation, it is important to note that yesterday the dollar made its largest single-day advance in recent years. The dollar hit an 11½-year high against the West German mark, a new high against the French franc, a new high against the British pound and a 7-year high against the Swiss franc.

In the last 2 weeks along, the U.S. dollar has appreciated an incredible 6.7 percent against the mark and 5.8 percent against the British pound.

While the President labels the strength of the dollar as the "American miracle" and the Secretary of the Treasury is untroubled by the hypervalued dollar, I must express my grave concern.

This year the American balance-of-trade will be a record $130 billion in deficit. America's standing in the international marketplace cannot improve until the value of the dollar returns to traditional levels.

U.S. exporters especially American farmers are daily seeing foreign markets close due to the high-valued dollar.

The current state of affairs in America is a direct result of the irresponsible budgetary practices of the last few years. Some would have the American public believe that the deficit-financed recovery comes at no price. The price of the uneven recovery is high interest rates, high values of the dollar and the loss of international competitiveness.

When the Senate completes its work on this legislation, many will proclaim the benefits this bill will have on America's international trade position. I submit that all of the tariff bills in the world will not significantly affect our Nation's trade balance until we forthrightly address the budget issue. The trade balance figures signal a warning that must be heeded.

Massive Federal borrowing increases the demand for credit: Thereby increasing nominal and real interest rates. High real interest rates act as a magnet for foreign investment which in turn increases the value of the dollar. Low domestic savings create a dependence on foreign investment and the need for attractive interest rates. High interest rates place additional demands on the budget. This seamless web must be torn down.

International tariff schedules pale in comparison to the unmentioned tax imposed on American exports by an over-valued dollar which has increased over 50 percent in the last 3 years. Similarly, the hyper-valued dollar subsidizes foreign products sold in the United States.

The loss of foreign markets and the flow of imports creates the demand for reactionary policy rather than long-term strategies. A mood of protectionism is beginning to take hold across America. This week, we have heard the cries of the textile, auto, steel, and footwear industries.

Unwilling to address the root problem in a manner that will help all sectors of the economy, the administration has made several short-sighted, politically expedient actions. Most

recent was the administration's actions on behalf of the textile industry when it radically altered the country of origin regulations. Instead of taking broad-based actions to address the problems of the textile industry, and there are serious problems facing the domestic textile industry, the President reponded to calls to do something. In the process, the administration injured American retailers facing the crucial holiday season and placed at risk the American farmers' most promising hopes for new markets in China.

For the record, I would like to again call on the President to reconsider his actions. Prior to the implementation of the interim country of origin regulations, I joined with the junior Senator from Kansas and several farm State Senators in an appeal to the President to delay implementation of the new regulations until after the first of the year. Then, the full economic impact could be evaluated. At this time, I ask unanimous consent that the attached two letters be incorporated into the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 10, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: we are deeply concerned over the potential impact of proposed U.S. Customs Service modifications to its current regulations governing the importation of textiles and textile products. These proposed modifications, as outlined in the August 3, 1984, Federal Register, could potentially cause major problems for retailers, importers, and consumers and could further jeopardize U.S. agricultural and forest product exports to the Far East for years to come.

We can ill afford another interruption of our agricultural exports to the Far East, in particular the People's Republic of China, as occurred last year due to the controversy over textile and apparel imports. The subsequent halt in Chinese purchases of U.S. wheat alone due to that controversy resulted in a loss in export earnings of over $500 million. We feel that the potential loss in export revenues as a result of the proposed customs changes could be even greater than our losses in 1983 due to the fact that more countries will be affected by this action.

The Asian markets present perhaps the most promising opportunity for the United States to expand its exports of both raw and value-added agricultural and forestry products in the world. We have seen an amazing growth in demand for our products over the past several years, and we are committed to working for continued growth in these markets as we know your administration is. However, if we expect to realize this growth, we must demonstrate to our trading partners our willingness to maintain pragmatic trade relations. The proposed customs regulation changes, which are set to go into effect on September 7, will clearly transmit a less-than-pragmatic approach to our trading partners.

World trade, and in particular world agricultural trade, is at present an extremely competitive business and one in which the protectionist trade practices of some of our competitors inhibit our ability to compete. We feel that if this administration does not stand firm now in resisting protectionist pressure from within the United States, we may be in for a long and devastating period of international trade disruption. The U.S. economy, and in particular our strong agricultural export industry, would stand to be big losers during such a period.

We strongly urge you to change the effective date of these interim regulations to January 1, 1985, so that ample time may be allowed for affected parties to comment on the changes. We also call on you to take the necessary measures needed to allow for the formulation of a regulatory impact analysis which we hope would pay particular attention to the effect these regulations would have on U.S. agricultural and forest product exports to affected countries.

We hope that you share our concern over the urgency of this matter and that you will see fit to act upon our above-stated request as soon as possible.

Sincerely,

Senators David L. Boren, J. James Exon, Rudy Boschwitz, Edward Zorinsky, Dave Durenberger, Mark Andrews, Larry Pressler, John H. Chafee, Nancy Landon Kassebaum, Steven D. Symms, William L. Armstrong, Don Nickles, John Tower, Mark Hatfield, Quentin Burdick, Pete Wilson.

U.S. SENATE,
Washington, DC, August 28, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing once again to urge you to take steps to delay, in all respects, the effective date of regulations proposed by the U.S. Customs Service which govern the importation of textiles and textile products into the United States. As we noted in our earlier letter, the modifications proposed by the Customs Service would have a profound impact on U.S. agricultural and forest product exports to the Far East for years to come.

On Thursday, August 23, it was announced that the effective date for a minor portion of the proposed regulations would be delayed until October 31, 1984. However, the effective date for the remainder of the regulations, including the most important provision dealing with the "country of origin" of textile products, was maintained. Unless additional action is taken before September 7, new and unduly restrictive textile import rules will be implemented.

We are certain you understand the impact of these rules on all aspects of American international trade. Retaliation is a probability, not merely a possibility. Recent history provides ample evidence that our trading partners will not idly stand by as we attempt to limit their access to American markets. Recent history also shows that the disproportionate impact of any retaliation will fall on the U.S. agricultural industry, aggravating already severe economic problems throughout America's heartland.

Any action short of a comprehensive delay of the effective date of these regulations will not prove acceptable to American farmers, retailers, or consumers. These regulations dramatically change the United States' rules for textile imports. Indeed, upcoming meetings of the Textile Committee of the General Agreement on Tariffs and Trade will indicate worldwide concern about this unilateral action. We hope you will agree that a postponement of the effective date and a thorough review of the implications of these regulations are necessary. The interests of many industries are at stake. It would be extremely unfortunate if we were to sacrifice once again America's potential agricultural export markets for short-term domestic gains.

If you would deem it helpful, we would welcome the opportunity to discuss this matter with you. Your consideration of this matter is appreciated.

Warmest regards,

Senators David L. Boren, John H. Chafee, Charles H. Percy, Don Nickles, Steven D. Symms, John Melcher, Quentin N. Burdick, Dave Durenberger, Nancy Landon Kassebaum, Mark O. Hatfield, Mark Andrews, William L. Armstrong, Roger W. Jepsen, Rudy Boschwitz, J. James Exon.

Mr. EXON. Mr. President, an incredible challenge faces Americans in the next several years. We talk about new markets for agriculture, high technology and manufactured goods, but thus far, we have refused to reduce our own self-imposed barrier to U.S. trade—the string of $200 billion budget deficits. We have also refused to take a comprehensive view of our trade objectives. The problems of domestic steel, textiles, footwear, and auto industries are real and must be addressed. However, they must be addressed in a comprehensive rational manner. We cannot continue to take last ditch actions which trade the health of one sector of the economy for another.

I hope that my colleagues will read today's news of historically high exchange rates for the U.S. dollar and reflect on the soundness of our Nation's policies of spend and spend, borrow and borrow. It seems to me, that the first step to lower interest rates, a healthy domestic economy and increasing export markets lies in courageously attacking the budget deficits. Freed of that shackle, we can better evaluate the special problems facing import and export sensitive industries.

At this time, Mr. President, I ask unanimous consent that the following excellent article, "Trade Deficit Punishes Farm Economy," by Susan Futterman of the Omaha World-Herald be entered into the RECORD. Ms. Futterman outlines the importance of world trade issues to agriculture and nicely addresses the intricacies of international economics.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRADE DEFICIT PUNISHES FARM ECONOMY

(By Susan Futterman)

U.S. exports totaled $125.7 billion in the first seven months of 1984, a 5.5 percent increase from the comparable period last year.

That sounds like good news. But in the same period, imports rose 33 percent, from

$149.6 billion through July 1983 to $199.6 billion in 1984.

The nation's merchandise trade deficit—the gap between import dollars flowing out of the country and export dollars coming in—reached $73 billion in the first seven months of the year. That number may surge to a record $130 billion by the end of the year, according to U.S. Department of Commerce estimates.

"The reason there is a foreign trade deficit is because of the ($200 billion) federal deficit," said Dennis R. Starleaf a professor of economics at Iowa State University. "To cover this deficit it (the government) has to borrow funds, and it is borrowing a lot of those funds abroad. When you are a net borrower, abroad, you must import more than you export.

BORROWING ABROAD

"Because we are borrowing so heavily abroad within approximately one year, we will be a net debtor nation for the first time since before World War I," he said.

To meet the continuing demand for credit by consumers, business and the federal government, interest rates must remain high enough to draw foreign investors into U.S. markets.

"Argiculture, particularly Midwestern agriculture, is being hurt," Starleaf said. "Midwest agriculture is primarily export oriented. Any industry that relies upon foreign markets is being impacted."

Every year since 1976 foreign manufacturers have sold an average of $25 billion more merchandise in U.S. markets than Americans have sold abroad.

In four of the eight years since 1976, the merchandise trade deficit (the excess of imports over exports of steel, textiles, machinery, agricultural products and other goods) was largely offset by money returning to the United States from American investments abroad and from the sale of services such as engineering and architecture.

Since 1981, however, the current account balance, which measures both goods and services, has been in the red.

Last year's merchandise trade deficit was a record $60.6 billion, nearly twice the size of any deficit the United States has experienced since World War I. It also was more than double the $28.5 billion received in income from investment and services. But it is less than half of the deficit the Commerce Department forecasts for 1984.

STRONG DOLLAR HURTS

The dollar, which continues to set new highs, is buoyed by the federal budget deficit, said Richard Gady, vice president of commodity research for ConAgra, an agricultural commodities company.

"The high budget deficit helps cause high interest rates, which cause foreigners to be more willing to hold their dollars in the United States," Gady said. "That makes our dollars strong, which hurts our exports."

The dollar's high value increases the prices of U.S. products abroad. It also means U.S. buyers can buy imported products for fewer dollars than they can purchase comparable American goods.

The recovering international economy should reduce the U.S. trade deficit—or at least keep it from widening—by increasing demand for American products abroad and by strengthening foreign currencies in relation to the dollar, Gady said.

For 1984, the Commerce Department estimates total U.S. agricultural exports at $38.5 billion, up from $36.5 billion last year, said David C. Lund, senior research economist for the Commerce Department.

"We would expect a more sustained pickup for the rest of the year," he said.

Grain exports were lower this year than they might have been in part because the Department of Agriculture's payment-in-kind program resulted in less grain available for export, Gady said.

"The outlook is for exports to pick up again, almost entirely because of a higher level of Russian purchases of U.S. grain," he said.

Gady puts the figure for total agricultural exports in 1984 "a little higher" than the Commerce Department's $38.5 billion.

"A lot of the increase is due to Russian buying, part due to poor crops in Canada, and some to recovery in the overall world economy," he said.

EMBARGO EFFECTS LINGER

"Even though our Russian exports will be up sharply, we still won't have more than a third of their total market, compared to 70 to 75 percent prior to the (1979-1980) embargo. In 1982-1983, we had 20 percent of the Russian market.

The Russian embargo has caused them to be unwilling to ever rely on us for the majority of their grain imports."

Loss of market share is an increasingly serious problem for American exports, Gady said.

"Over the last three years we have lost about 10 percent of the world grain market. Much of the gain has gone to the European (Economic) Community, which subsidizes their prices heavily to undercut the United States."

The United States tried a similar subsidy program only once, he said.

"We exported 1 million tons of flour to Egypt and subsidized it because that was a market that the EEC had taken away from us. It was a signal to them that we may have had enough of losing markets to their higher-cost products.

"It might have had some impact," he said, "but we haven't followed through on it. There really hasn't been much willingness to go head to head with the EEC to get back market share."

Although wholesale subsidies are probably counterproductive, Gady said, "They can be effective if used selectively at target markets that have been taken away from us."

Agriculture is not the only industry plagued by import-export problems. The American Iron and Steel Institute reported that imports accounted for 33 percent of the American market in July, the same month that the trade deficit reached a record monthly high of $14.1 billion.

Steel imports in July were 88 percent higher than in July 1983, when they totaled 1.4 million tons. So far this year, 76 percent more steel has been imported than in the first seven months of 1983, when 8.6 million tons of steel were shipped to the United States.

Rising imports recently prompted the International Trade Commission, an independent federal agency, to propose a series of quotas and tariffs on imported steel products. President Reagan is required by law to accept or reject the proposal by Sept. 24. He decided against similar restrictions on copper imports Thursday.

TARIFFS PRODUCE RETALIATION

Trade restrictions, designed to protect American industries from foreign imports, "would be completely ineffective and a disaster for agriculture," Gady said.

"Agriculture is one of our major sources for exports, one of the few that generates a surplus balance of trade (internally). If we put limits on imports from other countries, they would most likely retaliate by reducing exports from us, which would fall most heavily on the farm sectors," he said.

A recent study prepared for the Council on U.S. International Trade Policy, a nonpartisan research group, indicates that tariffs and quotas have even more far-reaching implications.

The study notes that 30 to 40 percent of the exports of non-oil developing nations have been subjected to import restraints. Without export growth, the study concluded, those countries will be unable to earn enough through foreign trade to service their international loans, hurting American lenders as well as U.S. businesses with markets in developing countries.

U.S. exports to Brazil and Mexico, the two largest debtor nations, have dropped almost 50 percent since 1981, representing 30 percent of the total decline in American exports during this period. Both countries restricted imports because of diminishing foreign trade.

The study estimates that the lost exports to Brazil and Mexico have cost the United States about 250,000 jobs.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 4275

(Purpose: To reinstate the duty on tetraamino biphenyl if it is introduced in the United States)

Mr. BAKER. Mr. President, I have consulted with the minority leader, and the distinguished chairman of the Judiciary Committee on this matter. I send to the desk an amendment on behalf of the distinguished senior Senator from Virginia [Mr. WARNER], and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. WARNER, proposes an amendment numbered 4275.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be disposed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22 of the matter proposed to be inserted, line 12, strike out "Subpart B" and insert in lieu thereof "(a) Subpart B".

On page 22 of such matter, in the matter after line 13, strike out "12/31/88" and insert in lieu thereof "the termination date".

On page 22 of such matter, at the end of the page, add the following:

(b) The headnotes to subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"7. For purposes of item 907.32, the term 'termination date' means the earlier of—

"(i) December 31, 1988, or

"(ii) the date that is 15 days after the date on which the Secretary of the Treasury publishes in the Federal Register notice of the production of tetraamino biphenyl in the United States".

Written statement by any person declaring that such person is producing tetra-

amino biphenyl in the United States, the Secretary of the Treasury shall publish within 30 days in the Federal Register notice of such production and termination of the suspension of duty under item 907.32.

Mr. WARNER. Mr. President, the amendment I offer today would provide for the reimposition of the tariff rescinded in section 182 of the committee substitute amendment prior to 1988 if a domestic producer of tetra-amino-biphenyl [TAB] were to come online.

At the present time there is no domestic producer of the chemical intermediary.

However, there are interests which hope to produce TAB if a more stable trade and commercial environment can be achieved.

This amendment would allow for that stability.

Mr. President, at the present time TAB is imported from West Germany by the Celanese Corp., to produce PBI, a fire retardant material used in the manufacture of firemen's coats and other fabrics used for heat protection purposes.

Celanese Corp., has successfully sought, until 1988, relief from a 13.5-percent tariff levied on TAB.

This move has produced significant concern on the part of du Pont, a major competitor of Celanese, because of what they perceive as the inequity of tariffs imposed by West Germany on products imported from the United States, and because of the effect this tariff relief would have on the price of Celanese products which compete with products from du Pont.

Further, du Pont feels that it is unfair for Celanese to receive tariff relief for importing chemical intermediaries while du Pont has invested millions of dollars to produce their own chemical intermediaries in the United States.

The amendment I offer today is both fair and equitable to the extent that it enables Celanese to obtain its long-sought tariff relief while providing domestic chemical manufacturers a certain incentive to produce TAB in the United States.

I urge its adoption.

In addition, Mr. President, I am today writing to Secretary Shultz, Secretary Regan, Secretary Baldrige, and U.S. Special Trade Representative Brock requesting that, in light of the Senate's action affecting the tariff on TAB, every effort be made to negotiate a more equitable tariff on chemical products imported to West Germany from the United States.

Mr. THURMOND. Mr. President, let me state that I share the concerns of the distinguished Senator from Virginia in this matter.

I, too, would like to see a domestic producer of the chemical TAB.

However, it is not economically feasible for any domestic manufacturer to produce this chemical at this time, and it does not appear that a domestic supplier will be available in the near future.

For this reason, I feel that it is extremely important that the users of TAB in the United States have an adequate, high quality supply of this chemical.

I would also like to emphasize that this duty suspension is temporary and will expire on December 31, 1988.

While I do not oppose the concept of this amendment, I do feel that it may be unnecessary at this time.

In fact, I would be pleased to pledge to the senior Senator from Virginia that I would strongly support a legislative measure to reinstate the duty on TAB if an adequate, high-quality domestic supply of that chemical should be made available at a competitive price.

For these reasons, I would hope that the distinguished Senator from Virginia would reconsider pressing this amendment with a full assurance from me that I will support legislation to reinstate a duty on TAB if a domestic producer should begin to manufacture this chemical.

Mr. WARNER. Mr. President, I appreciate the expression of concern on the part of the distinguished Senator from South Carolina.

Indeed, our trade policies should encourage domestic production while, at the same time, not promote unnecessary trade barriers.

The amendment I offer is an amendment to language supported by the Senator from South Carolina, and I understand both his interest and concern in the language I have proposed.

What the Senator has suggested is in keeping with the intent and letter of my amendment, and with the Senator's full commitment to monitoring this situation with me, I have no difficulty accepting his suggestion.

We must strive to maintain a stable environment in which our industries may operate.

By imposing, rescinding and reimposing tariffs without any apparent change in commercial conditions, it is difficult for industry to plan and operate.

By sending a clear signal as my distinguished colleague has offered, I believe we can achieve basically the same objectives my amendment seeks to obtain.

With those assurances, Mr. President, I ask that my amendment be withdrawn.

Mr. THURMOND. Mr. President, I am grateful to the distinguished Senator from Virginia for his understanding in this matter, and I look forward to working with him in the future if a domestic source of TAB should be made available.

Mr. BAKER. Mr. President, the amendment having been explained by the statement of the distinguished Senator from Virginia [Mr. WARNER], and having elaborated that with the colloquy of the distinguished chairman of the committee, on behalf of Senator WARNER, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

Mr. BAKER. I thank the Chair.

TELEVISION AND RADIO COVERAGE OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 2 hours of debate on the motion to proceed to the consideration of Senate Resolution 66, as if it were before the Senate, with the time to be equally divided between and controlled by the Senator from Maryland [Mr. MATHIAS] and the Senator from Louisiana [Mr. LONG] or their designees.

The Senate resumed consideration of the motion to proceed to consider the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of proceedings of the Senate.

The PRESIDING OFFICER. Who yields time?

The Senate will be in order.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be counted against either side.

Mr. LONG. Mr. President, reserving the right to object, in view of the fact that the vote is expected at 6 o'clock, I suggest that we count the time equally against both sides.

Mr. MATHIAS. I have no objection.

Mr. BUMPERS. Mr. President, I did not hear that.

Mr. MATHIAS. I asked for a quorum call.

Mr. BUMPERS. I have no objection to a quorum call, but I do not see why.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I am advised by the distinguished chairman of the Finance Committee that there is a possibility of making some significant progress on the trade bill, and he has requested that we might delay for 30 minutes the debate on the motion to take up the matter of TV in the Senate, so that he can continue for that period of time on the trade bill.

So I ask unanimous consent that we go for another 30 minutes on the trade

bill and then, at 4:45, proceed to the debate on the motion to take up TV in the Senate.

Mr. LONG. Mr. President, if the Senator will yield, the request should include the fact that the time will then be reduced to an hour and 15 minutes, to be equally divided between and controlled by the Senator from Maryland [Mr. MATHIAS] and myself.

Mr. BYRD. Mr. President, reserving the right to object, it is my understanding that the President is going to make some decision this afternoon, or is going to announce his decision, in connection with a matter involving steel imports.

So at this point I wish to object on the part of others—and if not others, on my own part—because I would like to know what the President is going to recommend.

The PRESIDING OFFICER. Objection is heard.

Mr. MATHIAS. Mr. President, first, I inquire of the Senator from Louisiana whether he would like to make some remarks at the outset or whether he would like me to go forward. I will be happy to go forward.

Mr. LONG. I suggest that the Senator proceed, and I will follow him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATHIAS. Mr. President, today, as we debate whether or not to televise the proceedings of the U.S. Senate, there is one important fact that we should keep in mind, one fact that I think is vitally important, and that fact is that information about Congress and about the Federal Government is of vital concern to every citizen of the United States of America; and it is not too much to say that not only is it of vital interest to every citizen of the United States, but also, it is of very high level of interest to citizens in almost every other country of the world.

Deliberations on the Senate floor, decisions that are made with respect to legislation,

Information about what is happening in Congress, what is happening in the Federal Government, is of vital concern. The decisions that are made here with respect to legislation, the decisions that are made with respect to regulations of Federal agencies, the oversight of Federal agencies in the implementation of legislation, these are matters that touch every single American. The deliberations and the decisions that are made in this Chamber day after day, from gavel to gavel, week after week, month after month, year after year, touch every aspect of the daily lives of American citizens.

How much of the fruits of this daily labor are we going to be able to retain for our own use and for the benefit of our families? This is the vital question of taxation. How much should the Government take in taxes? How much should be left to be spent as a result of individual and family decisions all over this country? The rate of taxation, the method of taxation—subjects that are decided here in this Chamber touch every family in the country.

The question of whether or not it is going to be hard to find a job or whether it is going to be easy to find a job is a matter which is affected by decisions that are made in the U.S. Senate.

The question of whether or not we are going to be able to go out and realize the American dream of someday owning a rose-covered cottage with a white picket fence around the garden is a question which will be affected by decisions made in the Senate. The question of whether or not the farmers of this country are going to be able to put out a full crop or whether they simply will not be able to borrow the money to get the seed, the fertilizer, and the gasoline is a question that is affected by decisions made here in the U.S. Senate.

The question of whether or not the small businessman can take on an extra employee or add an extra line to his business or extend his shop that is a question affected by decisions made here. Whether or not a young man or young woman is able to go to college will be affected by decisions made here.

Whether or not Social Security will continue to contribute as it has in the past to the retirement years of senior citizens, whether or not medicare and medicaid will be available—these are all questions that are affected by the decisions made in the U.S. Senate.

Whether or not young men and young women who registered for selective service will in fact be inducted is a matter or vital importance to each of them and to every family, and that again is touched by decisions made in the U.S. Senate.

I think we are all aware of the kind of sense of frustration which exists among many Americans who sense that their lives are being shaped by forces that they simply do not understand, that their faith is being forged by influences that they do not perceive. If they go out to buy a car and find out that they cannot afford it because interest rates are too high, they know that something is wrong but they may not be able to quite understand what it is that is wrong. Or if in the county newspaper they see that the farmers of the county are advertising distress sales, page after page, then they know that something is wrong but they may not be able to understand exactly what it is. I think there really is a sense that there are forces at work that to many people seem mysterious and malevolent but which are not fully understood.

When I hear from some of my constituents in Maryland they often express to me their concern about the impersonal forces that are making almost automatic decisions about which they have very little information but they know that these are decisions that will affect their jobs and their business. They know that millions of men and women have their lives not only shaped but sometimes misshaped by these forces. The truth is that the forces that shape the lives of all Americans tend to be the result of decisions, events, and factors that can be understood, can be explained, can be changed on occasion, and I believe that we have some responsibility to help alleviate this state of frustration, this condition of feeling hopeless and nearly helpless in the face of unseen and unknown forces, and one of the ways that we can do it is by making it possible for the average citizen to participate in the proceedings of the U.S. Senate and to understand that if a decision is being made which may adversely affect his life or her life that it is not being done for some exotic reason, that it is not being done for no reason at all, that in fact it has a basis in rationality and if citizens can see the opposing arguments made, the opposing interest advocated, if they can see that both results cannot be achieved and that there has to be a choice between one or the other, then they will be able to understand why it is that these things are happening.

They will be able to understand that what they do here in the Senate day after day is to balance the equities, to make hard choices, and that if we make one choice that helps one group of Americans or if we make another choice that will be beneficial to a different group of Americans, it is impossible in making such choices to equally benefit everyone at the same time but at least they will understand the reasons that these decisions are made.

Now, even though people may not like what they see, even though they may not agree with the decisions that we make, even if they would not have made the same choices themselves, at least they can understand that we were acting in a reasonable way, in a way which reflects the difficulties of the times, or the difficulties of the economy or the difficulties of the international situation. And this certainly is one of our duties. We have a responsibility not only to bring the best of ourselves to this effort but to inform the country of what we do and the reasons for doing it.

And if the modern technology which is now available and which is familiar to almost every citizen of the country will help us to discharge this responsibility, then I say we should employ that technology. The time has come for television in the Senate and the vehicle to make that happen is at hand in Senate Resolution 66 which I hope

we will vote to call up as a result of the rollcall at 6 o'clock this evening.

I do not want to recount in detail all of the things that have happened which bring us to today's consideration of Senate Resolution 66 because such a repetition would be time consuming and I think unnecessary. Every Member of the Senate knows the history of this measure very well. Suffice it to say, that during the last Congress we made studies, we compiled expert testimony, we held hearings, we participated in extensive floor debate; at that time we had before us Senate Resolution 20, which provided for radio and television coverage of debates in the Senate.

Senate Resolution 20 was approved with an amendment that would only become effective upon the approval of another resolution containing regulations and/or rules needed for implementation.

In accordance with the direction of the Senate, we then engaged in still further studies and further hearings to determine how such coverage could be implemented, whether or not there would be any necessity for rules changes, and we came again to the floor of the Senate with the new findings. This was Senate Resolution 436. But, unfortunately, the 97th Congress adjourned sine die without having taken action with respect to Senate Resolution 436.

However, we were not discouraged and in the beginning of the current Congress we picked up where the 97th Congress had finished with the introduction of Senate Resolution 66. Again, we had hearings. We were asked to postpone a markup of the resolution until after the hearings had been held on the Pearson and Ribicoff report. And so the markup was delayed.

The Senate Rules Committee, since 1981, has convened seven times for the purposes of holding hearings on the issue. The committee has received some 50 different statements on the advisability of televising Senate proceedings.

I might say that that included 20 statements that were submitted by 12 Members of the Senate. We have had statements from 12 members of the media, from Members of the other body, from members of the cable TV industry and a number of distinguished citizens who offered their opinions to us.

In 1982, televising the Senate was the pending business of the Senate for 13 days; 21 Senators during that period arose, I think on some 40 occasions, to debate the merits of opening the proceedings to a wider audience. And other Senators have given their views to the Rules Committee in the interim.

So this is an idea that has been discussed, the implications have been weighed, the issues are known, and we now have Senate Resolution 60 before us.

We will not please everyone with this resolution, but we have made a sincere and genuine effort to accommodate the opposing views that have been expressed in the prior proceedings. After such a long and protracted study of this subject, we think it is now time to act. We have studied and taken testimony and talked about it long enough. The decision we are to make involves a fundamental right, the right of citizens to know what their Government is doing—what one of the most important elements of the U.S. Government is doing. Citizens want to know not only what the Government is doing, they want to know how it is being done. I think these are citizens to whom we owe a vote in favor of the motion which is now pending in the Senate.

I know that in the next hour someone will, without doubt, hold up the CONGRESSIONAL RECORD and say, "You do not need to televise the proceedings of the Senate; all you have to do is read the CONGRESSIONAL RECORD."

Well, there might have been a time when that was an adequate statement. There might have been a time when reading the CONGRESSIONAL RECORD would have told you what was happending in the Senate. At that time, a year's subscription to the CONGRESSIONAL RECORD would have cost you $2.50, too, a sum which was within the reach of most citizens—$2.50 for a year's subscription.

However, if Senators will consult the copy of the CONGRESSIONAL RECORD which is presently on their desks, they will find that you can no longer obtain a year's subscription of the RECORD for $2.50. It now costs over $200 a year. It costs a $1 per issue. And that is pricing out a number of citizens.

In addition to excluding citizens from knowledge about the proceedings of the Senate on economic grounds, I think there is a historical and factual question which arises. The RECORD does not always reflect what happened in the Senate. Additional statements are included, statements actually made are deleted, and so we do not have in any place a historical and accurate record of what occurred in the Senate.

This is a disservice not only to the citizens of our own generation, but it is a disservice to the future. Mr. President, that is a disservice that we can remedy today by voting to approve the motion and by adopting Senate Resolution 66.

I reserve the remainder of my time.

Mr. LONG. Mr. President, today we are again discussing the question of television in the U.S. Senate. This issue was last considered by the Senate in April 1982 when the Senate approved Senate Resolution 20. This resolution authorized television and radio coverage for the action in the Senate Chamber subject to the approval of the Senate by a separate resolution outlining the regulations which would govern the television and/or the radio coverage that would be appropriate in that situation.

Keep in mind, Mr. President, that resolution was adopted in a previous Congress. But it was clearly contemplated that if we are to have television in the Senate we should consider the changes that would be necessary in order to assure fairness, in order to preserve the traditions of the Senate, in order to accommodate the problems and pitfalls that one could anticipate in the event that we made that decision.

We have such a proposal before us here, Mr. President, and the motion is to proceed to it. I regret to say that there is nothing in the measure or the committee report to suggest what changes in our procedure or in our way of doing business would be indicated in the event that this body should decide that the debates here should be telecast live to the people of the United States.

The committee report indicates that after some consideration it was concluded that no change of the Senate rules or the Senate precedents would be indicated to handle the problem. Now that is clearly contrary to what the Senate had in mind. Those who insisted that this provision about the changes in the rules or precedents and whatever additional measures might be necessary clearly had in mind that they felt that there would be a need to change certain aspects of the Senate to conform to the problems that would be created.

There are some of them that occur to the Senator from Louisiana just off the top of my head. Surely those able Senators serving on the Rules Committee must have thought of some of them even if they thought of them only to conclude that nothing should be done about it. But nothing of that sort has been made available to me to indicate that we have before us even a suggestion by the majority on the Rules Committee as to how the TV coverage might suggest a different approach in meeting a problem.

While my opposition to gavel-to-gavel coverage of the Senate—that is what we are talking about, gavel-to-gavel coverage—has been well-known, I did vote for the compromise version to S. 20. I was willing to allow the Committee on Rules to present the Senate a more detailed proposal on implementing TV and/or radio coverage of the Senate. In the past, as an opponent of the TV coverage, I felt that I could not truly evaluate a TV-coverage proposal until we had a specific proposal specifying regulation and rule

changes that would be necessary to implement the television and radio coverage. Mr. President, I believe there is no reason that the Senate should take its valuable time as of now, in the limited time we have available to us in the remainder of this Congress, to proceed with this resolution.

When the Senate asked for a specific change of recommendations and rules changes, there was much discussion on the Senate floor outlining questions that Senators wanted analyzed in discussing the scope of the committee rules mandate. This exchange took place between Senator DANFORTH and the chairman of the Rules Committee. Let me make clear, Mr. President, what I am quoting here happened in the previous Congress. The Senate is a continuing body. Most of us are still here. It would seem to the Senator from Louisiana that members of the Rules Committee would certainly—many of whom still serve on that committee—respect the wishes of the Senate, and try to carry out whatever mandate the Senate had in mind when they undertook to proceed to carry out their responsibility.

Let me quote what certain Senators said at the time we considered this matter previously.

MR. DANFORTH. We would consider such matters as whether there should be any changes in the rules relating to unlimited debate; whether quorum calls will serve the same function when television comes in as they do now; whether the printed RECORD will be considered as a primary source of ascertaining legislative intent; if that is in conflict with the television record; changes relating to the scheduling of Senate business when committee meetings are held; voting procedures; floor conduct; where people speak from; how time is allocated between the proponents and opponents of amendments, and so on. Is it the intention of the majority leader and the chairman of the Rules Committee that the inquiry to be undertaken pursuant to this amendment would be broad in scope or narrow in scope?

The majority leader when he testified before the Rules Committee over 1 year ago stated in part:

Indeed, I believe that the television will bring changes in the Congress, in the Senate. It will necessarily bring changes in the scheduling of the great debates that must occur. It may perhaps change the way we conduct ourselves on the floor, maybe even change some of the provisions of the Manual of Procedure that was written by Thomas Jefferson.

That indicates that at least it was anticipated by the majority leader a year ago that some very far-reaching changes would be considered. On the other hand, when the resolution was adopted by the Rules Committee, the committee, as I understand it, indicated in its report that no major changes in rules would be required and the committee recommends no changes whatever to the best of my understanding, not even a change in procedure. Therefore, I hope that during the 60-day period of time the committee would at least analyze whether broader changes than simply the placement of cameras and so forth would be required." Quoting Mr. Mathias:

I think it is very clear that it is the desire of the Senate to have that done. I have every confidence that the Rules Committee will do just that. Then quoting from Senator DODD. "Like the Senator from Missouri, I am deeply concerned that the study should be broad in its analysis and not a narrow study so that we will fully look at the effect of television in this institution. I should like to raise another point or two. Under the amendment as proposed."

I am looking at the last two lines, and the key text reads, "60 days from the adoption of this resolution containing such regulations and/or radio coverage of the Senate."

In the language that was proposed by the Senator from Missouri and myself, which is extremely similar to the proposed amendment, we include not only rules and regulations, but we also mention "The precedents and traditional practices of the Senate." What I am thinking of is illustrated by rule XIX dealing with recognition. The rule itself is only eight lines long in the Senate Procedure book. However, the precedents take up an additional 10 pages. There are some 82 footnotes to support and interpret the eight lines of that rule. Can we limit the study or the analysis just to the rules, and not take a serious look at the precedents which, if changed as a result of television, would actually require a rules change? I ask if the authors of this amendment might be willing to modify their present amendment to include the words "precedents and traditions" as well as that we have the assurance that this study would include an analysis of things other than just rules hurdles that would be surmounted to implement television.

MR. MATHIAS. Let me suggest to the Senator from Connecticut that it is an old rule of law that the calf goes with the cow. And I think that you cannot look at the rules without looking at the practical application of the rules through precedents. We will clearly do that. I give every Senator every assurance that that will be done. The resolution to which the majority leader has moved to proceed is a resolution which seeks to implement TV coverage in the Senate.

Mr. President, Senate Resolution 66 contains many of the same features that led me to oppose the original proposal to televise the Senate proceedings. Senate Resolution 66 calls for gavel-to-gavel coverage of actions on the Senate floor. It states that no change to Senate rules or practices are in order. Senate Resolution 66 was reported by the Committee on Rules and Administration without recommendation. Let me stress that—this resolution was reported to the Senate without a recommendation that it be passed. It was merely reported by a vote of 6 to 3 without recommendation. The decision to report out the resolution without recommendation was reported by Senators MATHIAS, BAKER, HATFIELD, MCCLURE, WARNER, and DECONCINI. Senators BYRD, PELL, and HELMS voted against reporting Senate Resolution 66.

In addition, Senators FORD, PELL, BYRD, and INOUYE filed minority views opposing television coverage. The committee report on Senate Resolution 66 which the leadership seeks to place before the Senate to consider is no more enlightening.

It dismisses in a similar manner questions about control over the germaneness of amendments, rules for the sequence of speakers, length of individual speeches and debates, and the preservation of the rights of the minority or Members who take a minority position on any given issue. The committee report simply states:

There is no reason to believe that the system now followed by the Senate which governs each of these matters and provides elaborate safeguards for the rights of each Member will be weakened by the event of television. Therefore, no changes of Senate rules will be necessary.

Mr. President, just one problem comes to mind at that point which to me is very important to be considered. No committee is better qualified, or has the jurisdiction to make a recommendation, than the Committee on Rules. Let me just talk about that one point which to me would have to be considered in any proper consideration of this issue; that is, the recognition of speakers by the Chair.

Mr. President, I do not wish to suggest that the Republican Party or members of the majority party of this Senate alone have been guilty of playing politics in that Chair. Good Lord, forbid that I would suggest such a thing. I am thoroughly familiar with the fact that there have been occasions when the occupant of that chair has been very partisan favoring the Democrats in this body. In fact, I cannot recall when I ever had the view that you could count on that Chair to be completely impartial, particularly if they had very significant political impact.

That Presiding Officer, be he the Vice President, the President pro tempore, or an individual Senator, is a human being; he is part of one party or the other. He has traditions before him and he looks at those traditions. And if you will look, you will notice who was in the chair when those rulings were first laid down.

When John Adams was Vice President of the United States, he said that his friends had contrived for him the most useless job that the mind can imagine. That is how the job of the Presiding Officer of the Senate looked to the Vice President, a great Vice President and a future President of the United States, a man on one of the small committees that drafted the Declaration of Independence and brought this great Nation into being.

Well, Mr. President, subsequent Presiding Officers found that there is just a great deal of significance to that Presiding Officer's job, especially if he is willing to rule the way that would help the side which he favored. And I must say, Mr. President, there have been times when just a change in the

Presiding Officer of the Senate made a great difference in what a ruling might be from the chair.

Now, I can recall the time in this body when we had no unanimous consent that the majority leader would be recognized first or the minority leader would be recognized second, and yet I recall an occasion when the majority leader, a member of my party, stood up and chastised the Chair for failure to recognize him when he was on his feet at the same time as someone else. That majority leader undertook to instruct the Chair that the majority leader should be recognized first although the rule clearly says the first person to address the Chair should be recognized.

Now, if we are going to have television and if we are to have a great debate and the public out there is to be viewing it live, it would seem to the Senator from Louisiana that we ought to have some arrangement to assure that both sides would have an equal opportunity to be heard. If one side is recognized to start the debate on an issue, those who do not agree with it would be recognized immediately thereafter; that one side could not dominate the debate up until after the evening news and then make it available to the others at a time when people had turned it off or were looking at something else.

Now, there is not a word of discussion as to any of that type of thing either in the committee report or anything in the resolution to contend with it, only a statement that nothing of that sort is necessary; the rules are adequate the way they are.

I must say, Mr. President, I have put my mind to work to think how could we go about achieving fairness in this matter, how could we go about assuring fairness in the recognition of speakers. Now, those on the majority side might not be concerned about that at the moment but, Mr. President, they will not always be in the majority. There will be times when those in the majority today will be in the minority. We are talking about how should this Senate conduct itself for all times in the future. We have a right to urge and expect the committee to think about those types of things and to make recommendations with regard to them, not merely to tell us that everything is great, no changes need be made.

Mr. President, it appears that the committee's thesis is a conclusion that is not shared by individuals who have delved into the workings of this body. It is important to note that the Pearson-Ribicoff report on Senate practices and procedures stated, "The study group feels that broadcasting the entire legislative procedures of the Senate would not be helpful to either the Senate or the public."

Mr. President, let me quote that again. This is a group appointed by the majority leader, Mr. BAKER, and you could not pick two more statesmanlike former Senators, Senators Pearson and Ribicoff. What did they say about this matter? "The study group feels that broadcasting the entire legislative procedures of the Senate would not be helpful to either the Senate or the public."

These able men along with our former Parliamentarian, Parliamentarian emeritus Floyd "Doc" Riddick, donated their expertise to examine not only the rules that we have written on paper but the practices by which we actually operate. The purpose of their efforts was to provide the Senate with suggestions on ways to improve the operations of the Senate. As always, our ultimate goal is to ensure that the Senate is operating in ways that best fulfill our duty to the country and our unique role under the Constitution.

The report goes on to specify that "Televising major issues one or two times each week for a period of 2 or 3 hours each time may be a very good idea." I think we should remember that this recommendation is made in the context of the full report which suggests many changes in the operation of the Senate. Senators may agree with some of these recommendations. However, some will be considered a major departure from the current operation of the Senate and will require careful examination. The recommendation of television coverage under the limited circumstances provided in the report states, "This would give Senators an opportunity to present their views to the country on issues debated and for the Senate as a whole to provide further leadership for the country without altering the fundamentally unique nature of the U.S. Senate."

This caveat clearly indicates that additional coverage, especially gavel-to-gavel coverage as recommended by this resolution, would have an effect on the fundamental and unique nature of the Senate. Rules changes may be a way to preserve the features of the Senate that are important.

What is the evidence that the committee has that there is no reason to believe rules changes may be in order? It seems to be the assumption that any changes in our behavior under television will be changes for the better. That has to be tantamount to any assumption, that any change would be a change for the better.

Mr. President, there seems to be a growing agreement that TV will, in the words of the Senator from Missouri (Mr. DANFORTH) "not merely record events, it will influence them." That is truly the question we are debating. How would live television coverage change the operation and the character of the Senate? Would the changes improve on the Senate's ability to conduct its important business?

It is quite obvious that the answers given by supporters of this resolution to these very vital questions differ from mine. I do believe that there is more of an understanding that television is not a mere observer and recorder of events.

It can and does help shape events, and in some cases it alters the way they are conducted.

Mr. President, I was interested in some remarks made by the distinguished majority leader during an interview with the Cable News Network at the Republican Convention. It is available in the public domain and I would like to share with my colleagues an excerpt from this interview of Senator HOWARD BAKER by a reporter in the transcript identified as Mr. Shaw which took place on August 22 of this year.

Mr. SHAW. But if what you say is true about your party being organized together, why is the script for the convention day after day? Why the scenario?

Mr. BAKER. Television. I began going to conventions in 1952 in the Taft-Eisenhower campaign. I was with Ev Dirksen the afternoon Bob Taft came to him and asked him to make that famous speech where he wagged his finger at Tom Dewey and said, 'You took us down the road to defeat.' And I watched firsthand those events develop spontaneously and there was no script. There was a convention of people, the Democratic Convention in San Francisco, and this one really is a convention of television.

I presided for two nights and I had a script. I had a time paper there, down to the minute.

Mr. SHAW. How did you do? Did you stay on time?

Mr. BAKER. I stayed on time.

Mr. SHAW. But didn't that repulse you at all? You are a spontaneous man. Didn't that cause you to know that you could sense the mood of the people down there but yet you knew that you had 2 more minutes and you had to disappear?

Mr. BAKER. I guess so. It bothers me because you are right. I am a spontaneous person. But that is the way it runs. And that is the way both parties are doing it, and that may be the way it is for a long time.

Mr. SHAW. But what do these delegates have to do down here on the floor this week?

Mr. BAKER. Well——

Mr. SHAW. They are just sitting there.

It goes on:

Mr. BAKER. Let me say in response to that, one way or the other this is it—

A great and able statesman, Senator BAKER.

Mr. BAKER. Let me say in response to that, one way or another we have to reinvolve the delegates of this convention. You have got to take it away from television a little bit. We have got to put it back into the home.

He goes on:

Mr. BAKER. Let me tell you what happened to me the other night. I was making

my speech as temporary chairman and I wasn't going to run but 8 or 10 minutes and I began to speak. I was doing my best and my voice was dry. I looked down to the audience and I listened to the audience and everyone was buzzing around and walking around. So I thought I will just deliver the speech to the fellow in the front row. So I tried to talk to him. And pretty soon he got up and left. It suddenly dawned on me that there is nothing left for me to do but talk to these cameras up there. So for the rest of that speech all I could do was try to talk to your camera and everybody else's camera. But that is a sort of hallmark of a television convention. I don't know whether it is good or bad, but it sure is different.

Mr. President, that is our majority leader, one of the greatest enthusiasts for TV coverage in the Senate I have ever in my life known, and the great advocate of this resolution.

He said, "I don't know whether it is good or bad, but it is sure different."

Can anybody really dispute the fact that just as television changed that Republican National Convention to where it proceeded on a script, a time operation, it proceeded like clockwork, and where those delegates at that convention became almost automatons performing by prearranged script—can anybody really doubt that that type of thing might very well happen in the U.S. Senate? If that is the case, should we not be thinking about it before we get involved in it? Should we not be looking ahead to see what our problems are going to be before we lock ourselves in?

I know what happens when you vote cloture in the Senate. I suppose that is something we will be facing someday. if you vote cloture in the Senate, you no longer have the potential to make the leadership accept an amendment that they might just prefer not to consider. When cloture is voted in the Senate, the advocates of those amendments have the bit in their mouths.

Mr. President, I believe the Senator from Nebraska is anxious to make an insertion into the RECORD and explain his position. I ask unanimous consent that I might yield to him for 3 minutes and that this interruption might not appear in my text but appear elsewhere in the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EXON. I thank my friend from Louisiana and I thank the Chair.

Mr. President, the first remark that I make would be properly inserted after my distinguished colleague from Louisiana completes his presentation.

I have been listening with great interest to the debate on television in the U.S. Senate. I notice that one slight unintended error, I think, that my friend from Louisiana would agree to.

In the days of yesteryear, this Senator from Nebraska use to spend considerable time in that chair, and, to my recollection, I never, ever was unfair or partial to any of my colleagues in the Senate.

Having said that, I think that what the Senator from Louisiana was trying to say was that the other 99 of my colleagues have been partial and unfair in the chair from time to time but certainly not the Senator from Nebraska.

Would my friend from Louisiana agree with that judicious observation?

Mr. LONG. Mr. President, I have no doubt. If the Senator said it, I know it would be true. I have never known him to say anything that he was not positive in his own mind that he was absolutely correct.

Let me say that while I heard what the Senator said and I accept it, I do not quarrel with it for a moment, I say that as a Senator sitting here on the floor, knowing that the rules say that the Presiding Officer shall recognize the first person to address the Chair, during my 36 years in the Senate I must have seen, let us say, failure to comply with that rule at least 1,000 times. But I would be the last to say that that was ever done by the Senator from Nebraska. I am sure if he said it, it has to be true.

Every time more than one Senator is on the floor, he carefully listened and without fail, whichever Senator demanded recognition, even one-one-hundredth of a second before the other Senator, he recognized that Senator.

Mr. EXON. I thank my friend from Louisiana.

Mr. MATHIAS. Will the Senator yield to me for 30 seconds on my own time? I have to observe that this interesting human colloquy which has taken place between these two Members of the Senate under unanimous consent will be put after the Senator from Louisiana has completed. That is historical distortion. That is fiction and it is a fiction that I think is a matter of great regret.

What they have just undergone is a human exchange, and that will be lost to the American people with the history.

Mr. LONG. Mr. President, I ask unanimous consent that that part of the Senator's statement appear immediately where it was stated.

Mr. MATHIAS. Hurray, we are winning the battle for truth. [Laughter.]

Mr. EXON. I thank my friend, and I think the colloquy we just had will indicate more than anything else that we all are human, and we have some jest on the floor of the Senate from time to time, which does not hurt to break the tension.

Mr. LONG. Mr. President, a parliamentary inquiry. Under the agreement, are we going to vote at 6 o'clock?

The PRESIDING OFFICER [Mr. RUDMAN]. The Senator is correct. Under the previous order, the vote has been scheduled to occur at 6 o'clock this evening.

Mr. LONG. Therefore, in view of the fact that the debate commenced at 15 minutes after 4 o'clock, the time to be divided would be an hour and 45 minutes, equally divided.

The PRESIDING OFFICER. Again, the Senator is correct.

Mr. LONG. Will the Chair advise me how much time remains of the time available to the opponents, led by the Senator from Louisiana?

The PRESIDING OFFICER. The Senator from Louisiana has approximately 17½ minutes remaining, and the other side has approximately 32 minutes remaining.

Mr. LONG. Mr. President, I am going to abbreviate my remarks, because I want the Senator from Connecticut to speak; so I am going to talk less time than I had planned, so that I can yield to the Senator. I hope that the proponents will use some of their time at the conclusion of my statement.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. Mr. President, we are being asked to consider a resolution which would authorize gavel-to-gavel coverage of the Senate by radio and television. It raises a number of issues which go to the fundamental nature of this institution.

Proponents of this legislation recognize this fact and have tried to compensate for it. This resolution provides for radio-TV coverage—but only under carefully controlled conditions. Senate employees—not reporters—will control the cameras. These cameras will cover only the Senator speaking—not the Senate Chamber. Use of the broadcast tapes will be controlled—political or commercial use will be a no-no.

These restrictions mean that this resolution is neither fish nor fowl nor good red herring. It cannot be justified as either a free press or an open Government issue—Senate employees will control what is shown and how it can be used. But television coverage will not be neutral. It will change the way this institution operates. In this Senator's opinion, those changes will not be for the better.

Why do I say that? To answer that question, Mr. President, we need to look at the function of the Senate. The Federalist Papers discuss the rationale behind a number of constitutional provisions dealing with the Senate—equality of representation, the right to ratify treaties, to sit as a court for impeachment and to confirm appointments.

One theme dominates this discussion—the Senate as a stable institution. The founding fathers saw the Senate as an institution which would be able to lean into the wind—not hold

up a finger to see which way the wind was blowing.

Mr. President, stability has many benefits but one huge drawback when seen through the lens of a TV camera—stability is as drab and dull as dishwater. Television thrives on the dramatic, the exciting, the image. Every media-wise interest group knows that to get on the evening news, you have to stage an event. A protest march will be seen around the country while a well-reasoned paper will sink into oblivion.

Will this fondness for the dramatic influence the operation of the Senate? The answer is "yes" without doubt, although to what extent is open to debate.

Let us take a look at what happens when the Senate considers a controversial and complicated piece of legislation. Assume that we have jumped all the possible procedural hurdles and that we are on the bill. Then the proponents make speeches extolling the virtues of the bill. I believe it is fair to say that these speeches accentuate the positive, to say the least. Opponents next take the floor and do the opposite. They try to paint the bill as the biggest danger to western civilization since the plague.

Those speeches will make good television. Those who are most clever or most obdurate will likely see themselves on the evening news because here is the drama of confrontation.

Next, both sides leave the floor and begin to negotiate. That will not be shown. Instead, the clerk will call the roll. Those rollcalls sometimes go on for hours. How exciting can you get? The roll clerks may end up being the most televised people in this country.

The negotiators will normally compromise on some points—others will require a vote. When they return to the floor, both sides will explain their positions and the Senate will work its will.

Consider the potential for mischief. Suppose a television producer selects a clip of a Senator saying "never" in his opening statement. He then pulls another clip of the same Senator explaining the compromise. In between, some literate correspondent quotes Alexander Pope in "Rape of the Lock": "He would have ravished her but for a timely compliance site prevented."

In practice, Mr. President, many of these negotiations produce not a win or a loss, but a draw. You win on some points and lose on others. The late, great Vince Lombardi—a man with a genius for the dramatic—often said that ties were like kissing your sister. They are not dramatic—bad television.

My feeling is that televising the Senate will make it harder for Senators to reach these compromises. Senators will find that the positions they took in their opening statements have been engraved in film. Any compromising can easily be portrayed as a loss and the Senator who does it as a loser.

If this scenario comes to pass, the Senate may well grind to a halt. Senators are not by nature shrinking violets, and any additional incentives to confrontation can only mean more argument—and probably worse legislation.

This resolution may influence not only how we legislate but also how some campaign. It contains a prohibition against using the film for political purposes.

That prohibition rings hollow to this Senator. What happens if a challenger uses some of this film in his campaign? Who takes the offender to court? What penalties will be imposed? Or, to complicate the situation even more, suppose that a news program uses some clips to put a Senator in an unfavorable situation and a challenger tapes and uses some of that spot in his campaign? What happens then?

Mr. President, I do not know of anyone who can answer these questions. But if this resolution passes, I expect that the Senate counsel's office will be doing a land-office business in first amendment cases. And the Senate will be on the wrong side of the issue.

Finally, we come to a question near and dear to my heart—cost. This resolution authorizes $3 million to purchase and install the broadcasting system. The Senate will have to pay another $600,000 a year to operate the system.

I grant that these sums are small in relation to the total size of the budget. But with deficits around $200 billion, many Americans are going to pay higher taxes or see their benefits reduced as we work to control these deficits. Under these circumstances, we should not be spending even small sums to put the Senate on television.

Mr. LONG. Mr. President, the Senate would be different under gavel-to-gavel coverage, and I believe that is a central question we should focus on when we take up the matter of television in the Senate.

Let me just mention one objection which I will discuss at greater length later on.

Those who propose this resolution have suggested on occasion that this measure will not require a great deal of additional hours of meeting of the Senate or a great deal of additional discussion. I have been here for 36 years, and I know something about the Senate. I have discussed this matter with other Senators.

There is no doubt in my mind that if we are to have gavel-to-gavel coverage of the U.S. Senate, it will require a great deal of additional Senate oratory and Senate discussion.

One of my distinguished colleagues, whom I admire greatly, whom all of us admire, a very good Senator, who has not entered into the debate so far—but I hope he will engage in it later on—said that if this measure goes into effect and the Senate is to be on television gavel to gavel, while today he makes only about one speech a month, he would have to make at least one speech a week.

Why is that? Well, the reason is that the folks back home will be asking: "Why don't we hear from our Senator? Where is he? Where is the guy? Why isn't he up there talking?" Even if the TV camera shows that he is in his seat while others in that area are speaking and they know he is there, they will say, "Why doesn't my Senator get up and say something? He just sits there like a bump on a log. I want the Senator up on his feet, talking, and getting into the thick of things, saying something."

A friend of mine, a friend of all of us, a thoughtful, and scholarly, and studious Senator, said he thinks he will have to vote for TV in the Senate, reluctantly. I said, "Why?"

He said, "Because the people back home don't think I'm doing anything. One of my colleagues in the House is on TV all the time. They see him every time they turn on the TV. There he is. He is working, they say. They don't think I'm doing anything. I have to get on that boob tube, and the only way I know how to do it is to vote for this thing and be on TV."

I have no doubt that there is merit to his suggestion, but although the Senator may be correct in that, that is not the end of his problem. Knowing this very able, thoughtful, quiet, studious, and hard-working Senator, he is going to have to do more than just put himself on television. He will have to jazz it up. He will have to make it a little more flamboyant. He will have to be more colorful; because, to attract and keep an audience, he will have to excite the listeners more than he ordinarily would in his careful, studious style, which all of us much admire.

We will all have to be colorful Senators, in one respect or another, when we are before the TV. We will have to do a lot of talking out here, to let the people back home know we are on the job and working, because they will not be seeing us much in the committees. They will be seeing us on television, especially when the live coverage becomes available to a great deal more homes than is the case today.

I think I can predict with confidence the area where my support will be the strongest. It will be among the doorkeepers. They know what to expect when the Senate is on television. They know they can expect Senators to be talking a great deal longer and the Senate to be here for longer hours.

When we see the estimates in the committee report about the cost of

this matter to the taxpayers, it fails to take into account the big items. What are the big items of expense? Not the cost of installing those cameras. That will not be the big item of expense. Nor the cost of operating the cameras.

All these additional speeches will have to be taken down and printed in the CONGRESSIONAL RECORD, and those RECORDS will be mailed out to people in the country. It will increase the cost of printing, and that additional cost will exceed everything in the estimate—just the cost of printing and distributing the CONGRESSIONAL RECORD alone. That is just one part of it.

When the doorkeepers find that they have to work longer hours—and I think I am strongest among the doorkeepers—when they see all these additional hours the Senate is meeting, without additional pay—one of the arguments people make is that doorkeepers are paid anyhow—when they have to work 50 percent or 100 percent longer maintaining those doors, maybe they will not bellow about it, but they are going to get the word through to the Senators: "It isn't fair. We are working longer hours, and we should be paid more."

You either have to hire more doorkeepers or pay them overtime for the additional hours they will be working. That is not in the estimate.

Furthermore, when Senators are making the TV speeches once a week instead of once a month, they will have to rehearse those speeches. They will not be using prepared text. The majority leader has indicated that we should get away from prepared text. They will rehearse that speech, practice it, work on elocution and diction, so that they will be great and classy when they make it.

When they do all that, they will need additional assistance, somebody who is a makeup expert, to prepare them for television. They will need the assistance of somebody who is good about television, to show them how to get these things off, so that it can be picked up in 10 seconds or 20-second film clips to be replayed on the evening news. The cost of those additional employees does not appear in that estimate.

The estimate also does not take into account the fact that the Capitol Police will have to work much longer hours, and they will have to hire more police. When the Senate is not in session, a skeleton force is enough. When the Senate is in session, they have to have a lot more people available here for security. What is the cost of the additional Capitol Police? There is nothing in the estimate to mention all that.

Mr. President, I have seen estimates in the social welfare area where the cost exceeded the estimate by as much as 100 to 1, running into billions of dollars.

This is another example where the cost will exceed the estimate by more than 100 to 1.

Mr. President, these matters deserve further thoughtful study and in these closing moments of this session, these matters should not be before the Senate. We should include the must legislation that must be before us and then next year we should go to work and thoughfully consider the various aspects of this and the other matters that would properly involve the change of the rules.

Mr. President, I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, before I yield to the distinguished Senator from Idaho, let me make two very brief comments on two points that were raised by the Senator from Louisiana while they are still fresh in my mind.

In the first place, the Senator from Louisiana made a rather serious indictment against the Chair. Let me hasten to insure the incumbent it was not against him personally. But the Senator from Louisiana indicted the Chair as an institution because from time to time over the history of the Senate the Chair has shown partiality in the matter of recognition.

No Member of the Senate is more versed in the lore and tradition of the Senate than is the Senator from Louisiana. But I think he misreads this question. If he wants the Chair to be more fair then he should support Senate Resolution 66 because the Senator from Louisiana, I am sure, is very familiar with works of that great English moralist and philosopher, Dr. Samuel Johnson, who died just 200 years ago, and Dr. Samuel Johnson said: "Sir, nothing is more conducive to a good conscience than the suspicion of being watched."

If the occupant of that chair is being watched by the whole American people, the whole 225 million of them, he is going to have good conscience in this matter of recognition.

So turn on those cameras and we will have fairness from the Chair.

Mr. President, the other point I make before I yield to the Senator from Idaho is this: The Senator from Louisiana read from the Pearson-Ribicoff report, and he read with great accuracy. He read beautifully. His elocution was perfect. The only problem was he did not read quite far enough because the last paragraph of that report which dealt with this subject of television is this:

> This would give the Senators an opportunity to present their views to the country on the issues debated and for the Senate as a whole to provide further leadership for the country without altering the fundamental and unique nature of the U.S. Senate.

So Senators Ribicoff and Pearson had something good to say about television in the Senate.

Now, Mr. President, I yield 10 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, let me first read into the RECORD a letter which was circulated under the date of September 18, 1984, and submit it for the RECORD together with its signatures. This letter is as follows:

U.S. SENATE,
Washington, DC, September 18, 1984.

DEAR COLLEAGUE: In every civilized society, throughout all of recorded history, the testimony of an eyewitness has been valued above all other sources of information. Neither printed words nor the oral account can substitute for what the eyes can see.

Through the miracle of television, the American people have been—for nearly four decades—eyewitnesses to momentous events. From the surface of the moon to the battlefields of Vietnam, American eyes have watched and judged the deeds which steep our times.

In all the free world, however, one great citadel remains closed, for the most part, to the public eye: the United States Senate.

Despite the example set by the great democracies of Canada, New Zealand, Australia, Sweden, West Germany, Denmark and Austria; despite the experience of the U.S. House of Representatives, now in its fifth year of direct electronic coverage; despite the fact that 49 out of 50 state legislatures welcome radio and television coverage at their proceedings, the U.S. Senate continues to restrict its chamber to a privileged few.

As the 98th Congress draws to a close, it is time that the Senate join the 20th century by promptly adopting Senate Resolution 66.

This resolution would provide gavel-to-gavel radio and television coverage of Senate floor proceedings. The resolution has been carefully crafted, after many hours of committee work, to ensure the dignity of the Senate and its prized freedom of debate while giving the American people a firsthand look at their democracy in action.

S. Res. 66 has languished on the legislative calendar since June 28, 1983. We strongly urge you to support the cloture vote this afternoon, so all Senators will have a chance to consider the merits of the proposal in a free and open debate.

We believe there is no greater pledge the Senate could give, of its faith in the wisdom of the American people and its confidence in itself, than to open the doors of the chamber to the eyes of America.

Because "seeing is believing," we urge you to join us in meeting that pledge.

Sincerely,

Gordon Humphrey, Steven Symms, Lowell Weicker, Nancy Landon Kassebaum, Paula Hawkins, Ted Stevens, John Warner, Strom Thurmond, Alan J. Dixon, Alfonse M. D'Amato, Jim McClure, Bill Roth, Orrin Hatch, Slade Gorton, Bill Cohen, Bob Packwood, Jake Garn, Mark Andrews, Charles McC. Mathias, Jr.

I hope that our colleagues will today vote cloture so that we can proceed to the motion that will allow us to consider this resolution and hopefully and confidently pass that resolution and get this issue resolved.

Mr. President, public access to Senate deliberations is an argument as old as the Senate itself. Remarkably, during its first 7 years, the Senate functioned behind closed doors.

But public resentment and suspicion mounted with every passing year. The National Gazette, a leading newspaper of the day, decried the Senate's secrecy in an editorial written in 1792. "Upright intentions and upright conduct," the paper said, "are not afraid or ashamed of publicity."

In 1794, the Senate acquiesced and added a public gallery to its Chamber in Philadelphia.

The Senate, we may note here, did not cease to be a deliberative body by becoming a public forum. This forum has contributed the most stirring and memorable addresses in our history.

The Chamber of the Senate still rings with words of the great Americans who have spoken within it:

To the efficacy and permanency of your union, a government of the whole is indispensable—Washington.

We are all Republicans; we are all Federalists . . .—Jefferson.

The people, sir, erected this government—Webster.

The cry of Union! Union! the glorious Union! can no more prevent disunion, than the cry of Health! Health! glorious health!—Calhoun.

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right . . .—Lincoln.

There must not only be a balance of power, but a community of power; not organized rivalries, but an organized common peace—Wilson.

The oratory of Washington, Jefferson, Webster, Calhoun, Lincoln, and Wilson was not given for the entertainment of the public or the Senators present. Great and eloquent words have clothed great principles and concepts of free government spoken in debate or in counsel here in the Senate.

If, Mr. President, by permitting television and radio coverage of our proceedings, we become more conscious of our words and spoken thoughts, we may surely count Senate Resolution 66 a blessing.

We need not shun eloquence; it is our heritage. Eloquence will not serve—as some have suggested—the designs of the demogog, nor shield the incompetent. As Emerson has pointed out, "there is no eloquence without a man behind it." Or to put it another way, as the grace of man is in the mind, so the beauty of the mind is eloquence.

Mr. President, I have joined the distinguished majority leader, and many of my colleagues in this Chamber, in urging the adoption of this resolution for the sake of the people we are here to serve. Today, I urge adoption of the resolution for the sake of our posterity.

Just as lifting the veil of secrecy proved in 1974 to be the inauguration of a golden age of eloquence in the Senate, I am confident that by opening the Senate to radio and television in 1984, we can raise the level of public discourse to a station befitting a great and wise people.

Would that we had the technology in 1850 to record the "Great Compromise" debates, what a priceless resource for historians and students of government.

Today, technology exists to preserve a living record of the deliberations of this body. We have it within our power to bestow a gift on our posterity for which our colleagues in the 100th Congress and, God willing, the 200th Congress will thank us.

Let us therefore admit that technology to this Chamber is not as a hostile intruder—but as a dispassionate neutral witness. If we are just and faithful to our duty, we can—when our work is done—take our leave of this august body confident that our words and deeds will be justified in the true perspective of history.

Mr. MATHIAS. Mr. President, I thank the Senator from Idaho. He has given a great deal of attention to this subject and I know it is a subject with which he has been intimately familiar since the days when he served in his own State as a member of the legislature.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. MATHIAS. I think we are still on the Senator's time as a matter of fact.

Mr. McCLURE. Mr. President, I note, as he did, that it was 20 years ago as I was serving in the Idaho Legislature that we went through this same debate as to whether or not we should admit television coverage to the halls of the legislature of my State. We heard much of the same argument being made about what would happen to the character of the debate and what would happen to the nature of the body.

Mr. President, with 20 years of experience behind us those who fear the advent of the new age have been disproven; those who confidently predicted that it would elevate the public consciousness of what happened within that body have been proven right.

I hope we will follow the same example and 20 years from now we can point to that record of experience as well.

Mr. MATHIAS. Mr. President, if the Senate follows the advice the Senator from Idaho has just given I think we will be able to come back in 20 years and see exactly that result.

Mr. McCLURE. I thank the Senator from Maryland for yielding this time and for his leadership on this issue.

Mr. MATHIAS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has approximately 22 minutes remaining.

Mr. MATHIAS. I reserve the balance of my time.

Mr. DODD. Mr. President, how much time remains for the opponents?

The PRESIDING OFFICER. The opponents have approximately 7 minutes and 40 seconds.

Mr. LONG. How much time remains for the proponents

The PRESIDING OFFICER. Approximately 22 minutes.

Mr. LONG. Mr. President, I suggest the proponents use some of their time, unless they want to suggest a quorum.

Mr. MATHIAS. Mr. President, I would be happy to do that. I was just deferring to the opponents. But I am happy to go forward because the Senator from Louisiana, in his long and interesting statement, raised a number of points that I think need to be touched.

Mr. LONG. Mr. President, while the Senator is discussing that, might I just suggest to the Senator——

Mr. MATHIAS. On your time.

Mr. LONG. Well, Mr. President, I am asking to do it on the Senator's time. He is the one who has the time. We only have 7 minutes left over here. Would the Senator yield to me for that purpose?

Mr. MATHIAS. I yield to the Senator for that purpose, to comment briefly.

Mr. LONG. Let me just say to the Senator that if the Senator's resolution required that the cameras be on the persons who are seeking recognition rather than on the one that has recognition, that might be somewhat different, or if the resolution said that the networks will operate the cameras, I should think the networks would put the camera on someone seeking recognition and you would have an opportunity to see whether he had been recognized or not. But under the resolution it does not require that and, therefore, I submit that the resolution does not help to solve the problem.

As a matter of fact, the resolution would have the cameras on the speaker and it would not show who is in the galleries. Now, the Senator knows what happened in the House about that matter, because it was contended for years that that was not a proper showing.

Mr. MATHIAS. I understand what the Senator is saying. I think I have considered that as a possibility. Of course, let me just observe, Mr. President, that we have really tried very hard to look at every possible aspect of this problem.

For example, after we had our debate on Senate Resolution 20 in the 97th Congress, we went back and, as

the Senator from Louisiana said, we made some very positive commitments at that time. And in the discharge of those commitments we further studied this problem and we introduced Senate Resolution 436.

As the Senator from Louisiana, who has followed this matter very closely, is well aware, Senate Resolution 436 not only reflected the feeling of the Rules Committee that there was no need to change the rules, but it provided for a period in which we would record on video tape the proceedings of the Senate; the cameras would be turned on but that signal would not be broadcast to the world so that the very kind of problems that the Senator from Louisiana has expressed concern about could be tested.

We made that as a proffer in the last Congress. We said we will put the cameras up there. We will videotape the proceedings on the Senate and then the Senator from Louisiana can go look at it and see and if it does not look fair we can forget about it or we can do something else. But we were not permitted an opportunity to bring Senate Resolution 436 to a point of decision by the Senate. Now here we are again and the same kind of objections are being made at the end of the 98th Congress.

What did we do pursuant to the commitments that were made by the majority leader and myself when we disposed of Senate Resolution 20? Well, we looked at the question of rules. And it was the serious considered judgment of the Rules Committee that there would need to be no changes in the rules.

We looked at the question of the extent of coverage. And as the committee report reflects we concluded that the coverage would be gavel-to-gavel, except, of course, during those sessions of the Senate in which the doors were closed and the galleries were cleared for reasons of security at which time the cameras would not be in operation.

We considered the kind of coverage. The coverage would be intended to provide a complete, unedited record of what is said on the floor of the Senate. The coverage is intended to be an informative documentary, not some kind of a stage performance, not a theatrical event. And this would be the one place where the proceedings of the Senate would be reflected and recorded without any editorial analysis or intervention.

During debates, the recommended procedure was that the person actually speaking would be covered by the cameras during the debate. During colloquies, different cameras would cover the speaking Senators. I think that if the Senator reflects on that point, it answers his concern. Will someone who is not only speaking but someone who is challenging the recognition be covered? That is taken care of. And I would like the Senator to note that, that during colloquies different cameras will cover the speaking Senators.

So if the Senator from Louisiana seeks and obtains recognition and I want to say, "no, I was on my feet and asking for recognition first," the cameras are able to handle that kind of situation. Both speakers during a colloquy or during a challenge would be covered. So that answers the concern that has been expressed so eloquently by the Senator from Louisiana.

The cameras will not, in the language of the trade, pan the Chamber, but they will be able to focus on more than one person.

Mr. LONG. Will the Senator yield at that point?

Mr. MATHIAS. Well, if I could just finish advising the Senate what we did in the discharge of our duty, then I will be happy to yield.

During rollcalls, recesses, and votes, we thought very hard about what should be done. It was concluded that during quorum calls and votes the cameras would cover the Presiding Officer and the official clerks, but that during recesses there was no point to continuing the coverage when there is not anyone in the chair, so at that point the cameras would be turned off. All of this, Mr. President, is in the report that was filed by the Committee on Rules and Administration.

We thought about how will the public know? Now, everybody knows that RUSSELL LONG is RUSSELL LONG. They are not going to really have to wonder who is that speaking because they are going to know that that is the distinguished Senator from Louisiana. But for those of us who are lesser mortals, not so well known, why we would provide a little tag, as is frequently done, as I believe they do in the other body, in which it would say our name, our party affiliation and State that we represent so that we might also be at least recognized and responsible for what we have said.

We thought, since we are videotaping, does that alter the view of the Senate as far as still photography is concerned? We thought about that. We went that deeply into it. And the view of the Rules Committee was that the ban on taking photographs in the Chamber should remain in effect and that the videotaping would be the only exception to that particular rule.

Now, I just cite this, and I have asked the Senator from Louisiana to defer his question, just to show you that the concerns that he has raised have been considered, they have been weighed, they have been addressed, and I think they have been answered.

I believe, Mr. President, that is the situation, and the Senate in the discharge of its simple duty to the country—to provide information about what it is doing—should move forward on this resolution.

Mr. LONG. Would the Senator yield at that point, Mr. President?

Mr. MATHIAS. I will yield. But let me say this further: The objections are Senators' objections. The objections are institutional objections. The arguments for moving forward are the benefits that it would bring to the people of the United States. It seems to me that on balance we have to move forward.

Yes; I yield.

Mr. LONG. The Senator made the statement that there would be more than one camera. Is it not true that only one camera will be feeding into the outlet at one time so when people seek to address the Chair, even if you did have more than one camera, you would have only one of them, and that would be picked up by the person at the switchboard to go out across the country?

Mr. MATHIAS. The Senator, I know, spent so much time on the Senate floor, so much time in committee, and so much time reading committee reports and other Senate business that he may not watch television as much as the rest of us. But if he did, he would know that the television industry can now do remarkable things. You can, in fact, have on the same screen a split screen in which you would show both of us having this colloquy. If they cannot get both of us in the same camera, they will have a camera on you and a camera on me. Both of them will appear on the screen. I am not saying that is precisely how it would be done because there may be a better technical means of doing it. But I say that is technically possible, and I see it done all the time.

Mr. LONG. Does it say in that resolution that will be done?

Mr. MATHIAS. It states that the cameras and in questions of colloquy—let me read from the committee report—"During colloquies, different cameras will cover speaking Senators."

They have the ability, just as the audio amplification ability now in switching your microphone on and my microphone off and vice versa. They have the ability to move those cameras so that both of us are equally, equitably, and fairly covered. I know that is the bottom line of the Senator. He wants equity and fairness in this matter. I think this will provide equity and fairness. I really, honestly believe that.

Mr. LONG. Mr. President, this resolution says that there will be no commentary, and no comment. I am not quarreling with that. But if one is to assure that there will be an adequate opportunity for both sides to be recognized, it would seem to the Senator from Louisiana that there should be language here to say that in a situa-

tion where more than one Senator is addressing the Chair the cameras should show more than one Senator addressing the Chair even if it does require that two or three be shown on the screen simultaneously so the audience can judge for themselves whether the person who had addressed the Chair first would be recognized.

Mr. MATHIAS. Mr. President, I think if there is a question of equity and fairness in the action of the Chair in recognizing the Senators, that is an independent problem we should deal with without respect to whether or not we are going to televise proceedings. I think if we televise proceedings it will put every presiding officer, including a Vice President of the United States, on his mark to be fair. But even if we are not televising, if the Senator from Louisiana honestly believes that the Chair is being partial and biased, then we had better do something about that whether or not we televise the proceedings.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield such time as I may need.

Let me say on that issue, Mr. President, we do have a way of achieving fairness. Usually we do it by unanimous consent, and there is nothing in here about achieving unanimous-consent agreements to see that both sides will have equal opportunity to be recognized by the Chair.

Mr. GOLDWATER. Would the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield the floor at the moment.

Does the Senator want some of my time?

Mr. GOLDWATER. I am with you.

Mr. LONG. One minute.

The PRESIDING OFFICER. Does the Senator from Louisiana yield time to the Senator from Arizona?

Mr. LONG. How much time does the Senator desire?

Mr. GOLDWATER. Maybe 4 or 5 minutes.

Mr. LONG. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes 58 seconds.

Mr. LONG. I yield to the Senator 3 minutes and 58 seconds.

Mr. GOLDWATER. Three?

Mr. LONG. Four minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Thank you.

Mr. President, originally I was opposed to televising the Senate. Then when I learned of the various ways you can manipulate the CONGRESSIONAL RECORD, I came out in favor of televising. But after watching what happened in the House through the efforts of the House leader, I turned against televising it because it can happen here.

Mr. President, in the debate that was just going on between my friend from Maryland and my friend from Louisiana relative to the camera. Yes, there can be a camera located someplace in here that can pick up each individual Member. But it is going to be an ungainly thing. It is going to be a big affair. I do not know where they are going to put it. They have the technical problem of getting the Senator from New Mexico way over in that corner, and getting the majority or minority leader right down here. That can be done. But we have some other things to consider, Mr. President. I do not think we have taken them into consideration. I see my friend from West Virginia coming in. We do not have any order in this Senate. When we have votes here, they are all gathered down there in the well. How are we going to educate the American people about what goes on here when you have got a mob scene going on? Do we want the American people to think that we run this country by a mob scene? I have sat in that chair and begged, and begged, and begged my colleagues to sit down and be quiet. But they will not do it. Until we pass a resolution or a rule change as suggested by my friend from West Virginia, we are not going to get order. He merely suggests that we vote from our desks, which I always thought was the order when I came here. But after my cliff-hanging election back in 1964, when I came back I discovered they had changed everything. Now it is the rule by mob down here. That is not going to look good to the American people. A lot of the other things we do in this body like running up and putting our speech in the RECORD, or saying, "Mr. President, I ask unanimous consent," after reading one line, "that this appear as if I read it"; is that the kind of education we want to give the American people? They will think this is the phoniest bunch of people they have ever seen. They might not be far from wrong. But we do not want them to think that.

So, Mr. President, I am in opposition to this. I do not think we are ready for it. I think we have to get this Senate back in some kind of order in the way we operate before we can talk about showing the American people how we operate. Then there is another question. Who is going to carry it? Cable News Network, one network is going to carry this. The three big networks, God bless their little no-good souls, they are not going to carry it. So we are confined to a fine system. I like Cable News Network. It is probably the best thing in the country. But it is only one. We talk about that. That is monopoly. So the first thing you know we have a lawsuit going on because Cable News is the only one that will do it.

So, Mr. President, I very reluctantly dislike opposing my leader on his last official duty. But I think as he sits down there in the hills of Tennessee and watches what he would watch on television, he would say, "My God, was I in that outfit at one time?" [Laughter.]

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. GOLDWATER. It just ran out. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 1 minute to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, as one who sponsored one of the earliest resolutions to open the Senate floor to TV, I congratulate the distinguished Senator from Maryland as well as our majority leader for their efforts to modify the rules. I think it is an important reform. I listened with great care to the distinguished Senator from Arizona. There is much truth in some of the criticisms he made. However, it is my opinion that if we open the Senate to public viewing, perhaps the kind of debate we will witness on the Senate floor will be more meaningful and perhaps the decorum more along the lines of what he would hope to see.

In any event, I think television is a most important means of informing the American people, and I hope that the Senate will have the good sense to support the resolution offered by Senator Baker and others.

We are elected to represent the people of our State. I know of no reason why our service to them should not be open to the fullest observation and scrutiny.

The issues with which we are concerned are the most vital of the day. On this floor this year we have discussed control of nuclear arms, the freedom of our Central American neighbors, the protection of finite natural resources, and generally the rights of all of us to enjoy the bountiful wealth of this country.

Mr. President, every American has the right to watch us at work and to hold us accountable for how we represent them. Televising Senate debates enhances these opportunities.

There are many arguments made or implied that the quality of debate will be affected by television; that Senators will play to the grandstands and exploit the exposure for personal gain. It has been suggested that the image of the Senate will suffer because people will see how we work. I believe that all of these arguments serve only to preserve a comfortable way of doing

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business. They also tend to demean or underestimate the public's ability to judge our ability and sincerity as individuals. They imply that the average man on the street can't recognize baloney for what it is.

In the past whenever the most important issues of the day have been given extensive scrutiny by the broadcast media there has always been a more thorough understanding or comprehension of the issue. Television covered Vietnam and Watergate. America faced critical situations. The crises were resolved and the Nation is stronger because of the experience.

Mr. President, it is time for the Senate to open its doors to the eyes of the American voters. The strength of this Nation and the effectiveness of its Government are dependent on an informed electorate not threatened by it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATHIAS. Mr. President, I thank the Senator from Delaware. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I thank my friend from Maryland.

It seems to me that Senators should vote in favor of this cloture motion simply so that we can discuss on its merits a matter of great importance. I will, however, as others have, go beyond that to say it seems to me many of the criticisms which have been made of the way in which the public would view the Senate should it see proceedings carried on as they are today would not continue if the Senate itself were televised. I believe that debate on issues would be more sharp, more to the point, and would occupy more of the time during which the Senate is in session than it does at the present time.

I began my career in the Senate almost 4 years ago on the side of the Senator from Louisiana, feeling that something would be lost by the Senate should its proceedings be televised. I have now changed my views on that subject. I feel that much would be gained, not just by the general public but by the Senate itself, in respect to its place in the political status of the United States of America. As a consequence, I urge a vote in favor of cloture and a vote in favor of the resolution.

I thank the Senator from Maryland.

Mr. MATHIAS. I thank the Senator from Washington.

Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, the Senator from Arizona, as he always does, raises some very interesting points. He asked who will carry this signal.

C-SPAN presently feeds the television signal from the other body to many cable service companies, and they in turn put the signal on cable that goes into millions of homes all over this country.

Now, I understand that C-SPAN coverage is growing so that every month more American households have an opportunity to watch the proceedings in the other body, but it is a total blank as far as the Senate is concerned. So that is who will carry the signal.

But in addition to that, I think the Senator raises a point that needs to be made. As I listen to my FM radio, I often hear a voice that will be familiar to the distinguished Senator from Texas, the voice of an old friend of his, none other than the Prime Minister of Great Britain, Margaret Thatcher, because the proceedings in the British Parliament are recorded and broadcast. It is very revealing to hear the live debate that goes in the British Parliament and Mrs. Thatcher making a telling point which comes across not only to that handful of people who hear her in the House of Commons but to people all over the world who now understand better exactly the point she has been making. All of us I think go home and watch the news, but we do not see the gavel-to-gavel proceedings of the House of Representatives. We see the interesting high points of the debate which the networks, who have benefited by the blessing from the Senator from Arizona this afternoon, are broadcasting, and that is a revealing and interesting kind of cameo that comes across.

The PRESIDING OFFICER. The 2 minutes yielded by the Senator from Maryland to himself have expired.

Mr. MATHIAS. Mr. President, does the Senator from Louisiana wish to proceed at this time?

Mr. LONG. I yield my remaining time, Mr. President, to the Senator from Connecticut.

Mr. DODD. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes and 20 seconds.

Mr. DODD. How much remains for the proponents?

The PRESIDING OFFICER. Approximately 2 minutes 13 seconds remain on the side of the proponents.

Mr. DODD. Mr. President, I will wait until tomorrow to go into greater detail as to the reasons why I oppose the cloture motion and also the substance of the present resolution that will be coming before us.

I point out to my colleagues that these arguments are certainly interesting ones, particularly when we have heard them on numerous occasions this afternoon, in that our real interest is the public and that it is not the interests of Senators or the interests of the institution. I embrace that idea. I think our interests obviously should be the public, and in serving the public interests it becomes vitally important that we preserve the unique nature of the U.S. Senate.

There are a lot of definitions of what the Senate is and what its rules are designed to do which make it different from the House of Representatives. As a Member of the House of Representatives, I supported televising proceedings in the House. The rules of the House absolutely guarantee the rights of a majority; that the rule of the majority should prevail.

The rules of the Senate are specifically designed to guarantee the rights of a minority, including a minority of one. To suggest somehow that the influence of television is not going to bring additional pressures when the rights of a minority are trying to be protected I think is to not be cognizant of what goes on in our society—clearly the influence of a television camera. Take, for instance, the proceedings of just last week during the consideration of the banking bill. A good day went by when nothing transpired, quite frankly. We had extended rollcalls because one Member who had a particular point of view wanted to delay the proceedings somewhat to get a better vote count, to get a better sense of what was going on. His view was a minority view quite clearly at the time, and yet he used that vehicle and the rules which the Senate provides in order to try to protect himself and the rights of a minority which he was trying to defend.

I can imagine having the cameras covering an institution during 6 or 7 hours when nothing more than a very slow and deliberate rollcall was going on. Clearly, then, I presume the public would be saying, "Why should one person be able to tie up the entire U.S. Senate for 7 hours just because he wants to protect his amendment or a small group of people?"

The PRESIDING OFFICER. The time allotted the Senator from Connecticut and the opponents has expired. The proponents have 2 minutes 13 seconds remaining.

Mr. MATHIAS. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I was very interested in the observation of the Senator from Maryland about the House of Commons. I would like to ask this question of the Senator concerning the House of Commons, and I am sorry to ask the question. Does he not think that the decorum in the House of Commons is even worse than the decorum in the U.S. Senate?

Mr. MATHIAS. I will say to the Senator from Texas that I may not have spent as much time in London as he

has, but both of us know that they do get unruly in the House of Commons.

I want to assure the Senator from Arizona that the public understands what goes on and this is real life. All we are trying to do is to let the American people know what real life is all about. We are not hiding behind these walls of the Senate. We are not in some cloistered situation where we are trying to prevent the public from knowing what really goes on here. They ought to know what goes on here because it affects their lives, it affects their future, it affects their interests. They ought to know what happens here. They have the right to know what happens here. And it ought to be more than just these few people who are gathered here. So let us agree to this cloture motion.

● Mr. LEVIN. Mr. President, I am voting in favor of invoking cloture on the motion to proceed to consideration of Senate Resolution 66, which would authorize television coverage of Senate floor proceedings. While I am willing to move to debate this resolution, I do have serious concerns about the resolution and about the impact television could have on this body's proceedings, concerns which are not adequately addressed in the resolution before us. I must be convinced that the rights of the minority will be protected and that potential abuses will be controlled before I can vote for this resolution.●

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 6 p.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. Res. 66, a resolution to establish regulations to implement television and radio coverage of the Senate.

Senators Howard Baker, Ted Stevens, Steve Symms, Jake Garn, Paul Trible, Strom Thurmond, Warrren Rudman, Pete Domenici, Thad Cochran, Slade Gorton, Charles McC. Mathias, James Abdnor, Lowell Weicker, Dan Quayle, Mark Andrews, Pete Wilson, John H. Chafee, and Gordon Humphrey.

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

The question is: Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Resolution 66 shall be brought to a close. The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. TSONGAS], is necessarily absent.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 73, nays 26, as follows:

[Rollcall vote No. 240 Leg.]

YEAS—73

Abdnor	Glenn	Packwood
Andrews	Gorton	Pell
Armstrong	Hart	Percy
Baker	Hatch	Pressler
Baucus	Hawkins	Pryor
Biden	Heflin	Quayle
Bingaman	Heinz	Riegle
Bradley	Humphrey	Roth
Bumpers	Jepsen	Rudman
Byrd	Kassebaum	Sarbanes
Chafee	Kasten	Sasser
Chiles	Kennedy	Simpson
Cochran	Lautenberg	Specter
Cohen	Leahy	Stafford
Cranston	Levin	Stevens
Danforth	Lugar	Symms
DeConcini	Mathias	Thurmond
Denton	Matsunaga	Trible
Dixon	McClure	Wallop
Dole	Melcher	Warner
Domenici	Metzenbaum	Weicker
Durenberger	Mitchell	Wilson
Evans	Moynihan	Zorinsky
Exon	Murkowski	
Garn	Nickles	

NAYS—26

Bentsen	Goldwater	Laxalt
Boren	Grassley	Long
Boschwitz	Hatfield	Mattingly
Burdick	Hecht	Nunn
D'Amato	Helms	Proxmire
Dodd	Hollings	Randolph
Eagleton	Huddleston	Stennis
East	Inouye	Tower
Ford	Johnston	

NOT VOTING—1

Tsongas

The PRESIDING OFFICER. On this vote there are 73 yeas and 26 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BAKER. Madam President, cloture having been invoked, the rule requires that we remain on this issue until it is disposed of.

I have consulted with the minority leader, however, and there is a wish on the part of many Senators to set the vote on the motion itself for tomorrow rather than continue on it tonight.

So I have two requests that I wish to put at this time, and I am not now putting them.

The second one, however, that I would propose to put is that, while the first one would be that we put the vote over to tomorrow at 12 noon on the motion to proceed, for a little while this afternoon we might continue with the trade bill.

That is the result of the request by the distinguished chairman and distinguished manager of the bill on this side. That requires unanimous consent however, and before I put either of those requests, might I inquire of the minority leader if he wishes to comment on either one.

Mr. BYRD. Madam President, I cannot speak for all Senators on this side at this point because I have not had a chance to canvass them, but as far as I know and with respect to my own concerns I would have no objection to setting the vote on the motion to proceed at 12 o'clock tomorrow.

As to the second request, I think there will be a little problem because some of us from steel-producing States are not very happy with the President's rejection of the ITC recommendations.

And so we would not want to see final action on the trade measure tonight. As a matter of fact, some of our people have to go, some have gone, and I hope we can just go ahead with the unanimous consent on the cloture matter and then go back into morning business and take up the trade bill at some other point.

Mr. DANFORTH. Mr. President, there are some noncontroversial items on the trade bill. I wonder if we could stay to do the noncontroversial items without finishing the bill.

Mr. BAKER. Mr. President, let me make an alternative suggestion if I may. As I say, cloture having been invoked it would require unanimous consent to get on the bill tonight, or in the morning for that matter. But it seems clear to me, based now on the remarks of the minority leader and, indeed, based on the remarks on this side of the aisle, Senators here having expressed a concern about going on trade tonight, that we are not going to be able to do that.

But what I would suggest is if we come in early in the morning and try to get unanimous consent, let us say, at 10:30 tomorrow, we could get on the trade bill and then stay on it until 12 o'clock or 11:30 and at 12 o'clock we would have the vote on the motion to proceed and then be back on TV in the Senate.

That would give us a good hour, hour-and-a-half, in the morning to work on the trade bill if we could get unanimous consent to do that. We would have to do one other thing, though that I would hope we would be able to do if we are going to come in early tomorrow. I have a standing request of the distinguished chairman of the Judiciary Committee to come in at 11 tomorrow. I would hope we would get unanimous consent that the Judiciary Committee could meet until 1 o'clock, notwithstanding that we come in at 9:30 in the morning.

Mr. BYRD. Madam President, I think that the majority leader's proposal is the better one at this point. I do not know what people will be saying and thinking in the morning, but it might be that we could very well agree to going back to the trade measure tomorrow morning. I do not think we could do that tonight.

Mr. BAKER. I yield to the Senator from Missouri.

Mr. DANFORTH. Madam President, I am happy to take anything I can get on the trade bill. I would observe that sometimes early in the day it is difficult to get Senators to show up on the floor to offer amendments and I think that time is of the essence. As I understand the desire of the majority leader in working out the scheduling of the Senate, he does not intend to stay on the trade bill for an indefinite period of time. So I hope we can wrap up the bill at an early time and that Senators will be available to offer amendments at 10:30 provided we can get unanimous consent.

ORDER FOR WEDNESDAY

VOTE ON MOTION TO PROCEED AT 12 NOON

Mr. BAKER. Madam President, under these circumstances, then, let me make one request at this point. I ask unanimous consent that the vote on the motion to proceed occur at 12 noon on tomorrow.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

REQUEST FOR JUDICIARY COMMITTEE TO MEET UNTIL 1 P.M.

Mr. BAKER. Madam President, I ask unanimous consent that on tomorrow, regardless of the hour at which the Senate may convene, the Judiciary Committee be permitted to meet until the hour of 1 p.m.

Mr. BIDEN. Would the majority leader repeat that request?

Mr. BAKER. Yes. Madam President, the request was that the Judiciary Committee be permitted to meet until 1 p.m. The reason for that is I have a request to convene the Senate tomorrow at 11 o'clock. I am trying to move that time back so we can do the trade bill at, say, from 10 o'clock on. In order to do that, I have to make that additional unanimous-consent request.

Mr. KENNEDY. I object.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, let me say that it is still the intention of the leadership to seek consent to go to the trade bill at sometime tomorrow, because the leadership now feels that we should try to finish the trade bill. It is clear we cannot do that tonight and we cannot do it in the morning, but we will continue to make an effort to find the time to get back on the trade bill tomorrow.

Just for the information of Senators, the schedule for the rest of this week looks like TV in the Senate, the trade bill, and the highway bill. Those are the three items that appear to be the ones that will command our attention for the balance of this week. I would urge Senators to consider that it will be a full week and we will be in on Friday. I do not expect us to be in on Saturday, but I would warn Senators that after this weekend there is a high likelihood that we will be in session on weekends, at least on Saturday, trying to finish the must legislation, including the CR and the budget resolution.

ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I expect now it would be in order to make this request. I ask unanimous consent that there now be a period for the transaction of routine morning business until the hour of 7 p.m. in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, there will be no more votes tonight.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and statements submitted during the day follow:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 6:39 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 38) entitled the "Longshoremen's and Harbor Workers' Compensation Act."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2463) to authorize appropriations of funds for certain fisheries programs, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 71) to authorize and direct the Secretary of the Interior to engage in a special study of the potential for ground water recharge in the High Plains States, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 598. An act to authorize a land conveyance from the Department of Agriculture to Payson, Arizona; and

S. 2155. An act to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple-use management, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1102. An act to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4567. An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5644. An act to provide greater discretion to the Supreme Court in selecting the cases it will review; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4567. An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1151: A bill to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime (Rept. No. 98-605).

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with amendments:

S. 2480: A bill to declare that the mineral rights in certain lands acquired by the

United States in connection with the Garrison Dam and Reservoir project are held in trust for the Three Affiliated Tribes of the Fort Berthold Reservation, and for other purposes (Rept. No. 98-606).

S. 2663: A bill pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes (Rept. No. 98-607).

S. 2823: A bill to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 59 and 13E before the Indian Claims Commission and docket numbered 13F before the U.S. Claims Court, and for other purposes (Rept. No. 98-608).

S. 2824: A bill to provide for the use and distribution of certain funds awarded the Wyandotte Tribe (Rept. No. 98-609).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 2256: A bill to exempt restaurant central kitchen from Federal inspection requirements (Rept. No. 98-610).

S. 2773: A bill to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes (Rept. No. 98-611).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2805: A bill to designate certain public lands in Virginia as additions to the National Wilderness Preservation System (Rept. No. 98-612).

S. 2808: A bill to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes (Rept. No. 98-613).

H.R. 3788: A bill to designate various areas as components of the National Wilderness Preservation System in the national forests in the State of Texas (Rept. No. 98-614).

H.R. 4263: A bill to designate certain lands in the Cherokee National Forest, Tennessee, as wilderness areas, and to allow management of certain lands for uses other than wilderness (Rept. No. 98-615).

H.R. 5076: A bill to designate certain areas in the Allegheny National Forest as wilderness and recreation areas (Rept. No. 98-616).

H.R. 5221: A bill to designate through September 30, 1988, the period during which amendments to the U.S. Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes (Rept. No. 98-617).

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 2625: A bill to permit the payment of rewards for information concerning terrorist acts (Rept. No. 98-618).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 445: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5076; referred to the Committee on the Budget.

S. Res. 446. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5221; referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Melvin A. Ensley, of Washington, to be a member of the Federal Farm Credit Administration for a term expiring March 31, 1990;

Crete B. Harvey, of Illinois, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1990; and

Robert R. Davis, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1989.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (for himself and Mr. PELL):

S. 3000. A bill to authorize the provision of foreign assistance for agricultural activities in Poland; to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 3001. A bill permitting American prisoners of war held by the Japanese after the Bataan death march to sue in the U.S. Court of Claims; to the Committee on the Judiciary.

By Mr. JEPSEN:

S. 3002. A bill to require the Secretary of Agriculture under certain conditions to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural operating loans made by legally organized lending institutions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. LAXALT) (by request):

S. 3003. A bill to strengthen and improve the operations of the U.S. Bureau of Prisons; to the Committee on the Judiciary.

By Mr. KASTEN:

S. 3004. A bill for the relief of Tirouhi Marcarian; to the Committee on the Judiciary.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 3005. A bill to designate the Federal Building and U.S. Courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. EVANS:

S. 3006. A bill to amend the Federal Power Act; to the Committee on Energy and Natural Resources.

By Mr. TRIBLE (for himself and Mr. WARNER):

S. 3007. A bill to require a cost-benefit analysis of a Government program of furnishing workday care benefits for dependent children of Federal employees; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS from the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 445. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5076; to the Committee on the Budget.

S. Res. 446. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974, with respect to the consideration of H.R. 5221; to the Committee on the Budget.

By Mr. MATHIAS:

S. Con. Res. 144. A concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 21, 1985, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. PELL):

S. 3000. A bill to authorize the provision of foreign assistance for agricultural activities in Poland; to the Committee on Foreign Relations.

U.S. ASSISTANCE TO POLISH AGRICULTURE

Mr. PERCY. Mr. President, ever since the beginning of the suppression of the Solidarity movement in Poland in December 1981, Americans have been wrestling with the problem of how to help the Polish people without bailing out their discredited government.

At the time of Pope John Paul II's June 1983 visit to Poland, there was talk of Western church, private, and government assistance to private Polish agriculture through a foundation managed by the Polish church. Now finally, after 18 months of negotiations between the Polish church and Government, a law has been passed which allows the establishment of private charitable foundations for the first time in postwar Poland. Negotiations on a separate statute specifically governing the church-affiliated agricultural foundation are nearing conclusion. The church hopes formally to establish the foundation in the fall of 1984.

The foundation's purpose will be to administer Western assistance to strengthen private agriculture in Poland, enhance the church's role in the countryside, and increase food supplies. Poland is the only country in Eastern Europe where farms remain largely—75 percent—in private hands. The program would make available

supplies and services which are not now available in sufficient quantities in Poland and which Poles do not have sufficient hard currency to import from abroad. The program would not supplant current Polish Government domestic or foreign expenditures on agriculture.

This private foundation will be established and controlled by the Polish church. The Polish Government will not be represented on any of the foundation's governing bodies. A counterpart foundation is to be set up in Brussels to coordinate Western assistance and purchase equipment and supplies for shipment to the foundation in Poland. No hard currency will enter Poland. The imported goods will be sold by the Polish foundation at fair market prices to private farmers for zloties. A byproduct of the program, the zloties will be used primarily to cover the Polish foundation's administrative expenses and to finance rural infrastructure improvements, with a small amount used to support charitable works by the church.

To test the foundation's competence and autonomy, and the worth of specific proposed agriculture assistance projects, the Polish church is planning a pilot project to run through at least 1985 and to cost about $28 million. The pilot project would test the feasibility of helping key sectors of Polish agriculture identified by Polish and German specialists and a 1982 Rockerfeller Foundation report. These sectors include milk handling, tractor tires, local workshops, food processing, and water supply. The Polish church is soliciting contributions to the $28 million pilot project from churches and governments in Western Europe and North America. Last month, President Reagan announced that the United States was prepared to contribute $10 million to the pilot project, and today I am introducing a bill on behalf of myself and Senator PELL to authorize that $10 million of assistance that would directly benefit private agriculture in Poland and the Polish people.

The Polish church has sought to ensure that its foundation would have sufficient autonomy vis-a-vis the Polish Government to function effectively. The church thinks that the following factors would help safeguard foundation autonomy: First, the Polish-based foundation, working with the Brussels-based foundation, would control the rate at which goods purchased in the West entered Poland; second, all imported goods would remain solely the property of the foundation until sold; third, the foundation alone would determine to whom it sold the goods; fourth, monitoring units would be established on the level of local communes, utilizing local parish structures, to ensure effective church oversight at the local level. The church could terminate or suspend the program at any time that it deemed such action necessary because of interference by the Polish Government.

Mr. President, this looks like a viable proposition to me. We can make a protected pilot investment in the people and nation of Poland, and I think it is in our own national interests to seize that opportunity.

Mr. PELL. Mr. President, despite the tragedy of Soviet-backed Communist repression in Poland, two underlying realities offer hope for the Polish future. First—and primary—is the continuing religious faith of the Polish people. Communist tyranny has been unable to dissolve the powerful bond that joins Poland's families to the Catholic Church and its teachings. The church has infused strength in the Solidarity union movement which has so nobly manifested the continuing struggle of the Polish people to be free.

The second underlying Polish reality is that, notwithstanding the imposition of a Communist regime in Warsaw, agricultural life in Poland continues to be dominated by family farms. Indeed, Poland is the only country in Eastern Europe where farms remain largely—75 percent—in private hands. This Polish infrastructure of private, family based enterprise represents a residential infrastructure of Polish freedom.

I am pleased today to join with the distinguished chairman of the Foreign Relations Committee in cosponsoring a bill designed to fortify these two significant realities in Polish life. The bill would authorize the funneling of American aid—in conjunction with other Western aid—to Polish family farmers, through a mechanism that strengthens Poland's private agriculture while enhancing the church's role in the countryside. Not incidentally, the bill would also buttress a Polish food supply which has dwindled as a result of the economic chaos produced by Polish Communist rule. Such aid represents the distinction we must draw between our disapproval of the Polish regime and our sympathetic support for the Polish people who suffer at its hands.

This Polish assistance program would provide supplies and services which are not now available in sufficient quantities in Poland and which Poles lack sufficient hard currency to import from abroad. This aid, I should underscore, would not supplant current Polish Government domestic or foreign expenditures on agriculture. Instead, the assistance will be administered by a private foundation established and controlled by the Polish church; the Polish Government will have no representative on any of the foundation's governing bodies. In Brussels, a counterpart foundation will be created to coordinate Western assistance and to purchase equipment and supplies for shipment to the foundation in Poland.

It bears emphasis that the ability of a church-sponsored foundation to operate in Poland is unprecedented, and results from 18 months of negotiation between the Polish church and the Jaruzelski government. The church hopes to establish the foundation formally this autumn and to launch a $28 million pilot project that would last through 1985. The pilot project will draw upon assistance from a variety of Western sources: churches, governments, and private foundations. During the pilot project period or thereafter, the church will be in a position to terminate or suspend the program in the event of undue interference by the Polish Government.

Mr. President, I urge my colleagues to support this bill. It represents American foreign aid in an ideal form—devised to operate in concert with other Western aid, targeted to serve a worthy humanitarian purpose, and well calculated to further the American interest in sustaining the aspirations for freedom of a struggling and valiant people.

By Mr. DOMENICI:

S. 3001. A bill permitting American prisoners of war held by the Japanese after the Bataan death march to sue in the U.S. Court of Claims; to the Committee on the Judiciary.

DEATH MARCH SURVIVORS CLAIMS LEGISLATION

● Mr. DOMENICI. Mr. President, I am pleased and honored to have this opportunity to introduce legislation on behalf of those surviving American veterans held by the Japanese as prisoners-or-war following the Bataan death march.

All of us, I'm certain, are all too familiar with the accounts of this infamous 60-mile march in which approximately 1,000 American servicemen lost their lives. However, the accounts of the labor camps which proceeded this episode were just as terrible. Of the nearly 9,000 Americans who managed to survive the death march, more than half of them perished in Japanese camps where they were either starved or worked to death in the interest of Japanese companies who profited from slave labor.

The legislation I am sponsoring will allow the few remaining survivors of these labor camps to petition the claims court to determine whether or not reparations is due them by the Japanese companies in question. I do not believe these brave men who were treated so unjustly and so inhumanely should be denied this basic right.●

By Mr. JEPSEN:

S. 3002. A bill to require the Secretary of Agriculture under certain con-

ditions to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural operating loans made by legally organized lending institutions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TEMPORARY AGRICULTURAL INTEREST RATE REDUCTION ACT

Mr. JEPSEN. Mr. President, 12 days ago on September 6, I introduced the Agricultural Credit Assistance Act of 1984. That legislation is designed to aid financially stressed farmers, ranchers, and small agribusinesses through Government-assisted debt restructuring. I am confident, that when enacted, the Agricultural Credit Assistance Act of 1984 will help in the economic revitalization of tens of thousands of family farm and ranch operations and rural agribusinesses.

Economic recovery in agriculture, however, necessitates a combination of a financial shot-in-the-arm and financial stability. For without programs to promote financial stability, we are destined to repeat programs like those announced today by the President.

The legislation I introduce today, Mr. President, is designed to provide such financial stability. This legislation, the Temporary Agricultural Interest Rate Reduction Act of 1984, or, as I call it, Iowa Plan II, is a companion and complements the earlier Agricultural Credit Assistance Act of 1984.

This bill requires the Secretary of Agriculture to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural loans if, on March 1, 1985, operating loan interest rates are greater than 10 percent. The program will be in effect for 1 year; farmers are required to repay any assistance; and the Secretary of Agriculture is to prescribe eligibility requirements.

Mr. President, we are all hopeful that interest rates will decline to single digit levels within the next 6 months making it unnecessary to implement the bill I introduce today. But an ounce of financial prevention is worth a pound of financial cure. As President Reagan has noted and acknowledged, economic recovery lags in rural and agricultural America. While no sector of our economy or society is more resilient than agriculture, its inherent sacrificial limits are being tested. Our farmers and ranchers have led the fight in reducing the rate of inflation, they have created millions of jobs through their exports and their contribution to the stability of our society is beyond measurement. Passage of the bill I introduce today will give America's farmers and ranchers a much needed and desired renewal of hope and confidence.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point. Also I request that an outline of the plan be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Agricultural Interest Rate Reduction Act of 1984".

DEFINITIONS

SEC. 2. As used in this Act:

(1) The term "operating loan" means a loan made by a legally organized lending institution to a farmer or rancher for a term of not to exceed one year and for a purpose authorized for a loan under section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)).

(2) The term "Secretary" means the Secretary of Agriculture.

AGRICULTURAL INTEREST RATE REDUCTION

SEC. 3. (a) If the Secretary determines on March 1, 1985, that the rate of interest on operating loans offered by legally organized lending institutions to farmers and ranchers is 10 percent or more, the Secretary shall, in accordance with this Act, establish a program to reduce the effective rate of interest paid by such farmers and ranchers on such loans.

(b) To be eligible to receive assistance under this section, a farmer or rancher must—

(1) incur indebtedness on an operating loan during the period beginning March 1, 1985, and ending March 1, 1986, for which the rate of interest is more than 10 percent per annum; and

(2) agree to repay such assistance to the Secretary, in accordance with such terms and conditions as the Secretary shall prescribe, the amount of any assistance provided under this Act.

(c) The amount of assistance provided under this section to a borrower of an operating loan shall be an amount necessary to reduce the effective rate of interest payable by such borrower on such loan to the greater of (1) 10 percent, or (2) the rate of interest payable on such loan less 5 percent.

(d) The Secretary may prescribe eligibility requirements for assistance under this Act, establish other terms and conditions for such assistance, determine the form of such assistance, and take such other actions as are necessary to carry out this Act.

THE "IOWA PLAN II" FOR REDUCED INTEREST RATES ON OPERATING LOANS

Iowa Plan II is legislation which requires the Secretary of Agriculture to prepare and present to the Congress by February 1, 1985 a program or programs which provides to farmers and ranchers interest payment assistance on operating loans if commercial interest rates are not at, or below, 10 percent on March 1, 1985. Should commercial interest rates be greater than 10 percent on March 1, 1985, the government shall implement a program to effectively "buy-down" those interest rates to a 10 percent level or a maximum of 5 percentage points, whichever is greater. (That is, if commercial operating loan interest rates on March 1, 1985 are 16 percent, the interest rate to be paid by the farmer would be 11 percent; if commercial interest rates are 13 percent, the interest rate to be paid by the farmer is 10 percent.) Farmers would be required to pay back any Federal assistance at some future time.

The specific mechanics of this program (qualifications, loan limits, payback provisions, etc.) will be determined by the Secretary of Agriculture.

An example: In March a farmer goes to his banker to secure a $100,000 operating loan. The market interest rate applicable to that loan on that day is 14 percent. As a result the farmer could expect to pay interest charges amounting to $14,000 a year. The effect of Iowa Plan II would have the government "buy-down" that interest rate from 14 percent to 10 percent thus reducing the farmer's annual interest payments from $14,000 to $10,000 improving the farmer's cash-flow position by $4,000. As virtually all operating loans are variable interest rate loans, this 10 percent rate will be allowed to increase but the original 4 percentage point differential would be maintained. (If interest rates go up from 14 percent to 14½ percent, the 10 percent rate will go up to 10½ percent.) If interest rates decline, however, the 10 percent rate will not be reduced proportionately. Should commercial rates actually decline to a 10 percent level, the government assistance will, of course, be terminated.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. LAXALT) (by request):

S. 3003. A bill to strengthen and improve the operations of the U.S. Bureau of Prisons; to the Committee on the Judiciary.

CORRECTIONAL IMPROVEMENTS ACT

Mr. THURMOND. Mr. President, I am introducing today, at the request of the administration, the Correctional Improvements Act of 1984. The Ranking Minority Member of the Committee on the Judiciary, Senator JOSEPH R. BIDEN, Jr., and the Chairman of the Subcommittee on Criminal Law of the Judiciary Committee, Senator PAUL LAXALT, join me as original cosponsors of this legislation.

Most of the proposals in this measure have been previously developed in the context of the criminal code reform legislation or the comprehensive omnibus crime bills considered by the Senate in the 97th Congress and in this Congress. This proposal serves the purpose of presenting to the Congress a separate initiative limited to those problem areas unique to the Federal correctional system.

I ask unanimous consent that the bill be printed in the RECORD, along with the letter of submission from the Department of Justice and the section-by-section analysis, at the conclusion of my remarks.

There being no objection, material was ordered to be printed in the RECORD, as follows:

S. 3003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Correctional Improvements Act of 1984."

SEC. 2. Section 751 (a) of 18 United States Code is amended by inserting "is the result

of a finding of contempt pursuant to section 1826 of Title 28, United States Code," after "extradition or" and before "or by".

SEC. 3. Providing or possessing contraband in prison, summary seizure of same.

(a) Section 1791 of title 18, United States Code is amended to read as follows:

"1791. Providing or possessing contraband in prison.

"(a) OFFENSE.—A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

"(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility—

"(A) a firearm or destructive device;

"(B) any other weapon or object that may be used as a weapon or as a means of facilitating escape;

"(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(D) a controlled substance, other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

"(E) United States currency; or

"(F) any other object; or

"(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

"(b) GRADING.—An offense described in this section is punishable by—

"(1) imprisonment for not more than ten years, a fine of not more than $25,000, or both, if the object is anything set forth in paragraph (1)(A);

"(2) imprisonment for not more than five years, a fine of not more than $10,000, or both, if the object is anything set forth in paragraph (1)(B) or (1)(C);

"(3) imprisonment for not more than one year, a fine of not more than $5,000, or both, if the object is anything set forth in paragraph (1)(D) or (1)(E); and

"(4) imprisonment for not more than six months, a fine of not more than $1,000, or both, if the object is any other object.

"(c) DEFINITIONS.—As used in this section, 'firearm' and 'destructive device' have the meaning given those terms, respectively, in 18 U.S.C. 921(a) (3) and (4).

(b) Section 1792 of title 18, United States Code, is amended to read as follows:

"§ 1792. Mutiny and riot prohibited.

"Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal or correctional facility, shall be imprisoned not more than ten years or fined not more than $25,000, or both.";

(c) The analysis at the beginning of chapter 87 of title 18, United States Code, is amended to read as follows:

"CHAPTER 87"

"Sec."

"1791. Providing or possessing contraband in prison."

"1792. Mutiny and riot prohibited."

(d) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4012. Summary seizure and forfeiture of prison contraband.

"An officer or employee of the Bureau of Prisons may, pursuant to rules and regulations of the Director of the Bureau of Prisons, summarily seize any object introduced into a Federal penal or correctional facility or possessed by an inmate of such a facility in violation of a rule, regulation or order promulgated by the Director, and such object shall be forfeited to the United States."; and

(e) The analysis at the beginning of chapter 301 of title 18, United States Code, is amended by adding after the item relating to section 4011 the following:

"4012. Summary seizure and forfeiture of prison contraband."

SEC. 4. TRESPASS ON BUREAU OF PRISONS RESERVATIONS AND LAND.

(a) Chapter 87 of title 18, United States Code, is amended by inserting after section 1792 the following new section:

"§ 1793 Trespass on Bureau of Prisons Reservations and Land.

"Whoever willfully and knowingly, without lawful authority or permission or in violation of lawful regulation of the Attorney General, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined not more than $500 or imprisoned not more than six months or both."

(b) The sectional analysis of Chapter 87, of title 18, United States Code is amended by adding after the item relating to section 1792 a new item to read as follows:

"§ 1793. Trespass on Bureau of Prisons reservations and land."

SEC. 5. ARREST AUTHORITY.

The first sentence of chapter 203, section 3050 of title 18, United States Code, is amended to read as follows:

"An officer or employee of the Bureau of Prisons of the Department of Justice may

"(1) execute a warrant for the arrest of a parolee;

"(2) make arrests on or off of Bureau of Prisons property without warrant for violations of the following provisions regardless of where the violation may occur: sections 111 (assaulting officers), 751 (escape), and 752 (assisting escape) of title 18, United States Code;

"(3) make arrests on Bureau of Prisons premises or reservation land of a penal or correctional facility without warrant for violations occurring thereon of the following provisons: sections 1361 (malicious mischief), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass) of title 18, United States Code; and

"(4) arrest without warrant for any other offense described in Titles 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property, and if he has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of his escaping before a warrant can be obtained for his arrest."

SEC. 6. CONTRACTING WITH PRIVATE ORGANIZATION.

Chapter 301, Section 4002 of title 18, United States Code, is amended by inserting "or with private organizations or entities," after "or political subdivision thereof," and before "for the imprisonment".

SEC. 7. DISCHARGE PAYMENTS.

Paragraph two of Chapter 315, Section 4281 of title 18, United States Code, shall be amended by deleting "$100" and inserting in lieu thereof "$500".

SEC. 8. AUTHORITY TO EXCHANGE INMATES WITH STATES.

Paragraph (a), Chapter 401, Section 5003 of title 18, United States Code, is amended to read as follows:

"(a) The Director of the Bureau of Prisons when proper and adequate facilities and personnel are available, is hereby authorized to contract with proper officials of a State, or Territory, or the Indian Tribes, for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or Territory: *Provided*, That any such contract shall provide

"(1) for reimbursing the United States in full for all costs or other expenses involved; or

"(2) for receiving in exchange persons convicted of criminal offenses in the courts of the United States, to serve their sentence in approprate institutions or facilities of the State or Territory by designation as provided in Section 4082(b) of this Title, this exchange to be made according to formulas or conditions which may be negotiated in the contract; or

"(3) for compensating the United States by means of a combination of monetary payment and of receipt of persons convicted of criminal offenses in the courts of the United States, according to formulas or conditions which may be negotiated in the contract."

SEC. 9. DONATIONS ON BEHALF OF THE BUREAU OF PRISONS.

(a) Chapter 303 of title 18, United States Code, is amended by inserting after section 4042 the following new sections:

"§ 4043. Donations on behalf of the Bureau of Prisons.

"The Attorney General may accept in the name of the Department of Justice any form of devise, bequest, gift or donation where the donor intends to donate property for use by the Bureau of Prisons or Federal Prison Industries, Inc. The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.

"§ 4044. Accepting Voluntary Services.

(a) Notwithstanding section 1342 of Title 31, the Bureau of Prisons may accept voluntary service for the United States if the service

(1) is to be uncompensated; and

(2) will not be used to displace any employee.

(b) Any person who provides voluntary service under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of this title (relating to compensation for injury) and section 2671 through 2680 of title 28 (relating to tort claims).

"§ 4045. Authority to Conduct Autopsies.

"A chief executive officer of a federal penal or correctional facility may, pursuant to rules and regulations of the Director, order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death when it is determined that such autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility. To the extent consist-

ent with the needs of the autopsy or of specific scientific or medical tests, provisions of local law protecting religious beliefs with respect to such autopsies shall be observed. Such officer may also order an autopsy or other post-mortem operation, including removal of tissue for transplanting, to be perfomed on the body of a deceased immate of the facility, with the written consent of a person authorized to permit such an autopsy or post-mortem operation under the law of the State in which the facility is located."

(b) The sectional analysis of chapter 303, of title 18, United States Code is amended by adding after the item relating to 4042 the following new items:

"4043. Donations on Behalf of the Bureau of Prisons."

"4044. Accepting Voluntary Services."

"4045. Authority to Conduct Autopsies."

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, August 9, 1984.

The VICE PRESIDENT,
U.S. Senate,
Washington, DC.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal entitled the "Correctional Improvements Act of 1984," which would amend Title 18, United States Code, to strengthen and make more efficient the operations of the Federal Bureau of Prisons (BOP).

Today, the BOP operates an integrated system of 43 institutions ranging from minimum security camps to maximum security penitentiaries, which provide custody and programs based on the individual needs of offenders.

The primary responsibility of the BOP is to humanely incarcerate individuals who have committed Federal offenses, while trying to strike a balance which recognizes that retribution, deterrence, incapacitation and rehabilitation are all valid reasons for incarceration.

Within the limits which resources allow, the BOP is constantly developing as a professional, effective service. However, from an operational and management perspective, there are a few problem areas which continually disrupt the operations and/or create needless friction in the system. The enclosed proposal is directed to these issues.

While most of these recommendations have been previously endorsed in the context of either criminal code reform legislation of the past or the present Administration omnibus crime bill, the legislative proposal submitted herewith represents a comprehensive separate initiative directed at rectifying those problem areas unique to the Federal Prison System.

Attached is a copy of the draft bill with a section-by-section analysis. Your prompt and favorable consideration of this legislative proposal is strongly recommended.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this draft bill to the Congress and that its enactment would be consistent with the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

Enclosures.

SECTIONAL ANALYSIS

Section 2.—Escape From Civil Contempt:

The purpose of this amendment is to broaden the definition of escape to include persons in custody as a result of findings of contempt under Section 28 U.S.C. 1826 in addition to those already covered under 18 U.S.C. 401. A similar provision was passed by the Senate in S. 1762 Title X, part L (Section 1013) on February 2, 1984.

Section 3.—Providing or Possessing Contraband in Prison; Summary Seizure of Same:

Section 3(a) amends 18 USC 1791 to establish the offense of possession of contraband in prison and does away with the previous requirement that it be introduced so that an inmate's attempt to make, procure, or possess contraband will consititute the offense. It also incorporates from 18 USC 1791 the possession or conveyancing of weapons in prison. The absolute sentence of 10 years imprisonment is eliminated and a graduated scale established based on severity.

Section 3(b) amends 18 USC 1792 to deal only with the instigation of a mutiny or riot at a Federal penal or correctional facility and provides for a sentence of up to 10 years or a $25,000 fine or both. The provisions about conveying weapons is eliminated because it is now covered in subsection (a)'s amendment to 18 USC 1791.

Section 3(c) amends the sectional analysis to include the new code sections.

Section 3(d) creates a new code section to be found at 18 U.S.C. 4012 which clearly authorizes the forfeiture and seizure of contraband items found in the possession of prisoners.

Section 4.—Trespass on Bureau of Prisons Reservation and Land:

Currently there is no provision to prosecute those who trespass on Bureau of Prisons property unless they do some damage pursuant to 18 U.S.C. 1361. This provision would allow for arrest, prosecution and punishment of those who willfully and knowingly trespass and threaten the orderly operation of Bureau of Prisons facilities.

Section 5.—Arrest Authority:

This proposed version of 18 USC § 3050 will give Federal Bureau of Prisons' employees the authority to arrest off of Bureau of Prisons property only in cases where an officer is assaulted, and when there is an escape or someone assists in an escape. This would authorize any officer transporting an inmate to arrest the parties involved in any assault or escape occurring in his presence. The balance of the arrest authority is confined to Federal Bureau of Prisons property for actions such as damage to property, trespass, contraband and disruptive type violations. All such violations require arrest authority and have been the subject of confusion in the past due to jurisdictional questions arising on the federal reservation properties between local law enforcement and the Federal Bureau of Investigation. This granting of a limited arrest authority when necessary to protect security or government property or to insure the orderly operation of Bureau facilities will avoid any future problems occasioned by the unavailability of a local FBI agent.

Section 6.—Contracting with Private Organizations:

The Bureau of Prisons has broad authority under 18 U.S.C. 4042 to designate any suitable facility for service of sentence, including private facilities (e.g., privately run community treatment centers) for concurrent service of sentence. This amendment expands contracting authority to the same extent. While we believe current law authorizes this, it is desirable to resolve any doubt by clarifying legislation. Private contracting is an important option for an expanding prison population and special needs of some offenders.

Section 7.—Discharge Payments:

The present gratuity carries a maximum of $100. While a gratuity even approaching $500 will be rare, it is desirable for staff to have this discretion to make higher awards for deserving inmates with special needs. The dollar amount was last amended in 1962. Five-hundred dollars was the amount in the Department's Revised Criminal Code, in the version which passed the Senate.

Section 8.—Authority to Exchange Inmates with States:

The current law requires reimbursement of the United States in full for all costs and expenses of boarded state prisoners, and precludes such flexible arrangements as prisoner exchanges, which this proposal would allow.

Section 9.—Donations on Behalf of the Bureau of Prisons:

From time to time, federal institutions receive offers of property donations from nongovernment sources. In the past the Bureau of Prisons has had requests from institutions to authorize them to accept offers of such items as pianos, clothing, library books, automobiles for inmate vocational training, and other similar items.

Currently, there is no authority to accept donated property. There is a Comptroller General's decision (36 C.G. 268, October 2, 1956) which included the following statement: "It is well established that in the absence of specific legislation, there is no authority for an official of the government to accept on behalf of the United States voluntary donations or contributions to augment appropriations."

The Attorney General is authorized by 31 U.S.C. § 725s–4 to accept gifts or bequests of money for credit to the "Commissary funds Federal Prisons," but this does not cover items of property. This proposed 18 U.S.C. § 4043 would authorize the Attorney General to accept gifts on behalf of the Bureau of Prisons, and to utilize these gifts as deemed best.

Accepting Voluntary Services:

Under present law, the Bureau of Prisons lacks authority to accept voluntary and uncompensated services (31 U.S.C. 665(b)). Highly qualified members of the community are willing to provide education, training, counseling and other services to federal prisoners on a voluntary basis. Under proposed § 4044, the Bureau could improve correctional programs, with considerable savings, if specifically enabled to accept such services.

Authority to Conduct Autopsies:

Federal authority in this area, as provided by proposed § 4045, would fill a void whenever an incarcerated person dies under circumstances which warrant autopsy. Generally, the laws of the states where Federal facilities are located provide by statute for autopsy without consent of next of kin where circumstances of death warrant the examination. Although local authorities usually are cooperative and will conduct autopsies, local laws are not in fact applicable to exclusive Federal reservations. We have encountered difficulty in obtaining autopsies where they were needed in some instances.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 3005. A bill to designate the Federal Building and United States Courthouse in Ashland, Kentucky, as the "Carl D. Perkins Federal Building and

United States Courthouse"; to the Committee on Environment and Public Works.

CARL D. PERKINS FEDERAL BUILDING AND U.S. COURTHOUSE

Mr. HUDDLESTON. Mr. President, I am today, along with my distinguished colleague Senator FORD, introducing legislation to designate the new Federal building and U.S. courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse." The House today unanimously passed identical legislation.

Mr. President, no monument, no structure, no temporal symbol can adequately reflect the love and respect all of us shared for Carl Perkins. The truest monument to his life and work will be the manner in which he shaped the direction of our Nation. One measure of the moral fiber of a nation is the manner in which it treats its least fortunate citizens. By this measure, Carl Perkins was our Nation's conscience.

Yet as he molded the legislation of the war on poverty, as he shepherded into law the education, nutrition, and economic programs that have become an integral part of our social fabric, he always remained the U.S. Representative from the Seventh District of Kentucky.

While he worked on writing laws that would make dramatic changes in our American society, he returned home every week to Knott County. He was never too busy to talk to a constituent and to offer a personal helping hand. No problem in the Seventh Congressional District of Kentucky was too small to warrant his personal attention.

Carl Perkins always viewed the world and the Nation from the vantage point of his mountain home, knowing in the most intimate way that the problems of his constituents were the problems of the Nation.

Memorials have been erected in Washington to lesser men than Carl Perkins. But if there is to be a memorial at all, beyond his mark on our society, Carl Perkins would have wanted it to be in eastern Kentucky.

Thus, I urge the Environment and Public Works Committee to adopt this legislation at the earliest possible date.

Mr. FORD. Mr. President, I rise in support of a bill my distinguished colleague, Senator WALTER (DEE) HUDDLESTON, and I are introducing today in honor of the late Carl D. Perkins, who represented Kentucky's Seventh Congressional District in the U.S. House of Representatives for nearly 36 years before his death August 3, 1984.

H.R. 6255, which passed the House by unanimous consent this morning, would designate the Federal building and U.S. courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse." Our bill is identical to that.

I cannot stress how appropriate this gesture would be. Carl Perkins represented the mountain hollows, the towns and cities like Ashland with a devotion and affection of near-legendary proportions. He loved his people, and never stopped fighting for them.

Those of us who had the privilege of serving with Congressman Perkins know of his unyielding dedication to improving the quality of life, both in Appalachia and around the Nation.

Children across America have been able to rise above the poverty and deprivation of their surroundings through some of the educational programs which he fought long and hard for, particularly vocational training.

As a member, and later chairman, of the House Education and Labor Committee, Representative Perkins was a key force behind the Elementary and Secondary Education Act of 1965, which created remedial help for disadvantaged children and provided aid for school libraries.

He was also one of the fathers of the Appalachian Regional Commission, which has helped some of the poorest sections of eastern Kentucky and other States obtain badly needed hospitals and roads.

But Carl Perkins never forgot where he came from. He went home often, sometimes traveling the backroads of his district, chatting with—and listening to—his constituents.

Such commitment is not easily forgotten. And recognition of Carl Perkins, through passage of this bill, would be a fitting tribute to his strength and character.

I urge the Committee on Environment and Public Works to take immediate action on this legislation.

Mr. KENNEDY. Mr. President, it is an honor for me to join in supporting this richly deserved tribute to Carl Perkins.

No one who knew Carl Perkins will ever forget him. He was a giant of the Kentucky earth, and all of us in Congress who respected his genius and valued his friendship will miss him dearly. He was especially close to both my brothers, and his loss was deeply mourned by all the members of my family.

Carl Perkins had a unique ability to touch the conscience of Congress and the country. His legacy of excellence will endure so long as Americans anywhere carry on his lifelong struggle against the ancient evils of poverty, ignorance, and disease. And this legislation will, in some small measure, create a lasting monument to his memory and a reminder of his good works to the generations yet to come.

By Mr. TRIBLE (for himself and Mr. WARNER):

S. 3007. A bill to require cost-benefit analysis of a Government program of furnishing workday-care benefits for dependent children of Federal employees; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES' DAY CARE BENEFITS STUDY ACT

Mr. TRIBLE. Mr. President, in the last three decades, American society has undergone a striking transformation. There has been a dramatic increase in the number of families whose adult members work outside the home.

In 1950, fathers worked and mothers stayed at home raising children in 88 percent of American families. However, this has become less and less typical as a growing number of households are headed by single parents and as more and more women pursue careers outside the home.

1970 census figures revealed that 21 percent of women with children under age 6 worked and 50 percent of women with children between age 6 and 17 were employed. By 1980, 45 percent of mothers with children under age 6 and nearly 63 percent of mothers with school age children worked outside the home. And, by 1982, the proportion of mothers with children under age 6 working outside the home increased to 50 percent.

This significant trend is expected to continue. Predictions are that by 1990, two out of three mothers will be in the labor force; 50 percent of mothers with children under age 6 will be employed—an 80-percent increase since 1970. By the end of the decade, one in every four children under age 10 will be in a single-parent household with that parent either employed or looking for work.

Clearly, women and single parents have become an important factor in the workplace and their requirements and those of their families must be recognized. For working parents, child-care benefits may be at least as important as other more traditional employment benefits such as health insurance or retirement plans. Employers wishing to recruit or retain quality personnel will find child-care benefits to be increasingly important.

Recognizing this, the White House Office of Private Sector Initiatives has established a program to inform businesses or employer options for working families and of the tax and productivity advantages of child-care benefits.

A growing number of employers now provide child-care benefits and have realized substantial savings in doing so. Reduced employee turnover, reduced subsequent training costs, higher retention, less absenteeism, and lower tardiness lead to lower business cost. Research shows that for every $1 invested in a child-care benefit, the

employer received anywhere from $4 to $20 return on the investment. Nonprofit organizations can also realize cost savings. A recent case study of a nonprofit organization identified a $3 to $1 investment return for offering child-care benefits.

Mr. President, if substantial savings are realized by the private sector, it is probable that similar savings could be made by the Federal Government. Therefore, I am introducing legislation today which would authorize the General Accounting Office to conduct a cost/benefit analysis on offering child-care benefits to Government workers.

I believe that as the Nation's largest employer, the Federal Government should investigate the possibility of providing child-care benefits for its employees and cost savings for taxpayers. This study would consider child-care benefit options which provide the best investment for the Government and taxpayer, while meeting with the needs of employees and their families.

The Senior Executive Association, Federal Managers' Association, Federal-employed women, and the Professional Managers Association support this study and I urge my colleagues to do so as well.

ADDITIONAL COSPONSORS

S. 1407

At the request of Mr. EXON, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1407, a bill to protect purchasers of used automobiles from fraudulent practices associated with automobile odometer modifications, and for other purposes.

S. 2139

At the request of Mr. HEINZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2139, a bill to improve the operation of the countervailing duty, antidumping duty, import relief, and other trade laws of the United States.

S. 2339

At the request of Mr. INOUYE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2339, a bill to amend titles XVIII and XIX of the Social Security Act to provide that the services of a mental health counselor shall be covered under part B of medicare and shall be a required service under medicaid.

S. 2407

At the request of Mr. PROXMIRE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2407, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish certain requirements with respect to hazardous substances released from Federal facilities, and for other purposes.

S. 2456

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2456, a bill to establish a commission to study the 1932-33 famine caused by the Soviet Government in Ukraine.

S. 2751

At the request of Mr. KASTEN, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Illinois [Mr. PERCY], the Senator from Michigan [Mr. LEVIN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2751, a bill to provide for coordinated management and rehabilitation of the Great Lakes, and for other purposes.

S. 2821

At the request of Mr. STEVENS, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2821, a bill to amend title 5, United States Code, to improve protections for former spouses of Government officers and employees under the Civil Service retirement system and the Federal Employees Health Benefits Program, and for other purposes.

S. 2894

At the request of Mr. MELCHER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business.

S. 2946

At the request of Mr. D'AMATO, the names of the Senator from Montana [Mr. MELCHER], the Senator from Arizona [Mr. GOLDWATER], the Senator from Illinois [Mr. DIXON], the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 2946, a bill to require the Secretary of Health and Human Services to coordinate and support research concerning Alzheimer's disease and related disorders, and for other purposes.

S. 2959

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2959, a bill to reauthorize the Superfund and for other purposes.

S. 2982

At the request of Mr. DIXON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2982, a bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending.

S. 2995

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 2995, a bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines.

SENATE JOINT RESOLUTION 5

At the request of Mr. THURMOND, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 5, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures.

SENATE JOINT RESOLUTION 97

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 97, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States and the allied forces who served in the Korean war.

SENATE JOINT RESOLUTION 277

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution to authorize the Armed Force Monument Committee, the U.S. Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, and the 1st, 4th, 8th, 9th, 11th, 14th, and 16th Armored Division Associations jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes.

SENATE JOINT RESOLUTION 351

At the request of Mr. SASSER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become Big Brothers and Big Sisters to youth in need of adult companionship.

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the names of the Senator from Illinois [Mr. DIXON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. D'AMATO, the name of the Senator from Massachusetts [Mr. TSONGAS] was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution to commemorate the Ukrainian famine of 1933.

SENATE CONCURRENT RESOLUTION 120

At the request of Mrs. HAWKINS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of

Senate Concurrent Resolution 120, a concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings.

SENATE CONCURRENT RESOLUTION 139

At the request of Mr. ROTH, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 139, a concurrent resolution condemning South Africa's arrests and detentions of political opponents.

SENATE RESOLUTION 139

At the request of Mr. ZORINSKY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Resolution 139, a resolution disapproving the recommendation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs.

SENATE RESOLUTION 410

At the request of Mr. BOREN, his name was added as a cosponsor of Senate Resolution 410, a resolution to designate the week of October 14, 1984, through October 20, 1984, as "National Honey Week."

SENATE RESOLUTION 431

At the request of Mr. DIXON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Resolution 431, a resolution relating to Canadian pork imports.

SENATE RESOLUTION 436

At the request of Mr. PELL, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Maine [Mr. COHEN], the Senator from Maryland [Mr. MATHIAS], the Senator from Maryland [Mr. SARBANES], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alabama [Mr. DENTON], the Senator from Indiana [Mr. QUAYLE], the Senator from Kentucky [Mr. FORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Iowa [Mr. JEPSEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Carolina [Mr. EAST], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Mississippi [Mr. STENNIS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from South Carolina [Mr. THURMOND], the Senator from Tennessee [Mr. SASSER], the Senator from Utah [Mr. HATCH], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Resolution 436, a resolution to commemorate the 100th anniversary of the Naval War College in Newport, RI.

SENATE RESOLUTION 440

At the request of Mr. BOREN, the names of the Senator from Louisiana [Mr. LONG], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of Senate Resolution 440, a resolution to express the sense of the Senate that the President should immediately notify the Soviet Union that additional purchases of U.S. grain, above the maximum level specified in the Long-Term Grain Agreement, may be made by the Soviet Union during the second year of the agreement and to seek to modify the agreement by establishing higher minimum and maximum supply guarantees.

SENATE CONCURRENT RESOLUTION 144—AUTHORIZING USE OF THE CAPITOL ROTUNDA IN CONNECTION WITH THE CEREMONIES OF INAUGURATION

Mr. MATHIAS submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 144

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 21, 1985, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel, of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

SENATE RESOLUTION 445—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 445

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5076, a bill to designate certain areas in the Allegheny National Forest as wilderness and recreation areas.

The waiver of section 402(a) is necessary to permit consideration of provisions authorizing the enactment of new budget authority to acquire lands and interests in lands, including oil, gas, and other mineral interests, in the areas designated as wilderness by the bill.

SENATE RESOLUTION 446—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 446

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5221, an Act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes.

The waiver of section 402(a) of the Congressional Budget Act of 1974 is necessary to permit Senate consideration of H.R. 5221, since the bill was not reported on or before May 25, 1984, as required under section 402(a) of the Congressional Budget Act of 1974. H.R. 5221, among other things, authorizes the enactment of new budget authority for fiscal year 1985 to carry out the United States Grain Standards Act.

AMENDMENTS SUBMITTED

APPLICATION OF IMPUTED INTEREST AND INTEREST ACCRUAL RULES IN CERTAIN SALES

MELCHER AMENDMENTS NOS. 4253 AND 4254

(Ordered referred to the Committee on Finance.)

Mr. MELCHER submitted two amendments intended to be proposed by him to the bill (S. 2894) to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business; as follows:

AMENDMENT No. 4253

At the end of the bill, add the following new Section.

SEC. 3. CLARIFICATION THAT 1984 AMENDMENTS NOT TO APPLY TO ASSUMPTIONS OF PRE-EFFECTIVE DATE LOANS.

Notwithstanding any other provision of law, sections 1274 and 483 of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1984, shall not apply to any debt instrument by reason of an assumption of such instrument.

AMENDMENT No. 4254

On page 4, strike out lines 23 through 25 and on page 5, strike out lines 1 and 2 and insert in lieu thereof the following:

"(A) SALES OF FARMS AND REAL PROPERTY USED IN A TRADE OR BUSINESS.—Any debt instrument arising from the sale or exchange of property to which paragraph (2)(b) or (C) of Section 483(e) applies."

On page 5, insert between lines 2 and 3 the following:

"(C) Subparagraph (B) of section 1274(c)(4) (relating to sales of principal residences) is amended to read as follows:

"(B) SALE OF PRINCIPAL RESIDENCE.—Any debt instrument arising from the sale or exchange of any property used as the princi-

pal residence of the obligor under such instrument."

Mr. MELCHER. Mr. President, it is a good thing that some of the proposals in the recently passed Tax Act will not go into effect until January 1. That gives us a chance to head off the most devastating of some of those proposals.

Mr. President, today I am offering two amendments to S. 2894, my bill to amend the treatment of the sale or exchange of real property under the new original issue discount and imputed interest rules of the 1984 Tax Act.

The first amendment will insure that the changes made to original issue discount and imputed interest rules in the 1984 Tax Act will not apply to any debt instrument by reason of assumption of such instrument. A Washington Post article of September 15, 1984 stated that "Treasury officials confirmed last week that, as of next January 1, any real estate investment sale or exchange involving assumption of an existing mortgage and a sale price for the property of $250,000 or more will be subject to the government's controversial new rules on 'imputed interest'."

Mr. President, it is those new rules on imputed interest that we must head off because they are devastating to the future of our economy. I am sure we will have an opportunity during the next couple of weeks before we adjourn to make the corrections that are necessary.

I do not believe that it was, or is, the Senate's intent that assumable loans for real property should have their interest rates pushed as high as 15 percent in order to avoid the seller paying an even higher tax penalty. This is just one more example of the problems caused by the new OID and imputed interest rate rules. My first amendment to S. 2894 will insure that assumed loans will not be hit by these new rules.

Mr. President, I ask unanimous consent that the entire Washington Post article by Mr. Harney be printed in the record at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 15, 1984]

"IMPUTED INTEREST" RULES HIT INVESTOR LOAN ASSUMPTIONS

(By Kenneth R. Harney)

Real estate investors who didn't read the fine print of the 1984 tax legislation have a new financial worry looming on the horizon.

Treasury officials confirmed last week that, as of next Jan. 1, any real estate investment sale or exchange involving assumption of an existing mortgage and a sale price for the property of $250,000 or more will be subject to the government's controversial new rules on "imputed interest."

Top tax lawyers and accountants say the net effect will be to extend the Treasury's tax arm into far larger numbers of real estate transactions than originally thought.

One prominent Philadelphia accountant, Steven A. Braun of Alexander Grant & Co., called the coming new system a "rolling financial disaster" for thousands of unsuspecting, often-small-scale owners and buyers of investment real estate.

It will mean, for example, that the seller of a relatively modest-sized rental property carrying 9 or 10 percent bank financing probably will have to take a lower price in 1985 than he or she expected to get.

It also will mean that purchasers of anything from rental condominiums to office buildings will be hit by a stark reality: They no longer will be able to take over someone else's attractive cut-rate mortgage and write off depreciation deductions based on the full, negotiated contract price of the property. Instead, they will be faced with an unpleasant choice: either to disregard the favorable financing attached to the piece of real estate they're buying and offer a rock-bottom price to the seller, or simply to buy real estate that comes with no cut-rate financing entanglements whatsoever—if they can afford today's high market rates.

Here's what's behind the latest flap over imputed interest, and what it means for buyers and sellers planning to use loan assumptions.

A key section of the 1984 tax legislation sought to clear up the often-fluid relationship between the price paid for real estate and the nature of the financing offered by sellers in connection with the sale.

A purchaser of a small rental property, for instance, might have been willing earlier this year to pay $300,000 for the building if the seller offered no special help with the mortgage or deed of trust. The same purchaser, however, might have been willing to pay $375,000 if the seller agreed to "take back" a note at a discount rate—say a 10 percent mortgage for the next 10 years.

Buyers and sellers found the traditional system of negotiating price and financing to be a highly flexible, valuable way of balancing their respective interests. The Treasury Department, however, didn't like the traditional system, and convinced Congress to restrict it severely starting next January.

The Treasury objected to the tax consequences of seller-financed real estate deals. In the case of the $300,000 rental property that should sell for $375,000, for instance, the seller pocketed an extra $75,000 in capital gains by offering cut-rate financing.

The purchaser also made out well: He or she got to depreciate the property using a price level $75,000 higher than it otherwise would have been.

The buyer and seller both profited, but the government lost revenue in the process, Treasury argued. The $75,000 "extra" price should be recharacterized as interest income on the seller's ledger, taxable at regular income-tax rates, not capital-gains rates, Treasury said.

The $75,000 also should be chopped off the depreciation basis or tax cost reported by the buyer. The $75,000 was for interest on the seller's take-back note, not for brick and mortar, Treasury's lobbyists argued.

They said that, to calculate the "true" financing and bricks-and-mortar costs in a seller-assisted deal such as this in the future, the mortgage financing should be subjected to the following test: The true cost of money in the sale should be 110 percent of the average rate on long-term Treasury securities (which works out to about 15 percent at current rate levels). If a sale carries a rate below the federally mandated minimum, however, the government should define the true rate in the deal even more harshly. For income-tax purposes, the government should say the seller received interest payments at 120 percent of the federal rate—closer to 16 percent.

The Treasury convinced Congress to write all this into the 1984 tax legislation. Real estate investors have been unhappy about it for the past two months.

What large numbers of them haven't realized yet, according to tax experts at the National Reality Committee, is that, in the closing hours of the tax bill negotiations on Capitol Hill last summer, Treasury lobbyists inserted language expanding the scope of the rules beyond traditional seller financing.

The imputed-interest rules will cover "assumptions of obligations to third-party lenders" after Dec. 31, 1984, said the final draft of the House-Senate conference committee report on the law, "even though such obligations were first issued prior to that date."

Translated from legalese, that means: All those attractive, low-interest assumable mortgages on investment real estate won't be worth their weight in gold anymore, once the clock hits midnight next New Year's Eve.

The only potential bright spot on the horizon is Treasury's forthcoming regulations, which may offer more lenient application of the law to sellers and third-party lenders than to purchasers in real estate transactions involving loan assumptions.

Sellers and third-party lenders with existing mortgages, for example, might be able to compute their capital-gain and income-tax liabilities in 1985 just as they would have before the 1984 tax law went into effect. Buyers of investment properties, on the other hand, will be subject to the full force of the 1984 changes.

Most sellers of homes, by the way, won't run afoul of these complex new provisions unless their property is selling for more than $250,000 and has assumable cutrate financing. Then the new imputed interest system will apply proportionally to that part of the sales price in excess of $250,000.

Mr. MELCHER. The second amendment eliminates the taxing of "phantom income" under the new original issue discount rules in the 1984 Tax Act.

My continuing examination of the imputed interest rate and original issue discount rules enacted in June found that the 1984 Tax Act creates a tax liability for some sellers of property before the seller actually receives the income on which the tax is imposed and before he or she receives cash to pay the tax. S. 2894 eliminates this taxing of "phantom income" in the resale of residential property. However, the seller of newly-built homes would still be subject to the taxing of income they simply have not received. There is no mismatching of deductions and income between the buyer and seller in this situation because the buyer of a principal residence cannot depreciate it or take investment tax credits. Nor can the builder qualify for capital gains treatment of income under the tax code. Rather than remedying a tax inequity in the cases of sales of new homes, the 1984 Tax Act itself creates an inequity

because the seller will be taxed on income that has not been received while the buyer will not be allowed any deduction at all for the payment made to the seller.

The amendment I am submitting today remedies this defect in the 1984 Tax Act by removing the "phantom income" provisions on any debt instrument arising from the sale or exchange of principal residences of the obligor under the instrument.

OMNIBUS TRADE ACT

GLENN AMENDMENT NO. 4255

Mr. GLENN proposed an amendment to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

On page 23 of the matter proposed to be inserted, after the matter between lines 6 and 7, insert the following:

SEC. . CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"917.45	Frames for hand-held Unbrellas chiefly used for protection against rain (provided for in item 751.20 part AA schedule 7).	Free.....	No charge.	On or before 6/30/81".

BENTSEN AMENDMENT NO. 4256

Mr. BENTSEN proposed an amendment to the bill H.R. 3398, supra; as follows:

AMENDMENT NO. 4256

Strike from page 34, line 27 through page 36, line 8 of Danforth amendment No. 4244 and insert a new Section 243 as follows:

"SEC. 243. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection."

LEVIN AMENDMENTS NOS. 4257 THROUGH 4259

Mr. LEVIN proposed three amendments to Amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

AMENDMENT No. 4257

On page 47, line 22, strike "." and add the following: "or by any interested person."

AMENDMENT No. 4258

After line 19, page 52, add the following: "provided that in pursuing these objectives, U.S. negotiators shall take into account legitimate U.S. domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto."

AMENDMENT No. 4259

After line 32, page 52, add the following: "provided that in pursuing these objectives including, but not limited to, the protection of legitimate U.S. health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto."

DANFORTH AMENDMENT NO. 4260

Mr. DANFORTH proposed an amendment to amendment No. 4244 proposed by him to the bill H.R. 3398, supra; as follows:

On page 10 of the matter proposed to be inserted in the matter between lines 4 and 5, strike out "any milk protein concentrate" and insert in lieu thereof "any complete milk protein (casein plus albumin) concentrate".

On page 10 of such matter, strike out lines 5 through 20 and insert in lieu thereof the following:

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countries, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

MITCHELL AMENDMENT NO. 4261

Mr. MITCHELL proposed an amendment to amendment No. 4247 proposed by Mr. COHEN to the bill H.R. 3398, supra; as follows:

At the end of Amendment 4247, offered by the Senator from Maine [Mr. COHEN] add the following new section;

"Section . SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate and investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation or, participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of

Representatives with respect to its activities during the preceding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984."

DOMENICI (AND OTHERS) AMENDMENT NO. 4262

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. LAXALT, Mr. LEVIN, Mr. MELCHER, Mr. DECONCINI, Mr. GOLDWATER, Mr. GARN, Mr. HECHT, and Mr. BAUCUS, proposed an amendment to amendment 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between 3 and 5 years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

INOUYE AMENDMENT NO. 4263

Mr. INOUYE proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and",

(2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs;

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103 (a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (d) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

CRANSTON (AND WILSON) AMENDMENT NO. 4264

Mr. CRANSTON (for himself and Mr. WILSON) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 60, line 24, after the word "Canada" strike the period and insert the following, "provided that the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the U.S. government under the authority of Section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade."

HEINZ AMENDMENT NO. 4265

Mr. HEINZ proposed an amendment to amendment No. 4247 proposed by Mr. COHEN to the bill H.R. 3398; as follows:

In amendment No. 4247:
Strike section 604.
Strike section 618.
Strike section 621(c).
Renumber succeeding sections accordingly.

HEINZ (AND OTHERS) AMENDMENT NO. 4266

Mr. HEINZ (for himself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of amendment No. 4244, add the following new title: TITLE —— TRADE LAW REFORM

SECTION 1. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 2. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following:

"During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 3. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under sections 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under sections 701 or 703 or subject to final orders under sections 706 or 736, as appropriate, if, after reviewing the factors and conditions of trade, the Commission determines that:

(I) the marketing of such imports is reasonably coincident, and

(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 4. THREAT OF MATERIAL INJURY

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL. In determining whether an industry in the United States is threatened with material injury by reason of im-

ports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particulary as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstratable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under sections 701 or 731 or to final orders under sections 706 or 736, are also used to produce the merchandise under investigation."

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

SEC. 5. VERIFICATION OF AMOUNT OF NET SUBSIDY

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 6. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

(2) by adding at the end thereof the following new subsection:

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 7. REVOCATION OF COUNTERVAILING DUTY ORDERS

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c).

SEC. 8. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 9. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 10. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivision, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or antidumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 11. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties,".

SEC. 12. SPECIAL RULES REGARDING DOWNSTREAM DUMPING

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material or component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation."

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677(b)) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that "downstream dumping," as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section."

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section."

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 16776) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"Whenever the administering authority has reasonable grounds to believe or suspect that "downstream dumping," as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether "downstream dumping" of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e)."

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression.

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price."

(c) Section 733 of the Tariff Act of 1930 (19 U.S.C. 1673(b)) is amended by adding at the end thereof, the following new subsection:

(f)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

(2) Whenever the administering concludes, after a preliminary determination under section 733(b) that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping:

(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.

SEC. 13. QUANTITATIVE RESTRICTION AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C. 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c) of this section, the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.".

SEC. 14. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

(ii) the novelty of the issues presented, or

(iii) the number of firms whose activities must be investigated.

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673c(c)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1) should be permitted.".

SEC. 15. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 16. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by

reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended—(1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) subsection (a) of sections 703 and 733 (19 U.S.C. 1671(b) and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 17. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 18. Sections 702 and 732 (U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

HEINZ AMENDMENT NO. 4267

Mr. HEINZ proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of amendment No. 4244, add the following new title:

TITLE .—TRADE WITH NONMARKET ECONOMIES

SECTION 1. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exist. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artificial pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necesssary for the imposition of a duty under section 741 and contains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 743. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission, within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded.

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that deter-

mination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the transactions to be investigated, or adjustments to be considered,

"(II) the novelty of the issues presented, or

"(III) the number of firms whose activities must be investigated, and

"(ii) additional time is necessary to make the preliminary determination.

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

"(2) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b), if the administering authority intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension or liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

"(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in the original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to the administering authority at that time, whether there is a reasonable basis to believe or suspect that—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified by the Commission or the administering authority of the determination and of the facts and conclusions of law upon which the determination is based, and such notice of the determination shall be published in the Federal Register.

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICED MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

"(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

"(2) CERTAIN ADDITIONAL REQUIREMENTS.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—

"(A) the suppression or undercutting of price levels of domestic products by imports of such merchandise will be prevented, and

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of an investigation into the United States, but the administering authority may not accept such an agreement with exporters.

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraordinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of transactions to be investigated or adjustments to be considered,

"(ii) the issues raised are novel, or

"(iii) the number of firms involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) the administering authority is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection

(b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination of the artificial pricing or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify the other parties to the investigation and, if appropriate, the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

"(B) the Commission shall suspend any investigation the Commission is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF ARTIFICIAL PRICING.—If the agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1).

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and, if appropriate, the Commission, continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an artificial pricing duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) the government of the nonmarket economy country under investigation,

"(2) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

"(3) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

than the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), or (E) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of such determination, the administering authority shall—

"(A) suspend liquidation under section 743(d)(i) of unliquidated entries of the merchandise made on or after the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and, if appropriate, the Commission of the action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 745. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(b) FINAL DETERMINATION BY COMMISSION.—

"(I) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

"(B) the 45th day after the day on which the administering authority makes the affirmative final determination under section (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether—

"(i) There is material injury which will be difficult to repair, and

"(ii) the material injury was by reason of such massive imports of the artificially priced merchandise over a relatively short period.

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artifical pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negtative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(2) AND (b)(4)(A).—If the determination of the administering authority or the Commission under subsections (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artificial pricing duty order which—

"(1) directs customs officers to assess an artificial pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption.

"(2) includes a description of the class or kind of merchandise affected, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated artificial pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artificial pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artificial pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artificial pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artificial pricing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

"SEC 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirma-

tive determination of the Commission under section 745(b) is published shall be—

"(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

"(2) refunded or released, to the extent that the cash deposit, bond or other security is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order.

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION: CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidumping duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 703(d) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty of countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 749. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the following as well as other factors he may deem appropriate—

(i) the extent to which the country's currency is convertible;

(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (ii).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742."

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum import price' means—

"(A) the trade-weighted average price of eligible market economy foreign produces in arms-length sales to customers in the United States during the investigatory period.; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a),

at which such or similar merchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are not sales to the United States, other countries.

"(20) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who–

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under sections 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.

(6) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of an artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)" and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

"(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

"(2) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Paragraph (1) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended—

"(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

"(ii) by striking out "or 733(a)" in subparagraph (A)(iii) and inserting in lieu thereof "733(a), or 743(a)",

"(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

"(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

"(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 151a(a)(2)) is amended—

"(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

"(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

"(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

"(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

"(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of section 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.

"Sec. 742. Procedures for initiating an artificial pricing duty investigation.

"Sec. 743. Preliminary determinations.

"Sec. 744. Termination or suspension of investigations.

"Sec. 745. Final determinations.

"Sec. 746. Assessment of duty.

"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing order.

"Sec. 748. Treatment of artificial pricing investigations as antidumping duty or countervailing duty investigations and the treatment of antidumping duty or countervailing duty investigations as artificial pricing investigations.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section I shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

WILSON (AND OTHERS) AMENDMENT NO. 4268

Mr. WILSON (for himself, Mr. CRANSTON, Mr. STEVENS and Mr. INOUYE proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

Viz: At the appropriate place in the bill, insert the following:

"SECTION . (a) Subpart C of part 3 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. §1202) is amended as follows:

"(1) Immediately following item 112.2400, strike out 'Tuna:' and all that follows up to, but not including, item 112.36;

"(2) In Item 112.3640, insert immediately after 'other', '(not including articles described in item 112. 9000)';

"(3) In the heading immediately before item 112.4000, insert immediately after 'oil', 'unless otherwise specified'; and

"(4) In item 112.9000, insert immediately after 'tuna', ', prepared or preserved in any manner, in oil and not in oil'.

"(b) The amendments made by subsection (a) shall apply to articles entered or withdrawn from warehouse for consumption, on or after the date of enactment of this Act."

PENALTIES FOR MALICIOUS OR WILLFUL INTERFERENCE WITH COMMUNICATIONS

GOLDWATER AMENDMENT NO. 4269

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the bill (S. 2975) to amend the Communications Act of 1934 to eliminate willful or malicious interfer-

ence with communications, and for other purposes; as follows:

On page 2, strike Section 3 between lines 5 and 25 and substitute the following new Section:

SEC. 3. Section 510(a) of the Communications Act is amended by inserting "(1)" before the word "Any" and adding at the end thereof a new paragraph "(2)" as follows:

"(2) Any electronic, electromagnetic, radio frequency, or other device or component thereof within the control of any person accused by the Commission of an alleged criminal violation of section 333 of this Act or rules prescribed thereunder, and capable of emitting the radiation alleged to violate such section or rules, may, after issuance of written notice delivered by certified or registered mail or in person of such alleged violation, be seized by the United States when there exists reasonable belief that seizure is necessary to prevent continued willful or malicious interference to any radio communication. Such equipment is subject to forfeiture to the United States upon conviction of such person rendered in United District Court for violation of section 333. For purposes of this paragraph 'reasonable belief' shall be deemed to exist in, but not limited to, instances where continued interference is caused by use of the same or similar equipment by any person after that person has been issued such written notice from the Commission alleging violation of section 333 and requesting that the person cease the actions alleged to constitute violation of such section until a final determination is made."

OMNIBUS TRADE ACT

GOLDWATER AMENDMENT NO. 4270

(Ordered held at the desk.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of Title IV, add the following:

SEC. 403. CITRUS AND CITRUS PRODUCTS

It is the sense of the Senate that no trade agreement entered into under this Title should provide for the elimination or reduction of duties with respect to any citrus or citrus product that benefits from a discriminatory preferential tariff arrangement which is the subject of a pending challenge by the United States under section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

DOMENICI AMENDMENT NO. 4271

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of amendment No. 4244 insert the following new title:

TITLE IV—DUTIES ON SUBSIDIZED HYDRAULIC CEMENT, CEMENT CLINKER, AND CONCRETE BLOCK AND BRICK

SEC. 401. SHORT TITLE.

This title may be cited as the "Cement, Cement Clinker, and Concrete Block and Brick Fair Trade Act of 1983".

SEC. 402. DUTY ON SUBSIDIZED HYDRAULIC CEMENT AND CEMENT CLINKER.

Subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting after headnote 1 the following new headnote:

"2. For the purpose of item 511.12, hydraulic cement and cement clinker found by the administering authority (as defined in section 771(1) of the Act), under the procedures set forth in section 405 of the Cement, Cement Clinker, and Concrete Block and Brick Fair Trade Act of 1983, to be manufactured with the use of fuel or energy provided by a government or a State-owned or controlled enterprise at a price or cost that is less than the true value of such fuel or energy (as determined by the administering authority in accordance with headnote 4), is subject to duty in the amount of the reduction in the cost of manufacturing hydraulic cement and cement clinker attributable to the difference between the price or cost of the fuel or energy provided and such true value."; and

(2) by inserting in numerical sequence the following new item:

"511.12	Hydraulic cement and cement clinker (other than white, nonstaining portland cement), determined by the administering authority to be manufactured with the use of fuel or energy provided by a government or State-owned or controlled enterprise at a price or cost that is less than the true value of the fuel or energy provided	See headnote 2.	See headnote 2.".

SEC. 403. DUTY ON SUBSIDIZED CONCRETE BLOCK AND BRICK.

Subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as amended by section 402 of this Act) is further amended—

(1) by inserting after headnote 2 the following new headnote:

"3. For the purpose of item 511.55, concrete block and brick found by the administering authority under the procedures set forth in such section 405 of such Act of 1983 to be manufactured using cement made with the use of fuel or energy provided by a government or a State-owned or controlled enterprise at a price or cost that is less than the true value of such fuel or energy (as determined by the administering authority in accordance with headnote 4) is subject to duty in the amount of the reduction in the cost of manufacturing cement block and brick attributable to the difference between the price or cost of the fuel or energy used in producing the cement and such true value. In determining the amount of the concrete block and brick manufacturing cost reduction attributable to the provision of fuel or energy to cement producers at less than its true value, the administering authority shall apply a rebuttable presumption that the full value of the benefit received by the cement producers is passed through to the manufacturers of concrete block and brick,"; and

(2) by inserting in numerical sequence the following new item:

"511.55	Concrete block and brick determined by the administering authority to be manufactured with cement made with the use of fuel or energy provided by a government or State-owned or controlled enterprise at a price or cost that is less than the true value of the fuel or energy provided	See headnote 3.	See headnote 3.".

SEC. 404. DETERMINATION OF TRUE VALUE.

Subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as amended by sections 402 and 403 of this Act) is further amended by inserting after headnote 3 the following new headnote:

"4. For the purpose of headnotes 2 and 3, the true value of fuel or energy shall be the first of the following that can be determined:

"(a) the price at which the fuel or energy is freely sold or, in the absence of sales, offered for sale to unrelated purchasers for exportation; or

"(b) an arm's-length price consisting of the amount that was charged or would have been charged in independent transactions with or between unrelated parties in a relevant and uncontrolled market.".

SEC. 405. PROCEDURES.

The duty imposed under headnote 2 or 3 to subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by sections 402 and 403 of this Act) shall be imposed, under regulations prescribed by the administering authority, in accordance with the provisions of sections 702(b)(1) and (c), 703(b), (d)(1), (d)(2), and (f), 705(a)(1), (c)(1)(B), (c)(2), and (d), 706(a), 707, and 751(a)(1), (b), (c), and (d) of the Tariff Act of 1930, except that a petition shall allege the elements necessary for the imposition of the duty under such headnote, all references to a countervailing duty shall be considered to refer to the duty under such headnote, all references to a net subsidy shall be considered to refer to the amount of the manufacturing cost reduction attributable to the provision of fuel or energy at less than its true value (as determined in accordance with headnote 4 to such subpart A), and no determination by the United States International Trade Commission shall be required.

SEC. 406. JUDICIAL REVIEW.

Subparagraph (B) of section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a (a)(2)) is amended by inserting after clause (v) thereof the following new clause:

"(vi) A final determination by the administering authority under section 405 of the Cement, Cement Clinker, and Concrete Block and Brick Fair Trade Act of 1983.".

SEC. 407. EXCEPTION FROM GENERALIZED SYSTEM OF PREFERENCES.

Paragraph (1) of section 503 (c) of the Trade Act of 1974 (19 U.S.C. 2463 (c)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by adding immediately after subparagraph (F) the following:

"(G) Cement and cement clinker specified in item 511.12 of the Tariff Schedules of the United States,

"(H) Concrete block and brick specified in item 511.55 of the Tariff Schedules of the United States, and".

SEC. 408. EFFECTIVE DATE.

(a) Except as provided in subsection (b) of this section, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) With respect to cement, cement clinker, or concrete block or brick imported from a country as to which an investigation under section 303 of title VII of the Tariff Act of 1930 regarding an alleged subsidy on the production or exportation of cement, cement clinker, or concrete block or brick involving the provision by a government or a State-owned or controlled enterprise of fuel or power at less than its true value, or an appeal of a final determination on order in such an investigation, is pending on the date of enactment of this Act, the provisions of this Act shall be effective with respect to unliquidated entries entered, or withdrawn from warehouse for consumption, on or after the date of the filing of the petition in such investigation, if a petition under section 405 of this Act is filed with respect to such merchandise within 90 days after such date of enactment.

GORTON (AND OTHERS) AMENDMENT NO. 4272

(Ordered to lie on the table)

Mr. GORTON (for himself, Mr. EVANS, Mr. ROTH, Mr. HEINZ, Mr. ANDREWS, Mr. TRIBLE, and Mr. BOSCHWITZ) submitted an amendment intended to be proposed by them to the bill H.R. 3398, supra; as follows:

Add at the end of amendment No. 4244 insert the following:

TITLE IV—SPACE TAX EQUALIZATION

SEC. 401. SHORT TITLE.

This title may be cited as the "Space Tax Equalization Act of 1984".

SEC. 402. TREATMENT OF CERTAIN SPACE ACTIVITIES.

For purposes of—

(1) the tax credit determined under section 46(a) of the Internal Revenue Code of 1954 and allowed by section 38 of such Code,

(2) the provisions contained in part 1 of subchapter N of chapter 1 of such Code (relating to the determination of sources of income),

(3) the provisions of the Tariff Schedules of the United States, and

(4) any other provision of any tax or customs law of the United States,

activities performed in space for United States persons on any spacecraft which is predominantly used or operated in space and is controlled from locations within the United States, articles produced in space primarily for sale or use within the United States upon any such spacecraft, and assets used or operated in space upon any such spacecraft (including such spacecraft) shall be treated as activities performed within, articles produced within, and assets used or operated within, the United States.

SEC. 403. SPECIFIC IMPLEMENTING AMENDMENTS.

(a)(1) Subparagraph (B) of paragraph (2) of section 48(a) of the Internal Revenue Code of 1954 (relating to exceptions to the rule with respect to section 38 property used predominantly outside the United States) is amended by inserting after clause (xi) the following new clause:

"(xii) any tangible personal property—

"(I) which is predominantly used or operated in space, and

"(II) which either is a qualified spacecraft within the meaning of section 861(g)(3) or is used or operated upon such a qualified spacecraft.".

(2) Such subparagraph (B) is amended—

(i) by striking out "and" as the end of clause (x), and

(ii) by striking out the period at the end of clause (xi) and inserting in lieu thereof "; and".

(3) The amendments made by this subsection shall apply with respect to property placed in service after December 31, 1984.

(b)(1) Paragraph (2) of section 168(c) of the Internal Revenue Code of 1954 (relating to rules for the type of property which qualifies for the accelerated cost recovery system as recovery property) is amended by adding at the end thereof the following new subparagraph (G):

"(G) PROPERTY USED IN SPACE.—Any tangible property used in space shall be treated as 5-year property of a character subject to the allowance for depreciation.".

(2) The amendments made by this subsection shall apply with respect to property placed in service after December 31, 1984.

(c)(1) Section 861 of the Internal Revenue Code of 1954 (defining income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN INCOME DERIVED FROM COMMERCIAL ACTIVITY IN SPACE TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—

"(1) IN GENERAL.—Amounts includible in gross income of the taxpayer which are attributable to income received by the taxpayer—

"(A) from the disposition of an interest in property produced aboard a qualified spacecraft for the taxpayer primarily for sale or use within the United States,

"(B) for the use, or the privilege of using, property or an interest in property of the taxpayer aboard a qualified spacecraft, or

"(C) as compensation for services performed by the taxpayer aboard a qualified spacecraft, shall be treated as income from sources within the United States in the manner provided in paragraph (2).

"(2) TREATMENT OF INCOME DESCRIBED IN PARAGRAPH (1).—Income described in paragraph (1) shall be treated as income from sources within the United States in the same manner and to the same extent as such income would be so treated if—

"(A) in the case of income referred to in paragraph (1)(A), the property described in such paragraph had been produced within the United States,

"(B) in the case of income referred to in paragraph (1)(B), the property or interest in property described in such paragraph had been located or used within the United States, or

"(C) in the case of income referred to in paragraph (1)(C), the services described in such paragraph had been performed within the United States.

"(3) QUALIFIED SPACECRAFT DEFINED.—For purposes of this subsection, the term 'qualified spacecraft' means any craft which—

"(A) is predominantly used or operated in space, and

"(B) is controlled from locations within the United States.

The Secretary shall publish regulations describing the circumstances under which a spacecraft shall be treated as controlled from locations within the United States.".

(2) The amendment made by this subsection shall apply to taxable years beginning after December 31, 1984.

(d)(1) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media,";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of this Act; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

(2) Part III of title IV of the Tariff Act of 1930 (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"Sec. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process or manufacture or other means while in space."

(3) The amendments made by this subsection shall apply with respect to articles launched into space from the customs territory of the United States on or after December 31, 1984.

TELEVISION AND RADIO COVERAGE OF SENATE PROCEEDINGS

RANDOLPH AMENDMENT NO. 4273

(Ordered to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of the Senate; as follows:

At the end of the resolution add the following:

It is a standing order of the Senate that during yea and nay votes in the Senate, each Senator shall vote from the assigned desk of the Senator.

APPLICATION OF EDUCATION AMENDMENTS OF 1972, THE REHABILITATION ACT OF 1973, THE AGE DISCRIMINATION ACT OF 1975, AND THE CIVIL RIGHTS ACT

HEINZ AMENDMENT NO. 4274

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (S. 2568) to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; as follows:

On page 10, after line 2, add the following:

TITLE II—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION SHORT TITLE

SEC. 201. That this title may be cited as the "Equal Employment Opportunity Reorganization Act".

TRANSFER OF EQUAL PAY ENFORCEMENT FUNCTIONS

SEC. 202. All functions related to enforcing or administering section 6(d) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(d)), are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Office of Personnel Management (formerly the Civil Service Commission) pursuant to sections 4(d)(1); 4(f); 9; 11 (a), (b), and (c); 16 (b) and (c); and 17 of the Fair Labor Standards Act, as amended (29 U.S.C. 204(d)(1); 204(f); 209; 211 (a), (b), and (c); 216 (b) and (c); and 217) and section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended (29 U.S.C. 259).

TRANSFER OF AGE DISCRIMINATION ENFORCEMENT FUNCTIONS

SEC. 203. All functions vested in the Secretary of Labor or in the Office of Personnel Management (formerly the Civil Service Commission) pursuant to sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a), are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and enforcement pursuant to sectons 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 625 and 634), are hereby transferred to the Equal Employment Opportunity Commission.

TRANSFER OF EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT ENFORCEMENT FUNCTIONS

SEC. 204. (a) All equal opportunity in Federal employment enforcement and related functions vested in the Office of Personnel Management (formerly the Civil Service Commission) pursuant to section 717 (b) and (c) of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16 (b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal employment Opportunity Commission may delegate to the Merit Systems Protection Board (formerly the Civil Service Commission) or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the office of Personnel Management (formerly the Civil Service Commission) on other grounds, a Federal employee alleges a violation of section 717 of the Civil Rights Act of 1964; as amended (42 U.S.C. 2000e-16), provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

TRANSFER OF FEDERAL EMPLOYMENT OF HANDICAPPED INDIVIDUALS ENFORCEMENT FUNCTIONS

SEC. 205. All Federal employment of handicapped individuals enforcement functions and related functions vested in the Office of Personnel Management pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), are hereby transferred to the Equal Employment Opportunity Commission. The function of being cochairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Office of Personnel Management pursuant to section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

TRANSFER OF PUBLIC SECTOR 707 FUNCTIONS

SEC. 206. Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under section 707 of title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-6), and all necessary functions related thereto, including investigation, findings, notice, and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said title VII. The Attorney General is authorized to delegate any function under section 707 of said title VII to any officer or employee of the Department of Justice.

TRANSFER OF FUNCTIONS AND ABOLITION OF THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

SEC. 207. All functions of the Equal Employment Opportunity Coordinating Council, which was established pursuant to section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SAVINGS PROVISION

SEC. 208. Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by section 105 of title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Act. Consistent with the provisions of this Act, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Act. Consistent with the provisions of this Act, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Act in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

INCIDENTAL TRANSFERS

SEC. 209. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Act, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall, as necessary, provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Act.

EFFECTIVE DATE

SEC. 210. This Act shall take effect on July 1, 1979.

● Mr. HEINZ. Mr. President, I submit a printed amendment to S. 2568. This amendment is designed to reestablish the Equal Employment Opportunity Commission's authority to enforce the Age Discrimination in Employment Act [ADEA]. This amendment, which would also restore authority for enforcing the Equal Pay Act and other Federal enforcement provisions of the Civil Rights Act and the Rehabilitation Act, was made necessary by an August 28 decision in the Second Circuit Court of Appeals, EEOC against CBS, Inc. The second circuit's decision stated that the transfer of authority for the ADEA was unconstitutional because it was authorized by the Reorganization Act of 1977, a statute which contained a "one-house legislative veto" provision. The court was not taking issue with the merits of the transfer, nor was it commenting on the effectiveness of the EEOC in carrying out its enforcement activities. Rather, the court merely drew upon the precedent established in the Supreme Court's Chadha decision and rules that the transfer was unconstitutional because of a legislative veto provision.

It should be noted, Mr. President, that there have been two recent decisions, one in the fifth circuit and one in the sixth circuit, affirming that the EEOC may enforce the ADEA. This amendment is not intended to send a signal that Congress now believes all of the statutes containing legislative veto provisions are invalid. Rather, I believe that the opinions of the fifth and sixth circuits which I just mentioned are accurate and that if appealed, the decision by the second circuit would be overturned.

The necessity of my amendment, Mr. President, is measured in human terms. If we wait for the judicial process to take its course, the 21 ADEA cases now pending in the second cir-

cuit are jeopardized. Each of those cases involves the employment rights of older Americans, who by law are guaranteed the opportunity to have their grievances heard in a court of law. Furthermore, the second circuit's decision could have negative consequences on the 150 ADEA cases pending in other circuit courts nationwide. Ultimately, failure to restore the EEOC's enforcement authority means that 23 million older Americans would be without legal protection against age discrimination in employment. I might add, Mr. President, that the court recognized the potential harm that could result from its decision and, therefore, stayed filing its decision until December 31, 1984, suggesting that this would give Congress an opportunity to enact corrective legislation. That is the reason for this amendment: To reaffirm the EEOC's authority to enforce the ADEA and other statutes.

Mr. President, as you know, the Senate Aging Committee has had a longstanding interest in policies and legislation that promote continued employment opportunities for older persons who are willing and able to work. Age discrimination in employment continues to be a major reason why middle-aged and older workers are systematically excluded from the opportunity to work. The first legislative response to this concern was the ADEA.

During the first 10 years after its enactment, enforcement of the ADEA was the responsibility of the Department of Labor. In 1979, by Executive order, enforcement responsibility for the ADEA shifted from DOL to the EEOC. Age discrimination charges now constitute a significant portion of the EEOC's caseload. Indeed, the age-related jurisdiction is the fastest growing of all civil rights enforcement statutes. A report by the EEOC placed the number of age-related charges filed during fiscal year 1983 at 15,303. The magnitude of the problem of age discrimination, as well as the increasing importance of enforcement measures designed to combat such discriminatory practices, underscores the necessity for the EEOC to have clear authority to enforce the ADEA.

I urge my colleagues to join me in support of this amendment.●

OMNIBUS TRADE ACT

WARNER AMENDMENT NO. 4275

Mr. BAKER (for Mr. WARNER) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 22 of the matter proposed to be inserted, line 12, strike out "Subpart B" and insert in lieu thereof "(a) Subpart B".

On page 22 of such matter, in the matter after line 13, strike out "12/31/88" and insert in lieu thereof "the termination date".

On page 22 of such matter, at the end of the page, add the following:

(b) The headnotes to subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"7. For purposes of item 907.32, the term 'termination date' means the earlier of—

"(i) December 31, 1988, or

"(ii) the date that is 15 days after the date on which the Secretary of the Treasury publishes in the Federal Register notice of the production of tetraamino biphenyl in the United States."

* * * * *

written statement by any person declaring that such person is producing tetraamino biphenyl in the United States, the Secretary of the Treasury shall publish within 30 days in the Federal Register notice of such production and termination of the suspension of duty under item 907.32.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry has scheduled a hearing on S. 2190, a bill to amend the Agriculture and Food Act of 1981 to provide protection for agricultural purchasers of farm products.

The hearing will be held on Wednesday, September 26, 1984, at 9:30 a.m., in room 328-A, Russell Senate Office Building.

For further information please contact the Agriculture Committee staff at 224-0014 or 224-0017.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, September 18, at 9:30 a.m., to hold a hearing to consider S. 2916, to designate certain additional National Forest lands and National Park lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; S. 2032, to designate certain additional forest lands in the State of Colorado as components of the National Wilderness Preservation System; and H.R. 5426, to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, September 18, at 2 p.m., to hold a hearing on S. 2857, the Honey Research, Promotion, and Consumer Information Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, September 18, at 10:15 a.m., to hold a hearing on the situation in the Philippines for implications for U.S. policy.

The PRESIDING OFFICER. Without objection it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 18, at 10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 18, 1984, in order to receive testimony concerning S. 2417, a bill to amend the Sherman Act with regard to rail carriers.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

THE HONORABLE JOHN M. MAURY, JR.

● Mr. GOLDWATER. Mr. President, earlier this year, Jack Anderson published an article in the Washington Post titled "CIA Official Returned Favor to Hill Critics." In this article, Anderson wrote about the late John M. Maury, Jr., a distinguished Virginian who served as a Marine Corps officer in World War II, was the CIA station chief in Athens in the 1960's, later served in the Congressional Liaison Offices of both the CIA and the Department of Defense, and was twice president of the Association of Former Intelligence Officers.

John Maury was well known to me and to the Senate Select Committee on Intelligence. When he died last

year, the late Senator Henry "Scoop" Jackson, a distinguished Member of our committee and of the Senate, had the following to say about him:

For many years, I knew Jack Maury as a reliable friend and effective public servant. He gave the greater part of his life to aid the cause of freedom and a just peace—and he died at the age of 71 still active in the service of his country. We shall miss him. He represents the kind of patriot we need today more than every before.

In his article, Jack Anderson referred to an essay which John Maury wrote over a decade ago, and stated that this essay proved Maury's disdain for the Congress. Anderson went on to say that this essay was "a sort of guideline for CIA employees trying to 'handle' Congress," and that the "blistering appraisal is contained in a 14-page report, 'CIA and the Congress,' which was disseminated in one of the Agency's secret publications."

Mr. President, I usually do not try to correct Jack Anderson's articles for the record. However, the allegations he makes with regard to John are more than I can ignore, especially since John is no longer around to defend himself.

In 1974, John Maury wrote an article titled "CIA and the Congress" for an Agency publication called "Studies in Intelligence." This article, which was classified confidential at the time, was declassified on July 15, 1980. Like many of the things that Maury said and wrote, it is an insightful and accurate analysis of the subject. This piece does not show any disdain for the Congress, nor does it show that Maury's opinion of Members of Congress is uncharitable, as Jack Anderson claims. I do not consider it a "blistering appraisal" even though it was written in the mid-1970's; a period of time when anyone working for the CIA had good reason to feel angry at the activities of the Congress toward the intelligence family.

Mr. President, as is so often the case, Jack Anderson has sacrificed fact for fiction, has misrepresented an honest man's words, and has impugned the honor of an honorable man in order to make a bigger splash and a better story. I think the record should be corrected on this matter, especially since the late John Maury is no longer around to defend himself.

On this basis, I ask that the complete essay by John Maury be printed in the RECORD. I also ask that a memorial tribute to John Maury by former Secretary of Defense, James R. Schlesinger, also be printed in the RECORD.

The material follows:

CIA AND THE CONGRESS

(John M. Maury)

Beaumarchais' appraisal of politicians is widely shared these days, and perhaps nowhere more than among members of Executive Agencies who have come to look upon Congressmen and their endless investigations and criticisms as irreconcilable enemies of the bureaucratic establishment. In the case of agencies involved in sensitive questions of national security, the problem is intensified by concern among the bureaucrats that Congress will, perhaps inadvertently, lack proper discretion in the handling of highly classified material to which it demands access. On the other hand, the Congress instinctively suspects that whenever an Executive Agency pleads national security as an excuse for withholding information, the purpose is merely to cover up mischief or inefficiency.

In the case of an agency involved in foreign intelligence, the problem is further complicated by traditional American squeamishness about the morality of spying in peacetime—reading other people's mail, or subverting other people's loyalties. And sometimes our own poor judgment or clumsy tradecraft have contributed to Congressional suspicions that many of our activities are counter-productive or create unnecessary irritants in the nation's foreign relations.

Our problem then is whether an organization like CIA can operate in American society without being so open as to be professionally ineffective, or so secret as to be politically unacceptable.

In the early days of the Agency this problem rarely arose. The Agency was created at a time when the nation was haunted by the disastrous lack of warning of the Pearl Harbor attack, when we were becoming dimly aware of the nature and scope of the post-war Soviet threat and implications of the Cold War, and when, for the first time in our history, we found ourselves with no staunch and strong ally standing between us and a possible major adversary. All of this, coupled with our worldwide security commitments—military, economic, and political—made it obvious that if we were to bear our newly acquired responsibilities in the world and defend our national interests, we would need a far more sophisticated set of eyes and ears abroad than anything we had enjoyed in the past.

In the view of the general public, and of the Congress which in the main reflected the public attitude, a national intelligence service in those days was more or less a part and parcel of our overall defense establishment. Therefore, as our defense budget went sailing through Congress under the impact of the extension of Soviet power into Eastern Europe, Soviet probes into Iran and Greece, the Berlin blockade, and eventually the Korean War, the relatively modest CIA budget in effect got a free ride, buried as it was in the Defense and other budgets. When Directors appeared before the Congress, which they did only rarely, the main concern of the members was often to make sure we had what we needed to do our job.

All of this now seems long ago. In recent years the intelligence community, and particularly CIA, have, along with the Defense and State Departments, borne the brunt of Congressional suspicion and frustration resulting from unpopular and burdensome foreign involvements. In the old days we lived in a black and white world. We knew we were the good guys, and we knew who the bad guys were. And it was widely recognized that we needed a good intelligence service to take care of ourselves. It was also widely assumed that, in addition to intelligence, we needed a covert arm to fight Communist subversion and give the Communists some of their own medicine in the area of political and psychological warfare. In the early Fifties there was much talk about how something called the "international Communist conspiracy" had been the main instrument for spreading Soviet influence throughout Eastern Europe and paving the way for Communist takeovers in other parts of the world. Accordingly, it was suggested by eminent Washington statesmen that we should fight fire with fire and develop a subversive capability of our own which would roll back the Iron Curtain to pre-war Soviet frontiers, and perhaps stimulate nationalist uprisings among the peoples of the Baltic States, Byelorussia, and the Ukraine. The late Chip Bohlen has noted the fallacy in this thesis by pointing out that the Kremlin has not gained effective control of a foot of territory since 1917 without the use of threat of superior force, and that covert action, while a useful supplement to overt military and diplomatic measures, can never be a substitute for them. In the early days of the Agency, however, a general failure to appreciate this point led to a certain amount of excessive and romantic zeal, and a corresponding amount of concern and suspicion among those who feared that ill-considered political action ventures might get out of hand.

More recently the pendulum has swung the other way. We no longer see the world as black and white, but in numerous shades of gray. It is no longer clear that we are good guys or that any others in particular are especially bad guys. We have learned that neither military might, economic aid, earnest diplomacy, nor political or psychological gimmicks can make the world behave as we would like it to behave. In the resulting popular disillusionment, scapegoats must be found. Americans have been brought up to believe that they are not supposed to suffer setbacks, and if they do there must be a scoundrel amongst them, or perhaps several scoundrels. In Joe McCarthy's day, the chief scoundrels included General Marshall, a few hapless Foreign Service officers, and an Army dentist. More recently, the scoundrels have been the people that got us into the "illegal" war in Indochina, or who have somehow been vaguely associated with one or another aspect of the Watergate affair. But whatever the immediate popular frustration may be, whether directed at the generals in the Pentagon, or the diplomats in the State Department, or the architects of the Watergate in the administration, chances are someone will find a way to implicate CIA. We are an easy target, first, because nearly everyone is prepared to believe wild stories about "spy agencies"; second, because the media can't tolerate an organization that refuses to share with them all of its secrets; and, third, because we cannot refute the allegations against us without revealing sensitive details about our organization, our activities, and especially our "sources and methods" which the Director is enjoined by law to protect.

Therefore, the Agency still operates under something of a cloud of suspicion. Unless we can publicly prove our innocence of the charges leveled against us, doubts persist. But it now is clear that we are here to stay. We are no longer viewed by the public and politicians as an intriguing Cold War innovation which would soon go the way of other committees, boards, administrative organizations, and so forth, that temporarily prospered in times of crises, but eventually were gobbled up or pushed aside by the entrenched bureaucracies of the old-line departments. In the past several years, CIA has indeed acquired a clear identity on the

national scene. For better or worse, we are in the news almost daily. In the public eye we are no longer obscure, and indeed hardly mysterious, although we do apparently remain somewhat sinister. But in any event we are very much a part of the national establishment and, as such, we must sink or swim in the same political currents as the other elements of the Executive Branch.

I see no reason why we should shrink from this prospect. Both Dick Helms and Bill Colby have made the point before Congressional committees that we are in every sense a part of the American scene, and as such must be guided by American traditions, mores, and morals. And in spite of the doubts and suspicions about some of our real or alleged activities which have been voiced on the Hill, the fact is that to date we have fared quite well at the hands of the Congress. Indeed, it is difficult to recall a case in which the Congress has passed legislation seriously opposed by the Agency, or failed to pass legislation which the Agency judged necessary for its effective discharge of responsibilities. The reason, I think, is that all of our Directors have subscribed to the view that the Congress was entitled to know as much about the Agency and its activities as it thought necessary to carry out its responsibilities. The extent of the information which Congress felt it needed, and the procedures through which it has obtained this information, have varied over the years with changing world conditions and domestic political attitudes. But I know of no case where a Director has attempted to mislead or withhold information from a Congressional committee on any matter within the Agency's competence and within the committee's jurisdiction.

In talking to various Agency groups about our Congressional relations in recent years, I have found that even many old hands are startled, and often disturbed, to learn of the extent of our current involvements with the Congress. Few seem to know that over the past several years we've received an average of over a thousand written communications annually from individual members or committees. Perhaps half of these are routine letters endorsing an applicant for employment. Probably the bulk of the remainder are also more or less routine, involving letters from constituents inquiring about why Congress does not exercise tighter oversight over the Agency, why our budget cannot be made public, whether some of the press stories about assassination and derring-do are accurate, and so forth. But a week rarely passes that we don't have a couple of real lulus—perhaps a request from the Foreign Relations Committee for copies of certain National Estimates; a demand for a detailed reply to allegations by Jack Anderson implying Agency involvement in the narcotics traffic; queries about whether some Foreign Service officer mentioned in the press was actually an Agency employee; questionnaires covering any and all relations we might have with various universities and educational institutions or foundations; and sometimes rather moving appeals for Agency assistance in locating missing persons who may have fallen victim to foul play abroad, or interceding with local authorities to arrange the release of American citizens incarcerated for one or another offense in foreign countries.

Many requests from individual members of the Congress are quite straight-forward intelligence requests—they simply want to be brought up to date on a problem in which the Agency has some competence. It may concern the political situation in a certain foreign country, or how certain Soviet weapons performed during the recent Mid-East fighting, or the prospects for the spring wheat crop in Eastern Europe. Their questions may arise as a result of something that's come up before their respective committees, or it may be connected with a forth-coming trip which they are planning to make to certain foreign areas. On the average, Agency officers give perhaps a hundred individual briefings a year in response to such specific requests.

Our most important business on the Hill, however, is conducted with the several committees. In recent years the Director or Deputy Director has averaged some 30 to 35 committee appearances annually. Most of these have been before the Agency Oversight Committees—or rather Subcommittees—of the Appropriations and Armed Services Committees of the House and Senate. However, increasingly the Director is being called on to give world round-up intelligence briefings to the full Armed Services Committees of each House and to the Defense Subcommittees of the Appropriations Committees of each House, all of which are considerably larger than the Intelligence Subcommittee alone.

The Agency also makes several appearances each year before other committees, such as Foreign Relations in the Senate, Foreign Affairs in the House, and the Joint Committee on Atomic Energy. In the case of Foreign Relations and Foreign Affairs, there are usually a couple of general world round-up briefings each year before the full Committee and, in addition, there are often more specialized briefings, sometimes for only subcommittees. For example, in the Senate Foreign Relations Committee, Senator Muskie might request a special briefing on Soviet weapons developments for his subcommittee on arms control, or in the House, Representative Fascell may want a briefing on developments in Latin America for his Subcommittee on Inter-American Affairs.

In addition to committee briefings, the Agency is frequently called upon to brief individual members on various intelligence and related subjects. During calendar year 1973, for example, we responded to 175 such requests.

Now a few words about the ground rules for dealing with these committees, subcommittees, and individuals. For some years, and in fact ever since we became involved in routine Congressional briefings of the kind I've described, it has been Agency policy to respond to the request of any Congressional committee on any matter within the Agency's competence and within the committee's jurisdiction. So far as the Agency's Subcommittees of the Appropriations and Armed Services Committees of the two Houses are concerned, no holds are barred. These small subcommittees are generally made up of the senior members of the full committees and have free access to any information they wish, not only of an intelligence nature, but about the inner workings of the Agency, including specific operations, budgets, personnel strength and so forth. Also, one or two key staff members of these subcommittees have all of the clearances necessary for similar access. The members themselves are not formally cleared, their access to various categories of classified information being based on their membership on the committee rather than formal clearance procedures by the Executive Branch.

Thus there are no problems with regard to what material to provide to our Oversight Subcommittees. The problems arise in dealing with other committees, especially where things that we consider internal Agency matters impinge on problems which the committees feel legitimately concern them. For example, the Foreign Relations Committee, in its overview of the State Department and the Foreign Service, may feel that it should know what embassy slots abroad are occupied by Agency officers. The Inter-American Affairs Subcommittee of the House Foreign Affairs Committee may call for an Agency explanation of allegations of Agency involvement with certain multi-national corporations. Or Senator Fulbright may want to know whether the Agency has contact with Soviet emigré groups to an extent that might jeopardize détente.

Where operational details are involved—especially those relating to sensitive sources and methods—the Agency has followed guidelines laid down by the Chairmen of our Oversight Subcommittees, and generally no exceptions are made to the strict rule against passing operational information except with the approval of the Chairman of these Subcommittees. However, like everything else in the real world of politics in a democratic society, there are no absolutes. Rules are usually flexible, and where disagreements occur, compromise is always considered preferable to confrontation. Thus, should a particular Senator express special concern over an allegation that a diplomatic incident in some foreign capital was the result of the misfire of an Agency operation, it is entirely possible that the Chairman of one of our Oversight Subcommittees might call him aside and, relying on his honor as a Senator to be discreet, explain to him the facts. Or the Subcommittee Chairman might arrange, on the basis of his colleague's assurances to respect confidences, for an Agency officer to brief him in full detail on the matter in question. There have, of course, been cases where such confidences have been broken, probably more often by inadvertence than design, but perhaps this is not too high a price to pay to avoid the kind of confrontation that would help nobody, at least of all the Agency. For, as the late Senator Russell once cautioned an Agency official, "There isn't a single member of this Senate that's so lowly that he can't make life unbearable for you fellows if he decides he wants to do it."

There are, of course, occasions when activities which start out as strictly clandestine operations end up as subjects of legitimate concern to other than members of the Intelligence Oversight Subcommittees. For example, when covert Agency assistance to the Meo tribes in Laos was first initiated, it appeared both necessary and feasible to maintain a posture of plausible denial. But, as often happens, what started out as a strictly covert program had more and more requirements heaped upon it by higher authority. As more and more people became involved, the U.S. media and other curious bystanders became more and more interested in what was going on, and gradually uncovered virtually the whole story. In these circumstances it would have been quite unrealistic for the Agency to insist that this was only a normal clandestine operation of no concern to the Senate Foreign Relations Committee.

In fact, the Foreign Relations Committee's interest was recognized at an early stage, and Committee members were briefed on the operation as early as 1962. During the ensuing years, the Foreign Relations and Armed Services Committees of the

Senate were briefed on the matter on a total of 28 occasions, and some 57 members were, at one time or another, informed of what the Agency was doing in Laos. This didn't entirely solve the problem, however, because all of these briefings were in Executive Session, and what the members really wanted was something they could use in public debate about the "endless escalation of the illegal war in Indo-China." As the story of the Agency role in Laos gradually seeped out through the media, some members developed the line that they had never known anything about it, and if they had, they would have put a stop to it long ago. This was for public consumption, however, and some of these same members privately congratulated the Agency for having done such an effective job in helping the Meo tribes to tie down such a large number of Communist troops on a budget that, in terms of the costs of the overall U.S. involvement in Southeast Asia, was infinitesimal.

Our most serious problems with Congress generally revolve around major action programs such as the Laos operation. There is a widely held feeling, shared not only by members of the Foreign Relations and Foreign Affairs Committees, but also by our friends on the Agency Oversight Committees, that such operations should not properly be the responsibility of a covert intelligence organization. The charge has been in recent years that the Agency's special legal authorities and clandestine capabilities have been misused by one after another administration to circumvent the will of congress, and that such operations have often done more harm than good in serving the national interests.

This Congressional concern about covert political action and paramilitary operations is not limited to programs of a strategic nature such as the one in Laos. Even relatively minor covert action efforts are viewed with suspicion—for example, the training of foreign police or security services has raised questions about whether we can guarantee that the recipients of such assistance will scrupulously observe due process of law, American-style. And there is a particular Congressional sensitivity to any sort of effort to influence the outcome of foreign elections—even in situations where there is a real and imminent threat that manipulation by Communist nations may lead to a Communist take-over. Meddling with the media—even in unfriendly countries—also creates Congressional uneasiness.

It's hard to generalize about the basis for this persistent Congressional sensitivity. Perhaps it springs in part from a gut feeling that any attempt to influence the course of events abroad should be under close and continuing Congressional scrutiny, and that the President and his immediate staff should not have at their disposal politically potent instruments which they can use without Congressional knowledge and approval, and the misuse of which might produce serious consequences or embarrass the national image.

This Congressional concern about the morality of covert action, and about whether it is compatible with our professed desire to maintain friendly relations abroad, is shared generally by the more liberal members of Congress. They are quick to suspect, for example, that any Agency contact with private American corporations operating abroad, or any Agency assistance to foreign police or security forces is a reflection of imperialistic purpose. The basic attitude among the liberal membership seems to be that any legitimate interest the U.S. has abroad can best be served by the State Department or other overt agencies, and that any resort to clandestine means is proof of sinister purposes.

The more conservative members, on the other hand, usually have no quarrel in principle with covert action, recognizing that chiefs of state even in the most democratic countries have for centuries felt the need of a covert capability of some kind in the conduct of their foreign relations. But many of these more conservative members, and particularly those on the Agency Oversight Subcommittees, often question whether covert action should be the responsibility of an agency whose primary purpose, in their view, is the collection and analysis of intelligence. Several of these members have, in subcommittee hearings, expressed a strong view that Agency involvement in such activities as the war in Laos, the Cuban invasion, the National Students' Association, or Radio Liberty and Radio Free Europe are far too unwieldy and inherently insecure to be properly made the responsibility of an organization which depends for its effectiveness on its secrecy and anonymity. These members feel that the Agency was created primarily to provide reliable national intelligence for the guidance of our policymakers in dealing with critical problems of foreign policy and national security. And they feel that the undertaking of additional burdens in the covert action field diverts us from this objective and erodes and corrupts the discipline and commitment which the successful accomplishment of our intelligence mission requires.

Various arguments have been advanced on the Hill in support of legislation to restrict our covert action authority or to require that Congress be kept more fully informed regarding covert action programs. Along with these have been proposals that the Agency's budget be made public. Such proposals vary in the extent to which they would require a detailed breakdown of the budget, but doubtless one purpose is to give to the Congress as a whole some sort of a handle on the funding of the more ambitious and expensive political and paramilitary programs. In addition there have been legislative proposals restricting, or making us more fully accountable to the Congress for, programs supporting foreign police and security forces, and any Agency association with American commercial enterprises operating overseas.

Another area of Congressional concern, which has reached acute proportions within the past year or so, involves Agency domestic activities. This all started as a tempest in a teapot when a certain political figure discovered that the Agency had provided some quite innocuous briefings to a metropolitan police force in a large American city. From the press accounts that emerged from this discovery, one would assume that the Agency was training local police forces in the more sophisticated techniques of brutality, torture, and terror. In fact, all we were doing was giving them the benefit of our experience with the handling of information, and passing on to them a few tips about how to identify and deal with the foreign weapons and explosives that were being used by alien terrorists. But even the more rational members of Congress have recently been expressing some concern about how carefully the Agency observes its statutory restriction against any sort of police, subpoena, law enforcement, or internal security functions. They apparently feel there is something essentially unhealthy about any agency involved in foreign intelligence carrying on operational activity within the United States.

While critical or suspicious regarding the Agency's covert action and paramilitary activities, uneasy about suspected domestic involvements of the Agency, and increasingly frustrated over the secrecy which protects the Agency's budget, the Congress generally seems to respect the Agency's record in the collection and analysis of intelligence information. They have noted increasingly in recent years the candor and professionalism of the Agency's intelligence briefings, and the scrupulous care exercised by the Agency in maintaining its objectivity in handling highly controversial subjects of major political significance.

It therefore seems clear that where collection and production of intelligence is concerned, the Congressional concern is not so much to clip the Agency's wings, but rather to get access to the Agency's intelligence product, and several legislative proposals have recently been introduced to serve this purpose. Some of these have gone so far as to propose that all intelligence produced by the Agency be made freely available to the full membership of the Congress through the facilities of the Armed Services and Foreign Relations Committees. Others have simply sought to impose upon the Agency a statutory obligation to keep certain committees fully informed on matters within the committees' purview. But the fact that more and more concern is being expressed on the Hill to get the benefit of the Agency's intelligence output is proof of the Agency's growing reputation for competence and credibility.

When such controversial issues as the ABM program, the world oil situation, SALT, and Mutual Balanced Force Reductions are at issue, it is only natural that a number of members of Congress other than those who are members of the Agency's Oversight Subcommittees should want up-to-date intelligence. In general it has been our policy to provide this information as freely as security considerations permit. There is, of course, the ever-present hazard that in doing so a member with strong partisan interests will use information obtained from the Agency out of context in support of one or another side of the argument. There is also, of course, the hazard that in the heat of debate a participant will reveal too much of the details of the information which we have provided. On the other hand, it can be argued that the Congress certainly is now exercising, for better or worse, a vital and frequently decisive role in decisions of the utmost importance to national security, and if its membership is denied access to the best available intelligence the national interest is being poorly served. The denial of relevant intelligence to the Congress, it is argued, may not only lead the Congress into blind alleys or costly and unwise decisions, but for the Executive Branch to have full access to vital information which is denied to the Congress gives the Executive an undue advantage over the Congress, and may have the additional effect of aggravating differences between the Congress and the Executive Branch in their appreciation of the problem at issue.

Certainly many of us here have been troubled by the inherrent security risks involved in sharing highly sensitive information with the Congress. The problem is how to impress upon the members whom we brief the

reason for our concern over security. Often they take the attitude that nearly everything that we tell them come out sooner or later anyhow, so why be so squeamish? Why shouldn't we let them get up and make a speech about it on the floor, rather than wait to be scooped by the newspaper?

In trying to cope with this attitude, it may be useful to point out the difference between a revelation by a Jack Anderson on the one hand, and a revelation by a responsible member of the Armed Services Committee who is known to have just attended an Agency briefing on the other. If I thought the KGB spent its time trying to analyze and evaluate every story put out by Jack Anderson, I wouldn't worry too much. But when a senior member of the Armed Services or Foreign Relations Committee appears on "Meet the Press" and talks about how much we know about Soviet missiles or submarines, odds are that the KGB assumes he's basing his comments on the best available intelligence information.

We have also found it useful sometimes to remind the members of the Director's statutory responsibility for the protection of intelligence sources and methods from unauthorized disclosure. It's worth pointing out that not only do we have this responsibility by law, but we are in a business which essentially involves a number or fiduciary relationships. We are already the most open major intelligence service in the world. Even in some of the oldest democracies, such as the U.K. and the Scandinavian countries, neither the public, the press, nor the politicians are supposed to know the identities of the chiefs of the local service or the location of its headquarters. References to its activities rarely appear in public. Because we are determined to play the game according to American standards, we are already so overt that we have two strikes against us before we start. Therefore it is extremely difficult for us to live up to the obligations implicit in our delicate fiduciary relationships with our sources and collaborators—be they individual agents, friendly liaison services, cover organizations or indeed friendly governments—which might be placed in gravest jeopardy if certain of our special relationships with them, or activities which they permit us to carry out on their soil, ever became known.

Another point sometimes worth making in trying to impress upon Congressional members the value of our contribution to their tasks, and the importance of protecting our security, is to remind them that the U.S. Senate would never have ratified the first SALT agreement had it not been confident that we had a national intelligence capability of detecting significant violations. It can be persuasively argued that, in this sense, good intelligence is vital to the achievement of a meaningful peace. It can be contended that the greatest danger of major hostilities lies not in the deliberate attack of one great power upon another, but rather in the area of miscalculation which can only be avoided by an alert, competent, and credible intelligence service.

Most members seem to accept this point. They also accept, in theory, that for an intelligence service to be credible it must be scrupulously objective and non-partisan. However, in the heat of political controversy, it is inevitable that evidence attributable to the Agency is introduced, sometimes in distorted form, in order to support one or the other side of the debate. During the ABM controversy we were frequently called on to brief committees and individual members of the Senate, and in nearly every case the recipients of these briefings found something to support their position, whatever it might be. Moreover, some of the more vigorous partisans used various devices to try to put words into the mouth of the Director or other Agency witnesses tailored to support their cause. It wasn't always easy to resist these pressures, but I know of no case in which they were not effectively resisted. And I am sure that if we had once started down the road of shaving our language, ever so slightly, to accommodate one or the other side in such partisan debates, it would be quickly detected and long remembered.

In fact, I think we can all be proud of the Agency's record in this regard. This record was eloquently attested to by Chairman Mahon of the House Appropriations Committee on January 16, 1973, when, in paying a tribute to Mr. Helms, he said,

"I must say I have not encountered a man in government who in my judgment has been more objective, more fiercely non-partisan, more absolutely inclined to be perfectly frank with the Congress than you have been. You have just called it as you have seen it, and we have complete and utter confidence in you. I am just glad that we live in a country which produces men who have the sense of loyalty and dedication that you have."

We can be justly proud of this reputation, but it carries with it a heavy burden. Inevitably, we will make mistakes in intelligence assessments, and when we err on matters of sharp political conflict, one side or the other is bound to accuse us of partisan bias rather than professional error.

If we overestimate any aspect of the Soviet threat, we are attacked by the doves. If we underestimate, we alienate the hawks. There is no insurance against these hazards, but the only way to keep them within tolerable proportions is to continue to display, in all of our intelligence presentations, the highest degree of professional objectivity and intellectual integrity.

Beside the problems we have in maintaining our professional integrity by avoiding involvement in partisan debate, we have the problem of maintaining our political integrity—or perhaps, more accurately, apolitical integrity—by avoiding identity with either the liberal or the conservative blocs in the Congress. Traditionally, the older members, because of their seniority on the Oversight Subcommittees, have largely monopolized the oversight function. They tend generally toward conservatism and hawkishness. The younger members, generally excluded from the prestigious Oversight Subcommittees and jealous of the favored position of their elders, tend to be liberal and dovish. The Agency can ill afford to be closely identified with either.

Inevitably, one who spends much time on the Hill is often asked for his personal "net assessment" of the Congress as a whole. I would have to say we get about what we deserve and maybe a bit better. They are, to be sure, not all equipped for the role of statesman. Among them are a fair number of dull fellows who instinctively distrust brilliance. (Dean Acheson, recalling his days as Assistant Secretary for Congressional Affairs, once cautioned me that in dealing with Congress one is tempted to be brilliant, but it is safer to be dull, adding ruefully, "This I earnestly tried, but with only limited success.") But in the main we have a group of broadly representative Americans struggling to find a tolerable compromise between the demands of their constituents, the pressures of the media and special interest groups, horse-trading bargains offered by their colleagues, and the dictates of their consciences.

In the case of some, to resolve such conflicts on the basis of the limited mental and moral resources with which the Creator has seen fit to endow them must indeed be a formidable task, the results of which one should not judge too harshly. From the standpoint of the Agency, I think we can be thankful that we have on our subcommittees a number of members who devote so much constructive attention to Agency matters, knowing full well that the are thereby gaining not a single vote from a constituent, boost from a pressure group, or negotiable asset from cloakroom bargaining.

There have been a number of complaints in recent years, both from outside observers and from some of the younger members of the Congress, about the way the four intelligence Oversight Subcommittees carry out their responsibilities. It is claimed that these Subcommittees are made up almost exclusively of the older and senior members, generally of conservative bent, who lack the time and interest to maintain adequate overview of the Agency. The Subcommittees are charged with failure to insist upon a strict accounting of how the Agency spends its appropriated funds, failure to ensure that the Agency sticks to its legislative charter on such matters as refraining from domestic activities, white-washing the Agency's mistakes, and failing to keep their colleagues informed of what the Agency is up to, how much money it is spending, and so forth.

There is probably merit to each of these charges, and there is probably an explanation in defense against each. It is true that, traditionally, membership on the intelligence Oversight Subcommittees has been limited to the senior members of the full Committees. This, of course, is something over which the Agency has no control. But the fact is that the Congressional leadership, and the chairmen of the full Committees, have seen fit to favor seniority where intelligence matters are concerned. This may be in deference to the wishes of the senior members who normally get first choice at committee assignments. It may also be due to the assumption that the senior members are more likely to behave responsibly in the handling of sensitive information. But whatever the reasons, it is certainly true that, precisely because the members of the intelligence Oversight Subcommittees are quite senior and often have a number of other committee assignments or official responsibilities, they have only limited time and energy to devote to their intelligence Subcommittee responsibilities.

The inevitable result is that most of our Subcommittee members simply do not know the full details about what we are doing, and why we are doing it, and how we are doing it, that they probably should know, and that we in the Agency would be glad to have them know. In terms of efficiency, a democratic parliamentary body is certainly a far from a perfect piece of machinery. No doubt subcommittees made up of younger members would find more time to devote to Agency business, and might make many constructive contributions to the conduct of Agency management and policy guidance.

Moreover, younger members should probably have less difficulty in mastering the modern technology and jargon which often creep into Agency briefings, whether relat-

ing to foreign weapons systems or to our technical intelligence collection systems. I have seen my colleagues wince when asked questions about how many missiles an hour can be launched from an SS-9 silo, or whether our estimate of the number of Soviet Y-Class submarines is based on anything more than a wild guess. One distinguished member apparently has never been quite clear on the difference between Libya, Lebanon, and Liberia, and when answering his questions on what's going on in these countries, a witness can only guess as to which of them he has in mind. In private discussions with him, it might be appropriate to try to straighten him out or seek clarification, but in a formal committee meeting in which a transcript is being made, precision must sometimes be sacrificed to tact.

The older members also occasionally suffer from a decreasing attention span, and particularly in afternoon sessions are prone to intermittent dozing. Also, failing faculties sometimes take their toll. I recall one elderly chairman, when shown a chart of various categories of covert action, reacted sharply and demanded to know "what the hell are you doing in covert parliamentary operations." When it was explained that the box on the chart he was pointing to was "paramilitary operations" he was much reassured, remarking "the more of these the better—just don't go fooling around with parliamentary stuff—you don't know enough about it."

But one who has been privileged to watch such committee chairmen as Stennis, McClellan, Mahon, Hébert, and especially the late Senator Russell, deal with highly complex problems of national security cannot but be impressed with their inherent wisdom and common sense which cuts straight through technical jargon and bureaucratic verbosity to shrewd and rational judgments. They may have only a vague conception of the highly technical matters that frequently arise in intelligence briefings, but they have an uncanny knack for asking simple and direct questions that force simple and direct answers that go right to the heart of the issue involved. And beyond that, they have an uncanny sense for detecting a snow-job. I remember one day driving back to the office with a colleague who had just been up to brief the late Senator Allen Ellender on a complex technical collection system. My colleague was deeply dispirited, feeling the Ellender hadn't the slightest idea of what we were talking about. I tried to reassure him by pointing out that whether Ellender knew what we talking about was not the issue. The issue was whether Ellender thought we knew what we were talking about, and whether we were leveling with him. I said that he had apparently resolved both questions in our favor during the first five minutes, after which he dozed off and ignored the rest of the briefing. My judgment proved right, for a few days later he gave the project in question full support despite strenuous opposition of certain other agencies in the community.

There is another advantage to us in having the more senior members of the full Committees sit on our Oversight Subcommittees. Regardless of what one hears and reads, the senior members of those exclusive clubs, the Senate and the House of the U.S. legislative establishment, observe a strict code in their relations with each other. No member of either club really exercises much influence among his colleagues unless he has a reputation for scrupulous personal integrity. A member must live up to his oral commitment to another member. He must never lie to a fellow member. Therefore, when a member of our Oversight Subcommittee tells a critic of the Agency that he has looked into the matter and found the criticism unfounded, that usually puts an end to it. Also, when a Subcommittee member shares with a non-member a sensitive secret on the assurance that it will not be further revealed, that commitment is normally observed.

On the other hand, this code of conduct can occasionally result in problems for the Agency. One of its provisions, for example, is that every effort should be made to avoid a direct confrontation with another member. Thus, when some committee or individual member seeks to probe an Agency matter which we would prefer to deal with only before our Oversight Subcommittees, it is often difficult to get the Chairmen of our Oversight Subcommittees to assert their prior jurisdictional claim and force the nonmember to back off. Usually some face-saving compromise is arrived at, such as allowing the inquisitive member to receive an "ears only" briefing on the matter from an Agency representative with an assurance that he will keep the information to himself.

While there is much to be said for the seniority system so far as Agency oversight is concerned, it has inevitably produced restlessness and suspicion among the younger members who, like their seniors, have more and more come to be interested in the Agency's activities and anxious for access to the Agency's product. In the House, particularly, some of the younger members have become quite vocal in their insistence that they be included in intelligence briefings and that they be given some sort of an accounting by the Agency Subcommittees of how these Subcommittees are carrying out their oversight responsibilities.

This restiveness has been particularly apparent in the case of the House Armed Services Committee. Both the late Carl Vinson and the late Mendel Rivers ran the Armed Services Committee with an iron hand, and both chaired, and dominated, the Intelligence Subcommittee of the Armed Services Committee. As a result, when Representative Edward Hébert of Louisiana took over the Armed Services Committee following the death of Rivers, he inherited a restless situation in which an increasing number of the younger members demanded reform in the way the Committee's affairs were managed.

In 1971, Mr. Hébert decided to forestall trouble by appointing as Chairman of the Intelligence Subcommittee one of the younger and more liberal members who enjoyed the full confidence of his colleagues. The man he selected was Lucien Nedzi, a Democrat from Detroit. A graduate of the University of Michigan Law School and veteran of World War II and the Korean War, Mr. Nedzi represented a district embracing such disparate communities as East Detroit, Hamtramck, and Grosse Pointe Farms. In taking over his new responsibilities as Subcommittee Chairman, Nedzi displayed a hard-charging and hard-headed attitude. He insisted on knowing not only the "what," but the "why," and the "who says so."

Throughout a series of "get-acquainted" briefings by Agency representatives, Nedzi took nothing for granted. He insisted on detailed explanations of everything he was told, and he read everything about the Agency and the intelligence business that he could get his hands on. Although he had a number of other commitments, he gave top priority to his responsibilities as Chairman of the Subcommittee, and apparently was determined to know more about CIA and the intelligence business than any man on Capitol Hill. Needless to say, he wandered into quite a few blind alleys in the process and picked up a good deal of nonsense of the kind put out by disgruntled former employees and sensational writers of the fashionable intelligence fiction advertised as fact. But the Agency responded by answering all of his questions and freely making available to him the most sensitive material of every kind. By the time the Watergate story broke, he apparently was beginning to feel confident that the was on firm ground in dealing with the Agency and could safely defend us in the face of persistent efforts to implicate us.

As soon as all the Watergate allegations and speculations and suspicions began to circulate, however, Nedzi quite characteristically insisted that every one of them had to be explained or investigated. He launched an intensive investigation into all aspects of the matter, took sworn testimony from dozens of witnesses, including top Agency officers as well as key White House officials, and heard from a number of Watergate defendants themselves. His Subcommittee investigation was considerably better organized and more thorough and systematic than any of the several investigations conducted by the other Congressional committees who were interested in the case.

In the end, Nedzi's persistent skepticism and inquisitiveness, coupled with the Agency's forthright responses to his questions, paid off. While his Subcommittee report of the investigation did note that Agency officials had been "duped" into lending certain assistance to "the Plumbers" on the basis of their false representations, he absolved the Agency and all of its responsible officials of any guilty knowledge or knowing participation. In a story about CIA and the Watergate by Oswald Johnston in the Evening Star, 28 November, Nedzi is quoted as saying that his Subcommittee's record was complete, and that they had gone through piles of memoranda and classified files without finding a shred of evidence of any improper Agency involvement.

The Agency is indebted to Mr. Nedzi not only for his tireless work in setting the Watergate record straight, but also for some thoughtful comments on how the problems of Congressional ovesight look from the perspective of a Subcommittee Chairman. These remarks, made before the CIA Senior Seminar on November 14, 1973, are quoted in full text in the following article.

This is, I believe, the first time that any member of our Oversight Subcommittee has given us in such detail the benefit of his perspective on the intelligence oversight problem.

I can think of no better insurance for the Agency's long-term professional credibility and political acceptability than to have people like Lucien Nedzi know all he wants to know about the Agency, and be satisfied by what he knows.

JOHN MINOR MAURY, JR.—REMARKS BY JAMES R. SCHLESINGER

We have gathered here today—relatives, friends, and colleagues—to pay our formal respects to Jack Maury—for our own special and individual reasons, too numerous to record, yet united in our collective admira-

tion for that splendid man—ever cheerful, ever humorous, ever professional, ever dedicated, ever loyal—our friend, John Minor Maury, Jr.

John Minor Maury—the seventh in his family to bear that name—was born in Charlottesville, Virginia, on April 24, 1912. He grew up at Dunlora, the family farm in Albermarle County, part of a royal grant by George II in 1730 to a Dabney forbearer. The main dwelling had been designed by a local architect, Thomas Jefferson, to whom Jack was collaterally related.

Albermarle and Charlottesville were to remain a recurring theme for the balance of Jack's life. He attended—where else?—the University of Virginia, receiving his law degree in 1936. From 1936 to 1940 Jack served as Assistant and then Acting Commonwealth Attorney. And, displaying the remarkable range of his talents, he also served briefly as the Acting Coroner of Albermarle County.

On June 24, 1939. Jack was married to Mary Francis Stuart in her hometown, Cleveland, Tennessee. His marriage to Stuart, of more than forty-four years, was the monument of his private life—the fixed star in a firmament encompassing many posts, many associations, many places.

Before leaving the University Jack had, in 1935, enlisted as a private in the Marine Corps Reserve, later taking his commission. Ten months before Pearl Harbor, he was ordered to active duty, serving as a Soviet specialist in the Office of Naval Intelligence. From January 1944 to December 1945 he was Commanding Officer of the U.S. Mission in Murmansk, while simultaneously serving as Senior Naval Attache. Representative of the War Shipping Administration, and Acting U.S. Consul. His primary mission involved that long, dangerous, dreary run for Allied ships around the North Cape and into Soviet ports.

Shipping losses ran to 50 percent and higher. Ships making the run has been instructed to search for the survivors, who were then left, with no more than the clothes on their backs, in Jack's charge at Murmansk. With bureaucratic ingenuity, Jack requisitioned a sizable shipment of survivors' supplies from the Persian Gulf Command. The Soviets thoughtfully presented a bill for the storage of the supplies. Young Major Maury, drawing on his best training as legal counsellor, dispatched a polite but firm response, indicating that, while he could understand the Soviet viewpoint, any storage charges would be deducted from reverse Lend-Lease. Nothing further was heard thereafter from the Soviets on the issue.

By all accounts Jack got along fabulously well with the British and adequately well with the Russians. Yet, if the Soviet Union was so obdurate as an ally, what might it be like as a rival? Those early experiences may explain his reflections many years later on Winston Churchill's 'riddle wrapped in a mystery': "No doubt." Jack observed, "he found the Russians exasperating to deal with, and those of us who have tried to do so can sympathize with the frustrations."

It was a natural, almost pre-ordained, step for Jack in 1946 to join the Central Intelligence Group, later the Central Intelligence Agency, as Deputy Chief, Eastern Europe/USSR Branch of what was to become the Intelligence Directorate. He served in the Agency for 28 years. It was the central focus and passion of his professional career, a parallel to his marriage to Stuart in his private life.

Jack's activities at the Agency must perforce remain somewhat veiled. He was later transferred to the operational side of the House (such things were easier then). He served in Berlin, Frankfurt, and Geneva, and also in National Estimates and with the NSC Staff. From 1954 to 1962 he was Chief of the Soviet Division. Suffice it to say that during his tenure the rich vein of intelligence materials provided by Col. Oleg Penkovskiy was acquired and exploited. From 1962 to 1968 he was Chief of Station, Athens.

In 1968 Jack was brought home by Dick Helms to serve as the Agency's Legislative Counsel. No choice could have been better. Jack's blend of graciousness, candor, humor and affability won instant and continuing acclaim on Capitol Hill. He remained for six years a tower of strength to the Agency—always with a light touch to ease the mood, however grave. In the grim atmosphere of the spring of 1973, after some trying days of testimony, I asked Jack to report on the Hill reaction to the Agency's difficulties. "Well," he said cheerfully, "they think you're staying one jump ahead of the sheriff. And," he concluded somewhat doubtfully, "he's not catching up." I found that less than entirely reassuring.

In 1974 I asked Jack to become Assistant Secretary of Defense for Legislative Affairs, believing that the DOD at that time would have more need for his ligislative skills than would the Agency. (In retrospect, that judgment may have been less than clairvoyant.) Jack initially expressed concern that he might be too old to shift careers, but was reassured when reminded that at his age Konrad Adenauer had not yet become Buergermeister of Cologne. At his swearing in, Jack was pleased, amused, and somewhat surprised when I reminded him that henceforth he was entitled to be called "Honorable." "Aha!" said the old intelligence hand, "the ultimate in sheepdipping."

Jack Maury left full-time Federal service in 1976, but for the rest of his days he remained a Consultant to the Department of Defense. He did not become inactive. He taught at the University. He served on the Bar Association's Task Force on Law and National Security. He was mightily pleased and honored to serve for two terms as President of the Association of Former Intelligence Officers. He lectured widely on intelligence—with as much exhortation as analysis. And characteristically he would close his remarks by quoting his fellow Virginian, George Washington:

"The necessity for procuring good intelligence is apparent and need not be further urged—all that remains for me to add is that you keep the whole matter as secret as possible. For upon secrecy, success depends in most enterprises of the kind and for want of it, they are generally defeated however well planned."

What more can we say of Jack Maury, the man? He was, above all else, a man of institutions—his own notable family, the Charlottesville community, the University, the Marine Corps, the Department of Defense, the CIA. All these held his unswerving devotion. Semper Fidelis. For him, life transcended the individual. The complete man was marked by his service to, indeed his immersion in, his many associations, his many platoons.

Proud as he was of his own illustrious lineage, strong as was his affection for the inheritance from the past, Jack Maury knew full well that one must not dedicate himself to the past, but should live for the future. He was not given to looking back, to vain regrets—for what had been, but which could no longer be perpetuated. His central purpose until the end was the change, the adaptation, the growth of those institutions to which he was dedicated—that they might be preserved for future usefulness to his nation.

He remains forever the epitome of the Virginia gentleman . . . in his judgment the highest honor one can attain.

Yet Jack always rejected stuffiness. I can well imagine him now lightening the heavy piety in heaven. In these august surroundings a note of levity may surprise some of you. Jack himself would have had it no other way. For him humor was the indispensable element in God's Kingdom.

And finally, Jack truly exemplified Kennedy's definiton of courage, even gallantry; grace under pressure. Some of us, no doubt, are shaken by the suddenness of Jack's departure. More so, perhaps than Jack himself. When he phoned to announce his fatal illness, he said with his usual cheer: "After seventy, there is no bad news. It's just a question of when the good news runs out." He closed the conversation with that most characteristic salutation with which he invariably ended all phone calls: "All the best."

For Stuart and the family, we all share their grief in this sudden departure—however inevitable a termination to so full a life.

Now Jack has returned—for the final time—to his beloved Dunlora—to be forever amid the scenes of his youth.

Farewell, Jack! Godspeed! All the best!●

THE AMERICAN CONSERVATION CORPS

● Mr. MOYNIHAN. Mr. President, an excellent editorial, entitled "Stop Stalling the Conservation Corps," appeared in yesterday's issue of the New York Times. I ask that the text of the editorial be printed in the RECORD.

I share the author's sentiments.

On March 31, 1933, President Roosevelt signed into law the Civilian Conservation Corps Act—Public Law 73-5; 5 days later, he established the Civilian Conservation Corps [CCC] by Executive Order 6101—less than 1 month after he proposed the legislation to Congress. The first CCC camp, Camp Roosevelt, was opened on April 17, 1933, at Luray, VA. Within 3 months, 1,300 camps were operating across America, manned by 275,000 enrollees. During 9 years of operation, the CCC enrolled 3½ million young men. It was perhaps the best social and environmental bargain in this Nation's history; 50 years ago, Congress acted with alacrity. Today, we proceed at a glacial pace. On February 3, 1982, Senator MATHIAS and I introduced S. 2061, a bill to create an American Conservation Corps [ACC]. In this Congress, we reintroduced the measure on January 26, 1983, as S. 27. The House of Representatives passed ACC-authorizing measures on June 9, 1982, and March 1, 1983. Is it not time for the Senate to act? We have held hearings for 3 years. We have negotiated for 3 years. We have compromised for 3 years. All

the while, our Nation's unemployed youths face few prospects for a better future as the economic recovery passes them by.

Over the past several months, Senator MATHIAS and I have worked with Senator MCCLURE and Senator WALLOP to craft a bipartisan ACC-authorizing amendment to be offered as a substitute to the House-passed measure, H.R. 999. We have succeeded in crafting such an amendment. It would be deeply regrettable if the Senate were prevented from considering that amendment before the Congress adjourns. Such a course of events would be a disservice to unemployed young Americans. We can and should act promptly.

The editorial follows:

[From the New York Times, Sept. 17, 1984]

STOP STALLING THE CONSERVATION CORPS

There comes a time in the legislative process when compromising has to stop, and it's come for the bill to create an American Conservation Corps. The House has approved this worthy measure twice, by overwhelming margins. The Senate threatens now to stall it to death.

Patterned on the New Deal's Civilian Conservation Corps, this idea pairs jobs for unemployed youth with help for the environment. The House voted 18 months ago for a six-year, $1.8 billion program to provide year-round work and training for 56,000 young people and summer work for 50,000 more. The proposal now pending in the Senate provides only a fraction as much—$200 million spread over three years.

To get this far, the Senate version has already been watered down considerably. Its principal advocates, Senators Moynihan of New York and Mathias of Maryland, finally gained essential backing only two months ago from Idaho's James McClure, chairman of the Energy and Natural Resources Committee. But now Senator Quayle of Indiana wants stricter performance standards and more emphasis on hiring "disadvantaged" youth. Another impasse. With time running out for this Congress, it could be terminal.

If the Senate does pass a bill, reconciliation with the House bill would still have to be negotiated, and the final hurdle would be President Reagan's signature. The Administration, missing the point, says it's opposed to "dead-end" jobs, but has stopped short of threatening a veto.

The American Conservation Corps is for young people who are at a dead end already. They're unemployed. They need work, work experience and training. It's a tested concept that should flourish and grow. But not if the Senate doesn't even get to a vote.●

AMENDMENT TO TAX REFORM ACT OF 1984—S. 2995

● Mr. D'AMATO. Mr. President, on September 13, 1984, I joined a number of my colleagues as an original cosponsor of S. 2995, introduced by my good friend and colleague from New York, Senator MOYNIHAN.

S. 2995 rectifies an inadvertent error in the fringe benefit provisions of the recently passed Deficit Reduction Act of 1984, H.R. 4170. These provisions generally made most fringe benefits nontaxable by statute. Previously, a moratorium had been in place prohibiting the IRS from issuing regulations taxing most fringe benefits. This moratorium expired on December 31, 1983.

H.R. 4170 stated that a fringe benefit provided by an employer to an employee that represented no additional cost of service would be treated as nontaxable income to the recipient. However, this only applied to employees of the direct company providing the service, not a separate subsidiary of the same parent corporation.

In particular, S. 2995 rectifies this problem for Pan Am. Pan American World Services is a subsidiary that provides a myriad of services, including servicing Pan Am aircraft. Yet, under H.R. 4170, Pan American World Services' employees cannot enjoy previously received fringe benefits. This is unfair and would change the rules for thousands of employees in the middle of the game.

Mr. President, S. 2995 is a narrow bill in focus. It would allow the employees of Pan American World Services to receive their traditional fringe benefits with no change in tax status. This would only apply to individuals employed by Pan American World Services as of September 12, 1984.

Mr. President, I feel strongly that S. 2995 is important legislation. I urge the Finance Committee to hold hearings at the earliest date on S. 2995.

Thank you, Mr. President.●

TOLEDO RSVP PROGRAM REACHES 1 MILLION VOLUNTEER HOURS

● Mr. GLENN. Mr. President, I am pleased to recognize the valuable work of 700 senior volunteers in Toledo, OH, who participate in the Retired Senior Volunteer Program [RSVP]. The Toledo area RSVP program will be having a volunteer celebration on Sunday, November 4, 1984 to recognize the 1 million volunteer hours donated to the program since 1972.

Under the leadership of Paul Conrad, director of RSVP in Toledo, and his able staff, these senior volunteers are providing valuable services in governmental agencies and community organizations in the Toledo area. The senior volunteers are particularly proud because during the past year they have donated a record 140,000 hours despite the budget freeze on administrative costs for the program. They have been generous in giving their time, talents, patience and wisdom to benefit the Toledo community.

The November 4 reception will include a posthumous recognition of Lucile Porter, the first RSVP volunteer in Toledo. Mrs. Porter served continuously from 1972 to 1984 with United Central Services, the United Way agency in Toledo. As Paul Conrad told me, "Lucile Porter exemplified the type of person that we need as a senior volunteer. She was a caring individual, and always willing to go out of her way to get the job done." The RSVP program and the Toledo community lost a great citizen when Lucile Porter died in July. She will be missed.

As the ranking Democratic member of the Senate Special Committee on Aging, I strongly support the Retired Senior Volunteer Program and the other Older American Volunteer Programs. The RSVP program was created in 1969, and has grown to support 345,200 volunteers in 730 projects throughout the country. The program is designed to provide volunteer opportunities for persons age 60 and over in a variety of community settings. Volunteers serve in such areas as youth counseling, literacy enhancement, long-term care, crime prevention, housing rehabilitation, and nutrition. RSVP sponsors include state and local governments, schools, hospitals, community organizations, and senior centers.

Congress recently passed legislation reauthorizing the Older Americans Volunteer Programs for an additional 3 years. We recognize that volunteer participation in human services is necessary in meeting community and national needs. The contributions of older Americans are particularly vital during the current economic period when demand for services has grown but Government assistance has been frozen at current levels or cut back.

I know my colleagues in the Senate join me in congratulating the RSVP volunteers in the Toledo area for their fine work.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENS. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Ms. Suzanne A. Bingham, chief clerk of the Senate Banking Committee, to participate in meetings and tours with German officials in Bonn and Berlin, West Germany, sponsored by the Konrad-Adenauer Stiftung Foundation from November 10 to 17, 1984.

The committee has determined that participation by Ms. Bingham in the meetings in Bonn and Berlin, at the

expense of the Konrad/Adenauer Stiftung Foundation, to discuss American-German relations, is in the interest of the Senate and the United States.●

SAM NUNN SELECTED AS NCOA'S RECIPIENT OF L. MENDEL RIVERS AWARD FOR LEGISLATIVE ACTION

● Mr. TOWER. Mr. President, in addition to my Senator's cap, I'm donning a few more today in order to make this declaration to my colleagues.

As a life member of the Non Commissioned Officers Association of the USA [NCOA], a master chief petty officer in the Naval Reserve, chairman of the Committee on Armed Services, and a former recipient of the award, it is my pleasure to announce the selection of Senator SAM NUNN as this year's recipient of the NCOA L. Mendel Rivers Award for Legislative Action.

This prestigious award is presented annually to a U.S. Senator or Representative who, in the opinion of the association, is most deserving of recognition for legislative actions taken on behalf of the career enlisted men and women of our Armed Forces. Additionally, the recipient is recognized for his or her patriotic endeavors and for being representative of many of the ideals and philosophies expounded by the award's namesake, the late Honorable L. Mendel Rivers, Congressman from South Carolina.

Mr. Rivers, a former chairman of the House Military Committee, is still revered by many service members as the champion advocate of quality-of-life improvements for men and women serving or having served in the Armed Forces. Our colleague, SAM NUNN, fits comfortably in that category of advocates. When he chaired the Armed Services Subcommittee on Manpower and Personnel, he championed the adoption of improvements in military compensation and the quality of personnel we now enjoy in the Armed Forces.

Senator NUNN also embodies the spirit of the association's continuing goal for a strong, adequate national defense. All of us here, in this body, well know that he is one of the brightest and most intelligent legislators on defense programs. He has become a leader and can stand toe to toe with the best in discussing the defense needs of our great Nation.

I'm particularly pleased that NCOA has chosen to honor SAM NUNN. Of the six awards presented in the Senate, SAM is the fourth member of the Senate Armed Services Committee to be selected by the Non Commissioned Officers Association of the USA. In addition to myself, Senators STROM THURMOND and BILL COHEN are the others. The remaining two colleagues in the Senate are Senators BOB DOLE and BILL ARMSTRONG.

On the House side, Representatives F. Edward Hébert (now deceased), Thomas N. Downing (retired), Bob Wilson (retired), MELVIN PRICE, CHARLES E. BENNETT, Mendel J. Davis (retired), and BILL NICHOLS are former recipients.

I congratulate my colleague, SAM NUNN, and I look forward to joining my association in September when Senator NUNN is presented the award at the NCOA annual congressional reception.

Meanwhile, the association has asked that I, as a member and the only enlisted reservist serving in Congress, render a salute to Senator NUNN, a former enlisted member of the United States Coast Guard, for a job well done.

Semper Paratus.●

REFLECTIONS ON THE 200th ANNIVERSARY OF THE ST. JOHN'S COLLEGE CHARTER

● Mr. SARBANES. Mr. President, on Saturday, September 22, St. John's College of Annapolis, MD, and Santa Fe, NM, celebrates the 200th anniversary of its charter. Founded originally in 1696 in Annapolis, the capital of the Maryland colony, as King William's School, St. John's received its college charter from the new State of Maryland in 1784, the first year of the new Republic.

St. John's was thus one of a handful of colleges established in the 17th and 18th centuries to offer higher education to the young men who were to be the first participants in an extraordinary experiment in political and social organization, a nation without precedent in the world's history, the democratic republic that is the United States of America.

St. John's is distinguished in many respects. Visitors to Annapolis are invariably struck by the beauty of the St. John's campus, and by the appropriateness of the campus within the broader setting of Maryland's historic, jewel-like capital. St. John's is best known, however, for the rigor of the education it offers to its students, and for the unique form, in our age, that that education takes.

"Only the educated are free," wrote the Greek stoic philosopher Epictetus nearly 2,000 years ago, and in the early days of the American experiment his words found eloquent echo in the writings of Thomas Jefferson, who asked to be remembered above all as the founder of the University of Virginia: "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

St. John's takes as the premise of the education it offers the indissoluble association of freedom and education which Epictetus and Jefferson alike assert, summing up its obligations and objectives in the following terms:

> Liberal education should seek to develop free and rational men and women committed to the pursuit of knowledge in its fundamental unity, intelligently appreciative of their common cultural heritage, and conscious of their social and moral obligations. Such men and women are best equipped to master the specific skills of any calling and to become mature, competent, and responsible citizens of a free society.

It is worth noting that the inscription on the College emblem, "Facio Liberos ex Liberis Libris Libraque," means, "I make free men out of children by means of books and a balance."

While other institutions may share the premise underlying a St. John's education, few, if any, share the means by which St. John's seeks to educate its students—or, more precisely, creates the conditions enabling students to educate themselves. The college maintains, and has so maintained for nearly 50 years now, that "the way to liberal education lies through the books in which the greatest minds of our civilization—the great teachers—have expressed themselves," because books raise "the persisting human questions." The program of the college, starting from the liberal arts of the classical tradition—arts of language and of mathematics—is accordingly based upon the reading of carefully chosen texts judged to be great, epic poems, novels, and political treatises, works that are philosophical, historical and scientific in nature.

The focus on great works of the past, however, is joined to a coordinate focus on the present and the future. The objective of the St. John's program is "to ascertain not how things were, but how things are—to help the student make rational decisions as he lives his life." The college defines as its ultimate aim the goal that "the habits of thought and discussion thus begun by the student should continue with him throughout life."

Reading is far from an end in itself at St. John's, nor is it a sterile and isolated exercise. In place of the more familiar lecture and section, St. John's offers the seminar, the tutorial, the preceptorial and the laboratory; essay and discussion replace hour exam and final examination, cooperation and collaboration replace competition in learning. The St. John's faculty, graduates all of distinguished universities and in most cases with advanced degrees, are tutors, not professors or lecturers. None is limited in teaching to a special subject—indeed, each is expected to lead tutorials in any field—and each is engaged, along with undergraduates, in learning. Under the guidance of President Edwin Jules Delattre, St. John's is a community of seekers after truth, men and women of all ages,

backgrounds and degrees of experience, engaged in a great common enterprise designed to enrich the life of each of its participants, the college itself, and the Republic.

In the 1960's, American liberal arts colleges faced significant pressures to expand, and many did. Confronted by those pressures, and determined to keep the college a community in fact as well as in theory, St. John's decided not to increase enrollment at Annapolis. Instead, in 1964, the college established a campus in Santa Fe, NM, that has its own distinctive characteristics, but mirrors Annapolis in all but its physical aspects. The Santa Fe enrollment today is only slightly less than the Annapolis enrollment, and the sense of community has been preserved and strengthened.

Founded to educate young men, as were all the Nation's earliest institutions of higher education, St. John's perceived earlier than most the wisdom of admitting women. In 1951, the college became coeducational, joining a select group of private coeducational colleges around the Nation, and anticipating roughly by two decades the broader national movement toward coeducation. In this as in many other matters of education, St. John's reached the decision to set out along a path which few chose to follow at the time, a decision since justified many times over.

Mr. President, no tribute is harder for a college or university to earn than the tributes of its alumni, nor is any more revealing. In this respect, published tributes to St. John's are most informative. One observer has called St. John's "the very archetype of liberal education" and another "an intellectual adventure, reaching to the height and depth and breadth of mankind's imagination." In 1938, following the introduction of the Great Books system, under the leadership of Stringfellow Barr, Walter Lippman wrote that "in the future men will point to St. John's College and say that there was the seedbed of the American Renaissance."

Such comments pale, however, beside the words of the St. John's alumnus who wrote:

> It's the difference between an education and a training. An education should touch you personally, it should change your character, the way you feel about God, man, and the universe.

This tribute suggests that St. John's does indeed reach the standards which it has so courageously set for itself. On the bicentennial of the granting of its charter, we are called to reflect upon and remind ourselves of the fundamental truth which St. John's College proclaims, even in this confused and changing world: ". . . it is only by practicing the liberal arts, by understanding and knowing, that the human animal becomes a free man. It is only by discipline in these arts that spiritual, moral and civil liberties can be achieved and preserved."●

SOCIAL SECURITY DISABILITY REFORM LEGISLATION

● Mr. SASSER. Mr. President, I read with great interest over the weekend a news article in the Washington Post outlining agreement between both Houses on the Social Security disability reform legislation currently in conference.

This is certainly welcome relief to the hundreds of thousands of disabled beneficiaries awaiting periodic review of their cases before the Social Security Administration. This relief is particularly welcome in light of the horrendous inequities and injustices which have resulted from the administration's handling of these reviews over the past 3 years.

Although Congress passed temporary legislation in December 1982 in an attempt to ameliorate some of the most glaring deficiencies in the system, much-needed structural reform has been stymied. The types of reform outlined in the House disability bill, H.R. 3755, are both necessary and long overdue. It is my sincere hope that the final agreement talked about in the Post this past weekend will address the structural nature of the administrative problems facing the disability system.

No clearer evidence of the necessity for comprehensive reform can be presented than the internal Social Security Administration report released last week.

This report documented, in a clear and concise manner, what many of us have known for some time: That the current Social Security Disability System is itself disabled and in need of major repair.

The report states that—

> There is a crisis in SSA's litigation process, resulting in large part from an enormous number of pending and new cases and compounded by an increasingly critical attitude being expressed toward the agency by the courts.

The report continues to state that—

> The agency's credibility before the federal courts is at an all-time low. In addition, there is judicial criticism toward some of the substantive policy positions advanced by SSA in defending the cases and implementing decisions.

These statements pinpoint one of the most crucial areas of disagreement between the House and Senate passed versions of disability legislation, namely the provision dealing with nonacquiescence on the part of the Social Security Administration with respect to Federal circuit court decisions. Essentially, what this amounts to is total disregard on the part of the Secretary to precedents developed in Federal court decisions.

The House legislation, H.R. 3755 requires the Secretary to either apply the circuit decisions to all cases within the circuit or appeal them to the Supreme Court. This not only reflects normal legal procedure, but make imminent good sense. The Senate bill, however, does not seriously address this issue.

Mr. President, in June, I sent a letter to the House and Senate conferees along with several of my colleagues, including the distinguished minority leader Mr. BYRD, Mr. BINGAMAN, Mr. MITCHELL, Mr. RIEGLE, Mr. KENNEDY, and Mr. METZENBAUM, which asked them to adopt the House language. At this point, Mr. President, I would like to have a copy of this letter printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 25, 1984.

DEAR CONFEREE: We strongly endorse the provision contained in the House version of H.R. 3755 relating to compliance with court orders and urge you to support this provision during discussion of the bill during the upcoming conference.

In our opinion, this is one of the most crucial issues to be resolved in the debate over disability reform. The primary point of contention involves the policy of non-acquiescence practiced by the Social Security Administration in disability reviews. Under this policy, SSA does not consider the decisions of Circuit Courts of Appeal binding, except for the plaintiffs in the individual cases, when the rulings and interpretations conflict with the agency's regulations and policies.

What this effectively amounts to is the making of new law in each individual case. This practice disregards the basic notion of precedent and judicial interpretation.

Administrative Law Judges across the country have indicated time and again before Congressional hearings that this policy significantly hampers their ability to utilize these court interpretations and subsequently works great hardships on individual claimants because they must go to the expense of reestablishing a new point of law in each case.

The language contained in the House version requires the SSA to either apply Circuit Court decisions to all cases within the Circuit or appeal the decisions to the Supreme Court. This is the normal legal procedure and should be followed. Attached please find a copy of a recent New York Times article outlining specific consequences resulting from current SSA non-acquiescence practices.

We urge the conferees to examine the merits of this proposal thoroughly during the conference and hope that they will support the House provision.

Sincerely,

Senators Jeff Bingaman, Robert C. Byrd, Donald W. Riegle, Jr., Jim Sasser, George J. Mitchell, Edward M. Kennedy, and Howard M. Metzenbaum.

Mr. SASSER. The importance of this issue was clearly demonstrated in the SSA report released last week. Because of this nonacquiescence policy, there are now 50,000 Social Security cases pending in the Federal courts,

this is up from 20,000 in 1981. Further, it is expected that an additional 28,000 new court cases will arise in fiscal year 1984.

The report also states that there are over 125 disability class actions currently pending. Also, there is a dramatic increase in the number of motions or threats to hold the Secretary in contempt, including at least one case of criminal contempt. During the period of October 1983 through July 1984, 201 motions or threats were recorded, with 46 occurring in the month of July alone.

At this point, Mr. President, I would like to have the task force report printed in the RECORD.

The task force report follows:

As you requested, enclosed is the final project statement of the Social Security Administration's (SSA's) Litigation Management Project.

This project is only one of SSA's continuing management initiatives designed to improve program administration and service to the public. One of my major goals is to ensure that the Social Security program is administered as fairly, efficiently, and economically as possible. One way of ensuring that is to recognize early on situations that require immediate and responsible attention.

As a number of lawsuits pending against SSA increased over the last year, it became clear that this agency had to develop immediate and long-range plans to effectively manage court case workloads. Because of this, I asked my staff to carefully review and implement procedures to deal with this growing workload so that it could be handled efficiently and humanely.

The enclosed report is a product of that initiative and reflects a plan that will improve SSA's relationship with the public as well as the courts.

Sincerely,

MARTHA A. MCSTEEN,
Commissioner of Social Security.

LITIGATION MANAGEMENT PROJECT STATEMENT

ISSUE

There is a crisis in SSA's litigation process, resulting in large part from an enormous number of pending and new cases and compounded by an increasingly critical attitude being expressed toward the agency by the courts. The litigation process was not designed to handle the current volume of cases in it. As a consequence, SSA is not as reponsive as it should be and accordingly, the agency's credibility before the federal courts is at an all-time low. In addition, there is judicial criticism toward some of the substantive policy positions advanced by SSA in defending the cases and implementing decisions. Action must be taken to improve the efficiency of case processing and to assure that SSA's substantive position in these cases is consistently sound.

FACTS

I. General

28,000 new court cases are projected for fiscal year 1984.

50,000 court cases are currently pending.

Over 125 disability class actions are currently pending. As a result of the huge increase in the number of class action suits, court decisions no longer affect only a small percentage of claimants who actually file civil actions.

There is a dramatic increase in the number of motions or threats to hold the Secretary in contempt, including at least one case of criminal contempt. During the period of October 1983 through July 1984, 201 motions or threats were recorded, with 46 occurring in the month of July alone.

There have been 160 interim payment court orders for January-June, 1984, as a result of SSA's failure to answer the complaints timely. This compares with a total of 56 for all of calendar year 1983. An even more dramatic comparison: there were 5 interim payment orders for the first quarter of calendar year 1983; 53 for the first quarter of 1984.

An even-increasing number of Equal Access to Justice Act (EAJA) awards involving a large amount of money ($723,000 has been awarded to date and $1,299,000 is pending) are resulting from findings that SSA's position in the litigation "was not substantially justified." This is a reflection of the courts' attitude about the agency and calls into question the positions that SSA is taking in these cases.

A great deal of adverse publicity surrounds many Social Security litigation cases and court orders are written in increasingly critical terms. Much of the criticism concerns how the Secretary implements orders. Judge Kane from Denver stated that the Secretary's actions "reveal a clearly rebellious frame of mind." Judge MacMillian, Eighth Circuit, wrote: "I have no wish to invite a confrontation with the Secretary. Yet if the Secretary persists in pursuing her nonacquiescence in this circuit's decisions, I will seek to bring contempt proceedings against the Secretary both in her official and individual capacities."

II. Problems in Litigation Process

A. Individual Court Cases

1. Complaint Stage:

Delay in receiving and acting upon notification that a civil action has been filed can contribute significantly to SSA's inability to respond timely.

Once the complaint has been received, it is often difficult to associate a social security number with it, further contributing to delays.

2. Answer Stage:

Preparation of the administrative transcript and filing of the answer to the complaint are in many instances not done in a timely manner, primarily because of problems with lost and inaudible hearing tapes or lost case folders.

A consequence of the inability to respond promptly is that courts are ordering many remands for new hearing which present an additional major workload in OHA.

Answers are filed routinely without substantive assessment of defensibility.

3. Briefing Stage:

While some cases may be referred to the Appeals Council for possible remand, in most instances, briefs are filed without sufficient assessment of defensibility. Thus, there is a growing impression in the courts that SSA will defend any case, no matter how poor the facts. This has seriously undermined SSA's credibility. Moreover, when SSA defends a policy in court, its position is seriously weakened when the case is one in which the record is questionable or the facts are overwhelmingly sympathetic to the claimant.

Briefs are essentially pro forma; arguments are not tailored to the specific points raised by the plaintiffs. This is primarily a result of the large volume of cases and because, unlike other types of litigation, the defendant generally files before plaintiff.

4. Magistrate Decision Stage:

Findings and recommendations from magistrates are issued with comparatively little time given to SSA to respond. As a result, it is extremely difficult to prepare objections or briefs.

A contributing factor to the difficulties in responding is that the decisions can be delayed in being routed to OGC and SSA.

5. Appeal Stage:

Largely due to the huge volume of adverse decisions, not all cases are reviewed in depth to determine whether or not the agency wants to appeal. Consequently, some cases which present significant policy issues or other problems are not identified for appeal. The failure to aggressively appeal cases on crucial issues has led to an increasing body of case law which makes subsequent cases with similar issues increasingly difficult to defend.

Even once a case has been identified, it is often difficult to convince the Department of Justice to appeal.

6. Implementation of Court Orders:

Remands:

Again, because of volume, remands are often not handled in a timely manner.

Remand orders are often not in accord with SSA rulings and other policy and thus, present a serious problem for the agency.

The question of the legal criteria for the appeal of remand orders may need to be investigated.

Reversals:

Currently, it can take up to 30 days for OGC to receive court decisions from the U.S. Attorneys.

The Department of Justice has in the past required SSA to wait 60 days (the appeal period) before implementing court orders, even in routine cases where it was clear that there would be no appeal. Accordingly, OGC would not authorize SSA to process effectuations during the appeal period. Although this requirement has recently been modified somewhat, when it was in effect it may have contributed to delays in the prompt implementation of court orders.

There is excessive folder movement in the litigation process. As a result, when a court order needs to be implemented, a problem often exists in locating the folder.

The process of implementing concurrent title II/title XVI disability cases is particularly complicated and cumbersome, involving ODO and the DO's as well as the Underpayment Review Section. This very often results in lengthy delays in effectuation of the full amount of benefits due.

7. Attorney Fees:

In some cases, attorney fees are not processed timely, often because of delays in getting past due benefit summaries. While the percentage of problem cases may not be extremely high, attorneys often bring these cases to the attention of the court, further undermining SSA's credibility. The problem has become of even greater importance now that attorneys are using the threat of contempt against the Secretary to obtain their fees.

The current process of assessing attorney fee petitions is unduly complicated and time consuming. It requires individual analysis of services rendered in each case to determine the proper fee.

B. Class Action Cases

1. Preliminary Injunction/Temporary Restraining Order Stage:

Briefing deadlines are frequently short, making it very difficult to respond appropriately in cases involving such motions.

SSA sometimes does not implement these orders properly and on time; e.g. teletypes with implementing instructions may be incomplete or delayed.

The question of appeal of these orders may not be fully explored.

2. Settlement:

Often the possibility of settlement is not fully considered. Heavy workloads contribute to this situation, although, defensiveness on SSA's part is another factor which cannot be discounted. There is also no efficient process for promptly agreeing to and implementing a policy change in order to settle a case.

3. Discovery (requests for production of documents, interrogatories, depositions):

The major problem is the huge volume of these requests—with each request often seeking hundreds of pieces of information which is not readily available.

Since plaintiffs often are trying to prove class numerosity, responding to discovery frequently involves complex, costly systems identification or, alternately, time-consuming, manual folder searches.

Often plaintiffs suspect clandestine policies and submit extremely burdensome requests for documents or other information. Sometimes they file both discovery and Freedom of Information Act (FOIA) requests which proceed on different tracks, causing confusion and inconsistencies.

There is a lack of good record-keeping, often resulting in the need to develop new information to answer a request which is very similar to a previous request.

Discovery is rarely used as a proactive tool, nor are creative approaches to stipulation and lodging objections employed in order to avoid burdensome discovery requests.

4. Defense/Argument Stage:

Because of volume and the nature of the issues involved, the quality of our defense in some cases could probably be improved. In particular, some regional attorneys and Assistant U.S. Attorneys may not be totally familiar with the background and rationale for the policies they are defending.

Problems also exist with the extent to which other regions are able to keep abreast of policy decisions or defense strategies developed in particular cases which in turn have an impact on cases in other parts of the country.

There are also difficulties in getting information with which to defend; e.g., folders often cannot be located or SSADARS may not have the necessary information; needed data may not be available routinely and would require costly systems runs to secure, etc.

5. Appeals Stage:

As in individual cases, there may be difficulty convincing the Department of Justice to appeal class actions.

C. Implementation of Orders

As in individual cases, there may be delays in receiving the order.

There can be confusion and a lack of clarity in carrying out responsibilities within SSA for interpreting court orders, including identification of relevant class members. In some cases SSA's interpretations have proven not to be supportable in court.

Implementation often involves systems runs as well as the preparation of complex, lengthy instructions and notices to class members. Due to systems limitations, the class frequently must be over-identified to include all possible class members, resulting in non-class members receiving notices. The Office of Policy (OP), the Office of Systems (OS), the program components, Operations, and field components all have a role in the implementation process. There is sometimes confusion, lack of coordination and delay in implementation of the orders. As one example of the difficulties encountered, OHA lacks a written telecommunication facility with its hearing offices, resulting in the need to use the telephone or express mail to communicate instructions to meet court-ordered time frames.

Recently, probably because of the hostile attitude of many courts, there is a trend toward complex court orders with incredibly short timeframes. For example, in Polaski, SSA was given 24 hours to implement an order.

III. Management Information/Analysis

There is a lack of substantive analysis of litigation issues and trends.

Statistical information, particularly with respect to remands and court affirmations, is unreliable. There is some dispute with respect to responsibility for remand statistics between OBA and OP. There is apparently a backlog of affirmation orders in OGC so that SSA does not have a reliable count.

PROJECT OBJECTIVES AND APPROACH

The project's activities will bring about both short-term and long-range improvements in the administration of SSA's litigation process. The overall objectives are:

To substantially reduce delays and increase efficiency throughout all stages of the litigation process, including the processing of complaints, the preparation of answers and briefs, and the implementation of orders.

To ensure that litigation functions are carried out in a cohesive manner and with the required levels of resources, and that organizational responsibilities are aligned to ensure maximal responsiveness by the agency to the courts and the public.

To assure that SSA's substantive position in all areas of processing cases is consistently sound and is clearly communicated to all parts of the organization.

To restore SSA's credibility before the federal courts and to eliminate the adverse publicity surrounding Social Security litigation cases.

To achieve these objectives, the project will focus on four major task areas. In some instances, the project's task areas will primarily coordinate, follow-through, and build upon the various activities already underway, while in others, much of the activity will involve new initiatives. The four task areas and their activities are as follows:

I. Implementation of Improvements in the Complaint and Answer Stage.—This area will address those problems pertaining to SSA's frequent inability to promptly file responses and prepare administrative transcripts for the courts in civil actions involving individual cases.

Activities Underway

OGC and OHA recently convened a workgroup on civil actions to initiate immediate improvements in the answer process. The findings of this workgroup are now under review in OHA and OGC.

At the Commissioner's request, OMBP industrial engineers have conducted a review of folder movement within OHA centrally and between OHA and its hearing offices. This report, with recommendations, was submitted to the Commissioner on May 7, 1984, and OHA is now working to implement study findings.

OHA has taken a number of steps to improve processing at the answer stage: moving additional employees to prepare Appeals Council decisions in court remands, to prepare transcripts, audit hearing tapes and correct transcriptions; modularizing branches in the Office of Appeals Operations (the component which makes recommendations to the Appeals Council on claimant appeals) to include a minidocket and files unit in each branch; tighten up on case control following Appeals Council final action; using new procedures to insure handy file retrieval when a civil action is filed; issuing a memorandum to all hearing officers outlining detailed procedures on how to properly record hearing testimony; taking the lead in deciding to make the hearing tape a permanent part of the claims file. OHA is in the process of installing more computer terminals to insure immediate access to SSA computers showing the location of case files; scheduling more training in the use of recording equipment and exploring the possibility of obtaining better quality tapes and equipment.

Activities Planned

Evaluate and initiate improvements in the handling of complaints, and identify and implement any other required improvements in answer stage processes.

II. Implementation of Improvements in Effectuation of Court Reversals.—This area will address the problems relating to the effectuation of court orders, both with respect to individual cases and class action suits.

Activities Underway

OP has gained agreement from OGC, with the concurrence of the Department of Justice, to waive the 60-day requirement before effectuation of an order in certain categories of cases in which there clearly will not be an appeal. The new process is now being implemented, and the effectiveness of the new procedure will be carefully monitored and evaluated.

OP is in the process of automating the tracking of the implementation of court orders. When operational, the system will track all adverse court orders to assure that either an appeal is entered or an effectuation memo is received and that all effectuation memos are implemented.

OD has tentatively established a litigation implementation staff to centralize and expedite implementation of class action orders.

OFO has developed a series of recommendations to improve the implementation of individual court orders.

OCO has proposed procedures to improve and formalize actions to be taken in potential contempt situations.

OGC is conducting a thorough review of its docket room operations with a view toward streamlining processing.

Activities Planned

Study folder flow to minimize movement, thus reducing the risk of loss and processing time. Study paper flow to identify and remedy sources of delay or misrouting of documents.

Streamline the process of effectuating concurrent title II/XVI court orders.

Develop and implement procedural changes that assure timely communications with U.S. Attorneys' offices, particularly including prompt transmission of court documents to OGC and SSA.

Review and clarify responsibilities and procedures in connection with implementa-

tion of class action orders to assure proper coordination of activities.

III. Implementation of Procedures for Identifying and Not Defending Court Complaints with Poor Prospects for Defense in Court.—This area will carry out the recommendations of an intercomponent workgroup which was recently convened to examine problems relating to court cases which represent poor prospects for defense.

Activities Planned

Implement Phase I of the workgroup's recommendations, essentially involving a pilot project in which the regional attorneys, at the briefing stage, will refer cases to a central office review panel for assessment. The purpose of this phase is to refine the criteria for identifying poorly defensible cases and to test the process by which this activity could take place on a permanent basis.

Implement Phase II, during which various issues and problems identified by the workgroup will be addressed. A permanent process will then be implemented.

IV. Fundamental Litigation Process Improvement.—This area will include both activities involving an overall reassessment of the litigation process and specific substantive areas in which issues have arisen regarding SSA's ability to handle cases. It will also include cross-cutting activities in support of the project's objectives.

Activities Planned

Reassess all aspects of the SSA litigation process in SSA, OGC, and the Department of Justice, both centrally and in the regions. This review includes both substantive and procedural components of the process and will lead to clearer and improved definitions of component roles and responsibilities.

Evaluate the feasibility of a comprehensive computer system which would track litigation cases, providing a thorough case history which would incorporate SSADARS, OHA, and litigation information; as an interim measure, review existing and planned tracking systems to ensure optimal effectiveness and efficiency of communication between components.

Review the allocation of resources and responsibilities within the litigation process and recommend reallocation or realignment wherever necessary.

Examine the present system for identifying cases for appeal to make recommendations and implement any needed changes. Analyze the process to institute improvements to ensure that appeals are pursued wherever appropriate in cases involving court remand orders, preliminary injunctions, and temporary restraining orders.

Develop a procedure so that SSA reviews briefs prior to filing in the most significant cases to ensure that they adequately reflect and defend SSA's policies. Explore the possibility of model briefs on significant issues. Study the extent of improved success that could be achieved from individually tailored briefs.

Establish a process to assure that the possibility of settlement is explored in appropriate cases.

Develop mechanism(s) to ensure better coordination, communication and understanding among all SSA, OGC, and Department of Justice components involved in the litigation process.

Review SSA's policy with respect to the application of circuit court precedents.

Develop a record-keeping system to keep track of information developed to respond to discovery, to prepare briefs and to respond to other segments of the litigation process; analyze trends in required responses to develop the capacity to prepare pre-packaged information for use in future litigation cases.

Develop ways to improve SSA and OGC expertise in responding to discovery.

Ensure that substantive analysis of litigation issues and trends is performed and develop a vehicle for furnishing such information to the Commissioner briefly and on a timely basis.

Develop tailored training packages and other materials to provide orientation and guidance to all participants in the litigation process, particularly Regional Attorneys and U.S. Attorneys.

Develop and implement a strategy for publicizing project activities and results to key external entities; as one means to publicize project results and to gain input, convene a national conference involving HHS, Justice, Legal Aid, and the Courts.

PROJECT ORGANIZATION

Executive Manager (EM)—The Associate Commissioner, OP, has been designated by the Deputy Commissioner for Programs and Policy (DCPP) to serve as the EM of the Litigation Management Project. The EM provides overall leadership and oversight of the project. The EM will also chair an Executive Group, which will include the Associate Commissioners of OCO, OFO, and OHA, the Regional Commissioner for New York, and the Assistant General Counsel for the OGC Social Security Division.

Project Director (PD)—The EM has designated a full-time PD for the Litigation Management Project. The PD will have full-time project staff assigned to each of the task areas described above. The PD is responsible for the development, implementation and tracking of initiatives established under the project.

Project Managers (PM's)—The Deputy Commissioners for Systems, Operations, Management and Assessment and the Assistant General Counsel, as well as the Associate Commissioners for OHA, OD, OSSI, ORSI, and OGA have designated PM's. The coordination of project initiatives among the various components is the responsibility of the PM's.

Project Methodology—The PD, working with PM's, managers and coordinates all phases of the project calling upon resources throughout SSA that are necessary to complete the project. The PD provides written and oral briefings to the DM, DCPP, and other members of the SSA Executive Staff.

Detailed workplans will be prepared for each task area specifying the objective to be accomplished, manner of accomplishment, due dates for completion of work activity, components affected (including position types), cost of implementation, savings to be achieved and/or other benefits to be derived. Project initiatives may be added, deleted or revised upon recommendation by the PD and PM's and approval by the EM and DCPP. Monitoring of initiative activities will be accomplished by meetings and telephone to the maximum extent possible.

Mr. SASSER. A letter from U.S. Attorney Rudolph W. Giuliani to U.S. District Judge Constance Baker Motley which appeared in the CONGRESSIONAL RECORD on September 10 deserves further attention here. In that letter, discussion of the nonacquiescence policy prompted Mr. Giuliani to write that:

This policy does not allow the United States Attorney's Office, HHS or any other Federal agency to refuse to follow clear rules of law decided by the United States Court of Appeals. Properly applied, as it has been for years by the Internal Revenue Service, it permits a Federal agency to decline to follow nationwide the ruling in one particular circuit. However, there has never been any support to my knowledge for the notion that Federal agencies within a particular circuit could disagree with and refuse to follow clear rulings of that circuit. We have not defended cases in the past by disregarding the law of this circuit and will not do so in the future.

Now the reason that the issue of disability reform has to this date been placed on the back burner is due to a political decision made by the administration earlier this year to impose a moratorium on all disability reviews.

This may be good politics, but it is not good policy. It is clear that there is a perceived problem here or else the White House would never have stopped the ill-conceived and misinformed policy which effectively has cut more then 470,000 disabled beneficiaries from the rolls between March 1981 and January of this year.

Mr. President, I am pleased to hear that final resolution to this problem is imminent, yet, for those of us who have been intensely involved in this issue for the past 2½ years it is hard to understand why it has taken so long.

It is my only hope that the final resolution will contain adequate comprehensive measures to prevent the mistreatment which has occurred over the past 3 years from recurring.

Surely, an end to the nonacquiescence policy practiced by the Social Security Administration will be a major step toward achieving this goal.

Simple justice requires that we correct the inequities created by the Administration's hasty acceleration of reviews, common sence demands it. It is nice to see that now, finally, Congress is willing to stand up to the Administration and refute the unfairness inherent in its disability policy.●

LEAVE OF ABSENCE

Mr. GOLDWATER. Madam President, I ask unanimous consent that I may absent myself from the Senate this coming Saturday. I have been invited to my 50th wedding anniversary by my children and grandchildren. I do not want to let them down.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

THE PINEAPPLE SOLDIERS

Mr. MATSUNAGA. Madam President, in the course of debate regarding issues, both economic and military, we have heard much of late of productivity and workmanship, be the subject at

hand America's competitive position in world trade, or the materiel reserve readiness of our combat forces.

It is well to be concerned about such matters, for a high level of excellence on both scores—productivity and workmanship—is part of our national heritage which has helped to make our country great and which has seen us through periods of trial in our past. These thoughts came to mind when I read recently an address by the distinguished Hawaii journalist Adam A. "Bud" Smyser, editor emeritus of the Honolulu Star-Bulletin, to the 40th reunion banquet of the 1399th Engineer Construction Battalion, known in Hawaii during World War II as "the pineapple soldiers." Mr. Smyser told his audience that the wartime service of noncombatant Americans of Japanese ancestry [AJA] in the U.S. Army in the Pacific was as meritorious in its own way as that of AJA soldiers on the battlefield and was equally as vital to our country's ultimate triumph.

Because his point is a valid one and bears upon the "can do" spirit of America which we must sustain today, I ask unanimous consent that Mr. Smyser's speech, which was reprinted in the Honolulu Star-Bulletin of August 18, be printed in the RECORD so that our colleagues and others may be reminded of our country's long tradition of putting forth our best effort, regardless of what the work at hand may be.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE PINEAPPLE SOLDIERS

(By A. A. Smyser)

(From an Aug. 17 speech to the 40th reunion banquet of the 1399th Engineer Construction Battalion.)

I have entitled my talk tonight "Hawaii's Forgotten Battalion".

That's overstatement, to be sure. "The Battalion That Stayed Home" is a more accurate title. But it doesn't catch the fact that stories of the World War II exploits of Hawaii's American soldiers of Japanese ancestry rarely focus on the 1399th Engineer Construction Battalion.

I was surprised, very surprised, in preparing this talk to discover how few news references to the 1399th are in the library of the Hawaii Newspaper Agency which files the news clippings of the Honolulu Advertiser and the Honolulu Star-Bulletin.

When we talk of the AJA effort in World War II, we very naturally focus on the tremendous battlefield effort in Africa, Italy and France of the 100th Infantry Battalion and the 442nd Regimental Combat, the most decorated units of the war.

Related recognition also is being given to the Military Intelligence Service, AJA soldiers from Hawaii who served as interpreters for U.S. forces in combat in the Pacific and Southeast Asia and sometimes went on spy missions behind Japanese lines.

They deserve every bit of attention and commendation they get. They paid a high price in lives and in wounded to prove the overwhelming loyalty of Hawaii's AJA's for America at a time when many were calling it into doubt.

Many of them gave their lives with the clear object of helping Hawaii win Statehood despite its predominantly non-Caucasian population and thus assure equal rights for its citizens of all races.

The fact that we are this week celebrating the 25th anniversary of Statehood is in many ways a tribute to that effort. Statehood probably would not have been won without it, certainly not by 1959 and quite possibly not even by now, and perhaps never. Racial doubts would have held us off from Statehood. The U.S. would be a poorer country because of it and Hawaii a far less happy place—more of a place with racial schisms like Fiji, and less the relatively harmonious, prosperous state we enjoy today.

But no one praising the World War II military effort of our AJA soldiers from Hawaii should ignore the 1399th and the units that were merged into it after the draft of AJA male civilians was resumed in 1944—the 370th Engineer Battalion, the 1536th Dump Truck Company and the 1525th Base Equipment Company, all AJA construction units.

If you visit our Big Island, Mauna Loa and Mauna Kea volcanoes dominate the scene, each rising up more than 13,000 feet from sea level. It is very hard to perceive that at their flanks is another important volcano, Kilauea. It rises gradually to only 4,000 feet and is thereby obscured by the giants.

The 1399th is the Kilauea of the AJA military units, obscured by the giants, but possessing a proud record of its own.

I spoke a few days ago with Gardner Hyer. I think he is the only surviving officer who served with the 370th and the 1399th through the war from January 1942 when he was activated from the Army ROTC reserve until after V-J Day in 1945.

He advanced in rank from second lieutenant to major and held just about every command in the battalion of nearly 1,000 men including a brief tenure as battalion commander. Now he is retired from the auto service business in Wahiawa.

"What kind of a unit was the 1399th?" I asked him. "How did it do?"

He has just been watching the Olympics. Using Olympic judging, he said, he would give the 1399th a score of 10. Its men couldn't have been better.

They did every job they were supposed to do. They completed construction projects ahead of schedule. They did them very well. On at least one big project they were called in to finish a job another unit had goofed. And when urgent deadlines had to be met, they were the unit the Army turned to.

He recalls only one serious disciplinary problem, and it was settled by a little off-the-record man-to-man boxing match between him and the soldier involved.

He also recalls that your accomplishments became known to higher-up officers passing through Hawaii. Gen. Douglas MacArthur's headquarters in the South Pacific twice requested that you be assigned to campaign with him in combat. Both requests were refused for fear an AJA unit in the Pacific would be mistaken by our own Mainland Caucasian soldiers as the enemy.

Even after World War II you were remembered. In the Vietnam War Hyer got a call from the Pentagon asking if two of your construction techniques on Oahu would be applicable in Vietnam. He said yes in both cases.

You will laugh that one was the building of latrines over running streams to obtain a flush toilet effect. But it was a serious benefit and so was the use of bamboo instead of steel as reinforcing bars for concrete. Hyer said you found that in the short run, a year or so, the bamboo was just as strong as steel or stronger.

You called yourselves "the pineapple soldiers" because you stayed home and "the Chowhounds" because you were. One of your number, Shiro Matsuo, learned enough by being a mess sergeant for you that he went on to found Shiro's Saimin Haven, prosper, and bring back to Hawaii this year the GI who introduced him to cooking.

You got no Purple Hearts because this was not a combat zone but you lost three dead in mishaps and suffered. I assume, injuries in the line of duty that no one counted as we count Purple Hearts.

You had weekends off in Honolulu—Saturday afternoon to Sunday afternoon—and you played hard at those times. Duke Kawasaki recalls the late Harold Sakata drinking so much beer that others sometimes had to lift him aboard the truck going back to Schofield Barracks from the Honolulu Central Library and other pickup points.

He also recalls that Harold suggested he and Duke wrestle together professionally after the war as the Togo Brothers.

Duke refused and that may have been just as well for Harold's later career as "Odd Job" of Goldfinger movie fame and Duke's as a state senator.

But when you worked, you worked hard and well.

Stanley Shioi, one of your members, was in construction work before World War II and has had his own construction company afterward. He knows the business as a pro.

He says the quality of your work was "tops" in comparison with other construction jobs. "Guys with no experience still did very good work," he said. "Japanese boys have very good hands."

Tatsuki Yoshida, another contractor from your ranks, agrees. "I'm amazed at the work we did without much background experience," he recalls. The raw material the unit had to work with was a cross-section of young men from wartime civilian life—clerks, a fireman, agricultural workers, even a dentist.

A million-gallon water tank you built near Wahiawa is still in use by the Honolulu Board of Water Supply. He also recently found one of your old camp sites at Opaeula in the hills above Haleiwa at a spot where you opened up a quarry.

You helped develop the airstrip at Kahuku for Flying Fortresses. You built jungle training villages in the hills—complete with main streets, side roads and primitive equipment for combat simulation. You built warehouses, water lines and more. On Coconut Island in Kaneohe Bay you built a rest and recreation camp for the Air Force.

You did, in short, whatever the Army Corps of Engineers, headquartered on the Punahou School campus, needed done. You completed 54 major projects and you, too, are a decorated battalion.

As a battalion you received the Army's Meritorious Service Award on Oct. 29, 1945, some 10 weeks after V-J Day when your demobilization was beginning.

You were draftees. Like most Americans, you didn't rush into service. But when you were called, you went where you were assigned and did your job as well as you could.

Because you were of Japanese ancestry, an ethnic group foreign to most Americans then, and because the war was with Japan, you and your families were discriminated against.

You have relatives who were interned. The draft for you was suspended from 1942 to 1944. When you were mobilized, you were placed in ethnically separate units under mostly Caucasian officers. Early in the war some units were denied ammunition.

In my inquiries I even picked up a story I couldn't confirm with a second person of machine guns being trained on one unit of AJA inductees for a single night at Schofield, apparently because their Mainland officers were afraid of them. The occasion must have been soon after Pearl Harbor.

Whatever discriminations you faced, you served well, with dedication and with good humor. You achieved the same kind of respect-building across racial lines here at home that the 100th, the 442nd and the M.I.S. did overseas.

In the nature of things, your record has gotten lost in the shuffle a bit. It doesn't deserve to be that way. On your 40th anniversary, congratulations and well done.

PRINTING OF BOOKLETS

Mr. BAKER. Madam President, I ask unanimous consent that there be printed for the use of the Commission on Art and Antiquities of the U.S. Senate 40,000 copies of the booklet entitled, "The Senate Chamber, 1810–1859," and 40,000 additional copies of the booklet entitled "The Supreme Court Chamber, 1810–1860."

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S NEW COMPREHENSIVE FAIR TRADE PROGRAM FOR THE STEEL INDUSTRY

Mr. DANFORTH. Madam President, I thank the majority leader.

Today, Madam President, the President announced his new comprehensive fair trade program for the steel industry. Subsequent to that announcement the American Iron and Steel Institute issued a press release supporting the President's program. The first paragraph of the release states:

The American Iron and Steel Institute said today that President Reagan's action in establishing a new Comprehensive Fair Trade Program for the domestic steel industry is recognition of the effects of unfair trade in steel on the domestic steel industry. The total import share of the U.S. steel market under this Program will be 18.5% of apparent domestic consumption plus 1.7 million tons of semi-finished steel.

Madam President, I ask unanimous consent that the entire press release of the American Iron and Steel Institute in support of the President's announcement be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

PRESS RELEASE

WASHINGTON.—The American Iron and Steel Institute said today that President Reagan's action in establishing a new Comprehensive Fair Trade Program for the domestic steel industry is recognition of the effects of unfair trade in steel on the domestic steel industry. The total import share of the U.S. steel market under this Program will be 18.5% of apparent domestic consumption plus 1.7 million tons of semi-finished steel.

The import levels, which apply across all product lines, should reduce unfair trade in steel and the extensive abuses which have caused such great economic harm to the domestic steel industry.

The President's announcement today is important to the industry, its workers and communities since the industry is operating at about 57% of capability, tens of thousands of workers are on layoff, and many of the steel plant town communities are on the brink of financial disaster.

The program will be implemented with the nation's steel trading partners within the next ninety days—assuring a move toward fair trade. If the Program is successfully achieved and enforced, the investment climate in steel will become attractive once more, facilitating the increased modernization of the industry, to the benefit of the entire nation.

While the import level of the Program is higher than the limitations in the Fair Trade in Steel Act, the ceiling provided is far less than the 33% level registered in July or the 25% so far this year.

There are a number of favorable features to the Program. It covers all steel mill products. It is for five years. It will be enforceable under Administration-sponsored legislation. The resolve of the President to deal effectively with unfair trade is shown in his willingness to use his broad authority contained in trade statutes and trade cases. There is great promise for the industry, its employees and the steel committees in the Program. There remains the fulfillment of our expectations for the Program.

The Program calls for a quantitative limitation on semi-finished steel. The steel companies will have the right to file unfair trade cases against semi-finished imports.

The industry has been assured that the Program will be implemented during the next ninety days. Steel imports arriving after October 1 will be included under the Program. Unfair trade practice cases can be expected to be filed in the event successful government arrangements or agreements with specific countries are not reached.

The domestic steel companies and their employees are deeply appreciative of the efforts of those members of Congress, governors, mayors and state and local officials who, together with the United Steelworkers of America, have so strongly supported the industry in its efforts to achieve a comprehensive steel trade solution. The industry is indeed grateful for this assistance.

We are aware of the opportunity a successful Program affords the industry and its workers. We are confident the opportunity and the challenge will not be lost.

ORDERS FOR WEDNESDAY

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Madam President, on tomorrow, I ask unanimous consent that, after the recognition of the two leaders under the standing order, the distinguished Senator from Wisconsin [Mr. PROXMIRE] be recognized on special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that after the execution of the special orders tomorrow, a period for the transaction of routine morning business be provided to extend not past the hour of 11:40 a.m., in which Senators may speak for not more than 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, it may be that on tomorrow we will make other provisions for morning business. But at the moment, that will leave 20 minutes for debate on the motion to proceed, the vote which has been set for 12 o'clock. If no time is required for further debate on the motion to proceed, it would be the intention of the leadership on this side to extend the period for the transaction of routine morning business. But it seems the better part of discretion to leave it in this configuration for the time being.

Madam President, at 12 o'clock, under the order previously entered, the Senate will vote on the motion to proceed with the consideration of S. 66.

TIME AGREEMENT ON BEAUDIN NOMINATION

Mr. BAKER. Madam President, I am told that the request I am about to put now has been cleared. Let me state the request for the consideration of the minority leader, and the Senate.

As in executive session, I ask unanimous consent that at the hour of 2 p.m., tomorrow, the Senate go into executive session to consider the nomination of Bruce D. Beaudin, to be an associate judge of the Superior Court of the District of Columbia, and that the nomination be considered under the following time agreement: 1 hour on the nomination to be equally divided between the chairman of the Governmental Affairs Committee and the ranking minority member, or their designees; and, that following the conclusion, or yielding back of the time on the nomination, the Senate proceed to vote on the confirmation of Bruce D. Beaudin.

Madam President, let me add one further sentence to the request. I amend the last paragraph of the request as follows: and, that following the conclusion, or yielding back the time of the nomination, the Senate proceed to vote without intervening motion, point of order, or appeal on the nomination; and, that after the nomination is voted on, the Senate return to legislative session, and resume consideration of the matter then pending before the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

PROGRAM

Mr. BAKER. Madam President, I have nothing further in wrap-up, and if the minority leader has nothing further, I am prepared to state the program for tomorrow.

Madam President, on tomorrow the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order and the execution of the special order, there will be a very brief period for the transaction of routine morning business until 11:40 a.m. in which Senators may speak for not more than 1 minute each.

At 11:40 a.m. the Senate will resume consideration of the motion to proceed to the consideration of Senate Resolution 66. At 12 noon a vote will occur on that motion. The yeas and nays, it is anticipated, will be ordered.

After the disposition of that matter, if the Senate chooses to proceed to the consideration of that measure, debate will continue for an appropriate time on the resolution itself. However, it is anticipated as well that during the day tomorrow the Senate will be asked to return to the consideration of the trade bill. It is hoped, Madam President, that the Senate can complete action on the trade bill tomorrow and pursue the debate in a satisfactory way on Senate Resolution 66. For the balance of the week, it is hoped that TV in the Senate, the trade bill, and the highway bill may be disposed of. Senators are on notice of the possibility of late evenings on Wednesday, Thursday, or Friday of this week. A Saturday session is not anticipated this week.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, I have nothing further. The minority leader indicates he does not. I see no other Senator seeking recognition. I move, in accordance with the previous order, that the Senate now stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and at 6:53 p.m., the Senate recessed until Wednesday, September 19, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1984:

INTERNATIONAL MONETARY FUND

Charles H. Dallara, of Virginia, to be U.S. Executive Director of the International Monetary Fund for a term of 2 years, vice Richard D. Erb, resigned.

DEPARTMENT OF JUSTICE

Jasper R. Clay, Jr., of Maryland, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Oliver James Keller, Jr., term expired.

INTERNATIONAL MONETARY FUND

Paul A. Volcker, of New Jersey, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years, reappointment.

HOUSE OF REPRESENTATIVES—*Tuesday, September 18, 1984*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore [Mr. WRIGHT] laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 14, 1984.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, September 18, 1984.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Rev. Edward Gardiner Latch, D.D., L.H.D., former Chaplain of the House of Representatives, offered the following prayer:

God is our refuge and strength, a very present help in trouble. Therefore we will not fear.—Psalm 46:1.

Quietly and sincerely, our Father, we turn to You in the opening moments of this session of our House of Representatives. Without You we faint and falter by the way, but with You we live with faith and fortitude in every way. May Your spirit come to new life within us making us ready for every responsibility, equal to every experience and adequate for all of life. Let no disagreement make us disagreeable and no differences make a difference in our relationships, but now and always may the spirit of good will abide in our hearts.

Bless our President, our Speaker, every Member of this body and all who labor with them and for them. In Your strength may all of us be made strong for this day and for every day of our lives; for Your glory and the good of our people. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 153. Joint resolution to designate the week beginning October 7, 1984, as "National Children's Week";

H.J. Res. 453. Joint resolution designating the week of September 30 through October 6, 1984, as "National High-Tech Week";

H.J. Res. 505. Joint resolution designating the week beginning September 23, 1984, as "National Adult Day Care Center Week"; and

H. Con. Res. 356. Concurrent resolution to correct a technical error in the enrollment of the bill H.R. 1437.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2418) "An act to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress mass book deacidification facility, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6013. An act to amend the Small Business Act and the Small Business Investment Act of 1958.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2851. An act to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

PERMISSION TO POSTPONE PROCEEDINGS ON H.R. 5164, CENTRAL INTELLIGENCE AGENCY INFORMATION ACT, TO WEDNESDAY, SEPTEMBER 19, 1984

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that further proceedings on H.R. 5164, the Central Intelligence Agency Information Act, be postponed until tomorrow, Wednesday, September 19, 1984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

SAMUEL C. WILLETT

The Clerk called the bill (H.R. 718) for the relief of Samuel C. Willett.

There being no objection, the Clerk read the bill, as follows:

H.R. 718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Samuel C. Willett may be classified as a child within the meaning of section 101(b)(F) of the Act, upon approval of a petition filed in his behalf by Ruth E. and David M. Willett, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That, the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 5, strike "(101(b)(F)" and insert "101(b)(1)(F).".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANDREW AND JULIA LUI

The Clerk called the bill (H.R. 1236) for the relief of Andrew and Julia Lui.

There being no objection, the Clerk read the bill, as follows:

H.R. 1236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Andrew and Julia Lui shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANIS-UR-RAHMAN

The Clerk called the bill (H.R. 2418) for the relief of Anis-Ur-Rahman.

There being no objection, the Clerk read the bill, as follows:

H.R. 2418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Anis-Ur-Rahman shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under the Immigration and Nationality Act.

With the following committee amendment:

Page 1, line 3, delete the words "Anis-Ur-Rahman" and insert in lieu thereof "Anis Ur Rahmaan".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of Anis Ur Rahmaan."

A motion to reconsider was laid on the table.

SHU-AH-TSAI WEI, HER HUSBAND, YEN WEI, AND THEIR SONS, TEH-FU AND TEH-HUEI WEI

The Clerk called the bill (H.R. 4401) for the relief of Shu-Ah-tsai Wei, her husband, Yen Wei, and their sons, Teh-fu Wei and Teh-huei Wei.

There being no objection, the Clerk read the bill, as follows:

H.R. 4401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Shu-Ah-tsai Wei, her husband, Yen Wei, and their sons, Teh-fu Wei and Teh-huei Wei shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct four numbers from the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NARCISO ARCHILA NAVARRETE AND JUAN ARCHILA NAVARRETE

The Clerk called the bill (H.R. 5343) for the relief of Narciso Archila Navarrete and Juan Archila Navarrete.

There being no objection, the Clerk read the bill, as follows:

H.R. 5343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Narciso Archila Navarrete and Juan Archila Navarrete may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by David and Susanna Yoder, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

Page 1, lines 4 and 5, delete the words "and Juan Archila Navarrete".

Page 1, line 5, delete the words "as children" and insert in lieu thereof "a child".

Page 2, line 1, delete the word "their" and insert in lieu thereof "his".

Page 2, line 4, delete the word "beneficiaries" and insert in lieu thereof "beneficiary".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Narciso Archila Navarrete."

A motion to reconsider was laid on the table.

SUTU BUNGANI WILLIAM BECK

The Clerk called the bill (H.R. 5691) for the relief of Sutu Bungani William Beck.

There being no objection, the Clerk read the bill, as follows:

H.R. 5691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Sutu Bungani William Beck shall be held to be a child within section 322(c) of the Immigration and Nationality Act relating to naturalization of an adopted child.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KIM HAE OK HEIMBERGER

The Clerk called the Senate bill (S. 301) for the relief of Kim Hae Ok Heimberger.

There being no objection, the Clerk read the Senate bill, as follows:

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kim Hae Ok Heimberger may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. John Albert Heimberger, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SEELA JEREMIAH PIULA

The Clerk called the Senate bill (S. 514) for the relief of Seela Jeremiah Piula.

There being no objection, the Clerk read the Senate bill, as follows:

S. 514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Seela Jeremiah Piula shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202 of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARLES GAUDENCIO BEEMAN, PAUL AMADO BEEMAN, ELIZABETH BEEMAN, AND JOSHUA VALENTE BEEMAN

The Clerk called the Senate bill (S. 692) for the relief of Charles Gaudencio Beeman, Paul Amado Beeman, Elizabeth Beeman, and Joshua Valente Beeman.

There being no objection, the Clerk read the Senate bill, as follows:

S. 692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Charles Gaudencio Beeman, Paul Amado Beeman, Elizabeth Beeman, and Joshua Valente Beeman may be classified as children within the meaning of section 101(b)(1)(E) of the Act, upon approval of petitions filed in their behalf by Merlyn J. Beeman and Wanda L. Beeman, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GRIETJE RHEA PIETENS BEUMER, JOHAN CHRISTIAN BEUMER, CINDY LARISSA BEUMER, AND CEDRIC GRANT BEUMER

The Clerk called the Senate bill (S. 798) for the relief of Grietje Rhea Pietens Beumer, Johan Christian Beumer, Cindy Larissa Beumer, and Cedric Grant Beumer.

There being no objection, the Clerk read the Senate bill, as follows:

S. 798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Grietje Rhea Pietens Beumer, Johan Christian Beumer, Cindy Larissa Beumer, and Cedric Grant Beumer shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct four from the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SAMUEL JOSEPH EDGAR

The Clerk called the Senate bill (S. 1060) for the relief of Samuel Joseph Edgar.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Samuel Joseph Edgar shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202 of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATRICK P.W. TSO, PH.D.

The Clerk called the Senate bill (S. 1140) for the relief of Patrick P.W. Tso, Ph.D.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembed, That, notwithstanding the provisions of section 212(a)(14) of the Immigration and Nationality Act, Patrick P. W. Tso, Ph.D., shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202 of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATRICK STARKIE

The Clerk called the bill (H.R. 437) for the relief of Patrick Starkie.

There being no objection, the Clerk read the bill, as follows:

H.R. 437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Patrick Starkie shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas that are made available to natives of the country of birth of such alien under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas that are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSEPH ANTONIO FRANCIS

The Clerk called the Senate bill (S. 435) for the relief of Joseph Antonio Francis.

There being no objection, the Clerk read the Senate bill, as follows:

S. 435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Joseph Antonio Francis shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct the required number from the total number of immigrant visas and conditional entries which are made available to natives of the country of such alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARLON DOLON OPELT

The Clerk called the Senate bill (S. 277) for the relief of Marlon Dolon Opelt.

There being no objection, the Clerk read the Senate bill, as follows:

S. 277

Be it enacted by the Senate and House of Representatives of the United States of America in Congess assembled, That, in the administration of the Immigration and Nationality Act, Marlon Dolon Opelt may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on his behalf by Mr. and Mrs. Floyd D. Opelt, citizens of the

United States, pursuant to section 204 of this Act. The parents, brothers, and sisters of the said Marlon Dolon Opelt shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN BRIMA CHARLES

The Clerk called the bill (H.R. 2859) for the relief of John Brima Charles.

There being no objection, the Clerk read the bill, as follows:

H.R. 2859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, John Brima Charles shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDGAR GILDARDO HERRERA

The Clerk called the bill (H.R. 2671) for the relief of Edgar Gildardo Herrera.

There being no objection, the Clerk read the bill, as follows:

H.R. 2671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Edgar Gildardo Herrera shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigration visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YELIZAVETA FANKUKHINA

The Clerk called the bill (H.R. 1713) for the relief of Yelizaveta Fankukhina.

There being no objection, the Clerk read the bill as follows:

H.R. 1713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Yelizaveta Fankukhina shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

With the following committee amendments:

Page 1, Line 4, delete the words "Yelizaveta Frankukhina" and insert in lieu thereof "Elizaveta Fankukhina"

Page 2, line 10, after the word "Act." insert the following: *"Provided,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act."

Mr. BOUCHER (during the reading). Mr. Speaker I ask unanimous consent that the bill and the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of Elizaveta Fankukhina.

A motion to reconsider was laid on the table.

□ 1210

TEODORO N. SALANGA, JR.

The Clerk called the bill (H.R. 1150) for the relief of Teodoro N. Salanga, Jr.

There being no objection, the Clerk read the bill, as follows:

H.R. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Teodoro N. Salanga, Junior, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUSAN WALDO

The Clerk called the bill (H.R. 2051) for the relief of Susan Waldo.

There being no objection, the Clerk read the bill as follows:

H.R. 2051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Susan Waldo shall be deemed to be an immediate relative within the meaning of section 201(b) of that Act and may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act.

With the following committee amendment:

Strike all after the enacting clause and insert:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Susan Waldo shall be held and considered to be the natural-born alien daughter of Donald Waldo, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN FORMER FLIGHT ENGINEERS OF WESTERN AIRLINES

The Clerk called the bill (H.R. 3623) for the relief of certain former flight engineers of Western Airlines.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

MAJ. RALPH EDWARDS

The Clerk called the bill (H.R. 2625) for the relief of Maj. Ralph Edwards, U.S. Air Force, retired.

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make a point of order against the consideration of this bill in that it violates clause 2 of rule XXII of the Rules of the House of Representatives that prohibit the House from considering legislation that provide for the correction of a military or naval record.

H.R. 2625 does direct that certain changes be made in the computation of Mr. Edwards' pension which involves the correction of the record relating to the pension.

I would draw the Speaker's attention to the fact that a similar bill in the 97th Congress, H.R. 4451, which was worded identically to the legislation that is presently before us, was rejected by the Committee on the Judiciary under the rules on September 9, 1981.

The SPEAKER pro tempore. Do other Members desire to be heard on the point of order of the gentleman from Wisconsin?

Without objection, the Chair would like to defer further proceedings on this particular bill until after the 1 minutes in order that we may have further examination of the precedents relating to bills of this particular type.

There was no objection.

JOSEPH KAREL HASEK

The Clerk called the bill (H.R. 1362) for the relief of Joseph Karel Hasek.

There being no objection, the Clerk read the bill as follows:

H.R. 1362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 412 of the International Claims Settlement Act of 1949 (22 U.S.C. 1642k), the Foreign Claims Settlement Commission of the United States shall reopen the claim of Joseph Karel Hasek (claim number CZ 3,474 for which a final decision numbered CZ 1,252 was entered by such Commission on December 23, 1960), receive and consider any new evidence relevant to that claim which Joseph Karel Kasek may present, consider any unique circumstances pertaining to that claim, and redetermine the validity and amount of that claim in accordance with all other applicable provisions of title IV of such Act on the basis of that new evidence and all other evidence previously submitted. For purposes of section 405 of the International Claims Settlement Act of 1949 (22 U.S.C 1642d), Mr. Hasek shall be considered to have been a national of the United States on the date of the nationalization or other taking of the property upon which his claim is based.

With the following committee amendment:

Strike out all after the enacting clause and insert:

That the Congress finds that—

(1) Joseph Karel Hasek suffered losses resulting from the nationalization or other taking of his property by the Government of Czechoslovakia; and

(2) the unusual and unique circumstances of Joseph Karel Hasek's departure from Czechoslovakia under the auspices of the United States Government, his service to the United States Government, and his inability to obtain accurate information from the Government of Czechoslovakia are all factors on account of which Joseph Karel Hasek should receive equitable relief to allow him to be compensated for his losses.

SEC. 2. (a) Notwithstanding section 412 of the International Claims Settlement Act of 1949 (22 U.S.C. 1642(k)), the Foreign Claims Settlement Commission of the United States shall reopen the claim of Joseph Karel Hasek (claim numbered CZ-3,474 for which a final decision numbered CZ-1,252 was entered by such Commission on December 23, 1960), receive and consider any new evidence relevant to that claim which Joseph Karel Hasek may present, consider any unique circumstances pertaining to that claim, and determine the amount of that claim, including interest, in accordance with the provisions of title IV of that Act relating to the determination of the awards on claims, on the basis of the new evidence and all other evidence previously submitted. Mr. Hasek's claim shall be deemed to be a valid claim under title IV of that Act.

(b) The amount of the claim determined by the Commission pursuant to subsection (a) shall be certified to the Secretary of the Treasury not later than December 1, 1984. The Secretary of the Treasury shall make payments to Joseph Karel Hasek on account of that claim as follows:

(1) The Secretary of the Treasury shall, upon receipt of the claim, pay 10 per centum of the amount of the claim from the residue of the account established under section 4(b)(1) of the Czechoslovakian Claims Settlement Act of 1981 (22 U.S.C. 1642(i)).

(2) The Secretary of the Treasury shall make payments on the claim in accordance with section 8(f) of the Czechoslovakian Claims Settlement Act of 1981 to the same extent as payments are made under that section on account of all other awards under title IV of the International Claims Settlement Act of 1949.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RESIGNATION OF MEMBER AND APPOINTMENT AS MEMBER OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore laid before the House the following resignation from the Permanent Select Committee on Intelligence:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 17, 1984.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I am writing to inform you of my resignation from the House Intelligence Committee, effective immediately. It has been my pleasure to serve on the committee.

Sincerely,

BILL GOODLING,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 6(f), rule X, and clause 1, rule XLVIII, the Chair appoints, without objection, the gentleman from Florida [Mr. IRELAND] as a member of the Permanent Select Committee on Intelligence to fill the existing vacancy thereon.

There was no objection.

RESIGNATION OF MEMBER FROM COMMITTEE ON FOREIGN AFFAIRS

The SPEAKER pro tempore laid before the House the following resignation from the Committee on Foreign Affairs:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 18, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I am writing to officially notify you of my resignation from the House Committee on Foreign Affairs effective Tuesday, September 18, 1984.

It has been an honor and a pleasure to serve on the Foreign Affairs Committee, and I have the greatest respect for Chairman Dante Fascell and Bill Broomfield, the Ranking Republican.

With best wishes,

Sincerely,

JOEL PRITCHARD,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO THE COMMITTEE ON FOREIGN AFFAIRS AND THE COMMITTEE ON SMALL BUSINESS

Mr. MICHEL. Mr. Speaker, by direction of the Republican conference, I call up a privileged resolution (H. Res. 583) and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 583

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Foreign Affairs: Representative William F. Goodling, Pennsylvania, to rank following Representative Lagomarsino, California.

Committee on Small Business: Representative Andy Ireland, Florida, to rank following Representative Lyle Williams, Ohio.

Mr. MICHEL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CARL D. PERKINS FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 6255) to designate the Federal building and U.S. courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse", and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SNYDER. Reserving the right to object, Mr. Speaker, I rise in support of H.R. 6255, a bill, to honor our former colleague and good friend Carl Perkins by naming the Federal Building now under construction in Ashland, KY, the "Carl D. Perkins Federal Building and United States Courthouse."

The city of Ashland has petitioned to name this building in Carl's honor. It has been discussed with Carl's family and they agree it would be a most fitting and welcome tribute to Carl. The entire Kentucky delegation concurs in this decision.

Carl did so much for his people and the State as a whole and this is just one small way we can pay tribute to the memory of a great man and our dear friend.

I don't intend to go to great lengths recalling the accomplishments Carl achieved while he served here in the House of Representatives or the reasons he deserves this honor. We all know them. And you all know how I felt about Carl and what good friends we were. We covered all this under special orders last Tuesday.

Carl was a great believer in the ability of the Federal Government to solve the problems of his people. What more fitting way could he be remembered than this—having his name affixed to a Federal building that will long symbolize, not only Carl's belief but his success at making that belief a reality.

This is just a simple and fitting tribute to a great man and I urge your support for this measure.

Mr. YOUNG of Missouri. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, it is an honor to bring to the floor H.R. 6255, a bill to designate the Federal building and U.S. courthouse in Ashland KY, as the "Carl D. Perkins Federal Building and United States Courthouse." I can think of no one I would rather participate in honoring than the late dean of the Kentucky delegation, a man who was a leader in developing education and labor programs in this body. Among his achievements were the Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965, and the black lung benefits in the Coal Mine Health and Safety Act of 1969.

Chairman Perkins was as well known for his compassion as for his effectiveness as a legislator. During his 35 years in the House of Representatives, he never failed to speak for the needs of children. Through his efforts, the School Lunch Program and Child Nutrition Programs were expanded to serve the needs of those who otherwise might have lacked nutritional meals. Legislation enacted into law under the direction of Congressman Perkins will improve the lives of millions of Americans for many years to come. It was a privilege to serve with Carl Perkins during my 8 years in Congress.

● Mr. HOWARD. Mr. Speaker, with the passing of our former colleague, the Honorable Carl Dewey Perkins on August 3, 1984, the Congress and this Nation lost a great legislator, statesman, and truly dedicated public servant. Carl Perkins was a man of wisdom, skill, and compassion. His contributions to America are legendary and it was my privilege to have served in the House with Carl for 20 years.

Mr. Speaker, at this time I would like to share with my colleagues a biography written by Congressman Carl Perkins' son which I believe we all would like to associate ourselves with his comments:

CARL DEWEY PERKINS, OCTOBER 15, 1912–AUGUST 3, 1984

For almost thirty-six years Carl Dewey Perkins represented Kentucky's 7th District in the United States House of Representatives. No Kentuckian has served as long in the Congress.

From the first years of his service in 1949, Congressman Perkins was a member of the House Committee on Education and Labor and served as that body's dynamic chairman from 1967 until his death. His leadership, his philosophy and his character were stamped on virtually every piece of social legislation passed by the Congress during his generation.

He wasted no time on futile arguments over whether legislation was liberal or moderate or conservative—his only criterion was whether it was good for the people. He was a resourceful, tireless and tenacious fighter for his causes. Those causes were invariably the ones that were important to the people of his beloved 7th District.

The landmark Elementary and Secondary Education Act of 1965, which brought the resources of the federal government to bear on the education of disadvantaged children, was forged in his subcommittee. That act, Title I, vitalized the education of poor children throughout the country. He championed vocational education and led the Congressional forces that gathered a few scattered federal programs in that field into a strong commitment of federal support in the Vocational Education Act. Vocational and technical schools built under that act throughout the 7th District have trained thousands of young people for useful and productive jobs. Wherever Kentucky libraries open their doors to the people, the work of Carl Perkins on federal library assistance legislation is remembered.

Congressman Perkins was the moving force behind the expanded federal role in child nutrition and school feeding programs.

He was a legislative pioneer in the field of industrial safety, sponsoring and leading the fight for passage of the federal Coal Mine Health and Safety Act of 1969, which also provided compensation for victims of the black lung disease. He managed passage of the Occupational Safety and Health Act on the House floor in 1970.

His work for the elderly is evidenced in housing developments, senior citizens centers and in nutrition programs.

An ardent conservationist, he worked diligently for flood control projects that continue to save hundreds of lives and millions of dollars in property damage in his district and elsewhere.

His last speech in the House of Representatives the afternoon before he died was a plea for the use of Eastern Kentucky's abundant coal as a resource for America's energy independence.

He was not a desk-bound Congressman nor was he a stranger in his district. He traveled Eastern Kentucky virtually every day Congress was not in actual session. And when disaster struck, whether it was a flood or a mine explosion, Carl Perkins was usually there to comfort the suffering and to spur aid from any source available.

The son of James E. and Dora Calhoun Perkins, he was educated in the Knott County grade schools, Hindman Settlement School and Hindman High School. He attended Alice Lloyd College at Pippa Passes and Lees College at Jackson and won his law degree in 1935 from the Jefferson School of Law (now the University of Louisville College of Law).

His law practice was almost immediately intertwined with public service for in 1939 he was appointed to fill the unexpired term as Commonwealth Attorney and was elected to the Kentucky General Assembly in 1940. He was elected Knott County Attorney in 1941, shortly before beginning his army service in 1941 in World War II. He saw modern war first hand during the campaigns in Northern France, the Ardennes, the Rhineland and Central Europe. He was

plunged into public service again in 1945 by reelection to his post as Knott County Attorney and subsequently served as Counsel to the Kentucky Department of Highways in Frankfort.

Carl D. Perkins was elected to the United States House of Representatives in 1948 and went to Washington the following January as a member of the 81st Congress.

He was married in 1939 to Miss Verna Johnson of Knott County who for more than thirty years was a gifted teacher of children and shared her husband's work in education. They have a son, Carl Christopher Perkins, a Hindman attorney, who serves as a member of the Kentucky General Assembly in the seat held by his father more than forty years ago.

He was a Southern Baptist.

Carl Perkins was born in Knott County and never called another place on earth his home.

"My father would not have wanted us to dwell upon his passing, nor immortalize his achievements, but rather to carry forward with his dream of building a future for Eastern Kentucky. Our tribute to his memory should be dedication to that cause."—Carl Chris Perkins.

Mr. Speaker, I urge enactment of H.R. 6255.●

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri [Mr. YOUNG]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building and United States Courthouse located at Fourteeth Street and Greenup Avenue, Ashland, Kentucky, shall hereafter be known and designated as the "Carl D. Perkins Federal Building and United States Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Carl D. Perkins Federal Building and United States Courthouse".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ALEXANDER PIRNIE FEDERAL BUILDING

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5402) to designate the U.S. Federal Building in Utica, NY, as the "Alexander Pirnie Federal Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SNYDER. Mr. Speaker, reserving the right to object, I rise in support of this bill to name this building in favor of our former colleague, Alex Pirnie.

Mr. YOUNG of Missouri. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. Further reserving the right to object, I yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, the purpose of this legislation is to memorialize Congressman Alexander Pirnie, a Republican who represented New York's 32d Congressional District for 14 years.

Congressman Pirnie was born in Pulaski, NY, April 16, 1903. He attended the Pulaski Academy and later graduated from Cornell University where he returned to earn his degree from Cornell Law School.

The Honorable Pirnie took seriously his responsibility as a citizen of this great Nation. When World War II broke out, he was beyond the age to be drafted, but still he volunteered for service. His supreme efforts did not go unnoticed, for he was promoted to the rank of colonel, awarded the Bronze Star and Legion of Merit.

His outstanding tenure in Congress began on November 4, 1958, when he was elected to the 86th Congress. Until he retired, 14 years later, he held the respect of his colleagues for his unwavering principles and dedication. He served as a member of the Agriculture Committee, Armed Services Committee, and the Republican Policy Committee.

In view of his distinguished service to the State of New York and the Nation as a whole, it is fitting that the U.S. Federal Building at 10 Broad Street, Utica, NY, be known as the "Alexander Pirnie Federal Building."

Mr. BOEHLERT. Mr. Speaker, Al Pirnie was a truly great American who served our Nation well in peace and in war.

His distinguished career was marked by accomplishment, highlighted by 14 years of service in the U.S. House of Representatives from 1959 to 1973.

During that period, he earned the respect of his colleagues on the Hill and quickly became an individual whose opinion was sought and given freely for, among all of his many virtues, Al Pirnie was a thoughtful, deliberative man who exuded integrity.

The Agriculture Committee, the Armed Services Committee, and the U.S. delegation to the Interparliamentary Union all benefited from Al Pirnie's presence.

I can recall vividly the sound advice he once gave to his young administrative assistant back in the early sixties and I relay it to you because it tells so much about the man. He said, in the quiet, serious way that was his: "strive to achieve headway and you'll earn the headline." I was on the receiving end of that sound advice. It was the headway he had achieved that earned for him the headlines. When, in 1982, at the age of 80 and still going strong, he died, it took more than a page of his hometown daily newspaper to chronicle all that he did with his life. Within 24 hours, calls of condolence came to his beloved wife, Mildred, from distant points across the Nation—from former President Ford, from former President Nixon, from Vice President BUSH, and there were many others. The great loss was shared.

Al Pirnie was a respected attorney and public official, but most of all he was so respected and admired by so many because he was a kind and generous individual who gave so much of his time and considerable talents to so many.

When World War II broke out, Al Pirnie was beyond the age to be called, but he sounded his own call for his country and served with distinction, earning the rank of colonel in the Army. There was never any doubt in his mind about what to do, because Al Pirnie took seriously his citizen responsibility.

All through his life, Al Pirnie gave of himself to others. Name it and he did it. Repeatedly he was the leader in civic betterment activities. Chairman of the United Fund, president of the Chamber of Commerce, trustee for countless organizations including his alma mater, the Cornell Law School.

Perhaps the most pride from all that he did came as a result of teaching Americanization classes for newcomers to our shores. He talked of that often.

Mr. Speaker, the Al Pirnie story is the story of America. He was a talented and determined young man from modest beginnings who worked his way to the top and in the process earned the respect of all with whom he came in contact on a professional basis and the love of all of us who were privileged to be part of his life on a personal basis. Al Pirnie did our country honor. It is fitting that we do him honor.

● Mr. HOWARD. Mr. Speaker, this legislation memorializes an outstanding former Member of Congress, Alexander Pirnie, who represented New York's 32d District for 14 years.

As a well-respected member of the Agriculture Committee and the Armed Services Committee, the Honorable Pirnie displayed his considerable talents. His leadership, however, was not limited to legislative matters, for Con-

gressman Pirnie was a civic leader as well.

Mr. Speaker, in 1982, Congressman Pirnie died at the age of 80. In light of his many accomplishments, I urge enactment of H.R. 5402.●

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 10 Broad Street, Utica, New York, known as the Post Office and Court House Building, shall hereafter be known and designated as the "Alexander Pirnie Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Alexander Pirnie Federal Building".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

That the building at 10 Broad Street, Utica, New York, known as the United States Post Office and Courthouse, shall hereafter be known and designated as the "Alexander Pirnie Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Alexander Pirnie Federal Building".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office and Courthouse in Utica, New York, as the "Alexander Pirnie Federal Building."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PAUL P. RAO FEDERAL BUILDING

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5146) to name the Federal Building at One Federal Plaza, New York, NY, the "Paul P. Rao Federal Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

□ 1220

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SNYDER. Reserving the right to object, Mr. Speaker, I do so, so that the chairman of the subcommittee can tell us about Mr. Rao.

Mr. YOUNG of Missouri. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, Paul P. Rao, the chief judge emeritus of the U.S. Customs Court, was born in Prizzi, Italy, on June 15, 1899. He arrived in the United States in 1904 and served in the U.S. Navy 1917–19. A graduate of the Fordham University Law School in 1923 with an LL.B., he served as assistant district attorney for New York County between 1925 and 1927. He practiced law from 1927 through 1941.

In 1941 he was named Assistant Attorney General in charge of the Customs Division of the Department of Justice by President Franklin D. Roosevelt. In 1948, President Harry S. Truman elevated Judge Rao to the bench of the U.S. Customs Court. In 1965 he was named chief judge by President Lyndon Johnson and served in that capacity until 1971.

Judge Rao has been active in numerous professional and community organizations and has been the recipient of many awards and accolades. including the highly prized papal decoration, Knight of Lateran. He was the founder and first president of the American Justinian Society of Jurists. For more than two generations he has served as a national spokesman for Americans of Italian extraction. Throughout his career he has been in the forefront of efforts to assist the disadvantaged, including the establishment of various college and graduate school scholarships.

He was the prime mover for 25 years in the effort to bring about the construction of the U.S. Customs Court and Federal Office Building.

In view of his distinguished career of service to his fellow citizens and to the Federal judiciary, it is fitting and proper that the U.S. Customs Court and Federal Office Building at 1 Federal Plaza, New York, NY, be designated in his honor as the "Paul P. Rao United States Customs Court and Federal Building."

● Mr. HOWARD. Mr. Speaker, I rise in strong support of H.R. 5146, a bill to name the Federal building at One Federal Plaza, New York, NY, as the "Paul P. Rao Federal Building."

Mr. Speaker, Judge Paul P. Rao was born in Prizzi, Italy, on June 15, 1899, and arrived in the United States in 1904. Heeding the call for volunteers in World War I, Paul entered the Navy and had the distinction of eventually becoming the youngest chief petty officer in the Navy's history. Upon his release from the Navy, he entered Fordham University Law School and graduated with a LL.B. degree in 1923. He served as assistant district attorney for New York County from 1925–27 and subsequently practiced law from 1927 to 1941. President Franklin D. Roosevelt appointed Judge Rao as Assistant Attorney General of the United States in charge of customs on July 3, 1941. President Harry S. Truman appointed him as judge of the U.S. Customs Court on July 2, 1948. President Lyndon Johnson elevated Judge Rao to serve as chief judge of the U.S. Customs Court in 1965 a position he held until 1971. His record of decisions made throughout his judicial life will be hard to match by others in the future. Judge Rao continues to be active with the U.S. Customs Court in New York.

Mr. Speaker, one of the finest accomplishments attributed to Judge Paul Rao is the construction of the U.S. Customs Court which he initiated on February 10, 1955, when the U.S. Customs Court appointed Judge Rao to be chairman of a new building committee designed to bring about the construction of a new building for the courts. In this regard, Judge Rao visited Washington, DC, at his own expense to appeal for the need for such a facility. As a result of his untiring efforts, the building became a reality, housing the U.S. Customs Court and other Federal offices.

Judge Rao is particularly proud of his Italian heritage; he has long been active in Italian-American programs and activities. Perhaps his greatest personal achievement in latter years was the founding of the Justinian Society in 1966. This eminent organization which consists of judges on all levels of government who are of Italian heritage was specifically founded by Rao because of his ethnic pride. Judge Rao has been an exemplary resident of New York City and has one of the finest records in the history of the legal profession and the bar of the State of New York and the Federal bar.

Mr. Speaker, naming the Federal building at One Federal Plaza in New York, NY, is a modest recognition indeed for a person of Judge Rao's stature. I urge enactment of H.R. 5146.●

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri [Mr. YOUNG]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located on One Federal Plaza, New York, New York, shall hereafter be known and designated as the "Paul P. Rao Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Paul P. Rao Federal Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING A CERTAIN MODIFICATION IN ENGROSSMENT OF HOUSE AMENDMENTS TO SENATE AMENDMENTS TO H.R. 5561, ENHANCING ECONOMIC DEVELOPMENT OF CERTAIN TRUST TERRITORIES

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate amendment to the bill H.R. 5561, the House amendment to section 401(d) be modified to strike "in fiscal year 1985" and insert "in fiscal year 1986".

The SPEAKER pro tempore. [Mr. AUCOIN]. Is there objection to the request of the gentleman from the Virgin Islands?

Mr. CRAIG. Reserving the right to object, Mr. Speaker, and I will not object, that has been cleared with the minority. There is no disagreement, and we approve of this.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands [Mr. DE LUGO]?

There was no objection.

CEREMONY IN MEMORY OF THE VICTIMS OF KAL FLIGHT 007 AND TO URGE HOUSE ACTION ON H.R. 4458, THE KOREAN AIR LINES VICTIMS CLAIMS ACT

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, earlier today, I took part in a ceremony on the Capitol Grounds to commemorate and remember the victims of the Korean Air Lines flight 007 that was shot down by a Soviet warplane last September 1.

During the ceremony this morning, we dedicated a flowering peach tree growing on the Capitol Grounds to the memory of the victims of the ill-fated flight. I am pleased to report that members of the families of several of the victims were in attendance at this ceremony.

Mr. Speaker, I take the floor this morning to advise my colleagues that I have written the chairman of the Foreign Affairs Committee to request action on legislation I introduced last November in reaction to the unwarranted and tragic actions of the Soviet Union.

Quite simply, my bill provides mechanisms and procedures through which families and relatives of the victims of flight 007 could seek compensation from the party which is liable for the loss of their loved ones: the Soviet Union.

H.R. 4458 provides for the freezing of Soviet assets presently in the United States. An interim period is provided during which voluntary settlement of claims would be pursued. However, if voluntary settlements are not possible, claims could be made directly against the frozen Soviet assets. An adjudication procedure through the Foreign Claims Settlement Commission is provided under the bill.

Mr. Speaker, there have been numerous ceremonies around the country, and around the world, marking the first anniversary of this tragedy. I call upon the House to take meaningful action to provide appropriate compensation to the relatives of the victims of flight 007, and to place liability where it belongs: With the Government of the Union of Soviet Socialist Republics.

SENTENCING REFORM BILL MAKES FEW REAL IMPROVEMENTS OVER EXISTING LAW

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise his remarks.)

Mr. DAUB. Mr. Speaker, H.R. 6012, the sentencing bill which will be before this House, is not a reform measure at all. Instead, it is a measure that would give defendants a number of new rights at the expense of the rights of victims of crime. It would, for example, allow defendants to subpoena victims and other witnesses and haul them into court as part of the sentencing process—thus opening up a whole new way in which defendants could harass victims.

This and other shortcomings of H.R. 6012 are obscured by the fact that this bill contains a number of provisions that appear similar to those in sentencing reform bills passed by the other body with bipartisan support. What we want to do is reduce the wide disparity in sentencing and to make sentences more fair and certain.

Unfortunately, H.R. 6012 makes few real improvements over existing law. The bill would retain a form of early release on parole for example. The usual release date could be modified by such things as sentence disparity or, incredibly, to relieve prison crowding. Thus, the current indeterminate sentencing system, which has been so widely discredited, would only be perpetuated—a sentence could be substantially reduced even though it may have been imposed by the sentencing judge for the best of reasons. H.R. 6012 should be amended in order to make it good law.

REPORTED AGREEMENT OF CONFEREES ON DISABILITY REFORM IS GOOD NEWS TO MANY

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, the reported agreement between House and Senate conferees on disability reform is good news to millions of Americans.

The Social Security Administration's record in this area since 1981 has been tragic. Of the nearly 500,000 instances where benefits have been cut off since the new review procedures were begun, more than 40 percent—an incredibly high proportion—were reinstated upon appeal.

Under the agreement, the Government could remove a recipient from the rolls only if it is proven that his or her medical condition had improved. Under this standard, those who need help will continue to get it.

Mr. Speaker, the House passed its version of the disability reform bill by a 410 to 1 margin, which indicates the great need to change the program. The reported conference agreement deserves the same support, and we should make it a top priority before adjournment.

SENTENCING REFORM BILL SHOULD BE OPEN TO AMENDMENT

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, I am in complete agreement with those who see a need for comprehensive sentenc-

ing reform. However, I do not think we should pass this legislation without opening it for amendment.

An example of one of my concerns is the bill's failure to include punishment as a purpose of sentencing. Not only does this cause a serious problem in itself, it flavors the rest of the bill. The bill requires consideration of sentencing options in an artificial lockstep fashion beginning with unsupervised probation. It permits a Board of Imprisonment to set early release dates for prisoners if the prisons are over capacity—even though that problem may have arisen because of a rash of very serious crimes. It permits the Board of Imprisonment to return to the court to obtain shortened sentences for prisoners if there is overcrowding—again without regard to the possibility that the overcrowding may be caused by the sheer volume of serious crime.

The bill does make an attempt to minimize the impact of the early release provisions on society by making them inapplicable to violent career criminals—but the definition of that term is so narrow that it would not even cover a murderer or a major drug trafficker unless he had previously been convicted of two similar offenses. To provide earlier release for such a person just because the prisons are crowded is unthinkable. The bill should be amended.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, the House is scheduled to vote on the conference report on the Longshoremen's and Harbor Workers' Compensation Act later today. I would like to congratulate the committee on a fine piece of legislation, and I am especially pleased that the conference report incorporates provisions of a bill I introduced last year to expand the membership of the Benefits Review Board—which rules on coal miners' black lung claims—from three to five.

The backlog at the current three-member Board has become nothing less than disastrous. Every week I receive letters from coal miners who filed black lung claims 3, 4, even 5 years ago, but still haven't received a decision from the Benefits Review Board. This delay is unconscionable. The bottom line is that there are simply far too many claims and too few Board members. The legislation we will vote on today will help eliminate this backlog.

Mr. Speaker, this is not just a good piece of legislation, it is a necessary piece of legislation. I urge my colleagues to support it.

□ 1230

INSANITY DEFENSE REFORM

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker and Members of the House, later on today we will have an opportunity, which I see coming, to vote on suspension on a bill that would allegedly reform the insanity defense problem.

I ask now that you pay special attention to this particular issue because on suspension as it is, we do not have an opportunity to correct some of the serious flaws that exist in this bill. I am saying to you now that had this proposed law been in effect when Hinckley went on trial, not only would he have walked out of the courtroom as he did, but the possibility would have been present that he would not have had to walk into the hospital for treatment, as happily did occur, at least in that particular case.

So although in the name of insanity defense reform we have a bill on suspension; it is a shock to me, because the Rules Committee was expected to allow us to have a rule to debate these issues fully. We have been yearning for such a day to do something about the insanity defense reform, but this is not the day. I ask you to please vote down the bill on suspension so that we can debate it fully later.

BANANA IMPORTS FROM NICARAGUA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the U.S. Department of Agriculture reported recently that banana imports from Nicaragua have increased sixfold during the first 6 months of 1984 compared to the same period in 1983. This has amounted in payments totaling $15 million in 6 months time to the same country with whom we supposedly are engaged in a covert war. Instead of disrupting their economy in an effort to stop the Communist-led Marxist revolutionaries, we are actually helping it along.

Worse than this fact itself is that this is occurring with the full knowledge and approval of the White House. The sole importer of Nicaraguan bananas is a California importer and close friend of Presidential adviser Michael Deaver. This administration has turned its back on the matter and has allowed the situation to go unchecked—while at the same time we are told by this President of the importance to fight communism in Nicaragua.

That is hypocrisy and violates the public trust placed in the Presidency.

THE NEW MISS AMERICA, SHARLENE WELLS

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute.)

Mr. NIELSON of Utah. Mr. Speaker, I stand here today feeling great pride to say that I represent the State of Utah, the same State as our beautiful new Miss America, Sharlene Wells. Miss Wells is a student at Brigham Young University which is in my district and where I have taught, and which university has previously been known as the home of outstanding quarterbacks and great football teams.

I would like to congratulate Miss Wells on her accomplishment—on the life she has led and the sacrifices she has made to achieve her goal of being crowned Miss America. She is a woman of extreme integrity, principle, talent, intelligence, and dignity. All of these attributes complement her overall beauty.

Miss Wells truly exemplifies the outstanding youth of this country and will be an excellent role model for many other young women.

My fellow Utahns and I are proud to have Sharlene represent our State and our Nation.

SOCIAL SECURITY COST-OF-LIVING INCREASE

(Mr. TORRES asked and was given permission to address the House for 1 minute.)

Mr. TORRES. Mr. Speaker, time is running out on seniors who are depending upon Congress to make sure that they receive a Social Security cost-of-living increase next January.

Presently, if the rate of inflation does not increase more than 3 percent in any given year, seniors do not receive a COLA raise.

Current estimates project that the rate of inflation will fall just below 3 percent.

When Congress voted last year to put Social Security back on firm financial footing the COLA was delayed from July 1984 to January 1985.

If current inflation projections prove correct, seniors will not receive a COLA increase until January 1986.

This means that Social Security beneficiaries will have waited 2½ years since their last increase.

Now that the system is sound Congress must make sure that senior citizens receive a COLA increase this January.

Seniors living on a fixed income need a cushion against inflation, and it up to Congress to provide it.

The time to act is now so that Social Security recipients will not have to wait beyond January for a COLA increase.

I am pleased that my colleagues on the Ways and Means Committee will be holding hearings on this issue.

And I commend them for their commitment to providing older Americans with the income security they both need and deserve.

SENTENCING REFORM

(Mr. HARTNETT asked and was given permission to address the House for 1 minute.)

Mr. HARTNETT. Mr. Speaker, H.R. 6012 has several very serious flaws. These flaws are not contained in the sentencing reform bills which passed the other body by an overwhelmingly bipartisan vote. Senate bills 668 and 1762 are good bills which would bring about effective sentencing reform in a rational and balanced manner. They recognize society's right to be protected from convicted criminals while also recognizing the rights of defendants to fair treatment under the law.

H.R. 6012 does not succeed in this recognition of society's rights as well as rights of the defendants. Consequently, allowing H.R. 6012 to be placed on the Suspension Calendar would be a grave error. H.R. 6012 should be considered only under a rule that allows appropriate and necessary amendments.

We need to make sentencing reform, genuine reform, a reality.

AMERICA'S STEEL INDUSTRY

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. FORD of Tennessee. Mr. Speaker, as you know, America's steel industry has been devastated over the years by imported steel from countries who oftentimes subsidize their industries, and who at the same time, impose restrictive import schemes to prevent us from selling steel in their countries.

On the other hand, nearly 33 percent of the steel sold in this country in July was produced overseas. Additionally, jobs in the steel industry has fallen from an average of 453,000 workers between 1975-79 to 243,000 last year—a reduction of 46 percent.

Walter Mondale said in Cleveland, OH, yesterday that he will cut steel imports to 17 percent of domestic consumption for 5 years to give the industry the opportunity to become more competitive internationally.

The Reagan administration is toying with various proposals to cut import steel from 19-21 percent—it must reach a decision by September 24.

It is obvious that we, as Members of Congress, cannot stand back and watch the demise of our steel industry. Nor can we afford to watch other countries provide assistance to their steel industry in order that they can then sell their steel in our country at a cheaper price.

Should the Reagan administration fail to take adequate action over the next week, I encourage my colleagues to support other measures that will provide much needed assistance to our steel industry which is so vital to our national economy.

We can't afford to play politics with 243,000 unemployed workers.

KITTINGER CROSSES THE ATLANTIC—BALLOON RECORD SET

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, yesterday American balloonist Joe Kittinger of Orlando completed the first solo balloon crossing of the Atlantic Ocean in a balloon named the Rosie O'Grady's Balloon of Peace and landed this morning in Italy.

My friend and constituent Joe Kittinger is no ordinary man. He is a much decorated former military pilot and prisoner of war in the Vietnam war. In 1960, Joe set a world record for free fall when he plunged 16.04 miles before opening his parachute after jumping from a balloon at 102,800 feet. In July 1982, he set the world's record for distance in a 1,000 cubic feet helium balloon in a flight from St. Louis to Quebec covering 1,348 miles in 48 hours.

During his Atlantic flight this week Joe broke both the world class balloon distance and duration records and became the first man to cross the Atlantic alone in a balloon.

Joe Kittinger is an American hero. He follows in the footsteps and traditions of great American aviation heros like Charles Lindbergh and Neil Armstrong. It is this pioneering spirit of America and willingness to strive against all odds for individual achievement that have made our Nation great. Joe Kittinger, we're mighty proud of you.

FREE ENTERPRISE AND BANK REGULATION GO TOGETHER OR NOT AT ALL

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I believe in bank regulation if done fairly and with the public welfare in mind. Interestingly, for all of my life, either while obtaining a degree in economics or while engaging in small business or while pursuing legislative goals, I have believed in free enterprise or what practical economists call marketplace pricing.

I still believe in the freedom, the competition and the efficiency of the marketplace. It promotes individual liberty and expands economic opportunity.

The greatest threats to the marketplace are consumer ignorance, business greed and monopoly. In order to protect against these threats, the government has an occasional, but legitimate, regulatory role.

Banks, for instance. Banks are too important and the potential for abuse of money and power too great to completely deregulate the system. For example, Continental Illinois Bank could not be allowed to fail for fear of collapsing the entire banking system.

Thus, I believe in market pricing and bank regulation.

Shocking as this is to this administration, free enterprise and fair bank regulation go together or not at all.

□ 1240

H.R. 6012 SHOULD BE CONSIDERED UNDER REGULAR RULES

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, it is important to address H.R. 6012, but it is important also to consider it under the normal rules so it can be debated and amended.

I am particularly concerned about one provision of the bill that plainly requires amendment. That is a provision that appears to be aimed at an appropriate result, but that attempts to achieve it in a totally inappropriate way. I am speaking of the provision requiring that sentencing guidelines specify sentences that will not result in prison overcrowding. While overcrowding is a serious difficulty, that approach is the least defensible way to avoid it. Any sentencing guidelines system should assure that the guidelines are developed with the determination of achieving essential public purposes; usually, just punishment, deterrence, and incapacitation in the case of imprisonment. They should not be developed with a view to filling available space with a compatible number of bodies. We might as well provide that the guidelines specify sentences that will not result in under utilization of prisons.

There is, of course, a better approach. We should amend the bill to require those developing the sentencing guidelines determine the impact the guidelines will have on the capacity of the correctional system, probation as well as prisons, and then recommend to the Congress any increases in capacity that the affected portion of the system may require. That kind of approach would help us to avoid prison overcrowding, and would also

permit us to avoid overburdening the capacity of the probation system. At the same time, it would permit us to direct the imposition of sentences tailored to the relative seriousness of offenses in the criminal histories of offenders.

Mr. Speaker, we need appropriate sentencing reform, not sentencing regression. We need to be able to amend this bill.

THANK YOU, RONALD HUFFMAN

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. REID. Mr. Speaker, in the 1950's it was the Korean war. In the sixties and the seventies it was the Vietnam conflict.

Those were times when the topic of war dominated conversations in every home, classroom and public place.

Yet, as our millions of veterans returned home, the needs of so many were not answered.

They had often been so young when they went to war that the only skills they had upon return were those they learned in armed warfare.

That is why I am especially pleased to commend the early successes of the Emergency Veterans' Job Training Program—which is providing training for Korean- and Vietnam-era vets to reach new personal and professional goals.

In order to make a program like this work, however, it takes more than black-letter law. It also takes dedicated people.

That's why I am particularly happy to congratulate Ronald Huffman of Las Vegas for his award winning contributions in placing a record number of veterans in this jobs-training program.

It is through this kind of commitment that our Nation has become great and will continue to build strength through its greatest resource—its people. Thank you Ronald Huffman

H.R. 6012 IS IN NEED OF AMENDMENT

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to extend his remarks.

Mr. BILIRAKIS. Mr. Speaker, when I learned that the House of Representatives would consider a criminal sentencing bill this week, I was initially pleased.

Criminal sentencing, afterall, is near the heart of our crime problem. For too many years, we have had plenty of crime, but ineffectual and unsure punishment. Therefore, I wanted to vote for sentencing reform and for a bill to increase the fairness and uniformity of our criminal justice system.

However, I cannot support the bill offered this week, H.R. 6012, under suspension of the rules.

This bill, incredibly, does not recognize punishment as a purpose of criminal sentencing. It does not eliminate the system of early release and parole. And it requires imposition of the "Least severe" appropriate sentence, while limiting sentences for persons convicted of multiple offenses. In short, it goes in the opposite direction from the path we should take on sentencing reform.

Mr. Speaker, I want sentencing reform, not sentencing regression, H.R. 6012 must be substantially amended before it will represent progress in our efforts to amend the United States Code and toughen our Federal efforts against crime.

COMPASSIONATE PAIN RELIEF ACT PLACES THE COUNTRY'S CREDIBILITY IN JEOPARDY

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, sometime today we will be considering H.R. 5290, described as the Compassionate Pain Relief Act. What it would do is allow us to legalize heroin for distribution to those terminally ill patients. Certainly all of us want to do what we can to relieve pain for these unfortunate people, but I am suggesting that what this act would do would be to circumvent the Food and Drug Administration and circumvent the Controlled Substance Act as controlled by the Drug Enforcement Administration. It seems as though for the medical profession that there is actually no need to legalize heroin today.

This bill is opposed by the hospital workers, the pharmacists, the American Medical Association, the Drug Enforcement Administration, the Federal Bureau of Investigation, hundreds of law enforcement officers on the Hill today, opposing this bill, and it just seems to me that if we are going to go to countries that are producing drugs asking them to keep illegal drugs out of the United States, that we should not legalize for the first time heroin and expect that we would have credibility in countries like Mexico, Pakistan, Thailand, and Burma, who are cooperating with our efforts to keep these illicit drugs outside of the United States.

I do hope that you do not lose your compassion but when the bill comes up that the Members vote against it.

INSANITY UNDER SUSPENSION

(Mr. DEWINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEWINE. Mr. Speaker, today this body is going to consider a reform of Federal insanity law under suspension of the rules. This bill does not belong on the Suspension Calendar.

Since the Hinckley trial, there have been 26 bills introduced to modify or to abolish the insanity defense. During the hearings that were held before the Criminal Justice Subcommittee of the Judiciary we heard from many well-informed witnesses who supported several different approaches to returning sanity to the insanity defense.

One approach which received a great deal of attention and was supported by the administration in the last Congress was the abolition of the insanity defense. Under this approach the defendant's state of mind is still at issue as an element of the crime—as in all cases—but, the defendant does not then get a second shot by asserting a separate affirmative defense of insanity.

Unfortunately, this alternative and any other alternative cannot be discussed. Although we were assured in the Judiciary Committee that this bill would not come up under suspension, that is precisely what has happened. This bill has languished before the Rules Committee since November of last year. There has been plenty of time to reach a consensus on an acceptable rule. This issue is too important to not have full debate and consideration of amendments.

Mr. Speaker, I urge my colleagues to vote against considering this bill under suspension of the rules.

LET THE SUNSHINE OF OPPORTUNITY REPLACE THE HEAT OF PREJUDICE

(Mr. TORRICELLI asked and was given permission to address the House and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, 2 months ago, while women celebrated GERALDINE FERRARO'S selection as a Vice-Presidential candidate and all that it meant for America, Americans of Italian heritage noted the historic event with their own cheers. It now appears that our celebration may have been premature.

Last Friday reminded us that we noted the pasing of prejudice too quickly and that the struggle for genuine integration in the American political process continues. On that day the Wall Street Journal vividly exposed how far we have to travel as a nation.

I do not raise this issue because the Wall Street Journal might oppose her candidacy and I do not ask for anyone's vote on her behalf. I rise instead in the hope that the sons and daughters of immigrants might still be accepted for who they are and not for

the myths and stereotypes upon which prejudice is built. Let us for a moment review the allegations contained in the pages of the Wall Street Journal:

There were, first, no direct allegations against GERRY FERRARO, nor her husband, nor even her father-in-law. There were, instead, allegations against alleged friends of her father-in-law several decades ago.

The neighborhoods of Manhattan, which became home to millions of immigrants and in whose tenements my ancestors and many of yours first knew America were termed "Mafia dominated."

Finally, small contributions to her campaign from an individual with alleged underworld connections were cited with an unmistakable implication on the candidate's character.

Shame on the Wall Street Journal. Shame on any Member here who will not accept the same standards.

Who here will answer for alleged friends of your spouse's parents of 30 years ago? Who here will bear the burden of those who lived in the immigrant neighborhoods of your grandparents? Who here will vouch for the reputation of every one of the thousands of people who contribute to your campaigns?

The genius of American political success is that we as a people rise or fall on our own individual merit. If GERRY FERRARO can't meet that test, let her fail. If she can, let her soar.

At issue here is not only the first women to seek the Vice Presidency nor the prospect of any political party, but the ability of immigrant sons and daughters to take a rightful role in America's future without historic prejudice.

PLACEMENT OF H.R. 6012 ON SUSPENSION CALENDAR IS IRRESPONSIBLE

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, H.R. 6012, which was to have been considered today, does not accomplish the goal of sentencing reform. It creates as many problems as it attempts to solve.

One serious flaw in H.R. 6012 is its treatment of legal consequences flowing from criminal convictions. The bill places overly broad restrictions on a State's rights to impose such consequences. It raises constitutional concerns of State's rights by restricting States; treatment of a Federal conviction with respect to employment with a State government agency. This is not an issue which the Federal Government should determine, even if the conviction is a Federal one.

Other problems with sections of H.R. 6012 are even more serious. The bill would allow a court to order that the Government may not disclose a defendant's prior felony conviction for rape or child molestation in connection with a future job application. This would be true even if the conviction were upheld and even if the job application were for such a position as a teacher, schoolbus driver, or camp counselor. Amazingly, the bill carries this notion still further by allowing the defendant to deny a prior conviction—even under oath.

Mr. Speaker, to place this bill on the Suspension Calendar—and thus preclude its amendment—would be irresponsible. Let us take this bill under regular rule.

□ 1250

PRESCHOOL EDUCATION—A PROGRAM THAT HAS WORKED

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, recently in Michigan a study was conducted on preschool education. It followed the lives of a number of people for 16 years and it found that more of the preschool children, those with quality preschool education, graduated from high school, are employed at the age of 19, and are continuing their education than those who did not receive such preschool education.

And it found that fewer of those children with a good preschool opportunity have been in trouble with the law, dropped out of school, or have had teenage pregnancies.

The President has recently been invoking the names of Presidents Roosevelt, Truman, Kennedy, and Johnson and of Hubert Humphrey while criticizing the kinds of programs they stood for. The administration even once talked about cutting Head Start programs, as part of their assault on Government programs of the past. Some of these Government programs did not work. But others, as evidenced by the Michigan study that I mentioned, have indeed been working.

BRING H.R. 6012, THE SENTENCING REFORM BILL, UP UNDER A RULE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I join my colleagues in lamenting the fact that H.R. 6012 is not going to be allowed to be considered under a regular rule in the House of Representatives. That bill, of course, deals with a very important question of sentencing reform.

It is a major element of the President's crime package. It was voted on separately in the other body. After they voted the entire crime package, they took some trailer bills through at the request of Senators KENNEDY and BYDEN, I might add, and were able to adopt S. 668, the essential sentencing bill, by an overwhelming majority of 85 to 3.

The problem was we took some of the best of what had been done in the Senate and attached some of the worst type of amendments in our full committee. Many of us wanted the opportunity to vote on those amendments on the floor, to vote up or down, for instance, whether or not you could be required, if you were the victim of a crime after the perpetrator of that crime has been convicted, to be cross-examined by that person at the sentencing hearing. This is something unheard of in any of our criminal justice and something to be added to that bill.

We were going to be denied that opportunity because that bill was going to be presented on the Suspension Calendar today. It has been taken off the Suspension Calendar. That is good, but it ought not to just languish. We ought to have it here on a rule so we could have the American people have us as their representatives, vote on a tough sentencing reform package.

The American people deserve no less, Mr. Speaker.

THE OMNIBUS TARIFF BILL, H.R. 6064

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, I rise to speak in regard to portions of H.R. 6064, the omnibus tariff bill, which the House will consider today. I wish to make clear my position on section 117 of the measure, relating to the classification of naphtha and motor fuel blending stock, which contains the essence of H.R. 4232, legislation which I introduced earlier in this Congress to clarify the classification of any naphtha described as both a petroleum product and a benzenoid chemical.

In introducing H.R. 4232, it was my purpose to facilitate the importation of a significant component which is needed to upgrade our Nation's refinery output. It was not my intent to have this House enact legislation that would allow any refined products to be imported which would replace similar domestic products. On the contrary, since a significant amount of the imports of finished gasoline into this country is made possible and necessary precisely because exporting nations have difficulties in exporting blendstocks, I felt that a secondary benefit

of my original bill would be to decrease the amount of finished gasoline that would be imported into the United States. With decreased imports of finished gasoline, our troubled refining industry could better maintain production and jobs at home.

Mr. Speaker, H.R. 6064 has already been favorably reported by the Committee on Ways and Means, but it is my understanding that the Senate yesterday amended its companion legislation in a manner which partially achieves my original goal without harmful effects for our domestic refiners. I sincerely hope that this reasonable solution to an unforeseen consequence of my original measure can be maintained when H.R. 6064 is taken up in conference.

STEEL IMPORT RESTRAINTS

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, the health and competitiveness of the steel industry is crucial to the people of my district in Ohio. If the United States Steel plant in Lorain can't find a market for its pipe and tube at a price at which it can earn a profit and if the steelworkers can't find work in the steel industry, my area will continue to lag far behind whatever economic recovery we are experiencing. Ohio's basic industries may never recover.

I have been puzzling over how to assist the steel industry and its workers and how to ensure that any import protection that is granted will be lined to restructuring of the industry and to retraining for workers.

Walter Mondale has been committed to the steel industry long before it became fashionable. His statement yesterday in Cleveland in support of 5 years of quotas on steel and holding the import share of the market to approximately 17 percent is supportive of the industry's position that it requires Federal protection in order to gain the time it needs to adjust to the flood of foreign steel. The essential point is that Mr. Mondale is careful to recommend a package that ties restraints to industry modernization, R&D, and worker and community relief.

I am very pleased to note the congruency between my efforts and those of Mr. Mondale and look forward to speedy action on the part of the Ways and Means Committee and the House on how best to tie relief to the industry to future goals for modernization and worker assistance.

I might also note the importance of tying relief to language that calls attention to the need to enforce existing trade laws and to the need to restore the Reagan slashes in funding for Customs Services inspectors without whom it is impossible to monitor the flood of steel imports.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5791

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 5791.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MAJ. RALPH EDWARDS

The SPEAKER pro tempore. Does the gentleman from Wisconsin [Mr. SENSENBRENNER] wish to press his point of order?

Mr. SENSENBRENNER. Yes, Mr. Speaker, I do wish to have a ruling on the point of order.

The SPEAKER pro tempore. The Chair has examined the bill and the committee report. The Chair feels obliged to overrule the point of order raised by the gentleman from Wisconsin [Mr. SENSENBRENNER] that this bill corrects a military record and is thus prohibited under rule XXII.

This bill does not directly correct a military record. It affects the computation of retired pay.

The report shows that the matter has been reviewed by the Board for the Correction of Military Records and denied.

When the administrative remedy has been applied then a bill providing for a change in the computation of retired pay, but not directly correcting the military record is admissible under the rules of the House.

This bill last Congress was rejected by the Committee on the Judiciary under rule VII of the committee rules from which the Chair will now read:

The subcommittee shall not consider any claim adversely reported by it at a previous consideration and tabled by the full committee except upon presentation of new and substantial evidence disclosing a material change in facts which, in the Chairman's opinion, is sufficient to warrant reopening the case.

Is there objection to consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. Is there another objection?

Mr. DEWINE. Mr. Speaker, I object.

Mr. SPEAKER pro tempore. There are two objections, the bill is recommitted.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Mr. SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will suspend further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under Rule XV.

Such rollcall votes will be taken after legislative business today.

MISCELLANEOUS TARIFF AND CUSTOMS AMENDMENTS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6064) to change the tariff treatment with respect to certain articles, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202) or the Appendix thereto.

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. FRESH ASPARAGUS.

Subpart A of part 8 of schedule 1 is amended by adding before the superior heading to items 135.10 through 135.7 the following new items:

"Asparagus:			
135.03	If fresh or chilled; entered during the period from September 15 to November 15, inclusive, in any year; and transported to the United States by air.	5% ad val.	50% ad val
135.05	Other	25% ad val.	50% ad val.".

SEC. 112. APPLE AND PEAR JUICE.

Item 165.15 is amended by striking out "Free" and inserting in lieu thereof "0.1¢ per gal.".

SEC. 113. ORANGE JUICE.

Subpart A of part 12 of schedule 1 is amended by inserting after item 165.25 the following new items:

"Orange:			
165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree).	20¢ per gal.	70¢ per gal.
165.29	Other	35¢ per gal.	70¢ per gal.".

SEC. 114. PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end there-

of the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by striking out "chiefly used in the construction of walls, ceilings, or other parts of buildings" and inserting in lieu thereof "other than plywood, wood-veneer panels, or cellular panels".

SEC. 115. CLASSIFICATION OF CERTAIN CORDAGE.

Subpart E of part 1 of schedule 3 is amended—

(1) by striking out "each of which consists" in headnote 3(c) and inserting in lieu thereof, "and fibrillated or fibrillating strips of any dimension which consists, after fibrillation in the case of strips,"; and

(2) by inserting after "embraces" in headnote 3(d) the following: "non-fibrillated or non-fibrillating".

SEC. 116. CLASSIFICATION OF CERTAIN ARTICLES OF WEARING APPAREL.

The headnotes to part 6 of schedule 3 are amended by adding at the end thereof the following:

"3. For purposes of this part, except for suits; pajamas and other nightwear; playsuits, washsuits, and similar apparel; judo, karate and other oriental martial arts uniforms; swimwear; and infants' sets for children up to and including 24 months of age, all garments are to be separately classified under their appropriate tariff items, even if two or more such articles are imported together and designed to be sold together at retail.".

SEC. 117. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCK.

Headnote 1 to part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "naphthas (whether or not catalytic naphthas) provided for in item 475.35, motor fuel blending stock," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting in lieu thereof "; and";

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stocks' (item 475.27) is any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, which is chiefly used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item:

"475.27	Motor fuel blending stock	1.25¢ per gal.	.....	2.5¢ per gal.";

and

(4) by amending item 475.30 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stock)".

SEC. 118. CHIPPER KNIFE STEEL.

(a) Item 606.93 is amended by striking out "8.3% ad val. + additional duties (see headnote 4)" in rate column numbered 1 and inserting in lieu thereof "Free".

(b) Item 911.29 of the Appendix is repealed.

SEC. 119. GUT FOR SURGICAL SUTURES.

Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following:

"792.24	If imported for use in the manufacture of sterile surgical sutures.	5.4% ad val.	3.5% ad val.	40% ad val.
792.26	Other	11.2% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 of such Schedules (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 792.24 is reduced to the same level as the corresponding rate of duty specified in the "LDDC" column for such item, the rate of duty in the "LDDC" column shall be deleted from such Schedules.

(c) The rate of duty in column numbered 1 for item 792.26 of such Schedules (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.22.

SEC. 120. DUTY-FREE TREATMENT OF CERTAIN PREVIOUSLY IMPORTED ARTICLES.

Clause (1) of the item 801.00 is amended by striking out "lease to a foreign manufacturer" and inserting in lieu thereof "lease or similar use agreements".

SEC. 121. DUTY-FREE TREATMENT OF ARTICLES EXPORTED FOR PURPOSES OF RENDERING CERTAIN GEOPHYSICAL OR CONTRACTING SERVICES.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources.	Free	.....	Free".

SEC. 122. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

SEC. 123. SCROLLS OR TABLETS USED IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as Gohonzon, imported for use in public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution.	Free	.....	Free".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 131. FRESH, CHILLED, OR FROZEN BRUSSELS SPROUTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"903.29	Brussels sprouts, fresh, chilled, or frozen, but not reduced in size and not otherwise prepared or preserved (provided for in item 137.71, part 8A, schedule 1).	12.5% ad val.	No change	On or before 12/30/87
903.33	Brussels sprouts, fresh, chilled, or frozen, and cut, sliced or otherwise reduced in size, but not otherwise prepared or preserved (provided for in item 138.46, part 8A, schedule 1).	7% ad val	No change	On or before 12/30/87".

SEC. 132. β-NAPHTHOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.31	β-Naphthol (provided for in item 403.29, part 1B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 133. 4-CHLORO-3-METHYLPHENOL.

Item 907.08 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "9/30/87".

SEC. 134. TETRA AMINO BIPHENYL.

That subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	3,3'-Diaminobenzidine (provided for in item 404.90, part 1C, schedule 4).	Free	No change	On or before 9/30/88".

SEC. 135. 6-AMINO-1-NAPHTHOL-3-SULFONIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 136. DSA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.35	2-(4-Aminophenyl)-6-methylbenzo-thiazole-7-sulfonic acid (provided for in item 406.39, part 1B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 137. GUANIDINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine and di-ortho-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 138. CERTAIN ANTIBIOTICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 139. ACETYLSULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.33	Acetylsulfaguanidine (provided for in item 406.56, part 1B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 140. FENRIDAZON-POTASSIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	Mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ('fenridazon-potassium') and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4).	Free	No change	On or before 9/30/87."

SEC. 141. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/86".

SEC. 142. SULFAMETHAZINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).	Free	Free	On or before 9/30/87".

SEC. 143. SULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4).	Free	Free	On or before 9/30/87".

SEC. 144. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 145. SULFATHIAZOLE.

(a) Item 907.19 is amended to read as follow:

"907.19	Sulfathiazole (provided for in item 411.80, part 1C, schedule 4).	Free	Free	On or before 9/30/87".

(b) Section 136 (b) and (c) of the Act entitled "An Act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes" (approved January 12, 1983; Public Law 97-446) is repealed.

SEC. 146. SULFAQUINOXALINE AND SULFANILAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.38	Sulfaquinoxaline and sulfanilamide (provided for in item 411.87, part 1C, schedule 4).	Free	Free	On or before 9/30/87".

SEC. 147. DICYCLOMINE HYDROCHLORIDE AND MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride and mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 148. AMIODARONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following:

"907.18	Amiodarone (provided for in item 412.12, part 1C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 149. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 150. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 151. YTTRIUM BEARING MATERIALS AND COMPOUNDS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing materials and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in items 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6).	Free	No change	On or before 6/30/88".

SEC. 152. TARTARIC ACID AND CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 153. CERTAIN MIXTURES OF MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 154. NICOTINE RESIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 155. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 3B, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 156. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 439.50, part 3C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 157. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 3C, schedule 4).	Free	No change	On or before 9/30/87".

SEC. 158. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 159. ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 160. CERTAIN DIAMOND TOOL BLANKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"910.00	Tool blanks and drill blanks, wholly or in chief value of industrial diamonds (provided for in item 520.21, part 1H, or item 523.91, part 1K, schedule 5).	Free	30% ad val.	On or before 9/30/87".

SEC. 161. CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/86".

SEC. 162. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6).	Free	No change	On or before 9/30/87".

SEC. 163. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHz and a minimum power of at least 300 watts and a maximum power not greater than 2000 watts (provided for in item 684.28, part 5, schedule 6).	Free	No change	On or before 12/31/86".

SEC. 164. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6).	Free	No change	On or before 9/30/87".

(b) Subpart E of part 4 of schedule 6 is amended by adding the following new headnote:

"Subpart E headnote:
"1. For purposes of applying item 670.74 to parts of articles provided for under item 912.04, any such part that is entered, or withdrawn from warehouse for consumption, during the effective period of item 912.04 shall be dutiable at the rate that would apply if that item had not been enacted.".

SEC. 165. UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7).	Free	No change	On or before 9/30/85".

Subtitle D—Technical Amendments

SEC. 171. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The schedules are further amended as follows:

(1) Headnote 9(a) of the general headnotes is amended by striking out "warehouse, for consumption" and inserting in lieu thereof "warehouse for consumption,".

(2) The superior heading to items 346.05 and 346.10 and the superior heading to items 346.15 through 346.24 are each amended by striking out "Fabric" and inserting in lieu thereof "Fabrics".

(3) The article description for item 535.13 is amended by aligning the indentation of that description with that of the article description for item 535.12.

(4) Headnote 1(ii) to subpart D of part 6 of schedule 6 is amended by striking out "5(e)" and inserting in lieu thereof "5(f)".

(5) Item 642.34 is amended by striking out "12% ad val." and inserting in lieu thereof "10% ad val.".

(6) Headnote 6 to subpart E of part 2 of schedule 7 is amended—

(A) by striking out "through (h)" in paragraph (a) and inserting in lieu thereof "through (ij)";

(B) by striking out "paragraph (c)" in paragraph (b) and inserting in lieu thereof "paragraph (d)",

(C) by striking out "paragraph (d)" in subparagraph (d)(ii)(I) and inserting in lieu thereof "paragraph (e)"; and

(D) by redesignating paragraph (i) as paragraph (ij).

(7) Item 737.73 is amended by inserting a comma immediately after "ware".

(8) The article description for each of items 745.41 and 745.42 is amended by aligning the indentation of that description with that of the article description for item 745.34.

(9) The article description for each of items 870.50, 870.55, and 870.60 is amended by aligning the indentation of that description with that of the article description for item 870.25.

(b) The Appendix to the schedules is amended as follows:

(1) The article description for item 903.25 is amended to read as follows: "Culled carrots, fresh or chilled, in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8A, schedule 1), if entered for consumption during the period from August 15 in any year to the 15th day of the following February, inclusive".

(2) Item 906.10 is amended by striking out "386.09" and inserting in lieu thereof "386.13".

(3) The article description for item 906.12 is amended—

(A) by aligning the indentation of that description with that of the article description for item 906.10; and

(B) by inserting ", part 6F," after "383.50".

(4) The article description for item 907.00 is amended to read follows: "p-Hydroxybenzoic acid (provided for in item 404.42, part 1B, schedule 4)".

(5) The article description for item 907.01 is amended to read as follows: "Triphenyl phosphate (provided for in item 409.34, part 1C, schedule 4)".

(6) The article description for item 907.14 is amended to read as follows: "Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)".

(7) The article description for item 907.15 is amended to read as follows: "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4)".

(8) Item 912.30 is amended by striking out "737.21,".

(c) The Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 19 U.S.C. 1202 note) is amended as follows:

(1) Section 162 is amended by inserting a comma after "Architectural" in the article description for item 273.52 (as set forth in paragraph (2) of such section).

(2) Section 163(c) is amended—

(A) by striking out "headnote 2 as headnote 1," in paragraph (1) and inserting in lieu thereof "headnotes 2 and 3 as headnotes 1 and 2, respectively,"; and

(B) by striking out "models) and wall charts of an educational, scientific or cultural character," and inserting in lieu thereof "models), globes, and wall charts of an educational, scientific or cultural character;" in the article description for item 870.35 (as set forth in paragraph (3) of such section).

(3) Section 165 is amended—

(A) by redesignating items 870.50, 870.55, and 870.60 (as set forth in subsection (b)(1) of such section) as items 870.65, 870.66, and 870.67, respectively;

(B) by aligning the indentation of the article description of item 870.67 (as redesignated by paragraph (1)) with the indentation of "Articles for the blind:" immediately preceding item 870.65 and 870.66 (as so redesignated);

(C) by amending headnote 2 of part 7 of schedule 8 (as set forth in subsection (b)(2) of such section)—

(i) by redesignating it as headnote 3; and

(ii) by striking out "870.50, 870.55, and 870.60—" and inserting in lieu thereof "870.65, 870.66, and 870.67—".

(d) Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking out ", his consignee, or agent" in subsection (a) and inserting in lieu thereof "of record";

(2) by striking out ", his consignee, or agent" and ", consignee, or his agent" in subsection (b) and inserting in lieu thereof "of record";

(3) by striking out "or consignee" each place it appears in subsection (c) and inserting in lieu thereof "of record"; and

(4) by striking out ", his consignee, or agent" in subsection (d) and inserting in lieu thereof "of record".

Subtitle E—Effective Dates

SEC. 181. EFFECTIVE DATES.

(a) Except as provided in subsections (b) and (c), the amendments made by subtitles B, C, and D shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act.

(b)(1) The amendments made by each of the following sections shall apply with respect to articles entered after the date appearing opposite that section:

Section 118	April 1, 1985.
Section 141	September 30, 1984.
Section 161	September 30, 1984.

(2) The amendments made by section 122 shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) or (3) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 133, 145, 152, 159, or 171 (a) or (b) to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;
such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of sections 133, 152, and 159, June 30, 1984,

(ii) in the case of section 171 (a) or (b), January 12, 1983, and

(iii) in the case of section 145, January 1, 1984.

(C) In the case of the application of any amendment made by section 140 or 153 to any entry—

(1) that was made before the 15th day after the date of the enactment of this Act;

(2) that was unliquidated, or the liquidation of which was not final, on such 15th day; and

(3) with respect to which there would have been no duty if the amendment made by such section applied to such entry;
such entry shall be liquidated as though the entry had been made on such 15th day.

(d) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

TITLE II—CUSTOMS AND MISCELLANEOUS PROVISIONS AND AMENDMENTS

Subtitle A—Amendments to Tariff Act of 1930

SEC. 201. SAME KIND AND QUALITY DRAWBACKS.

Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic) that—

"(A) is fungible with such imported merchandise;

"(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under Customs supervision;

"(C) before such exportation or destruction—

"(i) is not used within the United States, and

"(ii) is in the possession of the party claiming drawback under this paragraph; and

"(D) is in the same condition at the time of exportation or destruction as was the imported merchandise at the time of its importation;
then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.".

SEC. 202. DUTY-FREE TREATMENT FOR CERTAIN VESSEL REPAIRS AND EQUIPMENTS.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port of the United States, the duties imposed by this section shall apply only with respect to (1) fish nets and netting, and (2) other equipments, and parts thereof, and repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States: *Provided*, That if such vessel is designed and used primarily for transporting passengers or property, this subsection shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the 15th day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before such 15th day but which is the subject of an action in a court of competent jurisdiction on the date of the introduction of this Act, and

(C) with respect to which there would be no duty if the amendment made by subsection (a) applies to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on or after the 15th day after the date of the enactment of this Act.

SEC. 203. DATE OF LIQUIDATION OR RELIQUIDATION.

(a)(1) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due upon liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(2) The amendment made by paragraph (1) shall take effect on the 30th day after the date of the enactment of this Act.

(b)(1) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

(2) The amendment made by paragraph (1) shall apply with respect to reliquidation determinations made or ordered on or after the date of the enactment of this Act.

SEC. 204. INCREASE IN VALUE OF GOODS ELIGIBLE FOR INFORMAL ENTRY.

(a) Paragraph (1) of section 498(a) of the Tariff Act of 1930 (19 U.S.C. 1498(a)(1)) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,250"; and

(2) by inserting before the semicolon at the end thereof ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the 15th day after the date of the enactment of this Act.

SEC. 205. OPERATION OF CERTAIN DUTY-FREE SALES ENTERPRISES.

Section 555 of the Tariff Act of 1930 (19 U.S.C. 1555) is amended—

(1) by striking out "Buildings" in the first sentence thereof and inserting in lieu thereof "(a) Subject to subsection (b), buildings"; and

(2) by inserting at the end thereof the following:

"(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term 'duty-free sales enterprise' means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.".

SEC. 206. CUSTOMS BROKERS.

(a) Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKER'S LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on behalf of that person) unless that person

holds a valid customs broker's license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs broker's license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

"(3) LICENSES FOR CORPORATIONS, ETC.—The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

"(5) LAPSE OF LICENSE.—The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKER'S PERMITS.—

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) EXCEPTION.—If a person granted a customs broker's license under subsection (b) can demonstrate to the satisfaction of the Secretary that—

"(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

"(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

"(3) LAPSE OF PERMIT.—The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

"(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of its customs business; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted, he shall notify the customs broker in writing of a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the appropriate customs officer and the customs broker; they shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with his findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth his findings of fact and the reasons for his decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspend-

ing a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCE.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.".

(b) Section 1581(g) of title 28, United States Code, is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b)(2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.".

(c) Section 1582(1) of title 28, United States Code, is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(d) Section 2631(g) of title 28, United States Code, is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(e) Section 2636(h) of title 28, United States Code, is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(f) Section 2640(a)(5) of title 28, United States Code, is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(g) Section 2643 of title 28, United States Code, is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(h) Section 564 of the Tariff Act of 1930 (19 U.S.C. 1564) is amended by adding the following sentence at the end thereof: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State.".

(i) Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended by adding the following subdivision (4):

"(4) PRIOR TO LIQUIDATION.—Prior to the liquidation of an entry, whenever it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid by reason of clerical error.".

(j)(1) The amendments made by this section shall take effect upon the close of the 180th day following the date of the enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by this section, shall take effect three years after the date of the enactment of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsections (h) and (i) shall take effect on such date of enactment.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of this section and such licenses shall be accepted as permits for the district or districts covered by that license.

(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(4) If any provision of this section or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

Subtitle B—Miscellaneous Provisions

SEC. 211. CIVIL AIRCRAFT AGREEMENT.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft on October 6, 1983, and recorded in the decision of the Committee on March 22, 1984, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.95	708.05
660.85	681.01	708.07
660.97	681.15	708.09
661.06	681.18	708.21
661.10	681.21	708.23
661.15	681.24	708.25
661.20	682.05	708.27
661.35	683.05	708.29
680.59	683.07	711.77
680.61	683.15	711.78
680.62	708.01	711.98
680.92	708.03	712.49.

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under subsection (a) shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 212. DUTY-FREE ENTRY OF ARTICLES REQUIRED FOR THE INSTALLATION AND OPERATION OF A TELESCOPE IN ARIZONA.

(a) The Secretary of the Treasury is authorized and directed to admit free of duty instruments and apparatus (within the meaning of headnote 6(a) to part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)) imported by, or on the behalf of, the University of Arizona for use in the installation or operation of a sub—mm telescope in the State of Arizona which is the subject of a joint astronomical project undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomy of the Federal Republic of Germany.

(b) The provisions of subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, before November 1, 1993.

SEC. 213. DUTY-FREE ENTRY OF ORGANS IMPORTED FOR THE USE OF TRINITY CATHEDRAL OF CLEVELAND, OHIO.

The organs made by Flentrop Orgel Bouw, the Netherlands, that were imported for the use of Trinity Cathedral of Cleveland, Ohio, and entered during 1973–1978 shall be considered to have been admitted free of duty on the dates of entry. If the liquidation of any such entry has become final, the Secretary of the Treasury, if request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall reliquidate the entry and make the appropriate refund of any duty paid.

SEC. 214. COLUMBIA-SNAKE CUSTOMS DISTRICT.

The Commissioner of the United States Customs Service shall establish a customs district that shall—

(1) be known as the Columbia-Snake Customs District;

(2) have headquarters at Portland, Oregon; and

(3) consist of the following areas:

(A) The State of Oregon.

(B) That part of the State of Idaho below 47 latitude.

(C) The following counties in the State of Washington:

Adams,
Asotin,
Benton,
Clark,
Columbia,
Cowlitz,
Franklin,
Garfield,
Klickitat,
Skamania,
Wahkiakum,
Walla Walla, and
Whitman.

(D) That area of Pacific County, State of Washington, south of a line that would be in effect if the northern boundary of Wahkiakum County were extended westward to the Pacific Ocean.

The ports of entry for Columbia-Snake Customs District are those ports of entry that were within the areas described in paragraph (3) on the date of the enactment of this Act; except that Boise, Idaho, is an additional port of entry for that District.

SEC. 215. SENSE OF CONGRESS REGARDING POSSIBLE EEC ACTION ON CORN GLUTEN.

Whereas—

(1) the European Council of Ministers has directed the Commission of the European Community (EC) to initiate consultations with the United States and other interested parties under article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or tariff quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

(2) the EC has considered proposals to impose a domestic consumption tax on vegetable fats and oils, which would undermine the intention of the duty-free binding on certain corn and soybean products imported from the United States;

(3) the EC has bound in the GATT that it will impose no import duties on soybeans, soybean meal, corn gluten feed, and other corn by-products, and such zero-tariff bindings were agreed to in return for United States trade concessions to the EC during previous rounds of trade negotiations;

(4) the EC has not demonstrated sound economic justification for restrictions on the import of nongrain feed ingredients and such restrictions would only shift the financial burden of EC Common Agricultural Policy (CAP) reform from the EC to other countries, with negligible improvement in the current EC budget situation;

(5) action by the EC to breach a negotiated concession would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions and serve as a precursor to restrictions on the import of soybeans and soybean products; and

(6) the official position of the United States, as stated by the Secretary of Agriculture, is that there is strong support for the EC efforts to balance the Agricultural budget, but that the United States will oppose any efforts to limit its exports of corn gluten feed to the EC;

it is the sense of Congress that—

(A) the President should continue to firmly oppose the imposition of any restriction on European Community imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products;

(B) the President should continue to rigorously oppose any European Community proposals which would violate the intent of the existing duty-free binding in the General Agreement on Tariffs and Trade on soybeans and soybean products and reaffirm the United States conviction that the imposition of a consumption tax on vegetable fats and oils by the European Community would represent a restraint of trade; and

(C) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable fats and oils, including soybean products, the United States should act immediately to restrict European Community imports of at least the aggregate value of the reduced and potentially reduced United States export products.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6064, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill (H.R. 6064) an omnibus bill which incorporates 62 noncontroversial tariff and trade bills approved by the Committee on Ways and Means and for convenience sake, lumped together under one bill number.

The legislation encompasses a wide variety of actions including permanent duty treatment and temporary duty reduction and suspension on a number of important articles which are not or may not be available domestically. Certain classifications of changes and technical corrections in the tariff schedules and several important improvements in the customs law.

□ 1300

These important improvements in the customs law were reached on a bipartisan basis in cooperation with the folks who help us collect the customs. Ever since the beginning of this country there has been a cadre of people who are not Government employees but who work closely with the Government employees in the collection of the customs. These people are very high-caliber people. They have a great

deal of trust and they are very essential to the operations of our trade laws, particularly with the collection of customs duties.

I want to pay tribute to my colleague, the gentleman from Minnesota [Mr. FRENZEL] who has taken this on as a particular task of his own to try to work out and improve and modernize this particular section of the law.

Another thing that this bill does is establish the Columbia-Snake Customs District. The Columbia-Snake Customs District, as the Chair knows, is an important new addition to the customs district organization of this country. It lies in the area near the Chair's own district and it has been championed by our colleague, the gentleman from Oregon [Mr. WYDEN].

Mr. Speaker, I rise in support of H.R. 6064, an omnibus bill which incorporates 62 noncontroversial tariff and trade bills, approved by the Committee on Ways and Means. The legislation encompasses a wide variety of actions including permanent duty-free treatment and temporary duty reductions and suspensions on a number of important articles which are not available domestically, certain classification changes and technical corrections in the tariff schedules and several important improvements in customs law.

Of particular interest in H.R. 6064 are provisions prescribing the due date for the payment of customs duties; assessing interest on overdue duties and conversely providing for the payment of interest by the Government on overpaid duties; increasing the limit on informal customs entries from $250 to $1,250; improving the regulation of the licensing of customs brokers; providing duty-free coverage for certain parts of civil aircraft; and establishing a consolidated customs district in the Pacific Northwest called the Columbia-Snake Customs District.

Each of these changes represent important improvements in current law. For example, as a result of a recent court decision, Customs must now wait up to 270 days to collect additional duties found to be due the Government when a protest is filed by the importer. This court decision has encouraged the filing of frivolous protests and is costing the U.S. Government millions of dollars. Under a compromise worked out by the subcommittee, customs duties would be due 15 days after liquidation or reliquidation, but if the importer ultimately prevails on his protest, his refund of duties would include interest accrued from the date the additional duties were paid.

Another important improvement is the long overdue increase in the ceiling for informal entries from $250 to $1,250. This will greatly facilitate and expedite the handling of low-valued shipments by small importers and the general public.

H.R. 6064 also makes comprehensive changes to the Tariff Act of 1930 with respect to the licensing of customs brokers. The legislation was developed in cooperation with various customs brokers' associations and the U.S. Customs Service. It changes and improves the current law in a number of respects. In particular, the legislation for the first time defines the term "customs business" and restricts the scope of Customs' review of customs brokers to such customs business. It also specifies that only licensed brokers may conduct customs business for third parties; sets forth licensing and permit procedures; establishes a duty for customs brokers to exercise responsibility and control over its customs business; provides disciplinary proceedings, including monetary penalties and revocation or suspension of licenses or permits under prescribed procedures.

Mr. Speaker, the Subcommittee on Trade began this arduous process with well over 80 individual miscellaneous tariff and trade bills. We worked hard to try to reach accommodations and eliminate controversy.

I believe H.R. 6064, as reported by the Ways and Means Committee, is a package of noncontroversial trade and tariff measures which will help reduce certain costs of production, ensure continued supplies of materials not adequately available in the United States, thus contributing to employment and a reduction of inflation, and should result in a substantial improvement in Customs administration. H.R. 6064 merits the support of the House and I strongly urge you to support its passage.

Unless there are questions of this Member about the contents of this bill, I think it would be appropriate at this time to yield to the gentleman from Minnesota [Mr. FRENZEL] and then I will come back to the gentleman from Oregon [Mr. WYDEN].

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I join the distinguished chairman of the Subcommittee on Trade in my support of H.R. 6064, an omnibus bill consisting of 62 trade and tariff measures previously introduced as separate bills.

Provisions in this bill reduce duties, continue duty suspensions already in place, and make changes in customs procedures designed to reduce costs and improve efficiency. The committee also approved some revisions to tariff classifications that appeared to be relatively noncontroversial and generally beneficial.

The bill offers duty relief to a wide variety of domestic industries which import products not produced in sufficient quantities in the United States to meet domestic demand. For products that may one day be manufactured in the United States, the committee has been very careful to make duty suspensions temporary and, thus, subject to future congressional review.

For example, no fewer than 27 provisions in this bill would allow U.S. companies to import on a duty-free basis various chemical compounds not generally available from domestic producers. By temporarily eliminating these unnecessary economic burdens, we enhance the competitive position of a great many American industries and we create significant benefits for both those companies, their employees, and consumers.

Other provisions, such as those regulating customs brokers and limiting the filing of frivolous protests of increased duties assessed at liquidation, are the result of extended negotiations between representatives of the U.S. Customs Service and associations representing businesses which deal with the Service on a daily basis. In these cases the committee feels it has reached valuable compromises on issues that have proven troublesome and sorely in need of attention.

Mr. Speaker, the distinguished chairman of the subcommittee indicated that there is a section in the bill which will redraw the customs district serving the Columbia-Snake River System, which extends from the Pacific Ocean through Oregon, Washington, and Idaho.

In this connection, I would like to give my compliments to the distinguished architect of that particular district, the gentleman from Oregon [Mr. WYDEN]. He at one time was the sponsor of an amendment to an appropriations bill and another time to an authorization bill, and we suggested to the gentleman at the time that that was an inappropriate remedy.

He asked what an appropriate one would be. We, the committee described it in general terms. Most people don't take our advice, but he went out and did it.

We said, "Please do not tie the hands of the Customs Service or the Treasury in doing some of its own reorganization, but if you know of a good way to resolve the local problem, tell us." He did, and he got the support of shippers and receivers of goods, brokers, of Members of Congress within the entire area.

The gentleman did exactly what we asked him to do. In our judgment, he has produced a more efficient, more effective and more representative customs district. This is a good example of a Member of Congress rising to a challenge and responding in the best interest of his constituents and of his area.

Finally, Mr. Speaker, I would like to discuss section 215, which is a sense of Congress resolution which was au-

thored by the gentleman from Illinois [Mr. DURBIN]. It expresses the sense of Congress strongly about the negative effect of the European Community's request to renegotiate our current trade agreements on corn gluten and other feeds.

I think many Members in Congress, and certainly those who have agricultural districts, feel very strongly about that.

This is a meritorious piece of legislation. Many of these provisions have been kicking around for a while. Their authors have been waiting patiently. Nearly every district in this House is represented. The revenue loss for fiscal year 1985 will be $65 million. That revenue loss scales down in the future.

The mention of money moves me to discuss the criteria for including bills in this package. First, we demand that there be no major revenue loss. Second, we try to package bills which are relatively free from controversy, and finally, we try to assure that they are consistent with our international obligations and do not rob U.S. negotiators of any good bargaining material.

This bill is long overdue, and I urge all of my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I want to yield such time as he may consume to our distinguished colleague, the gentleman from Oregon [Mr. WYDEN] who has championed the cause for the creation of the Snake River Customs District.

The gentleman from Minnesota [Mr. FRENZEL] said he is the father of this idea. He pushed it, worked on it hard and very successfully.

Mr. WYDEN. I thank the gentleman for yielding to me.

Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from Florida [Mr. GIBBONS] who has been exceptionally kind and exceptionally helpful in assisting with this measure of great importance to the Northwest.

I also want to thank the gentleman from Minnesota, [Mr. FRENZEL] not only for his help but for his particularly gracious comments here today.

Mr. Speaker, I rise in support of H.R. 6064 and a provision in the bill that will bring more jobs, more trade and less bureaucracy to the Pacific Northwest. The bill accomplishes these ends by creating a new customs district—called the Columbia Snake Customs District—in the Pacific Northwest. I first proposed this action in a separate bill last April—and I believe it is critical if the Pacific Northwest is to realize its potential as an international trading hub.

Let me explain. To continue to grow as a trading center, the Pacific Northwest needs to offer our shippers, brokers, freight forwarders, and others the opportunity to work through just one Customs office.

Right now, however, we cannot do so. Our region has literally been balkanized into three Customs districts and two Customs regions, completely ignoring the natural geographic boundaries and commercial cargo routes of the Columbia-Snake system.

In fact, to look at the current Customs districts map, you would think that the ports of the Columbia-Snake system had no more connection with each other than New York City has with Portland.

For example, the Port of Lewiston, just over the eastern Washington border in Idaho is part of the Great Falls district and the Chicago region. The Port of Clarkston, which is directly opposite Lewiston on the Washington side of the Snake River, is part of the Seattle district and Los Angeles region.

Mr. Speaker, this problem is not purely academic. It is causing delays for shippers and Pacific Northwest businesses, creating extra work for Customs officials, and costing the Government and the private sector money.

Let me provide a specific example. A shipment of grain is imported from Canada. It is loaded on barges at the Port of Lewiston in Idaho and then shipped down river, where it will be inspected and cleared in Portland. But there is one problem. The Port of Lewiston is in the Great Falls district and the Chicago region. So Portland Customs officials must spend time coordinating the shipment's documentation with the Great Falls Customs officials.

Such bureaucracy is illogical and unnecessary. But by modifying the existing boundaries, the Columbia-Snake River system will be identified by the Customs Service for what it truly is—a unique, natural trading, and transportation system.

Mr. Speaker, the Columbia-Snake system needs and deserves a Customs district that cuts needless paper shuffling, that can serve as a new marketing tool for exporters throughout the West seeking to tap Pacific rim markets, and that will recognize the area as a unique trade zone and transportation system. This provision achieves those goals.

Because it achieves these important goals, this provision has widespread and bipartisan support in the Northwest and among my Northwest colleagues. All the members representing the proposed new district—Congressmen AUCOIN, FOLEY, ROBERT SMITH, BONKER, MORRISON, CRAIG, and HANSEN—cosponsored the original measure I introduced. In addition, the six Senators from Oregon, Washington, and Idaho have expressed support for the measure.

This provision is one of those rare initiatives that will help create increased trade opportunities—and jobs—while at the same time saving the private sector and the government money. As such, I believe it deserves the support of this body.

I want to compliment both Chairman GIBBONS and Chairman ROSTENKOWSKI for their efforts to bring this important bill to the floor—a bill that recognizes the increasing complexity of our world economy and attempts to deal with it pragmatically.

I am pleased that the Ways and Means Committee has recognized the importance of this pragmatic approach to increasing trade in the Pacific Northwest by including this provision in H.R. 6604, and, again, I urge my colleagues to support the bill.

Finally, I want to thank again Chairman GIBBONS and the gentleman from Minnesota [Mr. FRENZEL]. They have been a pleasure to work with. In many respects, I think they have made it clear that it is the priority of the Congress to extend opportunities for international trade and shipping. That is what this legislation does. I urge my colleagues to support it strongly.

□ 1310

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield, I want to thank him for his very fine statement and commend him again for his initiative and for his skill.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 additional minutes.

I want to heap more abuse on the head of the gentleman from Oregon and embarrass him further by telling him again what a fine job he has done. I have often been asked by Members, if they could not achieve a task one way, how could they do it? Very few of them ever take the occassionally good advice sought and actually go out and do the job.

Again I congratulate the gentleman for doing a good job. I would just add another little caveat. Since he has been so successful, perhaps he can talk his Republican Governor into removing the unitary tax, and then we can really make the west coast boom.

Mr. WYDEN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Oregon.

Mr. WYDEN. Mr. Speaker, I would just like to say—because we have an opportunity here to tell the world—that Oregon did change its unitary tax recently. And I know the gentleman from Minnesota and I share the view that changing the unitary tax system is important if we are to generate more trade. In Oregon we just did that, and I think the gentleman from Minnesota is right on point.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I believe that that

kind of achievement is really going to make Oregon a trade hub of the United States.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished subcommittee chairman.

Mr. GIBBONS. Mr. Speaker, I am glad the gentleman brought up the unitary taxes. The gentleman from New York [Mr. CONABLE] and I have for years been trying to repeal the unitary tax or prohibit its levying.

Unfortunately, my State made a mistake last year in levying the tax. It has been painful, it has been costly, and it ought to be repealed. I hope that Florida will soon join Oregon and that finally California will come along, and then we will get rid of this Balkanization that is attempted in the State legislatures in the tax system.

Mr. Speaker, I commend the gentleman for bringing that to our attention.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

I have one additional request for time, and it is on the subject we have been discussing. I yield such time as he may consume to the distinguished gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I would like to join with my colleague, the gentleman from Oregon [Mr. WYDEN], in recognizing the value of the Columbia-Snake Customs District. My colleague, the gentleman from Oregon, has led on this issue, recognizing the importance of the developing export capability of the Columbia-Snake systems. I, as a Congressman from the First District of Idaho, oftentimes frustrate a good many of my colleagues here in this body when I mention that I have a seaport in the middle of my district. The kind of trade that is developing in our area in the Pacific Northwest that primarily lends itself to the Pacific rim countries is a real enhancement to the development of that area and this legislation helps.

So section 214 is critical to us. I stand in strong support of that, and once again I would like to commend my colleague, the gentleman from Oregon, for the leadership he has demonstrated in this area.

● Mr. SNYDER. Mr. Speaker, I rise in support of H.R. 6064, a bill to amend certain provisions of the Tariff Schedules of the United States.

Particularly, Mr. Speaker, I wish to commend the leadership of the Ways and Means Committee and its Subcommittee on Trade for including in this omnibus legislation the substance of H.R. 3330, introduced by the gentleman from Texas [Mr. PICKLE and Mr. ARCHER] in June, 1983. H.R. 3330, in turn, was modeled upon H.R. 2381 which I introduced in March of that same year, and identical legislation which I had sponsored in the 97th Congress.

The thrust of these initiatives, now incorporated into H.R. 6064, would eliminate a long-standing 50 percent ad valorem tax on U.S.-flag operators of cargo and passenger vessels for repairs made in foreign shipyards, subject to certain conditions: the U.S.-flag vessel must be away from a U.S. port for at least 2 years; and it must not have been taken abroad for the sole purpose of obtaining repairs.

This proposal is consistent with recommendations made to the Congress in November 1981 by the Comptroller General of the United States and with the administration's maritime policy. Further, when the competitive posture of the U.S. merchant marine is undermined by a mixture of lower construction and operating costs and direct or indirect government subsidies enjoyed by its foreign-flag competition, it seems appropriate that U.S. vessels regularly deployed abroad for extended periods of time be relieved of the cost disadvantage of the existing 50 percent duty on foreign repairs.

Although U.S. shipyards have an understandable interest in maintaining their repair business for U.S.-flag vessels, I believe the provisions of H.R. 6064 are drawn in such a way to meet the exceptional circumstance, and to eliminate the economic burdens of out-of-service time and additional steaming costs imposed by the current law on U.S.-flag operators.

Again, I congratulate the committee for bringing this legislation to the floor, and urge the Members' support.●

● Mr. STARK. Mr. Speaker, I want to thank the committee for including section 115 concerning the tariff treatment of certain types of rope, and I urge the House to approve this provision, along with the rest of the bill.

Section 115 closes a tariff loophole that the Koreans are using to kill the U.S. rope industry.

Today, nearly identical pieces of rope have enormous differences in tariff treatment. If a piece of rope is made from twisted strips of plastic which are less than 1 inch in width, the law classifies it as a textile product with a tariff of around 15 to 23 percent. The USTR recognized the U.S. rope industry was in trouble and negotiated an MFA quota on imports of this rope from Korea.

What did the Koreans do? They found a loophole in the law that says that if the plastic strip is more than 1-inch wide, it is a plastic product and the tariff is only 6.5 percent, there is no MFA quota, and the product is also eligible for GSP from Korea, so comes in duty-free.

There is no difference whatsoever in the quality or end use of the two ropes. The Koreans are just using a loophole to end run the efforts of the Congress and the USTR to provide help for the U.S. industry.

The Koreans have been using the loophole for about 2 years, imports have soared, and the U.S. industry is (if you will pardon the expression) "at the end of its rope." Jobs, production capacity, and utilization are all down.

Section 115 gets rid of the 1 inch distinction. It treats these really identical pieces of rope the same.

This provision passed the Senate earlier this year, but was dropped in the conference on H.R. 4170—the deficit reduction bill—without prejudice. Some controversy also arose earlier because the importer convinced several farm groups to say that the bill would result in higher baler twine prices. We have shown that this is not true. Thus, the Grange and the National Farmers Union which once opposed the bill no longer oppose it. The domestic industry has given assurances that the bill will not result in higher baler twine prices. About 85 percent of all baler twine is made from a natural fiber, sisal, which is imported. The rest comes from domestic plastic rope makers, which is priced about 20-percent below the imported rope. The competition is so heavy among products, there is no potential for improper price rises. The market for plastic baler twine is also limited by the fact—as several farmer groups have noted—that cows and other animals can get sick eating plastic, but can digest sisal!

Again, I thank the committee for its work on section 115 and urge its approval. It will close an unintended loophole, return to the status quo of 1981, and save hundreds of jobs in the U.S. rope industry.●

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. TORRES]. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 6064, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INSANITY DEFENSE AND RELATED CRIMINAL PROCEDURE MATTERS

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3336) to amend title 18 of the United States Code to modify the insanity defense in the Federal courts and for other purposes, as amended.

The Clerk read as follows:

H.R. 3336

Be it enacted by the Senate and House of Representives of the United States of America in Congress assembled,

SECTION 1. (a) Chapter 1 of title 18 of the United State Code is ameded by adding at the end thereof the following new seciton:

"§ 16. Insanity defense

"(a) It is a defense to a prosecution for an offense against the United States that, at the time of the conduct alleged to constitute the offense, the defendant suffered from a mental disease or defect that grossly and demonstrably impaired the defendant's perception and understanding of reality and, as a result of that impairment, the defendant did not appreciate the wrongfulness of that conduct.

"(b) A defendant has the burden of proving the existence of a defense under this section by the preponderance of the evidence.

"(c) As used in this section, the term 'abnormal mental condition' does not include introxiction due to the knowing and voluntary ingestion of alcohol or any other psyhoactive substance.

"(d) Except as provided in subsection (a) of this section, an abnormal mental condition does not constitute an affirmative defense to an offense against the United States.

"(e) If the defense provided by this section is raised as provided by law, the trier of fact shall find (or be instructed to find) the defendant not responsible only by reason of insanity, if the defendant would be guilty but for the defense provided by this section.".

(b) The table of sections at the beginning of chapter 1 of title 18 of the United States Code is amended by adding at the end the following:

"16. Insanity defense.".

SEC. 2. Rule 704 of the Federal Rules of Evidence is amended to read as follows:

"Rule 704. Opinion on Ultimate Issue

"(a) GENERAL RULE.—Except as provided in subdivisions (b) and (c) of this rule, testimony in the form of an opinion or inference otherwise admissible is not objectionable because such testimony embraces an ultimate issue to be decided by the trier of fact.

"(b) MENTAL CONDITION EXCEPTION.—In a criminal case, opinion testimony as to whether the defendant, or a hypothetical person in the defendant's situation—

"(1) appreciated the wrongfulness of the defendant's conduct; or

"(2) had a mental state constituting an element of the offense charged;

shall not be admissible.

"(c) COMMITMENT EXCEPTION.—In a proceeding under chapter 310 of title 18, United States Code, opinion testimony as to whether the likelihood that the acquitted or committed person, or a hypothetical person in the acquitted or committed person's situation, will commit acts of serious bodily injury to any person or substantial damage to the property of others is sufficiently substantial to justify commitment, shall not be admissible.".

SEC. 3. Chapter 313 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 313—MENTAL INCOMPETENCE

"Sec.

"4241. Screening examination.
"4242. Mental competence examination.
"4243. Report on examination and hearing on competence.
"4244. Treatment to restore incompetent defendant.
"4245. Delivery to State officials of certain persons suffering from mental disease or defect.
"4246. Board of examiners.
"4247. Incompetence undisclosed at trial.
"4248. Transfer for treatment.
"4249. Definitions for certain sections and general provisions for chapter.

"§ 4241. Screening examination

"(a) Whenever the court, on the court's own motion or on motion of any party, determines that there is reasonable cause to believe that the defendant is not competent, the court shall order—

"(1) a screening examination under this section; or

"(2) a mental competence examination under section 4242 of this title.

"(b)(1) Any order under subsection (a) of this section shall include findings of fact supporting that order.

"(2) The attorney for the defendant or the attorney for the Government shall seek an order under subsection (a) of this section if such attorney has reasonable cause to believe that the defendant is not competent.

"(3) Any motion under subsection (a) of this section shall allege specific facts in support of such order, including—

"(A) the behavior observed by such person that suggests that the defendant is not competent; and

"(B) the manner in which such behavior indicates the defendant is not competent.

"(c) A finding by the court that the defendant is competent does not prevent a subsequent order under this section at any time before sentencing or during a hearing under this section for a screening examination, or a subsequent finding at any time that the defendant is not competent.

"(d) A screening examination under this section shall be performed by a qualified mental health examiner on an outpatient basis unless the defendant is otherwise confined, in which case the examination shall be performed where the defendant is confined. The qualified mental health examiner shall file with the court a report of the results of the screening examination not later than three days after the order for such examination is issued.

"(e) Upon the receipt of the results of a screening examination under this section the court shall determine if those results indicate that—

"(1) the defendant is competent; or

"(2) more thorough examination of the defendant is necessary to determine competence.

"(f) If the court determines that the results indicate the defendant is competent, the trial of the case shall proceed, unless the defendant requests a hearing on the issue of a more thorough examination. If the defendant requests that hearing, the court shall hold a hearing to determine if a more thorough examination of the defendant is necessary to determine competence. Such hearing shall be held not later than two days after the request.

"(g) If the court after such preliminary screening or hearing determines that a more thorough examination of the defendant is necessary to determine competence, the court shall order such a mental competence examination under section 4242 of this title.

"§ 4242. Mental competence examination

"(a)(1) An examination under this section shall be conducted by a qualified mental health examiner.

"(2)(A) The defendant shall not be required to reside in or be confined at a mental health facility for a mental competence examination unless the court designates the facility and makes findings of fact supporting the conclusion that such residence or confinement would substantially facilitate the examination.

"(B) The defendant shall not be confined other than at a mental health facility for the purposes of a mental competence examination unless the court makes findings of fact supporting the conclusion that—

"(i) such confinement is necessary because the defendant has failed to appear for such examination or for similar examinations in the past;

"(ii) the defendant presents a substantial probability of serious bodily injury to any person or substantial damage to the property of others; or

"(iii) the defendant is not otherwise released from pretrial confinement.

"(b) The qualified mental health examiner shall prepare and file with the court a report on the mental condition of the defendant and provide copies to the attorney for the defendant and the attorney for the Government not later than fifteen days after the order for the examination is issued, except that the court may extend this fifteen-day period—

"(1) to the extent reasonable to permit transportation to and from a nonlocal facility; and

"(2) on motion of any party, for a period not exceeding an additional thirty days, if the court finds that specific additional examinations or procedures are necessary for a determination of the defendant's competence and that such extension is required for such examinations or procedures.

"(c) Such report shall include a description of—

"(1) the defendant's social history;

"(2) the techniques and tests employed in diagnosing the defendant's mental and emotional condition, along with the results of those techniques and tests, including any psychological and neurological test data;

"(3) the defendant's behavior relevant to the issue of competence to stand trial;

"(4) the mental health examiner's conclusions concerning the mental and emotional functioning of the defendant, specifying the basis for such conclusions and including the nature and severity of any impairment as of the time of the report, and the relationship of any such impairment to the defendant's competence, including the defendant's ability—

"(A) to appreciate the nature of the alleged crime;

"(B) to disclose pertinent facts, events, and motives;

"(C) to understand the nature of proceedings against the defendant, including the relistic consequences of various pleas or sentences and the functions of the various participants in the adversarial process;

"(D) to form an adequate relationship, and to communicate effectively, with the defendant's attorney;

"(E) to maintain awareness and orientation during trial proceedings;

"(F) to maintain appropriate social behavior and docorum during courtroom proceedings;

"(G) to process effectively the information arising during court proceedings so as effectively to aid defendant's counsel in confronting adverse witnesses; and

"(H) to appreciate realistically the legal options available at various stages of the trial proceedings.

"(5) a prognosis for the immediate future, both with and without treatment;

"(6) all medical records made in the course of the examination, together with any minutes or videotape of any staff conference held in the course of the examination; and

"(7) the mental health examiner's opinion, if such examiner believes such an opinion is within that examiner's expertise, of whether the defendant is competent.

"(d) Any statement or conduct of the defendant occurring during the course of a mental examination or during treatment ordered under this chapter or any evidence derived from such statement or conduct—

"(1) is not admissible as evidence at any criminal trial of the defendant except on the issues of insanity and state of mind; and

"(2) is admissible at trial on the issues of insanity or state of mind only if the defendant initiates the introduction of such evidence.

"§ 4243. Report on examination and hearing on competence

"(a)(1) Upon the receipt of a report under section 4242 or 4244 of this title, the court shall hold a hearing to determine competence.

"(2) Such hearing shall commence no later than fourteen days after the receipt of the report, unless the defendant requests an additional examination by a mental health examiner of the defendant's choice.

"(3) If the defendant makes a request under paragraph (2) of this subsection, the court shall continue the hearing for twenty-one days and appoint a mental health examiner of the defendant's choice to examine the defendant.

"(4) At a hearing under this subsection, the defendant shall have the right to present evidence, subpena witnesses, and cross-examine adverse witnesses.

"(b)(1) If the court, after a hearing under subsection (a) of this section, determines by the preponderance of the evidence that the defendant is not competent, the court shall without unnecessary delay hold a hearing to determine—

"(A) whether there exists a substantial probability that the defendant can be restored to competence within the maximum period for which treatment may be ordered for the defendant under this chapter; and

"(B) if so, what treatment is most appropriate to effect that restoration.

"(2) In any other case after such hearing the case shall proceed.

"(c)(1) If after a hearing under subsection (b) of this section—

"(A)(i) the defendant does not request an opportunity to be restored to competence; and

"(ii) the court determines there is no substantial probability that the defendant can be restored to competence; or

"(B) the defendant has received treatment lasting three hundred and sixty days in the aggregate;

the court shall either order the defendant released or make an order under section 4245 of this title, and shall dismiss every charge against that defendant that is not a charge of a violent felony or a felony punishable by five years imprisonment or more.

"(2) In any other case after such a hearing, the court shall make an appropriate order for treatment under section 4244 of this title, except that the court may dismiss any charge against the defendant that is not a violent felony or a felony punishable by five years imprisonment or more (and may make an order under section 4245 of this title) if the court determines that—

"(A) treatment without the consent of the defendant would be necessary; and

"(B) to require such treatment would be unduly onerous in the light of the degree of—

"(i) the probability that treatment will restore the defendant to competence;

"(ii) the nature of the proposed treatment;

"(iii) the nature of the charges;

"(iv) any weakness in the Government's case; and

"(v) the probable sentence to be imposed if the defendant is convicted.

"(3)(A) A dismissal of charges under this subsection shall be without prejudice to subsequent prosecution on such charges.

"(B) The time limitation on the commencement of prosecution for any charge dismissed under this subsection is extended by such dismissal for a period of five years beyond the otherwise applicable limitation.

"§ 4244. Treatment to restore incompetent defendant

"(a) An order under section 4243 of this title for treatment of a defendant—

"(1) shall specify the facility at which the defendant is to be treated;

"(2) shall include a finding whether the person is capable of giving informed consent for treatment procedures under subsection (d) of this section and, if the court finds the person is not so capable, the appointment of a guardian to make such decisions; and

"(3) may authorize any treatment procedures requiring informed consent or court permission under subsection (d) of this section which the court believes may be required for treatment of the defendant.

"(b) A defendant for whom treatment is ordered under section 4243 of this title may not be required to reside in or be confined at the specified facility unless the court makes specific findings of fact supporting the conclusion that—

"(1) such residence or confinement is necessary for such treatment;

"(2) such residence or confinement is necessary because the defendant has failed to appear for such treatment or similar treatment in the past;

"(3) the defendant presents a substantial probability of serious bodily injury to any person or substantial damage to property of others; or

"(4) the defendant is not otherwise released from pretrial confinement.

"(c) The court shall issue such orders to the person in charge of the facility specified under subsection (a) of this section as the court deems necessary to assure that the defendant receives prompt and effective treatment.

"(d)(1) No treatment under this chapter which, as reasonably determined by the Secretary of Health and Human Services, presents a significant risk of physical or mental disability of extended duration shall be carried out except—

"(A) with the informed consent of the treated person, or, if such person is incapable of giving informed consent, of the person's guardian; or

"(B) with the permission of the court after a hearing at which such person has the right to be represented by counsel.

"(2) The Secretary of Health and Human Services shall prescribe rules, to take effect not later than January 1, 1985, to carry out this subsection. Such rules may designate which treatments or criteria for determining which treatments, under which circumstances, present the risk described in paragraph (1) of this subsection.

"(3) Informed consent shall be deemed to exist for the purposes of this subsection only if the person to be treated signs a written consent form prescribed by the Secretary of Health and Human Services stating—

"(A) the reason for treatment, including the nature and seriousness of the person's illness, disorder, or defect;

"(B) the nature of the procedures to be used in the proposed treatment, including their possible frequency and duration;

"(C) the possible degree and duration of improvement or remissions expected with or without such treatment;

"(D) the nature, degree, duration, and possible side effects and significant risks of such treatment, including the likelihood of memory loss and its irreversibility;

"(E) the reasonable alternative treatments, including why the physician is recommending this particular treatment; and

"(F) what right the person has to refuse treatment.

"(4) The execution of the consent form under paragraph (2) of this subsection shall be in the presence of at least one witness not directly or indirectly engaged in the proposed treatment.

"(5) The requirement of informed consent or permission under this subsection does not apply to the emergency administration of medication.

"(e)(1) The person in charge of the facility specified under subsection (a) of this section shall file a report with the court—

"(A) one hundred and seventy days after the first order for treatment is made if only one such order has been made and three hundred and fifty days after the first order for treatment is made if more than one such order has been made; and

"(B) any time it appears to the person in charge of the facility that—

"(i) maximum benefit has been realized from the treatment; or

"(ii) the defendant has become competent, through medication as described in subsection (g) of this section or otherwise.

"(2) The report filed with the court under paragraph (1) of this subsection shall be approved by the professional person in charge of the defendant's treatment and shall describe—

"(A) the treatment which has been provided;

"(B) any improvement in the deficiencies or disorders that caused the defendant to be not competent;

"(C) any recommendations for future treatement and the need for that treatment; and

"(D) any change in prognosis from any previous such reports.

"(3) If such report indicates that any deficiency or disorder interferes substantially with the defendant's competence, such report shall also state whether and how probable it is that treatment for an additional period would substantially improve that deficiency or disorder.

"(f) Even though a defendant is found not competent, any defense motions which are susceptible to fair determination before trial and without the personal participation of the defendant may be made. An adverse ruling on a motion so made shall be without prejudice to the defendant's right to raise new factual evidence or considerations regarding the same matters in later proceedings in the case if competence is regained.

"(g)(1) A defendant shall not be prohibited from standing trial or entering a plea solely because the defendant is being administred pychotropic medication under medical supervision for a mental or emotional condition.

"(2) The court may order treatment under this section for a defendant currently receiving psychotropic medication to maintain competency who requests such treatment, if the court finds that it is substantially probable that the defendant so treated will not require such medication to maintain competency.

"(3) If a defendant appears in court with the aid of psychotropic medication for a mental or emotional condition, the court, defense counsel, and the prosecution shall be informed by the prescribing physician of the fact that the defendant is appearing under the influence of medication, of the type and dosage of the medication, and of the effect the drug has on the defendant's appearance, actions, and general demeanor.

"(4) If the defendant proceeds to trial with the aid of psychotropic medication for a mental or emotional condition, the court, upon the motion of the defendant, shall provide to the jury, at the beginning of the trial and in the charge to the jury, an explanation of such medication and the medication's probable effects on the defendant's demeanor and participation in the trial.

"(h) Psychosurgery shall not be used in treatment under this chapter.

"(i) At any time during the period of commitment, the person in charge of the facility specified under subsection (a) of this section may petition the court for a modification of the order issued under such subsection. The committed person has the right to a hearing and assistance of counsel on the question of whether such petition shall be granted.

"§ 4245. Delivery to State officials of certain persons suffering from mental disease or defect

"(a) If a person—

"(1) is found not competent with no substantial probability of improvement; or

"(2) is found not competent and has not recovered after the end of the maximum period for which treatment may be ordered under this chapter;

and if the court determines there is probable cause to believe that such person is presently suffering from mental disease or defect as a result of which such person's release would create a substantial likelihood of serious injury to any person or substantial damage to property of others, the court may cause such person to be delivered to the appropriate State official in the State of the person's domicile or, if the person has no domicile, in which the court sits for possible commencement of State civil commitment proceedings. If the court does not order delivery of the person to such official, the court shall order the commencement of Federal commitment proceedings under chapter 310 of this title.

"(b) A person delivered under this subsection to a State official shall not be held in Federal custody on the basis of any charge with respect to which that person was found not competent, unless such person is later found competent and Federal criminal proceedings relating to that charge are resumed. A dismissal of charges under section 4243 of this title maybe delayed pending such delivery.

"(c) If the person in charge of the facility in which a prisoner whose sentence is about to expire is imprisoned has probable cause to believe that the prisoner is presently suffering from a mental disease or defect as a result of which that prisoner's release would create a substantial likelihood of serious injury to any person or substantial damage to property of others, the person in charge of the facility shall cause the prisoner to be delivered to the appropriate State official in the State of the prisoner's domicile or, if no domicile can be ascertained, in the State in which the facility is located for possible commencement of State civil commitment proceedings by the State. A prisoner delivered under this subsection to a State official shall be deemed to have completed the sentence which is about to expire.

"§ 4246. Board of examiners

"(a) A board of examiners for each Federal penal and correctional institution shall consist of (1) a medical officer appointed by the warden or superintendent of the institution; (2) a medical officer appointed by the Attorney General; and (3) an expert mental diseases appointed by the Surgeon General of the United States.

"(b) Such board shall examine any inmate of the institution alleged to be suffering from a mental disease or defect and report such board's findings and the fact on which such findings are based to the Attorney General.

§ 4247. Incompetence undisclosed at trial

"(a) Whenever the Director of the Bureau of Prisons shall certify that a person convicted of an offense against the United States has been examined by the Board of Examiners referred to in section 4246 of this title, and that there is probable cause to believe that such person was not competent at the time of such person's trial, unless the issue of competence was raised and determined before or during such trial, the Attorney General shall transmit the report of the Board of Examiners and the certificate of the Director of the the Bureau of Prisons to the clerk of the district court wherein the conviction was had.

"(b) The district court in which a person convicted of an offense was tried shall—

"(1) upon receipt of the report and certificate transmitted in accordance with subsection (a) of this section; or

"(2) if the court otherwise has reason to believe that the person was not competent at the time of trial, and the issue of competence was not raised and determined before or during such trial;

proceed under section 4242 and section 4243(a) of this title to determine if such person was not competent at the time of trial.

"(c) At a hearing under subsection (b) of this section, the report of the Board of Examiners shall be admissible as evidence, and, unless controverted, shall be sufficient to establish by a preponderance of the evidence that the person was not competent at the time of trial.

"(d) If, after a hearing under subsection (b) of this section, the court determines by a preponderance of the evidence that the person was not competent at the time of trial, the court shall vacate the conviction and grant a new trial

§ 4248. Transfer for treatment

"(a) If a person serving a sentence of imprisonment makes to the Attorney General, in writing or through such person's attorney, an objection to being transferred to a suitable facility for care or treatment, such objection shall stay the transfer of such person to that suitable facility until after a hearing under subsection (b) of this section. An attorney for the Government, at the request of the director of the facility in which the person is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the person. The court shall grant such motion if there is reasonable cause to believe that the person may presently be suffering from a mental disease or defect that necessitates custody in a suitable facility for care and treatment.

"(b) Upon granting of the motion for hearing, the court shall proceed under section 4242 and section 4243(a) of this title, except that the purpose of the examination and hearing shall be to determine if the person is in need of custody for care and treatment in a suitable facility. The court shall give written notice of the hearing to the person, including a statement of the person's rights with respect to the hearing. The person shall be entitled to the assistance of counsel at a hearing under this section.

"(c) If, after the hearing, the court determines by clear and convincing evidence that the person is presently suffering from a mental disease or defect that necessitates custody in a designated suitable facility for care or treatment, the Attorney General shall hospitalize the person for treatment at the suitable facility so designated until the person is no longer in need of such care or treatment or until the expiration of the sentence of imprisonment, whichever occurs earlier. The court shall make written findings of fact and of the reason for transfer, and shall provide the person with a copy of such findings.

"(d) Whenever the director of the facility in which the person has been hospitalized under subsection (c) of this section determines that the person is no longer in need of custody for care or treatment in such facility, the director shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person, to the person's attorney, and to the attorney for the Government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the person has not expired, the court shall order that the person be reimprisoned until the date of such person's release.

"§ 4249. Definitions for certain sections and general provisions for chapter

"(a) As used in sections 4241, 4242, 4243, 4244, and 4245 of this title—

"(1) the term 'competent' with respect to a defendant in a criminal case means having sufficient present ability to consult with counsel in the case with a reasonable degree of rational understanding, and otherwise to assist in the defendant's own defense, and to possess a rational and factual understanding of the proceedings against that defendant;

"(2) the term 'qualified mental health examiner' means—

"(A) a physician who has completed three years of residency training in psychiatry in a program approved by the American Medical Association; or

"(B) a person who has received a doctoral degree in psychology from a regionally approved clinical program and who has at least three years of experience in the treatment and diagnosis of mental diseases or defects;

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States; and

"(4) the term 'violent felony' means any felony in which the defendant is alleged—

"(A) to have used a dangerous weapon;

"(B) to have caused or attempted to cause, bodily injury; or

"(C) to have threatened to cause serious bodily injury.

"(b) Nothing contained in this chapter precludes a defendant who is confined under this chapter from establishing by habeas corpus proceedings the defendant's eligibility for release under this chapter.".

SEC. 4. Title 18 of the United States Code is amended by adding after chapter 309 the following new chapter:

"CHAPTER 310—INSANE OFFENDERS

"Sec.

"4171. Disposition of insane offenders and certain other individuals.

"4172. Mental examination.

"4173. Report on examination and hearing.

"4174. Commitment for treatment.

"4175. Conditional release

"4176. General provisions for chapter

"§ 4171. Disposition of insane offenders and certain other individuals

"(a) If a person is found not responsible only by reason of insanity with respect to a charge of a felony, the court shall immediately order an examination of the person under section 4172 of this title.

"(b) In any other case if a person is found not responsible only by reason of insanity, the court may order an examination of the person under section 4172 of this title.

"(c) If the court under section 4245 of this title orders the commencement of Federal commitment proceedings, the court shall order an examination of the person under section 4172 of this title.

"§ 4172. Mental examination

"(a)(1) An examination under this section shall be conducted by a qualified mental health examiner.

"(2) The person to be examined shall not be required to reside in or be confined at a mental health facility unless the court designates the particular facility and makes findings of fact supporting the conclusion that—

"(A) the person has been found not responsible by reason of insanity with respect to a charge of a violent felony;

"(B) such residence or confinement is necessary for the examination;

"(C) such residence or confinement is necessary because the person has failed to appear for such examination or similar examinations in the past;

"(D) the person presents a substantial probability of serious bodily injury to any person or substantial damage to the property of others; or

"(E) the person had not otherwise been released from confinement pending trial.

"(b) The qualified mental health examiner shall prepare and file with the court a report on the mental condition of the person and provide copies to the counsel for the person and the attorney for the Government not later than thirty days after the order for the examination is issued, except that the court may extend this thirty-day period—

"(A) to the extent reasonable to permit transportation to and from a nonlocal facility, if such facility is designated in the order as the place for the examination; and

"(B) on motion of any party, for a period not exceeding an additional thirty days, if the court finds that specific additional examinations or procedures are necessary and that such extension is required for such examinations or procedures.

"(c) Such report shall contain the matter required in a report under subsection (c) of section 4242 of this title, except that in lieu of the matter required by paragraphs (3), (4), and (7) of such subsection, such report shall include a description of the mental health examiner's conclusion concerning the mental and emotional functioning of the person, specifying the basis for such conclusions and including the nature and severity of any impairments as of the time of the report; a description of behavior relevant to the likelihood that the person will commit acts of serious bodily injury to any person or substantial damage to the property of others; and the mental health examiner's opinion, if such examiner believes such opinion is within that examiner's expertise, of such likelihood, and the specific information upon which such opinion is based.

"§ 4173. Report on examination and hearing

"(a)(1) Upon the receipt of a report of the results of an examination under section 4172 of this title, or of the results of treatment ordered under section 4174 of this title, the court shall hold a hearing to determine whether the person, because of mental disease or defect, presents a substantial likelihood of serious bodily injury to any person or substantial damage to the property of others.

"(2) Such hearing shall commence no later than fourteen days after the receipt of the report, unless the person requests an additional examination by a mental health examiner of the person's choice.

"(3) If the person makes a request under paragraph (2) of this subsection, the court shall continue the hearing for twenty-one days and appoint a mental health examiner of the person's choice to examine the person.

"(4) At a hearing under this subsection, the person shall have the right to present evidence, subpena witnesses, and cross-examine adverse witnesses.

"(b)(1) If the hearing under subsection (a) is on the report of results of treatment and the committed person was initially ordered examined under subsection (a) or (b) of section 4171 and has not been treated for a period exceeding the maximum term of imprisonment for the charge with respect to which the person was found not responsible by reason of insanity, and the report states that the committed person, because of mental disease or defect, still presents a substantial likelihood of serious bodily injury to any person or substantial damage to the property of others—

"(A) the court shall conditionally release the committed person if the court finds by the preponderance of the evidence that the likelihood that the committed person, because of mental disease or defect, will commit acts of serious bodily injury to any person or substantial damage to the property of others is no longer sufficiently substantial to justify commitment; and

"(B) the court shall return the committed person for treatment under section 4174 of this title in any other case.

"(2) If the hearing under subsection (a) is a hearing on the report of results of treatment other than in the circumstances described in paragraph (1) of this subsection, the court—

"(A) shall order the committed person treated under section 4174 of this title if the court finds that the likelihood that the committed person, because of mental disease or defect, will commit acts of serious bodily injury to any person or substantial damage to the property of others is sufficiently substantial to justify commitment; and

"(B) shall conditionally release the committed person in any other case.

"(3) If the hearing under subsection (a) is on the report of the results of an examination, the court—

"(A) shall order commitment of the person for treatment under this chapter if the court finds that the likelihood that the person, because of mental disease or defect, will commit acts of serious bodily injury to any person or substantial damage to the property of others is sufficiently substantial to justify commitment;

"(B) shall conditionally release the person if the court finds that such a likelihood exists to an extent justifying supervision or treatment, but not commitment; and

"(C) shall unconditionally release the person in any other case.

"(c) Findings required by paragraph (2) or (3) of subsection (b) of this section shall be—

"(1) by a preponderance of the evidence in the case of a person initially ordered examined under subsection (a) or (b) of section 4171 who has not been treated for a period exceeding the maximum term of imprisonment for the charge regarding which the person was found not responsible only by reason of insanity; and

"(2) by clear and convincing evidence in any other case.

"(d) In a hearing under subsection (a) of this section on the report of the results of an examination ordered under section 4171(a) of this title—

"(1) the person found not responsible only by reason of insanity with respect to a charge of a violent felony shall be presumed to present a sufficiently substantial likelihood of committing acts of serious bodily injury to any person or substantial damage to the property of others so as to justify commitment;

"(2) such presumption may only be rebutted by a preponderance of the evidence to the contrary; and

"(3) such presumption shall cease at the expiration of a period equal to the maximum term of imprisonment for the change with respect to which the person was found not responsible by reason of insanity.

"§ 4174. Commitment for treatment

"(a) An order under section 4173 of this title for treatment of a person shall—

"(1) specify the facility at which the person is to be treated;

"(2) specify the conditions under which the person may be allowed to leave temporarily the premises of such facility; and

"(3) include a finding whether the person is capable of giving informed consent for treatment procedures under subsection (c) of this section and, if the court finds the person is not so capable, the appointment of a guardian to make such decisions.

"(b) The court shall issue such orders to the person in charge of the facility specified under subsection (a) of this section as the court deems necessary to assure that the person to be treated receives prompt and effective treatment.

"(c)(1) No treatment of a type to which the limitations of section 4244(d) of this title would apply if such treatment were ordered under chapter 313 of this title shall be carried out under this chapter except with the informed consent of the treated person,

or, if such person is incapable of giving informed consent, of the person's guardian.

"(2) Informed consent shall be deemed to exist for the purposes of this subsection only in those cases in which informed consent would exist under the standards set forth in section 4244(d)(3) of this title.

"(3) The requirement of informed consent or permission under this subsection does not apply to the emergency administration of medication.

"(d)(1) The person in charge of the facility specified under subsection (a) of this section shall make a report to the court—

"(A) one year after the first order of treatment is made, and every year thereafter; and

"(B) any time it appears to such person that the committed person no longer presents a substantial probability of serious bodily injury to any person or substantial damage to the property of others.

"(2) The report made to the court under paragraph (1) of this subsection shall meet the requirements set forth for reports in section 4244(e) of this title.

"(e) At any time during the period of commitment, the person in charge of the facility specified in subsection (a) of this section may petition the court for a modification of the order issued under such subsection. The committed person has the right to a hearing and assistance of counsel on the question of whether such petition should be granted.

"(f) Psychosurgery shall not be used in treatment under this chapter.

"§ 4175. Conditional release

"(a) An order under section 4173 of this title for conditional release of a person shall direct that the person released be supervised by a probation officer under section 3655 of this title.

"(b) The court shall require, as conditions of conditional release under section 4173 of this title, that the released person—

"(1) report to the probation officer, as directed, including promptly reporting any change of address or employment, any arrest by a law enforcement officer, and any hospitalization for a mental disorder;

"(2) cooperate with the probation officer, including permitting visits at reasonable times at home or at a place of employment, answering truthfully all inquiries relevant to the conditions of release, and obtaining approval to leave the jurisdiction of the court;

"(3) follow the probation officer's instructions relevant to the conditions of conditional release; and

"(4) participate in a program of psychotherapy specified by the court.

"(c) The court may require, as conditions of conditional release under section 4173 of this title, that the released person—

"(1) follow a regimen of medication, of the type, and at the time and dosage, prescribed by a physician designated by the court; and

"(2) comply with any other condition reasonably related to the charge with respect to which the person was found not responsible only by reason of insanity or the circumstances involved in the person's commitment under section 4173.

"(d) Upon a showing of probable cause that the conditionally released person has violated a condition of release, or presents a likelihood of committing acts of serious bodily injury to any person or substantial damage to the property of others which is sufficient to justify commitment, the court may issue a warrant to take the defendant.

"(e)(1) If, at any time during the period of conditional release, the probation officer has probable cause to believe that the conditionally released person—

"(A) has violated a condition of release; or

"(B) presents a sufficient likelihood of committing acts of serious bodily injury to any person or substantial damage to the property of others to justify commitment;

and exigent circumstances make obtaining of a warrant impractical, such probation officer may take into custody the conditionally released person.

"(2) A person taken into custody under paragraph (1) of this subsection shall be promptly brought before a magistrate, who shall determine whether the probable cause required by such paragraph exists and order the release or continued custody of the person accordingly.

"(f) A person upon whom a warrant issued under subsection (d) of this section is served, or who is brought before a magistrate under subsection (e)(2) of this section, shall be brought before the court having jurisdiction over the person or, upon order of such court, a court reasonably near the place where the person was found. The court shall thereafter order an examination and conduct a hearing in accordance with the requirements for examinations and hearings set forth in sections 4172 and 4173(a) of this title. Following such hearing, the court—

"(1) shall recommit the person under section 4174 of this title if the court finds by a preponderance of the evidence that the likelihood that the person will commit acts of serious bodily injury to any person or substantial damage to the property of another is sufficient to justify commitment; and

"(2) in any other case—

"(A) shall reinstate the conditional release of the person in any other case; and

"(B) may modify the conditions of release, if the court finds by a preponderance of the evidence that—

"(i) the person has violated a condition of release; or

"(ii) commitment of such person is justified under paragraph (1) of this subsection unless a condition of release is added or modified.

"(g) An order of conditional release under this section shall terminate after—

"(1) ten years; or

"(2) a period equal to the maximum term of imprisonment for the most serious charge with respect to which the person was found not responsible only by reason of insanity reduced by time spent under commitment under section 4174 of this title;

whichever is less. Such person shall thereafter be unconditionally released.

"§ 4176. General provisions for chapter

"(a) At any time during proceedings or treatment under this chapter, if the State of domicile of the acquitted or committee person or the State in which the court is located will accept custody of the acquitted or committed person, the court may order such person delivered to the appropriate State official and terminate all Federal proceedings under this chapter regarding such person.

"(b) As used in this chapter—

"(1) the term 'qualified mental health examiner' means—

"(A) a physician who has completed three years of residency training in psychiatry in a program approved by the American Medical Association; or

"(B) a person who has received a doctoral degree in psychology from a regionally approved clinical program and who has at least three years experience in the treatment and diagnosis of mental diseases or defects;

"(2) the term 'violent felony' means any felony in which the defendant was alleged—

"(A) to have used a dangerous weapon;

"(B) to have caused or attempted to cause, bodily injury; or

"(C) to have threatened to cause serious bodiliy injury; and

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.".

SEC. 5. The table of chapters at the beginning of part III of title 18 of the United States Code is amended—

(1) by inserting after the item relating to chapter 309 the following new item:

"310. Insane Offenders ..... 4171";

and

(2) so that the item relating to chapter 313 reads as follows:

"313. Mental Incompetence ..... 4241".

SEC. 6. Section 3655 of title 18 of the United States Code is amended by adding at the end the following:

"Each probation officer shall also perform such duties with respect to a person conditionally released under chapter 310 of this title as the court may direct.".

SEC. 7. This Act and the amendments made by this Act shall take effect on July 1, 1984.

SEC. 8. The Attorney General may enter into such contracts and other agreements as may be necessary to carry out the provisions of law relating to mental incompetence and insane offenders amended by sections 3 and 4 of this Act (including such provisions as they may hereafter be amended), but any such contract or agreement which would result in the United States' being obligated to make outlays may be entered into only to the extent and in such amount as may be provided in advance in an appropriation Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair at this time recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 3336, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, 2 years ago the Hinckley verdict caused this country to reassess the insanity defense. The Subcommittee on Criminal Justice, which I chair, conducted 10 days of hearings on legislation to reform the defense. We found that much of the concern was prompted by many popular myths about the defense, but concluded that reform of the defense was necessary nonetheless in order to restore public confidence in the criminal justice system.

The subcommittee and the Judiciary Committee have fashioned H.R. 3336 to prevent abuse of the insanity defense without abandoning the fundamental principle of our criminal justice system that bases criminal liability on moral responsibility.

The bill is based on six conclusions: First, the present Federal test for insanity is too broad. It has two parts, one—a cognitive test—that excuses a defendant who could not distinguish right from wrong, and one that excuses a defendant who knew right from wrong, but could not control his or her conduct. The second, or volitional part—sometimes called the irresistible impulse test—should be eliminated. It excuses someone with a type of mental disorder that should not excuse antisocial conduct. As noted by the American Psychiatric Association, "The line between an irresistible impulse and an impulse not resisted is probably no sharper than that between twilight and dusk." H.R. 3336 eliminates the volitional test.

The bill as reported further narrowed the current test by replacing the phrase "mental disease or defect" with a phrase recommended by the American Psychiatric Association. Thus, the test in the bill reported by the committee requires that there be "a severely abnormal mental condition that grossly and demonstrably impaired the defendant's perception and understanding of reality." However, in deference to concerns expressed by the gentleman from Pennsylvania [Mr. GEKAS], the ranking minority member of the subcommittee, that phrase has been changed in the amended bill before us by restoring the phrase "mental disease or defect." The requirement of a gross and demonstrable impairment of perception or understanding of reality is retained.

The second conclusion reached by the committee is that the current requirement that the prosecution disprove insanity beyond a reasonable doubt places an unfair burden on the prosecution. H.R. 3336 requires the defendant to prove the existence of the defense by a preponderance of the evidence.

Third, expert testimony about whether the defendant was legally insane at the time of the offense is too often contradictory and misleading to the jury and should be eliminated. The insanity defense involves legal and moral exculpation, and does not depend on a particular medical disorder. Expert witnesses may provide medical and psychological data that will assist the jury, but no person can be said to have expertise regarding the legal and moral decision involved. With regard to the ultimate issue—whether the defendant was insane at the time of the offense—the expert witness is no more qualified than anyone else. Therefore, the bill provides that an expert witness cannot testify regarding the ultimate issue of whether the defendant was insane at the time of the offense.

The bill also restricts expert testimony on commitment issues. Determining whether a person is sufficiently dangerous to justify involuntary treatment or commitment involves weighing the security interests of society against the liberty interests of the individual. There is no evidence that psychiatrists or psychologists—or any other professionals, for that matter—have any particular expertise in balancing the societal interest in preventive detention against the individual interest in freedom. Such balancing is clearly a governmental—in this case a judicial—function. Thus, the bill precludes expert testimony on the question of whether the likelihood of future dangerous conduct is sufficient to justify commitment. Leaving the decision with the court will better protect society.

The fourth conclusion is that there should be a Federal procedure for committing persons acquitted by reason of insanity. Under current practice, a person so acquitted walks free unless a State undertakes commitment or other proceedings. H.R. 3336, therefore, establishes such procedures. These procedures apply to persons acquitted because of insanity, and to persons incompetent to stand trial who have been found unlikely to recover their competence. Commitment proceedings must be ordered following an acquittal of a felony by reason of insanity, or a finding of probable cause to believe that an incompetent defendant who is unlikely to recover is dangerous. The requirement that procedures be begun after every felony acquittal expands the provisions of the reported bill. The court also has the power to begin commitment procedures after any insanity acquittal if it believes the defendant dangerous.

After an examination and hearing, the court may commit the defendant or restrict the defendant's liberty in other ways if it finds the defendant sufficiently dangerous to justify such treatment. Person acquitted of violent felonies are presumed appropriate for commitment. The nature of commitment is controlled by the court. The defendant may only be released upon order of the court.

The sixth conclusion reached by the committee is that Federal procedures for determining incompetence to stand trail, and what happens following such a determination, should be revised. H.R. 3336 corrects constitutional defects in the current provisions of Federal law and correlates the competency procedures with the commitment procedures.

Briefly, the competence provisions call for a complete competence examination and a hearing. If the defendant's lack of competence is established by a preponderance of the evidence, the court must determine what treatment is appropriate.

If the court finds no substantial likelihood that the defendant will be restored to competence within a reasonable time, then the court ordinarily must suspend—in the case of serious or violent crimes—or terminate—in other cases—criminal proceedings. The court may release the defendant, turn the defendant over to State authorities, or institute Federal commitment proceedings.

If the court finds a substantial likelihood that the defendant will be restored to competence, then the court ordinarily must order treatment; however, the court may determine that the minor nature of the charges, or the improbability of conviction, does not justify a long period of treatment, particularly if such treatment would involve confinement or high-risk methods, and may dismiss nonserious offenses. Because of concerns expressed by the Department of Justice, the bill before us has been changed from the bill as reported by the Judiciary Committee by including a provision that extends the statute of limitations for 5 years on any dismissed charge. Defendants may thus be reprosecuted if they regain competence during the extended period. In addition, the amendment expands the category of offenses that cannot be dismissed.

After treatment for 8 months, and again after treatment for 1 year—if treatment has been continued—the court must hold another hearing on the likelihood of recovery. The hearing may be held earlier if the treating authorities believe that the defendant has recovered. At such hearing, the court's options are the same as at the initial hearing unless the defendant has completed a full year's treatment, in which case the court must proceed in the same manner as after an initial finding that there is no substantial likelihood of recovery. These procedures assure that society will be protected from dangerous persons and at the same time ensure that only those who are mentally capable of standing trial will be tried.

Mr. Speaker, the insanity defense, in terms of numbers of people affected, is

not a major problem. The insanity defense is infrequently raised, and succeeds rarely. It is important, however, in expressing the moral basis of our criminal law. The current defense needs to be reformed, not abolished. H.R. 3336 restricts the insanity defense to its proper scope. I urge my colleagues to support the bill.

□ 1330

I have a number of differences between the reported bill and between this amendment under consideration, some six, but I will reserve them and reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I will yield myself such time as I may consume.

Mr. Speaker, there is no stronger supporter of reform of the insanity defense than this particular Member, and I am joined in that crusade by countless other Members of the House of Representatives. So I find myself ironically standing before you, knowing how hard I have worked to bring about an insanity reform measure, standing here now to oppose the present legislation because, Mr. Speaker, in the final analysis this particular piece of legislation robs the American people of the opportunity to have their concerns over the unjust outcome of the Hinkley case addressed. It is as simple as that.

Not only did the majority choose to bring this bill up on suspension, thereby preventing the opportunity to present amendments that would possibly mend the serious flaws that now exist in this bill, not only that, but it was done abruptly, without real notice, and then brings a final product for consideration that flies directly in the face of all that we have been seeking for these many months.

Mr. Speaker, let me outline a couple of the ways in which, as I said, the American people and the people's Representatives are being robbed of an opportunity to bring a good bill before this body.

No. 1, Mr. Speaker, there is general agreement that we must, as the chairman of the subcommittee asserted, change the burden-of-proof concept to make it a province of the defendant to prove insanity, not to force the prosecutor to have to overcome a tremendous burden that he already has to prove guilt, to also prove beyond a reasonable doubt that the defendant was sane. So we are all in agreement that the burden of proof is a good way to proceed to reform the insanity defense, and if we had stopped right there we would have done a tremendous service to the system of Federal jurisprudence in this field. If we had just stopped there I would not be standing here today opposing this bill, because all of us understand that that is a necessary element of insanity defense reform.

Second, we all agree, Mr. Speaker, that the irresistible impulse of the mental intent part of the insanity defense should be stricken. That allows for so many loopholes that any attorney worth his salt could bring about an acquittal on the grounds of insanity simply by bringing in things that could confuse a jury into finding irresistible impulse. So we have all agreed and we are all happy that irresistible impulse is no longer part of the scene in insanity defense. And if that were the case, again Mr. Speaker, I would not be standing here opposing the bill on suspension because shifting the burden and removing irresistible impulse would have been great strides in favor of reform of the insanity defense.

But, Mr. Speaker, when we start monkeying around with the definition of insanity, where the Hinkley case did not hinge upon the definition of insanity, and where the present definition of insanity has found favor through decades of jurisprudence and precedence, to monkey around with that by inserting into it now some ethereal kind of term and definition brought forth during the hearings by only one or two witnesses that drastically change the well understood precept of law in this regard, that is to adventuresome for the American people to swallow at this point. And alone, that change would have caused me to oppose this legislation on regular procedure, let alone under suspension.

We need the opportunity to amend that particular portion. It is no answer, as the chairman has tried to portray, that as a sop to the ranking member of the Criminal Justice Subcommittee that we return by adding to the new definition part of the old definition that only makes matters worse and causes and would cause a judge, in wanting to try to determine that charge for the jury, make it an impossible task for him to clarify to the jury what the elements are of an insanity defense that a jury would have to conclude. Terribly confusing.

We need the opportunity, Mr. Speaker, to try to change that on the floor, to try and convince our fellow Members that we ought to have a clear-cut return to sanity in the insanity defense definition of insanity. It is as simple as that.

But it goes beyond that. I am deeply disappointed that after we struggled so hard, and I thought cooperatively with the chairman of the subcommittee, that we were able to take this matter before the Rules Committee and then come together; we argued for an open rule or a modified open rule so that some of the other Members could be heard on their proposed amendments to better this legislation.

To learn in the 11th hour of the 11th month of the 11th part of this session that we are going to come up here before suspension and treat this as a noncontroversial bill, one that historically I have learned since I have been here only comes up when everybody agrees on every facet of the bill, and not passing such noncontroversial a bill under suspension would be a travesty.

This is a travesty because it is controversial and yet we bring it up on suspension. We need the opportunity on something we desperately need in criminal jurisprudence, we need never to repeat the Hinkley case again. The American people will not tolerate it. We need a full debate so that the final product will at least have heard all of the various sides of this momentous issue.

Mr. Speaker, I rise in opposition to H.R. 3336 with amendments.

I favor legislation to modify the insanity defense and have worked for months to bring legislation before this House. However, consideration of this bill under suspension of the rules is clearly not the way to debate a matter so significant and controversial. If it were the way, certainly the chairman of the Judiciary Committee would have requested such action before now.

This bill was reported to the House on November 1, 1983—nearly 1 year ago. It was nearly 8 months before the legislation was scheduled for a hearing before the Rules Committee and then action was deferred. It is still pending in rules. This is important and complex legislation which merits serious attention by this House. It is not the noncontroversial legislation usually reserved for floor action under suspension.

The deficiencies of H.R. 3336 are especially crucial now as we near the end of this session. If we are to successfully conference this bill with the Senate, it should not be passed in its current form.

Two amendments which I had offered at the subcommittee would improve the bill and would facilitate its passage. The first, which was also offered at the full committee, would clear up uncertainties created by the definition of insanity in H.R. 3336. While there is general agreement that the volitional prong of the current insanity defense should be deleted, there is no reason to sow uncertainty by restating the remaining cognitive prong in novel words of first impression with no history or judicial background. Now is no time for a legal adventure.

I had sought to amend the bill by deleting section 3 of the bill. This section develops a completely new procedure for determining mental competency and that replaces current statutory law. It gives defendants many new rights such as the right to refuse certain forms of treatments aimed at restoring them to competence. It creates

extensive and unwarranted new procedures which only detract from the problem that first captured our attention; namely, abuse of the insanity defense.

Mr. Speaker, to place before the House a controversial bill under conditions which do not permit its amendment ignores the legislative role of this body. Members not on the Judiciary Committee are just as accountable to their constituents for legislation and it is no shelter for them to say they were merely following the majority on the committee. This request for suspension should be denied.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3336. I think it responds to the concerns that most people have about the insanity defense. For most people, the problem is not that the insanity defense excuses from criminal liability people who cannot distinguish right from wrong. Rather, the problem is that it exculpates those who claim an inability to control behavior, even though they knew right from wrong—those who were acting under a so-called irresistible impulse.

People are supposed to control impulses that would result in criminal behavior. The criminal law seeks to encourage people to control to do so and to punish them if they do not. The problem with the irresistible impulse test has been succinctly stated by the American Psychiatric Association: "The line between an irresistible impulse and an impulse not resisted is probably no sharper than that between twilight and dusk."

The irresistible impulse test is not appropriate and should be dropped. H.R. 3336 does just that.

A second problem with the Federal insanity defense, which was graphically illustrated in the Hinckley trial, is the burden of persuasion. Under Federal law, the prosecution has a nearly impossible task of proving beyond a reasonable doubt that the defendant was sane at the time of the offense.

The defendant who raises an insanity defense is conceding guilt and is seeking to be excused from criminal liability. The defendant ought, therefore, to have the burden of proving that he or she is entitled to that excuse. H.R. 3336 puts the burden of persuasion where it properly belongs, on the defendant.

Another problem with the insanity defense is the role of the experts regarding the ultimate issue of whether the defendant should be excused because he or she was insane at the time of the crime. Whether a defendant was insane, therefore is not a medical question, but a legal one. Psychiatrists, psychologists, and other similar experts can describe symptoms and personalities, but they are no more expert on the ultimate issue than anyone else.

Experts should be allowed to testify about what is within their competence, but they should not be allowed to give an opinion on the ultimate issue. H.R. 3336 prevents experts from invading the province of the jury by precluding them from giving opinions on the ultimate issue.

Like most people, I am concerned about what happens to someone who is acquitted by reason of insanity. That person has engaged in antisocial conduct, and society has the right to take steps to avoid further antisocial conduct by that person. This will almost always require commitment if the act involves serious injury to another person or serious damage to property. For less serious crimes, commitment may still be required.

Under present Federal law, someone who is acquitted by reason of insanity leaves the Federal courthouse a free person. It is up to State and local authorities to decide whether to seek commitment or treatment for the person, and those authorities may be unwilling to do so for any number of reasons. H.R. 3336 remedies this deficiency of Federal law and authorizes Federal commitment procedures for persons acquitted by reason of insanity. The bill gives Federal courts the tools necessary to protect the public from truly dangerous persons.

Mr. Speaker, H.R. 3336 narrows, but does not abolish, the insanity defense. By so doing, it preserves what has been recognized for several hundred years as the basis of our criminal law—the requirement of moral blameworthiness as a prerequisite for criminal responsibility. One who cannot tell right from wrong is not morally responsible and should not be labeled as a criminal. Such a person may, however, be so dangerous to society as to require commitment, and H.R. 3336 provides for that.

H.R. 3336 is a good bill. It will improve, and restore public faith in, our criminal justice system. I urge its passage.

□ 1340

It is a good bill and I commend my distinguished colleague, the gentleman from Michigan [Mr. CONYERS], for bringing out what I consider to be a far-reaching bill, one that I think addresses the problem. I commend the gentleman and the subcommittee for their excellent work.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds, and I yield to the gentleman from Maryland [Mr. MITCHELL] for a unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Maryland is recognized.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO FILE A REPORT

Mr. MITCHELL. I thank the distinguished gentleman for yielding.

Mr. Speaker, I ask unanimous consent to file a committee report, "State Local and Private Sector Small Business Export Initiatives," as of today.

Mr. CONYERS. Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Speaker, I have a point of parliamentary inquiry

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Mr. Speaker, on the question just posed by unanimous consent by Representative MITCHELL, was that cleared? I just want to know as a matter of information, was that cleared with the minority? It seems to me that in previous kinds of motions such as that a statement is made or an inquiry is made as to whether or not the minority side has been cleared.

The SPEAKER pro tempore. The Chair would say at this point that the request did not require a previous inquiry, so to speak, for the presentation that was made.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. Yes, I would be very happy to yield.

Mr. CONYERS. I thank my colleague for yielding.

Might I state that his request was a filing that was in no way related to this matter.

Mr. GEKAS. I know that, I know that. But I happen to be at the leadership post for the minority. I remember in previous circumstances that that kind of request for unanimous consent, even in the midst of our debate here, normally is accompanied by either the presence of someone from a committee to acknowledge agreement or an indication by the proponent that the ranking member has been notified.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman.

Mr. MITCHELL. If the gentleman will yield to me I will try to respond even though it comes a bit late. Obviously, the gentleman is not quite familiar with the workings of the Small Business Committee where we enjoy a very good nonpartisan relationship on most issues. This was cleared by the minority.

Mr. GEKAS. All I needed was a statement to that effect and I would not have said anything.

Does the gentleman now state that it was cleared by the minority?

Mr. MITCHELL. Absolutely.

Mr. GEKAS. I have no further questions.

Mr. Speaker, I remove from the table my parliamentary inquiry.

The SPEAKER pro tempore. Without objection.

Mr. GEKAS. At this time I recapture my time Mr. Speaker, and I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I too am concerned with insanity defense and the reform of it. I think it is long overdue. There is no question about it. We need to make major changes in that law and, unfortunately, the sad consequences of the Hinckley case have brought that to our attention. But I am concerned with the procedure being used today, suspension of the rules. It is not appropriate. This is a very complex and controversial matter in terms of the substance that we are dealing with and how we make the reforms in insanity defense, and it simply should not be out here today under suspension of the rules without the opportunity to amend.

The bill sets forth one of three widely advocated approaches to insanity defense reform, with no opportunity under suspension of the rules to offer the other two as amendments and no opportunity for a full and extended debate on the others involved. It also has a rather confusing definition of insanity and if it were enacted, it is my judgment that we would wind up in a worse position than the law is at the present time.

I happen to favor one of the other two approaches. It is an approach that has been endorsed in concept by the American Medical Association. That approach would abolish the insanity defense all together. Abolishing the insanity defense is not as harsh a thing as it may sound like.

I would like to very briefly explain this option that might be proposed if we did not have this suspension of the rules situation.

Actually, in history we developed the insanity defense as a second bite at the apple for the accused who is complaining or might be complaining that he committed a crime while he was suffering from a mental disease or defect.

There is a longstanding principle in criminal law that no one can be convicted of any crime without having the requisite and necessary mental state of mind. If that person does not have the mental state of mind because he or she is suffering from a mental disease or defect, then there is no way the prosecutor can gain a conviction.

Mr. Speaker, it is true that it is rarely argued or used today in criminal law. That is so because some years ago we gave the accused a second bite at the apple; that is the opportunity to present a so-called insanity defense as an affirmative defense, regardless of and in addition to the mental state of mind question that the prosecutor has to prove.

My proposal and the one that the American Medical Association endorses would be to abolish the second bite at the apple, do away with the separate insanity defense and allow some expert testimony on the question of the accused having a mental disease or defect as it bears on the state of mind issue, but not allow the expert witness to present any conclusions on opinion with respect to the ultimate question of whether or not that impaired the intent of the accused at the time of the crime.

In this way we preserve the basic concept but at the same time we simplify and avoid the problems we have when lay juries are trying to deal with this highly complex issue.

We do not need to have the insanity defense from a constitutional standpoint, and I believe that if we had a verdict that was simply either guilty, not guilty or not guilty solely by reason of an inability to form the required state of mind, that if the person did not have the ability to form the state of mind necessary because of his mental disease or defect, a trigger mechanism would then be placed into effect to have the person committed or at least the commitment procedure started.

At any rate, that is just one of the alternatives that could be presented. You do not have to agree with my proposed alternative to be opposed to this procedure today.

The procedure of suspension of the rules is not designed for the purpose that is being brought forth today; it is designed for noncontroversial measures that do not need to be debated greatly. This one does need debate.

As I said earlier, there is a confusing definition in this bill even if you agree with the general approach taken in it, a confusing, and new and entirely untested in the court's definition of insanity. It also has in it the establishing of an entirely new competency procedure that is highly controversial and goes far beyond simply insanity defense questions. We have been awaiting a rule for more than 9 months in this particular legislative case. The chairman of the Committee on the Judiciary some time ago asked for a modified rule that would have allowed the key amendments to be brought up to be debated today that would have avoided this confrontation situation. We have not gotten that. We do not have the opportunity to offer these major alternatives; we do not have the opportunity to offer the minor improvements that are critical to making this bill work, to making it something that would be accepted even by those who would have preferred the general approach that is in this bill.

Mr. CONYERS. Mr. Speaker, will my colleague yield?

Mr. MCCOLLUM. I am glad to yield to the gentleman from Michigan.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. MCCOLLUM] has expired.

Mr. MCCOLLUM. My time has expired. I will leave it to others to yield.

I thank the gentleman [Mr. GEKAS] for this opportunity.

Mr. CONYERS. Mr. Speaker, will the gentleman from Pennsylvania yield? I only have a minute left.

Mr. GEKAS. I need every second I have over here, Mr. Speaker.

Mr. Speaker, does the gentleman from Michigan [Mr. CONYERS] wish to yield any further, or shall I proceed?

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. DEWINE].

Mr. CONYERS. Mr. Speaker, will the gentleman yield to me?

Mr. DEWINE. I only have 4 minutes, Mr. Chairman. I would love to yield you the time but under the suspension that we are here today we just do not have the time. If we had an open rule, we could do it.

Mr. Speaker, it is going to be very easy for the Members who are watching this back in their offices to come over here in a few minutes and to vote yes on this particular bill. Everybody wants to change the insanity defense. Everybody knows that it has been 3½ years, over 3½ years since President Reagan was shot at by Mr. Hinckley. We know we need to change. It is very tempting to do that. It would be nice to go back to your home district and say, look, I voted to change the insanity defense, but it would be a wrong thing to do.

□ 1350

It is not the correct vote. It is not the law and order vote. It is the wrong vote.

I would like to, very briefly in the time we have under suspension of the rules, talk about why.

My colleague from Florida has already talked about some of the reasons why this should not have been brought out under suspension. There are many different ways to approach this most serious question.

I happen to agree with my colleague from Florida. I would like to see a total abolition of the insanity defense. If there is one thing that the general public understands much better than legislators do it is what a mockery the insanity defense has made of our criminal justice system.

I have been a prosecutor, many Members of this body have been prosecutors or defense attorneys and we know what we do when we have a criminal case and the insanity defense is raised, we go out and find our own psychiatrist to testify. Basically we find somebody who agrees with us.

Then we bring them into court. So you have a war of the psychiatrists.

That is going to continue, frankly, under this particular bill. It will continue unless we abolish the insanity defense.

Now is that a radical thing to do? As my colleague from Florida has pointed out, it is not at all. The defendant's constitutional rights will still be clearly protected. He or she will still have the opportunity to bring up this as a defense. The prosecutor will still have to prove the requisite elements, what we call the elements of the case. The prosecutor will have to prove beyond a reasonable doubt that the person charged with the crime had the requisite, specific intent to commit the crime.

The classic example that is given is in the case of a person who shoots at what he thinks because of his deranged mind is a dog. It turns out that what he is shooting at is a person and he kills that individual.

Now, if you abolish the insanity defense the prosecutor will still have to prove beyond a reasonable doubt that that person charged with shooting an individual knew and had a specific intent to kill that individual and that if the defendant could bring up the fact that he thought it was a dog, then clearly the prosecutor would fail and would not have proved beyond a reasonable doubt.

So we protect the defendant's constitutional rights and we make this so it is no longer a charade. That is just one of the options that we would have if we were able to consider this bill as we should be on an amendment basis and not under suspension of the rules.

One other change that I think is extremely dangerous is we have changed the definition of insanity. Absolutely no reason in the world to change the definition of insanity. We have an entirely new definition. Where did that definition come from? From one witness who testified in front of our committee, one single witness and we have a brand new complete definition of insanity.

Now, you may say, what difference does that make? Well, it makes a significant difference. We have years and years and years of case law that has been built up. Trial court judges today can give a jury instruction based upon that law and they can be very confident that they will be telling the jury exactly what the law is and that they will not be overturned on appeal because of the legal definition that they are giving of insanity.

With this brand new definition trial court judges will no longer be able to feel that confidence. I will predict and almost guarantee that if this bill is passed in its current form, without amendment, that we will have people overruled and cases overruled.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, suspension is an expedited form of consideration which should be reserved for noncontroversial legislation where a clear consensus exists. It is not the appropriate method to consider H.R. 3336 today.

Because this bill is so controversial, a rule was requested many months ago. Problems with the bill were detailed at great length in three different sets of additional views to the committee report. It has been no secret that several important amendments would be offered to this legislation—amendments aimed at improving it and facilitating conference with the Senate. The chairman of the Judiciary Committee recognized this fact when he requested a rule that would make amendments offered at the Judiciary Committee in order.

Substantively, this bill is deficient in many respects:

Its definition of insanity is vague and creates unnecessary confusion.

Its section on mental incompetence makes needless changes in current law which detracts from the purpose of insanity defense reform, such as:

Granting the defendant a right to refuse certain forms of treatment aimed at restoring him to competency.

Requiring the dismissal of less serious charges and permitting dismissal of more serious ones—against incompetent defendants who have not been restored to competence within a year of treatment.

In addition, an amendment to abolish the insanity defense entirely was offered at full committee by the gentleman from Florida [Mr. MCCOLLUM] and received wide support. Taking this bill under suspension will preclude the House from considering this important amendment.

Despite these flaws, Mr. Speaker, I intend to vote for the measure. Three and one-half years have passed since the assassination attempt on the President. If the insanity defense issue is not addressed in the next few weeks, it may well be years. The Senate has a good bill and a conference can perfect this legislation. We should rely on the conference process. If its does not succeed in reporting back a workable bill that will be the time to vote down the measure.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I appreciate the ranking minority member's comment, because a "no" vote would effectively kill the bill.

We have brought this to the floor under suspension because we did not have a rule. When we examine the arguments of my distinguished subcommittee members, we are in major agreement. Unfortunately, we are not able to go back and argue all the possibilities of change in a measure this complicated.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I share the gentleman's concern. I think that the bill should have come up under the regular process. I had hoped that that would be the case. But it has not. In fact, if you want to vote against the bill, what you are doing in effect, is killing this bill. It is a major improvement over existing law. So if you like existing law, vote "no."

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I am prepared to support this bill, but I have some reluctance about it. It seems to me we passed this bill out of committee 9 months ago. Now we bring it out in the waning days where I can only get 2 minutes to talk about it because we are on the Suspension Calendar and no amendments can be offered. I find some things that I do not like about this bill; namely, that it is all fouled up since it was passed by the committee.

The prior definition was an abnormal mental condition or something like that. You have changed that to mental disease or defect. But then in the definitions you still define what you mean by abnormal mental condition, which is a phrase that is sort of new to this type of trial.

I do not even understand what that amendment is there for, that definition, when you have stricken the words that it defines from the bill and substituted some other words.

One thing that I do not like about this bill is it prohibits opinion testimony from the experts as to whether the defendant at the time knew or did not know the rightness or wrongness of defense or to describe what his mental condition was in the opinion of the psychiatrist testifying.

Now, I have defended one of these cases and I have prosecuted one and I cannot imagine what they could testify to that would be helpful to the jury if they cannot give ultimate conclusions, which, insofar as I know, every expert testifying on a matter does do and is qualified to do.

Second, I was unhappy that we did not have a chance to substitute an additional verdict option, guilty but insane, because a lot of things flow from a not guilty verdict; namely, the ability to collect the life insurance on the person they killed and many other

things that would flow if it was a guilty but insane and then have the same penalty apply.

So I am just very unhappy with the state of the bill, although for the reasons stated I will support it.

Mr. GEKAS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, obviously in 1 minute I cannot talk about those problems that I see inherent in this process and therefore in the bill.

I would just suggest to those who are not really cognizant of this process that the bill that the Members have, that has been represented to them as the bill we are voting on, is in fact not the bill we are voting on. H.R. 3336, Union Calendar No. 325, is no longer the bill we are dealing with. It has six major amendments to it. That is what happens under this process. We cannot debate this at any length. We do not have an opportunity for amendment and Members on the other side have said vote up or down on this bill. If you vote against it on suspension you are voting to kill it.

We in our committee, just today, voted out bail reform. Members on that side of the aisle said they would support us in our efforts if we would promise not to bring it up under the Suspension Calendar so that everybody would have an opportunity to vote for their amendments.

I was told that the ACLU will be absolutely against our bringing up the bail reform unless we have it under a rule. I do not understand why that is appropriate when the ACLU is concerned about the bill as it comes to us on the floor, but when the administration and certain law and order groups, when certain law enforcement groups are concerned about it, we are not given the same courtesy.

□ 1400

Mr. CONYERS. Mr. Speaker, I yield myself the remaining minute.

Mr. Speaker and my colleagues, I wish to apologize for any difficulties caused my colleagues by our bringing up the matter under suspension of the rules. It was done in good faith, since time is short and we have not received a rule.

If you examine the bill, you will find that the majority of the committee agrees in principle with these very important changes.

It is true that some changes have been made in the reported bill. Each change was made to accommodate the minority members of the committee. They are all to address their concerns. I hoped to win over my colleagues by making these changes. It now turns out that they are deeply resented and criticized.

I would like to depoliticize this subject in these closing moments of this debate. Let us vote for a change in the insanity defense, or we will probably have no change at all.

● Mr. RODINO. Mr. Speaker, H.R. 3336 responds to the public outcry about the insanity defense that was followed by the Hinckley verdict. That verdict merely reinforced public concern that the insanity defense was all too often being improperly used when guilty persons had no other defense. This bill prevents such abuse by substantially narrowing the insanity defense in Federal courts. A defendant can be found not responsible by reason of insanity only if a mental disease or defect so grossly and demonstrably impaired the defendant's perception and understanding of reality that the defendant did not appreciate the wrongfulness of the criminal conduct.

Current Federal law defines insanity much more broadly by providing for acquittal if, because of mental disease or defect, the defendant was unable to control conduct that the defendant knew was wrong. H.R. 3336 eliminates this irresistible impulse test. It is upon this portion of the defense that Hinckley generally relied.

The bill also shifts the burden of proof by requiring a defendant to prove a claim of insanity by a preponderance of the evidence. The prosecution currently must disapprove such a claim beyond a reasonable doubt.

H.R. 3336 additionally limits the testimony of expert witnesses by prohibiting expert opinion on whether the defendant meets the legal definition of insanity. This should severely limit the confusion that results when the prosecution and defense offer conflicting psychiatric testimony.

The bill establishes Federal commitment procedures for persons found not responsible by reason of insanity that ensure that the court can protect the public safety by controlling the treatment and the release of the persons committed. Moreover, a defendant who is acquitted of a violent crime because of insanity is presumed to be appropriate for commitment. There are currently no Federal procedures, outside the District of Columbia, for committing a person found not guilty by reason of insanity. It is left to the States to undertake commitment procedures concerning such a person.

H.R. 3336 takes the same approach as that taken by the other body in its legislation and is supported by the American Psychiatric Association and, in most of its provisions, by the American Bar Association. In addition, the administration supports the basic definition of the defense, the shifting of the burden of proof, the limitation of expert testimony, and the establishment of commitment procedures, although it disagrees with some of the specific procedures set forth in the legislation.

Mr. Speaker, H.R. 3336 will prevent abuses of the insanity defense and protect the public from dangerous persons without abandoning the fundamental principle of our legal system that moral culpability is a prerequisite to criminal responsibility. I urge support for the bill.●

● Mr. PORTER. Mr. Speaker, the House leadership has been blatantly irresponsible in its approach to anticrime legislation in the 98th Congress; 3 weeks before the scheduled end of the session, after over 1 year of waiting, the House is forced to consider unamendable and highly controversial legislation dealing with sentencing reform and the insanity defense.

Although I do not fully support all components of the President's crime-control package (H.R. 2151) in general, that legislation better addresses the credibility problems facing our criminal justice system than the alternatives offered today. These problems include sentencing reform and the insanity defense. This effort to bring up specific sections of the package under suspension of the rules is a political ploy proving that the House leadership is uninterested in implementing important judicial reforms necessary to combat crime.

Both H.R. 6012, the sentencing reform measure, and H.R. 3336, the insanity defense bill, are seriously flawed. There are significant differences between these bills and the corresponding reforms contained in title II and title IV respectively of the President's anticrime package. In my opinion, the differences are irreconcilable, especially within the limited time remaining in this session.

The sentencing reform measure before this body today, rather than simplify and streamline sentencing procedures, complicates and extends the sentencing process. Although this legislation appropriately calls for the establishment of a Sentencing Guidelines Commission as part of the Judicial Conference of the United States, H.R. 6012 does not effectively solve our sentencing disparity problems.

This sentencing bill, which calls for a presentence hearing and allows defendants, after being convicted, to subpoena and cross-examine witnesses, prolongs the sentencing process and makes it less efficient. It does not address the critics concerns that our sentencing rules, rules which are so often a subject of embarrassment, are inconsistent. Although it provides for the development of sentencing guidelines, it requires imposition of the least severe appropriate sentence, making a mockery of the guidelines. I therefore urge my colleagues to reject this alternative.

H.R. 3336, the insanity defense bill, is equally unacceptable. Although the insanity defense must be redefined, this bill contains a complex and unprecedented procedure for commit-

ment of those aquitted based on insanity. This procedure favors allowing insanity aquittees to be released pending a decision regarding their commitment.

H.R. 3336, however, does include one provision contained in a bill, which I introduced on May 10, 1983 (H.R. 2964), to establish stricter standards for use of the insanity plea. This provision shifts the burden of proof of insanity from the prosecution to the defense.

But this one component of the bill does not compensate for the serious shortcomings of this legislation. The legislation which I introduced would allow for the plea and verdict of guilty but mentally ill to show that an aquittal based on insanity does not mean that the defendant did not commit a crime. H.R. 3336 does not acknowledge guilt, it simply and softly allows a new verdict of not responsible only by means of insanity.

Finally, my bill would restrict the limits of the insanity defense by establishing the McNaughton rule, or the right-from-wrong test, as the uniform test for defining the insanity defense's parameters. H.R. 3336 almost jokingly defines insanity as out of touch with reality in a major and obvious way. Although I believe that the insanity defense should be retained in a highly limited form, it should be severely curtailed so that it is not abused. H.R. 3336 does not go far enough to eliminate the abuse of this defense.

In addition to the insanity bill, I introduced two other anticrime measures in the 98th Congress. The first allows judges, when making descisions regarding pretrial detention, to consider the danger the accused may pose to society. The second bill would amend the United States Code to require mandatory additional sentencing for criminals convicted of using a firearm or any deadly weapon in the commission of a felony. Both bills, which address specific and necessary reforms in our criminal justice system and Code, have virtually died in the House Judiciary Committee. Instead, the committee has brought us two highly selective anticrime measures for us to vote up or down on.

I am a cosponor of the gentleman from California's [Mr. LUNGREN] bill, the Crime Control Act of 1984, which embodies those sections of the President's Comprehensive Crime Control Act concerning reform of our bail laws, the exclusionary rule, habeas corpus, and the death penalty. I believe that the issue of crime is serious enough to warrant thorough consideration by the House of Representatives, and that House Members should have been provided the opportunity to vote on the President's crime control package which overwhelmingly passed the Senate 91 to 1 on February 2 of this year.

So far, the House leadership has allowed us to consider slightly over one-half of the provisions contained in the President's package. This indicates their poor record on crime. I hope my colleagues will consider the history and conditions of the legislation before us today, and will vote "no" on these inadequate and untimely crime bills.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the Hosue suspend the rules and pass the bill, H. R. 3336, as amended.

The question was taken.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DANGEROUS DRUG DIVERSION CONTROL ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5656) to amend the Controlled Substances Act to strengthen the authority to prevent diversion of controlled substances, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Dangerous Drug Diversion Control Act of 1984".

(b) Whenever in sections 2 through 14 and amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Controlled Substances Act, and whenever in sections 15 through 21 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Controlled Substances Import and Export Act.

SEC. 2. (a) Section 102 (21 U.S.C. 802) is amended by redesignating paragraphs (14) through (29) as paragraphs (15) through (30), respectively, and by adding after paragraph (13) the following:

"(14) The term 'isomer' means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term 'isomer' means the optical, positional, or geometric isomer. As used in schedule II(a)(4), the term 'isomer' means the optical or geometric isomer.".

(b) Paragraph (17) (as so redesignated) of section 102 is amended to read as follows:

"(17) The term 'narcotic drug' means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

"(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

"(B) Poppy straw and concentrate of poppy straw.

"(C) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivaties of ecogonine or their salts have been removed.

"(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

"(E) Ecgonine, its derivaties, their salts, isomers, and salts of isomers.

"(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in suparagraphs (A) through (E).".

(c) Paragraph (a)(4) of schedule II is amended by inserting after "coca leaves" the first time it appears the following: "(including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives)".

SEC. 3. Section 201 (21 U.S.C. 811) is amended by adding a new subsection (h) as follows:

"(h)(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 202 or if no exemption is in effect for the substance under section 505(i) of the Federal Food, Drug, and Cosmetic Act. Such an order may not be issued before the expiration of 30 days from—

"(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

"(B) the date the Attorney General has transmitted the notice required by paragraph (4).

"(2) The scheduling of a substance under this subsection shall expire at the end of one year from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) with respect to the substance, extend the temporary scheduling for up to six months.

"(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

"(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

"(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under subsection (a) with respect to such substance.

"(6) An order issued under paragraph (1) is not subject to judicial review.".

SEC. 4. (a) Section 201(g) (21 U.S.C. 811(g)) is amended by adding at the end the following:

"(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this title if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

"(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

"(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.".

(b) Section 202(d) (21 U.S.C. 812(d)) is repealed.

SEC. 5. Section 302(a) (21 U.S.C. 822(a)) is amended to read as follows:

"(a)(1) Every person who manufactures or distributes any controlled substance, or who proposes to engage in the manufacture or distribution of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

"(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation, determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.".

SEC. 6. Section 303(f) (21 U.S.C. 823(f)) is amended to read as follows:

"(f) The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedules II, III, IV, or V, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration if he determines that the issuance of such registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

"(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

"(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

"(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

"(5) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedules II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a). Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 7. Section 304(a) (21 U.S.C. 824(a)) is amended—

(1) by inserting before the period in paragraph (3) the following: "or has had the suspension, revocation, or denial of his registration recommended by competent State authority"; and

(2) by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding after paragraph (3) the following:

"(4) has committed such acts as would render his registration under section 303 inconsistent with the public interest as determined under such section.".

SEC. 8. Section 304 (21 U.S.C. 824) is amended by adding at the end the following:

"(g) The Attorney General may, in his discretion, seize or place under seal any controlled substances owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance seized or placed under seal of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance was seized or placed under seal.".

SEC. 9. (a) Section 307(c)(1)(A) (21 U.S.C. 827(c)(1)(A)) is amended to read as follows:

"(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance treatment or detoxificiation treatment of an individual; or".

(b) Section 307(c)(1)(B) (21 U.S.C. 827(c)(1)(B)) is amended to read as follows:

"(B) to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxificiation treatment of an individual;".

SEC. 10. Section 307 (21 U.S.C. 827) is further amended by adding at the end a new subsection (g) as follows:

"(g) Every registrant under this title shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.".

SEC. 11. (a) The first sentence of section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended by striking out "controlled substance in schedule I or II which is a narcotic drug" and inserting in lieu thereof "controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II".

(b) The first sentence of section 401(b)(1)(B) is amended by striking out "or II".

(c) Paragraph (5) of section 401(b) is repealed and paragraph (6) of such section is redesignated as paragraph (5).

SEC. 12. Section 403(a)(2) (21 U.S.C. 843(a)(2)) is amended to read as follows:

"(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person.".

SEC. 13. (a) Section 503(a) (21 U.S.C. 873(a)) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and" and by adding at the end the following:

"(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

"(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

"(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

"(C) establishing cooperative investigative efforts to control diversion.".

(b) Section 503 is amended by adding at the end the following:

"(d)(1) The Attorney General may make grants, in accordance with paragraph (2), to State and local governments to assist in meeting the costs of—

"(A) collecting and analyzing data on the diversion of controlled substances;

"(B) conducting investigations and prosecutions of such diversions;

"(C) improving regulatory controls and other authorities to control such diversions;

"(D) programs to prevent such diversions;

"(E) preventing and detecting forged prescriptions; and

"(F) training law enforcement and regulatory personnel to improve the control of such diversions.

"(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 percent of the costs for which the grant is made, and no grant may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it

will obligate funds to meet the remaining 20 percent of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

"(3) To carry out this subsection there is authorized to be appropriated $6,000,000 for fiscal year 1985 and $6,000,000 for fiscal year 1986.".

SEC. 14. Section 511(a) (21 U.S.C. 881(a)) is amended by adding at the end the following:

"(7) All controlled substances which have been possessed in violation of this title.".

SEC. 15. Section 1002(a)(1) (21 U.S.C. 952(a)(1)) is amended to read as follows:

"(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and".

SEC. 16. Section 1002(a)(2) (21 U.S.C. 952(a)(2)) is amended by striking out "or" at the end of subparagraph (A), by adding "or" at the end of subparagraph (B), and by adding the following after subparagraph (B):

"(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses,".

SEC. 17. Section 1002(a)(2) (21 U.S.C. 952(b)(2)) is amended to read as follows:

"(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.".

SEC. 18. Section 1003(e) (21 U.S.C. 953(e)) is amended to read as follows:

"(e) It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substances in schedule V unless—

"(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination for consumption for medical, scientific, or other legitimate purposes;

"(2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and

"(3) in the case of a nonnarcotic controlled substance in schedule IV or V which is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.".

SEC. 19. Section 1007(a)(2) (21 U.S.C. 957(a)(2)) is amended to read as follows:

"(2) export from the United States any controlled substance in schedule I, II, III, IV, or V,".

SEC. 20. Section 1008(b) (21 U.S.C. 958(b)) is amended to read as follows:

"(b) Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.".

SEC. 21. Section 1008 (21 U.S.C. 958) is further amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively, and—

(1) by inserting after subsection (c) the following new subsection (d):

"(d)(1) The Attorney General may deny an application for registration under subsection (a) if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a)) and with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

"(2) The Attorney General may deny an application for registration under subsection (c), or revoke or suspend a registration under subsection (a) or (c), if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c)) or with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

"(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, with respect to which grounds for revocation or suspension exist.

"(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States.

"(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

"(6) In the event that the Attorney General suspends or revokes registration granted under this section, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 511(e) of the Controlled Substances Act."; and

(2) by striking out "304," in the second sentence of redesignated subsection (e).

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary favorably reports H.R. 5656, the Dangerous Drug Diversion Control Act. The bill was cleared last week by the Committee on Energy and Commerce. This bill includes many provisions originally developed by the administration to improve the Controlled Substances Act. These provisions were included in the President's package sent to Congress in 1983.

At the beginning of this session of the Congress, HAL SAWYER and I introduced these provisions in the House as a separate bill so that they could be carefully examined. Later in the session, most of these provisions passed the Senate as part of the Senate crime package, S. 1762. We held a detailed hearing on the provisions, as did the Subcommittee on Health and the Environment, and we carefully examined many submissions for the record.

The bill we have before us today is a carefully developed bill, one that enjoys the support of all affected parties, and the administration.

This bill addresses one of the most critical areas of drug abuse, the abuse of prescription drugs. Prescription drugs are responsible for close to 70 percent of the deaths and injuries due to drug abuse. But I am sorry to say this aspect of drug abuse, the diversion problem, has often failed to get the societal or the enforcement attention that it deserves.

The bill raises the penalties for criminal offenses relating to manufacturing or distributing schedule II nonnarcotic drugs such as amphetamines and barbiturates. This will encourage prosecutors to take more cases involving these drugs.

The bill provides an expedited procedure to control chemicals that mimic the effects of hallucinogenic drugs, such as PCP, if these substances pose an imminent hazard to the public health. Legitimate drugs and investigational new drugs could not be sched-

uled or rescheduled under this procedure.

The bill gives to DEA greater latitude to suspend or revoke the registration of a practitioner and dispenses drugs in a manner that threatens the public health and safety.

The bill provides a program to assist States, which have the principal responsibility for licensing physicians, pharmacists, and other medical practitioners, in taking steps that will counter diversion at the State level.

The bill includes many provisions of a housekeeping nature to improve the administration of the system of control. For example, the bill allows the period of registration for practitioners to be extended from 1 year to 3 years. This eliminates a great deal of paperwork to the private sector and to the Government. Seven years ago, DEA estimated that at least $700,000 would be saved annually by the Government by this change alone, and I imagine that the annual savings would be even greater now.

Many Members have contributed to the development of this legislation. In particular of course, the gentleman from Michigan [Mr. SAWYER], the distinguished ranking member of the subcommittee has been of significant help in fine tuning this legislation. I want to commend the gentleman from New York [Mr. FISH], the ranking Republican of the full Judiciary Committee, for his valuable assistance. I want to thank the gentleman from New Jersey [Mr. RODINO], the distinguished chairman of the full committee, for his invaluable assistance.

I want to thank the gentleman from Michigan [Mr. DINGELL], the gentleman from North Carolina [Mr. BROYHILL], the gentleman from California [Mr. WAXMAN], and the gentleman from Illinois [Mr. MADIGAN], for their cooperation in helping to bring this bill to the floor today.

I might say that the staff over at the Drug Enforcement Administration has been extremely helpful, as well as our own personal staff on the Subcommittee on Crime.

This is a good bill. I do not think it is controversial in the slightest. I think it is going to be a major new significant initiative in our efforts to combat drug trafficking of all kinds, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the misuse of legitimately manufactured drugs in my home State of Michigan is reaching epidemic proportions. The latest ARCOS—Automated Reports of Consumated Orders Systems of DEA—figures reveal a dramatic increase in the purchase of ritalin and codine, rating Michigan No. 1 per capita in the country. ARCOS data indicates that the Detroit area received 35 percent of the national distribution for methaphitimine and unreasonably high percentages of several other prescription drugs.

Diversion is the connotation for the various means by which legitimate medical controlled substances are diverted from proper use to improper use. Invalid prescriptions and pharmacy robberies are two types of retail level diversion. While much of the drug enforcement focus has been placed on the interdiction of improperly imported substances, the problem of domestic diversion has quietly grown to staggering proportions.

During the period 1980 through 1982, between 60 and 70 percent of all controlled substances mentioned in the Drug Abuse Warning Network System [DAWN] report involving death or injuries were attributed to legitimately manufactured prescription drugs. Abuse of prescription drugs through diversion at the manufacturing and distribution levels are severely curtailed under current law by DEA. The vast majority of diversions occur at the retail level. The recently released 1981, National Narcotics Intelligence Consumers Community [NNICC] report states:

Most narcotic and depressant substances are obtained through prescription fraud, overprescription and diversion from the legitimate diversion system.

In my State, this has become such a serious problem that one of the local prosecutors in the Flint area, Genessee County, Bob Wiess, has made it virtually a crusade and has testified before our committee as to the alarming facts.

There is high profit incentive for diversion. Dilaudid, a synthetic heroin which is used as a pain killer, normally sells for 25 cents a pill. On the street as a diverted drug, one dilaudid pill sells for between $40 and $60.

That gives you some appreciation of the incentive of unconscionable people who become involved. Because these pills have an even greater potential for physical injury and danger, they involve more than half of the hospital entries for illegal use and overdose of drugs.

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This bill goes to a considerable degree to give the DEA or the Drug Enforcement Administration tools with which to combat this problem.

Nonmedical use of prescription controlled substances is second only to marijuana and hashish. In 1981, between 400 and 600 million dosage units of dangerous drugs were consumed, which were supplied primarily by means of diversion. These figures are startling.

We cannot adequately address the problem of drug abuse without concentrating on the abuse of legitimately manufactured prescription drugs. For this reason, I joined Mr. HUGHES in cosponsoring H.R. 5656, the Dangerous Drug Diversion Control Amendments of 1984. This bill provides the Drug Enforcement Agency with the necessary tools to join State agencies in reducing diversion.

For these reasons, I urge your support for H.R. 5656.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York, the ranking member on the full committee.

Mr. FISH. I thank the gentleman for yielding.

Mr. Speaker, I would also like to thank the chairman of the subcommittee for his kind words about the rest of us and our contribution to this legislature. I certainly endorse everything the gentleman in the well has said. I think this address is a very serious problem of diversion of drugs.

The model for this drug diversion proposal before us today was contained in the President's Omnibus Crime Control Act introduced some year and a half ago. I urge prompt adoption of this bill.

Mr. Speaker, most of us envision the importation of heroin and cocaine when we think of drug trafficking and abuse. This Nation, however, is facing a serious internal problem with the abuse of legitimately manufactured medical substances. These controlled substances are diverted from the proper distribution chain to the streets where they are sold at premium prices for drug abuse purposes.

The President's Comprehensive Crime Control Act (H.R. 2151), which I sponsored in March of 1983, contains the model for the drug diversion proposal before this body today.

The most serious diversion problem today exists at the retail level. States have primary responsibility for the licensing of physicians and pharmacists. State policing of these activities, as well as peer review within the profession, have not been adequate control measures. State laws regarding the dispensing of controlled substances are also inadequate. Through investigations, DEA has obtained evidence to arrest and convict physicians, pharmacists, and operators of "stress clinics" for drug trafficking. Investigation of these retail level diversions, however, does not provide an adequate response to the diversion problem. For this reason, diversion amendments were added to the President's Comprehensive Crime Control Act and should be adopted by this body today.

At full committee, I offered an amendment which was adopted to delete two regulatory sections involv-

ing the importation of controlled substances. These sections make minor changes to existing law without deleting existing law and therefore appeared contradictory. DEA recommended the deletion of the two sections, and I am happy to have contributed to the progress of this bill.

I also offered an amendment to ensure that we would have the benefit of public comment in hearings on DEA decisions regarding new applications to import controlled substances. I believe these amendments helped to make H.R. 5656 a better bill, and I am happy to support it.

Mr. HUGHES. Mr. Speaker, I yield myself such additional time as I may consume.

Mr. Speaker, I just want to say to the Members of the House that with the passage of this bill—and I think that its passage is assured at this point—that this will have been the 11th crime measure that we have passed out of the Subcommittee on Crime. My distinguished ranking member can correct me if I am wrong: The President signed five of the bills that already have come out of the Subcommittee on Crime. With the passage of this bill, I think it will be six additional bills that we have sent to the Senate. I believe we are trying to informally conference about four, now five bills, with the other body. It is my hope that this week or next week we will get to the armor-piercing bullet bill, which will have been the 12th bill that would have come out of our subcommittee, and pass that through the regular process.

The career criminal bill we reported today out of our full committee, I hope to be able to schedule, if the distinguished gentleman from Michigan is agreeable, next Monday, and that will be the 13th crime bill that we have reported out. I want to say to my colleagues that I do not remember when so many crime bills have been reported out of a subcommittee in a single term dealing with so many substantial aspects of the criminal justice system.

We hear a great deal about crime, but I want to say to my colleague, who is retiring this year, I appreciate our excellent bipartisan relationship. I think one of the reasons why we have had such success in passing anticrime legislation out of the Subcommittee on Crime is because we have had a true partnership.

We have had a meeting of the minds. The gentleman is a distinguished former district attorney from Grand Rapids, MI, who brings to the subcommittee great expertise. I want to tell the gentleman I appreciate his tremendous cooperation.

Today, in full committee, we saw that cooperation in full bloom, and I am satisified that we would not be sending the President all the crime legislation that we have sent the President in these last 4 years that the gentleman and I have been in charge of the Subcommittee on Crime without that kind of bipartisanship. I thank the gentleman.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to return the compliments to the chairman of the subcommittee. I hope we do not stop on bill No. 13, not because I am superstitious, but I prefer to make it 14 if we can find a way.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman.

Mr. HUGHES. I think it would be the bail reform bill that we are going to pass in another week; that would be the 14th bill. Why do we not take credit for that, too?

Mr. SAWYER. That would be fine. I may say that this subcommittee, not just the chairman and myself, but virtually all of the members have approached these problems of crime on a very bipartisan way. Certainly neither the Republicans nor the Democrats have either any monopoly on them or any monopoly on the fight against them. We have been able to operate pretty much by consensus. I do not remember very many bills where even any member of the subcommittee was upset over the bill or opposed bills that we have brought to the floor.

As a matter of fact, the only time that we ran into problems like that would be a time when we were on suspension or something like that and somebody objected that it be handled in that manner on the calendar. By and large, it has been a very pleasant way for me to end my 8 years here in the House. I think we have accomplished a lot, and hopefully, we will on through the end.

Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding me this time.

Mr. Speaker, I will not take the 3 minutes. I simply want to express my support for this bill. This bill was considered in the Energy and Commerce Committee. At that time, I added what I thought was a significant amendment to the bill, and I am happy to see that the Judiciary Committee saw fit to retain that amendment. We will now have a good listing of the dangerous drugs that are in danger of being diverted. I support the bill, and congratulate the gentleman from New Jersey [Mr. HUGHES], the gentleman from Michigan [Mr. SAWYER], and the gentleman from California [Mr. WAXMAN]. I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, you know, one of the things that we hear a lot about and will hear about today is heroin and cocaine. These drugs have a great deal of sex appeal, but it is interesting that those are not the drugs that take the lives day-in and day-out, like the prescription drugs that are being diverted into the illicit market. I am talking about the drugs that are prescribed by physicians. Those are the drugs, according to reports, that account for about 60 percent of the overdoses each year and are taking the lives; they are the ones found in the schoolyards throughout America.

It is not heroin, which is a serious problem in itself, or cocaine, or all the other drugs, it is the controlled substances that are being diverted by the thousands to our children. I know that my distinguished colleague from Michigan has some concerns about his area of the country, where we seem to have a tremendous amount of prescription drugs being diverted into the illicit market. One of the things that I am hopeful we will do in this legislation is, once again, revive the Diversion Investigative Units that have done such a tremendous job of identifying the problems throughout the country.

You know, we have done such a good job with the Diversion Investigative Units in identifying the problem areas of the country that OMB thought it wise to do away with the Diversion Investigative Units. It was so successful that we did away with them. So in this legislation, hopefully, we will again revive those DIU's in various parts of the country so we can begin again leveraging precious Federal resources with local resources to get at the drugs that are found in the schools and in the playgrounds, where the young people are experimenting with these types of drugs.

Mr. Speaker, it is an important bill. I think the legislation will be one of the pieces of legislation we can point to, as we did in the last Congress, with the modification of the Posse Comitatus law, and the forfeiture bill that we have passed in this Congress, as bills that will make a difference in our effort to combat drug trafficking.

Mr. Speaker, I have no more request for time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to make it clear that this diversion problem does not primarily involve the medical profession. Many people have become sort of artists in knowing what the symptoms are that will get a certain kind of prescription. They will go from doctor to doctor reciting these series of symptoms, thereby getting the prescription. Then they get a number of doctors, sometimes a number in different communities, refilling prescriptions at reasonable lengths of time, and then taking either the prescriptions out and

selling them or the drugs they get on the prescription.

Also, a number of these drugs get out onto the market through less than honorable clinics that are holding themselves out as clinics but actually become minidrug distribution centers. It is a very serious problem, and as the chairman of the subcommittee said, these pills have perhaps more of a lethal or damaging effect than do the imported drugs, which is evidenced by the fact that about 60 percent of all drug-related cases reporting to emergency rooms in the hospitals come from these kinds of legitimate drugs that are placed out in the illegitimate market and sold on the street.

Mr. HUGHES. If the gentleman would yield to me, I think the gentleman makes a good point.

One additional point. The President has already signed a pharmacy robbery bill that was considered just a few moments ago and that is directed at the diversion of these prescription drugs into the illicit market by those that burglarize pharmacies, warehouses who, in fact are engaged in acts of theft against those who transport these controlled substances.

So there is a great deal of diversion that takes place through theft and as the gentleman well knows, one of the bills that we drafted this year will provide a new Federal presence for the Federal Government, and try to identify those individuals who are involved in the rings around this country who are robbing pharmacies and warehouses and serve notice on that criminal element that in addition to invoking the strong law enforcement sanctions, the Federal Government will also have a presence into those cases where it is appropriate for the Federal Government to investigate.

Mr. SAWYER. Mr. Speaker, if I may also state, the problem we are dealing with here in this drug diversion bill ought to provide a good warning to get negative votes against the move to make heroin distribution through legitimate channels on the basis that it supposedly is a superior pain killer for terminal cancer patients.

Goodness knows, if we can milk this many of these drugs, some of them somewhat obscure, out of the legitimate distribution channels, I hate to think what would happen if we put heroin in those same channels.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 5656, the Dangerous Drug Diversion Control Act of 1984. The bill amends the Controlled Substances Act to attempt to prevent the diversion of controlled substances from legitimate channels of medical distribution and administration to illegitimate channels for purposes of abuse. Evidence suggests that prescription drugs diverted by legitimate medical distributors to the illicit drug market accounts for about three-fourths of deaths and injuries due to drug abuse.

In order to correct this type of activity the bill amends the Controlled Substances Act to make it easier for the Drug Enforcement Administration [DEA] to suspend or revoke the authority of physicians and pharmacists who write or dispense prescriptions in a way that is threatening to the public health or safety. In addition, the bill raises penalties for diversion of drugs to illegal markets from 5 to 15 years in prison for the first offense; the 10-year maximum prison term for a second offense is increased to 30 years. Fines for first and second offenses are increased from $15,000 to $30,000 and from $25,000 to $50,000 respectively.

The bill also authorizes a total of $6 million in Justice Department grants to State and local govenments in fiscal years 1985 and 1986 for programs to prevent the diversion of illicit drugs. The bill also permits the importation of certain narcotic raw materials to be used for medical, scientific, and other legitimate purposes, and authorizes the Justice Department to allow the importation of controlled substances for exclusively scientific, analytical, or research uses.

Finally, the bill establishes a new expedited procedure allowing the Justice Department to temporarily place drugs with no current accepted medical use, and which pose a hazard to the public health, on the list of controlled substances.

Mr. Speaker, as the ranking minority member of the Select Committee on Narcotics Abuse and Control, I am all too aware of the dangerous impact of physicians who sell dangerous prescription drugs; and physicians who are duped into writing dangerous prescription drugs for their patients. These practices result in the diversion of close to 1 million doses of dangerous drugs per year. The bill would not only provide assistance to States in monitoring illegal drug distribution practices, but would also allow State agencies to recommend that a doctor be denied authority to write prescriptions for controlled substances while on probation, without losing the right to practice medicine.

I believe these are important steps which must be undertaken, and I urge my colleagues to join in support of this bill.

● Mr. RODINO. Mr. Speaker, I rise in strong support of H.R. 5656, the Dangerous Drug Diversion Control Act. This bill is a well drafted bill that will help us to stop the flow of valuable and important medicines away from the patients who need them into the hands of drug addicts and others who abuse drugs.

We all have read the reports of the hundreds of persons who die each year as a consequence of heroin overdoses. Yet because the news stories are not as prominent, and the names of the drugs are often hard to pronounce, we sometimes are not fully aware of another even more serious aspect of the drug abuse problem. This problem, often called the diversion problem, because drugs are diverted from the sick and injured to the black market, is responsible for 70 percent of the deaths and injuries due to all drug abuse. Fifteen of the twenty most commonly abused drugs were originally made by legitimate pharmaceutical manufacturers for use under a doctor's order.

Our system of controls for legitimate drugs is not working as well as it should. It is to address this problem that H.R. 5656 has been developed.

This bill is based on the 14 years of experience that we have in the administration of the Controlled Substances Act and the Controlled Substances Import and Export Act. H.R. 5656 makes numerous improvements in those statutes to strengthen our ability to control the legitimate distribution of drugs within the United States and in international commerce.

In addition, the bill will enable us to rapidly control newly developed chemicals, sometimes called designer drugs, that are similar to controlled drugs but are not used in medicine, when these drugs pose an imminent hazard to the public health.

This bill provides a system that will improve our ability to treat the small numbers of physicians or pharmacists who have become addicted to narcotics and are not up to the responsibility of dispensing these powerful drugs. The committee has included a provision to encourage the State regulatory authorities to recommend suspension, when warranted, of the Federal registration to prescribe controlled substances as an alternative to taking away the license to practice medicine.

The bill has other provisions to help the States undertake efforts to control the problem of diversion that are within their responsibility.

I am pleased to say that this bill has the support of the medical community and the pharmaceutical industry, as well as of the administration, and I urge its adoption.●

● Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 5656, the Dangerous Drug Diversion Control Act of 1984, and commend WILLIAM HUGHES, chairman of the Crime Subcommittee, and HENRY WAXMAN, chairman of the Subcommittee on Health and the Environment, for their efforts in bringing this important piece of legislation to the House floor. Prescription drug diversion has become more prevalent in recent years, and H.R. 5656 contains several provisions which should prove useful in limiting the diversion of prescription drugs.

H.R. 5656 would create a procedure for emergency scheduling of sub-

stances which pose an imminent hazard to the public health. The Attorney General could exercise this emergency scheduling authority only in cases of substances which have no currently accepted medical use in the United States. The purpose of this change is to permit the control of so-called designer drugs which are new chemical analogs or variations of existing controlled substances that have a high potential for abuse. Examples of such drugs are PCE and PHP, clandestinely manufactured analogs of the powerful hallucinogen PCP.

The bill includes a provision that emergency scheduling procedures may not be used to schedule a drug that is already scheduled under the Controlled Substances Act or for an investigational new drug. I support this provision which further clarifies the scope of the Attorney General's emergency scheduling authority.

The bill would provide that the Attorney General could deny, suspend, or revoke the registration of a practitioner if he proves that the registration is inconsistent with the public interest. At present, Federal enforcement action against the diversion of legitimate drugs is restricted by virtue of the limited authority DEA has to deny or revoke the registration of practitioners.

Under current law, DEA must register physicians, pharmacies, or other practitioners if they are authorized to dispense drugs by the law of the State in which they practice. The only grounds upon which the DEA may deny or revoke a registration are if the registrant: First, materially falsifies an application; second, has been convicted of a drug-related felony; or third, has had a State registration suspended, revoked, or denied. The public interest standard added by H.R. 5656 will provide greater flexibility to deny or revoke registrations in the most egregious cases. DEA would have to initiate an action and sustain the burden of proof in an appropriate administrative hearing.

Mr. Speaker, a recent series of articles in the New York Daily News revealed that some unscrupulous doctors in New York City were prescribing potent narcotics for addicts who would then use the drugs or resell them to obtain money to buy heroin. Enactment of the public interest standard in H.R. 5656 would enable the Drug Enforcement Administration to revoke the registration of those physicians who engage in that type of medical practice.

Under H.R. 5656, persons such as physicians and pharmacists who dispense controlled substances could be registered for up to 3 years, instead of for just 1 year as present law allows. This change would streamline the drug registration process and greatly alleviate the paperwork burden on DEA. Manufacturers and distributors of controlled substances would still be required to register annually.

The bill provides that the Attorney General could, in his discretion, seize or place under seal any controlled substances owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. This authority should assist the Attorney General to further control prescription drug diversion.

H.R. 5656 also increases the penalties for violations involving schedule II, nonnarcotic substances, such as amphetamines and barbiturates. The maximum prison term would be raised from 5 years to 15 years for a first offense and from 10 years to 30 years for a subsequent offense. Penalties for PCP violations also would be raised from 10 years to 15 years for a first offense and from 20 years to 30 years for a second offense. The increased prison terms under H.R. 5656 would be the same as the highest penalties that apply for violations involving drugs such as heroin, cocaine, and marijuana.

Finally, the bill authorizes the Attorney General to make grants to States and local governments for activities that will enable States to better control prescription drug diversion. Funds for this program would be authorized for fiscal year 1985 and fiscal year 1986 at not more than $6 million a year. Grant recipients would be required to provide at least a 20-percent cash match.

Passage of H.R. 5656 should significantly increase the ability of the Drug Enforcement Administration to control prescription drug diversion. I urge my colleagues to support the bill.●

● Mr. FEIGHAN. Mr. Speaker, I rise today in strong support of the Dangerous Drug Diversion Control Act, H.R. 5656, which I cosponsored. This bill will prevent the diversion of prescription drugs to illicit markets. It gives the Drug Enforcement Administration the tools it needs to stop physicians who write prescriptions or pharmacists who dispense drugs in a manner that threatens public health or safety.

Evidence clearly shows that prescription drugs, diverted from legitimate channels to the illegal drug market, are responsible for three-fourths of the deaths and injuries due to drug abuse. The problem was brought to my attention by Judge Ann McManamon, one of the most highly respected jurists in the State of Ohio. She wrote me that, from her vantage point on the bench, controlling pharmaceuticals was one of the most important and valuable steps the Congress can take to halt the flow of illicit drugs and apprehend the purveyors of poison. Judge McManamon stated that it was the pharmaceutical trade which was obviously providing stocks for illicit sales. Statistics back her up.

Therefore, I urge my colleagues to help put an end to the needless slaughter of our citizens brought about by the improper or illegal dispensing of prescription drugs. Vote in favor of H.R. 5656.●

Mr. SAWYER. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5656, as amended.

The question was taken.

Mr. NIELSON of Utah. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. HUGHES. There was no objection.

STRATEGIC PETROLEUM RESERVE RELIABILITY IMPROVEMENT ACT

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3380) to amend the Energy Policy and Conservation Act with respect to the strategic petroleum reserve by requiring testing of drawdown and distribution of the reserve, as amended.

The Clerk read as follows:

H.R. 3880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Strategic Petroleum Reserve Reliability Improvement Act".

TEST DRAWDOWN AND DISTRIBUTION

SEC. 2. (a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding the following new subsection at the end thereof:

"(g)(1) In order to evaluate and improve the Strategic Petroleum Distribution Plan and its implementation, the Secretary, notwithstanding any other provision of this Act—

"(A) shall, commencing within 180 days after the date of the enactment of this subsection, carry out a test drawdown and distribution under this subsection of approximately 1,100,000 barrels of petroleum product from the Reserve; and

"(B) may periodically carry out other test drawdowns and distributions of the Reserve under this subsection.

The requirement of subparagraph (A) shall not apply if the President determines, within the 180-day period described in such subparagraph, that implementation of the Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.

"(2) The Secretary shall carry out any such drawdown and distribution in accordance with the Strategic Petroleum Distribution Plan and implementing regulations and contract provisions, modified as the Secretary considers appropriate taking into consideration the artificialities of a test and the absence of a severe energy supply interruption. In order to meet the requirements of subsections (d) and (e)(1) of section 159, any such modification of the Plan, along with explanatory and supporting material, shall be transmitted to both Houses of the Congress no later than 15 calendar days prior to the offering of any petroleum product for sale under this subsection, and paragraph (2) of section 159(e) shall not apply to any such modification.

"(3) In carrying out the test drawdown and distribution required by paragraph (1)(A), the Secretary may not sell any petroleum product to any Federal agency, as defined in section 551(1) of title 5, United States Code.

"(4) In carrying out the test drawdown and distribution required by paragraph (1)(A), the Secretary may not sell any petroleum product under this subsection at a price less than that which the Secretary determines appropriate and, in no event, at a price less than 90 percent of the sales price, as estimated by the Secretary, of comparable petroleum product being sold in the same area at the time the Secretary is offering petroleum product for sale in such area under this subsection.

"(5) The Secretary may cancel any offer to sell petroleum product as part of a test under this subsection if the Secretary determines that there are insufficient acceptable offers to purchase such product.

"(6)(A) The minimum required fill rate in effect for any fiscal year shall be reduced by the amount of any oil drawn down from the Reserve under this subsection during such fiscal year.

"(B) Within the 12-month period beginning after the completion of each test drawdown and distribution carried out under this subsection, the Secretary shall acquire petroleum product for the Reserve in an amount equal to the total amount of petroleum product sold pursuant to such test drawdown and distribution, but amounts expended in such acquisition shall not exceed amounts approved in appropriation Acts for acquisition of petroleum product for the Reserve, and such acquisition shall be in addition to any acquisition of petroleum product for the Reserve required as part of a fill rate established by any other provision of law.

"(7) Rules, regulations, or orders issued in order to carry out this subsection which have the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, shall not be subject to the requirements of subchapter II of chapter 5 of such title.

"(8) The Secretary shall transmit to both Houses of the Congress a detailed explanation of any test carried out under this subsection. Such explanation may be a part of any report made to the President and the Congress under section 165.".

(b) Section 161(b) of such Act (42 U.S.C. 6241(b)) is amended by striking out "in subsections (c) and (f)" and inserting in lieu thereof "otherwise in this section".

STUDY OF SALE OF OPTIONS

SEC. 3. (a) The Secretary of Energy shall, within 180 days after the date of enactment of this Act, conduct and complete a study reviewing the feasibility of sales of options for crude oil in the Strategic Petroleum Reserve in advance of a severe energy supply interruption.

(b) In carrying out such study, the Secretary shall, after consultation with interested parties, analyze—

(1) the appropriate level of crude oil that should be made the subject to such option sales;

(2) the prices at which such options should be sold; and

(3) the frequency at which sales of options should take place.

(c) The Secretary shall, not later than at the end of the 180-day period described in subsection (a), transmit a report to each House of the Congress of the findings and conclusions made as a result of the study carried out under subsection (a), along with any recommendations for legislation as may be necessary to implement an options sales program.

STUDY OF PROGRAM TO ACCEPT OIL AS SECURITY FOR EXPORT LOANS

SEC. 4. (a) The Secretary of Energy shall, within 180 days after the date of enactment of this Act, conduct and complete a study concerning the feasibility of establishing a program whereby the Secretary of Energy, or another component of the Department of Energy, would be authorized—

(1) accept crude oil offered by a country or other entity as security for financing made available to such country or entity by a public or private institution to finance the purchase of exports of products and commodities produced in the United States; and

(2) acquire such crude oil for the Strategic Petroleum Reserve, in the case of a declaration by the President of a severe energy supply interruption under section 161(d) of the Energy Policy and Conservation Act, at a price not to exceed the average refiner acquisition cost for crude oil in effect 30 days before the date of such declaration.

(b) In carrying out such study, the Secretary shall analyze the degree to which exports from the United States could be assisted by the program described in subsection (a) and the degree to which crude oil could be made available for the Strategic Petroleum Reserve through the implementation of such program, especially with respect to countries which are significant exporters of crude oil but which have had their purchasing power reduced by monetary problems.

(c) The Secretary shall, not later than at the end of the 180-day period described in subsection (a), transmit a report to each House of the Congress of the findings and conclusions made as a result of the study carried out under subsection (a), along with any recommendations for legislation.

STUDY OF UTILIZATION OF PRIVATE STORAGE FACILITIES FOR STORAGE OF SPRO PETROLEUM PRODUCTS

SEC. 5. (a) The Secretary of Energy shall, within 180 days after the date of enactment of this Act, conduct and complete a study of the feasibility of utilizing private-sector storage facilities for the purpose of storing petroleum products which are obtained for the Strategic Petroleum Reserve, with a special emphasis on utilizing existing facilities which have an access to existing deepwater ports and to existing distribution pipelines.

(b) The Secretary shall, not later than at the end of the 180 day-period described in subsection (a), transmit a report to each House of the Congress of the findings and conclusions made as a result of the study carried out under subsection (a), along with any recommendations for legislation which the Secretary deems appropriate as a result of conducting such study.

STUDY OF COMPARATIVE ENERGY BENEFITS TO BE DERIVED FROM FINANCING THE STRATEGIC PETROLEUM RESERVE AND THE SYNTHETIC FUELS CORPORATION

SEC. 6. (a) The Secretary of Energy shall, within 180 days from the date of the enactment of this Act, conduct a study of the comparative benefits to be derived from financing the acquisition of petroleum products for the Strategic Petroleum Reserve (hereinafter referred to as the "Reserve") and from financing, through the Synthetic Fuels Corporation (hereinafter referred to as the "Corporation"), the production of synthetic fuels.

(b)(1) In conducting such study, the Secretary shall carry out a cost-benefit analysis which shall include—

(A) a comparison of—

(i) the number of barrels of crude oil which could be added to the Reserve with the amount of financing available to the Corporation if such crude oil is obtained at the average refiner acquisition cost of crude oil which the Secretary estimates will be in effect over the period of time it would take the Secretary to purchase and store such crude oil in the Reserve, with

(ii) the amount of synthetic fuel which the Secretary estimates will be produced as a result of the assistance provided by the amount of financing available to the Corporation;

(B) a comparison of—

(i) the time period during which the Reserve could provide, with the crude oil which could be added to the Reserve as described in subparagraph (A)(i), a supply of crude oil in amounts sufficient to offset any reduction in the supply of crude oil during a severe energy supply interruption, with

(ii) the time period during which the amount of synthetic fuels described in subparagraph (A)(ii) could offset any such reduction;

(C) a comparison of—

(i) the time needed to fill the Reserve with the number of barrels of crude oil described in subparagraph (A)(i), with

(ii) the time needed to produce the synthetic fuel described in subparagraph (A)(ii);

(D) a comparison of—

(i) the types of energy needs which could be met as a result of a drawdown and distribution of petroleum product from the Reserve, with

(ii) the types of energy needs which could be met as a result of synthetic fuels pro-

duced with financial assistance from the Corporation;

(E) a comparison of the cost of administering the Reserve with the cost of administering the Corporation; and

(F) any other comparisons which the Secretary determines to be necessary in carrying out a detailed and objective cost-benefit analysis.

(2) In making such comparisons, the Secretary shall make whatever estimates and assumptions are necessary with respect to energy supply and demand, the estimated average refiner acquisition cost of crude oil, the degree of severity of an energy supply interruption, and other factors relevant to such comparisons.

(c) The Secretary shall, not later than at the end of the 180-day period described in subsection (a), transmit a report to each House of the Congress of the findings and conclusions reached as a result of the study carried out under this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. CORCORAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from Illinois [Mr. CORCORAN] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the strategic petroleum reserve [SPR] now holds some 430 million barrels of oil—enough to replace all U.S. crude oil imports for about 100 days.

In the last few years, there have been limited tests of some pumps and other critical machinery at the five SPR sites, and some mock tests of the paperwork involved in auctioning SPR oil to buyers.

But as yet, there has been no full test of the entire SPR system, from start to finish, including:

Announcement by DOE of auction sales of oil.

Bidding by refiners, traders, and others.

Selection of winning bidders on the basis of high bids and compliance with still untested government sales contract requirements.

Shipment of oil out of SPR, through various pipelines, docks, barges and tankers, to the winning bidders.

Refining of SPR crude into usable products, and final sale.

H.R. 3880 requires DOE to carry out this type of start-to-finish test in the next 6 months.

The SPR is our first line of defense against an oil disruption. We have invested almost $18 billion in it over the last decade. We should not wait for an actual disruption to have a test of the SPR auction process, and the considerable paperwork involved in making bids and picking high bidders.

If there are problems in this process we should find out about them now, not later when time may be short.

The industry, the Department of Energy, the National Council of Farmer Cooperatives, the chamber of commerce, and many of us who remain concerned over emergency preparedness, are all in favor of a modest test.

This bill only addresses the test drawdown issue and requires reports on several SPR-related issues. It does not have provisions on more controversial issues such as State preemption, executive reserves, antitrust and conflict-of-interest exemptions, or standby price controls.

Perhaps some Members would prefer to address these other matters. However, time is short: We did not add other matters on to this bill, because that would likely prevent its enactment. Then we would have done nothing to improve our preparations.

Mr. Speaker, I will yield additional time if others request it.

Mr. CORCORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, building up the strategic petroleum reserve is one of the Reagan-Bush administration's most important energy achievements. In 4 years the Carter-Mondale administration managed to put just 91 million barrels of crude oil in the strategic petroleum reserve. This was only enough to provide 13 days of import replacement at 1980 oil import levels. Today the SPR contains 430 million barrels of oil, enough to replace total U.S. imports for more than 100 days.

The very existence of a U.S. petroleum reserve of this size has affected oil prices. Think about it. We have had a tanker war underway in the Persian Gulf for several months. The first attack last spring raised the oil price for the day about 68 cents. The next day the price went back down. Since then, oil has been selling at substantially below official prices. Although OPEC has tried to restrain production, the spot price of oil remains $1 to $1.50 below the official price of $29 per barrel. Many factors are responsible for these soft oil prices, but the knowledge that the Reagan administration has pledged to use the SPR early in the event of any disruption has surely played a role.

The previous administration paid little attention to the need to get SPR oil out of the ground because it had so little success putting very much into the ground. As the SPR grew, however, the need to devote more attention to SPR oil withdrawal and distribution became apparent.

In July 1983, the Department of Energy pumped over 247,000 barrels of oil in a 24-hour period from underground caverns at the Bayou Choctaw storage site to its supporting marine terminal at St. James, LA. In November, over 1 million barrels of oil were pumped from caverns at the Bryan Mound site to above-ground facilities. In both cases, the physical drawdown systems exceeded the goals established for the test.

The ability of the Government to administer properly a drawdown of the strategic petroleum reserve has also been tested. As a result of the Direx-B test done in the summer of 1983, the contractual provisions governing the sale of oil from the SPR in the event of a drawdown were revised and streamlined.

This process of testing and revision must continue as conditions change. The recent acquisition of two oil pipelines which had been available as carriers for SPR oil and their planned conversion to natural gas pipelines presents new difficulties. I am confident that those entrusted with the responsibility to make sure that the SPR works will solve these difficulties just as past problems have been identified and solved.

H.R. 3880 is good legislation because it provides the Department of Energy with the authority to conduct an actual drawdown and sale of strategic petroleum reserve oil, thereby enabling DOE to expand its ongoing testing program. This legislation does not require the DOE to conduct a test if, due to continuing soft oil prices, the test itself would cost taxpayers too much. Nor does this legislation affect the Secretary of Energy's ability to use the reserve in accordance with the drawdown plan devised by the administration.

Although no test can simulate precisely the real thing, testing will help to assure that the SPR can be deployed promptly and effectively should that ever be necessary. The taxpayers who have invested $15 billion in the SPR are entitled to see it maintained in the best possible condition.

Mr. Speaker, I include the following three articles for printing in the CONGRESSIONAL RECORD at this point:

[From the USA TODAY, Sept. 7, 1984]

GASOLINE PRICES TO LEVEL OUT

(By John Reilly)

Gasoline prices will remain flat the rest of the year after falling 2½ cents over the summer, the biggest drop for the peak driving time in 10 years.

Mark Rodekohr, chief of demand analysis for the Energy Information Administration, said: "Because prices didn't go up in the third quarter, I wouldn't expect prices to go down as much as usual in the fourth. They should be flat or maybe slightly down."

Nationally, the average gas price was $1.225 on Labor Day weekend, down 2½ cents from Memorial Day, the American Automobile Association said.

Brisk demand from vacationing motorists usually forces prices up in summer, but a combination of world overproduction of oil, overproduction of gasoline in the USA and stiff retail competition deflated gas prices this year. Even a recent wholesale price hike had little effect on pump prices.

[From the New York Times, Sept. 5, 1984]

HEATING OIL PRICES EXPECTED TO REMAIN LOW

(By Stuart Diamond)

As hints of autumn turn attention to fuel bills, energy experts have good news for consumers of heating oil: Prices are far below last winter's peak and are expected to rise little, if at all, in the coming heating season.

The decline in heating oil prices means that, for the first time in several years, the cost of heating a home with fuel oil in some areas is approaching the lower cost of heating with natural gas.

The cost of gas heating next winter, however, is less certain. Federal price controls for much of the nation's natural gas are due to expire Jan. 1. Estimates of how that will affect home heating costs range from a slight price drop (forecast by some industry experts) to increases of more than 10 percent (forecast by consumer groups).

Recently the wholesale price of crude oil has risen somewhat, and the Organization of Petroleum Exporting Countries has tried to tighten supplies. But neither will cause supply problems or retail price surges for heating oil, the most widely used residential fuel in the Northeast, according to Federal officials and energy experts.

"Supplies of heating oil for this winter should not be any problem at all, even if it is much colder than normal," said W. David Montgomery, director of the Office of Energy Markets and End Use for the *Energy Information Administration.*

"We see prices staying stable, going against the seasonal pattern," he said.

Among reasons for such optimism are the world's oversupply of petroleum and new or expanded sources of heating oil imported from Europe, the Caribbean, South America and the Middle East.

Domestic inventories have rebounded from the record low levels of last spring and are now considered adequate by the majority of energy specialists.

In the last month, wholesale heating oil prices in the spot market (where oil is bought and sold in daily bidding, not by long-term contract) have risen 6 cents a gallon, to 78 cents, but are still 8 cents below their level of May. Retail prices in the New York metropolitan area now average $1.10 a gallon, 20 cents a gallon below last February's peak and about the same as at the beginning of last year's heating season.

Moreover, the normal winter rise in heating oil prices (a rise resulting from increased demand) is not expected to occur this year unless there is especially severe cold weather or a major oil supply disruption, Federal energy officials say. They predict that prices will be unchanged or perhaps go up 2 cents a gallon at most, compared with a rise of 14 cents last winter.

Over all, prices in the coming heating season will be 2 to 8 percent lower than last year, after inflation is taken into account, according to figures supplied by the Bureau of Labor Statistics.

Not everyone is as confident, however. Edwin Rothschild of the Citizen/Labor Energy Coalition, a consumer organization based in Washington, said he is concerned about the recent rise in wholesale prices and reports of efforts by oil-exporting nations and oil companies to tighten supplies.

"There is a process in the market to reduce the supply by artificial means," he declared. "If this winter is colder than normal, it could add up to extra costs for consumers."

PREFERENCES IN HOME FUEL

About 11 million residences in this country, or 13 percent of the total, heat with oil. But in New York State, the State Energy Office says, 32 percent of the residences heat with oil. In New York City the figure is 60 percent, Westchester County 65 percent and Long Island 75 percent, according to industry sources, while in New Jersey it is 45 percent and in Connecticut it is 58 percent.

Fifty-seven percent of residences nationwide heat with natural gas, compared with 51 percent in New York State, according to Federal and state figures.

Most of the rest of the nation's homes heat with electricity, and a few burn wood or coal.

In recent years, oil has fallen out of favor as a source of heat. In 1979, oil prices were double those of natural gas after major oil price increases resulted from the revolution in Iran, an oil exporter. At that time, hundreds of thousands of Americans converted their residential heating systems to gas from oil.

NATURAL GAS PRICE PATTERN

Since then, however, the cost of natural gas has risen substantially, to some extent because of partial decontrol of its price by the Federal Government. Fuel oil prices are still about 20 percent higher than gas, both nationally and in much of New York State. In New York City, however, oil is only 12 percent more costly than gas in the service territory of the Consolidated Edison Company. Oil is 5.8 percent cheaper than gas in the areas served by the Brooklyn Union Gas Company. After adjustment for inflation, present fuel oil prices are at their lowest levels since August 1979.

Heating a home with electricity costs two to three times as much as using natural gas or oil to get the same amount of warmth, analysts say.

"This has got to resore the confidence of all those people who stuck with oil," said Robert B. Lynch, executive vice president of the Empire State Petroleum Association.

The nationwide average retail price of heating oil is now $1.11 a gallon, compared with $1.22 in February, $1.11 last September and $1.15 in September 1982, official sources note.

In the New York metropolitan area, average prices are about $1.10, compared with the $1.30 peak in February. In New Jersey, fuel oil prices are as low as $1.04 a gallon.

"I don't see us getting anywhere near last year's peak," said William F. Kenny, chairman of the Meenan Oil Company, based in Syosset, L.I., and one of the nation's largest local fuel oil dealers. He suggested that prices might rise by 5 or 6 cents a gallon temporarily next winter, but he said they should be relatively stable for the rest of the decade. "I think the era of increasing energy prices is gone," he said.

Energy analysts were concerned earlier this year that next winter's heating oil situation might be much bleaker. Cold weather during the first three months of 1984 spurred demand and caused inventories to fall to record low levels in May.

But refiners increased their output in June and July, and stocks now approach last year's levels. Starting in mid-July, there was a four-week pause in the buildup as dealers worried that world oil prices might plummet leaving them with big losses.

DISTILLATE OIL INVENTORIES

Inventories of distillate oil, which includes heating fuel and diesel fuel for vehicles, were 135.2 million barrels last week, compared with 139.9 million a year ago and 98 million in May, according to the American Petroleum Institute. Analysts expect stock levels to reach 160 million barrels by November, well below the 200 million to 250 million of the late 1970's.

Some analysts have expressed concern because the 1984 distillate demand, averaging 2.9 million barrels a day so far, is 12 percent higher than last year. Higher demand could mean tighter supplies. But demand is considerably below the 1978 level of 3.4 million barrels, nearly all of which was met by domestic refineries.

Today much more distillate is available from new refineries in the Middle East and from expanded output by refiners in Venezuela, Britain and the Caribbean, according to energy analysts.

Oil experts said this country's distillate imports, averaging about 250,000 barrels a day so far this year, would help keep prices from surging by providing a bigger supply.

WORLD CONDITIONS PONDERED

Prices of natural gas will not rise substantially, according to various experts in the industry, because there is an excess supply of natural gas and because the world oil glut and lower oil prices should keep gas prices low for competitive reasons.

The Natural Gas Supply Association estimates that prices may drop when government controls end Jan. 1 on about half of the nation's natural gas. Energy Secretary Donald P. Hodel projects a rise of only 2.5 percent for wellhead prices.

Other people are not so sure. Gas pipeline companies said last spring that they expected to pay 14 to 17 percent more for natural gas next year under decontrol.

The chairman of New York State's Public Service Commission, Paul L. Gioia, recently warned that residential natural gas customers in the state could face a "fly-up," an immediate sharp increase with decontrol.

The Citizen/Labor energy Coalition says decontrol could raise consumer bills 14 percent next year.

Economists at the Chase Manhattan Bank predict that the natural gas surplus will end next year, tightening supplies and raising prices.

[From the Dallas Times Herald, Sept. 10, 1984]

PROGRAM MIX YIELDING ENERGY SELF-SUFFICIENCY

Secretary of Energy Donald Hodel is responsible for charting the course of national energy policy. He oversees the development of renewable energy resources and is the administrator for the nation's Strategic Petroleum Reserve, five underground hollowed-out salt formations in Louisiana and Texas.

Hodel discussed key U.S. energy issues with staff writer Phil Shook.

Question: You have said the United States is better prepared today than at any time in recent history to respond to an energy emergency. What gives you this confidence?

Answer: it is a combination of things, of course. Last year we imported only about half as much oil as we did in 1978, down from 8 million to about 4 million barrels.

This year we are running slightly ahead of that but still quite low.

We have the Strategic Petroleum Reserve which is four times what it was when the President came into office. We have shifted the mix so the dependency on Organization of Petroleum Exporting Countries and the Persian Gulf has dropped substantially. Mexico is our largest supplier, Canada was our next largest last year and the United Kingdom is high on the list and so on.

The result is we have shifted the mix and become more self-sufficient, got an insurance policy in the strategic petroleum reserve. We are a lot better off.

To what lowest level can this country ever expect to reduce its dependence on imported oil?

Realistically, we can't reduce it to zero by producing domestic oil sufficient to meet our demand. Fifteen million barrels a day is too big a supply for the United States to supply itself.

We have the potential on the outer continental shelf on federal lands to increase our domestic output. Congress has been putting restraints on that and moratoriums, and cutting it back. We think that is dreadful, and we keep struggling against it.

You have said natural gas pricing issues are one of your major concerns. What do you think is the fairest approach to decontrol?

The bill we submitted at the time we submitted it would have been the most equitable approach. Now, so much time has gone by and so much adjustment has taken place in the marketplace, that many of the concerns that existed then, don't exist anymore.

For instance the "price fly-up" question which was serious two years ago, right now our analysis is there won't be a price fly-up. If somebody calls for a price increase, they'll price themselves out of the market.

So the market has worked in spite of all these complications.

It nows appears that if we are successful in heading off the efforts to recontrol the price of gas, come Jan. 1, 1985, (under provisions of the National Gas Policy Act) the bulk of it will be decontrolled.

Will there be a bill to decontrol gas this year?

No. I don't think there will. The real issue is whether somebody tries to recontrol. We are hoping that won't happen. It would certainly be anti-consumer and not good for the country.

What about the present gas surplus?

I don't believe the gas bubble is going to last. I think the gas bubble is a very temporary thing and could disappear instantaneously if we had an oil supply problem. And even without an oil supply problem, I would expect in a year, maybe 18 months, we are not going to hear about a gas bubble.

Since the Strategic Petroleum Reserve is considered such an important resource for times of emergency, what would be the argument against making it even bigger?

The best analogy is that it is just like insurance. So you are asking if a $50,000 life insurance policy is good, why not a $100,000 policy? The answer is that at some point you have to say, can we afford it? In this case we targeted about 90 days protection.

It is just a question of how much we can afford. We have $15 billion invested in this now and if you look at it that way, interest on that is costing us $1.5 to $2 billion a year.

When we have the full 750 million barrels in there, we are going to have $25 billion to $30 billion invested. That means we will be runnng $2 billion to $4 billion a year in interest costs.

What would be the best method of allocation from the Strategic Petroleum Reserve during an emergency?

The market. We strongly support permitting the market to do the allocating because anything else doesn't work. The producer or the refiner who thinks he can feed it into the system and thinks he can get the best economic return is the one who will bid the highest price.

One of the key things about the SPR is that while we don't use it to affect price, its existence has affected price.

If you think of all the tanker attacks that have taken place in the Persian Gulf. We all thought that each tanker attack would bump the price $3 a barrel. But the first attack last fall raised the price for the day about 68 cents. The next day it was back to where it was and thereafter it didn't even blip.

What is a realistic course for the embattled Synthetic Fuels Corp.?

It cannot be cost effective in today's world. That's the bottom line.

Therefore we propose a sharp cutback in what it will do. We would like to see it complete the Great Plains Coal Gasification Project, operate it, make sure that technology works and learn what we can from an operating plant.

Mr. SHARP. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would just like to say a word beyond this particular piece of legislation because of the able work of my colleague, the gentleman from Illinois [Mr. CORCORAN].

Mr. CORCORAN will be leaving the House of Representatives at the end of this term, and while we may yet have some additional energy issues debated, it is increasingly less clear that will be the case, and I just wanted to say a word about the gentleman's commitment and his contribution in the House of Representatives and in this country on energy policy.

The gentleman and I have had some major differences of opinion, on natural gas legislation, for example, but I have never doubted his sincerity, his ability or his commitment to try to do what is right for this country, whether it is to prepare us for a crisis, or to look to our long-term energy needs. I think the House of Representatives is going to lose a very able Member. I trust the gentleman will be making other contributions in public life beyond this day, but I think it is important that the public recognize that there are folks who work in a civilized manner in the Congress, and people who try to be informed about issues and who try to bring principles to bear in public policy, and the gentleman from Illinois [Mr. CORCORAN] is one of those people.

Mr. Speaker, I yield back the balance of my time.

Mr. CORCORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this occasion to thank the gentleman from Indiana [Mr. SHARP], the chairman of our subcommittee, for his kind words. If I were running for reelection, I would ask that they be used in my brochure, but since I am not running for reelection, I will not do that.

I simply want to say that the spirit in which the gentleman addressed himself to my retirement is a feeling that I have for him and for the members on our subcommittee. I will miss the work, and especially my work with the gentleman from Indiana.

● Mr. ST GERMAIN. Mr. Speaker, I rise in support of H.R. 3880, the Strategic Petroleum Reserve Reliability Improvement Act, and I commend Chairman SHARP for his efforts in bringing this important legislation before the House at this time.

As we all know, the Persian Gulf war has heightened the attention of the Nation on our continuing energy vulnerability. The idea of pumping a little oil out of our strategic petroleum reserve to determine whether the system will or will not work makes eminent good sense. This is particularly so if you come from New England, for along the east coast—and New England in particular—oil imports average between 50 and 60 percent of consumption. Any interruption of oil importation, as might follow any increase in Persian Gulf war action, would be devastating. New England would be especially hard hit, for despite all the earlier steps we have taken to provide alternative energy systems, we are still critically dependent upon outside sources for crude and petroleum products.

The strategic petroleum reserve is there for all of us to rely on in the event of need. Knowing it is there is calming to us, but knowing it is there and that it works would go far toward removing the lingering doubts many of us have about the system's operational capability. For that reason, we deserve incontrovertible evidence that we can draw down on that reserve, that we can refine it, transport it, and relocate it in the product form we need.

Mr. Speaker, I urge my fellow Members to vote yes for the passage of the Strategic Petroleum Reserve Reliability Improvement Act so that we might make those determinations now.●

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 3880, the Strategic Petroleum Reserve Reliability Improvement Act.

In July 1977, the Federal Government pumped the first barrel of oil into an underground salt dome at West Hackberry, LA. Since that time, we have stored nearly 400 million barrels of oil. This is well on the way to the 750 million barrels established by Congress as the amount of oil we need to protect ourselves from a disruption of oil imports.

It is now time to test this insurance policy we have established for the

American people. On February 28 and 29, 1984, the Department of Energy conducted a drawdown test at the West Hackberry storage facility. Over a 24-hour period, 1,053,080 barrels were pumped from storage, which was well over the design goal of 1 million barrels a day.

H.R. 3880 is designed to take this drawdown one step further to include a sale of the oil. After 7 years, it is time to show the American people the strategic petroleum reserve will work. This test will be conducted over the next 6 months. The results will call for Federal officials to improve any and all aspects of the current distribution plan.

I would like to point out one aspect of this bill which is important to the Northeast. As you all know, the original plan for a strategic petroleum reserve included regional reserves which would contain refined products. For a variety of reasons, this regional reserve plan has never been implemented. H.R. 3880 requires the Department of Energy to study the feasibility of storing petroleum products purchased for the SPR in private storage facilities especially those facilities that already have access to existing pipelines.

The Northeast now has a tremendous amount of unused storage capacity. As a member of the New England delegation who has long been interested in the establishment of a regional petroleum reserve, I will follow the development of this study very closely.

Mr. Speaker, I urge the passage of H.R. 3880, the Strategic Petroleum Reserve Reliability Improvement Act.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 3880, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3880, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SAFE DRINKING WATER ACT AMENDMENTS OF 1984

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5959) to amend the Safe Drinking Water Act, as amended.

The Clerk read as follows:

H.R. 5959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act Amendments of 1984".

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TITLE I—PUBLIC WATER SYSTEMS

NATIONAL PRIMARY DRINKING WATER REGULATIONS

SEC. 101. (a) SIMPLIFICATION OF STATUTORY SYSTEM.—Section 1412(a) of the Safe Drinking Water Act is amended to read as follows:

"(a) Effective on the date of the enactment of the Safe Drinking Water Act Amendments of 1984, each national interim primary drinking water regulation promulgated under this section before such date of enactment shall be deemed to be a national primary drinking water regulation under subsection (b). No such regulation shall be required to comply with the standards set forth in subsection (b)(2) unless such regulation is amended to establish a different maximum contaminant level after the date of the enactment of such amendments.".

(b) EXPEDITED PROCEDURE FOR PROMULGATION.—(1) Section 1412(b) of the Safe Drinking Water Act is amended by striking out paragraphs (1) and (2), and so much of paragraph (3) as precedes the last sentence thereof and substituting:

"(1)(A) In the case of each of the 14 contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, not later than 12 months after the enactment of the Safe Drinking Water Act Amendments of 1984, the Administrator shall—

"(i) simultaneously propose a maximum contaminant level goal and a national primary drinking water regulation, and after opportunity for public comment, simultaneously publish a maximum contaminant level goal and a national primary drinking water regulation for those contaminants for which there is a rational basis to believe that there may be any adverse effect on the health of persons; or

"(ii) publish in the Federal Register a determination that there is not sufficient evidence to constitute a rational basis to believe that the contaminant may have any adverse effect on the health of persons.

"(B) In the case of each of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 48, Federal Register, page 45502, not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1984, the Administrator shall—

"(i) simultaneously propose a maximum contaminant level goal and a national primary drinking water regulation, and after opportunity for public comment, simultaneously publish a maximum contaminant level goal and national primary drinking water regulation for those contaminants for which there is a rational basis to believe that there may be any adverse effect on the health of persons; or

"(ii) publish in the Federal Register a determination that there is not sufficient evidence to constitute a rational basis to believe that the contaminant may have any adverse effect on the health of persons.

"(C)(i) The Administrator shall publish maximum contaminant level goals and simultaneously promulgate national primary drinking water regulations for each substance (other than a substance referred to in subparagraph (A) or (B) for which a national primary drinking water regulation was promulgated) which, in the judgment of the Administrator, may have any adverse effect on the health of persons. On January 1, 1988, and at annual intervals thereafter, the Administrator shall publish a list establishing priorities for the review of substances (other than substances referred to in subparagraph (A) or (B) for which a national primary drinking water regulation was promulgated) which may require regulation under this Act in order to prevent known or anticipated adverse effects on the health of persons. Such priorities shall be based upon the extent to which such contaminant occurs in public water systems throughout the United States or on the known or anticipated adverse effects of such substance on the health of persons. In establishing such priorities the Administrator's consideration shall include, but not be limited to, substances regulated as toxic water pollutants under section 307 of the Clean Water Act and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(ii) In the case of each contaminant listed on the priority list, not later than 3 years after such listing, the Administrator shall—

"(I) simultaneously propose a maximum contaminant level goal and a national primary drinking water regulation, and after opportunity for public comment, simultaneously publish a maximum contaminant level goal and a national primary drinking water regulation for those contaminants for which there is a rational basis to believe that there may be any adverse effect on the health of persons; or

"(II) publish in the Federal Register a determination that there is not sufficent evidence to constitute a rational basis to believe that the contaminant may have any adverse effect on the health of persons.

"(2) Each maximum contaminant level goal established under this subsection shall be set at the level at which, in the Administrator's judgment, no known or anticipated

adverse effects on the health of persons occur and which allows an adequate margin of safety. Each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a maximum level for such contaminant which is as close to the maximum contaminant level goal as is feasible.

"(3)(A) In the case of any contaminant the level of which cannot be accurately enough measured in drinking water to establish a maximum contaminant level goal and which may have an adverse effect on the health of persons, the Administrator shall list such contaminant under this paragraph in lieu of establishing a maximum contaminant level goal under paragraphs (1) of this subsection. In lieu of establishing a maximum contaminant level for such contaminant under this subsection, the Administrator shall promulgate treatment techniques for such contaminant which requires treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible.

"(B) If any contaminant referred to in subparagraph (A) or (B) of subsection (b)(1) is listed under this paragraph (and a national primary drinking water regulation requiring the use of treatment techniques is simultaneously promulgated under this paragraph for such contaminant), the listing and promulgation under this paragraph shall be made on the date referred to in subparagraph (A) or (B) of subsection (b)(1) for the establishment of primary drinking water regulations.

"(C) The Administrator shall propose and promulgate regulations requiring that all surface waters be treated by such processes as coagulation, sedimentation, or filtration or their equivalent prior to disinfection unless it can be shown on the basis of a sanitary survey that such treatment is not necessary. The Administrator shall develop rules for the granting of waivers for local suppliers of water prior to the implementation of the preceding sentence.

"(D) Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a regulation under this paragraph shall not require that any specified technology, treatment technique, or other means be used for purposes of meeting such maximum contaminant level.

"(E) The Administrator shall propose and promulgate regulations requiring disinfection as a treatment technique for all public water systems. The Administrator is authorized to grant variances from this requirement according to the provisions under sections 1415(a)(1)(B) and 1415(a)(3).

"(4) The Administrator may, after opportunity for public comment, change maximum contaminant level goals, or the list established under paragraph (3), and shall simultaneously with such change, amend the national primary drinking water regulations concerned accordingly.".

(2) Redesignate the last sentence of paragraph (3) of section 1412(b) of such Act as paragraph (5) of such section, delete "generally" in such sentence, delete "paragraph" and substitute "subsection", after "finds" insert ", after examination for efficacy under field conditions and not solely under research laboratory conditions," and add the following at the end thereof: "For purposes of paragraph (2) of this subsection, the best available technology which is feasible for the control of synthetic organic chemicals includes the use of adsorption techniques such as the the use of granular activated carbon and other comparably effective techniques.".

(c) CONFORMING CHANGES.—Paragraphs (4) and (5) of section 1412(b) of the Safe Drinking Water Act are each amended by striking "Revised national" in each place where it appears and substituting "National". Paragraphs (4), (5), and (6) of such section 1412(b) are redesignated as paragraphs (6), (7), and (8).

(d) SCIENTIFIC PEER REVIEW.—Section 1412(e) of the Safe Drinking Water Act is amended to read as follows:

"(e) The Administrator shall request comments from the Science Advisory Board (established under the Environmental Research, Development, and Demonstration Act of 1978) prior to proposal of a maximum contaminant level goal and national primary drinking water regulation. The Board shall respond, as it deems appropriate, within the time period applicable for promulgation of the national primary drinking water standard concerned. This subsection shall, under no circumstances, be used to delay final promulgation of any national primary drinking water standard.".

MONITORING FOR UNREGULATED CONTAMINANTS

SEC. 102. (a) SIZE OF SYSTEM.—Section 1445(a) of the Safe Drinking Water Act is amended by adding at the end thereof the following: "In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.".

(b) MONITORING REQUIREMENTS.—Section 1445(a) of the Safe Drinking Water Act is amended by adding "(1)" after "(a)" and by adding the following at the end thereof:

"(2) Not later than 18 months after the date of the enactment of the Safe Drinking Water Act Amendments of 1984, the Administrator shall promulgate regulations requiring every public water system to conduct a monitoring program for unregulated contaminants. The Administrator's regulations shall require monitoring of drinking water supplied by the system and shall vary the frequency and schedule of monitoring requirements for systems based on the number of persons served by the system and the contaminants likely to be found. Each system shall be required to monitor at least once every 5 years after the effective date of the Administrator's regulations unless the Administrator requires more frequent monitoring.

"(3) The Administrator's regulations under paragraph (2) shall list unregulated contaminants for which systems may be required to monitor, but each State which has primary enforcement responsibility may add or delete contaminants, for individual systems, based on an approved assessment of the contaminants likely to be found in the system. Each such State shall submit an assessment to the Administrator. Such assessment shall be treated as approved on the date 30 days after its submission unless the Administrator disapproves the assessment within such 30-day period.

"(4) Notification of the availability of the results of the monitoring programs required under paragraph (2), and notification of the availability of the results of the monitoring program referred to in paragraph (5), shall be given to the persons served by the system and the Administrator.

"(5) The Administrator may waive the monitoring requirement under paragraph (2) for a system which has conducted a monitoring program after January 1, 1983, if the Administrator determines the program to have been consistent with the regulations promulgated under this section.

"(6) Any system supplying less than 150 service connections shall be treated as complying with this subsection if such system supplies appropriate water samples to the Administrator. The Administrator shall arrange for the analysis of such samples.".

ENFORCEMENT OF REGULATIONS

SEC. 103. (a) NOTICE TO SYSTEMS.—Section 1414(a)(1)(A) of the Safe Drinking Water Act is amended by inserting "and such public water system" after the words "notify the State".

(b) PROMPT FEDERAL ENFORCEMENT.—(1) Section 1414(a)(1)(B) of the Safe Drinking Water Act is amended to read as follows:

"(B) If, beyond the thirtieth day after the Administrator's notification, the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or shall commence a civil action under subsection (b).".

(2) Section 1414(a)(2) of the Safe Drinking Water Act is amended by striking the words "he may commence a civil action under subsection (b)" and adding the following: "he shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or shall commence a civil action under subsection (b)".

(c) ADMINISTRATIVE ORDERS.—(1) Section 1414 of the Safe Drinking Water Act is amended by adding at the end thereof the following new subsection (g):

"(g)(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, schedule, or other requirement, the Administrator also may issue an order to require compliance with such regulation, schedule, or other requirement.

"(2) An order issued under this subsection shall not take effect until after notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order. A copy of any order proposed to be issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

"(3)(A) Any person who violates, or fails or refuses to comply with, an order under paragraph (2) shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

"(B) Whenever any civil penalty sought by the Administrator under this paragraph does not exceed a total of $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5 of the United States Code.

"(C) Whenever any civil penalty sought by the Administrator under this paragraph exceeds $5,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

"(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

(2) Section 1414 of the Safe Drinking Water Act is amended by striking the words "FAILURE BY STATE TO ASSURE" from the section heading.

PUBLIC NOTIFICATION

SEC. 104. Section 1414(c) of the Safe Drinking Water Act is amended by striking out the third and fourth sentences thereof and substituting: "Within 12 months after the date of the enactment of the Safe Drinking Water Act Amendments of 1984, the Administrator shall amend such regulations to provide for different types and frequencies of notice based on the differences between violations which are intermittent or infrequent and violations which are continuous or frequent. Such regulations shall also take into account the seriousness of any potential adverse health effects which may be involved. In no case shall notices be given less frequently than annually. Notice of any violation of a maximum contaminant level and any other notice of a violation designated by the Administrator as continuous or posing a serious potential adverse health effect shall be given no less frequently than every three months and shall include notice in a newspaper of general circulation serving the area served by the public water system (as determined by the Administrator). Notice under this subsection shall provide a clear and readily understandable explanation of the violation, the steps that the system is taking to correct such violation, and the consumers which should seek alternative water supplies until the violation is corrected if it is necessary for consumers to seek alternative water supplies. Until such amendments are promulgated, the regulations in effect on the date of the enactment of the Safe Drinking Water Act Amendments of 1984 shall remain in effect.".

VARIANCES

SEC. 105. Section 1415(a)(1)(A) of the Safe Drinking Water Act is amended by—

(1) striking the word "despite" and substituting a period and the following: "A variance may only be issued to a system after the system's";

(2) striking the word "generally" before the word "available" and by adding after "(taking costs into consideration.)" the following: "The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant at the time he proposes and promulgates a maximum contaminant level for each such contaminant. The Administrator's finding of best available technology, treatment techniques or other means may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered appropriate by the Administrator.";

(3) striking the words "within one year of the date" and adding "at the time"; and

(4) adding in clause (ii) after the words "water system of such" the word "additional".

EXEMPTIONS

SEC. 106. (a) Section 1416 of the Safe Drinking Water Act is amended—

(1) in subsection (b)(1) by striking the words "within one year of the date" and adding "at the time".

(2) in subsection (b)(2)(A)(i) by striking the word "interim" and striking the words "not later than January 1, 1984" and adding "not later than twelve months after the date of the enactment of the Safe Drinking Water Act Amendments of 1984".

(b) Section 1416(b)(2)(A)(ii) of the Safe Drinking Water Act is amended by striking the word "revised" and the words "not later than seven years after the date such requirement takes effect" and adding "other than a regulation referred to in section 1412(a), 12 months after the date of the issuance of the exemption".

(c) Section 1416(b)(2)(B) is amended to read as follows:

"(B) The final date for compliance provided in any schedule in the case of any exemption may be extended by the State (in the case of a State which has primary enforcement responsibility) or by the Administrator (in any other case) for a period not to exceed three years after the date of the issuance of the exemption if the public water system establishes that—

"(i) the system cannot meet the standard without capital improvements which cannot be completed within the period of such exemption;

"(ii) in the case of a system which needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance; or

"(iii) the system has entered into an enforceable agreement to become a part of a regional public water system.

In the case of a system which does not serve more than 500 service connections and which needs financial assistance for the necessary improvements, an exemption extended under the preceding sentence may be renewed for one or more additional 2-year periods if the system establishes that it is taking all practicable steps to meet the standard.".

TAMPERING WITH PUBLIC WATER SYSTEMS

SEC. 107. Part D of the Safe Drinking Water Act is amended by adding the following new section at the end thereof:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a) Any person who tampers with a public water system shall be fined not more than $50,000, or imprisoned for not more than 5 years, or both.

"(b) Any person who attempts to tamper, or makes a threat to tamper, with a public drinking water system be fined not more than $20,000, or imprisoned for not more than 3 years, or both.

"(c) The Administrator may bring a civil action in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code) against any person who tampers, attempts to tamper, or makes a threat to tamper with a public water system. The court may impose on such person a civil penalty of not more than $50,000 for such tampering or not more than $20,000 for such attempt or threat.

"(d) For purposes of this section, the term 'tamper' means—

"(1) to introduce a contaminant into a public water system with the intention of harming persons; or

"(2) to otherwise interfere with the operation of a public water system with the intention of harming persons.".

TECHNICAL ASSISTANCE FOR SMALL SYSTEMS

SEC. 108. Section 1442 of the Safe Drinking Water Act is amended by adding the following new subsection:

"(g) The Administrator is authorized to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include 'circuit-rider' programs, training, and preliminary engineering studies. There are authorized to be appropriated to carry out this subsection, $10,000,000 for each of the fiscal years 1986 through 1989.".

TITLE II—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

RESTRICTIONS ON UNDERGROUND INJECTION OF HAZARDOUS WASTE AND REGULATION OF STATE PROGRAMS

SEC. 201. Part C of the Safe Drinking Water Act is amended by adding the following new sections at the end thereof:

"RESTRICTIONS ON HAZARDOUS WASTE INJECTION

"SEC. 1426. No hazardous waste may be disposed of by underground injection above or into a formation which contains (within one-quarter mile of the injection well bore) a drinking water source except that injection of contaminated ground water into the aquifer from which it was withdrawn may be allowed if the Administrator determines, pursuant to procedures approved under this Act, the Solid Waste Disposal Act, or the Comprehensive Environmental Response, Compensation and Liability Act of 1980, that such injection is an appropriate and environmentally acceptable aspect of a cleanup, removal or remedial action for the contaminated aquifer. The prohibition established under this subsection shall take effect six months after the enactment of this section except in the case of any State in which identical prohibitions are in effect before such date. The term 'hazardous waste', as used in this section, means any hazardous waste, (as defined in the Solid Waste Disposal Act) which is listed or identified under section 3001 of that Act. The prohibition established by this section shall be treated for purposes of this Act as a prohibition established pursuant to an applicable underground injection program.

"REGULATION OF STATE PROGRAMS

"SEC. 1427. (a) Not later than 18 months after enactment of the Safe Drinking Water Act Amendments of 1984 the Administrator shall revise regulations issued under this section to require monitoring of underground injection wells in such manner and in such locations as deemed appropriate by the Administrator so as to provide the earliest possible detection of fluid migration into, or in the direction of, an underground source of drinking water.

"(b) The Administrator, in cooperation with the State, shall conduct an inventory of all wells in the United States which inject

hazardous wastes. The inventory shall include such information as the Administrator may, in his discretion, deem necessary to define the scope and nature of hazardous waste disposal in the United States through underground injection. A report summarizing the results of such inventory and making recommendations, if necessary, to protect underground sources of drinking water from hazardous waste migration from underground injection wells shall be submitted to the Congress not later than 9 months after the date of the enactment of the Safe Drinking Water Act Amendments of 1984.

"(c) The States shall make available to the Administrator such information as he deems necessary to accomplish the objectives of this section. The Administrator need not be limited to such information in conducting the inventory referred to in subsection (b).".

ENFORCEMENT OF UIC PROGRAM

SEC. 202. (a) MANDATORY ENFORCEMENT.—(1) Section 1423(a)(1) of the Safe Drinking Water Act is amended by striking out all after the first sentence and substituting the following: "If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (d) requiring the person to comply with such requirement or shall commence a civil action under subsection (b)(1).".

(2) Section 1423(a)(2) of the Safe Drinking Water Act is amended by striking the words "he may commence a civil action under subsection (b)(1)" and substituting the following: "he shall issue an order under subsection (d) requiring the person to comply with such requirement or shall commence a civil action under subsection (b)(1)".

(3) Section 1423(b)(1) of the Safe Drinking Water Act is amended by striking out the first sentence thereof and substituting the following: "Civil actions referred to in paragraphs (1) and (2) of subsection (a) shall be brought in the appropriate United States district court and such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program.".

(b) PENALTIES.—Section 1423(b)(1) of the Safe Drinking Water Act is amended by striking in the last sentence "$5,000" and substituting "$25,000" and by striking "60" and substituting "30".

(c) CIVIL ACTION.—Section 1423 of the Safe Drinking Water Act is amended by adding the following new subsection at the end thereof:

"(d)(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any requirement of an applicable underground injection control program, the Administrator may also issue an order to require compliance with such requirement.

"(2) An order issued under this subsection shall not take effect until after notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3) or 1425(c)) until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order. A copy of any order proposed to be issued under this subsection shall be sent to the appropriate State agency involved if the State has primary enforcement responsibility. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

"(3)(A) Any person who violates, or fails or refuses to comply with an order under paragraph (2) shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

"(B) Whenever the civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5 of the United States Code.

"(C) Whenever the civil penalty sought by the Administrator exceeds $5,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

"(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

(d) CONFORMING AMENDMENT.—Section 1423 of the Safe Drinking Water Act is amended by striking the words "FAILURE OF STATE TO ASSURE" from the section heading.

STATE PLANS TO PROTECT UNDERGROUND SOURCES OF DRINKING WATER

SEC. 203. The Safe Drinking Water Act is amended by adding the following new section after section 1443:

"STATE PLANS TO PROTECT UNDERGROUND SOURCES OF DRINKING WATER

"SEC. 1443A. (a) After notice and opportunity for public hearing and within 36 months after the date of the enactment of this section, each State shall adopt and submit to the Administrator a comprehensive State plan to protect underground sources of drinking water from contamination that may adversely affect the health of persons. Each State plan under this section shall, at a minimum—

"(1) specify the lead agency which has responsibility for implementing the plan and demonstrate that this agency has adequate legal authority and financial resources to perform this function;

"(2) identify each underground source of drinking water in the State and perform an assessment which describes, for each such source, the quality and quantity of water which it contains, its flow patterns and critical recharge zones, and its known and potential sources of contamination;

"(3) describe for each underground source of drinking water identified pursuant to paragraph (2) the location and types of human development which affect the source and the types of such development which can occur without resulting in the degradation of such sources;

"(4) set out the regulations and other measures which the State will implement under the plan, including the establishment of best management practices (BPMs) for categories or subcategories of activities that may contaminate underground drinking water sources; and

"(5) guarantee or provide for an alternative drinking water supply when an underground source of drinking water is contaminated so as to adversely affect the health of persons.

In developing the State plan, the State may categorize aquifers and, assuring the protection of public health, afford different levels of protection to different aquifers, based on quality and uses of the aquifer concerned. Nothing in this section shall require the Administrator to promulgate regulations under this section.

"(b) To the maximum extent possible, each State shall establish procedures, including but not limited to the establishment of technical and citizens' advisory committees to encourage the public to participate in developing the ground water protection plan.

"(c)(1) Within 9 months after receipt of a proposed plan submitted as specified in subsection (a), the Administrator shall approve the plan unless he determines that the plan or any portion thereof is inadequate to meet the requirements of this section. If the Administrator determines that a proposed State plan or any portion thereof is inadequate, he shall submit a written statement of the reasons for his determination to the Governor of the State within 30 days from the date of such determination of inadequacy.

"(2) Within 6 months after receipt of the Administrator's written notice under paragraph (1) that any proposed State plan, or portion thereof, is inadequate, the State shall modify the plan based upon the recommendations of the Administrator and resubmit the modified plan to the Administrator. The Administrator shall approve or disapprove the modified plan within 90 days of his receipt thereof. If the Administrator disapproves the modification within such period, the State shall submit a second modification within 45 days. The Administrator shall approve or disapprove the second modification within 45 days of his receipt of the second modification.

"(d)(1) The duties of States and the Administrator set forth in this section shall be treated as 'requirements prescribed under this title' for purposes of section 1449.

"(2) No State exercising primary enforcement responsibility under section 1422 for a State underground injection control program may receive any assistance under this Act for purposes of such program if the State has not complied with the requirements of subsections (a), (b), and (c) of this subsection or if any portion of a State plan has not been approved by the Administrator before the expiration of the periods specified in subsection (c).

"(e) In the case of each State in which oil or natural gas exploration occurs, the State plan under this section, consistent with the underground injection requirements of part C, the requirements of the Solid Waste Disposal Act, and the requirements of the Federal Water Pollution Control Act, shall protect underground sources of drinking water from brine contamination which may adversely affect public health which is associated with the production or recovery of oil and natural gas.

"(f) As used in this section, the term 'underground source of drinking water' means underground water which—

"(1) supplies drinking water for any public water system;

"(2) is reasonably capable of supplying drinking water for any public water system; or

"(3) may be capable of supplying drinking water for a public water system if such system utilized technologically advanced treatment which has been commercially demonstrated to be economically feasible.

"(g)(1) No funds authorized to be appropriated under this section may be used to support activities authorized by the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or other sections of this Act.

"(2) No funds authorized to be appropriated under this section may be used to bring individual sources of contamination into compliance.

"(h) Each State shall make every reasonable effort to implement the State plan under this section within two years of its adoption. Within two years after the approval of each State plan under this section, each State shall submit to the Administrator a status report describing the State's progress in implementing the plan.

"(i) Each Federal agency conducting or supporting an activity affecting a critical recharge area identified in a ground water protection plan approved under this section shall conduct or support those activities in a manner which is consistent with the approved plan.".

PROTECTION OF SOLE OR PRINCIPAL SOURCE GROUND WATER RECHARGE AREAS

SEC. 204. Part C of the Safe Drinking Water Act is amended by adding the following new section at the end thereof:

"PROTECTION OF SOLE OR PRINCIPAL SOURCE GROUND WATER RECHARGE AREAS

"SEC. 1428. (a)(1) Upon designation of a sole or principal source area pursuant to section 1424(e), any one or several municipalities within the sole or principal source area may initiate proceedings for the designation of a 'special protection area' within the sole or principal source area by petitioning the Governor of the State in which the proposed 'special protection area' is located to apply to the Administrator for the designation of 'special protection area' within the sole or principal source area.

"(2) A petition under this subsection shall propose boundaries for the special protection area and further shall evaluate whether—

"(A) the proposed special protection area is a recharge zone for significant volumes of ground water with drinking water supply potential;

"(B) the ground water which is recharged through the proposed special protection area is of high quality;

"(C) portions of the proposed special protection area within the sole or principal source area are already contaminated with toxic organics, nutrients, salts, or other pollutants;

"(D) maintenance of high quality in the sole or principal source aquifer or in the ground water recharged through the proposed special protection area would have significant economic, social, and ecological benefits for the sole or principal source area; and

"(E) degradation of ground water in the proposed special protection area would have significant economic, social, and ecological costs for the area.

"(b) Within one hundred and eighty days following receipt of a petition under this section, the Governor, taking into consideration the criteria set forth in subsection (a)(2), shall approve or disapprove the petition. If the Governor approves such petition, he shall—

"(1) propose the boundaries of the special protection area;

"(2) designate or, if necessary, establish a planning entity (which shall be a public agency and which shall include local and State governmental representation) to develop a comprehensive management plan (hereinafter in this section referred to as the 'plan') for the special protection area; and

"(3) establish procedures for public participation in the development of the plan, for review, approval, and adoption of the plan, and for assistance to municipalities and other public agencies with authority under State law to implement the plan.

Where a local government planning agency exists with adequate authority to carry out this section with respect to any proposed special protection area, the Governor shall designate such agency as the planning entity under paragraph (2).

"(c)(1) Following approval of the petition the Governor shall submit such petition to the Administrator together with the summary of the action taken by the Governor under subsection (b).

"(2) Within 120 days after the Administrator's receipt of the petition the Administrator shall approve or disapprove the petition. The Administrator shall approve the petition if he finds that—

"(A) the boundaries of the area concerned are based on the criteria set forth in subsection (a)(2); and

"(B) the planning entity has the authority, pursuant to State law, and the technical expertise to prepare the plan.

"(3) If the Administrator approves the petition, he may provide to the State, on a matching basis, a grant of 50 per centum of the costs incurred in preparing the petition and developing the plan, except that in the case of a municipality with a population of 10,000 or less, the Administrator may provide to the State a grant of 60 per centum of such costs.

"(4) The designated planning entity, through the Governor, shall be eligible for preliminary planning funds for a period not to exceed two years.

"(d)(1) A planning entity designated under this section shall be authorized and directed to prepare a comprehensive management plan for the special protection area. Such plan shall be designed to maintain the quality of the ground water in the special protection area through maintenance, to the maximum extent possible, of the natural vegetative and hydrogeological conditions. Such plan shall include but not be limited to—

"(A) a determination of the quality of the existing ground water recharged through said special protection area and the natural recharge capabilities of the special protection area watershed;

"(B) an identification of existing and potential point and nonpoint sources of ground water degradation, ground water flow patterns, and the relationship between surface water management and ground water quality and recharge;

"(C) requirements designed to maintain existing underground drinking water quality or improve underground drinking water quality if prevailing conditions fail to meet drinking water standards, pursuant to this Act and State law;

"(D) a map showing the detailed boundary of the special protection area;

"(E) a resource assessment of the amount, location, and type of human development and activity which the ecosystem can sustain while still maintaining existing ground and surface water quality and protecting unique ecological features related to maintenance of water quality;

"(F) limits on Federal, State, and local government, financially assisted activities and projects which may contribute to degradation of such ground water or any loss of natural surface and subsurface infiltration or purification capability of the special protection area watershed;

"(G) a comprehensive statement of land use management including emergency contingency planning as it pertains to the maintenance of the quality of underground sources of drinking water or to the improvement of such sources if necessary to meet drinking water standards pursuant to this Act and State law;

"(H) actions in the special protection area which would avoid adverse impacts on water quality, recharge capabilities, or both;

"(I) consideration of specific techniques, which may include clustering, transfer of development rights, and other innovative measures sufficient to achieve the objectives of this section;

"(J) consideration of the establishment of a State institution to facilitate and assist in funding a development transfer credit system;

"(K) a program for State and local implementation of the plan described in this subsection in a manner that will insure the continued, uniform, consistent protection of the special protection area in accord with the purposes of this section;

"(L) pollution abatement measures, if appropriate; and

"(M) adequate personnel, funding, and authority to carry out the plan.

"(2) During the development of the comprehensive management plan, the planning entity shall consult with, and consider the comments of, appropriate officials of any municipality and State or Federal agency which has jurisdiction over lands and waters within the special protection area, other concerned organizations and technical and citizen advisory committees which shall be established by the Governor. The planning entity shall conduct public hearings at places within the special protection area for the purpose of providing an opportunity to comment on any aspect of the plan.

"(e) The planning entity shall submit a final plan to the Governor for review. The Governor shall approve or disapprove the plan based upon a determination that such plan protects underground sources of drinking water covered therein from contamination that may adversely affect the health of persons. An approved plan shall be submitted by the Governor to the Administrator for review. Within 120 days, the Administrator shall approve the plan or submit in writing to the Governor his reasons for not approving it. The Governor may resubmit any plan which is not approved. The Administrator shall approve any plan which satisfies the requirements of this section.

"(f) If the Administrator approves the plan, he may provide to the State on a matching basis a grant of 50 per centum of the costs of implementing the plan (or 60 per centum of such costs in the case of an aquifer serving a population of 10,000 or less).

"(g)(1) If the Administrator (or any State which has primary enforcement responsibility, within the meaning of section 1413, for public water systems under part B of this title) determines that—

"(A) any person has caused or contributed to the presence of any contaminant in any sole or principal source aquifer designated under section 1424(e) which supplies, or can reasonably be expected to supply, any public water system, and

"(B) the presence of such contaminant in such water system may adversely affect the health of persons unless such water is treated or alternative water supplies are provided,

he may issue an order requiring such person to provide adequate supplies of potable drinking water to the persons served by such public water system.

"(2) Any interested person may obtain review of an order issued by the Administrator (or the State) under this section in the appropriate United States district court within thirty days after the issuance of the order.

"(3) Any person who violates, or fails or refuses to comply with, an order under this subsection shall be liable to the United States (or to the State in the case of an action brought by the State) for a civil penalty of not more than $5,000 per day of violation. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator (or the State), the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order under this section or the assessment of a civil penalty shall not be subject to review.

"(4) Nothing in this section shall be construed to restrict or preempt any right which any public water system or any other person (or class of persons) may have under any statute or common law to seek enforcement in any Federal, State, or local court, or in any administrative proceeding, of any provision of this Act or any other relief regarding the contamination of any drinking water supply.

"(h) Within 12 months after the date of the enactment of this section, the Administrator shall, by rule, establish criteria for the areas to be designated under section 1424(e) and eligible for special protections under this section. Such criteria shall include aquifer use, vulnerability, water quality, and unavailability of alternative supplies of drinking water. Designations made under section 1424(e) before the enactment of this section shall be reviewed and reevaluated in accordance with the criteria promulgated pursuant to this subsection.".

TITLE III—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) IN GENERAL.—Section 1442(f) of the Safe Drinking Water Act is amended by inserting the following at the end thereof: "There are authorized to be appropriated to carry out subsection (a)(2)(B), $11,300,000 for the fiscal year 1986, $11,300,000 for the fiscal year 1987, $11,300,000 for the fiscal year 1988, and $11,300,000 for the fiscal year 1989. There are authorized to be appropriated to carry out the provisions of this section (other than subsection (g), subsection (a)(2)(B), and provisions relating to research), $47,000,000 for the fiscal year 1986, $47,000,000 for the fiscal year 1987, $47,000,000 for the fiscal year 1988, and $47,000,000 for the fiscal year 1989.".

(b) STATE SUPERVISION PROGRAMS.—Section 1443(a)(7) of the Safe Drinking Water Act is amended by adding the following at the end thereof: "For the purposes of making grants under paragraph (1) there are authorized to be appropriated $45,000,000 for the fiscal year 1986, $45,000,000 for the fiscal year 1987, $45,000,000 for the fiscal year 1988, and $45,000,000 for the fiscal year 1989.".

(c) UNDERGROUND WATER SOURCE PROTECTION PROGRAM.—Section 1443(b)(5) of the Safe Drinking Water Act is amended by adding the following at the end thereof: "For the purpose of making grants under paragraph (1) there are authorized to be appropriated $28,000,000 for the fiscal year 1986, $28,000,000 for the fiscal year 1987, $28,000,000 for the fiscal year 1988, and $28,000,000 for the fiscal year 1989.".

(d) EXTENSION OF AUTHORITY.—Section 1441(f) of the Safe Drinking Water Act is amended by striking out "in effect" and all that follows and substituting "in effect for more than one year.".

(e) PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER.—Section 1443A of the Safe Drinking Water Act, as added by this Act, is amended by adding the following new subsection at the end thereof:

"(j) Upon the approval of any State plan under this section, the Administrator shall make grants to the State for 50 percent of the costs incurred by a State (as determined by the Administrator) in developing and implementing a State plan under this section. For purposes of making such grants there is authorized to be appropriated not more than $50,000,000 for the fiscal year 1986 and for each of the 3 fiscal years thereafter.".

(f) PROTECTION OF SOLE OR PRINCIPAL SOURCE GROUND WATER RECHARGE AREAS.—Section 1428 of the Safe Drinking Water Act, as added by this Act, is amended by adding the following new subsection at the end thereof:

"(i)(1) There are authorized to be appropriated for grants for development of plans under this section, $10,000,000 for each of the fiscal years 1986 through 1989.

"(2) There are authorized to be appropriated for grants to implement plans under this section $25,000,000 for each of the fiscal years 1986 through 1989. Matching grants under this section may also be used to implement or update any water quality management plan for a sole or principal source aquifer approved (before the date of the enactment of this section) by the Administrator under section 208 of the Federal Water Pollution Control Act.".

MISCELLANEOUS PROVISIONS

SEC. 302. Section 1442(e) of the Safe Drinking Water Act is repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation that is now before us is the product of the work of primarily two individuals who are members of our subcommittee, and I want to commend them for their efforts and for the product of those efforts.

The gentleman from Illinois [Mr. MADIGAN] is the lead sponsor of this legislation and the gentleman from Ohio [Mr. ECKART] has been the prime mover in the subcommittee as we looked at the safe-drinking-water reauthorization options.

Rather than for me to explain this bill at this time, I would like to defer to my colleague, the gentleman from Illinois [Mr. MADIGAN] for him to make the opening comments on the legislation, which we strongly support. As I turn over the opportunity for the explanation of this bill to the gentleman, I want to point out that it would not have been possible for us to come before the Congress and talk about a reauthorization of one of the most important environmental items on the agenda without his leadership, his skillful legislative abilities, and I think it is a bill that we can all support with a great deal of pride.

Mr. Speaker, the Safe Drinking Water Act is one of the most important public health measures protecting the American people. It directly addresses one of this Nation's most serious environmental health threats, the growing contamination of our drinking water with chemical poisons.

The bill, as reported, contains three titles. Title I requires the Environmental Protection Agency to finally get on with the vitally important job of establishing standards for health-threatening contaminations found in drinking water, and upgrades the monitoring and enforcement of these limits. Requirements for public notice of violations are streamlined, and variance and exemptions are extended for public water systems that cannot comply with the standards. Tampering with public water systems is made a Federal crime, and technical assistance is provided for small water systems.

Title II tightens restrictions on the underground injection of hazardous wastes, a practice which threatens our drinking water supplies, and upgrades the enforcement of this program. This title also expands the existing program for the protection of sole-source aquifers—especially important underground drinking water supplies—and provides for State plans to protect other underground sources of drinking water.

Title III renews the authorization of appropriations to carry out the Safe Drinking Water Act.

More and more evidence suggests that our drinking water supplies are contaminated by dangerous chemicals. Our Nation's ground water, which supplies half of the U.S. population with tap water, is becoming increasingly polluted. According to a report by the OTA, 29 percent of the ground water drinking water supplies of the United States cities with populations over 10,000 are contaminated. EPA reports that 45 percent of these public water systems contain organic chemicals.

Even though the Congress has worked hard to control much of this contamination through adoption of the Superfund and RCRA laws, I am not confident that these programs will be implemented swiftly and effectively enough to protect our Nation's drinking water supplies.

The Stringfellow crisis in my own State of California perhaps best demonstrates my concern. Today, 4 years after Superfund was enacted to deal with hazardous waste dumps, a bottled water truck circulates among the houses in the Riverside community of Glen Avon to deliver safe tap water. We have received reports that seepage from the wastesite might soon reach the Chino Basin, an underground reservoir supplying water to over 500,000 people in a half dozen San Gabriel and San Bernardino Valley communities.

Other States are facing similar alarming situations. Every day there are reports of dangerous chemicals appearing in drinking water. For instance, a recent health survey carried out in Woburn, MA, concluded that tap water laced with heavy metals and organic chemicals had caused perinatal deaths, ear and eye birth defects, kidney and urinary disorders, and leukemia in children in the area.

EDB, one of the most potent cancer-causing substances ever tested by EPA, has been found in tap water in Florida, California, and other States as well.

Unfortunately, EPA has chosen to ignore, rather than respond to, these concerns. The Agency has set few standards and has not yet regulated the many chemicals increasingly found in drinking water supplies. Moreover, enforcement of the few standards already on the books has been lax, with over 146,000 violations recorded in 1980.

Last year many members of our subcommittee tried to develop a consensus drinking water bill, working with H.R. 3200, the bill introduced by Representative DENNIS ECKART. But by last November it was clear that we had failed to resolve several key issues essential to having broad and bipartisan support.

Representative MADIGAN, the distinguished ranking member of our subcommittee, joined by Representative ECKART, renewed efforts to reach a compromise by introducing H.R. 5959 in late June. Since then we have perfected a compromise vehicle that a broad coalition of Members from both sides of the aisle can enthusiastically support.

This compromise vehicle was unanimously reported out of our Subcommittee on Health and the Environment 2 weeks ago, and adopted by the full Committee on Energy and Commerce by a voice vote last week.

H.R. 5959 does not have all of the elements that I would like to see in our Safe Drinking Water Act. It has no provisions to allow citizens afflicted by poisons in drinking water to seek redress in court. It still allows the Agency to consider costs in the setting of standards which should be governed solely by the protection of public health. And its public notice requirements do not go far enough in requiring that consumers be notified when poisons are discovered in their drinking water.

But H.R. 5959 is a compromise vehicle with broad support. It would allow us to make significant progress in the crucially important effort to keep pace with today's understanding of the threat to our drinking water, and to utilize today's technologies for assuring that our water is safe.

The bill would require EPA to get on with the vitally important job of setting standards for the regulation of organic chemicals and other toxic contaminants in tap water. H.R. 5959 will also bring better monitoring and enforcement programs to millions of Americans. Also this bill provides for the establishment of State plans to protect the ground water resources which supply half of the U.S. population with drinking water. Finally, H.R. 5959 establishes a special program for protecting drinking water in areas, such as Long Island, NY, where hundreds of thousands, or even millions, of Americans rely on a single underground aquifer as their tap water supply.

Mr. Speaker, this bill is the result of the hard work by many Members. On the sole-source aquifer provision, for instance, NORM LENT, TOM FOLEY, and BILL CARNEY have all made important contributions to the drafting of H.R. 5959.

But I would be remiss if I did not recognize and commend the outstanding efforts of Representative TOM DOWNEY.

Representative DOWNEY's bill, H.R. 4501, was the basis for our sole-source provision in H.R. 5959.

He has done a remarkable job of working with other Members and educating the House on this issue. I think the direct result of his work will be safe drinking water for millions of Americans that rely on sole-source aquifers.

And as Mr. DOWNEY has argued so persuasively, the reason protection is needed is that many aquifers lie beneath undisturbed and pristine lands. These areas are critical to the preservation of their aquifer's recharge zone—the water reaching the aquifer depends on the nature of these lands and the degree of contamination of inflowing water. Once contaminated, there is no practical means to cleanse the aquifer system.

On Long Island, for instance, he has pointed out, there are 10,000 undeveloped acres of pine and scrub pine that lie above the recharge area and several more areas of forested land elsewhere on the island. This land, like other recharge areas around the country, has been left in its natural condition and remains relatively free from landfill or septic-tank seepage, or runoffs from fertilizers, pesticides, and household products such as drain cleaners, solvents, disinfectants, and paint removers.

On Long Island, for instance 1,500 private wells have already been contaminated, and more contamination is likely if we don't take strong action.

I know Representative DOWNEY is especially pleased with section 1426(d)(1)(h) of H.R. 5959. This provision will allow State and local governments to assess their contamination problems and take whatever actions are necessary to protect their aquifers, including obtaining natural undisturbed lands critical to protect the water quality and recharge capability of sole-source aquifers. This ability to prevent harm will be important not only to Long Island, but to many other aquifers as well.

As a final note, I want to thank ED MADIGAN, and DENNIS ECKART, whose commitment and concern have made this legislation possible, and JOHN DINGELL for expeditiously moving this legislation through the Energy and Commerce Committee.

I urge all my colleagues to join with me in supporting this important bill.

Mr. Speaker, I would like to make one correction in the Committee Report filed with H.R. 5959. A clerical error was made in the discussion of section 101. The sentence that reads: "The Administrator's decision is to be upheld if it is not arbitrary or capricious.", should read: "The Administrator's decision whether or not to regulate a contaminant is to be upheld if it is not arbitrary or capricious."

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5959, the Safe Drinking Water Act Amendments of 1984. This bill, which was introduced by the gentleman from Ohio [Mr. ECKART] and myself, has broad bipartisan support,

and was reported out of the Energy and Commerce Committee by voice vote. This sorely needed legislation will modify the existing program to regulate drinking water in this country and will diminish the growing risks to public health from contamination of our drinking water supplies.

Mr. Speaker, the bill before us today is the result of over 2 years of work on the part of the Subcommittee on Health and the Environment, under the leadership of the distinguished gentleman from California [Mr. WAXMAN]. During 5 days of hearings, 43 witnesses, representing 43 organizations, were heard from. When it came time to draft legislation, we were able to work very successfully in a bipartisan manner and involve all interested parties. We sat down with groups such as the Environmental Policy Institute, the Clean Water Action Project, the National Wildlife Federation, the Sierra Club, the League of Women Voters, the Natural Resources Defense Council, numerous public water systems, various industrial groups, and the Environmental Protection Agency, as well. Although we could not accept all recommendations, I believe that this piece of legislation is completely fair to all concerned and is crucial to guaranteeing safe drinking water supplies in this country in the future.

The need for this legislation is obvious. In a recent EPA random survey of metropolitan water systems, 28 percent were found to be contaminated by one or more toxic organic chemicals. In another random survey, 63 percent of the rural water supplies were also found to be contaminated. Our surface water supplies today are polluted by over 700 synthetic organic chemicals, heavy metals, pesticides, and other pollutants. The condition of our ground water supplies, which account for 50 percent of our drinking water, is also threatened. Ground water is subject to approximately 30 different sources of chemical contamination. These include hazardous-waste landfills, surface impoundments, septic tanks, and cesspools, and our latest cause for concern—leaking underground storage tanks. It is clear to me, to our chairman, to Mr. ECHART, and to the other members of our committee, that we cannot solely rely on cleanup which is often technically or economically infeasible. Prevention of contamination is the only viable, long-term remedy for the problem.

Our distinguished chairman [Mr. WAXMAN] has already explained some of the key provisions of the bill. I wish to simply highlight a few of these and clarify their intent.

Standard setting would be greatly expedited under this bill. EPA is given strict timetables in which to decide whether or not to regulate two lists of contaminants which the Agency already has identified as potential health threats in drinking water. This provision does not, however, make regulatory decisions for EPA. The Administrator is given full flexibility to weigh the health evidence before him and decide if there is sufficient evidence to constitute a rational basis to act. The bill also requires control technologies which are the best available—considering costs—rather than the best general available as in current law, but these technologies must be field tested, not just proven in a laboratory.

Title II of the bill establishes a program to protect our vital underground sources of drinking water. Section 203 requires States to develop and adopt a plan to protect underground sources of drinking water from contamination. I know that some groups are fearful that Federal involvement in matters such as this can lead to Federal land-use management and other undesirable intrusions. A close examination of this provision, however, shows that it affords a State maximum flexibility in formulating a sensible strategy to protect public health from ground water contamination. EPA must approve a State's plan unless it clearly is not meeting the requirements of the provision. I want to emphasize that in no way does this requirement preempt ongoing State activities and responsibilities in the area of water planning, water rights, or water distribution. The State is specifically authorized to categorize aquifers and provide differing levels of protection. This planning requirement complements rather than preempts State water resources and ground water protection laws. This deference to the States is made clear, very, very clear, in the committee report.

The bill also provides for voluntary State and local plans to protect sole-source aquifers, or those aquifers which supply all of the drinking water for a community. If these valuable resources are lost, the citizens of that area have no other supply of drinking water. Again, however, this does not constitute Federal land-use planning or impede State water rights in any way. This program is completely voluntary on the part of local communities.

This legislation strikes a sound balance between the flexibility required to regulate the Nation's 69,000 different public water systems and the active direction needed to provide consistently high-quality drinking water throughout the country. I would like to particularly thank Mr. WAXMAN, Mr. DINGELL, and Mr. LENT for their support and participation in the formulation of this bill and commend Mr. ECKART for his leadership on this issue over the past 2 years.

I urge the quick approval of H.R. 5959 by the Members of this body.

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Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to insert in the RECORD two letters from the Honorable JAMES J. HOWARD, chairman of the Committee on Public Works and Transportation of the House of Representatives, one to the Honorable JOHN D. DINGELL, dated September 18, 1984, and the other to the Speaker of the House, the Honorable THOMAS P. O'NEILL, JR., dated May 19, 1982.

The letters are as follows:

HOUSE OF REPRESENTATIVES, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,

Washington, DC, September 18, 1984.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Commerce recently reported H.R. 5959, the Safe Drinking Water Act Amendments of 1984. Title II of this bill establishes a program including regulatory provisions and Federal grant assistance for the protection of groundwater sources of drinking water.

The provisions of Title II are designed to prevent pollution of groundwater from a variety of sources including underground injection, nonpoint sources of water pollution, contamination of groundwater recharge areas and the like. In addition, states are required to develop and implement state plans to protect groundwater sources of drinking water, which plans are subject to approval by the Environmental Protection Agency, and Federal grant assistance is provided for the development and implementation of such plans, including water quality management plans for sole or principal source aquifers approved under Section 208 of the Federal Water Pollution Control Act.

Groundwater resources are intimately related to water supply and water quality. They provide an alternative to reservoirs and contribute to the flow of rivers and streams, and constitute an integral part of the overall hydrologic regime. For these reasons the Committee on Public Works and Transportation has been responsible over the years for a number of provisions related to groundwater resources. Our Committee's jurisdiction in this area was last recognized in the 97th Congress when H.R. 6307, the Resource Conservation and Recovery Act Reauthorization Act of 1982, was sequentially referred to the Committee on Public Works and Transportation for consideration of Section 9 of the bill which established a groundwater commission to investigate and assess a broad range of matters relating to the quality and quantity of groundwater resources. For your information, a copy of our letter to you with regard to that bill is attached.

Because of the short period of time remaining in this Congress and of the need to complete floor action on H.R. 5959 as soon as possible, our Committee is not seeking sequential referral of this bill. We do, however, request that this in no way adversely affect our recognized jurisdiction over groundwater and that this jurisdiction continue to be recognized both with respect to H.R. 5959 and other legislation dealing with

the broad subject matter of groundwater resources.

Every best wish.

Sincerely,

JAMES J. HOWARD,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, May 19, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The Committee on Energy and Commerce recently reported the bill H.R. 6307, the Resource Conservation and Recovery Act Reauthorization Act of 1982. In marking up the bill, the Energy and Commerce Committee added two provisions which are of considerable concern to our Committee because they deal within our jurisdiction.

The first of these amendments, contained in Section 4, addresses the subject of hazardous waste mixed with domestic sewage. Section 1004(27) of the Solid Waste Disposal Act provides that the term "solid waste" does not include solid or dissolved material in domestic sewage. Such mixtures are presently regulated under the Federal Water Pollution Control Act. The amendment would direct the Administrator of the Environmental Protection Agency to submit a report to the Congress with recommendations respecting whether or not such mixtures should be regulated under the Solid Waste Disposal Act. Two issues which are involved here are the pretreatement of hazardous wastes before discharge into a sewage treatment plant and the "pass through" of these wastes at the treatment plant into the plant's effluent stream. The study, therefore, is directed at the question of whether discharges of pollutants into navigable waters should be regulated under the Solid Waste Disposal Act. Such a study involving as it does a change in the regulatory scheme of the Federal Water Pollution Control Act relating to treatment of sewage and abatement of water pollution is appropriately within our committee's jurisdiction.

The second amendment, contained in Section 9, establishes a National Groundwater Commission to investigate and assess a broad range of matters relating to the quantity and quality of groundwater resources and mechanisms for protection of these resources.

The Commission is directed to transmit a report to the Congress and to the President containing detailed statements of its findings together with recommendations for appropriate legislation and administrative actions.

Groundwater resources are intimately related to water supply and water quality. They provide an alternative to reservoirs and contribute to the flow of rivers and streams. For these reasons the Committee on Public Works and Transportation has been responsible over the years for a number of provisions related to groundwater resources.

Numerous provisions of the Federal Water Pollution Control Act relate to groundwater. Section 102(a) directs the Administrator of the Environmental Protection Agency to develop conprehensive programs for preventing, reducing or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and ground waters. Section 104(a)5 directs the Administrator to establish, equip and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters.

Section 106(e)1 provides that the Administrator shall not make any grant to a State to assist in the administration of programs for the prevention, reduction and elimination of pollution if the State does not have a system to monitor and to compile and analyze data on the quality of navigable waters and to the extent practicable, ground waters.

Section 208 in subsections (b)2 (I) and (K) provides that areawide waste treatment management plans shall include processes to identify saltwater intrusion caused by groundwater extraction and to control the disposal of pollutants to protect ground and surface water quality.

Section 304 in subsection (a) directs the Administrator to develop information on the factors necessary to restore and maintain the chemical, physical, and biological integrity of navigable waters and ground waters. In subsection (f) the Administrator is directed to issue information including methods to control pollution resulting from the disposal of pollutants in wells or in subsurface excavations and saltwater intrusion from reductions of freshwater flow from any cause including extraction of ground water.

Section 402(b)(1)(D) requires that a State, in order to administer its own permit program for discharges into navigable waters, must have authority to issue permits which control the disposal of pollutants into wells. (E.P.A. also as part of its Section 402 permit program regulates the discharge of pollutants into wells.) Section 502(6)(B) in defining the term "pollutant" provides that it does not mean material injected into a well to facilitate production of oil or gas if the injection or disposal will not result in the degradation of ground or surface water resources. Otherwise such materials do constitute pollutants for the purposes of the Act.

Other statutes as well have dealt with issues relating to groundwater resources. The Water Resources Planning Act (Public Law 89-80), over which our Committee has jurisdiction, established a Water Resources Council composed of the heads of various Federal agencies. The Council is charged, among other things, with maintaining a continuing study on and preparing assessments of the adequacy of water necessary to meet the water requirements in each water resources region in the United States. It also is to maintain a continuing study of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies. In addition, the Act provides for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans. These assessments, studies and plans, of course, must necessarily consider the quality and quantity of groundwater resources.

Groundwater resources are also given consideration in the development of water resources projects of the Corps of Engineers. Many such projects in the Western United States are designed and operated in such a manner as to provide for the recharging of aquifers.

Another example of legislation relating to groundwater resources is Section 193 of the Water Resources Development Act of 1976 (Public Law 94-587). This section directs a study of the use of the Ogallala Aquifer and the development of plans to increase water supplies in the area. This section highlights the relation between groundwater and surface water supplies in the areas of water resources use and management.

The quantity and quality of our Nation's groundwater resources are inseparably related to water pollution control and water resources development, both physically and conceptually. The study called for in Section 9 will necessarily include consideration of water pollution, water supply, groundwater recharge, and the need for surface water storage or transfers to augment groundwater supplies. We therefore request a sequential referral for sixty days of H.R. 6307.

Every best wish.

Sincerely,

JAMES J. HOWARD,
Chairman.

Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Ohio [Mr. ECKART], who has played a leading role in this legislation.

Mr. ECKART. Mr. Speaker, the last time national standards were set dealing with the basic health of drinking water, John F. Kennedy was the President of the United States, Nikita Khrushchev was pounding his shoe at the United Nations in New York, and Y.A. Tittle was leading the New York Giants to yet another National Football League championship. The year was 1962; 12 years later the Congress basically ratified those 1962 standards into the 1974 Safe Drinking Water Act, and now 10 years after the initial codification of those 1962 standards, we stand at the threshold of providing the first fundamental change in over 22 years for the protection and quality of America's drinking water.

During the hearings that my friend, the gentleman from Illinois [Mr. MADIGAN], referred to, he accurately cataloged the numbers of witnesses and the days and hours we spent in trying to structure a package that could meet the exigencies of the problem and yet still deal with the practicality of the politics of dealing with it in the political circumstances we find ourselves in today. The consequence is a piece of legislation which I think merits the support of all of us on this floor.

We discovered, as my friend, the gentleman from Illinois [Mr. MADIGAN] reported, that you can lead EPA to water but you can't make them regulate it. This legislation corrects that inequity and requires the EPA to do that which many of its own studies have reinforced upon it the need to do.

Almost 30 percent of the major water systems in the United States today report contamination of volatile organic contaminants. Half a million rural households drink water that would be unfit for bathing if that water was found at a public beach; 180,000 dumpsites litter our Nation's landscape, 85 percent of them are within 1 mile of a source of drinking water, and two-thirds of them have no protection from leaking at all. Very

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simply, what we have discovered is that our ground is no longer a veritable sponge capable of soaking up unknown carcinogens filtering their way into our water supplies and thus silently but nonetheless quickly, much in the same way as Love Canal and other instances, working their way into our ecosystem.

The National Academy of Sciences and the Council on Environmental Quality have both underscored the need for protection and preservation of our drinking water, and for those of us who come from the Midwest, the Great Lakes States, we quickly realize this is not only an important environmental issue but an economic one as well, because for us bad water is the same as no water at all.

The legislation that the gentleman from Illinois [Mr. MADIGAN] and the gentleman from California [Mr. WAXMAN] have crafted so well is a reflection on both economic and environmental needs of an important asset for these United States, an asset that must not be frittered away, one that must be dedicated to a revitalization of our economic interests as well as a preservation of our personal health and welfare, not only for those of us who rely upon ground water, but those of us who would like to see it become an economic asset for revitalization of our regions as well.

We complete, with the adoption of this legislation, an important trilogy. The House is firmly on record in support of a strong environment with the passage of the Superfund bill, cleaning up the sins of yesterday. With the consideration of RCRA, which goes to conference this very afternoon, we take care of the sins of today by stopping the point source pollution that threatens future generations, and with the passage of the Safe Drinking Water Act, we finish that trilogy by taking into tomorrow the appropriate standards to deal with the problems of the 1980's and the 1990's, to adequately address the economic and environmental future of our children.

Superfund, RCRA, safe drinking water, dealing with the problems of yeterday, today, and tomorrow, guarantee that for us and for our children we will be able to say that when we pass on our stewardship, our trusteeship of the environment, and reasonable opportunity for economic wealth, that we have done our part.

Mr. Speaker, I commend my friend, the gentleman from Illinios [Mr. MADIGAN], and I thank my friend, the gentleman from California [Mr. WAXMAN], for recognizing the important need to protect not only this important economic resource but to insure that for future generations of Americans we do not have to hang a sign on our faucets that says, "What you drink may be hazardous to your health."

Mr. Speaker, the bill before us now, H.R. 5959, to amend and reauthorize the Safe Drinking Water Act, is the most significant piece of environmental legislation in the 98th Congress.

The growing evidence of surface and ground water pollution with hazardous and toxic contaminants mandates stronger legislative remedies and regulatory actions now. We have learned through the last 10 years of the SDWA's implementation that we can lead EPA to water but we can't make them regulate it.

Any further inaction by this Congress to force EPA to move in the areas of regulation, enforcement, and planning could very well lead to an environmental catastrophe of the 1990's with cries of "water, water everywhere and not a safe drop to drink."

Inaction now will lead to continued ground water degradation, increasing threats to the public health from all sources of drinking water, and enormous expenditures required for drinking water cleanup or replacement from distant sources when cleanup has become technologically or economically infeasible.

All of the numerous and diverse Federal, State, and local environmental statutes ultimately relate to the protection of the essential elements for human existence—air, food, and water. People in this country are aware of the importance of these necessities and have chosen to spend over $1 billion per year on bottled water and home filtering devices to increase the quality of their drinking water.

H.R. 5959 will go a long way in increasing the quality of the Nation's drinking water provided to consumers, protect it from further contamination and degradation, increase planning and monitoring of our drinking water supplies, and most importantly, reduce the threat to the public's health and increase the public's confidence in the drinking water supplied to their homes and businesses.

H.R. 5959 has two principal thrusts for dealing with drinking water legislation—standards for public water systems and protection programs for underground sources of drinking water. The major provisions of the bill and the importance of each follows:

The bill expedites EPA regulatory action for chemical contaminants of drinking water. Since the SDWA was passed in 1974, EPA has adopted interim standards for only 20 water contaminants, most of these based on 1962 recommendations of the U.S. Public Health Service and technology generally available in 1974. These standards have never been finalized nor supplemented in spite of growing evidence of dozens of other contaminants present in drinking water, many of which are known or suspected human carcinogens. The bill requires standards to be set for 14 of the most serious volatile organic compounds within 12 months and 50 additional contaminants within 3 years.

The bill requires all water systems to conduct a monitoring program established by EPA and the States for yet unregulated contaminants. This will give the States and EPA a national data base on drinking water contamination occurrence, magnitude, and trends for planning purposes and further regulatory decisionmaking.

The bill gives EPA authority to issue administrative orders in lieu of taking cumbersome and time consuming civil actions to require compliance with regulations, schedules and other requirements of the act. Civil penalties of up to $25,000 per day of violation are also authorized. EPA statistics have shown numerous violations of standards and monitoring requirements in the past—146,000 in fiscal year 1980 alone—and increased enforcement efforts are obviously warranted.

The bill increases the public notice requirements of drinking water violations and monitoring results to keep the public well informed of the quality of their drinking water.

The bill makes it a Federal crime to tamper with, attempt to tamper with, or threaten to tamper with any public water system. This will allow Federal assistance in investigating and prosecuting possible terrorist activities aimed at our water supplies.

The bill also provides technical assistance to small public water systems to enable such systems to achieve and maintain compliance with standards. Assistance can include "circuit rider" programs, training, and preliminary engineering studies.

The second and equally critical thrust of the bill deals with our underground sources of drinking water. Ground water contamination is the newest frontier of environmental concern and perhaps the last area that has yet to receive appropriate attention by our environmental laws in a comprehensive and coordinated fashion. The extent of the problem is far from understood or fully documented, but it is obvious from the growing trends in contaminated wells and increasing number and levels of contaminants that the problem is escalating rapidly.

A comprehensive ground water protection program is vitally needed now. We have learned from hazardous waste dumps that it is 10 to 100 times more expensive to cleanup the mess than to dispose of properly to begin with. For ground water, it is even more expensive, difficult, and often impossible to restore degraded ground water supplies.

Consider the magnitude of ground water usage in this country and the potential contamination already or potentially at hand:

Ground water constitutes 96 percent of the Nation's fresh water and supplies 30 percent of the surface water through springs.

By 1985, ground water usage will be 100 billion gallons/day, three times the 1950 usage.

Nearly one-half of the U.S. population depends on ground water for its drinking water supply and 95 percent of rural America depends on it.

Thousands of wells in the United States have already been closed because of ground water contamination and we may only be seeing the tip of the iceberg since large volumes of contaminants can enter the ground water and remain undetected because of very slow ground water migration rates.

EPA indicates that 29 percent of the underground drinking water supplies for large cities are contaminated with volatile organic compounds and that virtually every State has detected ground water contamination affecting use; 10 billion gallons of hazardous wastes per year are disposed of into over 220,000 injection wells.

EPA estimates that there are over 181,000 surface impoundments and over 27,000 are known to contain toxic or carcinogenic chemicals; 35 percent of the industrial impoundments are unlined and 30 percent sit directly over ground water sources with no barriers between the toxic wastes and the water supply.

Prevention of ground water contamination and degradation through planning and management is obviously the wisest public policy to pursue and H.R. 5959 implements this strategy.

The bill will ban the injection of hazardous wastes directly into or above underground drinking water suppliers.

The bill requires monitoring of underground injection wells to detect fluid migration in the direction of underground drinking water supplies.

The bill requires an inventory of all hazardous waste injection wells in the United States to assist in developing recommendations to further protect underground sources of drinking water from injection of hazardous wastes into underground injection wells.

The bill requires States to develop plans within 3 years to protect underground sources of drinking water. These plans must include identification of sources to be protected and sources of contamination, contain implementing regulations which the State will use to enforce its plan, provide for alternate drinking water supplies if needed, and for States where natural gas or oil exploration and production occurs, the State plan must provide for the protection of underground sources of drinking water from brine contamination.

The bill also establishes a similar program to specifically address the protection of sole or principal source ground water recharge areas. These are extremely vulnerable and serve as the only source of drinking water for millions of individuals in many areas of the country.

This bill has received wide bipartisan support because it is an issue that is to the benefit of every Member of Congress as well as their constituents. Through our lengthy deliberations in developing a comprehensive bill to address the many threats to safe drinking water, we have worked very closely with the water companies, industry groups, and environmental groups such as the National Wildlife Federation, Clean Water Action Project, Friends of the Earth, Environmental Policy Institute, and Natural Resources Defense Council. We thank them all for their assistance and support in crafting this legislation that will go a long way in providing safer drinking water for our Nation.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LENT], a cosponsor of the legislation.

(Mr. LENT asked and was given permission to revise and extend his remarks.)

Mr. LENT. Mr. Speaker, I rise in support of this important environmental bill. I want to congratulate the gentleman from Illinois [Mr. MADIGAN] and the gentleman from Ohio [Mr. ECKART] for the bipartisan spirit in which they conducted the negotiations that produced the bill before us today. I also want to thank them for giving me the opportunity to participate in the drafting of H.R. 5959.

I have a particular interest in this legislation because of its effect on Long Island. The 2.5 million residents of Long Island rely on a sole source acquifer for their drinking water. The Long Island delegation has been concerned for a number of years about the deteriorating condition of the acquifer, and early in this Congress I joined with my Long Island colleague, Mr. CARNEY, in introducing H.R. 79, the Sole Source Acquifer Protection Act.

The Carney-Lent bill and H.R. 5959 both recognize the need for a cooperative effort by local, State, and Federal authorities in developing acquifer protection plans. There is an abundance of disturbing evidence that the Long Island acquifer is becoming seriously contaminated and that we must take immediate action to preserve it. A 1982 GAO report entitled "Cleaning Up the Environment" noted that on Long Island 36 public water supplies and dozens of private wells have been closed because of contamination. I have been particularly concerned with hazardous wastes leaching through Long Island's porous, sandy soil and into our upper water bearing strata, and called attention to this danger during a 1979 Energy and Commerce Subcommittee hearing in Mineola, NY. If anyone doubts the urgency of our mission they should look at the situation on Long Island. If anyone questions the cost of the program embodied in this bill, they should consider the enormous cost of cleaning up a contaminated acquifer and the cost of an alternative source of drinking water.

H.R. 5959 recognizes that the surface use of land can affect the quality of the underlying ground water. It establishes a procedure for local authorities to initiate and implement plans with help from the State and Federal governments. This bill is deserving of the support of this House and I urge my colleagues to vote for it.

□ 1450

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 1 minute to the distinguished Representative from the State of Washington [Mr. FOLEY], the majority whip, who has played a very constructive role, particularly in the sole source aquifer section of the legislation.

Mr. FOLEY. Mr. Speaker, I thank the distinguished chairman of the Subcommittee on Health, [Mr. WAXMAN] and join with my friend, the gentleman from Ohio [Mr. ECKART], who has stated so eloquently the importance of this legislation and the benefits it brings to the entire country.

I want to join as well in expressing congratulations and thanks to the distinguished ranking minority member, the gentleman from Illinois [Mr. MADIGAN] for his work on this bill.

This is truly a bipartisan effort. It speaks to the national interest throughout our country in protecting our drinking water.

I come from an area that relies on a major single source aquifer to supply the entire region with clean drinking and ground water which might in the future be threatened unless actions are taken to protect it.

As the gentleman from Ohio [Mr. ECKART] has said so well, through this and other legislation we have taken action to correct the mistakes of the past and to preserve both present and future resources.

Because clean drinking water is the kind of thing we unfortunately do not appreciate fully until it is no longer available to us; so I congratulate all those who have insured that we will not lose this precious American resource.

Mr. MADIGAN. Mr. Speaker, I yield 4 minutes to the gentleman from Utah [Mr. NIELSON], a member of the committee.

Mr. NIELSON of Utah. Mr. Speaker, I do not now nor have I ever wanted to campaign for dirty water. I want that point to be perfectly clear.

I join in commending the gentleman from Ohio [Mr. ECKART] and the gentleman from Illinois [Mr. MADIGAN] and the gentleman from California [Mr. WAXMAN], and the gentleman from New York [Mr. LENT] and others who have helped on this bill.

H.R. 5959, which amends the Safe Drinking Water Act, provides some much needed revisions and changes in the act. The bill, among other things, will require the EPA to propose minimum contaminate levels and a national primary drinking water regulations for 14 volatile organic compounds which have a potential to adversely affect the health of persons. In addition, this legislation provides for criminal penalties for persons who introduce a contaminant into or otherwise tamper with a public water system, with the intent of harming persons. Furthermore, it provides for technical assistance to small water systems, such as circut riders which provides operational training to such small systems. This is a much needed piece of legislation which will serve to assure safe drinking water for Americans.

However, the act goes much farther than is appropriate, given its historical public health focus on regulating public water systems by addressing the complex subject of ground water in sections 203 and 204. The protection of ground water has historically been the responsibility of the individual States. This bill would federally mandate a State's ground water protection program without considering existing State laws. Not only would this legislation impact State ground water laws but it would also threaten State water resource law. In addition, the bill does not attempt to provide guidance to the EPA or the State on integrating into current State law the programs established by the bill.

It is important to consider that no hearings have been held on H.R. 5959 and since neither section 203 or 204 were included in the previous bill, H.R. 3200—on which hearings were held early this year—the ground water provisions have not been fully discussed or considered. As a result, the committee has not requested or heard from such groups as the National Governors Association, National Conference of State Legislatures, National League of Cities, National Association of Counties, National Water Resources Association, or any of the State water resource agencies, which are most affected by these provisions. In my view the committee would have benefited from, and greatly improved this legislation by, involving State and local government, as well as other interested parties.

Section 203 essentially categorizes all ground water whether or not it is reasonably suitable for human consumption as an underground source of drinking water, thus making it subject to the provisions of this bill. For example, the bill could require the States to call certain ground water which it now calls a source of livestock, irrigation or geothermal water under State water law an underground source of drinking water. Decisions regarding which ground water should be classified as a source of drinking water has clearly been a State responsibility and should remain as such. However, if the Congress should decide to establish a strong Federal role in protecting ground water resources, it should not be done in a backdoor fashion through the Safe Drinking Water Act. Rather, the Congress should take a comprehensive look at all ground water and all of its uses, involve all interested committees including the Agriculture Committee, the Interior and Insular Affairs Committee, the Public Works and Transportation Committee, the Judiciary Committee as well as the Energy and Commerce Committee.

Both sections 203 and 204 create broad new administrative authority over ground water. Section 203 would require the State to "guarantee or provide for an alternative drinking water supply when an underground source of drinking water is contaminated." Such a guarantee would require not only new regulatory programs at the State level but would force the States to guarantee quantities of waters which in some States would be extremely difficult and in other States, such as Utah, impossible to guarantee. In addition, section 204 would enable the EPA to require any person who contributed to the contamination of the ground water to pay the entire cost of providing alternative water and might even be able to order them to build an entire new public water system For example, a homeowner with a septic tank leaking into the ground water or a farmer who uses fertilizer which percolates into the ground water might have the EPA requesting that they pay the entire cost of a new water system for the town in which they live.

Another area of concern is that of costs. Although the Federal expenditures appear modest several things must be noted. First, the combined authorization expenditure for the two sections are $85 million a year for the next 4 years, a significant first step. Second, it is possible and likely that section 203 funding will be continued after the intitial 4 years and that section 204 funding will require large funding levels in order to complete all the projects and plans that will need funding. Third, no one has estimated the cost to the States as a result of these provisions. It seems irresponsible to mandate a State program without asking for their input and estimating the potential costs. Fourth, I doubt that anyone has even asked the question concerning the potential costs to the individual who unintentionally, contaminates the ground water and then is responsible for supplying an alternative water resource or paying for the construction of a new water supply for the community. Will individuals with septic tanks, farms, or ranches be forced into purchasing Federal ground water protection insurance in the event of unintentional contamination? Finally, serious judicial issues are raised by allowing any interested person to seek review of any such EPA order in Federal court, apparently regardless of whether such person is directly affected by the order. Creation of a strict, joint, and several liability administrative compensation system for water supplies raises its own set of legal questions, as well. It appears that the costs associated with these provisions may never be quantifiable.

A final comment on costs. As I have read section 204 it occurs to me that there are absolutely no limitations on the use of grant funds for the implementation of projects. Thus a community could apply for funding with the intent of cleaning up a Superfund site, retrofitting an industrial lagoon to meet RCRA requirements, cleaning up brine spill from oil and gas activities, completing a project necessary to comply with the Clean Water Act or simply subsidizing the regular cleanup of homeowner's septic tanks. This Congress should not open the door to funding all costs of compliance for all Federal environmental statutes.

Although there are many positive features in H.R. 5959, I would urge my colleagues to carefully analyze the implications of sections 203 and 204 of the bill before giving it their wholehearted support.

I hope that sections 203 and 204 will be deleted when this bill goes to conference with the Senate.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I thank my colleague and subcommittee chairman, the gentleman from California [Mr. WAXMAN].

I want to first say that I support passage of this bill. It is an important measure for the protection of current and future sources of our Nation's drinking water. It addresses the question of developing national standards for maximum allowable contaminant levels in our water. It provides for the evaluation of State underground water source protection programs to ensure that they are adequate to meet the needs of the public for safe water. It also contains special provisions for identifying and protecting sources of drinking water that are the sole source available to a community, and therefore even more precious.

I must express my concern, however, over the bill's monitoring provisions

for sources of drinking water near hazardous waste deep-injection systems. Hazardous waste disposal through deep injection is far from a flawless technology. Leaking wells in Vickery, OH, have poured 45 million gallons of acid waste into layers of earth well above where the disposer had intended for this waste to go. Hazardous waste injected near Erie, PA, resurfaced miles away in an abandoned gas well. In my congressional district in Kansas, a leaking landfill near the town of Furley has prompted officials at the site to propose disposing of contaminated water through an underground injection well. This proposal prompted my staff to research the safety of underground injection for hazardous wastes and they found that experts emphasize, for the protection of underground sources of drinking water like those found in Kansas, the need for direct monitoring of the water source itself. Successful underground injection provisions in Florida, for example, include the use of monitoring wells at varying distances from underground injection sites. The lack of clear direct monitoring provisions in H.R. 5959 is the cause of my concern.

In looking over the Senate counterpart to this bill, S. 2649, it appears that the proposed monitoring sections are much stronger, calling for direct monitoring of downgradient, underground sources of drinking water. We cannot fully protect the drinking water of a community unless it is tested directly for contaminants that might invade the source due to deep well injection. The bill before us mandates only early detection of fluid migration, and does not require officials to check aquifers directly for contamination. I would hope that the chairman of the subcommittee would accept the language in the pending Senate bill regarding monitoring near deep injection wells.

I thank the gentleman.

Mr. ECKART. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield to my colleague.

Mr. ECKART. Mr. Speaker, the point the gentleman makes concerning our provision and the other body's provision is accurate; however, I think they have to be read in conjunction with the passage of the other body's version of the Resource Conservation and Recovery Act [RCRA] and the House version of RCRA which is much more stringent than the Senate version. Between the two versions on class 1 and class 4 wells, as well as the double liner requirements in the House version of RCRA, and the additional monitoring requirement that the gentleman mentioned about the safe drinking water legislation in the other body, I think we will find that between the two we have very adequate provisions for monitoring, indeed it is being objected to right outside this Chamber by some as too stringent of protection for ground water.

□ 1500

Our version in safe drinking water reflected the successful House consideration of RCRA for similar monitoring provisions. It is not necessarily a shortcoming in this legislation by virtue of the fact we pick it up in RCRA, but I can assure the gentleman as one who is both a conferee to RCRA and hopefully will be a continuing participant in the safe drinking water, I will work to see that we have the most stringent protections in both of those bills working together.

Mr. GLICKMAN. I appreciate the gentleman's commitment.

Mr. MADIGAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. CARNEY].

Mr. CARNEY. Mr. Speaker, I rise in support of this very important piece of legislation. As you know, the Safe Drinking Water Act amendments contain a section that is crucial to the maintenance of sole-source supplies of safe and clean ground water under section 204 of the bill. I am very pleased that my distinguished colleagues on the Energy and Commerce Committee were able to include provisions to establish programs which will remedy a nationwide problem that has far too long been out of sight and out of mind.

As you know, I am the sponsor of H.R. 79, the Sole Source Aquifer Protection Act which was intended as an amendment to the Safe Drinking Water Act. Through the efforts Mr. ECKART, Mr. MADIGAN, and dean of the Long Island delegation, Mr. LENT, we were able to help fashion a compromise bill that would address the unique problems of sole-source aquifers.

Mr. Speaker, the strength and merit of this concept is that it recognizes the prime role local and municipal governments can play in carrying out the provisions of the bill. Furthermore, this measure will enhance existing EPA programs which assist local governments in developing responsible and workable measures to safeguard our supplies of drinking water.

Through the existing authority of the Safe Drinking Water Act, the EPA has designated 10 sole-source aquifers for eligibility as special protection areas. I represent one of these areas, the Nassau-Suffolk Aquifer on Long Island, NY. Five congressional districts on Long Island, including my own, represent 2.3 million people who are totally dependent on an underground supply for their drinking water, and all present information indicates that the sole source of Long Island's drinking water has undergone serious degradation. Likewise, my colleagues from Florida, Washington, Texas, and California, to mention only a few, have expressed deep concern over the future of their sole sources of potable water.

Because these aquifers are the only water supply for the regions that depend on them, I believe they deserve the first and greatest priority on any protection program. H.R. 5959 creates the mechanism to provide that priority by providing for cooperative problem solving among local, State, and Federal governments and by assigning an appropriate role to each level of government.

This is not simply a large Federal infusion of funds to clean up contaminated aquifers. It is a workable program that allows full participation for interested citizens and municipal and State entities as well. Clearly, protection of our vast and critical underground water resources by a locally developed and federally assisted management plan is far preferable to any after-the-fact attempts to restore a dying aquifer.

H.R. 5959 is the product of very diligent and thoughtful efforts from both sides of this body and I urge my colleagues to support its passage.

Mr. DOWNEY of New York. I would like to thank the gentleman from California [Mr. WAXMAN] and the distinguished majority whip, Mr. FOLEY, for their invaluable help in incorporating my bill, the Sole Source Aquifer Act of 1984 into this reauthorization of the Safe Drinking Water Act.

As you may know, nearly all of the 3 million people who live on Long Island rely on a sole source aquifer for their drinking water. We are among 17 areas in the country from California, to Washington State, to Florida that draw drinking water from one underground reservoir. Many of these designated sole source aquifers lie beneath undisturbed and pristine lands. These areas are critical to the preservation of their aquifer's recharge zone. The recharge zone is the part of the aquifer through which precipitation and surface runoff filter down into the water table. It is crucial to understand that the quality of the water reaching the aquifer depends on the nature of these overlying lands and the degree of contamination of the inflowing water. Once contaminated, there is no practical means to cleanse the aquifer system.

These tracts of land, called watershed recharge areas, protect aquifers precisely because they are undeveloped and clean. On Long Island, the preservation of the quality and the quantity of clean ground water is tied to the preservation of the last remaining 100,000 undeveloped acres of pine and scrub oak that lie above the recharge area on eastern Long Island and several more limited areas of forested land elsewhere on the island.

But watershed lands are found above the recharge areas of other sole source aquifers such as the Edwards Aquifer in Texas, the Biscayne Aquifer in southern Florida, and the aquifers of New Jersey. To a varying degree, these lands have been left in their natural condition and remain relatively free from the vast array of possible complications that accompany development. These areas do not contain septic tanks and their pollutant laden liquid materials, or landfills. They are relatively free from runoff from fertilizers, pesticides, and household products such as drain cleaners, solvents, disinfectants, and paint removers.

These areas and tracts of land, however, are increasingly subject to development pressures. Over 1,500 private wells on the eastern end of Long Island have been contaminated just from pesticides alone. The 1982 progress report of the New York State Legislative Commission on Water Resource needs of Long Island noted that "the pattern of ground water degradation of Long Island highlights the need for preserving tracts of forested, undeveloped land as watershed recharge areas."

This is an important conclusion. In drafting H.R. 4501, the Sole Source Protection Act of 1984, I intended that the States, counties, and municipalities that depend on sole source aquifers would be able to protect their watershed recharge areas with Federal money. With the Downey provision of H.R. 5959, the vital link between land use and water quality can now be safely addressed by all levels of government. The provision will allow localities and States to develop and implement effective plans that will guarantee the preservation of recharge areas like the Pine Barrens and the water that lies underneath them. Additionally, I have provided a strong deterrent from careless activities that could destroy aquifers by including a provision that will hold polluters responsible for providing fresh drinking water to the people affected by the contamination.

In the 1970's, we in the Congress created our major environmental statutes such as the Safe Drinking Water Act in order to clean up the air and water that had been dirtied with reckless abandon. H.R. 5959 is not a Band-Aid solution that deals with the sins of our carelessness. It is good solid preventive medicine and will guarantee the purity and abundance of clean drinking water for the people of Long Island and the other 16 sole source aquifers, now and forever.

Mr. DANNEMEYER. Mr. Speaker, I don't think there is a Member in this Hall who doesn't support the concept of ensuring the safety of this Nation's drinking water supplies. Indeed, there is much in H.R. 5959 that is worthy of support. However, there are also some significant problems with this legislation that make this Member wish it were not on the Suspension Calendar. Not the least of these problems is that the bill calls for authorizations well in excess of both existing appropriations and the customary—but not always enforced—$100 million limit on bills considered under suspension.

Before discussing some of the flaws in this legislation in greater detail, let me go over some of the good points of the bill. Proponents of this legislation have argued that the standard setting process for drinking water contaminants needs to be accelerated. Critics of such acceleration have pointed out that it is unrealistic to try and legislate science and in some cases making a determination on a given contaminant can't be made within a specific period of time.

This bill, wisely I believe, accommodates both points of view. It calls for standard and goal setting for 14 VOC's within 12 months and provides that 50 other contaminants will be dealt with in 36 months. However, it also says that, if there is insufficient evidence to make a determination, EPA is only obligated to so state in the Federal Register.

Now there will be those who will argue that the claims of one or two people in the face of contrary testimony by dozens of other witnesses should constitute sufficient evidence, but I would hope that their point of view would not prevail. That certainly is not this Member's understanding of the purpose of title I of H.R. 5959 and I rather doubt it is what other Members have in mind. Instead, I think what we all want is a balanced approach and, in my view at least, we have it in title I of H.R. 5959.

Another positive feature of this bill is its language with respect to brine disposal. As originally drafted, section 203(e) recognized that the underground injection of such brines was regulated under State and Federal programs promulgated to meet the minimum requirements under subpart C of the Safe Drinking Water Act. However, brine disposal is also addressed under two other Federal laws—the Solid Waste Disposal Act and the Federal Water Pollution Control Act—suggesting a clarifying amendment which I offered in, and which was subsequently adopted by, the full Committee on Energy and Commerce. For the record, my amendment, which is now a part of H.R. 5959, is intended to ensure that State requirements adopted pursuant to section 203(e) remain consistent with those other two Federal statutes.

Let me elaborate a little on the need for this amendment. For example, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy are subject only to State and Federal regulatory programs in existence prior to the Solid Waste Disposal Act Amendments of 1980 in lieu of the hazardous waste requirements of subtitle C of title II of the Solid Waste Disposal [SWDA]. Such wastes cannot be regulated under subtitle C until the EPA completes a study, submits any regulations to Congress and Congress approves such regulations. My amendment, by requiring the implementation of section 203(e) be consistent with the SWDA clarifies that H.R. 5959 is not intended to interrupt this process. Similarly, any brine requirements adopted to implement section 203(e) of H.R. 5959 should also be consistent with any applicable regulations contained in the State solid waste plans implemented by the States pursuant to subtitle D of title II of the Solid Waste Disposal Act.

Since some States may have adopted requirements applicable to brines under this authority, care should be utilized to avoid duplicative or inconsistent requirements which could confuse persons seeking to dispose of brines in an environmentally acceptable manner.

Finally, the disposal of some brines may be subject to permits or other requirements under the authority of the Federal Water Pollution Control Act. Section 203(e) therefore, has been clarified to ensure that it does not become the source of inconsistent requirements that could undermine these programs required by the Clean Water Act.

One additional point that I believe deserves mention is the fact that the term "brine" is not defined in H.R. 5959. This is appropriate because, as State-oriented legislation, it should be the responsibility of each State to make this determination based upon such factors as the hydrogeology, water use, and/or laws and regulations of each State. However, it should be clear that Congress recognizes that brines are but a subset of a larger category called "produced waters" associated with oil and gas exploration and production. To the extent that such waters are not considered "brines," section 203(e) imposes no new requirements.

Having said all that, let me move on to some of the problems with this legislation, problems which would have lent themselves to amendments if the bill were not being considered under suspension of the rules. First and foremost, there are the authorization levels provided in the bill. Believe it or not, H.R. 5959 authorizes some $216 million in spending in fiscal 1986 compared to the $62.2 million that has been appropriated for fiscal 1985—$79 million if R&D money is taken into account.

What with budget deficits in the neighborhood of $180 billion a year, this Nation can hardly afford a 248-percent increase in spending for any program, much less for one that does not qualify as a dire national emergency. Of course, we need concern ourselves with assuring adequate supplies of fresh water, but that objective can be accomplished without a doubling or tripling of Federal outlays. If spending increases of that magnitude are permitted, reducing Federal deficits will never be a realistic possibility.

I am also concerned that both sections 203 and 204 have the potential for overriding State water resource laws and, in addition, I am concerned that section 204 may result in Federal land use planning in the areas that opt to participate in a Sole Source Aquifer Program. I just wish that we had an opportunity to address these issues, as well as the authorizations levels, during consideration of this bill. But we do not have that opportunity, so I would recommend that Members vote no on this bill at this time so that we may have that opportunity at a later date.

● Mr. FEIGHAN. Mr. Speaker, safe water is essential for our survival. Over 50 percent of our Nation relies on ground water as a primary source of drinking water, and 95 percent of all the fresh water on Earth is ground water. But inadequate water treatment systems and inappropriate disposal of hazardous wastes are imperiling our national supply of safe water sources.

The case for strong action to protect our drinking water is clear and compelling:

In one EPA study, 29 percent of the larger cities supplied by underground sources of drinking water were found to have at least one volatile organic chemical in the water;

A Cornell University study shows that nearly one-sixth of public water systems violated even the most basic of water treatment requirements. The report also estimated that a half million rural homes might have bacterial levels in their drinking water greater than levels permitted for public beaches; and

A recent National Academy of Sciences study found ground water contamination from chemical sources in 34 States.

Our present law is ineffective in guaranteeing potable water supplies for our people, and the EPA has been less than aggressive in ensuring that drinking water supplies are kept safe for human consumption. That is why I am voting for H.R. 5959, the Safe Drinking Water Act of 1984, which will push EPA to do its job, provide help to the small water systems that need it so much, and promote efforts by States to plan for the protection of underground sources of drinking water.

This legislation will:

Force EPA to regulate 14 of the most serious organic compounds within months and 50 additional contaminants within 3 years;

Require every water system in the country to monitor for yet-unregulated contaminants because in this case it is clear that what we don't know can hurt us;

Ban the injection of hazardous wastes above or into underground drinking water sources;

Provide criminal penalties for anyone who tampers with water supplies; and

Require all States to develop plans to protect underground sources of drinking water.

H.R. 5959 deserves broad bipartisan support. It is supported by the water companies, industry groups, and environmental groups like the National Wildlife Federation, Friends of the Earth, the Natural Resources Defense Council, and the Environmental Policy Institute. I urge all of my colleagues to support this legislation.●

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time. I want to express my personal thanks to both the gentlemen from New York [Mr. CARNEY and Mr. LENT], and to the gentleman from Ohio [Mr. ECKART] for his excellent cooperation. Especially I want to express my sincere appreciation to the chairman of our subcommittee for his courtesy and cooperation throughout this effort.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill (H.R. 5959) as amended.

The question was taken.

Mr. NIELSON of Utah. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOCIAL SECURITY DISABILITY BENEFITS REFORM ACT OF 1984

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, the House and Senate conferees have reached an unanimous agreement on a disability reform measure.

As chairman of the conference, I want to take this opportunity to include in the RECORD a summary of the conference agreement on H.R. 3755, the Social Security Disability Benefits Reform Act of 1984.

This summary outlines the agreement which the conferees reached in our efforts to resolve the chaos which has overwhelmed our Social Security Disability Insurance Program. As with all compromises, it represents a certain degree of give and take by everybody. In this case, the conferees have been especially careful in their deliberations, and I believe we have reached an agreement which will protect the legitimate interests of everyone concerned with this program. This agreement will go a long way toward correcting most of the unfairness that has existed in the review and administration of this program.

I would hope that we might enact this legislation later this week, probably on Thursday, and that all Members could give it their consideration and strong support. The summary follows:

SUMMARY OF CONFERENCE AGREEMENT ON H.R. 3755 THE SOCIAL SECURITY DISABILITY BENEFITS REFORM ACT OF 1984

1. MEDICAL IMPROVEMENT STANDARD

Establishes a medical improvement standard under which the Secretary may terminate disability benefits on the basis that the person is no longer disabled only if—

(1) There is substantial evidence demonstrating that:

(a) There has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the person's ability to work) and

(b) The individual is now able to engage in substantial gainful activity (SGA); or

(2) There is substantial evidence consisting of new medical evidence and a new assessment of RFC which demonstrates that although there is no medical improvement,

(a) The person has benefited from advances in medical or vocational therapy or technology related to ability to work, and

(b) That he or she is now able to perform SGA; or

(3) There is substantial evidence that although there is no medical improvement

(a) The person has benefited from vocational therapy and

(b) The beneficiary can now perform SGA; or

(4) There is substantial evidence that, based on new or improved diagnostic techniques or evaluations, the person's impairment or combination of impairments is not as disabling as it was considered to be at the time of the prior determination, and that therefore the individual is able to perform SGA; or

(5) There is substantial evidence either in the file at the original determination or newly obtained showing that the prior determination was in error; or

(6) There is substantial evidence that the original decision was fraudently obtained; or

(7) If the individual is engaging in SGA (except where he or she is eligible under Section 1619), fails without good cause to cooperate in the review or follow prescribed treatment or cannot be located.

In making the determination, the Secretary shall consider the evidence in the file as well as any additional information con-

cerning the claimant's current or prior condition secured by the Secretary or provided by the claimant.—Prepared by the staff of the Committee on Ways and Means September 18, 1984.

Determinations under this provision must be made on the basis of the weight of the evidence, and on a neutral basis with regard to the individual's condition, without any inference as to the present or absence of disability based on the previous finding of disability.

Regulations must be issued within 6 months.

Effective date: Applies only with respect to the following categories:

(1) Determinations by the Secretary made after date of enactment;

(2) Cases pending at any level of the administrative process on the date of enactment;

(3) Cases of individual litigants pending in Federal court on the date the conference report is filed;

(4) Cases of named plaintiffs in class action suits pending on that date;

(5) Cases of unnamed plaintiffs in class action suits certified prior to that date; and

(6) Cases where a request for judicial review was made in the period beginning March 15, 1984 and 60 days after enactment;

Cases in categories (3), (4), (5) and (6) will be remanded to the Secretary for review under this standard. Individuals in (5) will be sent a notice via certified mail informing them that they have 120 days after the date of receipt of the notice to request a review under the medical improvement standard.

No class action may be certified after the date the conference report is filed which raises the issue of medical improvement with respect to an individual whose benefits were terminated prior to that date.

Persons whose cases are remanded to the Secretary will receive benefits pending the Secretary's decision and appeal of that decision if they so elect. If found eligible, any person whose case was remanded under this provision will receive benefits retroactive to the date they were last found ineligible.

2. EVALUATION OF PAIN

Requires the Secretary of HHS, in conjunction with the National Academy of Sciences, to conduct a study concerning the questions of using subjective evidence of pain in determining whether a person is under a disability, and the state of the art of preventing, reducing or coping with pain. This study is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1985.

Establishes the following statutory standard to be in effect until December 31, 1986:

"An individual's statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques which show the existence of a medical impairment that results from anatomical, physiological or psychological abnormalities which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual or his physician as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), would lead to a conclusion that the individual is under a disability. Objective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques (for example, deteriorating nerve or muscle tissue), must be considered in reaching a conclusion as to whether the individual is under a disability.

3. MULTIPLE IMPAIRMENTS

Provides that in determining whether a person's impairment or impairments are of a sufficient medical severity to be the basis of a finding of eligibility for benefits, the Secretary must consider the combined effect of all of the person's impairments, whether or not any one impairment would alone be severe enough to qualify the person for benefits. Provision applies to all determinations made on or after 30 days after enactment.

4. MORATORIUM ON MENTAL IMPAIRMENT REVIEWS

Provides for a moratorium on reviews of all cases of mental impairment disability until the mental impairment criteria in the Listing of Impairments are revised to realistically evaluate the person's ability to engage in SGA in a competitive workplace environment. The revised criteria are to be published within 120 days of the date of enactment. The moratorium applies to all cases on which an administrative or judicial appeal was pending on or after June 7, 1983. All persons claiming benefits based on mental impairment disability who received an unfavorable initial or continuing disability decision after March 1, 1981 could reapply for benefits within 12 months of enactment.

5. PRETERMINATION NOTICE

Requires the Secretary to initiate demonstration projects on providing face-to-face interviews for (1) pre-termination continuing disability cases and (2) for all initial denial cases, in lieu of face-to-face evidentiary hearings at reconsideration, to be done in at least 5 States with a report due to the Committee on Ways and Means and Finance April 1, 1986. Also requires Secretary to notify individuals upon initiating a periodic eligibility review that termination of benefits could be the result of the review, and that medical evidence may be provided.

6. CONTINUATION OF BENEFITS DURING APPEAL

Provides for continuation of benefits during appeal for all continuing disability review cases through the decision of the administrative law judge, at the election of the individual. Where the ALJ's decision is adverse to the individual, these benefits would have to be repaid. The provision is permanent for SSI disability recipients, and will apply to Title II disability beneficiaries through December, 1987. The Secretary is required to report to Congress on the impact of this provision by July 1, 1986.

7. QUALIFICATIONS OF MEDICAL PROFESSIONALS

Requires the Secretary to make every reasonable effort in cases based on mental impairments to insure that a qualified psychiatrist or psychologist complete the medical portion of the case review and of the residual functional capacity assessment before any determination may be made that an individual is not disabled. The statement of managers will state that the Secretary has the authority to contract directly for such services if the State agency is unable to do so.

8. STANDARDS FOR CONSULTATIVE EXAMINATIONS/MEDICAL EVIDENCE

Requires the Secretary to promulgate regulations regarding consultative examinations, including when they should be obtained, the type of referral to be made and the procedures for monitoring the referral process. The Secretary must make every effort to obtain necessary medical evidence from the treating physician before evaluating medical evidence from any other source. The Secretary must also consider all evidence in the case record and development of complete medical history over at least the preceding 12-month period.

9. ADMINISTRATIVE PROCEDURE AND UNIFORM STANDARDS

Requires publication of regulations setting forth uniform standards for DI and SSI disability determinations under section 553 of the Administrative Procedures Act, to be binding at all levels of adjudication.

10. NONACQUIESCENCE

No statutory provision is included in the conference agreement. The statement of managers of the conference agreement states that the agreement to drop both the House and Senate provisions is not to be interpreted as approval of the practice of "non-acquiescence", that the conferees note that questions have been raised about the constitutional basis of the practice, that many of the conferees have strong concerns about the current application of the practice, and that a policy of non-acquiescence should be followed only where steps have been taken or are intended to be taken to receive a review of the disputed issue in the Supreme Court. The conferees also urge the Secretary to seek a resolution of the non-acquiescence issue in the Supreme Court.

11. PAYMENT OF COSTS OF REHABILITATION SERVICES

Allows reimbursement to State agencies for costs of VR services provided to individuals receiving DI benefits under section 225(b) of the Social Security Act who medically recover while in VR, whether or not the person worked at SGA for 9 months, and whether or not the person failed to cooperate in the program.

12. DIRECTION FOR QUADRENNIAL SOCIAL SECURITY ADVISORY COUNCIL

Directs next quadrennial advisory council (as required in the Social Security Act) to study the medical and vocational aspects of disability using ad hoc panels of experts where appropriate. The study must include alternative approaches to work evaluation for SSI recipients, effectiveness of VR programs, and other disability program policies, standards and procedures. The Secretary must appoint the members by June 1, 1985.

13. STAFF ATTORNEYS

Directs the Secretary to report, within 120 days of enactment, to the Committees on Ways and Means and Finance, on the actions taken by the Secretary to establish positions which enable staff attornies to gain the qualifying experience and quality of experience necessary to compete for ALJ positions. Statement of managers states that it is assumed, given recent OPM actions, that statutory requirements for establishing specific positions are not required, and that the Secretary is urged to take all reasonable steps to see that the OPM actions result in SSA staff attorneys becoming qualified for GS-15 ALJ positions.

14. SSI BENEFITS FOR PERSONS WORKING DESPITE IMPAIRMENT (1619)

Extends Sections 1619(a) and (b) through June 30, 1987, and requires the Secretaries of HHS and Education to establish training programs for staff pesonnel in SSA district offices and State VR agencies, and dissemi-

nate information to SSI applicants, recipients, and potentially interested public and private organizations. Effective retroactive to January 1, 1984.

15. FREQUENCY OF CONTINUING ELIGIBILITY REVIEWS

Requires Secretary to promulgate regulations establishing standards for determining the frequency of continuing eligibility reviews. Final regulations must be issued within 6 months; until that time, no individual may be subject to more than one periodic review.

16. REPRESENTATIVE PAYEES FOR SOCIAL SECURITY AND SSI BENEFICIARIES

Requires Secretary to (1) evaluate qualifications of prospective payees prior to or within 45 days following certification, (2) establish a system of annual accountability monitoring where payments are made to someone other than a parent or spouse living in the same household with the beneficiary, and (3) report to Congress on implementation, and annually on the number of cases of misused funds and disposition of such cases.

17. MEASURES TO IMPROVE COMPLIANCE WITH FEDERAL LAW

Requires the Secretary to federalize disability determinations in a State within 6 months of finding that a State is not in substantial compliance with Federal law and standards. Such a finding must be made within 16 weeks of the time a State's failure to comply first comes to the attention of the Secretary, during which period a hearing could be afforded to the State. The Secretary is directed to comply with current law requirements protecting employment of current State employees to the extent feasible, and is directed in order to accomplish that end, to exceed any applicable personnel ceilings and to waive any applicable hiring restrictions. The statement of managers directs the Secretary to give preference in hiring to agency employees capable of performing the requisite duties.

TRANSFER OF GENERAL POST OFFICE BUILDING IN THE DISTRICT OF COLUMBIA

Mr. YOUNG of Missouri. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4025) to authorize the Administrator of General Services to transfer to the Smithsonian Institution without reimbursement the General Post Office Building and the site thereof located in the District of Columbia, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That at such time as it is declared to be excess property pursuant to section 2(d) of this Act, the Administrator of General Services (hereinafter in this Act referred to as the "Administrator") is authorized to transfer to the Smithsonian Institution, in accordance with section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483), without reimbursement, and for use by the Smithsonian Institution for certain art galleries and related functions, the General Post Office Building with any attached underground structures and the site of such building, located between Seventh and Eighth Streets Northwest and E and F Street Northwest, in the District of Columbia.

SEC. 2. (a) The Administrator, at the earliest practicable date, shall relocate all operations of the United States International Trade Commission (hereinafter in this Act referred to as the "Commission") to a building in downtown Washington, District of Columbia. The Administrator's determination as to such relocation shall be based on studies and investigations in which the Chairman of the Commission shall have full opportunity to consult and cooperate with the Administrator. Such consultation shall include opportunity for the Chairman to participate jointly with the Administrator in surveys of available buildings and to submit views and recommendations to the Administrator with respect to space suitable for the Commission's operations. The Administrator shall advise the Chairman in writing of the building to which the operations of the Commission are to be relocated. The Administrator's determination of such relocation shall not take effect for a period of at least sixty days after the date such determination is made and the Chairman is advised of the building to which the operations of the Commission are to be relocated. In the event the Chairman disagrees with the Administrator's determination of such relocation, the Chairman, within thirty days after the Chairman is advised of the building to which the operations of the Commission are to be relocated, may make a written request for review of such determination to the Administrator, and the Administrator shall conduct a formal review of such determination.

(b) The Administrator and the Chairman shall each report separately in writing to the Committees on Environment and Public Works, Finance, Rules and Administration, and Governmental Affairs of the Senate and to the Committees on Public Works and Transportation, Ways and Means, House Administration, and Government Operations of the House of Representatives not later than sixty days after the date of enactment of this Act and every thirty days thereafter on the status of the relocation required by this section.

(c) During the period in which the Commission and the United States Postal Service continue to occupy the General Post Office Building referred to in the first section of this Act, the Administrator shall maintain such building in order to prevent its deterioration and to assure that conditions therein are safe and the building is presentable and suitable to the normal operations of the Commission and such Service.

(d) Upon accomplishment of the relocation required by subsection (a) of this section, the Administrator shall declare the property referred to in the first section of this Act to be excess property as defined in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

SEC. 3. There is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $40,000,000 for fiscal years beginning after September 30, 1984, for renovation and repair, after the transfer made under the first section of this Act, of the General Post Office Building referred to in such section. Any portion of the sums appropriated under this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such renovation and repair. No contract for such renovation or repair shall be advertised or entered into before the end of the period of thirty days of continuous session of Congress beginning on the date the Smithsonian Institution submits to the Committees on Public Works and Transportation and House Administration of the House of Representatives and the Committees on Environment and Public Works and Rules and Administration of the Senate the plans and advanced engineering and design for such renovation and repair. For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. YOUNG] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. YOUNG].

Mr. YOUNG of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4025 authorizes the transfer of the General Post Office Building between Seventh, Eighth, E, and F Streets, in Washington, DC, to the Smithsonian Institution without reimbursement in accordance with the provisions of the Federal Property Administrative Services Act of 1949. The Smithsonian's interest in the General Post Office Building dates back to 1958 when the Smithsonian Institution acquired and began renovation of the Patent Office Building, immediately across F Street and connected underground by a tunnel to it, which currently houses the programs of the National Museum of American Art, the National Portrait Gallery, and the Archives of American Art.

The growing collections and public responsibilities of the activities of the National Museum of American Art, the National Portrait Gallery, and the Archives of American Art have heavily taxed the Patent Office Building and their continued vitality is dependent on the availability of additional space for exhibition and scholarly purposes.

Mr. Speaker, through analysis of both the General Post Office and Patent Office Buildings, the Smithsonian has evolved a development concept which focuses primarily on the General Post Office Building, but is based on using it and the Patent Office Building in an integrated manner. The concept provides that the Patent Office Building be used for the permanent exhibtion galleries and basic support activities for both the

National Museum of American Art and the National Portrait Gallery, while the General Post Office Building would house major changing exhibition and other new public facilities. It would also be a focus for research and study of American art, as it would house the Archives of American Art, the combined library of the National Portrait Gallery, and related research services. The integrated use of two buildings would draw more visitors to the area since the courtyard, which is a key component of the plan, would be covered with a glass canopy and transformed into an attractive sculpture garden, dining area, and public reception area.

Adapting the General Post Office Building to public museum purposes would provide for these activities now and over the longer term, and provide for renovation of this structure which is listed on the national register of historic structure at a cost of $40 million.

Mr. Speaker, lastly, the bill directs the Administrator of the General Services Administration, at the earliest practicable date to relocate all operations of the U.S. International Trade Commission to a single building in downtown, Washington, DC. Currently, the International Trade Commission has an authorized staff of 438, which is housed primarily in the General Post Office Building, as well as two other locations in Washington, DC. Enactment of this legislation will provide an excellent opportunity for consolidation of all commission operations which demand certain special-use space, such as hearing rooms and a printing plant, thus improving space and use and efficiency of operation, and avoiding the duplication of services inherent to multiple locations.

The Administrator's determination as to such relocation shall be based on studies and investigations in which the Chairman of the International Trade Commission shall have full opportunity to consult and cooperate with the Administrator. Further, in order to ensure that the International Trade Commission is housed in an appropriate building provision is made within the legislation whereby the Administrator and the Commissioner shall each report separately to their respective authorizing committee in both the House and Senate on a regular basis until such relocation is accomplished.

Mr. Speaker, to conclude the Commission is currently housed in the General Post Office Building which is continually deteriorating and provides an unhealthy and unsafe environment for those working within. Although Congress appropriated $5.8 million to the General Services in 1974 for repair of the building to date, GSA has spent only $1.2 million based on the uncertainty of the building. Thus, enactment of this legislation will provide for the restoration of this historic building for museum purposes and allow for the consolidation of all International Trade Commission activities in one location. The House Committee on Public Works and Transportation has already approved a prospectus which grants the General Services Administration the necessary authority to relocate the ITC and I understand that the ITC and GSA staff are currently working in an expeditious manner to bring about such relocation.

Mr. Speaker, although this legislation was originally jointly referred to the Committee on House Administration and the Committee on Public Works and Transportation, the Honorable James J. Howard, chairman of the House Committee on Public Works and Transportation, received the following letter from the Honorable FRANK ANNUNZIO, chairman of the House Committee on Administration:

COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, September 7, 1984.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on House Administration and the Committee on Public Works and Transportation share joint referral of H.R. 4025.

On August 9, 1984, the full Committee on House Administration held a joint hearing with Senate Committee on Rules and Administration on the administrative and other impact of H.R. 4025, a bill directing the Administrator of the General Services Administration (GSA) to transfer to the Smithsonian Institution, without reimbursement, the General Post Office Building.

As a result of this hearing, I have concluded that prompt Congressional action on H.R. 4025 would, among other things, be beneficial to set in motion events that would help to halt the continuing deterioration of the building, and would provide some safeguards for the International Trade Commission in securing a new location that is suitable to their mission.

However, due to the recent change in the chairmanship of the Committee on House Administration, and the shortness of the House session, the Committee will not have the opportunity to act on this legislation before adjournment.

Therefore, with the understanding that Public Works and Transportation is presently prepared to take an amended version of H.R. 4025 to the floor, I will suspend further House Administration action, and accede to your Committee for House consideration this session. This action, however, should not be construed as precedent for changing the jurisdiction of the Committee on House Administration over related matters.

With every best wish, I am,
Sincerely,

FRANK ANNUNZIO,
Chairman.

HOUSE ADMINISTRATION JURISDICTIONAL STATEMENT, SEPTEMBER 17, 1984

The Committee on House Administration has jurisdiction over policy and administrative matters relating to the Smithsonian Institution and thus shares joint referral, of H.R. 4025, with the Committee on Public Works and Transportation.

The Committee on House Administration, after a recent hearing on this bill, concluded that prompt congressional action would, among other things, be beneficial to set in motion events that would help to halt the continuing deterioration of the General Post Office Building, and would provide some safeguards for the International Trade Commission in securing a new location suitable to their mission.

Due to the shortness of the current House session, the Committee on House Administration will not have the opportunity to take further action on this legislation before adjournment and thus defers to the Committee on Public Works and Transportation for House consideration today.

This action, however, should not be construed as precedent for changing jurisdiction of the Committee on House Administration over related matters.

Mr. Speaker, I urge enactment of H.R. 4025.

□ 1510

Mr. SHAW. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise today in support of this legislation which, as so eloquently described by the chairman of the Subcommittee on Public Buildings and Grounds, authorizes the transfer of the General Post Office building located between Seventh and Eighth Streets NW., and E and F Streets NW., here in the District of Columbia, to the Smithsonian Institution.

For nearly a decade, the fate of this majestic building, built between 1839 and 1869 in the classic revival style, by the self-styled South Carolina architect, Robert Mills, has remained in limbo.

The Smithsonian has been interested in acquiring the building as an addition to the Institution's Museum of American Art, whereas the General Services Administration has had a continuing need for the building as office space for the International Trade Commission.

And, I say sadly, that as GSA and the Smithsonian talked, the building crumbled and the employees of the ITC have been forced to contend with working conditions that no Federal worker should have to tolerate.

Unsure of what the future of the building would be, GSA refused to invest money on its renovation which has now left the building in a deplorable state of disrepair.

But, despite the debate and years of indecision, there is one point on which all parties agree, and I most strongly among them, and that is that the building should be preserved.

This legislation attempts to accomplish this and it does it in a way which I feel is in the best interest of the Government and American public.

During hearings by our subcommittee, GSA testified the building was in desperate need of major renovation which would cost nearly $30 million.

Even with the building renovated, GSA stated that "the use of this fine historic building for office activities is out of character with its potential," unless, of course, major structural modifications were made to the architectural integrity of the building.

In contrast, restoration of the building by the Smithsonian, to its original grandeur will render it readily adaptable by the National Museum of American Art for public purposes into one of the Nation's most significant centers for the study of American art.

The Museum of American Art is currently colocated with the Archives of American Art and National Portrait Gallery directly across the street from the General Post Office Building in the Patent Office, a building transferred to and renovated by the Smithsonian in the late 1950's.

As the popularity, public visitation, and expanding collections of these three activities has increased, it has resulted in the need for additional space and the availability of the General Post Office Building provides an ideal location for this.

While some Members may be left with the impression that the Smithsonian is the sole beneficiary of this transaction, I hasten to add that the International Trade Commission will also benefit.

For years, ITC employees have been forced to contend with deplorable working conditions and this legislation provides that GSA is to work cooperatively and in consultation with the ITC to determine a suitable location for the Commission's operations.

In addition, the ITC has had to split its activities into several locations throughout the District, because of the inadequate size of the General Post Office Building, and this location will provide them with the opportunity to consolidate their operations under one roof; meaning increased efficiency and cost savings.

The Public Works and Transportation Committee has already approved a prospectus for this consolidation and relocation and ITC's total space requirements are now being refined so that a single, downtown location can be acquired.

Mr. Speaker, this legislation is a workable solution to a situation which has been allowed to drag on for far too long and it is a solution which I believe is in the best interest of all parties concerned.

It is unfortunate that it has taken us this long to come to grips with the problem, but we have now done so and I would urge my colleagues to support the passage of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I have here a copy of a letter from the U.S. International Trade Commission directed to the distinguished chairman of the Committee on Public Works and Transportation, which details the problems the ITC is having in securing new space.

Because of a number of committees' interests in this bill, it was heard in several committees, and those of us who serve on those committees are delighted that the Committee on Public Works has moved the bill along. However, the bill originally contained a provision which would have given the USITC the right to agree before it accepted its new space. That is, it would have to be satisfied before the conditions of the bill could be met.

Because of judgments in one of the committees not here represented, that feature has been removed. While the bill specifies that the ITC's new home must be in Washington, there is no guarantee in the bill that the ITC will have appropriate space.

In the letter from Chairman Stern to Chairman HOWARD, Ms. Stern outlines some of the difficulties the ITC is having working with the GSA to get the right amount of space the right place and in the right condition.

It is my hope that all the committees who were involved in this will recognize the particular problems of the USITC in moving to new space, and that they will be cooperative with the Chairman and her Commission in seeing that the ITC has proper space, with sufficient areas available to the public, with good hearing rooms so that the public can be heard.

I would ask the distinguished chairman of the subcommittee, the gentleman from Missouri [Mr. YOUNG] whether or not his committee will stand ready to be helpful to see that the ITC needs are met even though they are not guaranteed here.

Mr. YOUNG of Missouri. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I would be happy to yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, it would be my intent, and I feel quite certain Mr. SHAW will speak for himself, but it would be my intent to make sure that the ITC is as satisfied as we can possibly help in trying to rectify this very serious situation.

So it would be my guarantee to the gentleman that I will stay on top of this and try to assure that they are completely satisfied with the proposed move.

Mr. FRENZEL. I thank the gentleman for that assurance.

Further I would like to commend the Committee on Public Works for moving this bill forward. The transfer of these properties, I think, is important and necessary and I think all the committees involved have done a good job.

Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I insert at the end of my remarks the letter I referred to from the International Trade Commission dated September 17, 1984.

U.S. INTERNATIONAL TRADE COMMISSION,
Washington, DC, September 17, 1984.

Hon. JAMES T. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: At the request of your staff, I am writing to inform you of the position of the U.S. International Trade Commission on H.R. 4025, as reported by the House Committee on Public Works and Transportation.

As I testified on August 9 before a joint hearing of the House Administration and Senate Rules Committee, we prefer that the bill contain a provision allowing the ITC Chairman to determine jointly with the GSA Administrator a new location for the Commission's operations. A copy of my statement is enclosed. We feel that such a provision provides us with the assurance that our needs will be accommodated in our relocation. Until such a provision was added to an earlier Senate bill, we did not support the relocation and preferred to remain in our building.

We now understand, however, that opposition to the "joint determination" provision could prevent its adoption by the House of Representatives. We do recognize that the current version of H.R. 4025 contains other provisions intended to ensure that we will move to a quality location. We also feel that prompt action on our relocation is in the interest of all involved.

A necessary element in our relocation is obtaining a prospectus that adequately reflects our needs. One reason that we might view the "joint determination" provision as less essential now is that we are making progress in amending the prospectus approved by the Public Works Committee on August 8, 1984. This prospectus, which would allow the Commission to consolidate its operations in a single downtown Washington, D.C. location, authorized the General Services Administration to lease 130,225 square feet of space at an annual cost of $3,646,300 ($28.00 per square foot). However, we and GSA have recently received a report from a space planning firm under contract with GSA which states that the Commission needs approximately 197,000 square feet of space. We are currently working with GSA to refine the square footage requirement and the range of cost per square foot necessary for the developing market.

The growth in our requirements is associated with our need for more special use space such as courtrooms, document inspection areas for the public, library facilities, and computer and word processing areas. The need results from our increased caseload which has also brought a significant growth in attendance at our hearings and the use of such facilities as libraries and inspection areas for the public. Some of that growth was apparent last September when we started working with GSA on the current approved prospectus and there is some allowance for expansion in it. We actually completed the square footage estimate contained in the current prospectus last October, but the long review process at GSA delayed the submission of it until June 1984.

We sensed the need to ask for more square footage, but we had no way of making a request for more space until this space planning firm had completed its report.

An amendment to our prospectus would be a very positive step in the process of finding a new home for the ITC. Based on our current situation we are compelled to state our support for H.R. 4025 as reported by your committee. However, we are relying on the assurances of your committee staff regarding the amendment to our prospectus and assistance in dealing with GSA in selecting a new building.

I sincerely appreciate the efforts that you and your committee have expended on our behalf and I look forward to continuing to work with you as we proceed with our relocation.

Sincerely,

PAULA STERN, *Chairwoman.*

Mr. Speaker, I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his concern with regard to the movement of the ITC.

I would like to point out here and certainly echo the words of my colleague and friend from Missouri with regard to cooperating with ITC in finding their new home. Their buildings do require large meeting rooms so that the public can be heard. I think in that regard we are probably looking for construction that would be somewhat unique. I would say that this would lead me as a member of the subcommittee to look for a purchase rather than a leasing situation, in that we have from time to time found the expansion of the Federal Government to be anchored more in leasing space right here, in the home of the Federal Government here in Washington, DC. We still find ourselves leasing more space than we own. That is a bad sign for the future of this country and it is extraordinarily expensive.

I think it is my concern, my primary concern, and I know this has been stated by my friend from Missouri [Mr. YOUNG], both of us are unanimously of the opinion that we should be looking more toward the view of owning property that we occupy as a Federal Government rather than being tenants.

● Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 4025 and first I would like to commend the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the Honorable ROBERT A. YOUNG, the distinguished ranking minority member of the Subcommittee on Public Buildings and Grounds, the Honorable E. CLAY SHAW, and the distinguished ranking minority member of the Committee on Public Works and Transportation, the Honorable GENE SNYDER, for their hard work and fine leadership in bringing this legislation before the House today.

Mr. Speaker, H.R. 4025 would provide for the transfer of the General Post Office Building located at Seventh and F Streets in Washington, DC, to the Smithsonian Institution for use by the Smithsonian Institution for certain art galleries and related functions. The legislation authorizes to be appropriated to the Smithsonian Institution sums in the amount of $40 million necessary for renovation of this historic structure. Last, the legislation directs the Administrator of the General Services Administration, working in close cooperation with the Commissioner of the International Trade Commission, to relocate, at the earliest practicable date, all operations of the U.S. International Trade Commission to a new location in downtown, Washington, DC. Last, during the period in which the U.S. International Trade Commission continues to occupy the General Post Ofice Building, the Administrator of the General Services shall maintain the building in order to prevent its further deterioration and to assure that conditions therein are safe and the building is presentable and suitable to the normal operations of the Commission.

Mr. Speaker, the Smithsonian Institution's interest in the General Post Office Building dates back to 1958 when they acquired and began renovation of the Patent Office Building, immediately across F Street from this building.

Until its transfer to the Smithsonian 25 years ago the poor condition of the Patent Office Building posed the threat of destruction, but the Smithsonian's careful renovation restored its original grandeur and created a center for the exhibition and study of American art and portraiture. The growing collections of the National Museum of American Art, the National Portrait Gallery, and the Archives of American Art which are housed in the Patent Office Building have necessitated the need for additional space.

Mr. Speaker, although funds were made available to the General Services Administration in 1974 for renovation of the General Post Office Building for continued use by Federal agencies, the GSA has only spent minimal funds and the property is literally deteriorating at a rapid pace. Accordingly, the Smithsonian Institution expressed their interest in acquiring the property for use in an integrated manner with the Patent Office Building.

Briefly, the Smithsonian concept envisions the Patent Office Building as the home of permanent exhibition galleries for the National Museum of American Art and the National Portrait Gallery. The General Post Office Building would house major changing exhibition space and other new public facilities. The two buildings are linked historically and its availability to the Smithsonian would lead to a lively nexus of museum activity at Gallery Place. Its access to the public 7 days a week and in the evenings as well would add significantly to the emerging cultural and educational corridor along Seventh Street in Washington, DC.

Mr. Speaker, to conclude, the Board of Regents of the Smithsonian Institution approved the concept embodied within this legislation on September 19, 1983, and I urge enactment of H.R. 4025.●

● Mr. SNYDER. Mr. Speaker, I rise in support of this legislation which authorizes the transfer of the General Post Office Building, located here in the District of Columbia, from the General Services Administration to the Smithsonian Institution and authorizes $40 million for its renovation.

Mr. Speaker, I would like to say that it is not too often that we bring legislation of this nature to the House floor, but I have generally found that on those occasions that we do, it is done so for a valid reason.

Admittedly, there are administrative procedures to take care of issues like this but sometimes, and for whatever reason, it seems that those procedures just don't work.

When the procedures fail, generally someone or something suffers and this is the situation which we find ourselves here.

For almost 10 years now, the Smithsonian has been attempting to acquire this building, which is currently occupied by the International Trade Commission, from the General Services Administration.

Actually, the Smithsonian's interest in the building dates back to the late 1950's when it acquired and renovated the Patent Office Building directly across the street from the General Post Office Building for use by the National Museum of American Art, Portrait Gallery, and the Archives of American Art.

The growing collections and public responsibility of these activities, however, has precipitated the need for additional space which could ideally be provided in the General Post Office Building.

Consequently, GSA and the Smithsonian began discussing the transfer of the building but failed to reach an agreement which is one of the reasons we are here today.

The other reason is that while the GSA and the Smithsonian talked and discussed and negotiated this elegant and historic building, designed and constructed by the Nation's first native architect, it has steadily fallen into ruin.

Once cherished for its Corinthian columns, cantilevered marble staircases, and high vaulted ceilings, it is now marred by leaking roofs, falling plaster, and corroding pipes.

One would naturally inquire as to why this building was permitted to decay into such a deplorable state of

disrepair and the answer is quite simple: GSA was reluctant to invest money in its renovation until it was certain what the future of the building would be.

Regrettably, employees of the ITC have been forced to put up with these conditions, caught between a rock and hard place, not knowing whether they were leaving or staying, until the fate of the building was decided.

Since the Smithsonian and GSA can't come to a decision, it is now up to us.

If GSA renovates the building, it will cost nearly $30 million and even then they have stated the building would be inefficient for use as office space.

The Smithsonian has a well-defined need for the building and could readily adapt it to use for public purposes after its renovation.

As for the ITC, as their responsibilities have increased they have had to divide their operations into several locations. Relocating the ITC at this time would enable them to consolidate their activities under one roof, meaning increased efficiency and productivity while saving money.

I think the choice is clear. This legislation offers the best solution and it is supported by all the parties concerned.

We now have the opportunity to make the decision and resolve this issue once and for all and I would urge my colleagues to do so by voting to approve this legislation.●

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 4025, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SENSE OF CONGRESS RE NAMIBIAN PRISONERS

Mr. WOLPE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 298) expressing the sense of the Congress with respect to recent actions by the South African Government to rescind the Namibian Supreme Court's jurisdiction to hear an application for the release of prisoners held in the internment camp near Mariental, Namibia.

The Clerk read as follows:

H. CON. RES. 298

Whereas the Government and the people of the United States have recognized that refugees, prisoners of war, and civilians in war are entitled to due process and other internationally recognized human rights;

Whereas violations of these rights within or outside the United States are considered a flagrant abuse of basic norms governing the conduct of civilized societies and cannot be condoned by the people or the Government of the United States;

Whereas thirteen years ago the International Court of Justice declared that the international community as a whole has a duty to take steps to secure an end to South Africa's illegal occupation of Namibia;

Whereas the South African Government has blatantly disregarded the mandates of the Charter of the United Nations, the Universal Declaration of Human Rights, and the Geneva Conventions of 1949 concerning both prisoners of war and civilians in war;

Whereas, more than 17 years after the United Nations terminated South Africa's mandate over Namibia, South Africa still occupies that territory by force and has found it necessary to secure its illegal control of Namibia at times by occupying substantial portions of southern Angola as well;

Whereas the Government of South Africa has admitted that it is holding survivors of a May 1978 raid on the Cassinga refugee settlement approximately 150 miles within the Angolan border;

Whereas during that military attack on the Cassinga refugee camp over 600 persons were killed, including women and children, and more than 100 survivors were forcibly abducted from Angola and taken by South African military forces to a South African military camp near Mariental, Namibia, where they are still being held;

Whereas the State Department cited the arbitrary detention of the Mariental prisoners in its 1983 report to the Congress on human rights;

Whereas an application was filed on March 5, 1984, in the Supreme Court of Namibia (South West Africa) to free these prisoners, charging that these survivors of the attack on the Cassinga refugee camp have been held illegally and incommunicado for at least six years, without charge or trial, by the South African Defense Forces at the Mariental camp;

Whereas attorneys filing the application charge that the captives were "unlawfully seized by the South African Defense Forces outside the Territory of South West Africa across an international frontier in the sovereign state of Angola . . . that such seizure was *ultra vires* the functions and powers of the SADF . . . and contrary to international law and to the laws of [Namibia]";

Whereas an order issued on Friday, April 27, 1984, by the South African Minister of Justice Kobie Coetsee, under the order of South African State President Marais Viljoen, terminated the court proceedings; and

Whereas this unilateral action, taken for the first time in Namibian and South African legal history repudiates any notion of an independent judiciary or a commitment to the rule of law: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States should reaffirm and continue its policy of not recognizing South Africa's illegal occupation of Namibia;

(2) the Republic of South Africa should comply with the Charter of the United Nations, the Universal Declaration of Human Rights, and the Geneva Conventions of 1949, the sole bases upon which South Africa, as an illegal occupying force in Namibia, may detain individuals;

(3) the Republic of South Africa should move quickly to release all detainees at the Mariental camp, or revoke the order that terminated the court proceedings instituted on March 5, 1984, and permit a full hearing to proceed on the lawfulness of the continuing detention of the Cassinga detainees; and

(4) the President and his representatives should convey to the Republic of South Africa the concerns of the Congress expressed in this resolution at every opportunity, including at any negotiations between the United States and the Republic of South Africa on the independence of Namibia, on regional issues, and on agreements relating to trade, commerce, science, and technology.

SEC. 2. The President is requested to transmit a copy of this resolution to the Ambassador from the Republic of South Africa to the United States and to the Prime Minister of the Republic of South Africa.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. WOLPE] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, current violent events taking place in South Africa should make us well aware of the importance of reviewing the status of America's relations with that country.

In the past 3 weeks over 40 black South Africans have died at the hands of South African police. Many people have been detained, especially the leadership of the largest mass organization, the United Democratic Front, or UDF, and black miners are poised to strike in the gold mines because of their terrible and dangerous working conditions.

Six people, including the husband of Mahatma Gandhi's granddaughter, have sought refuge in the British Consulate in Durbin in order to avoid arrest by the South African authorities.

At the same time, the former Prime Minister, P.W. Botha, has been inaugurated and assumed vast executive powers as the new president under controversial constitutional arrangements that totally exclude participation by the country's black majority.

South Africa continues to illegally occupy Namibia despite our own policy of constructively engaging that country in order to bring about Namibia's independence under U.N. Security Council Resolution 435.

Over the past 3 years South Africa has used its brutal war machine to bully its black-ruled neighbors into accepting nonaggression pacts and other arrangements beneficial to South Africa's Afrikaner regime.

That is why today, Mr. Speaker, many of us, Republican and Democrat alike, come together to urge support for four resolutions that have been sent forward by the Foreign Affairs Committee for floor action.

A number of my colleagues have joined in the realization that, in the words of the study commission on U.S. policy toward South Africa, "time is running out" concerning peaceful, evolutionary, political and social change in South Africa.

There is the realization that Nelson Mandela has endured dehumanizing punishment and should be released immediately from prison and that his wife, Winnie Mandela, should have her terrible banning order lifted at once.

There is agreement that South Africa should stop its cruel policy of forcibly removing black South Africans from their land and driving them into barren, impoverished Bantustans as the chief means of stripping away black citizenship. There is the belief that honorary South African consulates should not be allowed to operate on American soil in order to promote a positive face for apartheid and to seek American investment for a South African economy that oppresses its own workers.

And there is agreement that South Africa should release all the detainees now continuing to be held in the military internment camp near Mariental in Namibia which is illegally occupied by South Africa.

Mr. Speaker, many of us in the Congress have criticized the administration's policy of constructive engagement with South Africa and have witnessed its destructive consequences. South Africa has taken our series of signals and used association with our great Nation in an effort to escape the isolation and humiliation that apartheid has brought upon that country. It has used our good offices to strengthen its already intransigent position regarding the dismantling of the abhorrent apartheid system.

But the view is hardening among many of us, conservative, moderate and liberal alike, that South Africa's governmental system which denies its black majority the most basic political, civil, and economic rights, as well as citizenship itself, is not a system with which we, as Americans, can any longer be identified or allied.

Mr. Speaker, House Concurrent Resolution 298, the first of these resolutions that we are bringing before the House, expresses the sense of Congress that the United States should reaffirm and continue its policy of not recognizing South Africa's illegal occupation of Namibia. The Republic of South Africa should comply with the charter of the United Nations, the Universal Declaration of Human Rights, and the Geneva Convention of 1949, the sole basis on which South Africa as an illegal occupying force in Namibia may detain individuals and South Africa should release all detainees at the Mariental Camp or revoke the order that terminated the court proceedings instituted on March 4, 1984, and permit a full hearing to proceed of the lawfulness of the continuing detention of the Cassinga detainees.

The Mariental detainees resulted from a raid conducted by South African defense forces in 1978 on the Cassinga refugee settlement 150 miles within Angola. On the pretext of striking against SWAPO guerrillas, the South African defense forces killed over 600 Namibian refugees, many of whom were women and children and forcibly removed more than 100 of the survivors from Angola and placed them into a military internment camp near Mariental where they have been detained for 6 years without charges.

The committee believes that since this resolution was introduced 55 detainees have been released and the Namibian Supreme Court ruled against a suit brought to contest continuing detention of the Cassinga raid survivors.

The Department of State has stated in its comments to the committee that it shares the concerns raised in the resolution about the illegality of South Africa's presence in Namibia and the circumstances of the detention of those captured and held at Mariental.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, my good friend, the gentleman from Michigan [Mr. WOLPE] was talking on four different resolutions.

I just want to inquire, we are only on House Concurrent Resolution 298. We are not considering these en bloc by any chance?

The SPEAKER pro tempore. The Chair will advise the gentleman that he is correct. We will consider these one at a time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do support this resolution. However, I must advise the House that of the 37 detainees at the Mariental prison camp in Namibia that are the focus of this particular resolution, 31 have been released since the resolution was introduced. Another 23 detainees have also been released from Mariental.

I believe the broader issue at stake in this resolution concerns an independent judiciary in South Africa. The capability of South African courts to effectively review executive actions has been circumscribed in recent years by acts of Parliament and by police action. This has been one of the more disturbing and discouraging developments there. This resolution rightly points out the unprecedented step taken last April by the executive branch of the South African Government to terminate a duly-constituted legal proceeding. This action was a serious blow to those people, like myself, who believe that a free and independent judiciary is a necessary prerequisite for bringing about peaceful reform within South Africa.

I might add that this resolution is consistent with the administration's policy of encouraging the maintenance of an independent judicial system in South Africa, and I urge its adoption.

Mr. WOLPE. Mr. Speaker, first of all, I want to thank my colleague, the distinguished ranking minority member, for his supportive remarks of this resolution and for his cooperation in moving it to this point in the process.

Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Pennsylvania [Mr. GRAY], who is one of the most forceful leaders within the Congress when it comes to the issue of apartheid in South Africa and who is the original cosponsor of the legislation.

□ 1530

Mr. GRAY. Mr. Speaker and colleagues, I certainly would like to thank the minority leader of the subcommittee, as well as the distinguished chairman of the Subcommittee on Africa, for rapidly addressing this issue and bringing forth this resolution which seeks to point out the tremendous violation of law that has taken place in Namibia as the result of the intervention of the apartheid nation of South Africa in the judiciary process.

Mr. Speaker, when South African defense forces launched, in May 1978, a massive attack against the Cassinga Refugee Settlement some 150 miles inside Angola, more than 600 Namibian refugees, including women and children, were killed.

The survivors of that bloody attack were detained and transported more than 500 miles and interned at a military camp near Mariental, Namibia, where they have been held captive, without charge or trial, without access to family friends or council, and have

suffered under severe and abusive conditions for over 6 years.

House Concurrent Resolution 298 expresses our overriding humanitarian concern that South Africa release the more than 50 Cassinga refugees it now continues to hold.

Passage of this resolution, which was unanimously reported by the Foreign Affairs Committee, will communicate this Congress, and indeed this Nation's concern that South Africa accept and abide by internationally recognized standards which protect fundamental human rights.

In March of this year, a court application seeking the release of the detainees was terminated when the South African Minister of Justice filed a certificate rescinding the court's jurisdiction to hear the application for the detainees release.

International condemnation of South Africa's arbitrary intervention into the judicial process of the "autonomous and independent" courts of Namibia forced South Africa to release 55 of the detainees in March of this year.

However, at least 56, and perhaps many more of the Cassinga detainees who were abducted from Angola and interned at Mariental, continue to remain in custody.

Their continued detention, without charge or trial, denies human dignity to individuals who are being deprived of their basic civil rights and freedom.

South Africa's continued determination to thwart constitutional instruments of appeal, like the judiciary, suggests that in South Africa, the rule of law can be arbitrarily modified when the basic rights and dignity of men and women are perceived as a threat to South Africa's illegal occupation of Namibia and to apartheid, itself.

This critical situation requires a strong, unequivocal, and clearly voiced statement of our belief in the rule of law: A law which protects human rights and civil liberties; a law which preserves due process; and a law which sustains the equality of all men.

In closing, passage of this resolution will reflect our compassion for the suffering and distress of the dozens of civilians who continue to be treated as combatants, but are even denied the limited rights of prisoners of war.

I urge each of you to support this important measure.

● Mr. FASCELL. Mr. Speaker, today the House is considering four resolutions concerning the Republic of South Africa. The resolutions afford an opportunity for Members of the House to express their views on several matters which should be of concern to all Members. The four resolutions deal with the following issues: Persons captured by South African forces during a military incursion into Angola in 1978; South Africa's continued incarceration of Nelson Mandela; South Africa's policy of removing black South Africans from their ancestral land and relocating them; and the establishing of honorary South African consulates in the United States.

It is not my intent to speak to each of the resolutions, or to explain them—that I will leave to the distinguished gentleman from Michigan, the chairman of the Foreign Affairs Committee's Subcommittee on Africa. I wish, instead, to direct my remarks toward that system which is the proximate cause of these resolutions, and a system to which the House should direct its strongest condemnation. I am, of course, speaking of South Africa's system of apartheid.

The South African Government, with its official policy of racial segregation, oppression, and discrimination, continues to violate the basic rights of 21 million totally disenfranchised black citizens of South Africa. Initiatives by the South African Government which give limited political rights to Asians and coloreds—a move overwhelmingly rejected by those communities—serves to illustrate that Government's continuing efforts to deny basic human rights to the majority of its citizens.

The South African system of apartheid, and abuses which flow from such a system, has been condemned by governments, organizations, and individuals throughout the world. I believe it is necessary and appropriate that we in the House take this opportunity to place this body on record in condemning apartheid.

I urge all Members to vote in favor of the four resolutions.●

● Mr. RANGEL. Mr. Speaker, Nelson Mandela has been in prison in South Africa since 1962 for allegedly conspiring to overthrow the Government. He is now serving a sentence of life imprisonment for his activities with the ANC in 1961 and earlier on behalf of black South Africans.

His wife, Winnie Mandela, has never been convicted on any charge except for two violations of her banning orders. Since 1977, Mrs. Mandela has been exiled to a black community near the white village of Brandfort, unable to be in the company of more than one person at a time. She cannot attend meetings, social or political, cannot be quoted in South Africa, cannot visit educational institutions, and is confined to her home evenings and weekends.

These violations of human rights are no less serious than those which the Soviet Union practices on those who disagree with its policies; in many ways they are much more serious.

Sadly, this denial of human rights is a part of a larger effort to subjugate 73 percent of the population of South Africa.

Today, the new tripartite parliament opened under a new constitution. Now, in addition to a white chamber, which represents about 15 percent of the population, there is a chamber for "coloreds" and a chamber for Asians. The two new chambers represent an additional 11 percent of the population, and their power is limited to dealing only with racial issues. Blacks are still excluded.

Mr. Speaker, I urge the House to pass this resolution urging the South African Government to release Nelson and Winnie Mandela, and to urge the President to use his position to achieve this.●

● Mr. ACKERMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 298, which expresses the sense of Congress that the prisoners held in the internment camp near Mariental, Namibia, should be speedily released. This measure, once again, puts the Congress firmly on record in opposition to the repressive and racist policies of the South African Government.

Ending Pretoria's cruel and illegal treatment of Namibia must become a higher priority for U.S. policy in southern Africa. The brutality with which the South Africans utilized their military force on the Cassinga refugee settlement, killing 600 Namibian refugees, symbolizes their absolute lack of concern with upholding international law and providing fair treatment to the black people in the region. Despite the administration's claims that the policy of "constructive engagement" is working, the continued unlawful detention of the Mariental camp prisoners provides yet another important example for South Africa's disdain for justice and human rights. As the leading democracy in the world, the United States can ill-afford to stand by in silence as the morally bankrupt South African Government continues its destructive policies. By passing this resolution today, we are enunciating our unalterable opposition to these racist actions designed by the South African Government to maintain its authority over the majority of the people in the region. I am proud to support the passage of House Concurrent Resolution 298.●

● Mr. FAUNTROY. Mr. Speaker, I rise in support of House Concurrent Resolution 298, which expresses the sense of Congress that the United States should reaffirm and maintain its policy of nonrecognition of South Africa's unlawful occupation of Namibia.

This resolution also calls upon South Africa to comply with the Charter of the United Nations, the Universal Declaration of Human Rights, and the Geneva Convention of 1949, and it calls upon the South Africans to re-

lease all those detained at the Mariental Camp.

Mr. Speaker, the Mariental detainee situation is the result of a raid conducted by South Africa in 1978, against the Cassinga refugee camp, located within Angola. Using the pretext of engaging SWAPO forces, the South African military killed more than 600 Namibian refugees, many of them women and children. More than 100 survivors of this attack were removed from Angola and incarcerated in the Mariental Camp, where they have languished for over 6 years.

I urge my colleagues to pass House Concurrent Resolution 298, in order to send the right signal to the suffering and struggling peoples of southern Africa and to gain the release of these refugees.●

Mr. WOLPE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. WOLPE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 298.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SENSE OF CONGRESS THAT SOUTH AFRICA SHOULD CEASE "BLACKSPOT" POLICY

Mr. WOLPE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 122) expressing the sense of the Congress that the Republic of South Africa should cease its "blackspot" policy of removing black South Africans from their ancestral land and relocating them, as amended.

The Clerk read as follows:

H. CON. RES. 122

Whereas the Government and the people of the United States have recognized inherently and innately, as a natural extension of this Nation's founding principles and objectives, the rights of property owners and of their descendants to possess forever land which they have lawfully acquired and maintained;

Whereas violations of these rights within or outside the United States are considered a flagrant abuse of basic assumptions governing the conduct of civilized societies and cannot be condoned by the people or the Government of the United States;

Whereas the Republic of South Africa is systematically and forcibly removing millions of black South Africans from land they owned and farmed for generations, stripping them of their citizenship, and arbitrarily relocating them in racially segregated hovel-communities, in violation of the United Nations Charter and the Universal Declaration of Human Rights;

Whereas living conditions in the new black "homelands" are grossly inferior to those enjoyed by white South Africans, for example (1) there is only one doctor for every four hundred thousand people in the black "homelands", while white South Africans have a doctor for every three hundred and fifty people, and (2) the infant mortality rate in the black "homelands" is two hundred and eighty-two per one thousand births, while in white South Africa the infant mortality rate is twelve per one thousand births;

Whereas the "black spot" policy toward blacks prompted Saul Mkhize to personally oppose the Republic of South Africa's attempts to force him to surrender land his family had owned for three generations;

Whereas this policy moved Saul Mkhize to write South African Prime Minister Botha stating, "We do not wish to be rebellious in any way, but only to continue to live our lives in our own environment."; and

Whereas this policy led to the shooting death of Saul Mkhize by the security police of the Republic of South Africa: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Republic of South Africa should comply with all internationally recognized human rights standards, the United Nations Charter, and the Universal Declaration of Human Rights by ending the "black spot" policy and allowing forcibly relocated South Africans to return to their ancestral land;

(2) the United States should continue its policy of not recognizing the South African sovereignty of the "homelands";

(3) at such times that "homeland" officials apply for visas and passports for travel to the United States, visas will in no cases be granted for purposes other than humanitarian;

(4) the President and his representatives should convey to the Republic of South Africa the Congress' concerns expressed in this resolution at all times, including when agreements between the United States and the Republic of South Africa relating to trade, commerce, science, and technology are negotiated; and

(5) the President is requested to transmit a copy of this resolution to the Ambassador from the Republic of South Africa to the United States and to the Prime Minister of the Republic of South Africa.

The SPEAKER pro tempore. Is a second demanded?

Mr. SOLOMON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. WOLPE] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 122 expresses the sense of Congress that the Republic of South Africa should cease its "blackspot" policy of removing black South Africans from their ancestral land and relocating them in barren, impoverished "homelands." The resolution states that the United States should continue its policy of not recognizing the South African sovereignty of the homelands; and stipulates that visas not be granted to homelands officials traveling on homelands passports other than for humanitarian reasons.

Between 1960 and 1982 the white minority Government of South Africa has forcibly removed nearly 3.4 million black people from their homes, and 1.7 million more are awaiting similar dislocation. In its efforts to completely disenfranchise the black majority, the South African regime has increasingly pursued a policy of forced removals of blacks from designated "white areas" to the so-called homelands for Africans. The homelands policy of South Africa reserves 87 percent of the land for the 16 percent of its population which is white, and allocates 13 percent of the most arid and unproductive land for the 74 percent of the population which is black African. The committee, in adopting this resolution, protests this cruel policy of forcibly removing black South Africans from their ancestral land as a means of stripping away their citizenship and upholds the continuation of U.S. policy to not recognize the so-called homelands as independent and sovereign states.

I hope the resolution will enjoy the support of this body.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution. Last fall, Chairman WOLPE and I sent a letter to Mr. P.W. Botha, then the Prime Minister of South Africa, expressing our strong opposition to the forced removal of the village of Magopa. I remain convinced that South Africa must cease its policies of forced relocations and "blackspot" removals. Such a decision by the South African Government would be a welcome step and a clear indication of good faith efforts to end the abusive treatment of innocent people under the apartheid system.

Only last month, a bipartisan staff delegation visited South Africa and had the opportunity to visit another

so-called "blackspot" that is being threatened with removal. The staffers saw firsthand the productive and active lives that the people are leading as farmers and merchants. And they heard the anguish of these people as the villagers wondered why they couldn't be left alone, why they were being threatened with the loss of their homes and their livelihood, even the loss of their citizenship. This particular village was founded in the 1850's by Presbyterian missionaries. And yet, today, the people are being threatened with removal into the Ciskei, an area so destitute and impoverished that it has an infant mortality rate higher than that in Upper Volta, which is the highest in the entire Third World.

Mr Speaker, those of us on the Africa Subcommittee have our differences of opinion about many things. But we are united in our opposition to South Africa's policy of forced removals. I hope that this resolution will reinforce the opposition of our Government to this South African policy.

Mr. Speaker, I reserve the balance of my time.

Mr. WOLPE. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from New York [Mr. MRAZEK], who is the author of this resolution and who has provided the leadership on this question for the Congress.

Mr. MRAZEK. Mr. Speaker, I would like to thank Chairman WOLPE and my colleague from New York [Mr. SOLOMON] for their favorable consideration of this resolution.

For many Members of Congress I think it is fair to say that the injustice of South Africa's homeland policy was brought home with the death of a South African farmer, a simple man named Saul Mkhize.

The murder of Mr. Mkhize, who died a little over 1 year ago, I think epitomizes the depth of the South African tragedy. Mr. Mkhize was not an elected official nor was he interested in the affairs of state. But he was black and with a desperation that is probably familiar to all of us as Americans who have owned land, he was trying to save his land. Until a year ago, he grew corn on that land, and it was very unusual for a black South African that he actually owned it. Men of his grandfather's generation purchased 300 small plots of land in 1912.

Now, for the last 20 years, the Government of South Africa has been forcibly transferring Africans from the blackspots to distant desolate homelands; 8 million blacks in South Africa become stateless as a consequence of this policy. After Africans are pushed out of what they call these blackspots, their farms are destroyed and their land is given to whites. The Government of South Africa claims that it provides homes and plots within the so-called homelands for displaced farmers, and this is a crucial joke. When the black Africans inspect the new land, they find it is barren, arid, cold, mostly without water service or roads.

□ 1540

The infant mortality rate in the homelands is 282 for each 1,000 born. There is rampant malnutrition, and there is 1 doctor for every 40,000 people. Mr. Mkhize led his people in peaceful protest. He tried to reason with white officials; he wrote a letter to the Prime Minister. Then, when he was being forcibly removed from his land and was being placed in a truck, he was felled by several shotgun blasts.

As black Africans like Mr. Mkhize are either murdered or are compelled to leave land that they have farmed continuously since the 19th century, and have owned by freehold title for more than 70 years, otherwise apathetic people have become involved.

The philosopher Rousseau once wrote that the first man, who having fenced in a piece of land and said this is mine, that man was the true founder of civil society. That the South African Government has chosen to violate those tenets should not surprise us. But neither should we stand idly by and ignore this abuse of human dignity.

This resolution simply calls on the Republic of South Africa to comply with all internationally recognized human rights behavior, the U.N. Charter, and its Covenant of Human Rights by ending their blackspot policy and allowing forcibly relocated South Africans to return to their ancestral lands.

It states that the United States should continue its policy of not recognizing the sovereignty of these so-called "homelands" and that the President of the United States should convey to the Republic of South Africa the Congress' concerns expressed in this resolution.

Thank you, Mr. Chairman, and I would hope that this resolution will lead to some progress on this terribly tragic state of affairs.

Mr. WOLPE. Mr. Speaker, I want to express my personal appreciation to the gentleman from New York for the important initiative he has taken in introducing this resolution, and for the eloquence of his observations with respect to the blackspot policy that is being pursued by the South African Government.

It is a subject, I think, that many Americans really do not know much about. The more we can do to heighten public awareness of the atrocities that are occurring under the rubric of apartheid, the more we will be better off in this country for that knowledge. I thank the gentleman.

Mr. Speaker, I would like to yield 1 minute to my distinguished colleague, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to commend the chairman and the gentleman from New York for this resolution. I think this resolution puts us solidly on record, I hope it passes unanimously, as being opposed to what is a very unfair, lacking in humanitarianism, policy that exists in South Africa, in all of its manners of making refugees out of people, in a sense, for something that is theirs: their homes.

Mr. Speaker, I want to say that as the House's representative to the U.N. Decade for Women, one of the things that was of great sadness to me was that we as a country were not solidly on record against the unfair policies in South Africa. That is why I think these resolutions are so important because it puts us in the forefront, at least from the House's point of view that we are against the unhumanitarian attitude toward the people there, and that we hope one day, with the moral force of the United States as well, that South Africa will treat all its people fairly and equitably.

Mr. WOLPE. I want to thank the gentlewoman for her important observations, and I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to congratulate the chairman, the gentleman from New York, the ranking member, not only on the leadership they have shown with respect to this particular resolution, but also the three other resolutions that are on our calendar today, and the work that their committee has been doing over this year and years past to continue to bring before the American people and the citizens of the world what have been characterized as unfair and unhumanitarian policies.

Mr. Speaker, I think that perhaps I do not speak too strongly when I would refer to those policies as abhorrent and contrary to the human values that the citizens of this world ought to have, but in some instances have retreated from and forgotten.

The policies of South Africa to which these resolutions speak are certainly abhorrent to us as a people committed to the rights of all individuals, irrespective of their race or color. They are policies that we ought to daily, weekly, and monthly, speak out against in the strongest terms.

The administration's policy of constructive engagement, which hopes that somehow the leadership of South Africa is going to change its views, is going to retreat from these abhorrent policies, has apparently not worked.

I want to congratulate again the chairman and this committee for continuing to confront and bring before the Congress and the American people a policy which we ought to take every step that we can to eliminate and oppose.

Mr. WOLPE. I thank the gentleman for his very important observations.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PHILIP M. CRANE].

Mr. PHILIP M. CRANE. I thank the gentleman for yielding me this time.

Mr. Speaker, I did not realize that this resolution was coming before the Chamber today. I think that whereas there is some merit to aspects of it that I can heartily commend, especially the part dealing with the call for the South African Government to recognize human rights, I simultaneously get a sense of deja vu in looking at other aspects of this resolution. I think we are probably the greatest experts in relocation of peoples that you can find. We have done it to the American Indian population. I happen to have some Indian ancestry. Some of them were forceibly relocated back in 1836 with the Trail of Tears.

We have had a long career, in fact, of conduct that probably is unbecoming civilized peoples just as we are censuring the South Africans for the same thing. The reason I make mention of this is when you turn to page 2 of the resolution especially and you talk about doctor-patient ratios, and you talk about the inadequate health care in the homelands in South Africa, you can make the same observations about many of the tribal lands here in the United States, and ongoing treatment accorded to the Indian population.

I think while we are in the process of condemning a policy that I am not totally persuaded is necessarily wrong in all instances, because I met with Chief Matanzima in the Transkei when that homeland was created. I talked to the Government officials there too, and the fact of the matter is they have rich, verdant farmlands there, and they are wholeheartedly supportive of the idea of being given a homeland.

Now, to force people involuntarily to have to go to that homeland is another matter. But I think that there is a case that can be made for homelands and some of those parties affected ought to be consulted before we take this kind of stand which contains a degree of hypocrisy compounded by ignorance of a complicated problem.

□ 1550

Mr. WOLPE. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. WOLPE] has 10 minutes remaining.

Mr. WOLPE. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. I thank the gentleman for yielding to me.

Mr. Speaker, I appreciate the statements made by my colleague from Illinois with regard to the tragedies that have taken place in our own United States of America due to very brutal policies of past administrations in regard to Indians and other people in our own society.

The tragedy has not been limited to Indians or minorities in the United States of America. To a large degree, what happened in the dust bowl of Oklahoma back in the 1930's also symbolizes the kinds of problems that are being faced in South Africa. We are talking about people who are uprooted from their homes. People like the Zulus. Some Zulu warriors fought side by side with the British and were awarded their ancestral lands because of valor on behalf of the British Empire. They are now being stripped of these lands and just as we would care about this if it was happening to us. A quote from one of these Zulu chieftains sums up their cause.

"We love this land of ours" he said. "It has two rivers and very good rich soil. We own tractors and grow maize and beans and often sell our surplus. We also own herds of cattle and they are healthy. Our ancestors are buried here and we are able to tend their graves."

I do not think that the entire Zulu culture that exists in that particular black spot ought to be wiped out simply because a South African Government decides that the so-called black spot does not belong in the area that 4 million whites want to live without 18 million blacks.

● Mrs. HALL of Indiana. Mr. Speaker, a grave human injustice is being perpetrated in South Africa. The Republic of South Africa [RSA] has for many years been uprooting Africans from ancestral land and, as if they were cattle, placing them in barren areas away from the cities. These "black-spots" which the RSA calls homelands serve as controlling pens for that racist apartheid regime. Stories can be recounted of once prosperous areas containing black Africans existing no more because the Government made wholesale moves of all the people.

The United States has practiced a policy of constructive engagement that is designed to eventually cause South Africa to change, to reform. But Africans are still being uprooted, subjugated, and killed in alarming numbers and this Nation is silent. How long this crime against humanity can go on before the United States acts positively is unknown. Those who are concerned hope that it is not much longer. The United States has a moral obligation to take whatever action is necessary to assist in the elimination of apartheid in the Republic of South Africa. We should do more here than frown upon it. I support the passage of House Concurrent Resolution 122 expressing a sense of the Congress that the Republic of South Africa should cease its "black-spot" policy of removing black South Africans from their ancestral homelands and relocating them.●

Mr. WOLPE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. WOLPE] that the House suspend the rules and agree to the concurrent resolution. House Concurrent Resolution 122, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REQUEST FOR CONSIDERATION OF H.R. 3623, CERTAIN FORMER FLIGHT ENGINEERS OF WESTERN AIRLINES

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3623) for the relief of certain former flight engineers of Western Airlines.

I understand this has been approved and cleared with the minority, the gentleman from Ohio [Mr. KINDNESS].

Mr. SOLOMON. We have no objection, Mr. Speaker.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent to withdraw the request for the purpose of getting

it lined up in proper order for later on down today.

The SPEAKER pro tempore. The gentleman withdraws his request.

Mr. SAM B. HALL, JR. I thank the Chair.

THE MANDELA FREEDOM RESOLUTION

Mr. WOLPE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 430), entitled "The Mandela Freedom Resolution."

The Clerk read as follows:

H. RES. 430

Whereas the Republic of South Africa has excluded blacks and other nonwhites from participation in the government of their country by means of a system of racially discriminatory laws and practices known as the apartheid system;

Whereas the South African practice of apartheid is based on violence, exploitation, and deprivation of basic human and civil rights, is incompatible with the dignity of mankind, and contravenes the most fundamental human and political rights as set forth in the Charter of the United Nations and the Universal Declaration of Human Rights;

Whereas the Government of the United States, the United Nations, and virtually every country in the world condemns the practice of apartheid by the Government of South Africa.

Whereas in 1944, Nelson Mandela joined, and later led, the banned African National Congress, which is committed to eradicating the South African Government's official policy of racial apartheid and in its place erecting a society in which the rights of all South African citizens, shall be the same, regardless of race, color, or sex;

Whereas in 1964, when he was already in jail under a five-year sentence for inciting strikes and leaving the country without a permit, Nelson Mandela was again brought to trial and sentenced to life imprisonment for seeking to overthrow the government with violence and has been incarcerated ever since that time;

Whereas now, after twenty years in prison, Nelson Mandela nevertheless remains the leading symbol of resistance to political oppression, race and color prejudice in South Africa and the most widely recognized leader of that country's black majority population;

Whereas Winnie Mandela, the wife of Nelson Mandela and one of the most prominent and highly respected leaders of the anti-apartheid movement in South Africa, was arrested twenty years ago and, despite the fact that she has never been convicted of any offense except violations of her banning orders, has been systematically banned, detained, harassed, and abused by South Africa's security police and has spent less than eleven months of the past twenty years in freedom;

Whereas Winne Mandela, as a banned citizen of South Africa, is confined to a home designated by the State and far removed from her friends and family, is not permitted to meet with more than one person at a time, may not be quoted or write any material for publication, and is prohibited from having her name or photograph appear in print anywhere in South Africa; and

Whereas the anti-apartheid movement in South Africa exemplifies the liftiest ideals and aspirations of the American people and all freedom-loving peoples the world over: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the Government of the Republic of South Africa should immediately release and free Nelson Mandela from prison and should revoke and cancel Winnie Mandela's banning order.

(2) the President of the United States should use his good office to secure the release and freedom of Nelson and Winnie Mandela; and

(3) the Speaker of the House of Representatives is requested to transmit a copy of this resolution to the President of the United States and to the Prime Minister of the Republic of South Africa.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. WOLPE] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 430 expresses the sense of the House of Representatives that South Africa should immediately release and free Nelson Mandela from prison and revoke and cancel Winnie Mandela's banning order; the President of the United States should use his office to have the Mandelas released; and requests the Speaker of the House of Representatives to transmit a copy of this resolution to the President of the United States and to the Prime Minister of South Africa.

Nelson Mandela, a longtime member of the African National Congress [ANC], was first arrested for protesting against white minority rule in South Africa in 1952. He received a suspended sentence, but in 1953 he was banned from public meetings and prohibited from leaving Johannesburg. Mandela was arrested in 1956 and charged with attempting to overthrow the South African Government. He was finally acquitted of these charges in 1961 and his banning order first imposed in the 1950's expired as well. To avoid reimposition of another banning order Mandela went underground but continued to direct ANC activities from South Africa and abroad. In 1962 the police captured Mandela inside South Africa and sentenced him to 5 years in prison. At the same time Mandela and eight other ANC members were tried on sabotage and conspiracy to overthrow the South African Government and in 1964 sentenced to life imprisonment. Currently Mandela is being held at Pollsmoor Maximum Security Prison near Capetown.

Winnie Mandela, the wife of Nelson Mandela, has either been banned or imprisoned for violations of her banning orders. She is currently under a banning order that exiles her to the Orange Free State near the white village of Brandfort. She has been forced to reside in her segregated black community since 1977 where she is prohibited from being in the company of more than one person at a time. In adopting this resolution, the committee agrees that the continued imprisonment of Nelson Mandela constitutes cruel and unusual punishment as does the continued banishment of his wife, Winnie Mandela.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have strongly supported the last two resolutions, but I have certain misgivings about this particular resolution but I will not oppose it. When this resolution was considered by the Africa Subcommittee last spring, I pointed out that progress was being made in the areas of political bannings and detentions. In 1980, for example, 154 persons were banned from political activity in South Africa. Today, only 11 are banned. The number of those being detained for political crimes had declined from 965 in 1980 to about 130 last spring, a significant reduction and improvement.

Such progress has since reversed, however, with a wave of detentions last month in connection with the Parliamentary elections for coloreds and Asians. And rumors continue to circulate that new bannings are imminent, on top of the already announced prohibition of opposition political activities.

During the subcommittee deliberations last spring, I expressed the view that positive developments in South Africa should be encouraged and applauded. Now that the progress that was being made in the areas of bannings and detentions is in substantial jeopardy, I am reluctant to support a resolution of this kind that I'm afraid will have the effect of exacerbating the tense and volatile situation that presently exists. However, the issue is an important one, and I will not oppose the resolution.

Mr. Speaker, I reserve the balance of my time.

□ 1600

Mr. WOLPE. Mr. Speaker, I yield 6 minutes to my distinguished colleague, the gentleman from Michigan [Mr. CROCKETT] the ranking member of the Subcommittee on Africa, the author of this resolution and the individual in Congress who has been most responsible for keeping before the Congress and before the American people the issue of the continued imprisonment and banning of Nelson Mandela and Winnie Mandela.

Mr. CROCKETT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like, first, to extend my sincere appreciation to the original cosponsors of House Resolution 430, the "Mandela Freedom Resolution," the gentleman from Florida, Chairman CLAUDE PEPPER; the gentleman from New York and my colleague on the Judiciary Committee, HAMILTON FISH, JR.; and my colleague on the Committee on Foreign Affairs, the distinguished gentleman from Iowa, JIM LEACH. I also extend my thanks and appreciation to the chairman of the Committee on Foreign Affairs, Mr. FASCELL, and to the chairman of the Subcommittee on Africa, Mr. WOLPE, for their courageous support and assistance in moving this resolution.

And finally, I want to applaud the more than 180 Members of the House, both Republicans and Democrats, who have joined with us in this important demonstration of support for the ideals and principles of justice and human dignity that this resolution represents.

Mr. Speaker, House Resolution 430, the "Mandela Freedom Resolution," expresses the sense of the House of Representatives that the Government of South Africa should immediately release Nelson Mandela and his wife, Winnie, from their more than 20 years of imprisonment and detention for their active opposition to the apartheid regime of South Africa.

The immediate release of Nelson and Winnie Mandela from their cruel and unjust imprisonment is critically important to domestic peace in South Africa and regional stability in the southern African region. For Nelson Mandela is widely acknowledged as the leader of black South Africa. He is the embodiment of the popular struggle against racism, repression, injustice, and domestic colonialism which contemporary South Africa represents. Nelson and Winnie Mandela, more than any other black South African leaders, unites and inspires the discriminated, the disenfranchised, and the downtrodden of South Africa. By their example, the Mandelas have provided a shining beacon around which the brave and courageous will rally throughout the world.

Let there be no misunderstanding of what this resolution represents. With its approval, the U.S. House of Representatives is declaring its abhorrence of the dangerously misguided policies of South Africa with regard to the black, colored, and Asian peoples who comprise the overwhelming majority of that country's population. With its approval of this resolution, the U.S. House of Representatives is calling upon the South African authorities to halt their blind march to tragedy, bloodshed, and violence and to begin a serious attempt at national reconciliation and dialog with all the people of South Africa. Through its approval of this resolution, the U.S. House of Representatives admonishes the Government of South Africa that it is only through discussions and compromise, through hard bargaining and negotiations that a violent revolutionary change can be avoided in the present South African political system, with all the implications that such violence would have for international peace and security.

Nelson Mandela, first and foremost, is and has been all of his life a freedom fighter and a champion of justice. Son of an African chief, a man of great courage, rare vision and intelligence, he traveled to Johannesburg in 1940, studied at the University of Witwatersrand and apprenticed with a firm of white attorneys. In a time when educational opportunities for black South Africans were more restricted than they are today, Nelson Mandela and Oliver Tambo, his friend and colleague in the African National Congress, established the first black law firm in South Africa in 1952.

Ten years later, Mandela was found guilty of organizing a national 3-day strike in opposition to the Government and of leaving South Africa illegally. While serving a 5-year sentence under this conviction, Mandela and eight other members of the African National Congress were tried and convicted of conspiring to overthrow the South African Government. Nelson Mandela and all but one of the others were sentenced to life imprisonment.

In a stirring statement in the dock during that trial, Nelson Mandela put forth the essence of his political philosophy:

> During my lifetime, I have dedicated myself to this struggle of the African people. I have fought against white domination and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But, if need be, it is an ideal for which I am prepared to die.

Winnie Mandela, Nelson's wife of 26 years, is also a champion of human rights. She has carried the torch of leadership, liberty, and justice during the 20 years of her husband's imprisonment. This great woman has repeatedly been subjected to detention, house arrest, banning, and imprisonment. Indeed, in the years since Nelson Mandela was first imprisoned, she herself has only been at liberty, free of any restrictions, for some 11 months. Still, she serves as a source of inspiration for millions of people around the world and she continues her work on behalf of the neediest of South Africa's peoples.

Her own words speak eloquently of the need for solidarity in the struggle for freedom:

> It is only when all black groups join hands and speak with one voice that we shall be a bargaining voice which will decide its own destiny . . . Our aspirations are dear to us. We are not asking for majority rule; it is our right, and we shall have it at any cost. We are aware that the road before us is uphill, but we shall fight to the bitter end for justice.

Mr. Speaker, this House has, often and clearly, spoken out in support of the freedom and self-determination of oppressed peoples in Russia and Eastern Europe; in the Philippines; in the Middle East and Southeast Asia; in Chile and throughout the world. At this very moment in Stockholm, our Government is engaged with the Soviet Union and other nations in a review of the Helsinki accords on Human Rights. Nowhere in the world has the right to freedom, justice, and self-determination been so abridged, so compromised, so violated as in South Africa. Through our support for the "Mandela Freedom Resolution," we can show that our concern for human rights in South Africa is as strong and as deep-seated as it is for the peoples of Poland, Central America, Uganda, and wherever else peoples' rights are violated by their governments. The House of Representatives has an opportunity today to show that it seeks and will be in the forefront of the international movement for democracy and justice. Recent events in South Africa dictate that our collective voice be heard now more clearly than ever before.

I urge all of our colleagues to unanimously support House Resolution 430, the "Mandela Freedom Resolution."

Mr. Speaker, I include in the RECORD for the information of my colleagues further material concerning Nelson Mandela:

NELSON ROLIHLAHLA MANDELA*—CHRONOLOGY OF HIS LIFE

July 18, 1918: Born in Umato, Transkei. He had a traditional pastoral childhood as a member of the ruling Tembu Family. Mandela attended a Methodist school then proceeded on to Fort Hare College to study towards a B.A. degree. However, during his third year he was suspected of assisting in the organization of a boycott of the students' representative council, after it had been deprived of its powers by the authorities. Because of a threat for an arranged marriage, he went to Johannesburg. There a friend (and soon to be a long time African National Congress associate) Walter Sisulu, arranged for Nelson to study law.

1944: Mandela joined the African National Congress (which had been formed in 1912)—the Youth League.

1947: Pact of cooperation between the Presidents of the Transvaal and the Natal Indian Congresses, South Africa's general elections brought Dr. Malan and his Nationalist Party to power. Dr. Malan's party intensified racial oppression and titled it—apartheid.

*Prepared by Robert Brown, Foreign Affairs Analyst, Central Research Section, Foreign Affairs and National Defense Division.

1949: ANC challenged this racial policy of apartheid by adopting a Programme of Action laying down new methods of struggle: civil disobedience, strikes, boycotts, etc. The architects were Walter Sisulu, Anton Lembede, Oliver Tambo and Mandela.

May 1, 1950: Eighteen Africans were killed by Johannesburg police during a demonstration for higher wages.

Earlier 1952: Mandela was elected president of the ANC Transvaal branch.

June 26, 1952: In Johannesburg, a massive campaign. "Defiance of Unjust Laws," took place under the sponsorship of the South African Indian Congress (SAIC) and the ANC. Mandela and 8,000 others were arrested for defying apartheid laws. Forty-seven leading members from ANC and SAIC were tried and convicted, then given suspended sentences on the conditions that they would not participate in the campaign.

A proclamation was passed which prohibited meetings of more than 10 Africans, and in addition made it an offense for anyone to ask an African to defy the laws. Contravention of this proclamation carried a penalty of 3 years in jail or 300 pound fine.

The government passed the so-called Public Safety Act which empowered it to declare a state of emergency and exercise other powers to suppress domestic anti-apartheid organizations. Almost, simultaneously, the Criminal Law Amendment Act was passed—this provided for heavy penalties for those convicted of "defiance" offenses. This act also made provision for the whipping of "defiers" (women included). The government also made use of the Suppression of Communism Act.

December 1952: Mandela was banned from public gatherings. He began expressing his views through his writings. However, he read his Presidential speech to the opening session of the Transvaal's ANC 1953 Annual Conference. In his speech, he lashed out at the government and called for greater action by his members to organize the people to overthow white oppression. He was subsequently confined to Johannesburg for six months.

1956: South Africa's political police arrested 136 leaders of the ANC, (including Mandela) and its allies, and charged them with high treason—using the Freedom Charter (or the populist manifesto, which was adopted in 1956 calling for universal suffrage, racial equality, and personal freedoms) as the basis. It was alleged that the ANC planned a revolutionary overthrow.

1957: The ANC and local residents associations organized the Rand and Pretoria bus boycott.

1958: The ANC organized another one-day national strike. (Mandela played a prominent role in all of these activities; he was Volunteer-in-Chief during the 1952 defiance compaign.)

1960: At the ANC's National Conference in Durban, the ANC resolved to conduct on March 30, 1960 a massive nation-wide struggle against pass laws. The government, alarmed by the powerful wave of mass action, declared the ANC illegal. The ANC refused to accept the order and went underground.

1960: The "Sharpeville massacres"—in which 70 people were killed during a compaign against the pass laws.

1961: Mandela was appointed Commander-in-Chief of Umkhonto We Sizewe (the spear of the nation)—the military wing of the ANC.

May 1961: Mandela organized and led a national 3-day strike in opposition to the government's decision to declare South Africa a republic. The strike paralyzed the country on May 29, 30, and 31—the day South Africa was declared a republic.

August to November 1962: A 90-day Detention Law was passed. All known ANC leading members (including Mandela) were detained and put into solitary confinement and according to many reports, tortured.

1963-84: After 17 months underground, Mandela—"The Black Pimpernel" as he was popularly known—was arrested while on his way from meetings in Natal to Johannesburg. In his trial he was charged on two counts: inciting Africans to strike (3-day strike in May) and leaving the country without proper papers.

While serving his 5-year sentence, he and some other defendants: Nelson Mandela, Giovan Mbeki, Raymond Mhlaba, Walter Sisulu, Denis Goldberg, Ahmed Kathrada, Rusty Bernstein, Elia Motsoaledi, and Andrew Mlangeni were brought up on sabotage and conspiracy to overthrow the government by revolution charges. This was the famous Rivonia Trial—the defendants faced a possible death penalty.

The trial ended 11 months after their initial arrests, and all but Bernstein and Goldberg were sentenced to life imprisonment on Robbin Island. Goldberg was sentenced to life imprisonment in Pretoria, and Bernstein was freed (later to be rearrested). Mandela and other leading ANC members have since been moved to Pollsmoor Prison outside Capetown, where they share a cell. At present Mandela remains in prison.

SOURCES

Mandela, Nelson. The Struggle is My Life. International Defense and Aid Fund for Southern Africa. London, December 1978.

South African Studies, No. 4. Nelson Mandela Speaks. Publicity and Information Bureau, ANC, 1970.

[U.N. Centre Against Apartheid, June 1978]

THE FREEDOM CHARTER OF SOUTH AFRICA

[Note: The "Freedom Charter" was unanimously adopted at a "Congress of the People", held in Kliptown, near Johannesburg, on 25 and 26 June 1955.

[The Congress was convened by the African National Congress, together with the South African Indian Congress, the South African Coloured Peoples' Organization and the Congress of Democrats (an organization of whites supporting the liberation movement). It was attended by 2,888 delegates from throughout South Africa, and was perhaps the most representative gathering ever held in the country.

[The Charter was adopted by the four sponsoring organizations as their policy and became a manifesto of their struggle for freedom.]

The "Freedom Charter"—proclaimed by a "Congress of the People", held in Kliptown, Johannesburg, on 26 June 1955—reflects the noble objectives of the long and heroic struggle of the people of South Africa—black and white—against domination by a racist régime.

Their cause is now the cause of all humanity.

The World Conference for Action against Apartheid, held in Lagos in August 1977, declared unanimously that "South Africa belongs to all its people irrespective of race, colour or creed", that "all have a right to live and work there in conditions of full equality", and that "the system of racist domination must be replaced by full equality."

The United Nations has solemnly recognized the legitimacy of the struggle of the South African people for freedom and human equality and proclaimed the special responsibility of the international community towards the oppressed people of South Africa and their national liberation movement.

All Governments and peoples who value human solidarity and international co-operation have a duty to provide all appropriate assistance to the oppressed people of South Africa and their national liberation movement in their just struggle for the objectives enunciated in the Freedom Charter.—Leslie O. Harriman (Nigeria), Chairman of the United Nations Special Committee against Apartheid.

THE FREEDOM CHARTER

We, the People of South Africa, declare for all our country and the world to know:

That South Africa belongs to all who live in it, black and white, and that no Government can justly claim authority unless it is based on the will of all the people;

That our people have been robbed of their birthright to land, liberty and peace by a form of government founded on injustice and inequality;

That our country will never be prosperous or free until all our people live in brotherhood, enjoying equal rights and opportunities;

That only a democratic State, based on the will of all the people, can secure to all their birthrights without distinction of colour, race, sex or belief;

And, therefore, we the people of South Africa, black and white together—equals, countrymen and brothers—adopt this Freedom Charter. And we pledge ourselves to strive together, sparing neither strength nor courage, until the democratic changes set out here have been won.

THE PEOPLE SHALL GOVERN

Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws;

All people shall be entitled to take part in the administration of the country;

The rights of the people shall be the same, regardless of race, colour or sex;

All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government.

ALL NATIONAL GROUPS SHALL HAVE EQUAL RIGHTS

There shall be equal status in the bodies of State, in the courts and in the schools for all national groups and races;

All people shall have equal right to use their own languages, and to develop their own folk culture and customs;

All national groups shall be protected by law against insults to their race and national pride;

The preaching and practice of national, race or colour discrimination and contempt shall be a punishable crime;

All *apartheid* laws and practices shall be set aside.

THE PEOPLE SHALL SHARE IN THE COUNTRY'S WEALTH

The national wealth of our country, the heritage of all South Africans, shall be restored to the people;

The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole;

All other industry and trade shall be controlled to assist the well-being of the people;

All people shall have equal rights to trade where they choose, to manufacture and to enter all trades, crafts and professions.

THE LAND SHALL BE SHARED AMONG THOSE WHO WORK IT

Restrictions of land ownership on a racial basis shall be ended, and all the land redivided amongst those who work it, to banish famine and land hunger;

The State shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers;

Freedom of movement shall be guaranteed to all who work on the land;

All shall have the right to occupy land wherever they choose;

People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished.

ALL SHALL BE EQUAL BEFORE THE LAW

No one shall be imprisoned, deported or restricted without a fair trial;

No one shall be condemned by the order of any Government official;

The courts shall be representative of all the people;

Imprisonment shall be only for serious crimes against the people, and shall aim at re-education, not vengeance;

The police force and army shall be open to all on an equal basis and shall be the helpers and protectors of the people;

All laws which discriminate on grounds of race, colour or belief shall be repealed.

ALL SHALL ENJOY EQUAL HUMAN RIGHTS

The law shall guarantee to all their right to speak, to organize, to meet together, to publish, to preach, to worship and to educate their children;

The privacy of the house from police raids shall be protected by law;

All shall be free to travel without restriction from countryside to town, from province to province, and from South Africa abroad;

Pass Laws, permits and all other laws restricting these freedoms shall be abolished.

THERE SHALL BE WORK AND SECURITY

All who work shall be free to form trade unions, to elect their officers and to make wage agreements with their employers;

The State shall recognize the right and duty of all to work, and to draw full unemployment benefits;

Men and women of all races shall receive equal pay for equal work;

There shall be a forty-hour working week, a national minimum wage, paid annual leave and sick leave for all workers, and maternity leave on full pay for all working mothers;

Miners, domestic workers, farm workers, and civil servants shall have the same rights as all others who work;

Child labour, compound labour, the tot system and contract labour shall be abolished.

THE DOORS OF LEARNING AND OF CULTURE SHALL BE OPENED

The Government shall discover, develop and encourage national talent for the enhancement of our cultural life;

All the cultural treasures of mankind shall be open to all, by free exchange of books, ideas and contact with other lands;

The aim of education shall be to teach the youth to love their people and their culture, to honour human brotherhood, liberty and peace;

Education shall be free, compulsory, universal and equal for all children;

Higher education and technical training shall be opened to all by means of state allowances and scholarships awarded on the basis of merit;

Adult illiteracy shall be ended by a mass state education plan;

Teachers shall have all the rights of other citizens;

The colour bar in cultural life, in sport and in education shall be abolished.

THERE SHALL BE HOUSES, SECURITY AND COMFORT

All people shall have the right to live where they choose, to be decently housed, and to bring up their families in comfort and security;

Unused housing space shall be made available to the people;

Rent and prices shall be lowered, food plentiful and no one shall go hungry;

A preventive health scheme shall be run by the State;

Free medical care and hospitalization shall be provided for all, with special care for mothers and young children;

Slums shall be demolished, and new suburbs built where all have transport, roads, lighting, playing fields, creches and social centres;

The aged, the orphans, the disabled and the sick shall be cared for by the State;

Rest, leisure and recreation shall be the right of all;

Fenced locations and ghettoes shall be abolished, and laws which break up families shall be repealed;

South Africa shall be a fully independent State, which respects the rights and sovereignty of nations;

THERE SHALL BE PEACE AND FRIENDSHIP

South Africa shall strive to maintain world peace and the settlement of all international disputes by negotiation—not war;

Peace and friendship amongst all our people shall be secured by upholding the equal rights, opportunities and status of all;

The people of the protectorates—Basutoland, Bechuanaland and Swaziland—shall be free to decide for themselves their own future;

The right of all the people of Africa to independence and self-government shall be recognized, and shall be the basis of close co-operation;

Let all who love their people and their country now say, as we say here:

"These freedoms we will fight for, side by side, throughout our lives, until we have won our liberty".

[U.N. Centre Against *Apartheid*, 1982]

I HAVE DONE MY DUTY TO MY PEOPLE AND TO SOUTH AFRICA

(Statement from the dock, 7 November 1962 by Nelson Mandela)

PREFACE

Nelson Rolihlahla Mandela has been in prison for more than twenty years, but remains a symbol of the aspirations and determination of the South African people to eradicate the inhuman system of *apartheid* and establish a democratic society.

He joined the African National Congress in 1944 as a young militant espousing a positive action programme to achieve the rights of the oppressed African people. He was elected Transvaal President of ANC in 1952 and was volunteer-in-chief of the "Campaign of Defiance of Unjust Laws", launched that year by ANC and its sister organizations, in which over 8,000 persons courted imprisonment. He was then banned from attending gatherings and was accused in the notorious "Treason Trial" of the leaders of the people from 1956 to 1961. Soon after acquittal, he led the general strike in protest against the establishment of the racist Republic in May 1961. When the régime countered the protest, by a massive show of force, he became the founder and leader of *Umkhonto we Sizwe* ("Spear of the Nation"), the underground and military wing of ANC for an armed struggle for liberation.

Leaving South Africa secretly, he met leaders in Africa and Europe to enlist support for the liberation struggle. On his return, he was captured on 5 August 1962, and charged with inciting an illegal strike and with leaving the country without a passport. He was tried again for sabotage in 1963–64, with Walter Sisulu, Govan Mbeki and other leaders, and sentenced to life imprisonment.

The statements made from the dock by Nelson Mandela at the two trials are among the greatest documents in humanity's struggle for freedom and racial equality. They are being published by the United Nations Centre against *Apartheid* to promote a redoubled campaign for the release of Nelson Mandela and all other South African political prisoners.

Mr. Mandela said in November 1962:

"I hate the practice of race discrimination, and in my hatred I am sustained by the fact that the overwhelming majority of mankind hate it equally. I hate the systematic inculcation of children with colour prejudice and I am sustained in that hatred by the fact that the overwhelming majority of mankind, here and abroad, are with me in that. I hate the racial arrogance which decrees that the good things of life shall be retained as the exclusive right of a minority of the population, and which reduces the majority of the population to a position of subservience and inferiority, and maintains them as voteless chattels to work where they are told and behave as they are told by the ruling minority. I am sustained in that hatred by the fact that the overwhelming majority of mankind both in this country and abroad are with me."

I call on all governments, organizations and people to demonstrate by action that the overwhelming majority of mankind hate *apartheid* and are determined to secure the release of all those imprisoned by the racist régime in South Africa for their struggle against *apartheid*. For, Nelson Mandela and his colleagues are the true leaders of the people, loyal to the cherished aspirations of humanity, while the rulers of South Africa practise the obnoxious policy of *apartheid*, a crime against humanity. There can be no peaceful solution in South Africa without the unconditional release of Nelson Mandela and all other political prisoners who are entitled to play a leading role in the determination of the destiny of that African Nation.

Alhaji Yusuff Maitama-Sule, Chairman, United Nations Special Committee against *Apartheid*.

I am charged with inciting people to commit an offence by way of protest against the law, a law which neither I nor any of my people had any say in preparing. The law against which the protest was directed is the law which established a Republic in the Union of South Africa. I am also charged with leaving the country without a passport. This Court has found that I am guilty of incitement to commit an offence in opposition to this law as well as of leaving

the country. But in weighing up the decision as to the sentence which is to be imposed for such an offence, the Court must take into account the question of responsibility, whether it is I who is responsible or whether, in fact, a large measure of the responsibility does not lie on the shoulders of the Government which promulgated that law, knowing that my people, who constitute the majority of the population of this country were opposed to that law, and knowing further that every legal means of demonstrating that opposition had been closed to them by prior legislation, and by Government administrative action.

The starting point in the case against me is the holding of the conference in Pietermaritzburg on 25 and 26 March last year [1961], known as the All-In African Conference, which was called by a committee which had been established by leading people and spokesmen of the whole African population, to consider the situation which was being created by the promulgation of the Republic in the country, without consultation with us, and without our consent. That conference unanimously rejected the decision of the Government, acting only in the name of and with the agreement of the white minority of this country, to establish a Republic.

It is common knowledge that the conference decided that, in place of the unilateral proclamation of a Republic by the White minority of South Africans only, it would demand in the name of the African people the calling of a truly national convention representative of all South Africans, irrespective of their colour, black and white, to sit amicably round a table, to debate a new constitution for South Africa, which was in essence what the Government was doing by the proclamation of a Republic, and furthermore, to press on behalf of the African people, that such new constitution should differ from the constitution of the proposed South African Republic by guaranteeing democratic rights on a basis of full equality to all South Africans of adult age. The conference had assembled, knowing full well that for a long period the present National Party Government of the Union of South Africa had refused to deal with, to discuss with, or to take into consideration the views of, the overwhelming majority of the South African population on this question. And, therefore, it was not enough for this conference just to proclaim its aim, but it was also necessary for the conference to find a means of stating that aim strongly and powerfully, despite the Government's unwillingness to listen.

Accordingly it was decided that should the Government fail to summon such a National Convention before 31 May 1961, all sections of the population would be called on to stage a general strike for a period of three days, both to mark our protest against the establishment of a Republic, based completely on white domination over a non-white majority, and also, in a last attempt to persuade the Government to heed our legitimate claims, and thus to avoid a period of increasing bitterness and hostility and discord in South Africa.

At that conference, an Action Council was elected, and I became its secretary. It was my duty, as secretary of the committee, to establish the machinery necessary for publicizing the decision of this conference and for directing the campaign of propaganda, publicity, and organization which would flow from it.

The Court is aware of the fact that I am an attorney by profession and no doubt the question will be asked why I, as an attorney who is bound, as part of my code of behaviour, to observe the laws of the country and to respect its customs and traditions, should willingly lend myself to a campaign whose ultimate aim was to bring about a strike against the proclaimed policy of the Government of this country.

In order that the court shall understand the frame of mind which leads me to action such as this, it is necessary for me to explain the background to my own political development and to try to make this Court aware of the factors which influenced me in deciding to act as I did.

Many years ago, when I was a boy brought up in my village in the Transkei, I listened to the elders of the tribe telling stories about the good old days, before the arrival of the white man. Then our people lived peacefully, under the democratic rule of their kings and their "amapakati", and moved freely and confidently up and down the country without let or hindrance. Then the country was ours, in our own name and right. We occupied the land, the forests, the rivers; we extracted the mineral wealth beneath the soil and all the riches of this beautiful country. We set up and operated our own Government, we controlled our own armies and we organized our own trade and commerce. The elders would tell tales of the wars fought by our ancestors in defence of the fatherland, as well as the acts of valour performed by generals and soldiers during those epic days. The names of Dingane and Bambata, among the Zulus, of Hintsa, Makana, Ndlambe of the Amaxhosa, of Sekhukhuni and others in the north, were mentioned as the pride and glory of the entire African nation.

I hoped and vowed then that, among the treasures that life might offer me, would be the opportunity to serve my people and make my own humble contribution to their freedom struggles.

The structure and organization of early African societies in this country fascinated me very much and greatly influenced the evolution of my political outlook. The land, then the main means of production, belonged to the whole tribe, and there was no individual ownership whatsoever. There were no classes, no rich or poor and no exploitation of man by man. All men were free and equal and this was the foundation of government. Recognition of this general principle found expression in the constitution of the council, variously called Imbizo, or Pitso, or Kgotla, which governs the affairs of the tribe. The council was so completely democratic that all members of the tribe could participate in its deliberations. Chief and subject, warrior and medicine man, all took part and endeavored to influence its decisions. It was so weighty and influential a body that no step of any importance could ever be taken by the tribe without reference to it.

There was much in such a society that was primitive and insecure and it certainly could never measure up to the demands of the present epoch. But in such a society are contained the seeds of revolutionary democracy in which none will be held in slavery or servitude, and in which poverty, want, and insecurity shall be no more. This is the inspiration which, even today, inspires me and my colleagues in our political struggle.

When I reached adult stature, I became a member of the African National Congress. That was in 1944 and I have followed its policy, supported it, and believed in its aims and outlook for eighteen years. Its policy was one which appealed to my deepest inner convictions. It sought for the unity of all Africans, overriding tribal differences among them. It sought the acquisition of political power for Africans in the land of their birth. The African National Congress further believed that all people, irrespective of the national groups to which they may belong, and irrespective of the colour of their skins, all people whose home is South Africa and who believe in the principles of democracy and of equality of men, should be treated as Africans; that all South Africans are entitled to live a free life on the basis of fullest equality of the rights and opportunities in every field, of full democratic rights, with a direct say in the affairs of the Government.

These principles have been embodied in the Freedom Charter, which none in this country will dare challenge for its place as the most democratic programme of political principles ever enunciated by any political party or organization in this country. It was for me a matter of joy and pride to be a member of an organization which has proclaimed so democratic a policy and which campaigned for it militantly and fearlessly. The principles enumerated in the Charter have not been those of African people alone, for whom the African National Congress has always been the spokesman. Those principles have been adopted as well by the Indian people and the South African Indian Congress; by a section of the Coloured people, through the South African Coloured People's Congress, and also by a farsighted, forward-looking section of the European population, whose organization in days gone by was the South African Congress of Democrats. All these organizations, like the African National Congress, supported completely the demand for one man, one vote.

Right at the beginning of my career as an attorney I encountered difficulties imposed on me because of the colour of my skin, and further difficulty surrounding me because of my membership and support of the African National Congress. I discovered, for example, that unlike a white attorney, I could not occupy business premises in the city unless I first obtained ministerial consent in terms of the Urban Areas Act. I applied for that consent, but it was never granted. Although I subsequently obtained a permit, for a limited period, in terms of the Group Areas Act, that soon expired, and the authorities refused to renew it. They insisted that my partner, Oliver Tambo, and I should leave the city and practise in an African location at the back of beyond, miles away from where clients could reach us during working hours. This was tantamount to asking us to abandon our legal practice, to give up the legal service of our people, for which we had spent many years training. No attorney worth his salt will agree easily to do so. For some years, therefore, we continued to occupy premises in the city, illegally. The threat of prosecution and ejection hung menacingly over us throughout that period. It was an act of defiance of the law. We were aware that it was, but, nevertheless, that act had been forced on us against our wishes, and we could do not other than to choose between compliance with the law and compliance with our consciences.

In the courts where we practised we were treated courteously by many officials but we were very often discriminated against by some and treated with resentment and hostility by others. We were constantly aware that no matter how well, how correctly, how adequately we pursued our career of law, we

could not become a prosecutor, or a magistrate, or a judge. We became aware of the fact that as attorneys we often dealt with officials whose competence and attainments were no higher than ours, but whose superior position was maintained and protected by a white skin.

I regarded it as a duty which I owed, not just to my people, but also to my profession, to the practice of law, and to justice for all mankind, to cry out against this discrimination which is essentially unjust and opposed to the whole basis of the attitude towards justice which is part of the tradition of legal training in this country. I believed that in taking up a stand against this injustice I was upholding the dignity of what should be an honourable profession.

Nine years ago the Transvaal Law Society applied to the Supreme Court to have my name struck off the roll because of the part I had played in a campaign initiated by the African National Congress, a campaign for the Defiance of Unjust Laws. During the campaign more than 8,000 of the most advanced and farseeing of my people deliberately courted arrest and imprisonment by breaking specified laws, which we regarded then, as we still do now, as unjust and repressive. In the opinion of the Law Society, my activity in connection with that campaign did not conform to the standards of conduct expected from members of our honourable profession, but on this occasion the Supreme Court held that I had been within my rights as an attorney, that there was nothing dishonourable in an attorney identifying himself with his people in their struggle for political rights, even if his activities should infringe upon the laws of the country; the Supreme Court rejected the application of the Law Society.

It would not be expected that with such a verdict in my favour I should discontinue my political activities. But Your Worship may well wonder why it is that I should find it necessary to persist with such conduct, which has not only brought me the difficulties I have referred to, but which has resulted in my spending some four years on a charge before the courts, of high treason, of which I was subsequently acquitted, and of many months in jail on no charge at all merely on the basis of the Government's dislike of my views and of my activities during the whole period of the Emergency of 1960.

Your Worship, I would say that the whole life of any thinking African in this country drives him continuously to a conflict between his conscience on the one hand and the law on the other. This is not a conflict peculiar to this country. The conflict arises for men of conscience, for men who think and who feel deeply in every country. Recently in Britain, a peer of the realm, Earl Russell, probably the most respected philosopher of the Western world, was sentenced, convicted for precisely the type of activities for which I stand before you today, for following his conscience in defiance of the law, as a protest against a nuclear weapons policy being followed by his own Government. For him, his duty to the public, his belief in the morality of the essential rightness of the cause for which he stood, rose superior to this high respect for the law. He could not do other than to oppose the law and to suffer the consequences for it. Nor can I. Nor can many Africans in this country. The law as it is applied, the law as it has been developed over a long period of history, and especially the law as it is written and designed by the Nationalist Government, is a law which, in our view, is immoral, unjust, and intolerable. Our consciences dictate that we must protest against it, that we must oppose it, and that we must attempt to alter it.

Always we have been conscious of our obligations as citizens to avoid breaches of the law, where such breaches can be avoided, to prevent a clash between the authorities and our people, where such clash can be prevented, but nevertheless, we have been driven to speak up for what we believe is right, and to work for it and to try and bring about changes which will satisfy our human conscience.

Throughout its fifty years of existence the African National Congress, for instance, has done everything possible to bring its demands to the attention of successive South African Governments. It has sought at all times peaceful solutions for all the country's ills and problems. The history of the ANC is filled with instances where deputations were sent to South African Governments either on specific issues or on the general political demands of our people. I do not wish to burden Your Worship by enunciating the occasions when such deputations were sent; all that I wish to indicate at this stage is that, in addition to the efforts made by former presidents of the ANC, when Mr. Strijdom became Prime Minister of this country, my leader, Chief A. J. Lutuli, then President of our organization, made yet another effort to persuade this Government to consider and to heed our point of view. In his letter to the Prime Minister at the time, Chief Lutuli exhaustively reviewed the country's relations and its dangers, and expressed the view that a meeting between the Government and African leaders has become necessary and urgent.

This statesmanlike and correct behaviour on the part of the leader of the majority of the South African population did not find an appropriate answer from the leader of the South African Government. The standard of behaviour of the South African Government towards my people, and its aspirations had not always been what it should have been, and is not always the standard which is to be expected in serious high-level dealings between civilized peoples. Chief Lutuli's letter was not even favoured with the courtesy of an acknowledgement from the Prime Minister's office.

This experience was repeated after the Pietermaritzburg conference, when I, as Secretary of the Action Council, elected at that conference, addressed a letter to the Prime Minister, Dr. Verwoerd, informing him of the resolution which has been taken, and calling on him to initiate steps for the convening of such a national convention as we suggested, before the date specified in the resolution. In a civilized country one would be outraged by the failure of the head of Government even to acknowledge receipt of a letter, or to consider such a reasonable request put to him by a broadly representative collection of important personalities and leaders of the most important community of the country. Once again, Government standards in dealing with my people fell below what the civilized world would expect. No reply, no response whatsover, was received to our letter, no indication was even given that it had received my consideration whatsoever. Here we, the African people, and especially we of the National Action Council, who had been entrusted with the tremendous responsibility of safeguarding the interests of the African people, were faced with this conflict between the law and our conscience. In the face of the complete failure of the Government to heed, to consider, or even to respond to our seriously proposed objections and our solutions to the forthcoming Republic, what were we to do? Were we to allow the law which states that you shall not commit an offence by way of protest, to take its course and thus betray our conscience and our belief? Were we to uphold our conscience and our beliefs to strive for what we believe is right, not just for us, but for all the people who live in this country, both the present generation and for generations to come, and thus transgress against the law? This is the dilemma which faced us and in such a dilemma, men of honesty, men of purpose, and men of public morality and of conscience can only have one answer. They must follow the dictates of their conscience irrespective of the consequences which might overtake them for it. We of the Action Council, and I particularly as Secretary, followed my conscience.

If I had my time over I would do the same again, so would any man who dares call himself a man. We went ahead with our campaign as instructed by the conference and in accordance with its decisions.

The issue that sharply divided white South Africans during the referendum for a Republic did not interest us. It formed no part in our campaign. Continued association with the British monarchy on the one hand, or the establishment of a Boer Republic on the other—this was the crucial issue in so far as the White population was concerned and as it was put to them in the referendum. We are neither monarchists nor admirers of a Voortrekker type of republic. We believe that we were inspired by aspirations more worthy than either of the groups who took part in the campaign on these. We were inspired by the idea of bringing into being a democratic republic where all South Africans will enjoy human rights without the slightest discrimination; where African and non-African would be able to live together in peace, sharing a common nationality and a common loyalty to this country, which is our homeland. For these reasons we were opposed to the type of republic proposed by the Nationalist Party Government, just as we have been opposed previously to the constitutional basis of the Union of South Africa as a part of the British Empire. We were not prepared to accept, at a time when constitutional changes were being made, that these constitutional changes should not affect the real basis of a South African constitution, white supremacy and white domination, the very basis which has brought South Africa and its constitution into contempt and disrepute throughout the world.

I wish now to deal with the campaign itself, with the character of the campaign, and with the course of events which followed our decision. From the beginning our campaign was a campaign designed to call on people as a last extreme, if all else failed, if all discussions failed to materialize, if the Government showed no sign of taking any steps to attempt, either to treat with us or to meet our demands peacefully, to strike, that is to stay away from work, and so to bring economic pressure to bear. There was never any intention that our demonstrations, at that stage, go further than that. In all our statements, both those which are before the Court, and those which are not before the Court, we made it clear that that strike would be a peaceful protest, in which people were asked to remain in their homes.

It was our intention that the demonstration should go through peacefully and peaceably, without clash and conflict, as such demonstrations do in every civilized country.

Nevertheless, around that campaign and our preparations for that campaign was created the atmosphere for civil war and revolution. I would say deliberately created. Deliberately created, not by us, Your Worship, but by the Government, which set out, from the beginning of this campaign, not to treat with us, not to heed us, not to talk to us, but rather to present us as wild, dangerous revolutionaries, intent on disorder and riot, incapable of being dealt with in any way save by mustering an overwhelming force against us and the implementation of every possible forcible means, legal and illegal, to suppress us. The Government behaved in a way no civilized government should dare behave when faced with a peaceful, disciplined, sensible, and democratic expression of the views of its own population. It ordered the mobilization of its armed forces to attempt to cow and terrorize our peaceful protest. It arrested people known to be active in African politics and in support of African demands for democratic rights, passed special laws enabling it to hold them without trial for twelve days instead of the forty-eight hours which had been customary before, and hold them, the majority of them, never to be charged before the courts, but to be released after the date for the strike had passed. If there was a danger during this period that violence would result from the situation in the country, then the possibility was of the Government's making. They set the scene for violence by relying exclusively on violence with which to answer our people and their demands. The countermeasures which they took clearly reflected growing uneasiness on their part, which grew out of the knowledge that their policy did not enjoy the support of the majority of the people, while ours did. It was clear that the Government was attempting to combat the intensity of our campaign by a reign of terror. At the time the newspapers suggested the strike was a failure and it was said that we did not enjoy the support of the people. I deny that. I deny it and I will continue to deny it as long as this Government is not prepared to put to the test the question of the opinion of the African people by consulting them in a democratic way. In any event the evidence in this case has shown that it was substantial success. Our campaign was an intensive campaign and met with tremendous and overwhelming response from the population. In the end, if a strike did not materialize on the scale on which it had been hoped it would, it was not because the people were not willing, but because the overwhelming strength, violence, and force of the Government's attack against our campaign had for the time being achieved its aim of forcing us into submission against our wishes and against our conscience.

I wish again to return to the question of why people like me, knowing all this, knowing in advance that this Government is incapable of progressive democratic moves, so far as our people are concerned, knowing that this Government is incapable of reacting towards us in any way other than by the use of overwhelming brute force, why I, and people like me, nevertheless, decide to go ahead to do what we must do. We have been conditioned to our attitudes by the history which is not of our making. We have been conditioned by the history of White governments in this country to accept the fact that Africans, when they make their demands strongly and powerfully enough to have some chance of success, will be met by force and terror on the part of the Government. This is not something we have taught the African people, this is something the African people have learned from their own bitter experience. We learned it from each successive government. We learned it from the Government of General Smuts at the time of two massacres of our people: the 1921 massacre in Bulhoek when more than 100 men, women, and children were killed, and from the 1924 massacre—the Bondelswart massacre in South-West Africa, in which some 200 Africans were killed. We have continued to learn it from every successive Government.

Government violence can do only one thing and that is to breed counterviolence. We have warned repeatedly that the Government, by resorting continually to violence, will breed, in this country, counter-violence amongst the people, till ultimately, if there is no dawning of sanity on the part of the Government—ultimately, the dispute between the Government and my people will finish up by being settled in violence and by force. Already there are indications in this country that people, my people, Africans, are turning to deliberate acts of violence and of force against the Government, in order to persuade the Government, in the only language which this Government shows, by its own behaviour, that it understands.

Elsewhere in the world, a court would say to me, "You should have made representations to the Government." This Court, I am confident, will not say so. Representations have been made, by people who have gone before me, time and time again. Representations were made in this case by me; I do not want again to repeat the experience of those representations. The Court cannot expect a respect for the processes of representation and negotiation to grow amongst the African people, when the Government shows every day, by its conduct, that it despises such processes and frowns upon them and will not indulge in them. Nor will the Court, I believe, say that, under the circumstances, my people are condemned forever to say nothing and to do nothing. If this Court says that, or believes it, I think it is mistaken and deceiving itself. Men are not capable of doing nothing, of saying nothing, of not reacting to injustice, of not protesting against oppression, of not striving for the good society and the good life in the ways they see it. Nor will they do so in this country.

Perhaps the Court will say that despite our human rights to protest, to object, to make ourselves heard, we should stay within the letter of the law. I would say, Sir, that it is the Government, its administration of the law, which brings the law into such contempt and disrepute that one is no longer concerned in this country to stay within the letter of the law. I will illustrate this from my own experience. The Government has used the process of law to handicap me, in my personal life, in my career, and in my political work, in a way which is calculated, in my opinion, to bring about a contempt for the law. In December 1952 I was issued with an order by the Government, not as a result of a trial before a court and a conviction, but as a result of prejudice, or perhaps Star Chamber procedure behind closed doors in the halls of Government. In terms of that order I was confined to the magisterial district of Johannesburg for six months and, at the same time, I was prohibited from attending gatherings for a similar period. That order expired in June 1953 and three months thereafter, again without any hearing, without any attempt to hear my side of the case, without facing me with charges, or explanations, both bans were renewed for a further period of two years. To these bans a third was added: I was ordered by the Minister of Justice to resign altogether from the African National Congress, and never again to become a member or to participate in its activities. Towards the end of 1955, I found myself free and able to move around once again, but not for long. In February 1956 the bans were again renewed, administratively, again without hearing, this time for five years. Again, by order of the Government, in the name of the law, I found myself restricted and isolated from my fellow men, from people who think like me and believe like me. I found myself trailed by officers of the Security Branch of the Police Force wherever I went. In short I found myself treated as a criminal—an unconvicted criminal. I was not allowed to pick my company, to frequent the company of men, to participate in their political activities, to join their organizations. I was not free from constant police surveillance. I was made, by the law, a criminal, not because of what I had done, but because of what I stood for, because of what I thought, because of my conscience. Can it be any wonder to anybody that such conditions make a man an outlaw of society? Can it be wondered that such a man, having been outlawed by the Government, should be prepared to lead the life of an outlaw, as I have led for some months, according to the evidence before this Court?

It has not been easy for me during the past period to separate myself from my wife and children, to say goodbye to the good old days when, at the end of a strenuous day at an office, I could look forward to joining my family at the dinner-table, and instead to take up the life of a man hunted continuously by the police, living separated from those who are closest to me, in my own country, facing continually the hazards of detection and of arrest. This has been a life infinitely more difficult than serving a prison sentence. No man in his right senses would voluntarily choose such a life in preference to the one of normal, family, social life which exists in every civilized community.

But there comes a time, as it came in my life, when a man is denied the right to live a normal life, when he can only live the life of an outlaw because the Government has so decreed to use the law to impose a state of outlawry upon him. I was driven to this situation, and I do not regret having taken the decisions that I did take. Other people will be driven in the same way in this country, by this very same force of police persecution and of administrative action by the Government, to follow my course, of that I am certain. The decision that I should continue to carry out the decisions of the Pietermaritzburg conference, despite police persecution all the time, was not my decision alone. It was a decision reached by me, in consultation with those who were entrusted with the leadership of the campaign and its fulfilment. It was clear to us then, in the early periods of the campaign, when the Government was busy whipping up an atomosphere of hysteria as the prelude to violence, that the views of the African people would not be heard, would not find expression, unless

attempts were made deliberately by those of us entrusted with the task of carrying through the strike call to keep away from the illegal, unlawful attacks of the Special Branch, the unlawful detention of people for twelve days without trial, and unlawful and illegal intervention by the police and the Government forces in legitimate political activity of the population. I was, at the time of the Pietermaritzburg conference, free from bans for a short time, and a time which I had no reason to expect would prolong itself for very long. Had I remained in my normal surroundings, carrying on my normal life, I would have again been forced by Government action to a position of an outlaw. That I was not prepared to do while the commands of the Pietermaritzburg conference to me remained unfulfilled. New situations require new tactics. The situation, which was not of our making, which followed the Pietermaritzburg conference required the tactics which I adopted, I believe, correctly.

A lot has been written since the Pietermaritzburg conference, and even more since my arrest, much of which if flattering to my pride and dear to my heart, but much of which is mistaken and incorrect. It has been suggested that the advances, the articulateness of our people, the successes which they are achieving here, and the recognition which they are winning both here and abroad are in some way the result of my work. I must place on record my belief that I have been only one in a large army of people, to all of whom the credit for any success of achievement is due. Advance and progress is not the result of my work alone, but of the collective work of my colleagues and I, both here and abroad. I have been fortunate throughout my political life to work together with colleagues whose abilities and contributions to the cause of my people's freedom have been greater and better than my own, people who have been loved and respected by the African population generally as a result of the dedicated way in which they have fought for freedom and for peace and justice in this country. It distresses me to read reports that my arrest has been instigated by some of my colleagues for some sinister purposes of their own. Nothing could be further from the truth. I dismiss these suggestions as the sensational inventions of unscrupulous journalists. People who stoop to such unscrupulous manoeuvers as the betrayal of their own comrades have no place in the good fight which I have fought for the freedom of the African people, which my colleagues continue to fight without me today. Not just I alone, but all of us are willing to pay the penalties which we may have to pay, which I may have to pay for having followed my conscience in pursuit of what I believe is right. So are we all. Many people in this country have paid the price before me, and many will pay the price after me.

I do not believe, Your Worship, that this Court, in inflicting penalties on me for the crimes for which I am convicted, should be moved by the belief that penalties deter men from the course that they believe is right. History shows that penalties do not deter men when their conscience is aroused, nor will they deter my people or the colleagues with whom I have worked before.

I am prepared to pay the penalty even though I know how bitter and desperate is the situation of an African in the prisons of this country. I have been in these prisons and I know how gross is the discrimination, even behind the prison walls, against Africans, how much worse is the treatment meted out to African prisoners than that accorded to whites. Nevertheless, these considerations do not sway me from the path that I have taken, nor will they sway others like me. For to men, freedom in their own land is the pinnacle of their ambitions, from which nothing can turn men of conviction aside. More powerful than my fear of the dreadful conditions to which I might be subjected is my hatred for the dreadful conditions to which my people are subjected outside prison throughout this country.

I hate the practice of race discrimination, and in my hatred I am sustained by the fact that the overwhelming majority of mankind hate it equally. I hate the systematic inculcation of children with colour prejudice and I am sustained in that hatred by the fact that the overwhelming majority of mankind, here and abroad, are with me in that. I hate the racial arrogance which decrees that the good things of life shall be retained as the exclusive right of a minority of the population, and which reduces the majority of the population to a position of subservience and inferiority, and maintains them as voteless chattels to work where they are told and behave as they are told by the ruling minority. I am sustained in the hatred by the fact that the overwhelming majority of mankind both in this country and abroad are with me.

Nothing that this Court can do to me will change in any way that hatred in me, which can only be removed by the removal of the injustice and the inhumanity which I have sought to remove from the political, social, and life of this country.

Whatever sentence Your Worship sees fit to impose upon me for the crime for which I have been convicted before this Court, may it rest assured that when my sentence has been completed, I will still be moved, as men are always moved, by their consciences; I will still be moved by my dislike of the race discrimination against my people when I come out from serving my sentence, to take up again, as best I can, the struggle for the removal of those injustices until they are finally abolished once and for all.

I now wish to deal with the Second Count.

When my colleagues and I received the invitation to attend the Conference of the Pan-African Freedom Movement for East and Central Africa, it was decided that I should leave the country and join our delegation to Addis Ababa, the capital of Ethiopia, where the conference would be held. It was part of my mandate to tour Africa and make direct contact with African leaders on the continent.

I did not apply for a passport because I knew very well that it would not be granted to me. After all, the Nationalist Party Government, throughout the fourteen years of its oppressive role, had refused permission to leave the country to many African scholars, educationalists, artists, sportsmen, and clerics, and I wished to waste none of my time by applying for a passport.

The tour of the continent made a forceful impression on me. For the first time in my life I was a free man; free from white oppression, from the idiocy of *apartheid* and racial arrogance, from police molestation, from humiliation and indignity. Wherever I went I was treated like a human being. I met Rashidi Kawawa, Prime Minister of Tanganyika, and Julius Nyerere. I was received by Emperor Haile Selassie, by General Abboud, President of Sudan, by Habib Bourguiba, President of Tunisia, and by Modibo Keita of the Republic of Mali.

I met Léopold Senghor, President of Senegal, Presidents Sékou Touré and Tubman, of Guinea and Liberia, respectively.

I met Ben Bella, the President of Algeria, and Colonel Boumedienne, the Commander-in-Chief of the Algerian Army of National Liberation. I saw the cream and flower of the Algerian youth who had fought French imperialism and whose valour had brought freedom and happiness to their country.

In London I was received by Hugh Gaitskell, Leader of the Labour Party, and by Jo Grimond, Leader of the Liberal Party, and other prominent Englishmen.

I met Prime Minister Obote of Uganda, distinguished African nationalists like Kenneth Kaunda, Oginga Odinga, Joshua Nkomo, and many others. In all these countries we were showered with hospitality, and assured of solid support for our cause.

In its efforts to keep the African people in a position of perpetual subordination, South Africa must and will fail. South Africa is out of step with the rest of the civilized world, as is shown by the resolution adopted last night by the General Assembly of the United Nations Organization which decided to impose diplomatic and economic sanctions. In the African States, I saw black and white mingling peacefully and happily in hotels, cinemas, trading in the same areas, using the same public transport, and living in the same residential areas.

I had to return home to report to my colleagues and to share my impressions and experiences with them.

I have done my duty to my people and to South Africa. I have no doubt that posterity will pronounce that I was innocent and that the criminals that should have been brought before this Court are the members of the Verwoerd Government.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to my good friend and colleague, the gentleman from New York [Mr. FISH].

Mr. FISH. I thank my friend and colleague for yielding this time to me.

Mr. Speaker, I am pleased today to join my good friend, Congressman CROCKETT, in urging my colleagues to vote in favor of House Resolution 430, the Mandela freedom resolution. Like him, I wish to compliment the chairman and ranking member of the Subcommittee on Africa for bringing this measure to us.

Mr. Speaker, I rise in strong support for this measure, a resolution, which calls upon the Government of South Africa to liberate immediately the persons of Nelson Mandela and his wife, Winnie, who have been detained and/or restricted for more than 20 years.

After much consideration and research into the background of Nelson and Winnie Mandela, I not only added my name as an original cosponsor of House Resolution 430, but I have also had the pleasure of working closely with the sponsor of the resolution in raising this issue among my colleagues.

Nelson Mandela has bravely and nobly fought since 1944, when he joined the African National Congress and formed its Youth League, to change South Africa's racially segregated system through nonviolent

methods. In 1951, he and a partner established the first black law firm in South Africa. The next year, Mandela became one of the leaders of the African National Congress, and led more than 8,000 people in a peaceful defiance of the apartheid laws. He was arrested, but his sentence was suspended and he was subsequently banned from public meetings and prohibited from leaving Johannesburg under some of the many South African laws aimed at perpetuating apartheid.

Arrested again in 1956, Mandela was charged for the first time with planning to overthrow the South African Government—a charge based solely on the adoption by the African National Congress of the Freedom Charter, demanding a full franchise for all South Africans of all races. Acquitted of this charge, he continued his activities against apartheid.

In 1961, to prevent further banning of his activities, Mandela went into hiding and organized a 3-day strike by the African National Congress. He then left South Africa and traveled to several African countries as well as Great Britain, seeking support against the racist policies instituted by the South African Government. Upon his return in 1962, Mandela was arrested for his leadership during the 1961 strike and for leaving South Africa illegally. While serving his 5-year sentence, he was again tried on charges of sabotage and conspiracy to overthrow the South African Government and was sentenced to life imprisonment in a maximum security prison along with seven other African National Congress leaders.

That same year, his wife, Winnie, who had founded the Black Parents Association, was banned. Mrs. Mandela was prohibited from being in the company of more than one person at at time, could not be quoted in any South African publication, and was confined to her home at nights and on weekends. Since then, Mrs. Mandela has been detained under various ban laws for all but 11 months of the past 22 years. Even visits to her husband are monitored and limited to 30 minutes, and she is under constant harassment from the South African security police.

Mrs. Mandela, despite the restrictions which are intended to break her spirit, has defied segregation laws at local shops and has used her training as a social worker to set up a soup kitchen and an unofficial clinic to help blacks in her neighborhood. She continues also to be active in the anti-apartheid movement.

Both Nelson and Winnie Mandela have attempted to eliminate apartheid in their country for most of their lives. A recent constitutional policy, which permits Asians and peoples of mixed racial background to vote, is the latest example of disenfranchisement of blacks. It is an attempt to pit various racial groups against one another in an effort to legitimize apartheid policies. Though the Mandelas and others like them in the African National Congress have advocated and fought for a peaceful solution against racially discriminatory and segregational laws of apartheid for more than 40 years, it is not surprising that the ever increasingly oppressive and violent methods of suppression by a brutal South African Government should produce stronger reactions. This new amendment on voting has led to violent demonstrations throughout the country. The South African Government has responded, as usual, with truculent force, already killing more than 50 people. There have been race riots, with hundreds injured, and more than 150,000 students have stayed home from school. This further polarization of the country demonstrates the false and unrealistic policies of apartheid.

The unfair sergregational policies of the South African Government and the often violent means of suppression used to uphold them represent one of the civilized world's last remaining forms of systemized racial discrimination. The Mandelas, and hundreds like them, are heroes in the fight against apartheid. We, as a democratic legislative body, must do whatever we can to demonstrate to them that in their fight they are not alone; that this moral outrage will not be idly tolerated. Broad bipartisan support of House Resolution 430 is our way of protesting both apartheid itself and the unfair treatment of the Mandelas for the last two decades.

Mr. WOLPE. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Resolution 430.

In South Africa, today, no black person may meet anywhere for any reason with more than nine other people. Some blacks in South Africa are subject to immediate arrest if they are seen with more than one other person. In South Africa, it is unlawful for the thinking of some black leaders and would-be teachers to appear in print. It is unlawful for a photograph of those thinkers to be taken or viewed in South Africa. It is unlawful for these people to enter a classroom.

In the United States, at the height of the civil rights movement, the right of black people to assemble was abridged by police authorities who invoked laws against loitering as an excuse for arresting demonstrators. In South Africa, today, a black person may be arrested if he or she appears defiant to a police official. What constitutes defiance in South Africa is as much a matter of on-the-spot judgment as what constitutes loitering in the United States. Today, the practice of removing black people from their homes and land is routinely practiced in South Africa.

I believe the past two decades of U.S. history have brought this country closer to the day when black people will be fully enfranchised politically, socially, and economically. Sadly, the new Constitution of South Africa, by attempting to drive a wedge between blacks on the one hand and Indians and those of mixed or colored ancestry on the other, has moved that country away from enfranchisement of blacks.

For nearly a half century, two people in South Africa have been associated with the effort to gain true political representation for black people in South Africa. They are Nelson and Winnie Mandela. In the past 22 years, Winnie Mandela has been free of banishment or house arrest for only 11 months. Her husband Nelson has been imprisoned since 1962. In 1964, Nelson Mandela was sentenced to life imprisonment. If we in this country have learned anything about fairness, about justice, and about the ideals that have made our Constitution and Bill of Rights the envy of the world, then each and every one of us will support House Resolution 430 which makes it the publicly stated belief of this Congress that the Mandelas should be freed. To not support this resolution is, in effect, to say that we do not support the principle of equality that is said to be the hallmark of our country.

It is an embarrassment to the world that the apartheid policies of South Africa exist. It is a matter of shame to the world that Nelson and Winnie Mandela are imprisoned because of their advocacy of equality. But it will be an embarrassment and a matter of shame to this country and to this Congress if this resolution fails to pass with anything less than overwhelming support. This is more than a resolution calling for freedom for two advocates of freedom. It is an affirmation of the beliefs that make this country what it is. I urge support of House Resolution 430.

Mr. Speaker, I congratulate the chairman of the subcommittee and my friend, the gentleman from Michigan [Mr. CROCKETT], for bringing this issue before the Congress.

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Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH], the ranking member of the Subcommittee on Human Rights and International Organizations of the Committee on Foreign Affairs.

Mr. LEACH of Iowa. Mr. Speaker, I thank my friend for yielding and I would like to express my personal congratulations to the gentleman from

Michigan [Mr. CROCKETT] for devising a most thoughtful resolution.

Mr. Speaker, in February, Congressmen CROCKETT, PEPPER, FISH, and I introduced House Resolution 430 to convey the sense of the House that the South African Government immediately release Nelson Mandela and his wife Nomanzo Winnie Mandela.

Nelson Mandela, recognized leader of the African National Congress, remains the leading symbol of resistance to political and economic oppression and race and color prejudice in South Africa. He has spent 21 years, nearly one-third of his life, in prison. Joining the ANC in 1944, he has campaigned for over 40 years against the economic repression and denial of enfranchisement that apartheid implies. It is widely held that, if free multiracial elections were held today, Mandela would easily defeat any other potential Presidential candidate, white or black.

Nomanzo "she who strives" Winnie Mandela is one of the most prominent and highly respected leaders of the antiapartheid movement and also one of the most persecuted. Founder of the Black Parents Association, she has been either banned or detained by the South African Government since 1962. Despite the fact that she has never been convicted of any offense except violations of her banning orders—Winnie Mandela has been systematically banned, detained, harassed, and abused by South Africa's security police. Whereas her husband is incarcerated within the bounds of prison walls, Winnie Mandela is detained within the bounds of her country's borders. Allowed to visit her husband only twice a month, she was banished in 1977 to Brandfort in the Orange Free State, where the Government sought to make her suffer intellectually and socially. Despite all of this, she is unbound, defying harassment, and is seeking better nutritional and health care for her community.

In March, there were reports of Nelson Mandela rejecting the South African Government's offer to release him under the condition that he stay in the homeland of Transkei. Mandela chose to remain in the Pollsmoor maximum security prison, where none of the landscape and only a patch of sky is visible, rather than becoming a noncitizen in Transkei. Had he accepted the Government's offer of conditional release, he said he would have implicitly sanctioned apartheid and therefore negated all for which the African National Congress and individuals of conscience in that country have stood, been imprisoned, and even died.

Mr. Speaker, this month, we have read reports of the violence and rioting taking place in South Africa. The area of the Vaal Triangle, south of Johannesburg, has been the scene of massive school boycotts and rioting, claiming a reported 41 lives, including children as young as 6 years old. The immediate causes of these riots include a 4-percent rent increase (a 15-percent increase in some households), high electric rates, dissatisfaction with the segregated and unequal school system which perpetuates apartheid, and enactment of a new Constitution which excludes African participation. Combine these reasons with such things as a severe economic recession; rampant unemployment in both urban and rural areas; loss of citizenship and forced relocations to isolated, economically unviable lands; the dehumanization of being forced to carry passes under the threat of detention; an income of 15 cents for every dollar earned by whites; and denial of any legal means of effective protest and we may see the reason why there is instability in South Africa and for that matter in the entire region.

The South African Government has seen fit to respond to these protests by starting school holidays for blacks a week early in a number of townships near Johannesburg—a move seen as an attempt to end black students' use of schools as a platform of protest—and by ordering the detention of several leaders of the United Democratic Front as well as by banning public meetings of dissent groups in order to attempt to ensure a peaceful transition for the new government and portray to the outside world a trouble-free and progressive South Africa. The South African Government has not, however, been able to eradicate the drive for universal suffrage in South Africa, despite centuries of harsh laws and harsher penalties applied to those who advocate basic democratic freedoms.

Mr. Speaker, the Mandelas, like many others within and outside of South Africa, are fervently committed to the replacement of the oppressive policy of apartheid with a democratic government. A separate society is an unequal society. Despite the claimed reforms being made, there have been 572 detentions without trial this year, according to the Detainees Parents Support Community which monitors security arrests. And every 2½ minutes a nonwhite is arrested for violating pass laws. In addition, this past January, a 51-year-old black farmer died while being detained under South Africa's security laws, becoming the 56th political prisoner to die in custody since the country's system of detention without charges was introduced 21 years ago.

As one of our country's own civil rights leaders, Dr. Martin Luther King, once remarked to dissenters in what was then known as Rhodesia: "We realize that injustice anywhere is a threat to justice everywhere." This belief in transcendental democratic values has been reflected by Congress in resolutions supporting Afghan freedom fighters and Polish Solidarity workers. Analogous support should be registered for two of South Africa's and the world's premier freedom fighters. Through registering support for the Mandelas, the United States can take another step in lessening the increasing abyss between the United States and black freedom fighters in South Africa, an abyss which it has found itself to be often on the wrong side of, for the wrong reasons and against the wrong odds. Passage of this resolution will register our commitment to racial equality, personal freedom, and universal suffrage in South Africa.

Mr. WOLPE. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, I want to commend my colleague, the gentleman from Michigan [Mr. CROCKETT], for taking this step with this resolution. It is indeed a step which we have taken on this floor on many occasions. For if we are concerned about those who are oppressed in Russia, such as Sakharov, as well as those oppressed around the world, we ought also to be willing to say it in terms of apartheid in South Africa.

We still have a long way to go, but thanks to Congressman CROCKETT we are beginning to do something which moves us in the right direction. If we can light a candle for those who are oppressed in Poland, and rightfully so, such as Lech Walesa, certainly we can strike a match for those who are oppressed in South Africa, such as Nelson and Winnie Mandela.

I commend the gentleman from Michigan and also the chairman of this subcommittee.

Mr. WOLPE. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, this has been a great day in the House of Representatives. This resolution and the two preceding it are indeed significant of a trend that I can now identify and see developing, a beginning of the end of our complicity with oppression on the African Continent and perhaps even anywhere on this planet.

This resolution put us squarely on the side of these two great freedom fighters, but it also represents many thousands of others in South Africa who are being persecuted, who are incarcerated.

I applaud particularly the gentleman from the 13th Congressional District of Michigan, my dear friend [Mr. CROCKETT].

It also speaks well that this is a bipartisan activity and indeed I am greatly encouraged by the results coming from our committee.

The Mandela freedom resolution must be the result of our bipartisan effort because that spirit of unity and justice is what Nelson and Mrs. Winnie Mandela fought for and continue to fight for even after being incarcerated and detained for more than 20 years.

We must call for the release of the Mandelas and other political prisoners throughout South Africa and Namibia. By so doing, we thereby make it known that human rights is our first and foremost concern throughout the world.

The Mandelas represent heroes of the people, who, in every era, in every nation, rise up Phoenix-like in spite of the great risks to their lives and those of their families. They are the humble but fearless who carry in their hearts the compassion that led Rev. Martin Luther King to proclaim in our era "that there is nothing in all the world greater than freedom."

Mr. DOWNEY of New York. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to my colleague, the gentleman from New York.

Mr. DOWNEY of New York. Mr. Speaker, the gentleman has made an excellent statement and I wish to associate myself with him.

Mr. Speaker, today we have before us a series of resolutions which focus our attention on the current state of the administration's policies toward the racist regime in South Africa. I would like, first of all, to commend my colleagues, Mr. CROCKETT, Mr. GRAY, Mr. MRAZEK, and Mr. COYNE, for introducing these four resolutions which deal with the imprisonment of Nelson Mandela and the banning of Winnie Mandela, with the continued illegal detention of Namibian detainees at Mariental, with the aptly named "black spot" policy of the South African Government, and with the opening of new consulates by that same Government. I would also like to thank Mr. WOLPE for bringing these resolutions to the floor at this time.

This year, we mark the 20th anniversary of the sentencing of Nelson Mandela to life imprisonment for his role as a leader in the liberation of South Africa's oppressed majority. Although he has spent approximately one-third of his life in apartheid's jails, Nelson Mandela, and his wife Winnie, continue to exert a strong influence on the liberation movement within South Africa. Nelson Mandela's final words at his trial should strike a responsive chord in all of us who have not forgotten our new liberation struggle. Speaking of his ideal of a nonracial democracy in South Africa, and drawing on the Freedom Charter of the African National Congress, he said: "It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die." It sounds an awful lot like Patrick Henry to me. Have we journeyed so far in our own history that we cannot respond to this sentiment? Apparently, some of us have, for we find this administration unwilling to take up Nelson Mandela's cause publicly. What exactly does this much heralded policy of constructive engagement mean if we cannot speak up about the Mandelas' situation?

I think, Mr. Speaker, that we have a clue about the nature of constructive engagement when we consider the situation of the Mariental detainees. In 1978, South African military forces raided 150 miles into southern Angola to attack brutally a refugee camp at Cassinga. During this attack, over 600 refugees, among them many women and children, were killed by the rampaging South African forces. About 100 of the survivors were taken from Angola and placed in a military detention camp at Mariental in Nambia. These people have been held without charge for the past 6 years. In fact, for a long time, the South African Government denied even holding them in detention. This past March, a case was brought in the Nambian Supreme Court on behalf of those still detained. The substance of the case was that the invasion of Angola was illegal and those detained were being held illegally. The court was asked to order their release. Before the court could act, the case was removed from its jurisdiction. Subsequently, some of those who were detained were released, but at least 50 are still being held. The Mariental detainees call attention to the fact of the vast majority of people in South Africa, and throughout southern Africa, constructive engagement has meant destructive engagement. It has been a license for the South African Government to continue its aggressive military policy of destabilizing its neighbors, of visiting death and destruction on people living in the border areas of Angola and Mozambique. Constructive engagement has told the people of that region that, in the eyes of this administration, no act of South Africa is too brutal or too evil to be condemned. Isn't it time to change this policy?

We are entitled to ask what it will take to change this policy. When Andrei Sakharov was removed from Moscow to Gorky, there certainly was no dearth of official voices condemning the relocaton of this man against his will. And indeed, the public outcry was, and continues to be, warranted. We all realize that basic human decency compels us to speak out against such a blatant violation of one person's rights. What then of the situation of thousands upon thousands of black South Africans who are being forcibly removed from their residences, because they have the misfortune to reside in a "black spot"? Can we not speak out publicly on behalf of them? Are we to assume that Chester Crocker and Vernon Walters and William Casey, on their many visits to South Africa, feel constricted from raising this issue? If so, what is constraining them?

If it is the lack of public pressure on the administration, Mr. Speaker, then we are all a little responsible, for we need to do a better job of explaining to the American people the true nature of the apartheid regime. We have a formidable task, for the South African Government has mounted a sophisticated public relations operation in this country, supported by high-priced lobbyists who are always ready to explain why black South Africans have been excluded from the political life of South Africa. The explanation, should you be curious, seems to be that "black politics are of a different order historically and in other ways", according to D.J. Louis Nel, the Deputy Minister of Foreign Affairs of South Africa. Since 1980, the South African Government has opened three more honorary consulates in this country—consulates whose purpose is to promote the interests of the South African Government and to ensure that its point of view is always well represented in this country. Ought we to be providing such a platform for a regime which has consistently exhibited such a low regard for the rights and well-being of the majority of its citizens?

Mr. Speaker, with these resolutions before us today, we have an opportunity to send a strong message to the South African Government, a message that says clearly that its behavior is reprehensible, a message that says the sympathies and interests of the American people lie with the Mandelas and the detainees at Mariental and the residents of the "black spots" and not the honorary consuls of a racist regime. I urge my colleagues to vote for the passage of these resolutions.

Mr. WOLPE. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I rise to speak in support of the Mandela freedom resolution. Nelson and Winnie Mandela have been imprisoned behind bars and banned in South Africa for over 20 years. They have endured their trial with patience and dignity. They have served as models of forebearance, steadfastly avoiding the sea of racial hatred which surrounds and separates them.

The modern history of South Africa is reflected in the lives of the Mandelas. In 1947 the Nationalist Party came to power. The African National Congress, which had been founded in 1918, actively challenged the Nationalist Party's policy of apartheid by 1949. The ANC's tactics of civil disobedi-

ence, strikes, and boycotts were developed by Nelson Mandela, Walter Sisulu, Anton Lembede, and Oliver Tambo. These tactics were consistent with earlier South African racial protests led by Ghandi.

By 1952, Nelson Mandela was banned from public gatherings. In 1961, he organized a 3-day national strike against the Nationalist Party's decision to declare South Africa a republic. On May 31, 1961, South Africa became a republic. A year later, a 90-day detention law was passed and Nelson Mandela and other ANC leaders were imprisoned. Upon release, Mandela went underground for a year and a half. He has been imprisoned ever since based on a conviction for sabotage and conspiracy to overthrow the Government. The acts for which Mandela stands convicted occurred primarily while he was imprisoned.

The time has come for the South African Government to release the Mandelas. Their further detention serves no purpose other than to excite the most violent passions on both sides of the apartheid issue. South Africa's people of all races need to begin a process of reconciliation.

Those who support apartheid have consistently taken the position that they will prevail over the black majority. So-called constructive engagement by the U.S. Government over the last 3½ years would seem to give aid and comfort to that position.

However, apartheid remains a losing ideology which ultimately will fail. The Nationalist Party must deal with the conditions of failure. Actions such as the release of the Mandelas will have an effect on future events. All actions which contribute to an attitude of reconciliation and accommodation must be sought and encouraged by all people of good will in South Africa and the rest of the world.

I urge my colleagues to support the Mandela freedom resolution. I commend my colleague from Michigan and all of the cosponsors of the set of resolutions on South Africa offered on the floor today. I wholeheartedly agree with a previous speaker who stated that the policies of the Government of South Africa are inhuman and uncivilized. It is the duty of the Congress and our Government to intensify our opposition to this uncivilized government.

Mr. WOLPE. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I want to thank and congratulate the gentleman from Michigan [Mr. CROCKETT] for giving us a chance to go on record with virtual unanimity in defense of two people who are being martyred because of their commitment to human freedom.

This resolution has two important purposes: First, to lend what support we can to the Mandelas, who are being most cruelly mistreated by an indecent regime for simply claiming the kinds of rights we Americans take for granted. We must express our absolute abhorrence of that action. Simultaneously, we have to make it clear to the Government of South Africa that there simply cannot be, in the civilized world, toleration for their official policy of racism and denial of basic human rights.

There are some controversial issues that we face in our foreign policy. There ought not to be any controversy about the fact that the Government of South Africa, specifically in its persecution of the Mandelas, and generally in its denial of human basic rights to its black population, simply goes beyond the bounds of decency.

Mr. WOLPE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I rise in support of House Resolution 430, the Mandela freedom resolution.

Mr. Mandela and his wife, Winnie, have been imprisoned and detained for far too long.

Mr. Mandela is a fighter for justice and freedom against an unjust system. It is an affront to international decency, humanity, and the most fundamental human rights to keep Mandela imprisoned and his wife under detention.

South Africa's racial policies warrant international concern, and this resolution clearly demonstrates that the U.S. Congress is opposed to the policy of apartheid and in support of international justice.

I am proud that Congress is calling upon the South African Government to immediately release Nelson Mandela and his wife, Winnie, from more than 20 years of imprisonment and detention.

I urge my colleagues to give this resolution their unanimous support.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I am pleased to join my colleagues in supporting this important resolution calling upon the Government of South Africa to release Nelson and Winnie Mandela.

I would like to commend the gentleman from Michigan [Mr. CROCKETT] for his efforts to call attention to the injustices practiced against the Mandelas and other black leaders in South Africa.

As my colleagues are aware, Nelson Mandela worked closely with the African National Congress, an organization dedicated to working against the South African Government apartheid policy and against racial discrimination. In 1964 Nelson Mandela was accused and convicted of plotting to overthrow the white minority rule of his country. Since that time he has been serving a life sentence in prison. Last spring Government authorities offered a conditional release of Nelson Mandela, requiring that he agree to live in the nominally independent tribal homeland of Transkei. Sources indicate that Nelson Mandela rejected this offer because it would amount to a recognition of his Government's policy of segregating minorities. However, this offer adds credibility to the role political prisoners such as Nelson Mandela have played in calling attention to the South African Government's unjust policies.

Winnie Mandela has also played a vital role in the fight for democratic rule in South Africa. For over 20 years she has been banned, detained, and harassed by the security police without ever having been convicted of any offense except violations of her unjust banning order. As a banned citizen, Winnie Mandela has been forced to live far from her family and friends, and she is not allowed to meet with more than one person at a time. In addition, fellow activists are not allowed to include any reference to her in printed material, including direct quotes, using her name, or including photographs of her.

Nelson and Winnie Mandela continue to serve as symbols of the fight against the oppressive policies of the South African Government. The goals of the Mandela's fight, the establishment of a government in which all citizens will have equal rights, regardless of race, color, or sex, represents a basic standard in the fight for human rights around the world.

Nelson and Winnie Mandela are unfortunately only two of the many victims in the difficult struggle for a multiracial democracy in South Africa. Recent news reports of rioting in South Africa serve as a harsh reminder of the social injustice practiced there which excludes blacks and other nonwhites from participating in the Government. The laws and actions of the Government continue a policy of apartheid which is based on violence, exploitation, and deprivation of basic human and civil rights.

Mr. Speaker, I urge my colleagues to join together in voicing our strong opposition to the apartheid policy of South Africa, and to lend our support for this resolution, and efforts to bring freedom to Nelson and Winnie Mandela.

Mr. WOLPE. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I would like to make just a couple very brief closing remarks.

Mr. Speaker, over the past several years, I and other members of my subcommittee have had the opportunity

to meet with a broad cross-section of South Africans. One of the constant refrains that we have heard in conversations with South Africans, be they black, colored, Asian, or among the whites who are pressing for change, is the constant confusion in the messages that are emitted by the United States. On the one hand, we verbally condemn apartheid; on the other, we frequently take initiatives and adopt policies that seem to effectively turn our eyes away from the evil that is apartheid.

I think that today's debate on these resolutions sends a critically important signal to the Afrikaner regime, and to all segments of South African society: What comes across in this debate, clearly and loudly, is the unanimity of viewpoint when it comes to looking at apartheid from an American perspective. It matters not what party we belong to, what ideological perspective we adopt; Americans are united in condemning apartheid as a brutal and abhorrent system and in recognizing that America simply cannot afford and will not tolerate to be allied with that system.

I hope and anticipate that this resolution will be adopted, as the previous resolutions, by the unanimous vote of this body.

● Mr. MITCHELL. Mr. Speaker, as we participate in support of House Resolution 430, the Mandela freedom resolution, I find myself feeling worried, hopeful, and angry. I am worried because, today, black South Africans, sickened and disgusted by the lies and chicanery of the Botha government are again taking to the streets to protest, and are paying with their lives for the protests. I am hopeful because the release of Nelson and Winnie Mandela may lead to be a critically important step in achieving some positive and long lasting change in South Africa's society and government. And I am angry because the Reagan administration continues to embrace and invest in South Africa despite the social, political, and economic injustice of the apartheid system.

Nelson Mandela, the top official in the African National Congress until his imprisonment in 1962, is known by many black South Africans as one of the most respected symbols of resistance against the racial discrimination and segregation laws of apartheid. His wife, Winnie Mandela, a black activist, has faced countless efforts to send her into political oblivion like her husband. She has the unhappy distinction of probably being the victim of more detentions without trial, bannings, and prosecutions than any other single South African although no serious criminal charges have ever been brought against her.

The struggles that the Mandelas have encountered can clearly be identified with the hardships that black Americans suffered over the past 300 years. But can the Mandelas and black South Africa expect any aid or support for their just cause from America? The answer, lamentably, tragically, is "no."

Under the Reagan administration, the American policy is to continue to give overt and covert aid to the racist South Africa regime; to pursue constructive engagement for the purpose of protecting American corporate investments in South Africa; and to uphold a public image of concern over the deaths of black South Africans, while retaining privately its colonialist views.

This is why we must have the title III language of the Export Administration Act included in the Senate version of this bill. Title III will not only end the administration's masquerade; it will also implement divestment from South Africa, which is a legitimate weapon against apartheid.

Reagan and America must inevitably face the harsh truth. Blacks in South Africa will never, ever accept apartheid. They will continue to die as they died in Soweto, Sharpesville, and near Johannesburg. The blood of those black men, women, and children will continue to soil the so-called fabric of American democracy. Belatedly, when America acts to achieve true democracy in South Africa, it may be too late to win the friendship or respect of the Mandelas and black South Africans who will have achieved power. Paraphrasing the poem:

The moving finger writes, and having writ moves on and all your petty and cannot lure it back to cancel half a line nor all your tears wash out a word of it. A Lunta Continua (The Struggle Continues).●

● Mr. HAWKINS. Mr. Speaker, I wish to extend my support for House Resolution 430, the Mandela freedom resolution, which expresses the sense of the House of Representatives that South Africa should immediately release Nelson Mandela from prison and revoke Winnie Mandela's banning order. The resolution also states that the President of the United States should use his office to have the Mandelas released and requests the Speaker of the House of Representatives to transmit a copy of this resolution to the U.S. President and to the Prime Minister of South Africa.

Nelson Mandela, one of the most widely known black opponents of apartheid in South Africa, has been imprisoned for the past 20 years for his activities against an oppressive social system which condemns blacks to the status of second-class citizens. Currently, Mandela is being held at Pollsmoor Maximum Security Prison near Capetown, South Africa. His wife, Winnie Mandela, is currently being held under a banning order that exiles her to the Orange Free State near the white village of Brandfort.

Support for the Mandela freedom resolution will show that our Nation is committed to international human rights. Even more, it will demonstrate our resolve toward denouncing the senseless inhumanity and racial injustice embodied in apartheid policy.●

● Mr. GREEN. Mr. Speaker, I would like to rise in support of House Resolution 430, the Mandela freedom resolution. This resolution, of which I am proud to be a cosponsor, calls upon the Government of South Africa to immediately release Nelson and Winnie Mandela from their imprisonment for boldly opposing the cruel practices of apartheid.

Nelson Mandela, the leader of the African National Congress, has fought for an idea which Americans have long held sacred, indeed for which Americans have fought a war: the proposition that all men are created equal. He has expressed his commitment to a nonracist democracy in which all people would be free, including the 22 million blacks in South Africa who have been denied their basic civil liberties and rights.

For this, the South African Government has sentenced Nelson Mandela to life in prison, while his wife, Winnie, lives in a different sort of prison. She is one of some 1,500 banned people living in exile within their own country. Both Nelson and Winnie are officially considered as nonpersons. They are not allowed to write anything nor have their views discussed or printed.

It is only fitting that this Congress, which has raised its collective voice against injustice and persecution around the world, raise its voice on behalf of Nelson and Winnie Mandela by passing House Resolution 430.●

● Mrs. COLLINS. Mr. Speaker, I rise in support of House Resolution 430, the Mandela freedom resolution, which calls upon the South African Government to release Nelson and Winnie Mandela from detention.

Exhibiting courage and enduring spirit, the Mandelas have become symbols of the freedom struggle of the vast majority of South Africans, who are deprived of their most basic human rights. Though isolated and harassed, this brave couple continues to inspire their fellow citizens to work for a multiracial democracy in which the dignity and humanity of all races would be respected.

Nelson Mandela, imprisoned since August 1962, has gained widespread domestic support and international recognization for his liberation movement, the African National Congress. He has mobilized the nonwhite community with national strikes, antipass law campaigns and his own personal

example of uncompromising opposition to the racist apartheid system.

Winnie Mandela has made a substantial contribution to the fight against racism herself. She has been continously banned since 1962 to ever remoter outposts in the Afrikaner heartland where she is under constant police supervision and harassment. She is forbidden to see more than one person at a time and may only visit her husband Nelson once a month for 30 minutes. Nevertheless, she has refused to obey segregation laws and has set up a soup kitchen and an unofficial clinic for her poor neighbors.

Continued unrest in all the nonwhite communities, most recently seen in the last few weeks' bloody rioting and protest marches, demonstrates the strength of opposition to apartheid. The South African Government must negotiate with the leaders of its black, mixed race, and Indian majority, not imprison them. Thus, I call on this regime to act in its own best interests, as well as those of South Africa, by immediately freeing these two individuals.

I further call upon our own Government to convey its support for this action to State President Botha and his cabinet. This administration's policy of constructive engagement with South Africa has too often amounted to quiet support for that oppressed nation's vicious rulers. America must leave no doubt that we oppose apartheid with substantive actions as well as free flowing words. Thus, I urge my colleagues to vote for this resolution.●

● Mr. DYMALLY. Mr. Speaker, today the House is considering a sense of the Congress resolution that the Government of South Africa should free Nelson and Winnie Mandela. These opponents of apartheid have been imprisoned or under banishment for over 20 years. Their true crime is that they dared to work for the freedom and equality of the black majority in South Africa. We in this country are not strangers to the black struggle for equality. But I think even those who have participated in this struggle are shocked by the heavy weight of oppression borne by the black people of South Africa.

For one thing, it may be hard for us to comprehend that black people are the majority in South Africa. Here black people are part of a minority group. To understand South Africa apartheid one would have to visualize a situation in which the freedoms of most citizens are being denied by a small group within the population. More than that, one would have to visualize brutal oppression of basic freedoms. We, for example, have cherished tradition of freedom of the press. We can print anything, say anything, and not have to fear for our lives or our well-being. In South Africa it is unlawful to view a picture of Winnie or Nelson Mandela, to hear or read their words, or even for more than one person to meet with either of them at a time. For more than two decades, Winnie and Nelson Mandela have been separated from each other. In order to visit Nelson, Winnie is required to travel by the most expensive form of transportation, thereby reducing the frequency of their visits. When she visits she is permitted to see him for half an hour.

To comprehend apartheid in South Africa, one must visualize a situation in which the governmental right of eminent domain is exercised against whole towns and for reasons that have nothing to do with the public good. Far from it. We must visualize a country in which one's land and property are confiscated without warning merely to suppress through fear any tendency to dissent. It is difficult to comprehend because our Constitution guarantees our right to disagree. In South Africa it is against the law even to belong to the party headed by Nelson Mandela, the African National Congress, which disagrees with the policy of apartheid.

The citizens of our country were outraged when National Guard troops fired on and killed students at Kent State University. Those shootings pale in comparison with the Sharpeville massacre in South Africa in 1960 where the police fired into a crowd of peaceful demonstrators killing 67 and wounding an additional 186. It is little wonder that the black people of South Africa cry out for relief from their oppression. And Winnie and Nelson Mandela are leaders and symbols in the struggle of their people to gain the freedoms that we enjoy, often as unthinkingly as we breathe. The Congress of this country must, if it really represents what this country is all about, vote today to make public and official their belief that Nelson and Winnie Mandela should be freed from their long imprisonment.●

● Mr. ADDABBO. Mr. Speaker, America is a proud and free nation. We choose our elected officials not by the color of their skin, but by their ability to serve the people. As we assert our commitment to freedom and equality through our right to vote, we must also look to insure that these principles are afforded to men in other nations.

For too long the Government of South Africa has not treated all men as equal. Blacks, whites, Indians, and coloreds are not afforded equal rights. South Africa is a nation tainted with racism. The right to vote is vested in a small ruling minority. The world has been watching the South Africa Government introduce reforms, but these cosmetic changes are not enough.

Today, as we consider the Mandela freedom resolution, our message to the South African Government is quite clear. We are asking them to release Nelson Mandela, a black leader who has fought for equality and against the apartheid government. For more than 20 years, Nelson Mandela has been imprisoned. His wife, Winnie, is constantly harassed and is separated from her husband. She too carries the torch of freedom.

The South African Government cannot win. They have not fairly represented the people of their land. The voice of Nelson Mandela and his wife can be heard all over his country and throughout the world. While the South African Government claims that his release would spark terrorist activities and bloodshed, in fact, the opposite is just the case.

Without freedom leaders to bring about equality in South Africa there will be war on all fronts. The time is here and the South Africa Government is faced with the decision. They must establish a representative government in the most peaceful means possible. The first step is to recognize the cause of men such as Nelson Mandela. Their immediate action must be to release him from prison.

We want to see the day when South Africans have the choice to freely elect their leaders. Not by the color of their skin, but by their service to the people. That day will only arrive after Nelson Mandela and his wife are free.●

● Mr. JEFFORDS. Mr. Speaker, I rise in support of House Resolution 430, the Mandela freedom resolution. This resolution calls for the immediate release by the South African Government of Nelson Mandela, who has been imprisoned for 20 years for his crusade against apartheid. It also urges the Government to lift the ban on Winnie Mandela that has been imposed upon her for most of these 20 years.

Nelson Mandela is one of the most respected of black South African freedom fighters. As a leader of the African National Congress since 1952, Mandela has dedicated himself to overthrowing South Africa's policy of apartheid and racial discrimination and bringing about democratic reform. He was arrested in 1952 for demonstrating against the Government and was banned from public meetings. When he refused to cease his activities on behalf of equal rights, he was again arrested and charged with planning to overthrow the Government. When his banning order ended, he went underground to avoid arrest, and from there directed a 3-day protest strike in 1961. After his last arrest in August 1962, he was sentenced to 5 years in prison, which, following the Rivonia trial in 1963–64, was extended to life imprisonment.

Mandela's wife, Winnie, has also been subject to Government repression on account of her involvement in Nelson's cause, and has been banned to a home designated by the Government. Her activities are heavily restricted and she is allowed only limited access to friends and family. Her name must never appear in print, either now or after her death. In all respects, she is considered a nonperson. This resolution calls for the lifting of this inhumane ban against Winnie Mandela.

Mr. Mandela has now served 20 years in prison. This past April, Mandela turned down a Government offer of release because of the stipulation that he relinquish his South African citizenship and agree never to leave his tribal homeland of Transkei. Yet, he has maintained his belief in the necessity of bringing about a democratic transformation of South Africa. The very least we can do is to openly support him in this brave struggle and demand his immediate unconditional release. I urge the speedy passage of this legislation.●

● Mr. CARR. Mr. Speaker, the guiding principle of this country has always been democracy, and respect for the rights of each and every citizen. To be true to these ideals we, as Americans, must brook no violation of these rights wherever our influence may be used to safeguard them.

Recently my attention was drawn to an editorial opinion by Randall Robinson, which appeared in the New York Times on August 31 of this year. Mr. Robinson documented the plight of Nelson Mandela, who has been unjustly imprisoned for the past 22 years, and his wife, who has been placed in internal exile in South Africa. Their basic human rights and dignity have been violated by a friendly nation, and yet there has been no public outcry, nor any official action.

I ask my colleagues to give to Nelson and Winnie Mandela the same support which we have given to other oppressed persons throughout the world. We must fight the violation of an individual's rights wherever it occurs, whether it be to a white dissident in a Communist country, or to a black leader in a capitalist nation. I invite all my colleagues to take notice of Mr. Robinson's article.

I call upon our administration, and my colleagues of both Houses to recognize the injustices and anguish which our policies are supporting in South Africa. I also call upon them to support the Mandela resolution, House Resolution 430, which would express the sense of the House that the Government of South Africa has unfairly imprisoned two important black leaders in violation of their rights and dignity as human beings, and should move to release them immediately. Let us show that we consider our democratic principles more than just good copy, but rules to live by the world over.

The article follows:

[From the New York Times, Aug. 31, 1984]

VICTIMS OF IGNORANCE, TOO

(By Randall Robinson)

WASHINGTON.—After his 22 years behind bars, his wife says that at the age of 66 "he is as upright and proud as the day he was arrested." He has spent most of his life defying the most repressive Government on earth. Doing much the same, his wife, an exile in her own country and labeled a threat to public order, has enjoyed only 11 months of qualified freedom in two decades. The Democratic Party platform demands their release, and a bill in Congress calls upon President Reagan to secure it.

He is known the world over, she nearly as well. If his country were a democracy, he'd win its presidency handily. Andrei D. Sakharov and his wife Yelena G. Bonner? No.

Nelson and Winnie Mandela are household names throughout most of the world but virtually unknown in America. The story of their plight and our response to it illuminates an embarrassingly yawning gap between ideals and actions in this country.

In June 1964, having served one year of an earlier five-year sentence for organizing a general strike of black workers, Nelson Mandela, a black on trial for treason, described his commitment to nonracial democracy as an "ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die." Those were his last public words. He remains locked away and officially considered a "nonperson" whose views the state forbids its citizens to discuss or print.

Winnie Mandela, who is allowed to visit her husband at Pollsmoor Prison, near Cape Town, once a month for 30 minutes, is restricted under a banning order to a remote town some 240 miles from her home in Soweto and 650 miles from her husband. She is allowed to see only one person at a time. She is neither allowed to write anything nor to be quoted. Police surveillance is constant. Her mail is regularly opened and examined.

He is one of more than 750 jailed political prisoners. She is but one of some 1,500 critics the regime has banned or detained in recent years.

Why do Americans know less about them than about the Sakharovs? I think that if they were white and victimized in the Soviet Union, their names would be as well known. Their cause would be lauded by editorial writers across America. But circumstance has them brutalized by a rightist regime that constitutionally enshrines racial supremacy, a regime of 4.5 million well-armed whites and by law denies 22 million blacks the most ordinary rights. In South Africa, our private sector has invested $14.6 billion while our Government falls over itself to cultivate warm, unconditional friendship.

If this painful hypocrisy is not the talk of greater Pretoria, it is well enough known to black South Africans who will inevitably assume power in their country. Should Nelson Mandela live to lead that nation, he will owe no thanks to America.●

● Mr. FAUNTROY. Mr. Speaker, I rise in support of House Concurrent Resolution 430, which would make it the sense of the Congress that the South African Government should immediately release Mr. Nelson Mandela and his wife, Mrs. Winnie Mandela, from their 20 years plus of incarceration for their determined and continued opposition to the racist policies of apartheid.

I am pleased to be a cosponsor of this legislation, along with many of my colleagues, which will put the Congress on record in support of these courageous champions of justice and freedom for South Africa.

I urge my colleagues to pass House Concurrent Resolution 430.●

● Mr. TOWNS. Mr. Speaker, I rise in support of House Concurrent Resolution 430 which urges the South African Government to immediately release Nelson Mandela and his wife, Winnie, from their more than 20 years of imprisonment and detention.

Nelson Mandela, as a leader of the African National Congress, was sentenced to life imprisonment, without hope of parole, in 1964. He received this sentence while serving a 5-year term for inciting riots and leaving the country without a permit following the Sharpeville massacre in 1960. Mr. Mandela was sentenced to Robbin Island Prison where he was incarcerated, until recently, when he was transferred to Polismoor Prison outside of Capetown.

In 1962, Winnie Mandela was arrested and subsequently banned for her part in founding the Black Parents Association. Since the original banning order, she has been free of a banning order for only 11 months having been repeatedly convicted for violations of her banning order, detained, and harassed by South African security police; 2 years ago, I joined other Members of Congress in signing a freedom quilt for Winnie Mandela. Her quilt was confiscated by the South African authorities for having subversive colors. Mrs. Mandela is confined to a home which is designated by the State and far removed from family and friends. She is not permitted to meet with more than one person at a time, may not be quoted in written material for publication, and is prohibited from having her name or photograph appear in print anywhere in South Africa.

Despite this difficult physical and emotional burden for Winnie Mandela, she has continued to support the struggle against apartheid and to work for a multiracial society in South Africa.

House Concurrent Resolution 430 gives the House of Representatives a unique opportunity to demonstrate support for South Africa's two best known freedom fighters, Nelson and Winnie Mandela. This resolution gives an opportunity to dissociate ourselves from the administration's disastrous policy of constructive engagement with the Government of South Africa. Our current policies have only served to strengthen apartheid in South Africa and to threaten the security of

neighboring countries who have been the victims of recent invasions by South African forces.

I urge my colleagues to adopt this resolution and to strike a blow against apartheid by urging the release of the Mandelas. We must let the people of South Africa know that we support freedom and justice for all South Africans and that we cannot support an official policy of government repression based on color.●

● Mr. DELLUMS. Mr. Speaker, I speak in support of House Resolution 430, the Mandela freedom resolution. I urge my colleagues to support this resolution which calls upon the Government of South Africa immediately to release Nelson Mandela and his wife, Winnie.

As my colleagues are aware, the racist policy called aparthied is immoral, inhuman and has no place in the world order. A system which denies people the basic birthright of human freedom must be challenged. Nelson Mandela since 1944 has challenged the Government policies of South Africa. As a result of his activism Nelson has known no freedom for nearly 40 years. He has been a constant target of the South African Government and for 40 years he has either been imprisoned, banned, or forced underground by Government authorities.

Nelson Mandela is a leader of the African National Congress [ANC] the oldest freedom organization in South Africa. Nelson Mandela once believed nonviolent methods would deliver freedom for the majority of black Africans in South Africa. However, because of the constant brutality, killings, and harassment by the South Africa Government, Nelson was forced to alter his political ideals. In 1964, Nelson was sentenced to life imprisonment for alleged sabotage and conspiracy to overthrow the South African Government.

Winnie Mandela is also a fighter for freedom and justice for black South Africans. Since 1962, Winnie Mandela has been either in prison or banned. She has never been convicted of any charges, except for violations of banning orders. She has been forced to live under constant police surveillance and often she is harassed by Government authorities. It is my belief that Winnie Mandela is a courageous person committed to the total freedom of her people. I have the utmost respect for Winnie and Nelson Mandela for persevering against the constant repression of the South African Government.

I urge my colleagues to support the Mandela freedom resolution. The United States was founded on the principles of freedom and justice, although when the union was formed slavery was legal. However, our forefathers recognized the injustice caused by the evil system of slavery. Ultimately it was abolished, but only after a brutal civil war which pitted brother against brother, sister against sister, and which killed hundreds of thousands of U.S. citizens. I call upon my colleagues to put aside your differences and act in a moral manner. It is incumbent upon this body to persuade the South African Government to abolish apartheid, and I believe the freedom of Nelson and Winnie Mandela is a paramount step toward that end.●

● Mr. STOKES. Mr. Speaker, I rise in support of the resolution that my distinguished colleague, Mr. CROCKETT, offered on behalf of Nelson and Winnie Mandela. Nelson Mandela has been imprisoned by the South African Government since 1962. That same year, his wife, Winnie, was banned by the South African Government.

To those of us who live in a democratic society, it is almost impossible to imagine what life for the Mandelas has been like for the last several decades. Born in 1918, Nelson Mandela has devoted all of his life to fighting the cruelty and injustice that has been directed against him and his people.

Nelson Mandela's arrests began in the 1950's. His lifetime has been an unending struggle against the racism of the South African regime.

Winnie Mandela has shared her husband's efforts, and has been confined for all but 11 months of the 22 years since her husband's arrest. Winnie Mandela has never been convicted on any charge other than the charge of violating her banning orders.

Under this ban, Winnie Mandela cannot attend meetings, either social or political, nor can she be quoted in South Africa, nor can she visit educational institutions. Visits to her husband require permission, and her travel must be done by expensive air transportation, rather than by more economical buses, trains, or car. Each trip to see her husband under these restrictive circumstances results in the privilege of visiting with him for 30 minutes. For this she is expected to be grateful.

All civilized nations, concerned about human injustice, must respond with indignation to the immorality of this regime. We must make clear that no nation will be allowed to violate every principle of justice and decency and still hope to be treated as a welcome member of the community of nations.

Let us support the Mandela freedom resolution which expresses the sense of the House of Representatives that South Africa should immediately release and free Nelson Mandela from prison and revoke and cancel Winnie Mandela's banning order, that the President should use his offices to have the Mandelas released, and that the Speaker of the House of Representatives should transmit a copy of this resolution to the President of the United States and to the Prime Minister of South Africa.●

Mr. WOLPE. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time also.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. WOLPE] that the House suspend the rules and agree to the resolution, House Resolution 430.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SENSE OF CONGRESS WITH RESPECT TO HONORARY SOUTH AFRICAN CONSULATES IN THE UNITED STATES

Mr. WOLPE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 42) Expressing the sense of the Congress with respect to honorary South African consulates in the United States.

The Clerk read as follows:

H. CON. RES. 42

Whereas United Nations General Assembly Resolution 1761 (XVII), in response to the apartheid policies of the South African Government, "request member states to take the following measures, separately or collectively, in conformity with the charter, to bring about the abandonment of those policies: Breaking off diplomatic relations with the Government of the Republic of South Africa or refraining from establishing such relations";

Whereas United Nations General Assembly Resolution 2054A (XX), "urgently appeals to the major trading partners of the Republic of South Africa to cease their increasing economic collaboration with the Government of South Africa, which encourages that Government to defy world opinion and to accelerate the implementation of the policies of apartheid";

Whereas United Nations General Assembly Resolution 2923E (XXVII), "requests states members of international agencies and organizations, particularly the members of the European Economic Community, General Agreement on Tariffs and Trade, and the International Monetary Fund, to take the necessary steps to deny all assistance and commercial and other facilities to the Government of South Africa so long as it pursues its policies of apartheid and racial discrimination and continues to defy the

resolutions of the General Assembly and the Security Council";

Whereas the United Nations General Assembly in Resolution 35/206C "calls upon all Governments which have not yet done so: To sever diplomatic, military, nuclear, economic, cultural, academic, and sports as well as other relations with the racist regime of South Africa"; and

Whereas the United Nations General Assembly in Resolution 36/172A reaffirmed "that apartheid is a crime against humanity": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Department of State should in every instance refuse to approve the opening of honorary South African consulates within the United States;

(2) the Secretary of State should reassess the purpose and need for existing honorary South African consulates within the United States; and

(3) the Secretary of State should rescind the approval granted for the establishment of the honorary South African consulate in Pittsburgh, Pennsylvania.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. WOLPE] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. WOLPE].

□ 1620

Mr. WOLPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 42 expresses the sense of Congress that the Department of State should refuse to approve the opening of honorary South African consulates within the United States. The Secretary of State should reassess the purpose and need for existing honorary consulates and should rescind the approval granted for the establishment of the honorary South African consulate in Pittsburgh, PA.

The purpose of honorary consulates is to allow other governments a less expensive means of providing certain kinds of services and promotional opportunities for business and tourism than a government is able to provide through its embassy and official consulates. The committee says that honorary consuls serve as local goodwill ambassadors in a business and trade context but have no diplomatic status, although the Department of State does approve the establishment of all honorary consulates. The committee, in adopting this resolution, agrees with its sponsors that allowing the oppressive apartheid regime of South Africa to establish honorary consulates in American cities runs counter to our country's foreign policy interests.

Mr. Speaker, I yield such time as he may consume to the author of the resolution, the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Speaker, I rise in strong support of House Concurrent Resolution 42, a bill which expresses the sense of Congress on the matter of honorary consulates of the Republic of South Africa located in the United States.

The measure has three objectives:

First, it calls on the Secretary of State to refuse to approve the opening of any additional honorary consulates of South Africa in the United States.

Second, the bill asks the Secretary of State to reassess the need for existing honorary consulates of South Africa in the United States.

Third, the measure requests that the State Department's approval of an honorary consulate of South Africa in the city of Pittsburgh, PA, be rescinded.

The South African Government's systematic repression of blacks, condemned by the civilized nations of the world, is rejected as well by the silent majority of that nation, a majority silent not by choice but as a result of political and social discrimination.

Let us consider recent events; 8 out of 10 so-called coloreds and Asians refused to take part last month in elections for a parliament which excludes blacks. The protests which accompanied the elections brought a response from the South African Government that was all too expected. South African police attacked boycotters, protesters, and journalists with clubs, whips, rubber bullets, and tear gas.

Some who protested a recent rent rise in black areas of South Africa have paid with their lives. More than 30 people were killed, and hundreds more injured, in protests last month.

Surely this is not a nation which merits closer diplomatic relations. By allowing the opening of new honorary consulates, which often promote closer business and trade ties with the United States, the State Department would do just that.

I can assure you that the people of Pittsburgh do not desire closer diplomatic ties with South Africa, nor do we want an honorary South African consulate in our city. Passage of this sense of Congress resolution will put this House on record in opposition to the opening of the Pittsburgh honorary consulate and any similar offices in other cities. The approval of this legislation would not affect our general diplomatic relations with South Africa. We would continue to conduct normal diplomatic business if the State Department heeds the sense of Congress. What would change is a policy which allows the Government of South Africa to expand and strengthen its political and economic ties to the United States through the opening of new honorary consulates in this country even as it represses the legitimate aspirations of the majority of people in its own country.

I urge a yes vote on House Concurrent Resolution 42. At this point, I would like to include in the RECORD a selection of recent news articles which describe the current situation in South Africa:

[From the Pittsburgh Press]

UGLY FARCE IN SOUTH AFRICA

The embattled Asian and mixed-race residents of South Africa deserve the admiration of free peoples everywhere. They have thwarted a drive by their white-supremacist rulers to put a benign mask on the ugly system of racial segregation known as apartheid.

Last November Prime Minister Pieter W. Botha ingeniously had white voters adopt a new constitution that for the first time appeared to give political rights to the country's 2.8 million "coloreds" (persons of white and black blood) and 800,000 Asians, mostly of Indian ancestry.

Each group would get a segregated chamber of Parliament of its own. However, a third chamber, exclusively white, could veto laws passed by the other two. And on top of all three would be a white president, most likely Botha, with near-dictatorial powers.

The Asians and coloreds saw through Botha's con game. It was an attempt to make South Africa look quasi-democratic to a critical world. It would separate them from the 20 million black majority, which got nothing, and help 4.5 million whites monopolize political power.

Coloreds were to go to the polls first. Last week it was the Asians' turn. Both resisted government pressure and overwhelmingly boycotted Botha's farce. Only about 18 percent of those eligible voted, discrediting the process.

South African police reacted with their usual violence, attacking boycotters, protesters and journalists with clubs, whips, rubber bullets and tear gas. So much for Botha's "liberalization."

When the plan for phony parliaments for coloreds and Asians was adopted last year, the U.S. State Department, with its mastery of doublespeak, called it "a step in the right direction."

Now that South Africa's non-whites have rebuffed the effort to pretty up racial persecution, what do Foggy Bottom's apologists for apartheid have to say?

[From the Washington Post, Aug. 30, 1984]

VERDICT ON SOUTH AFRICAN REFORM

The Verdict that counts most has now been pronounced on South Africa's political reform. True, an earlier verdict had been delivered by the country's ruling white minority, which, consulting none of the other racial groups and least of all the disenfranchised black majority, last November overwhelmingly approved a plan giving a limited parliamentary voice to Indians and mixed-race Coloreds. These two groups have now weighed in. Since they would presumably be the chief beneficiaries of what the sponsoring whites proudly hail as a "new dispensation," their verdict is of special importance. It is, on the whole, devastating. Only 20 percent of registered Indians voted for the new parliamentary seats being offered them, and only 30 percent of registered Coloreds.

Why such a minimal response? The whites claim there was intimidation. The charge would be amusing, given the intimidation practiced by South Africa's whites—locking up leaders of the boycott movement on the eve of elections, for instance—were it not a

patent dodge. The evident truth is that most Indians and Coloreds boycotted the elections because they felt they would lose more than they could possibly gain by accepting a small, tightly hedged parliamentary role in a system still dominated by whites devoted to apartheid. In proposing the reform, the whites had in mind not moving away from apartheid but simply easing some of the domestic and foreign opposition to it. Large Indian and Colored majorities want no part of this game.

Prime Minister P. W. Botha's government seems bent on putting the plan into effect anyway with the parliamentary delegates elected by the few Indians and Coloreds who did vote. His political situation may require no less. It is clear, however, that notwithstanding the apprehensions of white super-conservatives to his right, he does not have so much a strategy for change as a strategy for resisting change. "Oppression with a smile," is what the Rev. Allan Boesak, leader of the multiracial boycott movement, calls the Botha policy. The struggle within South Africa goes on.

Too hopefully, it turns out, the Reagan administration had pronounced the November white vote authorizing the reform a mandate for "decisive" political change. The results of the latest elections have prompted the administration to express the further hope that the process of reform will be accelerated. This is awfully lame. No doubt the State Department is disappointed that its investment in "constructive engagement" has borne, on the domestic front at least, such meager fruit. It would be good to hear it say that the main obstacle to peaceful change in South Africa is, still, white racism, blindness and timidity.

[From the New York Times, Sept. 2, 1984]

SHAMOCRACY IN SOUTH AFRICA

South Africa wants the world to believe that it is somehow moving to racial justice by establishing separate parliaments for some nonwhites. But even those supposed to benefit are unconvinced.

Only 20 percent of eligible voters bothered to take part in a recent election of a chamber meant to represent 600,000 Indians.

This followed a meager 30 percent turnout the week before for the chamber representing 2.8 million persons of mixed blood.

What South Africa Prime Minister P.W. Botha solemnly calls a "new dispensation" is nothing of the sort.

When he proposed adding two nonwhite chambers to Parliament, he made plain that there were no plans for similarly enfranchising South Africa's black majority—they have political rights solely in their "homelands," impoverished make-believe nations created according to the gospels of apartheid, or racial separation.

That essential injustice is hardly mitigated by giving a semblance of power to some nonwhites. And the paltry turnout lessens whatever optical value these chambers might have in bettering South Africa's image. The loudest voice in these elections was the truly silent majority's.

[From the Christian Science Monitor, Aug. 28, 1984]

SOUTH AFRICAN LEGISLATIVE SHIFT STUMBLES

(By Robert I. Rotberg)

South Africa's ruling whites lost a crucial election last week when Coloreds (a mixed-color minority) refused to endorse the country's shift to a new three-color Parliament.

Less than 30 percent of registered voters, and less than 20 percent of approximately 1.1 million eligible voters among the country's 2.8 million Coloreds, cast ballots last week. A vigorous boycott movement, accompanied by some intimidation, contributed to the luke-warm response. But, government's protestations to the contrary, the low turnout certainly showed that the response of South Africa's Coloreds to the new white initiative was not enthusiastic.

Tomorrow there will be a further test, when South Africans of Indian and Pakistani extraction go to the polls in the second of these communal elections. A very low poll of eligible voters among the 0.8 million Asians is now anticipated.

South Africa's tricameral Parliament, replacing its 74-year-old Westminister model (for which only whites could vote), will formally come into existence next Tuesday. Representatives of the nation's 4.6 million whites will retain control and have 160 seats in their house. The Colored house has 80 representatives (75 of these were elected last week as members of the Labour Party) and the Asians, 40. There will be no representations for South Africa's 20 million-strong black majority.

South Africa's new executive-president will, in effect, be selected by the Afrikaner-dominated National Party majority in the white Parliament. Pieter W. Botha, the present prime minister, will become president, with potential authoritarian power.

Last year whites approved the proposed new Constitution and tricameral Parliament with a referendum. Coloreds and Asians were denied a similar role in the Constitution-deciding, and black opinion was ignored entirely. As a result, last week's Colored vote became a trial of legitimacy in local and world eyes of this new modification of apartheid.

The Coloreds' verdict was purely negative, and against co-optation. But because the overall number of voters was greater than a level that could be called derisory the Labour Party and the white government claimed a modest backing by mixed races. Much higher rates of voting, however, were reported from rural Colored constituencies than urban politicized areas near Cape Town. In some of those urban districts less than 10 percent of registered voters turned out.

Low polls or not, the Labour Party will take its seats and the new Parliament will be inaugurated. The Rev. Allan Hendrickse, Labour Party leader, is expected to receive a cabinet position. But Mr. Hendrickse has said he wants to upset apartheid and, if no progress is made in five years, Coloreds will withdraw from Parliament.

This is the ultimate test, but it is a test about which skepticism of success is easy. The white government has refused to consider scrapping the Group Areas Act, which now enforces residential segregation against Coloreds and Asians as well as Africans. It has refused to revoke legislation barring white and black, Colored, or Asian intimacy or marriage. The new Colored and Asian members of Parliament will not be housed with white legislators, nor will they be allowed in the same parlimanentary dining room.

Mr. Hendrickse and others may be able to embarrass and harass the white government from new positions of privilege and freedom, but their actual power of decisionmaking will be very limited, and their influence on the workings of apartheid correspondingly little.

Just as the Coloreds last week refused to be cooperative and Asians will probably follow suit, so whites in South Africa cannot yet be expected to diminish their power. They are not prepared to dismantle apartheid or—it seems—to do more than to give South Africa's minority near-black groups a whiff but not a taste of power.

(Robert I. Rotberg is a professor of political science and history at the Massachusetts Institute of Technology.)

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might use.

Mr. Speaker, on the last three resolutions I have either strongly supported them in a bipartisan fashion or held back my opposition on the last resolution which I had some reservations about some of the wording in the resolution.

But I do have to rise in opposition to this particular resolution.

Mr. Speaker, it is my understanding that the United States did not vote in favor of the U.N. General Assembly resolutions that comprise the basis for this concurrent resolution. In reading over those various U.N. resolutions, it becomes clear that they are extremely broad in scope and would require any nation who supports them to cut off any and all contact with South Africa. Certainly that is not the counsel we give to the frontline states who are most directly affected by South Africa. Nor is that the practice of the frontline states including Zimbabwe, Zambia, Tanzania, Mozambique, Botswana, Swaziland, and others.

Frankly, I find this concurrent resolution to be unnecessary. The determining factor in our country's relationship with any other country is not that country's domestic policies, but, rather, that country's attitude toward the United States. In the absence of a direct provocation against us, or a clear and present danger in our bilateral relationship, we have no cause to suspend or disrupt normal diplomatic and consular relations.

There are many governments we do not like. But that does not preclude full diplomatic relations and an ongoing dialog between us. If the logic behind this concurrent resolution were applied toward mainland China, for example, we would be forced to reassess our diplomatic and consular relations with that country in protest of the 5,000 political executions and tens of thousands of forced abortions that have taken place there during the past year.

When a country such as Iran attacks our Embassy, that is a provocation. That calls for a change in our relationship. When a country such as North Korea repeatedly demonstrates its hostility toward our ally, South Korea, and our servicemen there, that is reason enough not to have a diplomatic relationship with them.

It is my view that South Africa has not disrupted the bilateral relation-

ship between our two countries, however much we are all repelled by the nature of their social and political system at home. Therefore, I do not see the need for this particular resolution at this time.

Mr. WOLPE. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. WEISS] my distinguished colleague and a member of the Africa Subcommittee.

Mr. WEISS. Mr. Speaker, I thank the gentleman very much and want to express my appreciation to the gentleman from Michigan for his courtesy in yielding time to me and for his leadership in bringing these resolutions before us.

Mr. Speaker, the human tragedy of apartheid in South Africa becomes more punitive on a daily basis. The South African Government relentlessly continues to pursue its heinous policies of racial discrimination and repression at home and abroad.

We should be angered as we call to mind the South African Government's continued detainment of 56 Namibian prisoners in the Mariental internment camp. In blatant violation of international standards of justice and civil rights, the South African Government rescinded the Namibian Supreme Court's jurisdiction in this case.

We should be outraged as we think of the so-called homeland or blackspot policy of the South African Government that forces blacks from their ancestral lands and relocates them in barren, impoverished, racially segregated areas where basic subsistence is difficult at best.

And we should be deeply saddened as we read of the continuing 20-year incarceration of Nelson Mandela and the banning of his wife, Winnie Mandela. The Mandelas are South African leaders who are respected throughout the world for their long and determined struggle against their country's policy of apartheid.

In light of the extraordinary situation in South Africa, which has no counterpart anywhere in the world, one can only feel a deep sense of dismay at the Reagan administration's plans to allow additional honorary South African consulates in American cities to promote trade and tourism in that country.

I rise today to express my deeply felt opposition to the systematized racism practiced in South Africa and in further opposition to the policy of constuctive engagement that allows the Reagan administration to ignore the unconscionable human rights violations committed by the South African Government.

The House has before it four resolutions (H. Con. Res. 298, H. Con. Res. 122, H. Res. 430, and H. Con. Res. 42) that express our objections to some of the most reprehensible South African policies and actions. I want to commend the chairman of the subcommittee Mr. WOLPE and the original sponsors of these resolutions for their leadership in focusing attention of those terrible policies. I urge my colleagues to support these resolutions unanimously and thereby to demonstrate to the South African Government and the Reagan administration that we refuse to tolerate the unconscionable violations of civil and human rights that are part of the daily reality for the majority of South African citizens.

Mr. WOLPE. Mr. Speaker, in closing the debate on this question I want to go back to a point that was made earlier in the discussion of another of the resolutions that has been before the body this afternoon.

The major tragic law of recent diplomacy has been the series of mixed signals that the United States has been sending to the South African Government. We continue, in form, to express our opposition to apartheid. But, in substance, in some of our specific diplomatic initiatives, we have been signaling a very different kind of a message.

The decision by the State Department to permit the South Africans to establish new, additional honorary consulates within the United States was a discretionary decision. They were not obligated to do so by any stretch of the imagination. The decision was made under the banner of "constructive engagement." It was one of the specific initiatives the United States was taking in an effort to gain more influence and more leverage with the South African regime. At least that was the rationale that was presented at the time.

In the past 3½ years, however, there has been a very steady deterioration within South Africa itself, manifested most dramatically in the events of the previous 2 or 3 weeks with over 40 people now dead and many others banned and detained.

There has been a comparable deterioration with respect to South Africa's aggression against its regional neighbors. South Africa continues to occupy Angola. It has launched very brutal raids in Lesotho and Mozambique. It has tried to overthrow the Government of the Seychelles. And it has tried to destabilize the Government of Zimbabwe.

Now, as a consequence of what I think was very likely a well-intentioned initiative, the United States is implicated in those developments. We are seen as having given the South Africans the message that they now have a much freer hand to do what they will both internally and with respect to their activities within the region.

□ 1630

So the purpose of this resolution, which has been introduced by our distinguished colleague from Pennsylvania, is to set the record straight, to clarify the intended message, and to make indisputably clear to the Afrikaner regime that the American people collectively, Democrats and Republicans alike, join in continued condemnation of the system of apartheid and express our continued determination to see that system eliminated.

Mr. DIXON. Mr. Speaker, will the gentleman yield to me?

Mr. WOLPE. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

Mr. Speaker, any nation that determines the rights of their citizens by the color of their skin should not have honorary consulate privileges in the United States.

Mr. Speaker, I rise in support of this resolution by my good friend and colleague, Mr. COYNE.

This measure calls upon the State Department to refuse the establishment of additional honorary consulates for the Republic of South Africa.

As has been made clear during today's debate, South Africa stands alone in the world because it determines the rights of its citizens by the color of their skin.

The rising level of violence in South Africa is clear evidence that the recent reforms which give token participation to coloreds and Indians are unsatisfactory. The branch of democracy has not been extended to that nation's black majority, and as a consequence the turmoil will continue.

As the author of this measure has explained, this resolution merely urges the Secretary of State not to approve further requests to establish honorary consulates. This is within our right, and my own city of Los Angeles has been embroiled in a bitter dispute in recent years opposing the opening of such a consulate.

I am proud that Congress has firmly expressed U.S. opposition to the policies of apartheid, and the nations which practice them. I believe our expressions only help to expedite the process of reform and urge your support of this resolution.

Mr. SOLOMON. Mr. Speaker, did the gentleman from Michigan [Mr. WOLPE] yield back the balance of his time?

Mr. WOLPE. No, I did not, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. WOLPE. Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I have no further requests for time.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing I have already had my say on the resolution

before us, but since other colleagues chose to talk about other resolutions and constructive-engagement policies, I think I would like to close with just a few brief remarks.

Mr. Speaker, I mentioned before that on a recent trip to southern Africa by some of our staff that the Minister of State for Economic Affairs in Mozambique had made the statement that "Whatever American foreign policy is in southern Africa it is certainly working for us." According to him construction engagement is a success.

Recalling another conversation that I had with Prime Minister Robert Mugabe of Zimbabwe last August when we were discussing constructive engagement. Mr. Mugabe said to me, when I asked him why Zimbabwe was carrying out a constructive-engagement policy with South Africa, in that 30 percent of all of the trade of that country, Zimbabwe, is done directly with South Africa and 80 percent of all of their trade goes through South Africa.

Mr. Mugabe looked at me and he said, "Mr. Solomon, we do it because of survival."

I said, "Mr. Mugabe, maybe the United States of America also deals in constructive engagement because of survival."

What did I mean by that? I mean that of all of the strategic materials of the world, 75 percent of them come from that area of Africa or Russia. Should we let South Africa and southern Africa or Africa fall to the Communists, that means that Russia would control then 75 percent of all of the strategic metals, all of those metals that we depend on for our defense weapons in America and for the NATO countries and for the rest of the free world. I also said that between South Africa and Russia they control 75 percent of all the industrial metals that we use for the American economy, for jobs. You take away those industrial metals that we have in this country and you no longer will have 107 million Americans working in this country, more than at any other time in the history of this country. You will go back to a depression that you have never seen before, worse than in 1930's.

So yes, Mr. Mugabe, and yes, my colleagues, we do deal in constructive engagement and it is working. We do not have to cut off our nose to spite our face. No one deplores apartheid more than I do, more than President Reagan does, but we can go about urging South Africa to abandon its apartheid policy without turning the African continent over to the Soviets.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. WOLPE] require further time?

Mr. WOLPE. No, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. WOLPE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 42.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON S. 38, LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1984

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 38), entitled the "Longshoremen's and Harbor Workers' Compensation Act."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

(For conference report and statement see proceedings of the House of September 14, 1984.)

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. ERLENBORN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been 4 years since the Subcommittee on Labor Standards began its work on legislation to amend the "Longshoremen and Harbor Workers' Compensation Act." The conference report before us today is the product of thorough, exhaustive, and thoughtful consideration.

This is a consensus report. It received the unanimous support of every member of the conference committee, from both parties and every ideology. To make certain that there is no grounds for misinterpretation or abuse, either by those charged with enforcing the law, the courts, or others, we have spoken very clearly both in the statutory language and in the statement of managers.

We meant what we said, and we said what we meant. We do not want to see protracted court battles over the intent of Congress. If it isn't in the statute or clarified in the statement of managers, it should be accorded little if any legislative intent.

This is a complicated bill, but its underlying principle is really quite simple. Some employers and employees who were never supposed to be covered by the Longshore Act have been included in its coverage; some of the benefits have been excessive.

By the same token, individuals who should receive Longshore Act compensation, medical assistance, death and survivor benefits have found the law and the courts unresponsive to their legitimate claims for assistance, as documented in yesterday's Washington Post.

S. 38 addresses both of these situations: First, by narrowly excluding from coverage certain places of employment and certain employees who are not exposed to maritime hazards, and who are covered by State workers' compensation law. These workers are not in need of the Longshore Act. Second, S. 38 modernizes the Longshore Act to assure that the victims of occupational diseases receive the compensation to which they, as maritime workers covered by the Longshore Act, should always have received.

OCCUPATIONAL DISEASE CLAIMS

Like many States, the Longshore program has failed the victims of occupational diseases. In a recent case, the Benefits Review Board went so far as to confess that "[T]he act is poorly suited to occupational disease cases." The Board noted that amendment the act to assure that victims of occupational disease cases are adequately compensated is solely within the discretion of Congress. [*Aduddell* v. *Owens-Corning*, 16 BRBS 131 (1984).] S. 38 does just that.

The conference report closely follows the House amendment in modifying the Longshore Act to assure that eligible disease victims and their survivors receive compensation, regardless of when in the worker's life the work-related disease manifests itself. In addition, we assure that specific conditions of the law, such as the notice and filing timetables, are modified in the case of disease victims.

In the case of an occupational disease, a claimant is given 1 year after manifestation to notify the responsible employer of the disability. By choosing the period of manifestation, the conferees clearly reject the date of last exposure to an injurious substance as the time of injury. Manifestation, in the context of these 1984 amendments, means that time when the employee or claimant becomes aware, or

in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability.

The claimant is provided 1 year after that date of manifestation to file notice of an injury, and 2 years after manifestation to file a claim under the act. These periods are longer than those for traumatic injuries because of the subtleties of occupational disease, as well as the difficulties of linking a disease to a job or substance decades in the past.

In determining benefits for occupational disease victims, S. 38 again looks to the manifestation date, not the date of last exposure. We recognize that an active worker may become ill before becoming eligible for compensation, as in the case of asbestos-related plaques, without suffering an immediate loss of wages. In those cases, the clock would not begin to run on the notice or filing statutes of limitation until an actual wage loss was suffered. Nor in general would we loo, to the wage at the onset of the illness, but rather the wage immediately prior to wage loss in determining benefit levels.

As the statement of managers notes, there may be instances when a claimant takes a lesser paying job because of circumstances which he or she attributes to aging or other normal conditions of life. Only subsequently does that worker realize that the condition which necessitated a lesser paying job is, in fact, a job-related disease. In such cases, we would obviously want the administrative law judge to look to the wage prior to wage loss in determining benefits rather than to the lower wage at the time of manifestation. The Deputy Commissioner, under section 10(c), is given the authority to look to other employment of such employee when establishing the wage base, and the conferees believe that this is one of those circumstances where such consideration should certainly be given.

The conference report also assures that a claimant whose disease manifests itself subsequent to retirement will not be denied benefits. The retired claimant is just as disabled, his or her health is just as impaired, the disease just as related to employment, and the individual just as much in need of financial support and medical benefits as an active worker. In fact, because of advanced years, the need may be even greater.

S. 38 therefore provides that retirees may qualify for benefits under the Longshore Act for injuries attributable to exposure which occurred in covered employment. Because a retiree has no current wages, and thereby suffers no disability in the limited meaning of that word under current law, S. 38 establishes a wage based upon the national average weekly wage at the time of the manifestation of the disability, for the purposes of calculating benefits for claimants who have been retired more than 1 year.

The report also modifies the definition of disability to mean, in the case of a retiree, a permanent impairment as determined under the most up-to-date guides of the American Medical Association. Thus, a retiree would not be obligated to prove wage loss to earn entitlement to compensation, but rather prove impairment of bodily function and capacity, according to standards developed by the AMA or other professionally recognized standards.

INTENT TO OVERRULE DECISIONS

These provisions in S. 38 are intended to overrule the finding of the Benefits Review Board in *Aduddell* v. *Owens-Corning*, 16 BRBS 131 (1984), which denied benefits to retirees, *Dunn* v. *Todd Shipyards*, 13 BRBS 647 (1981), which set compensation for disease victims at outrageously low rates, and *Worrell* v. *Newport News*, 16 BRBS 216 (ALJ, 1983), which denied survivor's benefits to a spouse when the retired covered employee died prior to receiving disability benefits. As the conference report and the statement of managers state, we believe these decisions are absolutely and totally wrong.

The provisions of S. 38 which address occupational disease cases, including those affecting retirees and the survivors of retirees, should be applied broadly, not only to future cases, but to any case which has not yet reached a final adjudication as of the date of enactment.

Several other important modifications are made by S. 38. Some of the most critical involve jurisdiction and coverage. Because of the extensive amount of litigation in this area following enactment of the 1972 amendments, we have spoken very clearly with respect to the jurisdictional issues in this legislation.

COVERAGE AND JURISDICTION

Ever since the last Longshore amendments were passed in 1972, the scope of coverage under the act has generated considerable litigation. A major cause of these disputes has been a fundamental failure to recognize that longshore workers have traditionally engaged in a full range of activities respecting the handling of ocean cargo. These have never been limited to the vessel or to the immediate vicinity of the pier or stringpiece. They include documentation and verification of the cargo as it proceeds through various stages of handling in, out and about the waterfront facility, which may be a private dock or a huge terminal. These functions are performed by those members of the deepsea longshore workforce who are classified as checkers and clerks for the receipt, delivery and processing of the cargo.

The cargo handling industry has also taken advantage of the many benefits of modern technology. For example, carriers and stevedores now utilize computers to keep track of containers and their contents, for which longshoremen have been retrained as computer operators or data processors. It is foreseeable that longshore workers will continue to be reassigned to new tasks in order to develop necessary documentation and other work related to cargo movements. Like checkers and clerks, their presence is required shipside or elsewhere—even in office meetings—on the terminal premises, where longshore work is performed. Moreover, they must, at times, move about the facility in order to properly and accurately complete their own work.

The definition in the conference report assures coverage of all these employees. They are to be distinguished from those other employees of waterfront employers, such as office clerical, secretarial, security or data processing workers, who are not intimately concerned with the movement and processing of ocean cargo and who themselves are confined, physically and by function, to the administrative areas of the employer's operations. The report thus avoids continuing disagreements over job classifications being covered, by focusing on the substance and purpose of the work being performed as integral to overall longshore operations falling under Federal jurisdiction.

A very limited exemption is permitted to certain small facilities which are engaged in the building, repairing or dismantling of exclusively small vessels, as defined in the bill. No exemption is permitted for any worker engaged in work in such a yard if an employee is upon any adjoining pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels. These sites remain covered, and employees working at such a situs remain fully covered.

The intent of this amendment is to allow these smaller yards the opportunity to conduct nonmaritime fabrication work, which is essential to their economic viability given the limited amount of maritime work which is available to them. These small facilities cannot compete for nonmaritime fabrication work with noncovered employers. The intent of this provision is to permit the Secretary to certify that these small yards do, in fact, work only on small boats and barges and are therefore entitled to this limited exemption for employees not working at a covered situs in the yard.

THIRD-PARTY LIABILITY

Mr. Speaker, this legislation reverses a recent, and very harmful ruling by the U.S. Supreme Court in *Washing-*

ton Metropolitan Area Transit Authority v. *Johnson*, 104 S. Ct. 2827 (1984). This decision altered the proper rules governing contractor and subcontractor liability and immunity under the Longshore Act. The courts have uniformly held that immunity from common law negligence suits is the quid pro quo for the satisfaction of the employer's primary and mandatory duty to provide workers' compensation coverage.

The conferees feel that, in appearing to grant immunity to general contractors in the WMATA case, the Supreme Court disturbed the clear intent of Congress. Only when the contractor has secured compensation benefits for the subcontractor's employees because of a default on the part of the subcontractor-employer is the contractor acting as an employer and therefore entitled to immunity from third party suits.

S. 38 expressly disapproves the Supreme Court's decision in WMATA. A contractor will remain liable to suit by its subcontractors' employees in those instances where the subcontractor-employer has fulfilled its statutory obligation to secure compensation for its employees. A general contractor who institutes a wrap-up arrangement will remain amenable to suit by employees of his contractors, since under wrap-up it is the subcontractor-employees who are securing the compensation within the meaning of section 4(a). Therefore, the wrap-up insurance plan is recognized as a legitimate business tool, but does not confer immunity on the general contractor. As the statement of managers and the effective dates of the statute make clear, this policy is to apply to any case which has not reached final adjudication as of the date of enactment.

ANTIFRAUD, ABUSE PROVISIONS

One of the key goals of this legislation is to reduce unnecessary and unwarranted costs to employers and industries which are covered by the Longshore Act. S. 38 accomplishes these goals by establishing ceilings on the levels by which benefits may increase in any year, by placing a cap on compensation for disability and death. In addition, this legislation establishes very strict penalties for physicians, health care providers, and claimants' representatives who knowingly make false statements regarding services and claims.

These are key provisions of this bill. Support for the Longshore Act, and support for those who, because of their disabilities, need compensation and medical benefits, should never be misinterpreted as sanctioning misrepresentation, fraud, or abuse of the system. Neither should these enforcement provisons be viewed as licenses to torment or nitpick legitimate service providers, or claimants.

SPECIAL FUND

The conferees have agreed to make a significant reform in the special fund which assumes payment responsibility for workers who have suffered prior injuries, and other claimants. In the past, each employer's contribution to the fund has been based upon that employer's participation in the overall Longshore program. However, in the course of our subcommittee's investigation into the Longshore Act, we found that some employers have taken steps to assign hundreds, even thousands, of cases to the fund, knowing that no matter how many cases they assigned, their proportion of payments to the fund would not grow. In effect, they knew that they could pass along their costs to all other participants in the program.

The new formula in S. 38 bases an employer's assessment in part on his overall program participation, and half on his past utilization of the fund. This formula will, at once, dissuade the dumping of cases into the fund, and will more equitably apportion the responsibility of paying for the fund.

An additional change is that an employer who assigns a case to the fund will now continue as a party in interest after the fund assumes payment responsibility. In the past, this role was ineffectually played by the Deputy Commissioner. It is our intention that the employer have no greater or lesser responsibility in this new role than had the case remained solely that employer's responsibility. Moreover, as the statement notes, any action by an employer to reduce the benefits of a claimant in payment status runs the risk of a substantial penalty. I, therefore, expect that employers will not view this new status as an invitation to contest claims or to harass claimants, but rather as an extension of the existing right to periodically review claims and the status of claimants.

BENEFIT REVIEW BOARD

The conference report also revamps the Benefit Review Board, which is the appeals unit for processing claims under the Longshore and Black Lung Acts. Currently, there are only three BRB judges, a number wholly inadequate to process the number of appeals which reach the Board. According to information provided the conferees by the BRB, the current three-person Board is capable of processing about 1,800 cases each year. According to the Board, by the end of this month, there will be 6,745 cases pending, a backlog which would increase to nearly 8,000 cases by next October. The current backlog, assuming a three-judge Board, will take nearly 4 years to erase.

S. 38 expands the Board to nine members—five permanent judges, supplemented by four temporary administrative law judges [ALJ's] whom the Secretary is given the discretion to appoint for terms not to exceed 1 year. It is the clear intention of the conferees that the Secretary appoint the permanent members expeditiously, and that he also name the temporary judges quickly, so that we can eliminate the crushing backlog which is making a mockery of the Longshore Program. The conference report also permits the Board to sit in panels, in order to expedite the appeals process.

According to the Board, adding an additional six members will reduce the time needed to eliminate the backlog from 3.7 years to 1.6 years. It will also result in an improvement in attorney productivity. Clearly, a more efficient board serves the interests of employers and employees alike, and we certainly expect that the Secretary will not delay in appointing an appropriate number of judges and moving ahead to clear the backlog.

Mr. Speaker, there are numerous other provisions of this conference report which will have a meritorious effect on the operation of the Longshore Program, and will serve the best interests of employers and employees alike.

I am very grateful for the cooperation and support offered this legislation by all of my colleagues on the conference committee, which unanimously approved this report.

I am also pleased that associations representing shipyards, marinas, and other employers, insurance associations, and the AFL–CIO have enthusiastically endorsed this legislation.

After 4 years of work, the time has come to make this important legislation law. I urge my colleagues to suspend the rules and pass the conference report on S. 38.

Mr. Speaker, I reserve the balance of my time.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report.

This legislation marks the culmination of an extraordinarily difficult effort to amend the Longshoremen's and Harbor Workers' Compensation Act, probably the worst workers' compensation law in the country. It corrects manifold inequities and abuses stemming from Congress' hastily considered and ill-advised 1972 amendments.

Rarely, if ever, in my 28 years' experience as a legislator has the record of abuse and inequity been so voluminous, so overwhelming, and efforts to remedy these abuses and inequities been so often exasperating, frustrating, and protracted. The hearing record extends over 8 years, encompassing two House subcommittees, two

Senate committees, and seven volumes of testimony totaling 5,470 pages.

Today, Mr. Speaker, we write the final chapter to the dismal and destructive legacy of the 1972 amendments. Those amendments may have provided new protections to injured workers, but at an unacceptably high cost to employers and insurers and, thereby, further eroded the economic competitiveness of the maritime industry.

Today, unlike in 1972, when the amendments were crafted in the dead of night by Senate staff, the House has before it a balanced product, one which retains important and needed protections for injured workers and their families, tempered by added employer, insurer, and Labor Department controls which will assure workers' compensation benefits to those deserving of them while also affording the means to better control program costs and abuse.

I commend, first, the gentleman from California [Mr. MILLER] for agreeing on the need for changes and for persevering to the end. I also want to recognize the unflagging efforts of the Longshore Action Committee—the employer and insurer coalition of over 70 members which persisted, often in the face of adversity, and which has withstood the test of disappointment. That such a group could remain unified for so long, I believe, is a testament to the rightness of their cause.

I would be remiss, however, if I failed to mention the efforts of Senators NICKLES and HATCH, and their staffs, who in early 1981 began the process we complete today, and of former Deputy Under Secretary of Labor, Robert Collyer, and his staff, who focused a young administration on the necessity for revamping the act.

With enactment of these longshore amendments only the Federal Employees' Compensation Act [FECA] remains among the Department of Labor's so-called terrible trilogy of workers' compensation programs still untouched.

In 1981 Congress amended the Black Lung Benefits and Revenue Acts to address the burgeoning black lung disability trust fund deficit and made several cosmetic changes in entitlement. Much more needs to be done but, at least, a first, if faint-hearted, attempt has been made.

Today, Congress corrects the abysmal record of the 1972 Longshore Act Amendments. Next year, it should remedy the 1974 FECA amendments which have driven annual program costs to over $1 billion. The troubled FECA program has been a frequent subject of comment by the General Accounting Office and the Department's inspector general.

So, I would encourage the gentleman from California to move ahead.

The conference substitute embodies the core changes necessary to better guarantee the insurability of the act which has become virtually uninsurable since 1972. The annual adjustment in disability and death benefits is capped at 5 percent; death benefits are capped at twice the national average weekly wage, the same maximum applicable to disability benefits; survivor benefits where the employee dies of causes unrelated to his injury have been repealed; and the definition of "wages" has been amended to exclude fringe benefits, to prevent injured workers from realizing a premium on injury and severe cost and insurability problems for the maritime industry. This provision endorses the Supreme Court's so-called Hilyer decision and precludes the modification of any award, pre- or post-Hilyer, for recalculating benefits to include fringe benefits as "wages."

Importantly, as well, the substitute offsets longshore benefits for any other workers' compensation or Jones Act benefits concurrently received for the same injury. The conferees amended section 3(b) by substituting the words "to an employee" for "by an employer" in the phrase "any amounts paid by an employer for the same injury, disability, or death * * *." This change clarifies the conferees' intent that the scope of this section be read broadly.

The offset would, therefore, apply not only to instances where the employee received State workers' compensation, but also where he received benefits under the Federal Employees' Compensation Act, and where the employee's nonlongshore claim is against an employer other than the one against whom he has filed a longshore claim. Accordingly, the court's decision on this point in *Melson* v. *United Brands Corporation*, 594 F. 2d 1068 (5th Cir., 1979) is overruled.

The offset applies, as well, to cases paid by the special fund for any purpose for which the fund is authorized to make payment under the act.

The conference substitute tailors jurisdiction by excluding certain employer categories from coverage, including clerical workers and employees of camps, recreational operations—such as white-water rafting and scuba diving—museums, retail outlets, marinas, vendors, aquaculture operations, recreational vessel construction and repair of vessels under 65 feet long, and certain commercial barge fabrication operations.

The substitute also exempts clubs. The House report's limitation on this exemption to nonprofit clubs is expressly rejected (H. Rept. 98-570, p. 4). A club would be exempt as long as the purpose of the organization embodies a social, athletic, or sporting purpose.

The consensus among the conferees was to reaffirm the purposes of the 1972 jurisdictional changes, and in that light, the substitute narrowed its focus to certain fairly identifiable employers and employees who, although by circumstance happened to work on or adjacent to navigable waters, lack a sufficient nexus to maritime navigation and commerce. The conferees' attention was directed to specified activities which were singled out for criticism by numerous witnesses before House and Senate committees. Under this case-specific approach, the conferees have determined that certain activities do not merit coverage under the act and that the employees involved are more aptly covered under appropriate State compensation laws.

However, because of concern that injured employees could inadvertently fall between jurisdictional cracks in coverage, these exemptions are conditioned on an employee's coverage under the applicable State workers' compensation law. In this connection, the conferees intend that the phrase in section 2(a), "subject to coverage under a State workers' compensation law" be read only in a jurisdictional context. Although the conferees were concerned that an injured employee could be denied benefits because a State might not extend coverage to him, the conferees firmly reject any interpretation of this language which would permit an employee whose State claim for benefits is denied on nonjurisdictional grounds—such as his not being disabled within the terms of that act—to file a subsequent longshore claim and, therefore, enjoy a second bit of the compensation apple.

The small vessel exemption is available only to facilities engaged in the business of building, repairing, or dismantling exclusively a small vessel—as "small vessel" is defined in the exemption. Thus, a facility, in order to avail itself of the exemption, must, in its shipyard operations, be engaged in working on only small vessels. If such a facility engages in the construction, repair, or dismantling of a vessel larger, or of a type other than those defined in the provisions, those employees who would be subject to the exemption would be covered by the act during the period of activity on the nonqualifying vessel. Once the facility is again engaged in exclusively small vessel operations, the exemption would apply. The Secretary is expected to develop appropriate regulations consistent with this legislative intent to help effectuate this exemption.

Similarly, if a facility which normally engages in building, repairing, or dismantling recreational vessels under 65 feet long works on a nonqulaifying vessel, those employees at such facility would be covered by the act for the period of activity on the nonqualifying vessel. After such work is completed and the facility is again engaged in

work on only vessels under 65 feet long, the exemption would apply.

The conferees wish to distinguish the nature of the commerical vessel exemption from that provided to recreational vessels. The commerical vessel exemption is predicated on a certification by the Secretary that the facility is engaged in exempt work under the act; the recreational vessel exemption is not so conditioned and, therefore, would apply automatically according to its terms. Thus, although the commercial vessel exemption would not apply until a finding by the Secretary, the recreational vessel exemption would apply automatically, with jurisdiction determined on a case-by-case basis.

The conferees clearly intend, however, that the exemption for recreational vessels be enjoyed only by employers who as a general business practice work on vessels under 65 feet long. In permitting a case-by-case approach to jurisdiction, the conferees clearly do not intend, however, to allow facilities to work on nonqualifying recreational vessels on a regular basis, so that employees are subject to constantly shifting coverage. At the same time, the conferees foresee situations, such as an emergency, which could require an otherwise exempt employer to work on a vessel 65 feet or longer and do not intend that employer to lose the exemption forever under such circumstance.

As with the commercial vessel exemption, the conferees exepect the Secretary to develop regulations consistent with this intent.

In sum, by carving out these exclusion, the conferees stress what this amending process does not involve. It is the intention that these amendments not be interpreted to enlarge the present scope of the act's coverage. Nor is it the intention to include classes of employers not already subject to the act. Finally, in making only limited changes it is obvious that a large body of decisional law relative to traditional maritime employers and harbor workers remains undisturbed. The decision not to evaluate, endorse, or reject, explicitly or implicitly, the lower court and agency decisions in these areas was made deliberately in conjunction with the limited changes that are being made.

The conference substitute also gives the Secretary of Labor new authority to control fraud and abuse so well-documented by the Senate Permanent Subcommittee on Investigations in its report earlier this year on waterfront corruption (S. Rept. 98-369). The subcommittee found that the act "makes it too easy for longshoremen to feign or exaggerate injuries," citing one Brooklyn stevedoring company which saw its workers' compensation claims cost rise from $230,000 to $1.4 million in 2 years and that only with monthly $5,000 payoffs to ILA local president Anthony Scotto did costs return to a more reasonable level. Another company's workers' compensation claims put it out of business.

The report recommended the act be amended to restrict the employee's right to a free choice of physician by limiting the selection to a list of physicians authorized by the Secretary.

The bill achieves this purpose by requiring the Secretary to maintain a list of physicians not authorized to render medical care, by providing grounds and procedures for barring medical providers from program participation, and by placing new limits on an employee's ability to change physicians without employer approval.

Importantly, as well, listing and debarment authorities are extended to claimant representatives—attorneys as well as nonattorneys.

To further augment the Secretary's authority to control medical costs the bill envisions development of a medical fee schedule. The interpretation in the House report (H. Rept. 98-570, p. 13-14) barring the Secretary from use of fee schedules is, accordingly, expressly rejected.

The penalty for misrepresentation is raised from a misdemeanor to a felony, punishable by a maximum imprisonment for 5 years and a fine of $10,000.

Additionally, employers can require employees receiving compensation for permanent total or permanent partial disability benefits to submit semiannually a statement of any earnings. Failure or refusal to do so would result in forfeiture of all compensation for the period of noncompliance. The conferees emphasize that the Deputy Commissioner's discretion in cases where compensation has already been paid extends only to scheduling repayment by crediting future compensation and not to whether and in what amounts compensation is forfeited. Such compensation is always forfeited in its entirety.

Accordingly, the conferees expressly reject the interpretation contained in the House report (H. Rept. 98-570, p. 18) granting the Deputy Commissioner discretion in withholding future compensation and in such amounts as he deems appropriate.

The conference substitute makes several changes in the manner in which hearing loss claims are compensated. Hereafter, determinations of hearing loss will be grounded on a uniform external and professionally acceptable basis—the AMA Guides to the Evaluation of Permanent Impairment. Currently, there is no single formula by which hearing loss claims under the act can be evaluated; and deputy commissioners and administrative law judges are free to use whatever formula they desire. This has produced unpredictibility and nonuniform impairment determinations among the various compensation districts.

Moreover, difficulties in ascribing audiograms probative weight are resolved by according audiograms presumptive validity in most circumstances. The conferees emphasizes that the bill's requirement that audiograms be "administered" by certified audiologists or otolaryngologists should not be read literally. Rather the conferees expect the Department of Labor to take cognizance of the prevailing practice in administering audiograms. The conferees understand that often the tests are actually conducted by certified technicians. However, a certified audiologist, otolarynogologist, or physician must ultimately interpet and certify the results.

Accordingly, the conferees expect audiograms to be accorded presumptive validity where the results are certified by audiologists or otolaryngologists but actually administered by any other physician or technician certified by the Council of Accreditation in Occupational Hearing Conservation, or any other person deemed qualified by a hearing conservation program authorized pursuant to the Occupational Safety and Health Act.

By now according audiograms presumptive validity, the conferees also intend to render preenactment audiometric tests presumptively valid, where the employer has complied with the bill's procedures for administering audiograms.

The conference substitute is notable, as well, for the comprehensive manner in which it addresses the rapidly escalating liabilities of the special fund. In 1973 the annual assessment on employers and insurance carriers was $1.7 million, representing just over 5 percent of all workers' compensation payments. By 1982 the assessment had risen to over $30 million, representing 11.5 percent of workers' compensation payments.

As employers experienced the excessive costs of the 1972 amendments, many looked to the fund as a means of limiting their liability and, thereby, spreading their losses to other covered employers. The fund's caseload of 44 in 1977 had skyrocketed to about 1,200 in 1982. Moreover, the monthly rate of growth had climbed from 2 in 1977 to about 30 in 1982.

These distributing trends have not abated. The Labor Department recently sent assessment notices to employers and insurers asking for over $40 million for 1984, an assessment rate of over 12.5 percent.

Assuming a 6-percent growth rate, the Department estimates an annual assessment in 1992 of $113.3 million or a total industry burden over the intervening decade of over $632.6 million.

Employers' attempts to limit their liability have stretched interpretations

of the elements necessary for qualifying for special fund relief. Although the preexisting disability need not have been work-related, the nature of a qualifying preexisting disability has shifted to now include chronic obstructive pulmonary disease along with cigarette smoking, hypertension, alcoholism, arteriosclerosis, and obesity. Qualifying these maladies as preexisting injuries has permitted employers to gain fund relief for numerous back conditions, asbestos disease cases and strokes. This result is all the more astounding when considering that the original purpose of a special fund in workers' compensation was to encourage the hiring of the handicapped, at a time when State and Federal laws did not prohibit employment discrimination against the handicapped. Today, of course, there is a panoply of laws, led by the Rehabilitation Act, which prohibits such discrimination.

Because the Longshore Act covers disparate categories of maritime employment, the nature and extent of injuries vary with each industry. In addition, the Secretary has been unable to defend the fund from dubious claims and to monitor the existing caseload. Moreover, some employers have proven more adept than others in securing fund relief. Current law does not effectively penalize an employer for dumping dubious cases into the fund, because the Secretary's annual fund assessment formula does not account for an individual employer's use of the fund.

Thus a Labor Department survey of fund participation done at my request indicated that the 1982 assessment of the fund's largest user, having 149 cases, was over $1.1 million, while another company with only 16 cases in the fund paid an assessment of over $3 million.

These, then, are the reasons for excessive fund growth and for the misallocation of fund liability among employers subject to the act, not because some employers hire more handicapped workers than others, as one employer recently suggested.

Against this backdrop, the Senate bill and House amendment both increase the employer's retention period on section 8(f) cases beyond the current 2 years' compensation. The Senate bill, furthermore, provided for a conservation committee to defend the fund's assets.

The conferees adopt a comprehensive package whose goal is the same as, though differing in specifics from, the House and Senate provisions—holding down rising fund liabilities and granting employers greater control over fund cases.

The conferees decided to retain the current 104-week retention period. Increasing the retention period would have increased compensation costs across the board which, in turn, would have perhaps discouraged settlements and encouraged litigation. Additionally, in cases successfully prosecuted, the fund would be subject to additional liability.

In lieu of raising the retention period, however, the conferees adopt a new assessment formula for the fund, amending section 44(c), which would account for a individual employer's/insurance carrier's use of the fund.

The formula also corrects the inequitable misallocation of liabilities among employer and carriers, whereby a nonuser or an infrequent user of the fund may pay a disproportionally high assessment and a frequent user of the fund, a disproportionately low assessment. The impact of the formula change is indicated in the survey of self-insureds and carriers following my statement.

Although both the formula and increased retention periods would impose greater direct liability on an employer, the conferees view the dual-pronged thrust of the new formula as more equitably addressing the fund liability problem and better vindicating generic workers' compensation policy of expeditiously providing benefits to injured employees.

In lieu of a conservation committee, the conferees would effectively permit each employer to be its own conservator, by assuring its retention of authority over fund cases for the life of the claim, granting the employer party status in section 22 modification proceedings and applying these changes to current fund cases.

Third, the conferees would prohibit an uninsured employer or a carrier not authorized to write Longshore Act coverage in violation of section 32(a) from seeking special fund relief. To the extent an employer or carrier believes it in its competitive interest to avoid the insurability requirements of the act, it should not be able to avail itself of relief under the special fund. Such otherwise bona fide section 8(f) claims should be paid directly by the employer.

This restriction does not alter the employer's underlying obligation to pay compensation or the Secretary's right to seek relief under section 18(b).

Fourth, the conferees would authorize the Secretary to levy a $10,000 civil penalty against an employer/carrier who knowingly and willfully falsifies any report required by the Secretary. Although this provision covers any report so required, its genesis lies in allegations that some employers/carriers are understating their workers' compensation and medical costs as a means of lowering their special fund assessments.

The conferees would prohibit an employer/carrier, after reaching a settlement with a claimant in a case which would otherwise be assigned to the special fund, from subsequently seeking relief from the special fund. A settlement shall operate as a release from further liability as to the employer and carrier; and the fund is not liable for reimbursement of either the costs of the settlement or any voluntary payments by the employer prior to the settlement. This provision is intended specifically to overturn the administrative law judge's decision in *Brady* v. *Young & Company,* 16 BRBS 31 (ALJ), (1983).

The conference substitute, furthermore, addresses the enormous case backlog at the Benefits Review Board by increasing the Board's permanent membership to five and authorizing the Secretary to appoint up to four administrative law judges for temporary terms. The conferees are aware of the Secretary's recent use of administrative law judges as temporary members but consider the backlog sufficiently disturbing to augment the Secretary's existing authority to make such appointments.

Given the current backlog, I would urge the Secretary to promptly appoint the six additional judges and provide them with the necessary support staff. An adjudicatory delay of over 3 years serves no one's interest.

Mr. Speaker, the conference substitute also incorporates important protections to workers afflicted by occupational diseases. It codifies existing case law and practice by recognizing manifestation of disease as the event which establishes the time of injury for determining an employee's average weekly wage on which benefits are based, and which triggers the time periods for filing notice and a claim. The bill's inclusion of identical language in the time of injury, notice, and claim-filing sections articulating the manifestation concept should lend greater internal statutory consistency to the act.

The substitute, moreover, clarifies and refines retiree and retiree-survivor rights to occupational disease benefits. If the occupational disease manifests within 1 year of retirement, benefits are to be based on disability and calculated on the retiree's average weekly wage during the year immediately preceding retirement; benefits are subject to sections 10 (a), (b), and (c), or the schedule, as the case may be.

If the occupational disease manifests more than 1 year following retirement, the benefit is to be based on a percentage of the national average weekly wage at the time of injury—manifestation—predicated on the degree of impairment, determined by the AMA Guides to the Evaluation of Permanent Impairment, to the extent they evaluate the impairment.

The conferees believe that a benefit based on impairment rather than disability is more appropriate. It is difficult to measure a retired employee's lost wage-earning capacity in any

meaningful sense. Therefore, the conferees redefine "disability," in the cases of retirees, as a permanent impairment; and, for purposes of calculating benefits, classifies the condition as a permanent partial disability. Therefore, benefit calculations are treated as if the impairment were a permanent partial disability. Even if the impairment becomes so substantial that it might render a person permanently totally disabled under section 8(a) were he not retired, the amendment is not designed to permit this. Furthermore, while a retiree may seek an adjustment in benefits if his impairment increases, such benefits are not subject to annual escalation under section 10(f).

Regarding payment of death benefits, the conferees make no change in the rules governing payment of death benefits where the employee is receiving disability benefits prior to retirement. First, the claimant must prove that death was caused by the occupational disease under the established rules of burden of proof and medical evidence. Second, where eligibility is established, the benefit levels are subjected to section 9(e)(1), as amended.

Where the employee has retired, however, and whether or not he has received a postretirement benefit based on his occupational disease impairment, survivors' benefits are payable based on the lesser of the applicable percentage of the national average weekly wage at death or the decedent's average annual earnings in the year immediately proceding retirement.

In approving eligibility to death benefits in these circumstances the conferees interpret a claim for survivor benefits as separate and nonderivative of a claim for disability benefits. Therefore, a legal rationale denying death benefits because the retired employee had no wage-earning capacity is not supportable. In this connection, the conferees specifically reject the administrative law judge's holding in *Worrell* v. *Newport News Shipbuilding and Dry Dock Company*, 16 BRBS 216 (ALJ), (1983).

Finally, in establishing this new eligibility to death benefits, the conferees intend that the claimant still demonstrate with a reasonable medical certainty that the disease was occupational and caused death.

Mr. Speaker, the conference substitute does not include all I would have preferred. It is not a perfect product. Nevertheless, I firmly believe it to be a comprehensive and balanced compromise; and I urge my colleagues to vote "yes."

SUMMARY OF CONFERENCE SUBSTITUTE TO S. 38, SEPTEMBER 18, 1984

I. JURISDICTION

Exempted are:

(a) Office clerical, secretarial, security, or data processing workers;

(b) Club, camp, recreational operation, museum, and retail outlet employees;

(c) Marina employees not engaged in marina construction, replacement or expansion;

(d) Employees of vendors, transporters, and suppliers temporarily on a covered situs and not engaged in work normally done by the covered employer;

(e) Aquaculture employees;

(f) Individuals building, repairing, or dismantling any recreational vessel under 65 feet; and

(g) Employees employed at a facility who are building, repairing, or dismantling certain small commercial vessels, if the facility is used exclusively for work on such vessels, and unless such work is upon an adjoining area over land for launching, hauling, lifting, or drydocking vessels, or while upon navigable waters.

These exemptions are conditional on an individual's coverage, for jurisdictional purposes, under State workers' compensation laws.

II. INSURABILITY

(a) Defines wages as excluding fringe benefits;

(b) Repeals unrelated death benefits;

(c) Caps death benefits (200%/NAWW at time of death) and annual benefit escalator (maximum 5%);

(d) Offsets concurrent receipt of any other workers' compensation or Jones Act benefits.

III. THIRD-PARTY LIABILITY

(a) Limits shipbuilding employee's ability to circumvent exclusivity by suing employer on a dual capacity theory;

(b) Overturns Supreme Court decision in *WMATA* v. *Johnson* which held that a general contractor's securing of compensation under section 4(a) on behalf of a subcontractor extended third party tort immunity to the general contractor, as well;

(c) Exempts vessels on the Outer Continental Shelf from section 5(b)'s prohibition on indemnification;

(d) Clarifies when six-month period begins running for the purposes of employee assignment in third party cases by defining "award" as a formal order issued by the deputy commissioner, and provides for reversion of third party rights to employee after 90-day assignment to employer;

(e) Repeals employer's rights to 20% of any excess recovery, where the employer brings a thrid party action on the employee's behalf;

(f) Clarifies priority of distribution of third party awards where the employee brings the action, adopting current law with respect to the priority but permitting a judge to consider reasonableness of attorney fees.

IV. MEDICAL SERVICES

(a) Requires the Secretary to maintain a list of physicians not qualified to render medical care and prohibits reimbursement to any employee for use of a disqualified physician;

(b) Authorizes the Secretary to debar medical providers for at least three years, following hearing, for fraud, misrepresentation, excessive charges or treatment, or exclusion from any other State or Federal program;

(c) Authorizes the Secretary to order changes of physicians where either the charges exceed those prevaling in the community or exceed those customarily charged by that physician;

(d) Retains employee's requirement to request medical treatment from employer and ten-day limitation on physician submission of medical reports;

(e) Prevents employee from changing physicians without employer/carrier or deputy commission consent, where the employee's initial choice was specialist; and

(f) Permits employee good faith reliance on prayer or spiritual means without loss of benefits;

V. OCCUPATIONAL DISEASE

(a) Incorporates discovery-based rule for notice, claim-filing, and time of injury purposes;

(b) Authorizes (and refines right to) benefits for retirees by basing entitlement on permanent physical impairment (determined in accordance with the AMA Guides to the Evaluation of Permanent Impairment) and benefits on the NAWW at the time of discovery. Death benefits provided based on the lesser of the applicable percentage of the NAWW at time of death or average annual earnings during year prior to retirement;

(c) Lengthens the notice-filing period to one year and the claim-filing period to two years.

VI. HEARING LOSS CLAIMS

(a) Clarifies probative value of audiograms by lending them presumptive validity where performed by certified audiologists or otolaryngolists;

(b) Clarifies when statute of limitations begins running (when the employee is given a copy of the audiogram);

(c) Requires determinations of hearing loss to be in accordance with the AMA Guides to the Evaluation of Permanent Impairment;

(d) Provides in special fund cases that the employer will be directly liable of the degree of hearing loss for which he is responsible or 104 weeks, whichever is less.

VII. SPECIAL FUND

(a) Retains employer's retention period in current law (two years);

(b) Authorizes employer to retain party status over claim after special fund begins payment;

(c) Requires employers to raise special fund liability issue before deputy commissioner issues order, subject to good faith excuse;

(d) Prohibits unauthorized insurer of self-insurer from obtaining special fund relief;

(e) Precludes special fund liability for reimbursement of settlements or voluntary payments made prior to settlement;

(f) Amends assessment formula to account for an employer/carrier's use of the fund;

(g) Grants lien in favor of special fund on any third party award, subject to priority of lien by a labor-management trust fund.

VIII. SETTLEMENT

(a) Provides means to expedite settlements where parties are represented by counsel and requires deputy commissioner to state grounds for disapproval of a settlement;

(b) Clarifies finality of settlements, as against the employer/carrier and the special fund, and specifically bars reopening of a settled case by a petition for modification of award;

(c) Permits settlement of death and future medical benefits;

(d) Terminates employer's liability for compensation for employee's failure to

secure employer's approval of a third party settlement or to notify employer of same.

IX. CLAIMS REPRESENTATIVES

(a) Requires the Secretary to maintain a list of claimant representatives not authorized to represent claimants under the Act;

(b) Authorizes the Secretary to debar claimant representatives for fraud, accepting fees not approved by the Secretary, or for debarment by another workers' compensation agency.

X. PENALTIES

(a) Increases penalty for misrepresentation from misdemeanor to a felony (5 years/$10,000);

(b) Imposes penalty (5 years/$10,000) for fraudulently attempting to reduce or terminate an employee's or dependent's benefits;

(c) Increases penalty for failure to secure compensation from $1,000 to $10,000;

(d) Imposes civil penalty of $10,000 on employers/carriers for refusal or failure to send reports required by the Secretary or for submitting falsified or misrepresented data in same;

(e) Permits employer to require injured employee to submit semi-annual wage statements; failure or refusal to comply results in forfeiture of compensation for period of non-compliance.

XI. BENEFITS REVIEW BOARD

(a) Increases permanent membership from three to five and authorizes the Secretary to appoint up to four ALJ's, as temporary members, for terms up to one year;

(b) Authorizes the Board to sit in panels of three, with discretionary authority for review by the permanent members of the Board.

XII. LABOR-MANAGEMENT TRUST FUND LIENS

Converts Secretary's discretionary lien on compensation in favor of trust funds to mandatory lien and extends lien to third party recoveries.

XIII. REPEALS

Repeals obsolete provisions (sections 45, 46, and 47).

EFFECTIVE DATES

I. EFFECTIVE ON ENACTMENT, AS TO CLAIMS FILED AFTER ENACTMENT AND TO CLAIMS PENDING ON ENACTMENT

(a) New definition of disability (§ 2(b));

(b) Offset for other workers' compensation or Jones Act benefit (§ 3(b));

(c) Overturning WMATA case (§ 4);

(d) Hearing loss claims (audiograms and AMA Guides (§ 8(a));

(e) Occupational disease retiree entitlement (8(c));

(f) Occupational disease retiree time of injury determination (§ 10(a));

(g) Notice in occupational disease cases (§ 11(a));

(h) Time for filing claim in an occupational disease case (§ 12);

(i) Hearing loss claims subject to special fund relief (§ 8(e)(1));

(j) Special fund bar for unauthorized insurers (§ 8(e)(2));

(k) Labor-management trust fund liens (§ 14);

(l) Third party liability (rules on assignments, deletion of employer-retained one-fifth of excess recovery under § 33(e), reasonableness of attorney fees under § 33(f), notice to employer or third party settlements and judgments under § 33(g), and labor-management trust fund liens under § 33(d) (§ 21).

II. EFFECTIVE 90 DAYS AFTER ENACTMENT, AS TO CLAIMS FILED AFTER SUCH DATE AND PENDING ON SUCH DATE

(a) Additional authority for Secretary to order a change in physicians (§ 7(a));

(b) Healing by spiritual means (§ 7(e));

(c) Expedited settlement procedures (§ 8(f));

(d) Designation by employer of agents to whom employee must give notice of injury (§ 11(b), (c) and § 13).

III. EFFECTIVE AS TO INJURIES AFTER ENACTMENT

(a) Jurisdictional exemptions (§ 2(a));

(b) Commercial barge fabrication exemption (§ 3(a));

(c) Limitations on dual capacity liability and OCS indemnification (§ 5);

(d) Increase in facial disfigurement allowance (§ 8(b)).

IV. EFFECTIVE AS TO DEATHS AFTER ENACTMENT

(a) 200% cap on death benefits (§ 6(a));

(b) Repeal of unrelated death benefits in permanent partial disability cases (§ 8(d));

(c) Repeal of unrelated death benefits in permanent total disability cases, and increase in funeral allowance (§ 9).

V. EFFECTIVE ON ENACTMENT

(a) Definition of wages as excluding fringe benefits (§ 2(c));

(b) Employer control of special fund cases (§ 8(e)(4));

(c) Employer requirement to raise special fund issue before deputy commissioner (applicable to requests for apportionment of liability after enactment) (§ 8(e)(5));

(d) Precluding special fund liability for settlements (§ 8(g));

(e) Five percent cap on annual benefit escalator (§ 10(b));

(f) Expansion of Benefits Review Board (§ 15);

(g) Conforming changes to § 22's petitions for modification provision, granting employer party status over special fund cases and clarifying that settlements are not subject to modifications (§ 16);

(h) Reincorporating § 28(e)'s provision of fees for services (§ 17);

(i) Employer reports, report penalties (§ 18);

(j) Penalties for misrepresentation, authorizing Secretary to develop list of disqualified claimant representatives, debarment authority, penalty for false statements intended to reduce or eliminate benefits (§ 19);

(k) Self-insurance requirements (§ 20);

(l) Increased penalty for failure to secure compensation (§ 22);

(m) Annual report (§ 23);

(n) Special fund assessment formula (§ 24);

(o) Repeals (§ 25);

(p) Discharge for filing a false claim (§ 26);

(q) Conforming amendments (§ 27).

VI. EFFECTIVE 90 DAYS AFTER ENACTMENT

(a) Secretary's authority to develop list of disqualified physicians and to debar such physicians; restriction on employee's right to change physicians, and reincorporating current law on employee's obligation to request medical treatment from the employer and physician's obligation to provide employer with medical reports in 10 days (§ 7 (b), (c), (d));

(b) Obligation of employee to submit wage statements to employer (§ 8(h));

VII. EFFECTIVE AS TO ANY INJURY, DISABILITY, OR DEATH AFTER ENACTMENT

Change in benefits for employees of Non-Appropriated Fund Instrumentalities (§ 6(b)).

SURVEY OF SELF-INSUREDS AND CARRIERS

				Percent
Shipbuilders:				
A	Up		$48,391	(81.1)
B	Down		165,381	(43.6)
C	Up		126,086	(14.5)
D	Up		106,180	(4.8)
E	Down		6,648	(3.2)
F	Down		25,524	(9.1)
G	Down		112,326	(30.1)
H	Up		1,118,847	(122.8)
Insurance carriers:				
A	Up		424,136	(60.3)
B	Up		204,085	(84.9)
C	Down		434,014	(43.4)
D	Down		83,162	(6.4)
E	Up		43,380	(5.8)
F	Down		322,755	(41.6)
G	Down		195,431	(10.7)
H	Up		474,685	(160.0)
I	Down		693,452	(42.9)
J	Up		424,622	(68.3)
Stevedores:				
A	Up		28,557	(6.9)
B	Down		30,525	(14.8)

□ 1640

Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and agree to the conference report on the Senate bill, S. 38.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Intergovernmental Relations and Human Resources of the Committee on Government Operations be permitted to sit tomorrow during the 5-minute rule.

The minority has cleared this and has agreed to it.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5290, COMPASSIONATE PAIN RELIEF ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 508 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 508

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5290) to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Comittee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, in accordance with the usual rule, I yield 30 minutes to my distinguished friend from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 508 provides for the consideration of H.R. 5290, the Compassionate Pain Relief Act. The resolution provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

This is an open rule allowing consideration of any germane amendment under the 5-minute rule. There are no waivers or points or order contained in the rule.

Finally, the resolution provides for a single motion to recommit.

Mr. Speaker, H.R. 5290 legalizes the administration of heroin by a physician for the relief of intractable pain in terminally ill cancer patients. The bill limits the program to 4 years and provides for a number of safeguards designed to insure both that there would be no diversion of heroin to illegal use and that no heroin would be administered to a patient who is not terminally ill and enduring severe pain.

Legalization of the medical use of heroin for the limited purposes that I have described is a necessary and humane step because the drug is well known to be one of the most powerful pain relievers available.

In addition, the risk of diversion of heroin to illegal use is small since the substance would be stored in hospital pharmacies rather than in retail pharmacies in which over 95 percent of the drug thefts occur.

Passage of this legislation will at least allow those cancer patients, for whom we cannot provide a cure, to die in comfort and dignity.

I urge my colleagues to begin consideration of H.R. 5290 by promptly adopting the rule before us.

Mr. Speaker, I assigned myself this rule in the Rules Committee because I felt very keenly about this subject.

Let me just give you two illustrations of my interest. On one occasion there was a man in Orlando, FL, one of the noblest men I have ever known, one of the dearest friends I ever had, who was advised that he had cancer of the liver.

I went to see him, to pay my respects, and to extend my prayerful affection to him.

□ 1650

Before I left him, he said, "Well, I have had a long and happy life. I have a wonderful family. I am ready to go if it just weren't for that terrible pain they tell me that accompanies the end of one's life which is taken by cancer."

And then a while later I received one day at the hospital the terrible news that my own wife had cancer in the body. She lived a year and a half from that time. Toward the latter part of her illness her pain became almost insufferable. The doctors concocted the strongest potion that they could make to try to kill that pain. I think it had laudanum and whatever the substances are that are the principal painkillers. The doctors had concocted that medicine in the hope that it would be as effective as possible in stilling the terrible pain that wracked her body. I remember time after time she could tell the pain was beginning to approach and she would almost cry out at the beginning of it, and we had to wait, tell her that we would give her this drug that had been prepared by the doctor—it was the best they had—and it would take about half an hour after she took that painkiller before it began to give her a measure of relief.

Since my dear wife passed away, I have been told by a lady who was a friend of hers, who had a room in the same hospital, separated only by a wall from that of my wife, that night after night, in the last stages of my wife's suffering, all night long she would hear my wife moaning with the pain that she was enduring.

Anybody who has had to observe a loved one go through such agony cries out for whatever will do any good to alleviate that terrible pain which gets worse toward the end, until they finally, as usual, fall into a coma and become unconscious.

Now, I know there are certain risks that the drug might be obtained by somebody and illegally used. Those risks, it seems to me, can be protected against by careful scrutiny on the part of the hospital. Remember that it will be a doctor who will administer this heroin and, of course, if there is something better and he does not have to resort to this, why, all right. All this does is give the doctor the option to use heroin in case he finds it necessary.

Now, they tell me there is a new drug. If there is, fine. But I would still want to make possible this one which seems to be accepted by all as probably the most effective painkiller that we now have. Remember, this bill applies only to those who are terminally ill. We are not talking about a child, a young person, a middle-aged person who might be addicted to the taking of heroin by these shots. We are talking about a patient found by the doctor to be terminally ill. Her addiction is not going to be too objectionable.

I want to commend this bill to the consideration of the House. I hope you will give this option to the doctor. He does not have to give it unless he feels it is the only thing left or that it is the best painkiller there is available. But if there is one like this heroin available to the people who are terminally ill, I do not think we ought to deny it to those people. And that is what this bill does. So I hope the House will adopt this rule and allow the consideration of the bill that will authorize, if adopted by the House and the Senate and approved by the President, the use of this drug. There are over 400,000 people a year in our country who die from cancer, so there are a lot of people affected by what we do on this measure. I hope we can offer them a little hope of less anguish and less agony in the dying days that they suffer from this terrible disease, cancer.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for those of my colleagues who thought that a straight, open rule was as extinct as the dodo, I'm proud to announce that we have one of those rare birds before us today in the form of House Resolution 508—a rule making in order consideration of the bill, H.R. 5290, the Compassionate Pain Relief Act.

Yes, we actually have a rule today which contains no waivers, or special provisions or restrictions. I don't want to crow too much about this rare bird, for fear of frightening it away. But, let's hope now that we have it in captivity, it will be fruitful and multiply. It sure makes our job a lot easier in

explaining the rules we report to our colleagues.

Mr. Speaker, House Resolution 508 provides for 1 hour of general debate on H.R. 5290, to be divided between the chairman and ranking minority member of the Committee on Energy and Commerce, The bill will then be considered for amendment under the 5-minute rule. And, finally, the rule provides for the traditional motion to recommit.

Mr. Speaker, despite the fact that this is a clean, open rule, it was reported from the Rules Committee on a 6 to 3 record vote because the bill itself is not without controversy. The Committee on Energy and Commerce reported the bill by voice vote, but several Members did include strong dissenting views in the report.

Mr. Speaker, under the terms of the Compassionate Pain Relief Act, the Secretary of Health and Human Services would be required to establish a temporary program through which heroin will be made available for the treatment of terminally ill cancer patients suffering intractable pain. The drug would be provided by the Secretary through a limited number of hospital or hospice pharmacies, upon the written prescription of licensed physicians. Activities under the program would be monitored by the GAO, and the Secretary is granted broad authority to prescribe safeguards to discourage the drug's diversion.

By way of background, Mr. Speaker, on June 7, 1924, the Congress enacted a law which banned the use of heroin by physicians. This bill would thus modify that current ban on the use of heroin.

The administration has stated its strong opposition to this legislation based on three grounds: first, it asserts that more potent drugs are currently available for pain management and therefore the use of heroin is unnecessary; second, the administration claims that the introduction of heroin poses a serious threat that the drug will be diverted to illicit uses; and third, it is argued that the bill would waive current statutory requirements that the safety and efficacy of drugs be demonstrated before they can be used.

Finally, I should point out that opposition to this bill has been expressed by the chairman, ranking Republican and 10 other members of the House Select Committee on Narcotics Abuse and Control on grounds that it is unnecessary from a medical standpoint and unwise from a public policy standpoint.

Despite the controversy and opposition surrounding this bill, I do think it deserves the full consideration of the House, and I therefore urge adoption of this rule so that the bill can be debated.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I am not opposed to the rule, but I am certainly opposed to the bill. I am just saying that I think it is a matter that should be debated in this House, and for that reason I am not opposing the rule. But I just want to put this body on notice that the American Medical Association, the Department of Justice, the FBI, the Drug Enforcement Administration, hospital workers, pharmacists, and everyone is saying that we do not need to legalize heroin for the limited number of terminally ill patients that we have in this country, and certainly the doctors agree that they do have enough medicines that are currently available. I do hope that when we finally get involved in the debate on this bill that the Members would see the tremendous opposition around this country for opening the door to legalizing heroin.

I also would like to say that many of us in this House have gone around the country explaining to heads of state that are involved in illicit growing of opium that we do not have any legalized heroin in the United States and, of course, this would mean that in our negotiations with these countries that by opening the door so that there is a licit market for heroin in the United States we would no longer be able to tell these heads of state that we oppose the eradication of opium in their country because they can valiantly say they are trying to seek a market for their wares here in the United States legally.

So, Mr. Speaker, I thank the chairman for yielding to me, but I certainly hope that when we listen to the other side of the argument, the depth of the opposition, that we might see what limited benefit could be received, that we really would be opening up Pandora's box if we start legalizing heroin at this point.

□ 1700

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say in the first place that this bill is sponsored by 32 Members of the House. In the second place, it was reported favorably by the Committee on Energy and Commerce, and from the Subcommittee on Health, chaired by the gentleman from California [Mr. WAXMAN].

In the third place, I see no reason for anybody's objection to this bill except that it might make heroin available to somebody who might make illicit use of it. It seems to me that there is such a limited number of patients who would be eligible for the receipt of it, that there ought not be any appreciable danger of the distribution and spread of the drug heroin on that account.

The doctor will have the responsibility for getting it from a source which has the responsibility of keeping the amount of heroin that would be necessary to give to a patient to try to alleviate anguish and pain that that patient might have in the closing days of a terminal illness by cancer.

So, as compared to what it means to those people to have something to give them some relief from that agony, to weigh that in the balance with some possible risk of some diversion of that drug to an illegal purpose, I think the overwhelming weight of wisdom should be in behalf of giving that release from that terrible pain to the people who are terminally ill.

Those are the merits of the bill to be considered when the matter comes on the floor. Mr. Speaker, I have no further requests for time.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. I thank the gentleman for yielding me this time.

Mr. Speaker, today we are discussing a sober subject indeed. It is easy to sound trite when the backdrop to the debate is the unimaginable suffering of thousands in the grip of the No. 2 killer of our time. At the turn of the century, most people did not live long enough to die from cancer. Today the trend is clear. Even with continued success in improving the diagnosis and treatment of cancers, the nominal number of Americans who will suffer from terminal manifestations of this disease will continue to expand at a shocking rate. And with this trend comes the imponderable pain that the bill before us hopes to assuage.

I support making heroin available for terminal cancer patients. There is no doubt about the analgesic virtues of this drug. There is no doubt that its high solubility can make pain relief itself less painful for some patients. As important, however, this drug alone can make the end of life less painful while also allowing meaningful, conscious interchange between patients and families. Instead of dying in a hazy, semiconsciousness a patient can live out his or her days relatively aware and articulate, yet largely free of pain.

I have read countless "Dear Colleagues" and other documents expressing sensitivity to this bill's goals but claiming that the measure's adverse consequences vitiate any value. Somehow, and I cannot tell you now, these opponents have concluded that this bill will perpetuate heroin abuse and that medical heroin will fuel the illicit market. They hide behind the recent approval of the drug dilaudid, claiming this new and effective pain killer renders heroin and this bill unneeded.

I believe this is nonsense. Let me tell you why. To promote dilaudid over

heroin is to promote a new, abusable drug open to diversion over an old, widely available, abusable drug. Let me quote from the "Narcotics Intelligence Estimate—1983" published recently by the National Narcotics Intelligence Consumer Committee [NNICC]: "The use of pharmaceutical substitutes for heroin remained relatively stable, although there was a slight shift in preference from talwin to other narcotics such as Dilaudid, subject to their availability." For 1984, the NNICC anticipates that former talwin users, and I quote, "will continue to switch to other injectable narcotics, such as dilaudid, subject to its limited availability, or to intravenous heroin use." The NNICC also indicates that heroin availability and use are expected to remain relatively stable in 1984. In 1983, 4.1 metric tons of heroin were consumed in the United States and the street price remained steady.

In short, heroin is widely available in the United States and this is not expected to change. Concurrently, the illicit use of much ballyhooed dilaudid is expected to rise due to the reformulation of talwin. So who are we fooling if we say this bill should be defeated to prevent medical heroin from being diverted? Criminals may just as well divert dilaudid as heroin. There are, unfortunately, many medical drugs that are subject to diversion and abuse. This should not dissuade us from making the most effective drugs available to those who need them.

Let me make one last, important point. I appreciate the concerns of the pharmacists who must run the risks associated with stocking abusable drugs. We must remember, however, that there are numerous drugs already in these pharmacies, including dilaudid, that are used illegally and which are the targets of pharmacy crime. Government must protect those who legally distribute medical drugs through laws and law enforcement. Nonetheless if heroin can help—and I am convinced it can—it should be made available despite its stigma. The risk of heroin diversion must be faced just as we face this risk with other dangerous, illicitly used drugs that happen to be legally available as medicine. Robbing pharmacies should be against the law, not the appropriate medical use of a drug. Let's take the counsel of the American Nurses Association and enact this program.

I would like to talk about this bill because I think we are forgetting several things. Mr. Speaker, two of my former colleagues and my nearest and dearest friends from Connecticut, Ella Grasso, first a Congresswoman and then Governor, and then William Carter, Billy, both died of severe internal cancer. Both suffered enormous pain.

Talking about this issue is not something that, well you can sound pretty trite if you get into a background of hundreds of thousands of people dying in pain. I have never understood how a drug, which is supplied, it is estimated by the DEA and others, to the point of 4.3 metric tons per year in the United States, illegally, cannot be made available to those people who are dying of terminal cancer and in great pain and agony.

Are we simply saying that we are not going to allow them to have this because it is going to cause some pain and strain in the pharmacies of our hospitals and hospices? Those pharmacies are cornucopias of junk that will boggle your mind and screw up your brain and eventually kill you. Because of that, we are not going to let a cancer patient have it?

Are we turning around to the families of cancer patients and saying, "Sorry families, you cannot communicate with your dying family member because we are going to burn their brains with the concoctions we now use? The Feds give me a wonderful story about dilaudid or whatever it is called, they say, oh this is wonderful, sure it is wonderful; it is another mind-bending drug. Is it going to be any less dangerous on the street?

Are any of us, in this wonderful sort of emotional argument remembering where heroin came from? Hey, we found it because we turned around and said morphine is terrible in World War I; look what we did to our soldiers with morphine. So we invented heroin. Then we invented something to take care of heroin addicts; did we not? We know what that has done. That is misused.

There is no substance in the world that is going to affect man's mind from booze on up that man is not going to abuse. What we are talking about here is the United States of America coming into the 21st century of compassion. Almost every other country in the world allows the use of heroin. We are talking about people who are dead, but their time just simply has not come yet.

We are talking about people that can either communicate and have a sense of life in a hospice or a hospital, or that we can turn into medical vegetables and just keep them alive until we unplug the plug in enormous pain and agony.

You know, we are not legitimatizing heroin any more than in another bill which is the therapeutic use of marijuana for the effects of chemotherapy and radiation. Bill Carter, our friend from Hartford, signed himself out of a Hartford hospital and went home to die because the alternative, in his particular physical makeup of chemotherapy, was worse than dying.

Ladies and gentlemen of the House, heroin is a tragedy for the whole human race. The illegal traffic is a tragedy. It destroys lives, it kills people in our cities, and it takes our youth and turns them into nothingness, but it is there and we will never get rid of it. It seems to me that we owe to those people who have this terrible disease, to the 300,000 or 400,000 that will die in pain and agony, that we owe them the availability of the prescriptive, prescribed, medically protected, pure heroin that will mean their last days have some meaning for both themselves, their children, and their family.

There is nothing more degrading of a loving relationship, having been through it myself, than seeing someone you love turned into a screaming vegetable in front of your very eyes. I suggest that we support the rule and the bill.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. SAWYER].

Mr. SAWYER. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise, as did a prior speaker, not in opposition to the rule, because I am delighted to see this come to the floor by a rule, and an open rule at that, but I want to express my total opposition to the bill.

I happen to be the ranking Republican on the Crime Subcommittee of Judiciary with primary legislative jurisdiction over the question of illegal drugs. CHARLEY RANGEL from New York is chairman of the Select Committee on Narcotics, and I know of no one involved actively in those committees that favors this bill.

I have gotten communications from the American Medical Association to the point that this is totally unnecessary and that there are more potent pain killers on the market and available to the medical profession right now than heroin.

□ 1710

Among them, dilaudid, but a number of others, also. And that they see no excuse for opening up the potential diversion problem that we just dealt with this afternoon in another piece of legislation because of the tremendous flood of so-called legal drugs or legitimate drugs that are being diverted to the illicit market to the point where 60 percent of the people coming into hospital emergency rooms for care are doing it not from the imported drugs now but from the licit drugs that have been diverted into the illicit market.

And some drugs like dilaudid that is available legally and which is already causing a problem, sells for about 25 cents a pill legitimately on prescription but brings $40 to $60 per pill on the street, and that is the kind of market we are adding to or hoping to add to with this bill.

Not only is the medical association opposed on the ground that—and they are very frankly saying what is needed

is an additional analgesic drug, but additional education of doctors on how to cope with pain and that they tend, because of their fear of addiction, to give too little too late to terminal cases and that if they would use them correctly, the drugs dilaudid and others, are superior to heroin for that purpose and we do not open the floodgate to more diversion potential in a market that is already ruining great segments of our Nation all over.

Now, also I noticed that Chairman RANGEL had mentioned the problem with other nations and that is really serious. I was together with the gentleman from New York and his committee, and we visited with people in Peru and Bolivia and in Colombia, trying to sell the idea that aerial spray is the only way they could eradicate their marijuana crops and what do we get? We get the question that what you are trying to do by getting us to use spray in your marijuana growers want to monopolize the American market.

Well, I can see very well if we start legitimizing and creating a legitimate market here for heroin, we will have exactly that contention here from southeast Asia and southwest Asia and Mexico where opium is grown plentifully if we do not stop it at the source where we have been fighting the battle.

And incidentally the Justice Department and all law enforcement organizations that I am in contact with in my role as ranking Republican on the Crime Subcommittee, and that is just about all of them, are dedicated against us and terrified of it.

And taking in the combination, it is lack of necessity in the availability of better analgesics on the market now including dilaudid, which is also a dangerous street drug, and the fact that the law enforcement authorities and the Justice Department are dedicated against it, I just hope we resoundingly vote down this bill.

I think we are opening a very dangerous Pandora's box.

Mr. Speaker, I yield back the balance of my time.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, may I just add this. Namely, I do not know just how the Government would derive the heroin that would be used for this purpose. Perhaps the gentleman from California [Mr. WAXMAN] who has just come into the Chamber, would be able to enlighten us on that, but there is plenty of heroin that comes into the country for illegal purposes.

I see no reason why a part of that might not be properly allocated to proper authorities so that it might be used to alleviate the agony of those who are dying.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, that is exactly how the heroin would be supplied. It would be from heroin that has been confiscated. I am sorry I missed some of the debate on this but I am sure we will get into these issues again on the general debate, but the essential question we had with this legislation is whether we are going to withhold from someone who is dying from cancer; this is limited to a terminal cancer patient who has not been satisfactorily treated by all the other drugs that are on the market and available now.

There are differences with individuals on how certain drugs will alleviate pain and if a doctor decides that for that patient that heroin would be the most effective pain killer, how can we, in good conscience, withhold the relief from that kind of agony that that individual is going through.

Mr. PEPPER. I thank the able gentleman.

Mr. BROYHILL. Mr. Speaker, would the gentleman yield so that I could correct the record?

I understand that the gentleman was saying that the bill as written would require the Secretary to utilize those illicit drugs which are captured on the street. Well, I do not think that the bill says that.

Mr. WAXMAN. Mr. Speaker, if the gentleman would yield to me, I can clarify this. There will be an amendment offered by the gentleman from New Jersey [Mr. HUGHES] that will spell that out.

I will further indicate that there will have to be a review of a physician's decision by his or her peers to determine whether heroin should be administered. These things will be spelled out. We are trying to tighten and narrow the bill as much as possible to avoid the potential diversion of heroin to anything other than the purposes that we seek to use it for in this legislation.

Mr. BROYHILL. Will the gentleman yield to me?

Mr. Speaker, the gentleman then is not describing the bill. He is describing an amendment, and I would like to say since he has already indicated his support for the amendment, this Member says that that amendment makes a bad bill worse and so we will be fighting that amendment. It is a bad amendment. It is a bad bill.

I am not going to oppose the rule, Mr. Speaker, but I am going to fight very hard against this amendment. I think the gentleman from New York [Mr. RANGEL] is absolutely correct. This is a bad bill and should be defeated.

Mr. WAXMAN. If the gentleman will yield for one last point.

Mr. PEPPER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I understand and respect the fact that there are strong opponents to this legislation and people feel strongly about it because of the fear of diversion.

But if every bit of heroin that would be made available to dying cancer patients were diverted to the illicit traffic, it would be less than 2 percent. I am not suggesting that we would want the result, but we are talking about a little, small portion and what it will mean in reality is the people in the streets can get the heroin and we ought to stop that as best we can, but this is not a significant factor that is going to add to that illicit traffic that exists today.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, September 17, and then on the motions postponed earlier today and in the order which that motion was entertained.

The votes will be taken in the following order:

H.R. 1511, de novo;

H.R. 3336, by the yeas and nays;

H.R. 5656, by the yeas and nays; and

H.R. 5959, also by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

COMMON CARRIERS BY WATER IN FOREIGN COMMERCE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1511, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. BIAGGI] that the House suspend the rules and pass the bill, H.R. 1511, as amended.

The question was taken.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 188, nays 209, not voting 35, as follows:

[Roll No. 393]

YEAS—188

Ackerman	Gray	Pritchard
Addabbo	Green	Quillen
Akaka	Hall (IN)	Rahall
Anderson	Hall (OH)	Rangel
Andrews (NC)	Harrison	Regula
Annunzio	Hawkins	Richardson
Applegate	Hayes	Ridge
Barnes	Hefner	Rinaldo
Bateman	Horton	Roe
Bates	Howard	Roemer
Bennett	Hoyer	Rogers
Berman	Hughes	Rose
Biaggi	Hutto	Rostenkowski
Boehlert	Jones (NC)	Roukema
Boner	Kennelly	Rowland
Bonker	Kleczka	Roybal
Borski	Kolter	Russo
Boxer	Kostmayer	Sabo
Breaux	Lantos	Savage
Britt	Leland	Scheuer
Brooks	Lent	Schneider
Brown (CA)	Levine	Schroeder
Bryant	Levitas	Schumer
Burton (CA)	Lipinski	Shuster
Byron	Livingston	Sikorski
Carney	Lloyd	Sisisky
Carper	Long (LA)	Smith (FL)
Clinger	Long (MD)	Smith (NJ)
Coelho	Lott	Smith, Robert
Coleman (TX)	Lowry (WA)	Snowe
Conte	Lundine	Snyder
Conyers	Martinez	Solarz
Cooper	Matsui	Solomon
Coughlin	Mavroules	St Germain
Courter	McHugh	Staggers
Coyne	McKernan	Stark
Dellums	McKinney	Stokes
Dicks	Mikulski	Stratton
Dixon	Miller (CA)	Sundquist
Downey	Mineta	Swift
Dwyer	Minish	Tallon
Dymally	Mitchell	Tauzin
Dyson	Molinari	Taylor
Eckart	Mollohan	Thomas (GA)
Edgar	Moore	Torres
Edwards (AL)	Morrison (CT)	Torricelli
Edwards (CA)	Mrazek	Towns
Evans (IL)	Murphy	Vento
Fascell	Murtha	Walgren
Fazio	Neal	Waxman
Fields	Nelson	Weiss
Fish	Nowak	Wheat
Florio	O'Brien	Whitehurst
Foley	Oakar	Williams (MT)
Ford (TN)	Oberstar	Wilson
Frank	Ortiz	Wirth
Frost	Ottinger	Wise
Garcia	Owens	Wolf
Gaydos	Panetta	Wright
Gejdenson	Parris	Yatron
Gilman	Patterson	Young (AK)
Goodling	Pease	Young (MO)
Gore	Price	

NAYS—209

Albosta	Coats	English
Andrews (TX)	Coleman (MO)	Erdreich
Archer	Conable	Erlenborn
Aspin	Corcoran	Evans (IA)
AuCoin	Craig	Fiedler
Badham	Crane, Daniel	Flippo
Barnard	Crane, Philip	Ford (MI)
Bartlett	Crockett	Fowler
Bedell	D'Amours	Frenzel
Beilenson	Daniel	Fuqua
Bereuter	Dannemeyer	Gekas
Bevill	Darden	Gephardt
Bilirakis	Daschle	Gibbons
Blilley	Daub	Gingrich
Bonior	Davis	Glickman
Bosco	de la Garza	Gonzalez
Boucher	Derrick	Gradison
Broomfield	DeWine	Gregg
Brown (CO)	Dickinson	Gunderson
Broyhill	Dingell	Hall, Ralph
Burton (IN)	Dorgan	Hall, Sam
Campbell	Dowdy	Hamilton
Carr	Dreier	Hammerschmidt
Chappell	Duncan	Hance
Chappie	Durbin	Hansen (ID)
Clarke	Edwards (OK)	Hansen (UT)
Clay	Emerson	Hartnett
Hatcher	Mazzoli	Selberling
Hertel	McCain	Sensenbrenner
Hightower	McCandless	Sharp
Hiler	McCloskey	Shaw
Hillis	McCollum	Shelby
Hopkins	McCurdy	Shumway
Hubbard	McDade	Siljander
Huckaby	McEwen	Skeen
Hunter	McNulty	Skelton
Hyde	Mica	Slattery
Ireland	Michel	Smith (IA)
Jacobs	Miller (OH)	Smith (NE)
Jeffords	Montgomery	Smith, Denny
Jenkins	Moorhead	Spence
Johnson	Morrison (WA)	Spratt
Jones (OK)	Myers	Stangeland
Jones (TN)	Natcher	Stenholm
Kaptur	Nichols	Stump
Kasich	Nielson	Synar
Kastenmeier	Obey	Tauke
Kazen	Olin	Thomas (CA)
Kemp	Oxley	Traxler
Kildee	Packard	Udall
Kindness	Pashayan	Valentine
Kogovsek	Patman	Vander Jagt
Kramer	Paul	Vandergriff
Lagomarsino	Penny	Volkmer
Latta	Pepper	Walker
Leach	Petri	Watkins
Leath	Pickle	Weaver
Levin	Porter	Weber
Lewis (CA)	Pursell	Whitley
Lewis (FL)	Ratchford	Whittaker
Loeffler	Ray	Whitten
Lujan	Reid	Winn
Luken	Ritter	Wolpe
Lungren	Roberts	Wortley
Mack	Robinson	Wyden
Madigan	Roth	Wylie
Marlenee	Rudd	Yates
Marriott	Sawyer	Young (FL)
Martin (IL)	Schaefer	Zschau
Martin (NY)	Schulze	

NOT VOTING—35

Alexander	Foglietta	Markey
Anthony	Franklin	Martin (NC)
Bethune	Gramm	McGrath
Boggs	Guarini	Moakley
Boland	Harkin	Moody
Chandler	Heftel	Rodino
Cheney	Holt	Shannon
Collins	LaFalce	Simon
Donnelly	Lehman (CA)	Studds
Early	Lehman (FL)	Vucanovich
Feighan	Lowery (CA)	Williams (OH)
Ferraro	MacKay	

□ 1730

Ms. KAPTUR and Messrs. PURSELL, ALBOSTA, DINGELL, and LEWIS of Florida changed their votes from "yea" to "nay."

Messrs. EDWARDS of Alabama, EVANS of Illinois, MILLER of California, LOTT, ANDREWS of North Carolina, HEFNER, SUNDQUIST, CONTE, ROWLAND, ROEMER, LEVITAS, PEASE, and MITCHELL changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1740

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a recorded vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

INSANITY DEFENSE AND RELATED CRIMINAL PROCEDURE MATTERS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3336, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3336, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 171, not voting 36, as follows:

[Roll No. 394]

YEAS—225

Ackerman	Edwards (AL)	Luken
Addabbo	Edwards (CA)	Lundine
Akaka	Evans (IL)	Marlenee
Albosta	Fascell	Martinez
Anderson	Fazio	Matsui
Andrews (TX)	Fiedler	Mavroules
Annunzio	Fish	Mazzoli
Aspin	Florio	McCloskey
AuCoin	Foley	McEwen
Barnes	Ford (MI)	McHugh
Bates	Ford (TN)	McKernan
Bedell	Frank	McNulty
Beilenson	Frost	Mikulski
Bennett	Garcia	Miller (CA)
Berman	Gejdenson	Mineta
Biaggi	Gephardt	Minish
Boehlert	Gilman	Mitchell
Boner	Glickman	Mollohan
Bonior	Goodling	Morrison (CT)
Bonker	Gore	Mrazek
Borski	Gradison	Myers
Bosco	Gray	Nelson
Boucher	Green	Nichols
Boxer	Hall (IN)	Nowak
Breaux	Hall (OH)	Oakar
Britt	Hall, Ralph	Oberstar
Brooks	Hall, Sam	Obey
Broomfield	Harrison	Ortiz
Brown (CA)	Hatcher	Ottinger
Bryant	Hawkins	Owens
Burton (CA)	Hayes	Panetta
Byron	Hefner	Patman
Carper	Hertel	Patterson
Carr	Hightower	Pease
Chappell	Horton	Penny
Clarke	Howard	Pepper
Clay	Hoyer	Petri
Coelho	Hubbard	Pickle
Coleman (TX)	Hughes	Price
Conte	Jeffords	Pritchard
Conyers	Johnson	Pursell
Cooper	Jones (NC)	Rahall
Coyne	Jones (TN)	Rangel
Crockett	Kaptur	Ratchford
D'Amours	Kastenmeier	Ray
Daschle	Kennelly	Regula
Davis	Kildee	Richardson
Dellums	Kogovsek	Rinaldo
Derrick	LaFalce	Roe
Dicks	Lantos	Rose
Dingell	Leach	Rostenkowski
Dixon	Leland	Roth
Dorgan	Levin	Roukema
Downey	Levine	Rowland
Durbin	Lipinski	Roybal
Dwyer	Lloyd	Russo
Dymally	Long (LA)	Sabo
Dyson	Long (MD)	Savage
Eckart	Lowry (WA)	Sawyer
Edgar	Lujan	Scheuer

Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Sikorski
Siljander
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vento
Volkmer
Waxman
Weaver
Weiss
Wheat
Whitten
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Young (MO)
Zschau

NAYS—171

Andrews (NC)
Applegate
Archer
Badham
Barnard
Bartlett
Bateman
Bereuter
Bevill
Bilirakis
Billey
Brown (CO)
Broyhill
Burton (IN)
Campbell
Carney
Chappie
Clinger
Coats
Coleman (MO)
Conable
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Darden
Daub
de la Garza
DeWine
Dickinson
Dowdy
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fields
Flippo
Fowler
Frenzel
Fuqua
Gaydos
Gekas
Gibbons
Gonzalez
Gregg
Gunderson
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hillis
Hopkins
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jones (OK)
Kasich
Kazen
Kemp
Kindness
Kleczka
Kolter
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lungren
Mack
Madigan
Marriott
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDade
McKinney
Mica
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murphy
Murtha
Natcher
Neal
Nielson
O'Brien
Olin
Oxley
Packard
Parris
Pashayan
Paul
Porter
Quillen
Reid
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Rudd
Schaefer
Schulze
Sharp
Shaw
Shelby
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Valentine
Vander Jagt
Vandergriff
Walgren
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Wilson
Winn
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—36

Alexander
Anthony
Bethune
Boggs
Boland
Chandler
Cheney
Collins
Donnelly
Early
Feighan
Ferraro
Foglietta
Franklin
Gingrich
Gramm
Guarini
Harkin
Heftel
Holt
Kostmayer
Lehman (CA)
Lehman (FL)
Lowery (CA)
MacKay
Markey
Martin (NC)
McGrath
Moakley
Moody
Rodino
Shannon
Simon
Studds
Vucanovich
Williams (OH)

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

DANGEROUS DRUG DIVERSION CONTROL ACT OF 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5656, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5656, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 1, not voting 39, as follows:

[Roll No. 395]

YEAS—392

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Billey
Boehlert
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Fiedler
Fields
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hertel
Hightower
Hiler
Hillis
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—1

Paul

NOT VOTING—39

Alexander
Anthony
Bethune
Boggs
Boland
Chandler
Cheney
Collins
Crockett
Donnelly
Early
Feighan
Ferraro
Foglietta
Franklin
Gingrich
Gramm
Guarini
Harkin
Heftel
Holt
Kostmayer
Lehman (CA)
Lehman (FL)
Lowery (CA)
MacKay
Markey
Martin (NC)
McGrath
Moakley
Moody
Owens
Rodino
Shannon
Simon
Studds
Traxler
Vucanovich
Williams (OH)

□ 1750

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SAFE DRINKING WATER ACT AMENDMENTS OF 1984

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill (H.R. 5959) as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill (H.R. 5959) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 366, nays 27, not voting 39, as follows:

[Roll No. 396]

YEAS—366

Ackerman	Davis	Hefner
Addabbo	de la Garza	Hertel
Akaka	Dellums	Hightower
Albosta	Derrick	Hiler
Anderson	DeWine	Hillis
Andrews (NC)	Dickinson	Hopkins
Andrews (TX)	Dicks	Howard
Annunzio	Dingell	Hoyer
Applegate	Dixon	Hubbard
Aspin	Dorgan	Hughes
AuCoin	Dowdy	Hunter
Badham	Downey	Hutto
Barnard	Dreier	Hyde
Barnes	Duncan	Ireland
Bateman	Durbin	Jacobs
Bates	Dwyer	Jeffords
Bedell	Dymally	Jenkins
Beilenson	Dyson	Johnson
Bennett	Eckart	Jones (NC)
Bereuter	Edgar	Jones (OK)
Berman	Edwards (AL)	Jones (TN)
Bevill	Edwards (CA)	Kaptur
Biaggi	Edwards (OK)	Kasich
Billrakis	Emerson	Kastenmeier
Billey	English	Kazen
Boehlert	Erdreich	Kemp
Boner	Erlenborn	Kennelly
Bonior	Evans (IA)	Kildee
Bonker	Evans (IL)	Kindness
Borski	Fascell	Kleczka
Bosco	Fazio	Kogovsek
Boucher	Fiedler	Kolter
Boxer	Fields	Kramer
Breaux	Fish	LaFalce
Britt	Flippo	Lagomarsino
Brooks	Florio	Lantos
Broomfield	Foley	Latta
Brown (CA)	Ford (MI)	Leach
Broyhill	Ford (TN)	Leath
Bryant	Fowler	Leland
Burton (CA)	Frank	Lent
Burton (IN)	Frenzel	Levin
Byron	Frost	Levine
Campbell	Fuqua	Levitas
Carney	Garcia	Lewis (CA)
Carper	Gaydos	Lewis (FL)
Carr	Gejdenson	Lipinski
Chappell	Gekas	Livingston
Chappie	Gephardt	Lloyd
Clarke	Gibbons	Long (LA)
Clay	Gilman	Lott
Clinger	Glickman	Lowry (WA)
Coats	Gonzalez	Lujan
Coelho	Goodling	Luken
Coleman (MO)	Gore	Lundine
Coleman (TX)	Gradison	Mack
Conable	Gray	Madigan
Conte	Green	Marlenee
Conyers	Gregg	Martin (IL)
Cooper	Gunderson	Martin (NY)
Corcoran	Hall (IN)	Martinez
Coughlin	Hall (OH)	Matsui
Courter	Hall, Ralph	Mavroules
Coyne	Hall, Sam	Mazzoli
Craig	Hamilton	McCandless
Crockett	Hance	McCloskey
D'Amours	Harrison	McCollum
Darden	Hatcher	McCurdy
Daschle	Hawkins	McDade
Daub	Hayes	McEwen
McHugh	Rangel	Stark
McKernan	Ratchford	Stenholm
McKinney	Ray	Stokes
McNulty	Regula	Stratton
Mica	Reid	Sundquist
Michel	Richardson	Swift
Mikulski	Ridge	Synar
Miller (CA)	Rinaldo	Tallon
Miller (OH)	Ritter	Tauke
Mineta	Roberts	Tauzin
Minish	Roe	Taylor
Mitchell	Roemer	Thomas (CA)
Molinari	Rogers	Thomas (GA)
Mollohan	Rose	Torres
Montgomery	Rostenkowski	Torricelli
Moore	Roth	Towns
Moorhead	Roukema	Traxler
Morrison (CT)	Rowland	Udall
Morrison (WA)	Roybal	Valentine
Mrazek	Russo	Vander Jagt
Murphy	Sabo	Vandergriff
Murtha	Savage	Vento
Natcher	Sawyer	Volkmer
Neal	Scheuer	Walgren
Nelson	Schneider	Walker
Nichols	Schroeder	Watkins
Nowak	Schulze	Waxman
O'Brien	Schumer	Weaver
Oakar	Seiberling	Weber
Oberstar	Sharp	Weiss
Obey	Shaw	Wheat
Olin	Shelby	Whitehurst
Ortiz	Shuster	Whitley
Ottinger	Sikorski	Whittaker
Owens	Siljander	Whitten
Oxley	Sisisky	Williams (MT)
Packard	Skeen	Wilson
Panetta	Skelton	Winn
Parris	Slattery	Wirth
Pashayan	Smith (FL)	Wise
Patman	Smith (IA)	Wolf
Patterson	Smith (NE)	Wolpe
Pease	Smith (NJ)	Wortley
Penny	Snowe	Wright
Pepper	Snyder	Wyden
Petri	Solarz	Wylie
Pickle	Solomon	Yates
Porter	Spence	Yatron
Price	Spratt	Young (AK)
Pritchard	St Germain	Young (FL)
Pursell	Staggers	Young (MO)
Rahall	Stangeland	Zschau

NAYS—27

Archer	Hansen (UT)	Quillen
Bartlett	Hartnett	Robinson
Brown (CO)	Loeffler	Rudd
Crane, Daniel	Lungren	Schaefer
Crane, Philip	Marriott	Sensenbrenner
Daniel	McCain	Shumway
Dannemeyer	Myers	Smith, Denny
Hammerschmidt	Nielson	Smith, Robert
Hansen (ID)	Paul	Stump

NOT VOTING—39

Alexander	Franklin	Lowery (CA)
Anthony	Gingrich	MacKay
Bethune	Gramm	Markey
Boggs	Guarini	Martin (NC)
Boland	Harkin	McGrath
Chandler	Heftel	Moakley
Cheney	Holt	Moody
Collins	Horton	Rodino
Donnelly	Huckaby	Shannon
Early	Kostmayer	Simon
Feighan	Lehman (CA)	Studds
Ferraro	Lehman (FL)	Vucanovich
Foglietta	Long (MD)	Williams (OH)

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1800

CERTAIN FORMER FLIGHT ENGINEERS OF WESTERN AIRLINES.

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3623) for the relief of certain former flight engineers of Western Airlines.

The Clerk read the title of the bill.

The SPEAKER pro tempore [Mr. HARRISON]. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to each of the former flight engineers of Western Airlines named in subsection (b) (or if a named individual is deceased, to his estate) the sum of $25,000 plus interest at the rate at 6 percentum compounded annually from March 1, 1961, to January 1, 1982, and thereafter until paid, at the rate periodically established under section 6621 of the Internal Revenue Code of 1954.

(b)(1) The individuals referred to in subsection (a) are the following: Carlos Acuna, Fidel Aguirre, Arne Anderson, John Araiza, A.J. Baker, Joseph Baniecki, Arthur Bankers (deceased), Leland Bartleson (deceased), Frederick Beneze, William Blagdon, Jerry Blakeley, Hugo Boisett, Richard Bolton, Richard Bongard, Donald Boyd (deceased), Frank Brasmer (deceased), Wayne Brewer, Lowell Bright, James Brott, Owrie Brown, Harold Camp, Emmett Carroll (deceased), James Carroll, Joseph Carter, A.J. Christensen, Glenn Collins, Ronald Crachy, Dick Crampton (deceased), Pierre Du Bois, Frank Crites, Louis Daughtry, Sam Diehl, Donald Farrell (deceased), Thomas Farrell, Lyndon Fellows, Dorrence Fincher, Dewey Foster, Edward Franzen, Robert Fredrickson, William Gaedtke, Donald Gage, Daniel Galligan, Edward Gerlits, Wendell Goldsmith, John Hamilton, Harold Hayen, Fred Hazlett (deceased), William Hegemann, George Heinz, Robert Hicks, Eugene Hodgins, Duncan Hughes, Joseph Irvine, Albert Johnson, Harold Johnson (deceased), Stanley Klescewski, Dale Kluckman (deceased), John Kosmicki, Stanley Koltvett, Al Krueger (deceased), Glenn Kvendru, William Lagler, Donald Lensing, Paul Litjen, Robert Longworth, Loren Lorenzen, Bert Martens, Charles Martin, James McMahon, Antonio Mendiola, Gerald Moe, James Middleton (deceased), Jake Morlock, I. Newman, George Norris, L. O'Conner, Virgil Paulsen, James Potts, Dwight Preston, Robert Pugh (now known as Robert Gould), Peter Raymen, George Richter, Stanley Rober, Merle Russell, William Rodger, Walter Sabol, William Sawvell, Robert Sawyer, John Schroeder, Kenneth Schultz, Kenneth Severson, Donald Shannon, Kenneth Sherman, Edward Sherwood, Earl Shiveley, William Short, Eugene Siebern, Clifford Smith, Eldred Steffens, Raymond Tanis, Eli Tarin, Eli Tavarez, Paul Theod, Richard Thomas, Glenn Tidwell, Henry Tomberg, John Trank, William Tyler, Earl Troutner, Andrew Vagenas, Manual Vargas, Alfred Vereb, Torgeir Vik, Martin Wahne

(deceased), Rodney Waite, John Walik, Gillis Walsh, Herman Weinstein, John Willey, Fred Wolf, and David Wright (deceased).

(2) The individuals referred to in paragraph (1) are individuals who are former flight engineers of Western Airlines and who were plaintiffs in the matter referred to the chief commissioner of the Court of Claims by H. Res. 83, Ninety-fifth Congress, pursuant to section 1492 of title 28, United States Code (congressional reference case numbered 1-78).

SEC. 2. No part of each amount provided for in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim of any individual named in subsection (b) of the first section and the payment or receipt in excess of 10 per centum of each amount provided for in the first section shall be unlawful, and contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

With the following committee amendment:

Page 2, line 1, strike "25,000" and all that follows through "1954" on line 5 and insert "$20,000".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS, TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations be permitted to sit on Wednesday, September 19, 1984, should the House be reading for amendment under the 5-minute rule at the time.

The minority is aware of this request, and I have been advised that there is no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

GENERAL LEAVE

Mr. ECKART. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on the subject of the special-order speech today by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SENTENCING REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 5 minutes.

● Mr. FISH. Mr. Speaker, H.R. 6012 should not be considered under suspension of the usual rules of procedure. If it were essentially a reasonable bill that contains a few minor details which some Members would like to amend, that would be one thing. But this in fact contains major, fundamental defects in its foundations. If those defects are not corrected, the bill should not pass. It is imperative that the Members of this House have the opportunity to examine these serious defects and propose means of correcting them. To require us to vote "yes" or "no" on a such important reform with so many defects ignores the legislative role of this House.

To act in such haste shows the American people how unimportant sentencing reform is and is not a responsible way to legislate on a subject such as this. The sentencing reform bill should be subject to debate and amendment. Without amendment, it would not be reform—it would be an invitation to disaster.

Consideration of this bill under a rule would take very little time and could be expedited. Only one amendment need be offered and that is the bipartisan concensus introduced by Senator KENNEDY and supported by the administration which has already overwhelmingly passed the Senate.●

HON. GERALDINE FERRARO HAS PERFORMED VALUABLE SERVICE ON COMMITTEE ON POST OFFICE AND CIVIL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, as chairman of the Committee on Post Office and Civil Service, I would like to say a few words about the work of Mrs. FERRARO on that committee from 1979 to 1983.

In those years she not only performed valuable service, but as well added a certain sparkle to the colloquy and a keen insight into the issues.

She displayed a quick ability to get to the heart of even the most complex issues and tackled them with lawyerly professionalism and plain common sense.

From the very beginning she understood one key point in the work of the committee—that the men and women who work for our Federal Government perform valuable services that our country cannot do without. She understood as well that in recent years the Federal Government has been experiencing great difficulty in attracting the best and the brightest professionals in key areas because they can do better in the private sector.

As chairperson of the Subcommittee on Human Resources, under very difficult conditions, she worked to develop policies that would prevent further erosion of the Federal work force.

She—

Was a strong supporter of Federal retirement programs and fought against cuts in health benefits and cost-of-living adjustments.

Was a leader in the fight for pay equity for women in the Federal work force, as well as in the private sector.

Opposed the current administration's RIF's.

Fought against the contracting out of Federal jobs.

Supported flexitime programs for part-time Federal workers.

Throughout her tenure on the committee she displayed compassionate concern for the problems of people, but was always aware of the purpose of the Federal work force in serving the people.

She supported legislation to:

Provide safe working conditions.

Protect the rights of RIF'd workers.

Protect consumers from mail fraud.

Protect the rights of surviving spouses.

What impressed me most about Ms. FERRARO was that she always did her homework. She knew in detail the issues before the committee.

And she was never afraid to speak up.

Serving with her was indeed a pleasant and rewarding experience.●

A YEAR AFTER KAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, it has been just over a year since the Soviet Union shot down Korean Air Lines flight 007, killing 269 people. Among them was our colleague, Representive Larry McDonald.

I want to share with this Chamber the following editorial which appeared in the Gwinnett, GA, Daily News and the Marietta, GA, Daily Journal. The Journal is the hometown newspaper of the late Larry McDonald. The article makes a very good point about the tragedy and reminds us not to forget what happened over the Sea of Japan on September 1, 1983.

The article follows:

A YEAR AFTER KAL

It has been a year since Korean Air Lines flight 007 was shot down by a Soviet missile killing all the 269 people on board the airplane.

It has been a year since Georgians awoke to the news that one of their congressmen, Larry McDonald, was among those killed in the missile attack—a year since the bitter irony that McDonald, the arch-conservative

who had devoted so much effort to fighting communism, had been killed by the very Soviets he feared.

It has been a year since those nervous hours when thinking people worldwide wondered about the possibility of retaliation which might lead to a face-to-face confrontation between the two superpowers.

During that year, little has happened to shed new light on the circumstances which led to tragic death above Soviet airspace on Sept. 1, 1983.

American officials continue to insist that the downing of the jet was totally unjustified; Soviet spokesmen maintain their argument that the flight was part of an American spy mission, and that American officials knew KAL 007 was well into Soviet airspace.

After a year, public opinion of the incident is influenced more by faith in one country or the other than the verifiable fact. In our estimation there can be no doubt that the Soviets overreacted to the presence of the wayward flight and brought about needless death as a result.

One point not open to argument is the fact that the destruction of the jet and the deaths of those on board was an international tragedy—overshadowed only be the ease with which we have allowed the incident to slip into the deep recesses of our minds where it can easily be forgotten.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, due to official business in my district, I was absent on Thursday, September 6, 1984. As a result I missed several rollcall votes. Had I been present, I would have voted as follows:

Rollcall No. 376, the substitute amendment that would have removed over-the-counter drugs from coverage under the bill, I would have voted "no."

Rollcall No. 378, an amendment that would change the effective date of catalog description provisions to items manufactured 180 days rather than 90, after enactment. I would have voted "no."

Rollcall No. 379, final passage of H.R. 3605, I would have voted "yes."

Rollcall No. 381, an amendment to reduce the authorization levels for health professionals, I would have voted "yes."●

GENERATION-SKIPPING TRANSFER TAX SIMPLIFICATION PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 60 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, today Congressman BARBER CONABLE and I are introducing legislation which is designed to provide major simplification of the generation-skipping transfer tax imposed by chapter 13 of the Internal Revenue Code. The two separate bills Mr. CONABLE and I are introducing—by request—represent efforts by the committee staff to draft both the concepts set forth in the Treasury Department's simplification proposal as submitted to the Congress on April 29, 1983, and the March 28, 1984, discussion draft of the American Law Institute's "Study on Generation-Skipping Transfers Under the Federal Estate Tax."

BACKGROUND

Chapter 13 of the Internal Revenue Code was enacted in the Tax Reform Act of 1976 along with other major revisions of the Federal Estate and gift tax system. Under present law, a tax is imposed on generation-skipping transfers under a trust or similar arrangement upon the distribution of the trust assets to a generation-skipping heir, for example, a distribution to a grandchild of the grantor of the trust where his or her parents also have been beneficiaries of the trust, or upon termination of an intevening interest in the trust—for example, a remainder interest passing to the grantor's grandchild upon the termination of a life-income interest in the trust held by the grantor's child.

The tax is effective generally for generation-skipping transfers made after June 11, 1976. A transition rule allowed generation-skipping transfers occuring pursuant to revocable trusts or wills in existence on June 11, 1976, and not amended after that date, to be tax-free if the grantor or testator died before January 1, 1983. Generation-skipping trusts that were irrevocable on June 11, 1976, are not subject to the tax.

ISSUES

The purposes of the Federal estate tax is not only to raise revenue, but also to do so in a manner which has, as nearly as possible, a uniform effect generation by generation. Transfer taxes are imposed every generation in the case of families where property passes directly from parent to child and then from child to grandchild. However, before the 1976 act, where a generation-skipping trust was used, no tax was imposed upon the death of the child even where the child had an income interest in the trust, and substantial powers with respect to the use, management, and disposition of the trust's assets. While the tax advantages of generation-skipping trusts were theoretically available to all, in actual practice, these devices were more valuable—in terms of tax savings—to wealthier families. Thus, generation-skipping trusts were used more often by the wealthy.

Generation-skipping resulted in inequities in the case of transfer taxes by enabling some families to pay these taxes only once every several generations, whereas most families subject to these taxes must pay them once every generation. Generation-skipping also reduced the progressive effect of the transfer taxes, since families with moderate levels of accumulated wealth might pay as much or more in cumulative transfer taxes as wealthier families who utilized generation-skipping devices. Thus, a generation-skipping transfer tax is an essential component to a fair and efficient Federal transfer tax system. Although the need for simplification of the present generation-skipping transfer tax is clear, the need to retain the policy principle of a generation-skipping transfer tax, first established in 1976, is equally clear.

SIMPLIFICATION PROPOSALS

The 1976 act provisions have been criticized as too complex by numerous individuals who work with trusts that have potential generation-skipping aspects. In addition, the tax under present law has been criticized because it can be avoided by direct transfers to generations lower than the transferor's children. Consequently, the Committee on Ways and Means has scheduled a public hearing on October 2, 1984, in order to review proposals to simplify and improve the equity of the tax. In order to facilitate discussion of proposals to improve and simplify the tax, I earlier announced my intention to introduce legislation today which would provide a statutory structure for two proposals that have been submitted to the Committee on Ways and Means to simplify the generation-skipping transfer tax—one by the Treasury Department and the other a discussion draft prepared for the American Law Institute.

In the drafting of these two bills, the staff discovered several issues upon which I invite testimony and comment by those interested in the generation-skipping transfer tax. In order to assist interested parties, these issues are presented at the end of the summary of the two bills which follows this statement.

On April 29, 1983, the Treasury Department advanced a proposal for a new generation-skipping transfer tax to replace existing chapter 13. The Treasury proposal would exclude completely from the tax $1 million per transferor—$2 million for a married couple—and would subject generation-skipping transfers above this amount to a flat rate equal to 80 percent of the highest estate tax rate. The proposal also would extend the tax to direct generation-skipping transfers—to the extent they exceed the exempt amount. The proposal is explained in more detail in the summary which follows this statement.

The American Law Institute recently conducted a "Study on Generation-Skipping Transfers Under the Federal Estate Tax." A discussion draft of a simplification proposal resulting from that study was published on March 28, 1984. The discussion draft would propose taxation of certain transfers in

trust and certain outright transfers which skip generations. The ALI proposal also is explained in more detail in the summary which follows this statement.

I wish to emphasize that my introduction of these two proposals should not be interpreted as a personal endorsement of either proposal—or the specific tax rates, exemption levels, or credit amounts contained therein. These important policy issues will be considered and decided by the full Ways and Means Committee and the Congress next year, and I do not intend to prejudge these issues today.

Similarly, both bills intentionally are being introduced today without specific effective dates. Clearly, the full committee must decide when a proposal should be effective and what treatment should be accorded trusts established since the enactment of the original generation-skipping transfer tax in 1976. I wish to emphasize, however, that grantors of trusts and their advisors proceed at their own risk and peril if generation-skipping trusts are established in anticipation of Congress providing a retroactive repeal of existing law coupled with a totally prospective effective date of any modifications to the existing system.

I also wish to emphasize that, by introducing these two proposals today and presenting a limited number of additional issues, I do not intend to limit discussion of other simplification alternatives. My purpose is solely to present for public scrutiny and comment a statutory structure for modifying and simplifying the present generation-skipping transfer tax. I am hopeful that introduction of these legislative proposals in advance of the Committee on Ways and Means holding its public hearings on October 2 will assist in stimulating debate and ultimately, in resolving this longstanding controversy.

SUMMARY OF PROPOSALS AND SPECIFIC ISSUES ON WHICH PUBLIC COMMENT IS REQUESTED

A. PRESENT LAW

Overview

Under a present law, a generation-skipping trust is defined as a trust which provides for the splitting of benefits between two or more generations that are younger than the generation of the grantor. A generation-skipping transfer tax, substantially equivalent to the estate tax which would have been imposed on direct transfers to each generation, is imposed on certain distributions from, and terminations of interests in or powers over, such trusts.

Taxable events

The tax is imposed when trust assets are distributed to a generation-skipping beneficiary or upon the termination of an intervening interest in the trust. No tax is imposed on outright transfers to generation skipping beneficiaries.

Exemptions

No tax is imposed if the younger generation beneficiary has (1) nothing more than a right of management over the trust assets or (2) a limited power to appoint the trust assets among the lineal descendants of the grantor.

In addition, present law provides a grandchild exclusion for the first $250,000 of generation-skipping transfers per deemed transferor that vest in the grandchildren of the grantor.

Rate of tax

The tax is substantially equivalent to the tax which would have been imposed if the property actually had been transferred outright to each successive generation (in which case, the gift or estate tax would have applied). For example, assume that a trust is created for the benefit of the grantor's child during the child's life, with remainder to the grandchild. Upon the death of the child, the tax is computed by adding the child's portion of the trust assets to the child's estate and computing the tax at the child's marginal estate tax rate. In other words, for purposes of determining the amount of the tax, the child is treated under present law as the "deemed transferor" of the trust property. In determining the amount of the generation-skipping transfer tax arising after the death of the deemed transferor, the trust is entitled to any unused portion of the child's unified transfer tax credit, the credit for tax on prior transfers, the credit for State death taxes, and a deduction for certain administrative expenses.

Liability for tax

Although the deemed transferor's marginal estate tax rate is used for purposes of determining the tax imposed on the generation-skipping transfer, that transferor's estate is not liable for the payment of the tax. Rather, the tax generally is paid out of the trust property.

B. DESCRIPTION OF H.R. 6260 (TREASURY DEPARTMENT DISCUSSION DRAFT)

Overview

The Treasury Department Discussion Draft would amend the existing generation-skipping transfer tax, which attempts to determine the additional gift or estate tax that would have been paid if property had been transfered directly from one generation to another, to impose a simplified tax determined at a flat rate.

Transfers of up to $1 million per grantor would be exempt from tax. Additional exemptions would be provided for certain transfers that are not subject to gift tax and for distributions of up to $10,000 per year to certain trust beneficiaries.

The generation-skipping transfer tax would be expanded to include direct generation-skipping transfers (e.g., a direct transfer from a grandparent to a grandchild) as well as transfers in which benefits are "shared" by beneficiaries in more than one younger generation.

Imposition of tax

As does present law, the Treasury Department Discussion Draft would define a generation-skipping transfer as a transfer to a beneficiary at least two generations younger than the transferor. Generation-skipping transfers would be subjects to tax whether in trust, pursuant to an arrangement similar to a trust, or outright. In general, the Draft would retain the present-law rules on generation assignment, except that lineal descendents of the grandparents of the transferor's spouse also would be assigned to generations on a basis like that for such descendents of the transferor.

Taxable events

A generation-skipping transfer tax would be imposed on the occurrence of any one of three events—a *taxable distribution*, a *taxable termination*, or a *direct skip*.

The first two events generally involve transfers that are taxable under present law. A *taxable distribution* would occur upon distribution of property to a generation-skipping beneficiary. A *taxable termination* would occur upon the expiration of an interest in a trust if, after that termination, all interests in the trust were held by generation-skipping beneficiaries. Persons holding an interest in property would be defined to include only those persons having a current right to property (or income therefrom) or persons who were current permissible recipients of the property (or income there from). For example, a person having an income interest for life and a holder of a general power of appointment would be treated as having interests in the property.

A *direct skip* would occur upon an outright transfer for the benefit of a person at least two generations below the transferor or a transfer of property to a trust for one or more such beneficiaries. As stated in the Overview, an example of a direct skip would be a gift from a grandparent to his or her grandchild.

Only one generation-skipping transfer tax would be imposed on any particular transfer, regardless of the number of generations between the transferor and the transferee.

Tax on income distributions

Unlike present law, the Treasury Department Discussion Draft would subject generation-skipping distributions from a trust to tax whether the distributions carried out trust income or trust corpus. However, an income tax deduction would be given to the recipient for the generation-skipping tax imposed on the distribution.

Tax on trusts providing for generation-skipping transfers to more than one younger generation

A single trust may provide for transfers to more than one generation of generation-skipping beneficiaries. For example, a trust may provide for income payments to the grantor's child for life, then for such payments to the grantor's grandchild, and finally for distribution of the trust property to the grantor's great-grandchild. Were such property left outright to each generation, the property would be subject to gift or estate tax a total of three times. Similarly, under present law, such a transfer in trust would be subject to transfer tax a total of three times. The Treasury Department Discussion Draft would subject the property to transfer tax two times—gift or estate tax on the original transfer and generation-skipping transfer tax on the transfer to the grandchild.

Exemptions from tax

$1 million exemption

The Treasury Department Discussion Draft would provide an exemption of up to $1 million for each person making generation-skipping transfers. In addition, an individual could apply the exemption to transfers made by his or her spouse (including future transfers) or transfer the exemption to the spouse. This "free transferability" aspect of the exemption also would permit surviving spouses and other former spouses to receive unused amounts of a decedent's exemption, and to retransfer that amount to their subsequent spouses.

The $1 million exemption could be allocated to transfers at any time up to the due date of an individual's estate tax return. Allocations after an initial transfer would not, however, affect the taxation of generation-skipping transfers occurring before the allocation was made. Once a transfer, or portion of a transfer, was designated as exempt, all subsequent appreciation in value of the exempt property also would be exempt from generation-skipping transfer tax.

In light of the $1 million exemption, the $250,000 grandchild exclusion of present law would be eliminated. As illustrated above, the $1 million exemption would not be limited to transfers to grandchildren of the transferor.

Exemption for nontaxable gifts

The generation-skipping transfer tax would not apply to any lifetime transfer which was exempt from gift tax pursuant to either the $10,000 annual exclusion or the special exclusion for certain tuition and medical expense payments.

Special $10,000-per-year distribution exemption

A special $10,000-per-year exemption would be provided for certain otherwise taxable distributions from trusts. This exemption would be determined by aggregating all taxable distributions received by the individual and his or her spouse in a year. Additionally, only those distributions to persons at the level of the the transferor's grandchild from trusts having current beneficiaries in a higher generation would qualify for this special exemption.

Computation of tax

Rate of tax

The rate of tax on generation-skipping transfers would be 80 percent of the highest gift and estate tax rates. Thus, the tax rate would be 44 percent until 1988, when it would be reduced to 40 percent.

Tax base and payment of tax

The tax base and method of paying the generation-skipping transfer tax generally would parallel the method applicable to the most closely analogous transfer subject to gift or estate tax. Generation-skipping transfers, therefore, would be taxed as follows:

Taxable distributions: The amount subject to tax would be the amount received by the transferee (i.e., the tax would be imposed on a "tax-inclusive" basis). The transferee would pay the tax on a taxable distribution. (If a trustee paid any amount of the tax, the trustee would be treated as making an additional taxable distribution of that amount.)

Taxable terminations: The amount subject to tax would be the value of the property in which the interest had terminated (i.e., the tax would be imposed on a "tax-inclusive" basis). The trustee would pay the tax on taxable terminations.

Direct skips: The amount subject to tax would be the value of the property received by the transferee (i.e., the tax would be imposed on a "tax-exclusive" basis). The person making the transfer would pay the tax on a direct skip.

Credit for State taxes

A credit against the amended Federal tax for generation-skipping transfer tax imposed by a State would be allowed with respect to taxable transfers occuring at death. The maximum credit would be flat percentage of the Federal tax to be specified in the statute.

C. DESCRIPTION OF H.R. 6261 (DISCUSSION DRAFT OF THE AMERICAN LAW INSTITUTE)

Overview

The Discussion Draft No. 1 of the American Law Institute would replace the existing generation-skipping transfer tax with three taxes, each determined at a flat rate. The three taxes would be a tax on taxable distributions from generation-skipping trusts, a tax on taxable terminations of generation-skipping trusts, and a tax on outright generation skips.

In essence, each generation-skipping trust created by a transferor would be treated as a separate taxpayer for estate and gift tax purposes. Distributions to persons of generations lower than the children of the transferor would be subject to a gift tax. An estate tax generally would be imposed when all of the interests of the grandchildren in a trust terminated. A gift tax also would be imposed on the outright transfer from a transferor to his grandchildren or to lower generations.

The tax rate would be the maximum Federal estate or gift tax rate (i.e., 55 percent until 1988 and 50 percent thereafter). In lieu of the unified credit and grandchild exclusion of present law, each transferor would be granted a generation-skipping credit of $417,000.

In addition, trusts which are exclusively for the benefit of a single beneficiary would be treated as owned by that beneficiary for estate and gift tax purposes, unless the grantor of the trust elected otherwise.

Imposition of tax

The Discussion Draft No. 1 of the American Law Institute would impose a tax on a taxable distribution, a taxable termination, and an outright generation skip. These taxes would apply whether the transfer was in trust, pursuant to an arrangement similar to a trust, or outright.

Taxable distribution: In general, a taxable distribution would occur when property was distributed from a trust (other than a trust treated as owned by a single beneficiary) unless the distribution was to a person who was assigned to a generation the same or higher than the generation of the children of the transferor (referred to as the "excepted class"). In addition, a taxable distribution would include distributions made up to nine months after what otherwise would be a taxable termination. Unlike present law, a distribution would be a taxable distribution regardless of whether the amount was paid out of corpus or income of the trust.

Taxable termination: In general, a taxable termination would occur upon the expiration of an interest of a beneficiary if the beneficiary was not in the excepted class and there was no beneficiary of the trust after that time who was a member of the excepted class. Thus, where consecutive life estates were left for the issue of the transferor, a taxable termination would occur at the death of the last grandchild.

Outright skip: In general, an outright skip would occur where there was a transfer to a person who is not a member of the excepted class (i.e., a transfer from grandparents to grandchild).

Trusts for nonfamily members: In the case of a trust created for nonfamily members, the beneficiaries of the trust would not be assigned to generations. Instead, a taxable termination would be deemed to occur every 35 years.

Generation assignment

The assignment of generation among family members would be determined by reference to the grandparents of the transferor and his spouse.

GST credit

Each transferor would be allowed a credit of $417,000 against the generation-skipping transfers he created (referred to as a "GST credit"). The credit would be equal to the difference between the amount of tax which would be imposed under the unified estate and gift tax rate schedule (reduced by the unified credit) and the amount that would be paid if the tax were at the highest rate (determined after all future changes in the estate tax rate schedules and unified credits are fully phased in).

In the case of generation-skipping transfers occurring during the life time of the transferor, the credit would be allocated to generation-skipping transfers in the order in which they occur. In the case of generation-skipping transfers occurring after the death of the transferor, any unused GST credit would be allocated in accordance with the direction of the transferor, except that the trustees of generation-skipping trusts created by the transferor could agree to reallocate the credit.

Computation of tax

Rate of tax: The rate of tax on generation-skipping transfers would be the maximum unified Federal estate and gift tax rate. Thus, the tax rate would be 55 percent until 1988 when it would be reduced to 50 percent.

Tax base and payment of tax: In the case of taxable distributions, the tax would be computed as a gift tax (i.e., on a tax exclusive basis). However, there would be no annual exclusion, marital deduction, and gift splitting available. The tax would be imposed on the trustee of the generation-skipping trust. However, the trustee and distributee could elect to have the distributee pay the tax.

In the case of taxable terminations, the tax would be computed as an estate tax (i.e., on a tax inclusive basis). However, there would be no marital deduction. The tax would be imposed on the trustee of the generation-skipping trust.

In the case of outright skips, the tax would be computed as a gift tax (i.e., on a tax exclusive basis). The tax would be imposed on the transferor of the outright skip.

Credits: No state death tax credit would be allowed against the taxes on taxable distributions, taxable terminations, or outright skips. (The GST credit would be allowed in lieu of the unified credit.)

Owned trusts

Unless the grantor of the trust elected otherwise, trusts for the exclusive benefit of a single beneficiary would be treated as owned for estate and gift tax purposes by that beneficiary. If property were distributed from the trust to another person, a gift or estate tax would be imposed upon the deemed owner of the trust. However, the deemed owner would be entitled to recover any gift or estate tax arising from such distributions from the trust.

Multiple grantors

In the case where more than one person transferred property to a trust, the separate transfers generally would be treated as separate trusts.

Other amendments

Because of the rules dealing with generation-skipping trusts and owned trusts, the rules relating to the treatment of QTIP trusts (sections 2044 and 2519) and the rules relating to powers of appointments (sections 2041 and 2514) would be repealed. Moreover, since the thrust of the proposal is to impose a transfer tax once each generation, the credit on previously taxed property (section 2013) would be modified so that the 10-year phase-out would not apply where the decedent (the second decedent), who had received property from another decedent (the first decedent), was in the same or higher generation than that of the first decedent.

D. SPECIFIC ISSUES ON WHICH PUBLIC COMMENT IS REQUESTED

Taxation of trusts providing for generation-skipping transfers to more than one younger generation

A single trust may provide for transfers to more than one generation of generation-skipping beneficiaries. For example, a trust may provide for income payments to the grantor's child for life, then for such payments to the grantor's grandchild, and finally for distribution of the trust property to a great-grandchild. Were such property transferred outright to each generation, the property would have been subject to gift or estate tax a total of three times. Similarly, under present law, the property would have been subject to transfer tax a total of three times.

Under both the Treasury Department and the ALI Discussion Drafts, only two transfer tax events would occur in these cases. If tax neutrality is desirable, it can be argued that any revised GST tax should result in three transfer tax events in this example. This feature of the two Discussion Drafts further raises equity issues because persons with greater amounts of wealth arguably can create single trusts that skip multiple generations more economically than can persons of more moderate means.

Credit versus exemption

Both the Treasury Department and ALI Discussion Drafts would provide a mechanism for exempting from the tax certain transfers by each person. The Treasury Department Draft would provide an up-front exemption for transfers of up to $1 million. The ALI Draft would give a credit of $417,000 against the tentative tax.

Both the specific exemption and the credit approach have strong proponents. It is argued by some that a specific exemption furthers the objective of simplicity by excluding certain trusts entirely from the tax system. A credit, on the other hand, requires all trustees to be cognizant of the generation-skipping transfer tax since the credit is realized only when a transfer occurs. Others argue that a credit is superior to an exemption since it does not allow appreciation on property transferred to a trust to escape the generation-skipping transfer tax.

Transferability

The Treasury Department Draft, unlike the ALI Draft, would permit a person to transfer his or her unused exemption to a spouse or former spouse, both by lifetime gift and at death. Additionally, the transferee spouse could retransfer this exemption to his or her subsequent spouses. The transferability issue arises whether there is an exemption or credit. Proponents of transferability argue that this feature allows more flexibility to taxpayers in estate planning. Opponents of transferability say that it adds complexity and creates potential for abuse.

If the Committee determines that some transferability of the exemption or credit should be allowed, but restrictions are necessary to prevent abuse, several options are available. First, use of a transferred exemption amount could be limited to transfers made by a spouse during marriage (or widowhood). Alternatively, the use of exemption amounts transferred to a spouse could be restricted to transfers by the donee spouse for the benefit of the transferor's lineal descendants, or for application to QTIP property included in that spouse's estate. Finally, if spousal transfers were allowed, restrictions could be imposed to preclude retransfer of the exemption to subsequent spouses or to limit aggregation of exemptions. Restrictions such as these could be designed to prevent "trafficking" in exemptions through short-lived marriages.

$10,000 per year exemption for certain distributions

The Treasury Department Discussion Draft would provide an exemption of up to $10,000 per year for distributions to certain trust beneficiaries. This exemption would be available only for beneficiaries two generations below that of the trust grantor and only if the distributing trust also has beneficiaries one generation below that of the grantor. This exemption would be in addition to the $1 million per grantor specific exemption and the exemption for transfers that are not taxable gifts also contained in the Treasury Draft. Arguably, this exemption would provide a needed *de minimis* rule for trust distributions.

Additionally, some persons have urged that this exemption is appropriate under the Treasury Department Draft because part of the benefit of a trust's specific exemption effectively may be "wasted" on distributions to nontaxable beneficiaries in the first generation below that of the grantor. For example, if two-thirds of a trust were exempt from tax, only two-thirds of all distributions to the transferor's grandchildren would be exempt, even if less than two-thirds of all distributions made by the trust were made to those beneficiaries. A portion of the trust's exemption might be viewed as being allocated in substance, therefore, to non-generation skipping transfers to children of the transferor.

An issue arises as to whether any exemption in addition to those available to transferors in general is appropriate in light of the specific exemption of $1 million (or a credit $417,000) as the Treasury Department and ALI Discussion Drafts would provide. If such an additional exemption were approved by the Committee, an alternative method of realizing its objective might be to allow trustees to allocate all exempt distributions to otherwise taxable beneficiaries. Under such a rule, for example, all distributions to grandchildren would be exempt from tax to the extent those distributions did not exceed the exempt portion of the trust multiplied by the total of distributions made to all beneficiaries of the trust (on an annual or cumulative basis).

Credit for State taxes

The Treasury Department Discussion Draft would permit a credit against the revised generation-skipping transfer tax for State generation-skipping transfer taxes if the taxable transfer occurred as a result of death. The present generation-skipping transfer tax and the estate tax provide credits for such State taxes. No such credit is available against the gift tax. These credits are in substance revenue sharing with the States. An issue arises as to whether this indirect form of revenue sharing should be continued in the case of the revised generation-skipping transfer tax or whether it is more appropriate to limit revenue sharing to that approved directly by the Congress as such.●

● Mr. CONABLE. Mr. Speaker, I am pleased to join Chairman DAN ROSTENKOWSKI today in introducing by request two proposals to modify the existing generation-skipping transfers tax which was enacted as part of the 1976 Tax Reform Act. The first alternative was developed by the Treasury Department after extensive consultation with representatives of the American Bankers Association, the American Bar Association, and other professional groups. The second is a proposal developed by a committee of the American Law Institute with extensive input from many practitioners and academics from around the country. Both proposals represent sound alternatives for consideration to replace the existing tax system. A summary of the proposals is contained in Chairman ROSTENKOWSKI's statement.

The existing generation-skipping transfers tax has a number of deficiencies. It is complex and difficult to administer. It also has been criticized as being unfair in that it taxes taxpayers of comparable wealth in differing ways depending on the method of transfer chosen. As a result, the existing system has attracted an extensive amount of criticism since its enactment.

In view of the problems with the existing system, I would have preferred to have seen it modified in connection with the recently enacted Tax Reform Act of 1984. Unfortunately, the complexities associated with revising the tax provisions prevented Congress from acting at that time. The two proposals which we have introduced today represent a good starting point for developing a permanent substitute for the existing law. It is my hope that over the next couple of months prior to the beginning of the new Congress, practitioners will provide comments to the tax-writing committees with respect to these proposals so that it will be possible to act early in 1985 on a permanent solution. The hearings which the Committee on Ways and Means has scheduled on this issue for October 2, 1984, will certainly be a good starting point for the comment process. I do not mean to suggest that either one of these proposals represents the perfect substitute to the existing tax, but I believe that each one of them represent a sound step toward the development of a permanent solution.●

SCHOOL OF EDUCATION AT STATE UNIVERSITY OF NEW YORK OBSERVES 140TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, on September 22 the school of education of the State university of New York at Albany will observe its 140th anniversary.

At a time when much attention is being focused on the need for better teaching and enhanced training of teachers so we can compete more effectively with the Japanese and the Soviets in whose countries much heavier responsibilities are being placed on students, I am pleased to note that this outstanding school and its faculty continue to produce the caliber of professionals it did from its earliest days when it was known as the State Teachers College.

The 98th Congress has placed new emphasis on education programs which improve educational quality and attention to pre-college math, science, and computer education. And parallel to the pre-college emphasis on the quality of education is the concern for the shortage of teachers who are adequately prepared. Secretary of Education Bell has testified that an estimated 72 million Americans—more than half the adult population—do not fully meet the educational requirements of everyday adult life.

We in the 23d Congressional District of New York continue to be proud of the fine record of the school of education of the State university, and I am pleased to have this opportunity to salute its 140th anniversary and to encourage the faculty and students to reemphasize their preparation for the stress and demands of international competition.●

SENTENCING REFORM LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MOORHEAD] is recognized for 10 minutes.

● Mr. MOORHEAD. Mr. Speaker, we have heard much about the issue of fairness this Congress from those who say they are the party who cares. Many of us have suspected all along that this rhetoric has been largely election year partisan posturing.

Actions speak louder than words, and the so-called sentencing reform bill that the majority is hoping will become law is proof that the rhetoric is indeed just meaningless talk.

Mr. Speaker, how can we and our constituents think anything else when the Democratic-controlled committee send us a so-called reform bill that is worse than current law.

What are we to think, when they send us a bill that would so broadly expand criminals rights that they are permitted to legally deny that they have a prior felony conviction for child molestation, for example—even when they are applying for employment that would involve care of children.

How can any of us vote for a bill that would so expand criminals' rights that the criminal has the right even to order his victims to appear so he can cross examine them in a sentencing or parole release hearing.

How can we support a bill that does not even include "just punishment" as a proper purpose of sentencing; a bill that makes "ideal prison capacity" a factor to consider when deciding when to grant parole.

What could the Democrats who control the House Judiciary Committee have been thinking of when they ask us to vote for a bill that does next to nothing to effectively address the real reasons our constituents have been calling for sentencing reform: Widespread disparity in sentencing and the early release under parole that make a mockery of our current system.

Mr. Speaker, our constituents want a real reform bill—not just a bill that has the word "reform" in its title. You and my Democratic colleagues make a mockery of our responsibilities to our constituents when you urge us to vote for such legislation.

H.R. 6012 is another example of the Congress' inaction on crime issues. Our constituents are not fooled when you offer us a reform bill that is no real reform at all—a bill where the only reform is the word in its title. They are not fooled and neither are we.

Crime is not a partisan issue. Just ask any victim.

Mr. Speaker, send us legislation that offers real reform. Send us legislation that abolishes parole and reduces the wide disparity that we see so often now. Send us a bill that balances criminal rights with the rights of the victim and of society. Send us H.R. 3997 or H.R. 5773—the sentencing reform bills that offer real reform. The reform bills that have already passed the Senate twice this Congress.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCGRATH (at the request of Mr. MICHEL), for today and the balance of the week, on account of illness.

Mr. RODINO (at the request of Mr. WRIGHT), on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BILIRAKIS) to revise and extend their remarks and include extraneous material:)

Mr. MOORHEAD, for 10 minutes, today.

Mr. ROTH, for 30 minutes, today.

Mr. FISH, for 5 minutes, today.

Mr. SILJANDER, for 60 minutes, on September 19.

Mr. SILJANDER, for 60 minutes, on September 20.

(The following Members (at the request of Mr. ECKART) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. SIMON, for 15 minutes, on September 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WAXMAN, to revise and extend at the start of consideration of H.R. 5959.

Mr. DANNEMEYER, to revise and extend his remarks just prior to the vote today on H.R. 5959.

Mr. GILMAN, to revise and extend his remarks just prior to the vote on H.R. 5656 today.

Mr. BOEHLERT, prior to the passage of H.R. 5402 today.

Mr. DOWNEY of New York, to revise and extend his remarks following the remarks of Mr. WAXMAN during debate on H.R. 5959, the Safe Drinking Water Act Amendments of 1984 in the House today.

(The following Members (at the request of Mr. BILIRAKIS) and to include extraneous matter:)

Mr. MCKINNEY.
Mr. FRENZEL.
Mr. KASICH.
Mr. WOLF in two instances.
Mr. DAUB.
Mr. HUNTER.
Mr. RITTER.
Mr. CONTE in four instances.
Mr. CAMPBELL.
Mr. BOEHLERT.
Mr. VANDER JAGT.
Mr. WORTLEY.
Mr. HYDE.
Mr. BARTLETT.
Mr. DANIEL B. CRANE.

(The following Members (at the request of Mr. ECKART) and to include extraneous matter:)

Mr. ST GERMAIN.
Mr. MARTINEZ.
Mr. YATRON.
Mr. GAYDOS.
Mrs. BURTON of California.
Mr. OTTINGER.
Mr. EDWARDS of California.
Mr. PEPPER.
Mr. DONNELLY.
Mr. HARRISON in two instances.
Mr. LANTOS.
Mr. YOUNG of Missouri.
Mr. BONER of Tennessee.
Mr. NATCHER.
Ms. MIKULSKI.
Mr. VENTO.
Mr. HAWKINS.
Mr. HALL of Ohio.
Mr. LELAND.
Mr. CARR.
Mr. LEVINE of California.
Mr. RANGEL.
Mr. DYMALLY.
Mr. EDGAR.
Mr. SCHEUER.
Mr. RAHALL.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on September 17, 1984, present to the President, for his approval, bills of the House of the following titles:

H.R. 743. An act for the relief of Theda June Davis;

H.R. 2387. An act for the relief of Benjamin B. Doeh; and

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

ADJOURNMENT

Mr. WOLPE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 7 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 19, 1984, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4043. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement for the production in Korea of Falcon radars for the Korean Government (Transmittal No. MC-34-84), pursuant to AECA, section 36(d) (90 Stat. 743); to the Committee on Foreign Affairs.

4044. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of lease prospectuses, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

4045. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Sacramento River Bank Project, CA, first phase, together with other pertinent reports. This report was prepared pursuant to section 663(c) of the Fish and Wildlife Coordination Act of 1958 (Public Law 85-624) (H. Doc. No. 98-264); to the Committee on Public Works and Transportation and ordered to be printed.

4046. A communication from the President of the United States, transmitting notification of his decision to not grant import relief for the U.S. industry producing carbon and alloy steel products, pursuant to Public Law 93-618, section 203(b) (H. Doc. No. 98-263); to the Committee on Ways and Means and ordered to be printed.

4047. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report covering certain properties to be transmitted to the Republic of Panama, pursuant to 22 U.S.C. 3784 (Public Law 96-70, section 1504(b)) Executive Order 12215, section 1-401; jointly to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1790. A bill to authorize the Secretary of the Interior to enter into a contract or cooperative agreement with the Art Barn Association to assist in the preservation and interpretation of the Art Barn and Pierce Mill located in Rock Creek Park within the District of Columbia; with amendments (Rept. No. 98-1031). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1868. A bill to add $2,000,000 to the budget ceiling for new acquisitions at Sleeping Bear Dunes National Lakeshore (Rept. No. 98-1032). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3880. A bill to amend the Energy Policy and Conservation Act with respect to the strategic petroleum reserve by requiring testing of drawdown and distribution of the reserve; with an amendment (Rept. No. 98-1033). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5959. A bill to amend the Safe Drinking Water Act; with an amendment (Rept. No. 98-1034). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1438. A bill to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes; with an amendment (Rept. No. 98-1035, Pt. I). Ordered to be printed.

Mr. MITCHELL: Committee on Small Business. Report on State, local, and private sector small business export initiatives (Rept. No. 98-1036). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WEISS (for himself, Mr. WALKER, Mr. MCGRATH, and Mr. MCCAIN):

H.R. 6259. A bill to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations; to the Committee on Government Operations.

By Mr. ROSTENKOWSKI (for himself and Mr. CONABLE) (by request):

H.R. 6260. A bill to amend the Internal Revenue Code of 1954 to provide for a new tax on generation-skipping transfers; to the Committee on Ways and Means.

H.R. 6261. A bill to repeal the existing generation-skipping tax and to substitute therefor a tax on distributions from (and certain terminations of interest in) generation-skipping trusts and a tax on outright skips; to the Committee on Ways and Means.

By Mr. ALBOSTA:

H.R. 6262. A bill relating to the tariff classifications of certain silicone resins and materials; to the Committee on Ways and Means.

Mr. BARTLETT (for himself and Mr. MURPHY):

H.R. 6263. A bill to revive and make permanent the provisions of section 1619 of the Social Security Act which authorize the continued payment of SSI benefits to individuals who work despite severe medical impairment, to amend such act to require concurrent notification of eligibility for SSI and medicaid benefits, to require notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619, and to provide for the conduct by the General Accounting Office of a study of the effects of the work incentive provisions of such section 1619; jointly to the Committees on Ways and Means and Energy and Commerce.

By Mrs. COLLINS:

H.R. 6264. A bill to provide the Equal Employment Opportunity Commission with the power to subpoena information relating to employment practices from any officer or employee of any Federal department or agency who seeks to evade or defy the law requiring such officer or employee to provide such information to the Commission; to the Committee on Education and Labor.

By Mr. FASCELL (for himself and Mr. BROOMFIELD) (by request):

H.R. 6265. A bill to authorize the establishment of a Presidential fund to provide emergency food assistance abroad, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FORD of Tennessee (for himself and Mr. CAMPBELL):

H.R. 6266. A bill to extend for 1 year certain provisions (presently scheduled to expire in 1984) relating to foster care assist-

ance under part E of title IV of the Social Security act, and to require the establishment or continuation of regional child welfare resource centers to assist in the implementation of child welfare, foster care, and adoption assistance programs; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 6267. A bill to extend the permissible pro bono representation by employees of the Federal Government and the District of Columbia Government; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 6268. A bill to authorize the provision of foreign assistance for agricultural activities in Poland; to the Committee on Foreign Affairs.

By Mr. WOLF (for himself, Mr. BARNES, Mrs. HOLT, Mr. HOYER, and Mr. PARRIS):

H.R. 6269. A bill to require a cost-benefit analysis of a Government program of furnishing workday care benefits for dependent children of Federal employees; to the Committee on Post Office and Civil Service.

By Mr. BARNES:

H. Con. Res. 359. Concurrent resolution expressing the support of the Congress for Costa Rica's neutrality and urging the President to support such neutrality; to the Committee on Foreign Affairs.

By Mr. LUJAN (for himself, Mr. AKAKA, Mrs. BOGGS, Mr. VOLKMER, Mr. CHANDLER, Mr. SCHEUER, Mr. TRAXLER, Mr. JONES of North Carolina, Mr. BEVILL, Mr. FOWLER, Mr. BATEMAN, Mr. BROWN of California, Mr. LOWERY of California, Mr. MATSUI, Mr. BARNES, Mr. HEFTEL of Hawaii, Mr. STOKES, Mr. EVANS of Iowa, Mr. YOUNG of Alaska, Mr. MCGRATH, Mr. BOEHLERT, Mr. SKEEN, Mr. YOUNG of Missouri, Mr. UDALL, Mr. LEVINE of California, Mr. STUDDS, and Mr. GREGG):

H. Con. Res. 360. Concurrent resolution declaring a U.S. commitment to sign the SARSAT/COSPAS international agreement with an international search and rescue constellation consisting of four satellites, two of which are U.S. polar-orbiting spacecraft; jointly, to the Committees on Science and Technology and Foreign Affairs.

By Mr. MCNULTY:

H. Con. Res. 361. Concurrent resolution disapproving the action of the President under title II of the Trade Act of 1974 with respect to import relief for unwrought copper; to the Committee on Ways and Means.

By Mr. MICHEL:

H. Res. 583. Resolution electing Representative Goodling of Pennsylvania to the Committee on Foreign Affairs and Representative Ireland of Florida to the Committee on Small Business; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PATTERSON:

H.R. 6270. A bill for the relief of Gladys Viviana Silberstein de Levi; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 6271. A bill for the relief of Mr. Zarko Maravic; wife Ana Maravic; sons Sasa and Mane; daughter Sara; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1676: Mr. GEPHARDT, and Mr. YOUNG of Missouri.

H.R. 2300: Mr.BARNES.

H.R. 3218: Mr. PRICE and Mr. WISE.

H.R. 4110: Mr. BORSKI.

H.R. 4402: Mrs. SCHNEIDER and Mr. CHAPPELL.

H.R. 4459: Mr. CARPER and Mr. FRANK.

H.R. 4500: Mr. IRELAND.

H.R. 4970: Mr. ST GERMAIN, Mrs. HALL of Indiana, Mr. CONYERS, Mr. CROCKETT, Mr. RATCHFORD, Mr. HOYER, and Mr. MRAZEK.

H.R. 5569: Mr. BEDELL and Mr. MCCAIN.

H.R. 5826: Mr. MCKINNEY.

H.R. 5845: Mr. MYERS.

H.R. 5849: Mr. MINETA.

H.R. 5959: Mrs. SCHNEIDER and Mr. SIKORSKI.

H.R. 6021: Mr. IRELAND, Mr. SHELBY, Mr. ROGERS, Mr. MOORHEAD, Mr. HYDE, Mr. TRAXLER, Mr. NELSON of Florida, Mr. CHAPPIE, Mr. ADDABBO, Mr. DARDEN, Mr. SNYDER, Mr. DOWDY of Mississippi, Mr. OLIN, Mr. MCCLOSKEY, Mr. UDALL, Mr. MACK, Mr. BARNES, Mr. OWENS, and Mr. VALENTINE.

H.R. 6032: Mr. BLILEY and Mr. MCEWEN.

H.R. 6045: Mr. SEIBERLING.

H.R. 6066: Mr. LUKEN.

H.R. 6120: Mr. MCCAIN, Mr. YOUNG of Missouri, and Mr. WEAVER.

H.R. 6132: Mr. SAM B. HALL, JR., Mr. SPRATT, Mr. YOUNG of Missouri, Mr. DWYER of New Jersey, Mr. DOWNEY of New York, Mr. BOSCO, Mr. WEISS, Mr. FRENZEL, Mr. HOWARD, Mr. CAMPBELL, Mr. LELAND, Mr. MILLER of California, Mr. SMITH of Iowa, Mr. BERMAN, Mr. JACOBS, Mr. CROCKETT, Mr. SABO, Mr. WALGREN, Mr. RATCHFORD, Mr. BARNARD, Mr. GINGRICH, Mr. TALLON, Mr. RANGEL, Mr. KLECZKA, Mr. PAUL, Mrs. LLOYD, Mr. ANDREWS of Texas, Mr. THOMAS of Georgia, Mr. RAY, Ms. OAKAR, Mr. MARTINEZ, Mrs. BOXER, Mr. KOSTMAYER, Mr. BROWN of California, Mr. WINN, Mr. FISH, Mr. MCGRATH, and Mrs. HALL of Indiana.

H.R. 6172: Mr. AKAKA, Mr. FUQUA, Mr. WILLIAMS of Montana, Mr. LEWIS of California, Mr. TRAXLER, Mr. OBERSTAR, Mr. BARNES, and Mr. DOWDY of Mississippi.

H.R. 6216: Mr. MOAKLEY.

H.J. Res. 465: Mr. HANCE.

H.J. Res. 482: Mr. WYLIE and Ms. FIEDLER.

H.J. Res. 508: Mr. FUQUA.

H.J. Res. 528: Mr. TALLON, Mr. O'BRIEN, Mr. PEPPER, Mr. SUNIA, Mr. ANNUNZIO, Mr. EVANS of Iowa, Mr. DELLUMS, Mr. KOSTMAYER, Mr. BONER of Tennessee, Mr. WILSON, Mr. STENHOLM, and Mr. TORRES.

H.J. Res. 535: Mr. KLECZKA, Mr. DYMALLY, and Mr. WOLF.

H.J. Res. 578: Mr. ADDABBO, Mr. AKAKA, Mr. FROST, Mr. ANNUNZIO, Mr. GEPHARDT, Mr. ARCHER, Mr. ANTHONY, Mr. BONER of Tennessee, Mrs. LLOYD, Mr. BREAUX, Mr. BROWN of California, Mr. BROYHILL, Mr. DYMALLY, Mr. ENGLISH, Mr. FUQUA, Mr. GONZALEZ, Mr. SAM B. HALL, JR., Mr. GUNDERSON, Mrs. HOLT, Mr. HOPKINS, Mr. JEFFORDS, Mr. EDWARDS of Oklahoma, Mr. LEHMAN of Florida, Mr. LIVINGSTON, Mr. LONG of Maryland, Mr. LOWERY of California, Mr. LUKEN, Mr. MCHUGH, Mr. MCNULTY, Mr. MARTIN of North Carolina, Mr. FRENZEL, Mr. MAVROULES, Mr. MAZZOLI, Mr. MILLER of California, Mr. MONTGOMERY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURTHA, Mr. ORTIZ, Mr. OTTINGER, Mr. OWENS, Mr. PASHAYAN, Mr. PAUL, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. RAHALL, Mr. RODINO, Mrs. ROUKEMA, Mr. SABO, Mr. SHUMWAY, Mr. SKEEN, Ms. SNOWE, Mr. SNYDER, Mr. STANGELAND, Mr. TAUZIN, Mr. TRAXLER, Mr. VANDERGRIFF, Mr. VENTO, Mr. WALGREN, Mr. WAXMAN, Mr. WEISS, Mr. WILLIAMS of Ohio, Mr. WIRTH, Mr. YATRON, Mr. WOLPE, Mr. YOUNG of Florida, Mr. YOUNG of Missouri, Mr. HILER, Mrs. KENNELLY, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. DAVIS, Mr. CARNEY, Mr. CARPER, Mr. CHAPPIE, Mr. ROEMER, Mr. ROYBAL, Mr. SAVAGE, Mr. SILJANDER, Mr. SMITH of Iowa, Mr. SCHEUER, Mr. UDALL, Mr. WYLIE, Mr. NATCHER, Mr. CHENEY, Mr. D'AMOURS, Mr. DICKINSON, Mr. DASCHLE, Mr. CARR, Mr. COYNE, Mr. FLIPPO, Mrs. HALL of Indiana, Mr. HEFNER, Mr. GRAY, Mr. BRITT, Mr. BENNETT, Mr. LUJAN, Ms. FIEDLER, Mr. MARKEY, Mr. FOLEY, Mr. MOORE, Mr. PACKARD, Mr. KRAMER, Mr. MATSUI, Mr. MCDADE, Mr. LUNDINE, Mr. LENT, Ms. OAKAR, Mr. SCHUMER, Mr. THOMAS of Georgia, Mr. SKELTON, Mr. DE LUGO, Mr. BARTLETT, Mr. BIAGGI, and Mr. BROOKS.

H.J. Res. 580: Mr. TRAXLER, Mr. BATES, and Mr. DARDEN.

H.J. Res. 609: Mr. DE LA GARZA, Mr. YOUNG of Missouri, Ms. MIKULSKI, and Mr. CHAPPIE.

H.J. Res. 624: Mr. BRITT.

H.J. Res. 640: Mr. VANDERGRIFF, Mr. FAUNTROY, Mr. MACKAY, Mr. WILSON, Mr. HORTON, Mr. LEVIN of Michigan, Mr. PATMAN, Mr. BARTLETT, Mr. BERMAN, Mr. HUTTO, and Mr. LEATH of Texas.

H. Con. Res. 301: Mr. MCKINNEY.

H. Con. Res. 339: Mr. MARTINEZ, Mr. ROBINSON, Mr. DANNEMEYER, and Mr. PHILIP M. CRANE.

H. Res. 430: Mr. AUCOIN, Mr. LONG of Louisiana, Mr. TORRES, and Mr. BOSCO.

H. Res. 581: Mr. KLECZKA and Mr. STENHOLM.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5791: Mr. FRENZEL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3082

By Mr. SEIBERLING:

(Amendment to the amendment in the nature of a substitute.)

—Strike all of Title IV.

H.R. 5585

By Mr. GLICKMAN:

—At the end of the bill, add the following new section:

RADIO COMMUNICATION EQUIPMENT

SEC. 11. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by

adding at the end a new subsection as follows:

"(n) The Secretary shall, within 180 days after the date of enactment of the Railroad Safety Improvement Act of 1984, issue such rules, regulations, orders, and standards as may be necessary to require that all railroad locomotive cabs be equipped with effective radio communication devices which provide access for employees operating each train to—

"(1) National Weather Service radio frequency bands; and

"(2) a dedicated frequency for two-way communication between such employees and appropriate offtrain railroad operations personnel.".

—At the end of the bill, add the following new section:

TRACK AND ROADBED STUDY

SEC. 11. The Secretary of Transportation shall study and report to the Congress, within 180 days after the date of enactment of this Act, a comparison of levels of investment by the railroad industry in track and roadbed maintenance and modernization before and after the enactment of the Staggers Rail Act of 1980.

EXTENSIONS OF REMARKS

BLOODY SUNDAY II IN BELFAST—A STORY TOLD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. BIAGGI. Mr. Speaker, on September 6, I conducted a meeting of the Ad Hoc Congressional Committee for Irish Affairs specifically to get a first-hand account of the tragedy which took place in Belfast Northern Ireland on August 12.

As I understand the situation a group of Americans totaling more than 100 were on a trip to Belfast under the sponsorship of the Irish Northern Aid Committee based in New York City. The delegation was to be led by NORAID's Publicity Director Martin Galvin. However in an order handed down by the British Government on July 28, Galvin was denied admission into Northern Ireland on the basis of a speech he had given in April where he was alleged to have expressed his "encouragement" over an event in which some British security force members were killed.

On August 12, a rally was called where it was announced in advance that Martin Galvin who by this time had entered the north illegally would appear. A crowd estimated at more than 2,000 including many in the American delegation gathered peacefully in anticipation of the Galvin appearance. Galvin did appear and just as soon as he was visible, the British security forces who were at the rally charged into the crowd. It is tragically ironic that all this took place even though Galvin had every intention of being arrested and planned to offer no resistance.

What ensued, Newsweek magazine called one of the worst scenes of police violence seen in the province in years. When it was over more than 30 rounds of plastic bullets were fired into a largely peaceful and unarmed crowd. One of these bullets fatally wounded one Sean Downes a 22-year-old bricklayer who was at the rally with his wife and 18-month-old child. Numerous other people were injured including some of the Americans.

I reiterate my belief that there was some culpability on both sides—including the illegal entry into Northern Ireland by Martin Galvin. However it is clear to me that the excesses of the British security forces were far greater in this instance.

At the September 6 meeting of the Ad Hoc Committee both the Department of State and the British Embassy declined the invitation to testify. In the case of the Department of State the Deputy Assistant Secretary for Congressional Relations Jim Montgomery advised my office that the State Department "notes that these matters fall under the jurisdiction of the House Foreign Relations Committee." As a result—until such time as this committee acts—the Department's policy was not to appear before any other congressional group or organization.

I was disturbed not only at this snub by the State Department but also their failure to even file a protest with the British Government over the police action which left American citizens injured. I am also concerned over their failure to support House Concurrent Resolution 21 which I offered to express the opposition of Congress to the use of plastic bullets in Northern Ireland.

I would like to enter into the RECORD the statement of Martin Galvin.

STATEMENT OF MARTIN GALVIN, AN AMERICAN OF IRISH ANCESTRY AND A RESIDENT OF NEW YORK CITY

Mr. GALVIN. Thank you, Congressman Biaggi and members of the Ad Hoc Committee on Irish Affairs. My name is Martin Galvin. I am an attorney, age 34. I am currently employed by New York City as an administrative hearing judge with the Department of Sanitation. I was formerly an assistant district attorney in the Bronx, and before that an assistant corporation counsel. I was born in New York City, as were both my parents. Like many Americans, I feel a deep interest in my ancestral homeland, which is Ireland.

Since 1970, I have visited Ireland an average of once a year. What I saw during these visits both shocked and angered me, as indeed I believe it would shock and anger any American. I saw British rule being enforced by 30,000 members of the British Army, the Royal Ulster Constabulary, and the Ulster Defense Regimen, who saturate nationalist areas, engage in shoot-to-kill assassinations, systematically conduct gunpoint interrogations of Irish citizens and gunpoint invasions and searches of Irish homes.

The terror of such daily encounters is highlighted by incidents such as the first "Bloody Sunday" in January 1972, when the British murdered 14 innocent civil rights marchers. Religious discrimination is deliberately used to create a privileged status for one part of the population, with the effect of denying employment or even the realistic hope of employment, decent housing, or redress through the political process for Irish nationalists. The legal system, which should serve as a guarantee of fundamental liberties, has been manipulated by the British through a succession of procedures such as internment without trial, followed by non-jury courts, confessions extracted under torture, and informer show trials. The legal system itself has become simply a conveyor belt for the disposal of unwanted Irish nationalists.

As an American, I have always believed that a state based upon the denial of fundamental liberties, institutionalized violence and religious discrimination can only produce conflict. Such, indeed, has been the reaction in Ireland. Upon my completion of law school, I joined a number of Irish societies, including the Irish Northern Aid Committee, the Ancient Order of Hibernians, the Emerald Societies, and the Irish People Newspaper. It has always been my belief that bringing Americans an accurate view of British rule in Ireland would generate a public demand for American diplomatic, political, and moral pressure upon the British to withdraw from Ireland.

A major barrier to bringing a true picture to Americans was the denial of visas to all prominent members of Sin Fein through British influence upon our State Department. Sin Fein is the legal political party which is opposed to British rule in Ireland.

Because of my activities in Irish-American organizations, I was asked to speak at the interment rally in Belfast in August 1979 and have made a series of public speeches in the north of Ireland, the most recent being in April of this year. On all such occasions, I espoused very strong opposition to British rule in Ireland, a viewpoint that was shared by all speakers on the platform, including elected government officials from London. All of these speeches were given without incident, including speeches made in 1982 and 1983 at the very same August interment rally in Belfast at which I was invited to speak on August 12th of this year.

In August of 1983, I organized a tour of some 80 Americans drawn from 17 States. These Americans were not members of any particular committee, nor did they share any particular political perspective on Ireland, save the desire to see the north of Ireland and judge the facts for themselves. Participants included an elected State assemblyman from Massachusetts, several college professors, a retired New York State police officer, and members from varied walks of life. The tour was featured as part of a Public Broadcasting System documentary and generated much factual news coverage in the United States, Britain, and Ireland.

It should be noted that while the tour was in progress, two young Irishmen—Martin Malone, age 17, and Thomas Riley, age 21—were murdered in separate incidents by British Crown forces. There were claims that the British and Loyalists had not been invited to address the delegation. However, when Loyalists were invited to address us, they rejected that invitation; and an invitation from British Minister Nicholas Scott, extended to the delegation, was withdrawn by him after we had accepted.

The tour generated publicity which was embarrassing for the British and particularly for the United States. This year, under

the auspices of the Irish People Newspaper, I organized a larger tour involving 130 participants drawn from 21 States. I formally invited British Secretary James Prior and a number of Loyalist politicians, including Ian Paisley and Peter Robinson, to address the delegation under any format acceptable to themselves. It was then reported in the Belfast Telegraph, less than one week before I was due to depart for Ireland, that instead of responding to these invitations, Ian Paisely's deputy, Peter Robinson, had requested that I be banned from the north of Ireland because of the unfavorable publicity to the British generated by the 1983 tour.

The request was made to British Secretary James Prior. It must be noted that both men had personal motivations for the ban, and that both had conducted publicity tours in the United States, which I, in my capacity with Irish Northern Aid, had countered by asking for equal time and appearing in opposition to them on the media. In Mr. Prior's case, I was able to gain a copy of his agenda and to have Sin Fein representatives Owen Carron and Danny Morrison confront him in debate in various cities.

On Saturday, July 29th, approximately 72 hours before I was due to depart for Ireland with the delegation, I was advised by members of Sin Fein and then by a series of journalists that a visa ban had been signed at James Prior's request. I was never served with that order and have not been served as of today. Journalists advised me that there was no appeal from that order and that it was being defended by taking out of context one word, the word "encouraged", from one of my speeches last April in Ireland.

It was clear to me that this ban was simply an act of censorship, designed to initimidate me from speaking out against British injustice and also to intimidate all other Americans who might desire to speak out against British rule with the threat of a ban. Either I could accept the ban and remain silent about the grievous wrongs inflicted upon the Irish people by the British, or else I felt I could engage in an act of civil disobedinece to what I regarded as an immoral act of censorship. I, of course, chose what I viewed as the only honorable course of action.

I entered Southern Ireland legally and crossed the border, making a public appearance in Derry, where I was photographed in front of a memorial to Amon Bradley, a young Irishman who had been murdered by the British army in 1982. The following day, British troops painted obscenities on that memorial.

On Sunday, August 12th, thousands of people assembled at the annual anti-internment rally, at which I had spoken in 1979, 1982 and 1983 without incident. A large delegation from the Troops Out movement, an anti-war movement within Britain, were in attendance, as were 130 members of the American delegation which I had organized. The area was entirely surrounded by the British army and Royal Ulster Constabulary. I entered the area with the understanding that the only basis for taking me into custody was the minor violation of being there without a visa, which does not even rise to the level of a criminal offense.

Prior to my arrival, several protests from congressmen had been made on my behalf, including that spearheaded by Congressman Biaggi. Cameras from several American, British, and other international news outlets were present as a result of the publicity given my predicted appearance. It was my belief that I would be permitted to speak and then taken into custody after the crowd dispersed, to be deported to Southern Ireland or to the United States. I was prepared to be taken into custody. Neither I nor anyone on my behalf intended to offer any resistance to the British.

It was my feeling that the arrest itself, made after I had spoken out against British rule, would highlight the fact that the British were trying to conceal the truth from the American public and to censor those who would attempt to speak out on behalf of Irish national freedom. Jerry Adams, the elected member to the British parliament from that area of Belfast, called me to the platform. What happened next was seen by anyone who watched the television news during that period.

Jerry Adams asked the thousands of men, women and children, including the 130 Americans, to sit down in the street so that there could be no rioting, no provocation for the British to engage in an attack. At this point, the inconceivable happened. As those people sat down in the street, with their backs to the British army and the Royal Ulster Constabulary, the British commander ordered a charge. Armored vehicles and Land Rovers ploughed into the crowd, injuring many people, including several Americans, one of whom was Dr. Martin Abend who will testify at this proceeding.

The British began to fire plastic bullets at close range into the crowd. They used clubs to injure other men, women, and children, to beat them out of the way. People screamed, "Don't shoot." Members of Sin Fein shouted at me to get off the platform and shoved me. I still at this point couldn't believe what was happening. I was stunned. I could not imagine that the British would engage in such an attack upon peaceful demonstrators before the cameras of the world.

I jumped into the crowd. They were still sitting in the street and passed me over their heads. I, along with several members of Sin Fein and others who were simply trying to run away from the plastic bullets and from that attack, was stopped by three members of the Royal Ulster Constabulary. Several of the people with me were bleeding from injuries. After a period of four to five minutes, the three RUC men, who during this period were firing plastic bullets into the crowd, cursing and swearing, charged forward, allowing me a free path of escape.

I later learned that the attack was headed by the Royal Ulster Constabulary's Divisional Mobile Support Unit, which is responsible for several of the murders described as shoot-to-kill assassinations and was authorized and instructed to be there at the highest level within the British Cabinet. I was able to drive to another part of Belfast, where I learned the tragic news that Sean Downes, aged 22, had been murdered and that many others, including several of the Americans, had been injured. The most serious of these was Jeannie Martin, a young women who sustained a fractured arm.

These individuals would later protest to the American consulate in Belfast. Several Americans at this time, including Nassau County Comptroller Peter King, contacted the State Department requesting that some action be taken to protect my safety. However, as yet, the State Department has taken no action, nor made any protest, about American citizens being victims of a brutal attack at the hands of British forces, thereby tacitly giving sanction to such actions.

The British Labour Party and the social democratic leaders criticized and condemned the ban upon me for the first time. They had been silent at the time it was issued. They also condemned the attack by British forces. James Prior himself described the ban as a "bad mistake." The British newspaper, the Daily Mirror, called for the British withdrawal, and the following Saturday 4,000 people, including several British members of parliament, marched to show their support for British withdrawal from Ireland.

I believe it is clear to anyone who saw the film footage of that attack that British forces acted as uniformed terrorists, savagely brutalizing all of those who attended the march to peacefully express their support for Irish national freedom.

Members of the Ad Hoc Committee, it is impossible for me to express the shock and terror which I and others present felt at the hands of British Crown forces during that attack. It is impossible to express the depth of Irish anger and hostility to British rule because of the systematic use of such tactics on a smaller scale, away from the cameras, over the past 15 years. As an American who fervently desires to see peace in Ireland, in accordance with fundamental principles of national freedom, religious equality, and opposition to colonialism, I implore you to take the following steps.

I would urge that visas be granted to Sin Fein representatives, such as Jerry Adams, M.P., so that they may be permitted to put their case alongside that of the British before the American people and before the American Congress, in conjunction with First Amendment free speech principles. All prominent Sin Fein leaders have been denied visas since 1974.

I implore you to support Congressman Biaggi's concurrent resolution to ban the use of plastic bullets, such as this one which I hold in my hand, which have been previously outlawed by the European parliament but which are still used by the British against Irish men, women and children and now were used against Americans. These lethal weapons that were responsible for the murder of Sean Downes were manufactured in the United States.

I implore the Congress to conduct hearings, echoing Congressman McGrath's plea, on the entire issue of Ireland, inviting the British, Loyalist Dublin government, Sin Fein, and indeed all shades of Irish opinion; and to pursue a foreign policy in relation to Ireland that is consistent with the principles enshrined in our Declaration of Independence and Bill of Rights.

Fourth, I would ask the Congress to demand of the State Department the reasons why it will not protect American citizens who were injured by the British in the north of Ireland, under circumstances which I believe would and should be protected anywhere else in the world.

Last, I would ask that the censorship ban against me, issued by the British government, which has already been condemned by the British Labour Party, the British Social Democratic Party, and conceded to be a mistake by its author James Prior, but which still remains in effect, be the subject of an additional formal protest.

I cannot abandon the people of the north of Ireland, who have suffered so much for so long, including that attack on August 12th. The removal of the ban would allow me to speak out on their behalf, without the threats to my freedom and my safety evident on August 12th in Belfast.

Members of the Ad Hoc Committee, it is my belief that a true understanding of the situation in Ireland would lead all Americans to call for diplomatic, political, and economic pressures on the British to declare a date for withdrawal from Ireland, thereby permitting the whole people of Ireland to come together without foreign interference and to form one national government based on freedom, religious equality, and the interests of the Irish people as a whole.

Full congressional hearings and visas for Sin Fein leaders would cause the truth about British rule in Ireland to emerge—the truth, which the British attempted to silence, first by its censorship ban against me and, when that failed, by murdering Sean Downes and savagely attacking thousands, including 130 Americans in Belfast before the cameras of the world.

I would simply add to my prepared remarks that I am grateful to you, Congressman Biaggi, and to the entire committee for giving me and the other witnesses an opportunity to speak of what is occurring in the north of Ireland. I know that gratitude is very deeply shared by many Americans, Irish Americans and others concerned with the issue of Ireland. It is certainly shared by those who are forced to live under British rule in Ireland.

I am not surprised by the absence of the British today, although you invited them. Certainly, their conduct was indefensible. They stand condemned by the film which everyone who watched the news has seen, and nothing they can say could defend their attack. I am, however, again saddened, although not unexpectedly so, by the refusal of the State Department to be here. As an American citizen, I at least expected that the other Americans on the delegation would be protected, there would be a protest lodged on their behalf, or at least they might give some expression of sympathy to Americans who were injured in an unprovoked and brutal fashion by a foreign country. They have not done so, and I am saddened by the fact that the protection of American citizens seems of less importance than the interest of the British government in Ireland to the State Department in a country that came into existence by rebellion against England. Thank you.

Mr. BIAGGI. Thank you very much, Mr. Galvin.

Before we ask Dr. Abend to speak, I wonder if you would come forth and bring that plastic bullet up here so all the members can see it.

Mr. GALVIN. It is described as a "plastic bullet" but the name itself is misleading. Anybody can see that it is solid. It is fired at a speed of 160 miles an hour, which is almost twice the speed of a fastball in baseball. It was fired at point-blank range. It is supposed to be fired toward the ground or at the lower extremities. It is supposed to be fired at a distance of over 60 feet. It was fired, again and again, at point-blank range, all at the upper portions of people's bodies. Sean Downes was struck in the heart, and that was sufficient to kill him instantly. There were others who were severely injured during the firing of these plastic bullets.●

PROMISES MUST BE KEPT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. FRENZEL. Mr. Speaker, I would like to share with my colleagues a letter that we all received from a number of leading trade associations. These varying organizations represent a wide range of our own constituencies, and they also represent millions of taxpaying individuals.

The letter states, in unambiguous terms, the need to get beyond mere rhetoric, and to begin making the tough fiscal decisions necessary if we are truly going to control the Federal budget.

Each Member must demonstrate some personal interest in spending discipline. We will have an opportunity to take our first baby steps in that direction later this week during consideration of the continuing resolution. The continuing resolution must be kept within the targets set by this House earlier this year in our more-than-generous House budget resolution. Harder, more difficult decisions will certainly follow.

We must be accountable to these and all taxpayers on how we handle the national purse. As stated in this letter, promises must be kept.

The letter follows:

AUGUST 22, 1984.

DEAR MEMBER OF CONGRESS: Over the past several years collectively and individually we have petitioned Members of Congress and the Administration to take meaningful steps to reduce current and projected Federal budget deficits. We have taken our concerns to the public through various media forms. Massive continued deficits raise interest rates, threaten to abort the economic recovery, cripple capital investment and savings, and reduce the standard of living for all Americans.

In our letter to the President and the Congress on February 10, 1984, we emphasized that "no parts of the Federal budget can be considered untouchable in the attack on deficits" and that "any increases in tax revenues must be broad-based and at least matched simultaneously by spending cuts."

The response to such appeals has been positive on the surface, and we are pleased that a consensus seems to be building throughout the nation that Federal deficits must be addressed and resolved. However, as we look at the record today we are concerned that the commitments made to reduce the deficit—especially commitments for spending cuts—have not been fulfilled. Promises made must be kept.

The 1982 TEFRA effort was to cut Federal spending three dollars for every dollar of tax increases. That did not happen. Primarily, tax increases passed Congress.

Attempts this year to have a "modest" downpayment on the deficit have once again relied almost exclusively on taxes. Moreover, these tax increases placed a disproportionate burden on savings and investment. Previously agreed to spending cuts were not made. Congress must make these spending reductions. If Congress does not, the President should veto any appropriations bill which exceeds deficit downpayment guidelines.

Congress has failed to pass a Budget Resolution with the official targets for the appropriations spending levels. The President vowed to veto bills which exceeded his budget requests and yet the President signed the HUD Appropriations bill even though it exceeded both the President's and the Senate's guidelines. Moreover, the President, the Senate and the House guaranteed an increase in social security benefits beyond what the law required.

Because of our continued concern, we are sending this letter to all announced candidates for federal office. No candidate should face the electorate without explaining his or her specific views and votes on resolving federal deficits and the degree of his or her support to reduce expenditures.

Sincerely,

C. ROBERT BRENTON,
President,
American Bankers Association.
FELIX M. BECK,
President,
Mortgage Bankers Association of America.
PETER D. HERDER,
President,
National Association of Home Builders.
DONALD H. TREADWELL,
President,
National Association of Realtors.
JAMES A. COLES,
Chairman,
National Council of Savings Institutions.
PAUL W. PRIOR,
Chairman,
U.S. League of Savings Institutions.●

A FIRST YEAR REPORT FOR COMPETITION ADVOCATES

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. KASICH. Mr. Speaker, I wish to share with my colleagues the first year report from the Navy's Competition Advocate General, Commodore Stuart Platt. This report clearly shows the progress the Navy is making in saving money by fostering competition in its procurement practices. As Commodore Platt states in this report, "competition reduces costs, improves contractor performance, and strengthens the industrial base." I commend Secretary Lehman's wisdom in establishing the Office of the Competition Advocate General and Commodore Platt in achieving the significant results which are set forth in this report.

HEADQUARTERS NAVAL
MATERIAL COMMAND,
Washington, DC, August 13, 1984.

A FIRST YEAR REPORT FOR COMPETITION ADVOCATES

A year ago Secretary Lehman establishd the Office of the Competition Advocate General of the Navy to pursue increased competition in the procurement of weapons systems, components, parts, and services for the Navy and Marine Corps. After reflecting on our first 12 months, I decided to share

with you some results of the Navy's efforts—thus this "annual report"!

SHIPBUILDING COMPETITION

This fiscal year, we will buy over 86 percent of our ships competitively. Especially encouraging is that over 90 percent of ships to be built or converted in the current five-year defense plan, including the SSN21 class of attack submarines, will be competed. We have set the right business posture for the future of shipbuilding, a major segment of the Navy budget. In shipboard weapons and equipment, as well, we have incorporated competition into many of our acquisition strategies. Examples include the MK-48 ADCAP (advanced capability torpedo), MK-50 ALWT (advanced lightweight torpedo), and propellers for the DDG52 and subsequent Arleigh Burke class destroyers.

AIRCRAFT, MISSILE AND ELECTRONIC SYSTEMS COMPETITION

Major strides in competing aircraft, missile, and electronic systems have also been made. Competition is a keystone in major new starts such as the CV Inner-Zone ASW Helicopter and JVX Advanced Verticle Lift Aircraft, and in other programs such as the common ejection seat and the purchase of commercially owned C-9 aircraft. The Navy's recent decision to establish a second production source or accelerate second-sourcing plans for the Phoenix, Rolling Airframe, and Standard missile programs is an important step. New missile programs will be competed in a similar fashion.

To benefit the F-14D upgrade program and expedite its on-time completion, the Navy selected the winner of the fighter aircraft engine competition run by the Air Force with Navy participation. We established a competition base for aircraft inertial navigation systems using ring laser gyro technology, whch should break a sole-source hold existing for years. The Navy's objective here, as elsewhere, is to put forces in place that will stimulate contractors to reduce costs and improve performance so we can afford the level of naval weapons we must have.

SAVINGS BEING ACHIEVED ARE IMPRESSIVE

Last year's competition between prime contractors for three Aegis cruisers yielded $228 million in savings from the President's budget request for those ships. Competition in FY 84 for SSN668 class submarines resulted in savings of $108 million from the President's budget request. Interjecting competition in the recent buy of "RD-358" shipboard magnetic tape units produced a winning bid of $27 million from the challenger, providing the Navy with a savings of some $20 million over the bid of the previous sole-source supplier. Competition for production of 42 "TBX" Thinline Arrays is saving the Navy $250,000 per unit over the production estimate of $700,000 per unit, for total savings exceeding $10 million.

A competitive climate brought about an estimated $22 million savings in the FY 84 contract for the joint cruise missile engine. Aggressive competition for nuclear attack submarine contracts has motivated private submarine construction yards to achieve breakthroughs in production technology: the improved facilities and fabrication techniques are expected to shorten construction periods and cut costs. These are just a few of numerous examples of the practical impact of increased competition.

HEIGHTENED AWARENESS IN THE NAVY

I have noted an increased awareness of competition in middle and first-line management throughout the Navy. People in Washington headquarters commands and field activities are realizing that the Navy is serious in its commitment to competitive procurement. Much of the change is due to the strong and active support we are receiving from the President, the Secretary of Defense, and our senior Navy leaders. I also sense that the mood of the general public is supportive of Navy competition efforts.

In FY 83, we exceeded, by some $215 million, the Navy's competition goal of 30 percent of total direct purchase dollars. This fiscal year, we have set our competition goal significantly higher: 38.6 percent of total procurement dollars. That equates to $15.8 billion in competitive awards, and we expect over half of our contract actions to be competitive. Although progress toward this FY 84 goal is mixed through the first nine months, we anticipate reaching our goal.

PROJECT BOSS

To help correct the problems we have found in our spare parts acquisition process and to facilitate more spare parts competition, the Chief of Naval Material established Projects BOSS (Buy Our Spares Smart). Its objective is to ensure that the Navy pays only fair and reasonable prices for spare parts, which will help us obtain the highest possible state of fleet readiness with available funds. Project BOSS incorporates over 100 initiatives designed to improve the process of buying spare parts. To support these initiatives, some 350 new billets have been allocated Navy-wide.

The breakout initiative can save precious stock fund dollars, particularly when we stop buying from prime contractors and start competing requirements directly with active subcontractors. Our inventory control points have conducted full breakout reviews of over 3,800 items this year, already exceeding our FY 84 goals, and thousands of other breakout reviews are also being conducted. There is an across-the-board acceptance of responsibility for controlling Navy procurement costs—the bottom line is that BOSS is working. All this represents solid progress which will earn dividends for years to come.

Rights in technical data are often an essential element in obtaining competition. The Navy is systematically reviewing restrictions on data and challenging restrictions where appropriate. We have reached agreements with major prime contractors (for example, Litton, United Technologies, Sperry, and IBM) which eliminate or reduce restrictions on data and have been well publicized. We are committed to do battle in instances where we find improper restrictions on data. We will defend our actions in the courts if necessary.

COMPETITION ADVOCATES ARE IN PLACE

Competition advocates have been appointed at all buying activities with procurement authority over $25,000. In addition, more than 150 competition advocates have been designated at field activities which generate more than one million dollars in annual procurement requirements.

SOUND JUDGMENT

The recording of history is one of mankind's most inhuman products, but judgment based on historical records is the keenest tool for dealing with problems near at hand. As competition advocates, you must use sound judgment and have the courage of your convictions as you go about executing the Navy's program of full and open competition in procurements. The following are some observations for your consideration:

Judgment: the capacity to make sound and reasonable decisions; good sense; discernment.—The American Heritage Dictionary.

Knowledge comes, but wisdom lingers. It may not be difficult to store up in the mind a vast quantity of facts within a comparatively short time, but the ability to form judgments requires the severe discipline of hard work, and the tempering heat of experience and maturity.—The Thirtieth President of the United States.

This above all: to thine own self be true, And it must follow, as the night the day, Thou canst not then be false to any man.—William Shakespeare.

Competition should be used to help give us more quality and product for our scarce dollars. Your mission is to challenge sole-source procurements and promote maximum practical competition in contracting. We are all expected to do what is best for the Navy and our country. At times competition may not make good business sense. In such a case, you should promptly recommend approval of a valid proposed sole-source award and move on to other issues.

Remember not to be overly influenced by pessimists or those who are resistant to change or work and who do not have the open mind and vision to recognize the potential results of competition. Use your common sense and attack problems on a case-by-case basis. Be wary of studies, many of which we see yield distorted results and are clearly too biased for use in generalized predictions. We cannot ignore the widespread use of competition in commercial business—if competition did not work and make sense, industry would not be competing their purchases so extensively!

FUTURE ACTIONS

It's the people on the firing line like you who will, in the long run, determine the success of our program. I suggest you keep the following steps in mind as you address individual issues:

Pay particular attention to contractor support services, and pursue competition in this area with vigor; you should expect more direction in this area shortly.

Expect industry's continued cooperation, but be prepared if necessary to use the Navy's resources and proceed on your own if cooperation is not forthcoming.

Continue to press for the technical data needed to permit the second sourcing and the spare parts procurement reforms we are seeking.

Aggressively break out spare parts to competition to take advantage of the demonstrated savings. Spare parts procurement is one area where we all have our credibility on the line and we must remain strong.

Enforce the contractor commitments we have obtained on lifting of restrictions on data rights, use of suppliers and licensees for direct purchase, etc., and seek commitments from contractors whom we have not yet heard from.

Continue to emphasize early planning for competition as an essential element in a complete acquisition strategy; clearly we should look for a plan to compete in all new starts.

Encourage maximum possible subcontractor competition; here we need our NAVPROs, SUPSHIPs, and other contract administering activities to lead the way.

Be tough-minded but fair in our dealings with industry; the taxpayers deserve no less.

Remember that we are carrying out the strategy of the Secretary of the Navy and Chief of Naval Material to use competitive forces to our advantage. As we seek to compete our procurements, we also seek to ensure quality in our weapons systems, which must be rugged, reliable and maintainable—our ships and aircraft must be able to survive in wartime or time of crisis.

SUMMARY

We are extensively increasing the use of competition in procurement *to reduce costs, improve contractor performance, and strengthen the industrial base.* We have made competition a part of all new shipbuilding, aviation, and missile programs, as well as created competition through starting dual sourcing of many of our existing complex weapons systems. In short, we are using competition where it makes sense.

The powerful market force of competition is bringing about very dramatic and real savings. We are setting the right stage for the Navy's future business. This important program you and I have been participating in is accelerating—we now need to keep it moving smartly while directing it equitably.

STUART PLATT,
Competition Advocate General.●

DILLON RIPLEY'S WASHINGTON

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. CONTE. Mr. Speaker, I would like to take this opportunity to express my deep appreciation to S. Dillon Ripley, who is serving today for the last time as Secretary of the Smithsonian Institution.

Dillon has served for 20 years as the ninth Secretary of the world's largest complex of museums, research installations, nature preserves and parks. Under his stewardship, the 137-year-old Smithsonian has been transformed from "The Nation's Attic" into what it was intended by James Smithson to be—an institution for the increase and diffusion of knowledge about man, his culture and the environment.

It has been an honor and a pleasure for me, as a member of the Board of Regents of the Smithsonian Institution, to work with Dillon for the past 6 years. As one of the most important scientific and cultural leaders in the United States, he has been successful in bringing the Smithsonian museums, galleries, parks and resarch centers to nearly 30 million men, women, and children each year. I wish him every continued success in his new position with the Smithsonian, and submit for the RECORD two tributes to his career taken from the September 15 and September 17 editions of the Washington Post:

[From the Washington Post, Sept. 17, 1984]

DILLON RIPLEY'S WASHINGTON

S. Dillon Ripley steps down today after 20 years as head of the Smithsonian Institution, and what a productive 20 years they have been. Mr. Ripley has been the promoter, builder and/or expander of most of the great museums on the Mall and of a host of other facilities (the National Zoo) elsewhere in the city and outside the city. No single man has done more in his time to bring pleasure in learning to Washington's residents and its millions of visitors alike.

He in fact believes fiercely in the pleasure principle in knowledge, the notion that learning must be enjoyable and that the human personality can be engaged and fulfilled in many playful, serendipitous ways. Hence his placement of a carrousel by the Smithsonian castle, his sponsorship of the summer folk festivals and other special events, his hospitality to a profusion of activities that reach, on the Mall, a critical mass. To measure the public's taste for all this, try counting the Smithsonian Associates stickers on the cars you see.

Less visible but no less central to his stewardship has been his vision of the wholeness of knowledge, the interdependence of the sciences and the humanities, the single universe of the scholarly life and the public life. The Woodrow Wilson International Center for Scholars, the Smithsonian's seminars and research and its outreach to countries around the globe, and its publications, including the nationally popular Smithsonian Magazine and the Wilson Quarterly, are among the fruits.

For his vast construction program—some important parts of which remain for his successor, Robert McC. Adams, to oversee—Mr. Ripley gained a reputation as a master builder. He also gained a certain reputation as an empire builder who went by his own rules. In a sense that particular rap may be seen as a tribute to the diligence and skill with which Dillon Ripley wove the strands of private money and public power into the institutional web of the Smithsonian.

He looked after the Hill and he kept in touch with presidents. He gave them good ideas and they gave him support. This is a political city, and nothing important gets done in it that does not require a political touch. The Smithsonian is, after all, devoted to the diffusion of knowledge.

[From the Washington Post, Sept. 15, 1984]

RIPLEY'S BELIEVE IT AND BUILD

SHAPING WASHINGTON AND THE SMITHSONIAN

(By Benjamin Forgey)

S. Dillon Ripley, whose 20-year stewardship of the Smithsonian Institution ends officially on Monday, when archeologist Robert McC. Adams of Chicago is sworn in as secretary, was, among other things, the greatest builder in this city during a time of tremendous building activity.

Builder is perhaps not quite the word, or not the only one. Maker, or shaper, might better fit the man and the achievement. If there are a few private developers who can claim to have built more square footage here in the same time span, no individual or institution, including the federal government in all of its non-Smithsonian projects, comes close to having had more beneficial effects on more people than Ripley has had in his role as builder-maker-shaper of the Smithsonian expansion.

The list of local buildings and projects constructed during Ripley's reign includes: the National Air and Space Museum, the Hirshhorn Museum and Sculpture Garden, the Museum Support Center in Suitland and, at the National Zoo, the Panda and Great Ape houses, Monkey Island, Beaver Valley and the Lion and Tiger and Education and Administration buildings.

Restored or improved buildings include: the Reptile, Monkey, Elephant and Small Mammal houses at the Zoo; the Old Patent Office, housing the National Museum of American Art and the National Portrait Gallery; the Renwich Gallery, the Anacostia Neighborhood Museum (in an old movie theater); the Smithsonian Castle; the Arts and Industries Building; and the National Museum of American History.

Outside of Washington there are: the Cooper-Hewitt Museum of Design, established in the old Andrew Carnegie Mansion in New York City; a research and conservation center for the zoo in a former U.S. Calvary remount station in Front Royal, Va.; and the Multi-Mirror Telescope on Mount Hopkins in Arizona.

And the man is making an almost unbelievable exit. Plans are well under way for: a large, glass-enclosed restaurant addition to the Air and Space Museum; a part-new, part-restored facility for the Anacostia museum; and the acquisition and remodeling (for museum use) of the old Tariff Commission building downtown.

Then there is the final coup: the giant building, mostly underground, that will house the Sackler Gallery of Oriental Art, the National Museum of African Art and the Smithsonian Center for African, Near Eastern and Asian Cultures.

Not everything on this astonishing list was a Ripley project per se. Plans for the Old Patent Office and the Air and Space Museum were lying in wait for him when he arrived. But Ripley seized upon them as if they had been his own. He was the great aggrandized in Smithsonian history.

He earned enemies along the way, to be sure. Disdainful of critics, he often was offputting even to allies. He has been rightly accused of being secretive, arrogant, highhanded and, sometimes, vengeful in personnel matters. He has rightly been called an elitist, but for the wrong reasons, as if dedication to the highest standards of excellence in a job that demands them were somehow inappropriate.

The charge stings him to this day. "I believe elitism is a great word," he says, "if taken to mean maintaining a healthy interest in intellectual excellence. But it is not a nondemocratic word." In fact, Ripley was a wildly successful popularizer of the institution he headed and the hallowed grounds upon which most of its buildings stand.

He accomplished it all with patrician style, sharp intelligence, massive self-assurance and a sure grip on the levers of power. Although he often seemed indifferent or even hostile to the mechanics of power in Washington, for 20 years he was able to bend presidents, executive departments and a seemingly recalcitrant Congress to his will.

In part this was due to his astute choice of assistants. Ripley made the battle plans; the high-level staff took care of the all-important political details. In part it was due to his considerable supply of personal charm, and his timing. He knew just when to turn it on. In part it was due to the nature of the job. A Smithsonian secretary, once installed, is very like a king within his sizable realm. In part it was due to a masterstroke called the Smithsonian Magazine, with which Ripley was able to form a national constituency for the institution and its programs. In part it was due to his basic love of the fray.

But especially, I like to think, Ripley's success as a builder was due to the elementary fact that most of the ideas he espoused

were good ones, and the results he achieved were so obviously of lasting public benefit.

Architectural quality is not the principal issue, although the projects, both new and old, range from above average to very, very good. (None, it should be pointed out, was frightfully expensive, and sometimes the economies proved to be false ones. The Hirshhorn, over which bitter fights were fought—fights tingled with anti-Semitism on the Hill—is a good example. It would have been a softer, more handsome building by far had it been sheathed in light granite, as planned, instead of concrete. But even Ripley didn't dare go back to Congress palms up on this one.) The main isssue is simple: Washington would be a vastly poorer place—intellectually, artistically, architecturally—without the buildings Ripley helped to save and build.

And it's not only the buildings. One of the first things Ripley did after arriving in Washington was to install a rented carrousel under towering elms on the south side of the Mall. That carrousel, now a fixture, stands as an apt symbol for Ripley's successful efforts to transform the magnificent, formal greensward into a place where people rush to run, walk, play, congregate. Of course, others contributed significantly—the late Nat Owings and National Gallery director J. Carter Brown deserve special mention—but Ripley's ceaseless prodding was the chief force behind turning the Mall into the nation's number one public park.

As secretary, Ripley was a walking, talking opportunist. Shortly after he arrived he took up the issue of the abandoned, dilapidated Renwick Gallery—the original Corcoran Gallery that for years had been misused as the Court of Claims. There were big plans afoot to rip it down, but Ripley, heading right for the top, convinced Lyndon Johnson that it should be returned (under Ripley's aegis, of course) to its original use as a public museum. And what Lyndon Johnson said, in 1964, was law.

The Renwick was the first of Ripley's major Smithsonian plums. The Hirshhorn was the second. "And then Hirshhorn swam into our orbit," is the way he put it, with false modesty, as if it hadn't been Ripley himself, again playing the Johnson card, who persuaded a widely courted collector that the Mall was the place for his collection.

And so the list lengthened for two decades, culminating with the plum of plums: two museums and a Ripley invention, the study center for that "vast and rich array of civilizations" of Asia, Africa and the Near East, all being built underground. It's as if, having run out of places to build on the soil, Ripley, refusing to quit, simply looked out the window of his Castle office and thought, "By God, we can put it down there."

Nothing is quite so simple, of course, but the decision to bury two museums underneath a park, regardless of its rationale, is the act of a daring, resourceful, powerful builder, the likes of which this city has rarely seen.●

THE PRESIDENTIAL VETO

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. LEHMAN of California. Mr. Speaker, I would like to share with my colleagues an article which appeared in the Wall Street Journal on September 11, 1984, regarding the use of the Presidential veto. For some time now, the administration has placed the blame on the Democratic controlled Congress for our current budget deficits. We are told that if the Congress had enacted the President's legislative proposals, our deficit would not be in its current disastrous state. As the Wall Street Journal article so aptly points out, the President has failed miserably in utilizing one of the most effective tools for reducing Government spending, one that only the President himself can utilize—the veto. I urge my colleagues to read this article which shows, once again, where our President has failed when it comes to fiscal responsibility:

IF CONGRESS IS SPENDTHRIFT, WHERE ARE REAGAN'S VETOES?

(By David R. Burton)

President Reagan precipitated indignant howls of outrage two weeks ago when he vetoed the authorization bill for the Corporation for Public Broadcasting (CPB). Some might think Mr. Reagan had once again boldly used his veto power to curb government spending. Nothing could be more misleading. Although a conservative, he has used his veto power less frequently than any modern president save that great spender, Lyndon Johnson.

Mr. Reagan entered office promising to keep federal spending under control. But notwithstanding his rhetoric, the record shows that the growth in federal expenditures has continued. Since the Reagan administration took office, total federal spending has increased 11.2% in inflation-adjusted terms while nondefense spending has increased 6.9%. Federal spending reached 24.7% of the gross national product last year.

THE VETO'S HISTORY

President	Period	Total vetoes	Vetoes per year	Vetoes sustained
Roosevelt	1933–45	635	52	99
Truman	1945–53	250	32	95
Eisenhower	1953–61	181	23	99
Kennedy	1961–63	21	7	100
Johnson	1963–69	30	6	100
Nixon	1969–74	42	8	86
Ford	1974–77	72	29	83
Carter	1977–81	31	8	94
Reagan	1981–84	23	7	83

Note: Where appropriate, the fact that a president served less than a full term is taken account of in the vetoes-per-year calculation.

Source: "Statistical Abstract of the United States, 1984"; Clerk of the White House.

Certainly, a profligate Congress deserves much of the blame for this sorry record. But Mr. Reagan himself deserves much of the blame—he has signed virtually every spending bill that Congress has presented to him.

The Constitution, dispersing power among the several branches of government, gives the president the right to veto any bill that Congress presents for his signature. For a bill to become law without the president's support, two-thirds of both the Senate and the House must vote to override the president's veto.

But as the accompanying chart illustrates, Mr. Reagan has utterly failed to use what could be his most formidable weapon in reducing federal spending. This contrasts sharply with the record of Gerald Ford, whom Mr. Reagan criticized in the 1976 campaign as being to soft on government spending. In a lonely effort to curb outlays, Mr. Ford exercised his veto power 29 times per year, more than any other Republican president and more than four-times as often as Mr. Reagan.

In California, Mr. Reagan had the advantage of the line-item veto, which allowed him to reject part of a bill rather than being forced into all-or-nothing choices. Yet Mr. Reagan's veto record in California was similarly lackluster. According to the Reporting Research Corporation, in the first two years of his administration Mr. Reagan vetoed only $60 million in spending ($175 million in 1984 dollars). In 1971, Mr. Reagan did not veto a single item. GOP Gov. George Deukmejian, by contrast, has used the line-item veto to trim $1.8 billion in his first two years as California governor.

The Reagan administration often justifies its veto record by complaining that Congress has failed to send any budget-busting appropriations bills that significantly exceed the president's budget requests. For example, Treasury Secretary Donald Regan, when asked about the dearth of vetoes in a recent ABC interview, said, "Congress keeps slipping in, just over the edge, just taking a little bit, so there's been nothing mammoth that he [President Reagan] can veto." But those "little bits" have added up to record federal spending—under an administration pledged to reduce spending.

The Reagan administration cannot have it both ways. Either Congress is spending responsibly, at a level with which the administration is comfortable, or it is not. If the administration believes that Congress is spending prudently, then the administration should publicly acknowledge that it has few differences with Congress.

Two coming appropriations bills represent a golden opportunity to adopt a new, firmer approach toward spending. Congress is expected to pass this month a Labor, Health and Human Services appropriations bill that could be almost $4 billion (4%) over the administration's budget request. That is not a "little bit" over the president's request, and if the administration is serious about curbing spending, Mr. Reagan should use his veto.

The Treasury, Postal Service and General Government appropriations bill is in conference and should be sent to the president soon. The House version is $500 million (4%) over the administation's request while the Senate bill is $400 million in excess. The House version would mean the hiring of more than 1,500 new bureaucrats. Hiring more bureaucrats is not going to solve the republic's ills. The bill deserves to be sent to the political graveyard.

President Reagan has a historic opportunity to reverse the growth of government. To succeed, however, the administration must become more aggressive in its budget battles. It has neglected the most potent weapon in its arsenal—the veto. With the veto and one-third of either house of Congress, Mr. Reagan can take firm hold of the reins of government and take a detour from what Nobel Prize-winning economist Friedrich Hayek called the "road to serfdom." He should start right now.●

TESTIMONIAL DINNER TO HONOR CATHERINE "CATHY" HENSEL

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. MARTINEZ. Mr. Speaker, I would like to draw the attention of my colleagues to the honor being given to an outstanding individual from my community. I have had the privilege of knowing and working with her, and I ask my colleagues to join with me in paying tribute to this woman and her long history of accomplishments.

Few names are better known in the Montebellow area than "Hensel." And it should come as no surprise, since Catherine "Cathy" Hensel and her husband George have made their influence felt in practically every civic activity imaginable.

Whether it be business activities, political activities, or grassroot community activities, the Hensel's have left a positive mark in every venture they have chosen to undertake—and they have chosen to undertake many.

One-half of the Hensel team, namely Cathy, will be honored this Friday at a testimonial dinner cosponsored by the Montebello-East Los Angeles Family YMCA and the Quiet Cannon Restaurant. Hensel will be honored for her years of service to young people and the community at large.

"I do what I do for people," said Hensel, of her contributions to the community.

"I enjoy doing things for the community. I think if everyone gave to the community, it would make it a better place for everybody."

Hensel was born in Enon Valley, PA, a town near Pittsburgh with a population of 300. She moved to Pocatello, ID, as a young wife and mother during the Depression in 1933 and then to California just after the start of World War II.

A resident of the Montebello area since 1942, Hensel didn't begin her involvement with civic affairs until 1967.

Prior to that, "I was active taking care of my family and starting the driving school," she said.

Her numerous community activities started after she joined the Montebello Soroptimist Club.

"They are a very active organization and one thing just led to another," said Hensel.

Throughout the years she's managed to become a member of many organizations including: St. Benedict's Altar Society, Catholic Daughters, Montebello Women's Club, and the Southland Art Association.

And, as if those activities weren't enough, Hensel decided to take on some more.

In 1974, with only 6 weeks to go before election day, Hensel campaigned vigorously for a seat in the Montebello City Council. She lost by 42 votes.

But in 1976, her bid for the coveted seat was successful and on April 9, 1979, she became the first woman mayor in the city's history.

"I was very proud," said Hensel of her mayoralty. "It was a challenge. I had the full cooperation of the city council and the city staff, but more than that the citizens of Montebello gave me encouragement."

Hensel was reelected to the city council, and served again as mayor from April 1983 to April 1984.

Another first for Hensel was when she became the first woman to hold the position of chairman of the YMCA Board of Managers, another position of which she is very proud. She's been involved with the organization for about 20 years.

"I was always interested in the 'Y'," said Hensel. "My children participated in 'Y' activities. It's the best organization for youth."

Hensel's contributions to the organization earned her the Golden Book Award, given by the Los Angeles Metropolitan YMCA—of which the east Los Angeles-Montebello Family YMCA is a member. The award is the highest that can be given to a layperson.

The east Los Angeles-Montebello facility has also honored Hensel by naming an award given to youth volunteers after her.

"There are lots of reasons to honor this woman. She's given so much to the 'Y' and to youth throughout the community," said Irene Lopez, chairperson for the YMCA.

"She's the type of person who does things and doesn't really let a whole lot of people know about it. The community is not aware of how many things Cathy has done. Cathy is very unassuming."

In addition to her community and political activities, Hensel is also vice president of California Driving School; California Driving School—San Francisco; the California Safety Center, Inc.; on the board of directors at Rio Hondo Publishing Co.; Diamond Bar Country Club, and Hensel Investments, Inc.; and serves on the board of trustees foundation board at Beverly Community Hospital.

She has also been a past member of the board of directors of Pan American Bank, past president of Toastmistress Club, Montebello and east Los Angeles Rotary Anns, a past member of District Attorney John Van de Kamp's advisory committee, and a past member of Assemblyman Jack Fenton's Citizen Advisory Committee on Education.

And, in 1975, Hensel was the recipient of the City of Hope Spirit of Life Award, given to those individuals who have shown compassion for people and who have contributed to the betterment of their communities.

How does she manage to find time for all these activities?

"It isn't difficult," said Hensel. "It's something I'm interested in. I'm interested in people."

Besides that, Hensel is a firm believer in putting back into the community what one has taken out of it.

"Americans are very fortunate to be living in this country," Hensel said. "I think everyone should give back a little in one way or another."

The testimonial dinner honoring Hensel will be held Friday, September 21 at the Quiet Cannon Restaurant, Montebello Country Club.

Proceeds from the black tie dinner optional dinner will go toward repairing the YMCA facility and also toward program development.

Edward James Olmos of "Zoot Suit" fame will be master of ceremonies with dance music provided by Summer Sky.●

SANCTUARY

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. McNULTY. Mr. Speaker, in 1982 a movement was started in my State of Arizona to aid those that have been the true recipients of this administration's policy in Central America: refugees. Today, more than 150 parishes and congregations have declared their church or synagogue a "sanctuary" for illegal Salvadoran and Guatemalan immigrants.

While it is true that this action represents a grassroots protest of the Nation's current policy in Central America—a policy that has forced many people to flee in fear—it is also a praiseworthy effort by men and women of faith to respond to the suffering of fellow human beings. Some 50,000 people have been assisted by this sanctuary movement.

Some have argued that the Salvadorans entering this country are merely economic migrants in search of monetary rewards, rather than political refugees. Consequently, in the past 22 months the Government has granted political asylum to only 391 Salvadorans and denied it to 13,790, saying they failed to prove that they were personally persecuted in El Salvador. I do not intend to challenge the ability nor the sincerity of the Immigration and Naturalization Service; however, the documents and files held by religious and refugee groups would argue to the contrary. And I would suggest that the state of affairs in that coun-

try are so severe as to place the life of most anyone in jeopardy.

You may doubt my assertion and firmly believe that all is well and good, and these people should be returned to their native country. If you are of this belief, then I commend to your attention a bill by my colleague, Mr. MOAKLEY. This measure simply provides for a temporary suspension of deportation of Salvadorans from the United States until the President can verify that the humanitarian conditions in that country are safe enough for these individuals to be returned. This bipartisan bill can answer the questions of those that are unsure, or confirm the beliefs of those who feel these immigrants should return to El Salvador. But in either case, it will ensure that the welfare of these individuals is properly cared for.

Mr. Speaker, I insert the attached article which appeared in the August 4 Washington Post and details the activities of the sanctuary movement in the RECORD.

SANCTUARY: CHURCHES AIDING ILLEGAL ALIENS

(By Caryle Murphy)

TUCSON.—Southside United Presbyterian church sits in a scruffy, heat-bleached neighborhood next to part of the city dump. Inside, a 10-foot cross hewn from worn out railroad ties looms over a simple meeting room equipped with only an organ and wooden chairs.

Here, on March 24, 1982, the Rev. John M. Fife and his congregation invoked a centuries-old Christian tradition and declared their church a "sanctuary" for illegal Salvadoran and Guatemalan immigrants.

It was a solitary, symbolic gesture in defiance of federal laws that forbid helping undocumented aliens flee immigration authorities.

Two years later, more than 150 parishes and congregations from Massachusetts to California—including seven in the Washington area—have joined Southside in what has become an increasingly popular form of grass-roots protest of U.S. policies in Central America and the federal government's treatment of civilians caught up in the conflicts there.

Organizers say that 50,000 people have participated in the sanctuary movement in one way or another, and that several hundred Central Americans have sought refuge through its network of churches. This figure represents only a fraction of the estimated 500,000 illegal aliens in the United States, but total numbers are not the major concern of a movement whose power is meant to lie mostly in its symbolism.

What makes the sanctuary movement different from past protests is that it is challenging Reagan administration policies in Central America through an unusual forum: U.S. immigration law.

The movement's close ties with the church pose a dilemma for the U.S. Immigration and Naturalization Service, which by law is required to apprehend illegal aliens. Wishing to avoid a public clash with churches and hoping to minimize media attention to the movement, INS has studiously ignored its activities for the past two years, including a widely publicized caravan of cars that transported an undocumented Guatemalan family from Chicago to Weston, Vt. last April.

"I don't think anybody, Congress, the White House or the public, wants us going into churches looking for illegal aliens, and it's just not practical or worthwhile for us," says INS spokesman Verne Jervis.

Members of the sanctuary movement contend that the administration, for political reasons, has deliberately misapplied immigration law in deciding whether Salvadorans should be allowed into this country.

"The movement," says Fife, "has created an awareness nationally and in Congress and the administration that Central American refugee issues are an important national consideration . . . and established a clear linkage between immigration and refugee issues and the policies of the United States in Central America."

Typically, the Central Americans, using assumed names and handkerchiefs or sunglasses to conceal their identities, have been presented to reporters during a dramatic welcoming ceremony at which they recite tales of persecution and mistreatment at the hands of army or police in their own countries.

This is a prelude to an extended period during which the churches provide food, clothing, employment and housing, sometimes, but not always, in church-owned buildings.

The major impetus for the movement has come from religious communities across the country and made up of people of all ages and income groups.

So far it has been endorsed by the American Friends Service Committee, the Conservative Rabbinical Assembly, the General Assembly of the United Presbyterian Church U.S.A, the United Methodist Board of Church and Society and the Board of National Ministries of the American Baptist Church U.S.A.

The motives of many sanctuary supporters lie at the intersection of religion and politics. "The suffering of the people of Central America is so great it demands a response from people of faith here," says Benedictine Brother Philip Fronckiewicz of Weston Priory in Weston, Vt., which is providing sanctuary to a Guatemalan family of seven.

"It raises religous and moral questions for us and it was a moral and ethical response [for us] to become a sanctuary," said Fronckiewicz.

Others put politics first. "One of our goals is to end U.S. intervention in Central America," says Lee Holstein of the Chicago Religious Task Force, an ecumenical group that acts as a clearinghouse. The movement "provides safe and public forums for refugees from El Salvador, Guatemala and Honduras so they can speak directly to the American people in the United States about conditions in those countries, about why they left and what the U.S. is doing there."

Those involved in the movement define their role in different ways. "To some people the sanctuary movement is helping [undocumented aliens] evade the authorities; to some it is transporting them; to some it's helping them with food and shelter," says Roman Catholic Bishop John J. Fitzpatrick of Brownsville, Tex.

In recent months, three activists in the movement have been charged with transporting undocumented aliens. INS officials say all three were apprehended as the result of routine border patrol operations and were not targeted specifically because of their involvement in the sanctuary movement.

Despite its roots in Christian tradition, the status of sanctuary as a legal concept is unclear in modern U.S. law. The INS says that members of the clergy are not immune from federal immigration laws and that with a proper search warrant they can enter a church to apprehend illegal aliens.

"Some things done by the so-called sanctuary movement are legal and some are not," says Hal W. Boldin, INS district director in Harlingen, Tex. "it's perfectly legal to give food and shelter. Harboring [an undocumented alien] is only a violation if they are being concealed . . . trying to catch someone giving food and water to illegal aliens, it's just not our operation."

But "transporting of an alien who entered the U.S. illegally in furtherance of that illegal entry is a violation," he says. "We're not talking about sanctuary there,"

The political implications of granting sanctuary are only too apparent to the INS. "The only debate going on is a political one and it has to do with an attempt to change the foreign policy of the U.S. in El Salvador," says Boldin, who calls the illegal immigrants "pawns" of the critics.

At issue is whether the Salvadorans who come here are mostly economic migrants as the federal government claims, or political refugees, as many of its critics claim. Classified as refugees, Salvadorans would be allowed to stay here, at least temporarily, even if they had entered the country illegally.

In the past 22 months the government has granted political asylum to only 391 Salvadorans and denied it to 13,790, saying they failed to prove that they personally were persecuted in El Salvador.

But many religious groups, refugee groups and immigration lawyers, armed with numerous case histories to back them up, charge that INS and the State Department have turned down many Salvadoran applicants with valid stories of personal persecution because the United States did not want to cast the Salvadoran government in a negative light.

"To some degree," says Roger Winter, director of the U.S. Committee for Refugees, a private group, "the U.S. has precipitated the problem by its own unwillingness to keep politics out of the [asylum] system. If back in those early years the U.S. asylum system had adequately distinguished between people who had reasonable cases and people that didn't, then a lot of these later complications, including the sanctuary movement, might not have grown up quite like it did."

Organizers of the movement operate on the assumption that all Salvadorans and Guatemalans are refugees, though they admit they cannot know for sure if the stories they tell are true. "We try to do an extensive screening process and get corroborating letters from churches or the United Nations High Commission for Refugees," says Philip Conger, a refugee program worker at Southside.

"It's difficult for someone to maintain a story that's coherent over a period of time if they are not telling the truth. We have rejected some people we thought were not telling the truth," Conger says.

The first stop for most Salvadorans crossing into Arizona is Southside Church. But before that many of them have met Jim Corbett and his wife, Patricia. A retired rancher and a Quaker who holds a master's degree in philosophy from Harvard, Corbett, 50, says a chance encounter with a Sal-

vadoran refugee three years ago got him interested in Central America.

Since then the Corbetts have been involved in what they call "evasion services," helping Salvadorans and Guatemalans evade the U.S. Border Patrol as they cross into the United States from Mexico. They have helped about 1,000 to do so since 1981, Corbett says. Not all of those go into the sanctuary movement.

Corbett travels to Mexico about every three months to contact an informal network of priests and human rights groups helping Salvadorans and Guatemalans living there. Seeking out people he considers most needy of refugee protection, he makes arrangements for them to cross the border, advising them where to do it and where to meet him after they enter the United States.

Generally the Central Americans are matched with churches by the Chicago Task Force, which runs a nationwide network of contacts who transport them from one place to another. Margaret Volpe of Davenport, Ill., is one of those contacts.

"There's a woman in Nebraska who does routing—she calls us and we send someone to pick them up at such and such an agreed point," says Volpe, a 39-year-old Catholic. "We have taken them to next point, which is usually Chicago. Usually we meet at a rest area, on a highway or sometimes at a home."

Darlene Nicgorski, an American Franciscan nun who worked in Guatemala for 10 months, is another of those contacts. Working out of her apartment in Phoenix, she screens potential candidates for the sanctuary movement.

Nicgorski says she must determine if they have the stamina and ability to cope with the publicity and with the strains of living in a community where they may be the only Hispanics. Most who enter the movement do so in the hope that by speaking out, "they are helping people who can't get out," Nicgorski says.

This is the reason given by Pedro, a 29-year-old illegal alien who is now staying with Nicgorski in Phoenix. In a telephone interview, Pedro says through an interpreter that he was a photographer for the Salvadoran Human Rights Commission and helped retrieve the body of its president, Marianela Garcia Villas, after she was slain in El Salvador in March 1983. After soldiers came to his home looking for him Pedro says, he feared for his life and fled to Mexico City and worked with the commission's offices there.

Although the Mexican government "has much respect for our work," immigration officials and intelligence agencies "made people like us feel uncomfortable," he says. So he came to this country a month ago, crossing the border clandestinely. He plans to enter the sanctuary movement "to explain the way the assistance being sent to El Salvador is being used . . . and in this way the American public will know their president is helping a government that is killing the people."●

FEDERAL EMPLOYEES' DAY CARE BENEFITS STUDY ACT OF 1984

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. WOLF. Mr. Speaker, today, Representatives BARNES, HOLT, HOYER, and PARRIS are joining me in introducing legislation to authorize the General Accounting Office with a private consultant to conduct a cost-benefit analysis on providing child care benefits to Government employees. After conducting three workshops in my congressional district to acquaint employers with tax incentives and productivity advantages in offering child care benefits to assist working parents, I was overwhelmed with the amount of support and interest these conferences generated among employers, employees, and providers. News reports about our efforts have resulted in inquiries from organizations and individuals from all over the United States which demonstrate the high degree of interest in child care.

In these meetings, Dr. Deanna Tate of the Texas Woman's University, one of the top researchers in this field, outlined that research to date shows for every $1 invested in a child care benefit, the employer received anywhere from $4 to $20 return on the investment. Although the tax advantages to businesses would not be available to Government, a recent case study of a nonprofit organization—governed by the same tax laws in the Federal Government—identified a $3 to $1 investment return for offering child care benefits.

Since these types of savings already exist in the private sector and the evidence exists that similar savings could be found in the Federal Government, I believe that, with the changes taking place in work patterns and with the growing concern about budget savings, the Federal Government as a responsible employer must take steps to analyze child care benefits.

BACKGROUND

I would like to give some background on my work in this area. From my discussions with both employers and parents and in my work on the House Select Committee on Children, Youth, and Families, I learned of the growing number of households with working parents or single parents and the impact this trend is having on employers and families. Also in my work on the House committee, I became acquainted with the White House Office of Private Sector Initiatives and its program which brings the business and child care provider communities together to share information on changes in child care demands and new opportunities for businesses to assist working parents through tax, productivity and other advantages.

Following my review of this program, I formed a Child Care Advisory Committee to develop an informational program regarding these advantages for northern Virginia employers. The first phase of this program was a breakfast briefing in early June with area business leaders hosted by the BDM International Corp. to gauge the interest in this subject. The response was quite positive and resulted in two additional workshops for child care providers and employers in late July. Dr. Deanna Tate of the Texas Woman's University, one of the leading researchers in this field, was the keynote speaker for these events.

Clearly the growing number of households with working parents or single parents is having a major impact on local employers and families and this trend can be expected to continue in the future. Let me share some of these statistics:

According to the 1980 census, 55 percent of mothers with children under age 6 in the Washington area and almost 71 percent of those with children between ages 6 and 17, worked.

This astonishing figure is much higher than the national average which showed 45 percent of mothers with children under age 6 and 63 percent of those with school aged children worked.

The change in the past decade has also been significant. In 1970, only 21 percent of women with children under age 6 and 50 percent of women with school age children were employed. The House Select Committee on Children, Youth, and Families predicts that nationally by 1990, 55 percent of married women and 50 percent of mothers with children under age 6 will be employed—an 80 percent increase since 1970.

An even more alarming figure is that one in every four children under the age of 10 will be in a single parent household, with that parent either employed or looking for work. Of particular concern to me regarding these statistics is the unique fact that the departments and agencies of the Federal Government are located here and could account for the higher statistics for this area. This evidence substantiates the fact that as women and single parents become a major force in the workplace, their needs, the needs of their families and particularly the needs of their children must be addressed. For employers seeking to recruit and retain top quality personnel, the ability to provide good employee benefits is essential. The successful employer of the future may be one who recognizes that child care is a benefit option which can be crucial to the productivity of their business or organization.

I believe it is important for the Federal Government, as a responsible employer, to look at the child care situation and determine whether there could be cost benefits for providing child care assistance for its working parent employees. The information I have seen through these workshops, through hearings in the select committee and through information provided by the Department of Labor and the White House points to a real cost savings to an employer who provides child care benefits. Those savings are achieved from reduced employee turnover, reduced subsequent training costs, higher retention, less absenteeism, lower tardiness, and increased productivity. Such benefits can also help to promote higher employee morale and loyalty.

While conducting the workshops for northern Virginia employers, we encouraged them to study the situation in their organization thoroughly to determine the type of child care best suited for their needs. Today, I am advocating that we, the Federal Government, as the largest employer in America apply these same practices and make a serious analysis of these possible benefits. I am not suggesting that day care is for everyone, though. Parents should be able to choose among options they believe best meet the needs of their children—whether they choose to stay home full time, or choose full employment and need child care assistance to do so—they should be able to make such decisions with the best interest of their children as the primary concern.

The magnitude of the situation demands that we consider all options which will provide the best investment from the taxpayer's and Government's standpoint, while also facilitating the needs of the employee and the employee's family.

My colleagues may be interested in two recent Washington Post articles about my child care educational effort in northern Virginia and I am also including with this statement the following comments I have received from interested Federal employee groups on this initiative.

Federally Employed Women:

FEW thanks you for your initiative in introducing legislation that addresses a prime concern of Federally Employed Women—childcare. The number of working mothers in the Federal workforce has increased over the past decade. The majority of these women work because of economic need. For these families affordable and quality child care is a necessity . . . FEW supports the Child Care Study Bill . . . a cost-benefit analysis of various child care options in Federal workplaces is a beginning in establishing available child care for working mothers and fathers employed by the Federal government.

The Chairman of the Board of the Senior Executives Association, Carol Bonosaro:

The members of the Association are vitally concerned with this issue both as working parents and as supervisors and managers of employees who are working parents. Your legislation which would study the problem and propose appropriate solutions, is a welcome first step in finding a remedy to this national problem. We commend you for your efforts, and for your foresight in taking a leadership role on this issue.

The Professional Managers Association:

Your proposal is both appropriate and timely. It is appropriate that some attention be given to public employee child care, given the trend to do so in the private sector. It is timely because of the general trend toward more mothers joining the workforce. If improved productivity can result from minimizing employee-parents' concern and reduced time away from work related to child care needs, then the taxpayer, the government and the employee can all benefit. An objective and thorough analysis of the question, such as the one you plan to propose, should provide the needed answer.

[From the Washington Post, Aug. 1, 1984]

CHILD CARE

(By Judy Mann)

Carol Remington is the employe services manager of GTE Telenet, a data communications firm in the process of relocating its 800 local employes to new headquarters in Reston. Remington is negotiating with four child-care centers in Reston to set up a voucher system by which GTE can help its employes pay for child care at the centers.

She was one of about 75 representatives of business, government and child-care organizations who met yesterday at a workshop on "Employer-Sponsored Options for Working Parents" sponsored by Rep. Frank R. Wolf (R-Va.) and targeted specifically at businesses in the 10th Congressional District. The workshop grew out of a series of meetings with women constituents that began last November and ultimately led to a briefing with chief executive officers in June.

The purpose of the workshop was to give employers hard facts about the tax benefits they could derive from helping their employes with child care, the productivity benefits they could derive from lowered absenteeism and turnover due to child-care problems, and the variety of ways they could become more responsive to the problems of working parents.

Among the speakers were a representative of the Internal Revenue Service, Dr. Deanna Tate of Texas Women's University, who has done cost-benefit analyses showing that employer-sponsored child-care programs save companies money, and Richard Schlaff of the White House Office of Private Sector Initiatives, which has sponsored 19 similar conferences for top business executives across the country.

Schlaff said child-care advocates had complained they could not reach "the decision makers" in companies to let them know "there's something other than on-site care." The Office of Private Initiatives began contacting chief executive officers in local communities and asking them to invite their peers to briefing luncheons. Then, they were asked to send their personnel officials to follow-up workshops to learn about various forms of child-care assistance and how they could implement them. "We're trying to get the child-care community and the business community to work together," said Schlaff.

At yesterday's workshop, for example, he distributed a two-page worksheet detailing steps to take in companies to provide support systems for working parents. He also distributed a list of various companies and what they are doing, so that people at the workshop could contact companies similar to theirs and find out what might work best for them.

"Ten years ago," said Schlaff, "the movement was toward on-site centers," which met with tremendous employer resistance. "They labeled it and said no babies in the boardroom. They then took the concept of employer-supported child care and put it on a shelf. We attempted to reach the decision makers in companies and said open up that file and dust if off and look at the changes in what's available to help working-parent employes.

"We find the CEOs are just not interested until it hits home," he said. Then he gave an example of a grandfather who had put his daughter through law school and wanted her to practice law but also wanted the best care for his grandson. Then the son-in-law left. Suddenly child care became of paramount importance to the CEO, and he willingly agreed to host one of the lunches for his peers.

"There are things your company can do that don't cost a quarter of a million dollars," said Schlaff. He urged the business people to consider having seminars for working parents to inform them about child-care tax credits and time management. He urged them to have seminars for supervisors so they would realize that a secretary who is given something to type at 5:30 in the evening may face $5 or $10 in penalty fees for picking up a child late at a center. He urged companies to examine their telephone and sick leave policies so that they are responsive to the child-care problems of working parents.

Wolf said he believes the private sector has to take the initiative to accommodate the drastic change in the modern work force, and this is the message the White House Office on Private Initiatives has been taking to business. Unlike many women employees of corporations, they can get to the decision makers and they can educate them about the costs to the corporations of child-care problems. They are making the case in terms of reduced absenteeism and turnover and increased productivity. It is a language business people understand, and when they hear it from Wolf and the White House, they'll listen.

[From the Washington Post, Aug. 3, 1984]

CHILD CARE

(By Judy Mann)

Dr. Deanna Tate, chairman of the Child Development and Family Living Department at Texas Woman's University, has done cost-benefit analyses of three companies that had such detailed personnel data that she was able to determine the impact on productivity and profit of child-care assistance to employes. The results of her studies are striking arguments that this kind of employe benefit is good business.

A small textile manufacturing plant she analyzed had 87 employes, many of whom were women in low-skilled jobs. The turnover rate was running at the 40 percent level, in a community that had an unemployment rate of about 1.5 to 3 percent. The company paid $42,500 to buy and modify a nearby house and set up a child care center. It budgeted $30,000 for ongoing costs, with the

rest to be paid from parent fees. The center provided care for 36 children, and 26 percent of the employes used it.

The company calculated that it spent $1,000 to train a new production worker and $2,000 to train a new office worker. Turnover rate after the first year of operation dropped to 7 percent, and absenteeism went from 10 to 1 percent. The company was able to reduce its payroll by 10 production workers and 5 office workers, saving salary and training costs of 15 employes, reducing its workspace and lowering administrative costs for turnover and training. While it had four applicants for each position before the center was started, it had 20 afterwards, with 90 percent of them saying it was because of the child care center. "For every $1 spent, they yielded $6 in costs containment," Tate told a workshop on employer-sponsored child care assistance held for businesses this week under the sponsorship of Rep. Frank Wolf (R.-Va.)

Her cost-benefit analysis of a print shop that was considering child-care assistance for its 50 employes showed it would save $4 for every $1 invested. She projected that a hospital with 4,000 employes would save $3 for every $1 invested in a center.

Business interest in child care assistance for employes is growing. Richard Schlaff of the White House Office for Private Initiatives told the workshop that the Conference Board in New York estimates that 1,100 companies are now participating in some kind of program, up from 600 last November. Programs range from flexible leave policies which, for example, allow parents to use their sick leave when their children are sick, to full-scale commitment to child care assistance through on-site facilities.

In between, are a variety of options: IBM, for example, has recently contracted with a Boston firm for a nationwide child care and information referral system; banks in New York, Iowa, and Ohio have developed working parent seminars; Proctor & Gamble and the American Can Co. offer employes flexible benefit plans with child care as an option; the Polaroid Corp. and the Ford Foundation in New York give financial assistance to their employes for child care, and other companies, including local broadcasting stations in D.C., have joined together to set up consortium centers, which are then operated by nonprofit boards of employes.

Financial assistance includes vendored care, under which employers contract for slots for their employes' children with an existing day care provider. Voucher care is a system in which the employer gives a voucher to his employe to pay for part of the child care cost, the employe gives to the provider who then returns it to the employer for payment.

All of these forms of direct financial assistance in day care can be deducted from the employer's taxes as ordinary business expenses, and they are not considered taxable income to the employes, if they are done under a written Dependent Care Assistance Program. This program, established under the 1981 Economic Recovery Act, also allows companies to assist their employes with care for elderly or disabled dependents. Dependent care can be anything from a housekeeper to a center. The employe may not count that assistance in computing child-care tax credits on individual tax returns, although whatever he or she pays to supplement the assistance can be counted.

There was one overriding message that Schlaff and Tate tried to drive home at the workshop: The benefit is cost-effective, but relatively new, and the first step employers should take is to get help from child-care professionals, just as they would get help from professionals in setting up insurance programs.

If child care assistance is going to be offered as a benefit like health insurance, then it makes sense to treat it as one.

SECTION-BY-SECTION ANALYSIS

Section 1: The title of this legislation is "Federal Employees' Day Care Benefits Study Act of 1984."

Section 2(a): The principles involved with this cost benefit analysis—the General Accounting Office and a private consultant, are defined.

(b) This section mandates a cost benefit analysis be performed on child care options. Because of the amount of research already being performed in the private sector in corporations, small businesses, and non-profit entities showing that for every one dollar invested in a child care benefit the employer receives anywhere from $4 to $20 on that investment, this legislation is designed to determine if similar cost savings are possible in the federal sector.

Several major options are being used by private sector organizations such as:

Providing a voucher benefit from the federal government for some portion of the child care cost for a working parent (voucher-care);

Having the federal government contact with a particular vendor for a certain number of child care spots in that center for employees to use (vendored-care);

Allowing several agencies in a particular vicinity to go in together on a consortium type of child care center (an example would be to establish a center in the Crystal City area of Arlington, Virginia in the midst of where many defense agencies lease space for their employees);

Or, where, feasible and cost effective to set up an on-site child care at the place of the parents' federal employment.

These are only a few of the most frequently used types of employer-sponsored child care options.

(c) The areas where cost savings will most likely be found are detailed in this section. The study should consider measuring the current costs to the government which are lost in the following areas due to dependent care-related matters: productivity, recruitment, turnover, absenteeism, tardiness, sick leave, annual leave, training of replacements, lost worktime, loyalty, public relations and other factors—which are often related to problems with dependent care and then compare these figures with the costs of offering a child care benefit.

(d) The Comptroller General is authorized to conduct research as necessary with the private consultant—whether through sampling, surveys, or estimates—to formulate or substantiate any cost savings identified by this analysis.

(e) The report made by GAO, and the private consultant must be transmitted to Congress within one year and should include recommendations for administrative or legislative action. Although a report would be welcome before such deadline, a researcher in this area in Texas has outlined that a report of this magnitude would take a full year to complete.

(f) GAO shall contract with a private consultant or consulting firm having education, training, expertise and knowledge in analyzing cost benefits of child care.

(g) All federal agencies are instructed to cooperate with GAO in accumulating the necessary data and material on which to make an accurate cost-benefit analysis.

(h) Such sums as necessary are authorized to carry out this cost benefit analysis. It is assumed by the sponsor that this type of analysis would not cost more than $250,000 over the course of the next year.

H.R. 6269

A bill to require a cost-benefit analysis of a Government program of furnishing workday care benefits for dependent children of Federal employees

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Day Care Benefits Study Act of 1984".

SEC. 2. (a) For the purposes of this section—

(1) the term "Comptroller General" means the Comptroller General of the United States; and

(2) the term "consultant" means the individual or entity entering into a contract with the Comptroller General under subsection (f).

(b)(1) The Comptroller General, in the consultation with the consultant, shall—

(A) identify several options for a program for the Government to furnish workday care benefits to dependent children of Federal employees; and

(B) carry out a cost-benefit analysis of establishing and carrying out each program identified as an option pursuant to clause (A).

(2) The options identified by the Comptroller General pursuant to paragraph (1)(A) shall include such options as—

(A) a program to furnish child care at the place of employment;

(B) a program to furnish vouchers to pay for child care services;

(C) a program to furnish child care under a Government contract;

(D) a program to furnish child care through a consortium of Government agencies or a consortium of Government agencies and other employers using child care services; and

(E) a program to furnish information and referral services relating to child care.

(c) In carrying out the cost-benefit analysis required by subsection (b), the Comptroller General shall determine, with respect to each program identified pursuant to such subsection, whether the Government would achieve any cost savings in carrying out the program by reason of such factors as—

(1) increased productivity;

(2) reduced turnover in employees;

(3) reduced absenteeism;

(4) reduced tardiness;

(5) reduced use of sick leave and annual leave;

(6) reduced loss of worktime;

(7) increased loyalty; and

(8) reduced recruitment costs resulting from increased attractiveness of the Government as an employer.

(d) In carrying out the cost-benefit analysis required by subsection (b), the Comptroller General—

(1) shall review existing data and research available on the options for a child care program; and

(2) may carry out such surveys and sampling, distribute and collect such questionnaires, and make such estimates as the Comptroller General, in consultation with

the consultant, considers appropriate for the purposes of the analysis or to assure that there is sufficient data relating to the entire Government workforce and the several Government agencies nationwide.

(e) Not later than one year after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report on the cost-benefit analysis carried out under this section. The report shall include the findings of the Comptroller General and any recommendations for administrative action or legislation that the Comptroller General considers appropriate.

(f) The Comptroller General shall enter into a contract with any qualified individual or entity to consult with the Comptroller General on the cost-benefit analysis required by subsection (b). For the purposes of the first sentence, a qualified individual or entity is any individual or entity who, by reason of education, training, or experience, has extensive knowledge and expertise in the major areas to be considered in the cost-benefit analysis.

(g) Each head of a department, agency, or other entity of the Government shall furnish the Comptroller General such information, services, and other assistance as the Comptroller General considers necessary to carry out the cost-benefit analysis required by subsection (b).

(h) There are authorized to be appropriated such sums as may be necessary to carry out this section.●

FOLEY FAMILY: A NEVADA LEGAL SAGA

HON. HARRY M. REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. REID. Mr. Speaker, throughout the legislative session, we Members of Congress study thousands of documents, as well as attend hundreds of briefings and hearings, before we commit our votes to legislation when it comes before the House. Recognizing that even this description of the procedure is simplistic, I am especially appreciative of the August 9, 1984, passage of H.R. 4717, a bill to name the Federal building in Clark County, NV, the Foley Federal Building and U.S. Courthouse.

To understand the significance of this name change it is important to understand the impact that the Foley family has made on Nevada, especially in terms of the State's legal history. In fact, in describing the people who pursue the diverse challenges of the law, Nevadans consider the name Foley as synonymous with "the law." In toto, the Foley clan has been in that business for about 300 years—with more to come. That translates into four generations—12 lawyers, at last count—who have held nearly every political position.

Thomas Llewellyn Foley came to Goldfield, NV, in 1906, where he set up law practice. His son, Roger T., joined his practice, but soon branched off into politics as Esmerelda County district attorney.

In 1928, the family moved to Las Vegas, where Roger T.'s five sons, George, Joe, John, Roger, and Tom, would eventually create, protect, and practice the law.

It was in 1945 that President Franklin Roosevelt appointed Roger T. as a Federal judge, a position he held until his death in 1974. Five years after that appointment, his five sons, all practicing law together at that time, held the record as the Nation's largest film of "all brothers." They held that auspicious title for at least 10 years.

In 1961, one of the brothers, Roger D., followed his father's example by being appointed Federal judge by President John Kennedy. He now is a senior Federal judge.

Indeed, there has never been such a dynamic family that has given so much knowledge, experience and loyalty to the legal and political development of one State.

Following are brief profiles of the five sons of Roger T., highlights of their political careers and the legal careers of some of their offspring.

Roger D.: Former Clark County district attorney, former Nevada attorney general and former Federal district judge; he now is a senior Federal district judge; his daughter, Mary Louise, is a pre-law student at the University of Nevada/Las Vegas.

George W.: Former member of the Nevada Boxing Commission and former Clark County District Attorney; his son, George, Jr., recently graduated from McGeorge School of Law as valedictorian and now practices law with his father in Las Vegas.

Joseph M.: Currently, and announced candidate for UNLV Board of Regents; his daughter, Helen, has served in the Nevada Assembly and now serves in the State senate; his son, Daniel, is a recent law graduate of the University of Utah; his daughter, Shannon, is studying law at George Washington University, Washington, DC.

John P.: Nevada State senator twice; unsuccessful candidate for Lieutenant Governor and Governor; his daughter, Elizabeth, practices law with her father and serves on the Young Democrats National Committee.

Thomas A.: Former Nevada State deputy attorney general; former president of the Nevada State Bar Association; currently, a Nevada State district court judge; his son, Michael, took over his father's law practice when he became a judge.

As you can see, the accomplishments of this family are many, and there is no indication of anything but even more outstanding contributions in the future for the State and the Nation. That is why it is a special privilege for me to have had a part in the renaming of the Federal building in Clark County, which will be known as the Foley Federal Building and U.S. Courthouse.●

EUROPE'S HIGH-TECH DELUSIONS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. RITTER. Mr. Speaker, I would like to share with my colleagues a recent article from the Wall Street Journal by Peter F. Drucker. The article strongly supports the "targeting the process of innovation" type of tonic that our House task force on high technology initiatives is prescribing to strengthen U.S. industrial competitiveness. Mr. Drucker presents a very compelling case for why our approach is right for the United States with its large enterpreneurial economy but wrong for Europe.

EUROPE'S HIGH-TECH DELUSION

(By Peter F. Drucker)

High-tech entrepreneurship is all the rage in Europe these days. The French have funded a high-powered ministry that will make the encouragement of high-tech entrepreneurship a top government priority. The West Germans are starting up venture-capital firms on the U.S. model and are talking of having their own Silicon *Tal*, or valley. They have even coined a new word—*Unternehmer-Kultur* (entrepreneurial culture)—and are busy writing learned papers and holding symposia on it. Even the British are proposing government aid to new high-tech enterprises in fields such as semiconductors, biotechnology or telecommunications.

The Europeans are right, of course, to be concerned about the widening high-tech gap between themselves and their U.S. and Japanese competitors. Without indigenous high-tech capacity and production, no country can expect to be a leader any more. And yet, the European belief that "high-tech entrepreneurs" can flourish, all by themsleves and without being embedded in an entreprenurial economy, is a total misunderstanding.

One reason is politics. High-tech by itself is the maker of tomorrow's jobs rather than today's. To provide the new jobs needed to employ a growing work force a country needs "low-tech" or "no-tech" entrepreneurs in large numbers—and the Europeans do not want these. In the U.S., employment in the Fortune 1,000 companies and in government agencies has fallen by six million people in the past 15 to 20 years. Total employment, however, has risen to 106 million now from 71 million in 1965. Yet high-tech during this period has provided only about six million new jobs—that is, no more than smokestack industry and government have lost. All the additional jobs in the U.S. economy, in our words, have been provided by "middle-tech," low-tech and no-tech entrepreneurs—by makers of surgical instruments, of exercise equipment for use in the home, of running shoes; by financial-service firms and toy makers; by "ethnic" restaurants and low-fare airlines.

POLITICAL REALITIES

If entrepreneurial activity is confined to high-tech—and this is what the Europeans are trying to do—unemployment will continue to go up as "smokestack" industries either cut back production or automate. No government, and certainly no democratic one, could then possibly continue to subordinate the ailing giants of yesteryear to an uncertain high-tech tomorrow. Soon, very soon, it would be forced by political realities to abandon the support of high-tech and to put all its resources in defending, subsidizing and bailing out existing employers and especially the heavily unionized smokestack companies. The pressures to do that are already building fast.

In France, the Communists recently pulled out of the government over this issue. President Francois Mitterrand's own Socialist Party, especially its powerful and vocal left wing, is also increasingly unhappy with his high-tech policies. They are also increasingly unpopular, moreover, with large employers. Indeed it is widely believed that the French right, in its attempt to regain a majority in the 1986 parliamentary elections, will make a reversal of Mr. Mitterrand's industrial policy its main plank and demand that France give priority to employment in existing industries and scuttle high-tech entrepreneurship. This already is the program of the National Front, a rapidly growing far-right party.

In West Germany, demands to shore up old businesses to maintain employment, and to deny access to credit and capital to new entrepreneurs, are growing steadily. Banks are already under some pressure from their main clients, the existing businesses, which expect them not to provide financing to any conceivable competitor—and in West Germany the banks are the main channel for capital and credit, if not the only one. Even in Britain, there is growing pressure on Prime Minister Margaret Thatcher—especially from back-benchers in her own Conservative Party fearful of their fate in the next election—to forget all the big plans for encouraging high-tech entrepreneurship and to concentrate instead on bolstering the ailing old industries.

There is a subtler but perhaps more important reason why high-tech entrepreneurship won't work except in a much broader entrepreneurial economy. The necessary social support is lacking. High-tech entrepreneurship is the mountaintop. It must rest on a massive mountain—middle-tech, low-tech, no-tech entrepreneurship pervading the economy and society.

In the U.S. 600,000 businesses are now being founded each year—about seven times as many as in the booming 1950s and 1960s. But no more than 1.5% of those—about 10,000 a year—are high-tech companies. The remaining 590,000 new ventures each year range from no-tech—the new ethnic restaurant or a garbage pick-up and disposal service—to such middle-tech concerns as a small robotized foundry for special-purpose nonferrous castings. Without these, however, the high-tech ventures would be stillborn. They would not, for instance, attract high-caliber workers.

In the absence of an entrepreneurial economy, scientists or engineers would then prefer (as they still do in Europe) the security and prestige of the "big-company" job. And high-tech venture equally needs accountants and salespeople and managers—and none of them would want to work in small, new enterprises, high-tech or not, unless it became the accepted thing to do, if not indeed the preferred employment. Thirty years ago such people in this country also looked to the big established company—or to government—for their job and career opportunities. That they are now available to the new venture, despite its risks and uncertainties, is what has made possible our entrepreneurial economy and the jobs it creates.

But the impetus for this did not come from glamorous high-tech. It came from a multitude of quite unglamorous but challenging jobs with good career opportunities in all kinds of totally unglamorous low-tech or middle-tech business. They require a massive entrepreneurial economy. High-tech provides the imagination, to be sure; but other firms provide the daily bread.

And then also, no-tech, low-tech and middle-tech provide the profits to finance high-tech. Contrary to what most people believe, high-tech is distinctly unprofitable for a long time. The world's computer industry ran at a heavy overall loss every year for 30 years; it did not break even until the early 1970s. IBM, to be sure, made a lot of money; and a few other—primarily U.S.—computer makers moved into the black during the 1960s. But these profits were more than offset by the heavy losses of the big electric-apparatus makers: GE, Westinghouse, Siemens, Philips, RCA and others. Similarly, it will be at least another 10 years before either the biogenetic industry or robot makers as a whole break even—and probably just as long before the micro-computer industry overall makes any money. During that period the no-tech, low-tech and middle-tech ventures provide the profit stream to finance the capital needs of high-tech. Without them there is unlikely to be enough capital available.

THE BABY-BOOM EFFECT

So far, however, there is little recognition of these facts to be found in Europe—and none among European governments. Things may change. Our own entrepreneurial surge started some 15 years ago. Western Europe is by and large some 15 years behind the most important U.S. demographic trends—the baby boom, the baby bust and the explosion in college education.

In the U.S., these very trends are probably contributing factors in the renewal of entrepreneurship. With the tremendous number of educated baby boomers already in good jobs, opportunities in the big companies and in government are beginning to be scarce and young people entering the labor force are willing and eager to join small and new ventures. In Europe, this baby boom is just hitting the market.

So far, however, European governments are still hostile to entrepreneurs other than in high-tech areas (in France contemptuous to boot). European tax laws, for instance, penalize them and restrict their access to capital and credit. But European society also discourages people, and especially the educated young, from doing anything so "uncouth" as going to work in anything but a government agency or a big, established company. Unless this changes—and so far there are few signs of this—the infatuation with high-tech entrepreneurship will neither revive the ailing European economies nor even provide much high-tech. It must end the way an earlier European high-tech infatuation, the Concorde, ended: a very little *gloire*, an ocean of red ink, but neither jobs nor technological leadership.

(Mr. Drucker is Clarke professor of social sciences at the Claremont Graduate School.)●

BALL'S BLUFF—A SMALL BATTLE WITH LARGE CONSEQUENCES

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. WOLF. Mr. Speaker, on Saturday, August 18 dignitaries, local and State officials, and citizens gathered on the courthouse lawn in Leesburg to commemorate the acceptance of Ball's Bluff battlefield as a national historic landmark. The ceremony was highlighted with a keynote address from the Honorable Endicott Peabody, former Massachusetts Governor and Harvard University president. Governor Peabody, who called the Battle of Balls Bluff a "very small battle with very large consequences," gave a descriptive account of the October 21, 1861, battle. I insert the text of Governor Peabody's speech at this point in the RECORD for the benefit of all who have an interest in this historic landmark:

The text follows:

BALL'S BLUFF—A SMALL BATTLE WITH LARGE CONSEQUENCES

(By Endicott Peabody)

Thank you Judge Hannum. I am complimented to have been invited to speak on the occasion of the preservation of Ball's Bluff Battlefield here in Leesburg, Virginia as a National Historic Landmark. The gratitude of this nation is owed to a small group of patriots who worked in the shadows without recognition and many without compensation to bring this about. They are: Frank Raflo, Loudoun Country Board of Supervisors; John Devine, Loudoun County Historical Society; Hugh Harmon, Assistant Director of Economic Development; Tom Nalls, Attorney for the Beus Corporation; Ed Bearss, Chief Historian of the Department of the Interior; Russ Dickenson, National Park Service Director; Jerry Rogers, Associate Director of Cultural Resources-Department of the Interior; Honorable John Hannum, U.S. District Judge, whose inspiration and drive crowned all other efforts to bring this occasion about today.

We should also be indebted to the Beus Corporation which donated 61 acres for this purpose; Cecil Culbertson, 11 acres; and, of course, the Veterans' Administration who donated the original 6 acres of the National Military Cemetery here at Ball's Bluff; amounting to a total of 78 acres for the National Historic Landmark.

Also, we should be indebted to a distinguished group of scholars and authors who, in recent years, have shed new light on one of the smallest battles with the largest consequence in the Civil War: Dr. Joseph Harsh, George Mason University Department of History; General Joseph Patch, author of the narrative on Ball's Bluff; Dr. Edward Bearss, Department of Interior and Rowena Reed, author of Combined Operations in the Civil War.

It is ironic that we should commemorate—back to back—the Normandy invasion on June 6 and the Battle of Ball's Bluff today; perhaps the best and the worst examples of an amphibious assault on hostile soil by U.S. troops.

We should compare the vast armada of every kind of naval vessel and landing barge, equipped to deliver an enormous number of troops in a hurry over a broad extent of beaches with the miserable makeshift scows and skiffs used by the Union Army at Ball's Bluff to cross the Potomac. To transport two thousand troops over the Potomac from the Maryland banks to Harrison Island in the middle of the river were two scows—later increased to three—from the C&P canal, which could handle 45 to 60 men each and had to be poled laboriously across the river. Then again, from Harrison Island to the Virginia banks there was only one scow that could handle 60 men; one lifeboat to hold 15 men; and a small skiff which could hold only 4 or 5. Only the skiff had oars. The other vessels also had to be poled over the river and were without any crew assigned to them.

As a result, the commanding officer of this invasion force—Col. Edward Baker, a distinguished U.S. Senator and formerly nominator of Abraham Lincoln at the Republican Convention in Chicago—became preoccupied for over three hours with overseeing the transportation of his troops with inadequate vessels over two rivers before taking command of the battlefield. This he was unable to do until well after troops had been landed—at about two o'clock on the afternoon of October 21—by which time it was almost too late to exercise any discretion, hemmed in as he was by the advance of southern troops. Moreover, no personnel were left to handle the boats, to return wounded, or to bring reinforcements.

From this major error Col. Baker soon committed yet another. Unlike the courageous troops on Omaha Beach who, despite being pinned down by enemy fire, launched an attack to secure themselves on better ground, in this case, as General Patch has noted,

"No attempt was made to seize the ground which commanded the whole battlefield. It was not held by the enemy, and it is almost impossible to conceive why no attempt was made to take it."

This then was a double prescription for disaster which did not take long to evolve. At 2:30 p.m. on October 21, the commanding Confederate General, "Shanks" Evans, a rough and ready soldier, attacked, having by this time placed his troops on the important ground surrounding Union troops on Ball's Bluff. Southern troops engaged were the 17th and 18th Mississippi Infantry Regiments, the 8th Virginia Infantry Regiment and Jenifer's Cavalry Battalion. Both sides fought gallantly, but the result was inevitable. Colonel Baker, who undermined his duties of command by trying to service a cannon. whose crew had been disabled, soon was killed himself up front with his troops. There was confusion as to who should succeed him, during which time two plans of retreat were offered and neither were adopted. By nightfall on this autumn day, the Union forces had been driven into the river and the battle was over.

Casualties for the invading force were frightful. Of the less than two thousand troops engaged from the Fifteenth and Twentieth Massachusetts Regiments, the California First, and the New York Forty-second Infantry, forty-nine were killed; One hundred fifty-eight were wounded; and over seven hundred were either drowned or imprisoned. For weeks later, bodies of Union soldiers drifted down the Potomac, an all too pregnant reminder of the tragedy which had ensued. This should be measured against forty killed; one hundred thirteen wounded; and two imprisoned by the South, which had committed an equal amount of troops to the battle.

To better understand why and how Ball's Bluff occurred, history tells us now what the North could not understand nor accept at the time. In losing its top military officers to the South at the outset of the war, northern military and political leaders spun about in confusion over what strategy to use to reclaim the southern states which had rebelled. General Scott, the aging and decrepit commanding general, though still sharp of mind, had devised the Anaconda strategy of blockade, which would have divided the South along the Mississippi river and blockaded all its ports.

When General McClellan arrived in command, he would have supplemented this strategy by development of a massive army, not to be used in battle, but to cow the South into submission. At the same time, he planned to engage in combined operations on the circumference of the Confederacy in order to paralyze Southern internal railroad networks and communications.

Unfortunately, this wise strategy did not meet the popular demand for a quick close to the war which required early military action. As Rowena Reed tells us in her "Combined Operation of the Civil War":

"The United States has traditionally been unable to sustain a protracted war unless its forces are continually engaged in conspicuous action leading to an unbroken series of victories."

First Manassas was intended to be the first of the unbroken string. It was the first disaster. This brought to the fore General McClellan. Ball's Bluff was meant not to be an attack in force, but "a slight demonstration" to satisfy northern demands for military action. It certainly was not intended to be an assault which, in the ensuing disaster following on the heels of Manassas, changed the course of the war.

And change the course of the war it did! The reaction was immediate and swift, with a demand for vengeance against those leaders who were responsible for the debacle. This was not at first easy to determine, particularly since Col. Baker, himself the chief cause of the debacle, had been killed and at the time martyred as a result of the engagement.

The first to go was General Scott himself, the Commanding General, who before the end of October was retired for good and sent home, leaving in charge General McClellan, who through this disaster had sown the seed for his own downfall a year later.

Second was the creation by the Congress of the Joint Committee on the Conduct of the War to investigate not only Ball's Bluff and Manassas but any other aspect of the war which concerned it. This was headed by Senator Wade of Kansas, a radical Republican. He used this Committee as a means to manipulate, not only the General, but President Lincoln himself in the direction the radicals wished to pursue the war.

The third result was the sacking of General Stone, the Commanding General of the Corps of Observation, under whom Col. Baker served the treatment of General Stone by the Lincoln administration is one of the sorriest episodes of the war. After an intensive investigation by the Committee on the Conduct of the War, he was, on the initiative of Secretary Stanton, followed through by Gen. McClellan, arrested and imprisoned in solitary confinement for over six months without any charges leveled against him. While he was then released and permitted to return to duty, he was never able to overcome the blot on his record or to meet any charges against him. He eventually resigned his commission and left the country only to return, before his death, to lay the engineering foundation for the Statute of Liberty some forty-five years later.

Fourth, it all but destroyed, for a time, the Anaconda strategy initiated by General Scott and substituted therefore a war of invasion and military battles bringing about large losses of life and an embitterment which is still evident in many places one hundred twenty-five years later.

Finally, it strengthened the abolitionist wing of the Republican party and channeled the war which before had been one to attempt to reunite the North and the South, toward one for the immediate elimination of slavery and the submission of the South. In this effort, Governor Andrew of Massachusetts took an active role. He was considerably concerned by the active effort by Union generals ordering Massachusetts troops to maintain the Fugitive Slave Law, Governor Andrew's differences with General Stone and General McClellan are best illustrated over a promotion Governor Andrew believed he made in haste after Ball's Bluff of an officer who allegedly, under orders, returned a fugitive slave to the owner.

Governor Andrew sharply queried General McClellan in a letter which subsequently was placed before President Lincoln:

"Am I to understand it is wrong not to promote volunteer officers who, in pretended obedience to Army orders, break the laws in super-serviceable police work in aiding the pursuit of fugitive slaves?"

Wounded in the battle was a young officer in the Twentieth Regiment of Massachusetts Volunteers, who would later become Chief Justice of the Supreme Court of Massachusetts and thereafter one of the preeminent Justices of the Supreme Court of the United States—Oliver Wendell Homes, Jr.

Over twenty years after the war, Holmes had this to say of those engaged against one another:

"The soldiers who were doing their best to kill one another felt less of a personal hostility, I am very certain, than some who were not imperilled by their mutual endeavors. I have heard more than one of those who had been gallant and distinguished officers on the Confederate side say they had no such feelings. I know that I and those whom I knew best had none. We believe that it was most desirable that the North should win; we believe in the principle that the Union is indissoluble; we, or many of us, also believe that the conflict was inevitable, that slavery had lasted long enough. But we equally believe that those who stood against us held just as sacred convictions that were the opposite of ours, and we respected them as every man with a heart must respect those who give all for their beliefs."

Why do we honor this senseless loss of the cream of manhood of both North and South? Why do we come here today to preserve the battlefield where this carnage took place? It's not because we believe in war, rather the opposite. It's not because we wish to preserve the differences between the North and South, we are intent on overcoming them.

I believe it's because that out of this crucible was forged a greater, stronger, and more

democratic nation—which since that final day at Appomattox Court House has carried the torch of freedom throughout the world—and which eventually without resorting to a war which would end everything may make possible for every human in God's world the right to develop himself and herself to the maximum of which they are capable in peace and freedom. Holmes, wounded at Ball's Bluff, and again at Chancellorsville and Antietam, emerged to emblazen for us all a standard to live by:

"To ride boldly at what is in front of you be it fence or enemy; pray, not for comfort, but for combat; to remember that duty is not to be proved in the evil day, but then to be obeyed unquestioning; to love glory more than the temptations of wallowing ease, but to know that one's final judge and only rival is oneself. For high and dangerous action teaches us to believe as right beyond dispute things for which our doubting minds are slow to find words of truth. Out of heroism grows faith in the worth of heroism. The proof comes later, and even may never come."

It is for all these reasons why the battleground of Ball's Bluff should be consecrated and preserved and take its place in the ranks of our famous battlefields, and why we are here today.

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WOMEN PAY THE PRICE OF HEALTH INSURERS' DISCRIMINATORY POLICIES

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Ms. MIKULSKI. Mr. Speaker, those of us who support H.R. 100, the Nondiscrimination in Insurance Act, have listened with interest to the arguments of the insurance industry. The power of actuarial figures sometimes seems omnipotent. But in this case, when they try to convince us that women should pay more than men for health coverage, the insurance industry turns out to be quoting inconclusive and inconsistent data. In a recent column in the Washington Post, Jane Bryant Quinn outlines the bitter truths about the society of actuaries' figures, upon which the insurance companies rely.

Regardless of the short-term success of H.R. 100 and the National Organization for Women's Lawsuit Against Mutual of Omaha, the question of nondiscrimination in insurance will continue to confront us. In the resolution of this problem, we need to scrutinize the so-called facts of the matter. Quinn provides us with a healthy dose of cynicism about actuarial data. I call my colleagues' attention to her excellent article:

WOMEN PAY THE PRICE OF HEALTH INSURERS' DISCRIMINATORY POLICIES

(By Jane Bryant Quinn)

It's really true: Women pay drastically more than they should for health insurance. The industry claims that women deserve to pay more because they cost more to cover. But the published data behind this claim won't withstand scrutiny. The books look cooked; someone ought to sue.

Happily, someone has. In Washington, D.C., the National Organization for Women just brought a landmark lawsuit against Mutual of Omaha, complaining that its sharply higher rates for women violate the District's public-accommodations law, which specifically abjures insurers not to discriminate on the basis of sex.

If NOW wins—and I'm cheering for it—cases could be brought in other states. A series of wins would save a fortune for married couples and single women who have no employer-paid health insurance, and so have to cover themselves with individual policies. Right now, a woman's health insurance—even without pregnancy benefits—can cost 60 percent more than it costs a man.

At Mutual of Omaha, a woman is charged $1,149 for a medical-expense policy that would have cost a man only $692. A woman's disability policy costs $596 when a similarly situated man would have paid only $313. These high costs mean that many single women and married couples, who have modest income, have to go without good insurance, because they can't afford it. This unfair discrimination endangers their health.

Industry spokesmen agree that it's discrimination, all right, but not unfair discrimination. Women's hospital claims are higher, they say, so it's fair for insurers to charge them more. I concede that I was beguiled by an actuary at an early age and have always had a weakness for their numbers. But it just goes to show you how easily good girls can be led astray. Here are some bitter truths:

(1) The industry's font of wisdom is the Society of Actuaries, which blesses the data on which health insurance rests. But listen to the conclusion of its most recently published study, covering health claims for 1977–78:

"Claim costs for females are lower than those for males above age 50," it finds. "The relationship between male and female claim costs under age 50 is not clear: For some (age groups) costs for males are higher; for others, costs for females are higher." And even when higher, they are only slightly higher.

Actuary Peter Thexton of the Health Insurance Association told my associate, Virginia Wilson, that he thinks the 1977–78 data is peculiar. Earlier studies showed women costing more, he says and so will the 1979–80 data when it comes out. (The newest data isn't available to be double-checked.)

What I find peculiar is that HIA sent me older data to "prove" its claim that women cost much more, and concealed the newer data that says otherwise. It took some real digging to find the facts.

Mutual of Omaha says its "sound" rating system is based on industry data (but obviously not its latest data) and on internal, company statistics not made public—hence uncheckable.

(2) The industry's published data is so unscientific that it wouldn't stand up in a high school math class. It's based on information voluntarily given by only six or fewer health insurers, out of nearly 900 companies selling health insurance in America. And it's drawn only from buyers of individual policies, which is a small part of the market. The study is "not a random sample and not without its bias," Thexton concedes.

(3) Statistics on hospital stays show that women go to the hospital more than men, and for a good reason: They have babies more often than men do. Not counting maternity, both sexes are about the same. Yet even without maternity benefits, women's policies are vastly higher-priced. Health statistics show that women stay in the hospital longer for some specific ailments, but the HIA has no comprehensive study.

(4) The vast majority of health and disability insurance is already sold on a unisex basis—that is, women are charged the same as men. This includes all group health policies, which make up 85 percent of the market (employers would never stand for paying unnecessarily high rates for their employee); 24 percent of the health policies sold individually; 10 percent of the individual disability policies and virtually all of the policies sold to people over age 65 to fill in the gaps in Medicare.

So the industry obviously can prosper on fair and equitable unisex rates. Only the retrograde holdouts still charge women more—and maybe the lawsuit from NOW will help put an end to it.●

MX AS RX FOR PEACE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. HUNTER. Mr. Speaker, on the Op-Ed page of the September 17 Wall Street Journal, one of my constituents, U.S.G. (Oly) Sharp, Admiral, USN, retired, details why the MX is truly a Peacekeeper. I am therefore enclosing his remarks for the RECORD, as they are worth everyone's consideration.

THE MX AS RX FOR PEACE

Your editorial of Aug. 30 "All MX'd Up" elaborated the problems with the MX with-

out explaining its advantages. The Scowcroft Commission reported:

"The Soviets probably possess the necessary combinations of ICBM numbers, reliability, accuracy, and warhead yield to destroy almost all of the 1,047 U.S. ICBM silos, using only a portion of their own ICBM force. The U.S. ICBM force now deployed cannot inflict similar damage, even using the entire force. Only the 550 MIRVed Minuteman III missiles in the U.S. ICBM force have relatively good accuracy, but the combination of accuracy and yield of their three warheads is inadequate to put at serious risk more than a small share of the many hardened targets in the Soviet Union. Most Soviet hardened targets—of which ICBM silos are only a portion—could withstand attacks by our other strategic missiles."

The U.S. deterrent is no longer credible in view of Soviet preemptive counterforce capability. Effective deterrence requires us to have a survivable system able to put at immediate risk installations which the Soviet leaders value most. Those include superhardened command bunkers, missile silos, nuclear weapons storage and other tools of control.

Thus we need a missile that can be fired quickly after an attack and destroy hardened targets. The only one that can provide this capability soon is the MX—if deployed in a survivable mode.

The MX is too important to our deterrence to leave it unprotected when we can protect it with a ballistic missile defense (BMD) system. Since 1972, when the ABM Treaty was signed, there has been considerable research in the BMD systems. We have made substantial progress in designing BMD systems to handle the nuclear environment, to intercept large numbers of reentry vehicles and to discriminate decoys. We can produce a BMD system giving the MX a much better than 50% chance of surviving even a massive attack. A 50% chance of survival for the MX is all we need to create the uncertainty of first strike success in the Soviet mind that is the essence of deterrence.

The MX should be our highest priority strategic offensive weapon and BMD for it should be next highest. The 1977 ABM Treaty permits ballistic missile defense for one ICBM field. The MX should qualify; if not, the Treaty should be abrogated, as it can be with six months notice.

One hundred MX missiles that could survive a first strike would deter the Soviets from an attack on either the U.S. or our allies. At the same time 100 MXs would not give us first strike capability and thus could not be considered provocative.●

FACTS FOR THE PRESIDENT'S FABLE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. EDWARDS. Mr. Speaker, today's Los Angeles Times contains a fascinating op-ed by Dr. Joseph M. Giordano, the surgeon whose medical skills saved President Reagan's life and who was the subject of a tale the President told at the recent National Italian-American Foundation dinner. I'm sure my colleagues will find it of immense interest.

[From the Los Angeles Times, Sept. 18, 1984]

FACTS FOR THE PRESIDENT'S FABLE

(By Joseph M. Giordano)

In a dramatic conclusion to his speech at the National Italian-American Foundation in Washington Saturday night, President Reagan told the following story of an immigrant whose son realized the American dream:

"Decades and decades back, there was an Italian immigrant who came to America, and he started a family and worked hard and raised his children as best he could. One of his sons became a milkman.

"He, too, worked hard and married and had a family. And the milkman raised his children as he had been raised: They were taught to respect honesty, decency and hard work. They struggled to make ends meet. All of their money went to the education of their children. They put one son through college, and when he wanted to be a doctor, they put him through medical school. Because of their diligence, the son became a prominent surgeon in a great hospital.

One day that surgeon—that son of a milkman—saved the life of a President of the United States who had been shot.

"I know this story because I was the patient. . . ."

I know the story, too, because I was the doctor. As head of the trauma team at George Washington University Hospital I gave the President emergency treatment when they brought him there after he was shot in the chest in an assassination attempt on March 30, 1981. I still remember Reagan, despite the pain and stress, jokingly saying to the doctors, "I hope you're all Republicans."

I'm a Democrat, but I told him, "We're all Republicans today, Mr. President."

The President's remarks at the Italian-American dinner accurately describe my family's path to success and correctly identify us as being among the millions of Italian-Americans who have realized the American dream. Hard work, perseverance, strong family units and confidence in self were the basic tools used to overcome the deficiencies inherent in their immigrant status. This cycle from immigrant to middle class to professional status has been repeated many times over the last 50 years.

My family and I are proud of the President's comments. Nevertheless there is another part of the story.

The government social programs enacted over the last 50 years—and so frequently criticized by this President and his Administration—have played a vital role in making this success possible. Although my father bore the brunt of the expense, I received low-interest government loans to help finance part of my medical school education. Many colleagues of mine received even greater government assistance in their education.

And my profession, stimulated by generous federal funding for biomedical research, has made unprecedented progress in diagnosis and treatment of disease in the last 30 years.

In contrast to the President, who feels that government programs make people so dependent that they lose initiative, I feel that these programs have enabled people with little resources to reach their full potential.

These programs are so numerous it would be impossible for me to mention them all. They range from Headstart to housing for the elderly. My parents enjoy a deserved retirement helped by Social Security, and my father has more than once benefited from the Medicare program.

Even the civil-rights legislation of the 1960s, although primarily designed to guarantee equal rights for blacks, has aided Italian-Americans and other ethnic and racial groups by making discrimination not only illegal but also socially unacceptable.

It is to be hoped that the President will recognize that millions of other Americans possess the same potential as Italian-Americans. Some will make it on their own. Others will need help. I hope that the government will not abandon the commitment that has meant so much to me and my family.●

A HOLOCAUST MEMORIAL

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. BOEHLERT. Mr. Speaker, this Sunday, members of the Utica community will gather solemnly at the Temple Beth El Cemetery to dedicate a Holocaust Memorial.

It is a ceremony that should command our attention.

Each time the Holocaust is remembered—anywhere—we should all feel drawn to the observence. We must, for all of us share the awesome responsibility of ensuring that such genocidal terror is never again unleashed.

Even now it is impossible to comprehend the magnitude of the Holocaust. Six million Jews were marched off to death because of something as commonplace as bigotry.

Each year, more books about the Holocaust are published—memoirs, histories, analyses. Most recently, we have been presented with a chronicle of life in the Lodz ghetto—a tale of the often heroic struggle of a community to preserve the pattern of everyday life while the Nazis slowly and ever more brutally tightened the noose around the village. It seems that the more we know about the Holocaust, the more impossible it is to fathom.

So what are we left with when we bear witness to this incomprehensive tragedy? Surely, one message is our collective responsibility to be ever watchful.

Someone once wrote of the Holocaust: "First the Nazis came after the Communists, and I did not say anything because I was not a Communist. Then the Nazis came after the Jews, and I did not say anything because I was not Jewish. Then the Nazis came after the Catholics, and I did not say anything because I was not Catholic. And then the Nazis came after me—and there was no one left to say anything."

In a week, Jews in my community and throughout the world will celebrate the New Year, which is also called Yom Ha-Zicharon, the Day of Remembrance. As that day approaches, the experience of the Holocaust gives us all something to remember—and ponder.●

SALUTE TO CIVIL SERVANTS

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. DAUB. Mr. Speaker, last week the Office of Personnel Management announced that Federal employees, through their individual ideas, inventions, and performance, saved American taxpayers $1.3 billion in fiscal year 1983.

I take this opportunity to commend this outstanding contribution to fiscal responsibility and efficiency.

The Federal employee often serves as the politicians' whipping boy; however, these savings, reported under the Federal Incentive Awards Program, underscore how unfair that practice is. When we strive to reform the system, to make it more efficient and responsive, we must remember that the system is comprised of professional and talented men and women who are dedicated to public service. Time and again, our Nation's civil servants show that they are our allies, not our adversaries, in making Government work for the people.

Since 1980, Federal employees have been cited for saving taxpayers more than $5 billion; this is tangible evidence of the fact that we benefit by having the most skilled and effective Government work force in the world. This impressive performance merits widespread public recognition, and I urge my colleagues to share it with their constituents.●

THE NEED FOR PUBLIC FINANCING OF CAMPAIGNS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. OTTINGER. Mr. Speaker, for years now, I have been speaking out on the dangerous influence political action committees are having on our electoral system, and the need for public financing of campaigns. This year, once again, PAC's will disproportionately influence the outcome of both the congressional and Presidential races. The strength of PAC's is now greater than ever—over 100 million dollars' worth. More than ever this body needs to address the issue of influence-buying by PAC's, or run the risk of losing forever the public's confidence in our system of governing.

My good friend, Johnny Oakes, the former senior editor of the New York Times, recently addressed this issue on the Times' op-ed page. I commend the article to the attention of my colleagues.

The article follows:

[From the New York Times, Sept. 6, 1984]

THE PAC-MAN'S GAME: EATING LEGISLATORS

(By John B. Oakes)

CHILMARK, MASS.—Woman power, black power, ethnic power—the popular buzz words of 1984. But there's another kind of political power that is more important than any of them, attracts little public attention and yet, in the current Congressional campaign, poses an immediate and growing threat to the American representative system. It's money power.

It shows itself principally in the explosive growth of political action committees in both numbers and dollar throw-weight. Registered PAC's—set up by corporations, labor unions, professions and virtually every other kind of private-interest group, as well as so-called independent PAC's—have in 10 years multiplied from 600 to 3,600, a sixfold increase. The amount of dollars they dispense in Congressional elections has jumped from $12.5 million in 1974 to an expected $120 million this year, a tenfold increase.

The PAC handouts on a newly gigantic scale are ony the most spectacular form of legalized bribery of members of Congress. The "honorarium," which should be called the "dishonorarium," is another.

It is commonplace for a member of Congress to rent himself out to a lobbyist for up to $2,000 a throw to sit around a luncheon or dinner table in Washington as a so-called guest for an intimate chat with a few of the lobbyist's prestigious clients. Some $4.5 million in "honorariums" for this and fancier kinds of private services, such as visits to arms plants, were paid to members of Congress in election year 1982 by special interests.

The increase in PAC and honorarium handouts reflects the insanely escalating costs of Congressional campaigns. In 1982, those costs reached an average of $200,000 per House race and $1.7 million for the Senate. This year, the averages will go vastly higher, especially in the Senate: the Helms-Hunt contest in North Carolina already has cost $12 million; the Percy-Simon battle in Illinois, $5 million; and John D. Rockefeller 4th, in West Virginia, by now has spent $5 million all by himself.

In 1982, political action committees met nearly 20 percent of senatorial candiates' expenses, 33 percent for the House. In many individual cases, of course, the percentages were and will be far greater, leading to virtual ownership of candidates by groups of PAC's.

Common Cause, the nonpartisan citizens' group heading the fight to control campaign financing, reports that three-fourths of the PAC contributions to senatorial candidates for this year have gone—typically—to incumbents. No wonder it is difficult to get PAC-control laws through Congress. Some PAC's have even threatened Congressman with a cutoff of funds if they supported such legislation. Such a threat from Nabisco's PAC led Representative Robert G. Torricelli, Democrat of New Jersey, to reply that he hoped Nabisco's cookies were cleaner than its politics. Only in Massachusetts have all senatorial candidates of both parties this year refused PAC contributions.

The top PAC contributors to Federal races represent the elite among private-interest lobbies: realtors, physicians and surgeons (American Medical Association), teachers (National Education Association), maritime workers, builders. After them come the auto, aerospace and food workers, mild producers and bankers. The realtors and doctors already have handed out more than $1 million to their favorite candidates—with much, much more to come.

The crucial question is: What do the PAC's get for their money? Is Representative Leon E. Panetta, Democrat of California, right in charging: "Congress is literally being bought and sold by PAC contributions"? Here are some answers:

The champion PAC donor of all time is the A.M.A., which has handed out at least $10 million over the years to Congressional incumbents and candidates. Together with the American Dental Association, it gave more than $3 million in the House prior to a vote to exempt doctors and dentists from Federal regulatory jurisdiction.

The United Automobile Workers paid out nearly $2 million in the 1982 Congressional election when domestic-content legislation was becoming a hot issue. It still is, and the PAC is going stronger then ever.

The House vote overturning a ruling to protect used-cars buyers from unscrupulous dealers following a $1 million distribution by the dealers' PAC.

The three major dairy PAC's gave more than $1 million to House members who voted against removing price supports—10 times as much as to those voting the other way.

The 12 members of a House subcommittee who voted to weaken the Clean Air Act got $200,000 from the seven major industries that thought they would benefit thereby.

Representative Barney Frank, Democrat of Massachusetts, who spent $1 million in his successful campaign, candidly says: "We are the only human beings in the world who are expected to take thousands of dollars from perfect strangers and not be affected by it."

As for the so-called honorariums, Representative Bill Chappell, Democrat of Florida and a member of the Military Appropriations Subcommittee, received $4,000 for one day's appearance at plants of Avco, which makes engines for the M-1 tank, as well as $2,000 from Lockheed and $2,000 for two appearances at Pratt & Whitney.

Representative Trent Lott, Republican of Mississippi, third-ranking Republican in the House, accepted $2,000 from Brown & Williamson, a tobacco company, to attend a seminar on tobacco. The junket included an all-expenses-paid trip with his wife to the Kentucky Derby. The examples could be multiplied ad nauseam.

The House's champion PAC beneficiary is Representative Dan Rostenkowski, Democrat of Illinois, who is chairman of Ways and Means, the tax-writing committee. He received $168,000 from PAC's last year although, as the lively new organization Citizens Against PAC's reports, he already had a surplus of half a million dollars left over from his 1982 campaign—which he can legally transfer to his own personal bank account if and when he leaves Congress.

Obviously, special-interest groups have a legitimate place in a democracy, the right to lobby for their point of view and to contribute to their favorite candidates. The problem is not with their existence but with the

excess of power that their vastly increasing funds can buy and with the cost of campaigning, which is completely out of hand.

Costs are going to have to be controlled by law. The most effective way to do so would be to require free television time for candidates. Campaign spending and contributions will have to be tightened, as a new House bill already sponsored by more than 140 members would do.

The power of money threatens increasingly to turn members of Congress into legalized political prostitutes. It forces them to degrade themselves as they scramble for necessary—and sometimes unnecessary—funds for election and especially reelection. It drives them to sell to the highest bidders the one most easily and legally saleable product they have: access. It undermines party discipline and control worst of all, it erodes public confidence in the integrity of the Congressional system.●

ST. GERTRUDE'S CHURCH, WORTHY OF PRESERVATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. GAYDOS. Mr. Speaker, on Sunday, September 9, St. Gertrude's Church in Vandergrift, PA, achieved a dual milestone in its 73-year-old history.

On that date it was officially dedicated as a landmark in the National Register of Historic Places and thus became the first church in Westmoreland County to be accorded such a honor. A concelebrated mass and formal ceremony marked St. Gertrude's selection by the U.S. Department of Interior as "a cultural resource worthy of preservation" for its architectural, religious significance.

The church was erected in 1911, a project of the noted church architect, the late John T. Comes, who designed more than 40 such structures. Its 30-inch thick foundation walls rest on concrete footings 3-feet thick and dominating the entire structure are twin bell towers, 104 feet high. At the time, a local newspaper, the Vandergrift Citizen, described the new church as "a thing of beauty, and ought to be a joy for centuries, at least."

A crowd estimated at 600 persons attended the concelebrated mass said by the Most Reverend William G. Connare, bishop of Greensburg; the Right Reverend Paul E. Maher, OSB, archabott of St. Vincent's Archabbey, and the Reverend Charles Weber, OSB, pastor of St. Gertrude's, with the Reverend Marion R. Gallo, OSB, associate pastor, assisting.

The throng was joined by another 200 people attending the formal dedication ceremony after the mass. Highlights of the program included remarks by Robert Warren of the Interior Department's National Park Service and a keynote address by Mrs. Helen Smith, a historian, writer, playwright, and painter from Greensburg, PA.

A commemorative plaque, blessed by Bishop Connare, was unveiled by the Reverend Paschal Kneip, OSB, and Mrs. Margie Civitillo, both of whom were instrumental in initiating the process leading to St. Gertrude's nomination for the National Register.

Others on the plaque committee included James Ferraccio, president of the parish council; Eugene F. Iagnemma and Mrs. Joseph Ferrante, general chairpersons; Mrs. Civitillo, reception; James Peterman and Mrs. Louise Silware, liturgy; Mr. Iagnemma, Orlando Capretto and William O. Naccarato, program; Orlando B. Colecchi, music; John G. Dettore, Richard J. Loperfito, Debbie and Mark Maszgay, publicity; Mrs. Ferrante, Mrs. Civitillo and Miss Joann Fulgenzi, food, and Anthony and Leo Collini, Mike J. Lege and Armand Policicchio, set-up.

Also participating in the dedication day program were members of the Knights of Columbus, the Rosary Society, the Catholic Daughters of America, the Holy Name Society, and the Joint Veterans of Vandergrift.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I congratulate the parishioners of St. Gertrude's upon the selection of their church as a national landmark and I thank them for their efforts in successfully preserving a part of our Nation's past for the enjoyment of future generations of Americans.●

THE FEDERAL FLOOD INSURANCE PROGRAM

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. ST GERMAIN. Mr. Speaker, Hurricane Diana has reminded us of the futility of overdevelopment of coastal barrier islands.

The flood insurance program was originally designed to protect victims of such storms from devastating economic losses. It was not fully anticipated when this program was begun that developers would rush to line our precious shoreline with highrise condominiums, thus altering the character of these areas.

But the power of Diana has demonstrated that man's alterations of the barrier islands cannot be permanent. Indeed, barrier islands embody the adage that everything changes except change itself.

We enacted the Coastal Barrier Resources Act in part to counteract some of the excesses of the flood insurance program. I intend to carefully monitor the implementation of the act in order to be certain that the protection which it promises is provided. No one can deny the attraction of the sea, but we should not invest Federal dollars to insure structures built on shifting sands.

A coherent national policy regarding barrier islands is needed. The Coastal Barrier Resources Act was progress toward formulating such a policy. Whether further legislation is necessary remains to be seen. It may be that the wisest course is to let things alone, recognize that we cannot assure the permanence of these islands, and cease spending Federal funds on hopeless tasks.●

PLIGHT OF SOVIET JEWRY

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. YOUNG of Missouri. Mr. Speaker, Soviet Jews comprise the third largest surviving Jewish community in the world. Soviet Jews have been struggling to achieve basic human rights, including the right to maintain their own religion and culture. The right to leave any country that denies one their heritage is an internationally recognized human right, yet in the Soviet Union permission to emigrate is given arbitrarily.

I believe that it is important that in the face of this wave of anti-Semitism, America must reaffirm our commitment to human rights. The U.S. Congress has been a leading supporter of Soviet Jews in their attempts to study and teach their faith.

We have held a congressional prayer vigil on behalf of Soviet Jews, but we must be sure that the vigil continues each and every day until the human rights of all Soviet Jews have been restored.

As a Member of Congress and concerned citizen, I have "adopted" a Soviet Jewish family from the Ukraine to help them fulfill their dream of emigrating to Israel.

Samuel and Manya Klinger have been trying unsuccessfully, for a number of years, to emigrate to Israel. Samuel Klinger is an agronomist from Dnepropetrovsk in the Ukraine. He and his wife, a nurse by profession, have been repeatedly denied exit visas since 1970. The only reason given by Soviet authorities has been a lack of consent from Manya's parents, who have not seen their daughter in many years. Manya, a mother herself, recently celebrated her 50th birthday.

The Klinger situation is quite pressing in that they are the only family in Dnepropetrovsk awaiting exit visas. Recently, a defamatory letter was printed in a local newspaper about the family—prompting Samuel to immediately send a letter of protest to the editor. The result was the printing of

another anti-Semitic article in the same paper.

We have asked the Soviet Government to grant this family permission to emigrate, but have received no response. There can be no doubt that by not allowing the Klingers to leave the Soviet Union, the Soviet Government is in clear violation of the Helsinki Final Act, the Universal Declaration of Human Rights, as well as their Soviet Constitution.

Surely the emigration of the Klinger family would pose no threat to the security of the Soviet Union, and instead would be a humanitarian gesture. Yet permission to leave is continually denied.

As the leader in the free world, the United States must do all that we can to protect the human rights of all people. And I urge my colleagues to continue to protest the blatant violations of human rights occurring each day in the Soviet Union.

THE PLIGHT OF MART NIKLUS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. YATRON. Mr. Speaker, I want to take this opportunity to say a few words about Mr. Mart Niklus, an Estonian human rights activist who has been the victim of intense repression by authorities in the Soviet Union.

It is significant that we use this occasion to remember the plight of Mart Niklus. On September 22, 1984, Mr. Niklus, most likely, will be spending his 50th birthday in solitary confinement in the infamous Christopol Prison. It is also important to take a few moments to discuss the brutal Soviet reaction to the activities of Mr. Niklus, which amount simply to the exercise of his fundamental and universally acknowledged human rights.

Mr. Niklus, a highly educated and articulate individual, was first imprisoned in 1958 and sentenced in 1959 to 10 years of hard labor and 3 years of internal exile for sending photographs to a Western journalist depicting conditions in Estonia. After his release 8 years later, he was forbidden to work at his profession. As a consequence, he was unable to secure employment commensurate with his training, education, and capability.

From 1975–80 Mart Niklus was repeatedly imprisoned and his home searched. He was denounced in the Soviet-controlled press and was denied permission to emigrate to Sweden. This rough treatment of Niklus severely affected his health. He was hospitalized in 1980 with radiculitis, but was prematurely released after pressure from the KGB. The day after he was released from the hospital, Mart Niklus was again arrested and subsequently sentenced to 10 years at hard labor and 5 years internal exile for "anti-Soviet" agitation and propaganda. Although his current condition at Christopol is fragile, the Soviets continue their harsh treatment of him.

Mr. Niklus is indeed a man of great courage, determination, fortitude, and integrity. His concern for others is manifest in his human rights work, and he has made tremendous contributions in this area. Mart Niklus has signed many appeals and statements of protests against Soviet violations of human and national rights. He has been instrumental in coordinating the various rights activists in Estonia, Latvia, and Lithuania. He has also worked closely with his friend Andrei Sakharov. A number of journalists all over the world have taken a personal interest in his case and he has been adopted by Amnesty International.

As of September 22 approaches, we should take some time to reflect on the plight of Mart Niklus so we may be ever more committed to the promotion of basic human rights for all those who suffer under oppressive and ruthless governments.●

TRIBUTE TO VOLUNTEERS OF THE FOURTH DISTRICT OF SOUTH CAROLINA

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. CAMPBELL. Mr. Speaker, I would like to bring to your attention and the attention of the Members of this body some very special people from my district in South Carolina. Over 1,200 individuals volunteer their time to prepare and deliver meals to needy people in their communities. The Mobile Meals Program in Greer and Spartanburg and Meals on Wheels in Greenville and Union provide one hot and well-balanced meal per day to those unable to prepare, or have prepared, meals for themselves. The recipients of these meals are homebound, and this service is invaluable to their well-being.

Greer Community Ministries, Inc., operates the Mobile Meals Program in Greer, SC. Mr. Jesse E. Crim chairs Greer Community Ministries and receives valuable assistance from Evelyn Redmund and about 150 volunteers who prepare and deliver 140 meals per day, 5 days a week.

Mrs. Jayne McQueen is the executive director of Mobile Meals Service of Spartanburg, SC, Inc. Over 700 volunteers serve 720 meals 5 days a week to citizens throughout Spartanburg County.

Bonnie Johnson directs the newest program in the Fourth District. Meals on Wheels of Union is seeking to meet the needs of the homebound of Union County and delivers about 60 meals per day. With the help of humanitarians such as Agatha Burgess, this service will continue to grow.

Meals on Wheels of Greenville is directed by June Durham. Aided by Westminister Presbyterian Church and hundreds of volunteers, over 700 meals per day are prepared and delivered.

Mr. Speaker, the efforts of Mobile Meals and Meals on Wheels are to be applauded. But it is the dedication of the volunteers that is the backbone of these programs. They seek no public attention for themselves, but only to provide human contact and friendship to others. Furthermore, the meals they deliver and the attention they give to the recipients' well-being keep many persons from being institutionalized needlessly and allow them to live independently as long as possible.

Also, all funding for these programs is provided by the private sector. Individuals and businesses invest in their communities and offer the capital necessary to operate these programs.

Mr. Speaker, I am proud that these extraordinary citizens reside in my congressional district. Their selflessness is an example to us all. I am pleased to offer, in this small way, the recognition they so rightly deserve.●

A TRIBUTE TO PRINCETON HIGH SCHOOL

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. LUKEN. Mr. Speaker, I am very honored that a school from the First District of Ohio, the Princeton High School, has been selected to receive the "National Secondary School Recognition Programs Award."

Princeton High School is one of 202 junior and senior high schools across the Nation to receive this award.

In determining the recipients of this award the Department of Education uses 15 criteria: clear academic goals, high expectation for students, order and discipline, reward and incentive, regular and frequent monitoring of students, progress, opportunity for meaningful student responsibility and participation, teacher efficiency, rewards and incentives for teachers, concentration on academic learning time, positive school climate, administrative leadership, well articulated curriculum, evaluative and instructional improvement, community support and involvement, progress toward excellence.

As a recipient of this award Princeton High School can be seen as a shining example to other schools on what

excellence in education is all about. I would also like to mention that Princeton Junior High School was one of 154 schools to receive the award in 1983.

The future economic vitality of our Nation depends on the quality of education today. Schools such as Princeton High School make that future one to look forward to.●

CABRILLO CIVIC CLUBS COMMEMORATE 50TH ANNIVERSARY

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mrs. BURTON of California. Mr. Speaker, on September 21, the Cabrillo Civic Clubs of California will celebrate their 50th anniversary at the Knights of Columbus Hall in San Francisco. These clubs were organized in 1934 by a group of Portuguese-Americans and have since been involved in many admirable charitable and educational activities. The clubs are named after Joao Rodrigues Cabrillo, who was a Portuguese explorer who found his way to California in 1542, the first European to set foot on California soil.

The dinner will honor the living founders of the clubs: Manuel Reis, Joe Oliveira, Alfred Baptist, Frank Quadros, Peter Rose, Frank Jacinto, Frank Cross, Manuel Pelicas, and Antonia Resende. They and others met in San Francisco on January 29, 1984, to officially organize the Grand Council of Cabrillo Clubs of California.

The clubs have been a major fundraiser for numerous charities, including the Cancer Society, Heart Fund, Polio Foundation, Easter Seal Society, Mentally Retarded Children's Association, Cerebral Palsy, and many others.

Education has recently become a "hot" political issue; the Cabrillo Clubs have been promoting better education since their founding. In fact, one of the major principles of the club bylaws is to bring educational opportunities to young people. The clubs have done so with great dedication over the years. They collected thousands of dollars for their scholarship fund and have helped hundreds of youngsters further their education.

I am pleased to be able to bring the accomplishments of the Cabrillo Civic, Clubs to the attention of my colleagues in the U.S. Congress. It is heartening for us to know that we have constituents so dedicated to helping their communities.●

TRIBUTE TO THE YELLOW JACKETS, HARDIN COUNTY YOUTH SOCCER LEAGUE

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. NATCHER. Mr. Speaker, I would like to take this opportunity, as we pause to remember the pride and excellence exhibited in this summer's Olympic games, to congratulate another group of young athletes from my district, the Yellow Jackets of the Hardin County Youth Soccer League.

On May 27, of this year, the Yellow Jackets won the league championship by completing their season with a record of 6 wins and only 1 loss. Under the leadership of Head Coach Jerry Doss and Assistant Coaches Mike Hobbs and Steve Wiseman, these 16 young athletes, ages 12 and 13, displayed teamwork, determination, and what many of us here in Washington would call a "doghouse defense," scoring a total of 24 times this season while allowing their opponents only 11 goals.

As these outstanding players prepare for another season, some still as Yellow Jackets and some in the uniforms of local high schools, I would again like to extend my heartiest congratulations to the 1984 Yellow Jackets: Jason Baumgardner, Jeff Blankley, Russell Bennett, Jerry Carter, Terry Carter, Joe Doss, Jeff Gnerlich, Mark Hanna, John Hannifan, Jeff Hobbs, Kevin Miller, Amy Pierce, Gary Reed, Jesse Smith, Kevin Strezlec, and Josh Wiseman.●

PERSONAL EXPLANATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. DONNELLY. Mr. Speaker, due to the primary elections in Massachusetts, I will be unavoidably absent from any votes that occur in the House today.●

A TRIBUTE TO SGT. SHIRLEY DAVIS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. BONER of Tennessee. Mr. Speaker, I am pleased to have the opportunity to pay tribute to Sgt. Shirley Davis of the Nashville, TN, Metropolitan Police Department.

Sergeant Davis has been named Woman Police Officer of the Year by the International Association of Women Police. She was chosen from more than 100 nominees from police departments across the United States and Canada.

Sergeant Davis has handled cases involving murder, rape, drugs, sexual abuse, and other phases of law enforcement. She singlehandedly captured a bank robber, and was an important part of an investigation that led to the arrest of two brothers who were suspected of 40 to 50 burglaries and four rapes. Also, while off-duty, Sergeant Davis saved the life of a small child who was choking on a piece of bubble gum. The child's mother had tried unsuccessfully to remove the gum and was hysterical. Sergeant Davis then quickly applied pressure to the child's diaphragm, causing the bubble gum to dislodge and pop out.

Apart from her police responsibilities, Sergeant Davis has made many contributions to the community of Nashville on her own time. She has given numerous speeches relative to sexual abuse, robbery, drugs and all phases of law enforcement. She set up programs in the low-income housing areas and met with the women in the neighborhood to establish an understanding of sexual abuse, drugs and the role of law enforcement in the community.

The people of Nashville are very proud of Sgt. Shirley Davis. I ask my distinguished colleagues to join with me in honoring Sergeant Davis for her dedicated and distinguished service to law enforcement and her community.●

TRIBUTE TO MICHAEL JOHN DEMKO

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. HARRISON. Mr. Speaker, an outstanding young man from Hazelton, PA, will be awarded the highest distinction in Boy Scouts.

Michael John Demko will receive the Eagle Scout Court of Honor at a ceremony to be held in his honor. Michael is a member of Troop 5 of Holy Trinity Roman Catholic Church. This represents an outstanding achievement and one in which all of us can take justifiable pride.

We all know that the youth of today represent the leaders of tomorrow, and in this case, Michael is so duly honored.

Mr. Speaker, I join with Michael's family and friends in paying tribute to this outstanding young person.●

CALL TO CONSCIENCE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. PEPPER. Mr. Speaker, I would like to use this short time today to call to your attention and that of our distinguished colleagues a subject that needs to be understood and known by every person in this Nation who appreciates the blessings of liberty and opportunity to seek personal happiness, which Americans share to a wide extent.

This topic involves another country, a sometimes threatening and powerful adversary, herself suspicious of the motives of countries around her, and brutally mistrustful of its own citizens whom it treats with despotic carelessness and oppressive direction without sufficient respect as people.

Excessive power can lead to excesses of judgment and wasteful thinking and disrespect of the small, but sincere aspirations of the average citizen compounds that inefficiency and creates a backlash of popular resentment—a danger to that Nation and to the world which is affected by that countries excesses and resulting instability.

That country is the Soviet Union and one of its worst excesses is the way in which it treats the aspirations of its Jewish minority who are first made to feel unappreciated and then mistreated when they apply to leave in peace to cut their losses and start afresh in a country wanting them as people, willing to give them nothing more than the opportunity to be free and use their energies for the benefit of the society in which they live.

This sort of poor judgment affects all of us because it shows the strains of a maladapted society in a particularly inhumane and noticeable way.

A particular case I have personally followed out of the thousands that are reported to us every year, involves an individual named Abba Taratuta and his family, who lives in Moscow.

His wife was a student of English who worked as a translator of scientific articles published in the West. Abba worked as a mathematician and expert in radio astronomy, when both resigned their positions and applied for an emigrant visa in May 1973. After 3 months they were refused on grounds of possessing secret information valuable to the Government. Since then they have been forced to subsist on low-paying jobs, without prospects and subject to frequent personal harassment.

Their son, Mischa was drafted into the Soviet Army in November 1981 and served 2 years, which may mean that he will know sensitive information preventing him from leaving with his family, when they are finally permitted to go.

Abba Taratuta's wife, Ida, was forbidden from visiting the public library when she was unemployed, their apartment has been searched, and they were coerced into leaving Moscow during the Olympics in 1980 to avoid any possible contact with Western newsmen or visitors from other countries.

In June 1976, 3 years after he applied, Abba was informed that he could not receive a visa for at least 10 years. Does this mean he will not be allowed to leave until June 1986, or perhaps even later? He was not told when he would be permitted to leave. It may be never. Meanwhile, their lives grow less and less tolerable under this continuing pressure from the Government of the Soviet Union.

He is not alone. The stories appear as petty and needless exercise of official power by a group of men who exercise power for its own sake and cannot tolerate any opposition to their authority, even in the form of peaceful emigration. They deserve our contacts and concern about their cruelty.●

MILLBRAE HISTORICAL SOCIETY HONORS ASTRONAUT JAMES VAN HOFTEN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. LANTOS. Mr. Speaker, I am delighted to report to my colleagues in the House that Astronaut James van Hoften has received the second Living History Award presented by the Millbrae Historical Society. The town of Millbrae—which I have the honor and privilege of representing in Congress—was the home of Dr. van Hoften, and he is a graduate of Millbrae's Mills High School.

In making this award, the society praised Dr. van Hoften for perpetuating "the American ideal while earning the acclaim of all citizens of Millbrae, California." The astronaut was involved in the first successful repair of an orbiting craft during a spacewalk.

After graduating from Mills High School, van Hoften continued his education at the University of California, Berkeley, where he received a Bachelor of Science degree in civil engineering. He also studied at Colorado State University where he received his Master of Science degree in 1968 and a Doctor of Philosophy degree in 1976, both in hydraulic engineering.

Dr. van Hoften is married to the former Vallarie Davis of Pasadena, CA. They are the parents of three children—Jenifer Lyn, Jamie Juliana, and Victoria Jane.

A lieutenant commander in the U.S. Naval Reserve, Dr. van Hoften participated and served two tours of duty in Southeast Asia, where he flew some 60 combat missions. He has logged 2,800 hours flying time, mostly in jet aircraft. He has received two Navy Air Medals, the Vietnam Service Medal, and the National Defense Service Medal.

Mr. Speaker, I am pleased to acknowledge the outstanding accomplishments of James van Hoften and the service he has performed for our Nation. The Millbrae Historical Society has honored a deserving former resident of the community in awarding Dr. van Hoften this Living History Award.●

DINA RASOR

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. LEVINE of California. Mr. Speaker, the current issue of the Washington Weekly contains an article about a remarkable woman, Dina Rasor.

Ms. Rasor heads the Project on Military Procurement. She and her colleagues at the project perform a much needed public service in their work on behalf of the men and women in uniform in the military and the American taxpayer. It is in large measure because of the work of Ms. Rasor that we are today aware of the vast scope of waste, fraud, and abuse in the military budget.

Thanks to Ms. Rasor we know the outrageous prices taxpayers pay for simple spare parts, we know that many of the weapons the Pentagon buys cannot perform up to their specifications, and we know that the military procurement process is in desperate need of major reform.

Ms. Rasor is a unique resource here in Washington. I commend the Washington Weekly's article to my colleagues, and I urge them to take the time to meet with and talk to Ms. Rasor and the other fine people at the Project on Military Procurement. Your time will be spent with a group of very helpful and talented people.

THE WOMAN THE BRASS LOVE TO HATE

(By Stephen Klaidman)

Dina Rasor stopped off at Travis Air Force Base in California on her last trip West. While there, she took pictures and verified prices. It was hardly the usual tourist trip to the coast. But then, Rasor was not on a pleasure trip. Rasor photographed some rather unexceptional items including a ladder, a rechargeable flashlight, a drawer and a pilot's control wheel. As a result, this last week the national media was able to break yet another spare parts scandal story.

The ladder she photographed is for the C-5 cargo aircraft. It is hydraulically retracta-

ble and made of lightweight metal, almost something one might pick up at Hechinger's. It costs an astonishing $74,165. This makes the flashlight used on Lockheed's C-5 and C-141 look like a bargain at $170.98. The Montgomery Ward version, Rasor noted in a press release, costs $24.99 and comes with a guarantee.

These are not the kinds of discoveries that are particularly astonishing to Dina Rasor. In fact, she is in the business of making information of just this sort available to the public. In a uniquely Washington way, her chosen instruments are the press and Congress. Each time she learns about weapons systems that do not work or cost too much, she gathers evidence like the journalist she once was and gives it to reporters or Congressional offices. The pay-off comes in the form of news items, hearings and legislation. If you hear about it, the original source is very likely Dina Rasor, a kind of politico-military Raider of the Lost Part.

Here's how Rasor says she broke the latest spare parts story:

The father of a serviceman stationed at Travis saw Rasor on television and wrote down the name of her organization, the Project on Military Procurement. He passed it on to his son, who had told him about the waste and fraud he had observed while on duty with the Air Force. But his son lost the group's name for about a year.

When he found it about three months ago, he got in touch with Rasor, who met him in a restaurant near the base. He brought documents that she said "were some of the best I'd ever seen." She asked him if he knew anyone else who might have similar information and documentation. He said he didn't think so, but a couple of days later he met another serviceman who was planning to go to a newspaper with a similar story. Source No. 1 then persuaded soon-to-become Source No. 2 to go to Rasor instead.

"My husband and I drove out to the base and met him at Winchell's Donut Shop," Rasor said, adding that, "I always get to go to these exciting places." They spent four hours over donuts and coffee looking at material that Rasor says was "better than what the first guy had."

She took the material back to Washington and showed it around to her sources here to determine that it was genuine. She then received an invitation from Source No. 2 to spend a day with him on the base taking pictures and checking prices on the base's microfiche file. She called Bernie Ward, an aide to Rep. Barbara Boxer (D-Calif.), who happened to be visiting his parents in San Francisco, and he agreed to accompany her.

Both of them went out to Travis and Source No. 2 took them onto the base. Rasor said she had two cameras, one with a zoom lens. "I don't know why they wouldn't be suspicious of it." But they weren't, and Rasor and Ward spent the day photographing aircraft, inside and out, checking manuals and poring over microfiche.

Rasor took the evidence she had gathered to her California home, where she spends two weeks a month with her husband, who is working on his Ph.D. in forestry at Berkeley, and began to prepare a press release. She also checked in with Kris Kolesnik, an aide to Sen. Charles Grassley (R-Iowa). Rasor knew she had Congressional hearing material, but she didn't think any hearings could be scheduled until early in 1985.

Kolesnik surprised her, however. Grassley's Judiciary subcommittee on administrative practice and procedure had an open date on September 19. The hearing was scheduled, and Rasor speeded up the release date of the documents and photographs for the press.

There was more, though. Rasor also was told that brand new spare parts, some of them very expensive, were being thrown out, often in their original wrappers. The reason, apparently, is that once a part is ordered, it looks like a mistake has been made if it has to be returned. Therefore, instead of returning parts and risking discipline, servicemen throw them into the dumpster. Ultimately, they wind up in a landfill.

At this point, however, Rasor lacks the documentation to make an airtight case proving that unused, perfectly good items are being thrown out. She says she expects to be able to provide it in the near future.

Rasor says the sources at Travis came to her after having first tried to go through regular channels. "They have complained for several years," she said. "They told me the problem was overwhelmingly big. Huge. This kind of waste just makes them sick. And their parents, their wives and girl friends, just jumped all over them when they would bring home an example."

Secretary of Defense Caspar Weinberger issued a 10-point directive in July, 1983, addressing the question of waste in procurement of spare parts, but little seems to have changed, at least at Travis.

This particular scandal is only the latest in a series of Pentagon waste investigations either sparked or supplemented by Rasor's project. Recurrent articles in the national press detailing the absurdly high prices paid by the Department of Defense for household objects like ladders and flashlights are the pay-off from Rasor's carefully cultivated relationships in what she calls her "more-bucks underground."

Also known as "closet patriots" (a term of endearment coined by A. Ernest Fitzgerald, the Big Daddy of whistle-blowers for his role in pinpointing cost overruns on the C-5A cargo aircraft), this network comprises about half of her collection of sources, some of whom she knows, but most of whom anonymously make the project possible. The other half is the "less-bang underground," because they are primarily concerned with the poor performance of weapons, as opposed to their high cost.

Together these groups have provided Rasor with enough ammunition to silence the Pentagon, at least temporarily. The Defense Department's press office, after several days of sitting on my request to evaluate Rasor's efforts, finally declined comment. One information officer, in a moment of candor, said, "It doesn't do us any good to talk about these things on the record," I was not interested in discussing them off the record.

Three major defense contractors also retreated into silence when asked about Rasor and her five-person, $200,000-a-year, hole-in-the-wall Capitol Hill office. Lockheed, Hughes Aircraft and General Dynamics, each of which has had billions of dollars worth of its products come under the project's scrutiny, also refused to comment. (One of Rasor's major coups was acquiring and releasing a fat computer printout that detailed collusion between the Air Force and Lockheed in an attempt to save a program to buy 50 C-5's.)

That's not so surprising when you look at Rasor's track record. She has had a hand in exposing or contributing to the exposure of waste, fraud and incompetence in dozens of major weapons programs, including the C-5A and C-5B aircraft, the M1 Abrams tank, the M-2 Bradley fighting vehicle, the Cruise missile, the Maverick missile, the Phoenix, missile, the DIVAD gun, the AEGIS CG-47 air defense cruiser, the B-1 bomber and others too numerous to mention.

The secret of her success is brilliant in its simplicity. For a start, she is not an anti-defense ideologue. If she were, she would not have the sources she has, many of whom are known in liberal circles as "cheap hawks." In her own words, she is "a front" for current and former Defense Department employees, both uniformed and civilian, who are interested in trying to correct abuses in specific weapons programs—abuses that if allowed to persist would constitute a danger to soldiers' lives, an excessive burden on the American taxpayer, or both.

Furthermore, she does not rely on outside critics of military procurement procedures. She builds her case with official Department of Defense documents supplied by the members of her underground. The documents are always unclassified and they are verified by passing them around so that one underground faction can act as a check on another.

Rasor is extremely careful about maintaining the project's political neutrality. She said she "will not discuss who I vote for, foreign policy or [my] social views, because that should not prevent me from working with someone who is very liberal or very conservative." And, indeed, it hasn't. Her working relationship in Congress cover the spectrum from Sen. Charles Grassley (R-Iowa), a staunch conservative, to Rep. Mel Levine (D-Calif.), whose liberalism is uncontested.

But most of all, she has filled a need so obvious that no one before her really noticed it. The project serves as a go-between. She makes it possible, in the words of one Hill aide, "for those bureaucrats who want to commit truth [to] keep their jobs."

The path from Pentagon leak to public scandal is planted with mines. Rasor explained it this way: "Reporters kind of come across to whistle-blowers the way the Moonies do [to students] at Berkeley; sort of love feelings and 'you pour out your heart to me, I'm your friend.' But whistle-blowers don't understand that and they get themselves in a lot of trouble," because they sometimes say more than they intend.

Over the last four years, Rasor has won the trust and respect of her sources ranging from the first who ever came to see her, a man she described as "this really bizarre guy. I mean, we're talking really weird. Very secretive, deep-throatish, shifting around," to Pentagon bureaucrats who readily blend into their surroundings.

She has staffed the project with researchers whose backgrounds seem calculated to deflect criticism on grounds of political partisanship. There is 40-year-old Paul Hoven, who Rasor calls "a government-issue, trained-killer war hero"; Donna Martin, 34, a former television journalist who was protesting the war in Viet Nam not long after Hoven was fighting in it as a helicopter pilot, and 31-year-old Joe Burniece, a student of military history who worked with Hoven in Minnesota making models of weapons for military simulations and developing military training programs.

Rasor, 28, is herself a child of Watergate. "My father's one the hardcore, original Nixon haters," she said. "I was a junior and senior in high school during the two years of Watergate. How [I] looked at the United States was shaped by that event." Appropriately, Rasor graduated from the University

of California (Berkeley) with a degree in political science and journalism.

After graduation, she worked for less than a year as a desk assistant at ABC in Washington, resigning not long after she says a colleague told her that to advance at ABC, "If you're a women, you're better off spending more time in the horizontal position rather than the vertical." She then spent four months in 1979 with the President's Commission on Coal before joining the National Taxpayers Union to investigate waste and fraud in government.

She met Fitzgerald at the Taxpayers Union; he got her involved in investigating the C-5A, but in 1981 she left in a dispute over whether or not she should continue into what is now the Reagan administration's Pentagon. (The Taxpayers Union was backing Reagan on the balanced budget amendment.)

Fitzgerald then helped her hook up with the National Taxpayers Legal Fund, which also didn't work because of the libertarian political ideology of the fund. In 1981, after four months on her own, she found a home for the Military Procurement Project under the umbrella of the Fund for Constitutional Government, an organization set up by Stewart Mott and others after Watergate to examine corruption in government. She says its directors have let her pursue her own agenda.

She was then all of 25 years old, with long sandy brown hair, disingenuous blue eyes and a few funky dresses and pairs of flat shoes. After all, what did she need high heels for? All she was doing was taking on the military-industrial complex. Her chosen route was through the press.

The couple of dozen reporters she works with find her a useful source and she gets generally high grades for the quality of her documents and the care with which she prepares the memos that accompany them.

James Fallows whose book, National Defense, is treated with reverence by Rasor and her staff, says he has "great esteem for what they do." He says they provide a way of "getting information out from the bureaucracy to the press."

Charles Mohr of the New York Times said, "Her product has been usable [and] her sources are pretty solid." He added that "her confidants, as far as I know them, are more zealous than she is."

Morton Mintz of the Washington Post, who is probably responsible for exposing more waste and fraud than any reporter in Washington, praised Rasor's "scrupulous regard for distinctions between hard evidence and speculation."

On the other hand, George Wilson, the Post's longtime Pentagon correspondent says, "She has an ax to grind and she's caught up in dissent. She thinks the Pentagon is wasteful and out of control." Wilson acknowledges that Rasor "urges that you check out her stuff, which is sometimes less than advertised, sometimes OK." Overall, Wilson says "the more daylight the better, but drive with caution."

Another reporter whose praise for the project is qualified is Richard Barnard of Defense Week, a well regarded defense newsletter. In May of 1983 Defense Week published an article by Barnard that was highly critical of a Project on Military Procurement press release on the C-5B aircraft. Rasor and her associate, Donna Martin, responded with a lengthy point-by-point rebuttal of the Barnard article, most of which Defense Week published. Defense Week acknowleged one minor error, but otherwise stood by its story.

But even Barnard says that the project plays a useful role. "If they didn't exist, somebody would have to invent them," he said.

The project does not serve only the press, though. It is an important resource for those Congressional offices that are interested in military issues. Senator Grassley's spare parts hearings are only one example of the many ways in which Rasor has either stimulated or provided support for legislation, hearings or other Congressional action.

For example, John Heubusch, an aide to Rep. Denny Smith (R-Ore.), described how the project helped the congressman pressure the Pentagon to address deficiencies in the AEGIS Naval air defense system. "In 1983, the project put us in touch with people who had the test results [on AEGIS]," Heubusch said. "We got the results, had the actual numbers and were able to ask intelligent questions of the Navy.

"The lid blew off," Heubusch recalled. "Smith threatened an amendment to stop AEGIS funding. The Navy brought the Ticonderoga [an AEGIS cruiser] back from Lebanon for new tests in Bermuda. We're now trying to get those results, but the Navy's holding them real tight."

Rasor has also become an information bank for congressional experts. Richard Kaufman, general counsel of the Joint Economic Committee, said, "If we have an interest in a particular program and we start gathering information about that, I'll call her to find out if she has any information in her files and if she's able to obtain any information. She doesn't disappoint you very often."

Rasor was invited to address a group of officers who were taking a course in procurement at Maxwell Air Force Base last year, and apparently she did not disappoint them either: She was voted their favorite speaker and invited back this year by a new commander.

But is there a real pay-off from Rasor's efforts and those of her staff? That depends how you measure it. If legislation is the goal, the project has been instrumental in the passage of a bill that mandates the separation of operational testing of weapons from their development. In other words, those who stake their careers on developing a particular weapon are no longer to be in charge of evaluating it. But the office to implement the law still hasn't been established in the Pentagon, and Rasor's guess is that "a milque toast will head it."

The project has also played an important role in other legislation—a bill that requires defense contractors to warranty their work, plus the so-called "creeping capitalism bill," which would eventually require 70 percent of all Pentagon contracting to be competitive, as opposed to the roughly 6 percent that is competitive now. There are also more than a hundred bills in the Congressional hopper aimed at controlling the cost of spare parts, but Ernest Fitzgerald says "most of them will make things worse than they are now."

Everyone interviewed for this article agreed that Rasor was trying to move a mountain. Once a program office is established in the Pentagon to build a new weapons system, a program manager is appointed and his career then depends on getting the weapon built. If the weapon is found to be inadequate or ill-conceived at any stage thereafter, it's likely that man's career will suffer. So will the careers of those under him. The obvious upshot is that weapons get built no matter how poorly they perform in tests along the way.

Rasor and her supporters believe, nonetheless, that what they are doing is useful because it raises the public's consciousness and eventually—no one will hazard a guess as to when—that will create pressure to change the system.

It is certainly true that the spare parts controversy has caught the imagination of the public, but few people have made the leap to Rasor's contention that "an aircraft is just a bunch of spare parts flying in tandem." If she is right, and if a plastic stool cap is overpriced by a factor of 100 percent or more, what does that imply about the amount of padding there might be in the $200 million-a-copy cost of a B-1 bomber?

Suppose it's just a factor of two?●

NORTH CAROLINA EDITORS OPPOSE OREGON INLET PROJECT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. CONTE. Mr. Speaker, when the House considers H.R. 3082, the Emergency Wetlands Resource Act, an amendment will be offered to strike title IV of that measure. Title IV would authorize the Corps of Engineers to use lands under the jurisdiction of the Department of the Interior for a jetty project at Oregon Inlet, NC. The Department of the Interior has determined that such use would be "incompatible" with the public lands policy under which the adjacent Cape Hatteras National Seashore and Pea Island National Wildlife Refuge are administered.

One argument that has been made in favor of these jetties is that they are necessary for the economic development of the area. I was surprised, therefore, to learn that there is significant opposition to the project in North Carolina.

I commend to my colleagues' attention editorials opposing this project from three North Carolina newspapers, and urge them to support the Seiberling amendment to strike title IV from H.R. 3082.

[From the Greensboro, NC, News & Record, July 18, 1984]

OREGON INLET ILLS

Unless wiser heads prevail, Congress is about to founder on the shoals of reason and approve legislation to build jetties at North Carolina's Oregon Inlet—a boondoggle that could cost more than half a billion dollars over the next 50 years.

The exasperating thing about it all is that the jetties may not work. They may not be necessary. And they may even cause more damage to North Carolina's fragile coastline.

Those are just three reasons Congress ought to deep-six a bill sponsored by U.S. Representative Walter Jones that would allow construction of the jetties to begin. Instead of pouring taxpayers' money into jetties, Congress ought to authorize annual

dredging, when needed, to keep a channel clear through the inlet so fishing boats can get safely back to port.

But whether Congress will consider that alternative, in the face of heavy pressure to build jetties, is questionable. Two decades ago, Congress authorized the jetties. They have never been built, partly because of the enormous expense and partly because the U.S. Interior Department has refused—properly—to allow anchoring one of the jetties on National Park Service lands and the other in a National Wildlife Refuge.

Jones' bill would transfer just enough of that land to the U.S. Army Corps of Engineers, which is hell-bent on building the jetties even though its own economic justification for the project has been shot to shreds. Congress could vote on the bill when it returns to Washington following the political convention season.

The stone-and-concrete jetties would cost about $100 million to build and upwards of another $500 million to maintain over their projected useful life, or about 50 years. The jetties, the corps contends, would keep open the hazardous Oregon Inlet channel—despite the fact that similar jetty projects elsewhere have not worked as envisioned.

What has worked, however, is a far cheaper alternative. Last fall the corps dredged a new channel at Oregon Inlet that remained open for most of the winter fishing season. Annual dredging in the area could be done for about $4 million—or far less than the annualized cost of $12 million to build and maintain the jetties.

Perhaps even more important is the potential damage from the jetties. Experts on sea conditions fear that scouring action of the sea in the area immediately south of the jetties would cause enormous damage to beaches and the coastline. And during particularly bad storms, the jetties might force the sea to break through the Outer Banks and create a new inlet. That, too, could produce enormous property damage and loss of life.

In light of all these facts, it is time for Congress to recognize the Oregon Inlet project for what it is: an attempt to alter the balance of nature without regard for the consequences.

In this case, the taxpayers would be better off dredging each year than throwing money away on a pair of jetties with a jacked-up price tag.

[From the News and Observer, Raleigh, NC, Aug. 13, 1984]

SKEPTICISM ON JETTIES ABIDES

Representative Walter B. Jones, D-N.C., one of the chief advocates of building $100 million-plus jetties on the shifting sands of Oregon Inlet, at last has in hand a document that he hopes will silence critics of the controversial project.

That's wishful thinking. Even if the favorable new cost-benefit analysis of the jetties by the U.S. Army Corps of Engineers could withstand intense and independent review, the project still suffers from serious environmental and feasibility flaws.

The latest analysis by the Corps, delivered more than a year behind schedule, invites healthy skepticism. Its 1977 estimate of $1.14 in economic benefit for every $1 of the project's cost had to be junked because of serious error. As revised in 1982, it offered only about 32 cents in benefit for every $1 spent. This figured out to a net deficit of $400 million over the estimated 50-year life of the project.

In view of these sobering figures, the new analysis invites searching questions, if not outright disbelief. The Corps estimates that the jetties will return a minimum of $1.40 and a maximum of $2.20 for every $1 put up by the taxpayers.

First, it's highly doubtful—during the three- to four-year period of construction—that the costs of this extremely complex project could be held within today's estimate. Second, the Engineers apparently offer no hint that the expense of maintaining the jetties and operating their untried breakwater and sand-bypassing system—even if it works as anticipated—could be badly understated in view of storms and ocean turbulence around Oregon Inlet.

But the Corps also throws in the projection that as many as 27 lives could be saved over the next 50 years with jetty stabilization of Oregon Inlet. The safeguarding of life in a treacherous coastal area is no small consideration. Yet, there has been no recent loss of vessels or life in the inlet since more intensive dredging began—even though commercial fishing catches in the area have increased. Moreover, factors other than the unstable conditions of the inlet have been involved in most of the eight losses of life there in the past 15 years.

Aside from cost and safety disputes, however, the twin-jetty project is environmentally unsound. It would consume valuable parts of the Cape Hatteras National Seashore and the Pea Island Wildlife Refuge.

Out-of-state coastal scientists (the Inman Group) twice have warned that the jetties would cause serious erosion of the barrier islands beyond the project area. Other marine scientists have speculated that jetty-induced changes in the flushing action of Oregon Inlet during storms could send water surging through newly opened inlets, possibly in populated areas around Nags Head.

Therefore, regardless of whether Corps' cost-benefit estimates are "so much blue smoke," as one congressional backer of the project has asserted, this latest report on the Oregon Inlet jetties won't make the doubters shut up. In company with Governor Hunt and Sens. Jesse Helms and John East, Congressman Jones of the 1st District is still trying to saddle the taxpayers with a public works project filled with economic and environmental hazards.

[From the Winston-Salem (NC) Journal, Aug. 9, 1984]

MORE THAN JUSTIFIED

Fourteen years ago, somebody had what looked, at least to some people, like a good idea. The idea? Build twin, mile-long jetties at Oregon Inlet on the Outer Banks as a means of keeping the inlet open. Ever since then, proponents of the jetties have been attempting, none too successfully, to make a case for the expensive and environmentally dubious jetties. The latest attempt came this week when the U.S. Army Corps of Engineers issued a cost-benefit ratio report. According to Eric C. Olsen, a researcher for the Wilderness Society and the author of a report that blasted many of the assumptions of the jetties proponents, "We're looking at it with a huge dose of skepticism."

Such skepticism is more than justified. The corps' report claims that at a minimum, the jetties would return $1.40 on every dollar invested in the $100 million-plus project. That's the minimum figure—the maximum cost-benefit ratio could be as high as $2.20 on the dollar. That sort of cost-benefit ratio makes the jetties look like a mighty attractive proposition.

Mighty attractive until one recalls a previous cost-benefit ratio report issued by the corps. Back in 1977, the corps drew up a report that claimed a much more modest cost-benefit ratio—only $1.14 on the dollar. Even that seemed high to some opponents of the jetties. It was high—the report turned out to contain a very significant error concerning the value of fish that would supposedly be caught as a result of building the jetties. Once that error was corrected, the cost-benefit ratio went haywire—the return on each taxpayer dollar plunged to 32 cents. A somewhat red-faced corps junked the report.

The new report needs to be gone over very, very carefully. The type of error that appeared in the corps previous report could very well reappear in the new report. That possibility coupled with the suddenly inflated cost-benefit ratio makes a "huge dose of skepticism" more than called for as the report is examined.●

TRIBUTE TO DAVID JAMES DEMKO

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. HARRISON. Mr. Speaker, an outstanding young man from Hazleton, PA, will be awarded the highest distinction in Boy Scouts.

David James Demko will receive the "Eagle Scout Court of Honor" at a ceremony to be held in his honor. David is a member of Troop 5 of Holy Trinity Roman Catholic Church. This represents an outstanding achievement and one in which all of us can take justifiable pride.

We all know that the youth of today represent the leaders of tomorrow, and in this case, David is so duly honored.

Mr. Speaker, I join with David's family and friends in paying tribute to this outstanding young person.●

SOUTH AFRICA: THE OTHER EVIL EMPIRE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. LELAND. Mr. Speaker, once again the white minority in South Africa has legally anointed its racist policies—whereby 20 million South Africans are denied citizenship and any political influence—while claiming improved democratic conditions with the cosmetic ploy of giving Asians and people of mixed race bogus political influence.

In light of the recent violence which occurred when South Africa's new constitution went into effect and a new executive president was selected, I

strongly urge my colleagues to read the following insightful piece by Carl Rowan. The article appeared in the Washington Post on September 11, 1984.

I hope this article will serve as a reminder to this body and Nation that we must continue to emphasize the necessity of a strong commitment to human rights and an end to apartheid.

[From the Washington Post, Sept. 11, 1984]

THERE'S ANOTHER "EVIL EMPIRE"

(By Carl Rowan)

As reports roll in of new waves of violence in South Africa, several thoughts tugged at my mind.

1. Sporadic bloody uprisings are inevitable in a country where 4.5 million white people deny citizenship and even rudimentary political rights to 20 million black people. The carnage has not been greater because the Afrikaner regime in Pretoria runs a police state that is every bit as efficient and ruthless as that of the Soviet Union.

How I yearn to hear President Reagan just once refer to South Africa as "an evil empire," or indicate that he knows that it bans, exiles, locks up without process of law and even kills its citizens in order to preserve a horrible system of racial separation and economic slavery.

It is a condemning commentary on the mind sets of those who now rule America, and many of those who write for America, that while they can identify emotionally with such names as Andrei Sakharov, Yelena Bonner, Anatoly Scharansky and Yury Orlov, the names of Steve Biko, Albert Luthuli, Nelson Mandela and Robert Sobukwe mean almost nothing to them. Americans speculate endlessly about what the Soviets are doing to Sakharov and his wife in Gorky, but act as though they never heard of Robben Island, or cared about what the South Africans are doing to Mandela there.

U.S. officials speak with veneration of Alexander Solzhenitsyn, the Soviet exile who denounces his brutal homeland. But when have you heard an American official even mention Donald Woods, the fifth-generation white South African who escaped his homeland and wrote so movingly from London: "If I could speak to every person on this globe, I would speak of my friend Steve Biko, who died naked on the floor of a prison cell after suffering torture and torment at the hands of men who represent an especially horrible form of evil—the evil of racism, which inflicts hatred and rejection upon its victims for being born with dark skin."

Every year that Americans cry out in behalf of a Sakharov and fall mute over the murder of a Biko, or some unnamed anguished black in Sharpeville, American credibility as an advocate of freedom is diminished.

2. Angry, ill-educated Africans will continue to let rage hurl them into the paths of policemen's bullets because for so many of them every moment of life is at the borders of death.

The South African newspaper, the Rand Daily Mail, recently reported these infant mortality rates (deaths per year of infants under the age of one per 1,000 live births): white South Africans, 12; urban nonwhites, 69; rural blacks 282.

The publication World Development Forum indicates that this infant mortality rate is all the more astounding when one notes that the highest rate in the Third World is 210, in Burkina Faso, formerly Upper Volta.

3. The potential for violence has been multiplied by the new "constitutional" ploy in which the ruling white minority is trying to woo Asians and Coloreds (people of mixed race) to their side so as to isolate the black majority. This ploy involves giving Asians and Coloreds limited political influence through a three-tiered parliament. But in the current rioting, blacks are killing blacks who they think are cooperating with the white oppressors, and those Asians and Coloreds who are going along with the separate-parliaments gambit have become targets of intense hatred among all nonwhite groups.

Chief Gatsha Buthelezi, leader of the country's 5.5 million Zulus, has said: "We feel betrayed because so many of our Colored and Indian brothers have rushed forward with their tongues hanging out to endorse the white rejection of us."

In fact, less than a third of Indians and Coloreds had bought the bait, but that is enough to guarantee future bitterness and bloodshed.

4. Most Americans do not understand the intensity with which the Reagan administration and the United States are hated by Africans who see that U.S. leaders now condone racial oppression by silence, finance apartheid indirectly, provide by subterfuge the helicopters and weapons to keep racists in power, and are playing footsie with South African militarists who have tried to bomb weak neighboring countries into submission.

It is all but incredible that more countries in Africa have not gone the way of Libya and Ethiopia, or openly embraced communism. Soviet boorishness and blunders, and a determination of African intellectuals not to accept Soviet tyranny as a replacement for Western Colonialism, have protected U.S. interest in that continent. However furious Africans may be over the repeated outrages of South Africa, few countries are now in a position to take a policy of total hostility toward the United States when what they have to fall back upon is Moscow.

I feel sure, though, that our children, or perhaps our grandchildren, will one day pay a heavy price for today's conscienceless, even shameful policies toward the apartheid in Pretoria.

But how naive can I be? Why would I expect an administration that has been cruelly unfair to nonwhite American citizens to suddenly show a compassionate concern for 20 million faceless blacks at the southern tip of Africa?●

REPUDIATES CIA AND DEFENSE DEPARTMENT ACTIVITY

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. FORD of Tennessee. Mr. Speaker, recently, an assault on a Nicaraguan military school became the focus of international attention when two American National Guardsmen participating with the rebels were shot down in their helicopter. One of those men shot down happened to be a resident of Memphis. My heartfelt sympathies go out to the families of both men. To this day, I have not been able to comprehend if these young men understood the ramifications of their actions by participating in an unauthorized paramilitary activity outside the United States. These two men were the only ones who could have provided their true motives.

However, an incident reported in Saturday's editions of the Washington Post can, and must be responded to by officials of the Air National Guard, Defense Department, and Central Intelligence Agency [CIA]. It seems that in the mission at the Nicaraguan military school, three Cessna 02A observation planes outfitted with rocket pads accompanied the downed helicopter.

There is something very wrong with how these planes landed in the hands of the rebels. Suspiciously, the aircraft were first declared excess by the Air National Guard, and then by the Air Force. Conveniently, the CIA was around to pick up these unwanted planes. The Air Force and Air National Guard surely have an abundance of planes in stock; next year's appropriation to those agencies should reflect that overload.

In effect, the Defense Department and the CIA are working hand in hand to put themselves above congressional oversight. The House has long been leery of increasing the amount of military aid to the region, covert aid in particular; $80 million have been provided since the program began; $24 million was provided for the current fiscal year. However, it seems that the CIA and the Contras exhausted their legal spending limit on May 1.

As a Member of Congress who does not sit on the Foreign Relations Committee, I feel I must voice my strongest repudiation of such CIA and Defense Department activity. Although it is important for the CIA to conduct their operations in secrecy, this should not give them the right to put themselves above the law. They must be held responsible for ignoring and violating an explicit congressional ban of additional aid to the Contras. Both agencies will have an extremely difficult time proving to me and many other Members that such actions merit additional funding in future sessions of Congress.

Furthermore, I am worried about potential CIA actions in Central America not reported to the respective Intelligence Committees of the Congress. The situation concerning the mining of Nicaraguan ports is a perfect case in point. Congress and the American public found out about that as an afterthought. The administration never thought it mattered enough until the demands of the Congress and the American public were too great too ignore.

I am extremely concerned about those activities in Central America which we do not, and will not find out

about. Such activity by the Defense Department and the CIA is probably just the tip of the iceberg. Anytime an agency of the Government can circumvent the directives of the U.S. Congress creates cause for alarm. One thing is clear: Members must be ever careful before voting for one more dollar of covert aid to the CIA and the rebels.●

ELIAS KARMON'S 75TH BIRTHDAY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. SCHEUER. Mr. Speaker, I rise today to salute a most remarkable individual on the occasion of his 75th birthday, a man whose life-long endeavors have given new meaning to the word service.

As a civic leader in the Bronx for 45 years, Elias Karmon has devoted a substantial amount of his time to work voluntarily with dozens of groups and organizations to keep the Bronx a good place to live and work. He has served, for example, on the board of the Bronx Chamber of Commerce for 30 years and as its president for 4 consecutive years; as chairman of the Bronx Council of the Albert Einstein College of Medicine; as president of the Bronx Rotary Club; as chairman of the executive committee of the Bronx Boys Club; as vice president of the American Jewish Congress, Bronx Division; as chairman of the advisory committee of the Bronx Venture Corp.—a nonprofit local development corporation; and as chairman of Vacations and Community Services for the Blind.

Even though he shall be honored for his past accomplishments during his testimonial dinner on September 20, Elias Karmon continues to this day to be one of the most active citizens in the Bronx. He currently serves not only on the board of directors of the Ponce De Leon Federal Savings & Loan Association, which he cofounded, but also a host of other civic organizations. For example, he continues to devote himself to community action in the Bronx by serving on the boards of the Bronx House, YMCA, Fordham Road Area Development Corp., Regional Aid for Interim Needs, South Bronx Mental Health Council, Pelham Parkway Mall Local Development Corp., Bronx Dance Theater, Bronx Overall Economic Development Corp., and Pelham Parkway Jewish Center.

Of course, I am not the first to recognize Elias for his tremendous efforts on behalf of those of us who live and work in the Bronx. During his 16 years as a member of the lay advisory board of the old Lincoln Hospital, and 9 years as its chairman, the board obtained the commitment for the building of the new Lincoln Medical Center. In appreciation of his contributions, the Lincoln Hospital Community Board and the administrative staff dedicated the board conference room as the "Elias Karmon Board Conference Room." Last February, the New York Urban League cited Mr. Karmon, as past chairman of the Bronx Urban League Advisory Board, as a "Charter Member and Founder of the Bronx Office of the New York Urban League," and saluted him for his dedicated service and leadership spanning 35 years. On the "Bill Boggs Live Show" on WNEW-TV in 1979, he received the coveted Jefferson Award for Public Service.

An individual who devotes as much concern for his fellow human beings, dedicated as much effort to improving his community, and volunteers as much of his life to others as Elias Karmon has is a rare individual indeed—an individual to whom those of us who live and work in the Bronx are very much indebted. Thank you, Elias, for everything you have done and for everything you continue to do for the Bronx.●

CONGRATULATIONS TO EAGLE SCOUT BRIAN WALSTRUM

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. DYSON. Mr. Speaker, I would like to take this opportunity to bring to your attention the elevation of Brian Robert Walstrum of my district to the rank of Eagle Scout.

The outstanding contributions of this country's Eagle Scouts are a source of national pride. Even Americans unfamiliar with the specific requirements for this honor realize that to achieve the rank of Eagle Scout, a Boy Scout must demonstrate leadership, integrity, and a dedication to high ideals.

Brian, a resident of Stevensville on Kent Island and a member of Boy Scout Troop 2576, has proved that he embodies these qualities. I ask you all to join me in congratulating him on this exceptional honor.●

A BILL TO PERMANENTLY AUTHORIZE SECTION 1619 OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. BARTLETT. Mr. Speaker, today, I intend to introduce a bill which would allow disabled persons on social security supplemental security income [SSI] who want to work the chance to do so. It would also ensure that persons on SSI receive the Medicaid benefits to which they are legally entitled. Specifically, the bill—

First, permanently authorizes the section 1619 provision of the Social Security Disability Amendments of 1980;

Second, establishes an automatic triggering mechanism to promote participation in the section 1619 provision;

Third, authorizes a General Accounting Office [GAO] national study on the effects of section 1619; and

Fourth, requires concurrent notification of eligibility for SSI and Medicaid benefits.

The intent of section 1619 is to enable disabled persons to be productively employed. A significant number of the estimated 2,900,000 disabled persons currently on SSI who wish to work do not do so because they fear loss of their Medicaid benefits. There are two conditions under which they can lose their benefits: If they exceed $300 in monthly earnings, which is the substantial gainful activity [SGA] level, or if they work any 9 months out of 24. Disabled SSI recipients know that because of their chronic disabilities they cannot easily obtain private health insurance. Consequently, rather than lose their Medicaid benefits, they choose either not to work or to keep their monthly earnings under $300.

When section 1619 was passed in 1980, its purpose was to remedy this dilemma by allowing disabled SSI recipients to continue receiving Medicaid after they pass the SGA level or after they have worked 9 months out of 24. Section 1619 is a sound concept. It encourages people who want to work to do so without fear of losing their Medicaid insurance. In addition, the Nation saves money because it does not pay SSI cash benefits to these persons who want to be more self-sufficient by exceeding the SGA level.

Participation in section 1619 needs to be expanded, however. Currently, only about 5,000 persons are enrolled nationwide out of the more than 2,900,000 disabled persons on the SSI rolls. There are two major reasons for this lack of participation:

First, lack of awareness of the existence of section 1619 by those who are eligible, and second, the fact that section 1619 is not a permanent program. My bill corrects both these problems. It permanently authorizes section 1619 so people will have confidence that the program will be maintained and that, therefore, the benefits of enrolling are no longer outweighed by the real risk that the program could be terminated.

The bill also requires the Social Security Administration [SSA] to create an automatic triggering mechanism to promote participation, thereby helping to ensure that potential applicants are informed in an effective and timely manner of their possible eligibility. A disabled SSI recipient who is working would be notified of eligibility for the section 1619 program if the recipient earned $250 in 1 month or had worked for 6 months.

In addition, this bill directs GAO to undertake a study to determine the effects and effectiveness of the dissemination and training programs which SSA has been directed to offer. The intent of the GAO study is to ensure that section 1619 is implemented effectively and efficiently. The study shall—

First, determine the number of persons by State benefiting from the provisions authorized by 1619 by December 31, 1984, by December 31, 1985, and by December 31, 1986;

Second, determine the number of persons by State who benefited from such provisions but became ineligible due to income in calendar years 1984, 1985, and 1986;

Third, determine the number of persons by State who benefited from such provisions but withdrew for reasons other than income and the reasons for their withdrawal in calendar years 1984, 1985, and 1986;

Fourth, determine the number of persons notified of their eligibility to benefit from such provisions in calendar years 1984, 1985, and 1986;

Fifth, determine the number of persons notified who declined the benefits of such provisions in calendar years 1984, 1985, and 1986 and an assessment of the reasons for such declination;

Sixth, compare countable earned income prior to and following when recipients benefited from such provisions using representative years 1984, 1985, and 1986;

Seventh, describe the role of State vocational rehabilitation agencies in the implementation of the section 1619 provision; and

Eighth, estimate the costs and savings to the Federal Government attributable to the section 1619 provision.

Finally, this bill mandates that SSA and the States implement a system in which a person is deemed eligible for SSI, he is simultaneously informed of his eligibility for Medicaid. Presently, some States have ineffective systems; consequently, some individuals who really need Medicaid are unaware of their eligibility. This bill corrects this problem.

In summary, this bill ensures that the full benefits of the section 1619 provision and Medicaid directly and immediately reach those persons truly in need.●

SAFETY OF AMUSEMENT RIDES

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. BRYANT. Mr. Speaker, today the House Energy and Commerce Committee has reported H.R. 5790, legislation to amend the Consumer Product Safety Act to fill a dangerous void in the law regulating safety of amusement rides. This void has been responsible for a number of tragic accidents, including one in the district I represent, the Fifth District of Texas.

Many of us have experienced the thrill and excitement associated with an amusement ride. Often the ride is designed to evoke a sense of danger in the riders, which can be an important part of the entertainment. A sense of danger—not a real danger. When there is a real danger in the ride, due to fractures in the supporting framework, faulty construction or assembly, or other hidden hazards, cries of joy can become screams of horror.

Visitors to amusement parks and carnivals where these rides are found must be able to depend on adequate safety regulation of the rides for protection. In the past, the Consumer Product Safety Commission has been responsible for regulating all amusement rides. In 1981, however, Congress removed an important part of this authority from the Commission. The Commission retained authority over rides in traveling circuses and carnivals, but lost authority over rides at permanent-site amusement parks. As a result, the Commission still regulates rides at a carnival to assure their safety, but has absolutely no authority over the same rides if they are at a permanent-site amusement park.

The 1981 congressional action assumed the States would take greater responsibility for safety of permanent-site amusement rides, but to date only 22 States have any laws governing the safety of these rides. Among those States, the level of enforcement has been uneven and inconsistent. And in States where many of the most popular amusement parks are located, such as Texas, California, Florida, and New York, there are no laws regulating the safety of these rides.

In the congressional district I represent, at the State Fair of Texas, one person was killed and several others severely injured when a gondola car flew off the Enterprise ride last October and dropped 40 feet to the ground. A subsequent investigation revealed hundreds of stress factors in the gondola, which a timely inspection would have discovered. The city of Dallas has recently upgraded its amusement ride inspection procedures, which will help prevent tragedies like the one involving the Enterprise. But we cannot afford to wait for a similar tragedy to occur in each amusement park in the country to spur an adequate safety regulatory system nationwide.

For whatever reason, the States have been too slow in fulfilling their responsibility to regulate the safety of permanent-site amusement rides. H.R. 5790 recognizes this lapse and fills the dangerous regulatory void we now have by restoring the authority of the Consumer Product Safety Commission to regulate these rides in the absence of a State safety regulatory program. States that want to regulate these rides may still decide to do so; this bill will simply guarantee amusement park visitors that somebody will have and exercise the authority to regulate these rides no matter what the States decide.

For this reason, I wholeheartedly support this bill, and look forward to its prompt consideration on the House floor. I urge my colleagues on both sides of the aisle, who ought to be equally concerned with the safety of amusement park visitors, to support it with me.●

PERSONAL EXPLANATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. MARKEY. Mr. Speaker, I regret that I was unable to vote on several bills today. Had I been present, I would have voted "yea" on H.R. 1511, Common Carriers by Water in Foreign Commerce, "yea" on H.R. 3336, Insanity Defense Reform, "yea" on H.R. 5656, Dangerous Drug Diversion Control Act, and "yea" on H.R. 5959, Safe Drinking Water Amendments.●

VICTORY FOR U.S. COAL EXPORTERS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. RAHALL. Mr. Speaker, today the U.S. Court of Appeals for the District of Columbia handed down a ruling which vacates the Interstate Commerce Commission's decision to exempt from regulation all rail transportation of coal destined for the export market.

The court found that the ICC made its decision on an unreasonable understanding of provisions of the Staggers Rail Act of 1980 and with respect to congressional intent supporting that statute.

Indeed, the court in its wisdom has touched upon the very complaint that

I and many of my colleagues from coal-producing regions have made. While the Staggers Rail Act is sound, the ICC has brazenly ignored congressional intent that captive shippers be protected from monopolistic railroad pricing practices. Further, the court has upheld our contention that the ICC has engaged in selected implementation of that act.

The ICC, with Chairman Reese Taylor dissenting, on June 9, 1983, issued a decision in ex parte No. 346 (sub-No. 7) which exempted from regulation export coal traffic moving through all U.S. ports. The Commission based this decision on its finding that the exemption was not necessary to carry out the national rail transportation policy of the Staggers Rail Act, and that regulation was not needed to protect shippers from the abuse of market power.

After reviewing this decision, the court found:

Because the ICC's conclusions with respect to these legal standards reflect an unreasonable interpretation of their meaning, we must vacate and remand the exemption decision.

In its review, the court, recognized that while the Congress meant to move toward greater reliance on competition, rather than regulation, in governing the railroads, regulation must be maintained where the market could not be relied upon to protect shippers from abusive railroad practices.

Specifically, the court found that the ICC ignored provisions of the rail transportation policy "to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital."

With respect to considerations of protecting shippers from the abuse of market power, the court found that the only protection the ICC recognized was that rail rates would not totally prevent coal shippers from recovering their costs and would not totally exclude them from the division of economic rents. This, in the court's opinion, is an unreasonable standard.

Mr. Speaker, the ICC decision had sent a brutal message to this Nation's coal fields. It threatened the level of coal production and employment in West Virginia and other export coal producing States. And, it told foreign coal buyers that the U.S. Government refused to restrain the railroads from contributing to the uncompetitiveness of U.S. coals in the world market. Today, through the court of appeals' decision, we send another message out to the coal fields and to coal buyers. It is a message of hope and future prosperity for the coal producing regions of the United States and for the energy security of our allied trading partners.●

CONGRESSMAN TONY P. HALL SPEAKS ON IMPRISONED HUMAN RIGHTS ACTIVIST MART NIKLUS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. HALL of Ohio. Mr. Speaker, September 22, 1984, will be merely another ordinary day for most of my colleagues and for the vast majority of Americans. However, I ask my colleagues to pause for a moment and consider the plight of one individual for whom September 22 holds special significance.

The individual in question is Mart Niklus, an Estonian human rights activist and Helsinki human rights monitor. On September 22, 1984, Mart Niklus will mark his 50th birthday. This birthday will not, however, be celebrated in the American tradition of family, friends, and joyful spirit. Rather, Mart Niklus will "celebrate" his birthday in solitary confinement at the Soviet Christopol Prison. Family and friends will be present only in memory.

Although trained in the biological sciences, Niklus has spent most of his professional life teaching languages. However, much of his adult life—20 years—has been spent behind the high walls of Soviet prisons. Such is the reward for a man active in the movement for the establishment of human rights in his native Estonia.

In August 1979 Niklus signed his name to a document now known as the Baltic Charter. This action was taken in order to recall the Molotov-Ribbentrop Pact of August 1939 which essentially led to the carving up of the Baltic republics by Hitler and Stalin.

Before his most recent imprisonment, Niklus went on record with other Balts in condemning the Soviet invasion of Afghanistan. In signing a January 1980 letter to the late Leonid Brezhnev, Niklus agreed that a parallel exists between the Soviet invasion of Afghanistan and the march of Soviet troops into the Baltic States in 1940.

Mart Niklus, now serving this 5th year in solitary confinement, has sacrificed a great deal of his life in the hope for the future establishment of human rights in Estonia. On his 50th birthday, let us recall his dedication to the principles of basic human freedoms in a climate of extreme repression and certain reprisal.

Mart Niklus is a beacon for repressed people around the world. He has sacrificed himself, in hope that the generations which follow will obtain the freedoms denied now to him and to the Estonian people.●

REPRESENTATIVE DANIEL LUNGREN ON IMMIGRATION REFORM

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. HYDE. Mr. Speaker, Congress has very few responsibilities as serious as overseeing and reforming our immigration laws and protecting the integrity of our borders. As Representative DANIEL LUNGREN convincingly demonstrates in the following article from the Washington Post of September 10, enacting the Simpson-Mazzoli immigration bill before we adjourn may be "the last feasible opportunity in this decade for Congress to act on urgently needed immigration reform." I commend to all my colleagues the succinct analysis and recommendation on Simpson-Mazzoli by the gentleman from California. It is must reading:

[From the Washington Post, Monday, Sept. 10, 1984]

IMMIGRATION REFORM: IF NOT NOW, WHEN?

(By Daniel E. Lungren)

As Congress prepares to conclude its final four weeks of the remaining regular session, we have begun a legislative version of the old TV show "Beat the Clock." The question is whether Congress will enact the Simpson-Mazzoli immigration bill before it adjourns.

The few remaining legislative days may provide the last feasible opportunity in this decade for Congress to act on urgently needed immigration reform. And, just as important, the outcome of this legislative exercise may answer the larger question of whether Congress is still capable of adequately dealing with any of the urgent national issues of the day.

Currently pending before a House-Senate conference committee is a carefully balanced and comprehensive immigration reform package, representing the bipartisan efforts of private citizens, members of Congress and four presidents. Few bills have received the devotion of effort and scrutiny that Simpson-Mazzoli has. Not only has the concept of the measure evolved from a presidential commission to hearings, markup and debate of committees in both houses during two consecutive congresses, it has also withstood repeated and varied attempts to kill or dilute it.

We have come much too far on the road to immigration reform to fail once again in the waning days of another Congress. Moreover, should the exhaustive legislative investment already expended be in vain, policy makers will face an even greater Pandora's box. The alternatives to this substantive reform of our immigration laws are largely untenable.

No member of Congress can defend the status quo on immigration. The present situation is neither in the national interest nor in the interest of those undocumented persons who all too often find themselves beyond the protection of our laws, afraid to report crime or seek medical assistance.

The option of increasing enforcement alone is similarly deficient. It is simply not feasible to surround 5,000 miles of border with enforcement personnel. Any return to a mass deportation such as "Operation Wetback" of 1954 would almost certainly entail gross violations of civil liberties and, I fear, would forever scar the fabric of our society.

Additionally, I do not believe the American people would tolerate house-to-house searches and neighborhood sweeps attendant to any true effort "to round up and send home" all the illegal aliens now in the United States.

The suggestion that increased outlays on foreign assistance is somehow an answer in itself is also insufficient. As worthy as I know the goal to be, assisting developing countries in this hemisphere is a long-term proposition. Yet, we must also act in the short-term interests of the United States. While it is true that "sending countries" contain so-called "push" factors (such as poverty, lack of educational opportunity, etc.), those seeking to leave stifling economic conditions must have a place of ultimate destination. It is primarily the better economic opportunities in the United States that serve to attract those with a desire to improve the quality of their lives.

Some have recently gone so far as to suggest that Congress has a further option of completing action on Simpson-Mazzoli in a lame-duck session after the November election or of reviving the bill next year in a new Congress. But let's not forget both approaches have been tried before—and recently. The lame-duck consideration of Simpson-Mazzoli during the 97th Congress—just two years ago—resulted in opponents' offering some 300 amendments, which forced the bill to be killed as legislative time conveniently did not permit its meaningful consideration. At that time, there was the suggestion that we start afresh in the upcoming Congress. Well, since then, nearly 2 million people have been apprehended by the border patrol (and at least 4 million successful illegal entries have occurred).

Let me be clear: nothing can be gained from further delay. The moment of legislative decision has arrived. It is now time for Congress to fulfill its legislative responsibility.

Four administrations of both parties and the Select Commission on Immigration and Refugee Policy have agreed that it is necessary to "demagnetize" the attraction of employment in this country if we are to have any chance of meeting the challenge of uncontrolled illegal immigration.

In this regard employer sanctions constitute the heart of the Simpson-Mazzoli measure. This provision provides that penalties be imposed on those who knowingly hire, refer or recruit undocumented aliens for employment in the United States. Additionally, the bill contains numerous anti-discrimination provisions that will ensure that it is applied in an evenhanded fashion regardless of whether an individual is blond-haired and blue-eyed or dark-haired and brown-eyed.

In those instances where undocumented workers take jobs that domestic workers are unwilling to fill (as is often the case with respect to agriculture), both the House and the Senate versions contain variations of a program to allow agricultural workers into the United States if and only if there is a demonstrated shortage of domestic workers.

The adjudication provisions of the bill are designed to alleviate the abuse of our laws now possible through procedural delay by those who have no right to remain in our country. In addition, the independence and stature of the administrative process is increased by the legislation.

The Simpson-Mazzoli bill contains a legalization program that would adjust the status of those who have established sufficient equities in our society. The House bill contains a Jan. 1, 1982, cutoff date.

By contrast, the Senate version of the bill contains a two-track approach whereby anyone who entered the country prior to Jan. 1, 1977, would qualify for permanent-resident status. Those who entered after that date, but before Jan. 1, 1980, would be eligible for permanent residency. Those in the latter category would have the opportunity to earn the right to become permanent residents within three years.

While it is my feeling that the House version of the bill is too loosely constructed on this point, the important concept of legalization, embodied in the language of the bill, should dispel the argument that it is somehow nativist. This one-time act of magnanimity offers those who have become permanent members of our society, but are forced to live a subrosa existence because of their illegal status, the chance to become fully participating members of society.

Equally important as the need for substantive immigration reform is the question of whether Congress is still an effective institution and forum to deal with the complex and difficult national issues of the day. With the repeated delays in the consideration of the Simpson-Mazzoli immigration bill during the past three years, many wondered whether our legislative process had become captive to the will of affected interest groups rather than the national interest.

However, during the seven days of often emotional House debate over Simpson-Mazzoli in June, the House distinguished itself by demonstrating that, if given the chance, it could meet the challenge of completely addressing such a controversial public policy question.

While we are closer to meaningful immigration reform than we have been in years, much yet remains to be done to produce a conference report acceptable to both houses of Congress. The test of this Congress is whether the special interests will prevail in the remaining legislative days or whether Congress will address something that needs its immediate attention in the name of the national interest. If we are afforded a meaningful opportunity to deliberate, I am optimistic that a carefully balanced immigration package will become the law of the land.

Our country has prided itself on being a vast melting pot. The genesis of the Simpson-Mazzoli bill lies in the desire to allow the United States to continue its generous policy of immigration. However, it would do so by achieving one of the objectives of the Select Commission on Immigration and Refugee Policy report, that is, it would close the back door to illegal immigration so that the front door on legal immigration may remain open.●

SIXTH-YEAR ANNIVERSARY OF THE SIGNING OF THE CAMP DAVID ACCORDS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Ms. MIKULSKI. Mr. Speaker, yesterday, September 17, 1984, marked the sixth-year anniversary of the signing of the Camp David accords, between Israel and Egypt. Perhaps more than any other event, the Camp David process demonstrated that it is possible for nations to sit down and work out their differences through negotiation, rather than confrontation.

The statesmanship displayed by the three major participants: President Carter, Prime Minister Begin, and President Sadat will long remain the model for all future efforts at peace negotiations. Their success must remain for all of us a constant reminder that no matter what differences may divide nations, the desire for peace accompanied by the will to sit down and talk, can indeed, succeed.

The Middle East continues to be a very critical region for world peace. Though geographically small, the events that occur there have worldwide implications. Knowing this, the United States must continue to support all legitimate efforts for peace in the region. This includes strong support for Israel, who remains our strongest ally and closest friend in the region.

The Camp David process has, unfortunately, begun to unravel due to the instability of the region and our inability to maintain the necessary climate for peace negotiations to prosper. The time has come for the United States to rededicate itself to the spirit of Camp David. Sadly, the current U.S. administration's Middle East policy has been one of illusion. The stakes are too high for us to let the Camp David process disintegrate. I agree with Walter Mondale's belief that: "We must put the prestige of the Presidency on the line for peace."

Let us remember on this, the sixth anniversary of the Camp David accords, that peace is possible as long as we demonstrate the will and desire to dedicate our time and energy to achieving it.●

H.R. 6012—SENTENCING REFORM BILL

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. DANIEL B. CRANE. Mr. Speaker, the House Judiciary Committee re-

cently reported a sentencing reform bill, H.R. 6012. While I agree that reform of our currrent sentencing laws is needed to reduce unjustified disparity and to promote fairness and certainty, H.R. 6012 falls far short of this goal. The bill, approved by the House Judiciary Committee, is a weak bill that caters to defendants at the expense of victims and the interests of society. For example H.R. 6012 would give defendants new rights at sentencing proceeding to subpoena victims and other witnesses who furnished information for submission to the court as part of the sentencing process. It is not hard to see that the creation of such a right in defendants not only will have the effect of lengthening the sentencing hearing and consuming scarce judicial resources, but also will open the door to harassment by defendants of victims and witnesses. This flies in the face of common sense. Moreover, it moves in precisely the opposite direction from the Victim and Witness Protection Act of 1982 which Congress enacted to bolster and safeguard the rights of victims and witnesses. There are several other grave defects in H.R. 6012 as well. If ever a bill deserved plenary consideration and the opportunity for sensible amendment, this bill does. I urge that H.R. 6012 be considered by the House under a rule permitting appropriate amendments. Under no circumstances should this seriously flawed bill be placed on the Suspension Calendar.

The July 26, 1984, editorial appeared in the Champaign-Urbana News-Gazett, and was written by Charles E. Flynn, assistant publisher and editor of that newspaper. I commend it to my colleagues.

[From the Champaign-Urbana News-Gazette, July 26, 1984]

HOUSE STALLS CRIME LAW REFORM

There's little doubt that a vast majority of American people favor criminal law reform legislation, but that message doesn't seem to have gotten across to members of the House in Washington where the Senate-passed Crime Control Act of 1983 has languished for an interminable period.

The Senate passed the bill with only a single dissenting vote, yet when it was received in the House one member is said to have labeled it "dead on arrival." That seemingly is the kind of bipartisan manner in which the House, under the leadership of Speaker "Tip" O'Neill disregards public sentiment in favor of playing political games.

Republican Sens. Strom Thurmond of South Carolina and Paul Laxalt of Nevada, and Democratic Sens. Edward Kennedy of Massachusetts and Joseph Biden of Delaware are authors of the Crime Control Act. The legislation includes federal anti-crime reforms concerning bail, sentencing, insanity defense and drug trafficking. Other Senate actions are contained in separate measures to reform the exclusionary rule, institute capital punishment procedures and tighten habeas corpus or custody-release procedures.

Nothing has happened to any of this legislation in the House, where more than 40 anti-crime measures await decision. The Crime Control Act makes improvements sorely needed in bail laws. Today, a court making the determination whether to release a person after arrest is allowed to consider only whether the defendant is likely to make his next scheduled court appearance.

Whether an arrested felon, for example, poses a danger to the community is not a factor the court may consider. This nonsensical standard is not only unfair to the victim but endangers the rest of us and makes a mockery of our social system, Sen. Laxalt has observed.

"What type of system is it that allows the criminal to get out of jail before the victim gets out of the hospital? What is this overriding concern for civil liberties that forces a society to live in a state of siege? How can inaction on needed bail reform be tolerated when victims are forced to live in terror, knowing that the person they have identified is walking free awaiting trial? How is it that the House leadership can deny its members votes on issues of such paramount importance, especially to the poor, the black and the elderly, all of whom are victimized at a rate unheard of 20 years ago?" Sen. Laxalt asked.

For too long the criminal justice system has been leaning more to elegant and social arguments than it has been to concern with restoring order in America and adequately punishing criminals. Currently for every 500 serious crimes committed, only 25 people are ultimately sent to jail.

With all the members of the House of Representatives up for re-election this fall, the time could never be more right for citizens to express their desires, in no uncertain terms, that consideration be given quickly to anti-crime legislation. One thing congressmen understand is the heat from a concerned constituency.

We agree with Sen. Laxalt's statement that "it is a perversion of representative government for a few people in leadership positions to prevent the men and women you sent to Washington from voting on this legislation."

TRIBUTE TO MIRA SALBERG

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. DOWNEY of New York. Mr. Speaker, today I note the passing of a great woman. Too often our measure of greatness is only fame, or power or wealth. The great woman I speak of today had none of these in the sense we're familiar with. But she had all of them, and more, in a deeper sense. Her fame was her simple goodness, her power was her brave perseverence, her wealth was her noble and loving spirit.

Mira Salberg survived the German death camps. After liberation she found another survivor, Max Salberg, and they married and came to America. Together, they worked in the garment industry. And in Borough Park, they raised their family. Their son and daughter, Jack and Libby, became their lives.

And this is the legacy of her greatness. She overcame tragedy and built a new and wonderful life for herself and her family. She defied the "final solution," and found in her family not only the happiness of motherhood but the truest, most profound expression of survival.

Thus, Mira Salberg proved that good triumphs over evil; that the most heinous and terrible oppression can never extinguish that spark that is humanity. Mira Salberg kept that spark alive, made it glow and with it lit up the lives of her family, her children and all who knew her. That is her greatness, her honor, and her immortality.

Te'hay nafshoh tzrura bitzror hachayim. May her soul be bound together with the bond of life.●

THE AMERICAN LEGION, LEGISLATIVE PRIORITIES CLARENCE M. BACON, NATIONAL COMMANDER

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. EDGAR. Mr. Speaker, this morning Mr. Clarence Bacon, from the State of Maryland, newly elected national commander of the American Legion appeared before the House Veterans' Affairs Committee to present the national legislative priorities of his organization for the coming year.

As chairman of the House Veterans' Affairs Subcommittee on Hospitals and Health Care I would like to commend Commander Bacon for a detailed and comprehensive analysis of the current challenges we face together in meeting the needs of our Nation's veterans. Of particular note are the commander's comments surrounding the need for concrete plans to prepare the Veterans' Administration to meet the present and future increasing health care needs of a rapidly aging veteran population.

Mr. Speaker, I believe Commander Bacon's statement representing the views and priorities of the American Legion, the Nation's largest veterans organization, should be carefully reviewed by every Member of the House. I would like to submit the commander's testimony for the RECORD at this time.

CLARENCE M. BACON, NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. Chairman and members of the committee, it is an honor to appear today before your distinguished committee. As the principal spokesman for the American Legion I am here representing more than 2.5 million members, as well as nearly 1 million members of the American Legion Auxiliary.

You, of course, are well aware of those who are with me at the witness table, having worked with them on various legislative matters during recent years. In addition, there are a number of distinguished

people in the audience—people who constitute the national leadership of the American Legion and the American Legion Auxiliary.

We firmly believe that our organization represents a cross section of the veterans population in this country. Within our ranks are people from all four wars in which the United States has been involved during the twentieth century. The American Legion, therefore, has promoted and will continue to promote the interests of each wartime generation.

As part of our continuing efforts to maintain the best possible programs of benefits and services for veterans, we have frequently called for assistance from this committee. Your record in that regard speaks for itself. Not only have you offered guidance and expertise in the development of sound legislative initiatives, but you have provided the leadership to insure that those initiatives be enacted. We commend this committee for its dedication to purpose and we look forward to its continued bipartisan efforts on behalf of the Nation's veteran's community.

Mr. Chairman, I now wish to discuss several of our major concerns as we plan for the upcoming year.

VETERANS' ADMINISTRATION BUDGET

As the American Legion has stated on several occasions, funding for veterans programs deserves to be ranked second only to national defense. While ranking veterans affairs as second among national priorities may be questioned by other groups, it simply recognizes the governmental obligation to those who performed the highest duty of citizenship. It also recognizes the fact that reasonable benefits and services to veterans of the armed forces constitute a Federal responsibility, rather than state or local.

For fiscal year 1985 Congress and the President have approved almost $25.8 billion for veterans programs. Although this is the largest VA appropriation ever, it represents less than 3 percent of all Federal expenditures during the upcoming fiscal year. As we have said before, this fact establishes that veterans programs are not consuming an increasing share of Federal dollars.

While we appreciate the funding total for fiscal year 1985, we anticipate greater fiscal constraints next year. We encourage Congress and the President to recognize the efficiency of VA expenditures and to develop an adequate VA budget for fiscal year 1986.

VETERANS MEDICAL CARE

The American Legion is pleased that more than $8.7 billion have been appropriated for veterans medical care in fiscal year 1985. When combined with research, medical administration, and hospital construction funds—the total approaches $10 billion.

While this is a tremendous investment in health care for veterans, the money will be used to treat more than 1 million inpatients and to provide more than 18 million outpatient visits. The medical care appropriation will accommodate more than 3,000 additional medical personnel, with many of those people designated to alleviate staff shortages identified during the 90 site surveys conducted by American Legion representatives in the past year.

While $10 billion is admittedly a large investment in health care, the labor intensive nature of medical treatment and capital outlays for modern equipment offer sufficient justification for the expenditure. The wisdom of this investment is also quite evident when considering VA's four medical missions—health care for veterans, education of health manpower for the Nation, basic and applied research, and contingency medical support for the armed forces.

MEDICAL AND PROSTHETIC RESEARCH

Our organization is also quite pleased by next fiscal year's increase in medical and prosthetic research funding, from $162 million to $190 million. The benefits of work done in this area are immeasurable since research breakthroughs at VA contribute to upgrading the health standard of the entire Nation.

You can be sure that we will examine the fiscal year 1986 budget proposal very closely and we will promote sufficient research funding to insure that VA will be able to continue its outstanding achievements in basic and applied research.

MEDICAL CARE FACILITY CONSTRUCTION PROGRAM

Construction appropriations is yet another area in which the American Legion can express its support. Combined funding for major and minor construction projects currently stands at almost $1 billion for fiscal year 1985.

While citing our basic satisfaction with the total appropriation, we must re-emphasize our continuing interest in several projects which demand immediate attention. They include replacement of the Baltimore VA hospital; construction of necessary facilities in San Juan, Puerto Rico; construction of facility additions in Philadelphia; and construction of a nursing home in Providence, Rhode Island.

AGING VETERANS

Everyone in this room is well aware of the potential demand of World War II veterans on VA's health care delivery system. Two numbers offer dramatic evidence of this—there are 10.7 million surviving World War II veterans whose average age is 65.

While efficiencies in treatment of older veterans must be developed, the health care planning process must be carefully conducted to insure that costing methods and other initiatives do not undermine basic VA treatment responsibilities. Private sector mechanisms such as DRG (Diagnosis Related Grouping) must be fully examined to determine their applicability to VA health care delivery.

You can expect our organization to continue to cooperate with your committee and with VA to address the aging veteran issue—whether that cooperation be support for geriatric services, development of necessary health legislation, analysis of VA's recent older veteran study, promotion of state home construction or refinement of VA's relationship with the Administration on Aging.

The American Legion intends to maintain its commitment to the well being of Vietnam veterans. From a medical treament standpoint, we wish to re-emphasize our impatience with those VA employees who fail to demonstrate a sensitivity toward the special problems of Vietnam veterans. We will take all necessary actions to identify any physician or adjudicator who refuses to recognize Post Traumatic Stress Disorder as a pathological condition.

In an associated matter, we strongly support the establishment of additional PTSD inpatient units and the creation of a national center for PTSD research and health care training. The American Legion will also continue its support for the Vet Center program, to include making such services available to veterans in more remote geographical regions.

AGENT ORANGE

This committee is well aware of the Legion's participation in debate on legislation to address the Agent Orange Dilemma. We also maintain a very real interest in ongoing studies by the Centers for Disease Control.

And, of course, our organization's desire to resolve the critical Agent Orange problem has led to our participation in a joint effort with Columbia University. This undertaking, designed to examine a wide range of attitudes and problems prevalent among Vietnam veterans, is expected to be completed late this year.

WOMEN VETERANS

The American Legion is encouraged by recent efforts to meet the particular needs of women veterans. The primary focus of these efforts has been appropriately directed toward health care techniques involving privacy of treatment and an awareness of gender-related disorders. As an organization which is represented on VA's Advisory Committee on Women Veterans, we intend to see that these veterans receive the full range of benefits and services to which they are entitled.

WORLD WAR I PENSION

As we have done several times in recent years, we wish to reaffirm our support for a special World War I pension—one based upon financial need. Our organizaiton sees this as a legitimate act to compensate a group of people who were unable to use the range of benefits that were available to later generations of veterans.

VETERANS EMPLOYMENT

A great deal of Congressional attention has been paid over the last three years to the persistent problem of veterans unemployment. The record speaks for itself—creation of an Assistant Secretary of Labor for Veterans Employment and Training, enactment of Jobs Training Partnership Act, enactment of the Emergency Veterans Jobs Training Program, reauthorization of Targeted Jobs Tax Credits, reauthorization of the Veterans Reappointment Authority, and ongoing efforts to restrict cotnracting out of certain jobs currently held by veterans.

As we look toward the near future, we encourage this committee to maintain its leadership on behalf of veterans employment and job training. And we specifically urge this committee to actively seek any necessary funding to carry out the second year of the emergency jobs program for veterans.

In conclusion Mr. Chariman, I have just highlighted several of the American Legion's current concerns, and I have also discussed several additional matters which will likely create challenges for all of us during the next year.

This concludes my statement—and, at the appropriate time, those of us at the table will gladly respond to any questions or comments from the committee.

Thank you.●

A TRIBUTE TO EAGLE SCOUT DANIEL WILLIAM LEAHY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. LIPINSKI. Mr. Speaker, I would like to recognize an outstanding young man from Illinois' Fifth Congressional District, which I am privileged to represent, and he is Daniel William Leahy. Daniel attained the rank of Eagle Scout in the Boy Scouts of America on August 27, 1984. This honor truly befitted a young man who is both a leader and an inspiration to the community.

The path Daniel took to becoming an Eagle Scout bears repeating. He joined St. Michael's Pack No. 3472 in March 1973, and achieved Webelo status in 1975. Daniel proudly earned 14 of the 15 activity pins he was eligible for, in addition to receiving the Arrow of Light.

In 1976, Daniel joined St. Michael's Boy Scout Troop No. 472. While earning 12 skill awards and 21 merit badges, he held many offices of leadership and they were: assistant patrol leader den chief, patrol leader, scribe, assistant senior patrol leader, and senior patrol leader.

Daniel attended troop leader training for 1 week at Owassippe in 1980 and returned there as a staff member in 1981. Other notable awards he received included the religious awards, Ad Altard Del and Pope Pius XII awards. He was also an active member of the Kumbaya staff for 3 years. Daniel was elected into the Order of the Arrow and is a brotherhood member of the Tschitami Mawat Chapter.

Showing his concern for community, Daniel completed his service project requirement by collecting and distributing food baskets to the needy at Christmas time.

I join with the residents of the Fifth Congressional District in paying tribute to the hard work, determination, and leadership exhibited by Daniel William Leahy.●

TEMPORARY SUSPENSION OF DUTY ON TAB

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. VANDER JAGT. Mr. Speaker, I would like to comment on legislation, H.R. 5389, which I introduced along with my colleague Congressman BILL FRENZEL this year which calls for a temporary suspension of duty on tetra-amino-biphenyl (TAB) which has since been included in our Omnibus Tariff bill, H.R. 6064. Hopefully we will be acting, favorably, of course, on that tariff bill today.

In seeking this legislation, we did so very mindful that it would not impact whatsover on the domestic scene. As a matter of fact, I believe it is important at this time to place in my statement a letter I received earlier this year from Mr. Forb H. Reed, Jr., director, Supply and Distribution, of the Celanese Fibers Operations located in Charlotte, NC. Mr. Reed's letter, which follows, makes crystal clear that "at such time as there is a producer in the U.S. manufacturing TAB in the quantity and quality we need to produce our PBI fiber, we would not oppose efforts to reinstate the duty."

CELANESE FIBERS OPERATIONS,
Charlotte, NC, April 10, 1984.

Re Tetra-amino-biphenyl (TAB).

Hon. GUY VANDER JAGT,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE VANDER JAGT: As you know, Celanese Fibers Operations supports proposed legislation that would suspend the import duty on TAB, the raw material used to produce our new high-performance "PBI" fiber in Rock Hill, South Carolina.

If the suspension becomes effective, we would not oppose efforts to reinstate the duty at such time as there is a producer in the United States manufacturing TAB in the quantity and quality we need to produce our PBI fiber.

Your truly,

FORB H. REED, JR.,
DIRECTOR,
Supply and Distribution.●

NEED FOR A GOVERNMENT-BUSINESS-LABOR JOINT EFFORT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. VENTO. Mr. Speaker, in the last decade the Northeast and Midwest sections of our country have experienced a growing economic crunch. In both good and bad economic periods these areas have experienced hardship. The problem has been an eroding industrial base. The large manufacturers, especially those producing labor intensive goods, are leaving the Northeast and Midwest, once the traditional manufacturing "bread basket" for our country. Their departure has created an economic shadow. Areas that had previously exhibited vitality are now stagnating.

In mid-1983, the Northeast-Midwest Congressional Coalition held a series of field hearings aimed at identifying the problem and bringing it to the public and legislative awareness. These hearings identified an economy undergoing a sweeping transformation that is causing severe economic and social dislocation.

The proper response to this growing problem lies in the development of a cooperative attitude in which labor, business, and government work together to create a healthy economy. An economic environment where not only industry and manufacturing will thrive, but an environment in which service related companies and high tech can grow and prosper.

My home State of Minnesota has encountered these difficulties that I have mentioned and is dealing with the problem in what I believe is a most effective manner. It involves establishing a blend of government and private enterprise to create the type of climate that is essential to a healthy State economy. The Governor's office has taken the initiative to establish a public-private partnership that will hopefully put Minnesota on stable ground for years to come.

I now bring to the attention of my colleagues an article from the Christian Science Monitor explaining how Minnesota has attempted to move in the face of the changing environment. For some States Minnesota may act as a model for recovery, for others I hope that it can provide insight as to how each State may best utilize its inherent resources.

The article follows:

[From the Christian Science Monitor, Sept. 11, 1984]

HOW ONE STATE IS WOOING HIGH-TECH

(By Scott Amstrong)

In the nationwide rush to breed new businesses and lure high-tech industries, Minnesota is emerging as a leading laboratory.

Already well endowed with some of the country's top high-tech companies, the North Star State is trying to build on its strengths in such areas as supercomputers, educational software, and biomedicine. At the same time, a flurry of public-private initiatives have been launched here to encourage entrepreneurs and spur innovation.

Such thrusts by states, of course, have become as fashionable as Trivial Pursuit (Question: Which state boasts a "Silicon Desert"? Arizona. Where's "Polymer Valley"? In Ohio's rubber belt. How about "Robot Range"? In Michigan's Detroit-to-Ann Arbor region).

But Minnesota has come up with its own formula to become part of tomorrow's more "Knowledge oriented" economy. It is out in front of most states in trying to home-grow industries instead of luring outside companies—the modern equivalent of "smokestack chasing." Moreover, it is attempting to do this with an unusual degree of cooperation among government, business, and other groups—an outgrowth, partly, of the state's activist-corporate community.

The result is no economic miracle but one of the more vibrant entrepreneurial areas outside the country's two electronics bookends, California's Silicon Valley and Route 128 in Massachusetts. It also offers a looking glass for what some industrial strategists tout as the type of collaboration needed to beat foreign competitors.

"Minnesota is learning to grow its own industries from the base it has," says Douglas Henton, a senior analyst at the California-

based Stanford Research Institute, who is studying state and regional industrial strategies. "That's an important lesson for the states."

Minnesota, of course, had trump cards to begin with. One is the long list of high-tech companies that have settled here (Control Data, Honeywell, Cray Research, 3M), as well as those with a big presence (IBM, Sperry). It's also considerred to have a well-educated, hardworking labor force—partly an outgrowth of its Scandinavian and German roots. There's also the Twin Cities' main brain trust, the University of Minnesota, which is strong in several areas of science and technology. And there's that elusive quality-of-life factor—plenty of Shakespeare on stage and walleye in the waters (severe winters notwithstanding).

But good fishing and labor alone do not an economy make, and for the past couple of years there has been debate over the business climate. With good reason. The state has high corporate and personal income taxes, tough environmental regulations, high unemployment compensation costs, and high wages.

This has caused some manufacturers to join the wagon train to the Sunbelt over the past decade. More recently, it has sent a good number of local firms to the state's low-tax neighbors, particularly North and South Dakota. The depth of the concern surfaced last year when one of the state's corporate patriarchs, 3M Company, decided to put a new research center in Texas instead of on local turf.

All this, however, has helped trigger some soul-searching among the state's leaders, including its governor, Rudy Perpich. Since returning to office in 1982—he served in the mid-1970s but was defeated in 1978—the one-time dentist has been out to improve the business posture. He has been pushing the state's wares abroad and urging changes in the Legislature at home. State lawmakers have obliged, to a degree, by abolishing a 10 percent surtax on personal income taxes imposed a few years ago and changing worker compensation laws, among other things. The governor now vows to reduce personal income taxes.

The high-tech community has been a gainer during the current, more pro-business era. This spring for instance, lawmakers earmarked $150,000 to set up a state biomedical and health-systems office to aid small medical-technology firms (more than 300 such firms now exist across the state). A similar sum is going to assist start-up software companies. The state has also committed $6 million to build a supercomputer institute at the University of Minnesota and develop a "high-tech corridor" linking the college with downtown Minneapolis.

The corridor is envisioned as turning a run-down 70-acre stretch of the city into a research park that will spin off new businesses. Similar projects have sprouted like goldenrod across the landscape. But officials here believe they will have an advantage in building on strength: An early tenant is expected to be the supercomputer institute, which could draw other firms. "There is enormous [high-tech] strength here," says Ettore Infante, dean of the university's Institute of Technology. "The idea is to try to capitalize on it."

Perhaps more unusual, however, is a potpourri of public-private programs aimed specifically at assisting small start-up firms. One, dubbed Help Start-A-Company, for example, is an effort by some of the state's largest companies for each to create at least one new business, largely through management assistance. Another, the Minnesota Cooperation Office, a nonprofit group funded by businesses and foundations, was launched a few years ago to give similar aid.

Minnesota Wellspring is a group of business, labor, academic, and other leaders who, among other things, push ideas and policies intended to spur innovations. The group will back two new concepts in the Legislature in January: an "innovation fund" to help bankroll new businesses, and a measure to encourage applied research at universities. "The major thrust in Minnesota is in stimulating new businesses," says William Norris, chairman of Control Data and the force behind many of the initiatives. "I think there is more being done here in that regard than in any other state."

It's still too early to tell how much of an impact these efforts will have. But some economists believe they helped the state bounce bank from the recent recession quicker than normal. They have also helped cement the area as a strong high-tech, entrepreneurial center: Already, high technology makes up a bigger share of the economy here than in all but a handful of states. And it has contributed to a hot venture-capital market here. "Minnesota is definitely moving into the so-called Information Age in a forthright way," says Mike Stutzer, an economist with the Federal Reserve Bank here.

Still, with some companies moving elsewhere and the state economy strong but not sterling, the business climate debate is likely to continue locally. But if, as some observers assert, the states are today's laboratories for industrial innovation, then Minnesota's experiment may bear watching.●

SAVE THE STRIPED BASS, STOP THE OREGON INLET JETTIES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. CONTE. Mr. Speaker, this week we will be considering H.R. 3082, the Emergency Wetlands Resources Act. Title IV of that measure would permit the construction of two mile-long jetties at Oregon Inlet, NC, by the Corps of Engineers. These jetties would cause untold damage to the adjacent Cape Hatteras seashore and the Pea Island Wildlife Refuge through erosion, and would severely impede surf fishing and other recreational uses of this beautiful area.

One of the claims made by the Corps of Engineers is that these jetties will permit increased commercial landings of bluefish, scallops, and striped bass. I am particularly concerned by projections that claim an increase of 130,000 pounds of striped bass catches would result from construction of the jetties.

Striped bass—once a prime game fish up and down the east coast—is a very distressed species. Many observers are arguing that it is foolhardy to allow any further commercial exploitation. I'm sure my colleagues are aware that Maryland has just banned the taking of striped bass, and in fact North Carolina itself has recently restricted such catches.

Under these conditions, projecting any kind of increase in commercial catches of striped bass seem speculative, if not irrational. If this is the best the Corps of Engineers can do to justify this $100 million project, then I think we need to consider other alternatives.

I recommend the attached article on fish conservation, and urge that title IV of H.R. 3082 be stricken.

[From the Virginian Pilot, Aug. 30, 1984]

FISH CONTROL NEEDS FEDERAL RULE

(By Bob Hutchinson)

In all probability, there would be more fish available to all of us if so many saltwater species did not have one common trait—migrating from one spot to another.

Then, each state could develop commonsense approaches to managing the fish populations within its boundaries.

Unfortunately, that's not the way it happens.

Fish move about freely, not only between states, but also between nations and even between continents and hemispheres.

White marlin captured and tagged off Virginia Beach have been recaptured off the coast of Venezuela.

Tarpon have been known to migrate from the Atlantic Coast of Panama, through the Panama Canal, and into the Pacific Ocean.

Giant bluefin tuna captured and tagged off New England have been captured off the coast of several European nations, as well as Africa.

Even the lowly Ocean View spot disregards boundaries. The same fish that show up in the lower Chesapeake Bay in August and September migrate north into Maryland waters and south into North Carolina.

Fishery management obviously would be less complicated if these migrations did not take place. Then a state—politicians, research scientists, anglers, commercial fishermen—would have to be concerned only about these creatures within its confines.

But because they do move about, fish have been the big losers.

Take the case of the striped bass.

North Carolina has never had a viable recreational fishery for big striped bass.

Yet, for years, commercial fishermen on North Carolina's Outer Banks made phenomenal hauls of big overwintering stripers.

Their action drew the anger of anglers to the north, where the striper was a prized recreational catch.

North Carolina did not move to stop the overharvesting of these fish until just a few weeks ago. And then it acted only after being forced to do so through a long-sought fishery management agreement with other East Coast states.

It has even taken some people in fishery management and research too long to realize that overharvesting is a powerful threat to the world's stocks of marine fish.

It's easy to ponder the vastness of the ocean and consider it a horn-of-plenty that will always pour out its riches.

But that is hardly the case.

Because it is so highly prized as both a game and food fish, the bluefin tuna became the first species to be so threatened in modern times.

Yet, in the years it took for an international agreement to be hammered out, stocks became alarmingly low.

In the case of swordfish, only a chemical scare halted overharvesting.

The United States government removed swordfish from the market because, it said, the species contained hazardous levels of mercury.

At the time, Atlantic Ocean catches had dropped to the lowest point in history.

Some 10 years later, the government reevaluated the situation and allowed the prized game and food fish back on the market.

This action came when it was revealed that the average person would have to consume something like three pounds of swordfish a week for 150 years before the mercury reached hazardous levels.

During the hiatus, the species made a spectacular comeback.

Previously, the fish had been difficult to catch on rod and reel. The overharvesting had been the child of commercial fishermen using longlines, strung out for miles in productive areas.

With the return, anglers quickly developed new fishing techniques and began making remarkable swordfish hauls along the Atlantic Coast. Once again the species fell under heavy pressure, this time from recreational and commercial fishermen.

And once again the swordfish population apparently has fallen to a frightening point.

The botton line is that it is difficult—if not impossible—to manage migratory species at the state level.

Now, one by one, coastal states are beginning to adopt, in assorted forms, saltwater fishing licenses. Ostensibly, the income is to manage and enhance recreational fishing opportunities.

The feeling here is that this managing and enhancing might be done best at the federal level. Or at least on a coastal level, administered by agencies representing the appropriate states.

North Carolina was slow to protect the striped bass. Will Virginia be late in aiding the bluefish? Will New Jersey be the last state to help the white marlin?

There is a strong and valid argument that the federal government wields too much power.

But when it comes to creatures like ducks and fish, which know no boundaries, it doesn't make much sense to leave management decisions in any other hands.●

FAULTY ECONOMICS OF OREGON INLET JETTIES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 1984

● Mr. CONTE. Mr. Speaker, the House will soon be considering H.R. 3082, the Emergency Wetlands Resources Act. In general, this is a worthwhile measure intended to further the preservation of our valuable and all too quickly disappearing wetland resources.

Title IV of this measure, however, would authorize the use of portions of the Cape Hatteras National Seashore and the Pea Island National Wildlife Refuge for an environmentally disruptive and economically unjustifiable jetty project at Oregon Inlet, NC.

This project was originally authorized in 1970, with an estimated construction cost of $16.5 million. The current cost is just under $100 million and still rising. In addition, the question of the relationship between the project costs and the benefits to be derived from the project have been a matter of continuing controversy.

In 1982, former Army Assistant Secretary, William Gianelli, acknowledged that a "fundamental error" had been made in the Corps of Engineers' economic analysis of the project. This error overestimated the benefits of the project by 70 percent, leaving it with a benefit/cost ratio of 0.34 to 1.0 and some $400 million short of the breakeven, or "unity" point.

It has taken 16 months for the Corps to revise its economic analysis in a desperate attempt to make the project appear cost-justified. That analysis was recently released, and, in light of the Corps' previous error, opponents of the project may be justified in viewing the new analysis with some suspicion.

A critique of the Corps' most recent study has been completed by Dr. David Campbell, a resources economist at the National Wildlife Federation, and reviewed by a team of independent economists. That study shows that the Corps of Engineers has once again dramatically overstated the benefits expected to be derived from the Oregon Inlet project and underestimated the anticipated costs.

I urge my colleagues to review this critique, and then to support the Seiberling amendment to strike title IV from H.R. 3082.

The critique follows:

CRITIQUE OF THE 1984 ECONOMIC ANALYSIS OF THE OREGON INLET, NC, PROJECT

(By David C. Campbell)

SUMMARY

This paper describes several shortcomings in the U.S. Army Corps of Engineers Economic Analysis Report, February 1984, for the Manteo (Shallowbag) Bay Project in northeastern North Carolina. The Report analyzes a proposal to construct a pair of mile-long jetties to improve harbor access.

The preparation of a revised economic analysis, as a supplement to the 1980 Final Feasibility Report and Environmental Impact Statement, was directed by the Assistant Secretary of the Army after it was pointed out that the potential harvest of marine resources was grossly overstated in the original report.

Based upon our review of the recently-released Economic Analysis Report, it is unlikely that the benefits of the project will exceed the costs, as claimed by the Corps. Their report contains at least five major errors:

(1) Uncertain harbor access is not the primary reason that underexploited species, such as squid, are not being harvested.

(2) If the jetties are not built and the Corps continues its current intensive dredging program, the difference in harbor access and fish landings with and without the jetties will be very small. In other words, the project will not produce benefits both in the form of reduced dredging costs and in increased income to fish harvesters as is claimed.

(3) The Corps overstates the estimated increase in fish landings of currently harvested species as a result of the project.

(4) It fails to account for the resulting fall in fish prices if the project does stimulate an increase in landings.

(5) Unemployed and underemployed labor benefits are overstated because the method employed uses unrealistically low assumptions regarding earnings expected by fishing vessel crew members.

BACKGROUND

The authorized project included several measures, primarily 2 one-mile jetties, designed to overcome the difficulties that fishing boats encounter when navigating the Oregon Inlet during periods when the channel depths are shallow. Maintenance dredging of sand build-up has been intensified recently in order to obtain the previously authorized depth of 14 feet. The low-water depth of 20 feet is authorized for the project under review.

Ironically, some of the arguments for the deeper project exist because of prior Federal actions. Low-interest Federal loans encouraged the construction of larger fishing vessels and Economic Development Administration grants contributed nearly two-thirds of the $8 million of the cost of the partially occupied seafood industrial park at Wanchese Harbor inside the inlet. These subsidies have begat Congressional authorization of a $100 million dual jetty system to stabilize Oregon Inlet.

The Department of the Interior opposes the two jetties on either side of the inlet because of expected adverse environmental effects, including increased erosion to the adjoining Pea Island National Wildlife Refuge and Cape Hatteras National Seashore.

The Supplemental Environmental Impact Statement states that a sand bypassing system, not completely specified, should reduce the possibility of serious damage to the refuge. Elsewhere, sand bypassing systems have performed unevenly.

The new Economic Analysis still leaves serious questions as to whether or not the benefits exceed the costs. Nevertheless, Congressman Walter Jones (NC) intends to seek a floor vote on his amendment to the Emergency Wetlands Resources Act in September that will allow the Corps of Engineers to proceed with the project in spite of Interior's objections.

MAJOR ERRORS IN THE ECONOMIC ANALYSIS

(1) Uncertain harbor access is not the major reason that unexploited species are not being harvested.

The report estimates average annualized benefits of between $600,000 and $1,100,000 from the harvesting of underutilized species (Atlantic mackerel, squid, and butterfish) as a result of increased utilization of Oregon Inlet because of the project. Even though this is much less than 10% of the benefits from these "new" species claimed in the discredited 1980 report, the economic analysis does not adequately demonstrate that the frequent shoaling of Oregon Inlet is the binding constraint that limits the catch of these underexploited fisheries.[1] These spe-

[1] Several authors point out the large uncertainty in identifying the many variables that affect fishing efforts and catch. See the first issue of Marine Resource Economics 1984.

cies are not landed in large numbers at nearby ports with more certain harbor access.

Why aren't greater quantities of these species landed now? Underutilized species comprise less than 2% of the 20 to 40 million pounds of all species that are landed at Wanchese-Stumpy Point, NC, each year. If the processing techniques and facilities and markets for these species improve in the future it would be incorrect to credit all of the benefits from increased landings through Oregon Inlet to the project. This incorrect assignment of benefits would be analogous to a farmer who increased corn acreage, bought a new tractor, then credited all of the increase in yields to the tractor.

The U.S. rents fishing rights for underutilized species to foreign firms and nations. If greater quantities of these species were to be landed at domestic ports, any resulting reduction in fees paid to the U.S. Treasury should be deducted from the estimate of benefits from the project.

(2) The proposed project cannot simultaneously produce benefits in the form of reduced costs and increased income to fish harvesters. The Economic Analysis has double-counted the benefits.

The report states that the jetties will reduce annual maintenance dredging costs by $4.36 million from a projected $4.56 million. This high level of dredging without the jetties should provide sufficient channel dimensions for the existing fishing fleet. Because the Corps' analysis assumes a continuation of its current intensive dredging program if the jetties are not built, the difference in harbor access and fish landings with the jetties and with dredging will be very small. The benefits claimed in the Economic Analysis include approximately $8 million from increased commercial fishing and recreational boating and $4 million from reduced dredging costs.

The recognition of this double-counting of benefits of the proposed project stimulated the Corps to prepare an appendix to the economic analysis, Special Report, Appendix H,[2] because, "Two interrelated economic questions pertaining to existing maintenance dredging operation at Oregon Inlet have arisen in connection with the current review of the Manteo (Shallowbag) Bay, N.C., project economic analysis." The Appendix fails to convince us that without the jetties, the existing dredging is required and doesn't work.

Our review of Appendix H finds no merit in the Corps attempt to rationalize the illogical assumptions in the Economic Analysis. Therefore, because the average annualized cost of even a high level of maintenance dredging is less than the average annualized cost of the jetty project, continued maintenance is the better economic alternative. (See Table 1 attached.)

(3) The Economic Analysis includes an overly optimistic estimate of increases in landings as a result of the project.

The documentation for the projected increases in fish landings through Oregon Inlet is sparse. For example, a letter from the North Carolina Division of Marine Fisheries, dated November 19, 1982 hedges, "our data records are such that we can look at only the past two years by the breakdown of species and areas desired. . . . Please understand that projections (pounds) are based on my feeling for the potential as I try to put together my thoughts based on presently underutilized species and the likelihood that North Carolina fishermen will continue to be aggressive."

For example, the report contains an unsubstantiated prediction that landings of striped bass will increase by 130,000 pounds as a result of the project. Striped bass populations are at a crisis level. In the last decade, the Atlantic Coast catch has fallen about 90 percent, the result of pollution, overfishing, and losses of habitat. A limit of only 500 fish has been proposed by the North Carolina Resources Commission for offshore North Carolina waters for 1984.

(4) The Report fails to incorporate changes in prices into the analysis if the project does stimulate increased landings of some species.

The U.S. Water Resources Council's Principles and Guidelines outlines the methodology to estimate the benefits from measures that improve commercial fishing harbors and channels. This methodology was not followed entirely. Because no decrease in expected prices as a result of increased landings was incorporated into the analysis, the benefits were overstated by approximately $400,000 per year (see Table 2).

If the amount of fish harvested is expected to increase significantly, the future prices received by harvesters are expected to fall, all other things being equal. The recent economic analysis fails to anticipate price changes and uses past prices to make estimates of the value of future harvest even when the expected change in the annual harvest for some species is substantial.

For example, the annual commercial catch of bluefish on the east coast is about 16 million pounds per year and the projected increase in landings through Oregon Inlet is 8 million pounds. Only 4 million pounds of the commercial catch are presently landed in North Carolina, approximately 1.6 million pounds through Oregon Inlet. This immense increase would seriously depress prices. One firm, Fast Brothers Seafood in Norfolk, now in bankruptcy, recently intensified efforts to catch and market bluefish.

(5) Unemployed and underemployed labor benefits are overstated.

Approximately $1.2 million of the $8.8 million in estimated benefits are attributable to a novel method of calculating the opportunity cost of labor on the fishing vessels (see Table 2). There are both procedural and theoretical reasons why this methodology should not be used to inflate the benefits of the proposed jetties.

The prescribed procedures in the Principles and Guidelines for evaluating benefits to commercial fishing state that labor should be valued at prevailing labor rates. Labor on fishing vessels, however, is paid a share of the catch, rather than a daily wage. Labor's share averages 38% of the value of the catch. Because the skills of each individual crew member are not homogeneous, Corps of Engineers planners argue that the income earned above that earned by the lowest, or marginal, group is added returns to labor and not simply wages. If the project encourages more fishing days and a larger catch, a portion of the crews' expected increase in income has been identified as a benefit to the project.

Most benefit-cost analyses count wages as a cost under the assumption that the worker is paid only enough to induce him or her to accept employment, and no more. The Principles and Standards (and Principles and Guidelines) recognize that in some instances the wage paid is higher than that necessary to hire enough workers to perform the task and allow a benefit to be claimed for this "bonus." But, the P&S only allows this benefit to be claimed for labor employed on construction in areas with high unemployment, and not for labor to be employed on sectors affected by the project. The benefits claimed for the Oregon Inlet project relate to labor employed on vessels during the next 50 years. Because the benefits of harvesting open-access fisheries tend to be dissipated through entry of excess capital and labor, benefits from measures to assist commercial fishing can be temporary or transitory. Thus, even if the methodology employed to calculate the short-run benefits were correct, the inclusion of benefits from future years is unwarranted.

A more reasonable assumption is that workers leaving an alternative employment to enter fishing do so on the expectation of earning the average level of income, not the minimum as assumed in the Corps' report. When faced with uncertain outcomes, many people calculate the expected value even greater than the statistical probabilities. Thus, it is unlikely that workers leave alternative occupations expecting to earn less than the average crew member. Under the expected average earnings assumption, some crew members would earn more than the opportunity cost of their labor and some would earn less. The net effect would be no "returns to labor."

CONCLUSION

Even if the assumption is made that intensive dredging does not allow for the same level of fishing effort that a jetty system would, the corrected estimated benefits are less than the costs of the project. The revised average annualized costs at 7⅛% are $8,974,000 and the revised annualized benefits are $7,106,000, an estimated annualized loss of $1,868,000 (Table 1).

TABLE 1.—MANTEO (SHALLOWBAG) BAY PROJECT ADJUSTED ANNUALIZED BENEFITS AND COSTS AT 7.125 PERCENT

Corps economic anlaysis:	
Jetty Project Costs ($98.1 million) ..	$11,692,000
Less Maintenance Dredging Project Costs:	
Bar Channel	−4,560,000
Other	−718,000
Total	−5,278,000
Net Cost of Jetty Project	6,414,000
Revised costs:	
Corps estimate—dredging cost	4,560,000
Base line bar channel costs	−2,000,000
Adjustment re reduced maintenance dredging	2,560,000
Revised cost of Jetty Project	8,974,000
Revised benefits (See Table 2)	7,106,000
Excess of costs over benefits	1,868,000

COMPARISON

	Annualized	
	Corps	NWF
Estimated benefits	$8,807,000	$7,106,000
Estimated costs	6,414,000	8,974,000
Net benefits (costs)	2,393,000	(1,868,000)

[2] Anticipated Increased Annual Maintenance Dredging at Oregon Inlet, N.C., and its Relation to Annual Trawler Catches Passing Through the Inlet, March 1984.

Commercial fleet (nontraditional)	Low Corps' estimate	NWF estimate
Net present value (millions):		
Estimated benefits	+$119.6	−$96.5
Estimated costs	−146.3	−146.3
Decreased Maintenance	+59.2	+24.4
Net benefits (costs)	32.5	(25.4)

TABLE 2.—MANTEO (SHALLOWBAG) BAY PROJECT TOTAL AVERAGE ANNUAL BENEFITS AT 7.125 PERCENT

Commercial fleet (nontraditional)	Low Corps' estimate	NWF estimate
Vessel operating cost savings of increased income to fishermen	[2]$600,000	$200,000

TABLE 2.—MANTEO (SHALLOWBAG) BAY PROJECT TOTAL AVERAGE ANNUAL BENEFITS AT 7.125 PERCENT—Continued

Commercial fleet (nontraditional)	Low Corps' estimate	NWF estimate
Commercial fleet (traditional):		
Increased income to fishermen	[2]2,036,000	800,000
Vessel operating cost savings:		
Local fleet (full time)	1,754,000	[1]1,754,000
Transient and part time	1,115,000	[1]1,115,000
Reduced packing costs	195,000	195,000
Vessel losses	274,000	[1]274,000
Vessel damages	734,000	[1]734,000
Recreational fleet:		
Charter boats	256,000	256,000
½-day charters	3,000	3,000
Head boats: Future crafts for hire	113,000	113,000
Trailerable boats	218,000	218,000

TABLE 2.—MANTEO (SHALLOWBAG) BAY PROJECT TOTAL AVERAGE ANNUAL BENEFITS AT 7.125 PERCENT—Continued

Commercial fleet (nontraditional)	Low Corps' estimate	NWF estimate
Private moored boats	633,000	[1]633,000
Miscellaneous:		
Land loss	711,000	[1]711,000
Reduced USCG maintenance	[3]165,000	100,000
Totals—annualized	8,807,000	7,106,000
Net present value	119,649,000	96,539,000

[1] Not evaluated in the critique.
[2] Overstates catch, prices, and unemployed labor benefits.
[3] Does not conform with letter from U.S. Coast Guard, June 20, 1983.